



2345 GRAND BOULEVARD
SUITE 2500
KANSAS CITY, MISSOURI 64108-2684
816-292-2000, FAX 816-292-2001

1050/40 CORPORATE WOODS
9401 INDIAN CREEK PARKWAY
OVERLAND PARK, KANSAS 66210-2007
816-292-2000, FAX 913-451-0875

February 1, 1999

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED

FEB - 1 1999

**Missouri Public
Service Commission**

Re: Case No. TO-98-115

Dear Judge Roberts:

Attached for filing with the Commission is the original and fourteen (14) copies of AT&T Communications of the Southwest, Inc.'s Initial Brief on the Cost Phase in the above-referenced case.

Please call me on 635-1320 if you have any questions. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. DeFord (Kd)".

Paul S. DeFord
AT&T Attorney

Att.

cc: All Parties of Record

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED

FEB - 1 1999

Missouri Public
Service Commission

In the Matter of AT&T Communications of the)
Southwest, Inc.'s Petition for Second Compulsory)
Arbitration Pursuant to Section 252(b) of the) **CASE NO. TO-98-115**
Telecommunications Act of 1996 to Establish an)
Interconnection Agreement with Southwestern Bell)
Telephone Company)

**INITIAL BRIEF OF
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.**

COST PHASE

I. BACKGROUND

This arbitration proceeding (hereinafter "proceeding") was initiated by the September 10, 1997 filing of the Application of AT&T Communications of the Southwest, Inc. ("AT&T") for Second Compulsory Arbitration to Establish Terms and Conditions of Interconnection Agreement Between AT&T and Southwestern Bell Telephone Company ("SWBT").¹ That application listed eleven issues to be arbitrated; issue number five was listed as "unresolved pricing issues."

Pursuant to the Commission's October 30, 1997 Order a procedural schedule was established, and simultaneous testimony was thereafter filed by AT&T and SWBT on November 7, 1997. AT&T and SWBT met during the period of November 10, through 20, 1997 with the Commission's appointed Arbitration Advisory Staff ("AAS") and with

¹ Clearly the background of the parties' arbitration history precedes AT&T's second application. However, the Commission's December 23, 1997 Report and Order in this proceeding provides a detailed discussion of the events that occurred in Case No. TA-97-40.

63

the Commission's General Counsel, who was appointed to serve as a Special Master to oversee negotiations on the parties' disputed issues. In an attempt to resolve the parties' disputed issues, the Special Master and AAS considered the parties' prefiled testimony, proposed contract language, and factual and legal arguments thereon, during the time period described above.

On November 26, 1997, the parties filed their final Amended Joint Statement of Remaining Issues. The Amended Joint Statement identified each of the unresolved issues between the parties, and for each issue the Statement set forth 1) the contract language proposed by each party, 2) the Special Master's recommendations concerning which language to adopt, and 3) the Special Master's explanation of his recommendations. On November 26 the parties also filed their responses to the Special Master's recommendations.

On December 23, 1997, the Commission issued its Report and Order addressing the issues contained in the Amended Joint Statement. Generally, the Commission's findings on pricing issues determined that further investigation of SWBT's proposed rates for various UNEs, services, and functionalities should be conducted by the AAS, and the Commission determined in some instances that an interim rate should be established, although this did not constitute a finding that a permanent rate would be appropriate. Similarly, where no interim rate was established, the Commission's finding was not to be construed as a determination that a permanent rate would be inappropriate. The Commission's Report and Order also established a procedure for the AAS and parties to

follow in establishing permanent rates.

On July 24, 1998, the AAS filed its Costing and Pricing Report, Volume 2, (hereinafter "Report") containing recommendations on permanent rates and costing methodology concerning the disputed costing and pricing issues identified by the Commission's Report and Order. The Commission also issued a July 24, 1998, Order Establishing Procedural Schedule for Setting Permanent Rates. Pursuant to that Order the parties filed comments on the AAS' Report in the form testimony and supporting affidavits and schedules on August 24, 1998. On September 2, 1998, SWBT filed a Motion to Strike and in the Alternative to Supplement Record, in response to AT&T's testimony. A hearing was conducted on September 4, 1998, in order for the Commissioners to ask questions of the witnesses, and the witnesses were permitted to respond to statements of other witnesses; no cross-examination was conducted. On December 30, 1998, the Commission issued its Order denying SWBT's Motion, and established a briefing schedule.

II. INTRODUCTION

Despite the complexity of the issues presented by the AAS' Report, from AT&T's perspective the value of briefing in this proceeding is questionable. AT&T's direct case, i.e., its August 24, 1998, testimony, consists of less than 100 pages (excluding schedules).² The transcript of the one-day hearing is not particularly voluminous, and frankly, it focuses on a limited number of issues that were repeatedly addressed.

² Testimony of Robert Flappan, Ex. No. 1; Testimony of Daniel Rhinehart, Ex. No. 2, Testimony of Denise Crombie, Ex. No. 3. Ms. Crombie's testimony is a statement of her qualifications in support of her adoption of Mr. Rhinehart's testimony at the September 4, 1998 hearing.

Moreover, given the time that has passed since the September 4, 1998 hearing, it seems likely that the Commission would need to review the record again before making its final decision. AT&T would prefer to let the record speak for itself, but will nevertheless provide a summary of the key points AT&T raised about the AAS' Report and SWBT's costs studies.

For AT&T, Mr. Robert Flappan provided testimony on a number of general issues that are important to the Commission having what AT&T believes is the correct framework for establishing permanent rates. Some of these key issues include the appropriate assumptions and concepts that must be applied to a "forward-looking cost" analysis of SWBT's proposed rates, particularly for the non-recurring rates associated with operational support systems. In addition, Mr. Flappan provided testimony on the negative effects of permitting rate setting on an individual-case-basis ("ICB"). Finally, Mr. Flappan also provided responses to the AAS' recommendations on the rates for specific UNEs, functionalities, and services.³ Mr. Rhinehart's testimony primarily addressed issues relating to SWBT's labor rates, maintenance and support asset factors, common cost factors, SWBT's use of utilization factors in its CCSCIC model, and a variety of lesser issues.⁴ The summaries provided in this brief will be presented in the same order as Mr. Flappan's and Mr. Rhinehart's testimony.

As an initial matter, AT&T believes there is one issue that SWBT will raise that may as well be addressed now, and that is the scope of this proceeding. As its Motion to Strike made clear, SWBT believes that during this phase neither of the parties were

³ See Ex. 1, Table of Contents.

⁴ See Ex. 2, at p. 2.

supposed to question or reopen any Commission decision concerning pricing from the parties first arbitration, Case No. TA-97-40. Although SWBT's Motion was denied, AT&T reasonably expects to see the argument again, as SWBT attempts to persuade this Commission from setting true TELRIC-based rates in this proceeding. Consequently, an explanation of AT&T's view of the scope of this proceeding should benefit the Commission's understanding of AT&T's testimony.

The Commission's December 23, 1997, Report and Order, in describing the task of the AAS stated:

The AAS should then submit to the Commission, SWBT, AT&T and OPC its report containing proposed permanent rates based on the same permanent costing approach adopted in Case No. TA-97-40 and commenting on the costing approaches proposed by the parties during the review process. The parties will be given an opportunity to file comments on the rates and the costing model proposed by the AAS and to support their positions with affidavits and schedules.⁵

It is somewhat unclear what the Commission intended by "based on the same permanent costing approach adopted in Case No. TA-97-40." "Approach" is a particularly ambiguous term in this context. AT&T originally interpreted this to be more of a procedural directive than a substantive one, although the Commission might have intended to restate its support of the TELRIC approach. The Commission could have been referring to the "thorough and exhaustive review" that the Commission undertook in the cost phase of the parties' first arbitration.⁶ SWBT apparently contends that what the Commission meant was that none of the global modifications to SWBT's cost studies that

⁵ Report and Order at page 52.

⁶ TA-97-40, Final Arbitration Order, at page 3.

were ordered in the parties' first arbitration cost phase could be changed.⁷ Not only is this a strained reading of what the Commission said, but it is contradicted by the Commission's own language where the AAS is required to comment "on the costing approaches proposed by the parties during the review process." Nowhere in the order are the parties limited in the comments that they could make on the costing approaches, whether during the review process or in filed comments regarding the AAS' Report. There would be no point in having the AAS comment on the parties' proposed costing approaches if the Commission was not going to entertain any changes to its previous costing approach.

SWBT has seemed to suggest that the Commission's Report and Order created some sort of *res judicata* effect on all of the costing decisions in the first arbitration. Although it is unclear whether such a concept applies as a matter of law to interconnection arbitrations, it might only be true for permanent rates that were established for the term of the parties' interconnection agreement. However, AT&T is not seeking to change to any previously established permanent rate. This proceeding is a new proceeding involving new rates for new UNEs, functionalities, and services. Any proposed change to a previous "global modification" or cost factor would only apply to the new UNE rate being established in this proceeding. If the parties return to the Commission for further arbitration when their current agreement expires, SWBT's argument would effectively mean that interconnection rates could never be re-examined.

⁷ See SWBT Motion to Strike, at page 3, e.g., "The first arbitration and the previously concluded portion of the second arbitration exhaustively addressed SWBT's cost study methods" and "[L]abor rates have not changed from the prior cost studies to the ones at issue in this case."

As a practical matter, the Commission may decide that certain global modifications to SWBT's cost studies are still valid and ought not to be changed, however, there is no legal impediment to the Commission changing some of its previous findings for the purpose of establishing rates for new UNEs, services, or functionalities. Rather than limiting the Commission's options and the parties' comments concerning the setting of these new rates, the Commission's Report and Order strongly suggests that the Commission would consider changes to what it had decided before, which was a wise response to the passage of time and the obvious increase in knowledge that had been gained about SWBT's cost studies generally.⁸ The Commission itself has noted that it may use the best information available to it, from whatever source derived,⁹ and it appears that AT&T must bring this information to the Commission's attention since SWBT has not reasonably disclosed in Missouri what AT&T has discovered in other jurisdictions. As the following summary of AT&T's positions will demonstrate, a truly forward-looking TELRIC methodology requires modifications to SWBT's costs studies beyond what the AAS has proposed, additionally, there are good reasons to modify some of the Commission's previous "global" decisions.

III. GENERAL COMMENTS

Mr. Flappan's testimony articulated a number of key principles the Commission should observe in order to establish true TELRIC-based rates in this proceeding:

⁸ See, e.g., Ex. 2, at p. 4: During the first arbitration, AT&T was afforded practically no access to SWBT data for Missouri. As a result, AT&T's analysis was not so nearly well developed as it is today. Indeed, AT&T was given substantially greater access to SWBT data in the states of Texas, Oklahoma, and Kansas. As a result, over the past 18 to 20 months, AT&T has developed significant additional analysis of SWBT's methods and has found many additional corrections to SWBT's present cost studies that should be adopted by this Commission.

⁹ December 30, 1997 report and order, at p. 52.

- Rates, both recurring and non-recurring should be based on forward looking efficient costs of a new entrant using state-of-the-art technology in a competitive market (i.e., TELRIC).
- SWBT's proposed prices are based on embedded costs.
- SWBT must offer, and AT&T will use, state of the art OSS that will minimize manual intervention by SWBT's employees.
- Fall-out rates of 1% - 2% are achievable and appropriate to reflect in these TELRIC studies.
- The Commission should only permit ICB pricing when there is absolutely no alternative – when it is absolutely impossible to produce a cost study. ICB pricing provides SWBT with a future opportunity to shut down or forestall competitive entry by proposing unreasonable prices in response to a request for UNEs.

In its Final Arbitration Order in Case No TO-97-40/67, issued on July 31, 1997, the Commission adopted a standard proposed by Staff, which is commonly described as total element long run incremental cost ("TELRIC"). That order states on page 3 of

Attachment C:

Staff believes the most appropriate cost standard is the use of forward-looking economic costs assuming the existing network were being rebuilt today to meet forward-looking levels of demand. ... Staff believes this costing standard will most closely resemble the costs that an efficient competitor would face if entering the market today.

The FCC has interpreted the pricing requirements of the Act to mean that ILECs' UNE prices should be equal to the price that would be set in a competitive market, based on costs of an efficient new entrant using state-of-the-art technology.¹⁰ This is logical, given that regulation has always been an ersatz form of competition; only truly competitive

¹⁰ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, at ¶679 (Rel. August 8, 1996) ("Local Competition Order").

market conditions create truly efficient providers of services. More over, the U.S. Supreme Court recently reaffirmed the FCC's interpretation of the Act.¹¹

SWBT's position is that prices need not reflect long run competitive conditions.¹² The Commission should not sanction SWBT's pricing approach based on embedded costs. Basing UNE prices on SWBT's embedded rate-of-return costs merely maintains the monopoly tribute payments that SWBT has had the privilege to receive in Missouri in the non-competitive era. The idea of the Federal Act is not to continue SWBT's monopoly rents into perpetuity. Furthermore, SWBT has obtained the benefits of competition through its election of price-cap regulation and avoidance of rate-of-return regulation.¹³ SWBT should not now be permitted to avoid a competitive, forward-looking cost standard in favor of an embedded standard that perpetuates a monopoly regulatory scheme. Neither should the Commission accept one-half of the prices that SWBT proposes. One half of a wrong number does not yield a right number. AT&T's proposed prices, and/or AT&T's proposed changes to the SWBT cost studies, are based on true long run incremental costs in accordance with the requirements of the Federal Act and the MPSCs previous arbitration decisions. The Commission should adopt the rates proposed by AT&T or the changes to SWBT's studies proposed by AT&T.

Standards for Non-Recurring Costs

Non-recurring charges should also meet the standards of Section 252(d)(1) of the Federal Act: they must be non-discriminatory and they must be forward looking,

¹¹ *AT&T Corp., et al. v. Iowa Utilities Board, et al.*, ---S.Ct.---, 1999 WL24568 (U.S.), slip op. at 16 (January 25, 1999).

¹² Ex. 1, at p. 6.

¹³ See §392.245, RSMo.

efficiently employed and not restrained by the current embedded technology. Non-recurring charges are important because they are, in effect, tickets to get into the show (i.e. the market). They are paid before the entrant can offer service to an end user, supposedly for the purpose of processing and fulfilling orders. Such up-front charges inherently create barriers to entry, and incumbent local exchange carriers have the incentive to make those barriers to entry higher than they appropriately should be. Non-recurring charges apply to the activities necessary to attract and serve end-users -- for instance, when a network element is initially obtained, reconfigured or modified to offer a new service. Each non-recurring cost, if not determined based on TELRIC, becomes a brick in a competitive barrier -- either by discouraging a rival from entering altogether, or by discouraging a customer from using another provider's services.¹⁴

Perhaps the best example of the anti-competitive effect of non-recurring charges is found at Schedule 2-1 of SWBT Witness Bailey's testimony.¹⁵ Despite the Commission's decision that AT&T is permitted to order "as-is" UNE conversions, SWBT has still managed to dream up a series of non-recurring charges that total \$240.74! That is because SWBT does not believe that it can be required to provide "as-is" UNE conversions.¹⁶ Or, that "as-is" conversions require collocation, or testing by SWBT, or cross-connects by SWBT, or anything other than the simple conversion that "as-is" connotes.¹⁷ Of course, the U.S. Supreme Court recently affirmed the FCC's decision that ILECs should not be allowed to disconnect already combined UNEs just to reassemble

¹⁴ *Id.*, at p. 9-10.

¹⁵ Ex. 4.

¹⁶ Ex. 4, at pp. 1-2.

¹⁷ *See* Tr., at pp. 291-297, discussion regarding "as-is" conversions, pursuant to questions from Judge Randles.

them,¹⁸ which results in unwarranted costs. AT&T still believes that Staff's proposed \$5.00 non-recurring "as-is" conversion charge is not cost based and is not in compliance with FCC's TELRIC standard. However, even after the U.S. Supreme Court's ruling, AT&T fully expects SWBT to come up with another theory of non-recurring charges for an "as-is" conversion that will make \$5.00 look insignificant.

For both Pre-Ordering and Ordering, AT&T and other new entrants will establish an electronic interface with SWBT.¹⁹ The fact that an electronic interface is used has a significant impact on the non-recurring charges applicable in this docket. With an electronic interface, the new entrant's service order representative will interact with the customer, obtain all of the background information, enter all of that information into the computer system and process the order. The completed order will then flow into SWBT's Operational Support Systems ("OSS") and, for the vast majority of orders, will be processed electronically without any work on the part of SWBT.

The new entrant's service representative first acquires the information needed to complete a Local Service Request ("LSR") from both the end-user customer and, on an electronic basis, from the ILEC's existing databases. Once the new entrant service representative has input the required information on the LSR, the order is transmitted electronically to the ILEC's computerized Service Order Processor ("SOP") system, which electronically performs edits and sends the order to the Service Order Activation Control ("SOAC") system, where any additional information needed from the ILEC's

¹⁸ *AT&T Corp., et al. v. Iowa Utilities Board, et al.*, ---S.Ct.---, 1999 WL24568 (U.S.), slip op. at 25-27 (January 25, 1999).

¹⁹ The FCC recognized the need for SWBT to provide such an electronic interface to new entrants. Local Competition Order, at ¶525 .

databases is automatically acquired. Unless the order “falls out” of the normal process, no manual assistance is required of the ILEC’s service representatives; there is simply no reason or opportunity for an ILEC to interface or “negotiate” with either the end-user customer, or the new entrant’s own service representative who prepared and transmitted the service order. This should be the case whether the order is a request for Total Services Resale or UNEs.²⁰

If the order is rejected by SOP or SOAC, one of two things will happen. The LSR may be electronically returned to the new entrant for its service representative to identify and correct any errors in the order, in which case the corrected order is again transmitted electronically to the ILEC’s SOP system, which treats the corrected LSR just like a new order. Or it falls out and is directed by SOP to a service representative in the ILEC’s service center. Only in this latter case, when fall-out actually occurs due to errors or discrepancies that the ILEC’s automated processes cannot resolve, should a service representative in the ILEC’s service center actually become involved in either the pre-ordering or ordering phase of either a TSR or UNE. Since the use of electronic interfaces and forward looking processes are assumed, a 1% - 2% fall-out rate is more than an adequate rate of fall-out in a forward looking environment.²¹

In public proceedings before the Texas Public Utility Commission SWBT stated that 99% of all orders entered into its proprietary EASE system flow-through to its back-end operating system. This correlates to a 1% fall-out rate. Since the operating systems in Missouri are exactly the same as the systems in Texas (indeed SWBT uses the same

²⁰ Ex. 1, at p. 11.

²¹ *Id.*, at p. 12.

systems in all 5 states), it is reasonable to assume that SWBT achieves this level of efficiency in Missouri. While there is in the current environment no flow-through from a new entrant's systems to SWBT's EASE system, under Section 251 of the Federal Telecommunications Act, SWBT has an obligation to provide parity. Therefore, SWBT must establish an interface that provides new entrants with 99% flow-through efficiency. Moreover, a SWBT representative has testified that SWBT will develop the same level of efficiency for UNE orders as it currently achieves for orders it places itself – i.e. 99% flow-through.²²

The key cost driver for TELRIC-based non-recurring charges is labor cost.²³ A typical non-recurring charge cost study would determine any tasks that will not be performed electronically, the amount of time it takes to perform the task, the frequency with which the task must be performed, and the cost per hour of the personnel who perform the task. Assuming, as TELRIC requires, that forward-looking OSS is operating optimally, manual activities for preordering, ordering, and provisioning should be minimal or non-existent. To perform the three transactional functions of pre-ordering, ordering, and executing, aside from labor when there is fall-out, incumbent local exchange carriers use software, computers, and power. All of these are accounted for in recurring costs for UNEs.²⁴ The Commission should not allow these software, computer and power assets to be doubly charged for – once in recurring rates through the use of factors and again in the non-recurring rates.

²² Ex. 1, Sched. 7, Deposition of Jackie Richardson, dated July 30, 1997, pp. 41-42.

²³ Ex. 1, at p. 13.

²⁴ See Ex. 2, at pp. 14-16, and discussion of Mr. Rhinehart's testimony below.

The non-recurring charges applicable to transactional activities must reflect the use of non-discriminatory systems that provide entrants the same access and use of the local network that SWBT provides itself in the long run. Non-recurring cost study inputs and assumptions should reflect the costs of the most efficient forward-looking technologies -- technologies that SWBT is obligated to implement to satisfy the non-discrimination provisions of the Federal Act. This translates to a requirement for non-recurring cost studies that consider systems and technologies.²⁵

- developed for routine commercial-scale operation, with no (or very little reliance) on systems designed for specialized, design applications;
- equivalent to -- if not the exact same -- systems that SWBT uses to provision its own services in the long run;
- designed for machine-to-machine operability, without manual intervention; and
- intended to achieve the very high levels of flow-through needed to satisfy the core principle of non-discrimination.

In the purest sense, the TELRIC-based cost of the three transactional functions (pre-ordering, ordering and provisioning) is zero, because:²⁶

- The cost of the OSS themselves and the equipment used to run them is recovered in recurring rates, as discussed below;
- The cost of the power required for that equipment also is recovered in recurring rates as discussed below; and
- The decision to have fall-out is an overall network management decision where investments and maintenance of OSS and associated databases have been deferred and the resulting extra labor should be recovered in recurring rates.

²⁵ Ex. 1, at p. 14.

²⁶ *Id.*, at p.15.

In general, SWBT's proposed prices utilize network and OSS technology assumptions, and cost history information that are not forward looking as directed by the FCC and the MPSC.²⁷ Typically, assumptions by SWBT lead to excessive and inefficient fall-out, and the need for costly manual intervention to permit service orders to continue towards completion. This leads to cost outputs that will not support competitive pricing and a competitive marketplace for customers. However, fall-out is not simply a manual process, per se. Fall-out can be resolved via electronic means that streamline and eliminate many of the manual steps now required to manage exceptions or fall-out. The Provisioning Activity Work Station system ("PAWS") is one such OSS which works in a provisioning flow-through environment, communicating easily with service request controllers and other operations systems. The CLEC industry recognizes that systems are evolving to assist in resolving fall-out, (e.g., PAWS) and AT&T would expect greater improvements in this area in the future. The commission should expect significant improvements in this area as well.

Operations support systems are taking advantage of rapidly evolving, powerful advances in computing technology.²⁸ Major efficiency changes in the OSS are occurring as a result of new database architectures and process communication links. The Bellcore prescribed Telecommunications Management Network ("TMN") architecture is taking hold and will deliver further performance improvements that are necessary in a competitive environment. As stated in Bellcore's GR 2869 CORE:

²⁷ *Id.*, at p. 16.

²⁸ *Id.*, at pp. 16-17.

Telecommunications service providers are facing increased competition for market share. To be competitive and provide quality service they need high-quality operations capabilities to support their service offerings and they need to design their operations architecture to be efficient, cost effective and rapidly deployable.

Once the electronic interfaces to the system components throughout the processes are in place, and the new entrant's personnel have the same (parity) access, (read/write capability) as required, as SWBT attendants, fall-out levels of 1-2% are reasonable. The only real impediments to this, beyond poorly managed SWBT databases, are the placement of ineffective interfaces and the use of network elements that are not forward looking and capable of intelligent communications with network OSS. Database maintenance is clearly a shareholder expense that has not been undertaken as it should have been. All databases should be maintained current and synchronized at all times as a matter of good business, and not paying to maintain these databases is a decision resulting from expense funding availability in past years. SWBT should not be allowed to use costs in their models that reflect embedded technology and inefficient operational systems and processes -- high levels of fall-out are synonymous with inefficient systems and processes. The impediments should not drive costs to new entrants. Moreover, the primary means to ensure that SWBT does not purposely deploy such inefficiencies to create service quality barriers to entry is to ensure that the ILEC bears the costs of all inefficient processes that it does maintain. Likewise, AT&T and other CLECs will have to build and pay for their side of the electronic interface.

Bellcore has already developed standards and interfaces for OSS using intelligent network elements that will provide the same type of flow-through functionality as is

found in the brokerage industry.²⁹ The deployment of these capabilities has not been as rapid as in the brokerage industry, only because the monopolist incumbent local exchange carriers have not had, and do not have today, the market incentives to deploy the latest and most advanced technologies. Incumbent LECs can delay deployment, hoping to continue to charge competitive LECs higher manually based rates, which will retard the ability of the competitive local exchange companies to compete. Without competition, or the Commission imposing regulation that would simulate the effects of competition, the ILECs maximize their self-interest by not deploying advanced state-of-the-art OSS.³⁰

The Texas Commission issued an order, June 1, 1998, in the SWBT 271 case in Texas,³¹ requiring SWBT to bring its OSS systems to parity with its internal systems and to provide flow-through ordering of UNEs if SWBT is to be granted interLATA relief in Texas. When SWBT makes these improvements to its systems for Texas, its Missouri OSS will also be improved. There is no legitimate reason for SWBT to have different OSS in its various states.

On August 5, 1998, SWBT Witness Leonard Ellis filed responses to questions from the Kansas Corporation Commission in the permanent UNE costing case. Mr. Ellis states on page 3 of his responses that SWBT's current objective flow-through rate for Special Service circuits is 64%.³² While Staff's recommendation correctly recognized

²⁹ See, *Id.*, at pp. 21-22. The AT&T non-recurring cost model which has been provided to the AAS references many of these Bellcore specifications, such as: TR-NWT-000057, TSGR, FR-440, GR-199, LSSGR; FR-64, TR-NWT-000170, GR-253-CORE, TR-TSY-000303, GR-303-CORE, TR-TSY-000174, GR-2869-CORE, TR-57 and FR-439.

³⁰ Ex. 1, at p. 22.

³¹ *Investigation into Southwestern Bell Telephone Company's Entry into the InterLATA Telecommunications Market in Texas*, PUC Project No. 16251.

³² Ex. 1, Sched. 9.

that simple orders can flow-through without manual intervention, it should also be recognized that forward-looking OSS also should be capable of flow-through on "complex orders." Here, SWBT is stating that its embedded objective flow-through on complex orders, if it does things in a quality manner, is already 64%. Based on Mr. Ellis' statements and other publicly available information, a minimum of 64% of complex orders should be treated as flow-through orders in the cost studies. At a minimum, Staff should reduce SWBT's labor driven complex non-recurring charges by 64%. With complete implementation of all the available forward looking OSS, as would occur in a competitive environment in the long run, as is required of SWBT by the Texas decision, where customers will be lost if quality is not excellent, SWBT should be able to achieve a 99% flow-through rate, even for complex orders.³³ An arbitrary 50% reduction in SWBT's proposed rates provides an unjustified windfall to SWBT and does not meet the pricing requirements contained in the Federal Act.

In the same sworn statement filed by Mr. Ellis in Kansas, this time on pages 3 and 4, Mr. Ellis was asked to provide the guidelines used by SWBT in developing the time estimates for its UNE nonrecurring cost studies. Mr. Ellis' response shows that SWBT did not use any scientific guidelines for determining the times. Nothing was done by SWBT to eliminate any sources of bias from the data. There was nothing done by SWBT to ensure that the data or the data collection process was statistically valid. SWBT's time estimates cannot be relied upon as being valid representations of the true times required for performing job functions even today, much less in a forward looking OSS

³³ See, *Id.*, at pp. 24-26.

environment. This same question was asked by the KCC of three other SWBT witnesses and their responses contain the same glaring weaknesses as the response of Mr. Ellis. On the other hand, the AT&T non-recurring cost model was designed specifically to represent the processing of orders in a forward looking OSS environment. This model develops costs from the ground up, as would be faced by new entrants, as required by the FCC and the MPSC's previous arbitration orders.

Finally, the "complex" services which SWBT finds difficult and time-consuming to "negotiate" are really quite commonly ordered.³⁴ In fact, DS1 and Dedicated Transport have been locally provisioned for many years. For this reason, RBOCs and IXC's long ago implemented electronic gateways for automated ordering of these services. These types of service orders normally flow-through an RBOC's or IXC's own OSS on a routine basis. The huge discrepancy between the many hours of labor estimated by SWBT for the ordering process simply cannot be justified with the realities of the industry's experience with access orders for these same elements. With sound capacity planning, along with clean OSS databases, plant exhaustion problems would rarely occur, thus eliminating a major source of potential fall-out.

ICB Pricing is Problematic and will Harm Competition³⁵

ICB pricing may be appropriate for cases where SWBT wants to sell a product in a competitive market, because ICB pricing allows SWBT to price a product as close as possible to long run incremental cost. In the case of unbundled network elements, however, ICB pricing would, in the absence of extensive MPSC oversight, allow market

³⁴ See, *Id.*, at 26-27.

³⁵ See, *generally, Id.*, at 28-29.

abuses to occur, since SWBT does not want to sell unbundled network elements to AT&T, and therefore SWBT will not price UNEs close to long run incremental costs. Instead, SWBT will price UNEs as high as possible to extract the maximum amount of resources from AT&T to keep AT&T from being a viable competitor to SWBT. The only remedy AT&T would have to challenge this activity would be to file a complaint with the Commission. As a result, ICB pricing would add uncertainty and delay to a CLEC's plans for serving Missouri.

The Commission should only permit ICB pricing when there is absolutely no alternative – when it is absolutely impossible to produce a cost study. ICB pricing provides SWBT with a future opportunity to shut down or forestall competitive entry by proposing unreasonable prices in response to a request for UNEs. Quite simply, if SWBT is permitted to engage in ICB pricing, it will have the clear opportunity to propose outrageously high prices leaving AT&T in the quandary of either paying those prices (significantly increasing its costs while at the same time providing SWBT with a windfall) or not offering the services.

Indeed, SWBT has previously demonstrated its propensity to use ICB-type pricing to preclude competition. In Texas, SWBT initially proposed a price of more than \$135 million to provide customized routing, while the Commission in that state ordered a price of \$300 thousand. Another example of SWBT's behavior in an ICB situation is in the area of collocation. In Texas, when SWBT had ICB authority prior to the Commission in that state establishing permanent rates, SWBT proposed to charge \$500,000 - \$1 million for a given collocation arrangement. When the Commission set cost based rates, the price of the collocation arrangement was set at approximately \$28,000.

The only way to defuse this situation and preclude a future bottleneck between SWBT and CLECs is for this Commission to reduce ICB pricing to the bare minimum. It is only through the Commission's regulatory oversight that SWBT can be made to offer just and reasonable prices to competitors for bottleneck facilities. ICB pricing will lead to slow, arduous and tedious price arbitration in the future. In the future, when AT&T will actually order ICB priced elements from SWBT, SWBT will have no greater incentive to provide AT&T with cost based prices than it has today. In fact, if SWBT has already been allowed into the interLATA market at that time, SWBT will have no incentive to provide a just and reasonable price to AT&T. SWBT will also have no incentive to quickly resolve the question of what the price should be. The higher the level of uncertainty facing AT&T, the less able AT&T will be to quickly enter local markets and provide choices to Missouri consumers. Only when consumers have true choices will the local services market bring lower prices, higher quality and greater innovations.

As the final backdrop to the Commission's consideration of the specific decisions that must be made in this proceeding, AT&T must point out that Southwestern Bell ("SWBT") begins the contest for Missouri customers with nearly 100% of the customers. This means that SWBT has about 2.25 million customers that it will have no transition costs to serve. SWBT's proposed rates, under one scenario, would impose a non-recurring charge of \$186.46 for every customer that converts from SWBT to AT&T.³⁶ This means that AT&T would have to incur \$466 million in non-recurring charges just to

³⁶

The charges would be as follows: service order \$60, loop \$26.07, port \$39.37, cross connect \$56.55 and two vertical features \$4.54.

put itself into the position in which SWBT starts, by virtue only of SWBT having the advantage of having been guaranteed a monopoly in Missouri for many many decades.³⁷ A \$466 million disadvantage is tremendously significant. It is very unlikely that AT&T would ever offer a widespread alternative to SWBT if placed at such a disadvantage. This illustration uses a simple conversion of plain old telephone service ("POTS") customer to illustrate the importance of the Missouri Public Service Commission ("MPSC") setting appropriate non-recurring rates. However, the exact same principle applies in the setting of non-recurring rates for more technologically sophisticated and more complex arrangements. Although such rates will be charged by SWBT to AT&T much more rarely than will POTS conversion rates, they can have equally as chilling an effect on competition.

IV. SPECIFIC RESPONSES TO RECOMMENDATIONS OF STAFF

Cross Connects³⁸

Staff's proposal incorrectly supports SWBT's assumption that manual intervention is required for all types of cross connects, which is not the case. The only one that could properly include manual intervention is the cross connect from the CLEC to the SS7 STP. The other cross connects go between two pieces of equipment that are owned by SWBT. The connections between the SWBT owned pieces of equipment can and should be left in place indefinitely by SWBT. If one CLEC deactivates, suspends or

³⁷ The conversion contemplated is from SWBT existing service to AT&T service at the same location using unbundled network elements (UNE). For the sake of simplicity, I am not factoring in lower non-recurring charges for additional lines in the cases where a customer has more than one line. It is unnecessary to recognize normal customer churn, which would be faced by and effect all carriers equally.

³⁸ See, generally, Ex. 1, at pp. 31-33.

terminates service, the connection is ready to be used again by the next CLEC that utilizes those same pieces of equipment owned by SWBT, or by SWBT itself in providing retail services.

As labor costs rise and equipment costs decline, it is typically most efficient to leave connections in place for future reuse, thereby avoiding the labor costs involved in dismantling and subsequently reconnecting the facilities to the same customer premises. Once a cross-connect is in place, dedicated inside plant ("DIP") is created and will normally remain undisturbed. Thus, the cost of initially creating DIP is part of the initial investment in the network, and is correctly recovered through recurring charges. Mr. Rhinehart's testimony, discussed below, covers needed changes to the global modifications. The labor rates are overstated by about one-third, which directly impacts the non-recurring studies.

Local Switching Features -- Analog and ISDN³⁹

AT&T agrees with Staff that the \$5.00 service order charge does not apply to local switching features. The order in TO-97-40/67 applied a \$5.00 one-time service order charge that more than compensated SWBT for subsequent service orders. When a service order study is properly conducted, using forward-looking electronic interfaces, the cost to SWBT is about \$.21. The \$5.00 service order charge to convert a customer, which merely mimics the \$5.00 primary interexchange carrier change rate and is not cost based, exceeds SWBT's forward looking costs of converting the customer by \$4.79. In other words, SWBT recovers its forward looking costs over 23 times when it charges AT&T

³⁹ See, generally, *Id.*, at pp. 34-37.

for the first \$5.00 service order. It is doubtful that the average customer will make more than 23 service changes before moving his/her premises.

Using forward looking OSS architecture, there should be no time required for SWBT technicians except for orders which fall-out of the system, which should be minimal. This should apply to features, combination of features and hunting arrangements. It would be discriminatory to assume that AT&T will have to type in orders and then AT&T will have to pay SWBT to type the same information into its systems. AT&T should have parity access to SWBT's pre-ordering, ordering and provisioning systems.

Staff's proposal on hunting arrangements taking more time is not totally accurate. Again, AT&T will have non-discriminatory access to the OSS and will program in the recent changes. It is AT&T's people that will be required to take more time for hunting arrangements. SWBT's RCMAC will only be involved in cases of fall-out where a problem has arisen that the OSS could not resolve. It does not follow that the hunting arrangement fall-out orders will take significantly longer to resolve than will other feature change fall-out orders. Staff's proposal correctly captures that fact that manual work will only be required in the case of fall-out. SWBT's OSS will be automated and orders will normally flow-through without manual intervention.

SWBT has filed sworn testimony that describes its provisioning process.⁴⁰ SWBT describes itself as being a national leader in its use of OSS. SWBT's systems are automated and the only manual work designed into the system is the interface with the

⁴⁰ *Id.*, at Sched. 12.

retail customer. SWBT has also filed sworn testimony (see Schedule 13) that its own internal residential retail fall-out rate is only 1%, and for retail business service it is 10%.

AAS reports, from SWBT OSS demonstrations, current SWBT fall-out rates of 4.4% for EASE to SORD distribution, 7.3% for EASE to completion and 15.1% for EASE to posting. This would include errors made by the customer service reps who would have to retype information. Of course for CLECs, this retyping would be done by the CLEC representative and should not appear in the SWBT cost study. This means the comparable fall-out factors which should appear in the cost studies for UNEs provided to CLECs should be lower than SWBT's reported internal figures if parity access is to be reflected.

SWBT's current fall-out rates should be viewed as a ceiling for the lower level of fall-out that will be achievable when advanced OSS are in place ubiquitously. Since the great majority of feature change fall-outs will be residential, a maximum 1% - 2% fall-out rate would be more appropriate than the 5% rate that Staff has proposed.

Unbundled Call Trace Per Activation⁴¹

AT&T has the same comments that AT&T has for the Staff's proposal for local switching features. The fall-out rate should be 1% - 2%. The labor rates should be revised as per the recommendations of Mr. Rhinehart.

Unbundled PRI Port Features⁴²

The Commission should recognize forward looking OSS architecture. Forward looking OSS systems are sophisticated and will allow CLECs to input orders that will

⁴¹ *Id.*, at p. 38

⁴² *See, generally, Id.*, at p. 39.

flow-through into SWBT's provisioning systems. SWBT has admitted that, even today, 64% of its complex special access orders should flow-through. Inclusion of manual processes sanctions non-parity access and would be discriminatory. SWBT should be ordered to rerun its studies eliminating manual processes except for 1% - 2% fall-out. SWBT's labor rates should be adjusted downward as per Mr. Rhinehart's testimony.

Unbundled BRI CSV/CSD & Unbundled BRI Port Features & Unbundled Centrex-like Features – Analog/ISDN⁴³

AT&T has the same comments that AT&T has for the Staff's proposal for local switching features. The fall-out rate should be 1% - 2%. The labor rates should be revised as per the recommendations of Mr. Rhinehart.

Unbundled Dedicated Transport⁴⁴

The Commission should recognize forward-looking OSS architecture. Forward looking OSS systems are sophisticated and will allow CLECs to input orders that will flow-through into SWBT's provisioning systems. Inclusion of manual processes sanctions non-parity access and would be discriminatory. Section 252(d)(1) requires rates be based on forward looking economic costs. SWBT should be ordered to rerun its studies eliminating manual processes except for 1% - 2% fall-out. Furthermore, the labor rates contained in Mr. Rhinehart's testimony should be used in place of SWBT's overstated labor rates. ICB pricing is inappropriate as I have stated in my general comments above.

⁴³

Id.

⁴⁴

See, generally, Id., at p. 40.

LIDB⁴⁵

As discussed above, Staff's postulation that all complex orders will be worked manually does not recognize that SWBT already has objectives that complex special access orders will flow-through 64% of the time. With full implementation of advanced forward looking OSS, the non-discriminatory flow-through percentage should be closer to 100%. SWBT should be required to redo its studies using a 1% - 2% fall-out factor and the labor rates developed by Mr. Rhinehart.

AT&T agrees with Staff that the \$5.00 conversion charge more than recovers any LIDB costs incurred by SWBT in a conversion. In fact, AT&T is unaware of any efficient LIDB costs that would be incurred by SWBT in a conversion. As stated earlier, the \$5.00 charge is not cost based and is too high. The cost based rate should be closer to \$0.21.

Access to Directory Assistance Database

As stated above regarding Mr. Flappan's general comments, ICB pricing can create real barriers to competitive entry. There is no compelling reason for this element to be priced on an ICB basis.⁴⁶

Branding/Rating⁴⁷

AT&T is not aware of the basis for the intercompany compensation arrangements currently in effect, however, AT&T knows that there is no competitive market for branding and rating. According to proper interpretations of the requirements of Section

⁴⁵ *Id.*, at p. 41.

⁴⁶ *Id.*

⁴⁷ *Id.*, at p. 42

252 (d)(1) of the Federal Act, rates should be set to reflect where they would be in a vigorously competitive environment. Non-recurring rates should reflect forward looking operations support systems, not manual processes. To the extent the existing rates were designed to cover manual processes, they have been established at levels that are too high. The underlying studies, if there are any, should eliminate manual labor except for 1% - 2% fall-out. Mr. Rhinehart's labor rates should be used in the studies.

Simple Service Conversions⁴⁸

With forward looking OSS, simple conversions will flow-through SWBT's systems all the way to posting. With non-discriminatory access, AT&T personnel will be performing the labor tasks necessary to input the conversion information into the OSS. No manual intervention by SWBT will be required, except for fall-out. As stated above, a 1% - 2% fall-out factor should be used. Computer system time should also be eliminated, as per Mr. Rhinehart's testimony, since SWBT has already included all of its computer costs in its recurring rates. Mr. Rhinehart's labor rates should also be used. The \$5.00 charge is not cost based, is too high and will overcompensate SWBT. A more accurate rate would be in the neighborhood of \$0.21 per simple conversion order for resale.

Complex Service Conversions⁴⁹

Staff's assumption that all complex orders will require manual labor by SWBT fails to recognize the sophistication of forward-looking, state of the art OSS. The complex work will be performed by AT&T and other competitors. In a competitive

⁴⁸ *Id.*, at p. 43.

⁴⁹ *See, generally, Id.*, at pp. 43-44.

environment, the SWBT functions would be automated and the manual labor would only be required in the case of fall-out orders. SWBT will only be required to type orders when there is fall-out from its OSS. Staff's proposal effectively assumes a 25% fall-out rate for the typing, which would be very poor quality and would not be acceptable in a competitive environment.

The Staff report on page 56 and 57 states "The LSPSC component consists of the service representative's labor expense while negotiating SWBT customer requirements to convert to a CLEC". SWBT's negotiation costs should be totally removed from the studies, not cut in half. AT&T will negotiate with its customers and input the relevant information into the non-discriminatory OSS. SWBT's cost of disconnecting its customer are already recovered in SWBT's retail rates charged to the customer. SWBT must not be allowed to recover those costs a second time, from its competition. As discussed below, the computer costs are fully recovered in SWBT's recurring rates. SWBT should not be allowed to anti-competitively double recover these costs.

AT&T proposes that complex orders also use a 1% - 2% fall-out. However, if the Commission cannot support a 1% - 2% rate, some higher rate, perhaps twice the simple conversion rate, would be appropriate. The labor rates contained in Mr. Rhinehart's testimony should also be used. The effect will be to significantly reduce Staff's proposed non-recurring charges and provide a more equitable competitive environment - remembering that SWBT's forward looking non-recurring cost to serve all its current complex customers is \$0.00.

Dark Fiber⁵⁰

SWBT describes the functions that it includes in its dark fiber study. SWBT's proposed rates include recovery of manual time to do records research of company plant location records, take inventory of existing fiber cables, create cable schematics, issue a transport document, activate the dark fiber and record the dark fiber data in TIRKS.

The time spent doing records research and taking inventory of existing fiber cables would be done by AT&T who must, according to the Federal Act, have non-discriminatory access to SWBT's OSS for pre-ordering. Creating cable schematics, issuing a transport document, activating the dark fiber and recording the dark fiber data in TIRKS would all be done electronically using forward looking OSS, except for the exceptional times when fall-out occurred.

Manual time should be eliminated from the study, except for a minimal amount of fall-out. Labor rates should be adjusted as per Mr. Rhinehart's testimony. The labor rate adjustment alone will reduce the rate by about one-third. Staff's proposal of a 50% reduction would provide a windfall to SWBT and would create an entry barrier for AT&T and other new entrants who desire to compete.

PLEXAR Custom

AT&T agrees with Staff's conclusion. Furthermore, to the extent that a reseller wishes to assume responsibility for a Plexar Custom contract, SWBT must be enjoined from imposing termination liabilities on the original customer.⁵¹

⁵⁰ See, generally, *Id.*, at p. 45.

⁵¹ *Id.*, at p. 46.

NXX Migration⁵²

The administrative costs of migrating an NXX are very similar to administrative costs incurred each time a new NXX is created. SWBT has stated in Texas that over 800 new NXXs have been assigned to alternative carriers in its five state region. The migration of NXXs will occur rarely, especially compared to the incidences of new NXXs being created. The administrative costs of work to incorporate a new NXX is included in SWBT's maintenance factors. To add the cost of migrating NXXs to the development of the maintenance factor would not cause a change in the factors in the significant digits. From a macro perspective, no additional personnel would need to be hired; no additional hours will be worked. A separate charge would be an over recovery. All carriers will have a need to add and migrate NXXs in a competitive marketplace. In requiring each carrier to bear its own costs associated with such changes, no rate would need to be established. Staff's recommendation would provide a double recovery to SWBT. NXX migration is part of the costs of doing ordinary every day business and such costs are, properly, recovered in recurring rates.

V. COST FACTORS/GLOBAL MODIFICATONS

Labor Rates

SWBT's labor rates double count support asset costs and have at least one computational flaw. SWBT's labor rates also inappropriately include certain historical post retirement benefit costs, called the Transitional Benefit Obligation. The AAS' Report does not take into account these errors, therefore the Commission should order

⁵²

Id.

SWBT to correct its costs studies.

Double Counting of Support Asset Costs in Labor Rates

SWBT's cost studies include the same support asset costs in both the investment-related ACES support asset factors and in plant-related loaded labor rates. Significant double recoveries will occur whenever AT&T is assessed a rate based on the investment utilized (e.g., a loop, a port, or related cross connects) and when AT&T is also assessed a non-recurring charge to install or maintain the same investment or to activate a feature. Therefore, SWBT's recurring rates are designed to recover fully all the proportionate support assets costs and the loaded labor rates are also designed to recover those same costs. If the costs are fully assessed in the recurring rates, they should not also be assessed through the loaded labor rates.⁵³

Labor Rates for Operator Service Personnel

SWBT's methodology computes a support asset factor for operator services personnel. The factor is based on all wages paid to operator services personnel whose wages are booked to operator services accounts. This includes not only operators but also clerical assistants and management employees. The labor support assets factor for operator services is significantly less than other labor support asset factors because costs associated with computers and motor vehicles are excluded. However, SWBT failed to use the operator services labor rate support assets factor on all operator services wage rates, resulting in inappropriately inflated rates.

⁵³

Ex. 2, at pp. 9, 13.

For all network asset-related labor rates, the support assets loading component must be excluded from the labor rate development. For all operator services personnel, including management and non-operators, only the labor rate support assets factor for operator services should be used.⁵⁴

Computational Flaw

SWBT's premium time component inappropriately includes commission payments. SWBT has previously indicated that there are no incentive costs presently paid in the wholesale environment. Thus, commissions, which are effectively "incentive" costs, are not appropriately included in TELRIC studies. AT&T has also identified other troubling premium costs included in SWBT's cost studies, however, our recommendation is limited to removing commissions and thus, is conservative.⁵⁵

Transitional Benefit Obligation ("TBO")

The "TBO" is a catch-up accounting cost that reflects SWBT's previously unaccrued liability for post-retirement benefits other than pensions that was required to be recognized for financial accounting purposes by Financial Accounting Standard 106. SWBT includes TBO costs in specific expense and capital accounts as well as in its loaded labor rate development. The TBO reflects the previously unaccrued liability for expenditures for post retirement benefits other than pensions for both retired and active employees of SWBT as of the date of the adoption of FAS 106. The liability would have been based on the benefits to be paid in the future, accrued as a result of past (historic) service of both current and retired employees.

⁵⁴ *Id.*, at pp. 14-16.

⁵⁵ *Id.*, at pp. 16-18.

SWBT is presently recording and legitimately recovering the new forward-looking accruals for post-retirement benefits other than pensions. The TBO represents an historic, embedded cost and by definition is not a forward-looking long run incremental cost. SWBT says it wants to include depreciation rates that purportedly match what it reports to the financial community. Yet when it comes to the TBO, which was already fully reported to the financial community years ago as a one-time instantaneous liability, SWBT wants to go back to the non-financial accounting world and collect the money from ratepayers. SWBT cannot have it both ways. The TBO should be excluded from loaded labor rate development.⁵⁶

Maintenance Factors

SWBT's maintenance factors, if applied in the manner proposed by SWBT, would permit SWBT to recover some of the same costs at least twice. SWBT's maintenance factors incorporate all of SWBT's costs associated with its historical embedded retail non-recurring activities and no modifications were made by SWBT to reduce maintenance factors to reflect proposed non-recurring charges. SWBT's maintenance factors therefore overstate costs and do not conform to TELRIC principles. SWBT was ordered to make modifications to its maintenance factors in Texas and has recently volunteered to do so in the generic costing docket in Kansas.⁵⁷

SWBT has also publicly stated that between 35% and 39% of the "M"-coded expense that should be eliminated from its maintenance factors, and the Commission

⁵⁶ *Id.*, at pp. 18-19.

⁵⁷ *Id.*, at pp. 20-22.

should order a similar exclusion from SWBT's proposed Missouri maintenance factors.⁵⁸ Maintenance factors should also be adjusted to reflect avoided testing expense, and the TBO should be excluded from SWBT's maintenance factors.⁵⁹

Forward-Looking Common Costs

A number of methodological flaws in the SWBT computation of a forward-looking common cost factor must be corrected. The appropriate common cost factor, and one that complies with TELRIC principles, is less than 11.5 percent. The Commission should recognize SWBT's long-term trend of decline in common costs and the passage of time since 1995, as well as the effects of the SWBT/Pacific Telesis Merger.⁶⁰ The Commission should also change the computation of the denominator of the common cost factor from one based on expenses to one based on revenues. Revenues should also be adjusted for avoided uncollectable revenues and avoidable testing expenses.⁶¹

In addition to the specific adjustments that Mr. Rhinehart was able to make to SWBT's common cost factor, the Commission should also require a forward-looking calculation of SWBT's common costs to be based on regulated operations only because unbundled elements are provided by the regulated operations of SWBT. Additionally, TBO costs should be eliminated from the common cost factor. When these adjustments were made to Mr. Rhinehart's proposed common cost factor for Kansas, his proposed factor declined by 0.22% percent, from 10.08% to 9.86%.⁶²

⁵⁸ *Id.*, at pp. 22-24.

⁵⁹ *Id.*, at pp. 25-27.

⁶⁰ *Id.*, at pp. 29-35.

⁶¹ *Id.*, at pp. 35-38; DPR-5.

⁶² *Id.*, at p. 35.

Fill or Utilization Factors

SWBT claims that it has measured utilization far below engineered levels on its various SS7 links. SWBT has publicly stated that its links are to be engineered for 40% utilization. In a TELRIC environment, utilization should approach engineered levels.⁶³ SWBT has incorrectly used its Common Channel Signaling Cost Information System ("CCSCIS") model in other jurisdictions and input the measured utilization (engineered times the percentage of engineered utilization actually realized), as the entry into CCSCIS for the percentage of engineered utilization actually realized. Mr. Rhinehart presented a hypothetical where this was done with a 24 percent measured utilization, and the result was an absurdly low computed utilization of only 9.6%.⁶⁴ This incorrect use of CCSCIS was identified in the Texas arbitration and SWBT was required to restate its link utilization levels. SWBT should be required to make the same corrections to its Missouri studies. This means that the combination of the two utilization constraints in the CCSCIS model should be used to yield the adopted utilization levels.

Computer Asset Costs

SWBT has explicitly included the costs of computer assets in many of its recurring and non-recurring cost studies. SWBT has also included 100% of these computer assets and their associated costs in the support assets factors. Thus, SWBT is double counting these assets and their associated costs. SWBT's support assets factors

⁶³ *Id.*, at pp. 41, 40.

⁶⁴ *Id.*, at p. 42.

should be modified to exclude costs captured in other cost studies or, in the alternative, the double-counted investments should be eliminated in the relevant cost studies.⁶⁵

Power Investment Factor for General Purpose Computers

Since 100% of general purpose computers are included in SWBT's support assets factors, any separate identification of computer assets in application-specific studies or in non-recurring studies results in a double counting of those assets. As long as the application-specific general purpose computer investments are included in specific studies, there is no reason to exacerbate the double counting of the assets by increasing the investment value by a surrogate power factor. Therefore, AT&T recommends that the Commission set this factor to zero for purposes of TELRIC studies. However, AT&T's preference is for the Commission to exclude general purpose computer assets and central processor unit ("CPU") costs from all recurring and non-recurring cost studies because the general purpose computer assets are fully included in the support assets factors.⁶⁶

Additional Non-Recurring Cost Issues

Procurement Costs should be Excluded from Non-Recurring Cost Studies

SWBT's cost factor methodology relies on its total operations books of account for a specified period. In this instance the period is 1995. SWBT's processes are designed to ensure that most expense accounts are fully attributable to recurring cost factors such as depreciation, maintenance, services, etc. As a result, accounts like "Procurement" are identified and all of the expenses for the year under study are incorporated into recurring cost factors. The factors are then used in the development of

⁶⁵ *Id.*, at p. 43.

⁶⁶ *Id.*, at pp. 43-44.

cost studies which attribute the expenses to related items of investment. In the case of procurement expenses, the costs are recovered in recurring charges through the support assets factor or in maintenance factors. SWBT has identified 100% of its booked procurement costs as part of maintenance factors and support asset factors.⁶⁷

SWBT separately identifies procurement activities in its non-recurring charge studies. While the activities may indeed consume certain procurement activity resources, recovering an allowance for procurement in the non-recurring cost study effectively opens the door for excess cost recovery. In other words, SWBT double counts of costs. Therefore, procurement costs should be eliminated from non-recurring cost studies.

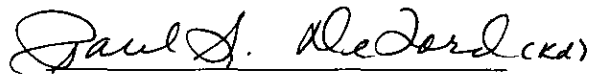
VI. CONCLUSION

Much has happened since AT&T first came before this Commission seeking to interconnect with SWBT in order to provide Missourians competition in the local exchange market. Unfortunately, events have largely transpired in front of the Commission, as AT&T has had to battle it out with SWBT on the regulatory front, rather than in the marketplace. In the meantime, AT&T has developed a wealth of experience regarding SWBT's means of overstating costs, imposing conditions, and inserting inefficiencies into every aspect of the arrangements that AT&T must obtain to interconnect. AT&T respectfully requests this Commission to take an aggressive stance on the costing and pricing issues presented in this phase of the proceeding, so that a strong message can be sent about the forward-looking cost standard required for

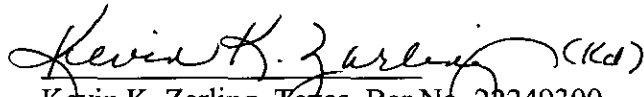
⁶⁷ *Id.*, at pp. 45-46.

interconnection and UNEs, and so that critical Operational Support Systems will be made available under the terms and conditions envisioned by the Federal Telecom Act.

Respectfully submitted,

 (Kd)

Paul S. Deford, #29509
Lathrop & Gage
2345 Grand Boulevard
Kansas City, Missouri 64108
(816) 292-2000
(816) 292-2001 (FAX)

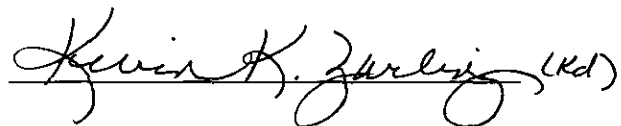
 (Kd)

Kevin K. Zarling, Texas Bar No. 22249300
AT&T Communications of the
Southwest, Inc.
919 Congress Avenue, Suite 900
Austin, Texas 78701-2444
(512) 370-2010
(512) 370-2096 (FAX)

Attorneys for AT&T Communications of the Southwest, Inc.

CERTIFICATE OF SERVICE BY MAIL

A true and correct copy of the foregoing was served upon the parties identified in the attached service list on this 1st day of February, 1999, by placing same in a postage paid envelope and depositing in the U.S. Mail.

 (Kd)

Kevin K. Zarling

CASE NO: TO-98-115

Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102

Paul G. Lane/Diane J. Harter
Leo J. Bub/Anthony K. Conroy
Southwestern Bell Telephone Company
100 N. Tucker, Rm. 630
St. Louis, MO 63101

General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102