

C. Loop Costs

While AT&T/WorldCom try to make much of the marginal \$0.67 increase in Verizon VA's basic, two-wire statewide average loop rate, the fact remains that the loop rates produced by the *Order* remain *lower* than the New York benchmark — and New York is a state that has itself applied TELRIC aggressively. And the *Order* slashes high capacity loop rates by approximately 50%. These dramatically below-cost rates result from the *Order*'s decision to rely on a fundamentally flawed model and to adopt flawed inputs, and to set high capacity loop rates on the basis of calculations having nothing to do with cost at all.

1. The *Order* Erred in Relying on AT&T's Modified Universal Service Model

The *Order*'s adoption of the CLECs' modified version of the Commission's universal service Synthesis Model is contrary to the Commission's repeated pronouncements that this model is inappropriate for use in setting UNE rates. Thus, AT&T/WorldCom are wrong that their model "was the clear choice on the record in this case for developing forward-looking TELRIC loop prices." AT&T/WCom Opp. at 40. The Commission has explicitly found that "the USF cost model should not be relied upon to set rates for UNEs."^{42/} As the Commission explained, it "has never used the [universal service] cost model to determine rates for a particular element, nor was it designed to perform such a task."^{43/} Indeed, just recently, in the *TELRIC*

^{42/} Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237, 6277 ¶ 84 (2001) ("Kansas/Oklahoma 271 Order").

^{43/} Memorandum Opinion and Order, *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Maine*, 17 FCC Rcd 11659, 11679 ¶ 32 (2002) ("Maine 271 Order"). See also VZ-VA AFR at 36-37 (citing cases).

NPRM, the Commission reiterated that its universal service model does not “provide *any* systematic guidance to states in the area of TELRIC rate-setting.” *TELRIC NPRM* ¶ 46 (emphasis added).

AT&T/WorldCom argue that “various adjustments” they made to the Commission’s original universal service model somehow “address any concerns about the appropriateness of using the [model] to develop UNE costs.” AT&T/WCom Opp. at 41. Those “adjustments,” however, do not make AT&T/WorldCom’s model any more appropriate for modeling Virginia UNE costs. Instead, they are simply designed to reduce the costs produced by the Commission’s original model. *See e.g.*, VZ-VA Reply Br. at 133-35; VZ-VA Ex. 109 at 5-6; VZ-VA Initial Br. at 146-147 (demonstrating model’s failure to use data specific or relevant to Virginia, and delineating “adjustments” that AT&T/WorldCom allege “fix” their model but which both the Commission and numerous states have rejected, including coding changes affecting drop terminal orientation and lot size/configuration; structure sharing inputs; plant mix assumptions; and DLC input values).

Nor do AT&T/WorldCom even address the fact that their model is entirely incapable of measuring certain key costs. For example, AT&T/WorldCom ignore the fact that their model is insensitive to changes in the make-up of DLC technologies, even though the *Order* acknowledges that such technologies are a “*key* loop investment component.” *Order* ¶ 303. Similarly, AT&T/WorldCom simply gloss over the fact that their model cannot measure the costs of high capacity loops, leaving them to make up these rates based on fictional ratios.

The *Order* accordingly erred in relying on the CLECs’ model. It instead should have adopted Verizon VA’s loop cost models. Contrary to the CLECs’ claims, the *Order* does not find that Verizon VA’s model is inconsistent with TELRIC. In fact, the *Order* specifically notes

that it is *not* making any such determination when it chose AT&T/WorldCom's model. *See Order* ¶ 49. And at minimum, the *Order* was *required* to use Verizon VA's models in those instances where the CLECs' model is incapable of producing costs at all, such as for high capacity loops.

2. The *Order's* DS3 and DS1 Loop Rates Must Be Rejected.

AT&T/WorldCom offer no response to Verizon VA's showing that the high capacity loop rates set by the *Order* are not cost-based and are inappropriately derived from a model that is incapable of measuring high capacity loop costs. Rather than measure DS1 and DS3 loop costs at all, the *Order* simply adopts rates for such loops by applying ratios proposed by AT&T/WorldCom to the 2-wire loop rates produced by their modified version of the universal service model. Even the *Order* concedes, however, that these ratios are "lack[ing] [in] thoroughness and clarity," *Order* ¶ 341, and the Bureau was "unable . . . to identify the starting point for the AT&T/WorldCom calculations." *Id.* ¶ 341 & n.888.

These "ratios" do not account for any actual cost relationships between 2-wire and high capacity loop rates, and no such fixed cost relationship exists. *See* VZ-VA AFR at 39-41. In fact, as Verizon VA showed, the costs of DS1s vary depending on whether copper or fiber facilities are used to serve those loops, which in turn may reflect the geographic area in which specific high capacity loops are provided. *See id.* at 40. The costs of basic two-wire loops do *not* vary in the same way, and accordingly there is no generalized, predictable relationship between the two types of loops. *See id.* Similarly, DS3 loops are provided exclusively over fiber and use electronics that are never found in the two-wire loop, and are almost always provided to large business customers who typically are located only in select areas rather than throughout

Verizon's service territory. *See id.* at 40-41. The costs of a DS3 loop provided in Virginia thus would not vary in a manner that bears any relationship to average 2-wire loop costs. *See id.*

AT&T/WorldCom do not dispute these facts. Instead, they seek to rely on post-hoc attempts to justify their ratios. But these attempts fail. First, they argue that the ratios they propose are at least close to some of the relationships that are illustrated in the chart Verizon VA produced showing loop rates in other jurisdictions. *See VZ-VA AFR Ex. A.* The CLECs simply miss the point. The fact that the ratios of two-wire loop rates to DS1 rates in other jurisdictions range from 4.8 to 11.5, for example, demonstrates the absence of *any* fixed cost relationship between basic and high capacity loops.

Next, AT&T/WorldCom suggest that their ratios are defensible because they are “similar to the relationship between two-wire loop rates and DS1/DS3 rates proposed by Verizon in this case.” AT&T/WCom Opp. at 43. But as Verizon VA has shown, ratios are *not* a valid means of assessing the specific costs of any of the facilities involved. And in any event, the 6.1 ratio derived from a comparison of Verizon VA's proposed DS1 and two wire loop rates is hardly “similar” to the 4.3 ratio adopted in the *Order*. Indeed, applying the 6.1 ratio to the *Order*'s \$14.43 2-wire loop rate, *Order App. E*, would produce a statewide average DS1 loop rate of \$88.02 — *more than 41% higher* than the \$62.05 rate adopted by the *Order*. *See id.* And if Verizon VA's 10.0 ratio of DS3 to DS1 rates were then applied to that \$88.02 rate, this would produce a DS3 rate of \$880.20 — *more than 47% higher* than the \$595.96 DS3 rate adopted by the *Order*. *See id.* Thus, the supposed similarities the CLECs cite justify neither the ratios nor the rates adopted by the *Order*.

Finally, AT&T/WorldCom fall back on the procedural argument that Verizon VA should have proposed adjustments to the CLECs' proposed ratios, rather than relying on Verizon VA's

own models. *See* AT&T/WCom Opp. at 42. But the ratio approach proposed by AT&T/WorldCom and adopted by the *Order* is fundamentally nonsensical: it cannot be fixed by a handful of “adjustments.” The Bureau was obligated to assess the *costs* of high capacity loops, and neither the CLECs’ model, nor their proposed “ratio” methodology, can do so. In contrast, Verizon VA submitted models that produced cost-based rates for all high capacity loops. Indeed, the DS3 rates proposed by Verizon VA are based on a model the *Order* specifically finds is compliant with TELRIC and that the *Order* adopts for purposes of setting transport rates. *See Order* ¶ 503. In these circumstances, the *Order* should have adopted Verizon VA’s models to set high capacity loop rates. *See Order* ¶ 554 (adopting Verizon VA’s models where AT&T/WorldCom’s could not calculate relevant costs).

The *Order*’s adoption of arbitrary ratios results in DS1 and DS3 loop rates that are as much as 54% lower than the rates that the Commission found to comply with TELRIC less than one year ago. These new rates, in combination with the new EEL conversion rules adopted by the Commission in the *Triennial Review Order*, will further encourage CLECs to convert special access services to EELs, thus threatening “severe consequences” for the special access market. *See* Supplemental Order Clarification, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 9587, 9597 ¶ 18 (2000). Although AT&T/WorldCom claim that the Commission need not be concerned about this consequence because DS1 and DS3 loops “constitute an insignificant fraction of the UNEs provided by Verizon” to CLECs in Virginia, AT&T/WCom Opp. at 9, the dramatic reductions in high capacity loop rates produced by the *Order* inevitably and quickly will lead to massive conversion of special access services to EELs using high capacity loops.

3. The Order's Adoption of AT&T/WorldCom's Distribution Fill Factor Has No Rational Basis.

The fill factors proposed by AT&T/WorldCom and adopted in the *Order* are inconsistent with the only evidence in the record concerning the utilization levels at which a functional network can operate efficiently. Specifically, Verizon VA's fills reflect its experience operating a real-world network under a price cap regime designed to maximize incentives for efficiency, and its engineers' informed judgments concerning optimal, efficient fill. *See* VZ-VA Ex. 122, Att. K at 119. By contrast, AT&T/WorldCom did not base their proposed fills on any experience with an operational network, and did not bother to show how a network could operate at those levels. *See* VZ-VA Reply Br. at 80-81; VZ-VA Initial Br. at 159-60. As a result, the *Order* produces an entirely hypothetical and patently unrealistic loop distribution fill factor.

AT&T/WorldCom's attempts to defend the *Order* are without merit. First, AT&T/WorldCom argue that the distribution fill adopted by the *Order* was consistent with the Commission's universal service *Inputs Order*. AT&T/WCom Opp. at 45. But the Commission has repeatedly stressed that it "ha[s] not considered what type of input values, company-specific or nationwide, nor what specific input values, would be appropriate for any other purposes" and further noted that "it may not be appropriate to use nationwide values for other purposes, such as determining prices for unbundled network elements."^{44/} Thus, AT&T/WorldCom's claim that "strong state-specific justifications" would be necessary to support *departure* from the universal service model inputs, *id.*, turns on the Commission's clear direction on its head.

^{44/} *Inputs Order* at 20172 ¶ 32; Ninth Report and Order and Eighteenth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 20432, 20455-56 ¶ 41 (1999) ("[T]he federal cost model was developed for the purpose of determining federal universal service support, and [] it may not be appropriate to use nationwide values for other purposes, such as determining prices for unbundled network elements.").

In any event, Verizon VA submitted real-world data showing the efficient levels of average distribution fill necessary to operate the Virginia network. Those data provide compelling evidence that the non-specific, universal service cost inputs are *not* appropriate here. AT&T/WorldCom argue that the *Order* appropriately rejects Verizon VA's extensive testimony and evidence because "Verizon submitted no optimization analysis in support" of its fill factors. AT&T/WCom Opp. at 46. But Verizon VA's evidence is the result of a rigorous "optimization analysis" conducted in the real world: it reflects the efforts of Verizon VA's engineers to optimize the network to meet customer demand, performance objectives, and carrier of last resort obligations, under the efficiency-enhancing conditions created by price caps and increasing competition. *See e.g.*, VZ-VA Ex. 107 at 35-40, 100-116; VZ-VA Ex. 122 at 104-42.

In response, AT&T/WorldCom offered nothing but the unsubstantiated opinions of its "expert" about the fill levels that AT&T/WorldCom would like to see. AT&T/WorldCom provided no real world evidence whatsoever about *how* such fill levels could be attained in the network without jeopardizing performance or substantially increasing maintenance and other operating costs. For example, AT&T/WorldCom produced no evidence that their fill inputs produce cable sizes that correspond to cable sizing guidelines in use by *any* local exchange carrier, much less an incumbent local exchange carrier that must meet the service quality standards that are imposed on Verizon VA. Indeed, the only evidence they point to even now is their witness's claim to have "directed operations that had a distribution fill factor in excess of the effective fill in the [AT&T/WorldCom model]." AT&T/WCom Opp. at 46. But that witness acknowledged during the hearings that he was not aware of any network that has achieved the network-wide average that AT&T/WorldCom propose. Tr. at 4513-4515 (Riolo).

AT&T/WorldCom next try to defend the *Order* by arguing that Verizon VA's fill factor is inaccurate. But these efforts also fail. AT&T/WorldCom first point to 1997 GTE engineering guidelines that they contend show that fill should be higher. See AT&T/WCom Opp. at 48. But as Verizon VA has explained repeatedly, those guidelines specifically apply to a service area that is significantly more rural than Verizon VA's service area and would produce much *higher*, inefficient operating expenses in Verizon VA's service area. See VZ-VA AFR at 43 n.54; VZ-VA Reply Br. at 80 n.69. AT&T/WorldCom do not respond to this explanation.

AT&T/WorldCom also suggest that Verizon VA's fill is higher than Verizon VA reports, because they assert idle and defective lines should not be treated as spare. AT&T/WCom Opp. at 46. But as Verizon VA showed, because such lines are by definition *not* producing revenue, they properly are treated as spare; any other approach would understate costs. See VZ-VA Ex. 122 at 115-117; Tr. at 4511 (Gansert); VZ-VA Br. at 106 n.109. Finally, AT&T/WorldCom try to show that Verizon VA's fill factor assumes absurd results in which an additional line would be put in for *every* line to every household, contrary to engineering guidelines. AT&T/WCom Opp. at 47-48. But this argument misrepresents Verizon VA's model, pretending that Verizon VA allocates spare distribution capacity on a per line rather than a per household basis. The *Order* properly ignored this nonsensical argument.

AT&T/WorldCom's final argument is that Verizon VA's fill factor improperly includes spare that will be used to accommodate *future* demand and, therefore, some of the costs ought to be borne by future ratepayers. AT&T/WCom Opp. at 49-50. But as Verizon VA showed in its application for review and before the Bureau, this criticism is fundamentally flawed. The spare distribution capacity included in Verizon VA's model is *not* designed primarily to serve future demand. Instead, spare is needed for *current* demand spikes and fluctuations, churn,

administrative and operational purposes, and other critical current needs. *See* VZ-VA Reply Br. at 82; *see also* VZ-VA Ex. 107 at 108-15; VZ-VA Ex. 122 at 118-24, 130-34. For this reason, spare in the network is a *current* network cost that *today's* customers should properly absorb.

AT&T/WorldCom's effort to undermine this point by pointing to the fact that Verizon VA builds distribution cable to serve "ultimate demand," AT&T/WCom Opp. at 51, is based on a misunderstanding of what that term means. As Verizon VA explained, "ultimate demand" "merely refers to allocating two or more distribution pairs per living unit in order to handle however many lines" the residents will require at any given time. VZ-VA Reply Br. at 84. The "demand" at issue is not *future* demand, but the uncertain demand of *current* customers, who may demand a second line for Internet access or a line for a teenager in the home, for example, at any given moment in time, suddenly requiring the availability of additional capacity.^{45/} *Id.*; *see also* VZ-VA Ex. 107 at 114-15; VZ-VA Ex. 122 at 119-20; Tr. at 4116-17 (Gansert)

Spare capacity remains stable over time so that such *current* demand and operational needs may continue to be met across the network as a whole. *See* VZ-VA Ex. 122 at 106, 117. While *individual* facilities (or neighborhoods) may fill up at a given point in time, fill factors in the network as a whole remain relatively constant over time due to churn and other factors. *Id.* Spare capacity in the network is thus not reserved for the future, but critical for the network *today*. Thus, the revenues from future customers should *not* properly be credited toward the spare capacity that exists *today*, as AT&T/WorldCom and the *Order* suggest. *See* AT&T/WCom

^{45/} This uncertain demand also illustrates why AT&T/WorldCom's suggestion that a forward-looking network could contain less spare because it could account for — and build — less spare in areas where demand has historically been low is wrong. *See* AT&T/WCom Opp. at 48. Demand can change in an instant: a new family might move into the neighborhood and order additional lines, for example. Verizon VA is *required* to have spare available to serve that order.

Opp. at 50, 52; *Order* ¶ 254. Rather, future customers will properly be charged for the average amount of spare capacity that will exist in the network at that future date, to serve *those* customers' needs.

In sum, the fill factors Verizon VA proposed were realistic, efficient, and forward-looking, and there was no basis for the *Order* to reject them. Thus, the Commission should reject the *Order*'s reliance on the distribution fill used in AT&T/WorldCom's model. The *Order* could and should have adopted the alternative distribution fill factor that Verizon VA submitted in its restated version of AT&T/WorldCom's model. See Verizon VA Modified Synthesis Model Runs (Dec. 12, 2001) ("VZ-VA Ex. 204"). That "restated distribution factor" shows how the *Order* could have relied on Verizon VA's fill evidence even while using AT&T/WorldCom's model. The *Order*'s suggestion that Verizon VA did not specifically propose an adjustment to distribution for the modified universal service model, *Order* ¶ 256, is therefore wrong.

D. DCS and Multiplexing Should Not Be Excluded from Certain Dedicated Transport Services Rates.

The *Order* requires Verizon VA to establish four rate options for each capacity level of dedicated interoffice transport (e.g., DS1, DS3, and OC3): with digital cross-connects ("DCS") and multiplexing, with only DCS, with only multiplexing, and with neither DCS nor multiplexing. *Order* ¶ 511. But, as AT&T/WorldCom acknowledge, transport rates should include the costs of DCS and multiplexing that is "necessary to originate or terminate the interoffice transport." AT&T/WCom Opp. at 78. Since the *only* DCS and multiplexing costs that Verizon VA included in its studies are "necessary" rather than optional costs, the various rate options the *Order* requires that exclude DCS, multiplexing, or both should be stricken. Verizon Virginia Recurring Cost Panel Direct Testimony at 215 (July 31, 2001) ("VZ-VA Ex. 107").

AT&T/WorldCom concede in their opposition that the costs for DCS and multiplexing that are required for the transport service must in fact be included in the transport rates. In particular, AT&T/WorldCom now acknowledge that interoffice transport rates *should* include the costs of multiplexing that is performed by the SONET terminal equipment on each end of the interoffice transport circuit. *See* AT&T/WCom Opp. at 78. This should end any debate about whether Verizon VA should be required to offer transport-only rates for transport at the DS3 level or above. The *only* DCS or multiplexing functions that are included in Verizon VA's costs for DS3 and higher-capacity level interoffice transport are functions that are either integrated within the SONET terminal equipment or provide direct connection of the dedicated transport circuit to the SONET equipment at the requested dedicated transport capacity level. In both cases, the functions are critical to the provision of the requested service, not optional, and thus, under even AT&T/WorldCom's standard, are properly included in the transport rate. Indeed, the sole category that AT&T/WorldCom target for exclusion from the interoffice transport rate — multiplexing functions between the SONET terminal equipment and the handoff to the CLEC customer — are not included in Verizon VA's dedicated transport cost model.

Accordingly, the Commission should rule that Verizon VA is *not* required to offer DS3 (or higher levels) interoffice transport rates that exclude DCS or multiplexing functions. Eliminating all multiplexing from such services, as the *Order* seems to suggest, could be accomplished only by eliminating the SONET terminal equipment altogether, which would leave bare interoffice fiber cable. As AT&T/WorldCom now concede, AT&T/WCom Opp. at 78, and as Verizon VA pointed out in its application for review, VA-VZ AFR at 48, that is not functional transport. Eliminating all DCS investments is likewise impossible because the only means of providing DS3 and higher transport *without* such DCS would be exceedingly expensive, manual

cross-connection activities that are not even always achievable in highly complicated central offices, and that in any event are not accounted for in the rates proposed by the parties or ordered by the Bureau. Thus, removing the DCS either means that Verizon VA cannot provision the transport at all, because it would have no way to provide the necessary cross connect and related functions, or that CLECs will claim (erroneously) that they may obtain transport that includes the benefits of this DCS equipment without paying for it.

For similar reasons, the Commission should also reverse the *Order*'s requirement with respect to *DS1* transport rates. AT&T/WorldCom argue that the CLECs should be free to purchase multiplexing or DCS that is *not* housed within the SONET terminal equipment, which is the case with *DS1* interoffice transport, "at their option." AT&T/WCom Opp. at 78. But that makes no sense. Notably, even AT&T/WorldCom contend that the only costs that should *not* be included in the price of transport are the costs of "multiplexing or DCS equipment [that] is not *necessary* to originate or terminate the interoffice transport at the speed (e.g. *DS1*, *DS3*, etc.) requested by the CLEC." *Id.* at 78 (emphasis added). But Verizon VA's model assumes no multiplexing functions for *DS1* transport that are *not* necessary, and thus the requirement in the *Order* is incongruous.

Multiplexing is necessary for *DS1* transport because the optical lines of interoffice SONET systems operate at capacities of OC-3 or higher. See VZ-VA Ex. 107 at 216. Thus, in order to provide *DS1* transport, multiple *DS1* channels must be multiplexed, or combined, into a single higher rate channel at some point between the CLEC service interface in the terminal wire centers and the optical line of the interoffice SONET systems. Verizon VA's studies make the forward-looking design assumption that part of this multiplexing of *DS1* services (specifically, *DS1* to *DS3* multiplexing) occurs before the lines are connected to the SONET terminal

equipment. This combination is accomplished in either a traditional, stand-alone multiplexing device or as an integrated function in a DCS system. AT&T/WorldCom never suggested that a different approach to the one in Verizon VA's forward-looking design was preferable, and the Bureau agreed that Verizon VA's transport model "assumes the deployment of the most efficient technology currently available for interoffice transport." *Order* ¶ 503.

Thus, the multiplexing and DCS functions that Verizon VA included in its transport model for DS1 transport are "necessary to originate or terminate the interoffice transport at the speed [DS1] . . . requested by the CLEC." AT&T/WCom Opp. at 78. Indeed, there is no such thing as DS1 interoffice transport *without* multiplexing.^{46/} As the *Non-Cost Order* concludes, "in order to provide the channelizing functionality of dedicated transport, Verizon *must provide multiplexing.*" *Non-Cost Order* ¶ 499 (emphasis added). A fictional DS1 transport rate that excludes traditional or DCS multiplexing would either compel Verizon VA to provide DS1 transport without being permitted to recover its costs, which would create a subsidy for the CLECs, or would make it impossible for Verizon VA to provide DS1 transport at all. Since multiplexing must be provided as a necessary part of DS1 transport, Verizon VA must have the right to recover for such multiplexing in its transport rates.^{47/}

^{46/} Of course, a CLEC can purchase multiple DS1 loops, and provide its own multiplexing to aggregate those individual DS1s onto a single DS3 circuit. But this does not involve the purchase of DS1 *transport*. To the contrary, in that scenario, the interoffice *transport* link the CLEC would purchase from Verizon VA would be a DS3 interoffice transport circuit. *Non-Cost Hearing Tr.* at 408-411 (Gansert).

^{47/} As Verizon VA showed in its application for review, it also makes no sense for CLECs to be able to elect whether to purchase DS1 transport with DCS versus DS1 transport with multiplexing: Verizon VA could not practically comply with that requirement, and its effect would simply be to subsidize CLECs who will always choose the option that is less expensive to them, regardless of overall operational efficiency. *VZ-VA AFR* at 49.

The Commission accordingly should reverse the *Order*'s requirement that Verizon VA create separate rates for *any* level of dedicated transport that exclude multiplexing and DCS, and should clarify that, in any event, CLECs must pay for the functionalities that they receive when they order dedicated transport from Verizon VA.

II. GLOBAL INPUTS

A. The Cost of Capital Adopted in the *Order* Improperly Fails to Compensate for the Regulatory Risks of Providing UNEs.

The 12.95% cost of capital adopted by the *Order* understates costs. Indeed, that figure is *lower* than AT&T's and WorldCom's own cost of capital figures for evaluating investments. As the Bureau recognized, AT&T has used a cost of capital of 15.31% for general investment purposes. *See Order* ¶ 92 n.268. Further, the cost of capital AT&T uses for evaluating local exchange investments also is [BEGIN AT&T PROPRIETARY] XXXXXXXXXXXXXXXXXXXX [END AT&T PROPRIETARY], as is the corresponding figure for WorldCom, at [BEGIN WORLDCOM PROPRIETARY] XX [END WORLDCOM PROPRIETARY]. *See* AT&T Response to Staff Record Request No. 10 (Oct. 24, 2001); WorldCom Response to Staff Record Request No. 10 (Oct. 24, 2001). Moreover, while the CLECs' own costs of capital are *higher* than the figure adopted in the *Order*, their costs of capital obviously do not reflect the additional risks inherent in the unbundling regime.

Even the *Order* finds that the cost of capital that properly accounts for basic competitive risks should be 13.068%. It adopts Verizon VA's lower number solely under the guise of the "baseball arbitration" rules. *Order* ¶ 104. Given the *Order*'s routine disregard for those same rules elsewhere in the *Order*, *see, e.g., Order* ¶¶ 140, 387, 432, 457, its adoption of a 12.95% cost of capital in the face of its own conclusion that the actual cost of capital should have been 13.068% is unsupportable.