STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company	)	
	)	
Filing to increase Unbundled Loop	)	02-0864
and Nonrecurring Rates	)	

REPLY BRIEF ON EXCEPTIONS OF SBC ILLINOIS

PUBLIC VERSION

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REPLY BRIEF ON EXCEPTIONS OF SBC ILLINOIS

Illinois Bell Telephone Company ("SBC Illinois" or the "Company"), by its attorneys, hereby submits its Reply Brief on Exceptions.

I. Introduction

SBC Illinois focused its exceptions on the most significant issues and the overall significance of the recurring loop price that would result from the Proposed Order if it is left unchanged. As SBC Illinois explained, the Proposed Order would result in only a very limited price increase for loops (less than the rate of inflation since 1998). As SBC Illinois further explained, the problem lies largely with the Proposed Order's treatment of three key inputs (cost of capital, depreciation and fill) and its decision to slash the shared and common factor. Consistent with the requirements of TELRIC and the evidence of record, the Proposed Order should be modified in the manner proposed in SBC Illinois' Brief on Exceptions.

The Joint CLECs propose numerous changes to the Proposed Order that would result in even lower loop prices, ones that would be by far the lowest in the nation. Their proposals, however, have no basis in fact or the governing law as enunciated by the FCC, the Illinois General Assembly, and the Seventh Circuit. Adopting the Joint CLECs' proposals, or any of them, would result in patently unlawful prices based on a fantasy network that goes well beyond any rational forward-looking approach.

It is telling that the Joint CLECs made only a minimal attempt to narrow or focus their 266 pages of exceptions to an order that would still give them about the lowest loop prices in the nation. Their arguments, however, are nothing but a rehash of claims that the Proposed Order already considered and rejected. Indeed, the Joint CLECs' rehash is so mechanical that they do not even attempt to correct undisputed factual mistakes that have been pointed out to them again and again.

Applying the established TELRIC law and the principles enunciated by the FCC, the Illinois General Assembly, and the Seventh Circuit, the Commission should reject the CLECs' and other parties' exceptions and adopt SBC Illinois' exceptions. By doing so, the Commission will go a long way toward promoting the interests of Illinois consumers and the goals of the Act by increasing UNE loop prices to a level that will actually promote sustainable competition and encourage deployment of new facilities by ILECs and CLECs alike.

III. UNE Loop Recurring Cost Studies

A. Compliance with TELRIC – General and LoopCAT

The Joint CLECs present a lengthy regurgitation of the arguments made by their witnesses in support of their position that the LoopCAT model used to develop UNE loop recurring costs in this proceeding is flawed and represents a "step backward" from AFAM model used to establish the existing rates in Docket 96-0486/0569. Joint CLEC Br. on Exc. at 7-25. Based on these arguments, the Joint CLECs propose, as an "alternative" conclusion to this section of the Proposed Order, that there should be no change to the TELRIC loop costs approved in Docket 96-0486/0569. *Id.* at 25-26. For the reasons fully discussed in SBC Illinois' Initial Brief (pp. 33-38, 105-53), the Joint

CLECs' arguments and "alternative" proposal are without merit and were properly rejected by the Proposed Order.

For the most part, the specific criticisms of LoopCAT discussed at pages 17 to 24 of the Joint CLECs' Brief on Exception are related to specific adjustments to the LoopCAT model proposed by the Joint CLECs and addressed in Section III.C of the Proposed Order (pp. 83-127). The vast majority of those adjustments were properly rejected by the Proposed Order. The Joint CLECs do not take exception to the Proposed Order's decisions to reject a number of those adjustments, including those related to distribution area modeling, distribution cable resistance limits, cable sizing and the quantity of loop data. Accordingly, the criticisms of LoopCAT which relate to those issues (Joint CLEC Br. on Exc. at 18, 19, 22, 23, 24) are irrelevant and should be disregarded. To the extent that the Joint CLECs' criticisms of LoopCAT are relevant to decisions of the Proposed Order to reject adjustments to which the Joint CLECs do take exception (such as the Proposed Order's rejection of the Joint CLECs' adjustments to cable and DLC installation costs), the Joint CLEC's arguments are addressed in Section III. C. of this Reply Brief on Exception.

The Proposed Order also correctly concludes that AFAM had numerous problems that were corrected by LoopCAT. *Proposed Order* at 27. The problems include:

- AFAM did not account for investment in a number of network components, such as building entrance facilities and remote terminal cabinets, which are properly in the LoopCAT model, a fact that Joint CLEC witness Balke acknowledged in a presentation made to the Commission Staff in 1999. Tr. 1869; SBC Ill. Cross Ex. 52P; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 33.

- In applying "target" fill factors, AFAM incorrectly assumed that cable could be purchased in the exact size requested for a particular route when,

in fact, equipment vendors only provide cable in limited, standardized numbers of sizes. SBC Ill. Ex. 4.0 (Smallwood Direct) at 27.

- AFAM is inferior to LoopCAT with respect to the age and quantity of the loop sample used to develop distribution costs, in that AFAM relied on data for a sample size of 1,600 loops, most of which were pulled in the mid-to-late 1980s. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 29; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 31. By comparison, the LoopCAT model presented in this case employed current, actual loop length data for approximately five million loops obtained from ARES. SBC Ill. Ex. 4.0 (Smallwood Direct) at 25; SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 28.

The Joint CLECs do not expressly challenge the Proposed Order's finding regarding AFAM. For this reason and all the other reasons discussed herein and in SBC Illinois Initial and Reply Briefs, the Joint CLECs' "alternative" proposal to make no changes to the TELRIC costs determined in 1998 on the basis of AFAM is without merit and should be rejected.

B. Major Inputs to Cost Studies

1. Fill Factors

The Joint CLECs, CUB and the Attorney General take issue with the Proposed Order's adoption of Staff's "forward-looking actual fill" approach. Joint CLEC Br. on Exc. at 26-103; CUB Br. on Exc. at 2-8; AG Br. on Exc. at 5-15. The Joint CLECs contend that the Commission should adopt any one of four different alternatives, none of which are even remotely TELRIC-compliant. CUB and the Attorney General advocate use of fill factors derived from the FCC's Universal Service Model – a model which was not designed to be used in TELRIC studies. As explained in SBC Illinois' Brief on Exceptions, the Commission should approve use of SBC Illinois' actual fill factors, not

Staff's approach. SBC Ill. Br. on Exc. at 27-39. However, the alternatives proposed by the Joint CLECs and CUB/AG are more arbitrary yet, and should definitely not be used.[1]

a. The Proposed Order's Recommendation on Fill Factors

The Joint CLECs complain that the Commission is departing "drastically" from the fill factor methodology it adopted in the 1998 TELRIC proceeding, as if that were evidence of unlawfulness. Joint CLEC Br. on Exc. at 54. Both SBC Illinois *and* Staff agree that this proceeding provides a much needed opportunity to revisit the issue of fill factors. The so-called "target" fill factors adopted by the Commission in the 1998 TELRIC proceeding are not, and never were, a measure of network utilization. At best, "target fills" identify the economic cross-over point at which SBC Illinois would reinforce its outside plant, rather than continue to operate at that utilization rate. Staff Ex. 17.0 (Liu Rebuttal) at 5; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 5-6. Even in 1998, the Commission Staff was unsure that its approach (which the Commission adopted) complied with TELRIC principles. Staff Ex. 34.0 (Liu Rebuttal) at 45-46. Regulatory developments since that time have demonstrated that it was, in fact, *not* TELRIC-compliant. SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 8-9.

The Joint CLECs make much out of the fact that Staff had originally recommended continued use of target fills. Joint CLEC Br. on Exc. at 53-54, 72.

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[1] In the first 27 pages of their exceptions to this portion of the Proposed Order, the Joint CLECs complain that the description of their position had been too heavily edited by the Administrative Law Judges. Joint CLEC Br. on Exc. at 26-53. It was not. The Proposed Order's summary of the Joint CLECs' position is already disproportionately long and detailed relative to the other parties'. For example, the summary of SBC Illinois' position is 6 pages long and the Joint CLECs' is 13 pages long. The Joint CLECs' additions would balloon it to *25* pages. The Commission has no obligation to summarize each and every point made by every party. The fact that the Administrative Law Judges felt compelled to edit the Joint CLECs' summary of position is the fault of no one but the Joint CLECs – they obviously made no attempt themselves to edit it down to a size and a level of detail appropriate for a Proposed Order.
The Joint CLECs also complain that the Proposed Order does not adequately summarize *Staff*'s position. Joint CLEC Br. on Exc. at 53. This is an issue for Staff, not the Joint CLECs, and Staff has not complained.

However, *Staff subsequently changed its proposal* in favor of forward-looking actual fills. The principal Staff witness who recommended use of target fills was Mr. Green. Staff Ex. 10.0 (Green Direct) at 13-15. Contrary to the impression that the Joint CLECs would convey, his proposal is not still "on the table." Mr. Green made clear in his rebuttal testimony that he had changed his position and that he supported Dr. Liu's recommendation:

> Q. Do you continue to recommend that the Commission adopt the same target fills ordered in the TELRIC Order for purposes of this proceeding?
>
> A. *No, I do not*. It is still my opinion that the target fills ordered in the TELRIC Order are more appropriate than the actual fills proposed by SBC. However, Staff witness Dr. Qin Liu has proposed newly developed fill factors that are more consistent with TELRIC fill principles as explained in her rebuttal testimony to SBC (Staff Ex. 25.0). *Thus, I support Dr. Liu's recommendation.* Staff Ex. 32.0 (Green Rebuttal) at 2 (emphasis added).

It is improper advocacy for the Joint CLECs to suggest that Staff still supports a position that it expressly disavowed during the course of the proceeding.

Nor is Staff's changed position in any way improper. One of the purposes of contested proceedings is to allow the parties to test their proposals and, when convinced by arguments or facts presented by other parties, to change them. Moreover, the regulatory landscape changed dramatically between the filing of Staff's direct testimony in May of 2003 and its rebuttal testimony in February of 2004 on the fill issue. The Illinois General Assembly passed Section 13-408 of the Illinois Public Utilities Act mandating the use of actual fill rates,[2] the FCC issued its NPRM where it proposed making use of actual fill rates mandatory on a nationwide basis, and the 7th Circuit Court of Appeals approved use of actual fill rates as TELRIC compliant. Under these

[2] Although this provision was later invalidated, it still represents the will of the General Assembly.

circumstances, Staff's decision to revamp its approach to the fill issue is completely understandable. It is the Joint CLECs who refuse to recognize that the time for using target fills – if there ever was one – has definitely come and gone.

The Joint CLECs contend that Staff witness Liu should be "held" to a proposal she made early on that target fills should be used if she could not obtain enough data to determine "forward-looking actual fills." Joint CLEC Br. on Exc. at 55. There is no rule of practice or evidence that says that witnesses are bound to initial positions and may not modify them based on subsequent investigation. After determining that the data required to perform the analysis Staff originally had envisioned did not exist, Staff proposed the 15% and 7.5% adjustments to SBC Illinois' actual fill rates as a proxy for what that analysis would have produced. Reasonable people can disagree over whether these adjustments are appropriate (SBC Illinois believes they are too high), but nothing precludes Ms. Liu from making the proposal. Indeed, the Joint CLECs here are very much the pot calling the kettle black, since they proposed two new alternative fill factor methodologies themselves in surrebuttal testimony.

The Joint CLECs criticize the Proposed Order's decision to accept Staff's 15% and 7.5% upwards adjustments to SBC Illinois' actual distribution and feeder fill factors as "arbitrary" and "empirically unsupported." Joint CLEC Br. on Exc. at 74-77. This does not advance their argument in any way that SBC Illinois can determine. SBC Illinois has its own concerns about Staff's adjustments – *i.e.*, that they are too high. SBC Ill. Br. on Exc. at 34-36. However, the Joint CLECs' proposals are even more "arbitrary" and "empirically unsupported" than Staff's: they are premised either on highly theoretical models that have no empirical support in network operations (actual or

forward-looking) or on a wire center analysis that, as the Proposed Order recognizes, demonstrates precisely nothing. Thus, they are hardly in a position to call Staff's approach unreasonable. Indeed, SBC Illinois' proposed fill factors, which are based on actual network utilization, are the only ones in the record that are not arbitrary and are actually empirically supported.

The Joint CLECs contend that the Proposed Order's requirement that SBC Illinois use 1998 data for its distribution fills should be expanded to apply to both distribution and feeder fill factors. Joint CLEC Br. on Exc. at 57-58. The Joint CLECs are *again* engaging in improper advocacy. The Joint CLECs are responsible for confusing the Administrative Law Judges to begin with, by claiming that Project Pronto was implemented in 1999 and that it caused a short-term reduction in utilization that would have depressed the fill rates used in this proceeding. As SBC Illinois pointed out in testimony, in its Initial Brief and in its Brief on Exceptions, Project Pronto was not implemented in Illinois until April of 2002, *after* the date that the fill data used in SBC Illinois' TELRIC studies was pulled. SBC Ill. Ex. 8.2 (White Surrebuttal) at 10; SBC Ill. Init. Br. at 43; SBC Ill. Br. on Exc. at 36-38. Rather than own up to the facts and their own error, the Joint CLECs instead urge the Commission to compound it by requiring the same adjustment for feeder fill. *For the fourth time*, Project Pronto did not impact, and could not have impacted, the distribution and feeder fill rates used in SBC Illinois' UNE cost studies in this proceeding.[3]

The Joint CLECs also object to the Proposed Order's rejection of their 1% cap on defective pairs in SBC Illinois' network. Joint CLEC Br. on Exc. at 58-62. The

[3] In any event, there is no evidence in the record of 1998 feeder fill rates. The Joint CLECs propose that the Commission simply assume the same percentage adjustment used for distribution fill. There is no reasonable basis for this proposal.

Proposed Order properly rejected this proposal and it should not be changed. As SBC Illinois explained, and the Proposed Order recognizes, the mere fact that a handful of offices have only 1% defective pairs is meaningless. The Joint CLECs made no attempt to evaluate whether a 1% defective pair rate is sustainable or prudent on an overall network basis. In the real world, reclaiming defective pairs costs money: SBC Illinois does not spend that money unless defective pairs would solve an immediate capacity problem. Even Mr. Starkey acknowledged that it was not his position that SBC Illinois should go out "willy-nilly" and reclaim all defective pairs, whether they are needed or not. Tr. 1810-12 (Starkey). Therefore, it would be arbitrary to simply exclude all defective pairs above the 1% level. Further, the Joint CLECs' speculations that there *might be* Universal Bad Pairs ("UBPs") that SBC Illinois does not know about or that there *might be* other defective pairs not classified as UBPs that will never prove economic to restore does not constitute *evidence* that would justify a 1% defective pair rate. And, contrary to the Joint CLECs' alternative suggestion, the Commission cannot just pick some other number out of a hat (*e.g.*, 3% or 4%). Joint CLEC Br. on Exc. at 62. The Proposed Order's conclusion on this issue is correct and it should not be changed.

b. The Joint CLECs' Alternative Fill Recommendations

The Joint CLECs have no less than *four* approaches to fill that they insist the Commission must consider. These approaches are as follows:

- Usable capacity-based factors;
- Target fill factors (discussed above);
- Fill factors based on the Joint CLECs' "Top 20 Wire Center" analysis; and
- Staff's forward-looking actual fills, but with the adjustment factors doubled. Joint CLEC Br. on Exc. at 56.

The fact that the there are so many Joint CLEC proposals, producing wildly differing results, is in and of itself strong evidence that the Joint CLECs know that none of them are TELRIC-compliant.[4] The Joint CLECs are reduced to throwing proposals against the wall, hoping that one will stick. As the Proposed Order concludes, and as discussed in more detail below, they are all arbitrary and should not be adopted.

The deficiencies in the "usable capacity" fill approach have been detailed at length by both Staff and SBC Illinois throughout this proceeding. The usable capacity approach assumes that the network is totally utilized and includes only enough spare capacity for maintenance, testing or administrative purposes. In other words, it excludes all spare capacity deployed for future demand. That is not what the FCC's rules require, and all the Joint CLECs' wishing will not make it so. In its recent *TELRIC NPRM*, the FCC stated that its *First Report and Order* and TELRIC rules "provide[] no guidance to state commissions on this specific issue [of fill factors] beyond the general requirement that the network should be sized to meet *reasonably foreseeable demand*." *TELRIC NPRM*, ¶ 73 (emphasis added). No efficient carrier operating even a hypothetical network could operate at maximum usable capacity because it would literally be digging up streets and yards every time a customer ordered a second line or every time a new service request came in. SBC Ill. Ex. 8.0 (White Direct) at 20-21; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal at 6-7). This is exactly the same proposal which the Joint CLECs made in the 1998 TELRIC proceeding and which the Commission rejected *then* on the grounds that it was not TELRIC-compliant. *1998 TELRIC Order* at 34; Staff Ex. 17.0 (Liu Rebuttal) at 20. It has not improved with age. Both the FCC and the 7th Circuit have

[4] The Joint CLECs' distribution fill proposals, for example, range from a high of **[***********]** (usable capacity) to a low of approximately **[***********]** (Staff's fills with the 15% adjustment doubled). AT&T/Joint CLEC Ex. 7.3 (Starkey/Fischer Surrebuttal) at 12, 30.

since made clear that such theoretical fill models are not required by the TELRIC rules. Therefore, the Joint CLECs' elaborate parsing of the TELRIC rules and the FCC's orders is simply wrong and should be disregarded. Joint CLEC Br. on Exc. at 62-66.

In further support of its usable capacity recommendation, the Joint CLECs once again argue that the LRSIC and TELRIC fill standards must be the same to ensure consistency between retail and wholesale cost studies. Joint CLECs Br. on Exc. at 66-69. The Joint CLECs are incorrect as a matter of law and policy. First, TELRIC studies for UNEs must conform to the cost standards established by the FCC – not to this Commission's policies for retail service cost studies. SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 12; Staff Ex. 17.0 (Liu Rebuttal) at 21-22. Second, LRSIC and TELRIC cost studies serve very different purposes. LRSIC studies are used as a *price floor* for retail services; SBC Illinois can and does price its retail services above LRSIC to generate contribution that recovers its total costs, including the costs associated with spare capacity in the network. SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 11-13. In contrast, TELRIC costs (including the shared and common cost allocation) constitute a *price ceiling* for UNEs. If network costs (such as spare capacity) are not recognized in TELRIC studies, they go unrecovered forever. *Id.* at 12-13; SBC Ill. Ex. 14.1 (W. Palmer Surrebuttal) at 14-15.

The Joint CLECs object to the fact that the Proposed Order did not adopt their "Top 20 Wire Center" analysis, where they averaged the highest fill factors for each of the loop components found anywhere in SBC Illinois' network. They claim that this is a more accurate implementation of Staff's methodology. Joint CLEC Br. on Exc. at 77. SBC Illinois demonstrated, and the Proposed Order agreed, that this analysis proved

nothing. Nowhere did the Joint CLECs offer any empirical analysis as to *why* the fills in these offices are high or demonstrate that the rest of SBC Illinois' loop network could or should be expected to operate at this level of utilization. It is ludicrous to suggest, for example, that the Joint CLECs' top wire center for distribution fill – a tiny rural wire center which serves all of *181* lines – is a benchmark for *anything*. SBC Ill. Starkey/Fischer Cross Ex. 48P. Absent a showing that the distribution and feeder facilities in the remaining 258 wire centers *not* included in the Joint CLECs' analysis have lower fills because of "innocent mistakes" which SBC Illinois made in the initial planning process − and they made no such showing − then the Joint CLECs' analysis has nothing whatsoever to do with Staff's conceptual model and certainly does not "implement" it.

The Joint CLECs take issue with the Proposed Order's conclusion that their Top 20 Wire Center analysis was not based on a representative office sample. Joint CLEC Br. on Exc. at 81. The Proposed Order is correct. First, based on the Joint CLECs' own methodology, these wire centers should have accounted for 7% of the lines served by SBC Illinois' 278 total wire centers – itself, a paltry sample. However, the wire centers actually pulled by the Joint CLECs in their analysis did not even do that. For example, the sample offices for copper distribution and fiber feeder facilities represented only *2.1%* and *2.8%* of the usable pairs in SBC Illinois' network, respectively – not *7%*. The reason for that disparity is that small rural wire centers were wildly over-represented. The Joint CLECs' short list of (somewhat) recognizable wire centers in their four samples is swamped by a long list of totally obscure, tiny offices.[5] For distribution

[5] *See* Joint CLEC Br. on Exc. at 81; compare SBC Ill. Starkey/Fischer Cross Ex. 48P that shows rural wire centers like Marine, Fowler, Iuka, Columbus, Hersher, Lebanon, Breckmeyer, Ipava, San Jose, Harmony

facilities, an astounding 11 of the 20 wire centers served less than *2000* lines and five of those 11 served less than *500* lines. No one could contend with a straight face that these offices are representative of SBC Illinois' network. Staff reviewed the data underlying the Joint CLECs' analysis and came to the same conclusion. Staff Reply Br. at 37-39. Mr. Starkey's valiant attempt to deny the obvious during cross-examination was unavailing. Joint CLEC Br. on Exc. at 81.

The Joint CLECs contend that the Proposed Order (and SBC Illinois) missed the point of their analysis: *i.e.*, to use the highest achieved fills in SBC Illinois' network as a benchmark for "efficiency." Joint CLEC Br. on Exc. at 83. The Joint CLECs, not the Proposed Order, are missing the point. They have done nothing to demonstrate that the high fill rates in these offices are the result of *efficiency*. All that their analysis demonstrates is that some wire centers have higher fill rates than others – not a matter of rocket science. Unless these high fill rates can be directly linked to a superior planning and design process used in those wire centers that was different from the planning and design process used in the rest of SBC Illinois' wire centers – rather than demographic or other factors – the Joint CLECs have proven nothing. Staff Reply Br. at 37-39. And the Joint CLECs established no such links.

The Joint CLECs' final proposal is bizarre. Having lambasted Staff's 15% and 7.5% adjustments as "arbitrary" and "empirically unsupported," the Joint CLECs suggest that Staff's approach might nonetheless be acceptable if the Commission simply doubled the size of the adjustments. Joint CLEC Br. on Exc. at 56. The Joint CLECs argue that this would represent "…not as drastic a departure…" from the target fill rates in SBC

Jefferson, Greenville, Buffalo, Vandalia, Kaneville, and Momence – and that is just from the distribution facilities sample.

Illinois existing studies. *Id.* If an adjustment is arbitrary to start with – and the CLECs claim that Staff's proposal is arbitrary – doubling it does not make it less arbitrary. It makes it more arbitrary. If the fill rates approved in the 1998 Order were not TELRIC-compliant − and they were not − bringing Staff's fill rates closer to them does not make Staff's proposal more TELRIC-compliant. It makes it less TELRIC-compliant. Staff's adjustments are already too high, not too low, and the Joint CLECs' proposal to double them should be rejected out of hand.

c. The Attorney General's and CUB's Proposal

The Attorney General and CUB take exception to the fact that the Proposed Order did not accept their proposal to use the fill factors produced by the Universal Service Model ("HCPM"). AG Br. on Exc. at 5-6; CUB Br. on Exc. at 5-6. The Proposed Order correctly found that the HCPM model (referred to in the Order as the "Synthesis Model") was developed to determine universal service funding levels, not TELRIC rates. *Proposed Order* at 59

The Attorney General and CUB protest that the HCPM model can and should be used to develop fill rates for TELRIC studies. That is not what the FCC has said. The Attorney General's attempt to bootstrap the *Virginia Arbitration Order* in support of its position is no longer viable. Although the FCC's Wireline Competitor Bureau decided, based on the facts before it, to adopt the CLECs' fill approach because it "comport[ed] with the Commission's treatment of fill factors in the [*Universal Service*] *Inputs Order,*" the FCC itself has since made it clear that the treatment of fill factors in the *Universal Service Inputs Order* is inconsistent with the TELRIC fill factor rule. *TELRIC NPRM*, ¶ 73; SBC Ill. Ex. 14.1 (Palmer Surrebuttal) at 16-18.

The Proposed Order also properly found that there are deficiencies in the methodology used by the Attorney General to implement the HCPM model. It appeared to SBC Illinois, based on a review of Schedule WDA-14, that each input fill factor was simply adjusted by the same gross factor to calculate an effective fill, because each one showed an approximately identical 7.8% change in value. This methodology is overly simplistic, because the HCPM model determines effective fill factors by applying input fill factors to route-by-route, customer-specific location data for the entire study network. *Tenth Report and Order*, ¶ 195. *See also* SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 18. In its Brief on Exceptions, the Attorney General objects to this conclusion, insisting that their analysis was performed in accordance with the model's requirements. AG Br. on Exc. at 9. SBC Illinois has reviewed the output developed the Attorney General again and simply finds it implausible that the kind of wire center-by-wire center, route-by-route analysis required by HCPM could have resulted in *exactly* the same adjustment to each input value. This is precisely the kind of methodology issue that would need to be resolved on an evidentiary record with an opportunity for all parties to comment. The Attorney General made the strategic decision to hold its final fill proposal until the surrebuttal round of testimony and it cannot complain if the record is inadequate to determine whether the HCPM model was even applied correctly.[6]

Finally, as SBC Illinois pointed out in its Reply Brief, the Attorney General and CUB are picking and choosing between elements of a cost model that the FCC developed as an integral whole. SBC Ill. Reply Br. at 27. When, for example, the Wireline

[6] The input values Mr. Regan started with are also out-of-date and overstated. The "input" cable sizing values used in his analysis are not consistent for several cable sizing cells with those presented by Mr. Palmer in his rebuttal testimony. Compare SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 21-22 with AG Ex. 1.3 (Regan Surrebuttal), Schedule WDA-14. The Attorney General does not dispute this fact.

Competition Bureau used the HCPM model in the *Virginia Arbitration Order* proceeding, it used the *entire* model – not just the fill factors implicit in it. Although some changes were made to make the model more current or more Virginia-specific, each change was separately evaluated by the Bureau to ensure that the integrity of the model would not be compromised. *See*, *e.g.*, ¶¶ 169, 177, 182, 189. Whatever value there might be to the FCC's model in the context of a TELRIC proceeding – and SBC Illinois does not believe that there is *any* – it is clearly inappropriate to selectively use only those inputs that produce a lower result. As SBC Illinois demonstrated in its rebuttal testimony, the FCC's HCPM model would produce a state-wide average UNE loop rate of $14.60 – not the Attorney General's proposed rate of $8.81. SBC Ill. Br. at 4; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 38. Due to the conservative assumptions underlying the HCPM model, any TELRIC-compliant UNE loop rate would substantially *exceed* this level. *Id*. at 34-37. It would be arbitrary and capricious to borrow one input from the FCC to produce a UNE loop rate that is only *60%* of what the FCC would undoubtedly acknowledge is a conservative cost estimate and one that is too low for TELRIC purposes.

3. Cost of Capital

a. Response to Joint CLECs

(i) Capital Structure

Three comments in the other parties' exceptions on cost of capital stand out because they support SBC Illinois' argument in its exceptions for a greater percentage of equity in the capital structure.

First, the Joint CLECs "stress that the parties' cost of equity and common equity ratio recommendations go hand-in-hand." Joint CLEC Br. on Exc. at 105. SBC Illinois

agrees with that statement, which is precisely why the Proposed Order should adopt a higher equity ratio. As SBC Illinois stated in its brief on exceptions, the Proposed Order (at 79) adopts Staff's proposed 12.44% cost of common equity, which is based on Staff's Telecom Sample group of companies comparable to SBC. The Proposed Order (at 79) found that by using this sample, Staff "has effectively modeled the level of risk associated with providing UNE[s]," because "Staff's Telecom Sample produces numbers compatible with a forward-looking competitive environment." To make the capital structure consistent with the Proposed Order's decision on cost of common equity – as the CLECs agree it must be – the capital structure must also be based on the *market value* capital structures of the companies in Staff's group, which is 79% equity (not the 51% equity adopted in the Proposed Order).[7] Such a change would not give SBC Illinois the full 12.19% cost of capital it proposed and supported and which TELRIC requires, as it would produce a cost of capital of just 10.95% (still well below the FCC's starting point and the values adopted by the FCC's Wireline Competition Bureau and other state commissions). However, it would at least make the Proposed Order internally consistent and show progress toward a cost of capital that is more in line with the risks of a competitive market. Indeed, the only way that investors will *actually* receive the 12.44% return on equity that the Proposed Order and Staff say they are entitled to will be if the market value capital structure of Staff's Telecom Sample group is used. SBC Ill. Ex. 12.1 (Avera Rebuttal) Sch. WEA-7.

Second, as CUB notes in its brief on exceptions (at 9), the Commission must "assess whether [Staff's] methodology [for determining capital structure, adopted by the

[7] As SBC Illinois pointed out, even the *book* value capital structure of Staff's comparable companies contains a percentage of common equity (66%), which greatly exceeds the 51% common equity percentage approved by the Proposed Order. SBC Br. on Exc. at 14.

Proposed Order] yields a reasonable result that would enable SBC to have access to capital markets." SBC Illinois agrees with CUB's identification of the relevant inquiry. The answer to that question is no. Because the proposed capital structure is not based on market values, it does not account for the risks that TELRIC requires it to reflect and thus will not provide the kind of structure that SBC needs to attract capital. As noted above and in SBC Illinois' exceptions, unless the equity ratio in the capital structure is increased to at least 79% (again, based on market valuation of Staff's sample), investors in SBC would not even receive the 12.44% return on equity that Staff and the Proposed Order deems necessary. Further, as also explained in SBC Illinois' briefs, the marketplace itself shows that single-A rates companies *never* have capital structures with just 51% equity, and unbiased industry observers have said that if SBC adopted such a low-equity capital structure (and thus increased its debt burden), SBC's financial rating would certainly be downgraded and, in fact, could well lose its investment rating altogether, thereby jeopardizing SBC's "access to the capital markets" (CUB Br. on Exc. at 9). SBC Ill. 12.1 (Avera Rebuttal) at 23.

Third, Staff states that "[t]he Commission should not base rates on speculation." Staff Br. on Exc. at 10. While there is a difference between rational forward-looking projections and speculation, SBC Illinois agrees. And that is why the Commission should not, as the Proposed Order does, accept Staff's proposed capital structure. Staff speculates that a company like SBC can maintain its financial strength in a fully competitive market while carrying a capital structure that is almost 50% debt. The record is undisputed that no single-A rates company operates with such a high debt burden today, and that even the companies in Staff Telecom Sample Group average only about

20% debt in their capital structures. Staff's and the Proposed Order's belief that SBC could maintain the same financial strength as those companies that carry almost 50% debt is unrealistic and rests entirely on speculation.

The Joint CLECs seek to reduce the cost of capital even further by attacking the Proposed Order's conclusion regarding the percentage of short-term debt in the capital structure. The Joint CLECs proposed 22.35% short-term debt in the capital structure. SBC Illinois proposed 0% short-term debt. The Proposed Order finds the middle ground and concludes that the capital structure should include 4.78% short-term debt, as proposed by the Staff. Although SBC Illinois believes that there is no place for short-term debt in the capital structure, it certainly agrees that, if short-term debt is to be included at all, it should be no more than 4.78%. Short-term debt is used to meet *temporary* capital requirements or to finance capital improvements until it is feasible for a company to issue common stock or long-term debt. SBC Ill. 12.1 (Avera Rebuttal) at 66. That is not the case here. The facilities that SBC must install to provide UNE services are long-lived assets. *Id.* The forward-looking capital structure should therefore include only a very small amount of short-term debt, if any. The Proposed Order's conclusion (at 82) that the Joint CLECs' proposed percentage of short-term debt "is excessive when considering the financing of long-lived assets" is absolutely correct.

The Joint CLECs' argument regarding the propriety of their proposed 22.35% short-term debt ratio is misleading. They state (at 114) that "over an extended period of time, SBC/Ameritech has maintained levels of short-term debt in its capital structure equal to or greater than the short-term debt percentage Joint CLECs have recommended." In fact, however, the alleged capital structure they reference is that of SBC *Illinois*, not

SBC as a whole (which, as the Proposed order recognizes, is the only company that actually issues debt in the marketplace). Moreover, the 22.35% is an artificial number since it entirely represents loans from SBC to SBC Illinois and bears no relationship to the short-term debt balance that a stand-alone company that issues its own common equity and debt would maintain. SBC Ill. Ex. 12.1 (Avera Rebuttal) at 67. Notably, Staff recognized this fact, which is why it chose not to use SBC Illinois' short-term debt balance. Staff Ex. 12.0 (McNally Direct) at 21 ("SBC [Illinois] obtains all its external capital from SBC") and 27 (relying on SBC's capital structure, not SBC Illinois'). The Joint CLECs also refer to the 23.3% short-term debt balance approved in the 1998 TELRIC Order. Again, this number was likely based not on SBC/Ameritech's capital structure, but on that of SBC Illinois. Furthermore, the short-term debt balance in the 1998 Order was based on a Staff recommendation as well, and Staff obviously has changed its view in this case.

(ii) Cost of Equity

Although the Joint CLECs take exception to the Proposed Order's adoption of the Staff's proposed 12.44% cost of common equity "for the record" (at 105), they do not seriously object to the conclusion, and therefore no changes to that cost rate are required (though the capital structure should, as SBC Illinois recommended, be changed to be consistent). In fact, the 12.44% cost of common equity, while still too low, is generally reasonable and consistent with (though lower than) the figures adopted in other post-*Triennial Review Order* decisions. The Pennsylvania Commission recently found that "[a]n appropriate common equity cost rate, in this case, should . . . reflect those risks associated with a firm engaged solely in a competitive market for facilities-based telecommunications service. . . . We will adopt a 14.75% common equity cost rate . . .

based upon the parameters associated with a competitive entity and the attendant risks as clarified in the *FCC TRO*." Pennsylvania Opinion at 61. Similarly, in the *Virginia Arbitration Order*, the FCC Wireline Bureau established a cost of equity of 14.37%. *Virginia Arbitration Order*, ¶ 99. Although the Staff's DCF analysis in coming up with its proposed 12.44% cost of equity was flawed, its approach to determine the equity risk premium for the CAPM analysis was reasonable and forward-looking. SBC Ill. Ex. 12.2 (Avera Surrebuttal) at 27. In fact, despite the Staff's faulty DCF analysis, the CAPM result brings its cost of equity recommendation as a whole closer to the result reached by the FCC's Wireline Competition Bureau and the Pennsylvania Public Utility Commission.

While the Joint CLECs take issue with the Staff's methodology in determining the cost of common equity adopted in the Proposed Order, it is the flawed analysis of the CLECs' witness, Ms. Terry Murray, that resulted in an artificially low cost of equity that fails to reflect an adequate risk premium over the cost of debt and, in fact, falls well below authorized returns for less risky natural gas distribution and electric utilities. SBC Ill. Ex. 12.1 (Avera Rebuttal) at 49-50. SBC Illinois' expert, Dr. Avera, described the numerous flaws in Ms. Murray's approach, including the following:

- Ms. Murray used a "three-stage" DCF model – precisely the model the FCC's Wireline Bureau rejected in 2003, finding that "[t]here is no basis on which to find that AT&T/WorldCom's three-stage DCF model produces a reasonable cost of equity capital estimate, given the lack of support for their dividend growth rate assumptions." *Virginia Arbitration Order*, ¶ 75.

- Ms. Murray relied on a three-firm sample of BellSouth, SBC Communications and Verizon, even though the FCC's Wireline Bureau has held that such a sample understates the risks associated with providing UNEs in the competitive market assumed under TELRIC. *Id.,* ¶ 93

(reliance on these holding companies "likely understates the risk of selling UNEs in a competitive market.")

- Ms. Murray made no effort to reflect the actual expectations of investors. Instead, Ms. Murray's DCF analysis employs a "mechanistic approach" just like that used for a "traditional regulated utility." SBC Ill. Ex. 12.1 (Avera Rebuttal) at 42.

Unlike the Joint CLECs' suggested cost of common equity, the Proposed Order's cost of common equity is reasonable and forward-looking, and there is no record or legal basis for reducing it.

b. Response to Staff

Not satisfied with the Proposed Order's adoption of a capital structure with an unreasonably high percentage of debt, Staff seeks to impose a double whammy on SBC Illinois by arguing that the cost of that debt should be dramatically reduced. The Commission should reject that request, which would reduce the overall cost of capital and make it even further out of line with what other regulators have recently recognized to be the proper level.

The Proposed Order adopts the Joint CLECs' proposed cost of debt, which was higher than Staff's proposal on both short-term and long-term debt, but lower than widely referenced forecasts of interest rate levels which confirm the reasonableness of SBC Illinois' proposed debt cost of 7.18%. SBC Ill. Ex. 12.1 (Avera Rebuttal) at 60. With regard to short-term debt, the Proposed Order notes that "ST debt is currently at historic low prices. History and common sense suggest that its cost is unlikely to stay as low as it is now." *Proposed Order* at 74. Based on these "unusual circumstances present in capital markets," the Proposed Order rejects Staff's proposal. *Id.* Staff now argues that "it would be improper to assume any upward trend" in interest rates, but fails to explain why history and common sense should be ignored, or why paying attention to history and

common sense (not to mention recognized forecasts) is somehow equivalent to "speculation." Staff Br. on Exc. at 10.

Staff also argues that the Proposed Order's approach is inconsistent with a past Commission ruling in a *water* rate case. *Id*. at 11. It is well-established that such traditional regulatory ratemaking proceedings have no relevance here. 47 U.S.C. § 252(d); *Triennial Review Order*, ¶ 680. Indeed, by making this argument Staff simply confirms the point SBC Illinois has made throughout this case: that Staff's cost of capital positions are mired in traditional rate-of-return type concepts and do not recognize or comply with the new approaches mandated by the *Triennial Review Order* and *Virginia Arbitration Order*.

Staff finally contends that the Proposed Order will allow SBC investors to earn more than their required rate of return until interest rates actually rise. Staff Br. on Exc. at 11. But the required rate of return is whatever the cost of debt would be in the fully competitive market assumed by TELRIC, not necessarily the spot rate in the market today. Again, Staff fails to come to grips with the type of market and type of returns required in a TELRIC as opposed to a traditional regulatory ratemaking. For these reasons, its exception should be rejected.

C. Other Loop Recurring Cost Modeling and Input Issues

1. Cable and DLC Installation Costs/Factors

a. Reply to Joint CLECs' Exceptions Regarding Installation Factors Generally

The Joint CLECs' brief on exceptions adds nothing new to the arguments that they have previously made in opposition to SBC Illinois' factor-based methodology for developing the installed cost of cable and DLC equipment. Joint CLEC Br. on Exc. at

117-138. The evidence fully supports the Proposed Order's rejection of the Joint CLECs' arguments and its approval of SBC Illinois' methodology, which is the same as the methodology that was used to develop the UNE loop rates approved in Docket 96-0486/0569.[8]

As the discussion at pages 117-123 of their brief on exceptions makes clear, the Joint CLECs' core criticism of the installation factor approach is that it improperly assumes there to be a linear relationship between the cost of material, such as copper cable, and the cost of installing that material. The Joint CLECs argue that there is no such linear relationship and, therefore, that an installation factor will not produce an accurate estimate of the cost of installing any particular "piece of equipment." Joint CLEC Br. on Exc. at 119. To solve this alleged problem, the Joint CLECs argue that installation costs should be developed using a "bottoms-up" approach under which installation costs are developed by multiplying the estimated time to install particular facilities by an assumed hourly labor cost.

The Joint CLECs' argument is wrong because it fails to recognize that the installation factor approach is not used to develop the cost of any one single job or "piece of equipment." Rather, as the Proposed Order correctly finds, it is a reliable and practical method for accounting for the "average installation costs" associated with wide variety of work activities and circumstances that occur on thousands of installation jobs performed "across the network". *Proposed Order* at 92. Thus, while installation factors may not reflect an exact relationship between the material and installation costs for any one particular project, on the whole and on the average, they provide the best tool for

[8] For the reasons fully discussed in SBC Illinois' Brief on Exceptions (pp. 56-60), the Proposed Order's decision to adopt Staff's proposed adjustments to SBC Illinois' cable installation factors should be reversed.

computing costs under TELRIC. By comparison, even a properly performed "bottoms-up" approach (and the Joint CLECs' "bottoms-up" method was not properly performed) cannot be relied on to produce an accurate estimate of the average cost of installing the types of facilities to which the factors are applied.

An example in point is the cost of installing buried cable. In developing their proposed "bottoms-up" estimate, AT&T witnesses Pitkin/Turner (upon whose testimony the Joint CLECs rely), assumed that there were only two functions (placing and splicing cable) associated with installing buried cable and that the time spent, and costs incurred, will be exactly the same on every buried cable installation project. In reality, as SBC Illinois' expert network witness, Mr. White explained, there are numerous additional tasks ignored by Pitkin/Turner that may be required in varying degrees, depending on the specific circumstances.

To illustrate, Mr. White described a scenario involving the installation of 1,000 feet of buried copper cable in a straight line on a block with three driveways. SBC Ill. Ex. 8.1 (White Rebuttal) at 27-28, Sch. RSW-R2. In that scenario, the minimum number of tasks that would be required, in addition to the placing and splicing activities assumed by Pitkin/Turner, include, *inter alia*, (i) directional boring under three driveways, (ii) trenching in rock; (iii) hand digging a hole for proper placement of a pedestal, and (iv) performing work to restore the area (including reseeding) after the project is completed. SBC Ill. Ex. 8.1 (White Rebuttal) at 27; Tr. 544-47. As Mr. White explained, however, this is only one example. Every buried cable job is different and many are likely to require additional work. For example, in the typical suburban area where lots are smaller than those assumed in Mr. White's example, there would be a need to bore under many

more than three driveways. Tr. 545 (White). Similarly, more trenching time may be required on a project where soil conditions are rockier than those assumed in the example. Tr. 547-48 (White).

Moreover, as Mr. White further explained, and the Proposed Order correctly finds, there are numerous "unforeseen" conditions that can, and do, increase the cost of a buried cable installation and which are not accounted for in the example presented by Mr. White. These include equipment breakdowns, inclement weather, abnormal traffic conditions, and unforeseen trenching/boring obstructions, such as frost, underground abandoned structures and unknown utilities. SBC Ill. Ex. 8.1 (White Rebuttal) at 28-29; SBC Ill. Ex. 8.2 (White Surrebuttal) at 22-24.

The installation factor developed by SBC Illinois for buried cable (as in the case of the factors developed for other cable facilities) takes into account all of the costs incurred to install buried cable over a recent three year period and, therefore, is the most reliable way to account for the wide variety of installation costs for all buried cable projects over the entire network. By comparison, to accurately calculate costs using a "bottoms-up" analysis, one would need to determine the probability of occurrence of all of the different variables that affect the costs of installing buried cable. It would be extremely difficult, if not impossible, to perform such an analysis and, in any event, the Joint CLECs made no attempt to do so.

The Joint CLECs also claim that installation factors are an unreliable method for determining loop installation costs because material and labor costs vary from year to year. Joint CLEC Br. on Exc. at 121-22. SBC Illinois, however, developed installation factors using data for a three year period in order to address such variations. Using data

for three recent years provides a sufficient sample of all sizes of projects and ensures that the resulting installation factors accurately represent the normal, forward-looking relationship between equipment costs and installation costs. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 62.

The Joint CLECs also argue that installation factors do not properly reflect "economies of scale", since the data used to calculate the factors includes costs associated with augmentation or reinforcement projects which are smaller than a project to instantly construct an entire new network. Joint CLEC Br. on Exc. at 128-29. The Proposed Order rejects the Joint CLECs' argument, correctly finding that "even a forward-looking network requires replacements and augmentations from time". In taking issue with this finding, the Joint CLECs rely on the FCC's TELRIC NPRM for the proposition that TELRIC models are designed to produce the cost that would be incurred by a carrier to "construct and maintain" an "efficient network" built today "to serve all customer locations within a particular geographic area taken as a given only the locations of existing wire centers". Joint CLEC Br. on Exc. at 129. Neither the language of the TELRIC NPRM or the TELRIC rule, however, requires an assumption that an entire network would be constructed instantly or only in large chunks. To the contrary, in language from the TELRIC NPRM which the Joint CLECs fail to cite, the FCC expressly recognized that "the UNE pricing methodology, while forward-looking, must be representative of the real world and should not be based on the totally hypothetical cost of a most efficient network provider building a network from scratch." TELRIC NPRM at ¶ 53.

As discussed in SBC Illinois Reply Brief (pp. 54-56) and Brief on Exceptions (pp. 57-58), the evidence shows that even an efficient carrier would be unable to forecast with precision future demand in every part of the network. Therefore, even if such a carrier were to "build an efficient network today to serve all customers within a particular geographic area" (TELRIC NPRM at ¶ 49), and include in that network a cost effective level of spare capacity, there would still be a need to augment and reinforce network plant facilities over time. *Id.*[9]

The Joint CLECs also assert that the "FCC and other states have questioned the use of linear loading factors". Joint CLEC Br. on Exc. at 131. The only order cited, however, is the *Virginia Arbitration Order*, in which the FCC's Wireline Competition Bureau (not the FCC), while expressing some concerns in the context of the unique record in that case, *approved* Verizon's loading factors for switching equipment. *Id.* Not surprisingly, the Joint CLECs disregard the recent order establishing increased UNE loop rates for SBC Indiana, in which the Indiana Commission expressly approved the installation factor methodology used by SBC Illinois in this case and, in doing so, rejected many of the same criticisms that have been directed at that methodology by Joint CLECs in this case. The Indiana Commission also rejected the "bottoms-up" approach proposed in that case by AT&T which is virtually identical to the approach that the Joint CLECs espouse in this case. In arriving at these conclusions, the Indiana Commission stated as follows:

[9] As explained in SBC Illinois' Brief on Exceptions (pp. 56-60), the argument that installation factors overstate installation costs because they reflect costs of augmentation and reinforcement projects (an argument which the Proposed Order correctly rejects), was also the argument made by Staff in support of its proposal to calculate cable installation factors on the basis of data for whichever one of three years (1999, 2000, 2001) produces the lowest result. Because the Proposed Order correctly rejects the basis for Staff's proposal, the Proposed Order's decision to adopt Staff's proposal was in error and should be reversed.

> In analyzing this dispute we are guided by the recognition that TELRIC does not preclude the use of total, long-run averages. That is, installation costs have to be computed as average costs across a variety of situations in order to be usable in setting generally applicable rates.
>
> The Commission reaffirms that SBC Indiana's use of linear loading factors is reasonable. We disagree with Messrs. Pitkin and Turner that linear loading factors are inconsistent with TELRIC principles because such factors purportedly rely upon embedded data. We reject the CLECs' view that SBC Indiana's use of its current costs and current engineering practices in and of itself somehow violates TELRIC principles. Even a forward-looking network must have some basis in reality, and it is reasonable for SBC Indiana to use its most current, audited costs to determine the relationship between major material investments and the cost of installation. Similarly, we reject AT&T's claims that linear loading factors violate TELRIC principles by overlooking economies of scale. TELRIC assumes that a forward-looking network will be constructed over time, not instantly, and networks placed over time will include construction projects of all shapes and sizes.[10] SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 58.

b. Response to Joint CLEC's Exceptions Regarding Use of JAM

The Joint CLECs take exception to the Proposed Order's decision to reject the "bottoms up" approach to calculating cable installation costs applied by AT&T witnesses Pitkin/Turner using SBC Illinois' Job Administration Management Tool ("JAM"). The Joint CLECs' exceptions are without merit. The evidence fully supports the Proposed Order's conclusion that it is not appropriate to use JAM as a tool to gather costs for developing inputs for a TELRIC cost study. *Proposed Order* at 93. Mr. White, who was personally involved in the development of JAM and has extensive experience using it, explained that JAM is used by SBC's engineering and construction personnel as a job management tool, the primary purpose of which is to track job progress, construction productivity, material ordering and disbursements, and inventory tracking. SBC Ill. Ex. 8.1 (White Rebuttal) at 17-18. SBC Ill. Ex. 8.2 (White Surrebuttal) at 15-17. While JAM

[10] *Indiana UNE Order* at 44.

can be used to provide cost *estimates* for certain *portions* of a project, however, it is not used to develop an estimate of the total cost of a project. *Id.*

In particular, the functional time increments ("FTIs") used by JAM to estimate the time it takes to complete certain tasks assumes average technician performance using standard tools under *normal* working conditions. As Mr. White made clear, those FTIs are *not* calculated based on the average time actually spent to complete tasks on actual projects. Thus, as the Proposed Order (p. 93) correctly finds, the FTIs do *not* reflect additional hours and costs that can, and almost always do, result from abnormal and "unforeseen" field conditions, including, for example:

- traffic conditions, including congestion causing delays getting to and from the work location and cars parked in the work area
- inclement weather, including heavy snow requiring removal before starting to work and rain/lightening while working around joint trench and pedestals with power
- municipal rules, such as restricted hours of operation, limited hours of working during rush hour commuting, and noise ordinances
- equipment breakdown, such as damaged directional boring heads, snapped boring rods, trenching chain breaks and other mechanical breakdowns
- material defect, such as factory defects with cable
- accessibility issues, including fences, garages, customers blocking access to the work area
- trenching/boring obstructions such as rock, frost, unknown utilities, underground abandoned structures
- EPA issues, such as contaminated soil.

SBC Ill. Ex. 8.1 (White Rebuttal) at 26-32; SBC Ill. Ex. 8.2 (White Surrebuttal) at 20-24.

Moreover, even if JAM were useful as a tool to develop an estimate of the total cost for particular jobs (and it is not), it could not be used to develop an estimate of all

relevant costs of installing cable and other equipment for an entire network. This is because JAM estimates necessarily vary widely from job-to-job based upon the known field conditions, cable sizes and the design of the job. SBC Ill. Ex. 8.1 (White Rebuttal) at 18. Thus, although JAM can estimate a portion of the costs on a job-by-job basis, the estimates it produces will vary greatly depending on the details of the particular job being examined. *Id.* For these reasons, the evidence supports the Proposed Order's conclusion that installation factors based on accounting data are far more useful and reliable than incomplete cost estimates culled from JAM.

As support for their use of JAM, the Joint CLECs repeat the assertion, which they made in their initial brief, that SBC Illinois "refuses to pay for jobs that overrun JAM estimates." Joint CLEC Br. on Exc. at 135. As SBC Illinois previously explained, this assertion (for which the Joint CLECs provide no supporting record citation) is simply wrong. SBC Ill. Reply Br. at 66. The Joint CLECs are apparently referring to a procedure which they describe elsewhere in their brief on exceptions as "us[ing] JAM to check that invoices do not exceed project costs." Joint CLEC Br. on Exc. at 134 (citing Tr. at 499-501). As Mr. White explained, however, the *only* invoices subject to this procedure are invoices from vendors for certain types of electronic equipment accounted for in the PICS/DCPR system. This procedure does *not* apply to the costs of installing outside plant, such as aerial, buried and underground copper cable. As Mr. White stated, "vendors submit bills – for example, we have all kinds of vendors that submit their bills for the outside plant work that they do for us and none of them have limits set in JAM. They do not…those bills come in are paid but they are not paid in JAM and JAM does not put a criterion on it." Tr. at 502 (White).

The Joint CLECs also argue that their use of JAM to develop the installation costs for use in a TELRIC study is supported by the testimony of an SBC witness in a completely unrelated Wisconsin proceeding which does not involve review of a UNE loop cost study. Joint CLEC Br. at 158-58. The testimony of that witness, which the Joint CLECs quote out of context, supports no such conclusion. Rather, that witness simply confirmed that JAM is a tool which is reliable in performing the tasks for which it was intended. For all the reasons discussed by SBC Illinois above and in its Initial and Reply Briefs, however, the Proposed Order is absolutely correct to conclude that JAM is not an appropriate tool for developing installation costs for use in a TELRIC study. The Wisconsin testimony quoted by the Joint CLECs does not in any way contradict that conclusion.

Even if it were appropriate to calculate installation costs based on a "bottoms-up" approach using JAM (and it is not), the evidence demonstrates that Pitkin/Turner's application of that approach was flawed beyond repair. In particular, Pitkin/Turner inexplicably failed to account for most of the activities needed to install aerial, buried and underground cable. SBC Ill. Ex. 8.1 (White Rebuttal) at 24-34. For each of these facilities, Pitkin/Turner developed installation cost estimates using functional time increments for only two tasks: placing and splicing. As Mr. White explained, however, the installation of such facilities requires, at *a minimum*, numerous other tasks for which there are FTIs in JAM, but which Pitkin/Turner overlooked. As discussed in detail in SBC Illinois' Reply Brief (pp. 61-64), the Joint CLECs assertion (Br. on Exc. at 135) that SBC Illinois failed to "describe" or "quantify" the costs missing from Pitkin/Turner's

analysis is simply false, as is the Joint CLECs' suggestion that such missing costs were accounted for by applying other factors to the JAM data (*Id).*

For example, with respect to aerial cable, the unrebutted evidence shows that Pitkin/Turner failed to account for the time and related costs associated with (i) strand placement, which is required to physically attach the cable; (ii) tree trimming, which is required to create a path for cable placement; (iii) conformance testing, which is required to validate pair appearance for service and database accuracy; (iv) additional required splicing. SBC Ill. Ex. 8.1 (White Rebuttal) at 258; SBC Ill. Ex. (White Rebuttal), Sch. RSW-R1 at 2-3. Similarly, in developing their JAM estimate of the cost of installing underground copper cable, Pitkin/Turner failed to account for the time and related costs associated with (i) additional splicing; (ii) conformance testing; (iii) testing manhole water to comply with federal mandates; and (iv) buffering four separate locations to prevent cable from becoming wet during the work operation. SBC Ill. Ex. 8.1 (White Rebuttal) at 30, Sch. RSW-R-3 at 2-3. The evidence further shows that Pitkin/Turner failed to account for the vast majority of the activities necessary to install buried cable including, but are not limited to: (i) directional boring under driveways; (ii) inspection of contract work; (iii) trenching in rock; (iv) placing pedestals; (v) restoring grass areas. SBC Ill. 8.1 (White Rebuttal) at 27, Sch. RSW-R2 at 2-3.

As SBC Illinois explained in its Reply Brief, the costs associated with all of the activities missing from Pitkin/Turner's JAM estimates, as described above, are recorded in accounts which contain the cost data used by SBC Illinois to develop its aerial, buried and underground copper cable installation factors. SBC Ill. Reply Br. at 62-64. *None* of

these missing activities or their associated costs are accounted for by the pole and conduit factors or any other factors applied to the JAM estimates by Pitkin/Turner. *Id.*

As they did in their initial brief, the Joint CLECs attempt to blame SBC Illinois for Pitkin/Turner's mistakes, asserting that "SBC, in its own words, provided AT&T with JAM estimates 'as an engineer would use the JAM system.'". Joint CLEC Br. on Exc. at 136. In support of this assertion, the Joint CLECs cite an email contained in AT&T Cross Exhibit 20. As the record makes clear, however, the email was responding directly to an email from AT&T requesting JAM estimates for a list of projects *that did not include the installation of copper cable*. Tr. 678-80. In fact, AT&T *never* requested that SBC Illinois provide a "JAM estimate" of the cost of performing an entire copper cable installation job. SBC Illinois did, however, provide AT&T with the entire list of activities and associated functional time increments ("FTIs") which Pitkin/Turner could have used to develop JAM estimates for complete aerial, buried and underground copper cable installation jobs. *Id*. Pitkin/Turner's failure to take into account all of the relevant activities and FTIs was an apparent result of their lack of knowledge and experience with respect to the installation of outside distribution plant facilities. Tr. 1604-09 (Pitkin/Turner); Tr. 1677 (Turner) ("we did not get to the installation phase in that work while I was still an employee an AT&T").

As Mr. White's detailed analysis of Pitkin/Turner's work papers indicates, their failure to include work steps needed to install cable in every situation had the effect of grossly underestimating the time and associated costs that would be estimated through a proper application of JAM, even for relatively uncomplicated jobs. SBC Ill. Ex. 8.1 (White Rebuttal at 24-34). Moreover, Pitkin/Turner's analysis did not account for either

the additional time that would be estimated using JAM on more complicated projects, or the additional time and associated costs that may be encountered in the field due to unforeseen conditions and which cannot be estimated using JAM. SBC Ill. Ex. 8.1 (White Rebuttal) at 21.

In light of all of the evidence summarized above, the Joint CLECs' stubborn insistence (Br. on Exc. at 136) that "there is no credible evidence that Messrs. Pitkin/Turner's use of JAM's installation estimate excludes costs" is beyond comprehension.

As the Proposed Order also finds, Pitkin/Turner made a number of adjustments to set-up times in JAM that are "unwarranted and unsupported by evidence". *Proposed Order* at 93. The Joint CLECs' objections to this finding (Br. on Exc. at 137-38) are without merit. Pitkin/Turner's proposed costs for block terminals, distribution terminals and copper cable assumed that SBC Illinois could perform installation work at different locations without any travel and setup time involved. SBC Ill. Ex. 8.1 (White Rebuttal) at 21-24. In addition, they assumed that setup time can be reduced by placing, splicing, and testing in a single location. *Id.* Mr. White testified that these assumptions are unrealistic and would not be relied on by any working network engineer. *Id.*

For example, even if one accepts Pitkin/Turner's unlikely assumption that four block terminals were located within a few hundred feet of each other, setup time would still be required to move tools, materials, and safety barriers to each new location. SBC Ill. Ex. 8.1 (White Rebuttal) at 22. Pitkin/Turner, however, made no allowance for such set-up time. Incredibly, Pitkin/Turner also made the same assumption with respect to 300, 600, and 900 pair block terminals, but the evidence shows that not even two – let

alone four – 900 pair block terminals could be placed in a single day, and would never be placed so close together as to require no travel time between sites. *Id.* Contrary to the Joint CLECs' claims (Br. on Exc. at 137), TELRIC does not require assumptions for which there is no factual basis.

c. Response to Joint CLECs' Exceptions Regarding DLC Installation Costs

In approving SBC Illinois' installation factor method, subject only to the modifications proposed by Staff with respect to the factors used to develop cable costs, the Proposed Order correctly rejects the Joint CLECs' proposal to drastically reduce the level of DLC installation costs included in SBC Illinois's revised loop cost study. In taking exception to the Proposed Order's decision as it affects DLC costs, the Joint CLECs once again attempt to mislead the Administrative Law Judges and Commission by grossly overstating the level of DLC-RT installation costs included in SBC Illinois' cost study. Joint CLEC Br. on Exc. at 124.

Specifically, as they did in their initial and reply briefs, the Joint CLECs inflate those costs by incorrectly adding amounts calculated by applying the LoopCAT model's land and building factors. In doing so, the Joint CLECs cite the testimony of Pitkin/Turner, who were apparently under false impression that costs associated with certain installation activities, such as installation of the pad on which the RT is placed, are accounted for in LoopCAT through the land and building factors. AT&T Ex. 2.0 (Pitkin/Turner Direct) at 69; AT&T Ex. 2.1 (Pitkin/Turner Rebuttal) at 63. As SBC Illinois pointed out in both its initial and reply briefs, however, that is simply not the case. SBC Ill. Br. at 99, 36; SBC Ill. Reply Br. at 68-69; Tr. 808-10 (Smallwood). All of the DLC installation costs at issue (including site preparation, pad material and

installation and power pedestal installation) are costs assigned to functional reporting code ("FRC") 257c (circuit electronic equipment) and, therefore, are reflected in the development of the plug-in and hard-wire factors used to calculate DLC-RT installation costs. Thus, the land and building factors have nothing to do with the cost of installing DLC facilities. Tr. 808-810 (Smallwood). Despite this explanation, which the Joint CLECs have never refuted, they continue to misstate the results of SBC Illinois' cost study. For this reason alone, their exceptions should be disregarded.

In fact, application of the Company's DLC plug-in and hardwire installation factors, as revised by SBC Illinois in its rebuttal testimony, produces a total installation cost for a 2016 line DLC remote terminal of approximately **[**********]** and a total installed cost of a 2016 cabinet of **[**********]**. SBC Ill. Br. at 92-93, 99-100; SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 71; Tr. 633-34 (Pitkin). Contrary to the Joint CLECs' repeated assertions, the evidence fully supports the conclusion that those factors, and the costs they produce, are reasonable. Indeed, Staff accepted those factors, noting that they are consistent with the range proposed by Staff witness Lazare in his direct testimony. Staff Ex. 23.0 (Lazare Rebuttal) at 3. The installation cost produced by those factors for the 2016 RT is actually less than the average installation cost estimate of **[**********]** developed by Mr. Lazare in his direct testimony based on the specific costs of the ten most recent installation of the 2016 cabinets in Illinois. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 71-72); Staff Ex. 3.0 (Lazare Direct) at 23-24. The Attorney General also accepted the DLC installation costs that resulted from application of SBC Illinois' revised factors. AG Init. Br. at 20-21.

Until now, one of the main arguments of the Joint CLECs and their witnesses in opposition to SBC Illinois' DLC installation factors was that, the "vast majority" of SBC Illinois's installation costs for DLC equipment are already included in its equipment purchase contracts with Alcatel. AT&T Ex. 2.0 (Pitkin/Turner Direct) at 63; AT&T Ex. 2.1 (Pitkin/Turner Rebuttal) at 62; Joint CLEC Ex. 2.0 (Starkey/Balke Direct) at 58; Joint CLEC Br. at 165. As fully explained in SBC Illinois' Initial Brief, the evidence demonstrates that the Joint CLECs' argument in this regard was based on a misinterpretation of certain provisions of the SBC/Alcatel Master Agreement and Litespan purchase agreement. SBC Ill. Init. Br. at 95-98. In fact, Alcatel does not perform services to physically place and install DLC equipment in the field, and the Alcatel contract prices modeled in LoopCAT do not include any of the costs associated with such installation activities. *Id.* Significantly, the Joint CLECs' Brief on Exceptions does not challenge these facts, and the Joint CLECs no longer argue that the costs of installing DLC equipment are already reflected in the Alcatel equipment prices.

Nevertheless, the Joint CLECs continue to insist that the cost allowed for installing DLC equipment at both the remote terminal and central office terminal should be reduced to only **[**********]**, of which the Joint CLECs propose to assign **[**********]** to the cost of installing a remote terminal. Joint CLEC Br. on Exc. at 124; AT&T Ex. 2.0 (Pitkin/Turner Direct) at 67. The Joint CLECs purport to rely on "Project Pronto business case data" as the basis for their proposal. Joint CLEC Br. on Exc. at 123-24. The Project Pronto business case, however, was prepared in 1999, before any of the Pronto DLCs had been ordered or deployed, and, therefore, is not a valid source to use for estimating the forward-looking cost of installing such equipment.

SBC Ill. Ex. 8.1 (White Rebuttal) at 38. In fact, the evidence shows that the cost estimate contained in the business case does not even come close to covering all of the activities and related costs necessary to install DLC facilities. These activities include, but are not limited to, engineering, planning and design work, power engineering, construction work necessary to prepare the remote terminal site (including the material and installation costs of the concrete pad on which to place the remote terminal), installation of the power pedestal, placing and splicing construction activities, testing and turn-up. SBC Ill. Ex. 8.1 (White Rebuttal) at 38-43; SBC Ill. Ex. 8.2 (White Surrebuttal), Sch. RSW-SR2; SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 72-74.

The Joint CLECs argue that "Mr. Smallwood, who made this claim, did not identify or substantiate these allegedly missing costs." Joint CLEC Br. on Ex. at 126. Not only does the Joint CLECs' argument misrepresent Mr. Smallwood's testimony (*see* SBC Ill. 4.1 (Smallwood Rebuttal) at 73-74), it completely disregards the evidence presented by Mr. White, who identified a list of over 20 steps necessary to install a DLC which are not fully reflected in the Joint CLECs' cost estimate. SBC Ill. Ex. 8.1 (White Rebuttal) at 38-43; SBC Ill. Ex. 8.2 (White Surrebuttal) at 25, Sch. RSW-SR2. Mr. White, who has 17 years experience in outside plant engineering and construction, and has been involved in the design and turn-up of hundreds of RTs, explained that the hours and costs associated with these steps far exceed the Joint CLECs' estimate. SBC Ill. Ex. 8.1 (White Rebuttal) at 43. Mr. White also confirmed the reasonableness of SBC Illinois' DLC installation cost factors. Tr. 491.

The Joint CLECs' attempts to impeach the validity of SBC Illinois' DLC installation factors with the deposition statements of SBC employees in Texas and

California are misleading. For example, the Joint CLECs continue to ignore evidence presented in the California proceeding by Ms. Bash, subsequent to her deposition, which demonstrates that the installed cost of a DLC-RT greatly exceeds the cost estimates used by the Joint CLECs and, in fact, exceeds the total installed cost of a DLC-RT included in SBC Illinois' revised cost study. SBC Ill. Ex. 8.1 (White Rebuttal) at 46; SBC Ill. Ex. 8.2 (White Surrebuttal) at 24-25, Sch. RSW-SR1 (Confidential).[11] In addition, the Joint CLECs' comparison of the DLC installation cost estimates discussed by Mr. Trott in a Texas proceeding with cost estimates produced by SBC Illinois' DLC installation factors is misleading because it (i) is based on a misstatement of the SBC Illinois' cost estimate, as previously discussed, and (ii) misstates Mr. Trott's estimate by backing out the cost of 200 line cards that were not included in that estimate to begin with. SBC Ill. Reply Br. at 69-70; SBC Ill. Ex. 8.1 (White Rebuttal) at 44-48.

Finally, there is no basis for the Joint CLECs' alternative proposals that the Commission adopt either (i) the DLC installation factor adopted in a Wisconsin Commission order or (ii) the installation cost estimate produced by JAM. Joint CLEC Br. on Exc. at 127. First, the factor of **[**********]** applied to DLC equipment in the Wisconsin proceeding was actually the factor calculated for plug-in equipment, and is comparable to the **[**********]** plug-in factor applied to plug-in equipment by SBC Illinois in its revised cost study. It is completely inappropriate to apply a plug-in factor to *hardwire* DLC equipment. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 36. Second, as previously discussed, JAM is not the appropriate system to determine the total installed costs for network equipment. As Mr. White explained, this is particularly true for the

[11] Specifically, Ms. Bash's evidence showed total installed DLC-RT costs in a range of **[**********].** SBC Ill. Ex. 8.2 (White Surrebuttal), Sch. RSW-SR1, p.7

installation of DLC equipment, as there are many steps required to plan, engineer and install an RT which are not picked up by JAM. SBC Ill. Ex. 8.1 (White Rebuttal) at 44; SBC Ill. Ex. 8.2 (White Surrebuttal) at 25.

For all the reasons discussed, the Commission should reject the Joint CLECs' proposal to include in the Order language rejecting SBC Illinois' DLC installation factors and adopting the Joint CLECs' restatement of costs based on the "Project Pronto business case". Joint CLEC Br. on Exc. at 140. If the Commission deems it appropriate to include additional language in the conclusion to the installation cost section of the Order to explicitly address the DLC-specific issues, SBC Illinois suggests that the following language be added after the first full paragraph on page 93 of the Proposed Order:

> We also reject the Joint CLECs' argument that the specific installation factors applied by SBC Illinois to DLC equipment are unreasonable and overstate the cost of installing DLC equipment. SBC Illinois' DLC installation factors, as revised in its rebuttal testimony, were developed on the basis of data from SBC Illinois' general ledger for the years 2000 through 2002, the three most recent years for which data was available. The evidence shows that those factors and the results they produce are reasonable. Staff accepted SBC Illinois' revised DLC installation factors, noting that they are consistent with the range proposed by Staff in its direct testimony. Those factors produce total installation costs for a 2016 line DLC remote terminal in an amount that is actually less than the average installation cost estimate developed by Staff on the basis of the specific costs of the ten most recent installations of 2016 cabinets in Illinois. The Attorney General also accepted the revised DLC installation costs that resulted from application of the revised factors. The reasonableness of the factors and resulting installation costs is also supported by the testimony of Mr. White, who has been involved in the design and turn up of hundreds of remote terminals. The Joint CLECs argued that SBC Illinois' DLC installation factors overstate installation costs for DLC equipment because, in their view, such costs are already included in its equipment purchase contracts with Alcatel. The evidence, however, demonstrates that the Joint CLECs' argument is factually incorrect and is based on a misinterpretation of the SBC/Alcatel contracts.
>
> The Joint CLECs relied on a five year old Project Pronto business case in support of their estimate of the total amount of installation costs for DLC equipment at both the remote terminal and central office. As

> SBC Illinois pointed out, however, the Project Pronto business case was prepared in 1999, before any of the Pronto DLCs had been ordered or deployed. The evidence shows that the cost estimate contained in the business case does not come close to covering all of the activities and related costs necessary to install DLC facilities. These activities include, but are not limited to, engineering, planning and design work, power engineering, construction work necessary to prepare the remote terminal site (including the material and installation costs of the concrete pad on which to place the remote terminal), installation of the power pedestal, placing and splicing construction activities, testing and turn-up. We agree, therefore, that the business case is not a valid source to use for estimating the forward-looking cost of installing DLC equipment. We also find, based on the evidence, that the other sources relied on by the Joint CLECs (*e.g.*, deposition statements made by SBC employees in other states, a Wisconsin Commission order and a JAM estimate) also do not support a change in the DLC installation factors used by SBC Illinois in its cost study.

2. Copper/Fiber Crossover Point

The Proposed Order properly rejects Staff's proposal to increase the copper/fiber crossover point from 12,000 feet to 18,000 feet. *Proposed Order* at 95. Significantly, Staff does not take exception to this decision. CUB, however, does take exception, arguing that "voice services should not subsidize advanced services." CUB Br. on Exc. at 10-11. CUB's argument, for which it fails to cite any supporting evidence (because none exists), is without merit and should be rejected.

The Proposed Order's decision is fully supported by the evidence, which demonstrates that a network designed with a crossover point of no more than 12,000 feet is the most efficient, forward-looking network design and, therefore, should be the network design modeled for purposes of establishing TELRIC rates. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 20-22; SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 30-31; SBC Ill. Ex. 8.1 (White Rebuttal) at 59-60; SBC Ill. Ex. 8.2 (White Surrebuttal) at 31-32. Use of a 12,000 foot crossover point in this case is consistent with the cost study used to establish the currently effective UNE loop rates in Docket Nos. 98-0486/0569, which

used a crossover point of between 9,000 and 12,000 feet. Joint CLEC Ex. 2.01 (Starkey/Balke Direct) at 26. Tr. 1860-61 (Balke). It is also supported by the FCC Staff's recent approval of the use of a 12,000 foot crossover point in TELRIC studies, based on its finding that the Carrier Serving Area ("CSA") guidelines, which expressly call for a 12,000 foot crossover point, are "the most recent guidelines for building outside plant and, therefore, represent the most appropriate design guidelines to be used in TELRIC model." *Virginia Arbitration Order,* ¶ 241; SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 22-23.

CUB's exception is based on the notion that an 18,000 foot crossover point would be the most efficient design if the network were not being used to provide advanced services. Even if that were true (and it is not), CUB's position must be rejected. In essence, CUB proposes that the Commission ignore the reality that voice services and advanced services are provided over the same network, and adopt a completely theoretical network design which is contrary to recognized engineering guidelines and would *never* be implemented by an efficient carrier in the real world. CUB cites no authority for such a proposal and it was properly rejected by the Proposed Order.

Furthermore, as SBC Illinois pointed out in its Brief on Exceptions (p. 63), while a crossover point no greater than 12,000 foot is necessary to support advanced services, that crossover point is also the most efficient design for providing all services, including voice and DS-1. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 19, 21-22. This is demonstrated by the fact that the loop cost study used to establish rates in Docket 96-0486/96-0569, which was performed in the 1996-1997 timeframe (before the advent of Project Pronto and the higher speed advanced services now being provided by SBC),

used a crossover point of between 9,000 and 12,000 feet. Tr. 1860-61 (Balke); Joint CLEC Ex. 2.0 (Starkey/Balke Direct) at 26. In a later version of the cost study used in Docket 96-0486/96-0569, produced in 1999, the crossover point was reduced to 6,000 feet, a change approved by Joint CLEC witness Balke. *Id.* For this and other reasons discussed in its Brief on Exceptions, SBC Illinois took issue with the premise for the Proposed Order's decision to allocate 25% of the investment in DLC-RT common equipment to DSL service, *i.e.*, that the use of a 12,000 foot, rather than an 18,000 foot, crossover point results in "incremental costs" attributable to DSL services.

Even if the Commission were to affirm the Proposed Order's decision on the 25% allocation issue (and it should not), however, there is absolutely no basis to adopt CUB's suggestion that the Commission *also* adopt the 18,000 foot crossover point. The result of that proposal would be to effectively disallow 100% of the investment in the additional DLC-RTs needed to support the economically efficient 12,000 foot crossover point, plus 25% of the investment in all other DLC-RTs, which are needed to support an 18,000 foot crossover point. Such a disallowance would far exceed that necessary to prevent "subsidization" even under CUB's erroneous theory.

3. DLC Investment Cost Issues

a. Remote Terminal Cabinet Sizes

Contrary to the Joint CLECs' assertion (Br. on Exc. at 140), there is nothing "peculiar" about the Proposed Order's approval of SBC Illinois' inclusion of the 448 line DLC-RTs in the cost study. *Proposed Order* at 97-98. The evidence shows that the mix of DLC-RT sizes (including the 448 line cabinet) incorporated in the revised loop cost study presented by SBC Illinois with its rebuttal testimony is supported by an engineering analysis of the mix that would be employed in an efficient, forward-looking network.

SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 76; SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 17, 21-22. Accordingly, the decision to approve that mix is fully consistent with TELRIC principles.

The Joint CLECs argue that the Proposed Order's decision is a mistake because the inclusion of the 448 line cabinet in the revised cost study presented by SBC Illinois on rebuttal caused an apparent increase in overall RT equipment costs as compared to the costs produced by SBC Illinois' original study, which included only the larger 2016 and 672 line cabinets. (SBC Ill. Br. on Exc. at 141). This argument is without merit because it erroneously assumes that the adjustment to include the 448 line cabinet should have reflected "higher utilization [*i.e.*, fill] rates in the in the smaller cabinet," thereby causing costs to decrease. Joint CLEC Br. on Exc. at 142. As the Proposed Order correctly recognizes, however, the average DLC chassis fill rate used in the original study did not change when the 448 line cabinet was introduced because that fill rate *already* reflected the average utilization of all the DLC systems actually deployed in SBC Illinois' network, many of which are older, smaller systems, such as the SLC 96, which has only 96 lines (and, therefore, are even smaller than the 448 line system). *Proposed Order* at 97-98; SBC Ill. Br. 106-07, 109-10; SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 78; SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 20. While smaller DLC systems are more costly than larger systems in terms of investment per unit of capacity, they are likely to be capable of achieving higher utilization rates than larger systems because they have fewer lines. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 78.

As a result, SBC Illinois' original cost study *understated* the cost per loop because it applied to the efficient, larger size systems modeled in the studies, an average fill rate

higher than the fill rates specific to those systems. Accordingly, the fact that including the 448 line cabinet in the revised cost study did not increase the fill rate and, therefore, had the apparent effect of increasing loop costs compared to the original study, does not mean that TELRIC costs actually increased. Rather, it means that the revised cost study more accurately reflects the TELRIC costs associated with the least cost, most efficient mix of DLC-RT sizes currently available. For these reasons, the Joint CLECs' arguments do not justify removing the 448 line cabinet from the cost study.

The Proposed Order also properly dismissed AT&T witnesses Pitkin/Turner's argument that SBC Illinois inappropriately shifted the "mix" of its DLC-RTs in a way that "moved what were large RTs into small RTs – thereby increasing costs." AT&T Ex. 2.1 (Pitkin/Turner Rebuttal) at 54. Pitkin/Turner complained specifically about the reduction in the percentage of 672 line systems in Access Area A. However, as the Proposed Order correctly notes, Access Area A, which is the Chicago loop area, includes less than 2 percent of the feeder plant on DLC systems, and therefore, the impact of changing the mix of large and small RTs in that access area had an insignificant impact on the loop costs in that zone. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 22. The Joint CLECs argue that Pitkin/Turner's testimony was not focused solely on Access Area A. As the chart on page 57 of Messrs. Pitkin's and Turner's rebuttal testimony shows, however, for Access Areas B and C, the percentage of 672 RTs actually changed very little in the revised cost study (from 6% to 7% in Zone 2 (Access Area B) and from 5% to 9% in Zone 3 (Access Area C)). *Id.*

b. Alcatel Discounts

The Joint CLECs argue that the Proposed Order erred by not reducing the already discounted prices for Alcatel Litespan DLC equipment modeled in LoopCAT by two

additional discounts, referenced in Amendment 3 to the Litespan Agreement. Joint CLEC Br. on Exc. at 143-44. The Joint CLECs' exception to this decision is without merit and should be rejected. As the Proposed Order finds, and the Joint CLECs now concede, the undisputed evidence shows that neither of the discounts at issue is currently effective or will be applied to DLC equipment prices in the future. *Proposed Order* at 100; Joint CLEC Br. on Exc. at 144; SBC Ill. Ex. 15.0 (D. Palmer Rebuttal) at 24. This is because SBC Illinois and Alcatel have negotiated a cancellation of the discounts in exchange for other concessions from Alcatel that do not affect the current contract price of the equipment modeled in LoopCAT. SBC Ill. Br. at 111; SBC Ill. Ex. 15.1 (D. Palmer Surrebuttal) at 5. Accordingly, as the Proposed Order correctly concludes, adoption of the Joint CLECs' proposal would understate the forward-looking cost of the DLC equipment.

As they did in their initial brief, the Joint CLECs erroneously suggest that the negotiations affecting the Amendment No. 3 discounts were somehow part of an elaborate plot to "play 'hide the ball'" and "inflate loop prices." Joint CLEC Br. on Exc. at 144. The Proposed Order correctly rejects this argument. As the Proposed Order finds, the negotiations were undertaken for valid business reasons, **[**********
****
****
**********]**. Tr. 1376-77 (D. Palmer). SBC**,** therefore, prudently took the opportunity to negotiate the cancellation of those discounts **[**********
****

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**********].** Tr. 1365-66 (D. Palmer).

Contrary to the Joint CLECs' claim, therefore, the Proposed Order's refusal to reduce the DLC equipment prices by nonexistent discounts will not deprive CLECs of any "benefits" to which they are entitled. In fact, the concessions made by Alcatel in exchange for canceling the Amendment No. 3 discounts will enable SBC Illinois to avoid substantial future costs that would otherwise have *increased* the forward-looking cost of the DLC equipment modeled in SBC Illinois' cost study. As a result, CLECs *will* realize the benefit of those concessions. On the other hand, if the Commission were to adopt the Joint CLECs' proposal, they would realize a double recovery of those benefits: once, through the avoidance of future costs that would otherwise be properly reflected in the forward-looking cost of the Alcatel equipment, and again, through the reduction in current prices resulting from inclusion of the nonexistent discounts.

c. Mix of Universal Digital Loop Carrier ("UDLC") and Integrated Digital Loop Carrier ("IDLC") Facilities

The Proposed Order correctly rejects the Joint CLECs' proposal that LoopCAT be adjusted to assume 100% IDLC technology. *Proposed Order* at 102. Contrary to the arguments made by the Joint CLECs and CUB in their exceptions, the Proposed Order's decision is fully supported by the extensive and largely unrefuted evidence presented by SBC Illinois' expert network witness, Mr. White, which demonstrates that IDLC cannot effectively support non-switched special services or stand-alone unbundled loops. SBC Ill. Ex. 8.1 (White Rebuttal) at 53-57; SBC Ill. Ex. 8.2 (White Surrebuttal) at 26-30. As the Proposed Order correctly recognizes, this is because in an IDLC, individual circuits are grouped together at the DS1 level for routing directly to the central office switch. As

a result, individual customer lines are not physically or electronically accessible at the connection to the switch. Accordingly, there is no way for SBC Illinois to efficiently or economically unbundle an IDLC-served loop for a CLEC's use. *Id*.

Mr. White also explained that, while it might be technically possible to provide a limited number (*i.e.*, three to five percent) of CLECs with DS1 "interfaces," there are a myriad of problems with this approach, not the least of which is that it would still deprive the remaining 95 to 98% of CLECs (which would only be able to interface at the DS0, or individual circuit level) any ability to access unbundled stand-alone loops if the network were 100% IDLC. SBC Ill. Init. Br. at 115; SBC Ill. Ex. 8.2 (White Surrebuttal) at 28-30. SBC Illinois refers the Commission to, and hereby incorporates by reference, the more complete and detailed summary of Mr. White's testimony set forth at pages 112 to 115 of SBC Illinois' Initial Brief.

The Joint CLECs devote several pages to what they characterize as a summary of the evidence. Joint CLEC Br. on Ex. at 147-49. The Joint CLECs, however, cite *no* evidence (because there is none) that refutes Mr. White's detailed explanation, as summarized above and in SBC Illinois' Initial Brief (pp. 112-115), as to why UNE loops cannot be efficiently unbundled in an IDLC platform. Instead, the Joint CLECs rely solely on language from the FCC Wireline Competition Bureau's *Virginia TELRIC Arbitration Order*, and mischaracterize that decision as representing a finding of the FCC itself. Joint CLEC Br. on Exc. at 145, 148. In fact, orders issued by the FCC directly contradict the *Virginia TELRIC Arbitration Order,* and support the Proposed Order's finding. For example, in the Virginia 271 Order, the FCC expressly recognized that "it is

not technically feasible to unbundled an IDLC loop".[12] *See also UNE Remand Order,* ¶ 217, n. 418 (FCC found that methods to unbundled IDLC systems "have not proven practicable.") In addition, the FCC has found that TELRIC does not require 100% IDLC technology. In the *Georgia 271 Order,* ¶ 50, the FCC stated:

> [N]o commenter provides any cost analysis to show that IDLC is less expensive from UDLC for stand-alone loops and ports, and we are not persuaded, based on the record before us, that a correct application of TELRIC would require 100 percent use of such technology for that purpose. Commenters did not present persuasive evidence that the use of IDLC would be cheaper for pricing stand-alone loops and ports. Indeed, there is some evidence that technical limitations associated with unbundling a stand-alone loop from IDLC system may make IDLC more expensive than UDLC in some circumstances. In the *UNE Remand Order*, for example, the Commission specifically discussed this difficulty of using IDLC in conjunction with stand-alone loops and ports. Several technical alternatives for using IDLC were reviewed in that context, including "side door grooming" (*i.e.*, "hairpinning"), multiple switch hosting, integrated network architecture, and digital cross connect grooming. The Commission stated that some of these options are "very expensive." The Commission also concluded that each option has limitations and that "such methods have not proven practicable." Thus, not only have commenters failed to offer persuasive evidence, but prior Commission orders have recognized that at least certain IDLC alternatives would likely be more expensive. Therefore, we find no error, on the present record, in either state commission's approval of BellSouth's employment of UDLC for stand-alone loops. *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., And BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Georgia and Louisiana,* CC Docket No. 02-35, ¶50 (rel. May 15, 2002); *See also In the Matter of Joint Application by BellSouth Corp., BellSouth Telecommunications, Inc., And BellSouth Long Distance, Inc. for Provisions of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina,* WC Docket No. 02-150, ¶ 62, (rel. Sept. 18, 2002) (FCC specifically rejected WorldCom's argument that TELRIC requires 100% IDLC technology). [13]

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[12] *In the Matter of Application by Verizon Virginia, Inc., Verizon Long Distance Virginia, Inc., Verizon Enterprise Solutions Virginia, Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia, Inc., for Authorization to Provide In-Region, InterLATA Services in Virginia,* WC Docket No. 01-214, ¶ 148 (rel. Oct. 30, 2002).

[13] The Joint CLECs (Exc. 147) also assert that, in its recent TELRIC Order, the Indiana Commission "followed this FCC precedent," referring to the Wireline Competition Bureau's decision in the Verizon

The Joint CLECs' assertion that there are no problems with unbundling UNE loops over an IDLC platform is also directly contrary to the position taken by AT&T on this issue before the FCC. In an *ex parte* to the FCC dated December 4, 2002, AT&T identified many of the same problems with the GR-303 DLCs (the type of IDLC at issue here) that were discussed by Mr. White. SBC Ill. Ex. 8.2 (White Surrebuttal) at 27, Sch. RSW-SR3. For example, AT&T, like Mr. White, noted that GR-303 DLCs (i) limit the number of accessing LECs "by requiring the establishment of separate and distinct Interface Groups (IGs) for each LEC seeking access to a given DLC;" and (ii) require that a CLEC gain a "critical mass" of end users before it "can utilize its DS1 uplink effectively and cost-efficiently." *Id*. AT&T concluded that these and other "operational concerns must be addressed before the deployment of any solution whose architecture and technology is premised on GR-303 DLCs." *Id.*

The Joint CLECs attempt to dismiss the problems with unbundling loops over IDLC, asserting that "at last count, only 6% of SBC UNE loops are in a UNE-L arrangement [as opposed to a UNE-P arrangement], and therefore need to be physically unbundled." Joint CLEC Br. on Exc. at 148. The Joint CLECs argument ignores the fact that the long-term availability of the UNE platform is uncertain as a result of recent legal developments, including the D.C. Circuit's *USTA II* decision. Moreover, the goal of the 1996 Act is to promote facilities-based competition. Accordingly, it would be improper to assume that on a forward-looking basis only 6% of all UNE loops are purchased on a stand-alone basis. Moreover, thousands of customers are being served by stand-alone UNE loops today, proving that there is an ongoing need for UDLC equipment. Finally,

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Arbitration proceeding. As discussed above, however, the Wireline Competition Bureau is not the "FCC" and the Indiana Commission's decision should not be followed here, in light of the extensive evidence and precedent supporting SBC Illinois' position.

the Joint CLECs overlook the many other customers of non-switched special services, which also will continue to require the use of UDLC systems. SBC Ill. Ex. 8.1 (White Rebuttal) at 56.

As the Proposed Order correctly recognizes, because SBC Illinois is unable to efficiently unbundle IDLC systems, an assumption of 100% IDLC technology would also be inconsistent with the FCC's rule requiring that TELRIC rates be based on technology that is "currently available." 47 C.F.R. § 51.505(b)(1). Moreover, even if SBC Illinois could theoretically solve the unbundling issues with IDLC at some point in the future, the FCC noted in its *Triennial Review Order,* ¶ 670, n. 2020, that it is not appropriate for a TELRIC analysis "to consider technologies that may be available in the future but are not currently available." As the Proposed Order (p. 102) correctly observes, "no evidence was presented of a currently available technology to remedy" the problems effectively associated with unbundling IDLC.

The evidence also supports the Proposed Order's observation that "it isn't clear how much cheaper IDLCs would be compared to UDLCs." *Proposed Order* at 102. Mr. White testified that SBC Illinois has economically-driven utilization thresholds that must be met before IDLC is considered appropriate. SBC Ill. Ex. (White Rebuttal) at 54. These growth-driven economic thresholds are based on the quantity of new POTS line additions within a two-year period. Thus, in a low growth area served by a remote terminal, the high, upfront costs for the central office equipment needed to support IDLC remote terminals may not economically justify the deployment of IDLC remote terminals. To assume that 100% of all remote terminals should be integrated assumes

that all areas are high growth areas. This assumption is not realistic. *Id.* Mr. White's testimony in this regard was unrebutted.

Mr. White also refuted the Joint CLECs' claim that, with UDLC technology, loops that are converted back to analog technology will need to be reconverted to a digital signal to enter a digital switch. Joint CLEC Br. on Exc. at 149 . In support of this claim, AT&T witnesses Pitkin/Turner assumed that every service provisioned on a pair gain system is required to go into either the SBC Illinois digital central office or some other CLEC digital equipment. Mr. White explained that Pitkin/Turner's assumption is incorrect. Some of the services supported by UDLC will include both analog and digital special services that will interface with other equipment, and not necessarily the digital switch of the ILEC or the CLEC. Moreover, the cost savings for the IDLC are minimal since each Litespan DLC system *must* have a central office terminal (COT) regardless of whether it is IDLC or UDLC. SBC Ill. Ex. 8.1 (White Rebuttal) at 55. Once again, Mr. White's testimony in this regard was unrebutted.

In their brief on exceptions, the Joint CLECs suggest for the very first time in this proceeding that if the Commission does not adopt their proposal to assume 100% IDLC, it should adopt a mix of 50% IDLC and 50% UDLC. The Joint CLECs, however, did not present any evidence to support this new proposal, and it should be disregarded. SBC Illinois' weighting of 88% UDLC and 12% IDLC is fully supported by the record and should be approved. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 79.

e. Calculation and Application of Building Cost Factor

The Attorney General takes exception to the Proposed Order's decision to accept SBC Illinois' calculation of the building factor and the application of that factor to all electronic equipment investment. *Proposed Order* at 104. The Attorney General argues

that by applying the building factor to all investment in electronic equipment (which includes investment in DLC remote terminals), the model "inflates UNE loop rates by including costs for buildings at location where there are no buildings." AG Br. on Exc. at 17. As the Proposed Order correctly recognizes, the building factor is the ratio of *all* building investment to *all* electronic equipment investment and, therefore, represents the *average* ratio of building investment to electronic equipment investment. Accordingly, to accurately calculate the *total* forward-looking investment in buildings that house electronic equipment, it is appropriate, and necessary, to apply that ratio to all investment on electronic equipment. The fact that this investment includes certain electronic equipment, *i.e.*, remote terminals, that is not located in buildings does not mean that SBC Illinois' methodology "inflates" loop costs. SBC Ill. Br. at 118-19. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 82-83; SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 53.

As the Proposed Order also correctly recognizes, to adopt the Attorney General's position that the building factor not be applied to electronic equipment that is not located in buildings would require the development of a new factor reflecting removal from the denominator of all electronic equipment that is not located in buildings. In response, the Attorney General erroneously claims that it was able to do just that. AG Br. Exc. at 16-17. As SBC Illinois explained in its Initial Brief (pp.118-20) and Reply Brief (pp. 79-80), what the Attorney General actually did was determine the percentage of 257c electronic equipment represented by remote terminal equipment investment as calculated by LoopCAT for one particular cost study (the 2-wire analog loop study). The Attorney General then reduced the total amount of the electronic investment included in the denominator of the building factor by that percentage. This approach, however, would

only have produced a meaningful result if the denominator of the building factor included only the amount of 257c investment calculated for the 2-wire analog loop study to begin with. That is not, however, how the building factor was developed. Rather, because the building factor is used to develop building costs for all of the different loop types at issue in this case, it includes in the denominator actual investment in all 257c and 357c equipment, including equipment related to other loop types, such as DS1 and DS3 loops. Tr. 813-14 (Smallwood).

The evidence fully supports the Proposed Order's conclusion that there is no way to *accurately* recalculate the building factor in the manner attempted by the Attorney General because the accounting system is not designed to track the electronic equipment investment included in the denominator of the factor based on a building/no building distinction. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 53, Tr. 813-14. Given the lack of data that would be needed to accurately adjust the building factor, the Proposed Order is correct in approving SBC Illinois' method of calculating building costs by applying the unadjusted building factor to all electronic equipment, including remote terminals. This is a reasonable method and consistent with the method used to develop the currently effective UNE loop rates in Docket Nos. 96-0486/0569. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 53.

f. Allocation Of Shared DLC Components

The Joint CLECs argue that the Proposed Order's decision to assign a weighted average of 21.6 units of common DLC investment to a DS-1 loop should be revised to account for 100% IDLC. Joint CLEC Br. on Exc. at 151. For the reasons previously discussed, the Joint CLECs' position on the IDLC issue should be rejected. Accordingly,

the Joint CLECs' exception to the Proposed Order's decision on the allocation of shared DLC components to DS-1 service should also be rejected.

4. Premises Termination Costs

a. NID and Drop Wire Installation Costs

(i) Reply to Staff's Exceptions

Staff takes exception to the Proposed Order's decision to reject Staff's proposal to reduce the travel times used by SBC Illinois to calculate NID and drop wire costs. Staff Br. on Exc. at 15-22; *Proposed Order* at 111. Contrary to Staff's assertions, the Proposed Order's Decision in this regard is fully supported by the record and should be affirmed. In particular, the evidence shows that Staff's proposal was based on the misconception that SBC Illinois' travel time estimate assumes that an installer must travel back to the Company's facilities after completing each installation, rather than traveling on to connect another service in the same area. Staff Ex. 3.0 (Lazare Direct) at 31. As the Proposal Order correctly finds, however, this is not the case. In fact, SBC Illinois' estimate reflects an estimated average amount of time for all jobs in a day, including travel from the garage to the first job and travel back to the garage from the last work site of the day. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 86; SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 45. Thus, the fundamental premise of Staff's proposed adjustment to travel times was incorrect.

Furthermore, contrary to Staff's suggestion (Br. on Exc. at 15-16), the average amount of travel time of **[********]** minutes included in the Company's study included more than actual driving; it also included setting up work area protection (*i.e.,* placing cones around the van or truck), contacting the customer, and loading and unloading all necessary tools and supplies on and off the work truck. SBC Ill. Ex. 8.1 (White Rebuttal)

at 17. The average travel time also considered the driving time required in urban areas (sometimes with significant traffic congestion) and rural areas (sometimes with significant distances between sites). SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 86. Staff's proposed average travel time of 10 minutes is insufficient to cover all of these activities. *Id.* Accordingly, the evidence fully supports the Proposed Order's decision to reject Staff's proposed adjustment.

In support of Staff's proposed average travel time, Staff witness Lazare asserted that TELRIC requires an assumption that the "network is being constructed today on a going-forward basis" and, therefore, "technicians could simply walk from one service drop to the next". Staff Ex. 3.0 (Lazare Direct) at 32; Staff Ex. 23.0 (Lazare Rebuttal) at 16. In rejecting this rationale, the Proposed Order concludes that "we do not find that TELRIC requires, nor would it be practical to assume that we are considering the construction of a brand new network from the ground up". *Proposed Order* at 111. Staff takes issue with this conclusion, arguing that TELRIC requires on "assumption of building a network from scratch". Staff Br. on Exc. at 16. The Joint CLECs make a similar argument. Joint CLEC Br. on Exc. at 154-55. Staff and the Joint CLECs, however, completely ignore the FCC's recent pronouncement that "the UNE pricing methodology, while forward-looking, must be representative of the real world and should not be based on the totally hypothetically cost of a most efficient network provider building a network from scratch". TELRIC NPRM at ¶ 53 (emphasis added) [14]

[14] This statement from the TELRIC NPRM reflects the FCC's current guidance for interpreting the TELRIC standard. Staff's citation to (i) an older FCC 271 Order; (ii) the comments of a party quoted in dicta in the Supreme Court's opinion in *Verizon Communications, Inc. et al v. FCC,* 535 U.S. 467, 522 (2002); and (iii) language from a dissenting opinion in *Verizon* (Staff Br. on Ex. at 17-19), do not support its objections to the Proposed Order.

Furthermore, even if one accepts the proposition that TELRIC assumes the construction or an entirely new network from "scratch", neither Staff nor the Joint CLECs cite any authority to suggest that it is necessary to assume that the network is to be built instantaneously and that all customers would order service at the same time, which is what the Staff's "door-to-door" approach essentially assumes. SBC Ill. Ex. 4.1 (Smallwood Surrebuttal) at 45. Indeed, it would be literally impossible to install 90% of new services within five days, as required by the Commission's rules, if all customers were to request service at the same time. As Mr. White explained, in the real world, customer rarely, if ever, coordinate their requests for a service in a way that would enable a technician to walk from one house to the next in the manner envisioned by Staff. SBC Ill. Ex. 8.1 (White Rebuttal) at 17. Moreover, Staff's interpretation of the TELRIC standard apparently assumes that a monopoly environment would still exist because it assumes that SBC Illinois would have every customer on the block. TELRIC, however, contemplates an efficient, competitive market outcome. In a forward-looking competitive market, SBC Illinois might only have service to one customer in a neighborhood. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 45.[15]

(ii) Reply to Joint CLEC's Exceptions

The Joint CLECs also take exception to the Proposed Order's decision on NID and drop wire installation costs. The Joint CLECs argue that the Proposed Order should be revised to adopt the "bottoms-up restatement NID / Drop Costs", proposed by AT&T witnesses Pitkin and Turner. Joint CLEC Exc. at 152, 157. The "restatement" of NID

[15] Staff also argues that the Proposed Order's decision assumes that "current technology was installed sometime in the past, perhaps ten, twenty or thirty years ago". Staff Br. on Exc. at 20. SBC Illinois fails to see where the Proposed Order makes any such assumption. Moreover, SBC Illinois' method of calculating NID and drop wire cost, which the Proposed Order affirms, makes no such assumption.

and drop wire installation costs developed by Pitkin/Turner, however, reflects arbitrary adjustments to the installation times included in the Company's study which go far beyond the adjustments to travel time proposed by Staff. As discussed in SBC Illinois' Initial Brief (pp. 127-129), each of these adjustments ignore reality and were properly rejected by the Proposed Order.

First, Pitkin/Turner reduced the cost of trenching by one-half based on the assumption that trenching machines can be used to simultaneously bury multiple drop wires. AT&T Ex. 2.0 (Pitkin/Turner Direct) at 55-57. As discussed above, however, it is completely unrealistic to assume, as Pitkin/Turner did, that an ideal group of customers would all seek to have drop wires installed on their street at the same time. In fact, even in new subdivisions, developers build in phases and, therefore, service requests come at all different times. SBC Ill. Ex. 8.1 (White Rebuttal) at 35. Furthermore, as Mr. White pointed out, Pitkin/Turner erroneously assumed that it would be more efficient to use trenching machines in all circumstances, including on very short distances or in congested areas where it may be more practical to hand dig. Under Pitkin/Turner's scenario, SBC Illinois would be required to incur significant additional costs to purchase and maintain additional trenching machines and to operate those machines in many situations in which it is not practical to do so. These costs would include the additional work time associated with using a trenching machine, such as loading and unloading the machine from a trailer. Pitkin/Turner, however, included no allowance for such additional costs. SBC Ill. Ex. 8.1 (White Rebuttal) at 35.

Second, Pitkin/Turner proposed that the time needed to make an aerial mid-span attachment on a drop wire be reduced by one-half, based on their assumption that such

mid-span adjustment are not needed on every drop. AT&T Ex. 2.0 (Pitkin/Turner Direct) at 57. Once again, Pitkin/Turner's assumption ignores reality. As Mr. White explained, a mid-span attachment is a drop attachment placed between two poles and attached to the cable strand. For safety and pole access reasons, the Company's policy is to use mid-span attachments for new drops rather than attaching the drop directly to the pole. This policy was adopted because, typically, third party attachments and facilities, such as cable TV and power lines, are located on the pole above the telecommunications facilities. Providing a midspan attachment allows for clear climbing space for employees of other utilities to access their facilities. SBC Ill. Ex. 8.1 (White Rebuttal) at 36. Accordingly, SBC Illinois' assumption of a mid-span attachment for each drop wire is an appropriate assumption to make on a going-forward basis and is TELRIC-compliant.

Third, Pitkin/Turner assumed that SBC Illinois' installation time for drop wire can be reduced by placing two sets of four drops in one day. AT&T Ex. 2.0 (Pitkin/Turner Direct) at 35. As Mr. White explained, however, Pitkin/Turner's assumption caused them to eliminate travel and set-up times that are a necessary part of the business even on a forward-looking basis. SBC Ill. Ex. 8.1 (White Rebuttal) at 36. As previously discussed, real customers do not ask for service in clusters. Rarely in the real world does a customer place an order requiring drop placement at the same time and in the same neighborhood as another customer, and even more rarely, if ever, are they side-by-side. SBC Illinois cannot assume that drop installations are ever side-by-side, because new houses and businesses are not constructed in that way and customers do not coordinate their service requests that way. *Id.*

The Joint CLECs also criticize the Proposed Order's decision to eliminate the double counting of NID and drop costs by removing those costs from the cable installation factors (where they were inadvertently included in SBC Illinois' original cost study), rather their eliminating the separate line item for NID and drop costs. *Proposed Order* at 113-14. The Joint CLECs argue that SBC is "trying to have it both ways" by using the "linear loading factor approach" for some equipment (*i.e.*, cable, FDIs and DLC equipment) and a "bottoms-up" approach for NID and drop costs. Joint CLEC Exc. at 153-55.

The Joint CLECs' argument completely misses the boat. There is nothing "inconsistent" about SBC Illinois's position that the costs of installing NID and drop wires should be calculated separately from the cost of installing cable. The installation factors developed by SBC Illinois for cable equipment are intended to be, and should be, specific to the type of equipment to which the factors are applied. Thus, SBC Illinois developed factors separately for fiber and copper cable and also developed separate factors specific to each type (aerial, underground and buried). SBC Ill. Ex. 4.0 (Smallwood Direct) at 29. The inclusion of unrelated NID and drop wire costs in the development of these factors was an inadvertent mistake and was properly rectified by revising the installation factors to remove those costs. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 85-86. The inclusion of NID and drop wire costs in a separate line of the study, rather than including them in the costs used to develop installation factors specific to different types of equipment, produces more accurate cost results. SBC Ill. Br. at 130-31.[16]

[16] For example, if the NID and drop costs are included in the development of the cable installation factors, those costs are effectively assigned the fill rates applicable to distribution and feeder cable. Tr. 1663

Accordingly, the Joint CLECs' argument that SBC Illinois has improperly "tampered with" the "alleged average" costs by "carving out NID and drops" (Joint CLEC Br. on Ex. at 159) is nonsense. By developing installation factors specific to each category of equipment and "carving" NID and drop wire costs out of the calculation factors specific to other types of equipment, SBC Illinois has assured that the "average costs" calculated by means of the installation factors are as accurate as possible.

Moreover, contrary to the Joint CLECs' suggestion, the fact that SBC Illinois used a method to calculate NID and drop costs which is not identical to the method used to calculate feeder and distribution cable installation costs does not mean that either method is unreasonable. While the major cost driver for the feeder and distribution portions of the loop is materials, and materials provide the basis for factor application, the major cost driver for NID and drop placement is the installation labor. For the NID and drop wire installed cost calculations, SBC merely uses the major cost driver, installation labor, as the basis for factor application, *i.e.*, a material cost factor was applied to the installation labor cost to develop total premises termination costs. SBC Ill. Ex. 4.0 (Smallwood Direct), Sch. JRS-3 at 16. This is proper, and the results are reasonable. Furthermore, Part 32.2000(c) of the FCC Uniform System of Accounts dictates that the materials used for drop and NID placement should be considered exempt (small piece-part) materials. *Id.* As a result, it is not possible to develop NID and drop costs using the same method as that used to develop feeder and distribution cable costs. SBC. Ill. Reply Br. at 87, n.2.

(Pitkin). By comparison, including the NID and drop wire costs as a separate line item allows for the application of the specific fill factor applicable to premises termination equipment, which is different than the fill factors for distribution and feeder cable. Tr. 1664 (Pitkin).

Finally, the Joint CLECs argue that there is somehow a contradiction between SBC Illinois' position on travel times to install NIDs and drops and its assumptions with respect to depreciation expense. Joint CLEC Br. on Exc. at 155-56. The Joint CLECs' argument in this regard makes no sense. Recognized ratemaking procedures do not generally assume that depreciation expense is calculated on net (*i.e.*, depreciated) plant balances. Rather, depreciation expense is typically calculated by applying appropriate depreciation rates to the gross (*i.e.*, undepreciated) balance of plant investment as measured at a particular part in time, whether that be the end-of- test year original cost gross utility plant balance in a traditional rate case, or the TELRIC plant investment developed by LoopCAT on the basis of forward-looking network design, forward-looking technologies and forward-looking material costs. Accordingly, there is no logical basis for the Joint CLECs' assertion that a realistic assumption that network facilities are constructed on a piecemeal basis "should have eliminated most of the depreciation expense in SBC's cost studies". Joint CLEC Br. on Exc. at 156. Nor is there any logical basis for the assertion that SBC Illinois derives a "benefit" in terms of depreciation expense which is unique to an assumption that "depreciation expense begins on the entire network from day 1". Joint CLEC Br. on Exc. at 155, 156. If anything, SBC Illinois' cost studies understate forward-looking depreciation expense because they do not include depreciation expense on facilities that will be "installed incrementally (or augmented)" after "day 1."

b. Adjustments to Remove Double-counting

The Joint CLECs' arguments regarding this issue are addressed in Section III. C. 4. b ("NID and Drop Wire Installation Costs"), above.

5. FDI Costs

The Proposed Order correctly rejects the Joint CLECs' proposal to reduce the assumed number of FDI terminations per working loop from 3 to 2.0588. *Proposed Order* at 118. In taking exception to that decision, the Joint CLECs erroneously assume that this issue relates solely to the amount of spare capacity, or fill factors, in distribution and feeder plant. Joint CLEC Exc. at 160-61. That is not the case. As discussed in SBC Illinois' Initial and Reply Briefs, and as the Proposed Order correctly finds, FDIs are designed to terminate two distribution pairs for one feeder pair because that design provides flexibility to move service from one customer to another more efficiently than if there were only one termination on the distribution side. SBC Ill. Br. at 133-34; SBC Illinois Reply Br. at 88-89. For these and other reasons fully discussed in SBC Illinois' Initial Brief, the evidence demonstrates that the use of three FDI terminations per working loop is consistent with standard network engineering guidelines and is the cost-efficient, forward-looking method of terminating loops to the FDI. *Id.*

As the Proposed Order also correctly finds, with a mere .0588 unused terminations at the FDI under the Joint CLECs' proposed, there would hardly be a need for an FDI at all, as there would be no spare terminations with which to perform cross-connects. SBC Ill. Ex. 8.1 (White Rebuttal) at 68-69. This is true regardless of what fill rate is applied to distribution and feeder plant. Accordingly, the Proposed Order's decision to approve the use of three FDI terminations per loop should be affirmed.

The Joint CLECs also take exception to the Proposed Order's rejection of the Joint CLEC's proposal that feeder pairs be terminated at the same panels on which distribution pairs are terminated. In support of their position, the Joint CLECs claim that

there is no "engineering reason" why feeder pairs would only be terminated at the central panel. Joint CLEC Br. on Exc. at 162. As SBC Illinois' expert network engineering witness, Mr. White, explained, however, there are very good "engineering reasons" why the Joint CLECs' proposal is inappropriate. Feeder pairs and distribution pairs are terminated on separate panels to allow the technician to reduce cable congestion in the FDI and quickly ensure that the technician has cross connected both a feeder and distribution pair together. Terminating feeder and distribution pairs on the same panel, as the Joint CLECs suggest, would ensure that the internal wiring of the FDI would quickly become an unorganized jumble of wires. In addition, when the technicians attempted to find alternative spare pairs to use when repairing defective pairs, they would have no way to determine where a spare feeder, versus a distribution pair, might be available in the FDI. SBC Ill. Ex. 8.1 (White Rebuttal) at 70. The evidence, therefore, supports the Proposed Order's finding that the Joint CLECs' proposal would create chaos and confusion in the outside loop plant, thereby increasing operating costs.

7. Loop Length, Cable Size and Cable Gauge Modeling

a. Distribution Lengths Over 18,000 Feet

The Proposed Order correctly rejects the Joint CLECs' proposal to eliminate from the cost study all loops with distribution lengths that exceed 18,000 feet. *Proposed Order* at 121. In taking exception to this decision, the Joint CLECs erroneously argue that the Proposed Order "did not understand" the fact that the Joint CLECs' proposal was directed at loops with distribution (as opposed to total) lengths over 18,000 feet. Joint CLEC Br. on Exc. at 163. The mere fact that the Proposed Order did not include the work "distribution" in its finding, however, does not mean that the issue was misunderstood or that the proposed decision is wrong. To the contrary, the evidence

presented by SBC Illinois, as summarized in the Proposed Order (p.120), make clear that, even in a forward-looking network, there will be a small number of loops with *distribution* lengths that represent exceptions to engineering guidelines because they are needed to provide service to certain customers in remote, outlying areas. *Id.* Because TELRIC requires the assumption that existing wire center and customer locations remain fixed, such loops should be included in the cost model. SBC Ill. Ex. 4.2 (Smallwood Surrebuttal) at 50. Staff witness Koch also testified that Pitkin/Turner's adjustment to remove loops with *distribution* lengths over 18,000 feet is "difficult to justify" in light of the need to provision service to customers served by such loops. Staff Ex. 16.0 (Koch Rebuttal to Intervenors) at 4. For these reasons, the Proposed Order properly rejects the Joint CLECs' adjustment.

The support of their proposal, the Joint CLECs argue that loops with distribution lengths over 18,000 feet require the use of load coils and that "the parties in this case agree--and LoopCAT also assumes--that load coils are not appropriate in a forward-looking design". Joint CLEC Br. on Exc. at 163. This argument is misleading. It is true that SBC Illinois' cost study does not include that the cost of additional equipment, such as load coils, that it is necessary to serve outlying customers served by distribution lengths over 18,000 feet. As Mr. Smallwood testified, however, the cost study is conservative in this regard because forward-looking TELRIC principles would, if anything, dictate that these additional equipment costs be included. SBC Ill. Ex. 4.1 (Smallwood Rebuttal) at 47.

e. Copper Cable Mix

CUB takes exception to the Proposed Order's decision to change the mix of aerial buried and underground cable included in the loop cost study even though CUB admits

that it "did not address this issue in testimony or briefs". CUB Br. on Exc. at 12-13. In doing so, CUB does not challenge the appropriateness of the mix itself. Rather, CUB speculates that "SBC's assumptions about the relative costs of aerial, buried and underground cable *may* be wrong". *Id* (emphasis added). CUB's speculation is unsupported by any evidence. Neither CUB nor any other party to this proceeding presented testimony suggesting that SBC Illinois' cost study "incorrectly" assumes that aerial cable is more expensive than buried or underground, as CUB claims. Accordingly, CUB's exceptions should be disregarded.[17]

IV. Non-Recurring Cost Studies and Rate Designs

A. General Issues

2. Cost Causation and Characterization of Costs

The Joint CLECs' first exception to the nonrecurring charge section of the Proposed Order is superfluous. By the Joint CLECs' own admission, this exception is based on the possibility that the Proposed Order could potentially be interpreted in a manner with which the Joint CLECs do not agree, at some undetermined point in the future. *See*, *e.g.*, Joint CLEC Br. on Exc. at 166 (Proposed Order is "possibly inaccurate," "may inadvertently reverse" prior decision, language "could inappropriately be interpreted"); id. at 167 ("may unintentionally dilute" Commission order.) The Joint CLECs' exception has no bearing on any of the cost study inputs or resulting costs or rates being ordered in this docket. For this reason alone, the Joint CLECs' exception should be disregarded.

[17] It should be noted that CUB does not take exception to the Proposed Order to the extent that it also adopted the Joint CLECs' separate proposal to change the allocation of copper cable between feeder and distribution plant.

In any event, there is no merit to the Joint CLECs' exception. Rather, it reinforces what SBC Illinois has been saying all along about the Joint CLECs: they do not understand the principle of cost-causation. The determination of the cost causer is not dependent on the frequency with which the payment or acquisition is "outlay[ed]," as the Joint CLECs assert. Joint CLEC Br. on Exc. at 166-67. The Joint CLECs again trot out their examples of buildings and transmission equipment. *Id.* at 166; *see also* Joint CLEC Br. at 210-11. They claim that the Commission's language could be interpreted to treat these expenses as nonrecurring costs because they are typically purchased as large, one-time investments. Joint CLEC Br. on Exc. at 166. The Joint CLECs miss the point; a building does not become a non-recurring cost because it is purchased through a purchase agreement. Whether or not it is a recurring cost depends on who causes the cost, which is determined by the use to which a building is put. Thus, if a building is used to house switches that provide telephone service to an SBC customer, that building (or a portion thereof) is a recurring cost caused by the recurring activity of a customer who day-in and day-out subscribes to telephone service from SBC.[18]

Under the Joint CLECs' proposed exception language, if a cost is incurred over time "then the costs are always recurring costs and should be recovered through recurring charges." Joint CLEC Br. on Exc. at 168. That position is directly at odds with the position the Joint CLECs have taken in this case from Day 1. The costs to pay SBC Illinois' call center employees and FOG technicians, for instance, are incurred over time,

[18] Nor are the Joint CLECs even correct that costs for buildings and land are incurred as "large one-time outlays." Joint CLEC Br. on Exc. at 166. More likely, SBC Illinois finances these acquisition and pays for them over time. Of course, the manner in which they are paid for should not determine whether they are recurring or nonrecurring, as it would leave that determination wholly dependent on the unrelated decision by SBC Illinois whether to pay cash, finance, or enter into some sort of installment payment plan. SBC Ill. Reply Br. at 97-98.

and the Joint CLECs proposed to include those costs as part of the NRCs they proposed. Now, for the first time, the CLECs propose language that completely undercuts that. The Joint CLECs' new position is unfounded and should be rejected.

The Joint CLECs also propose to include language in the Proposed Order that differentiates between direct costs and common costs. Joint CLEC Br. on Exc. at 168. The Joint CLECs' proposal should be rejected. They are trying to rehash their unfounded "benefits" test, under the guise of cost-causation. The FCC's rules do not allocate costs on the basis of who might benefit over time. If they did, then CLECs should bear a portion of many of the same nonrecurring costs at issue here when SBC Illinois incurs those costs to provide its own retail service, on the theory that, over time, the CLECs might benefit from these activities. But that is not what the FCC's pricing rules require. Rather, those rules require that "[c]osts must be attributed on a cost-*causative* basis." *First Report and Order*, ¶ 691 (emphasis added).

Second, the Joint CLECs' proposed language ignores the FCC's own description of nonrecurring costs. The FCC stated that "non-recurring costs are one-time costs that a firm incurs in supplying a facility or service to a customer or other carrier." *TELRIC NPRM*, ¶ 14. Such costs include the "'installation' or 'set-up' costs an incumbent LEC incurs processing and provisioning a competitive LEC order for a UNE." *Id.*, ¶ 114. Thus, even if the costs incurred to provision a UNE for a CLEC might later benefit another CLEC or SBC Illinois, they are still considered nonrecurring costs under the FCC's controlling interpretation.

The Joint CLECs also suggest that their proposed language is needed to provide additional guidance on the issue of computer processing costs. Joint CLEC Br. on Exc. at

167. This is an odd argument, as (1) computer processing costs are dealt with in a separate section of the Order (section IV.B.4), (2) the Joint CLECs prevailed on that issue (*Proposed Order* at 158-59), and (3) perhaps most tellingly, the Joint CLECs do not object to any portion of the Proposed Order that addresses computer processing costs.

The Joint CLECs next propose additional language regarding maintenance of SBC Illinois' databases, linking the additional language to the issue of fallout. This is another unnecessary "exception." As with computer processing costs, the Joint CLECs prevailed in the Proposed Order: the Proposed Order directs SBC Illinois to incorporate the fallout rates that AT&T witness Steven Turner advocated. *Proposed Order* at 166-67. Moreover, the issue of fallout is directly addressed in another section of the Proposed Order (section IV.B.5); proposing language relating to fallout in this section is misplaced and unnecessary. To the extent these issues are relevant to the exceptions raised to the fallout section of the Proposed Order, SBC Illinois will address them there.

B. Service Order Non-Recurring Cost Studies

1. Identification of Tasks

The Joint CLECs take exception to the conclusion in the Proposed Order relating to validation and verification activities. Joint CLEC Br. on Exc. at 169-70. The Joint CLECs' exception is confusing at best (and misleading at worst), as it relies on a complete misreading of the Proposed Order. Essentially, the Joint CLECs read the order as rejecting the Joint CLECs' proposal to remove validation and verification activities for complex orders, but adopting the Joint CLECs' proposal to remove such activities for simple orders.

The conclusion reached by the Proposed Order is clear: "validation and verification activities are common-sense business practices to ensure that orders are processed as accurately as possible." *Proposed Order* at 148. On that basis, the Proposed Order rejects the Joint CLECs' proposal to remove them. The Proposed Order did *not* rule that the decision applies only to complex orders or that it was approving the Joint CLECs' proposal as it related to simple orders. Indeed, the Proposed Order notes that "[t]his decision applies to all NRC validation and verification activities." *Proposed Order* at 148.[19] If the Proposed Order had intended to adopt the Joint CLECs' adjustments for simple orders, it would have included explicit language indicating as much.

The Joint CLECs' attempt to bifurcate this issue based on complex versus simple orders is untimely. The Joint CLECs' initial brief made no mention whatsoever that this issue turned on whether the validation and verification activities were associated with simple orders, rather than complex orders. *See* Joint CLEC Init. Br. at 223-24. Nor did the Joint CLECs' reply brief. *See* Joint CLEC Init. Br. at 126-27, 142-44. Likewise, the Joint CLECs' Summary of Positions is devoid of any discussion of this alleged distinction between complex and simple orders. *See* Joint CLEC Summary of Positions at 103, 117.

Nor is this purported distinction supported by the record. As noted above, the CLECs did not even suggest any differences between simple and complex orders (as they relate to validation and verification activities); needless to say, they did not present any

[19] Lest there be any doubt, the Proposed Order reiterated its conclusion, and the application of that conclusion to all NRCs, at pages 173-74 of the Proposed Order: "With respect to validation and verification activities and log in, administrative close out or order distributed activities, these are discussed elsewhere as well. Similarly, we find here that CLECs have not shown that these activities are unnecessary and actually believe that they are appropriate to insure properly functioning UNEs."

evidence to support such a suggestion. SBC Illinois, on the other hand, explained that while there certainly are differences between complex and simple orders, validation and verification activities are appropriate for *both* simple and complex orders. SBC Illinois' Initial Brief directly addressed both manual and electronic orders, and complex and simple orders. *See* SBC Ill. Init. Br. at 168-70. SBC Illinois noted that while the majority of simple CLEC UNE orders flow through SBC Illinois' systems without any manual intervention, there are some that fall out. *See* SBC Ill. Ex. 10.0 (Brown Direct) at 4. For those that fall out, whether simple or complex, validation and verification activities are manifestly reasonable. However, it is important to keep in mind that the LSC performs the service order work at issue only where handling an order that is not designed to flow through (often, a complex order), or where an order is routed to the LSC for manual handling because some error is detected. *Id*; SBC Ill. Init. Br. at 163.[20] For the vast majority that do not fall out,[21] there is no validation and verification activity required (nor included in SBC Illinois' cost study.) This applies equally to simple and complex orders. The only difference is that complex orders are, by definition, more complex than the average "simple" UNE order, and thus more orders fall out. That is dealt with by different fallout rates, however, and does not support elimination of validation and verification orders for those simple orders that do fall out.

Staff concurs in SBC Illinois' interpretation. *See* Staff Br. on Exc. at 39-44 (does not reflect any change to cost studies based on Proposed Order ruling relating to

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[20] Similarly, SBC Illinois made clear in its Reply Brief that its position on validation and verification activities applies equally to simple and complex orders. "*When orders fall out (or are complex orders designed for manual processing)*, it is perfectly reasonable for the responsible personnel to validate and verify that, for instance, the CLEC has submitted a valid order, that the order was subsequently entered into the electronic ordering systems properly, and that orders have been provisioned properly. *See* SBC Ill. Ex. 9.1 (Gomez-McKeon Rebuttal) at 6 (emphasis added.) SBC Ill. Reply Br. at 110.

[21] In fact, there are more than 4800 front-end edits that are detected electronically and returned to the CLEC for correction – with no manual intervention by SBC Illinois at all. Tr. 1218 (Christensen).

validation and verification activities; Staff takes no exception to the ruling). The bottom line is that the Joint CLECs are grasping at straws to try to salvage at least a partial favorable ruling on validation and verification activities. Their position has already been rejected by the Proposed Order, and their post-hoc attempt to draw some distinction between complex and simple orders, as it relates to validation and verification activities, is untimely and baseless.

Finally, a word about the Joint CLECs' proposed replacement language is in order. Although SBC Illinois believes that the Proposed Order clearly rejected all of the Joint CLECs' proposed modifications to SBC Illinois' verification and validation activities, there is yet another significant flaw in the Joint CLECs' Brief on Exceptions. The table that the Joint CLECs include in their Brief on Exceptions, which purports to list the validation and verification activities for simple orders that should be eliminated, grossly overreaches.

First, the cost study inputs to which the Joint CLECs now seek adjustments as "validation and verification" activities were not inputs that the Joint CLEC witnesses characterized as "validation and verification" activities in the cost studies they included with their testimony. Specifically, in the cost studies that Mr. Turner and Dr. Ankum/Mr. Morrison attached to their direct testimony, none of these inputs were adjusted to zero on the basis that they were "validation and verification" activities. It would be completely unfair and prejudicial to permit the Joint CLECs to propose such adjustments to these elements for the first time now, during the exceptions phase of this docket. Set forth as Attachment 1 to this brief is an annotated table identifying those entries on the Joint CLECs' table for which the Joint CLECs did not propose an adjustment to zero minutes

on the basis that the activity was for validation or verification in the studies submitted with their direct testimony.

Second, the Joint CLECs include in their list a host of cost study inputs that do *not* relate to simple orders; instead they relate to complex orders. However, not even the Joint CLECs are claiming in this exceptions phase that validation and verification activities should be disallowed for complex orders. Attachment 1 to this brief further identifies those entries on the Joint CLECs' table that do not relate to simple orders.

The Joint CLECs also take exception to the Proposed Order's decision with respect to log-in and administrative closeout times. Joint CLEC Br. on Exc. at 170-71. Again, the Joint CLECs are taking new positions that they had not staked out before, in a further attempt to reduce SBC Illinois' nonrecurring costs as much as possible. And they do so by misreading the Proposed Order. As the Proposed Order makes clear, the Joint CLECs had argued that certain log-in and administrative closeout times should be reduced to zero. *Proposed Order* at 148. The Proposed Order partially agrees with the Joint CLECs, and orders that those times be reduced not to zero minutes, but to one minute. *Id.* The Joint CLECs misread the Proposed Order and interpret that decision as applying not just to the times which the Joint CLECs recommended be reduced to zero, but to a host of other activity times that the Joint CLECs proposed to reduce to some amount greater than zero. Joint CLEC Br. on Exc. at 170. The Proposed Order is clear, however, that it is addressing those activities that the Joint CLECs proposed to reduce to zero minutes. Indeed, the Proposed Order recites that fact in the first sentence of its analysis and conclusion on this issue (*Proposed Order* at 148), as well as in the

penultimate sentence of that same paragraph. *Id.* at 148 ("we don't agree with CLECs that the times for these activities should be set at zero.")[22]

The Joint CLECs overreaching is even more brazen in light of the language at page 203 of the Proposed Order, which specifically finds that SBC Illinois' proposed log-in times related to its switch port provisioning studies are supported by the record. Despite this, the Joint CLECs try to expand the conclusion on page 148 in a manner that is completely inconsistent with the conclusion reached on page 203.

Moreover, it would be patently unfair to permit the Joint CLECs to now argue that activities times should be reduced to one minute, when the position they staked out throughout this whole proceeding was that those activity times should be more than one minute. By way of example only, the Joint CLECs now propose to reduce to 1 minute the times associated with "Log-in and Completeness Check" and "Circuit Completion and Order Close-Out" for DS1 and DS3 loops in the EEL New Combinations cost study. *See* Joint CLEC Br. on Exc. at 177. Yet, in the restated cost study submitted by AT&T, AT&T proposed to reduce those to 10 minutes, ten times higher than their new position. *See* AT&T Ex. 3.0P (Turner Direct), Sch. SET-11, Tab 8.6, cells E54, E56, E125 and E127. Mr. Turner even explained why he was proposing higher times for DS1 and DS3 orders than he proposed for 4-wire analog loops. *See* AT&T Ex. 3.0P (Turner Direct) at 74 (proposing higher "Order Completion and Close-Out" times for DS1 and DS3 loop orders "because of the increased complexity of the order.")

It is one thing to advocate that the Commission adopt a position that does not go as far as the Joint CLECs' initial position; it is quite another to argue that the

[22] Not surprisingly, the Summary of Positions submitted by the CLECs specifically mentioned only their proposals to reduce certain log-in times and close-out times to zero minutes. Joint CLEC Summary of Positions at 103-05; *Proposed Order* at 147.

Commission, having rejected the Joint CLECs' first position, should now adopt an even more extreme position. Obviously, to the extent that the Commission did not adopt the first position, it does not need to spend much time coming to the conclusion that the more extreme position should be rejected for all the same reasons (and more.)

To the extent that an input was not adjusted to zero minutes in the Joint CLECs' proposed cost studies, that input is obviously not covered by the Proposed Order's conclusion that the log-in and administrative closeout times that the Joint CLECs proposed to change to zero should be changed instead to one minute. Set forth in Attachment 2 to this brief is an annotated table identifying those entries on the Joint CLECs' table for which the Joint CLECs did not propose an adjustment to zero minutes (on the basis that the activity was for log-in, closeout or order selection) in the cost studies submitted with their direct testimony.

Finally, as they did with the chart of validation and verification activities submitted with their brief, the Joint CLECs include in their chart of log-in, administrative closeout and order selection activities a number of activities that are not log-in, administrative closeout or order selection activities. Attachment 2 identifies these as well.

3. Occurrence Probabilities

The Joint CLECs take exception to the Proposed Order's conclusion that the work group occurrence factors for various support activities should not be reduced. Joint CLEC Br. on Exc. at 182-190. The Joint CLECs' exception is unfounded. The Proposed Order properly recognizes that fallout and occurrence factors are distinct concepts.

Proposed Order at 166. They surely are not "part and parcel of traditional fallout," as the Joint CLECs claims. Joint CLEC Br. on Exc. at 182. As the Proposed Order notes:

> each task and activity has an associated occurrence probability, which measures how frequently the task or activity is expected to occur in processing a UNE order. Occurrence probabilities are measured by a Task Occurrence Factor ("TOF"), which identifies the probability that a particular task must be performed, and by a Work Group Occurrence Factor ("WGOF"), which measures the probability that a particular workgroup must undertake an activity in order to provide service.

Proposed Order at 156.[23]

The Proposed Order correctly concludes that given "the adjustments made to activity times and fallout rates, we do not believe that any further adjustment to SBC's WGOFs are necessary." *Id*. The Joint CLECs are not satisfied with the substantial reduction in fallout approved by the Proposed Order (to 2% for simple orders and 10% for complex orders); they want further substantial reductions to the occurrence factors for support activities. Further reducing the occurrence factors for these Support Activities is not supported by the record.

Fundamentally, the Joint CLECs err when they assert that the general fallout rate and the occurrence probabilities for these support activities must be linked. Joint CLEC Br. on Exc. at 182. The support activities identified in SBC Illinois' service order cost studies are tasks that the Local Service Center ("LSC") sometimes, but not always, performs in order to process a CLEC's UNE order. *See* SBC Ill. Ex. 10.0 (Brown Direct[24]) at 15-18; SBC Ill. Ex. 5.0 (Currie Direct) at 15-16. These support activities account for *additional* time that LSC service representative sometimes spend processing

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[23] The Indiana commission reached the same conclusion, finding that support activities and traditional fallout are not the same thing. January 5, 2004 Order, Cause No. 42393 (Indiana Utility Regulatory Commission) ("*Indiana UNE Order*").

[24] Fred Christensen adopted the direct testimony of Mr. Brown.

CLEC UNE orders, distinct from the work done on orders that fall out of the service ordering process.

Indeed, the only connection between support activities and fallout activities is that they are performed by the same work group – the LSC. Fallout represents the percentage of UNE orders that are submitted electronically and fall out to the LSC as a result of some error in the electronically submitted order that is detected as part of the front-end edit process. As SBC Illinois witness Christensen explained, SBC Illinois' OSS detects over 4800 front-end edits that result in the order being automatically sent back to the CLEC who placed the order. Tr. 1218. There are also some errors that, rather than being sent back to the CLEC, are sent to the LSC for manual intervention. Mr. Christensen testified that there were 14 reasons why an order would be sent to the LSC, rather than flowing through the ordering process. Tr. 1287; *see also* SBC Ill. Ex. 11.1 (Christensen Surrebuttal) at 1-2. These orders are said to "fall out."

Support activities, on the other hand, are activities that the LSC may undertake with respect to a CLEC order once it has successfully passed through this front-end edit process. These are situations where the order is flowing through the electronic process but, as a result of some development subsequent to the order being electronically submitted, the LSC must undertake some activity. For instance, ACD coverage activity occurs when a CLEC calls to inquire about an order. SBC Ill. Ex. 10.0 (Brown Direct) at 15. Obviously, when the order is electronically submitted, SBC Illinois' OSS has no way of knowing whether the CLEC will make a phone call with respect to that order. Therefore, the order does not fall out; instead, subsequent to that time, the LSC becomes involved when it receives the call from the CLEC.

Each of the support activity occurrence probabilities is only being applied to the specific tasks associated with that support activity, and the general fallout rate is not applied to any of these tasks. Thus, general fallout rate and the support activity occurrence probabilities are not additive in any manner whatsoever. The approach taken by SBC Illinois to parse out specific activities and the probability of occurrence associated with those activities leads to a result that is more compliant with TELRIC. It reduces that possibility that unrelated tasks are lumped together, when the likelihood of those tasks happening are completely independent of each other. Recently, the Indiana Commission agreed with SBC Indiana's approach of breaking down activities into more discrete categories. *Indiana UNE Order* at 114.

The Joint CLECs continue to misrepresent the nature of these Support Activities when they assert that the likelihood of them occurring is dependent only on alleged errors in SBC Illinois' databases. Joint CLEC Br. on Exc. at 182. For instance, "Reject Activity" occurs when *the CLEC* provides invalid information on its UNE order, and the LSC service representative must perform additional tasks to reject and return the order to the CLEC, along with a reason for the rejection. *See* SBC Ill. Ex. 10.0 (Brown Direct) at 15. These costs are fairly attributed to the CLEC and bear no relation to the data in SBC Illinois' databases.[25]

Similarly, with respect to ACD Coverage activity, the likelihood that a CLEC will place a call to the LSC to inquire about an order is entirely within the control of the CLEC and there is no logical reason to presume that it will bear *any* relationship to the general fallout rate, let alone be precisely 2%. In addition, the fact that SBC Illinois

[25] The Reject Activity WGOF for UNE-P is **[********]** and includes a total of **[*********]** minutes. *See* SBC Ill. Ex. 5.1 (Currie Rebuttal), Schedule KAC-R2 at Tab 8.18.

included calls that pertain to orders that are faxed does not mean its occurrence probability is not forward-looking. The interconnection agreements between SBC Illinois and some CLECs permit the CLEC to fax orders to SBC, rather than use the electronic interfaces that SBC has developed. On a forward-looking basis, those agreements will remain in effect and it is unreasonable to assume away the costs associated with taking calls about faxed orders by utilizing an arbitrarily low occurrence probability.

With respect to the ESOI Support Activity, the story is the same. Despite what the Joint CLECs may claim, it is not the case that ESOI activity would not occur in a forward-looking network. Joint CLEC Br. on Exc. at 184. As SBC Illinois' witness explained, one of the reasons for ESOI activity can be that the service is presently working. Another reason can be that another customer is currently at the requested location. And sometimes the activity occurs because an exact address match cannot found, which could result from CLEC error. SBC Ill. Ex. 10.0 (Brown Direct) at 16. All of these conditions will exist in a forward-looking environment.

Finally, this is yet another instance where the Joint CLECs present a brand-new proposal that is not supported in the record. Not satisfied with the Proposed Order's decision to reject their request to change the occurrence probability for some support activities to zero (and some others to two percent), the Joint CLECs now suggest that the Commission should reduce the occurrence probabilities for each of the support activities by a percentage commensurate with the decrease that the Proposed Order instituted for general fallout. Joint CLEC Br. on Exc. at 188-189. This is the first time the Joint CLECs have made such a suggestion and there is certainly nothing in the record that

supports this proposal. Certainly, none of the Joint CLEC witnesses argued that the occurrence probabilities for each support activities should be adjusted in this manner. Nor did any SBC Illinois or Staff witness.

5. Fallout Rates

The Joint CLECs' exception relating to fallout rates is really nothing more than a rehashing of their exception regarding occurrence probabilities for support activities. Therefore, SBC Illinois will not repeat its arguments here but instead refers the Commission to Section IV.B.3 above. For its proposed replacement language to this section, the Joint CLECs ask the Commission to delete language from the Proposed Order which recognizes that the CLECs have improperly confused fallout with occurrence probabilities. For the reasons discussed above in connection with section IV.B.3, this language should remain in the Order.

One additional point is worth noting. In their exception, the Joint CLECs "recognize that the Task Occurrence Factor ("TOF") percentages and probabilities found in SBC's service order cost studies represent a concept different from the WGOF percentages and probabilities." Joint CLEC Br. on Exc. at 191. Frankly, SBC Illinois is confused by the Joint CLECs' argument here. First, the language that they seek to strike from the Proposed Order talks about the difference between fallout and occurrence probabilities. TOFs and WGOFs are both examples of occurrence probabilities. The fact that the Joint CLECs recognize a difference between them is simply beside the point. As the Proposed Order properly concludes, when it comes to recognizing the difference between fallout and occurrence probabilities, the Joint CLECs remain confused.

In the end, the Proposed Order says it best:

> It is clear that the percentage of orders that fallout for manual support is a different question from the frequency with which a specific manual support activity occurs. Some support activities will happen for all orders that fallout and others may occur only occasionally, but it would be improper to apply the 2% or 10% fallout factor to the support activities.

Proposed Order at 166. SBC Illinois fully agrees and urges rejection of the Joint CLECs' proposed exception language.

C. Provisioning (Loops and EELs) Non-Recurring Cost Studies

1. Identification of Tasks

The Joint CLECs raise several exceptions to this section of the Proposed Order. While they purport to be raising two exceptions to the conclusions on page 173 of the Proposed Order, their brief and proposed replacement language certainly suggests that they have *three* significant disagreements with the Proposed Order.

First, the Joint CLECs propose to add additional language to the first paragraph of the Commission Analysis and Conclusion on page 173 of the Proposed Order. The Joint CLECs' exception should be rejected. For what it is worth, SBC Illinois agrees that the Proposed Order addresses the work done by the SSC/LOC and CPC/HPC work groups in both the first and third paragraphs of the Proposed Order's Commission Analysis and Conclusion section and seems to reach inconsistent conclusions. In fact, SBC Illinois pointed this out in the exception that it filed with respect to the third paragraph of the Commission Analysis and Conclusion section on page 173. SBC Illinois will not repeat its arguments here, but instead refers the Commission to SBC Illinois' Brief on Exceptions.

However, the Joint CLECs try to bootstrap this inconsistency in an attempt to expand the first paragraph mean something that it clearly did not. Specifically, the Joint CLECs seek to add language to the first paragraph that would take the Proposed Order's

agreement with Staff regarding SSC/LOC and CPC/HPC activity times for POTS stand-alone loops and apply it to DS1 and DS3 loops. This is inappropriate. Staff's proposal addressed the differences in activity times between provisioning analog digital loops in an EEL setting and provisioning POTS loops in a stand-alone setting; it had nothing to do with DS1 and DS3 loops. Staff Init. Br. at 157-58. Staff concurs in SBC Illinois' interpretation of this part of the Proposed Order and has not taken exception to it. Staff Br. on Exc. at 39 (not proposing changes to lines 13-16 of Tab 6.1 of EEL study re DS1 connections.) And the Joint CLECs' Brief on Exceptions does not provide any support at all for the proposition that this language should be applied to DS1 and DS3 loops; they simply assume it so. Indeed, as noted above, AT&T witness Turner recognized that DS1 and DS3 loops are more complex than UNE POTs loops. *See* AT&T Ex. 3.0P (Turner Direct) at 74 (proposing higher activity times for DS1 and DS3 loop orders "because of the increased complexity of the order.") The Joint CLECs are trying to mix apples and oranges; their exception should be denied.

The Joint CLECs next take exception to the conclusion in the Proposed Order that intermediate distribution frames ("IDFs") help to mitigate premature exhaust of the main distribution frame. Joint CLEC Br. on Exc. at 192-3. This issue was addressed by SBC Illinois witness William Deere, who was not cross-examined by the Joint CLECs or the Staff. As Mr. Deere explained, the IDF is an essential part of a forward-looking network. In fact the SBC methods and procedures for the planning and engineering of central office frames directs the placement of IDF. SBC Ill. Ex. 16.0 (Deere Rebuttal) at 4-5. IDFs are intended to help mitigate the premature exhaust of the MDF by providing a point of termination for network equipment considered low utilization services, *e.g.*,

alarm monitoring devices, repeater bays, other telecommunications providers (CLECs), transport equipment, POTS-Splitters and interframe tie cables. *Id*. at 6. By providing a point of termination on the IDF, space is made available on the MDF. Furthermore, IDFs are also useful in large or multi-floor central offices to consolidate circuits that are to be connected to the MDF and provide the flexibility to spread cable terminations along the MDF. This reduces the length of the jumpers needed to connect circuits. *Id.* at 6. The Joint CLECs offered no rebuttal to this testimony.

In addition, it is altogether unclear what the Joint CLECs seek by their proposed language. At page 194 of their Brief on Exceptions, the Joint CLECs suggest that the language be added to the Proposed Order stating that "[w]e therefore reject SBC's specious arguments regarding premature MDF exhaust and adopt the CLECs' proposal." However, the Joint CLECs' brief makes no mention of what their "proposal" is. Moreover, the recitation of the Joint CLECs' position in this section of the Proposed Order makes no mention of IDFs at all, let alone mention its proposal. *Proposed Order* at 170-71. Likewise the Joint CLECs' Summaries of Position fails to provide any guidance. *See* pages 116-118.

For their third exception to this section of the Proposed Order, the Joint CLECs purport to be seeking a "clarification." It is far from that. Rather, the Joint CLECs seek the inclusion of additional, unnecessary language that has no bearing at all on the inputs to or results of SBC Illinois' cost studies. Indeed, the Joint CLECs won this issue and are not seeking any further changes to SBC Illinois cost studies. The only conceivable reason for insisting on this additional language is the hope that the Commission will give the Joint CLECs some "sound bites" for use in future proceedings. *See*, *e.g.*, Joint CLEC

Br. on Exc. at 195 (proposing to add "[w]e further find that SBC's proposal is nonsensical and irrational.")

2. Activity Times

The first exception that the Joint CLECs propose to this section of the Proposed Order would fundamentally alter what the Proposed Order says. Specifically, the Proposed Order indicates at page 182 that the CLECs and Staff proposed a number of changes to SBC's proposed activities times for its nonrecurring costs studies. The Proposed Order then lists the adjustments proposed by CLECs and Staff that the Proposed Order concludes are appropriate. SBC Illinois understands this to mean that the Proposed Order considered the other proposed changes and determined that they were not appropriate. Adopting the Joint CLECs' proposed replacement language would be directly contrary to this meaning. To the extent that the Joint CLECs believe other adjustments ought to be adopted in the Proposed Order that are not listed, they should have specifically identified them in their exceptions brief (as they did with several issues.)

The Joint CLECs next propose certain "clarifications" to the Proposed Order as it relates to travel times. Once again, the Joint CLECs' "clarifications" are far more than that. At page 182, the Proposed Order adopts the CLECs' and Staff's adjustment to travel times. The only CLEC travel time adjustments that are mentioned in the Commission Analysis and Conclusion or CLECs' Position sections in this portion of the Proposed Order are those that were proposed by Joint CLEC witnesses Dr. Ankum and Mr. Morrison. *See Proposed Order* at 176-180, 182. On that basis, SBC Illinois, as well

as the Commission staff, interpreted the Proposed Order to adopt the proposed travel time adjustments advocated either by (1) Dr. Ankum and Mr. Morrison or (2) Staff.

The Joint CLECs attempt to expand the Proposed Order to include not only the travel time adjustments proposed by Dr. Ankum and Mr. Morrison, but also some travel time adjustments proposed by AT&T witness Turner. As noted above, there is no mention of the proposed travel time adjustments advocated by Mr. Turner in the Commission Analysis and Conclusion or CLECs' Position sections in this portion of the Proposed Order. *See Proposed Order* at 176-180, 182.

Moreover, adoption of Mr. Turner's proposed travel time adjustments would be inconsistent with the rationale that the Proposed Order applied in rejecting SBC Illinois' travel times. That is, the Proposed Order concludes that subject matter expert estimates are not appropriate for estimating travel times. *Proposed Order* at 182. Thus, if SBC technicians who actually drive the routes from garages to work sites are not qualified to provide an estimate of their travel times, it surely can not be said that Mr. Turner, who has no experience at all driving from SBC Illinois' garages to the various work sites, is qualified to be a subject matter expert on this issue.

In their Brief on Exceptions, the Joint CLECs assert that Mr. Turner "actually made quantitative adjustments" to the travel times. Joint CLEC Br. on Exc. at 196. If by quantitative adjustments, the Joint CLECs mean that Mr. Turner divided SBC Illinois' proposed travel time by Mr. Turner's subject matter expert estimate of the number of jobs performed in a day, then the Joint CLECs are correct. However, that sort of "quantitative adjustment" is not the "statistical analysis" that the Proposed Order demands. *Proposed Order* at 182. (For that matter, as we explained in our brief on exceptions, we do not

believe that the adjustments that Dr. Ankum and Mr. Morrison made to come up with their travel time estimates constitute statistical analysis either. SBC Ill. Br. on Exc. at 70-71.)

The final exception that the Joint CLECs take to this section of the Proposed Order relates to testing times. This is another instance where the Joint CLECs suggest that the Proposed Order has "failed to acknowledge" the Joint CLECs' arguments. This is not the case; as discussed above, the Proposed Order makes clear that all of the proposed changes were reviewed and only those that were appropriate were listed. The Joint CLECs do not point to anything new that they did not otherwise already argue that should lead to a different result. For that reason, SBC Illinois will not recite all of the arguments that it has already made in support of its proposed testing times and against the Joint CLECs' adjustments thereto.[26] The Proposed Order should stand as is with respect to travel times.

3. Occurrence Probabilities

The Joint CLECs take exception to the Proposed Order's conclusion regarding DOP for DS1 and DS3 loops. The sole argument presented by the Joint CLECs in support of this exception is based on faulty logic. First, the Joint CLECs note that the Proposed Order adopted Staff's recommendation with respect to DOP for POTS UNE loops. Joint CLEC Br. on Exc. at 199. The Joint CLECs then note that they had proposed a similar figure (albeit using a completely different rationale.) *Id*. The Joint CLECs suggest that since the Commission adopted a DOP figure for UNE POTS loops that was close to what the Joint CLECs had proposed, the Commission should adopt the

[26] SBC Illinois addressed these proposals in its initial brief at pages 199-200 and its reply brief at pages 141-42 and incorporates those arguments herein.

proposed DOP rate for DS1 and DS3 loops that the Joint CLECs proposed. *Id*. at 200. The Joint CLECs' reasoning is faulty. By the Joint CLECs' own admission, the Proposed Order adopted the DOP proposal for POTS UNE loops that was advocated by Staff. The Proposed Order did *not* adopt the Joint CLEC proposal. By the same token, the Proposed Order did not adopt the Joint CLECs' DOP proposal for DS1 and DS3 loops. The mere fact that the DOP number proposed by the Joint CLECs for UNE POTS loops was close to the Staff proposed DOP rate that was adopted by the Proposed Order does not mean that the Proposed Order embraced the reasoning of the Joint CLECs, or that the Joint CLECs' proposal for DOP for DS1 and DS3 loops should be adopted. To the contrary, the Proposed Order made clear, and the Joint CLECs acknowledge, that it was Staff's proposal on DOP for UNE POTS loops that was adopted. The Joint CLECs' attempt to characterize the adoption of Staff's DOP proposal for UNE POTS loops as supporting a proposal by another party about another element should be rejected. Since the Joint CLECs offer no other justification for altering the conclusion in the Proposed Order, their exception should be denied.

The Joint CLECs next take exception to the Proposed Order's decision regarding the occurrence factor for how often loops will be cross connected at both the MDF and IDF. The Joint CLECs' exception is disingenuous at best. As the Joint CLECs are perfectly aware, AT&T witness Mr. Turner set forth two proposals with respect to IDF. First, he argued that IDF was not forward looking and therefore the cost studies should assume zero percent IDF. That position has been rejected. *Proposed Order* at 173. The Joint CLECs also argued that, if the Commission did not accept the argument that IDF was not forward looking (and thus that percentage of IDF should be zero), then the

percentage of IDF should be equal to the percentage of SBC's central offices with IDFs. *Proposed Order* at 186. That is precisely what the Proposed Order concluded should be done. *Proposed Order* at 190. Despite this clear language and under the guise of seeking to "clarify" the Proposed Order, the Joint CLECs twist and turn the language in the Proposed Order to suggest that it says something that it does not. The Commission should not be swayed. Although the Proposed Order expressed some concern about using the percentage of central offices with IDFs as an occurrence factor, it ultimately decided to do so, because it had rejected SBC Illinois' proposed occurrence factor as unsupported and had rejected the Joint CLEC position that IDF was not forward looking. The Joint CLECs' proposed exception should be rejected.

Finally, the Joint CLECs take exception to the Proposed Order's conclusion rejecting the Joint CLEC proposal to use the WGOF for the AMWLAC for EELs and unbundled loops, in addition to using it for UNE-P. Joint CLEC Br. on Exc. at 201. However, the unrebutted evidence is that the AMWLAC is not involved in provisioning EELs or unbundled loops; it only handles UNE-P orders. SBC Ill. Ex. 9.1 (Gomez-McKeon Rebuttal) at 8. Thus, the Proposed Order properly limited application of the AMWLAC WGOF to UNE-P orders. With respect to unbundled loops and EELs, the WGOF should continue to reflect the occurrence probabilities experienced by the workgroups that are actually involved in the relevant provisioning activities, as proposed by SBC Illinois. *Id.* at 8-9.

D. Switch Port and Features Non-Recurring Cost Studies

1. Activity Times

The Proposed Order properly recognizes that not all switches are identical and that provisioning times may differ from one switch vendor to another. *Proposed Order* at 203. The Joint CLECs take exception to this. Joint CLEC Br. on Exc. at 203. Neither of their two purported rationales are meritorious. First, the Joint CLECs criticize the Proposed Order, claiming while it looked at "currently available technology," it did not look at the most forward looking and efficient technologies currently available. *Id.* The Joint CLECs are wrong. The evidence is uncontradicted that "currently available switches have different provisioning times." *Proposed Order* at 203; *see also* SBC Ill. Init. Br. at 212-13. And the Joint CLECs do not point to any switch currently available where that is not the case. Moreover, the Proposed Order correctly rejected the Joint CLECs' novel theory that in a competitive switch market "each switch vendor will strive to be best in class in all areas, including the area of switch provisioning times." Joint CLEC Br. on Exc. at 203. As SBC Illinois pointed out in it initial brief, AT&T's speculation that in the long run a switch vendor must design its switches to have the exact same provisioning times as other switches because "otherwise its switches would not be competitive" (AT&T Ex. 3.0 (Turner Direct) at 15) is incorrect. Competitive products routinely have varying "provisioning"-like characteristics, and will continue to do so in the future. SBC Ill. Init. Br. at 212-13. The Proposed Order agrees with SBC Illinois, noting that "although it may be true that one type of switch is faster to provision, that switch may have features that make it less desirable on a forward-looking basis." *Proposed Order* at 203.

The Joint CLECs also seek to strike the last paragraph of the Commission Analysis and Conclusion section on page 203 and replace it with new language. The Joint CLECs do not provide any argument to rebut the Commission's conclusion that SBC's computer systems "contain a very high level of security and that most critical systems log users off after several minutes of inactivity" or that SBC Illinois "showed that switch translation personnel perform a high volume of work each day and access multiple databases and/or operational systems to perform their work." *Proposed Order* at 203.

Instead, the Joint CLECs simply suggest that language at page 203 of the Proposed Order is inconsistent with earlier language in the Proposed Order. Again, the Joint CLECs miss the mark. The Proposed Order did *not* conclude that all log-in and administrative closeout times should be set to one minute across the board. *See* Section IV.B.1 above. Rather, the Proposed Order concluded that certain log-in and administrative closeout times that the Joint CLECs said should be set to zero should instead be set to one minute. The language on page 203 of the Proposed Order confirms this, making clear that no changes should be made to the activity times for log-in times associated with the Switch Port and Features nonrecurring cost studies.

2. Occurrence Probabilities

The Joint CLECs' exception to this section of the Proposed Order does not come to terms with the reasoning adopted by the Commission; indeed, it does not even mention it. Joint CLEC Br. on Exc. at 203. The Proposed Order rejected the Joint CLEC suggestion to apply their 2% fallout fact across the board. The Proposed Order did so based on the conclusion that SBC Illinois had shown that automatic electronic

provisioning for the activities involved in provisioning Centrex port features is not feasible using currently available technology. Nothing in the Joint CLECs' exception points to any evidence that calls into question that conclusion. Clearly, if there is no technology currently available that would permit electronic processing, then a 98% electronic flow-through assumption would be nonsensical.

The Joint CLECs posit that "[t]he relevant inquiry is what level of fallout is appropriate in a forward looking environment." Joint CLEC Br. on Exc. at 204. Yet the evidence demonstrates that in a forward looking environment, electronic processing of Centrex feature requests is not feasible. *See* SBC Ill. Ex. 18.0 (Cunningham Rebuttal) at 2, 4 (discussing need for manual processing to perform Centrex common block feature provisioning and custom routing applications); SBC Ill. Ex. 18.1 (Cunningham Surrebuttal) at 3 (discussing fundamental differences between Centrex common block feature and line features.)

The Joint CLECs are also incorrect when they assert that Centrex port features should flow through in the same manner as basic port features. Joint CLEC Br. on Exc. at 205. Certainly the Proposed Order does not say that, as the Joint CLECs falsely assert. *Id.* Rather, the Proposed Order notes that SBC witness Cunningham clarified that while line assigned features flow through, Centrex common block features do not. *Proposed Order* at 206; *see also See* SBC Ill. Ex. 18.0 (Cunningham Rebuttal) at 2.

The Joint CLECs also err when they assert that the Proposed Order inappropriately confuses fallout and WGOFs. Joint CLEC Br. on Exc. at 204. The Proposed Order does not. It makes clear that:

> fallout is not necessarily the same as a WGOF. Fallout reflects the frequency that an order that is normally processed by an automated system

> falls out and must be manually processed. A probability of occurrence, on the other hand, measures the frequency that a particular activity must be performed when manual processing is necessary.

Proposed Order at 204. The Proposed Order frames the issue absolutely correctly. It is the Joint CLECs that are confused.

E. Miscellaneous

1. Special Access to UNE Conversion Non-Recurring Cost Study

The Joint CLECs take exception to the Proposed Order to the extent that it allows SBC Illinois to recover certain Access Service Center costs associated with Special Access to UNE conversions (SA2UNE). Joint CLEC Br. on Exc. at 207. SBC Illinois has already addressed these arguments at length. In fact, SBC Illinois modified it proposal in the rebuttal phase of testimony to address the Joint CLECs' concerns. And SBC Illinois noted in its initial brief that it had modified its proposal. SBC Ill. Init. Br. at 178-79. The Joint CLECs ignore this, just as they did in the briefing. Indeed, the Joint CLEC exception is essentially arguing against a position that SBC Illinois long ago modified.

As the evidence shows, the service ordering activities for CLEC requests to convert special access arrangements to UNEs include not just the activities of the LSC, but also certain tasks undertaken by SBC's Access Service Center ("ASC"). *See* SBC Ex. 5.0 (Currie Direct) at 36-37. While AT&T did not deny that the ASC must perform these activities, and does not contest SBC Illinois' estimate of the time required to perform these activities, it asserts that the cost of these activities are included in the disconnection nonrecurring costs related to special access circuits. AT&T Ex. 3.0 (Turner Direct) at 124. AT&T was largely (but not entirely) mistaken and SBC Illinois modified its proposal accordingly.

Specifically, SBC Illinois proposed to reduce the time for the ASC's "Create disconnect order from CABS records & edit" activity to 30 seconds, because there is *some* overlap between the ASC activities for disconnecting special access circuits and the ASC's activities when converting special access to UNEs. SBC Ill. Ex. 5.1 (Currie Rebuttal) at 45-46. However, this activity should not be reduced to zero (which AT&T proposed to do by applying a zero occurrence probability), because the activities of the ASC when special access is converted to UNEs take that additional 30 seconds, compared to the ASC's activities when disconnecting a special access circuit. In particular, in the special access to UNE conversion context, the ASC must enter additional information in the comment field of the order, which takes about 30 seconds. *Id.*

The Joint CLECs' speculation that other ASC activity times should be eliminated entirely because of overlap is unsupported. Dr. Currie, the SBC Illinois cost expert responsible for the service order nonrecurring cost studies, personally "visited the ASC and ha[s] directly observed the tasks performed by the ASC in order to convert special access circuits to UNEs." SBC Ill. Ex. 5.2 (Currie Surrebuttal) at 23. Dr. Currie testified that the special access to UNE nonrecurring cost study "accurately reflects the ASC tasks that are caused by such conversion requests," and "almost all of the ASC work done in the conversion process goes beyond what the ASC ordinarily does with disconnecting a circuit. In other words, the ASC costs included in my rebuttal testimony include no cost that is part of the ordinary disconnection cost of a special access circuit." *Id.* at 23-24.

The Joint CLECs ignore SBC Illinois' modified proposal, and its arguments explaining why the Joint CLEC position is wrong. The Joint CLEC exception should be rejected.

V. Labor Rates

The Joint CLECs contend that the Proposed Order should have adopted their benefits adjustment to SBC Illinois' labor rates. Joint CLEC Br. on Exc. at 207-10. They argue that SBC Illinois' TELRIC costs should not reflect the benefits costs that the Company will actually incur in the future, but rather the costs incurred by other companied based on data compiled by the Bureau of Labor Statistics ("BLS"). *Id.* at 208-09. The Proposed Order concludes that the actual costs SBC Illinois will incur in the future is the right basis for labor rates used in its TELRIC studies. *Proposed Order* at 215-16.

The Proposed Order is conceptually correct. The FCC's TELRIC rules do not support, much less require, use of fictional labor costs. Although TELRIC requires a long-run view in which inputs are considered variable, that simply requires an analysis of what those costs are likely to be in the future. For example, if SBC Illinois is a union company (as it is) and its union contracts are expected to continue over the foreseeable future (as they are), then the level of wages and benefits which SBC Illinois is contractually obligated to provide to its nonmanagement personnel should be the basis for determining nonmanagement labor costs. Similarly, if SBC Illinois' current mix of management employees, with varying salary and benefit costs, will continue over the foreseeable future, then that level of salaries and benefits is the right basis for determining management labor costs. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 52. Although

the Joint CLECs claim that their approach is required by TELRIC, nowhere do they point to any FCC order that requires use of their "scorched employee" approach or the labor costs of companies other than SBC Illinois and that SBC Illinois will not incur.

The Joint CLECs are also wrong when they claim that SBC Illinois' benefits costs "…are materially in excess of those incurred by other companies in maintaining a quality workforce in a competitive environment." Joint CLEC Br. on Exc. at 209-10. The Joint CLECs' entire argument is based on BLS data. However, BLS data do not provide a reasonable measure of *SBC Illinois'* forward-looking benefits costs. While the BLS collects data from thousands of companies in various broad categories, the Joint CLECs did not show that those general categories are comparable to SBC Illinois or that the self-reported data collected by the BLS is inclusive of all benefits-related costs included in SBC Illinois' studies or even that the companies included in the communications industry category (cable, radio, broadcasting, and satellite) are comparable in size or union status to SBC Illinois. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 61-63, 65-66.[27] For example, union companies typically provide higher levels of benefits than non-union companies. IBEW Local 21 Ex. 1.0 (Kastner Rebuttal) at 8-9. It is impossible to determine what portion of the BLS data relied on by the Joint CLECs (if any) reflects companies subject to collective bargaining agreements. In short, the BLS data is a "black box" from which no meaningful conclusions applicable to this proceeding can be drawn.

Moreover, the record evidence demonstrates that SBC Illinois' benefits costs fall well within the range of those offered by other large companies. For example, a 2001 Benefit Index study conducted by Hewitt Associates found that the benefits package

[27] Because of confidentiality agreements with BLS, no party can verify what companies were included in the BLS sample. SBC, for example, does not provide data to the BLS. SBC Ill. Ex. 7.2 (Barch Surrebuttal) at 26.

offered by SBC to its employees was comparable to similar programs offered by 19 other large corporations, including AT&T. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 63-64. This conclusion was further bolstered by a more recent Hewitt study that compared benefits costs for SBC's management employees to benefits costs for management employees at a different group of 20 large companies. AT&T Ex. 4.2 (Flappan Surrebuttal) at 2-3. SBC's management benefits costs are lower than those of the comparator companies, virtually all of which operate in fully competitive industries.[28] Tr. 1896-97 (Flappan). Therefore, the Proposed Order's conclusion is correct and it should not be changed.

The Joint CLECs also except to the Proposed Order's rejection of their 40-hour work week adjustment. *Proposed Order* at 216. As SBC Illinois explained, and the Proposed Order accepts, the Company's TELRIC studies already assume that its managers work more than 40 hours a week and the Joint CLECs' adjustment would constitute double-counting. *Id.* The Joint CLECs claim that this finding is "factually erroneous", because SBC Illinois' paid absence adjustment "encompasses the same factors" that underlie its work week assumption and, somehow, itself constitutes double-counting. Joint CLEC Br. on Exc. at 211. Contrary to their assertion, and as SBC Illinois explained, its adjustment for paid absences does *not* offset the 44-hour week assumption implicit in its studies and there is no double-counting. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 55-56; SBC Ill. Ex. 7.2 (Barch Surrebuttal) at 23-24.

VI. Shared and Common Cost Factors

A. Issues Common to Shared and Common Factors Development

[28] Although SBC Midwest's nonmanagement costs are somewhat higher than management costs for the comparator companies, there is no comparable data for the 20 companies' nonmanagement employees. Tr. 1901 (Flappan). In any event, the nonmanagement benefits costs actually included in the TELRIC standings are lower than the comparator companies' management benefits cost. SBC Ill. Flappan Cross Ex. 57P.

2. Use of Regulated and Unregulated Data

The Joint CLECs argue that the Proposed Order should have accepted their adjustment to remove unregulated data in the development of the shared and common factors. Joint CLEC Br. on Exc. at 214-15. The Proposed Order's conclusion is correct and the Joint CLECs contentions are simply a rehash of arguments that they have made previously. As SBC Illinois has explained, the FCC's Part 64 rules require SBC Illinois to use accounting allocations to create separate subaccounts for regulated and non-regulated services for ratemaking purposes and to guard against cross-subsidization of unregulated services by regulated services. SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 49-50. However, the FCC's TELRIC pricing rules, including its shared and common cost policies, are based on economic cost-causation principles, not on pure accounting classifications designed to achieve other objectives. In fact, the FCC's Part 64 methodology is biased in favor of assigning as many costs as possible to non-regulated services. As a result, the Joint CLECs' approach would likely assign regulated costs to the non-regulated side of the business. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 7-8; SBC Ill. Ex. 14.0 (W. Palmer Rebuttal) at 50-51; SBC Ill. Ex. 14.1 (W. Palmer Surrebuttal) at 38-39. Furthermore, SBC Illinois has consistently used total company data in developing its service cost factors and these factors have been routinely approved by the Commission. *Id.* at 51-52, 37-38. Therefore, the Proposed Order correctly rejects the Joint CLECs' proposal.

B. Common Cost Factor

2. The 67XX Accounts (including retail cost adjustment)

For the reasons stated in SBC Illinois' Brief on Exceptions, the Proposed Order erred in adopting the Joint CLECs' retail cost adjustment to SBC Illinois' common overhead costs (*i.e.* the 67XX accounts). SBC Ill. Br. on Exc. at 46-49. Apparently not satisfied with obtaining precisely the result they asked for during the proceeding, the Joint CLECs now contend that the 67XX costs removed from the numerator must also be added to the denominator. Joint CLEC Br. on Exc. at 216. The result is an expanded common cost denominator and a smaller common cost factor. This double adjustment is a brand new proposal that was never made in testimony and to which SBC Illinois never had an opportunity to respond. Therefore, it is untimely and should be rejected out of hand.

4. Pension Settlement Gains

The Proposed Order correctly rejects the Joint CLECs' proposal to include pension settlement gains in the calculation of common costs. In taking exception to this decision, the Joint CLECs assert that "for each and every year from 1987-2001 − *i.e.*, for fifteen consecutive years − SBC Illinois experienced pension settlement gains." Joint CLEC Br. on Exc. at 217 (emphasis added). This assertion is wrong. In fact, no pension settlement gains were recorded in five of the years between 1987 through 2001. AT&T/Joint CLEC Ex. 1.0 (Starkey/Fischer Direct) at 56. In addition, as the Proposed Order finds, and the Joint CLECs concede, SBC Illinois also experienced no pension settlement gains in 2002 and 2003. *Proposed Order* at 239.

The Joint CLECs' proposal was to include pension settlement gains in the amount of **[**********]** based on the average annual amount of pension settlement gains

for the period from 1987 through 2002. This average, however, is heavily weighted by the extraordinary level of pension settlement gains experienced during the 1999-2001 period. In 2001 alone, for example, pension settlement gains were **[******* **********]**. For the reasons fully discussed by SBC Illinois in its Initial and Reply Briefs, the pension settlement gains experienced during these years were abnormal and resulted from an anomalous confluence of events. In particular, the period of 1999-2001 combined never before seen gains on pension fund assets with the departure of an abnormally large number of employees who requested lump sum payments on their pension benefits. This triggered the need to recognize the pension asset gains on an accelerated basis, which resulted in large pension settlement gains. SBC Ill. Init. Br. at 236-37; SBC Reply Br. at 165-67; SBC Ill. Ex. 17.0 (Dominak Rebuttal) at 13-14, 16-17. As the Proposed Order correctly finds, it is highly unlikely that SBC Illinois will experience anything approaching this set of conditions in the foreseeable future. *Id.*[29]

Excluding the extraordinary pension settlement gains experienced during the 1999-2001 time period, the average annual pension settlement gains for the time period 1987 through 1998 was approximately **[**********]**, 1/15th of the amount of the adjustment proposed by the Joint CLECs. Joint CLEC Ex. 1.0 (Starkey/Fischer Direct) Attachment MS/WF-4. And that average is even less when the years 2002 and 2003

[29] The Joint CLECs assert that efforts by SBC to "streamline its workforce through additional job eliminations and buyouts" constitute a reason to believe that "SBC is likely to experience pension settlement gains in the future". Joint CLEC Br. on Exc. at 218. The Joint CLECs, however, rely on excerpts from the SBC Consolidated 2002 Annual Report and the SBC Investor Briefing, both of which pertain to the entire enterprise, not just SBC Illinois. Contrary to the Joint CLECs' suggestion, pension settlement gains or losses do not automatically occur when a job is eliminated or a buyout occurs. Rather, the accounting recognition is triggered only when there is a significant number of employees who leave the business and request a lump sum pension payment that exceed a threshold established by the FASB. Moreover, job eliminations can also be in the form of attrition, such that when a normal retirement or transfer occurs, the job is not replaced. Accordingly, "job eliminations and buyouts" do not necessarily result in pension settlement gains (or losses). As previously indicated SBC Illinois experienced no pension settlement gains in 2002 or 2003. In fact, SBC Illinois had a minor settlement loss in 2002 of **[****** ******]**. SBC Ill. Ex. 17.1 (Dominak Surrebuttal) at 11.

(during which no pension settlement gains were experienced) are taken into account. Accordingly, there is no merit to the Joint CLECs' assertions that their proposed adjustment reflects a "normalized level" of pension settlement expense. Joint CLEC Br. on Exc. at 219.

For these reasons and the reasons fully discussed in SBC Illinois' Initial and Reply Briefs, the Commission should affirm the Proposed Order's decision to reject the Joint CLECs' proposed adjustment for pension settlement gains.

5. Merger Savings

The Joint CLECs take exception to the Proposed Order's conclusion that merger savings are adequately reflected in SBC Illinois' UNE studies. Joint CLEC Br. on Exc. at 221-23. The Joint CLECs contend that this conclusion is contrary to the manifest weight of the evidence in this proceeding, SBC Illinois' testimony in the merger savings proceeding, and the Commission's Order in that proceeding. The Joint CLECs are wrong on all three counts.

The fundamental problem here is that the Joint CLECs are either honestly confused by the Company's testimony in the merger savings proceeding or find it strategically advantageous to remain confused. Contrary to the Joint CLECs' contentions, Mr. Fritzlen did *not* testify in Docket No. 98-0252/98-0335/00-0764 that over 80% of all merger savings would not be captured until the 2002-2004 time frame. *Id.* at 222. SBC Illinois has already explained this three times. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 28; SBC Ill. Init Br. at 238-41; SBC Ill. Reply Br. at 167-68. However, SBC Illinois apparently needs to explain it for *the fourth time*.

Based on the data in the Joint CLECs' own testimony, the level of merger savings experienced in 2001 (the time period of the data used in the common cost study) is over 60% of the total level of merger savings expected annually over the long run. AT&T/Joint CLEC Ex. 1.0 (Starkey/Fischer Direct) at 62. The table in question is reproduced below:

*****BEGIN CONFIDENTIAL*****

Net Merger Related Savings

2000 actual	2001 actual / partial	2002 projected	2003 projected	2004 projected
**********	**********	**********	**********	**********

source: Ameritech Exhibit 14.0, pages 6-11, Docket Nos. 98-0252/98-0335/00-0764

*****END CONFIDENTIAL*****

The savings projected for 2004 represents the "run rate" – *i.e.* the total amount of savings experienced at the full implementation of all merger savings initiatives and that will continue at a constant level every year thereafter. The amount of merger savings shown for each year prior to that is the total savings for that year, not the incremental amount of savings relative to the previous year. For example, the **[*****************]** shown for 2002 consists of the going level of **[**************]** achieved in 2001 plus **[*****************]** of new savings achieved in 2002. In other words, the **[****************]** of merger savings in 2001 that was reflected in SBC Illinois UNE studies is over 60% of the final 2004 run rate, not 20%. Messrs. Starkey and Fischer understood this, because their proposed $41,300,000 adjustment reflects the *incremental difference* between 2001 merger savings and average merger savings over 2002-2004. AT&T/Joint CLEC Ex. 1.0 (Starkey/Fisher Direct) at 63. If the Joint CLECs had truly

believed that 2001 merger savings were only 20% of the final run rate, the adjustment would have been much, much larger.

In making the claim that 80% of merger savings will be experienced after 2001, the Joint CLECs appear to have simply added together the savings achieved each year over the 2002-2004 period and compared that result to savings achieved in 2001.[30] This is absolute nonsense from a rate making prospective. The Joint CLECs have triple-counted the merger savings SBC Illinois will achieve. The only relevant comparison is merger savings achieved in 2001 relative to the run rate in 2004 (*i.e.*, the total merger savings to be experienced on an annual basis). However, as noted below, the Joint CLECs are not entitled to 100% of the net merger savings achieved by SBC Illinois, so the 2004 run rate is not relevant in any event.

The Proposed Order's conclusion is fully consistent with both the original Merger Order and the Commission's Interim Order in the Alternative Regulation Plan proceeding. As the Proposed Order recognizes, customers are only entitled to 50% of the net savings. SBC Illinois' common cost study already contains 60%. Notably, the Joint CLECs studiously avoid discussing the 50% principle in their Brief on Exceptions. In short, the Joint CLECs are already receiving a higher percentage of SBC Illinois' net merger savings in the proposed UNE rates than they are entitled to and no further adjustment is warranted.

The Joint CLECs' final argument that this resolution of the merger savings issue is contrary to the Interim Order in the Alternative Regulation Plan proceeding is baffling. They point to the following statement in that Order:

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[30] The calculation would be as follows**: [*****************]** divided by **[***************** *********************]** equals 21.0%.

> By this decision, we are not changing our conclusion in the SBC/Ameritech Merger Order that merger savings ultimately should be reflected in updated UNE rates. The issue here is one of time and scope. This reopened proceeding is not the appropriate context in which to address complex UNE pricing issues. We agree with Al, Staff and GCI/City that the one-time credit proposed for the Joint CLECs is an appropriate interim measure and will not operate to deprive the Joint CLECs of updated UNE prices in the future. *Id.* at 222-23.

In that proceeding, the Joint CLECs had insisted that the shared and common factors should be revised immediately to flow merger savings through to UNE customers, and that the interim one-time credit should not be used for the CLECs. August 13, 2002 *Interim Order Illinois Docket No. 98-0252/98-0335/000764* at 12-13. Although the Commission rejected the Joint CLECs' position, it pointed out that merger savings would be reflected in updated UNE prices in the future. The Joint CLECs in this proceeding are receiving exactly that – updated UNE prices, reflecting an appropriate level of merger savings. Nothing in the Commission's discussion above promised them more.

C. Shared Cost Factor

2. Uncollectible Expense

The Joint CLECs object to the Proposed Order's conclusion that uncollectible expense should be based on an average of 2001-2002 data, and that it should be based on bad debt expense (Account 5301). Joint CLEC Br. on Exc. at 224-28. Instead, the Joint CLECs claim that it should be based on 1998-2003 data and it should be based on average bad-debt write-offs over that period (Account 1181). This is exactly the same proposal that the Joint CLECs made throughout the proceeding and the Proposed Order properly rejected it.

Both SBC Illinois and Staff opposed the Joint CLECs' proposal to average uncollectible expense over the entire period between 1998-2003. As Mr. Smith testified

on behalf of Staff: "A five-year history would be misleading because it would ignore the realities of developing competition in the IBT local exchange marketplace" – *i.e.*, the fact that the wholesale UNE market was just developing during the early years of that period. Staff Ex. 9.0 (Smith Direct) at 12; SBC Ill. Ex. 17.0 (Dominak Rebuttal) at 22-23. The Joint CLECs cannot and do not have any meaningful response to that fact and this conclusion in the Proposed Order should not be changed.

Apparently recognizing that the prospects for their 1998-2003 proposal are dim, the Joint CLECs suggest in the alternative that the Commission just expand the 2001-2002 time period to include data for 2003. Joint CLEC Br. on Exc. at 230-31. This proposal was not made previously in the proceeding and is untimely. In any event, it would be inappropriate to include 2003 uncollectible data in the average because SBC Illinois' bad debt experience was atypical that year. Because WorldCom was in bankruptcy in 2003, it was ordered to pay for all telecommunications services in a prompt manner, which reduced SBC Illinois' bad debt exposure; this court-ordered protection will end when WorldCom emerges from bankruptcy. SBC Ill. Ex. 17.1 (Dominak Surrebuttal) at 16. The Joint CLECs ignore these circumstances.[31]

Both SBC Illinois and Staff also opposed the use of write-offs in Account 1181, instead of uncollectible expense in Account 5301, to determine wholesale uncollectible expense. Account 1181 is a backwards-looking measure of final write-offs made years after the relevant amounts were due and recorded as uncollectibles. Thus, the Joint CLECs' proposal is inconsistent with generally accepted accounting principles

[31] The Joint CLECs refer to testimony filed in an Ohio rate proceeding in which Mr. Dominak allegedly made an adjustment to WorldCom uncollectible expense for 2002. Joint CLEC Br. on Exc. at 230-31. This testimony is not a part of the record in this proceeding and SBC Illinois has no opportunity to respond. Therefore, it should be disregarded.

("GAAP") and would constitute a backward-looking, rather than forward-looking, approach to costs. SBC Ill. Ex. 17.0 (Dominak Rebuttal) at 24; SBC Ill. Ex. 17.1 (Dominak Surrebuttal) at 15-16. The Joint CLECs contend that the Commission has used this approach in other rate proceedings. Joint CLEC Br. on Exc. at 228. However, the UNE business is not comparable to the ongoing operations of long-established utilities. Staff Witness Smith recommended against basing uncollectible expense on write-offs precisely because the UNE market is new and historical write-off experience may not be reliable. Staff Ex. 20.0 (Smith Rebuttal) at 6. In short, the Proposed Order's conclusion is correct and it should not be changed.

Both Staff and the Attorney General contend that Staff's revenue-based factor should be used for uncollectible expense. Staff Br. on Exc. at 22-24; AG Br. on Exc. at 18-19. The Proposed Order properly rejected this proposal because the facts do not support the premise underlying Staff's approach, *i.e.,* that there is a predictable relationship between uncollectible expense and revenues. SBC Illinois agrees with Staff on the basic proposition that without sales (*i.e.,* revenues) there can be no bad debt. Staff Br. on Exc. at 22-23. However, that rather obvious fact of marketing and accounting life does not determine how uncollectible expense should be recovered in a service cost study. The Proposed Order is absolutely correct when it states that there is no relationship between UNE revenues and uncollectible expense that would support a revenue-based factor − the level of uncollectible expense is driven by numerous other factors and the linear relationship implied by Staff's approach simply does not exist.

Furthermore, basing the uncollectible factor on revenues will inflate the denominator and shift responsibility for uncollectible expense from UNEs to other

wholesale products producing higher levels of contribution. SBC Ill. Init. Br. at 246. These are exactly the same defects associated with using revenues to allocate wholesale marketing expense. The Proposed Order rejects revenue-based allocation mechanisms for wholesale marketing expense and it should do the same here. *Proposed Order* at 253.

3. Wholesale Marketing Expense

The Joint CLECs complain that the Proposed Order did not accept their revenue-based allocator for wholesale marketing expense. Joint CLEC Br. on Exc. at 232-33. The Joint CLECs' revenue based approach is inappropriate for all of the reasons stated by the Proposed Order and their exceptions add nothing new to the debate.

For example, the Joint CLECs persist in claiming that a cost-based denominator will overallocate marketing expense to UNEs because "…UNE customers do not enjoy the same level or type of sales support that SBC Illinois' retail customers and other wholesale customers enjoy". Joint CLEC Br. on Exc. at 233. This is nonsense. SBC Illinois' sales and support infrastructure for UNEs is one of its most extensive, not least extensive, on a per-dollar of revenue basis. As SBC Illinois explained in testimony, wholesale marketing expense includes contract personnel who negotiate interconnection agreements; account managers who interface with customers on a daily basis; and product managers who are responsible for developing and pricing the services provided. SBC Illinois must enter into an interconnection agreement with every CLEC which must be negotiated and then approved by the Commission. When issues are disputed, the agreement may go to arbitration. Account managers spend significant amounts of time helping CLECs navigate the complex array of services and products available to them and interface with SBC Illinois' systems, explaining billing processes and resolving

disputes over whether CLECs are receiving the products to which they think they are, or should be, entitled. These complications are exacerbated by the fact that the UNE products available to CLECs, the constraints on how they can be used, and their prices are constantly changing as a function of both state commission and federal orders (*e.g.,* FCC's Triennial Review Order). This creates significant work effort for SBC Illinois' personnel at the customer level (*e.g.,* account managers) and product level (*e.g.* product managers). Large organizations have been established at SBC Illinois and on a centralized basis to handle this work load.

In contrast, the other major group of wholesale customers are the long distance carriers ("IXCs"). They purchase service out of standard tariffs (not interconnection agreements), their choice of service arrangements is limited, their systems and processes are well-known and little day-to-day "hand-holding" is required. Thus, the cost-based methodology proposed by SBC Illinois likely understates, not overstates, the marketing expense it incurs to provide service to CLECs. The revenue-based allocation mechanism urged by the Joint CLECs would allocate even more marketing expense to the IXCs and even less to the CLECs. SBC Ill. Ex. 7.1 (Barch Surrebuttal) at 34. In short, the Proposed Order's conclusion should not be changed in this regard.[32]

VII. Annual Cost and Other Factors

A. Annual Cost Factors

[32] CUB states in its Brief on Exceptions that the Proposed Order "appropriately excluded all marketing costs from UNE recovery due to the lack of support provided by SBC". CUB Br. on Exc. at 14. CUB completely misunderstood the Proposed Order. As all of the other parties recognized, the Proposed Order only disallowed Account 6613 (Advertising). Accounts 6611 and 6612 were approved. *Proposed Order* at 253.

1. Adjustments to Maintenance and Other Expense Factors

The Joint CLECs object to the fact that the Proposed Order accepts SBC Illinois' maintenance factor adjustment, which holds maintenance expense constant as fill rates increase. Joint CLEC Br. on Exc. at 235-38. The Joint CLECs' various arguments are all factually inaccurate.

First, the Joint CLECs contend that maintenance expense would remain constant even if cable sizes decreased. *Id.* at 235-36. This is incorrect. SBC Illinois maintenance factor determines maintenance expense *per dollar of investment*. The adjustment in question holds maintenance expense constant if the fill rate increases (otherwise maintenance expense would decline as fill increases, which is the opposite of what happens in the real world). The adjustment is limited to *fill,* however. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 41-43. If the size of the cable changes (*e.g.* from a 600-pair cable to a 300-pair cable), then the absolute dollar amount of investment would decline as well. In that circumstance, SBC Illinois' maintenance factor would be applied to a lower investment value and it would produce less maintenance expense. The Joint CLECs' concern is, thus, misplaced.

The Joint CLECs then go on to hopelessly confuse this issue by claiming that maintenance expense will *increase* as a result of Staff's adjustments to SBC Illinois' actual fill factors. They state as follows:

> The Proposed Order's adoption of SBC's adjustment is particularly troubling in light of the fill factors it adopts. Essentially, the Proposed Order adopts the Staff's proposal, which is based on adjusting SBC's actual capacity by 7.5% for feeder and DLC components and 15% for distribution components. The result is increases from SBC's actual fill factors in the range of 4% to 8% (*see* table on p. 50 of Joint CLECs' Initial Brief (proprietary version)). Whether or not the adjustment is appropriate, it is difficult to imagine any basis for *assuming higher maintenance costs*

> as a result of raising SBC's low actual fills by 4% to 8% -- placing them at a level that is still low.
>
> *It is highly unlikely that any incremental increase in maintenance costs will occur until the fills reach a level much higher than those adopted by the Proposed Order, if at all.* Joint CLEC Br. on Exc. at 236-37 (emphasis added).

The Joint CLECs can rest easy. Staff's adjustments will *not* cause maintenance costs to increase. As the Proposed Order recognizes, SBC Illinois' factor simply keeps maintenance costs at a constant level. SBC Illinois is at a loss to understand why the Joint CLECs find − or purport to find − this concept so difficult to understand and remember.

The Joint CLECs' final contention that SBC Illinois has not established a linear relationship between maintenance expense and fill is similarly beside the point. Joint CLEC Br. on Exc. at 237-35. That would be relevant only if maintenance expense increased with fill rates. It does not. The Joint CLECs are arguing against an adjustment that is not even made in SBC Illinois' studies. The Joint CLECs would benefit from limiting their exceptions to real issues.

The Joint CLECs also object to the Proposed Order's conclusion that SBC Illinois' Service Order Activity Adjustment ("SOAA") should be approved. Joint CLEC Br. on Exc. at 239-41. They claim that the Illinois-specific study must be incorrect merely because it produces the same result as an older, out-of-region study. *Id.* at 240. Whatever the Joint CLECs' views may be, those are the facts and there is no contrary evidence in the record. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 47-48.

2. Ad Valorem Factor

The Joint CLECs take exception to the Proposed Order's recommendations that ad valorem taxes be calculated based on book costs. Joint CLEC Br. on Exc. at 241-42.

The Proposed Order is correct and the Joint CLECs add nothing new to the issue. As SBC Illinois has explained numerous times, ad valorem taxes are assessed based on actual booked costs, not current replacement cost, and that should be the basis for the ad valorem calculations in the Company's TELRIC studies. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 43-44.

E. Productivity Offset

Although the Proposed Order's resolution of the productivity offset issue is entirely consistent with the Joint CLECs' recommendations, they nevertheless complain about the rationale used in the Order. Joint CLEC Br. on Exc. at 242-45. Specifically, they object to the fact that the Proposed Order concluded that a productivity factor is not required on top of the other forward-looking assumptions in SBC Illinois' TELRIC studies.

The Proposed Order is correct. SBC Illinois' cost studies are forward-looking and account for future productivity gains by identifying forward-looking resources, activities, inputs, values, and other data. Anticipated productivity gains are inherent in forward-looking studies, such that applying a "productivity factor" on top of those studies would double-count future cost reductions. SBC Ill. Ex. 7.1 (Barch Rebuttal) at 11. For example, productivity factors used to measure productivity improvements over time are based on the *embedded* base of equipment and *current* processes. *Id.* at 11-12. That is, a productivity measure may reflect the cost savings that result as the embedded base of equipment is replaced over time with more efficient technology. However, SBC Illinois' cost studies already assume the use of forward-looking, efficient technology and no

future adjustment would have been warranted, even if the Proposed Order had approved use of an inflation factor. *Id.*[33]

VIII. Imputation and Price Squeeze

The Proposed Order concludes that the imputation issues raised by the parties should be addressed after final rates are determined and in a separate proceeding to be initiated by a petition under Section 792.30(d) of the Commission's rules. *Proposed Order* at 283-84. This approach is more than reasonable, given the fact that imputation tests cannot be performed until final rates are determined, that this proceeding was litigated in a tight time frame and that the parties have not been able to reach any consensus on how the test should be performed. SBC Illinois, Staff, the Attorney General and CUB all supported this approach, in that none of them filed exceptions on imputation issues. The only complaining party is the Joint CLECs and their argument that the Commission must decide this issue *now* is incorrect.

The Joint CLECs' principle argument is that the Commission's rules require that any imputation issues be resolved within the scope of this proceeding. Their logic is as follows: (1) Section 792.30(d) requires the Commission to issue an order whenever imputation tests have become "the subject of a proceeding" within 120 days, unless the 120-day deadline is extended by agreement of all parties; (2) the parties to this

[33] The CLECs continue to refer to SBC executives' comments to Wall Street regarding cost-cutting initiatives. Joint CLEC Br. on Exc. at 243-44. The effect of these initiatives cannot be quantified or related to the particular factors which SBC Illinois is using in its studies at this time. Moreover, many of the specific operational measures described in those comments have nothing to do with loop costs or shared and common costs (*e.g.*, consolidation of call centers, creation of a national service bureau, and consolidated nationwide technical support). This Commission has always disfavored reliance on mere estimates (or worse yet, "guesstimates"). For example, in the *Merger Order*, the Commission did not order immediate flow-through of merger savings based on pre-merger estimates, but rather waited for actual data. *Merger Order* at 147. The same principle applies here. There are no estimates of the effect of those particular initiatives at the level of detail that could be applied in SBC Illinois' TELRIC studies, nor is it known whether or when SBC Illinois will actually achieve the savings it anticipates.

proceeding only waived the 120-day deadline to and including its conclusion; and (3) therefore, the Commission must decide the imputation issues in its final order in June. Joint CLEC Br. on Exc. at 250-52.

Their argument fails because their initial premise is wrong. The 120-day time limit in Section 792.30(d) of the imputation rule does not even apply to this proceeding. As SBC Illinois explained in the initial debate over this issue a year ago, this 120-day time limit has appeared in the imputation rules since they were adopted in 1994 in Docket No. 92-0210. In the original version of the imputation rule, Section 792.30(a) contained the 120-day "clock" and it applied only to "Initial tests":

> a) Initial tests. A subject carrier shall file with the Illinois Commerce Commission ("Commission") a list of all services, specifying those services that are subject to the requirements of Section 13-505.1 of the Act and filing an imputation test for each such subject service. Initial imputation tests, unless previously filed in another proceeding, must be filed with the Commission within 90 days after the effective date of this Part February 1, 1994. After notice and hearing, the Commission shall issue an order determining whether the initial imputation test for each subject service and the result of such test satisfy the requirements of Section 13-505.1 of the Act. The Commission shall make its determination and issue its final order within 120 days or, if previously filed in another proceeding, as part of the order in that proceeding. The 120 day requirement, if applicable, may be extended by written agreement of all parties to the proceeding.

This 120-day limit applied to what were clearly contemplated to be one-issue proceedings involving imputation.

The imputation rule was updated in Docket No. 99-0536 pursuant to Section 13-512 of the Act. As part of the rewrite process, the language imposing the 120-day limit on review proceedings was moved from Section 792.30(a) to Section 792.30(d) and now covers both "Initial test" and "Subsequent test" filings:

> Filings made pursuant to subsections (a) and (c) shall be made in the form of either a tariff filing pursuant to Section 9-201 of the Act [220

> ILCS 5/9-201] or a petition filed pursuant to 83 Ill. Adm. Code 200. In the event the tests become the subject of a proceeding as a result of the suspension of the tariffs pursuant to Section 9-201 of the Act or by the filing of a petition, the Commission shall issue an order within 120 days determining whether the imputation test for each subject service and the result of the test satisfy the requirements of Section 13-505.1 of the Act. The 120-day requirement, if applicable, may be extended by agreement of all parties to the proceeding. . . .

It is significant that this provision treats proceedings involving "Initial tests" in (a) and "Subsequent tests" in (c) identically, as if they were interchangeable from a substantive and procedural perspective. The "Initial test" filings, if the subject of a contested docket, would clearly be one-issue proceedings. Therefore, the most reasonable construction of Section 732.30(d) is that the 120-day clock only applies to hearings when the subject of the proceeding in question is the imputation test and nothing more, regardless whether "Initial tests" or "Subsequent tests" are involved.

This construction of the rule is consistent with the Commission's treatment of the issue in Docket No. 99-0536 itself. The Commission's entire discussion of this revised 120-day requirement is as follows:

> In the Commission's view, as a general rule, "subsequent test" filings and initial test filings should be made in the form of a petition or tariff, and whether a hearing is to be scheduled would be determined thereafter. If the matter is docketed, an order would be entered within 120 days, unless extended by agreement of the parties. The Commission believes such filing and review procedures provide a reasonable combination of flexibility and efficiency, while making use of processes typically used by the Commission in reviewing various matters and keeping records thereof. Language to that effect is set forth in Subsection 730.30(d) of the attached Appendix, and no exceptions were filed with respect thereto. *Order in Docket No. 99-0536*, adopted June 19, 2002, at 46.

Again, the clear implication is that the 120-day limit applies to one-issue dockets that only address imputation. Similarly, there is no indication anywhere in this Order that the parties viewed the new 120-day clock language as having any substantive impact on the

Commission's traditional hearing processes; in fact, this change is not even discussed. *Id.* at 33-38.

Although the Commission has generally been able to address imputation issues in the same time frame as other contested issues in the past, this proceeding presents unique circumstances. As is evident from the length of the Proposed Order (and the briefs filed by the parties), there are a large number of contested issues that need be resolved before final UNE rates can be determined. Then the contested imputation issues must be addressed. The parties cannot agree on whether imputation requirements even apply here, much less on how an imputation test should be performed. It is well within the discretion of the Commission to defer the imputation issues to a separate proceeding. Under the procedure contemplated by the Proposed Order, the follow-on proceeding initiated by SBC Illinois' petition *would* be subject to the 120-day time limit in Section 732.30(d), because it would be a one-issue proceeding involving imputation.

Even if the Commission does not agree that Section 732.30(d) only applies to one-issue proceedings, the process recommended by the Proposed Order remains lawful. As the Proposed Order points out, Section 792.30(d) of the Commission's rules contemplates resolution of imputation-related issues in *either* a Section 9-201 rate proceeding *or* in a proceeding initiated by petition. Nothing in Section 732.30(d) precludes the Commission from determining that a particular imputation test should be addressed in a petition-initiated proceeding, rather than a proceeding based on Section 9-201. Thus, it would be a reasonable exercise of the Commission's authority to defer imputation issues to a separate proceeding that would be initiated after final rates are determined. Notably, the Commission's interpretation of its own rules is entitled to

substantial deference. *Archer-Daniels-Midland Co. v. Ill Comm. Comm.,* 293 Ill. App. 3d 459 (3d Dist. 1997). Moreover, the Commission is not just an "umpire" in its own proceedings; it may shape the proceeding to facilitate a reasoned decision on the contested issues. *Antioch Milling Co. v. Public Service Co.,* 4 Ill.2d 200, 210 (1954).

Substantively, the Joint CLECs do not reiterate their arguments that imputation obligations attach to UNEs and that SBC Illinois' business retail rates would fail imputation, and instead incorporate their Initial and Reply Briefs by reference. Like the Joint CLECs, SBC Illinois incorporates by reference the arguments contained in its Initial Brief and Reply Brief that demonstrate that imputation obligations do not apply and that, even if they do, under a properly structured imputation test, its business services would pass with ample margin to spare. SBC Ill. Init. Br. at 258-66, SBC Ill. Reply Br. at 176-83. These issues will be addressed in the petition proceeding contemplated by the Proposed Order.

However, the Joint CLECs object to the Proposed Order's conclusion that UNE rates cannot be lowered as a remedy for a failed imputation test. Joint CLEC Br. on Exc. at 253-54. The Proposed Order is absolutely correct. The requirements of the 1996 Act are clearly preemptive relative to pricing: the Commission must set UNE rates in compliance with Section 251 and the FCC's TELRIC rules. State law cannot override that obligation. *Wisconsin Bell v. Bie*, 340 F.3d 441 (7th Cir. 2003); *Indiana Bell Tel. Co.* v. *Indiana Utility Regulatory Comm*. 359 F.3d 493 (7th Cir. 2004); *Verizon North Inc. v. Strand*, No. 02-2322, 2004 WL 893935 (6th Cir. April 28, 2004). It is irresponsible on the Joint CLECs' part to suggest that the Commission can and should flout federal law.

IX. Other Legal Issues

A. Preemption, Tariffing, and Related Issues

Staff, the Joint CLECs, and TruComm submitted short exceptions on this issue.[34] Their arguments add nothing new. Instead, they repeat the same theories raised in their briefs filed when this proceeding was resumed and in their briefs on the merits. The Commission previously has rejected those theories and the Proposed Order again properly rejects them.

Staff and the CLECs imply that the Proposed Order misinterprets the Seventh Circuit's binding decision in *Wisconsin Bell, Inc. v. Bie*, 340 F.3d 441 (7th Cir. 2003). Staff Br. on Exc. at 25-26; Joint CLEC Br. on Exc. at 262-63. Under *Bie*, it is clear that Section 252 interconnection agreements are the exclusive means for implementing the interconnection and unbundling requirements of Section 251. 340 F.3d at 443-45. The Proposed Order merely respects *Bie* and established federal law by observing that "[w]hether or not SBC voluntarily made this filing is not the central concern stated by the Seventh Circuit in *Bie.* Rather, it is clear from the *Bie* decision that CLECs may not purchase UNEs directly from the tariff that will be the result of this proceeding without negotiating an interconnection agreement with SBC." *Proposed Order* at 288. The Joint CLECs' and Staff's attempts to characterize *Bie* as holding something else should (again) be rejected.

Staff and the Joint CLECs also make assertions about the meaning of state law on this case. Staff Br. on Exc. at 27; Joint CLEC Br. on Exc. at 262. As the Proposed Order properly recognizes, however, that argument elevates form over substance. In substance this is a Section 252 proceeding, governed by federal law and the multiple court decisions

[34] This response also applies to the CLECs' exceptions at pages 5-7 of their Brief on Exceptions.

holding that state commissions cannot circumvent the procedural process established in Section 252 and the 1996 Act. *E.g.*, *Verizon North Inc. v. Strand*, 309 F.3d 935, 939 (6th Cir. 2002); *Verizon North Inc. v. Strand and Coast to Coast Telecomms., Inc.*, No. 0202322 (6th Cir., slip op., April 28, 2004) ("*Coast to Coast*"). The fundamental purpose of this proceeding is and always has been to implement Section 252 and the FCC's pricing rules to establish TELRIC-based prices that will be given effect in interconnection agreements (as *Bie* requires). The Joint CLECs' arguments to the contrary fare no better in their third reiteration here.[35]

TruComm's exceptions try to relitigate the *Bie* case from scratch. TruComm simply refuses to accept the proposition that state commission cannot use tariffs as alternatives to interconnection agreement. The *Bie* decision forecloses TruComm's argument. *See* 340 F.3d at 443-45. TruComm also contends that a state can impose independent state-law tariffing obligations no matter what *Bie* holds. The Seventh Circuit, however, flatly rejected TruComm's position as being inconsistent with the 1996 Act and therefore impermissible under the Supremacy Clause of the U.S. Constitution. The Sixth Circuit's 2002 decision in *Verizon North* and its more recent decision in *Coast to Coast* are fully in accord with *Bie*. Indeed, *Coast to Coast*, expressly following *Bie*, specifically rejected a state-law tariffing argument that is indistinguishable from TruComm's argument here. Slip op. at 18-19, No. 02-2322 (6th Cir., Apr. 28, 2004).[36]

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[35] The Joint CLECs also claim (at 263) that the Proposed Order would make the results of this case "merely advisory and non-binding." It is far from clear what the Joint CLECs mean, but their argument is baseless in any event. Nothing in the Proposed Order says that the prices it sets are merely advisory or non-binding, nor have the Joint CLECs ever argued before that the results of Section 252 UNE pricing cases are merely advisory.

[36] TruComm (at 4) cites a different Sixth Circuit preemption decision in support of its view that states cannot order tariffs as alternatives to interconnection agreements. That view is precluded under controlling Seventh Circuit Law by *Bie* and has now been clearly rejected by the Sixth Circuit itself in *Coast to Coast*.

The Proposed Order properly recognizes that this is in substance a federal proceeding governed by federal decisions, and TruComm's disagreement with those decisions, including the controlling decision in *Bie*, provides no basis to modify the Proposed Order.

In sum, the exceptions arguments on the tariffing issue and *Bie* present nothing new and require no changes to the Proposed Order.

X. Calculation of Rates Adopted By Proposed Order

In accordance with the Proposed Order's requirement, Staff and SBC Illinois each provided with their Brief on Exceptions a calculation of recurring and non-recurring rates reflecting the Proposed Order's findings. There are few differences between the Staff and Company rate calculations. As will be discussed below, the differences that exist are primarily the result of a slight difference in the calculation of the shared and common factor.

Although not directed to do so, the Joint CLECs also provided with their Brief on Exceptions a calculation of recurring loop rates for the 2-wire analog loops and a calculation of non-recurring rates. There are significant differences between the rates calculated by the Joint CLECs and the rates calculated by SBC Illinois and Staff. As will be discussed, a review of the Joint CLECs' work papers indicates that they did not calculate their rates in strict accordance with the findings of the Proposed Order. In some cases, the Joint CLECs made adjustments to SBC Illinois' cost studies which are not required by the Proposed Order. In other cases, the Joint CLECs failed to make adjustments that are required by the Proposed Order. And most egregiously, with respect to the nonrecurring cost studies, the Joint CLECs took exception to the Proposed Order,

but assumed for purpose of its compliance studies that it had prevailed on those exceptions Accordingly, the Joint CLECs' rate presentation should be disregarded.

A. Staff's Rates

1. DS1 Loop Recurring Rates

In calculating DS1 rates, Staff and SBC Illinois both reduced the units of shared DLC-COT equipment allocated to DS1 service from 24 to 21.6, in accordance with the Proposed Order's decision. *Proposed Order* at 106. Unlike SBC Illinois, however, Staff also reduced the units of shared DLC-RT equipment allocated to DS1 service from 24 to 21.6. SBC Illinois does not agree with this adjustment. Although the Proposed Order's conclusion does refer to remote terminals, the dispute between SBC Illinois and the Joint CLECs involved only the proper method of allocating shared equipment in the DLC central office terminal ("COT"), not the DLC remote terminal. AT&T witnesses Pitkin/Turner (on whose testimony the Joint CLECs relied) did not propose a change in SBC Illinois' allocation of 24 units of shared RT equipment to DS1 service. Moreover, a reduction in the allocation of the common equipment in both the COT and the RT would be inappropriate.

2. Shared and Common Factor

a. Support Assets

Both SBC Illinois and Staff implemented the Proposed Order's requirement that Support Asset costs be removed from the TELRIC costs and added to the common costs. *Proposed Order* at 268-69. The only difference between SBC Illinois' approach and Staff's approach is that Staff used calendar year 2001 support asset costs, while SBC Illinois used calendar year 2000 support asset costs. SBC Illinois used the older data because that was what the Company had used in its TELRIC studies. SBC Illinois

believes that Staff's approach is superior, because calendar year 2001 data is consistent with the time period used for all of the other costs in the common cost study.

There is also a difference between SBC Illinois and Staff in terms of how the employee adjustment required by the Proposed Order applies to the common cost numerator, once support assets have been transferred. *Proposed Order* at 243. During the proceeding, the debate over the employee adjustment was limited to the common costs in the common factor numerator (*i.e.,* the 67XX accounts). No party proposed a similar adjustment to support asset costs in the event they were transferred to common costs, or demonstrated that such an adjustment would be appropriate. Therefore, SBC Illinois applied the employee adjustment only to the common cost numerator prior to the transfer of support asset costs. Staff, however, applied the employee reduction to both the 67XX account common costs and to support asset expenses. There is no basis in the record for applying the employee reduction to any support asset costs. In the event that the Commission concludes otherwise, SBC Illinois agrees with Staff that it should be applied only to the expense component (not to the capital component).

b. The 67XX Accounts (including the retail cost adjustment)

In implementing the Proposed Order's requirements to reduce the 67XX accounts by the wholesale discount, SBC Illinois used the 20.07% wholesale discount approved by the Commission in Docket No. 94-0458/0531. SBC Init. Br. on Ex. at 48-49. Staff used the 22.7% factor estimated by the Joint CLECs. SBC Illinois believes that its approach is superior, because it is based on the Commission's Order in the wholesale/resale proceeding and is not a proxy value.

In addition, the Joint CLECs agreed in rebuttal testimony that the retail adjustment to the common cost numerator should logically be accompanied by an adjustment to the denominator, and they proposed complete removal of Account 6623. SBC Init. Br. on Exc. at 49. Accordingly, SBC Illinois removed 100% of Account 6623. In contrast, Staff removed only 80% of Account 6623. SBC Illinois does not believe that there is a valid basis for removing only 80% of those costs and none was provided in testimony.

3. Non-Recurring Rates

There are several differences between the nonrecurring cost studies that SBC Illinois filed and those that Staff filed. SBC Illinois has raised these issues with Staff and the parties are working through the differences. Listed below are the items that have been identified and the resolution to date, if any. (These differences relate to the TELRICs for the non-recurring studies and do not include the differences pertaining to the shared and common factor discussed above.)

a. Service Order Studies

With respect to the New Combination UNE-P Service Order study, Staff's proposal does not include rates for new combinations.

With respect to the Electronic - Non-channelized DS1 EEL - Establish Service Ordering Charge, Staff's TELRIC was slightly lower than SBC Illinois' TELRIC. Similarly, with respect to the Manual - Non-channelized DS1 EEL - Establish Service Ordering Charge, Staff's TELRIC was slightly higher than SBC Illinois' TELRIC. SBC Illinois has not been able to determine the cause of these differences. Also, with respect to each of these, it appears that Staff did not compute disaggregated connection and disconnection rate elements.

In the Line Port Service Order cost studies, for the Basic Port, Complex Line Port and Trunk Port elements, it appears that Staff's rates are based on the final cost studies submitted by SBC Illinois during the evidentiary phase of this proceeding, rather than the studies rerun in compliance with the Proposed Order.

With respect to the Electronic - 2-Wire Digital Loop EEL - Service Ordering Charge, for the Establish and Connection rate elements, Staff used a TELRIC equal to the TELRIC for DS1 loops. SBC Illinois believes that it is appropriate to use the TELRIC for analog loops instead. The Joint CLECs took the same approach as SBC Illinois.

b. Loop and EEL Provisioning Studies

Staff did not include the "additional" rate element for stand-alone line connection in the loop provisioning study, perhaps inadvertently. SBC Illinois believes that it should have been included. The TELRICs for this rate element as calculated by SBC Illinois is shown at Tab 6.1, Excel lines 24 and 25 in the study in which disconnect and connect charges are disaggregated and Tab3, Excel line 28 in the study in which disconnect and connect charges are combined.

c. Switch Port and Feature Studies

In the Port provisioning studies, SBC Illinois' disconnect studies should have removed the present valuing of disconnect costs. SBC Illinois will correct that in its next run of studies. When it does that, its studies will match Staff's. In addition, the Staff TELRIC for DID Trunk Port Add/Rearrange is significantly less than SBC Illinois. SBC Illinois has not been able to determine the cause of the difference.

Finally, based on page 202 of the Proposed Order, Staff did not multiply the log-in and log-out activity times by three for Centrex Attendant Console Line Ports in the Combination Unbundled Local Switching – Ports Study. In the studies that SBC Illinois

filed with its Brief on Exceptions, SBC Illinois did multiply those times by three. Although SBC Illinois believes its approach is consistent with the Proposed Order, it is willing to adjust its study to reflect the approach taken by Staff.

B. Joint CLECs' Rates

1. Recurring Loop Rates

The Joint CLECs calculated recurring loop rates for 2 wire analog loops that are less than the rates calculated by SBC Illinois by amounts of $0.04 in Access Area A, $0.37 in Access Area B, and $0.57 in Access Area C. *Compare* Joint CLEC Br. on Exc., Attachment 1 to SBC Ill. Br. on Exc., Appendix A, p. 1. These differences are attributable both to differences in the calculation of TELRIC costs and different shared and common factors.

The difference between the Joint CLEC and SBC Illinois calculations of recurring loop TELRIC costs is primarily attributable to the fact that the Joint CLECs made adjustments to reduce the DLC installation factors and the pole and conduit factors used in the loop cost study presented by SBC Illinois with its rebuttal testimony. These adjustments are inappropriate. The Proposed Order expressly approves SBC Illinois' cable installation and DLC installation factors, as modified only to reflect adjustments proposed by Staff to the cable installation factors. *Proposed Order* at 92. Staff did not propose, and the Proposed Order did not adopt, any adjustments to the Company's DLC installation factors. To the contrary, Staff expressly accepted those factors. Staff Init. Br. at 106-07. Nor is there any basis for adjusting the pole and conduit factors, which were never an issue in this proceeding.

2. Shared and Common Factor

In developing their proposed rates, the Joint CLECs made a number of errors in calculating their shared and common factor. The principal errors are discussed below.

a. Support Assets

Like Staff, the Joint CLECs also used calendar year 2001, rather than calendar year 2000, data in making the support asset adjustment. As explained previously, SBC Illinois believes that this approach is superior and it should be used.

Like Staff, the Joint CLECs applied the employee reduction to the 67XX accounts common costs and to support asset costs. This is not supported by the record of the proceeding or the Proposed Order as discussed previously. Even if such an adjustment should be made, the Joint CLECs made it improperly. Unlike Staff's approach, which applied it only to support asset expenses, the Joint CLECs reduced both support asset expenses *and* capital costs by the employee adjustment. However, this is an *employee–related adjustmen*t and it has nothing whatsoever to do with capital costs. Therefore, the Joint CLECs' approach should be rejected

b. The 67XX Accounts (including retail cost adjustment)

Like Staff, the Joint CLECs also applied a 22.7% wholesale discount to the 67XX accounts, rather than the 20.07% approved by the Commission. As stated previously, SBC Illinois' approach should be adopted.

Unlike Staff, the Joint CLECs failed to make any adjustment for Account 6623. This is clearly inconsistent with their own testimony.

Finally, the Joint CLECs moved the retail costs removed from the common cost numerator to the common cost denominator. The Joint CLECs made this a proposal for the first time in their Brief on Exceptions. Joint CLEC Br. on Exc. at 216. However,

there is no basis in the record or the Proposed Order for such an adjustment and it should not be made. It is particularly inappropriate for the Joint CLECs to make this adjustment unilaterally, before receiving any guidance from the Commission on this new proposal.

c. Development of the Denominator

In accordance with the Proposed Order, SBC Illinois based the common cost denominator on 2001 ARMIS data and removed its forward-looking adjustments. *Proposed Order* at 228. The Joint CLECS failed to implement fully this requirement. A review of their workpapers indicates that they did not remove the forward-looking adjustment for investment and sales tax loadings with respect to Digital Switching (Account 2212). This results in approximately a double count of digital switching investment loading (both ARMIS 2001 *and* forward-looking costs). This duplication inappropriately inflates the denominator, which then lowers the overall Shared and Common factor.

3. Non-Recurring Rates

There are a number of discrepancies between the nonrecurring cost studies run by SBC Illinois and those run by the Joint CLECs. Notably, several of the differences are attributable to the fact that the Joint CLECs assumed that the Proposed Order will be changed in response to the exceptions that the Joint CLECs have taken. As detailed above, SBC Illinois disagrees with the Joint CLECs' interpretations. Moreover, it is counterproductive (not to mention presumptuous) for the Joint CLECs to have run their "compliance" studies assuming conclusions that are inconsistent with those in the Proposed Order. Certainly, it makes comparing cost studies difficult. Nevertheless, SBC Illinois has endeavored to determine as best it can the causes of the differences in rates resulting from SBC Illinois' studies and those resulting from the Joint CLECs' studies.

As a general matter, the Joint CLECs did not provide work papers explaining how they derived the rates in the service order cost studies that combine installation and disconnect costs into a single charge. Since SBC Illinois is not sure how the Joint CLECs performed their calculations, SBC Illinois is unable to determine the cause of any rate differences. The Joint CLECs also failed to adjust the labor rates to reflect the conclusion in the Proposed Order that 2003 labor rates are appropriate (at 216).

The Joint CLECs did not develop a service order rate for Stand-alone DS1 loop, Subsequent Order.

The Joint CLECs revised the SA2UNE conversion study to remove all of the ASC disconnect activity. This is contrary to the Proposed Order (at 210); in fact, the Joint CLECs took exception to this. *See* Joint CLEC Br. on Exc. at 206-07.

The Joint CLECs used a fallout rate of 100% for complex and trunk ports and record only orders in its ULS Port service order study. They also used 100% for record only orders in the loop service order study. SBC Illinois used 2% for record only orders and 10% for complex and trunk ports. On the other hand, the Joint CLECs applied a 2% fallout rate in its UNE-P studies for both POTS and non-POTS. Non-POTS orders are complex and should therefore use a 10% fallout rate. Similarly, the Joint CLECs applied a 2% fallout rate in the EEL service order study for analog loops while SBC treated all EELs as complex, consistent with the Proposed Order (at 167.)

In several of their service order cost studies, the Joint CLECs performed a present value calculation to discount their disaggregated disconnect costs. A present value calculation is proper when the disconnection costs are aggregated with the connection

costs, but not when they are disaggregated. And even if it were proper to do so, they have used the wrong cost of money and location life assumptions.

The Joint CLECs removed verification and validation tasks, although the Proposed Order specifically directed the parties to retain them. *Proposed Order* at 148. This is another example where the Joint CLECs are taking an exception to part of the Proposed Order, but for purposes of their cost study reruns have simply assumed that they have prevailed on the exception. Moreover, as discussed above, some of these adjustments were not even proposed by the Joint CLECs in the evidentiary phase of this docket. In other instances, the proposed adjustment is more extreme than what they originally proposed.

The Joint CLECs also reduced certain log-in times to 1 minute. Yet again, this matter is subject to an exception by the Joint CLECs; it is wholly improper to remove them as part of any compliance filings. Moreover, as discussed above, the Joint CLECs' exception should be denied.

Again assuming that they have prevailed on an exception, the Joint CLECs reduced certain support activity work group occurrence factors in their service order studies. The Proposed Order explicitly rejected the Joint CLECs' position (at 156) and should reject their exception (Joint CLEC Br. on Exc. at 182-190) for the reasons stated above. In any event, for purposes of these cost studies, it is obviously improper to incorporate such reductions.

Finally, the Joint CLECs cut the activity time for "Address[ing] Customer Concern" as part of the ACD Support Activity in the UNE-P service order cost study in

half. SBC did not make such a change, as there is nothing in the Proposed Order that supports it.

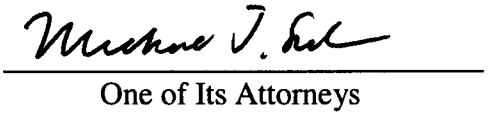
XII. CONCLUSION

In conclusion, for the reasons set forth above and in SBC Illinois' Brief on Exceptions, SBC Illinois respectfully requests that the Commission modify the Proposed Order consistent with the arguments contained therein.

May 24, 2004

Respectfully submitted,

ILLINOIS BELL TELEPHONE COMPANY



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