BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services.	))))	Case No. 96-1310-TP-COI

OPINION AND ORDER

The Commission, considering the evidence produced at the hearing conducted on January 29, 2004, and the briefs and reply briefs filed by the parties on March 4, 2004, and March 18, 2004, hereby issues its opinion and order.

APPEARANCES:

Bailey Cavalieri, LLC, by Messrs. William A. Adams and Dane Stinson, 10 West Broad Street, Suite 2100, Columbus, Ohio 43215-3422, on behalf of SBC Ohio.

Vorys, Sater, Seymour and Pease, LLP, by Messrs. Stephen M. Howard and Philip F. Downey, 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of the Payphone Association of Ohio.

Betty D. Montgomery, Attorney General, State of Ohio, Mr. Duane W. Luckey, Chief of Public Utilities Section, by Mr. Matthew J. Satterwhite and Ms. Jodi J. Bair, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of the Staff of the Public Utilities Commission of Ohio.

HISTORY OF THE PROCEEDING:

On February 8, 1996, the President of the United States signed into law the Telecommunications Act of 1996 (the Act). On September 20, 1996, the Federal Communications Commission (FCC) released a Report and Order in CC Docket No. 96-128 (*In the Matter of Implementation of the Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*) implementing Section 276 of the Act regarding payphone services. The FCC's order requires, among other things, that local exchange carriers (LECs) provide payphone services to competitors under the same terms and conditions that they provide services to their own payphone operations.

On November 8, 1996, the FCC issued its Order on Reconsideration in CC Docket No. 96-128 requiring every incumbent LEC to provide to its respective state commission, by January 15, 1997, proposed tariffs offering individual central office coin transmission services to payphone service providers under nondiscriminatory, public tariffed offerings. The FCC's Order on Reconsideration further concludes that incumbent LECs (ILECs) must provide basic payphone services that enable independent providers to offer payphone services using either instrument-implemented "smart payphones" or "dumb payphones" that utilize central office coin services.

The FCC indicates in its Order on Reconsideration that tariffs for these payphone services must be cost based, consistent with the requirements of Section 276 of the 1996 Act, and nondiscriminatory. The FCC's Order on Reconsideration also requires that any basic network services used to provide payphone services must be similarly available to independent payphone providers (IPPs) on a nondiscriminatory, tariffed basis. These unbundled features must be tariffed in both the state and federal jurisdictions.

On December 9, 1996, the Public Utilities Commission of Ohio (Commission) initiated this proceeding to carry out, on an intrastate basis, the requirements of Section 276 of the Act and the FCC's decisions in CC Docket No. 96-128 regarding payphone services. By entry issued December 19, 1996, the Commission directed all ILECs operating within Ohio to file by January 15, 1997, tariffs with the requisite access line provisions for "smart" and "dumb" payphones.

By entries issued March 27, 1997, April 10, 1997, September 25, 1997, and February 26, 1998, the Commission approved revised tariffs filed by LECs operating within Ohio. Among others, the Commission approved SBC Ohio's (SBC) (formerly Ameritech Ohio) tariff on September 25, 1997.

Pursuant to Section 276 of the Act, the Commission launched an investigation to determine whether there is a need for public interest payphones in Ohio and, upon finding a need, what measures should be taken to maintain their existence. By entry issued May 15, 1997, the Commission directed interested persons to file comments by July 7, 1997, and reply comments by August 6, 1997.

By entry issued May 22, 1997, the Commission requested from Ohio ILECs additional information to assure that the ILECs are in compliance with the mandates of Section 276 and the FCC's CC Docket No. 96-128. Among other things, the Commission required that each ILEC operating in Ohio mirror permanently, on an intrastate basis, its interstate payphone-related carrier common line charge reduction. The Commission ordered ILECs to file attestations in this docket that the necessary mirrored reductions have been filed in the Commission's access charge proceeding (Case No. 83-464-TP-COI). In addition, the Commission requested that all ILECs file proposed amended tariffs reflecting after October 7, 1997, the deregulation of directory assistance charges to end users at pay telephones and the deregulation of local coin-sent paid message service charges to end users at pay telephones. Each ILEC was also required to phase out its public and semi-public telephone service by October 7, 1997. Finally, the Commission instructed each ILEC to review its respective payphone tariff to ensure that it is consistent with the requirements of Section 276 of the Act, the FCC's CC Docket 96-128 decisions, and this investigation. The Commission ordered ILECs to file proposed tariff amendments by June 22, 1997.

On June 30, 1997, the Payphone Association of Ohio (PAO) filed a motion to conduct an evidentiary hearing to determine if ILECs are in compliance with Section 276 of the Act. The Coin Phones Management Company (CPMC) joined the PAO's motion on July 28, 1997. SBC and The Ohio Telecommunications Industry Association (OTIA) opposed the motions for evidentiary hearing through memoranda contra filed on July 18, 1997, August 1, 1997, and August 6, 1997.

On September 25, 1997, the Commission approved the proposed tariff filings submitted by a number of ILECs, including SBCs, in response to the May 22, 1997 entry. The Commission found that the tariff filings were consistent with the Act, the FCC's decisions in CC Docket NO. 96-128, and the Commission's May 22, 1997 entry in this proceeding. The Commission noted that the PAO had filed a request for an evidentiary hearing. The Commission advised the PAO that it would issue a subsequent entry to address the PAO's request.

On October 9, 1997, the PAO filed a motion seeking an order from the Commission that would prohibit LECs from modifying their existing rate table associated with coin lines until the LECs make coin rating services available to all payphone service providers on a nondiscriminatory basis. Verizon North Incorporated ((Verizon) formerly GTE North Incorporated) and SBC opposed the motion by filings dated October 21, 1997.

On January 29, 1998, the attorney examiner postponed the decision on whether to grant the PAO's request for evidentiary hearing. The attorney examiner invited intervenors and ILECs to submit comments and reply comments regarding the reclassification of payphone investments and the removal of any subsidies from local exchange service rates.

In a January 28, 1999, entry, the Commission stated that approved tariffs on file shall remain in effect. In addition, the attorney examiner granted the PAO's motion for an evidentiary hearing. In a prehearing conference held on February 11, 1999, the attorney examiner directed parties to submit proposed issues lists for the hearing. By entry issued March 15, 2000, the attorney examiner scheduled a March 31, 2000, follow-up conference, which was subsequently continued to April 3, 2000.

By means of a March 21, 2000, entry, the attorney examiner scheduled the hearing in this matter for August 7, 2000. By entry issued April 27, 2000, the Commission set forth the issues to be decided at the August 7, 2000, hearing. The PAO filed an application for rehearing on May 26, 2000, challenging the scope of the proceeding. SBC, Verizon, and United Telephone Company of Ohio dba Sprint (Sprint) opposed the motion by memoranda filed June 5, 2000. The Commission denied the PAO's application for rehearing in an entry issued June 22, 2000. Because of unresolved discovery issues, the attorney examiner continued the hearing indefinitely by entry issued August 1, 2000.

On June 1, 2001, the attorney examiner issued an entry resolving discovery issues. The PAO filed an interlocutory appeal on June 12, 2001. In an entry issued August 20, 2001, the attorney examiner denied the PAO's application for certification of the attorney examiner's discovery rulings.

On June 17, 2002, the PAO filed a motion seeking to expand the scope of the proceeding and to compel the ILECs to comply with the "new services test" (NST) as set forth in a memorandum opinion and order issued by the FCC in a Wisconsin proceeding (Wisconsin Decision[1]). According to the PAO, the Wisconsin Decision provided this Commission with a road map as to what was required in establishing payphone line rates for SBC and for all other ILECs (June 17, 2002, motion at 9). In an entry issued on November 26, 2002, the Commission denied the PAO's motion to expand the scope of the proceeding. However, in light of the Wisconsin Decision, the Commission decided to revisit and revise the issues relevant to this proceeding. The Commission dismissed from this proceeding all non-BOC ILECs pursuant to the Wisconsin Decision. In the Wisconsin Decision, the FCC, construing Congressional intent, determined that it does not have jurisdiction over non-BOC ILEC line rates. In light of the FCC's decision, the Commission dismissed all non-BOC ILECs leaving only the PAO and SBC as active participants in the proceeding. Pending the establishment of permanent rates, the Commission issued interim rates subject to true-up. On December 20, 2002, the PAO challenged the Commission decision by application for rehearing. On the same date, SBC sought clarification. The Commission issued its entry on rehearing on January 16, 2003, denying in part and granting in part the applications for rehearing filed by the PAO and SBC. The Commission ordered SBC to file tariff revisions incorporating interim rates established by the Commission.

On April 29, 2003, the attorney examiner issued an entry scheduling this matter for a hearing, beginning on August 26, 2003. To resolve the issue of whether SBC or the PAO should carry the burden of proof at the hearing, the attorney examiner directed the parties to file briefs on the matter. SBC and the PAO filed briefs on May 7, 2003, and reply briefs on May 14, 2003. On July 8, 2003, the attorney examiner issued a decision, assigning to SBC the burden of demonstrating that its payphone rates are forward-looking and cost based.

On August 8, 2003, the PAO filed a motion seeking to strike the prefiled testimony of SBC's witness, Dr. Kent A. Currie. The PAO also sought to continue the hearing in order to allow it additional time to file rebuttal testimony. On August 14, 2003, the attorney examiner denied the PAO's motion to strike SBC's witness' testimony and also denied the PAO's motion to continue the hearing. The attorney examiner did, however, grant the PAO additional time to file rebuttal testimony. On August 15, 2003, the attorney examiner granted SBC's motion to strike portions of the PAO's witness' testimony. The

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1 *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, Bureau/CPD No. 00-01 (Memorandum Opinion and Order, Released January 31, 2002).

PAO filed an interlocutory appeal on August 18, 2003, contesting the attorney examiner's August 14, 2003, and August 15, 2003, rulings. The attorney examiner certified the interlocutory appeal to the Commission on August 22, 2003. Because of the resulting time constraints, the attorney examiner continued the August 26, 2003, hearing indefinitely. The Commission issued a ruling on the certified interlocutory appeal on September 23, 2003. The Commission granted the PAO an opportunity to file rebuttal testimony and directed the attorney examiner to schedule a hearing at the earliest convenience of the parties.

Contesting the Commission's September 23, 2003 affirmation of the attorney examiner's decision to strike the testimony of the PAO's witness, the PAO filed an application for rehearing on October 23, 2003. Through testimony, the PAO sought to present its argument for refunds. The PAO believes that it should receive a refund for the incremental difference in rates for services dating back to April 15, 1997, the date of the NST. The refund would account for the difference between the rates approved by the Commission and the rates to be established under the NST. In its November 13, 2003 entry on rehearing, the Commission emphasized that the PAO has raised the issue of refunds on several occasions.[2] On each occasion, the Commission stated that refunds are beyond the scope of this proceeding and, in any event, would be tantamount to unlawful retroactive ratemaking. The Commission denied the PAO's October 23, 2003 application for rehearing on November 13, 2003.

By entry issued December 8, 2003, the attorney examiner scheduled a hearing for January 27, 2004. By entry issued January 23, 2004, the attorney examiner, by request and consent of the parties, continued the hearing to January 28, 2004. On January 28, 2004, on the scheduled date of the hearing; the attorney examiner continued the hearing to January 29, 2004 because the PAO's witness was not available.

This matter came to be heard on January 29, 2004. At the conclusion of the hearing, in lieu of closing arguments, the parties agreed to file briefs. In an entry issued February 17, 2004, the attorney examiner issued the parties' schedule for filing briefs. The parties agreed to file briefs by March 4, 2004, and reply briefs by March 18, 2004. SBC and the PAO filed their initial briefs and reply briefs, as scheduled, on March 4, 2004, and March 18, 2004.

INTERVENTION:

Several entities moved to intervene in this proceeding. The PAO (formerly known as the Ohio Payphone Association) filed a petition to intervene on April 8, 1997. AT&T Communications of Ohio, Inc. (AT&T) moved to intervene on April 22, 1997. The OTIA

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2 Entry issued April 27, 2000; Entry on Rehearing issued June 22, 2000; Entry issued November 26, 2002; Entry on Rehearing issued January 16, 2003; Entry issued September 23, 2003; Entry on Rehearing issued November 13, 2003.

moved to intervene on May 5, 1997. MCI Telecommunications Corporation (MCI) moved to intervene on June 10, 1997. The attorney examiner granted intervention to all parties by entry issued January 29, 1998. The attorney examiner also granted intervention to CMPC in response to CMPC's April 15, 1997, request that the Commission review payphone service tariffs filed by Cincinnati Bell Telephone Company (CBT). In an entry issued November 26, 2002, the Commission, pursuant to the Wisconsin Decision, dismissed all but SBC and the PAO as active participants in this proceeding. The Commission's staff and the OCC remained as participants.

ISSUES:

The intent of Section 276 of the Act is "to promote competition among payphone service providers and to promote the widespread deployment of payphone services to the benefit of the general public." Toward this end, Congress promulgated rules intending to prevent Bell operating companies from subsidizing their payphone services or discriminating in favor of their payphone services. Further underscoring the goals of Section 276 is Section 4927.02(A), Revised Code. In this proceeding, the Commission has undertaken to implement the goals of Section 276 and Section 4927.02(A), Revised Code.

In implementing the goals of Section 276 and Section 4927.02(A), Revised Code, the Commission has set out to establish the direct cost and allowable overhead recovery of certain payphone services. In accomplishing that goal, the Commission must determine whether the rates proposed by SBC are in compliance with the NST under the standards of the FCC's *Wisconsin Order*. To comply with the NST, rates must be based upon the forward-looking, direct cost of service, i.e., the price floor, and a reasonable overhead allocation, i.e., the price ceiling.

The specific services contemplated by this proceeding include customer-owned, coin operated telephone (COCOT) Line, COCOT Coin Line, Local Usage, Answer Supervision, and Restricted Coin Access. A COCOT Line is an access line where the intelligence for handling the call is within the payphone itself. A COCOT Line can be described as a "dumb line" attached to a "smart phone." A COCOT Coin Line, by comparison, is a "smart line" attached to a "dumb phone." The intelligence for handling the call is located primarily in the central office. SBC's Local Usage tariff offering consists of a 73-call package plus a message rate for each additional call. Answer Supervision is a capability that allows a payphone provider to determine when a positive answer has been returned by a terminating station. Restricted Coin Access allows the disconnection of the coin collecting service during certain hours.

In addition to pricing issues, the Commission has also undertaken an investigation into whether SBC discriminates against IPPs. Also of concern is whether SBC subsidizes its own payphone operations with revenue derived from its noncompetitive services.

The PAO and SBC challenge the cost conclusions and overhead loadings methodology used by the other. Both parties agree that permanent rates must comply with the NST.

EVIDENCE AND ARGUMENTS:

For its witnesses, SBC presented Dr. Kent A. Currie and Mr. J. Scott McPhee. Dr. Currie is employed by SBC Services, Inc. as Associate Director, Cost Analysis and Regulatory. Dr. Currie sponsored SBC Exhibits 2A, 2B, and 2C.[3] Exhibit 2D is SBC's summary of the cost and overhead loading issues (Tr. 131, 154). Mr. McPhee substituted for Helen Watkins and adopted the substance of her prefiled testimony (Tr. 28, SBC Ex. 1A). He sponsored SBC Exhibits 1A, 1B, and 1C.[4] Mr. McPhee is employed by SBC as an Associate Director in Regulatory Support. As its witness, the PAO presented Mr. Michael Starkey. Mr. Starkey is president of the consulting firm QSI Consulting, Inc. Mr. Starkey sponsored PAO Exhibits 1, 1A, 2, 2A, 3, and 3A.[5] In lieu of closing arguments, the parties filed briefs. SBC and the PAO filed initial briefs on March 4, 2004, and reply briefs on March 18, 2004. Neither Staff nor the OCC filed briefs in this matter.

I. SBC/New Services Test

Dr. Currie's testimony assesses SBC's proposed rates and overhead loadings under the NST. In particular, he discusses the costs underlying the proposed rates and the overhead loadings for services provided to IPPs. Dr. Currie explained that the purpose of the NST is to show that the charges for a service do not recover more than a just and reasonable portion of the provider's overhead costs. The NST is a cost-based test that establishes the direct cost of providing a service as a price floor. The overhead loading is the amount by which price exceeds the direct cost. Any rate that satisfies the NST is a forward-looking, cost-based rate. Ultimately, the NST is the basis for evaluating the reasonableness of a proposed rate (SBC Ex. 2A, p. 5-6).

In agreement with Dr. Currie, the PAO describes the NST as a means to ensure that an ILEC's payphone rates are based upon forward-looking, direct costs plus reasonable overhead. The intent of the NST, according to Mr. Starkey, is to prevent discrimination by requiring an ILEC to charge a rate equal to the cost it incurs when providing the service to itself, thereby placing it on equal footing with competitors (PAO Ex. 1A, p. 4-5). The PAO

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3 SBC Exhibit 2A is the public version of Dr. Currie's direct testimony. SBC Exhibit 2B contains the four confidential attachments to Dr. Currie's direct testimony. SBC Exhibit 2C is Dr. Currie's public rebuttal testimony.

4 SBC Exhibit 1A is the direct testimony of Helen Watkins. SBC Exhibit 1B contains Mr. McPhee's substituted testimony for questions 1 through 5 of Ms. Watkins' testimony. SBC Exhibit 1C is the rebuttal testimony of Ms. Watkins.

5 PAO Exhibits 1, 2, and 3 are the public versions of Mr. Starkey's direct, rebuttal, and supplemental rebuttal testimony, respectively. PAO Exhibits 1A, 2A, and 3A are the corresponding confidential versions of his direct, rebuttal, and supplemental rebuttal testimony.

does not necessarily disagree with the concept that the NST merely evaluates a proposed rate, ensuring that the rate is at or above cost and that the rate is at or below a ceiling that reflects the maximum reasonable share of overhead loadings attributable to the service. If the Commission were to establish a rate between SBC's cost floor plus the percentage that the PAO recommends for overhead allocation, the PAO would approve. The PAO believes that such a result complies with the *Wisconsin Order* and allowable UNE rate loadings. The PAO disagrees entirely, however, with SBC's overhead allocation methodology (PAO Ex. 3A, p. 7).

According to Dr. Currie, the FCC, in 47 CFR §61.49, has provided general guidance insofar as the information required for a NST. The basic information includes the direct cost of the service and the relevant charges (SBC Ex. 2A, p. 6). The FCC requires sufficient cost data to ascertain that charges for a service do not recover more than a just and reasonable portion of the carrier's overhead costs.

II. SBC's Cost Methodologies

Dr. Currie discussed the methodologies for determining the direct cost of service. According to Dr. Currie, the FCC stated in the *Wisconsin Order* that the NST should rely on a forward-looking cost methodology. Relying upon the FCC's Local Competition Order, Dr. Currie concluded that total element long-run incremental cost (TELRIC), total service long-run incremental cost (TSLRIC), or long-run service incremental cost (LRSIC) are forward-looking cost methodologies that would meet NST requirements (SBC Ex. 2A, p. 6-7). To determine the direct costs for SBC's payphone services, Dr. Currie relied upon LRSIC because it is the TSLRIC methodology used in Ohio (SBC Ex. 2A, p. 7).

Using LRSIC studies, Dr. Currie determined the direct recurring costs for COCOT Line Telephone Exchange Service, COCOT Coin Line Telephone Exchange Service, Answer Supervision, Restricted Coin Access, and the Local Usage Package (SBC Ex. 2A, p. 7-8 and Attachment 1). He also provided the proposed rates for these five services (SBC Ex. 2A, p. 8 and Attachment 1). Finding that the overhead loading factors associated with the proposed rates are all non-negative numbers, Dr. Currie concluded that the proposed rates cover their forward-looking direct costs (SBC Ex. 2A, p. 10).

Taking into account the direct costs and the proposed rates, Dr. Currie calculated the overhead loadings for the services. He defined overhead loading as the difference between a proposed rate and the direct cost. The overhead loading factor is the overhead loading divided by the direct cost. The overhead loading factor is expressed as a percentage (SBC Ex. 2A, p. 9 and Attachment 1). Dr. Currie noted that the overhead loading factors for COCOT Line Telephone Exchange Service and COCOT Coin Line Telephone Exchange Service varies by access area (SBC Ex. 2A, p. 9).

Having calculated the overhead loading factors, Dr. Currie evaluated them for their compliance with FCC requirements. In his testimony, Dr. Currie explains that, prior to the

Wisconsin Order, the FCC never set a limit on what it believed to be a reasonable amount of overhead loadings for payphone services. In the *Wisconsin Order*, Dr. Currie states that the FCC referenced three options for evaluating overhead loadings for independent payphone provider rates: UNE overhead loading factors, the methodology from the FCC's *Physical Collocation Tariff Order*[6] or the *ONA Tariff Order*[7]. He noted that the FCC does not require a uniform overhead loading factor; to the contrary, the FCC encouraged flexibility in the pricing of services (SBC Ex. 2A, p. 10-12). Dr. Currie emphasized that it is only necessary that a price fall below a ceiling established by any one of the three methodologies. Once that is accomplished, the other two methodologies become irrelevant, even if the price ceiling established by one methodology is below the proposed rate. SBC has chosen to use the *Physical Collocation Tariff Order* methodology to evaluate its proposed rates (SBC Ex. 2A, p. 12-13; SBC Br. 18).

A. *Physical Collocation Tariff Order* Methodology

According to SBC, the *Physical Collocation Tariff Order* methodology requires a four-part process to evaluate an overhead loading factor. The first step requires the identification of a comparable and competitive service. The second step is to compute the direct cost of the comparable and competitive service. Next, the overhead loading is calculated by determining the difference between the direct cost and the lowest rate of the service, including volume and term discounts. Finally, the overhead loading is divided by the direct cost to produce the overhead loading factor (SBC Ex. 2A, p. 14-15, SBC Reply Br. 8).

Dr. Currie defined a "comparable competitive service." Noting some ambiguity in the intent of the FCC concerning "comparable" services, Dr. Currie provided his own definition based upon FCC decisions. He argued that comparable competitive services can be identified by a two-step process. First, determine which services are comparable. Then, determine which of the comparable services are competitive (SBC Ex. 2A, p. 15).

By comparable, Dr. Currie means services that are sufficiently similar. To be similar, the services must have a relationship. Services may be economically or technically comparable. By competitive, Dr. Currie refers to services from two different companies that seek the same potential customers or two different services that customers typically regard as substitutes (SBC Ex. 2A, p. 15-16).

Dr. Currie identifies SBC services which he finds are comparable to services provided by payphone service providers. Specifically, he notes non-residence access lines,

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6 *In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, FCC 97-208, Second Report and Order, CC Docket No. 93-162, 12 FCC Rcd. 18730, released June 13, 1997 (Physical Collocation Tariff Order).

7 *In the Matter of Open Network Architecture Tariffs of Bell Operating Company*, Order, CC Docket 92-91, released December 15, 1993 (ONA Tariff Order).

non-residence local usage, and non-residence intraLATA toll service. Because SBC's payphone unit competes with other payphone service providers for payphone locations, Dr. Currie concludes that all services offered by SBC's payphone unit are competing services. Consequently, Dr. Currie finds that SBC's payphone services may be used to calculate an overhead loading factor using the *Physical Collocation Tariff Order* methodology (SBC Ex. 2A, p. 17-18). Analyzing FCC decisions, Dr. Currie emphasized that an overhead loading factor for a comparable service must be developed from a complete service not individual rate elements (SBC Ex. 2A, p. 18).

In Attachment 2 of his prefiled testimony, Dr. Currie provides the uniform and service-specific overhead loading factors based on the *Physical Collocation Tariff Order* method. The overhead loadings analysis is derived from LRSICs, which are the direct costs of services that compete with independent payphone providers (SBC Ex. 2A, p. 20).

1. COCOT Lines and COCOT Coin Lines

In applying the service-specific *Physical Collocation Tariff Order* method, Dr. Currie sought services comparable and competitive to COCOT Lines and COCOT Coin Lines. He determined that 4+, multi-line, non-residence exchange access with TouchTone is a comparable competitive service (SBC Ex. 2A, p. 22). Dr. Currie believes that multi-line, non-residence exchange access with TouchTone has substantially the same functionalities as COCOT Lines and COCOT Coin Lines. Moreover, he concluded that 4 or more multi-line, non-residence exchange access is treated today as a competitive service (SBC Ex. 2A, p. 22).

Having determined a comparable competitive service, Dr. Currie then determined the best rate. He found that the rate structure for multi-line, non-residence exchange access is the same as the rate structure for COCOT Line exchange access. Dr. Currie, after taking into account the discount volume and term rates for 4+ multi-line, non-residence exchange access, selected the lowest monthly rate. He added the federal end user common line (EUCL) rate for each access area. Next, Dr. Currie provided the lowest rates for Access Areas B, C, and D (SBC Ex. 2A, p. 23).

Dr. Currie examined the best rates for central office termination and exchange access. The month-to-month rate is the best rate for central office termination (SBC Ex. 2A, p. 23). There is no term plan or volume discount. Nor is there any variation because of access area. The best rate for exchange access, Dr. Currie contends, is the sum of the best rate for the network access line plus the best rate for the central office termination (SBC Ex. 2A, p. 23).

Dr. Currie explained how he determined the LRSICs for network access line and central office termination to calculate the best comparable offering. He discovered that the cost for a central office termination for a multi-line, non-residence line is virtually identical to the cost for a central office termination for a COCOT Line. He concluded that the

COCOT Line LRSIC study provides a reasonable estimate of the cost for a central office termination for a multi-line, non-residence line (SBC Ex. 2A, p. 24).

Dr. Currie explained that he could not use the network access line cost from the COCOT Line LRSIC study. The "best" rate is associated with 580 or more lines delivered to a single location. The COCOT Line LRSIC study does not take into account such a concentration of lines. Dr. Currie, therefore, modified the inputs to reflect 580 or more lines delivered to a single location (SBC Ex. 2A, p. 23-24).

Dr. Currie defined the LRSIC for exchange access as the sum of the LRSIC associated with the best rate for the network access line plus the LRSIC for the central office termination (SBC Ex. 2A, p. 24). Dr. Currie next determined forward-looking, service-specific overhead loading factors for network access line, central office termination, and exchange access (SBC Ex. 2A, p. 24).

2. Answer Supervision

SBC proposes a single rate for Answer Supervision. SBC could not identify a service-specific overhead loading factor for Answer Supervision based on the *Physical Collocation Tariff Order* methodology. Hence, SBC has decided to use the uniform overhead loading factor. Using the uniform factor, SBC finds that the proposed rate is below the uniform ceiling factor, thereby satisfying the NST price ceiling requirement (SBC Ex. 2A, p. 29).

3. Local Usage

As a comparable competitive service for Local Usage, Dr. Currie proposed stand-alone intraLATA toll service for business customers. Dr. Currie described the services as functionally similar. Because stand-alone intraLATA toll service is subject to competitive pressures, he concluded that the best rate for the service has a reasonable overhead loading factor (SBC Ex. 2A, p. 25). To determine the best rate for intraLATA toll service, Dr. Currie listed the various stand-alone intraLATA toll service offerings available to business customers. The offerings appear in SBC's tariff and include term and volume discounts. Dr. Currie provided the best rate and calculated the direct cost of intraLATA toll service (SBC Ex. 2A, p. 25). Dr. Currie also provided the forward-looking overhead loading factor for Local Usage (SBC Ex. 2A, p. 26).

4. Evaluation of Overhead Loading Factors for COCOT Line, COCOT Coin Line, Answer Supervision, and Local Usage

Comparing SBC's proposed overhead loading factors with SBC's proposed rates Dr. Currie explained how the overhead loading factors should be evaluated. If the overhead loading factors for the proposed rates are at or below the corresponding overhead loading factors based upon the *Physical Collocation Tariff Order* method, then the rate associated with the factor is deemed reasonable. In essence, such a result demonstrates that the overhead loading factor for a payphone service is at or below the price ceiling set by the NST. The rate would be a forward-looking, cost-based rate. If the overhead loading factor exceeds the NST ceiling, then, according to Dr. Currie, a fact-specific justification is required (SBC Ex. 2A, p. 26-27).

Analyzing the three access area COCOT Line rates, the three access area COCOT Coin Line rates, the single rate for Answer Supervision, and the two rates for the Local Usage Package, Dr. Currie finds that all the rates fall at or below the price ceiling established by the NST (SBC Ex. 2A, p. 28-30).

5. Restricted Coin Access

The rate for Restricted Coin Access marks an exception to the NST price ceiling. There is no service-specific overhead loading factor. Instead, Dr. Currie used the uniform overhead loading factor. He notes that the overhead loading factor for Restricted Coin Access is above the uniform ceiling factor. Because the factor exceeds the ceiling, Dr. Currie states that SBC must provide an explanation. SBC relies upon the FCC's recognition that exceptions to the ceiling requirement are permissible when the costs of a service are trivial. Taking into account the costs for Restricted Coin Access, Dr. Currie argues that the costs are trivial and that the proposed rate satisfies the NST (SBC Ex. 2A, p. 29-30).

III. PAO's Objections to SBC's Methodology and SBC's Replies

The PAO objects to the manner in which SBC has calculated direct costs and overhead allocation. As for the LRSIC cost study, the PAO argues that there has been insufficient time to review the study. Moreover, the Commission has not approved the study. Furthermore, the PAO claims that SBC's analysis strays too far from the *Physical Collocation Tariff Order* methodology and is, therefore, fatally flawed (PAO Ex. 2A, p. 14-15). In a cursory review of SBC's latest LRSIC study, the PAO questions SBC's inputs and assumptions for estimating forward-looking costs. Compared to *In the Matter of Review of Ameritech Ohio's Economic Costs for Interconnection, Unbundled Network Elements and Reciprocal Compensation for Transport and Termination of Local Telephone Traffic*, Case No. 96-922-TP-UNC (96-922-TP-UNC), the PAO finds the inputs and assumptions to be of unusual magnitude. The PAO points to the cost of money and annual charge factors as examples of an increase that exceeds what has been previously approved by the Commission (PAO Ex. 2A, p. 17-18; PAO Ex. 3A, p. 2).

Accusing Dr. Currie of selecting services with high overhead loadings, the PAO questions his use of non-residence, intraLATA, message toll service as a comparable competitive service. The PAO wonders why he did not consider interLATA toll service (PAO Br. 8; Tr. 66). Charging that the SBC payphone unit pays rates that are different than IPPs, the PAO accuses SBC of failing to factor in such a difference in conducting its analysis. Moreover, the PAO believes that Dr. Currie improperly aggregated the entire revenue stream from the SBC payphone unit. Instead, the PAO believes he should have conducted a rate-by-rate analysis (PAO Br. 8). In its reading of the *Wisconsin Order*, the PAO concludes that the FCC prefers the UNE methodology in allocating overheads (PAO Br. 9). Because the Commission has scrutinized a loading factor in 96-922-TP-UNC, the PAO finds that the Commission should prefer the use of a uniform loading factor derived from weeks of hearing (PAO Br. 10).

A. SBC's Cost Models

Highlighting cost models, the PAO notes that subsequent to the SBC/Ameritech merger SBC replaced the majority of Ameritech's cost models with cost models developed by SBC. The Commission approved Ameritech's Facility Analysis Model (AFAM) in 96-922-TP-UNC. SBC replaced AFAM with its "LoopCAT" model. The PAO emphasizes that the Commission has not approved this SBC cost model. Moreover, the PAO claims that other jurisdictions have detected flaws with SBC's LoopCAT model (PAO Ex. 2A, p. 18; PAO Ex. 3A, p. 2).

It is the understanding of the PAO that the Commission, on December 17, 2003, established a procedural schedule for the examination of SBC's cost models in *In the Matter of the Application of Ameritech Ohio for Review of TELRIC Costs for Unbundled Network Elements*, Case No. 02-1280-TP-UNC (02-1280-TP-UNC). The PAO expects that the Commission will examine in detail the cost models supporting Dr. Currie's studies. Taking note of a finding and order issued on March 11, 2004, in 02-1280-TP-UNC, the PAO suggests that SBC's cost models must be subjected to greater scrutiny before being used as a basis for permanent rates (PAO Reply Br. 5). In the meantime, the PAO recommends that the Commission reject SBC's proposed rates until the Commission completes its review of SBC's cost models. The PAO further recommends that the Commission require SBC to use the cost studies submitted in June 2000 because those studies have been scrutinized by the Commission. In the PAO's opinion, it would be poor public policy to adopt in this proceeding the same inputs and assumptions that are under review in another docket (PAO Ex. 3A, p. 2-3; PAO Br. 4-5; PAO Reply Br. 5-6).

SBC rejects the criticisms of its LoopCAT model. SBC claims that the PAO was granted, through interlocutory appeal, additional time to review SBC's 2003 LRSIC studies. Notwithstanding over five months and an opportunity to file supplemental rebuttal testimony, SBC points to the absence of any particular problem with the LoopCAT model identified by the PAO (SBC Reply Br. 7).

B. Comparable Competitive Services

The PAO rejects entirely Dr. Currie's overhead allocation analysis. Most importantly, the PAO contends that Dr. Currie does not apply the *Physical Collocation Tariff Order* methodology correctly. In the opinion of the PAO, the fundamental flaw is SBC's failure to choose a proper "comparable service" (PAO Ex. 2A, p. 21; PAO Ex. 3A, p. 9). The PAO questions the small set of services that meet Dr. Currie's criteria for competitive and comparable services. In finding so few comparable competitive services, the PAO argues that Dr. Currie should have concluded that the *Physical Collocation Tariff Order* methodology was inappropriate (PAO Reply Br. 8). SBC's ultimate intent, the PAO believes, is to locate services that produce high levels of overhead to justify high payphone rates.

The PAO claims that Dr. Currie did not look at other services with lower overhead loadings (PAO Br. 6). Moreover, citing the FCC's *Physical Collocation Tariff Order*, the PAO states that SBC should have used the lowest overhead applied to competitive services. Instead, the PAO contends that Dr. Currie, inconsistently with the FCC's order, has applied an average aggregate overhead loading taken from 8 different services. He should have conducted a rate-by-rate analysis (PAO Ex. 2A, p. 24-26). Rather than engage in a discussion of which services are more comparable, the PAO recommends that the Commission rely on its past analysis and findings relating to SBC's overhead costs of UNEs (PAO Ex. 1A, p. 26; PAO Ex. 3A, p. 9-11; PAO Br. 5).

Based on its cross examination, the PAO contends that Dr. Currie did not consider residential services or competitive "win-back programs," contract rates, or bundled or packaged rates. Moreover, when considering tariff rates, he did not check if there were actually buyers for such rates. The PAO explains that some tariff rates are not competitive; purchasers can readily find less expensive alternatives. Overall, the PAO finds unacceptable for the promotion of competition and the widespread deployment of payphone service SBC's overhead ceilings (PAO Br. 7, 10). Furthermore, the PAO questions whether 4+, multiple line, non-residence service is truly a competitive service. Relying on its cross examination of Dr. Currie, the PAO claims that 4+, multiple line, non-residence service lacks sufficient competitive force to limit overhead loading to reasonable levels (PAO Br. 6-7).

Another basis for disagreeing with Dr. Currie's methodology is that the Commission has already reviewed and approved a UNE shared and common cost model in 96-922-TP-UNC. The model attempts to measure the overhead costs that SBC incurs in producing network related services (PAO Ex. 3A, p. 9).

Notwithstanding the PAO's criticisms of Dr. Currie's methodology, SBC remains steadfast in its conviction that it has applied the *Physical Collocation Tariff Order* methodology correctly. In its brief, as in its prefiled testimony, SBC summarizes the steps that it took to apply the methodology (SBC Br. 19-29). SBC defends its methodology to determine overhead loadings for COCOT Lines and COCOT Coin Lines. Dr. Currie could identify only one comparable competitive service--4+, non-residence, exchange access lines with TouchTone. SBC finds no disagreement from the PAO that it is a comparable competitive service. Nor does the PAO identify another comparable competitive service. In response to the PAO's suggestion that the Commission dispense with the competitive criterion, SBC states that such an approach would not comply with the *Wisconsin Order*. Although the PAO disputes that 4+, non-residence, exchange access is not competitive, SBC disagrees. SBC claims that there is competitive pressure to discipline overhead loading. As proof, SBC points to the Commission's elimination of tariffing requirements in *In the Matter of the Commission Ordered Investigation of an Elective Alternative Regulatory Framework for Incumbent Local Exchange Companies*, Case No. 00-1532-TP-COI (Opinion and Order issued December 6, 2001; Entry on Rehearing issued April 25, 2002) (SBC Reply Br. 9-10).

As to whether Dr. Currie selected the lowest price, SBC responds that Dr. Currie selected the lowest stand-alone price for non-residence lines in order to make an apples-to-apples comparison with COCOT Lines and COCOT Coin Lines. He did not examine bundled rates, contracts, winbacks or package rates because bundled services consider the overhead of the bundle, not the single services that make up the bundle. With these considerations, SBC rejects the PAO's criticisms of its overhead methodology as applied to COCOT Lines and COCOT Coin Lines (SBC Reply Br. 10).

SBC's argument notwithstanding, the PAO contends that Dr. Currie erred in disregarding bundled options. Bundled packages are the type of competitive response that provides lower competitive rates (PAO Reply Br. 9).

C. Local Usage

SBC defends the overhead methodology applied to Local Usage. SBC rejects the PAO's recommendation that interLATA toll be used as a comparable competitive service. SBC explains that it is prohibited by the Act from offering interLATA toll. InterLATA toll is offered by SBC's separate affiliate, SBC Long Distance. SBC contends that it would be improper to select a service that it does not provide. Nor would it be appropriate to compare a service of another carrier because the cost structures of the two carriers would be different. Correcting the PAO's statement of the per minute rate for intraLATA toll service, SBC provided what it claims is the actual lowest stand-alone per minute rate. Noting the PAO's suggestion of what it believes to be a more competitive intraLATA toll rate, SBC points out that the PAO's rate would not reflect SBC's cost structure. In effecting a compromise, SBC recommends a reduced price structure, under the *Physical Collocation*

Tariff Order methodology, for its 73-call package and additional message rate (SBC Reply Br. 12).

From the PAO's perspective, intraLATA toll has no relationship with Local Usage. Consequently, the PAO rejects intraLATA toll as a service that is comparable and competitive with Local Usage (PAO Reply Br. 9).

D. Answer Supervision and Restricted Coin Access

With equal confidence, SBC defends the methodology it used to calculate the overhead loadings for Answer Supervision and Restricted Coin Access. Because Dr. Currie could not identify a comparable competitive service, he opted to select SBC's payphone business. SBC notes that the PAO does not challenge the resulting rates. Notable, according to SBC, is that PAO members do not use Restricted Coin Access or Answer Supervision. SBC, therefore, urges the Commission to refrain from modifying SBC's proposed rates (SBC Reply Br. 12-13).

Noting the PAO's condemnation of SBC's overhead loading factor for Restricted Coin Access, SBC highlights that the factor is not the product of *Physical Collocation Tariff Order* methodology. Instead, it is the result of the "trivial cost exception." According to SBC, the FCC has recognized that for some services whose costs are trivial, unusually high overhead loadings are permissible. If the Commission finds that the trivial cost exception is not applicable, SBC offers an alternative that is under the ceiling established by the *Physical Collocation Tariff Order* methodology (SBC Reply Br. 13-14).

E. UNE Methodology for Allocating Overhead Loadings

The PAO finds no mismatch in applying the UNE method for allocating overhead loadings to a LRSIC study. According to the PAO, LRSIC and TELRIC rely on the same underlying methodology. The only difference is the unit of output being studied. LRSIC examines services. TELRIC examines network elements. Overhead allocation is based upon a percentage of direct costs (PAO Ex. 3A, p. 11).

SBC disagrees with the PAO. SBC contends that there is a mismatch if a TELRIC overhead loading factor is used in conjunction with a LRSIC direct cost methodology. SBC explains that the methods involve different assumptions. As an example, SBC states that the TELRIC shared and common costs do not include shared and common costs for capital and marketing costs specific to payphone operations. Furthermore, TELRIC data is much older than the data supporting the 2003 LRSIC studies (SBC Br. 19; Tr. 137-138).

In reviewing the *Wisconsin Order*, the PAO argues that the UNE methodology should be the preferred methodology. In fact, the PAO contends that the UNE overhead method is part of the "comparable service" standard. The PAO believes that the FCC recognized that the states had undergone TELRIC proceedings wherein the states conducted detailed examinations of the reasonableness of overhead loadings for UNEs. For this reason, the PAO believes that the UNE methodology is most compliant with the NST. By comparison, the PAO believes that the *Physical Collocation Tariff Order* methodology is susceptible to subjective manipulation and contains numerous defects and inconsistencies. Moreover, the PAO believes that the methodology leads to monopoly rates and is inconsistent with the policy underlying Section 276 and Section 4927.02, Revised Code. The PAO rejects SBC's contention that SBC's selection of one method of overhead loading allocation renders the other two methodologies irrelevant. Instead, state commissions are granted authority to decide the appropriate methodology. In deciding the appropriate methodology, state commissions must bear in mind the policy initiatives of Section 276. Rather than simply rely upon the methodology presented by SBC, the PAO believes that it is incumbent upon the Commission to choose the best overhead allocation methodology (PAO Ex. 3A, p. 12-13; PAO Reply Br. 3, 7, 9).

Employing the UNE overhead loading methodology, the PAO recommends a factor to be applied to all direct costs of payphone services. In previous testimony, the PAO recommended a rough estimate of the UNE overhead loading factor. Through review of SBC's responses to interrogatories, the PAO discovered the exact allocator. The PAO, therefore, recommends applying SBC's UNE overhead loading factor to comply with the NST (PAO Ex. 3A, p. 14; PAO Br. 10). The PAO is critical of SBC's proposed factors for overhead allocation (PAO Ex. 3A, p. 6; PAO Reply Br. 8). However, if the Commission decides that the *Physical Collocation Tariff Order* methodology is appropriate to use, the PAO recommends a factor that corresponds to SBC's payphone business uniform overhead factor (PAO Reply Br. 10).

Finding that the PAO argues that UNE overhead loadings should serve as a cap on overhead loadings for payphone services, SBC rejects the argument. Quoting from the *Wisconsin Order*, SBC finds that the FCC explicitly rejected the idea that UNE overhead loadings must serve as a default ceiling. According to SBC, the PAO exhorts the Commission, on the basis of the policy objectives of Section 276, to adopt the UNE methodology to achieve the lowest overhead loadings. SBC emphasizes that the FCC permits any of the three methods for calculating overhead loadings. SBC argues that because it has used the *Physical Collocation Tariff Order* methodology, the UNE overhead methodology is irrelevant (SBC Reply Br. 1, 5-6).

IV. The PAO's Proposal

Believing that it has presented sufficient evidence for the rejection of SBC's proposed rates, the PAO recommends that the Commission adopt the PAO's proposed rates (PAO-Ex. 2A, p. 30). If the Commission decides to base permanent rates on SBC's August 4, 2003, cost studies, the PAO proposes that the Commission adopt the PAO's recommended rates (PAO-Ex. 2A, p. 31-32; PAO Br. 10). The PAO recommends that SBC adopt a per-minute usage rate. Updating a study of average payphone call duration, the PAO revises its estimate from 1.96 minutes to 1.92 minutes per call, based on 3.5 million payphone calls and 6.7 million usage minutes. Given the minor change, the PAO continues to recommend an average call length of 1.96 minutes (PAO Ex. 2A, p. 33).

V. NST, Pricing, and Discrimination

A. Clarification of the NST

Mr. McPhee sponsored SBC Exhibits 1A, 1B, and 1C. Mr. McPhee's testimony has four purposes (SBC Ex. 1A). First, he explains how the FCC, through the *Wisconsin Order*, changed or clarified the NST. Second, he recommends how the Commission should decide the pricing issues in light of the *Wisconsin Order*. Third, he explains that SBC's treatment of payphone providers does not discriminate in favor of SBC's own payphone operations. Finally, Mr. McPhee explains that SBC does not improperly subsidize its payphone operations.

Mr. McPhee testified that the FCC clarified the NST in four ways (SBC Ex. 1A, p. 5). First, in agreement with Dr. Currie, Mr. McPhee states that the FCC determined that rates should be calculated using a forward-looking, direct cost methodology (SBC Ex. 1A, p. 6; SBC Ex. 2A, p. 6-7). Although the FCC allowed TSLRIC or other forward-looking cost methodologies, it did not require TELRIC. Second, the FCC held that the monthly per line charge must be reduced with respect to the subscriber line charge (SLC) but not with respect to the primary interexchange carrier charge (PICC). Third, the FCC decided that local usage charges provided to IPPs are subject to the NST. Fourth, the FCC decided that overhead loading factors for payphone line rates should be cost based and should not exceed an upper limit calculated using the methodology from either the *Physical Collocation Tariff Order* or the *ONA Tariff Order*. SBC's witness Dr. Currie used the *Physical Collocation Tariff Order* methodology to evaluate the reasonableness of SBC's proposed rates (SBC Ex. 1A, p. 8).

The PAO adamantly disagrees with SBC's assertion that the *Wisconsin Decision* modified or clarified the NST. The PAO regards the *Wisconsin Decision* as the culmination of other FCC orders that established the NST as the new mechanism to set rates. In essence, the *Wisconsin Decision* is a summary decision. The NST has been in existence for some time (PAO Reply Br. 4).

B. Pricing

With respect to pricing, Mr. McPhee's testimony echoes that of Dr. Currie. For example, Mr. McPhee admitted that the overhead loading factor for Restricted Coin Access is above what the FCC generally approves. He explains that the cost of the service is low, and the demand for the service is insignificant. SBC, therefore, relies upon an exception, recognized by the FCC, that permits unusually high overhead loading for payphone features where monthly costs do not exceed a few cents per line (SBC Ex. 1A, p. 8). Mr. McPhee, relying on Dr. Currie's testimony, concluded that SBC's intraLATA toll service for non-residence customers is a comparable competitive service for IPP Local Usage (SBC Ex. 1A, p. 8-9). In addition, Mr. McPhee urges the Commission to conclude that four or more multi-line, non-residence exchange access lines with TouchTone is a comparable competitive service to both the COCOT Line and the COCOT Coin Line.[8] According to SBC, these services have substantially the same functionalities. By comparison, the COCOT Coin Line (smart line) includes more features and functionalities and is, therefore, priced higher than the COCOT Line (dumb line) (SBC Ex. 1A, p. 10).

In disagreement, the PAO claims that the FCC, in the *Wisconsin Order*, rejected SBC's proposal to use non-residence lines as a benchmark for payphone overheads (PAO Ex. 2A, p. 8-9).

C. Discrimination and Subsidization

In assuring that it does not discriminate against IPPs, SBC, through Mr. McPhee's testimony, highlights that its payphone business is a separate business unit from its local exchange carrier unit. There is an arm's-length relationship. Business plans, employees, and tangible assets are separate and function independently. Open access to each other's proprietary information is prohibited. With some minor differences, the SBC payphone unit is treated like any other IPP. One difference, for example, is that SBC's payphone business unit, because of service order volume, electronically batch loads its service orders. Other IPPs submit their service orders by fax or U.S. mail. SBC contends that the manner in which it processes service orders has no negative impact to IPPs or advantage to SBC's payphone unit (SBC Ex. 1A, p. 12; SBC Br. 32-33).

Another difference in the treatment of IPPs is that the Industry Markets Wholesale Unit inputs service orders into the service order system for IPPs. In addition, SBC makes available a sales support manager. In comparison, service orders are not input for SBC's payphone business unit and there is no sales support manager. Instead, the SBC payphone unit uses a Service Order Entry system to transmit orders to the SBC service center. The system is available to any IPP (SBC Ex. 1A, p. 12).

The Industry Markets Wholesale Unit services the IPP market throughout the SBC service area (SBC Ex. 1A, p. 12). It maintains its own marketing and customer service personnel. The unit is independent of other business units, including the payphone unit. Customer records and proprietary information are restricted. Likewise, marketing and planning information related to the IPP market, such as customer size, customer market share, geographic penetration, market demand, and revenue forecasts, is treated confidentially (SBC Ex. 1A, p. 12-13).

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8 Mr. McPhee points out that four or more multi-line, non-residence exchange access lines service is treated as a competitive service in SBC's elective alternative regulation proceeding in *In the Matter of the Application of SBC Ameritech Ohio for Approval of an Alternative Form of Regulation*, Case No. 02-3069-TP-ALT (Finding and Order, January 6, 2003).

Further emphasizing SBC's nondiscriminatory treatment of IPPs, Mr. McPhee testified that service orders for new IPP lines come into the industry markets regional customer service center in Richardson, Texas. The service center transmits the order to the SBC network organization for installation. There is no communication with the SBC payphone unit. Repair calls go to a centralized repair center, which dispatches work to a group of technicians who are not affiliated with the group used by SBC's payphone business unit. Where an IPP phone replaces an SBC payphone, the SBC payphone unit receives a disconnect order but does not receive information concerning an order for new service (SBC Ex. 1A, p. 13).

SBC denies that there is any difference in service provided by the SBC industry markets business unit to the SBC payphone business unit and IPPs. For example, SBC does not deny IPPs access to services that are technically available from its central office switches and for which a market demand exists. Product offerings are determined by the marketplace and economics, not by who orders the services (SBC Ex. 1A, p. 13).

SBC claims that it has undertaken measures to rule out subsidies. In October 1996, it submitted to the FCC proposed revisions to its cost allocation manual to reclassify revenues and expenses of pay telephone equipment from regulated to unregulated. The FCC approved the revisions, after which SBC collected set use fees for its payphones. By doing so, SBC states that it ensured that all activity within its payphone business unit was completely separate from the regulated activities of the LEC unit. Like IPPs, SBC's payphone unit is charged tariffed rates. (SBC Ex. 1A, p. 14; SBC Br. 33; Tr. 120-121). Overall, SBC urges the Commission to find that SBC does not discriminate or subsidize its payphone operations to the detriment of IPPs.

The PAO takes issue with SBC's contention that it does not discriminate against IPPs. Even accepting as valid Dr. Currie's comparable services, the PAO claims that Dr. Currie fails to account for discriminatory rates paid to SBC by IPPs (PAO Ex. 2A, p. 21, 26). If SBC paid the rates that it charges to IPPs, the PAO calculates that SBC would experience a significant reduction in revenue. Stated alternatively, the rates charged by SBC to IPPs include excessive overhead costs (PAO Ex. 2A, p. 28). For the PAO, one of the core issues in this proceeding is the rates that SBC's payphone unit pays to SBC's network unit for a pay telephone access line or for Local Usage. The PAO claims that the rates charged to IPPs are different. In reviewing SBC's testimony, the PAO finds no discussion of the disparity in rates. Absent from SBC's discussion is the cost to SBC of providing a payphone access line and Local Usage and the method by which to allocate overhead costs to the direct costs of those services. The purpose of the NST, according to the PAO, is to eradicate the discrepancy in rates paid to SBC by SBC's payphone unit and IPPs (PAO Ex. 2A, p. 9-12).

VI. The PAO's Case

For its case, the PAO presented its witness Michael Starkey. Mr. Starkey sought to describe the NST and to explain how it should be applied. He urges the Commission to order SBC to establish permanent pay telephone rates based upon the FCC's *Wisconsin Order*. Mr. Starkey testified that the PAO has calculated line rates and usage rates which it believes are compliant with the NST. The PAO urges the Commission to adopt its rates as permanent rates for SBC (PAO Ex. 1A, p. 4-5).

A. NST Methodology

Mr. Starkey summarized the main points of the *Wisconsin Decision*. Specifically, he stated that the *Wisconsin Decision* requires that direct costs be measured using a forward-looking economic cost method, that usage costs be included in any NST evaluation, that overhead allocations be limited by a comparable services standard, and that the interstate EUCL rate be netted out of the total forward-looking cost figures.

To express the NST requirements, Mr. Starkey offered an equation that can be expressed as follows (PAO Ex. 1A, p. 7-8):

Direct Cost	+	**Overhead Cost**	=	**Reasonable Rate**
LRSIC	+	(LRSIC x Overhead Cost %)-EUCL	=	Rate

He explained that direct costs are closely tied to capital and plant specific costs. Overhead is calculated with reference to direct costs. Mr. Starkey contends that the FCC has a strong preference for uniform overhead loadings applied to each rate element proposed by the ILEC. Mr. Starkey also alludes to the FCC's comparable service standard as a mechanism for determining overhead allocation (PAO Ex. 1A, p. 11-12).

In rebuttal, Dr. Currie emphasizes that the NST is not intended to set a rate. Instead, it is a mechanism that evaluates whether a given rate satisfies two cost-based criteria: 1) whether the rate is at or above direct costs and 2) whether the rate is at or below a ceiling that reflects the maximum reasonable overhead loading. Dr. Currie, therefore, disagrees with Mr. Starkey's use of a formula to set a rate (SBC Ex. 2C, p. 2, 3).

B. The Commission's Interim Rates

Taking issue with the Commission's interim rate order, Mr. Starkey finds the order, insofar as its reliance upon SBC's TELRIC based rates for UNEs and removal of the EUCL charge, to be conceptually compliant with the NST (PAO Ex. 1A, p. 12-13). Nevertheless, Mr. Starkey concludes that the interim rates would not be appropriate permanent rates. First, the interim rates rely on TELRIC. The PAO finds SBC's LRSIC study, which specifically targets pay telephone service costs, to be more relevant than TELRIC. Second, the PAO cannot verify the accuracy of the Commission's 60 percent markup for billing and marketing expenses. This and other problems, according to the PAO, can be overcome by relying on SBC's LRSIC cost study. Finally, the PAO disagrees with the Commission's assumption of 4.9 minutes as the duration of a pay telephone call. Believing that there is more reliable data, the PAO finds that the Commission's assumption is overstated. To avoid another incorrect assumption, the PAO urges the Commission to determine a per-minute rate for payphone use and to strike SBC's per-message component for Local Usage (PAO Ex. 1A, p. 14).

SBC finds the discussion of interim rates to be irrelevant. Of relevance are the rates proposed by SBC and whether they should become permanent rates (SBC Ex. 2C, p. 3). SBC characterizes as irrelevant the PAO's suggestion that the Commission's 60 percent markup would have to be modified if the Commission were to make the interim rates permanent. SBC, in its proposal, places no reliance on the Commission's overhead loading factor (SBC Ex. 2C, p. 5). Also considered as irrelevant by SBC is the 4.9 minute duration assumption for pay telephone calls. Since SBC's proposal does not rely upon the Commission's assumption, SBC does not believe that the assumption is worthy of discussion (SBC Ex. 2C, p. 6). While agreeing with Mr. Starkey that LRSIC cost information is more appropriate than relying upon TELRIC costs developed for UNEs, Dr. Currie emphasizes that newer cost estimates are preferable to older ones. For this reason, Dr. Currie advocates the use of new payphone service LRSIC studies that were not available when his testimony was filed on August 4, 2003. Essentially, Dr. Currie proclaims that the 2003 LRSIC studies are the best evidence of direct costs of payphone services (SBC Ex. 2C, p. 4, 7; SBC Br. 14). SBC rejects the PAO's assertion that SBC incurs costs for pay telephone calls on a per-minute basis rather than a per message basis. To the contrary, SBC points out that many factors drive local usage costs. Usage costs are driven by minutes and messages. For this reason, SBC contends that reliance on an average call duration cannot be avoided (SBC Ex. 2C, p. 6).

C. <u>SBC's LRSIC Studies</u>

To determine direct access line costs, the PAO advocates the use of a LRSIC study filed June 2, 2000, by SBC. This study, the PAO contends, is more accurate and more relevant to pay telephone services than the TELRIC data relied upon by the Commission for setting interim rates. TELRIC is designed to quantify the costs of network elements, as opposed to specific services. Looking at SBC's TELRIC-based UNE loop model, the PAO discovered that SBC assumes a 100 percent use of Universal Digital Loop Carrier (UDLC) technology, instead of the more efficient and less expensive Integrated Digital Loop Carrier (IDLC) technology. As a result, the PAO finds that SBC's TELRIC study can lead to overstated loop costs. IDLC technology has replaced UDLC technology. Nowadays, SBC deploys IDLC exclusively and has done so for many years (PAO Ex. 1A, p. 16-18). On the other hand, in its service-specific cost studies, the PAO contends that SBC assumes the use of the less expensive IDLC technology. The interim rates, because they rely on

TELRIC-based UNE loop costs, likewise incorporate an overestimate of SBC's service-specific costs. The PAO estimates an overstatement by as much as $2 per loop, per month (PAO Ex. 1A, p. 19). Further criticizing the use of TELRIC-based UNE rates, the PAO claims that there are numerous other examples where TELRIC-based UNE rates exceed their retail service counterparts (PAO Ex. 1A, p. 20).

Disputing Mr. Starkey's assertions, Dr. Currie testified that SBC does employ UDLC technology on a going forward basis in some circumstances. There are circumstances where UDLC may be cheaper than IDLC when both options are technically feasible (SBC Ex. 2C, p. 7). It is not necessarily true that TELRIC costs are inappropriate. According to SBC, the Commission, in determining SBC's TELRICs for unbundled loops, did not accept that IDLC technology is a cheaper method of providing unbundled loops than UDLC technology (SBC Ex. 2C, p. 8).

An additional benefit to relying on Dr. Currie's June 2000 study, according to Mr. Starkey, is that, unlike the interim order, there would be no need to account for billing and marketing costs. In its interim order, the Commission has factored in a 60 percent markup for billing and marketing. LRSIC, which already incorporates such costs, would obviate the need for a markup. According to Mr. Starkey, a LRSIC study, by definition, includes all the costs of providing a service (PAO Ex. 1A, p. 22).

SBC does not necessarily agree that LRSIC would capture all residual concerns such as billing and marketing (SBC Ex. 2C, p. 9). SBC believes that an overhead loading factor that relies on the *Physical Collocation Tariff Order* methodology would better account for any billing and marketing expenses not included in the LRSIC study for payphone service (SBC Ex. 2C, p. 10).

Noting the PAO's reliance on a previous study, SBC points out that the relevant LRSIC studies are not those referenced by Mr. Starkey. Although he refers to a "June 2000 study," the study actually dates back to 1997. According to Dr. Currie, in June 2000, SBC filed the study in this case along with his prefiled testimony (SBC Ex. 2C, p. 5). To SBC, the relevant LRSIC studies are those that accompany Dr. Currie's August 4, 2003, prefiled testimony. SBC describes those studies as the best payphone-specific cost studies (SBC Ex. 2C, p. 9; SBC Br. 14-17).

D. UNE Methodology

In agreement with Dr. Currie, Mr. Starkey alluded to the FCC's approval of three options by which to determine overhead costs: TELRIC, the *Physical Collocation Tariff Order*, and the *ONA Tariff Order*. Of the three options, the PAO believes that the use of shared and common overhead costs applied to TELRIC should serve as a reasonable ceiling (PAO Ex. 1A, p. 24-25). In support of its belief, the PAO points out that the Commission, in Case No. 96-922-TP-UNC, established the shared and common cost overhead loading for SBC's UNEs. The Commission based its findings on documentation, testimony, and a hearing. The Commission's analysis extended to SBC's payphone business unit. Owing to the comparative wealth of data and analysis in the Commission's investigation of SBC's UNEs, the PAO believes that neither the *Physical Collocation Tariff Order* nor the *ONA Tariff Order* methodologies are as relevant (PAO Ex. 1A, p. 26). In fact, the PAO finds no significant difference in these methodologies. The only difference is that they use different comparable services (PAO Ex. 1A, p. 27-28). In either case, the PAO expresses misgivings about the methodologies and the manner in which the FCC determined overhead allocation (PAO-Ex. 1A, p. 29-36).

SBC is surprised by the PAO's support of a UNE overhead loading factor. SBC finds this to be inconsistent with the PAO's arguments against the use of TELRIC for the direct costs of payphone services. Moreover, by expressing a preference for one of the three methodologies endorsed in the *Wisconsin Order*, SBC contends that the PAO has misconstrued the FCC's intent. There is no best method; any of the three methods is sufficient to justify overhead loadings (SBC Ex. 2C, p. 10-11). In addition, SBC rejects the PAO's criticism of the ONA methodology (SBC Ex. 2C, p. 16-17).

The PAO points out that the Commission, in its TELRIC order in Case No. 96-922-TP-UNC, did not specify an overhead loading value. In reliance upon SBC's overhead cost model, the Commission allowed SBC to recover a specific percentage over its direct costs (PAO Ex. 1A, p. 36). Relying on Dr. Currie's June 2000 LRSIC cost study, the Commission's previously approved UNE overhead loading factor, SBC's current EUCL rate, the PAO calculated access line rates that it believes conforms to the NST standard. The PAO urges the Commission to adopt its rates as permanent rates for pay telephone services.

The PAO takes issue with the costs for Local Usage advocated by SBC. In its interim order, the Commission set the unbundled local switching rate at $0.003226 per minute. Furthermore, the Commission assumed the average duration of a pay telephone call to be 4.9 minutes (PAO Ex. 1A, p. 38). Highlighting that Dr. Currie's June 2000 LRSIC study does not include costs specific to payphone usage, the PAO urges the Commission to continue to use the TELRIC-based $0.003226 per minute rate as a permanent rate (PAO Ex. 1A, p. 39; PAO Ex. 3A, p. 3).

If the Commission relies upon SBC's August 4, 2003, cost study, the PAO recommends alternative permanent rates (PAO Ex. 3A, p. 4-5). The PAO's suggested per minute rate assumes that SBC does not require the purchase of a minimum number of minutes or messages, such as the present 73-call minimum of local calls (PAO Ex. 3A, p. 5-6). Noting the difference in loop rates produced by the 2000 study and the 2003 study, the PAO points out that there is a $3 to $4 dollar increase, on average, using SBC's 2003 study (PAO Ex. 3A, p. 6).

In reviewing the PAO's proposed rate for a COCOT line, SBC finds discrepancies in Mr. Starkey's calculations. In all, SBC rejects the PAO's proposed COCOT line rates for lack of support. Moreover, SBC proclaims that the PAO's proposed rates are irrelevant to the issue of whether SBC's proposed rates meet the FCC's NST requirements (SBC Ex. 2C, p. 17-18).

E. Average Payphone Call Duration

The PAO disputes the Commission's assumption that the average length of a pay telephone call is 4.9 minutes. Moreover, the PAO hopes to persuade the Commission to reject any average call length assumption. The PAO is convinced that SBC incurs costs on a per minute basis. For that reason, the PAO believes that SBC should charge payphone providers on a per minute basis. Toward this goal, SBC must establish a per minute local usage charge. SBC would also have to abandon its 73-call package structure where it charges a per message rate when the number of calls exceed 73. In support of its proposal that SBC terminate its 73-call package for local usage, the PAO emphasizes that the package has little relationship to SBC's underlying usage costs. SBC's costs are driven by usage minutes, not usage costs. Any attempt to divine an average for pay telephone calls will lead to inaccuracy and will require periodic revisions (Tr. 194; PAO Ex. 1A, p. 39-40; PAO Br. 12).

In the event that an average call length must be used, the PAO conducted a study to determine for itself the average length of a pay telephone call. Initially, the PAO sought information from SBC that would establish the average length of a pay telephone call. Upon being informed that SBC had no such information, Mr. Starkey undertook an investigation himself, compiling data from the PAO membership. Using call data records from 1,468 payphones in SBC territory, Mr. Starkey ascertained the total number of messages, the total number of minutes, and the total number of payphones in service over the period July 2002 through May 2003 (PAO Ex. 1A, p. 42; PAO Ex. 2A, Attachment 4; Tr. 188-190; PAO Br. 11). From his study, he concluded that the average length of a pay telephone call is 1.96 minutes. He, therefore, concluded that the Commission's assumption of 4.9 minutes substantially overestimates SBC's costs (PAO Ex. 1A, p. 42). Using the PAO's proposed per minute rate of $0.003226 and the average call length of 1.96 minutes, the PAO calculated and recommends a lower average cost per message of $0.006323 (PAO Ex. 1A, p. 43). Challenging SBC's LRSIC study, the PAO emphasizes that SBC's average message duration is based upon all local calls, not just calls from payphones (Tr. 75-76; PAO Br. 11). The PAO, therefore, condemns SBC's findings as less accurate and less reliable (PAO Ex. 3A, p. 15; PAO Br. 11).

SBC challenges the PAO's methodology for ascertaining the average length of a payphone call. Relying on cross-examination findings, SBC points out that the PAO's study does not have 12 months of total data, that it does not include the same payphone lines over the test period, that the data only accounts for 1,468 lines out of a total of 5, 256 payphone lines, and that it does not include SBC's 28,770 payphone lines (SBC Br. 31; SBC

Reply Br. 14). SBC notes that Mr. Starkey admitted that his study is not "overly statistically valid" (Tr. 198). For these reasons, SBC urges against relying upon the PAO's conclusion that the average length of a payphone call is 1.96 minutes.

The PAO is undeterred by SBC's criticisms of its study. In response, the PAO declares that SBC has failed to offer any evidence of the average length of a payphone call made from its service territory. Dr. Currie's finding of the average minutes per call is not limited to local calls from payphones (Tr. 75-76). He did not testify that there were exclusions of calls for dial-up Internet access, which conceivably could last for days. The PAO asserts that it has provided the only evidence of the average length of a payphone call from SBC territory (PAO Reply Br. 11).

F. SBC's Payphone Message Rate

Noting SBC's resistance to revising its rate structure, the PAO expresses doubt over SBC's alleged inability to convert to a per minute rate structure. Nor is the PAO persuaded by SBC's arguments that the cost of changing its rate structure would be prohibitive. Moreover, the PAO asserts that SBC has failed to substantiate its claim through quantitative analysis. To the PAO, message based pricing appears to contravene the requirement that rates applied to payphone lines be cost based (PAO Ex. 1A, p. 40-41; PAO Reply Br. 10).

In rebuttal, SBC disagrees with the PAO's argument that SBC should eliminate its per message rate structure in favor of a per minute rate structure. SBC claims that such a conversion would involve an expensive and time consuming change to its billing system. SBC predicts that the change would take a period of 18 months. In further arguing against the PAO's proposal, SBC highlights that its tariff permits a per message rate structure. Moreover, SBC contends that there is no harm. There is no evidence that any PAO member has a usage of less than 73 calls per month. Through discovery, SBC claims that the volume of calls is much higher than 73 calls per month (SBC Ex. 1C, p. 1-2; SBC Br. 30-32).

In further rebuttal, SBC emphasizes that usage costs are driven by messages and minutes. Consequently, an average message duration cannot be eliminated from cost calculations. With respect to the average duration of a payphone call, SBC admits that average duration is significantly less than that expressed in the Commission's interim order. On the other hand, SBC claims that the PAO's estimate is understated. For SBC, the most current average message duration is in SBC's LRSIC study (SBC Ex. 2C, p. 19-20).

CONCLUSION:

I. Cost Study

Having assigned to SBC the burden of presenting forward-looking, cost-based rates for payphone services, the Commission need only determine whether SBC's rates for COCOT Line, COCOT Coin Line, Local Usage, Answer Supervision, and Restricted Coin Access comply with the NST. In doing so, we shall consider the forward-looking direct costs of these services and the corresponding overhead loadings. Additionally, the Commission must determine whether there is sufficient evidence for a finding that SBC improperly discriminates against IPPs or whether SBC improperly subsidizes its own payphone operations.

As a basis for the direct costs of payphone services, SBC has presented a 2003 LRSIC study. The PAO, on the other hand, advocates the use of a LRSIC study filed by Ameritech, SBC's predecessor, in this docket on June 2, 2000. In part, the PAO urges the Commission to reject SBC's 2003 LRSIC study because the PAO did not have sufficient time to review the studies. We find, however, that the PAO's assertion of insufficient time is negated by our granting the PAO additional time to review the study and an opportunity to file supplemental rebuttal testimony. The PAO had five months in which to review the study, its inputs, and the LoopCAT Model. For purposes of ascertaining the forward-looking costs of payphone services, we shall rely upon SBC's 2003 LRSIC study. According to SBC, the data contained in the 2000 LRSIC study dates back to 1997. Given the age of the information contained in the 2000 LRSIC study, all else being nearly equal, it is preferable to rely on the newer 2003 LRSIC study. Moreover, we do not find that the PAO has offered any convincing substantive criticism of SBC's 2003 LRSIC cost study. In the absence of specific substantive criticisms or alternatives presented by the PAO or other participants in this proceeding, we shall rely on SBC's 2003 LRSIC study as the basis for determining permanent payphone rates. It should be noted that we are not rendering an opinion on SBC's LoopCAT model. There is insufficient evidence in the record upon which to render a decision as to its validity. Furthermore, the PAO did not articulate any specific problems with the LoopCAT model that would lead us to dismiss its use in this proceeding. Notwithstanding the use of SBC's LoopCAT model in this proceeding, it is currently under review in Case No. 02-1280-TP-UNC.

II. Overhead Loadings

SBC's overhead loading factors derived from the *Physical Collocation Tariff Order* methodology appear to be high for competitive services. Such high overhead loadings may in fact diminish the underlying intent of Section 276 to promote competition and the widespread deployment of payphone services. Moreover, the *Physical Collocation Tariff Order* required the use of the lower of the overhead loadings associated with comparable and competitive services to ensure that overhead loadings are not excessive for payphone services.

A. COCOT Lines and COCOT Coin Lines

As for COCOT Lines and COCOT Coin Lines, SBC considered only 4+, multi-line, non-residence exchange access lines with TouchTone as a comparable competitive service. The *Wisconsin Order*, however, recognized that many customers use payphone service as a substitute for residential service (*Wisconsin Order*, ¶3). Consequently, residential service may be deemed a comparable service. SBC rejected residence access lines as comparable because SBC deemed them to be noncompetitive under Ohio rules (Tr. 85). SBC reasons that services subject to price restrictions are not competitive. SBC took into consideration individual residential access lines under SBC's alternative regulation plan. Such lines are subject to price restriction and are, therefore, not market based. Moreover, because of the price restriction, SBC concluded that the service is not competitive and, therefore, inappropriate for use in the calculation of overhead loading factors. By comparison, SBC finds 4+, nonresidence, access line service to be competitive because it is allowed pricing flexibility.

We must point out discrepancies in SBC's argument. In *In the Matter of the Application of Ameritech Ohio for Review of TELRIC Costs for Unbundled Network Elements*, Case No. 02-1280-TP-COI and in *In the Matter of the Complaint and Motion of CoreComm Newco, Inc. vs. Ameritech Ohio Requesting an Immediate Order Requiring Ameritech Ohio to Cease and Desist from Engaging in Winback Programs*, Case No. 02-579-TP-CSS, SBC cites the number of residential access lines that it has lost as a result of competition. We must also point out that 4+, residential access lines are considered to be Tier 2 under SBC's alternative regulation plan. Consequently, SBC would be granted the same pricing flexibility as 4+, business access lines. To be consistent, SBC could have considered that 4+, residential access lines are competitive.

Because the *Physical Collocation Tariff Order* required the lowest overhead loadings of the competitive comparable services be used in determining appropriate overhead loadings, we are reluctant to approve overhead loadings based upon the analysis of a single comparable competitive service. The failure to calculate overhead loading factors for 4+, residential access lines or any other comparable competitive service leads us to doubt SBC's analysis. Taking into account SBC's doubtful analysis and the size of the overhead loading factors, we must reject SBC's proposed overhead loading factors for its COCOT Lines and COCOT Coin Lines.

B. Local Usage

Similarly, we must question SBC's findings with respect to the overhead loading factor for Local Usage. SBC's recommended overhead loading factor appears inordinately high for a competitive service. In the absence of other comparable competitive services, we cannot accept SBC's overhead loadings analysis as a basis for permanent payphone service rates.

C. Answer Supervision

SBC's calculation of the overhead loading for Answer Supervision is not compliant with the *Physical Collocation Tariff Order* methodology. We note from the cross examination of Dr. Currie, that, in calculating overhead loading for Answer Supervision, he divided payphone revenue by the LRSIC for SBC's payphone services and SBC's LEC operations. A proper calculation, by Dr. Currie's own definition, would divide payphone revenue by the corresponding LRSIC for payphone services (Tr. 94-96). Moreover, Dr. Currie excluded from SBC's payphone unit's LRSIC charges access lines and usage. He included only the direct cost of providing access lines and usage. Because the SBC LEC, in its formula for calculating overhead loading, accounted for only the cost of providing payphone services to its payphone unit instead of what it charged the payphone unit, the LRSIC is understated. The understatement leads to an overstatement of the overhead loading ceiling. The overstatement causes us to reject SBC's overhead loading proposal for Answer Supervision. To correct the overstatement and to render a valid overhead allocation, SBC must account for the charges paid by IPPs to SBC's LEC unit. Because such an accounting is absent, we must reject SBC's proposed rates for Answer Supervision.

D. Restricted Coin Access

We must reject SBC's proposed overhead loading for Restricted Coin Access. Citing a "trivial cost exception," SBC defends an unusually high overhead loading factor. While, in theory, we can accept that trivial cost may justify an overhead that exceeds ordinary levels, we cannot approve a rate that too far exceeds the direct cost of a service. In this instance, we find SBC's overhead loading factor to be unreasonable. By consequence, we must find that SBC's proposed rate is unacceptable. We, therefore, shall adopt the PAO's overhead loading factor for Restricted Coin Access.

III. Payphone Call Duration

Upon review of the analysis of average payphone call durations offered by SBC and the PAO, we find both analyses to be flawed. The PAO's analysis does not consider non-PAO payphone calls and only accounts for a subset of the PAO members actual call duration data. SBC, in its analysis includes the duration of all calls, of which payphone calls comprise only a small percentage. Currently, SBC includes a message rate component.

All considered, the PAO has offered the more persuasive evidence of the average duration of a payphone call. We, therefore, find that the PAO's proposed average payphone call duration of 1.96 be used in conjunction with SBC's 2003 LRSIC study to calculate per message and per minute rates.

Contrary to the recommendation of the PAO, SBC states that it can not readily bill on a per minute basis. However, if SBC chooses to convert to per minute billing in the future, it may do so at the rate appearing in Appendix A. To choose this option, SBC will need to give its customers 30 days notice and file an amended tariff implementing per minute billing.

IV. Discrimination and Subsidization

We cannot find in the record any support for the allegation that SBC discriminates against IPPs or that SBC's LEC unit subsidizes SBC's payphone unit. The PAO makes the claim that SBC's LEC charges IPPs at different rates than it charges SBC's payphone unit. There are no facts in the record to support the allegation. Nor are there facts to substantiate the PAO's subsidization claim. SBC, on the other hand, describes in detail the manner in which its LEC unit conducts business with its payphone unit and IPPs. Nowhere in the description do we find evidence that would lead us to conclude that SBC discriminates against IPPs or subsidizes its payphone operations.

V. Rates and True-up

In sum, we accept as reasonable the cost studies offered by SBC. However, for the reasons discussed above, we must reject all overhead loading factors proposed by SBC. Based on the record, and as an alternative to overhead loadings based upon comparable competitive services, we shall adopt the recommendation of the PAO. That is, we conclude that it is appropriate to apply UNE overhead loadings to the direct costs of the payphone services that are the subject of this proceeding. UNE overhead loadings are known and are deemed by the FCC to be in compliance with Section 276 of the Act. In deciding to employ UNE overhead loadings, we are not invalidating the *Physical Collocation Tariff Order* methodology. We only conclude that the methodology, as applied by SBC in this case, fails to rise to the reasonableness standard of the NST.

On January 16, 2003, Commission issued an entry on rehearing setting forth interim rates subject to true-up. The Commission ordered the true-up to account for the difference in rates paid from the time of the effective date of the interim rates to the date upon which permanent rates shall be implemented. SBC shall implement the permanent rates shown in Appendix A within 60 days of this Opinion and Order. Furthermore, SBC shall file in final form three complete copies of tariff revisions incorporating the revised rates established in this proceeding. The effective date of the tariff revisions shall be the date upon which the three tariff copies are filed with the Commission. The tariff revisions shall be effective for services rendered on or after the effective date.

Pursuant to the Commission's entry on rehearing, SBC should render an accounting to the IPPs for the difference in rates charged under the interim rates and permanent rates had they been in effect during the interim period. Payment should be submitted for the difference within 60 days of this Opinion and Order.

ORDER:

It is, therefore,

ORDERED, That SBC institute permanent rates for COCOT Line, COCOT Coin Line, Local Usage, Answer Supervision, and Restricted Coin Access, consistent with Appendix A and this Opinion and Order. It is, further,

ORDERED, That SBC file within 60 days of this Opinion and Order, in final form, three complete copies of tariff revisions which incorporate permanent rates consistent with the conclusions of this Opinion and Order. It is, further,

ORDERED, That SBC render within 60 days of this Opinion and Order an accounting and payment for the difference between the interim rates and the permanent rates established in this proceeding. It is, further,

ORDERED, That a copy of this Opinion and Order by served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Judith A. Jones

Donald L. Mason

Clarence D. Rogers, Jr.

LDJ/vrm

Entered in the Journal

SEP 1 2004

Reneé J. Jenkins
Secretary

APPENDIX A

Case No. 96-1310-TP-COI

Permanent Rates for Payphone Services

	ACCESS AREA B	ACCESS AREA C	ACCESS AREA D	STATE-WIDE
COCOT Line Exchange Access				
Monthly Rate	$ 6.46	$ 11.61	$ 13.40	
COCOT Coin Line Exchange Access				
Monthly Rate	$ 8.31	$ 13.45	$ 15.26	
Answer Supervision				
Monthly Rate				$ 1.67
Restricted Coin Access				
Monthly Rate				$ 0.82
Local usage				
Per message rate				$0.008755
Per minute rate				$0.004467