Verizon VA's model recognizes these realities and adopts forward-looking assumptions concerning the appropriate level of fallout and manual handling based on its real-world experience provisioning CLEC orders; Petitioners insist, with no supporting evidence whatsoever, that CLEC errors will cause 2% of all orders to fall out and that only this paltry amount may be considered in a non-recurring cost model, although the 2% figure appears to be a number they simply have made up. Petitioners fail to defend their approach in their brief.[161/] Instead, they make a few isolated criticisms of Verizon VA's study in connection with the level of fallout and manual handling it reflects at the ordering and provisioning stages. Each of Petitioners' criticisms and claims fails. Ultimately, they are unable to establish any activities or times in Verizon VA's model that should be eliminated or reduced.[162/]

161/ Petitioners attempt to overcome their lack of evidence by asserting that the systems and processes they assume are those that Verizon VA uses in its retail operations. (AT&T/WCom Br. at 207.) They are wrong. First, AT&T/WorldCom's model is not at all based on the same systems and processes Verizon employs to provide similar functions for its retail operations. For example, while AT&T/WorldCom concede that certain services (such as a 4-wire unbundled loop) by their nature must be manually designed in both the retail and wholesale worlds, their model apparently assumes some non-existent system can perform that work. (VZ-VA Ex. 116 at 25.) Second, even if AT&T/WorldCom's model were premised on the same systems and processes that Verizon employs in its retail operations, it would still fail to capture the non-recurring costs Verizon VA incurs in its wholesale operations. Throughout these proceedings, AT&T/WorldCom have ignored the differences between the wholesale and retail environments, assuming, despite overwhelming evidence to the contrary, that anything that can be done in the retail environment can and should also be done in the same manner in the wholesale environment. But that is wrong. For example, some steps and work groups, such as those involved in coordination between Verizon and the CLECs, are not necessary in the retail world, where there is only one carrier and thus no outside company with which to coordinate. Likewise, as discussed above, certain technologies (such as IDLC) that might function well when a single carrier is providing its own retail service, may not be useful to provision similar services to CLECs on a wholesale UNE basis.

162/ Indeed, perhaps to hide the degree to which they have assumed away manual work, AT&T/WorldCom even wrongly describe their own model. They state that the model "identifies 225 detailed steps that may occur when a CLEC order is placed." (AT&T/WCom Br. at 206,

a) Manual Work at the Ordering Stage

Verizon VA's study, while appropriately reflecting that most orders will flow through the ordering stage or be returned electronically to the CLECs, recognizes that manual handling is sometimes necessary to deal with CLEC errors or is more efficient because, for example, it will save additional work or prevent problems in the provisioning process. AT&T/WorldCom, which assume absolutely no manual handling at the ordering stage, make only two criticisms of Verizon VA's ordering costs, both of which fail.

First, although they tellingly do not contest the general proposition that manual processing of orders by design can be appropriate, Petitioners argue that the Commission should reject Verizon VA's assumption that orders for five or more lines will be manually processed on the theory that there is no "technical reason" why orders of five or more loops cannot flow through the system.[163/] (AT&T/WCom Br. at 217-18.) But the fact that a task *may* be automated as a technical matter does not mean that is the most efficient course to take. In this case, while Verizon's ordering system might be *capable* of electronically passing on such an order to the

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n.185.) In reality, Petitioners' model contains 225 *lines*, but not anything close to 225 steps associated with costs. Twenty-three lines in the model are merely section title lines, and thus contain no work step at all. Another 77 steps are listed in the model, but then assumed away as having no cost at all. Another 27 are labeled as ILEC manual activity, but assigned no non-recurring cost because they are labeled as recurring. In the end, less than half (100) of Petitioners' alleged "detailed steps" are even assigned a non-recurring cost in their model. And Petitioners then attribute only a few of those steps to any given UNE.

163/ Petitioners also argue that Verizon has skewed its rate structure to discourage competition, because the fallout rate for "typical" one-line residential orders is generally lower than the average fallout rate, which includes orders with five or more lines. (AT&T/WCom Br. at 218.) However, it is most efficient, and thus cheaper in the long run, for Verizon to use a single UNE service order rate that does not vary with the size of the order. This approach cuts administrative costs and is the only method by which Verizon can prevent CLECs from gaming the system by breaking up large orders into small ones, which would fail to compensate Verizon for its costs. (VZ-VA Ex. 124 at 54.)

next stage, if the order is later rejected because there are insufficient facilities to provision the order, the CLEC will have wasted time relying upon a false order confirmation, and costs will increase. (VZ-VA Ex. 124 at 46.) The reality is that Verizon's policy of handling such orders manually was developed at the request of its retail and wholesale customers who advocated that Verizon do a facilities check before generating a firm order confirmation for large orders. (Tr. at 4811-12 (Peduto); *see also* VZ-VA Ex. 116 at 10.)

Second, AT&T/WorldCom argue that Verizon's ordering costs are flawed based on Verizon's discovery in the course of these proceedings that Anderson Consulting had not actually conducted, but rather only verified, Verizon's initial TISOC study,[164] and that Anderson's own study, conducted later, had produced lower ordering costs.[165] (AT&T/WCom Br. at 218.) The fact that the TISOC study that Anderson ultimately did conduct produced different results than the earlier study is not surprising. Studies of this sort are, by necessity, a snapshot in time. Because methods, technology, and procedures are constantly changing, any study can do nothing more than capture a picture of the accurate tasks and times for that moment; if that were not a permissible approach, no set of tasks, times, and resulting costs could ever be considered final enough to use in any proceeding. A study conducted today, whether by Verizon or Anderson, would likely generate different results than either of their previous studies,

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164/ TISOC is the Verizon organization responsible for the ordering stage of provisioning UNEs.

165/ Contrary to AT&T/WorldCom's assertion, Verizon VA has indicated its willingness to substitute the TISOC study conducted by Anderson for its original study and has submitted a revised non-recurring cost model that does just that. (*See* Verizon VA's Motion for Leave to File a Corrected Non-Recurring Costs Study and Errata to Testimony (Nov. 29, 2001).)

which might yield higher or lower costs, depending on whether technological promises had borne out in the interim and what new advances had been developed.

In the end, Verizon is the only party to this proceeding to have put forth any evidence to support the ordering times and tasks it proposes. Whether the Commission decides to adopt the original TISOC study submitted by Verizon or the results of the Andersen study, the resulting ordering costs would at least be based on real-world evidence of how much time TISOC activities do involve. This is far more than a "shred of evidence." (*See* AT&T/WCom Br. at 218.) And it is far more than AT&T/WorldCom have provided in support of their facially implausible assumption that Verizon VA will incur no non-recurring costs at the ordering stage.

b) Manual Coordination at the Provisioning Stage

AT&T/WorldCom's criticisms of Verizon's provisioning costs reflect their fundamental misunderstanding of the steps required to properly provision UNEs. In essence, Petitioners assume that any coordination work over and above the work needed to physically provision UNEs is unnecessary and thus should not be compensated in UNE rates. However, provisioning UNEs often requires that Verizon coordinate not only its internal working groups, but also with the CLEC. Indeed, the coordination activities about which Petitioners complain here are in place as a result of their requests and ensure that end-user customers are not left without service.

Petitioners' misunderstanding of the nature of wholesale order provisioning is demonstrated by their argument that the RCCC group "does not fulfill a single *physical* task that is actually required to provision service." (AT&T/WCom Br. at 221 (emphasis added).) Common sense dictates that Petitioners' suggestion that only the physical work actually required to provision an order is legitimate for inclusion in a study cannot be correct. For example, the difficult aspect of a hotcut is not the movement of a jumper, but the coordination that ensures that the end-user's service is not disrupted in the process. (VZ-VA Ex. 116 at 23.) In fact, the coordination tasks may in some cases be more time-consuming than the physical work effort itself. Although Petitioners suggest that the disparity between coordination times and related physical tasks shows that Verizon's times "lack[] . . .foundation" (AT&T/WCom Br. at 221), this disparity is exactly what one familiar with UNE provisioning, for which timing and coordination often are the critical ingredients, would expect. (VZ-VA Ex. 124 at 52-53.)

AT&T/WorldCom argue that Verizon's coordination costs should not be allowed because some of those costs relate to internal coordination among Verizon work groups, not with the CLEC. (AT&T/WCom Br. at 221.) AT&T/WorldCom again miss the point. Such coordination among Verizon's work groups takes place specifically for the benefit of the CLEC. For example, the RCCC oversees personnel from the Central Office, Field Installation, and the CLEC all at the moment that simultaneous cutover activity is scheduled, to avoid disrupting the end user's service and facilitating a smooth transition to the CLEC. (VZ-VA Ex. 124 at 84-85.) The service is thus designed to serve the CLEC's interests.[166]

Ultimately, AT&T/WorldCom are unable to avoid the fact that Verizon has implemented many of its manual coordination activities at the request of CLECs themselves. And the Commission should dismiss outright Petitioners' lame response that the CLECs' requests for manual coordination were made "in the face of Verizon's current inefficiency" and thus cannot be used to justify non-recurring costs for such coordination. (AT&T/WCom Br. at 221.)

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[166] Contrary to AT&T/WorldCom's suggestion (AT&T/WCom Br. at 220), to the extent that Verizon VA performs similar coordination functions among its workgroups in the retail environment, Verizon's retail prices include the same coordination costs, even if not in an itemized fashion. (VZ-VA Ex. 124 at 85.)

AT&T/WorldCom put forward absolutely no support for this statement, nor could they. Manual coordination is often required because of the *CLECs'* unpreparedness or inefficiency — not Verizon's. Indeed, as Verizon VA has explained, if Verizon had followed the procedures that AT&T/WorldCom advocate here and had no manual coordination for the hotcut process, 11% of all customers who were migrated from Verizon VA to AT&T in July 2001 would have been left without service as a result of AT&T's unpreparedness. (VZ-VA Ex. 124 at 81.) Moreover, as noted in Verizon's initial brief, the Commission has commended Verizon's hotcut procedures; it has never suggested those procedures are merely an interim, band-aid solution needed to make up for alleged inefficiencies.[167] (VZ-VA Br. at 198-99.)

Finally, Petitioners assert, again without any justification or evidence, that even if some coordination were necessary at the onset of the competitive era, it is unreasonable to require permanent manual oversight in a forward-looking environment. In so arguing, AT&T/WorldCom point to no procedures which may have once been necessary, but which future technologies will render (or to date, have rendered) unnecessary. CLECs have requested greater protections in §271 collaboratives and have not "taken back" those requests as the result of some new technology. In the end, Petitioners have identified no new automated systems that could perform the multiple coordination activities in which Verizon engages to perform trouble-free hotcuts. Likewise, despite their arguments to the contrary, Petitioners have not identified

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[167] *New York § 271 Order* at 4109 ¶ 299.

the "mechanized capabilities" that they allege are "inherent in Verizon's OSS" that can perform the functions of the RCCC.[168]

c) Database Errors

In their brief, AT&T/WorldCom also argue that Verizon VA's model reflects too much fallout and manual handling because it allegedly assumes the need for frequent corrections of database errors that should be recovered, if at all, through recurring costs. (AT&T/WCom Br. at 208-09.) This argument fails on two levels. As an initial matter, AT&T/WorldCom are incorrect in assuming (again, without any support) that database errors are the cause of a significant amount of fallout. In fact, as Verizon VA has explained, it takes all appropriate steps to avoid information mismatch or other database errors. For example, Verizon VA periodically scans its provisioning databases for inconsistent data and performs cross audits among the systems to ensure that the information residing in the systems is synchronous. (VZ-VA Ex. 116 at 69.) These audits generate error listings that allow Verizon VA employees to correct any database inconsistencies on a regular basis. And the costs of these routine maintenance efforts are recovered on a *recurring* basis through, for example, the common overhead and other support factors. Thus, the fallout reflected in Verizon VA's non-recurring cost model simply does not stem from any purported high incidence of database errors.

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[168] Petitioners also criticize Verizon for charging for RCCC activity related to field dispatch work on every order, even though field dispatch work is charged only when it occurs. (AT&T/WCom Br. at 223.) Of course, Verizon's charge for RCCC activity related to field dispatch work is discounted by the typical occurrence factor, so that while a charge is included in every order, that charge is discounted so that the total cost of the work is spread across all orders, and when a field dispatch is required, the CLEC pays only a small portion of the actual RCCC costs related to that dispatch. This approach is of course consistent with that taken by both Verizon VA and AT&T/WorldCom for the vast majority of tasks in their models.

Moreover, while Verizon VA does incur costs if it discovers an error in its database in the course of processing a CLEC order, the non-recurring costs in its model are not related to correcting the database. Any error in the database that is discovered while processing a CLEC order is documented by the MLAC, which refers it for corrective action to the database administration group. (VZ-VA Ex. 124 at 90.) Costs resulting from the MLAC's efforts to correct the errors are charged, if at all, on a recurring basis, as AT&T/WorldCom contend they should be. (*See* AT&T/WCom Br. at 209.) Thus, Petitioners' suggestion that Verizon VA's non-recurring cost model improperly includes the costs of improving or correcting its databases is simply false; the model already excludes these costs to which AT&T/WorldCom point as an alleged basis to reduce non-recurring costs still further.

B. Verizon VA's Survey Methodology Is Statistically Sound and Superior to AT&T/WorldCom's Approach to Generating Work Times.

While AT&T/WorldCom go to elaborate lengths to make their model appear empirically grounded, their rhetoric cannot hide the fact that their "model" is nothing more than the unfounded opinions of a few so-called experts. AT&T/WorldCom assert that they "estimated" the amount of time required to perform each activity, but this estimate is nothing more than unsupported guesswork, especially in light of the fact that none of AT&T/WorldCom's "experts" has ever provisioned a single UNE and only one or two of them even purport to have *any* expertise with respect to each given task. (Tr. at 4650-51 (Walsh).)

Nor is it clear what rationale Petitioners' "experts" used to come up with the times in their model. Although AT&T/WorldCom discuss at length the "critical assumptions" purportedly used in developing their model (AT&T/WCom Br. at 206-09), what is missing from AT&T/WorldCom's discussion is any explanation of the connection between those "critical assumptions" and the work times in Petitioners' model. For example, AT&T/WorldCom assume that installing a cross-connection from the Loop to the CFA appearance on the MDF will take one minute to perform. *Nothing* in the record explains the basis for that time estimate — or any other time estimate in AT&T/WorldCom's model. AT&T/WorldCom have produced no documentation or other evidence showing why their work times are even remotely reasonable or realistic.

The evidence that is in the record shows that Petitioners' work times are nothing more than wishful thinking, while Verizon VA's are based on concrete and relevant evidence. Verizon VA has conducted a statistically sound survey documenting the collective experience of the employees who actually perform the tasks necessary to provision UNEs. The times resulting from this survey provide a reliable baseline from which to determine appropriate work times. To be sure, these times have to be adjusted to reflect foreseeable mechanization and other efficiencies using currently available technology in order to make them forward-looking (as Verizon VA has done). But these times represent the only sound and logical starting point for determining forward-looking work times on the record. And they are certainly a far superior starting point than the unguided, undocumented assumptions of a few AT&T/WorldCom "experts."[169/]

Petitioners argue that Verizon's survey is "statistically useless" and "irrelevant" to the costs Verizon proposes. (AT&T/WCom Br. at 224-25.) Far from being irrelevant, however, Verizon's survey ensures that Verizon VA's worktimes are not generated in a vacuum, but

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169/ While, as explained above, Verizon does not endorse the recent New York Commission UNE pricing decision, it notes that the New York Commission generally endorsed Verizon's use of a survey methodology. *New York UNE Rate Decision* at 140-46.

instead are based on actual experience. They were reviewed by Verizon cost experts, a statistician, and subject matter experts, and were then verified as statistically precise through calculation of a 95% confidence level by NERA.

Petitioners assert that Verizon's survey methodology was intended to generate long task times because an employee asked to identify the time required for certain activities has a "natural human inclination to over-state work times so as to inflate his/her importance and to inflate the complexity of one's job." (AT&T/WCom Br. at 223.) Other than unfounded generalizations about human behavior, however, AT&T/WorldCom offer nothing to substantiate their charge. The survey instructions themselves stressed the need to be "accurate and credible."[170] (VZ-VA Ex. 23, Att. J.) In addition, as Verizon VA noted in its initial brief, workers may have an incentive to *understate* the time it takes to perform their jobs, so as to avoid being tagged as unproductive. (Tr. at 4715-16 (Goldrick).) And any allegation that Verizon's methodology was biased is particularly absurd in light of AT&T/WorldCom's "methodology" of having a group of paid consultants sit around together in a room and develop undocumented work times for the specific purpose of being used in Petitioners' non-recurring model. (Tr. at 4653-54 (Walsh).)

In an interesting twist, after arguing that Verizon's workers cannot be trusted to accurately report the work times they actually experience, AT&T/WorldCom in the next breath claim that Verizon should have given its workers *more* input in the development of the times used in Verizon's study, by asking them to estimate the time they believe it would take them to

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[170] It should also be noted that the memorandum that Petitioners cite as "urg[ing] company loyalty" (AT&T/WCom Br. at 224) said no such thing and, in any event, was not even given to the survey respondents. Moreover, even that memorandum stressed the need for *complete* data, not high work times. (*See* VZ-VA Ex. 100, Non-Recurring Cost Study Exs. J&K.)

perform the tasks at issue in the future. (AT&T/WCom Br. at 224.) But that suggestion makes no sense. While Verizon's survey respondents perform the tasks at issue on a day-to-day basis, and thus are the people most likely to know how long a task takes today, they are not in a position to know how long it "should" take in the future, or what further automation is expected. (VZ-VA Ex. 124 at 25.) Verizon "captured the forward-looking costs of operating an efficient network" (AT&T/WCom Br. at 224) in a far more reliable manner than Petitioners propose: through forward-looking adjustments made by managers familiar with planned future automation who fully accounted for how mechanization and process improvements would reduce the time needed to perform activities and the frequency with which activities would need to be performed. (VZ-VA Ex. 124 at 25; VA-VZ Ex. 100, Part H, Section M; Tr. at 4730-31 (Curbelo).)

The remainder of Petitioners' criticisms of Verizon's survey methodology are similarly baseless. For example, AT&T/WorldCom allege that the "vague survey instructions invited, and, in fact, elicited irreconcilably disparate ranges of responses to the same activities." (AT&T/WCom Br. at 224.) Petitioners do not state which instructions they believe were vague, or how those allegedly vague instructions led to an "irreconcilably disparate range of responses." In fact, Verizon's instructions were explicit, and when Verizon cost analysts received answers that they believed showed ambiguity or confusion, they went back to the employees to obtain clarification. (Tr. at 4943 (Goldrick).) Moreover, as Verizon has explained numerous times, many of the tasks included in the survey are open-ended activities for which one would expect significant variation in respondents' estimates; a "disparate range" thus actually would show that the survey had been answered appropriately. For example, the task "check for and obtain any necessary permits" may be as simple as discovering that no permits are required or as complex as submitting a detailed permit application to one of many possible governmental bodies; the reported times thus might vary considerably. (VZ-VA Ex. 124 at 33.) The time variances also reflect that workers encounter different types of orders and variable environments (*e.g.*, some may work in areas above the water table and therefore need to pump manholes less frequently than a worker in an area below the water table) and have differing skills or experiences, all of which may affect the amount of time required to perform a given task. (VZ-VA Ex. 124 at 32-34.) In short, two survey respondents reasonably could be expected to have consistent understandings of the question and yet produce significantly different results. In any event, NERA's calculation of 95% confidence levels for Verizon's proposed rates verified the precision of the model's results. (VZ-VA Ex. 124 at 31-32.)

AT&T/WorldCom's attack on Verizon's decision not to weigh survey responses based on how many times the employee had performed the task at issue is likewise unavailing. (AT&T/WCom Br. at 225.) Petitioners make no mention of how they propose Verizon should have weighted the survey responses and neglect to account for the added complexity and subjectivity that asking respondents to estimate how many times they had performed a task would have introduced. For example, while individuals may well be able to provide an accurate estimate of the average amount of time it takes them to drive from home to the local drugstore, they are much less likely to be able to provide an accurate estimate of the number of times they have actually made that trip. Furthermore, there is no reason to think that weighting responses, even if possible, would have resulted in lower or more accurate work times. For example, more complex orders are often assigned to more experienced workers, while less experienced workers handle the simpler orders. (VZ-VA Ex. 124 at 34.) As a result, experienced workers who have performed a task innumerable times may have higher overall average work times, because they handle the more complex orders. As Verizon VA noted in its initial brief, if longer times were, on the whole, more frequent, weighting could well have *increased* the average work time. Finally, while Petitioners have posited unlikely scenarios in which the absence of weighting could theoretically have skewed the results (Tr. at 4707-08), Verizon subject matter experts and a statistician reviewed the average work times resulting from the survey and concluded that all of the average times were within reasonable expectations.

Finally, Petitioners reason that, because the times produced by Verizon's survey were adjusted to be forward-looking by a panel of experts, they somehow became irrelevant to the costs produced by the model. (AT&T/WCom Br. at 225.) But the fact that Verizon's experts (who themselves have provisioned UNEs or managed workers who do) had the survey results as a baseline enabled them to make realistic and supportable judgments concerning how work times (and the frequency of activities) would change in the future. AT&T/WorldCom's so-called experts, on the other hand, made their decisions in a vacuum: they had neither experience in provisioning UNEs on which to draw nor data concerning how long workers performing those tasks currently take. The forward-looking times produced by Verizon VA's process clearly are more likely to be reliable and realistic than those in AT&T/WorldCom's model.

C. Verizon VA Properly Structured Its Non-Recurring Costs.

1. Verizon Properly Classified Outside Plant Dispatch Costs as Non-Recurring Costs.

AT&T/WorldCom remain unable to provide any support for their proposed definition of non-recurring costs as those arising only from those activities that can never benefit another carrier at some point in the future. (AT&T/WCom Br. at 213.) The Commission has already rejected AT&T/WorldCom's theory in the context of interconnection, acknowledging that costs can be considered non-recurring even if they may some day benefit another user: "To the extent that the equipment needed for expanded interconnection service is dedicated to a particular interconnector, . . . requiring the interconnector to pay the full cost of the equipment up front is reasonable . . . *regardless of whether the equipment might be reusable.*"[171] Furthermore, as Verizon VA has explained, economically efficient prices should reflect the manner in which costs are incurred: if a LEC makes a one-time expenditure for the purpose of provisioning an order in real time for a specific CLEC, it should not be forced to attempt to recover those costs as a recurring charge over a long period of time from indeterminate CLECs.[172] (VZ-VA Br. at 192-94; VZ-VA Ex. 110 at 18-20.)

For example, their primary claim is that the costs of field installation activities to place a cross-connect at the feeder-distribution interface when needed to provision an order for a UNE loop should be recovered through *recurring* charges. (AT&T/WCom Br. at 214-16.) But this claim is premised on the mistaken assumption that such "connection[s] remain in place when a service disconnects . . . . Hence, this one-time activity benefits all future users of a particular telecommunications facility." (AT&T/WCom Br. at 214.) As Verizon VA has explained, however, this assumption of 100% dedicated outside plant simply does not reflect how a real-

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[171] Second Report and Order, *Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd 18730, 18750 ¶ 33 (June 13, 1997) (emphasis added); *see also Local Competition Order* at 15876 ¶ 751.

[172] AT&T/WorldCom's characterization of non-recurring costs as "entry barriers" (AT&T/WCom Br. at 204) is wrong for similar reasons. As Dr. Shelanski explained, non-recurring costs are caused by the CLEC, and it is appropriate that they pay these costs and bear the risk of not recovering them from customers. Even though a CLEC might not recover non-recurring costs if it loses the customer at issue or exits the local exchange business, this risk is the same risk that any firm runs in almost any line of business. If the ILEC must bear the risk of recovering the CLEC's non-recurring costs, then UNE costs would likely increase as capital costs rose to reflect the enhanced risk factor of non-recovery. Moreover, CLECs can avoid the risk of failing to recover non-recurring costs by charging an up-front "connection fee," as many carriers do. (VZ-VA Ex. 110 at 15-17.)

world efficient carrier operates — and it would actually *increase* costs. (VZ-VA Br. at 202-03.) Indeed, Petitioners themselves conceded at the hearing that no carrier engages in this practice and that their assumption was merely some kind of "modeling convention."[173/] (Tr. at 4667-68 (Murray).)

Because cross-connects are not permanently placed as part of the loop, the costs of performing that activity in response to a specific order for a UNE loop is properly classified as a non-recurring cost — that is, a "one-time expense[] incurred, upon the request of a customer, in installing, moving, rearranging or terminating an access service from the initial receipt of a service order to the point at which service is provided or terminated, as the case may be."[174/] (VZ-VA Br. at 192 n.210.) Running a jumper at the feeder-distribution interface when it is necessary to provision a loop is precisely the type of one-time activity caused by a CLEC order for which a non-recurring charge is proper. AT&T/WorldCom effectively urge the Commission to adopt rates for field dispatches that do not reflect how Verizon VA actually incurs the costs. That is contrary to both TELRIC and principles of economic efficiency.

173/ Petitioners mischaracterize testimony by Verizon VA's witness Mr. Peduto in a misguided attempt to support their theory. They suggest that Mr. Peduto testified that "the [cross-]connection remains in place when a service disconnects." (AT&T/WCom Br. at 214.) In fact, however, Mr. Peduto simply testified that Verizon VA will attempt to leave a cross-connection in place "in the event that that feeder and distribution can be reused at the same premise *fairly soon*." (Tr. at 4833-34 (emphasis added).) But, if the feeder or distribution cable is "needed somewhere else," then Verizon VA will, in accordance with sound engineering practice, disconnect the cross-connect. (*Id.*) Moreover, contrary to Petitioners' implication that Verizon VA's study imposes a field dispatch charge in connection with every order for a loop (AT&T/WCom Br. at 214), Verizon only charges for field installation when the placement of a cross-connect is necessary to provision a loop. (VZ-VA Ex. 124 at 96.)

174/ Memorandum Opinion and Order, *In the Matter of Investigation of Interstate Access Tariff Non-Recurring Charges*, 2 FCC Rcd 3498, 3501-02 ¶¶ 32-33 (1987).

Petitioners also claim, contrary to all evidence, that Verizon VA captures the costs of cross-connections at the feeder-distribution interface in its recurring cost loop study. (AT&T/WCom Br. at 215.) This is simply false. Verizon VA appropriately distinguishes between the costs of constructing a loop — which are capitalized and recovered in recurring charges — and the costs of provisioning a loop, including the placement of a cross-connect to connect the central office with the particular premises for which service has been ordered — which are not capitalized and are recovered through non-recurring charges. (VZ-VA Ex. 124 at 93.)[175]

2. Verizon's NRCM Properly Includes Disconnection Costs at the Time the Order is Placed.

AT&T/WorldCom's attack on Verizon's disconnect costs is premised on their mistaken claim that combining disconnection costs with connect costs "forces new entrants to pay for services they have not ordered and penalizes companies which, due to superior service, may not require a disconnection." (AT&T/WCom Br. at 227.) Of course, every service that is connected will one day be disconnected, which is why charging disconnect costs up front is the routine practice with respect to retail telecommunications services. (VZ-VA Ex. 124 at 101.) As such, every order for service connection is also an order for disconnection to be performed one day, and assessing a disconnect charge at the time of the initial order (appropriately discounted for the

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[175] Moreover, Verizon VA subtracted non-recurring revenues from its base year expense figures before calculating its ACFs (including the ACF used to capture maintenance expenses) and thereby ensured that it would not double-recover non-recurring costs through application of the ACFs in the recurring model. (Tr. at 4761.)

time value of money) is consistent with principles of cost causation.[176] Imposing a disconnect charge at the time of the service order is the only way to ensure that Verizon VA recovers its costs, particularly from those CLECs who are not as financially stable as AT&T/WorldCom, but to whom Verizon nonetheless must provide service. (VZ-VA Ex. 116 at 75.)

VII. XDSL COSTS

As Verizon VA noted in its initial brief, Verizon VA submitted a detailed and fully supported cost study establishing the recurring and non-recurring costs it incurs in providing CLECs with xDSL-compatible loops, line splitting, and line sharing. AT&T/WorldCom submitted no studies with respect to the costs of those activities, but simply make isolated and unfounded criticisms of Verizon VA's proposed costs. Petitioners' brief only underlines the lack of substance to their criticisms, as they offer nothing but one-sentence assertions in opposition to Verizon VA's proposed costs for wideband testing, line sharing OSS, splitter-related costs, loop qualification, and ISDN electronics.[177] (AT&T/WCom Br. at 228-30.) As Verizon VA has

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[176] AT&T/WorldCom's suggestion that a disconnection charge is "anticompetitive" because Verizon VA might not leave facilities in place after a customer vacates the premise even if a new entrant continued to pay for the relevant UNEs (AT&T/WCom Br. at 226) is just another example of AT&T/WorldCom's utterly speculative attribution of bad acts to Verizon VA — allegations made without even a shred of evidence. Verizon simply has never suggested that it would disconnect service where a CLEC was continuing to pay for the UNEs, and Petitioners have pointed to no occasion where this has occurred. In addition, contrary to AT&T/WorldCom's unsupported assertion (AT&T/WCom Br. at 226), Verizon VA's disconnection charge recovers only the costs that it expects to incur in deactivating the CLEC's service.

[177] AT&T/WorldCom assert that Verizon VA has not proposed prices for line sharing arrangements in connection with DSL-capable, fiber-fed loops. However, as Verizon VA has indicated, DSL is a copper-based technology, and it has no plans to offer DSL-capable, fiber-fed loops. (VZ-VA Ex. 107 at 122-23.)

demonstrated, both in testimony and its initial brief, these criticisms are baseless. (VZ-VA Br. at 203-21.)

Petitioners object to Verizon VA's loop conditioning charges on the theory that a "reconstructed network" would not include load coils and would have minimal bridge taps and that Verizon VA accordingly should have to perform conditioning at no charge. (AT&T/WCom Br. at 230-31.) However, as noted in Verizon's initial brief, the Commission has already rejected AT&T/WorldCom's argument, finding that "[t]he requesting carrier would [] bear the cost of compensating the incumbent LEC for such conditioning."[178/] The Commission reaffirmed that conclusion to the Supreme Court, explaining that under its orders, incumbent LECs are not required to condition loops for advanced services "for free."[179/] Petitioners have offered no reason for the Commission to revisit those express directives here.[180/]

VIII. RESALE DISCOUNT

Verizon VA is obligated to provide its retail services to AT&T for resale at a discount that reflects the "marketing, billing, collection and other costs that *will be avoided*" by Verizon

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178/ *Local Competition Order* at 15545 ¶ 87.

179/ FCC Reply Brief at 10 n.7.

180/ Petitioners also again trot out their claims that loop conditioning costs should be recovered through recurring charges and that they should be based on the assumption that conditioning is done in binder groups of 25 or 50 loops. (AT&T/WCom Br. at 231-32.) Verizon VA already explained in its initial brief why conditioning costs are appropriately recovered through *non-recurring* charges. (VZ-VA Br. at 204-06.) And Verizon VA witness John White explained at the hearings why AT&T/WorldCom's proposal to condition in groups of 25 or 50 loops makes no sense and in any case is infeasible in Virginia. (Tr. at 4994-95.) Petitioners have not even attempted to offer a response to this showing.

VA when providing the services on a wholesale, rather than a retail, basis.[181/] And as Verizon VA has shown, a careful analysis of the costs that Verizon VA actually will avoid when providing wholesale services produces a resale discount of 14.68%, or 13.06% for resellers that use Verizon VA's operator and directory assistance services.

AT&T of course would prefer for Verizon VA to offer a higher discount. But it has not prepared any resale discount study for these proceedings to support a discount different from what Verizon VA's study shows — and it has been unable to find any basis under the governing legal standard to adjust Verizon VA's discount. Instead, AT&T primarily argues, first in its testimony and again in its brief, that the Commission ought to disregard the clear statutory standard as articulated by the Eighth Circuit[182/] and require Verizon VA to offer a discount that is based on hypothetical suppositions about what costs Verizon VA hypothetically *could* avoid. When this argument falls away, as it must, AT&T is left with nothing but a handful of unavailing and confused criticisms of Verizon VA's resale discount study.

A. The Resale Discount Rate Must Be Based on Costs That Actually "Will Be Avoided."

AT&T's brief highlights its continuing refusal to grapple with the plain language of section 252(d)(3) as interpreted by the Eighth Circuit. Indeed, in its brief, AT&T remains unable to respond to Staff's question at the hearing — whether AT&T was "making any distinction between the old [pre-Eighth Circuit decision] standard and the new standard? And if so, what is it?" (Tr. at 3745 (Goldschmidt).)

181/ 47 U.S.C. § 252(d)(3) (emphasis added).

182/ *Iowa Utils. Bd. v. FCC*, 219 F.3d 744, (8th Cir. 2000), *cert. granted sub nom.*, *Verizon Communications, Inc. v. FCC*, 121 S. Ct. 871 (2001).

Verizon VA has answered this question, demonstrating that its current retail discount is different from the one proposed to the Virginia Commission in 1996. Among other things, Verizon VA no longer had to assume that it would dissolve its retail business and thus no longer assumed that indirect expenses would be substantially reduced or eliminated for purposes of calculating the discount. (*See, e.g.*, VZ-VA Ex. 189.)

AT&T, in contrast, simply hopes to persuade the Commission not to ask the question at all. According to AT&T, the Commission cannot determine the resale discount because it involves the impossible task of "mak[ing] a prediction about how Verizon's operations will change going forward." (AT&T/WCom Br. at 239.) This argument is wrong and is contrary to AT&T's other principles for setting rates. In every single other context in these proceedings — save for their arguments concerning the cost of capital and depreciation — Petitioners claim that the Commission should make entirely unsupported, long-range hypotheses about future developments, expenses, technology, and the like. But for some reason, the prospect of making the far simpler determination of what costs Verizon VA will avoid when it provides retail services for resale strikes AT&T as insurmountably difficult.

In any event, AT&T's argument is simply wrong. Setting the resale discount requires no difficult mental gymnastics about costs in a speculative, hypothetical telecommunications market in the future. The Eighth Circuit specifically noted that the word "will" in the statutory standard "will be avoided" is a "word of *certainty*," not one of "speculation and uncertainty" like the Commission's original standard.[183/] The only relevant analysis for calculating the resale discount is the reality-based exercise of determining the amount by which today's retail rates should be

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183/ *Iowa Utils.Bd.*, 219 F.3d at 755 (quoting *Black's Law Dictionary*) (emphasis added).

reduced to reflect the costs that the incumbent *will* avoid when it provides a service at wholesale. While the Eighth Circuit did refer to the costs that the carrier "will actually avoid incurring in the future," that "future" is not some far off point in time requiring resort to "speculation and uncertainty," but the immediate future time in which the incumbent will be providing services to the CLEC for resale under the interconnection agreement at issue. Indeed, the court reverted only a few words later to the present tense, noting that only costs that "*are* actually avoided" must be covered by the discount.[184/]

Thus the Eighth Circuit clearly did not intend for the resale discount to be determined by speculating about a hypothetical telecommunications market in the future, in which competition has drastically changed the telecommunications industry and the incumbent has lost most of its retail market share. (*See, e.g.*, AT&T/WCom Br. at 234, 236-37.) Indeed, the court rejected any notion that the resale discount must be set as if competition had forced Verizon out of the retail market altogether: "[t]he statute recognizes that the ILEC will itself remain a retailer of telephone service with its own continuing costs of providing that retail telephone service." The Commission itself stated in the *Local Competition Order* that *even its now-reversed "reasonable avoidability" standard* did not require use of a long-run incremental cost methodology and that, depending on how a state had set retail rates, even an *embedded* cost study could be appropriate to determine avoided costs.[185/]

Staff asked whether, nonetheless, the Commission must "at least have an understanding of how Verizon is going to act." (Tr. at 3747.) Mr. Minion agreed that in order to determine the

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[184/] *Id.* at 755

[185/] *Local Competition Order* at 15957 ¶ 915.

resale discount, the Commission — and Verizon VA itself — does have to examine *how* Verizon VA will provide services at wholesale. (Tr. at 3747.) But, instead of speculating about how costs hypothetically could be avoided in a distant competitive future, Verizon's cost study appropriately analyzes Verizon VA's current operations to determine which costs actually will be avoided when it resells services to CLECs. As Mr. Minion explained, "examination of [Verizon's] existing operations serves as the reasonable starting point to examine what functions . . . will truly be avoided going forward" because the changes in market share in a "reasonable planning period" would not affect the avoided costs identified in Verizon's study. (*See* Tr. at 3746-47, 3754-55, 3758.)

Other than arguing that the Commission should not determine the appropriate resale discount in these proceedings, AT&T has little to say. Although AT&T suggests that Verizon VA's discount rate is incorrect, it points to precious little that supports this claim. Most of AT&T's arguments already have been rejected by the Eighth Circuit. For example, AT&T complains that Verizon VA's cost study should have excluded *all of Verizon's retail costs, even if they would not have been avoided*;[186/] otherwise, "resellers effectively would wind up paying for some retail functions twice: to support its own retail operations and to support Verizon's." (AT&T/WCom Br. at 235.) But the Eighth Circuit rejected precisely this argument.[187/]

186/ AT&T argues that "[b]ecause Verizon's cost study does not treat all of its retail costs as avoided, the FCC should not lower the wholesale discount." (AT&T/WCom Br. at 233.)

187/ The court noted that "[r]espondents state that making competitors pay for a portion of the ILECs' retailing costs, even though the new entrant is not the cause of those retail costs, would result in the new entrants subsidizing the ILECs' retail offerings while still having to pay the new entrants' own retailing costs;" yet the court nonetheless concluded that the resale discount must reflect the fact that incumbents would still be in the retail business and incur related costs. *Iowa Utils. Bd.*, 219 F.3d at 755.

Similarly, AT&T's argument that Verizon VA should have excluded all marketing, billing, and collection costs because "the Act identifies marketing, billing and collection as costs that are to be excluded" (AT&T/WCom Br. at 234) is simply a misstatement of the statute. Section 253(d)(3) does *not* state that such costs are excluded; it states only that if such costs actually "will be avoided," they should be excluded,[188] which Verizon VA's resale discount study appropriately does.[189]

AT&T also criticizes Verizon VA's cost study because it purportedly does not treat enough retail costs as avoided, arguing that "[n]othing in the Eighth Circuit decision . . . precludes the logical assumption that the ILEC will behave like a rational business and will avoid all costs that it can." (AT&T/WCom Br. at 234.) But AT&T does not identify any instances in which Verizon VA's cost model assumes that Verizon VA will irrationally continue to incur costs that it no longer needs to incur when providing more wholesale services. Indeed, the lone example in AT&T's brief of a specific cost that Verizon allegedly should have treated as avoided is unavailing. AT&T argues that Verizon would reduce its product advertising costs if it lost "a substantial number of customers" and thus should treat those costs as avoided when calculating the discount. (AT&T/WCom Br. at 236-37.) As Verizon demonstrated in its testimony, however, the costs of product advertising will not be avoided.[190] (*See* VZ-VA Ex.

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[188] 47 U.S.C. § 252(d)(3).

[189] For example, Verizon VA excluded the costs associated with sending out bills to individual customers, because resellers will perform this function and thus Verizon VA will not incur the associated costs. (*See* VZ-VA Ex. 107 at 347-48.)

[190] AT&T also seems to suggest that costs should be considered avoided if they do not benefit resellers. (*See* AT&T Br. at 233 ("Verizon's advertising costs do not benefit reseller CLECs of course . . . .") This, however, is clearly not the standard.

121 at 5-6.) As an initial matter, there is no basis to assume, when setting the discount, a forward-looking market in which Verizon VA has lost a "substantial number of customers." But neither is it valid to assume that Verizon would decrease its retail advertising budget if this were to occur. Indeed, AT&T's own response to competition from MCI and Sprint in the long-distance market demonstrates that this assumption is incorrect. As Mr. Kirchberger admitted, "probably AT&T's advertising after 1984 skyrocketed once competition started." (Tr. at 3708.) In addition, Verizon likely would increase its wholesale advertising to capture and maintain wholesale customers; accordingly, overall advertising costs likely would change little.

Ultimately, AT&T is left to argue that the Commission should leave in place the existing resale discount rate, even though it was calculated by the Virginia Commission under an invalidated rule. The rationale for this unprincipled position is nothing more than the truism that a "lower wholesale discount would make resale . . . less attractive . . . than it is now." (AT&T/WCom Br. at 239-40.) In noting that "[t]he language of section 252(d)(3) makes no provision for selecting a wholesale discount rate on policy grounds," however, the Commission has already specifically rejected "AT&T's suggestion that wholesale discount rates should be set at levels that ensure the viability of the reseller's business."[191/]

[191/] *Local Competition Order* at 15957 ¶ 914.

B. If the Commission Requires Verizon To Offer Vertical Services at a Discount, It Must Calculate a Separate Rate.

If the Commission were to require Verizon to offer vertical services at a discount,[192] a unique discount rate would have to be calculated for such services, because Verizon VA would avoid few, if any costs, when providing vertical services at wholesale. Verizon would still be responsible for providing the customer with the basic dial tone service, and thus would continue to incur the substantial bulk of its costs. (*See* VZ-VA Ex. 121 at 11-12.)

AT&T erroneously contends that a unique rate would not be necessary because "if a reseller purchases a stand-alone retail feature but Verizon provides basic service, Verizon still receives from the customer *the full retail rate* for the basic service." (AT&T Br. at 238.) This is a non sequitur. The statutory analysis for the resale discount is not concerned with the *revenues* received by the incumbent. The Act asks one question: what *costs* does the incumbent avoid when providing the service at issue on a wholesale rather than a retail basis.

Thus, the sole relevant question is whether Verizon VA would avoid a lower percentage of its costs in providing vertical services than it would in providing retail services. The answer is clearly yes. For example, if Verizon VA sold only call waiting to a reseller, but continued to provide retail service to the customer, Verizon VA would avoid almost no costs. When the reseller takes over the customer's basic service, it sends out the bill, and Verizon VA therefore avoids these billing costs. However, if the reseller provides a customer only resold Call Waiting service, while Verizon VA continues to provide basic service, Verizon VA must continue to send

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[192] As Verizon VA explained in the non-cost portion of this proceeding, Verizon VA does not offer vertical services at retail on a stand-alone basis, so Verizon VA should not be required to apply a section 251(c)(4) discount when Verizon VA offers them to resellers on a standalone basis.

bills to the customer and will incur the associated costs. Thus, for example, the discount with respect to basic service appropriately reflects savings in connection with billing, but it clearly would be improper for the discount associated with Call Waiting to assume any such savings.