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****1** Common Carrier, Specialized Services
Competition, Common Carriers
Reconsideration, Petitions for, Grant of
Rules, Amendment of
Wide Area Telephone Services (WATS)

Petitions for reconsideration of MTS and WATS Market Structure with respect to compensation of operators of local exchanges for using local telephone exchange facilities to originate or terminate interstate or foreign telecommunications granted to an extent and otherwise denied.

—MTS/WATS Market Structure

CC Docket No. 78–72

FCC 83–356

FEDERAL COMMUNICATIONS COMMISSION (F.C.C.)

In the Matter of
MTS and WATS Market Structure

CC Docket No. 78–72, Phase I

MEMORANDUM OPINION AND ORDER

Adopted July 27, 1983; Released August 22, 1983

***682** BY THE COMMISSION: COMMISSIONER QUELLO ISSUING A SEPARATE STATEMENT; COMMISSIONER DAWSON CONCURRING IN PART AND ISSUING A STATEMENT.

I. *Introduction*

1. On December 22, 1982, we adopted the *Third Report and Order* in this docket (‘*Access Charge Order*’),[FN1] in which we prescribed rules for calculating the charges that end users and interexchange carriers would pay a telephone company after December 31, 1983, for using its facilities with part of all of their costs allocated to the interstate jurisdiction. We now have before us thirty-five petitions asking that we reconsider or ***683** clarify almost every facet of that decision. In this *Memorandum Opinion and Order* we address the issues raised in those petitions.

2. The rules we adopted in the *Access Charge Order* will replace with a single uniform mechanism the existing potpourri of mechanisms through which local carriers recover the cost of providing access services needed to complete interstate and foreign telecommunications. After January 1, 1984, exchange carriers will rely solely upon revenues generated by their interstate access tariffs to recover these costs. The *Access Charge Order* prescribed the rate elements for those tariffs, determined the costs that should be allocated to each of these elements, and prescribed the rate structure of the charges through which telephone companies would recover these costs. The *Order* required that some of these charges be levied on end users directly and others be assessed upon interexchange carriers. The *Order* also established an Exchange Carrier Association that would prepare and file access charge tariffs and administer the revenue pools created by these tariffs. Membership in the association would be limited to telephone companies participating in the access charge revenue pools.

3. The access charge plan reflected our efforts to achieve the proper balance among the four primary objectives of this phase of CC Docket No. 78–72:

(1) Elimination of unreasonable discrimination and undue preferences among rates for interstate services;
(2) Efficient use of the local network;
(3) Prevention of uneconomic bypass; and
(4) Preservation of universal service.[FN2]

It also represented an effort to preserve an opportunity for fair competition during a transition period

in which we and the industry work to eliminate existing inequalities in interconnection options offered interexchange carriers. This docket was instituted for the primary purpose of determining an optimal structure for the MTS-WATS market. The thirty-five petitions for reconsideration of the *Access Charge Order*[FN3] ***684** suggest that we must adjust the access charge plan if we are to achieve the proper balance of these objectives. They urge us to review and revise almost every facet of that plan, including our determination of: (1) How the access elements should be defined; (2) how the costs should be allocated among them; and (3) the mechanisms for filing tariffs, billing charges and distributing revenues. With this brief introduction, we begin the requested reconsideration of our access charge plan, taking into account the issues raised not only in the petitions but also in the numerous oppositions[FN4] and reply[FN5] filings made in response to them.[FN6]

****2** II. *The 'End User' Access Elements*

4. In the *Access Charge Order* we defined twelve access rate elements to which the costs associated with providing access services would be allocated. These rate elements fell into two categories based upon whether end users or interexchange carriers would be assessed associated ***685** charges. End users would pay charges directly to the exchange carrier (*i.e.*, the local telephone company) for the following three elements: Dedicated Access Line; End User Common Line; and Pay Telephone. Interexchange carriers would be assessed the charges for the remaining access elements: Carrier Common Line; Line Termination; Local Switching; Intercept; Information; Operator Assistance; Common Transport; Dedicated Transport; and Special Access.[FN7] If a telephone company offered billing and collection or billing information services to interexchange carriers, its carrier's carrier charges would *also* include a Billing and Collection element. In this section of our reconsideration order, we address petitioners' concerns related to end user access elements, beginning with the End User Common Line element.

A. *End User Common Line Element*

1. *The Fixed Charge*

5. The *Access Charge Order* anticipated that eventually a telephone company will recover the interstate revenue requirement associated with the non-traffic sensitive plant linking each subscriber's premises to an end office through a flat monthly charge levied directly on that end user and, when appropriate, through interexchange carriers' payments to the Universal Service Fund.[FN8] Because this method of recovery is so different from the way in which telephone companies have traditionally recovered the interstate revenue requirement associated with the common line plant,[FN9] we established a transition plan under which a telephone company would recover a portion of common line costs through fixed charges starting in 1984 and would recover an increasing portion of those costs through fixed charges over a period of years. We also provided for a waiver of end user charges for lifeline subscribers and for monitoring the impacts of end user charges on universal service.

6. The recovery of subscriber line costs was, of course, the central question in the access charge phase of this proceeding and the *Access Charge Order* explains at considerable length the reasons for our decision to establish flat charges. Most petitioners, including petitioners who have questioned the wisdom or necessity of flat charges, have taken that fundamental decision as a given and have suggested a variety of refinements or modification to our plan. A few of the petitioners have, however, asserted that we should reconsider the decision to establish flat ***686** charges of any kind. That fundamental decision was adopted with the full concurrence of all seven Commissioners after five years of proceedings in which we explored a variety of radically different approaches and received numerous rounds of comments.[FN10] Few, if any, subjects have received more exhaustive attention in the entire history of this Commission. Although we can understand that others might prefer a different result, we

remain convinced that a transition to flat charges that will recover most common line costs is the right choice.

****3** 7. The driving force behind our decision to move toward flat changes is our commitment to promoting efficient use of the nationwide telecommunications network and our recognition that pricing reform is necessary to enable our society to maximize its efficient use of the telecommunications network and realize the benefits possible from increasing competition in the interexchange marketplace. Artificial pricing structures, while perhaps appropriate for use in achieving social objectives under the right conditions, cannot withstand the pressures of a competitive marketplace. We see the imposition of moderate flat charges on telephone subscribers as an effective, orderly and fair means of guiding telecommunications pricing in the direction which it inevitably must take, toward efficient, cost-based rates. The concept that users of the local telephone network should be responsible for the costs they actually cause is sound from a public policy perspective and rings of fundamental fairness. It assures that ratepayers will be able to make rational choices in their use of telephone service, and it allows the burgeoning telecommunications industry to develop in a way that best serves the needs of the country. The telecommunications revolution will yield great wealth in the future and enhance our country's standing in the world community. We are entering an information age which can spawn new businesses and industries, enable traditional industries to modernize their operations and fare better in national and world markets, create vast numbers of new jobs, increase productivity, and dramatically improve the quality of life for the average American through numerous and diverse applications of telecommunications***687** technology in the home and office. However, a rational efficient pricing structure is necessary for the public to realize these important benefits. We could have maintained the old structure only at the risk of sacrificing or retarding the realization of these benefits.

8. The growth and deployment of bypass technologies underscores the need for prompt action to reform local network pricing practices. In this proceeding, we have been concerned primarily with achievement of an appropriate public interest balance among disparate goals, para. 3 *supra*. One major concern has been that continued inefficient pricing of the subscriber loop could lead to a high level of uneconomic bypass.[FN11] As we explained in the *Access Charge Order* at paras. 30–33, high volume users may have the greatest incentive, under the present rate structure, to engage in bypass of the local exchange. If such users were to abandon the local exchange in this manner, the cost of implace local exchange plant might have to be recovered from the remaining users, causing their rates to rise to levels which many low volume users might not be able to absorb. The rate structure we have developed in the access charge plan is designed to avoid that calamity and preserve the universal telephone service which we now enjoy. Thus, we expect that the rate structure we have developed in the access charge plan will further the goal of preserving universal service. We are aware of the fears of some parties that the flat end user charge may itself cause some residential subscribers to disconnect their telephone service. Although we do not expect this to occur, we nevertheless have adopted a number of safeguards that are designed to prevent any serious reduction in universal service. First, in order to ease the impact on residential subscribers, we have prescribed a gradual transition to fully cost-based end user chargs. Second, during this transition, we intend closely to monitor the effect on universal service of the new access charge rate structure and to take whatever steps may be necessary to ameliorate any undue adverse impact upon universal service. See paras. 36–37 *infra; Access Charge Order* at paras. 195–96. We have already adopted a Notice of Proposed Rulemaking proposing the implementation of a monitoring plan, *Notice* CC Docket No. 78–72, Phase IV, FCC 83–254, released June 8, 1983. Third, we will entertain petitions for lifeline waivers of the residential flat charges in order to

preserve universal service, Paras. 12–14, *infra*. Finally, we have prescribed a Universal Service Fund to reduce the burden on ratepayers living in high cost areas. Para. 11, *infra*.

****4** 9. The Independent Alliance and the Michigan Public Service Commission assert that the Commission's reliance on bypass as a justification for ***688** its decision is not supported by the record.[FN12] A number of technologies that allow bypass are already in place or will be in place within several years. Appendix F of the Access Charge Order cited numerous cases in which bypass technology is being considered or actually being implemented. Since bypassers are unlikely to return to the public network once they have gone to the expense of constructing bypass facilities, we found it imperative to act at once to limit uneconomic bypass. No evidence is presented on reconsideration to persuade us that this view was unduly pessimistic. The Independent Alliance also asserts that our decision ignores the fact that the interexchange carriers are responsible for the interstate costs.[FN13] That description of the situation merely obscures the nature of the problem. All costs of providing telecommunications services are ultimately borne by the users of telecommunications services. A charge in the rate structure that replaces usage charges with fixed charges or vice-versa does not shift any burdens from carriers to users or users to carriers. The total carrier revenue requirement that all exchange carriers recover from all users will remain the same, but the relative burdens that are imposed upon particular users will inevitably change because different users have different usage patterns. The usage charges that are contained in MTS tariffs will, of course, be reduced in the tariffs that we have directed AT&T to file in October to comport with the reduction in the revenue requirement recovered through usage charges.

10. The decision that subscriber line costs should be recovered directly from the customer to whom the line is provided, although it is a significant charge in rate structure, is consistent with the broad principles that have served as the foundation of Commission ratemaking decisions for the past quarter century.*See*, *American Telephone and Telegraph Company, Long Lines Department*, Docket No. 18128, 61 FCC 2d 587, 589, 609, 662 (1976), *Private Line Rate Case*, 34 FCC 217 (1963). Preeminent among these principles is the conclusion that ‘actual costs of providing service underlie the statutory requirement that rates be just, reasonable and nondiscriminatory.’As a corollary to this principle, any ratemaking philosophy that results in disproportionate cost burdens among customers would generally violate this Commission's objectives and responsibilities.61 FCC 2d at 662. Thus, one should not ask whether costs are caused by carriers or users. One should ask whether particular costs are caused by a particular user or class of users. The cost of a common line is attributable to the user who has that line, which is dedicated to his use and which remains available for his exclusive use in ***689** sending or receiving any telecommunication that can be transmitted through the local dial switch. For this reason the imposition of a flat charge upon a subscriber who has a common line to recover some part of the fixed costs associated with that common line burdens that customer with no costs that the customer did not cause. Therefore, we will reject all petitions that seek the elimination of all flat charges for the interstate portion of the common line costs. Even if we wished to maintain a rate structure that is not cost causational we could not do so through usage charges without foreclosing the availability of alternative options for most persons who, under such a plan, might pay fixed costs that substantially exceed their own loop costs. Any such effort would probably be futile. It would not only be necessary to prohibit competitive alternatives that can be used to bypass telephone company local distribution facilities, but it would also be necessary to prohibit private line or other alternatives to the common line that telephone companies themselves provide. The increasing use of such alternatives during the past twenty years demonstrates that a substantial departure from cost-based pricing is not sustainable in the long run. We

remain convinced that an orderly transition to a rate structure with minimal departures from cost-based pricing will serve the best interests of all consumers and the national economy.

****5** 11. We recognize that instances of undue hardship might occur if every user were required to bear the full costs of his particular line. The Universal Service Fund is designed to place a limit upon the flat charges that will be imposed upon subscribers in areas that have exceptionally high subscriber line costs. The Joint Board in Docket 80–286 had adopted a recommendation for ensuring that the end user charges in the highest cost areas will never exceed 200% of the nationwide average charges. We shall be considering that recommendation in the very near future and shall also reexamine the transition plan before the residential end user charge in any exchange exceeds $4.00. These safeguards, together with the possibility of lifeline waivers, should be ample to ensure that cost-based access charges do not subject any local exchange service subscribers to any undue hardship.

12. It is, of course, conceivable that a small minority of subscribers will not be able to afford a charge that does reflect average costs. The *Access Charge Order* stated that we would entertain petitions for lifeline waivers in order to accommodate such special hardship situations (paras. 136–37). Waiver requests must: (1) State the terms and conditions which apply to lifeline service; (2) specify the interstate access charge revenues which would be lost from lifeline subscribers; and (3) specify the adjustment to other interstate access charges which are under the petitioning party's purview necessary to secure the lost revenues. We ***690** have not, as yet, received any such petitions for waiver and none of the petitions for reconsideration has presented any concrete proposal for a complete or partial exemption from initial or subsequent end user access charges that would be targeted at persons who might suffer any genuine hardship.

13. Although it would probably be impossible to reflect the effects of granting any such petitions that might be filed in the future in the tariff charges that will be filed in October, it should be possible to recover any lost revenue through other access charges. Therefore, our decision to reaffirm the transition to flat rate charges that will recover most common line costs should not be interpreted as foreclosing petitions for a partial or complete exemption for a clearly defined class of residential users.

14. Although the right to file a petition for waiver would normally be limited to the telephone companies whose tariffs are subject to the rule in question, because of the public policy implications of any such waiver we shall also permit state public utility commissions to file petitions to waive all or part of the residential end user charge for some category of residential subscribers. Alternatively, we expect that in many cases states can maintain low residential rates without resort to a waiver by creating local service ‘lifeline’ rates that ameliorate the effects of the interstate access charge.[FN14]

2. *The End User Usage Charge*

****6** 15. The *Access Charge Order* established a transition plan for the recovery of the common line revenue requirement through a combination of end user flat charges, end user usage charges, and carrier's carrier charges that would be recovered indirectly from users through charges for interexchange services. We prescribed a five year transition period during which the carrier's carrier access charges would bear an annually declining share of the common line revenue requirement.

16. During this same period the telephone company would have some flexibility in structuring its end user charges. The *Access Charge Order* would, however, require that an end user pay a monthly minimum flat charge for each residential or party line of $2.00 and for each business line of $4.00, and that the business line flat charge never be more than 200% of the residential line flat charge. A carrier could also impose an additional usage charge for each originating conversation minute or call to recover the remainder of the costs assigned to the

End User Common Line element. We did, however, impose a cap on the total monthly end user ***691** charge associated with each common line. Over the five year period that maximum monthly charge would decline annually by about 10%.

17. Traditionally collect calls and calls placed at the open-end of an Inward WATS (hereafter, 'In WATS') line incurred no interstate charge for the caller. A caller in the 'foreign exchange' also incurred no interstate charge for dialing the open end of an FX or CCSA line.[FN15] To preserve this arrangement in those areas in which the exchange carrier chooses to recover its end user common line costs through a mixture of flat and usage charges, the *Access Charge Order* required the carrier to recover some of its common line revenue requirement through a surcharge imposed upon interexchange carriers offering such 'sent collect' services as a surrogate for usage charges imposed on 'sent paid' calls. To achieve a similar result for calls billed to third party, the usage charge would be assessed on the third party's line.

18. The *Access Charge Order* also acknowledged that the interconnection arrangements provided to some interexchange carriers (*i.e.*, EN FIA-A) may hamper the local carrier's ability to detect interstate calls routed through these carriers' facilities. This would make it difficult for a local company to assign a usage charge to customers of such interexchange carriers for the End User Common Line element. In the *Access Charge Order* we recognized two possible solutions to the problem: another surrogate charge for EN FIA-A lines, or coordination of billing between the exchange carrier and the interexchange carrier with EN FIA-A interconnection. Concluding that the latter was more desirable, efficient and nondiscriminatory, we refrained from including a rule prescribing such an additional surrogate charge on EN FIA-A traffic.

19. A number of persons have filed petitions asking for reconsideration or clarification of issues relating to end user usage and associated surrogate charges. The first of these issues is the computation of usage charges when an end user relies on an OCC with EN FIA-A interconnection to the local network to make his interstate calls.[FN16]

****7** 20. In exchanges without local measured service, the EN FIA-A connections provided to OCCs do not allow the local company to identify the end user placing the call. The *Access Charge Order* recognized this problem but stated that OCC use of exchange carrier billing services would be likely to provide exchange carriers with sufficient information to develop an appropriate end user charge. The *Order* stated that in those cases in which such cooperation proved to be impossible, an exchange ***692** carrier could request waiver of the rules to allow development of OCC surrogates.

21. In their petitions for reconsideration, AT&T and other exchange carriers state that the billing information cannot be used to develop end user charges because neither the exchange carrier nor the interexchange carrier can attribute usage by EN FIA-A customers to particular lines. The OCCs that use EN FIA-A connections use personal identification numbers (or 'PINS') for billing purposes and have no way of knowing the common line that was used to originate a particular call. The exchange carriers request that the Commission grant a general waiver of the access charge rules to allow surrogate charges on OCCs.[FN17]

22. The OCCs object to such a surrograte charge.[FN18] SBS states that the Commission should require OCCs to provide any needed subscriber information that they obtain through Automatic Number Identification ('ANI') but objects to any OCC surrogate charge. SPC believes that use of a surrogate charge is blatantly discriminatory and recommends that revenues associated with the end user usage charge be allocated to AT&T as an addition to the premium. USTS believes that OCC surrogate charges are unnecessary and unfair. U.S. Tel requests that the Commission explicitly prohibit use of an ENFIA surrogate. In its opposition filing, MCI urges that, if a surrogate is used, it should be collected on an equal per-minute basis from all car-

riers.[FN19]

23. We perceive the problem to be that, if end user usage charges are applied only to AT&T minutes and no surrogate is imposed for OCC minutes, AT&T would be placed at a competitive disadvantage and users of MTS and WATS would be subject to a discriminatory charge. The magnitude of this disadvantage would depend upon exchange carrier decisions rather than upon a public interest assessment of the opportunity cost of premium access. This outcome is contrary to the intent of the *Access Charge Order*. An OCC surrogate, however, would deprive users of OCC services of the benefit of the cap on end user usage charges, ***693** placing OCCs at a substantial disadvantage in the competition for heavy users' business.

24. Some petitioners have noted that AT&T credit card services present a similar problem because credit card calls are normally placed from a telephone that is not the customer's primary telephone. Moreover, businesses may obtain credit cards for some employees in order to enable them to place calls from their homes that will not be charged to their home telephone numbers.

****8** 25. Large users have also asked us to reconsider our rules imposing a surrogate charge on them for calls that originate at the open end of FX lines and InWATS service. Several carriers question the different treatment that the rules accord collect, credit card, and third number billed calls.[FN20]

26. In the *Access Charge Order* we explained that, if a local company chooses a rate structure for its end user chargs that includes usage charges, a surrogate charge for the FX open end, 800 service, and collect calls becomes necessary in order to avoid conferring an unjust advantage on these potential substitutes for other interstate services. We viewed third party service as different in that with that service the billed party is typically the originating party.

27. The Ad Hoc Telecommunications Users Committee has suggested that we solve all of these problems by eliminating the end user usage charge and revising the transition plan to recover the common line costs through a combination of flat end user charges and carrier's carrier charges. If the end user usage charges did not exist, any surrogate charges that are substitutes for end user usage charges would be unnecessary.

28. Although the Ad Hoc Committee suggestion is more acceptable than the AT&T and OCC proposals, it is not a perfect solution because elimination of the end user usage charge would also eliminate the maximum charge or cap. We have viewed the maximum charge as an important part of the transition plan because it would eliminate the incentive to substitute private line services for MTS or WATS at the beginning of the transition. The alternative transition plan that the Ad Hoc Committee is proposing would solve that problem when the transition has been completed, but it would not produce the same immediate benefits. We did not adopt similar transition plans that were proposed by ***694** GTE and others in *Fourth Supplemental Notice* comments for that reason.

29. However, we now conclude that transitional benefits that the end user maximum charge would produce are outweighed by the anticompetitive effects that inevitably result from any of the proposals that could make an end user charge workable. Elimination of the end user usage charge will also enable us to develop a simpler transition plan that will be easier to administer and that will be less confusing to customers and others. Therefore, we have decided to eliminate the end user usage charge and the associated cap or end user maximum charge. We are revising Subparts C and F of the access charge rules to describe a transition plan that will still achieve the end result of the original transition plan—recovery of subscriber line costs through flat charges on end users, except for costs covered by the Universal Service Fund and, possibly, lifeline waivers.[FN21]

30. The elimination of the end user usage and max-

imum charges would leave three different common line charges at the beginning of the transition—a flat end user charge, a premium access charge that is essentially a flat charge assessed to carriers that provide traditional MTS and WATS with superior interconnection arrangements, and a carrier charge that is assessed upon all interexchange services that use the common line. We have, however, decided to use a different mechanism to reflect premium value that is explained in Part III A. This will result in two common line elements—a flat end user charge and a carrier usage charge. The end user flat charges will be increased as the total carrier common line revenue requirement is reduced.

****9** 31. The original formula for transferring common line revenue requirements from the Carrier Common Line element to the End User Common Line element defined a residue that was computed by deducting the $4 per line end user revenue requirement and the revenue requirement attributable to the Universal Service Fund, customer premises equipment (or 'CPE') and inside wiring costs from the total common line revenue requirement.

32. The original transition plan required that the total 'residue' revenue requirement be shifted to end users by 1989, but delayed compulsory recovery of this requirement through flat charges alone until 1991. We are revising the transition plan to require achievement of both results by 1990; *i.e.*, the time schedules for shifting the entire residue to the End User Common Line element and for recovering the associated ***695** revenue requirement through flat monthly charges to end users will be the same. We believe that this revision should substantially simplify the transition plan.

33. The removal of the end user usage charges also requires revision of the rules for determining the charges through which telephone companies will recover the Common Line access element's revenue requirement during the transition period. We have concluded that for 1984 the monthly end user charge for business users should be $6.00 per line, [FN22] while a residential end user's monthly flat charge for each common line should be $2.00. The remainder of the costs that under Section 69.104 (the rule prescribing the End User Common Line charges after the transition period) would also be recovered from subscribers shall be assigned to the Carrier Common Line and Special Access elements. In 1985 we shall require exchange carriers to maintain the monthly flat charge for each business line at $6.00 and to raise the monthly charge for each residential line to $3.00. In 1986 we shall require a one dollar increase in the per line charge for residential users while maintaining the business users' charge at $6.00 per line. We believe that our policy of protecting universal service fully justifies and, indeed, requires a more gradual transition to the new end user charge structure for residential users than is needed for business users and the concomitant disparity in monthly charges; this conclusion is reflected in the transition schedule we have prescribed.

34. In order to describe how charges for common lines are to be computed for 1987, 1988 and 1989, the remaining three years of the transition, we must first define what we mean by 'transitional residue.' For each of these remaining years the transitional residue will be the difference, if any, between the End User Common Line annual revenue requirement that would arise under our permanent access charge rules and the End User Common Line annual revenue requirement based on the 1986 end user charges.[FN23] In each of these years the transitional residue for that year will be apportioned between the End User Common Line element and the Carrier Common Line elements under the following schedule:

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****10** The increasing monthly End User Common Line revenue requirement resulting from the increasing share of the transitional residue assigned to that access element will be apportioned among common lines on a *pro rata* basis and added to the 1986 monthly single-line end user charge for resid-

ential and business customers. If, however, a *pro rata* apportionment would produce a business line end user charge that would exceed the end user charge computed under the post-transition rules, an additional amount will be apportioned to residential lines in order to satisfy the requirement that no transitional business or residential end user charge exceeds the charge that would be computed under the post-transition rules.

35. This schedule provides less flexibility for carriers to design a transition to respond to threats of uneconomic bypass or reduction in universal service that might warrant a more or less rapid transition in particular places. We believe other devices, such as petitions for waiver or petitions to amend the rules, should be sufficient to enable us to depart from this schedule if unanticipated events warrant such a departure.

36. Paragraph 367 of the *Access Charge Order* said that we would conduct another notice and comment phase of this proceeding before the end of the fifth year of the transition in order to 'evaluate nationwide and local effects of the transition before proceeding with the final steps in the transition plan.'In view of the revisions we have made in the transition plan to reflect the elimination of the end user usage charge, that schedule must be accelerated. We shall conduct that notice and comment proceeding before the end of the third year of the transition.

37. The Joint Board has offered its assistance in monitoring the effects of access charges and related separations charges and we hereby accept that offer. We have also begun a rulemaking proceeding in this docket to develop procedures for obtaining comments and the data needed to assess the effects of access charges upon universal service.*See Notice of Proposed Rulemaking in MTS and WATS Market Structure*, CC Docket No. 78–72, Phase IV, FCC 83–254, released June 8, 1983. We anticipate relying heavily on the results of this rulemaking and the Joint Board's continuing vigilance to assure that our access charge plan is implemented in a manner that does not unduly impact universal service.***697** We have also instituted an inquiry to obtain more information with respect to the causes and magnitude of recent and prospective increases in local exchange service rates.*See Notice of Inquiry* issued in *Petition of the State of Michigan Concerning the Effects of Certain Federal Decisions on Local Telephone Service*, CC Docket No. 83–788, released August 1, 1983. We except to have a preliminary analysis completed by December 1, 1983. If it appears that our access plan is having an untoward impact on local rates, we stand ready to make quick adjustments.

****11** 3. *Party-Line End User Rates*

38. Petitions for reconsideration or clarification have also raised some questions with respect to the lines that should be counted for purposes of imposing charges assessed on a per line basis. The rules that were adopted in the *Access Charge Order* did address the question of counting party lines. We adopted a transition rule that treats each party line customer as a separate line for purposes of assessing the minimum charge and a permanent rule the requires that the end user common line charge be computed by dividing the monthly single line end user charge by the number of users sharing such a line. Both REA and RTC assert that this permanent rule fails to reflect that an exchange carrier may have multiple grades of party-line service, that party-line subscribers cannot gain access to OCC facilities or receive certain other services available to single-line subscribers, and that party-line costs may in fact differ substantially from single-line costs. Fearing that the rule will create uneconomic incentives for choosing party-line over single-line service, they urge us to delete the rule and leave the development of party-line access charges to exchange carriers' discretion. AT&T proposes that the rule be modified to require computing a flat charge for each class of party-line service by dividing the single-line rate by the 'fill' for the class of service. [FN24]

39. The party-line rule was intended to reflect the

lower cost per user of access lines that are shared among two or more users. On reconsideration we find that the modification AT&T proposes would result in a more accurate allocation of these costs among party-line subscribers that still achieves the purpose of the original rule. For these reasons we shall make the suggested modification in the rule prescribing charges on party-line end users. We believe that this change should largely ameliorate the problems perceived by the Rural Telephone Coalition, the REA and the Michigan Public Service Commission. To the exent that party-line service ***698** is constructed by central office bridging, the large number of lines would reduce the price differential between party-line and single-line service.

40. Michigan states that party-line service may in some cases actually cost more to provide than single-line service. We view this as an exception and not the rule. An exchange carrier would remain free to request that we waiver our allocation rules in order to recover costs of central office equipment dedicated to party-line service from party-line rates. We believe that such waiver requests will be sufficiently rare, however, that there is no need to develop rules to separate the costs of party-line loops from single-line loops.

41. We are sympathetic to the Rural Telephone Coalition's concern that party-line service is an inferior grade of service that may deny many customers the benefits of more advanced communications services. Nevertheless, we believe that these customers will be able to decide whether the benefits to be gained from single-line service are worth the added costs. Interstate access charges that reflect costs will permit their choice of single or party-line service to be a rational one.

****12** 4. *Centrex-CO*

42. A number of petitions have also suggested that we clarify the status of lines that are used for Centrex-CO service for purposes of end user charges that are assessed upon a per line basis. Although Centrex services are not mentioned in the *Access Charge Order* or the rules that were adopted in that *Order*, it would be reasonable to infer that Centrex-CO lines would be counted in the same manner as any other line between a customer's premises and the local switch that may be used for local exchange service and a variety of interexchange services. Many petitioners have urged the adoption of a modification that would specify a different manner of counting Centrex-CO lines.[FN25]

43. Centrex-CO is a state-tariffed service now offered principally to large organizations and government agencies[FN26] as an alternative to their leasing or buyig PBXs. With Centrex-CO, a part of the central office switch acts much like a PBX, providing a subscriber with such services as intercom, conference calling, direct inward dialing and automatically identified outward dialing. Centrex-CO requires a separate loop from the ***699** central office switch providing the service to each of the subscriber's stations. In a PBX system, these loops would be replaced by inside wiring terminating at the PBX, with the PBX linked by substantially fewer lines (or trunks) to the central office. The BOCs, several state commissions, and large end user trade associations assert that, because Centrex-CO competes with PBX systems, the loops used to provide this service should be subject to a lower interstate access charge than that prescribed for other business customer's common lines.[FN27]

44. AT&T, state commissions[FN28] and trade associations representing heavy users of Centrex-CO service[FN29] propose that a Centrex-CO customer pay a monthly common line access charge no greater than that which a customer with a PBX serving the same number of stations would pay.[FN30] They assert that levying a full common line access charge on each Centrex-CO line will almost surely lead to the demise of this service offering. They claim that this will produce several undesirable results including stranded investment, increases in local rates, and at least temporary dislocation, inconvenience and expense to present Centrex-CO customers.[FN31] They also state that treating each Centrex-CO line as a common line discriminates

against Centrex-CO service in favor of equivalent PBXs and places Centrex-CO at an unfair competitive disadvantage.[FN32] PBX vendors join Western Union in asserting that it is the ***700** AT&T proposal that would create unjust discrimination and false pricing signals.[FN33]

45. We cannot accept the argument that counting each Centrex-CO line as a line would create discrimination between Centrex and PBX users. If Centrex uses more lines, then Centrex necessarily creates more line costs. The suggestion that PBX users should pay more per line than Centrex-CO users because they get more usage from their lines appears to be a resurrection of the argument we rejected when we adopted the access charge plan. If we adopted usage as the criterion for assessing common line costs to PBX and Centrex-CO customers, we would be obliged to adopt usage as the criterion for assessing common line costs to all customers of telecommunications services.

****13** 46. It is also somewhat misleading to say that stranded investment would be created if Centrex-CO customers substitute PBXs. If PBXs are in fact more cost-efficient than the Centrex-CO service, that investment would not exist under optimal conditions.

47. Nevertheless, we cannot be certain that Centrex-CO does not have advantages that may offset the cost of additional lines. The customers cannot make choices that will promote economic efficiency unless both the interstate access charges and the Centrex-CO service rates that are tariffed with the state commissions are priced in a manner that reflects the appropriate costs. Some petitions and other comments, including comments of state commissions, claim or at least suggest that the rates for Centrex-CO service have been set at a level that exceeds intrastate costs attributable to Centrex-CO service in order to provide an additional subsidy for residential local exchange service. In these circumstances, the telephone companies would be deprived of a fair opportunity to compete and the customers and the economy as a whole be deprived of any benefits that Centrex-CO service may be able to provide if we implemented our access charge plan in a manner that forced customers to adandon Centrex-CO service before the state commissions can reevaluate the rate structures they have adopted.

48. We have accordingly concluded that a multiyear transition for Centrex lines that are already in place or on order on July 27, 1983 is appropriate. For each year from 1984 until and including 1989, these 'embedded' Centrex lines would be assessed a monthly per line end user charge equal to that assessed residential end users for that year.[FN34] Such a ***701** temporary partial exemption will provide state commissions with additional time to reevaluate intrastate rates in light of our decision, will provide Centrex-CO customers with an adequate opportunity to make their choices in light of any decisions the state commissions may make, and will allow for additional recovery of Centrex investment from Centrex customers.

49. For purposes of determining the end user portion of the common line revenue requirement the residential rules should also be applied to the embedded Centrex lines. This would avoid imposing an additional burden upon other end users as a result of this temporary partial exemption for Centrex-CO lines. We believe it is appropriate to recover the shortfall that results from charging less than the ordinary business rate through the Carrier Common Line charges. This is consistent with our treatment of residential lines. Accordingly, we are revising Section 69.203 to establish procedures for counting Centrex-CO lines. Adjustments in intrastate rates that are either designed to preserve Centrex-CO service or to reflect a reapportionment of investment among remaining customers could have an adverse effect upon residential customers if state regulators choose to make upward adjustments in residential local exchange service rates. It should be possible to make any adjustments that might be required without affecting rates that residential customers pay. We shall, however, attempt to ascertain the

magnitude of the problem and the likely response of state regulators as part of our monitoring effort and will consider alternative remedies such as separations changes if it appears that state regulators are unable to avoid adverse effects upon residential customers. We are asking the Docket 80–286 Joint Board to assist us in identifying the nature and magnitude of any stranded investment problem and we shall ask that Joint Board to develop recommended solutions that state commissions or this Commission could adopt to prevent an adverse effect upon residential local exchange service rates.

****14** B. *Dedicated Access Line Element*

50. In the *Access Charge Order* we defined a dedicated access line to be either a WATS access line or a private line on the customer's side of an end office that does not terminate in certain types of customer premises equipment used exclusively for a particular interexchange service. This latter category could include all private lines, including closed end FX or ***702** CCSA lines that terminate in a PBX, a key system or similar equipment. The *Order* required that a local company assess a monthly charge upon an end user leasing a dedicated access line that equaled one-twelfth of the average annual revenue requirement for all dedicated access lines in use. The revenue requirement associated with other private lines would be allocated to the Special Access element and recovered through charges assesses to interexchange carriers.

51. In their petitions AT&T, GTE and United ask the Commission to reconsider its definition of dedicated access lines. They note that in order to determine whether a customer has a dedicated access line or a special access line a telephone company must be able to identify the customer premises equipment to which it is attached.[FN35] Because telephone companies are no longer the exclusive suppliers of CPE at which a private line terminates, there is no reliable way of making this determination. They recommend that all private lines be reclassified as Special Access, leaving only WATS access lines in the Dedicated Access Line category. GTE and USITA also suggest that we amend our rules to permit interexchange carriers to place orders and receive the billing for dedicated access lines as well as special access lines.

52. Under our original access charge plan, the Dedicated Access Line charge was used to establish the maximum end user charge. On reconsideration we have eliminated the maximum end user charge. Therefore, the Dedicated Access Line element could not serve its primary function even if we could redefine that element in a manner that does not depend upon the CPE that is used in conjunction with the line. We have accordingly decided to eliminate the Dedicated Access Line element and to redefine Special Access primarily as a suer element to include all private lines from the customer premises to the point of demarcation and all closed end WATS access lines.[FN36]

53. In their opposition filings, the Networks and Western Union expressed concern that the reassignment of voice grade private lines from the Dedicated Access Line to the Special Access category could result in assignment of costs to program transmission services and telex for which ***703** those services are not responsible.[FN37] Admittedly the redefinition of the access elements could result in assignment of some CPE costs to services that do not use CPE that would be described as Popenoe Plan CPE.*See Amendment of Part 67* (Decision and Order), CC Docket No. 80–286, 89 FCC 2d 1,*as modified*, 90 FCC 2d 52 (1982). This would be purely a transitional problem because the CPE or CPE surrogate costs will disappear in four years. The prior definition would not have produced a perfect match of CPE costs and line charges in any event. Many end users who do choose to terminate a private line in a PBX may not have used a telephone company provided PBX for years. Therefore, it will not be possible to achieve much precision in assigning those costs to particular customers on a cost causational basis. We recognize this potential problem and we have drafted our Special Access rule provisions in such a manner as

to permit the carriers to file appropriate tariffs which avoid charging the users of specialized private line service (e.g., program transmission, telex) for CPE costs which they have not occasioned.

****15** 54. The Dedicated Access Line element was described as an end user element in the *Access Charge Order* and the original Special Access element was described as a carrier element. We have received petitions requesting that interexchange carriers be permitted to order Dedicated Access lines and petitions requesting that end users be permitted to order Special Access line. As noted, we have reclassified Special Access primarily as a user element, para. 52 *supra*. We have decided that it would be appropriate to permit either an interexchange carrier or an end user to order any facility that is included in the combined element from an exchange carrier at the same rate, provided that the result is that any carrier which does so does not thereby avoid the payment of carrier's carrier charges as clarified in this decision.*See*, paras. 85 and 151–52 *infra*.[FN38] This should provide sufficient flexibility to meet the needs of customers with different needs. We shall, however, continue to classify Special Access as a 'traffic sensitive' element for purposes of an election to join or refrain from joining in association charges for traffic sensitive elements.

C. *Pay Telephone*

55. In the *Access Charge Order* we established an access element explicitly to recover the nontraffic sensitive ('NTS') costs associated with pay telephones. Concluding that it would be impossible to recover such ***704** costs through flat rates, we proposed to recover them through usage charges imposed on end users making interstate or international calls from a pay telephone.*See*47 CFR 69.103. Those placing collect, credit or third number billing calls from pay phones, however, would not be assessed this usage charge.

56. In their petitions for reconsideration, several parties have questioned the fairness of this rate structure. Each notes that many, if not most, interstate calls from pay telephones are not 'sent paid.'[FN39] As a consequence, under the present rules only a fraction of those using pay telephones would pay for this equipment. While all agree that this result would be inequitable, they propose three very different solutions to cure the problem. Centel, GTE, United and USITA would recover the costs from all interexchange carriers based on relative use. AT&T would recover the costs only from those interexchange carriers whose services can be accessed from pay telephones. Rochester proposes to distinguish between semipublic[FN40] and public[FN41] pay phones. The costs of the former it would recover through a flat charge that would be assessed to the subscriber on whose property the telephone was located. Rochester would recover 'a substantial portion' of the NTS costs associated with public pay phones from all subscribers through the flat end user access charge for common lines. Discount Phone urges us to require that pay phone costs be recovered from all persons using these phones to originate interstate calls. It proposes that this be done either by having each interexchange carrier act as the local companies' billing and collection agent for charges that recover these costs or by requiring each user to deposit coins to cover an end user pay phone charge, even if that user is placing a credit card or collect call.

****16** 57. We agree with the parties that the access charge plan for recovering pay telephone costs should be modified. Each alternative they have proposed, however, has disadvantages as well as the advantages its proponents emphasize. The telephone companies' proposal would be straightforward to administer and would provide assurance that they will be able to recover their investment in these facilities. As the OCCs and Discount Phone note, however, this rate structure will not assure that it is the cost causative customer who ultimately pays the charges. In fact, the ***705** OCCs fear that they will be charged for facilities that can be used only for AT&T interexchange services, either because a pay phone is a rotary phone or because it is a 'Charge-a-call' phone that accesses only AT&T

facilities. On the other hand, the first Discount Phone proposal would be impossible to implement. The local companies' measurement problems that are associated with ENFIA interconnections extend to calls placed from pay phones. The interexchange carriers with such connections rely on personal identification numbers and the location at which a call enters and leaves their network to determine subscriber charges. In these cases there is no way to capture pay phone usage. The Rochester proposal to recapture the costs of public pay phones has the unhappy effect of raising end user flat charges above associated costs.

58. After weighing the relative advantages and disadvantages of each proposal we have concluded that the best solution to the dilemma is to eliminate the rate element for coin telephones which can access the services of multiple interexchange carriers, and to reassign the costs associated with coin telephones to the common line revenue requirement. The ideal solution would be to recover the nontraffic sensitive costs of public pay phones also from end users who rely upon pay phones to originate their interstate calls. We are convinced, however, that at this time this ideal cannot be achieved. We believe a second best solution is to apportion these costs among the interexchange carriers upon whose services these customers rely to make their interstate calls. Consequently, the remainder of the additional revenue requirement associated with public coin telephones will be allocated to the Carrier Common Line Element and recovered through the usage sensitive charges assessed all interexchange carriers originating and terminating services in that study area. This is not a transitional assignment. Such costs will be treated in the same manner as inside wiring and Universal Service Fund costs that are assigned to the carrier portion of the common line revenue requirement.

59. Several OCCs oppose AT&T and GTE proposals to allocate pay telephone costs among interexchange carriers on the basis of relative total traffic in the area covered by each tariff. They question whether the percentage of OCC traffic originating at pay stations is as great as that originating from other uses. These OCCs state that pay phones offer inferior access. We nevertheless accept the telephone company proposals. The substitute for the premium access charge will account for the inability of telephone companies to pass on dial pulse signaling and other inequalities. Costs of alternative proposals to measure pay telephone usage directly appear excessive. Thus, while the telephone company proposal may be imperfect, it appears superior to the proposed alternatives.

****17 *706** 60. We are, however, accepting the suggestion that loop costs associated with semi-public telephones be recovered from subscribers to that service in the same manner that costs associated with an ordinary business subscriber line are recovered. Those fixed costs can be recovered from an indentifiable business end user through flat charges.

61. We are also creating a new element to recover costs associated with a third type of public telephone that was not discussed in the *Access Charge Order*. In recent years telephone companies have installed a number of coinless public telephones that may be used to place ‘sent paid’ or ‘sent collect’ interexchange calls without needing any coins at all. The AT&T reorganization plan has been modified to assign the telephones as well as the lines to the divested BOCs.[FN42] If the loops and the terminal equipment of these new telephones or of traditional pay telephones, are dedicated to interexchange services of a particular interexchange carrier,[FN43] these costs should be recovered through a flat carrier's carrier charge that is assessed to the interexchange carrier that ordered the particular telephone. We are accordingly creating an additional carrier's carrier access element which we shall call the Limited Pay Telephone element. On the other hand, if a coinless public telephone may be used to place interexchange calls on several interexchange carriers, the costs of the loops and terminal equipment should be treated like those of

public coin telephones—allotted to the Carrier Common Line Element and recovered through usage charges assessed all interexchange carriers originating and terminating services in that study area.

62. Although this access service is presently used primarily for the Charge-a-Call service offered by AT&T, other interexchange carriers may wish to offer similar services to their customers. The exchange carriers will be required to offer Coinless Pay Telephone facilities to any interexchange carrier who wishes to obtain that kind of access service if they offer such facilities to any interexchange carrier.

III. *The 'Carrier' Access Elements*

63. The *Access Charge Order* established a number of elements that will be assessed to interexchange carriers and recovered indirectly from end users through the interexchange service rates in tariffs that will be filed by the interexchange carriers. The first group of carrier charges is designed to recover the carrier portion of the common line revenue requirement. The second group is designed to recover the cost of end ***707** office services that are provided for services that are switched at one or both ends in manual or dial switching facilities that are also used for local exchange service. The third group is designed to recover additional switching and trunking costs associated with the transmission of such switched services from an end office to an interexchange facility. The fourth group is composed of some additional access services such as the provision of billing and collection and local distribution for special services. For convenience, we will describe the first group as common line charges, the second group as end office charges, the third group as transport charges, and the fourth group as other charges.

****18** A. *Common Line Charges*

1. *The Usage Charge*

64. The *Access Charge Order* established two carrier common line charges—a transitional flat charge for premium access that would be recovered from the interexchange carriers that provide MTS and WATS and a usage charge that would be recovered from all interexchange carriers that provide services that use local exchange switches. The major purposes of this carrier usage charge were to provide a permanent mechanism for funding the Universal Service Fund and to ease the transition to recovery from end users of all the costs of dedicated facilities not met by contributions to that fund. In 1984, these Common Line elements would have been used for recovery of over half of common line costs. During later years this proportion would decline. Carrier Common Line charges were to be assessed on interexchange carriers by the exchange carrier association. Because a single nationwide rate for the usage charges is to be assessed, significant averaging will occur during the initial transition, allowing time for the Universal Service Fund to be implemented.

65. Several petitioners seek modification of certain aspects of the carrier usage charge, or even complete elimination of this charge. SBS argues that the charge is inefficient since it is not cost-based.[FN44] MCI claims that such a charge would cause disruption that will not promote a smooth transition.[FN45] SPC states that the charge embodies an artificial distinction between common lines and dedicated lines. This distinction, SPC believes, will artificially favor AT&T.[FN46] ADCU says that the rules do not state whether the reduction in carrier common line charges is to be based on the original base or is to be adjusted to reflect changes in costs.[FN47] ***708** Finally, in its reply to oppositions the AT&T interexchange entity, 'ATTIX,' states that the carrier common line charge could not be used to recover the entire Universal Service Fund without generating bypass concern. ATTIX recommends the USF revenues in excess of $1 billion be recovered through national end user charge surcharges.[FN48] USTS has recommended that all Universal Service Fund costs be recovered through a per line surcharge on end users.

66. ATTIX and SBS are legitimately concerned

about the possible uneconomic effects of the Carrier Common Line charge. Such charges do reduce the relationship between rates and cost causation. Nevertheless, as the *Access Charge Order* stresses, for the most part the Carrier Common Line charge is a transitional charge. We explicitly recognized the economic costs of such a charge but viewed these costs as acceptable consequences of a gradual and certain transition. None of the petitions were able to suggest any alternative mechanism to produce such a transition.[FN49] We, therefore, reject any suggestion that the carrier usage or Carrier Common Line charge be abandoned.

67. We have also decided that we should not adopt the USTS or the ATTIX proposals for reassigning some or all of the Universal Service Fund costs. Assuming that we adopt the Joint Board's recommendation to begin phasing in high cost factor apportionments in 1986, there will not be any identifiable Universal Service Fund for at least two years.[FN50] We will deny those petitions without foreclosing further consideration at a more appropriate time.

****19** 68. We should note, however, that a substantial question has been raised with respect to ATTIX's right to present any proposals in its own name. SBS has file motions to strike all or part of the ATTIX filings in this proceeding because the combined AT&T and ATTIX filings exceed the applicable page limitations. SBS notes that ATTIX is not even a subsidiary corporation, it is merely an organizational division within the parent company. SBS alleges that the separate filings on behalf of the parent company and a division of the parent company represent an evasion of the rules and orders establishing the page limitations for this proceeding.

***709** 69. In view of the possible ambiguity on our rules with respect to the filing of comments by elements of the current integrated Bell System, we have concluded that the public interest would not be served by striking these particular filings from the record in this docket. We have also concluded that we should not accept separate ATTIX filings in Commission proceedings in the future. Requiring the parent company to speak with one voice in our proceedings should produce more orderly proceedings. The selection of that voice is, of course, the prerogative of the AT&T management. If the AT&T management whishes to assign responsibility to the ATTIX organization for the preparation of some or all comments or other documents that will be filed on behalf of AT&T, it may do so.[FN51]

2. *The Usage Measurement.*

70. Section 69.105 of the access charge rules describes the computation and assessment of the Carrier Common Line usage charges. That rule states that ‘conversation minutes' of ‘use of any local exchange switch’ are to be used for that purpose.

71. The AT&T petition notes two problems with that rule. First, usage of the local exchange switch includes switching at the closed end of a WATS service that does not use a common line. Second, the term ‘conversation minute’ is not defined.

72. AT&T has proposed an amendment of Section 69.105 that would expressly exclude closed end WATS usage of the local switch from the usage that is counted in order to compute and assess the Carrier Common Line usage charges. We have decided to adopt that proposal in order to make the rule conform with our actual intent. Common Line usage charges obviously should reflect common line usage and should not include usage of WATS access lines.

73. AT&T and Centel have suggested a definition of ‘conversation minutes' that could be used for the Carrier Common Line usage charge and other access charges that are computed and assessed on the basis of ‘conversation minutes.’ They would ascribe two different meanings to the term depending on whether the minutes are being measured at the originating or the terminating end of the call. Only in the latter case would they apply the usual meaning to the term ‘conversation minute,’ i.e., the usage arising from the time the end user at the ter-

minating end picks up the telephone until a party disconnects. For carrier's carrier charges, they would propose that chargeable usage begin on the originating end as soon as the interexchange carrier's facility at the ***710** originating end of the call acknowledges receipt of the transmission.[FN52] The OCCs recommend that we replace 'conversation minutes' with 'billed minutes' as the basis for assessing carrier's carrier charges.[FN53]

****20** 74. Both proposals have positive and negative facets. The telephone companies' proposal would base charges on data that the exchange carriers themselves can collect and verify. Because the measure they propose is similar to holding time minutes, it also ties charges more closely to cost causation. Its principal drawback, as the OCCs emphasize, is that it would increase the costs of access for OCCs with no concomitant improvement in the quality of access services they receive.*See, e.g.*, USTS Reply at 12–16. The increases would, in fact, be directly attributable to the inferior interconnection that these carriers now receive.*See id.* The use of 'billed minutes' would avoid increased charges to OCCs arising because of their inferior interconnection to the originating exchange network. We have found the meaning of that term, however, to be the subject of seemingly endless dispute under the ENFIA tariffs.*See, e.g.*, *American Telephone and Telegraph Company*, 91 FCC 2d 1079 (1982), *on reconsideration*, FCC 2d (FCC 83–125, April 25, 1983), *affirmed in part, remanded on other grounds sub nom.MCI v. FCC*, —— F.2d —— (D.C.Cir. 1983). For this reason we believe that as a basis for assessing usage charges on interexchange carriers, 'billed minutes' would be undesirable. We conclude that on balance the telephone companies' proposal offers the better long term solution. Accordingly, we shall require that the Carrier Common Line charge assessed on each interexchange carrier be based on a measure of usage that we call 'access minutes.'[FN54] On the originating end of an interstate call, access minutes of use charged to an interexchange carrier shall begin when the originating end user's call is acknowledged as received by the interexchange carrier's facility in that exchange area. On the terminating end of an interstate call, access minutes of use charged to the interexchange carrier shall begin when the call is received by the called end user and thus completed end-to-end. At each end, access minutes will terminate when the calling or called party hangs up, whichever event is first recognized by the exchange facilities at that end.

***711** 75. Section 69.2(a) of the access charge rules presently defines 'access service' to include the origination or termination of any interstate or foreign telecommunication that is subject to or exempt from tariff regulation. Several petitioners have asked us to clarify the application of particular carrier charges to resellers, enhanced service providers and other users of access service.

76. Inasmuch as most of our rules that describe the assessment of particular elements, including the Carrier Common Line usage charge, speak of charges that are assessed upon 'interexchange carriers', there is some uncertainty as to whether these rules would apply to entities which may not be considered carriers, such as enhanced service providers and operators of sharing networks, but which also use access service. Our intent was to apply these carrier's carrier charges to interexchange carriers, and to all resellers and enhanced service providers other than those, such as hotels, who provide their communications service solely at their own premises, or where the service is intended for internal administrative purposes.

****21** 77. We agree that our rules require clarification in this regard. In the course of sorting through and attempting to classify all of the entities that use access service, and taking into account some of the identification and measurement difficulties involved, it has become apparent to us that several important modifications to the charging scheme are needed if the Commission is ultimately to achieve its objective of distributing the costs of exchange access in a fair and reasonable manner among all users of access service, irrespective of their desig-

nation as carrier or private customer. We shall now describe these modifications and explain why we believe the revised plan offers the soundest means of distributing the cost burden. We outline below procedures to be used in the near term that are designed to achieve a rough equity among access service users, but which reflect a number of constraints on achieving greater uniformity immediately, including concern over customer impact. We also set in motion a program that we hope can hasten the time when, as operational problems are overcome and innovative ratemaking procedures can be introduced, all exchange access users will be charged on the same basis.

78. Among the variety of users of access service are facilities-based carriers, resellers (who use facilities provided by others), sharers, privately owned systems, enhanced service providers, and other private line and WATS customers, large and small, who 'leak' traffic into the exchange. In each case the user obtains local exchange services or facilities which are used, in part or in whole, for the purpose of completing interstate calls which transit its location and, commonly, another location in the exchange area. At its own location the user connects the local exchange call to another service or facility over which the call is carried ***712** out of state. These may consist either of owned or leased transmission capacity or a specific message service such as WATS. Depending upon the nature of its operation, a given private line or WATS user may or may not make significant use of local exchange service for interstate access. Thus, in the case in which a user connects an interstate private line to a PBX, some traffic may originate and terminate at the user location and other traffic may 'leak'[FN55] into the exchange in order that the calls can be completed at another location. A facilities-based carrier, reseller or enhanced service provider might terminate few calls at its own location and thus would make relatively heavy interstate use of local exchange services and facilities to access its customers. Hereafter we shall use the term 'leaky PBX' to denote the generic problem just described, whether the 'leak' occurs through a PBX or through another mechanism or instrumentality.

79. Of the many entities that now use access service, some are currently paying relatively high carrier usage charges, through either the settlements/division of revenues process or ENFIA rates, while others are obtaining exchange access at ordinary business local exchange service rates, which can be quite low in comparison, particularly in areas which have not implemented local measured service.

****22** 80. Leaky PBX traffic is far more significant in amount than the name would suggest. Large private systems, including CCSA and EPSCS-type networks and tandem-dial private systems originate and terminate vast quantities of interstate and intrastate toll traffic through the use of exchange telephone service paid for at local state rates. We had originally observed in the *Access Charge Order* [FN56] that leaky PBX traffic would diminish as increasing flat end user charges reduced the incentive to substitute private line for MTS. Now that the movement toward maximum end user flat charges will be somewhat more gradual, we must reevaluate our earlier conclusion that we need not levy specific additional charges on private line customers. Inasmuch as Carrier Common Line charges will be higher than anticipated as a result of the slowed transition to end user charges, failure on our part to include leaky PBX users in the access charge plan might actually prompt customers to rely even more on leaky PBX configurations to avoid message service rates which incorporate full access costs. Since our intention in this proceeding is to have all interstate users of exchange access pay the same charge for the same service, we must develop a strategy to address the leaky PBX situation commensurate with this goal. As we explain below, we have developed a transition plan to ensure that those responsible for leaky PBX traffic bear ***713** some share of interstate access costs. We recognize that private lines have proved beneficial to many users, and our plan is not meant to discourage or limit those uses. Our purpose here in only to ensure that those private

line users who do access local exchanges contribute a fair share to the support of these exchanges.

81. To place the leaky PBX problem into a rate perspective, it is important to understand why the incentive to use private line/exchange service networks in lieu of direct interstate access via MTS, WATS or OCC message services remains strong. The current access charge plan is geared primarily toward carrier providers of MTS/WATS equivalents, i.e., those paying ENFIA rates, and the telephone companies which pay through the separations procedures for their joint use of local telephone company plant. If no change were made in the plan, these groups would incur almost all of the non-user-assigned costs associated with interstate use of local exchange service. A large privately owned or leased system, on the other hand, using an array of services including switched private line and local exchange telephone lines would pay only local telephone rates. In many cases, that local rate is flat, regardless of the amount of use on the line to satisfy its interstate calling needs. There, it could be argued that no charge whatsoever is assessed for interstate use of local services since the flat rate comprehends local service only. In cases where the local rate is metered, notably in urban business areas, an incremental charge is for additional usage on the local exchange line so that some payment is made towards defraying the costs of operating the local exchange network.[FN57] This charge, however, is not applied to recovery of the interstate revenue requirement where the local exchange is used to originate or terminate interstate calls. In searching for a way to include leaky PBX use in the access charge plan, we are mindful that it will be difficult to devise a plan which specifically identifies interstate use of local exchange service and charges for such use on a discrete basis. We are not aware, for example, of any current practical means whereby interstate traffic can be distinguished from local or intrastate traffic on a private line. In many cases for example, the interstate private line extends between points in the same state making it very likely that some indeterminate amount of solely intrastate traffic on such line is jurisdictionally interstate.[FN58] Even if this could be done, however, each private line ***714** would have to be metered,[FN59] and some determination would have to be made of what percentage of local exchange traffic was interstate in order to avoid double charging, i.e., payment of a local metered charge plus an interstate per minute access charge. Clearly, if lines are not metered, there is no way to determine what percentage of traffic over exchange lines is interstate or local. Because of the increasing convergence of interstate and intrastate network and the ensuing difficulty of separating interstate communications from local and other intrastate communications, it would be most difficult in the long run to maintain a dichotomy between exchange service charges for interstate and for intrastate use. Until such time, therefore, as the leaky PBX problem can be resolved through ratemaking or facilities changes in private line, local exchange, or both, or by such other reasonably non-discriminatory means as the exchange carriers may devise, we find that a reasonable means of addressing the existing discrimination is to develop a surcharge on private lines to assure some contribution from all leaky PBX users. This charge is intended to be a surrogate for the carrier common line charges or similar charges we would otherwise impose.

****23** 82. We have decided, therefore, to require the imposition of surcharges on all jurisdictionally interstate private lines provided by exchange carriers. In the interest of consistency with our access charge scheme, we will include the closed end of WATS among the lines to which the surcharge should be assessed. This will also serve to reflect, in a representative and fair way, the fact that WATS, as a service which offers bulk calling capability at a declining usage rate, creates incentives among large users, resellers, enhanced service providers and sharers to access WATS from remote locations over local exchange or private lines. This latter arrangement is commonly found in large switched private line networks, such as the one used by the airlines for reservation and other services. At present,

however, it would not be worthwhile to access MTS[FN60] ***715** from remote locations via local exchange service since the user can originate a call at the user's premises at the same rate without incurring any local exchange charges.

83. Before determining the level at which the surrogate surcharge should be set, we will determine under what circumstances the surcharge should be applied. At present, resellers and other carriers pay carrier-type access charges in the form of ENFIA rates when they resell private line service in their provision of MTS/WATS-type services. We believe that it is reasonable similarly to require that carrier access charges be applied to any private line reseller to which ENFIA would have applied. Other users who employ exchange service for jurisdictionally interstate communications, including private firms, enhanced service providers, and sharers, who have been paying the generally much lower business service rates, would experience severe rate impacts were we immediately to assess carrier access charges upon them. One of our paramount concerns in fashioning a transition plan is the customer impact or market displacement that any proposed remedy might cause. Were we at the outset out impose full carrier usage charges on enhanced service providers and possibly sharers and a select few others who are currently paying local business exchange service rates for their interstate access, these entities would experience huge increases in their costs of operation which could affect their viability. The case for a transition to avoid this rate shock is made more compelling by our recognition that it will take time to develop a comprehensive plan for detecting all such usage and imposing charges in an evenhanded manner. We would envision that once a procedure is implemented by which the exchange carriers charge all access service users for their usage on an equal basis, the level of carrier access charges in general should fall as the universe of liable entities is expanded. For this reason also, it would be unreasonable immediately to increase as much as tenfold the charges paid by customers who do not presently come under the coverage of the current ENFIA tariff. In contrast, those carriers which are presently subject to carrier-type charges under the ENFIA tariff have already experienced the transition to ENFIA-type charges and have had time to adjust their operations.

****24** 84. Our decision to continue to apply carrier access charges to private line resellers, however, does not mean that we are oblivious to the difficulties that might be encountered in attempting to identify resellers for purposes of imposing charges which are not paid by the general public. For one, resellers are no longer required to file tariffs with this Commission. *Competitive Carrier Rulemaking* (Second Report and Order), 91 FCC 2d 59 (1982), recon. FCC 83–69 (released March 1, 1983). Further, the line between resellers and sharers has always been difficult to administer, as is evident from a reading of our *Private Line Resale* ****716*** *and Shared Use* decision in which these terms were defined, and will be made even more difficult as a result of new technologies and modes of operation, regulatory developments, and different rate incentives.[FN61] In addition, there are other factors that might make it very difficult to distinguish resellers from enhanced service providers and private systems. A reseller, for example, could attempt to change over to an enhanced form of operation or disguise itself as a private user by simply not advertising, or by integrating its network with that of a very large single-company network. In any event we emphasize that efforts made by exchange carriers to identify resellers must be of a reasonably consistent and nondiscriminatory nature.[FN62] To the extent that certain resellers cannot be identified, as may be the case, the surcharge which applies to all private line users will apply to them as well, and will similarly serve as a temporary surrogate for interstate access charges. We do not intend for carrier's potential failure to identify resellers through reasonable means to become grounds on which either exchange or interexchange carriers can justify reasonable terms or conditions in their tariffs, or can otherwise restrict beneficial uses of service, in

the interest of controlling resale activities.

85. The transitional considerations do apply, however, to resellers and other OCCs to the extent they resell WATS. ENFIA charges do no apply to WATS resale. Rather, WATS resellers pay for their own associated local exchange service on the basis of rates filed in the state tariffs. Therefore, those carriers using resold WATS in conjunction with local exchange service as some part of their operations would experience a severe rate impact were they required to pay full carrier usage charges at the outset. Here, too, we think the better course is to assess the surcharge upon all WATS special access lines during 1984.[FN63] As provided in paras. 88 ***717** and 90. *infra.* we will reassess the appropriate level of the surcharge for WATS lines and for all other private lines after 1984, and if necessary we will make appropriate adjustments.

86. Having determined which entities will be required to pay a surcharge, we now determine the appropriate level at which the surcharge should be set. Ideally, the surrogate private line WATS surcharge should be set at a level which yields overall revenues representative of the revenues forgone on account of users obtaining access services at local telephone service rates. In other words, the aggregate surcharge revenues serve as a surrogate for the interstate access charges which would be collected if leaky PBX usage could be quantified and identified as to source. However, in order to protect those private line customers with relatively low leaky PBX usage, we will be conservative in our estimate of these forgone revenues. For the plan to work, we are requiring that the surcharge be applied to all interstate WATS lines without exception and to all private lines[FN64] except those which are used by carriers in MTS/WATS-like configuration where carrier's carrier access charges will already ***718** apply, and those which cannot practically be used to access the local exchange network or otherwise be used to avoid interstate access charges. We believe it is reasonable to include as part of this latter exception radio and television program transmission and Telex lines. In addition access lines associated with the open end of foreign exchange service offered by carriers will not be subject the surcharge since Carrier Common Line charges will be imposed on the open end and, therefore, no uncompensated leakage can occur. The same is true for CCSA ONALs and their equivalents. We would also permit such other exceptions or modifications which are shown to be reasonable and supported by actual operating practicalities and limitations.[FN65] In addition to exchange carrier-provided private lines and WATS lines, we shall allow exchange carriers to develop reasonable, nondiscriminatory surcharges on interconnected use of exchange services by carriers' publicly-offered interstate services using radio and other facilities (e.g. DTS), and privately-owned microwave relay systems, satellite transmission systems, and other interstate private facilities that would otherwise not be subject to either the surcharge or carriers access charges (that is, that will not employ any end links obtained from the exchange carriers to which private line surcharges would apply). In such cases, we are prepared to consider carriers' proposals for a surcharge to the individual exchange telephone lines[FN66] which can be connected to such systems. Such a surcharge would have to be filed in tariffs with this Commission.

****25** 87. In employing the surcharge approach to the leaky PBX situation, and access charge avoidance generally, we recognize that different customers employ private lines in different ways. This in turn translates into different amounts of use of local exchange service per equivalent voice-grade private line. Certain customers, for example, use private lines in unswitched configurations such that the preponderance of traffic is intracompany. Others use private lines in conjunction with local exchange service almost exclusively to avoid toll charges. Application of the surcharge on a general basis, however, is unavoidable since neither this Commission nor the exchange carriers themselves currently have any reliable way of determining how private lines are internally configured and interconnected

on a customer premises, and thus do not know with ***719** certainty how they are used.[FN67] We believe, however, that by sizing the surcharge on a conservative basis, exchange carriers will recover a reasonable amount of interstate access revenues which would otherwise have been lost, without any undue impact on private line users or on the orderliness of the marketplace. Generally, private line users could satisfy their communications needs equally well if they were to replace private lines with their message service counterparts. The MTS network, for example, can be and is today employed for voice, graphic, written record, facsimile and data transmission. Further, as noted earlier, private line is largely a substitute for telephone toll service, as evidence by the fact that a few very large private users who have CCSA and EPSCS systems account for a major share of all private lines. There is no question, then, that as a result of any increases in the private lines rates service to customers would not be curtailed or impaired in any significant way.*See Aeronautical Radio, Inc. v. FCC,* 642 F.2d 1221 (D.C. Cir. 1980), *cert. denied* 101 S. Ct. 1998 (1981). To the extent private line service is uniquely essential to business operations, e.g., remote telemetering and the like, the value of private line service is measured by such customers in terms of internal operating capabilities rather than in terms of saving money on long distance telephone bills. Most likely, therefore, a nominal surcharge will not appreciably reduce the attractiveness of private line service where it is essential by virtue of the business function which it performs. Finally, even were many private line users to switch to public message network services over a short period of time, the transmission plant used for private line service is in almost all cases fungible with the plant used for public message service, insuring continued ability to provide service. We believe, therefore, that no unreasonable impact will result from the surcharges.[FN68]

88. We are also requiring exchange carriers to develop their own methods of calculating suitable surcharges to act as a surrogate for ***720** revenues forgone as a result of avoidance of carrier access charges and services, such as MTS, which incorporate these charges. This could be done, for example, by various means of estimation from company records and available industry studies as well as customer surveys. It could also be done by sampling the amount of increase in local exchange traffic which comes about as a result of adding intrastate and interstate private lines to customer networks, or by such other reasonable means as may be devised by exchange carriers. We recognize, however, that little time remains between now and October, 1983 when access tariffs are to be filed. Accordingly, we shall use our best judgment to develop an initial surcharge level, pending development of such charges by the carriers. First, we note that private lines attached to a PBX are capable of 'leaking' into the local exchange. Because most private lines are connected to PBXs, most private lines are capable of leaking. Although one might assume that all private lines would leak if capable of doing so, we are aware of some private lines connected to PBXs that actually may not be used in connection with local exchange services to make interstate calls. We believe a fair estimate of the number of such lines would be 20 percent of all private lines. Thus, we estimate that 80 percent of all private lines do leak through a PBX or other patching or switching device. We shall assume that 8 percent of all communications made over such lines are interstate, based on the latest data available to us on average subscriber line usage for interstate MTS and WATS services.[FN69] Eight percent of 80 percent is 6.4 percent, which represents the proportion of all private line usage that 'leaks' into the local exchange. We further assume, based on estimates submitted in this proceeding, that nonpremium carriers would pay approximately $400–$500 in monthly carrier usage charge under the access charge plan.[FN70] Taking 6.4 percent of these figures, we arrive at a range of approximately $25–$32 per month per line. We will select the lower end of this range, $25, as a conservative estimate of what the interim surcharge should be.[FN71] In cases where the surcharge ***721** is levied, no transport switching or

other carrier access charges will be imposed for associated local exchange service. Customers instead will remain subject to business local exchange service charges for the line between the reseller or sharer switch, enhanced service node or PBX and the telephone company's local switch. In addition, all switching functions will continue to be subsumed under the local business rate. The exchange carriers will be required to transmit surcharge revenues to the Exchange Carrier Association monthly in 1984, 1985, and 1986; these revenues will be used to defray carrier common line revenue requirements. In the absence of further action by the Commission, in 1987 and beyond such revenues shall be used to reduce the revenue requirement associated with the Local Switching elements. Based on our estimate that there are between 750,000 and 1,000,000 WATS access lines, and 750,000 and 1,000,000 private lines not currently subject to ENFIA charges,[FN72] the surcharge would yield annual revenues of between $675 and $900 million. In addition, of the more than 3,000,000 private lines now on file in state tariffs, a very conservative estimate would be that at least one-third of these are clearly interstate in nature.[FN73] This would add an additional $300 million yielding total estimated surcharge revenue of between $975 million and $1.2 billion.

****26** 89. A special formula will be required to apply the surcharge as described above, to facility based and resale carriers who use a combination of resold WATS (which is to be treated under this surcharge approach) and leased private line or carrier-owned transmission plant (which is to be treated under carrier's carrier charges). Carriers such as MCI, for example, use WATS lines to supplement their own facility-based operations while resellers may use WATS to supplement resold private line-based operations. The Bell System Operating Companies are currently***722** using a billing arrangement, BSOC Tariff FCC No. 11, which enables them to distinguish local exchange usage generated by WATS resale from similar usage caused by facility-based or resold private line-based operations. This is done in order to distinguish between lines which are charged under local business line rates, i.e., those associated with WATS, and those to which ENFIA rates apply. We believe a similar formula would be an appropriate means of implementing our decision.

90. For the future, we are requiring exchange carriers to make concerted efforts to develop charges which reflect actual use of local exchange service by all customers, regardless of their designation as OCC, enhanced service provider, or privately owned or leased system. As we have already explained at length, a wide variety of entities use local exchange service in much the same way as OCCs.[FN74] Initially all will not pay the same charges for their access services. We are acutely aware of the obstacles to rapid achievement of a permanent solution of the leaky PBX problem and interstate access charge avoidance in general. We believe that in view of such difficulties, the surcharge plan is a reasonable interim approach to achieving some degree of equilibrium among the levels of contributions various customers must make towards defraying interstate access costs. We will henceforth monitor exchange carrier activities to ensure that they are making reasonable efforts to effect a means of charging all users for interstate access in a reasonably nondiscriminatory fashion. We believe the plan we have adopted gives exchange carriers the incentives to pursue various reasonable means, both in the state and interstate service areas, to achieve whatever ratemaking reforms are needed to overcome the interstate access charge avoidance. We will entertain any reasonable, nondiscriminatory proposals which these carriers make in the future and afford such support as we are empowered to give in order to achieve reasonable solutions. Following one year's time from issuance of this order, we will review the progress made by exchange carriers and, if necessary, make further rate level or rate structure adjustments or institute on our own an appropriate proceeding to develop such access charge mechanisms as needed to ensure that all users pay a fair and equitable share

of the costs which their usage imposes on the telephone exchange network.

****27 *723** 4. *The Premium Access Charge*

91. Currently the access charge rules require that a premium charge equal to the amount of interstate CPE and surrogate CPE (about $1.4 billion in 1984) be imposed on the carriers providing MTS and WATS services in order to reflect the opportunity cost of premium access.[FN75] This opportunity cost reflects the fact that only one carrier can be provided premium access. Other things being equal, premium access is of substantial value to any carrier receiving it. The premium access charge was designed to reflect this advantage.

92. We have received petitions from a number of non-premium carriers stating that the $1.4 billion does not reflect the full opportunity cost of premium access, results in too rapid a change from current nonpremium access prices, and would stifle current growth of competition in the period immediately preceding equal access and more equal competition. AT&T, the principal carrier receiving premium access, has suggested that changes in the premium access charge be deferred until other more basic access charge problems can be solved. If the Commission does decide to reexamine its prescription of the premium amount, however, AT&T suggests that the current premium be eliminated as inconsistent with cost-based pricing and with fair competition.

93. We disagree with AT&T's assessment that the premium access charge question can be deferred. Determining appropriate charges for OCCs and AT&T is a major purpose of this investigation. If the premium charge differs substantially from the true opportunity cost of premium access, the development of competition and network efficiency could be hindered. Moreover, a premium amount must be established in order to compute the Carrier Common Line usage charges in the tariffs that must be filed in October.

94. We also disagree with AT&T's belief that a premium charge is inconsistent with competition and with cost-based pricing. It is true that ***724** value of service pricing might be consistent with cost-based pricing if all carriers could be provided with equal access. As noted by MCI, however, opportunity cost is a fundamental result of scarcity and reflects real economic costs that must be taken into account if cost-based pricing is to lead to efficient use of the network.[FN76]

95. We also reject claims by some of the OCCs that the methods we have devised to assess the premium do not result in a meaningful premium assessment. Some have argued that a $1.4 billion premium assessment really represents a premium charge of $56 million because AT&T would pay 96% of the assessment, based on its current market share, if the entire carrier common line revenue requirement were recovered through usage charges assessed on all carriers. Admittedly, an additional premium of only $56 million paid by AT&T appears small because AT&T provides a large share of interstate services, with MTS/WATS revenues of about $24 billion in 1982. To the relatively small OCCs, however, a $56 million savings in the charges they pay would be a significant advantage. The $1.4 billion premium would have resulted in a significant reduction in the per minute charge the OCCs would otherwise have had to pay to meet the full Carrier Common Line revenue requirement. Viewed from another perspective. OCC revenues were about $1.5 billion in 1982.*See* Letter from Common Carrier Bureau to Rep. Wirth, Chart 2 (July 8, 1983).A $56 million reduction in OCC access charges would represent about 4 percent of total OCC revenues that, but for the premium, OCCs would have paid to local telephone companies. For these reasons, the comparison of $56 million to total interstate MTS and WATS revenue is not meaningful. The premium is clearly an important factor in maintaining the OCC's ability to compete in the interstate services despite their inferior interconnection to local facilities.

****28** 96. If the type of access currently received by

AT&T is available only to one carrier both now and into the future, the theoretically correct method to measure opportunity cost would be an auction of premium access. In such an auction various long distance carriers could, through bidding, demonstrate the value of premium access, and premium access, in each exchange, would be made avaiable to the long distance carrier to which it was most valuable. In fact, such an auction would be a practical impossibility because premium interconnection cannot be severed from AT&T and offered to another carrier. Nor could an auction be simulated since carriers would have no incentive to make realistic bids. Even if premium access could be severed from AT&T, the resulting temporary dislocations to the entire telecommunications industry would be too costly. Also, given the relative sizes of AT&T and other bidders, others could probably not reasonably be expected to bid against AT&T for premium ***725** interconnection.*See, e.g.*, Procedures for Implementing the Detariffing of Customer PremisesEquipment and Enhanced Services (CC Docket No. 81–893), FCC 83–181, para. 21 (released June 21, 1983). Moreover, equal access will become available to all carriers in almost all areas within the next several years.

97. Having concluded that holding an auction to determine the opportunity cost of premium interconnection is a practical impossibility, we have been forced to seek a 'second best' alternative that will enable us to make a reasonable estimate of the opportunity cost of premium interconnection. On reconsideration we have concluded that the opportunity cost of premium interconnection should be implemented as a difference between the per minute Carrier Common Line charge assessed to AT&T and the per minute charge assessed to the OCCs, and that this differential is to be determined based upon the competitive advantages that flow from the premium interconnection that AT&T receives compared with the interconnection offered to OCCs. We are accordingly eliminating the premium as a separate rate element and are specifying the factors that are to be applied to the relevant minutes of nonpremium usage in order to compute the differential. We have selected this approach because it is the one most fully supported by the record developed in this proceeding, because it more fairly reflects the value to AT&T of the relatively higher quality access it receives, and because it is easier to implement. After making the comparison set forth below, we applied our expert knowledge of the telecommunications market to determine the differential between the per minute charges assessed AT&T and the OCCs that fairly reflects the competitive advantages of premium access. For the reasons given in paras. 101–27 *infra*, we have decided to set the differential at 35%. In arriving at this amount we also have taken into account the transitional impact on the OCCs of a reduction in the differential that presently exists under the ENFIA tariff and other changes caused by this order. We need to ensure that the development of competition in the interexchange market will not be stifled during the transition to equal interconnection and full cost-based prices. While not as generous as the discount they received under ENFIA, we believe a differential of 35% on Carrier Common Line charges should still enable the OCCs to compete for customers successfully because it should adequately offset the competitive advantage that AT&T enjoys from its premium access.

****29** 98. We concluded in the *Access Charges Order* that the amount of the premium should equal CPE costs, at least in 1984, because the estimated CPE costs reasonably approximated our estimate of the value that AT&T derives from premium access. We noted in Paragraph 159 of the *Access Charge Order:*

> ***726** We have invited proponents of a large or a small differential in the access compensation paid by OCCs and the telephone company partnership to submit a case for a particular differential both in this docket and in proceedings relating to the ENFIA agreement. Those participants have apparently been unable to produce submissions that have much evidentiary value. In these circumstances, we necessarily must ex-

ercise our best judgment to establish an appropriate premium amount.

We exercise this judgment below.

99. Several of the petitioners have produced submissions in the reconsideration proceeding that are designed to provide a more complete record on this subject. Although we cannot accept any of the suggested methodologies or calculations in their entirety, these submissions have been of material assistance to us in our efforts to determine a more reasonable estimate of premium value on reconsideration.

100. The predominant form of OCC interconnection (ENFIA–A) is line-side connection to end offices. AT&T correctly observes that ENFIA–B, ENFIA–C and Digital Facilities for Other Common Carriers (Tariff FCC No. 268) are available to OCCs and that these facilities provide more dependable levels of signaling and reduce the need for interconnection equipment. The cost and frequent unavailability of these service offerings in the past, however, has limited their value. With a fourth alternative that is clearly superior to any of these, *i.e.*, equal access, on the near horizon, OCCs may be understandably reluctant to incur the costs of converting to any of the current alternatives to ENFIA–A even if they should become more readily available. For this reason, we shall compare premium access only to ENFIA–A interconnection for purposes of determining the differential.

101. The technical features of premium interconnection that distinguish it from ENFIA–A are not difficult to list. They include: trunk side, four-wire connection to local switches; transmission of traffic through fewer local switches from end to end than OCC traffic usually experiences; answer supervision and automatic number identification (‘ANI’). AT&T customers need dial only ten or eleven digits to identify the line they wish to call and may use rotary dial phones that produce only pulse signaling to pass this information to the AT&T switch. Customers of an OCC must dial twenty-two or twenty-three digits to place a call and they cannot rely on pulse signaling to transmit this information to the OCC's switch. To understand why the differential should be based on these factors, however, it is necessary to understand the competitive effect of these technical differences on interexchange carriers' service offerings.

****30** 102. Trunk-side, four-wire interconnection and transmission through fewer switches enables AT&T to offer its customers quality transmission without its having to employ the interconnection equipment and echo suppressors of cancellers upon which the OCCs must rely to approximate ***727** this quality transmission.[FN77] With ANI, AT&T can identify the line from which a call is placed (and to which it will usually be billed) while answer supervision tells AT&T when the called party has answered and when that party hangs up. Together ANI and answer supervision enable AT&T to bill its customers accurately for the calls they successfully complete. In contrast the OCCs must rely on personal identification numbers (‘PINs') to identify the party who should be billed for calls. The need for PINs increases the opportunity for fraud and a correspondingly higher percentage of uncollectibles than AT&T experiences. Lack of ANI creates similar problems for the OCCs. Because they do not know when the person called by one of their customers has answered, OCCs with ENFIA-A lines must assume that the called party will answer within a fixed number of seconds. As a consequence OCC customers who let the telephone continue ringing too long may be billed for calls that were never completed, which can create customer dissatisfaction. Other customers may be able to transmit all the information they wish to give within the fixed period and thus escape charges for their calls.

103. Another significant difference between the interconnection offered AT&T and ENFIA-A is the difference in the steps a customer must take to be able to use these carriers' facilities. AT&T has estimated that in 1984, 40% of all telephones will be rotary dial telephones capable of transmitting only pulse signals.[FN78] As we have already noted, the

OCCs cannot compete with AT&T for the business of owners or lessees of such phones without adaptors for or replacement of the phones. While the remaining 60% of all telephones can be used to reach OCC facilities to place toll calls, their owners must dial seven digits to reach the OCC switch, five or six more digits corresponding to their PIN, and only then the ten digits corresponding to the area code and telephone number of the person they are trying to call. Since a PIN must be used, an OCC's switch is seized over longer periods for each call, requiring larger, more expensive switching equipment than AT&T needs to handle the same number of calls. Customers must spend time in setting up the calls to the OCC, in waiting for an OCC ring and in OCC verification of the PIN. There is an increased probability of error in dialing the longer OCC codes; this error will in turn increase OCC switching time per call. The OCC will also be accruing access minutes and concomitant access charges while the customer completes his PIN and ten digit number. AT&T's access minutes will not begin to accrue until after the customer has completed dialing the ***728** ten (or eleven) digit number. Moreover, prior to implementation of the MFJ's equal access requirement, AT&T will continue to enjoy the position of default carrier for all customers who do not seek out its competitors on their own initiative.

****31** 104. Weighing all these factors we conclude that the premium interconnection that AT&T now enjoys is clearly more valuable than that offered to the OCCs. This value clearly arises as much from the inconvenience and expenses that AT&T can avoid as from the benefits it provides. Applying our expertise, we find for purposes of this decision that applying a factor of .65 to OCC access minutes for assessing the per minute Carrier Common Line charge in 1984 will establish a reasonable measure of that value. Such an assessment probably cannot be made with exact precision. Even assuming that the necessary data could be developed, the need for prompt Commission action to set the premium value is pressing, and a more accurate assessment of the opportunity cost of premium access would require further proceedings. If the 35% differential were not merely a short-term solution to the temporary problems created by unequal access, and if we were confident that further proceedings would yield better data, we would be prepared to go through such proceedings. We are only relying on this differential to carry the industry through the interim until equal access is available to OCCs virtually everywhere. For these reasons we believe that we have reached the 'reasonable prompt decision-making point' at which we must be prepared to say 'To the best of our knowledge and expertise at this time [the 35% differential is] just and reasonable. Perfect, perhaps not, but just and reasonable, yes.' *See MCI Telecommunications* v. *FCC*, 627 F.2d 322, 340 (D.C. Cir. 1980).

105. The transition we are creating through this 35% differential for interexchange carriers as they move to a competitive environment in which access is equal in and based on cost is designed to avoid affording undue competitive advantage to any carrier. In selecting the 35% figure in pricing the Carrier Common Line element we have taken into account the possibility that transport charges for OCCs may result in their paying higher overall rates than they are paying now for ENFIA interconnection. We have recently received letters from some of the OCCs that urge us to take preliminary estimates of the 1984 access charges into account in establishing the 1984 premium assessment. These submissions are authorized as *ex parte* comments in a nonrestricted rulemaking proceeding and have been included in the docket file. In particular, MCI claims that the BOC Central Service organization preliminary estimates would produce a total NTS and traffic sensitive charge per ENFIA line that is twice as large as the present combined charge for ENFIA elements 1, 2, and 3. This appears to be attributable in part to estimated transport charges that ***729** are much higher than ENFIA Element 1 rates that OCCs have been paying for the lines between local telephone company switches and the OCC switches. We expect that any increased charges will be fully

supported as required by Section 61.38 of our rules, and we intend to examine the support data carefully to assure that any rate increases are fully justified. Our goal is to ensure that an appropriate competitive balance is maintained during the transition. If our monitoring of marketplace developments reveals that the 35% differential confers an undue competitive advantage upon either AT&T or the OCCs, we would be prepared to review the level of the differential expeditiously to ensure that the competitiveness of the marketplace is maintained and that the overall public interest is served.

****32** 106. We have decided that we should not retain the four year phaseout for the premium differential since premium access will no longer be related to CPE costs. The premium charge should be phased out at the same rate at which equal interconnection is provided. However, we recognize that progress to equal access cannot be predicted with absolute certainty at this time. We have begun the rulemaking proceeding in which we shall set the timetable and standards governing introduction of equal access to independent telephone companies' local networks.*See Notice of Proposed Rulemaking in MTS and WATS Market Structure, Phase III*, CC Docket No. 78–72,Phase III, FCC 83–178, released May 31, 1983. It is also possible that the schedule set by the MFJ for the BOCs' offerings of equal access may prove too ambitious for those companies to achieve. Consequently, it may be necessary to reevaluate the rate at which the differential is to be reduced in later years. The differentials for later years appearing in the rules are accordingly described as default factors that will be used in the absence of a Commission order establishing different factors. We have nonetheless concluded that these default differentials should be related to the MFJ schedule for equal access and are accordingly specifying a .23 differential for 1985, a .12 differential for the period from January 1, 1986 until August 31 of that year, and no differential after that date.

107. In an attempt to ensure that the 35% differential reasonably reflects the opportunity cost of premium access, we have approached the task of measuring this cost from another perspective, involving certain reasonable assumptions. This approach generates an estimate of the opportunity cost of premium access that is close enough to our 35% differential to support our confidence that this figure fairly approximates that opportunity cost. The information contained in Petitions for Reconsideration and responses filed by AT&T and the OCCs can be used to determine a general range within which the opportunity cost is likely to lie.

***730** 108. The analysis below focuses on the amount that AT&T, the only carrier capable of taking advantage of premium access within the next several years, should be willing to pay to be allowed to preserve its premium access. The amount should be identical to the amount that a hypothetical non-premium carrier having AT&T's market share would be willing to pay to become the premium carrier. We focus on costs that can be avoided by a carrier that has premium access but that AT&T would have to bear if it had inferior access, and on the revenue loss that would result if AT&T were not able to offer its customers superior quality communications as a result of inferior access. We have not attempted to adjust for transitional costs that would be created if AT&T were suddenly denied premium access. Such costs are not a part of the opportunity cost of premium access.

109. The additional costs that AT&T, or a hypothetical OCC having AT&T's market share, would incur fall into four principal categories—replacement of rotary telephones, collection losses, toll switching costs and other equipment costs.

****33** 110. Rotary dial telephones cannot be used to transmit signaling to non-premium carriers who use ENFIA–A or ENFIA–C connections. Such telephones can be used with an ENFIA–B connection, but ENFIA–B is not universally available. Moreover, the non-premium carriers are likely to be reluctant to convert existing ENFIA–A operations

to ENFIA–B or ENFIA–C when a fourth alternative that is clearly superior to the A, B and C connections will become available in the not too distant future.

111. If AT&T were limited to ENFIA–A connections it would either have to incur the cost of supplying tone equipment to local exchange service subscribers who do not have them, or offer a discount that would be sufficient to induce such persons to acquire such equipment. Such a discount would include an amount to offset higher monthly local exchange service rates that are typically charged for tone dialing lines. If it did not do so, it would abandon that portion of the market to a carrier that had premium access.

112. AT&T has estimated that in 1984 40 percent of the phones will continue to provide pulse signaling only. Costs of converting these phones to non-premium compatibility equal about $25 per phone. [FN79] A total customer investment of $1 billion (the product of 40 million phones and $25 per phone) would be required to allow dial pulse phone users to access non-premium interstate services. Assuming a three-to-five year life and a 15 percent customer cost of capital, this investment can be converted into an annual cost of about $275–408 million.

***731** 113. Adjustments to these figures are necessary to allow for the customer benefits from being able to make faster local calls through use of tone dialing. We believe that a reasonable estimate of the cost that AT&T would incur to be able to offer a non-premium service to the customers who would not otherwise have abandoned rotary telephones would fall between $100 and $300 million.

114. One result of non-premium access is a high level of non-premium carrier uncollectibles. Estimates of the difference between AT&T and OCC uncollectibles range from 3.14 to 8 percent.[FN80] The higher estimate reflects recession conditions in 1982, the lower estimate is probably more representative of normal conditions.

115. If AT&T received non-premium access its revenues would be reduced by additional uncollectibles that would be attributable to such interconnection. It would also incur some added costs to handle customer complaints that are attributable to such arrangements. One major reason for the difference in uncollectibles is in that local companies will discontinue local service if customers fail to pay their AT&T bill, but will not do so for other long distance carriers. As a result of the billing rules prescribed herein, this advantage will no longer hold. Thus, we have concluded that a residual revenue loss of between one and two percent would be a likely result of remaining differences.

****34** 116. We have derived a projected 1983 MTS and WATS revenue requirement of $24.1 billion from data included in the AT&T Tariff Filing Reference Package filed March 1983. If the $2 and $6 per line end user charges had been in effect, that revenue requirement would have been reduced by about $3.5 billion.[FN81] The resulting $20.6 billion would have to be adjusted upward for 1984 to reflect increased investment and expenses. An estimate of $21.6 billion in MTS and WATS revenues appears reasonable, and would produce an adjustment of $216 to $432 million per year for uncollectibles and complaints.

117. Non-premium access requires the use of a seven digit number for the OCC switch and multidigit PIN. Since a PIN must be used, non-premium carrier switches are seized over longer periods, requiring larger and more expensive switching equipment. As we have already observed, customer time is also used in setting up the call to the OCC, in waiting for an OCC ring and in OCC verification of the PIN. There is, of course, a probability of error in dialing long codes and this will add to the amount of non-premium carrier switching time used per call. On average, about 10 ***732** seconds per call are likely to be used for such set up.[FN82] Since an average call lasts approximately 8 minutes and there are some 50.1 billion minutes of premium calls made,[FN83] AT&T toll switches would be

used an additional 1.045 billion minutes if AT&T were compelled to use non-premium access. While switching costs vary, an estimate of 1–3 cents per minute appears reasonable. Thus an additional 1.045 billion minutes would add $10.05–31.35 million in toll switching costs.

118. USTS has estimated that OCCs incur costs of $98 per month per ENFIA line ($49 in equipment costs and $49 in operating costs) to offset the effects of inferior interconnection.[FN84] SPC estimates additional equipment costs of $69 per month per ENFIA line.[FN85] We have already allowed for many of these costs as effects of the absence of rotary dial switching, billing losses and additional toll switching costs, but some of the costs described by USTS would not be reflected in those cost estimates. In particular, the USTS estimates include echo suppression equipment ($7 per month per line), interconnection equipment ($22 per month per line) and E & M signaling equipment ($12 per month per line).[FN86]

119. AT&T claims that no additional costs should be claimed for echo control because echo control is necessary for all satellite circuits.[FN87] USTS responds, however, that the costs if claims represent additional costs, e.g., use of echo cancellers rather than echo suppressors. We find that some additional costs should be attributed to inferior interconnection.

120. AT&T correctly observes that ENFIA–B, ENFIA–C and Digital Facilities for Other Common Carriers (Tariff F.C.C. No. 268) are now available and that these facilities provide more dependable levels of signaling and reduce the need for interconnection equipment. Although the cost and frequent unavailability of these services has limited their value, some reduction in the estimated cost of signaling and interconnection equipment is warranted.

****35** 121. USTS has revised its estimates of equipment costs in a letter dated July 14, 1983, from J.C. Reynolds, President of United States Transmission Systems, Inc. The Reynolds letter states that echo suppressor***733** costs are $23.00 per month rather than $7.00, interconnection equipment costs are $24.00 per month rather than $22.00 and E&M signaling costs are $14.00 per month rather than $12.00. Although this letter was received within the period permitted by our *ex parte* rules, we do not believe it would be appropriate to attach much weight to the revised estimates in view of the large discrepancy between the earlier USTS estimate and the July 14 estimate of costs and the very limited opportunity for a response by other interested parties. In view of all the circumstances, we find that $31.00 per ENFIA line per month is an appropriate estimate of additional signaling, interconnection and echo suppression costs. This would produce a total annual cost for 95,000 ENFIA lines of about $35.34 million.[FN88] USTS used a 25:1 factor to convert such OCC costs to the costs that AT&T would incur because OCCs account for about 4% of the total market. Because AT&T would not have to incur some costs incurred by OCCs, the correct factor is 24:1, resulting in an AT&T other equipment cost of about $848 million.

122. The combined costs that AT&T would avoid through premium access ($100–300 million for rotary telephone conversion, $216–432 million billing costs, $10–31 million toll switchings costs, and $848 million other equipment costs) range between $1,174 and $1,611 million.

123. The ability to access dial pulse customers and to avoid investment needed to compensate for inferior access reflect only a part of the opportunity cost of premium access. The carrier able to receive premium access is able to provide a service with superior technical standards. Such a superior product has value to most customers and is essential to some uses such as data communications and communications with the hearing impaired. The carrier receiving premium access is also the default carrier and able to receive otherwise unrouted calls.

124. The premium access cost savings calculated above should allow somewhat higher prices to be charged by the premium carrier. In particular, the

premium carrier need not offer a price reduction in order to persuade customers to convert to touch tone type service. The technical superiority of premium access will allow a further price differential. If all other parameters were equal, we estimate that this technical superiority would allow an overall price differential of between 2 and 5 percent. (Of course this would convert into a far larger Carrier Common Line differential). Still assuming $21.6 billion in MTS-WATS revenues, this differential would allow an additional premium ranging between $432 and $1,080 million. Although the 2% to 5% differential is smaller than the current differential offered to non-premium carriers, it is evident that a ***734** portion of the existing differential is generated by a desire on the part of non-premium carriers to expand market share and overcome consumers' habit of using AT&T, something that should not be factored into the premium.

****36** 125. An adjustment is necessary to reflect the use of access minutes to compute usage charges for the Carrier Common Line usage charge and some of the nontraffic sensitive elements. We estimate that use of access minutes rather than conversation minutes to assess OCC charges will add 2 percent to the number of OCC access minutes, compared to AT&T.*See* paras. 70–74, *supra*. To offset this increase in OCC access minutes, an additional adjustment to the premium of between $67 and $88 million would be required.[FN89] The total premium would range between $1,673 and $2,779 million. The mid-point of this range is $2,226 million.

126. The most recent industry estimates of 1984 revenue requirements are reflected in a July 19, 1983, letter from Thomas J. O'Reilly, Counsel for the United States Independent Telephone Association, that has been included in the docket of this proceeding. The O'Reilly letter states that the total industry interstate NTS revenue requirement will be about $10.7 billion. We would estimate that the end user charges of $2 per month for residential and CENTREX-CO lines and $6 per month for other business lines would produce annual revenues of about $3.5 billion. We also estimate that surcharges on Special Access facilities should produce other $1 billion in annual revenues in 1984.[FN90] If these estimates are correct, the carrier portion of the common line revenue requirement that must be recovered from MTS, WATS, open end FX-CCSA, and MTS-WATS equivalent services would be $6.2 billion. Assuming 100 billion minutes of use of local carrier facilities by interexchange carriers in 1984 and assuming that MTS and WATS accounts for 96% of this traffic,[FN91] our 35% differential would result in a premium of $2.17 billion.

***735** 127. In sum, it can be seen that our 35% differential produces results comparable to those obtained under the foregoing detailed opportunity cost analysis. This analysis confirms that the 35% differential is a reasonable estiamte of the value of AT&T's premium access. As modified herein, AT&T will now be paying approximately $87 million for premium access, rather than $56 million under the *Access Charge Order*, a change of $31 million. However, MTS revenue requirements are being reduced by $4.5 billion through end user charges and surcharges. Therefore, it should be clear that our action in reassessing the premium will be of insignificant effect on the magnitude of rate reductions for MTS rates made possible by the access charge plan.

B. *End Office Charges*

128. The *Access Charge Order* established five different rate elements for the use of end office facilities. Two of those elements, Line Termination and Local Switching, relate to the use of local dial switches. The other three, Intercept, Information and Operator Assistance, relate to the use of manual switchboards and operator services.

1. *Line Termination and Local Switching*

129. We allocated to the Line Termination element all non-traffic Category 6 central office equipment (COE) not used to provide interface arrangements at the end office between the interexchange and exchange carriers' facilities. To Local Switching we allocated all traffic sensitive (TS) Category 6 COE.

AT&T and Discount Phone have proposed that we revise our rules for recovering the revenue requirement associated with TS Category 6 COE. Section 69.107 now separates interstate switched services into two categories based upon the differences in the costs associated with their use of the switch and imposes charges upon interexchange carriers for their use of local switching facilities based upon their relative use of this equipment. The minutes of use attributable to services in the same category as MTS are weighted more heavily than the minutes of use attributable to services in the other category because of the relatively higher costs associated with their use of the switch.*See Access Charge Order* at para. 222; 47 CFR. 69.107(c).

****37** 130. AT&T criticizes the existing rule and asserts that rates for Local Switching should be facilities rather than service specific. AT&T claims that the existing rule also fails to acknowledge the coming changes in interconnection that is provided to both AT&T and other interexchange carriers. AT&T proposes to cure these alleged flaws by redefining the Local Switching element to consist of two categories of service, Transport Termination and Common Switching. With the former AT&T would associate all equipment in a switch that terminates the line to trunk ***736** facilities from the interexchange carrier's point of presence.[FN92] Common Switching would correspond to 'the traffic sensitive local exchange switching used by a carrier.'[FN93] It presents rule revisions that would give carriers substantial discretion to apportion the revenue requirement associated with Local Switching between the two categories and into subcategories and to develop the rate structure for both Common Switching and Transport Termination.[FN94] It asserts that these revisions would enable a telephone company to develop a cost-based rate structure reflecting the functionally different kinds of access they offer.

131. In its Opposition SBS asserts that cost-based rates for access services should be delayed until access is available to all interexchange carriers.[FN95] Ad Hoc believes that charges for Local Switching should be unbundled to reflect differences in inferior or superior access arrangements, but it finds the AT&T proposal to achieve this result too lacking in detail.[FN96] While agreeing that AT&T proposed change identifies defects in the existing rules, SPC concludes that the AT&T alternative fails to cure these defects.[FN97]

132. The flexibility that AT&T specifically requests for pricing the Local Switching element reflects a belief that our access charge plan should be revised to permit telephone companies to recover their costs for both end user and traffic sensitive access elements through a mixture of non-recurring charges and flat and usage-based periodic charges and that the carriers rather than this Commission should determine what that mixture should be. This philosophy is further reflected in AT&T's more general proposal that we give telephone companies the discretion to establish charges, subelements and service categories for access elements in addition to those for which Part 69 already provides.[FN98] While we believe that the access charge rules should evolve over time to reflect the menu of access services that AT&T foresees, we believe that the broad discretion AT&T proposes must await the development of the costing tools that can support the additional disaggregation of costs. Therefore we reject this proposal. We shall, of course, entertain request for waiver of the rules prescribing rate structures for specific access elements to permit an exchange carrier to impose non-recurring charges or to unbundle an access elements into additional subelements. We would expect the waiver request to include a description of the rate structure the telephone company would propose. We would also require a showing that granting ***737** the waiver would in no way undermine any of the policy goals of this proceeding.

****38** 133. Discount Phone requests that we apportion to the Pay Phone element and thus recover from end users the costs associated with the use of TS Category 6 COE to complete pay calls made

from pay telephones.[FN99] We deny this request. We have substantially revised the rules governing recovery of the interstate revenue requirement associated with pay telephones and associated facilities. The Discount Phone proposal could not be implemented under the revised plan.*See* paras. 55–62, *supra*. Even if we had not taken this step, however, we would deny the request because it is in conflict with an underlying premise of our access charge plan that switching costs should be recovered directly from interexchange carriers rather than end users.

134. On reconsideration we do find it necessary to revise Section 69.107 in two respects. As written, the rule would require that interexchange carriers be assessed a Local Switching charge per conversation minute. For reasons we have already discussed in paras. 70–74, *supra*, we have concluded that access minutes should be the basis for charging interexchange carriers for the Local Switching element. We have also determined that the categories of local switching service should be redefined to reflect proposed changes in the *Separations Manual* and in our rules for apportioning investment and expense among the access elements. The Docket 80–286 Joint Board has adopted a proposal to revise the *Separations Manual* to acknowledge the use of local dial switching equipment by interexchange carriers with ENFIA interconnections. The *Manual* attributes minutes of use by such carriers to the appropriate jurisdiction but will apply no toll weighting factors to such minutes. Thus the *Manual* would treat ENFIA–B dial equipment minutes of use like ENFIA–A and ENFIA–C minutes. We believe this uniform treatment should also be reflected in access charges. For these reasons we are redefining the Local Switching subcategories. Into one subcategory we are placing local dial switching for MTS, WATS and services receiving access to the local switch equal to that received by MTS and WATS and into the other we are placing local dial switching provided for other services.

2. *Intercept*

135. Intercept services triggered by an incorrectly dialed telephone number are provided to all interstate callers regardless of the switched interexchange service upon which they have relied to make their calls. For this reason § 69.108 of our rules charges all interexchange carriers based ***738** on relative use of local switching facilities.[FN100] Claiming that its proposal will simplify recovery of costs associated with providing intercept services, AT&T has recommended that we eliminate the Intercept element and apportion these costs to the Local Switching element. We do not believe that this proposal would substantially simplify preparation of access tariffs and, for this reason, deny the request.

****39** 3. *Operator Assistance*

136. We have concluded that because of developments in the AT&T divestiture proceeding we should eliminate the Operator Assistance element from access charges. In late December, 1982, AT&T filed a Plan of Reorganization in proceedings to implement the Modification of Final Judgment (MFJ) in *United States v. American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *affirmed sub nom.Maryland v. United States*, 103 S.Ct. 1240 (1983). Under that plan facilities used to provide call completion and assistance services will be assigned to AT&T after the divestiture. Most of these facilities are included in Category 1 COE and, under our apportionment rules, the associated revenue requirement would have been allocated to the Operator Assistance access element. In the *Access Charge Order* we had expanded our definition of access to correspond with the MFJ. Under this expanded concept of access we have included operator assistance services for long distance calls even though they were generally unavailable to interexchange carriers other than AT&T. Since the BOCs will no longer be providing such services after divestiture, there is no longer a need to include operator assistance services among access functions. Accordingly we are eliminating this access element. We discuss the appropriate apportionment of the investment and expense previ-

ously assigned to this element at paras. 163–167 *infra*.

C. *Transport Charges*

1. *Proposed Modifications*

137. We created two elements, Common Transport and Dedicated Transport, to correspond to the kinds of facilities a local carrier would provide to transport an interexchange carrier's traffic between its point of presence and the end office at which that traffic originates or terminates. Section 69.111 (Common Transport) and § 69.112 (Dedicated Transport) prescribe a rate structure for recovering the costs of providing these access facilities. Several parties have sought either clarification or ***739** revision of these rules.[FN101] Prior to the filing of any petitions for reconsideration of our. *Access Charge Order*, however, AT&T and the BOCs filed a petition for waiver of §§ 69.111 and 69.112. In response to that petition we have recently granted a one year waiver of these rules.*See American Telephone and Telegraph Company*, FCC No. 83–287, released June 28, 1983. For the first year that access charges are in place each exchange carrier may recover the costs of transporting an interexchange carrier's interstate traffic between its point of presence and the originating or terminating end office through rates that do not comply with §§ 69.111 and 69.112 of our rules. This should enable the BOCs to file charges that comply with the MFJ and the Communications Act and still to participate in the exchange carrier association's tariff for such charges. We intend to scrutinize closely the carriers' initial access tariff filings in this respect, and if necessary to initiate a proceeding shortly to explore whether §§ 69.111 and 69.112 should be revised to reflect more accurately both the pace at which the option of equal interconnection for all OCCs becomes a reality and the facilities through which it is offered. For this reason we shall not address the proposed clarifications and modifications in this *Order*.

****40** 2. *Averaging of Transport Charges*

138. Although we are not addressing proposed modifications of the transport charges at this time, we have decided to address proposals suggesting that we require some averaging of transport charges.

139. When we adopted the access charge rules, we concluded that we should not require the averaging or pooling of the traffic sensitive rate elements. We observed in paragraph 319 of the *Access Charge Order*.

Any deaveraging of the access charges will not, of course, automatically lead to a deaveraging of the interexchange carrier's end user rates. Even if that result did occur, it appears doubtful that the differentials would be large enough to impose a significant hardship upon end users in particular areas. Present and proposed separations methods for the apportionment of traffic sensitive plant do not create the same kind of discrepancies that are or may be reflected in interstate NTS costs. Therefore, we will not preclude separate tariffs for the traffic sensitive elements.

140. Several petitioners have asked us to reconsider that aspect of our decision.[FN102] These petitioners contend that there are substantial discrepancies ***740** in transport costs—particularly in trunks between Class 4 and Class 5 offices—from exchange to exchange. Such petitioners also claim that AT&T is likely to revise MTS rates to reflect transport cost differences if access charges for transport are deaveraged, and that such a revision of the MTS rate structure could cause severe hardships for some end users and the telephone companies that serve them.

141. The State of Alaska has raised somewhat similar concerns with respect to the effect of the *Access Charge Order* upon the effort to integrate Alaska and Hawaii interstate MTS rates with the averaged rate schedule that is used in almost all other places. Alaska has filed a petition for reconsideration and a separate petition for rulemaking that asks us to institute a proceeding relating to rate integration.[FN103] The existing divisions/settlements process

has always combined average rates to end users with deaveraged access service compensation to local exchange carriers. Thus, the existence of deaveraged access charges for transport would not preclude us from requiring a continuation of the current averaged rate arrangement.[FN104]

142. We examined the history of MTS rate averaging in the *Third Supplemental Notice* in order to determine whether we have established any policy. We found that prior Commission precedents have established a policy that prohibits selective deaveraging that does not reflect cost differences, but that we have not established a policy with respect to deaveraging that does accurately reflect cost differences. We concluded that such deaveraging was too hypothetical to warrant a proceeding to develop a policy because it would be very difficult to demonstrate that deaveraged MTS rates do accurately reflect cost differences.

****41** 143. We do not believe that the mere possibility of MTS deaveraging warrants any change in our decision to permit deaveraged transport charges. As noted, deaveraged compensation of exchange carriers presently exists in today's environment of averaged MTS rates. If we ultimately conclude that deaveraging of MTS rates should not be permitted, we can enforce such a policy directly even if the MTS access charges are deaveraged. We would not permit any deaveraged MTS rates without first completing a full policy and impact review of such a fundamental pricing shift.

***741** 3. *Non-Recurring Charges*

144. Some parties have suggested that access charges should include nonrecurring charges for planning, development and installation of facilities.[FN105]

145. Such charges might be viewed as either end office or transport charges. We agree that Part 69 does not, but should, include guidelines for developing such charges. Such guidelines are needed to protect the financial interests of both exchange and interexchange carriers. The use of nonrecurring charges for planning, development and installation of facilities used by interexchange carriers raises many of the same concerns that the dedicated and common transport rates have already raised. For this reason, we intend to scrutinize closely carriers' tariff filings in this respect, and if necessary to develop guidelines for costs that may be recovered through non-recurring charges at the same time we determine the appropriate rate structure for recovering the costs now allocated to the Dedicated and Common Transport elements. *See* para. 137, *supra*.

D. *Other Charges*

1. *Billing and Collection*

146. Under the access charge plan, telephone companies choosing to offer billing and collection services or billing information services to interexchange carriers will recover the costs of providing these services through the billing and collection access element. We had included this element in our access charge plan because under the terms of the MFJ billing and collection services are considered access services that a BOC would include in its access tariffs. We retain, however, some doubt that such services are an appropriate subject for Title 11 regulation. We intend to examine this question subsequently, but in the interim we shall retain the Billing and Collection access element to enable exchange carriers to file tariffs for the billing functions they may perform on behalf of interexchange carriers.[FN106]

147. In contrast with the rate prescription rules for the other traffic sensitive elements, the rule governing charges for Billing and Collection would permit carriers to recover more than the prescribed rate of return on investment allocated to this element; but these charges must be nondiscriminatory.*See*47 CFR 69.114.

***742** 148. Some of the interexchange carriers have urged us to set a rate of return for the Billing and Collection element.[FN107] Both SBS and USTS describe billing and collection services as bottleneck services and assert that an exchange carrier could extract monopoly profits if it is not subject to

a rate of return constraint. We believe this mischaracterizes the nature of these services. No one has demonstrated that exchange carriers do have the power to extract monopoly profits from these services. At the present time interexchange carriers other than AT&T do not rely upon local companies to provide these services. Each of these carriers must weigh for itself whether the additional billing information or related services that may soon become available are worth the price the local company will impose. As AT&T suggests in its opposition, if an interexchange carrier considers a local company's charges for billing services to be too high, it can, if necessary, construct and rely upon its own billing facilities. As long as the rules require a local company to offer each billing related service to all interexchange carriers if it offers the service to one of them and to establish reasonable, nondiscriminatory charges, we believe that they prevent the local company from awarding any undue competitive advantage to AT&T or any other interexchange carrier. We revise § 69.114 to incorporate the reasonableness standard for rates associated with the Billing and Collection element in order to reflect the duty to charge 'just and reasonable' rates for all tariffed services imposed by Section 201(b) of the Communications Act, 47 U.S.C. 201(b).

****42** 149. The Rural Telephone Coalition has suggested that interexchange carriers be required to advise exchange carriers whether the interex-change carrier will use their billing and collections services at this time in order to assist exchange carriers in formulating their tariffs. It would be unreasonable to expect interexchange carriers to make any commitment before they know what the price will be. Therefore, we must reject that suggestion.[FN108]

2. *Special Access*

150. Under Special Access we grouped a variety of services and facilities that we decided to include in our system of access charges so that the tariffed access charges of all telephone companies include services and facilities that the divested BOCs will offer under access tariffs mandated by the MFJ. *See Access Charge Order* at para. 246. We also included segments of certain interstate or international private lines and interstate WATS lines. We contemplated that Special Access would encompass several subelements that should be priced separately to avoid ***743** unlawful preferences,[FN109] but we did not attempt to establish such subelements. We indicated that we would address such issues in other Commission proceedings.*See id.* at para. 249. Ad Hoc and Western Union have asked us to reconsider that decision and to provide necessary guidelines for defining and pricing Special Access subelements in this *Order*.[FN110] As we explained in the *Access Charge Order:*

> This proceeding was not designed to develop criteria for designating such subelements or for apportioning costs among appropriate subelements and the record in this docket does not contain much information that would be useful for those purposes.

Id. These statements are as accurate now as they were when originally made. For this reason, we deny Western Union's and Ad Hoc's request.

151. In this reconsideration decision, we have established a system of surcharges to address the problems raised by interconnection by users of the closed ends of certain private lines and WATS lines. Since the Special Access category already includes certain private line and WATS charges, our rules governing this interconnected usage do so within the Special Access category. *See*, provisions of Section 69.115 *infra*. Similarly, while carriers (facilities-based or resale) normally are to obtain facilities which are interconnected with exchange service upon payment of carrier's carrier charges, para. 86 (and note thereto) *supra*, to the extent that there is resale of WATS at the closed end, we have placed such access by carriers also in the Special Access category to afford an appropriate transition for the charges to be paid for this form of access *Id.* We believe that with these clarifications of the purpose and scope of the Special Access category, and with the correlative establishment of surcharges,

the concerns of Ad Hoc and Western Union are mitigated. Furthermore, charges associated with the remaining elements of the Special Access category, i.e., those other than surcharges addressed in Section 69.115, will be carefully scrutinized. We will examine the carrier's choices of subelements and cost data which will be provided to justify charges for these subelements to ensure compliance with the requirements of the Communications Act. The absence of detailed rules for the computation of Special Access subelements does not relieve exchange carriers from any of their statutory duties.

****43** 152. In its Opposition filing, IDCMA asks us to clarify that the designation of a charge as a carrier's carrier charge is not intended to foreclose an end user from ordering any transmission capability directly ***744** from an exchange carrier.[FN111] IDCMA's concern is that this designation might prevent an end user from 'piecing together' its own link to an interexchange carrier's point of presence when facilities included in the Special Access element were involved. As previously noted in the discussion of the Dedicated Access Line element, we will permit either a carrier or a noncarrier to order any Special Access facility from the telephone company, provided that the result is that any carrier which does so does not thereby avoid the payment of carrier's carrier charges as clarified in this decision. What are not generally available to carriers under Special Access are private line facilities which might be resold to create MTS and WATS, and MTS/WATS-equivalent offerings; such facilities are available as Dedicated Transport facilities. The type of 'piecing together' which IDCMA wishes us to clarify as permissible would appear to fall directly within the Special Access category as now clarified, i.e., as invoking the application of a surcharge to the extent that the facilities involved are those of a carrier.

IV. *Cost Allocation Rules*

153. The *Separations Manual*, incorporated by reference in Part 67 of our rules, defines the procedures for allocating a telephone company's investment in plant used to provide regulated services and related expenses between the interstate and intrastate jurisdictions. As the *Access Charge Order* makes clear, in this docket we are concerned only with the recovery of the interstate revenue requirement that results from applying the *Separation Manual's* procedures to that plant and expense.*See id.* at para. 259. In other words, we have taken the interstate revenue requirement determined under the *Manual* as given, and have focused in this docket only upon how a carrier should recover the share of that requirement properly attributable to its provision of interstate access services. Subparts D and E of Part 69 of our rules contain the rules adopted in the *Access Charge Orders* for apportioning investment and expense among the interexchange category and the access elements.

154. Recently, the Joint Board agreed to recommend that the Commission revise the *Separations Manual* to allocate to the interstate jurisdiction a share of some carriers' nontraffic sensitive costs that otherwise would have been allocated to the intrastate jurisdiction. Called the 'High Cost Factor' (HCF) adjustment, this revision would allocate to the interstate services a proportionately higher share of a carrier's nontraffic sensitive costs when these costs exceeded 115% of the national average. In anticipation of favorable action on such a Joint Board recommendation and in recognition of the need for such a fund, the *Access Charge Order* allocated the interstate revenue requirement resulting from the HCF ***745** adjustment (the Universal Service Fund) to the Carrier Common Line element. *See*47 CFR 69.501(a).

****44** 155. In their petitions for reconsideration in this docket, Alaska and RTC now urge the Commission to revise the HCF adjustment to enable high cost companies to recover a share of their traffic sensitive costs also.[FN112] At the other extreme, ADCU has argued that there should be no universal service fund.[FN113] ADCU also urges us to assert jurisdiction over all non-traffic sensitive plant.[FN114] This, however, is not the proper pro-

ceeding in which to raise these separation issues. Any revisions to the *Separations Manual* must be accomplished through a separations rulemaking proceeding. Moreover, any changes in jurisdictional separations must be considered in the first instance by the Joint Board established in CC Docket No. 80–286 or by another board. *See*47 U.S.C. 410(c).

156. We do wish to note that the *Access Charge Order* emphasized that 'we are totally committed to insure that [the access charge plan] does not lead to a disruption of universal service. That commitment is reflected in our decision to exclude Universal Service Fund costs from end user charges before and after the transition periods that are described in this *Report and Order.'Id.* at para. 195. We remain committed to that goal.

157. ADUC asks us to clarify whether after divestiture the BOCs will continue to maintain local exchange facilities to the same extent that AT&T currently does. It is concerned that access charges will be based on the cost of the maintenance services offered before divestiture, but that the level of services will decline. The *Access Charge Order* makes no assumption about the level of facility maintenance a carrier will provide after its access charge tariff becomes effective. Under the rules, the cost of maintaining facilities associated with a specific access element (*e.g.*, Special Access) are allocated to that element and recovered through charges associated with that element.[FN115] If a telephone company decides to raise or lower the level of maintenance it provides for these facilities, there should be a corresponding rise or fall in the associated maintenance expense, which would flow through to the access charges assessed for the elements.

***746** 158. In addition to these more general concerns about the allocation of costs among the interexchange category and access elements, several technical adjustments (addressed below) have been suggested in petitions for reconsideration. Others will be required by changes we have made in the access charge plan. In this area, our short term goal has been and remains: rules that are simple to apply and that avoid gross misallocations of costs. As local exchange carriers and this Commission gain experience in administering access tariffs, we would expect that our apportionment rules would be replaced by more refined allocation rules that more accurately identify and assign costs to those causing the costs to be incurred. We believe, however, that such refinements must wait. In this *Order*, we shall adopt only those revisions to Subparts D and E of Part 69 that are necessary to avoid confusion or gross misallocation of costs or to conform to changes in the access charge plan made elsewhere in this Order.[FN116]

****45** A. *Investment*

1. *Net Investment Apportionment*

159. Subpart D of the access charge rules contains the rules for apportioning net investment among the interexchange category and the access elements. AT&T advocates removal of the adjective 'net' from this title and from all references to investment in Sections 69.301 (General) and 69.302 (Net Investment) of our rules in order to avoid misunderstandings.[FN117] GTE recommends adding a subsection to the latter rule that would apportion reserves attributable to investment in Accounts 100.1–100.4 and Account 122 among the access elements.[FN118] AT&T suggests that along with GTE's proposed addition to Section 69.302, a new rule for apportioning investment other than COE, Outside Plant (OSP) and Buildings be adopted. Currently § 69.302(b)(4) apportions this investment in the same proportions as total investment in Account 100.1 other than investment on COE, OSP and Buildings. The latter category of 'other investment' includes investments like station apparatus that do not correspond to investment recorded in Accounts 100.2–100.4. AT&T proposes that the 'other investment' in these subaccounts be allocated in ***747** the same proportions as the associated investments recorded in Account 100.1.[FN119]

160. Of the three requested revisions, we find that only the AT&T proposal to alter the basis for alloc-

ating 'other investment' recorded in Accounts 100.2–100.4 should be granted. It should be clear that the investment referred to in §§ 69.303–69.309 is net investment. The decision to apportion net investment rather than gross investment among the access elements and interexchange category does require identification of the depreciation reserves that are attributable to each element. Although it may not be possible specifically to identify such reserves from existing accounting records in all cases, we do not believe it would be desirable to prescribe a particular apportionment technique on the basis of the existing record. We shall, of course, expect carriers to perform such apportionments in a reasonable manner that is consistent with the assignment of plant and that is fully supported in cost support material filed with access tariffs. Accordingly, we deny all requested changes to the title of Subpart C, § 69.301 and § 69.302 other than AT&T's requested change of § 69.302(b)(4).

2. *Station Equipment and Customer Outside Plant*

161. In the *Access Charge Order* we had apportioned a share of the investment in station equipment, inside wiring and unused customer lines to the Dedicated Access element based upon 'relative number of equivalent lines in use.'See 47 CFR 69.303 (c)–(d), 69.304(e). Centel asserts that our rules assign a disproportionately large share of this investment to Dedicated Access and advocates deleting the subsections requiring this assignment.[FN120] The apportionment of which Centel complains, however, was intentionally made to 'correct anomalies in the existing cost apportionment methods that impose an unfair burden upon MTS customers.' *Access Charge Order* at para. 127. AT&T has also suggested that we simplify the rule for apportioning unused customer lines among access elements.Section 69.304(e) apportions this unvestment on the basis of equivalent lines in use. Correctly observing that the *Separations Manual* already allocates lines not in use in the same manner, AT&T has proposed that we replace the Section's more lengthy explanation of the meaning of 'equivalent voice grade lines in use' by the statement that these costs should be apportioned on the basis of *Separations Manual* procedures for apportioning exchange outside plant. We are adopting this proposed revision.

****46 *748** 162. Other parties have suggested revisions to §§ 69.303 and 69.304 of our rules to conform to their proposed redefinitions of the Special and Dedicated Access elements.[FN121] GTE also suggested that we revise these sections to make clearer how companies are to determine equivalent lines in use attributable to the Common Line element.[FN122] We are making the requested clarification. We are also revising apportionment rules to reflect our decision to combine the Dedicated Access Line and Special Access elements.

3. *Central Office Equipment*

163. Section 69.306 of our rules apportions the investment in each category of central office equipment (COE) among the interexchange category and the access elements. The *Separations Manual* categories are used for this purpose. Section 69.306(b) allocates investment in Category 1 COE (Manual Switchboards) among the Intercept, Information and Operator Assistance access elements. We have now eliminated the Operator Assistance element, and allocate the associated cost to the interchange category.*See* para. 163, *supra*. GTE has noted that Category 1 COE includes observing boards that observe not only operator services but also local and intertoll dial equipment. It asserts that the cost associated with these boards should therefore be apportioned among the interexchange category and the access elements associated with the observing function. We agree. Accordingly we are adopting the GTE proposal to allocate the costs of these serving boards among all the access elements and the interexchange category based upon the combined investment in COE Categories 1 through 6, excluding the investment in nontraffic sensitive Category 6 COE, which is not subject to observation, and in the service observing boards themselves.

164. GTE has also noted that some switches, while included in Category 2 COE (Tandem Switches) because they switch large amounts of local and ex-

tended area service calls, function also as toll switches. GTE recommends that to reflect these joint uses, we revise § 69.306(c) to allocate investment in Category 2 COE between Common Transport and the interexchange category. We find its point well taken and make the suggested change.

165. Presently we allocate investment in Category 4 COE (automatic message recording equipment) to the Billing and Collection element. Several parties properly note that this equipment also provides information for billing non-access services as well as access services to carriers and that, therefore, some share of the investment should be allocated to access elements other than Billing and Collection and to the interexchange ***749** category.[FN123] While we agree that Category 4 COE must be reapportioned, we do not agree that any of their proposals will achieve a suitable result.

166. The *Separations Manual* distinguishes between two kinds of Category 4 COE: equipment used for the duration of a call and equipment used only momentarily to record information about the call. Equipment used for the duration of an interstate call consists primarily of clock timers used for WATS. Depending upon its assignment under the AT&T Reorganization, this investment should either be assigned to the interexchange category or to the Billing and Collection element. At the present time, telephone companies distinguish between Category 4 COE used only momentarily to record information about interstate message service, called Category 4B1, and Category 4 COE used only momentarily to record information about interstate switched private services' traffic, Category 4B2.[FN124] The AT&T Reorganization Plan would assign Category 4B2 COE to AT&T.[FN125] Accordingly, we shall also assign all investment in Category 4B2 to the interexchange category. Category 4B1 COE will continue to provide telephone companies with billing information that they can use for computing charges for carrier access elements with usage sensitive rate structures and for billing and collection services they offer to interexchange carriers. We find it unreasonable, however, to base the apportionment of this investment on the number of carrier access elements that have usage sensitive rates. The equipment records the information whether there are two or ten such elements. If a carrier offers billing and collection services we shall require it to apportion half its investment to the Billing and Collection element and half to the Local Switching element. We select the Local Switching element as the carrier access element to which we allocate some of this Category 4 COE because it has a usage sensitive rate structure and is an element to which all carriers offering switched services will subscribe. Within the Local Switching element, this investment shall be apportioned between LS1 and LS2 based upon the relative number of messages in each of these categories for which this equipment records billing information.

****47 *750** 167. Both AT&T and GTE assert that we should revise the rule for apportioning Category 5 COE (Other Toll Dial Switching Equipment). Presently Category 5 COE is apportioned between the Operator Assistance element and the interexchange category. See 47 CFR 69.306(f). They recommend that we reallocate this investment among Common Transport, Local Switching and the interexchange category.[FN126] We believe that the GTE proposal with one slight modification results in an appropriate apportionment of this plant. GTE has recommended assigning the portion of Category 5 COE located in end offices to Local Switching because it consists primarily of digit absorption equipment needed to permit uniform nationwide dialing for long distance calls when only four or five digits are needed for local calls. Because presently and for some time to come only MTS and WATS will benefit from this investment, we are assigning this investment to the LS2 category. We are, however, adopting the GTE proposal for allocating the remainder of Category 5 COE between the Common Transport element and the interexchange category.

4. *Buildings*

168. The *Access Charge Order* required that Category 1C space investment (Dial Switching) be allocated among the interexchange category and the Line Termination, Local Switching, Operator Assistance, Common Transport and Special Access elements in the same proportions as combined investment in COE categories, 2, 3, 5, 6 and 7.*See*47 CFR 69.307(d). United and GTE suggest that we modify the rules to reflect the fact that Category 1C space is also used for Category 4 COE and a share of this investment should be allocated to the Billing and Collection element.[FN127] We agree that the rules should be revised to recognize that Category 4 COE also uses this space and are assigning a share of this investment to the Billing and Collection element.[FN128]

169. Under § 69.307(e), 47 CFR 307(e), investment in Category 2 space (Operator Quarters) and Category 3 space (General Traffic Supervision) is to be apportioned among the interexchange category and the Intercept, Information and Operator Assistance elements in the same proportions as Category 1 COE. United asserts that this apportionment does not properly reflect the use made of this space. United recommends that Category 2 space be apportioned in the same proportions as Operator Wages (Account 624) and Category 3 space be apportioned in the same proportion ***751** as General Traffic Supervision Expense (Account 621).[FN129] AT&T and GTE concur, but recommend that additional access elements receive a share of the investment.[FN130] On reconsideration we conclude that the change to subsection 609.307(e) proposed by United, modified to reflect the elimination of the Operator Assistance element, will lead to a more reasonable apportionment among specified access elements and the interexchange category.

170. Category 7 space investment (Garages and Storerooms) would under the *Access Charge Order* be apportioned among the interexchange category and the Dedicated Access Line, Limited Pay Telephone, Common Line, Dedicated Transport, Common Transport and Special Access elements based upon combined OSP investment.*See*47 CFR 69.307(i). GTE suggests that we revise the rules to apportion this investment among access elements based on the allocation formula used in the separations process.[FN131] Because it will more accurately reflect the use to which this space is put, we are adopting the GTE proposal.

****48** B. *Expenses*

1. *Traffic Expenses*

171. Section 69.404 of our rules apportions traffic expense among the interexchange category and the Intercept, Information and Operator Assistance elements in the same proportions as COE 1 investment. Both AT&T and GTE assert that this results in a misallocation of costs to rate elements because the traffic expenses accounts include subaccounts for network administration and supervision.[FN132] GTE adds that some telephone companies have study areas with traffic expenses but no Category 1 COE investment. We agree that the flaws highlighted in the telephone companies' comments must be corrected. United, AT&T and GTE have proposed revision to the rule either of which should overcome the major problems with the existing rule.[FN133] GTE, however, proposes to disaggregate***752** traffic expenses substantially more than do United and AT& T. We are adopting the more simple United and AT&T proposal at this time. While less refined than GTE's proposal, it should cure the more serious cost misallocations of the existing rule and assure that companies can recover appropriately their traffic expenses even if they have no Category 1 COE.

2. *Commercial Expenses*

172. Section 69.405 apportions commercial expense among the interexchange category and the access elements. That section assigns the sales and advertising expenses to the interexchange category. The *Access Charge Order* (para. 294) said that these ‘activities should be excluded from access charges because there is no reason to anticipate that the local exchange carriers will have any reason to

advertise exchange access services.'

173. AT&T notes that the separations apportionment is based upon relative revenues. This could result in a substantial interstate apportionment that is not matched by interexchange category revenues from interstate operations. In these circumstances the interstate expense should be apportioned among all categories and elements until the separations formula is reviewed. We have concluded that the Section 309 'other investment' ratio should be used for this purpose.[FN134]

174. AT&T, GTE and United note that the Local Commercial expenses account (Account 645) includes expenses directly attributable to pay telephone collections, which should be directly assigned, and, with the advent of access charges, will include expenses associated not only with billing and collection services, but also with access facilities provided end users and interexchange carriers.[FN135] Presently Local Commercial expenses would be assigned to the Billing and Collection element.*See*47 CFR 69.405(b). To avoid a gross misallocation of costs among access elements, this rule must be revised. The carriers recommend directly assigning expenses attributable to pay-station collections to the Pay Telephone element and apportioning the remainder among the elements and the interexchange category based upon their relative share of Revenue Accounting Expenses. We accept their suggestion, assigning the portion of the expenses that would have been assigned to the Pay Telephone element to the Carrier Common Line element.*See* para. 58 *supra*.

****49 *753** 175. Subsection 69.405(e) contains the rules for apportioning the remaining commercial expenses. Both AT&T and United suggest that the rules be changed to identify the accounts recording these 'other commercial expenses' and to conform to their suggested changes for other subsections of § 69.405.[FN136] We are incorporating the minor changes to this subsection proposed by both AT&T and United.

3. *Revenue Accounting Expense*

176. Rule 69.406 apportions revenue accounting expenses. Expenses attributable to end user billings are apportioned to NTS elements, expenses attributable to carrier's carrier billings to traffic sensitive elements, and all other revenue accounting expenses to the Billing and Collection element. AT&T and United have suggested that we also assign revenue expense attributable to interexchange billing to the interexchange category. We are not accepting that suggestion because the assignment appears to be unnecessary. The billing of an interexchange service to an end user is a Billing and Collection service for an interexchange carrier.

4. *Other Expenses*

177. GTE, with AT&T's support, has proposed that we revise §§ 69.402 (Current taxes) and 69.407 (General office expenses) to rely more heavily upon separations methods to apportion these expenses.[FN137] Those petitioners have not demonstrated that use of the separations methods would produce better results. Therefore, we are not adopting their suggestions.

V. *The Exchange Carrier Association*

A. *Establishment of the Association*

178. Section 69.601 of our rules defines association membership based upon participation in the distribution of Carrier Common Line revenues collected by the association. Rochester suggests that this definition excludes from association membership 'those companies, such as [Rochester], that will contribute to, but eventually collect nothing from the pool.'[FN138] Rochester requests that we revise the rule to clarify that any carrier required to contribute to the pool is deemed a member of the association. We deny Rochester's request. As an exchange carrier, Rochester will never contribute revenues to the Carrier Common Line revenue pool; interexchange carriers will pay such monies to the association, which, in turn will distribute the money among exchange carriers in accordance with §§ 69.605–69.608 of our rules. When Rochester reaches ***754** the point at which it no longer needs

to participate in the Carrier Common Line element to assure recovery of all its common line revenue requirement,[FN139] we would expect that it would withdraw from the association and no longer concur in the association tariff charges for the Carrier Common Line element.

179. Under the access charge plan, membership in the association would be limited to telephone companies participating in the access charge revenue pools and the association's governing board would be composed exclusively of the representatives from such companies. While acknowledging that the board's membership should fairly represent the different classes of carriers that we expected would join the association, the *Access Charge Order* defined neither the size nor the composition of the board. We concluded that this must await identification of the telephone companies that would join the voluntary association access elements at least for the first year. We indicated that once this information became available we would issue a rule prescribing the board's structure without seeking additional comment. In its petition for reconsideration REA asked us to reconsider our decision to proceed with the rule without additional public comment.[FN140] We have already concluded, however, that we had sought and received sufficient comment on the structure of the association's governing board in response to the *Fourth Supplemental Notice* to proceed with the rulemaking and have issued the rule defining the board's structure.*See Supplemental Order* in this docket, FCC 83–252, released May 31, 1983. The REA request is accordingly denied.

****50** 180. MCI has urged us to eliminate the association from our access charge plan. It asserts that our requiring telephone companies to participate in the association Carrier Common Line tariff to recover a share of their common line costs is unlawfully coercive, raises what it terms 'profound antitrust problems' and constitutes an unlawful delegation of our authority to a private entity.[FN141] These arguments were considered and rejected in the *Access Charge Order, see id.* at paras. 309, 333–342, and n. 109. We find them no more convincing now. On reconsideration MCI also asserts that this 'delegation of authority' is unconstitutional because it gives an association whose exchange carrier members have a 'substantial pecuniary interest in the outcome of the dispute as to proper access charges' control over the amount of access ***755** charges that MCI will pay all exchange carriers.[FN142] MCI cites *Gibson v. Berryhill*, 411 U.S. 564 (1973), as legal support for this conclusion. In *Gibson v. Berryhill* the Supreme Court held that a state board composed solely of self-employed optometrists could not constitutionally adjudicate whether the license of optometrists employed by an optical company should be revoked because the board members had a substantial pecuniary interest in the outcome of that dispute.411 U.S. at 579. In *Gibson*, the board members along with other private practitioners would have fallen heir to the optical corporation's business if the latter had to suspend its operations because its employees' licenses had been revoked. MCI's argument is flawed because it assumes that there has been some delegation of Commission authority to the association. MCI itself fails to identify any delegated power and in fact there has been no such delegation. See *Access Charge Order* at para. 97. The association will not be performing any adjudicatory or other governmental functions; it will be preparing tariffs as an agent for the carriers that offer the tariffed services. The association tariffs will be reviewed by this Commission under the same panoply of procedural and substantive rules that apply to a tariff filed by an individual carrier. As we indicated in the *Access Charge Order*, the Communications Act and our rules provide safeguards adequate to protect the interests of not only interexchange carriers but also state commissions and consumers in the fair and evenhanded implementation of the plan we have adopted.*See id.* at para. 345.

181. We have already discussed at length in the *Access Charge Order* the crucial role that the association and the Carrier Common Line element will

play in our access charge plan.*See id.* at paras. 314–316, 339–42. MCI has presented nothing that would cause us to revise that conclusion. Interexchange carriers and others do, however, have a legitimate interest in obtaining as much information as possible about the development of tariffs prior to the annual filing and it may be desirable to create mechanisms to enable the association directors to consider views of persons other than exchange carriers at an early date. We shall consider the feasibility and desirability of adopting some rules on this subject in a future rulemaking proceeding.

****51** B. *Billing and Collection of Carrier Common Line Usage Charges*

182. The access charge rules we adopted in December established two Carrier Common Line charges—a lump sum premium charge that will be collected from interexchange carriers that provide MTS and WATS and a charge that will be collected on a usage basis from all interexchange carriers that provide services that use the common line. Section 69.604 provided that the exchange carrier association would bill and collect these ***756** Carrier Common Line charges and the telephone companies would bill and collect all other end user and carrier's carrier charges.

183. The AT&T, GTE, and USITA petitions have urged that we revise this provision to limit association billing to the premium charge. AT&T said that the billing of Universal Service Fund charges should ‘possibly’ be included in the association's functions. These petitioners state that association billing of usage charges will require the creation of a duplicative billing system and will result in considerable administrative expense that should be avoided. These petitioners did not provide any estimate of the administrative expenses that could be avoided by requiring the telephone companies to bill and collect the usage portion of the Carrier Common Line charges. This proposal did not attract any opposition or support in the subsequent filings of other persons.

184. We have decided that this suggestion should not be adopted. Association administration of revenue pools is likely to function more smoothly if most telephone companies are net recipients of pool distributions. This result can be achieved by flowing money through the association for as long as the revenue pooling continues. In view of our decision to eliminate a separate premium access element, association billing of the remaining carrier usage charge is necessary to preserve a fund to administer.

C. *Billing and Collection Restrictions*

185. The access charge rules impose several restrictions upon a carrier's right to file separate tariffs for voluntary association rate elements. Several petitioners have requested that some of these restrictions be modified.

186. Under the access charge plan, telephone companies choosing to offer billing and collection services or billing information services to interexchange carriers will recover the costs of providing these services through the Billing and Collection access elements. In contrast with the rate prescription rules for the other traffic sensitive elements, the rule governing charges for Billing and Collection would permit carriers to recover more than the prescribed rate of return on investment allocated to this element.*See*47 CFR 69.114.

187. Several petitioners have requested that we amend the rules to authorize an exchange carrier to file its own charges for the Billing and Collection element and still to concur in the association tariff's charges for the remainder of the traffic sensitive elements.[FN143] The rationale for requiring that a carrier either concur in the association tariff's charges for all traffic sensitive elements or file its own charges for all these elements was that ‘many of these elements are closely interrelated and a ***757** combination of separate and common tariffs for the same carrier could produce anomalous results that are inconsistent with the goals and requirements of the Communications Act.’ *Access Charge Order* at para. 320. Our disparate treatment of the rate structure for the Billing and Collection element

and its exclusion from the group of access elements for which the association would administer revenue pools implicitly recognize that the Billing and Collection element is not among these closely interrelated elements. On reconsideration we conclude that the carriers' request can be granted without endangering the concerns that prompted us initially to include the Billing and Collection element in the traffic sensitive block of the association tariff. For this reason we are amending § 69.3(e)(3) of our rules to permit an exchange carrier to file its own charges for Billing and Collection and to participate in the association tariff for the remaining traffic sensitive access elements.

****52** D. *Extended Area Service*

188. While the access charge rules require that all exchange carriers participate in the association's Carrier Common Line charges in order to recover the costs apportioned to that element, the rules do permit most carriers to join or refrain from joining the association tariffs and revenue pools for other elements.[FN144] Most carriers who elect not to join in these ‘voluntary’ tariffs may either file an individual tariff for the access elements involved or join in a common tariff with other exchange carriers who have also chosen not to concur in the association tariff. The *Access Charge Order* has restricted the freedom of carriers participating in extended area service arrangements to ‘opt out’ of the association tariff's charges for traffic sensitive elements. It has required that a carrier's traffic sensitive charges apply to the entire extended area, *see*47 CFR 69.3(e)(9), and has precluded a carrier from imposing within the extended area a charge for any traffic sensitive access element (other than the association charge) without the concurrence of all the telephone companies that serve the extended area. *See*47 CFR 69.3(e)(9). This latter restriction was based on the assumption that service to an extended area should be viewed as joint access because traditionally access has been offered to the entire extended area for services such as FX, CCSA and ENFIA access for MTS/WATS equivalent services.

***758** 189. In their petitions for reconsideration telephone companies have asserted that the extended area rules unnecessarily restrict carriers' flexibility.[FN145] AT&T also has focused upon the interaction between the extended area rules and § 69.3(e)(7), which prohibits a telephone company that files its own access tariffs from filing charges that are disaggregated or deaveraged within its study area. It concludes that a telephone company that has entered into several extended area arrangements with different telephone companies in a particular state might be required to concur in the association charges for its entire study area if it could not reach agreement with every one of these other companies. Other companies that have established extended area arrangements with it could also be precluded from establishing separate charges even if they reached an agreement with the first company if the first company were required to use association charges in another extended area within the same state.

190. There seem to be essentially two sources of potential problems that may arise from joint provision of access services in an extended area. The first is the need to divide access service revenues among the telephone companies providing these services in the extended area. The second is an exchange carrier's inability to recognize when it is actually providing interstate access services. The restrictions imposed by the *Access Charge Order* on access tariffs for extended areas respond only to the first problem and, as the petitioners have underscored, can severely hamper a telephone company's ability to develop cost-based rates for its access services. For these reasons we are eliminating the requirement that carriers participating in extended area arrangements either file a joint tariff or concur in the association tariff's charges for traffic sensitive access elements. We are, however, imposing some requirements to solve the problems we perceive.

****53** 191. Transport and switching of interstate traffic originating or terminating in an extended

area will still be deemed access services.[FN146] If exchange carriers providing access services in an extended area cannot agree on a formula for the division of access revenues generated from jointly provided access services, each may simply bill and collect separately for the access services that it provides. Separate charges are clearly feasible for services such as MTS that have traditionally been provided through direct connections with a Class 5 switch. The telephone companies apparently have ignored extended area arrangements in computing ***759** MTS, WATS and most private line settlements. The extended area problem is largely confined to services that use line side connections. If an FX line terminates in a particular Class 5 switch in an extended area, it may be difficult to determine whether a call terminated or originated in a telephone that is served by that switch or a telephone that is served by a Class 5 switch in the adjacent exchange. Separate traffic senstive charges for interstate services using line side connections become feasible if some formula is devised for attributing originations and terminations to each exchange in the extended area even if the actual path of some calls cannot be traced. We have decided that the following formula should be used in the absence of an agreed formula.

192. When one or more carriers participating in an extended area arrangement do not have an agreed formula for the division of access revenues for traffic sensitive elements and do not both participate in the exchange carrier association tariffs for recovery of traffic sensitive costs, we shall require that each carrier in the arrangement cooperate in the tracing of paths of interstate calls whenever such paths can be traced. For those interstate services offered by an interexchange carrier through line side interconnections with a class 5 switch located in an extended area in which the path cannot be traced, it seems logical to assume that the associated originations and terminations are proportional to the number of main stations in the area. Recognizing that it may not be possible to identify main stations in the future, however, we propose that access lines be used as a surrogate for main stations when such identification cannot be made.[FN147] Then for purposes of computing charges for access services provided in extended areas in which at least one telephone company is not concurring in the association tariff, originations and terminations of interstate services through line side interconnections shall be apportioned among end offices in the extended area based on the relative number of main stations connected to or, if that number cannot be determined, the relative number of access lines terminating at each of these end offices.

E. *Average Schedule Status*

193. Under the access charge plan, a telephone company is treated as an average schedule company only if all of its affiliates are also average schedule companies and it has concurred in the association's tariffs for all access elements.*See*47 CFR 69.605(c). Several parties have asked us to reconsider the criteria for defining an average schedule company. All agreed that these conditions would require many independents to abandon schedules. RTC asserts that a company's status as an average schedule ***760** company should not turn on the status of its affiliates. RTC, Centel and REA also find the compulsory pooling requirement too restrictive.

****54** 194. We incorporated a modified version of the existing average schedule arrangement into the access charge rules in order to avoid imposing the burden of developing cost information upon companies that may be too small to meet that burden. We assumed that all such companies are presently participating in average schedule payments. Some companies that are large enough to compile cost information undoubtedly also participate in average schedule settlements. We could not reasonably defer the implementation of access charges to identify such companies, but we *did* infer that companies or affiliated groups of companies that are partly in and partly out of average schedule settlements are not too small to perform cost studies. We accordingly excluded such companies from the average schedule definition for purposes of access charge compu-

tations and distributions.

195. The definition we have adopted may deprive some companies of benefits they derived from the prior contractual arrangements, but those companies have not presented any reason for concluding that they should be entitled to those benefits. No company has a right under the Communications Act to recover costs from interstate ratepayers that exceed the interstate costs that would be computed under the applicable *Separations Manual* formula. Averaging is justified as a means of approximating those costs. We have, however, decided to suspend for a period of two years, the requirement that all affiliates of a cost company be compensated on the basis of actual costs. It may be difficult for such affiliates that are presently compensated as average schedule companies to develop cost data. Some rate adjustments may also be required to reflect changes in separations methods. Therefore, a two-year waiver is warranted to avoid undue disruption.

196. Some petitioners also note that the existing average schedule system gives a company the option of participating in an average schedule for only a portion of its costs and suggest that the access charge rules be modified to include such an option. The average schedules do not appear to correspond with access elements we have defined and accordingly could not be easily adapted even if we found that such a system would be desirable. We conclude that, at least for the initial access charges, a company should either be classified as average schedule for all access elements except Billing and Collection or not be classified as average schedule for any of them. Companies that presently participate in average schedule settlements for part of the access compensation will, however, be permitted to elect between average schedule and cost status if they would not otherwise be defined as cost companies.

***761** F. *Repolling*

197. In view of the modifications that we have made in the access elements, a few carriers who have elected to join or to refrain from joining association tariffs may wish to reconsider their choices. In particular, companies that have elected to join association traffic sensitive elements, must be afforded an opportunity to elect to file tariffs for a Billing and Collection element that differs from association charges for that element.

****55** 198. The redefined end user elements do not afford the same range of choices to carriers that file their own tariffs. Some companies that elected to file non-association rates for the end user elements may wish to join in an association tariff under the present circumstances. Therefore, those companies should be repolled. We have also been advised that at least one average schedule company that did not elect to join in association charges did not realize that it must join the association charges in order to retain average schedule status. Others may have acted upon the same misconception. Therefore, every average schedule company that elected to file non-association charges should be repolled.

199. We expect that AT&T will perform the necessary repolling as soon as possible and report the results to the Chief of the Common Carrier Bureau. At the same time it should obtain from each exchange carrier the projected average number of private lines, closed-end WATS lines and any other lines in that carrier's study area that will be subject to the Special Access surcharge in 1984.

VI. *Other Issues*

A. *State and Federal Jurisdiction*

200. In the *Access Charge Order* we rejected suggestions that we delegate to state commissions responsibility for developing interstate access charges.*See id.* at para. 69. Illinois now asks us to reconsider that decision. It notes that delegation would result in a carrier's having uniform carrier's carrier access charges for both interstate and intrastate access services. The same result could, of course, be achieved if a state commission adopted interstate rates for intrastate access charges. Illinois makes clear, however, that it finds delegation preferable.

201. In the *Access Charge Order* we identified the four goals in this phase of this proceeding:

(1) preservation of universal service;
(2) elimination of discrimination;
(3) promotion of network efficiency; and
(4) prevention of uneconomic bypass.

Id. at para. 26. We believe that our access charge plan, as modified by the changes we make today, strikes an optimal balance among these ***762** potentially conflicting goals. The comments of illinois and other state commissions filed in this reconsideration proceeding make clear that, given the authority to do so, different states would structure interstate access charges to achieve different results. For example, Illinois would use such delegated authority to move quickly to cost-based rates, deaveraging costs within study areas and eliminating the Carrier Common Line charge for interstate traffic originating or terminating in Illinois. Thus Illinois would seek to withdraw from participation in this Commission's efforts to preserve our nationwide telephone system through the Universal Service Fund. AT the other extreme, other state commissions indicate that given the power to develop interstate access rates, they would seek even more extensive cost averaging and lower fixed charges. [FN148] Thus, these commissions would preserve low fixed charges at the expense of economic efficiency, even if a byproduct of their action is uneconomic bypass of certain telephone companies' local networks. These comments vividly illustrate why delegation would not promote nationwide service objectives, nor produce uniform results, and is therefore undesirable.

****56** 202. This Commission has the responsibility to balance conflicting goals to the Commissions Act in order to achieve results that will promote all of those goals to the mixiumum extent possible. We must exercise our own best judgment in striking the proper balance. The Act does not permit us to abidicate that responsibility to others.[FN149] Finally, our access charge plan is not, as the Maryland People's Counsel suggests, an intrusion into state ratemaking authority.[FN150] Our access charge plan addresses solely interstate services, and not intrastate services over which the states exercise authority.

B. *Notices*

203. Several petitioners contend that we failed to give adequate notice of our intent to adopt an access charge plan that substantially alters the manner in which its customers compensate an exchange carrier for its costs of providing interstate access.

***763** 204. Some petitioners contend that enhanced services should not be subjected to access charges because the providers and users of those services did not receive sufficient notice that this proceeding might affect the amounts that they pay for access. [FN151] We do not find that contention persuasive. The *Initial Notice* in this docket advised all persons that we expected to examine all forms of access compensation for interstate and foreign telecommunications in a comprehensive manner. None of the subsequent *Notices* expressed any intention to narrow the scope of this proceeding. Moreover, the local business rate, or B–1, charges which have been paid for enhanced service access in the past merely represent another application of the method the telephone industry has traditionally used to obtain access compensation from FX customers. The *Second Supplemental Notice* clearly indicated that we viewed the relationship among FX, ENFIA, MTS, and WATS access compensation as a central problem that must be resolved in order to establish access compensation for MTS/WATS equivalent services. The use of B–1 rates for enhanced service access is part of the same generic problem, since enhanced service providers use local exchange facilities in the same or similar manner as do these services. Therefore, vendors of enhanced services should have known that any final decision in the access charge phase of this proceeding would be likely to affect the charges they pay for access.

205. Moreover, the MFJ treats information access for information services, and exchange access for interexchange carrier services in the same manner. Therefore, persons who provide or use services that

are described as 'information services' in the MFJ should have known that they would pay an BOC carrier access charges in the absence of Commission action which required different treatment for 'information access.' The *Fourth Supplemental Notice* invited all interested persons to comment upon the desirability of defining the scope of access service to correspond with the MFJ definition, 90 FCC 2d at 153. That *Notice* alone should have been sufficient to notify the petitioners that the final rules in this proceeding would be likely to have some effect upon the price of enhanced service access.

****57** 206. Our decision to impose surcharges in lieu of carrier's carrier charges on private lines used by enhanced service providers renders that notice question moot in any event. The *Second* and *Fourth Supplemental Notices* contained considerable discussion of alternatives that would affect private line rates.

207. In his petition for reconsideration, Arthur W. Brothers asserts that independent telephone companies were also denied notice and an opportunity to comment on the financial impact upon them of the access charge plan. This assertion is incorrect. In the *Fourth Supplemental* ****764*** *Notice* we discussed alternative plans for implementing access charges. We not only recognized that our decision in this proceeding 'could have a significant impact on a substantial number of small independent telephone companies,'90 FCC 2d at 154, but also stated explicitly:

> It appears that these alternative plans could have differing effects on small telephone companies, although the extent of the difference is not entirely clear at this point. We specifically request small independent telephone companies, and the organizations representing them, to address the implications of these alternatives for their operations.

The regulatory proposals discussed in this item would supersede existing mechanisms such as ENFIA, division of revenues and settlements through which local telephone companies are compensated for the use of their facilities in the origination and termination of interstate communications.*Id.* at 155.

208. The Independent Alliance claims that we gave no notice of our intent to impose access charges on end users.[FN152] The Maryland People's Counsel adds that because the proposal we adopted the *Access Charge Order* was not one of the options presented in the *Fourth Supplemental Notice*, we must permit interested parties to evaluate and to comment upon the plan adopted.[FN153] In the *Fourth Supplemental Notice*, however, we expressed our anticipation that under the access charge plan we would adopt:

> exchange carriers will be compensated for the traffic sensitive costs actually imposed by the interexchange carriers. . . . Non-traffic sensitive plant need not be allocated to these interexchange carriers. Rather, exchange carriers may be able to bill their customers directly to this portion of access.

Id. at 152. We did not adopt any of the alternatives for structuring these end user charges that we discussed in the *Fourth Supplemental Notice*. As we explained in the *Access Charge Order:*

> We have decided that none of the access charge options presented in our *Fourth Supplemental Notice* is entirely satisfactory. The access charge plan that we are adopting herein is more complex, and we believe it fair to say more sophisticated, than any of these options. Our new plan, however, incorporates elements of the options in the *Fourth Supplemental Notice* and reflects the ideas and suggestions expressed in many of the comments.

****58** *Id.* at para. 104. Thus the end result represented an effort to accommodate concerns expressed in comments filed in response to the *Fourth Supplemental Notice. See Access Charge Order* at para. 105–123. Interested parties have had the opportunity to voice their objections to the decisions reached in the *Access Charge Order* and many, in fact, have taken the opportunity to do so in this reconsideration proceeding. We are today ***765** modifying the access charge plan to accommodate some of the

concerns they have expressed. Thus we have fully discharged the obligations imposed upon us by the notice requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), and the Constitution.*See CCIA* v. *FCC,* 693 F.2d 198, 217–18 (D.C. Cir. 1982), *cert. denied*, 15 U.S.L.W. 3826 (U.S. May 16, 1983) (Nos. 82–1331 and 82–1332).

C. *Docket 20099*

209. In the *Access Charge Order* we noted that some facilities to be covered by access charges were the subject of the Settlement Agreement between the Bell System companies and the OCCs that we accepted as a disposition of Docket 20099. *See Exchange Network Facilities for Interstate Services,* CC Docket No. 78–371, 71 FCC 2d 440, 453–54 (1979); *Facilities for Use by Other Common Carriers,* Docket No. 20099, 52 FCC 2d 727 (1975). Under the terms of that agreement, the BOCs could revise the rates for certain access facilities only if the revised rates were cost supported and the other carrier parties received notice of the proposed changes at least six months before their effective date. In the *Access Charge Order* we observed that if applied to access tariffs this notice requirement could prevent their timely implementation. Finding such delay contrary to the public interest, we abrogated 'any contractual notice requirement of the Settlement Agreement that might be applicable.'*Access Charge Order* at n. 90.

210. Several OCCs have asked us to reconsider our decision to abrogate the notice requirement, citing *MCI Telecommunications Corp.* v. *FCC,* 665 F.2d 1300 (D.C. Cir. 1981). In *MCI*, the court held that the FCC could not permit a carrier, through tariff revisions, unilaterally to abrogate a preexisting contract.*See, Federal Power Comm'n* v. *Sierra Pacific Power Co.,* 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.,* 350 U.S. 332 (1956). Under the *Sierra-Mobile* line of cases, the FCC may abrogate a carrier-carrier contract only under certain circumstances. Contract rates may be abrogated if the agency finds the rates to be 'unjust, unreasonable, unduly discriminatory, or preferential.'*MCI, supra* 665 F.2d at 1303, quoting *Sierra, supra,* 350 U.S. at 355, or if the contract rates were such as to 'adversely affect the public interest.' *Sierra*, 350 U.S. at 355.

211. The basis for our decision in the Access Charge Order to abrogate the notice requirement was that we believed it essential to the effective implementation of the access charge plan to have all the new rates become effective simultaneously on January 1, 1984. Upon reexamination, we now conclude that no substantial public interest reasons are before us to justify abrogation of the six month notice requirements. Further, we cannot find on this record that the requirement would impose ***766** an excessive burden on other ratepayers. If the tariffs containing new rates for facilities covered by the Settlement Agreement are filed on October 3, 1983, those rates may be made effective on April 3, 1984 (under the six month notice requirement), only three months after they would have been effective had we abrogated the notice requirement. This delay is insubstantial and in our judgment should not unduly impair our ability to implement the rest of the access charge plan on a timely basis, effective January 1, 1984. For these reasons, we shall not abrogate the six month notice requirement of the Docket 20099 Settlement Agreement.[FN154]

****59** VII. *Ordering Clauses*

212. Accordingly, it is ordered, That pursuant to 47 U.S.C. 154(i) and (j), 201, 202, 203, 205, 218 and 405 and 5 U.S.C. 553, that the *Third Report and Order* adopted in this proceeding is modified to the extent set forth in this *Memorandum Opinion and Order*.

213. It is further ordered, That petitions for reconsideration or clarification are granted to the extent set forth herein, and are otherwise denied.

214. It is further ordered, That the Motions to Strike filed by Satellite Business Systems are denied.

215. It is further ordered, That the Motions for Waiver of Page Limitation filed by the Rural Telephone Coalition and the Southern Pacific Communications Company are granted.

216. It is further ordered, That the Motions to Accept Late-Filed Reply filed by the Association of Data Processing Service Organizations, Inc. and the National Data Corporation are granted.

217. It is further ordered, That Part 69 of the Communication's Rules is amended as set forth in Appendix A, effective on the day following their publication in the **Federal Register**. We find good cause for requiring an effective date earlier than thirty days following publication in the **Federal Register**. This good cause arises from the need for telephone companies to file tariffs on October 3, 1983 that are based on the access charge rules as revised by this *Memorandum Opinion and Order*.

***767** 218. And, it is further ordered, That the July 13, 1983 Motion for Partial Stay of Order filed by the Western Union Telegraph Company is dismissed as moot.

FEDERAL COMMUNICATIONS COMMISSION.

WILLIAM J. TRICARICO, *Secretary*.

Appendix A

Part 69—[Amended]
Part 69, Chapter 1 of Title 47, Code of Federal Regulations, is amended as follows.

1. In § 69.2, paragraphs (a), (j), (k), (m), (r), (t) are revised and paragraph (gg) is added to read as follows:

§ 69.2 Definitions.

* * *

(a) ‘Access Service’ includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication;

* * *

(j) ‘Customer Outside Plant’ or ‘Customer OSP’ means all lines or trunks on the customer side of a Class 5 or end office switch, including lines or trunks that do not terminate in such a switch, except lines or trunks that cannect an interexchange carrier;
(k) A ‘coinless pay telephone’ is a public telephone provided by a telephone company through which an end user may originate interstate or foreign telecommunications for which he pays by credit card, collect, or third number billing procedures;

* * *

(m) ‘End user’ means any customer of an interstate or foreign telecommunications service that is not a carrier, except that a carrier shall be deemed to be an ‘end user’ to the extent that such carrier uses a telecommunications service for administrative purposes, without making such service available to others; directly or indirectly;

* * *

****60** (r) ‘Interexchange’ or the ‘interexchange category’ includes services or facilities provided as an integral part of interstate or foreign telecommunications that is not described as ‘access service’ for purposes of this Part;

* * *

(t) ‘Line’ or ‘trunk’ includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic cable means of transmission;

* * *

(gg) ‘Access minutes' or ‘access minutes of use’ is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originat-

ing end of an interstate of foreign call, usage is to be measured from the time the ***768** originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges, as applicable.

2. Section 69.3 is amended by removing paragraph (e)(9) and by revising paragraphs (e)(1), (e)(2), (e)(3), (e)(4), and (e)(8) to read as follows:

§ 69.3 Filing of access service tariffs.

* * *

(e) * * *

(1) Such a tariff must cross-reference association charges for the Carrier Common Line element if such company or companies participate in the distribution of revenues from such element;

(2) Such a tariff that cross-references an association charge for any end user access element must cross-reference association charges for all end user access elements;

(3) Such a tariff that cross-references an association charge for any carrier's carrier access element other than the Carrier Common Line element or the Billing and Collection element must cross-reference association charges for all carriers carrier access charges other than the Carrier Common Line element and the Billing and Collection element;

(4) Any charge in such a tariff other than a Billing and Collection charge that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

* * *

(8) To enable the association to prepare an access tariff for each year subsequent to 1984, each telephone company shall notify the association no later than June 30 of the preceding year of the projected average number of private line terminations, WATS closed end terminations and any other lines in the carrier's study area that would be subject to the Special Access surcharge.

3. Section 69.4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 69.4 Charges to be filed.

(a) The end user charges for access service filed with this Commission shall include charges for the End User Common Line element.

****61** (b) Except as provided in Subpart C of this Part, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

(1) Limited Pay Telephone;

(2) Carrier Common Line;

(3) Line Termination;

(4) Local Switching;

***769** (5) Intercept;

(6) Information;

(7) Common Transport;

(8) Dedicated Transport; and

(9) Special Access.

* * *

4. A new § 69.5 is added to Subpart A to read as follows:

§ 69.5 Persons to be assessed.

(a) End user charges shall be computed and as-

sessed upon end users, as defined in this Subpart, and as provided in Subpart B of this Part.

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services, except that carrier common line, line termination, local switching, intercept, information, and transport charges shall not be assessed upon an interexchange carrier to the excent that it resells services for which these charges have already been assessed (e.g., MTS, WATS and the MTS/WATS-type services of other common carriers), or that it resells private line service to offer services which are not MTS/WATS-type services.

(c) Special access surcharges shall be assessed upon users of exchange facilities which interconnect these facilities with means of interstate or foreign telecommunications, to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure, pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and nondiscriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line and WATS services pursuant to the provisions of § 69.115 of this Part.

§ 69.102 [Removed]

5. Section 69.102 is removed.

6. Section 69.103 is revised to read as follows:

§ 69.103 Limited Pay Telephone (pay telephones and coinless pay telephones which can access the services of only one interexchange carrier).

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon an interexchange carrier for each line terminating in a pay telephone or coinless pay telephone which can be used to originate any of its interstate or foreign telecommunications services, but not such services of other interexchange carriers.

(b) The per line charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the Limited Pay Telephone element by the projected average number of any telephones and coinless pay telephones which can access the services of only one interexchange carrier.

7. Section 69.104 is amended by revising paragraphs (a) and (c) to read as follows: revising paragraphs (a) and (c) to read as follows:

****62** § 69.104 End user common line.

***770** (a) A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service, Centrex or semi-public coin telephone service to the extent they do not pay carrier common line charges. Such charge shall be assessed for each line between the premises of an end user and a Class 5 office that is or may be used for local exchange service transmissions.

* * *

(c) For each class of party line service, *i.e.* 2-party, 4-party, etc., charges to subscribers of that category shall be computed by multiplying the single line rate by a fraction the numerator of which equals the annual projected number of lines used to provide the particular class of party line service and the denominator of which equals the annual projected number of subscribers to that class of party line service, but in no case shall a subscriber to party line service be charged more than the single line rate.

* * *

8. Section 69.105 is revised to read as follows:

§ 69.105 Carrier Common Line.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed

upon all interexchange carriers that use exchange, switching facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent that they resell MTS, WATS or the MTS/WATS-type services of other common carriers (OCCs) or that they resell private lines to offer services that are not OCC MTS/WATS-type services.

(b) A per minute charge shall be computed by dividing the revenue requirement for the Carrier Common Line element by the projected annual access minutes of use for all interstate or international services that use local exchange switching facilities and are subject to charges under paragraph (a) of this Section. Each minute of use of any local exchange switch by such services except closed end WATS minutes shall be counted for purposes of computing and assessing this charge.

9. Section 69.106 is revised to read as follows:

§ 69.106 Line Termination.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS, WATS, or MTS/WATS-type services of other common carriers (OCCs) or that they resell private lines to offer services that are not OCC MTS/WATS-type services.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Line Termination element by the projected annual access minutes for all interstate or foreign services that use local exchange switching facilities and are subject to charges under paragraph (a) of this Section. Each minute of use of any termination in a local exchange switch by such services shall be counted for purposes of computing and assessing this charge.

****63** 10. Section 69.107 is amended by revising paragraphs (a), (b), (c), (d), (e), and (f) to read as follows:

§ 69.107 Local Switching.

***771** (a) Charges that are expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services, except that the charges shall not be assessed upon interexchange carriers to the extent that they resell MTS, WATS or MTS/WATS-type services of other common carriers (OCCs) or that they resell private lines to offer services that are not OCC MTS/WATS-type services.

(b) Separate charges shall be established for two categories of services subject to charges under paragraph (a) of this Section. The first category, or LS 1, shall consist of local dial switching for services other than MTS, WATS and services receiving access to the local switch equal to that received by MTS and WATS. The second category, or LS 2, shall consist of local dial switching services for MTS, WATS and services receiving access to the local switch equal to that provided MTS and WATS.

(c) The projected annual revenue requirement for Local Switching shall be apportioned between LS 1 and LS 2 as follows. The projected annual revenue requirement attributable to the Category 4 central office equpiment assigned to this element shall be apportioned between LS 1 and LS 2 on the basis of the relative number of messages in each of these categories for which this equipment records billing information. The projected annual revenue requirement attributable to the Category 5 central office equipment assigned to Local Switching shall be assigned to the LS 2 element. The remainder of the projected annual

revenue requirement for Local Switching shall be apportioned between LS 1 and LS 2 on the basis of weighted relative usage. Each LS 1 dial equipment minute shall be counted as one. LS 2 dial equipment minutes shall be multiplied by the Toll Weighting Factor of TWF that is used for jurisdictional separations purposes to allocate investment in a particular type of switch.

(d) A per minute charge for the LS 1 category shall be computed by dividing the LS 1 portion of the projected annual revenue requirement by the projected annual LS 1 access minutes of use.

(e) A per minute charge for the LS 2 category shall be computed by dividing the projected LS 2 annual revenue requirement by the projected LS 2 access minutes of use.

(f) If end users of an interstate or foreign service that uses local switching facilities pay message unit charges for such calls in a particular exchange, a credit shall be deducted from the Local Switching element charges to such carrier for access service in such exchange. The per minute credit for each such exchange shall exchange shall be multiplied by the monthly access minutes for such service to compute the monthly credit to such a carrier.

* * *

11. Section 69.108 is revised to read as follows:

****64** § 69.108 Intercept.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications, except that the charge shall not be assessed upon interexchange carriers to the extent that they recall MTS, WATS or the MTS/WATS-type services of other common carriers (OCCs), or that they resell private lines to offer services that are not OCC MTS/WATS-type services.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Intercept element by the projected annual access minutes of use for ***772** all interstate or foreign services that use local exchange switching facilities and are subject to charges under paragraph (a) of this Section.

§ 69.110 [Removed]

12. Section 69.110 is removed.

13. Section 69.111 is amended by revising paragraph (a) as follows:

§ 69.111 Common transport.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning net investment, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS, WATS or the MTS/WATS-type services of other common carriers (OCCs), or that they resell private lines to offer services that are not OCC MTS/WATS-type services.

* * *

14. Section 69.113 is amended by revising paragraph (c) to read as follows:

§ 69.113 Special access.

* * *

(c) Charges for an individual element shall be assessed upon all interexchange carriers that use the equipment or facilities that are included within such subelement.

* * *

15. Section 69.114 is amended by revising paragraph (b) to read as follows:

§ 69.114 Billing and collection.

* * *

(b) Any charges for such service or billing information service must be reasonable and nondiscriminatory.

16. A new § 69.115 is added to subpart B to read as follows:

§ 69.115 Special Access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities which are interconnected by users with means of interstate or foreign telecommunications, a surcharge which is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line or WATS services which are not exempt from assessment pursuant to Subsection (e) of this Section.

(b) Such surcharge shall be computed to reflect a reasonable approximation of the carrier usage charges which, assuming non-premium interconnection, would have been paid for average interstate or foreign usage of common lines, end office facilities, and transport ***773** facilities, attributable to each Special Access line termination which is not exempt from assessment pursuant to Subsection (e) of this Section.

****65** (c) If the association, carrier or carriers, that file the tariff are unable to estimate such average usage for 1984, the 1984 surcharge shall be twenty-five dollars ($25.00) per line termination per month.

(d) A telephone company may propose reasonable and nondiscriminatory end user surcharge, to be filed in its federal access tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to Subsection (e) of this Section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and nondiscriminatory manner.

(e) No special access surcharges shall be assessed for any of the following terminations:

(1) The open end termination in a telephone company switch of an FX line, including CCSA and CCSA-equivalent ONALs;

(2) Any termination of an analog channel that is used for radio or television program transmission;

(3) Any termination of a line that is used for telex service;

(4) Any termination of a line that by nature of its operating characteristics could not make use of common lines; and

(5) Any termination of a line that is subject to carrier usage charges pursuant to Section 69.5.

17. Section 69.201 is revised to read as follows:

§ 69.201 General.

Notwithstanding §§ 69.4, 69.104 and 69.105, charges for the access elements described in this subpart shall be computed in accordance with this subpart during the period commencing January 1, 1984 and ending December 31, 1989.

18. Section 69.202 is revised to read as follows:

§ 69.202 End User Common Line charge.

An End User Common Line charge that is the lesser of the charge that would have been computed pursuant § 69.104(d) for the year in question or the charge described in §§ 69.203 and 69.204 shall be assessed upon each local exchange service subscriber, including subscribers to semi-public telephone service.

19. Section 69.203 is revised to read as follows:

§ 69.203 Charges for 1984–1986.

(a) The monthly residential line charge shall be

$2.00 in 1984, $3.00 in 1985 and $4.00 in 1986.

(b) The monthly business line charge shall be $6.00 in 1984, 1985 and 1986.

(c) A line that is used for Centrex-CO service shall be deemed to be a residential line for purposes of this section and § 69.204 if such line was in use or on order on July 27, 1983. All other lines used for Centrex-CO service shall be deemed to be business lines.

***774** (d) For purposes of this section and § 69.204, a line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff. All other lines except Centrex-CO lines in use or on order on July 27, 1983 shall be deemed to be business lines.

****66** 20. Section 69.204 is revised to read as follows:

§ 69.204 Charges for 1987–1989.

(a) The End User Common Line part of the transitional portion that is computed pursuant to § 69.503 of this part shall be divided by the projected average number of common lines in use to determine a per line amount. The per line amount shall be added to the $4.00 residential and $6.00 business charges to determine tentative charges for residential and business lines.

(b) If the tentative business line charge does not exceed the charge that would have been computed pursuant to § 69.104(d), the tentative charges shall be assessed for each business or residential line.

(c) If the tentative business line charge exceeds the § 69.104(d) charge, the § 69.104(d) charge shall be assessed for each business line. The residential charge shall be the tentative residential charge and an amount that is computed by dividing the difference between the sum of the tentative charges for all business lines and the sum of § 69.104(d) charges for all business lines by the projected average number of residential lines.

21. Section 69.205 is revised to read as follows:

§ 69.205 Transitional Carrier Common Line charges.

(a) In 1984 Carrier Common Line charges to carriers that do not receive premium access shall be computed by multiplying the access minutes of use of such carriers by .65.

(b) In the absence of a Commission order designating a different factor, charges to carriers that do not receive premium access shall be computed by multiplying access minutes of use of such carriers by .77 in 1985, by .88 from January 1, 1986 through August 31, 1986 and by 1.00 thereafter. Projected access minutes shall be multiplied by the applicable factor for purposes of computing the per minute charge.

(c) For purposes of this section, carriers that provide MTS and WATS shall be deemed to receive premium access.

§ 69.206 [Removed]

22. Section 69.206 is removed.

§ 69.207 [Removed]

23. Section 69.207 is removed.

§ 69.208 [Removed]

24. Section 69.208 is removed.

25. Section 69.302 is amended by revising paragraph (b)(4) to read as follows:

§ 69.302 Net Investment.

* * *

(b) * * *

***775** (4) Investment that is not COE, OSP or Buildings investment shall be apportioned among the interexchange category and appropriate access elements in the same proportions as the associated investment in Account 100.1.

26. Section 69.303 is amended by revising paragraph (b), (c), and (d) to read as follows:

§ 69.303 Station equipment.

* * *

(b) Investment in pay telephones and coinless pay telephones and appurtenances shall be assigned to the Common Line Element, if capable of use with the services of more than one interexchange carrier, or the Limited Pay Telephone element, if capable of use with the services of only one interexchange carrier.

(c) Investment in all other station equipment shall be apportioned between the Special Access and Common Line elements on the basis of the relative number of equivalent lines in use. Each interstate or foreign Special Access line shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate separations factor for non traffic sensitive plant to determine the number of equivalent local exchange subscriber lines.

****67** (d) Any investment that is apportioned to interstate and foreign services as a surrogate for customer premises equipment shall be apportioned between special access and common line elements in the same manner as investment apportioned pursuant to paragraph (c) of this section.

27. Section 69.304 is amended by removing paragraphs (d), (e) and (f) and revising paragraphs (a), (b) and (c) to read as follows:

§ 69.304 Customer OSP.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and WATS access lines shall be assigned to the Special Access element.

(c) Investment in lines terminating in coinless pay telephone shall be assigned to the Coinless Pay Telephone element. Investment in all other lines terminating in pay telephones shall be assigned to the Common Line Element.

28. Section 69.305 is amended by revising paragraphs (b) and (c) to read as follows:

§ 69.305 Carrier OSP.

* * *

(b) Carrier OSP, other than WATS access lines not assigned pursuant to paragraph (a) of this section, that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned between the Dedicated Transport and Common Transport elements. Such OSP shall be assigned to the Dedicated Transport element if it is used exclusively for the interexchange services of a particular carrier.

***776** (c) All Carrier OSP that is not apportioned pursuant to paragraphs (a) and (b) of this section shall be assigned to the Special Access element.

29. Section 69.306 is amended by revising paragraphs (b), (c), (e), (f), and (i) to read as follows:

§ 69.306 Central office equipment.

* * *

(b) Category 1 COE (Manual Switchboards) shall be apportioned among the interexchange category and the access elements as follows. COE 1 that is used for intercept services shall be assigned to the Intercept element. COE 1 that is used for directory assistance shall be assigned to the Information element. COE 1 other than service observation boards that is not assigned to the Intercept or Information elements

shall be assigned to the interexchange category. Service observation boards shall be apportioned among the interexchange category and the Intercept, Information, Common Transport, Local Switching and Billing and Collection access elements based on the remaining combined investment in COE 1 through COE 6, excluding the non traffic sensitive portion of COE 6.

(c) Category 2 COE (Tandem Switches) that is deemed to be change equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Co.* shall be assigned to the Common Transport element. All other COE 2 shall be assigned to the interexchange category.

* * *

(e) Category 4 COE (Automatic Message Recording Equipment) that is used for the duration of an interstate call that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Company* shall be assigned to the Billing and Collection element. All other COE 4 that is used for the duration of an interstate call shall be assigned to the interexchange category. Category 4 COE used only momentarily to record information about interstate switched private service traffic that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Company* shall be assigned to the Special Access element. All other COE 4 that is used only momentarily to record information about interstate switched private services traffic shall be assigned to the interexchange category. If a telephone company offers Billing and Collection services, it shall assign one-half the investment in COE 4 that is used only momentarily to record information about interstate message service to the Billing and Collection element and one-half of this investment to the Local Switching element. If it offers no billing and collection services, it shall assign the investment in COE 4 used only momentarily to record information about interstate message service to the Local Switching element.

****68** (f) Category 5 COE (Other Dial Switching Equipment) in a Class 4 or functionally equivalent switch that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Co.* shall be assigned to the Common Transport element. All other Category 5 COE in a Class 4 or functionally equivalent switch shall be assigned to the interexchange category. All Category 5 COE in end offices shall be assigned to the Local Switching element.

* * *

***777** (i) Category 8 COE (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line, Coinless Pay Telephone, Dedicated Transport, Common Transport and Special Access elements. COE 8 shall be apportioned in the same proportions as the associated OSP except as provided in paragraph (a) of this Section.

30. Section 69.307 is amended by revising paragraphs (b), (c), (d), (e), (f), and (i), to read as follows:

§ 69.307 Buildings.

* * *

(b) Category 1A space investment (Manual Switchboard) shall be apportioned among the interexchange category and the Intercept and Information elements. Such investment shall be apportioned in the same proportions as COE 1 investment.

(c) Category 1B space investment (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line,

Limited Pay Telephone, Dedicated Transport, Common Transport and Special Access elements. Such investment shall be apportioned in the same proportions as COE 8 investment.

(d) Category 1C space investment (Dial Switching) shall be apportioned among the interexchange category and the Line Termination, Local Switching, Common Transport, Billing and Collection and Special Access elements. Such investment shall be apportioned in the same proportions as combined investment in COE categories 2, 3, 4, 5, 6 and 7.

(e) Category 2 space investment (Operator Quarters) shall be apportioned among the interexchange category and the Intercept and Information elements in the same proportion as Operator Wages (Account 624). Category 3 space investment (General Traffic Supervision) shall be apportioned among the interexchange category and the Intercept and Information elements in the same proportion as General Traffic Supervision Expense (Account 621).

(f) Category 4 space investment (Commercial Office) shall be apportioned among the interexchange category and all access elements. Such investment shall be apportioned in the same proportions as combined commercial expense.

* * *

(i) Category 7 space investment (Garage and Storerooms) shall be apportioned among the interexchange category and all the access elements. Such investment shall be apportioned in the same manner as combined investment in OSP, Materials and Supplies and Station Equipment.

* * *

31. Section 69.308 is amended by revising paragraph (c) to read as follows:

§ 69.308 Land.

* * *

(c) Investment in storage space shall be apportioned among the interexchange category and the Common Line, Limited Pay Telephone, Dedicated Transport, Common Transport ***778** and Special Access elements. Such investment shall be apportioned in the same proportions as combined OSP investment.

* * *

****69** 32. Section 69.309 is revised to read as follows:

§ 69.309 Other Investment.

Investment that is not apportioned pursuant to §§ 69.303–69.308 shall be apportioned among the interexchange category and all access elements in the same proportions as the combined investment other than commercial office space investment that is apportioned pursuant to §§ 69.303–69.308

33. Section 69.404 is revised to read as follows:

§ 69.404 Traffic Expenses.

(a) The Network Administration portion of Accounts 621 and 624 shall be apportioned among the interexchange category and the Intercept, Information, Common Transport, Line Termination, Local Switching, Special Access, and Billing and Collection elements in the same proportions as investments in COE categories 1, 2, 3, 4, 5, 6 and 7.

(b) The Centralized Ticket Investigation portion of Account 624 should be directly assigned to the Billing and Collection element.

(c) The Traffic Engineering portion of Account 621 shall be apportioned among the interexchange category and all access elements in the same proportions as combined investment in COE and interexchange OSP.

(d) All other traffic expenses shall be apportioned among the interexchange category, and the Intercept and Information elements based on weighted standard work time seconds.

34. Section 69.405 is revised to read as follows:

§ 69.405 Commercial expenses.

(a) Sales expenses (Account 643) and Advertising expenses (Account 642) shall be apportioned among the interexchange category and all access elements in the same proportions as the combined investment that is apportioned pursuant to § 69.309.

(b) Connecting Company Relations expenses (Account 644) shall be assigned to the interexchange category.

(c) Local Commercial expenses directly attributable to pay telephone collections shall be assigned to the Common Line element. All other Local Commercial expenses shall be apportioned among access elements and the interexchange category in the same proportions as Revenue Accounting expenses.

(d) Public Telephone Commissions expense (Account 648) shall be apportioned between the Coinless Pay Phone and Common Line elements based upon the relative number of public telephones in each category.

(e) Directory expenses (Account 649) shall be assigned to the Information element.

(f) All other Commercial expenses (Accounts 640 and 650) shall be apportioned among the interexchange category and the access elements in the same proportions as the combined expense apportioned to the interexchange Category and to each element pursuant to paragraphs (a)–(e) of this section.

***779** 35. Section 69.406 is amended by revising paragraph (a) to read as follows:

§ 69.406 Revenue Accounting Expenses.

(a) Revenue Accounting Expenses that are attributable to End User Common Line access billings shall be assigned to the Common Line element.

* * *

36. Section 69.501 is amended by revising paragraph (d) and by adding (e) to read as follows:

****70** § 69.501 General.

* * *

(d) Any portion of the Common Line element revenue requirement that is attributable to pay telephone investment or expense shall be assigned to the Carrier Common Line element or elements.

(e) Any portion of the Common Line element revenue requirement that is not assigned to Carrier Common Line elements pursuant to paragraphs (a), (b), (c) and (d) of this section shall be apportioned between End User Common Line and Carrier Common Line pursuant to §§ 69.502 and 69.503. Such portion of the Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this Subpart.

37. Section 69.502 is revised to read as follows:

§ 69.502 Base Factor Apportionment.

(a) In 1984, 1985 and 1986 the projected revenues from the End User Common Line charges and Special Access surcharges shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element.

(b) In 1987, 1988 and 1989 the revenues that would be projected if End User Common Line charges were computed at 1986 rates shall be deducted from the base factor portion to determine the transitional portion. The transitional portion shall be apportioned in accordance with § 69.503.

38. Section 69.503 is revised to read as follows:

§ 69.503 Apportionment of Transitional Portion.

(a) In 1987 access charges, 75% of the transitional portion shall be assigned to the Carrier Common Line element. The residue shall be assigned to the End User Common Line element.

(b) In 1988 access charges, 50% of the trans-

itional portion shall be assigned to the Carrier Common Line element. The residue shall be assigned to End User Common Line element.

(c) In 1989 access charges, 25% of the transitional portion shall be assigned to the Carrier Common Line element. The residue shall be assigned to the End User Common Line element.

(d) The transitional portion shall be assigned to the End User Common Line element in access charges for 1990 and subsequent years.

39. Section 69.604 is amended by revising paragraph (a) to read as follows:

***780** § 69.604 Billing and collection of access charges.

(a) The association shall bill and collect all Carrier Common Line access charges.

* * *

40. Section 69.605 is amended by revising paragraph (c)(1) to read as follows:

§ 69.605 Distribution of Carrier Common Line revenues.

* * *

(c) * * *

(1) After December 31, 1985, any company that directly or indirectly controls, is directly or indirectly controlled by, is under direct or indirect control with, or merges with a telephone company that did not participate in average schedule settlements on December 1, 1982, shall not be deemed to be an average schedule company; and

* * *

41. Section 69.607 is amended by revising paragraph (c) to read as follows:

§ 69.607 Disbursement of Carrier Common Line residue.

* * *

****71** (c) The hypothetical net balance for each company shall be the sum of the hypothetical not balances for each access element except the Billing and Collection element. Such hypothetical net balances shall be computed in accordance with §§ 69.608–69.610

Appendix B—Summary of Commenting Parties' Filings[FN155]

ABC-CBS-NBC (Networks)

The networks believe that the AT&T/GTE proposals concerning voice grade private lines could confuse assignment of costs to TV and audio transmission services. As was recognized in the Order, program transmission needs special treatment. The networks request a special category, entitled 'special access program transmission services.'

The networks are concerned that AT&T/GTE proposals could result in confusion as to whether program transmission is responsible for recovery of costs associated with nondedicated station equipment.

The networks point out that special access subelements were not defined, and that no party has disputed that program transmission is a separable dedicated service. Prescribing rules to establish such a category rather than waiting for carriers to do so would effectuate the Commission's intent.

The Ad Hoc Telecommunications Users Committee

Ad Hoc believes it incumbent upon the Commission to clarify that an interexchange carrier's ability to allocate costs not directly allocated is constrained by allocation rules and practices heretofore used. Private line dedicated interoffice facilities might be treated as a ***781** subelement of dedicated transport. Ad Hoc believes that this clarification fully comports with the intent and may not require rule changes.

The access charge should not be applied to

Centrex-CO because under Centrex-CO the number of lines received is not equal to the number of lines needed for access. States treat intercom and local functions of Centrex differently. Ad Hoc perceives a more favorable treatment of ESSX service solely due to software distinctions.

Ad Hoc states that existing Division of Revenue procedures recognize a PBX trunk equivalency in establishing Centrex NTS revenue requirements. Application of an unweighted common line charge would result in overrecovery of NTS costs associated with Centrex. Since such ratios are already used for separations, no new evidence is needed for calculation of appropriate ratios.

Ad Hoc urges the Commission to reconsider its rules so that the interim end user common line charge will be billed on a usage basis instead of being allocated to interexchange carriers. Many carriers cannot bill according to the rules. Removal of the cap would eliminate the need for the 'equal attribution' feature prescribed for multiline customers. The recommended change would also make it possible to compute the interexchange carrier surcharge for open-end FX.

Ad Hoc states that classification of enhanced service providers and resellers as carriers would create serious enforcement and implementation problems. Ad Hoc notes that neither the Second, nor the Fourth Notices provided notice that enhanced service providers or pure resellers were to be subjected to anything other than end user charges. It would be virtually impossible to avoid double-billing of resellers, enhanced service providers and underlying carriers. No offsetting credit could be calculated. Local carriers also cannot know what traffic is properly subject to access charges.

****72** Ad Hoc states that elimination of the end user usage charge and the imposition of carrier charges only upon facilities-based carriers would resolve many issues concerning OCCs.

Ad Hoc views AT&T's request that all private line loops be reclassified as special access as without merit. Instead, reference to CPE should be deleted. Ad Hoc believes that transferring all private lines to special access would exacerbate the already serious cost allocation problem in that element. Ad Hoc supports AT&T's suggestion that interexchange carriers be allowed to acquire dedicated access lines as agents for customers. Interexchange carriers, however, should be required to unbundle such charges.

Ad Hoc believes that agency arrangements with AT&T need not be anticompetitive. Non-carriers, however, should also be allowed to serve as agents for end users.

Ad Hoc believes that UTCC's position on Centrex is motivated by self-interest and disagrees with UTCC's assertion concerning greater network costs associated with Centrex.

Ad Hoc notes that AT&T's unbundling recommendations are lacking in detail. Ad Hoc believes that local switching should be unbundled to reflect differences in inferior or superior access arrangements. AT&T should be required to detail unbundling pursuant to the reporting requirements.

Ad Hoc recommends that the Commission address conversation minutes in a way that resolves differences in access conditions.

Ad Hoc believes that the issue of universal service support for traffic sensitive costs can be dealt with in the context of attempts to deaverage toll rates.

In light of the many issues to be resolved on reconsideration Ad Hoc recommends delay of the October 3 filing date if necessary.

****782*** *Alascom, Inc.*
Alascom limits its reply to rate integration. Alascom supports the policy of Alaskan rate integration.

Alascom believes that the separate proceeding requested by Alaska is appropriate if further steps are

needed to assure that full integration is possible in light of access charges.

State of Alaska/Alaska PUC
Alaska's primary concern is that there will be inadequate financial support for high cost exchanges, damaging universal service.

Alaska believes that the Order reverses the Commission's policy of rate integration for offshore points. The access charge mechanism is not consistent with existing negotiated intercarrier agreements and the support mechanism under the Order provides no funds for rate integration. The Order also undermines rate integration by limiting the USF to NTS plant. The Order could be modified to support rate integration. At a minimum, the USF should also support traffic sensitive costs.

Alaska includes a Petitions for Rulemaking with the objective of establishing a permanent mechanism for the integration of rates and services between the contiguous states and Alaska, Hawaii, Puerto Rico and the Virgin Islands.

Alaska believes that, if the Commission means to reverse its policies supporting rate integration of offshore points, it can do so only after satisfying notices requirements not yet met.

ALTEL

****73** ALTEL points out that it is difficult to determine who resellers are. ALTEL supports Ad Hoc's petition to relieve ‘pure’ resellers from carrier's carrier charges. Failure to do so would result in wide-scale discrimination and arbitrary application of access charges.

ALTEL further states that resellers will be doubly charged to the extent that facility carriers include carrier common line charges in rates for services to be resold. ALTEL recommends that the charges be levied upon facility based carriers, stating that the number of messages is the same regardless of where the charge is applied.

ALTEL believes that the access charge plan is certain to be arbitrary, inconsistently applied, threatens harsh and unwarranted subsidy burdens on an unsuspecting and nonculpable segment of the market, and is unworkable, unfair and unlawful.

ALTEL calls for rejection of AT&T proposals to facilitate reseller charges and refunds.

ARINC

ARINC agrees with Ad Hoc that transitional surcharges discriminate unreasonably against interstate FX subscribers. A cap on FX surrogate charges is needed. ARINC believes a refinement to the Ad Hoc proposal is needed. That is, the dedicated access line surcharge should be reduced during the transition in proportion to the increase in flat charges paid by businesses. During the transition, FX users would pay a transitional surcharge equal to the usage charge times the number of calls received but not to exceed the dedicated access line rate minus the flat business subscriber charge.

ARINC agrees with Ad-Hoc that the definition of dedicated access should not depend on CPE; it opposes separate access treatment of private and WATS access lines. ARINC proposes that all dedicated access lines be put into a single category and that specific guidelines be adopted to ensure proper cost allocation within that category.

****783** Association of Data Communications Users*
ADCU notes that the Order does not specify whether the 20 percent per year reduction in carrier common line charges is based on a fixed sum or would take into account increases in NTS costs. ADCU requests clarification as to how the Commission arrived at the $8.5 billion cited as the interstate NTS revenue requirement for 1984, and how the interstate NTS exchange plant requirement will be calculated in subsequent transition years. ADCU is requesting clarification of whether access charges will cover maintenance of dedicated private line service data lines and other services provided in the past. ADCU believes that if users are paying access

charges based on the costs for maintenance and service, these services should be rendered.

ADCU petitions for reconsideration of the creation of a universal service fund. ADCU believes that the USF is incorrect as a matter of both law and policy. Congress has not determined that one class or category of users is obligated to subsidize another. The Commission has not addressed alternative services which might be offered by local companies at less expensive rates. One such offsetting factor is the option to purchase a phone.

****74** ADCU asks the Commission to assert federal jurisdiction over all NTS and appropriate TS costs involved in accessing local exchange facilities for originating and terminating long haul traffic. Allocation of these costs is arbitrary and results in discrimination.

ADCU does not believe that exchange carriers should have the wide latitude in devising minimum, usage, and maximum end user charges allowed in the Order since such charges could lead to exorbitant local exchange rates. The Commission's plan also incorporates incentives for bypass.

The Commission has not provided any incentives to hold down NTS costs since these can be passed on to end users. ADCU submits that the maximum user common line charges should be revised to accurately reflect the Commission's estimated NTS revenue requirement of $8.50/line.

Association of Data Processing Service Organizations (ADAPSO)
ADAPSO asks the Commission to eliminate the distinction between enhanced service providers and other end users. ADAPSO notes that extension of carrier charges to enhanced service providers is unexplained, unsupported by the record, and unworkable. As a result, it is in violation of Section 205(a) requirements. Moreover, the access charges to be paid by enhanced services are not clearly identified.

ADAPSO argues that time-sharing services function very differently than MCI's network and that the only possible basis for inclusion of enhanced service carriers in the assessment of carrier charges was an MCI complaint.

The finding of discrimination can take place only when services are ‘like,’ ADAPSO argues. In fact, the services received by remote access data processors are like those used by businesses to provide in-house services. Classification on the basis of a line of business rather than of use is an ‘arbitrary’ classification and hence contrary to the Act.

The distinction between an end user and an enhanced service provider is unclear and unworkable. ADAPSO states that the access charge order leads into the definitional quagmire that the Commission escaped in Computer II.

ADAPSO also sees problems with implementation so such a charge even if enhanced providers are identified. Minutes of use would be difficult to measure and there is a strong possibility that double counting of minutes would result.

****784** AT&T*

AT&T believes that Centrex should not have to pay the $4 business end user charge. Such a charge would discriminate in favor of equivalent PBXs, and would harm groups least able to pay. AT&T proposes a PBX trunk equivalency standard for Centrex charges. Without this charge, large amounts of capacity would be idled and other rates would rise. AT&T states that Centrex users pay their total costs through combined state and interstate charges. Hence a $4 charge is not consistent with the goals of the access charge decision.

AT&T agrees with TAM's suggestion that PBX equivalents be measured based upon customer locations. AT&T states, however, that location-by-location PBX equivalency comparisons do not make sense because PBX customers would not have a PBX in each location. Thus main stations served by a Centrex office would be used in determining

PBX trunk equivalents. AT&T argues that the evidentiary hearing sought by NATA to determine PBX trunk equivalents is not required since there is no time and since parties will have a chance to demonstrate the appropriateness of alternatives after tariffs are filed.

****75** AT&T states that there is an apparent conflict between multi-carrier EAS rules and averaging rules. It suggests that Section 69.3(e)(8), of the Rules, which states that access rates should apply to the entire extended area, be deleted. AT&T believes that the rules would require an exchange carrier participating in a multi-carrier EAS arrangement to charge outside the EAS at the same rate charged within the EAS area regardless of its costs, and that this is contrary to Commission objectives. Such a result would conflict with the ability of carriers to align rates with costs, cannot be squared with the Commission's decision to use its power to compel common tariffing sparingly, and would be inconsistent with rate flexibility objectives. The rule could require that each carrier use its study area average costs in the development of the 'joint access' rates for multi-carrier EAS areas. The Independent Alliance misperceives the EAS problem, AT&T states. The problem is lack of a division of revenue agreement. A uniform rate does not solve this problem. The proposed EAS revisions would not harm carriers and would increase flexibility.

AT&T suggests modifying local switching access into subelements to reflect new access arrangements. The present rules are service specific and do not recognize possible changes. Classifications should be based on how local facilities are actually used by carriers. AT&T recommends two elements, Transport Termination and Common Switching. This division would allow cost and functionally based subelements.

AT&T notes that intercept service costs are recovered in the same manner as local switching and it would be easier to merge these elements.

AT&T recommends new definitions for conversation minutes and for special access. Appropriate definition of conversation minutes is necessary for charging consistency. Calling parties have traditionally been charged for completed calls and carriers for deliveries. The term 'conversation' minute should reflect this distinction.

AT&T asks that conversation minutes be measured from carrier or customer acknowledgement of receipt until disconnected. This definition allows consistent treatment of interexchange carriers.

AT&T points out that the dedicated access/special access distinction depends on CPE termination and is, therefore, impossible to implement. AT&T recommends that dedicated access include only access lines which (a) provide a dedicated link between a single interexchange carrier and a single end user, and (b) are switched through a local office on the customer side of the end office. The similar portion of private lines would be classified as special access.

***785** AT&T states that the Order did not justify excluding carriers from securing access facilities to offer end-to-end private line, etc., and claims that no party that understands its proposal to allow carriers to purchase dedicated access lines disagrees. Separately identified rates is an interexchange rate question.

****76** ARINC's concern that treating all private lines as special access will leave unreasonable flexibility to interexchange carriers misses the point that the charges come from exchange carriers and the Commission can oversee rates. AT&T believes that the Rules are clear enough to prevent improper cost assignment, but would not object to further clarification.

AT&T states that WU's concern that Bell's proposals will allocate station equipment to closed ends that do not use local switching reflects a desire to change current Commission prescriptions.

AT&T recommends that the ECA collect only the

premium access assessment and perhaps the charges to finance the USF. Doing otherwise would require development of a highly sophisticated billing system for a transitional charge.

AT&T notes that the Commission appears to treat Billing and Collection as a part of the TS charges. The ECA should be permitted to administer Billing and Collection as a separate and distinct pool, and carriers could cross-reference the TS rate yet provide their own billing tariff.

AT&T recommends expanding the transitional surcharge to credit card and third party billed calls. It notes that those services are similar to collect, in-WATS or open end F calls. It would also expand the language to include other non-sent paid services that may be offered in the future.

AT&T argues that the OCC billing option discussed in the Order is unworkable and that ENFIA services should be subjected to a transitional surcharge. Customer identification numbers do not relate to lines. Not imposing a surrogate charge on OCCs would disadvantage AT&T. Exchange carriers would be put at risk. OCCs would have incentives to maintain or expand inefficient ENFIA access. While a cap on surrogates is not feasible, the adjustment would equalize charges.

Absent a surrogate, exchange carriers may be forced to move to flat charges sooner than market forces would otherwise require. AT&T states that MCI's apparent belief that dedicated access applies to ENFIA A is wrong. Such a result is not consistent with the equal charge requirement and would not fill the role of a surrogate.

AT&T believes that the OCCs are wrong concerning Commission authority to shorten the Docket 20099 notice requirement and mistaken in their belief that the record does not support such a decision. Western Union's claim that it had no notice demonstrates an amazing unfamiliarity with the record. The record justifies the conclusion that a six-month notice cannot be granted. Final tariff filing is stymied by the need for correction or clarification of the rules. AT&T expects to file approximately 90 days after the Reconsideration Order. Due to careful Commission prescription of rules, the access charge filing will lack much of the controversy and complexity that have attended other filings.

AT&T believes that anyone that orders an access facility should pay but only one carrier common line charge should be assessed per call. Resellers would receive an offsetting credit if they resell a service that includes a carrier common line charge. If enhanced service providers purchase access facilities, they should pay for access. Resellers and enhanced service providers are not being reclassified as carriers by the Order.

****77** AT&T notes that broad averaging is inconsistent with a sound access plan. Initial filing necessitates constraints, but these needs subsequently diminish. The Commission should remove restrictions as this becomes necessary.

***786** Although AT&T supports disaggregation below the study area, it argues that such consideration is not essential for tariff development and should be delayed.

AT&T proposes rule changes that will, it claims, provide that the pay phone category include all pay stations provided by the telephone company, recover pay telephone revenue requirements evenhandedly from all interexchange carrier services that can be accessed from pay telephones, and impose a charge to recover the pay telephone revenue requirement on interexchange carriers rather than on end users.

AT&T states that pay telephone solutions suggested by Discount Phone are unworkable as they require call measurement capabilities that are not generally available. Other suggestions include loading these costs on interexchange carriers or on end users. On balance, recovering these revenues from carriers is more consistent with the Commission's objectives. Since the majority of costs would be collected from

carriers anyway due to non-sent paid calls, AT&T suggests that it would be most practical to treat all pay phone costs this way.

AT&T notes that, read literally, Part 69 might appear to preclude non-recurring charges, or separable rate elements of local switching. It asks that this be clarified and that such charges be allowed.

AT&T sees no need to alter the transport rules, merely to waive them. Sorting out the rules is not necessary for initial tariff development. It argues that SPCC's opposition to AT&T's proposal to develop a transport termination element is based on the faulty premise that termination is part of transport. In fact, this element recovers switching costs.

AT&T notes that the rules do not explicitly state that an exchange carrier may immediately recover the entire end user portion through flat charges while the Order does allow this. Such an option is necessary.

AT&T finds the premium charge objectionable but believes that consideration of the USF should take place in Docket 80–286.

AT&T states that OCC concerns about overcharges in the billing element do not reflect the competitive nature of this service. Since the billing option for end user usage charges is unworkable, no OCC will be forced to subscribe to this charge.

ATTIX

ATTIX does not contest the size of the premium due to the need for an access charge. Because the premium is in conflict with cost-based pricing, ATTIX believes that, if it is to be reconsidered, it should be eliminated. The opportunity cost rationale is incorrect because it cannot be squared with cost-based pricing and because MTS/WATS access does not have a meaningful opportunity cost. Network efficiency will not be achieved if an access charge is based upon a speculative opportunity cost unrelated to the cost of service. Access charges for MTS and WATS providers will be artificially overpriced. Customers and investors will turn away from artificially overpriced services. The result is similar to uneconomic bypass. ATTIX views the premium as a handicap on the competitive capabilities of the MTS and WATS providers and as inconsistent with a competitive marketplace. Moreover, such a charge would result in discrimination against MTS-WATS customers. ATTIX states that the OCCs' purpose in requesting increased premium charges is to gain unfair and unwarranted advantage over AT&T's interexchange operations.

****78** ATTIX believes that the $1.4 billion premium charge vastly overstates the opportunity cost of premium access. OCCs have been slow to order ENFIA B and C arrangements despite the improved access that these allow.

***787** ATTIX states that arguments of those in support of higher premium charges are flawed. Valuation of opportunity cost should be calculated between the best generally available access and the access the can be offered only to one carrier. OCCs base their evaluation on ENFIA A, not the superior ENFIA B–C arrangements.

ATTIX believes that full and fair competition should begin. A penalty on ATTIX that goes beyond the current premium has no place in a competitive marketplace.

In an Appendix, ATTIX argues that OCC studies of costs of inferior access are flawed. They rely on ENFIA A and are speculative. Rotary dial levels are lower than those cited. Rotary dial access is available under ENFIA B. SBS's estimate of the cost of a tone generator is too high. The cost of a tone generator is unlikely to inhibit calling much significantly.

ATTIX states that any carrier could offer an 800-type service. SBS's claims of costs for network enhancements are without foundation. SBS is likely to need echo suppressors due to use of satellites. Use of NEFIA B-C allows more control over loss and mitigates the need for network enhancements.

ATTIX argues that examination of uncollectibles must consider credit policies. Absent such consideration, OCC claims should be given no weight.

ATTIX believes that revenue estimates due to ATTIX's position as default carrier are speculative at best. Indifferent customers are probably light users.

ATTIX notes that studies to calculate an 'inferior quality adjustment' are based on private line surveys and cannot be used in MTS/WATS calculation. Due to the dynamic nature of the market, conclusions based on today's data cannot be considered of value in the future.

ATTIX states that a promised MCI examination of opportunity costs should be given no weight as ATTIX will have no opportunity for rebuttal.

ATTIX states that GTE's proposed shift of another $1.8 billion into the premium is outrageous and argues that it should be rejected out of hand.

ATTIX shares SBS's concern about the size of the USF and believes that the USF should be capped at $1 billion. If it is not capped, the Commission must modify the amount assessed on interexchange carriers. If no cap is developed, the USF will impose an economic burden on carriers reaching past current levels and will cause uneconomic bypass. ATTIX proposes that any USF over $1 billion take the form of a per line end user surcharge.

ATTIX agrees with Rochester that semipublic phones should pay end user charges.

ATTIX (Opposition to Motion to Strike)
ATTIX believes that SBS's motion to strike ATTIX's comments is based on allegations without foundation. Business views differ within AT&T. No conceivable harm could result from considering ATTIX's comments. SBS alleges no harm.

****79** *Arthur W. Brothers*
Brothers states that required notice as to the effects of this Order on several companies was not provided and comments were not permitted. He believes that low-end bypass by homeowners will render the entire system inoperable. An alternative solution, a microwave license fee, is not considered.

Brothers also notes that true input from BOCs cannot be received until January 1984.

At the very least, Brothers states, the Commission should adopt a dual method of compensation with charges on all Commission microwave licenses.

***788** *Central Telephone (Centel)*
Centel believes that the EAS requirements unnecessarily restrict the flexibility of a local exchange carrier in developing cost-based charges. The rules should establish a mechanism under which local carriers can bill and distribute revenues for jointly provided access.

Centel urges the Commission to reconsider § 69.103(a) of the Rules (pay phone) since many calls are not sent paid. Pay phone costs should be assessed on carriers on the basis of relative traffic.

Section 69.3(e)(3) prohibits carriers from participating in ECA TS tariffs while filling their own tariffs for billing. Centel believes these pools should be separate.

Centel notes that there is no explicit provision for end user charges on credit card. Centel proposes treating both like collect calls.

Centel believes that the reseller issue needs clearer statement.

Conversation time or minutes are not defined. Centel's interpretation does not correspond to separations. Centel proposes that actual billable minutes to the interexchange carrier be used.

Centel believes that §§ 69.303 and 69.304 require CPE and inside wire allocation to dedicated access lines. Such an allocation would create uneconomic price signals.

Centel recognizes that costs will be incurred by preparation of access facilities if orders are cancelled. Centel urges guidelines to allow recovery of costs involved in planning and development of new facilities.

Centel believes that allocation of expenses and investment should be consistent with existing separations.

CompuServe
CompuServe is an enhanced service provider and has believed that it would be treated as an end user. Without notice or reasoned explanation, this status has been changed. The carrier charges would result in access charges at least six to seven times higher than those levied on end users. A sizable differential would remain even after the transition period.

CompuServe believes that treatment of enhanced service providers as carriers is a mistake and does not reflect the Commission's actual intentions. The Fourth Supplemental Notice did not discuss applying carrier charges to enhance services. The Order did not state that enhanced service carriers would be so charged.

Treating enhanced service providers as carriers would raise their rates more than any other group. The jolt is inconsistent with the notion of a transition. Enhanced service providers will permanently turn to bypass. Such providers would also seek to escape being labeled enhanced service providers. This will lead to the same problems that the Commission faced in Computer II.

****80** CompuServe states that only MCI attempts to refute enhanced providers' legal arguments that they did not receive notice. MCI's argument is incorrect as notice was too general to meet Administrative Procedure Act requirements. Moreover, the Order does not explain why enhance providers should be subject to access charges.

CompuServe notes the advantage given to private systems and ‘underground’ providers. The problem of identifying enhanced providers is non-negligible. Moreover, firms will have to be careful not to step over some regulatory line, subverting Computer II.

***789** CompuServe recommends billing only the facilities' carrier. CompuServe notes that, if the facilities carrier pays an access charge, then there is no escape for enhanced providers.

CompuServe supports petitions filed by Tymnet, Telenet, and ADAPSO insofar as they are concerned with the improper imposition of carrier's carrier charges on enhanced service providers.

CompuServe states that business users use local facilities to originate and terminate interstate communications and that no one explains why enhanced providers are different.

CompuServe notes that such charges would result in double-recovery. Much of the traffic to enhanced service providers will be intrastate and hence not subject to the access charges established in the Order.

CompuServe supports those favoring carrier purchases of dedicated access on behalf of customers. The dedicated access line should appear on the bill separately.

CompuServe requests that Section 69.202(a) of the Rules be clarified to show that end user usage tariffs are voluntary.

If the Commission adopts the proposal to combine all private lines in special access, it should indicate that voice-related CPE and pay telephone costs should not be allocated to nonvoice services in special access.

Delaware Public Service Commission (Informal Filing)
Delaware notes that there is no mention of any Centrex provision in the Access Charge Order. Delaware is concerned that the majority of Delaware's Centrex business will convert to terminal equipment, eliminating much of the revenue that

has been subsidizing local rates. Delaware proposes a per-trunk equivalent basis for assessing Centrex lines.

Discount Phone
Discount Phone petitions for reconsideration of the Pay Telephone End User Charge, apportionment of expenses related to pay telephones, apportionment of investment related to pay telephone, and other concerns relating to pay telephones.

Discount Phone urges the Commission to adhere to its intent to recover pay telephone costs from the cost causers. Discount Phone opposes replacement of the Pay Telephone End User Charge. The surrogate charge proposed by exchange carriers is easy to implement but violates the principle of cost causative pricing. Such surrogates are unfair to competitors and provide no incentives for cost control.

Discount Phone proposes three alternatives. First, interexchange carriers could collect an end user charge on collect, credit or third number billed calls. The exchange carrier would flag calls originating at pay phones. Second, a single averaged pay telephone end user charge could be created and charged by interexchange carriers. Third, exchange carriers could collect end user charges by coin for all calls. This third option would be especially attractive to companies having only coin pay phones.

****81** Discount Phone notes that pedestals, booths, housing and all related installation investment in station equipment should be included in 'appurtenances.'

Discount Phone states that pay telephone lines are correctly assigned to the pay telephone element, that the portion of switching equipment necessary to support pay telephones should be specifically assigned to the pay element, and that pay telephone buildings or portions of buildings should be clearly identified and assigned.

***790** Discount Phone states that some sales and advertising expense (especially charge-a-call advertising) can be identified and should be directly assigned to the pay element. It argues that the public telephone commissions expense is anticompetitive and should not be allowed. Since almost all billing takes place at a remote location, Discount Phone recommends a weighting of Revenue Accounting expenses. Pay telephone staff salaries and office expenses should be directly assigned to the pay telephone element. Relief and Pension should be assigned like General Office expenses.

Discount Phone also states that resellers should not be assessed access charges as this results in double billing, that mechanized calling card service (MCCS) costs passed on through carrier's carrier charges be recovered in the MCCS tariff, and that usage charges for collect calls be included in the interexchange carriers tariff for a collect call rather than integrated into the cost of doing business.

Discount Phone suggests that cities or states requiring emergency services should pay for them rather than expect the general ratepayer to do so.

District of Columbia Public Service Commission (D.C.)
D.C. believes that the flat per line charge unlawfully discriminates against Centrex users.

In D.C. a PBX system uses one line for every 6.25 lines used by Centrex. Centrex represents almost 41 percent of all D.C. lines. Inposition of an end user charge would cause abandonment of Centrex. This would result in a $24 million stranded investment in D.C.

D.C. submits that flat rate charges on Centrex are discriminatory since PBX users pay less for the same services.

D.C. does not concede that the Commission has the authority to impose its access charge, but believes Centrex modifications can be made within the confines of the basic structure by charging a Centrex end user charge calculated to simulate the charge on a similar PBX. In D.C. this would be 16 percent

of a normal business line rate.

General Electric Information Services Co. (GE)
GE states that the rules that treat enhanced service providers like carriers would damage GE and other remote access data processing services and the nation. The rules could not be enforced except against arbitrarily determined providers. The rules do not recognize private use in these companies. GE states that double billing cannot be avoided if such charges are levied. The solution is to treat enhanced providers and end users.

****82** GE states that these rules would increase its costs by $11 million per year. GE and similar companies exist because they can provide service better than companies can provide it to themselves. If rates exceed costs, customers would migrate to private or internal systems. Once customers build private systems, they are lost. Once they construct bypass for data, they will use it for everything possible. Alternatively, some customers will abandon data use, reducing their efficiency.

U.S. data services are worldwide leaders. While the bulk of the charge is transitional, such a charge could do irreparable harm to the industry.

The imposition of such charges would be inconsistent with Computer II.

Enforcement problems are severe because companies cannot be identified and because the same company may use communications privately. Enforceability must be considered. GE states that there is no basis for AT&T's assertion that identification is possible. No one has explained how the jurisdictional character of a service is to be determined.

***791** GE notes that AT&T does not discuss calculation of the 'appropriate credit to be used to avoid the double-counting problem.'Moreover, the Act prohibits refunds or rebates. This would complicate tariffs.

The imposition of charges on enhanced providers is subject to almost certain judicial reversal.

GE believes that the rules should be refined. GE suggests that levying charges on facility-based carriers only is simplest and most rational. This solution would eliminate double counting and would not burden local carriers or end users.

GTE

GTE requests guidelines as to the application of 'carrier' access charges. It cannot determine what constitutes a carrier. If enhanced service providers are to be charged, a workable definition of enhanced service provider is needed. What about a group of shares? What if service provided to others is a trivial part of total service? How can the telephone company know?

GTE understands an intent to allow exchange carriers to file tariffs independent of the ECA but the EAS requirement appears to rule this out as a practical matter. Negotiations would be required among a large and different mix of carriers in all EAS areas. All carriers would be forced into the TS pool. Moreover, the EAS rules do not eliminate arbitrage. Compensation cannot occur unless carriers advise each other of the nature of usage. GTE recommends establishing a mechanism under which carriers bill and distribute TS charges, and file either joint ECA or separate TS tariffs with a requirement that carriers reciprocate in provision of interexchange carrier usage data for billing/revenues distribution. The entire cost should be covered by the access charge regardless of the end at which the IC is located. IC billing should be billed by carriers serving the POP. These carriers would distribute revenue on the basis of each local carrier's tariff charges.

GTE understands § 69.103(a) of the Rules to mean that end users cover interstate pay telephone revenue requirements. The vast majority of toll calls made from pay phones are credit card, third number, or sent collect. The result is prohibitively higher customer charges. GTE recommends treating pay telephones like intercept, allocating costs to interexchange carriers on the basis of total use.

****83** GTE understands that all third party usage charges are to be assessed to the line billed. This is inconsistent with the treatment of other sent collect calls. This would require a costly billing coordination system and an additional division of revenue process. GTE recommends that third party billing and credit card calls be treated like collect MTS calls.

GTE understands § 69.104(a) to mean that the lesser quantity of loops associated with party service should be reflected in access charges. GTE intends to do so by applying the loop to customer ratio for each study area. In some cases this percentage is less than 1; if not, the single line rate will be used.

GTE understands that the costs of dedicated private line loops will either be included in the Dedicated Access Line element or the Special Access element depending on the associated CPE. Because telephone companies no longer have exclusive ownership of CPE used to terminate private lines, there is no reliable way of making this distinction. GTE recommends that all private lines be reclassified as special access, leaving only WATS lines in dedicated access. GTE notes that the proposed AT&T definition of dedicated access excludes certain WATS lines where these are switched at tandem offices. GTE proposes including all WATS lines.

***792** GTE understands § 69.604(a) to require the ECA to bill and collect all common carrier line charges including any premium. Usage information would be needed, the local carrier already has a billing system and an ECA billing system is redundant and unnecessary. Local carriers should be allowed to bill and collect non-premium charges.

GTE understands paragraphs 190–191 and n. 63 of the Order to indicate that exchange carriers will receive adequate information about interexchange customers. It expects that some interexchange carriers will not provide such information. It recommends that exchange carriers be able to assess a surrogate charge to interexchange carriers that are unwilling or unable to provide usable end user information. GTE urges elimination of the requirement that rule waivers be sought for such surrogates.

GTE urges compensation from interexchange carriers based on usage without regard to billed minutes. Use of billed minute measures results in subsidizing interexchange carriers. GTE states that the BOC minute definition would leave exchange carriers indifferent between interexchange carriers. Billable minutes would make exchange carriers dependent on interexchange carriers' data. GTE states that, if the exchange carrier provides a connection, it should be compensated. GTE proposes charging ATTIX for time used punching in a credit card number or talking to the operator. Regardless of access inequality, GTE states that if the exchange carrier undertake cost then it should be compensated.

GTE understands § 69.102(a) to assess dedicated access line charges on end users, but believes the intent to be that ICs will be able to place orders for end users and receive billing. GTE believes that the party placing the order (whether carrier or end user) should be charged for special access as well.

****84** GTE understands a Commission intent to define the entry switch as the first wire center where switching is actually performed. It would be difficult to implement the rule because of BOC waiver requests and the mixture of BOC/independent territories. GTE recommends that dedicated transport should extend from the POP to the serving office. By such redefinition, only one exchange carrier would provide Dedicated Transport in any geographic area.

GTE urges clarification of the Order to deal with Centrex. GTE supports the trunk equivalent approach to Centrex.

GTE also proposes a number of specific changes in cost assignment.

GTE Letter from Chairman Brophy

Brophy congratulates the Commission for the gen-

eral thrust taken in the Order. Certain modifications, however, are needed to encourage full and fair competition. Brophy's concern is that the rules could have the unintended effect of undermining competition. Until equal interconnection is available an appropriate differential is needed.

Brophy points out that the net result of the rules is an increase in OCC charges and a decrease in AT&T charges. The gap is reduced from 60 percent to 25 percent with to change in access quality.

Brophy recommends that $1 billion of NTS costs be assigned to the carrier's carrier pool with the remaining NTS costs not allocated to end users assigned to AT&T on a nonusage basis. This proposal reduces the differential but more closely approximates current disparities and eliminates the immediate OCC cost increase.

Brophy believes that these changes would not upset the basic structure of the Order, but would encourage competition.

IDCMA

***793** IDCMA doubts the need for and wisdom of proposals to convert dedicated access to special access as proposed by AT&T. IDCMA seeks to assure that this proceeding does not foreclose an end user from securing directly from exchange carriers the capability to reach an interexchange carrier point of presence.

IDCMA notes that § 69.4(b) of the Rules could be read to indicate that special access can be provided only to carriers. IDCMA urges the Commission to make clear that the designation of a service element is not intended to foreclose a user from ordering any transmission capacity directly.

IDCMA is concerned that AT&T's proposal may prejudge decisions regarding AT&T's future role as an end-to-end provider. This issue is in dispute and is more appropriately judged elsewhere.

Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, Wisconsin Tel. (Midwest Regional)
Because the Centrex issue is so important Midwest Regional requests expedited consideration.

Centrex provides many features for very large and small users that would be difficult to duplicate. Centrex is the only service which operating companies can offer in 1983 which is competitive with PBX and key systems and is a major revenue producer. PBX vendors are using the $4.00 charge as a marketing tool.

****85** Many Centrex customers are governments, educational institutions, or health care organizations whose spending is being curtailed.

If Centrex users switch to PBX services, the NTS investment no longer recovered from Centrex will have to be recovered from remaining users. Remaining customers will be hurt.

Illinois Commerce Commission
Illinois states that the industry is appropriately characterized as consisting of three parts, the access loop, the public switched local distribution network, and toll service. Jurisdictional boundaries, however, are based upon the end-to-end concept. Illinois contends that there exists a fundamental incompatibility between the access charge philosophy and the regulatory framework chosen to implement it. Unless jurisdictional lines are redrawn to comport to the industry structure, consumers will be adversely affected.

Illinois notes that the Order will affect the development of intrastate pricing. Illinois suggests that interstate and intrastate charges should be compatible. The cost of access does not depend on a final destination. The per minute traffic sensitive separations costs are identical for interstate and intrastate calls. Further, exchange carriers would be burdened with the costs of distinguishing interstate and intrastate access if the charges differ.

Proper transport charges would require a comprehensive evaluation of each applicable tariff in rela-

tion to the others. Such a review is frustrated by a continuation of separate tariff responsibility over common investment. Illinois notes that its attempts to introduce cost-based prices may be frustrated by the access charge prohibition of disaggregation below the study area level. Dual regulation may unnecessarily frustrate state ratemaking prerogatives. In sum, Illinois argues that continuation of the current jurisdictional framework is inconsistent with elimination of discrimination.

The problem with access charges is the need to coordinate state and interstate rates, but no law requires regulatory cooperation. Further, the Docket 78–72 rules require regulatory duplication, increasing the danger of state actions to frustrate the Commission's objectives.

***794** Illinois urges the Commission to delegate to the states implementation of an access charge. States could consider total revenue and costs and are more familiar with the circumstances. In the alternative, states could be given an option. Illinois argues that the prior rejection of delegation was based on the abandoned concept of the end-to-end monopoly and should be reconsidered.

Lexitel

Lexitel believes that the Commission should not let AT&T deadlines control policy. Lexitel notes that January 1, 1984, is an AT&T goal not mandated by the Commission or judicial order. The result can be undue haste at the expense of competitors. Lexitel urges that it is more important to get it right than to get it done according to AT&T's schedule. Lexitel states that the Plan should not unfairly position the now dominant carrier AT&T. Lexitel points out the double payment required of resellers and notes that this is contrary to past Commission Order. Lexitel believes that the resale carrier should pay reduced access charges for each minute of resold MTS/WATS-type service that is already paying NTS access charges. Lexitel suggests a rtheced BOC charge reflective of the double charge. The reduction would be the amount per minute already paid by the resold services.

****86** Lexitel states that, put simply, the AT&T premium is really a fraction of the $1.4 billion. Furthermore, there is no reasonable evidence to support the $1.4 billion.

Lexitel states that the premium is too small and is phased out in ways unrelated to the elimination of inferior access. Lexitel notes that the immediate effect of the premium would be to force OCCs to raise their rates while allowing AT&T to reduce its rates without providing any improvement in access quality. The result is rate churning which is antithetical to the goals of the Plan. Lexitel also argues that the premium discussion is conclusory and not based upon any record.

Lexitel states that access pricing and access quality cannot be separated and that until better interconnection is made available the current relationship should be retained. Lexitel believes that using the ENFIA rates for calculating AT&T/OCC relative prices is appropriate legally and on policy grounds.

Lexitel agrees with MCI's point that OCC and AT&T conversation minutes are measured differently and that AT&T does not count its setup costs while OCCs do. OCC billed minutes are the closest known approximation to AT&T's conversation minutes. Lexitel urges that OCC billed minutes be used. Alternatively, some holding time to conversation time ratio must be mandated.

Lexitel states that equal access is speculative at this point. Lexitel notes that Western Electric, which manufactured most BOC switches, will remain owned by AT&T and that AT&T will have little incentive to provide timely equal access since the plan reduces the premium under a calendar schedule.

Maryland People's Counsel (MPC)

MPC believes that the decision is based on insufficient evidence and strays beyond the FCC's regulatory authority.

MPC urges the Commission to clarify its discussion

of costs.

MPC believes that the Commission's treatment of bypass is deficient.

It is unlawfully discriminatory to charge customers who do not use interstate services for interstate access. This results in subsidization of interstate callers and carriers.

***795** The proposal adopted was not subject to comment. MPC believes that the Order intrudes into State ratemaking authority.

MPC states that the Commission concentrated upon economic efficiency and competition and overlooked the more important marketplace of ideas, information, and truth. To the extent that the disenfranchised are denied access to the electronic public forum, the Order tears at the fabric of free society. This strikes at the First Amendment.

MCI

MCI believes that the Commission should focus only on unworkable parts of the Order. MCI submits that the Commission's greatest concern should be the marked transient increase in OCC charges. This part of the Order undermines competition. Possible solution include: a cap on OCC charges, maintaining the existing differential, freezing OCC minutes/line effective December 22, 1982; elimination of OCC and private line contributions to common lines, or increase in the premium to accurately reflect opportunity cost.

****87** MCI believes that the FCC should reaffirm its decision to impose a premium equal to the opportunity cost of perferred access. The opportunity cost concept is an important part of economic analysis.

MCI states that, if premium access were generally available, OCCs would all subscribe. Without the choice, equal prices could destroy competition.

MCI states that the present premium is roughly $7 billion but limited entry suggests that this is inadequate. MCI states that AT&T's objection to the premium is a restatement of its view that a service should be provided by a monopoly. If $7 billion were excessive, AT&T would have offered ENFIA type services.

MCI states that AT&T is granted a monopoly for rotary and inward WATS customers with interstate revenues of $11 billion. Such a market would be worth $3 billion in profits to MCI. This is only the tip of the iceberg. Noise and many digits also are important. If the typical customers were willing to pay an additional quarter/call to avoid these costs, the premium would be worth over $1 billion more.

Billing differentials, even after 1984, remain important. MCI notes SBS's estimates of AT&T's costs of doing its own billing. MCI will incur $14 million higher uncollectibles, $15 million for network enhancements, and $20 million for unnecessary marketing expenses. Additionally, MCI will forgo profits of $22 million for unbilled calls and at least $186 million for price reductions necessary to offset excessive digits, noise, etc.

MCI thus calculates its costs to be at least $257 million. Total OCC costs would approximate $514 million/year. This would translate into a $10.3 billion premium if applied to AT&T.

Therefore, MCI suggests, at a minimum, that the premium include CPE, inside wire, and the residual common line charge. MCI believes that USTS seriously underestimates the opportunity cost of premium access.

MCI is concerned that the transition plan produces unnecessary transitional dislocation. MCI states that the transition plan would saddle MCI and the other OCCs with a sudden massive increase in their access costs with nothing in return. MCI states that in any reasonable transition plan, rates should move in a consistent direction. The particular transition plan is inconsistent with the Commission's intent to preserve an opportunity for fair competition. An alternative means of transition is to adopt Commis-

sioner Jones' proposal to maintain the existing percentage differential between ENFIA and the AT&T levy. Yet ***796** another is the same OCC cap as is placed on end users. Since it is difficult to detect differences between carriers and end users, this approach has advantages.

MCI believes that those petitioning for special treatment for resellers or enhanced service providers fail to understand the Commission's intent. Since they originate or terminate interstate or international communications, they have had fair warning. There is no discrimination but there is a possible double billing problem. Exchange carriers should be given flexibility to charge at either the exchange side or the interexchange side of such resellers.

****88** MCI agrees that the plan may cause disruption. The Commission should seek to minimize this distortion by minimizing the allocation of common line NTS costs to interstate and foreign services that receive line side interconnection.

MCI believes conversation minutes should not be used for competitive carrier charges. Rather, the Commission should freeze the number of minutes per ENFIA line at the level now lawfully in effect.

MCI states that virtually all parties believe that imposition of end-user charges on competitive carriers' customers will prove unworkable. The Commission could apply charges on line side connection equal to dedicated access, or apply a surrogate like that imposed on collect MTS to MCI calls. MCI believes that the competitive carrier dedicated transport charge should be equal to the dedicated line charge. Under this approach, no end-user charge would be levied upon their customers.

If a surrogate is to be used, MCI believes that it should be collected on an equal per-minute basis from all callers.

MCI states that the situation is analogous between this Order and the Rate of Return Order and that the 6-month notice provision cannot be voided.

MCI believes that the ECA should be eliminated. An ECA limited to exchange carriers appears to pose antitrust problems.

Petitions asking for reversal of the end-user charge or for extending the USF to traffic sensitive costs are inconsistent with cost-based pricing and should be denied.

MCI agrees that the treatment of pay phones should be changed but diagrees with the imposition on carriers on the basis of use. MCI supports the Rochester proposal to charge end users.

MCI opposes the request that interexchange carriers notify exchange carriers concerning billing by July 1, 1983, and give a six-month termination notice. MCI needs knowledge of price before it can commit itself.

MCI believes that the Commission should consider changes requested for Centrex, EAS, and party-line service. With respect to Centrex, MCI supports moving in the direction of costs.

MCI supports giving exchange carriers flexibility in billing private access lines, provided that rates do not vary depending on who is being billed.

MCI believes that the Commission must bring its traffic sensitive rules into line with the MFJ. It must also avoid massive increases in traffic sensitive costs until equal access is achieved.

MCI states that Alaska does not document its claim to need traffic sensitive support.

MCI believes that deviance from cost should be carefully specified and delineated. MCI believes that public funding should be used for any subsidy required.

***797** MCI requests that the Commission consider effects of disparate state and federal access policies in its Joint Board proceeding. The extent of aver-

aging may ease the Commission's review process but make it difficult to support consistent state and interstate carrier usage charges. MCI believes, however, that such changes might better be deferred and subjected to further rulemaking. MCI does suggest, however, that the Commission require informational filing of intrastate access tariffs.

****89** *Michigan PSC*
Michigan asks that the entire burden of access costs be placed on interexchange carriers or that the Commission reduce the subscriber fixed charge. Michigan states that the Court has stated that the access charge proceeding is contary to the ends sought in divestiture and that there is no basis for beypass concerns or for the belief that long distance carries subsidize local rates. Michigan believes that, even if an end user charge is required, the record does not support one as high as that imposed.

Michigan urges the Commission to adopt suggestions to assess Centrex users based on PBX trunk equivalents. Failure to do so will strand $100 million in investment in Michigan.

Michigan urges that the Commission eliminate its party-line rules and require each customer to pay the same access charge. Costs of party-line service are at least as high as single-line service. Michigan believes that party-line service reduces call completion, decreasing network efficiency.

Michigan contends that the EAS rules serve a useful purpose. Costs within an EAS area are the same regardless of where the EAS network is entered. Failure to require EAS averaging will lead to constant undercutting. On reconsideration the Commission should address allocation of revenues.

Mid-Atlantic Regional Bell
Mid-Atlantic is concerned about the especially pronounced impact of the end user charge if applied to Centrex users.

Centrex service is highly competitive with PBXs.A $4.00 per line charge would put Centrex at an unfair disadvantage. The result would be a shift away from Centrex to PBXs despite the efficiencies of Centrex. A trunk equivalency charge would produce Centrex revenues as high as would be generated if they switched to PBXs.

The shift to PBXs would require new COE investment to provide Direct Inward Dialing trunks and reduced use of embedded BOC investment. Mid-Atlantic also believes that the shift could have significant negative financial consequences.

NATA

NATA believes that the access charge should and must be applied to each Centrex C.O. main station or line. NATA supports UTCC and opposes the eight petitions to the contrary. NATA does not object to the relief sought by Rochester concerning Centrex.

NATA argues that the proposals are entirely inconsistent with the purpose of access charges and would undermine the cost-based pricing scheme. They are also inconsistent with Computer II and the MFJ. If Centrex C.O. is to remain a regulated, tariffed, exchange service, it cannot be treated like CPE. Finally, there is no evidentiary basis for selecting a Centrex formula.

NATA agrees that much Centrex loop plant is used for intercom, but believes that this is irrelevant. The full cost of each Centrex C.O. loop is included in the separations rate base.***798** Pricing Centrex on the basis of PBX equivalents provides a wrong pricing signal. If cost based pricing leads to PBX purchases, the result is more efficient use of the network.

****90** NATA believes that there may be some short-term problems if customers rapidly shift from Centrex to PBXs, but maintains that continuing false price signals could cost even more. New facilities will continue to be built. Efficient pricing frees up plant to accommodate growth in demand for exchange access services.

NATA observes that the term 'stranded investment' is misused in an attempt to stampede the Commission into retreating from its attempts to make more rational the cost basis for telephone service. NATA notes that BOC's have argued before state commission that 100 percent of central office equipment and 80 percent of OSP associated with Centrex are reusable.

NATA states that no data have been provided to support statements concerning reuse of Centrex C.O. plant. NATA finds the entire premise that abandonment of Centrex C.O. investment is a serious problem to be mere speculation. There are no demand studies showing cross-elasticities between PBXs and Centrex C.O. There are no surveys of attitudes and no evidentiary inquiry into operating advantages of either system.

NATA observes that, unless Centrex users pay their costs, someone else must. This would be unlawfully discriminatory.

NATA notes that PBXs are not regulated services. The regulated service for which the Act prohibits discrimination is the access line. Failure to charge the same price constitutes unlawful discrimination.

NATA submits that, if the Commission is inclined to adopt a PBX equivalent formula, further hearings should be held.

National Data Corp. (NDC)
NDC urges the Commission to ensure that the transitional surcharge does not unfairly burden 800 service. It is implicit that transitional surcharges should be separately computed for each applicable service and not burden one service with costs attributable to another service. The Commission should make clear that 800 service users should not be burdened with costs attributable to other services.

Because of the flexibility granted carriers, NDC cannot estimate the transitional surcharge. NDC is concerned about the lack of a surrogate cap. Such a cap is dictated by the Commission's rationale and its lack unfairly burdens users of services bubject to transitional surcharges.

NDC finds the Ad Hoc proposal intriguing if multi-exchange open-end services are not subject to a surrogate.

The USTS proposal to eliminate surrogates does not resolve NDC's concerns.

NDC's concerns are hightened by petitions to extend the surrogate. NDC believes that such extension will exacerbate the potential for burdening 800 service with costs attributable to other services.

Pacific Telephone and Telegraph (Pacific)
Pacific requests reconsideration of Sections 69.104(a) and 69.203(a) of the Rules, relating to Centrex. Pacific notes that the end user portions of the Rules could be interpreted as applying discriminatory treatment to Centrex, i.e., make Centrex users pay an end user charge.

****91 *799** Pacific's Centrex systems make a contribution to Pacific's operations. If the end user charge is applied, Pacific expects to lose 90 percent of its Centrex customers. This would reduce contribution and result in stranded investment. In California, this would result in a $1.00 increase for all business and residence access lines. Centrex prices already exceed costs. Pacific's recommended correction is a sliding scale that moves to PBX equivalency.

Pennsylvania PUC
Pennsylvania notes that no language specifically provides for Centrex service. Even with rate stability Bell of Pennsylvania is projecting competitive losses. Literal application of a Centrex end user charge would affect the viability of Centrex and require local rate increases. Pennsylvania perceives the added problem of stranded investment of central office equipment. Pennsylvania proposes that operating companies establish an end user charge that equates to trunks as trunks would be used by PBXs.

Rochester Telephone (Rochester)
Rochester submits that the Order adopts rules that

are deficient or unclear in their treatment of six areas. EAS, pay telephone, COE–4 equipment, Centrex-CU; end user usage charges, and the ECA.

Rochester believes that the Commission has adopted an overall policy based on the sound premise that it should accommodate its concerns for universal service by bringing rates to cost.

Rochester notes that a local carrier with EAS arrangements can prevent its associates from filing their own carrier access charge tariffs. Rochester submits that the public interest does not require this. EAS arrangements are local in nature. It bears no necessary relationship to access. EAS can be provided without interexchange access and access can be provided without EAS. RTC also believes that the Order is in error in stating that this requirement is needed to assure that some access charge be effective in all areas. Without this requirement, carriers could file cost-based tariffs. The two local carriers could each bill the interexchange carrier for that access service provided.

Rochester submits that the pay telephone rules should distinguish between public and semi-public pay phones. There is no reason not to apply a flat fee in the latter case. Rochester notes that pay phones do not have the same relative usage as do other phones, so revenue requirements do not match relative usage. Further, collect and third party calls would not contribute. Only 22 percent of Rochester's pay phone interstate traffic is sent paid. The average Rochester phone only originates about three sent paid calls/month. Bypass is a significant threat. To avoid this result, the Commission should allow pay phone revenue requirements to be recovered through flat end user charges paid by all users. Rochester incurred its huge pay phone costs to provide a local emergency service; these costs should not be recovered from interstate sent paid users.

****92** Rochester notes that Category 4 COE is assigned to interstate even if no carriers purchase billing services. It should be reassigned to the LS 2 category of local switching. This automatic message recording equipment must be imployed to provide the detail necessary for the billing of carrier access charges.

Rochester believes that Centrex-CU should be treated as if it involved the provision of party lines. An access charge should be assessed for each trunk to the central office with the charge divided among the stations receiving service.

The language of the rules is in conflict with the text of the Order which makes it clear that carriers have the option of filing a flat end user tariff.

***800** The language of the rules seems to exclude Rochester from membership in the ECA since Rochester will contribute to, but eventually receive nothing from, the pool.

Rock Hill Telephone
Rock Hill seeks clarification on messages between Rock Hill, S.C. and the Charlotte, N.C. exchange of Southern Bell and other points in the Charlotte LATA. Rock Hill asks which authority is to have jurisdiction over MTS/WATS tariffs applicable to these messages and whether associated costs are to be recovered through access charges.

Rock Hill also requests clarification over the status of messages between Rock Hill and South Carolina points in the Charlotte LATA and non-Charlotte LATA South Carolina points.

Rock Hill asks whether an end user charge is applicable for both MTS and WATS sent paid messages, if an end user charge is otherwise applicable. Rock Hill asks who is to access the end user charge and, if the end user charge is to be billed by the exchange carrier, what is to be its source of information.

Roseville Telephone, Anchorage Telephone Utility, Northern States Power (Independent Alliance)
The Independent Alliance asks for reconsideration of end user charges and the decision not to require nationwide pooling for all access costs. The Alli-

ance states that the Commission failed to give notice of its intention to place access charges on end users. This was not considered in the Second or Fourth Supplemental Notices. Independent Alliance submits that post hoc assumptions as to the ultimate bearer of access assessments fall short of the standards set forth in the APA. Discussion in comments does not resolve the notice problem. The Independent Alliance asserts that adequate justification for imposition of flat rate end user charges is absent. The Commission ignores the fact that the cost causer is the interexchange carrier.

Independent Alliance also states that the rationale for abandonment of a uniform nationwide access charge plan is absent. The Commission has abandoned preservation of universal service in a precipitous burst of injudicious zeal toward achieving a marketplace 'economic' use of facilities.

The Independent Alliance states that flat rates could be imposed on carriers.

Independent Alliance believes that even interexchange carriers have expressed reservation on the end user charge. The problem is a failure to impose charges on the interexchange carrer—the actual cost causer.

****93** Independent Alliance supports extension of the USF to traffic sensitive costs.

Independent Alliance opposes revision of the EAS rule. Without such a rule, entry would take place in the cheapest area and the other areas would be served by EAS arrangements.

Independent Alliance proposes defining extended area arrangements at those providing toll-free access.

Independent Alliance proposes that the highest cost area would charge carriers in the lower cost area a surcharge for the opportunity to have toll free access. In the alternative, carriers coming into the lower cost area would only be able to access that area but those entering the higher cost area could access all areas.

Independent Alliance submits that billing and collection should be subject to a separate tariff to allow flexibility.

Rural Electrification Administration

***801** REA states that although the overall structure of the new system is not tailored to meet the special needs of rural system, it can be modified to treat rural areas fairly.

REA interprets § 69.104(c) of the Rules (party line rule) as allowing loops used for party line service to be aggregated and divided by total lines, subject to the $2 minimum. By adopting this rule the Commission creates uneconomic incentives for party line service. REA states that it costs more to convert to multiparty than to provide one party services, that party line subscribers cannot receive many services, that OCCs cannot be granted access to party lines, that party line costs differ, and that multiple grades of party service may exist.

REA recommends that § 69.104(c) be deleted and that carriers be granted flexibility to handle party lines as they wish.

REA recommends mandatory pooling of traffic sensitive access costs to keep rural toll rates low. Absent such a decision, REA states deaveraging is likely to result from this docket.

REA states that higher rates resulting from deaveraging would threaten universal service. Over two-thirds of the REA companies would have to more than double rates.

REA believes that mandatory pooling of traffic sensitive costs would promote interexchange competition by keeping rural people on line, increasing market size, and by allowing rural companies to purchase new central office equipment.

REA believes that keeping people on line benefits the nation; funds coming from everyone would benefit everyone.

REA states that § 69.605(c)(2), which states that average schedule companies must pool all tariffs, is overly restrictive. Currently companies may be on average schedule for some elements and not others. This should continue to be allowed.

REA believes that public comment should be sought on the ECA Board.

Rural Telephone Coalition (RTC)
RTC had doubts concerning the departure from past practice, but will attempt to improve the prescribed structure.

RTC does not believe that the Commission has adequately addressed the impact of cost-based transport tariffs. RTC is concerned that interexchange carriers will deaverage toll rates as a result of high class 4 to class 5 toll connecting link costs in rural areas. RTC believes that it is unclear whether SBS opposes the concept of supporting high cost toll links and states that no one has ever suggested that support mechanisms be without limit. RTC states that toll link support would not necessarily favor AT&T. Cost-based pricing might thwart competitive entry into high cost areas. The Commission cannot ignore the need for a universal toll support mechanism.

****94** RTC seeks assurance that the Commission does not intend to force average schedule companies to perform cost studies and to move to cost. Further, presently average cost companies should be free to concur in average schedules. RTC is also concerned about the requirement that companies owned by a company that performs cost studies must also do so. RTC disputes the concept of denying average schedule status on the basis of parent or sister company status. Adding the administrative burden of performing cost studies should not be required. The rules might impair the attractiveness of an average schedule company as a merger candidate or acquisition.

Companies that settle on an average schedule have the option to settle on the basis of cost for line haul. Under the Order these companies would not have the ability to use actual cost ***802** for line haul unless they abandoned average schedule. RTC seeks an appropriate revision to allow average schedule companies to settle for cost for line haul.

RTC believes that the Commission has adopted a party line charge rule that will create uneconomic incentives because it has not identified the cost difference between the types of service. RTC believes that carriers should have the flexibility to develop appropriate charges. The division process specified by the Commission does not produce a cost ratio properly related to actual cost differences. Party lines do not cost less in proportion to the number of subscribers sharing them. Depending on how party line service is offered, it may actually cost more. The rules provide false signals to purchase party line service. Further, party line service cannot provide many services or equal interconnection.

RTC proposes spreading pay phone costs on the basis of usage in the area. If an OCC does not operate in that area, it does not pay. RTC states that its proposal is the simplest. It notes that the Commission has not yet decided whether to promote pay telephone competition.

RTC beleives that all sent collect calls are essentially the same and should be treated the same. There should be no difference between collect and third party calls. The transitional surcharge appears to be the appropriate recovery mechanism. Credit card calls should also be treated as sent collect.

RTC believes that carriers should be able to file their own billing tariffs and still join the ECA tariff for other TS cost recovery. Such a result appears consistent with the intent of the Order. RTC requests that the Commission amend § 69.3(e)(3) of the Rules to allow late notice. RTC also believes that interexchange carriers should be required to commit themselves early.

RTC states that exchange carriers did not know that rates would be set when they opted to join the ECA.

Likewise, interexchange carriers must let exchange carriers know whether they will use billing services to allow development of rates. It believes that SBS misconstrues the 'bottleneck' concept in calling for regulation of billing. Since billing is not essential for service, it is not a bottleneck.

****95** RTC believes that the carrier's carrier USF element can, if large enough, allow growth of competition without making rural users pay without any benefit.

RTC believes that ADCU misunderstands the Order insofar as the USF is concerned.

RTC believes that the high cost problem is appropriately a national matter.

RTC believes that the ECA plays a vital role. RTC believes that the ECA meets past MCI concerns, and is open and fair.

RTC submits that, in view of the failure of anyone to show a legal or procedural problem with the USF, the fund must be affirmed as written.

RTC believes that the Order, with respect to extended area arrangements, raises considerable problems. It is not clear what definition is associated with extended area service. RTC believes that Sections 69.3(e)(8) and (9) unnecessarily restrict local exchange carrier flexibility and should be deleted. RTC proposes that exchange carriers be allowed to develop appropriate rate structures. The concept that joint rates in a multi-carrier EAS area are an exception to disaggregation below the study area should be retained.

Satellite Business Systems (SBS)
SBS supports the basic thrust of the action but believes that the transition toward equal access requires reexamination. Access charges arising from the Order will seriously inhibit the continued development of competition until fully equal access is achieved. SBS believes ***803** that the deficiencies can be remedied without upsetting Commission goals or giving any carrier an unreasonable or uneconomic advantage.

SBS estimates that the plan would increase its access costs by between 70 and 100 percent. AT&T's access costs will fall by over 40 percent, despite failure of the Commission even to begin a technical examination of unequal interconnection. The differential narrow's despite years that remain before significant improvement in access is offered. SBS notes the fear of churning expressed in AT&T's Centrex proposal and wishes to extend this concern to the premium.

SBS notes that the Commission's premium charge is based on an unrelated surrogate. It believes that there are reasonable surrogates. The Commission justified narrowing in the discount because superior interconnection is available, but ENFIA-C connections are of limited availability, and remain inferior. To encourage competition, an access charge differential above AT&T's value of superior access is desirable, but SBS believes that competition will grow even if only a fair value is charged AT&T.

SBS states that AT&T would pay all but $56 million of the premium even if there was no premium. Discrimination in the traffic sensitive area, compared to the AT&T waiver, increases OCC charges by $30 million, resulting in a net AT&T premium of $26 million. The Commission should investigate the actual value, not make arbitrary judgments.

SBS states that the four-year transition is also arbitrary. Promulgation of standards and annual review of progress is required.

****96** SBS agrees with the premium concept. SBS attempts to design a proper premium based on ENFIA's inability to use rotary phones, inability to provde specialized services, costs of network enhancements, high uncollectibles, customer enhancement costs, and AT&T's designation as default carrier. The estimated potential impact on AT&T's designation as default carrier. The estimated potential impact on AT&T's 1982 revenues is $7.9 billion or $1.35 billion 1982 profits. $1.35 billion is a reas-

onable proxy and far exceeds the actual $26 million.

SBS notes that each OCC arrived at a somewhat different premium recommendation, but that any of them would allow appropriate differentials. So long as the discrimination in access quality remains, the Commission has a responsibility to rpescribe a reasonable differential.

SBS states that the quality differential reflects years of anticompetitive behavior. AT&T does not dispute that it does not receive superior interconnection; it merely disputes the OCC measures and suggests equal charges for unequal access.

SBS agrees that the premium is not cost based but states that, until it has an option, it should pay less. The network was designed, at ratepayer expense, to favor AT&T. AT&T should pay for this.

SBS disagrees with AT&T's assertion that OCCs do not use ENFIA C. It has found their quality lower than expected, much inferior to AT&T access, and their availability limited.

SBS denies AT&T's claim that OCC measures of the AT&T advantage are inaccurate, in fact they are often conservative. An adjustment to reflect increasing tone penetration is reasonable but small. SBS states that tone generators will impact calling. SBS notes the need for multiple tone generators for extension phones and based its calculation on the same $25 figure claimed by AT&T.

SBS notes, for example, that it could not offer the advertising advantages of an 800 service because its phone numbers differ and some users would be subject to a toll charge. Finally, only tone phones could complete the call.

***804** The yo-yo effect on OCC charges whereby OCC rates will first rise substantially and then fall, cannot be justified. SBS proposes that the current ENFIA differential be retained. The differential can be reduced with reductions in carrier access charge revenue requirements, and reduced after 1984 with the development of equal access.

SBS notes that the MFJ equal access requirements do not apply to independents nor to many BOC offices. The Commission can immediately institute a long overdue proceeding to develop technical standards. Alternatively, the premium write down could be tied to actual progress toward equal interconnection.

The TS plan might be reasonable if all carriers had equal interconnection. As it is, the plan penalizes OCCs for AT&T's historical monopoly design. OCCs should be provided access through toll connecting trunks. During the transition, non-cost based OCC differentials should be allowed. SBS states that the grant of AT&T's waiver petition would leave inequities in place for independents.

****97** SBS believes that subsidies other than a small universal service fund should come from the Treasury. SBS points out that Alaska has the highest per capita income in the country and argues that there is a limit to the subsidy that any area should receive. SBS believes that only narrow targeted subsidies are legal or good policy. SBS observes that even a transitional recovery of NTS costs on a minutes of use base is inefficient. By setting a fixed minutes of use value on reconsideration, the Commission can mitigate the disincentives to use local plant in an uneconomic manner.

SBS states that AT&T and Centel have proposed a definition of conversation minutes that disadvantages OCCs since OCCs do not receive ANI. SBS believes that billed minutes should be used or, at least, conversation minutes should include the actual time from call completion until disconnect.

SBS supports SPCC's proposal to add the end user usage charge to AT&T. The Commission, however, could eliminate the mover and permit only a flat end user charge.

SBS objects to any possible surrogate charge. If an end user usage charge is retained for OCCs the

Commission should require OCCs to provide the exchange carrier the needed information on subscribers and length of calls otherwise obtained through ANI.

SBS opposes reseller and enhanced service provider exemptions. Although some vendors may be deregulated, none should be artifically favored. Such an exemption would force facility carriers to enhance and to establish resale subsidiaries. The Commission's equal treatment policy should be retained.

SBS objects to AT&T's proposed differential charges for trunks and lines since no cost differences have been shown. It is consistent to allow cost-based OCC access pricing and opportunity cost-based AT&T access pricing since OCCs have no choice while AT&T does. Once equal access is available, all access should be cost-based.

SBS believes that the three months for review of tariffs are insufficient. The Commission can retain the status quo for long enough to allow more complete consideration. SBS supports those urging at least a six-month notice.

SBS believes that local company billing is a bottleneck service and should not be permitted to earn monopoly profits.

SBS agrees that non-recurring charges are appropriate in many cases but states that such charges should not be used as a ‘two-tier’ pricing mechanism to recover a substantial amount of the cost of a facility at the time of installation. They are appropriate to cover installation expenses, not properly capitalized expenses.

***805** SBS agrees with Centel that cancelled orders should be billed to carriers rather than local customers but states that termination charges should generally cover such costs.

SBS agrees that pay telephone costs should not be recovered only from sent paid calls. AT&T's alternative, however, discriminates against OCCs since OCCs typically offer none of the credit card, collect, third party, In WATS, or similar calling arrangements because of their inferior access. SBS recommends that the costs of pay phones capable of placing OCC calls be allocated among carriers on the basis of relative use of those telephones. A sample would be sufficient until equal interconnection is available.

****98** SBS believes that giving states control over implementation would be bad policy. This would result in no coherent national policy. The solution to the problem of different access charges is legislation giving jurisdiction over all interexchange communication to the Commission.

Southern Pacific Communications Company (SPCC)

It has become distressingly apparent to SPCC that the access charge plan, as adopted, will not promote the objectives of competition, reasonable transition, narrowly focused subsidy, and nondiscrimination. Until such time as equal exchange access is generally available, an appropriate price differential is needed. The access charge plan would eliminate or vastly reduce the past differential. This differential would fall from 57 percent to 19 percent. There would be a 165 percent increase in transport costs.

SPCC notes that the premium charge established in the Order is small, rapidly diminishing, and does not reflect the minor improvements in access quality that are likely to be forthcoming. The reduction in discount contradicts subsequent ENFIA decisions and the Order itself.

SPCC believes that AT&T's claim that ENFIA B and C are appropriate yardsticks for evaluating the premium is faulty. ENFIA B and C are not generally available. ENFIA B can be used to originate calls at only about 18 percent of AT&T's end offices. ENFIA C involves one-year delays. Also, these do not represent substantial improvements over ENFIA A. Differences in ENFIA A–C and ENFIA B arrangements preclude mixing. Because ENFIA B is not generally available, the rotary dial access is of little use. SPCC notes that tone generat-

ors cost money and are only needed because of inferior access. OCCs must compensate by lower rates. SPCC notes that rotary availability is not universally available even with ENFIA B. Since SPCC cannot use ENFIA B, it should be excluded from consideration. ENFIA C falls short of toll standards. Finally, independent companies do not offer ENFIA B–C. The local call charge must also be recognized in AT&T's premium.

SPCC recommends that reduction of the premium be tied to access quality. A Commission proceeding is needed to determine what equal access is. Cost allocation should correspond to quality. SPCC recommends delay in implementation of access charges. The Commission has authority to prescribe interim arrangements.

SPCC argues that an approach analogous to NTS payments would be to levy a premium transport charge on AT&T.

SPCC argues that its cost of inferior access per ENFIA per month, including added equipment costs, uncollectibles, the lower prices that must be charged, the fact that rotary dial subscribers cannot reach them, and AT&T's preselection as the default carrier total $484 per month. This translates into a 4.84 cent/minute disadvantage, compared to the 1.54 cent/minutes established by the Third Report and Order. This differential should be weighted by the percentage of subscribers who do not receive equal access. SPCC also argues that a lump sum differential will cause erratic and unpredictable changes in the differential.

****99 *806** SPCC argues that access arrangements that it receives are less restrictive and should, therefore, be priced lower than those required by AT&T. The greater is the flexibility provided the BOCs to route SPCC's traffic over underutilized facilities, or over absolete facilities that are used only during peak periods, the greater is the divergency between costs caused and costs assigned.

SPCC argues that the premium should be phased out only with equal access.

SPCC perceives an underlying premise in AT&T's comments—everything about access should be the same even if the access itself is different. In fact, access rates must reflect the current differences in how access is provided. The Commission's rules must be constructed and applied so as to prevent any carrier from being improperly advantaged or disadvantaged because of current facility differences.

SPCC states that only AT&T, for apparent self-serving reasons, contests the assertion that the premium must be raised.

SPCC believes that the issue of premium size should be afforded the highest priority. An appropriate premium is at the heart of this docket.

The end user usage charge is inconsistent with the way OCC service is provided. The exchange carrier has no means of knowing whether the call is completed. There is no way to match the records of the local operating companies with the OCC's records.

SPCC believes that an OCC surrogate should be rejected since it would disadvantage AT&T's competitors. SPCC reiterates its view that end user usage charges not be applied to OCCs.

Deregulation of billing is inconsistent with forcing OCCS to use billing services. SPCC recommends that revenues associated with the usage charge be allocated to AT&T as an addition to premium.

SPCC notes that the definition of conversation minutes is critical but that AT&T's proposed definition is untenable. AT&T's definition could add 15 to 50 seconds to a call. It does not define conversation but holding time minutes. This is inconsistent with the Separations Manual definition. SPCC urges the Commission to reject AT&T's definition and adopt one similar to the Division of Revenue definition or use billed minutes.

SPCC argues that OCCs are subject to the same dis-

crimination claimed by WATS resellers. Advantages from being able to provide WATS service would more than offset the premium. SPCC would pay more than AT&T even if it merely resold the AT&T service. SPCC believes that the arbitrary distinction between 'common' and 'dedicated' customer lines assigns a reverse premium to OCCs. SPCC urges the Commission to reject AT&T's redefinition of 'dedicated' access lines and include closed end WATS minutes in the calculation of the carrier's carrier charge.

SPCC congratulates the Commission on instituting an interconnection phase of Docket 78–72. SPCC believes that pricing cannot be considered separately from the technical and operational characteristics of access.

****100** SPCC shares the AT&T concern that the rules quickly be finalized. SPCC believes that all issues must be examined but that the premium charge computation is essential under any circumstance.

SPCC believes that the Commission should not acquiesce to the 1991 termination of the equal charge requirement.

***807** SPCC agrees with AT&T that the rules do not recognize the difference in features currently provided. SPCC suggests that differences in separations weighting factors would be appropriate. SPCC disagrees with AT&T's solution. It believes that transport termination is part of transport, not an end office function.

SPCC presents tables that, it states, classify exchange access and office and transport features correctly.

SPCC notes that the transport charge rules appear inconsistent with the consent decree. SPCC asserts that the waiver petition is insufficient SPCC requests that new rules, which reflect technical inferiority, be adopted. SPCC believes that the MFJ requirement reflects good public policy and should be reflected in the rules.

SPCC states that disaggregation is consistent with equal charges.

SPCC notes that the Order does not result in cost-based pricing because business users and OCCs pay different prices for access. The access charge plan also hampers efficient service since it has no off-peak discount.

SPCC believes that petitions to assign pay telephone costs to carriers or end users should be rejected since they fail to recover costs from the cost causer, since OCCs cannot identify pay telephone calls and since SPCC would have to cover costs of pay telephone equipment in areas it does not serve. SPCC also urges that any usage based pay telephone charge reflect the different access quality.

SPCC opposes the grant of AT&T's blanket request for waiver of rules prohibiting non-usage based transport charges. Special construction charges would fall most heavily on OCCs since the AT&T access network is already in place.

SPCC objects to AT&T's request to alter the allocation of automatic message recording equipment since OCCs do not benefit from this service. SPCC also objects to attempts to assign Business Relations Expenses by the number of customers.

SPCC also objects to AT&T's proposed vague rule concerning connecting company relation expense. SPCC does not believe it should be burdened with interstate sales and advertising expense from which it receives no benefit.

SPCC objects to the Ad Hoc petition to eliminate the end user usage charges. This is not in accord with cost causation. It might also disturb the transition to flat charges.

SPCC believes that federal implementation is necessary and so opposes the Illinois petition.

Tele-Communications Association (TCA)

TCA petitions the Commission to indicate that exchange carriers should use appropriate Centrex trunk equivalency ratios in computing end user flat charges to be applied to Centrex lines.

TCA states that state regulators treat Centrex intercom and Centrex exchange access differently and require a separate rate for the two functions. Centrex-CO usually generates a contribution to basic exchange services. Inasmuch as the Centrex intercom function does not access exchange or toll services, and inasmuch as this function is the reason for so many lines, an access charge should only apply to the access portion.

****101** TCA argues that UTCC's statements and arguments about Centrex are inaccurate. TCA also opposes NATA and TAM concerning Centrex.

***808** TCA states that Centrex software can generate 'virtual trunk' arrangements limiting the amount of network access. Therefore, levying a full access charge is inappropriate.

TCA states that imposition of unadjusted charges will result in abandonment of Centrex. Stranded investment will not be immediately reused.

The migration from Centrex-CO will strand hundreds of millions of dollars of CO and outside plant investment. Burdening customers of the local exchange carrier's other services.

TCA states that trunk equivalency ratios are used for both interstate and intrastate cost allocations. Bell division of revenue uses a PBX equivalency ratio for recovery of Centrex revenue requirements.

Centrex CO service imposes lesser access requirements on the network than do PBX trunks or business lines.

To demonstrate that Centrex would be subsidized, it would be necessary to show that total Centrex revenues do not cover costs, but this has not been shown.

The revenue requirement resulting from PBX ratios will match current revenue requirements.

TCA states that, whether Centrex involves one or several premises, it involves one switch. The number of lines at this switch should be used to calculate the PBX equivalency.

TCA supports AT&T's proposal to allow interexchange carriers to purchase dedicated access. TCA urges the Commission to require separate line charges for such resold access lines.

TCA agrees that the Commission should specify that ICAM principles and procedures control allocation and measurement of costs for special access except where specific rules supersede the ICAM. All that this would require would be clarification, not a rules change.

TCA agrees that interexchange carriers should be allowed to obtain dedicated access lines as agents for customers. End users should also be allowed to order dedicated access lines. TCA urges a requirement for separate billing of such dedicated lines provided as agent.

TCA states that unbundling is especially important if the AT&T recommendation on expensing special access is accepted.

Telecommunications Association of Minnesota (TAM)
TAM generally supports the UTCC petition for clarification asking that Centrex users be charged for access on a flat rate.

TAM states that even if the Commission wishes to implement an 'equivalent trunk' charge, the ratios proposed by AT&T and the BOCs are not representative of what other customers in like situations would pay for access and unfairly discriminate in favor of large Centrex users because they fail to account for the frequent use of multiple separate premises. TAM suggests that the Commission must include an 'equivalent premise' factor if it wishes to use an equivalent trunk charge. As it stands,

AT&T's proposal discriminates across Centrex premises.

GTE Telenet

****102** Telenet requests that the Commission set aside action imposing carrier, as opposed to end user, access charges upon enhanced service providers. Until how, Telenet had no notice that its interests might be affected.

***809** Even now, it is far from clear that carrier charges are to be levied upon enhanced service providers. Such charges are unlawful since there was no notice, the record does not support such a charge, and the Order fails to justify such a charge. A further notice would be required. Questions addressed in such a notice would include whether such charges would unreasonably discriminate against enhanced service providers, what would be the economic impact of such charges, and whether such charges could be implemented by local carriers.

Telenet states that the MCI complaint should be not incorporated as a comment without some order or notice, nor does the MCI complaint support such a charge.

Only MCI claims that notice was given. No party has challenged Telenet's contention that the record is inadequate. No one has challenged Telenet's contention that a further proceeding would be required to impose carrier charges on enhanced providers.

Telenet states that the evidence offered by MCI does not support MCI in claiming that notice was given. MCI does not argue that its complaint constitutes notice.

Telenet states that applying carrier charges to enhanced providers would discriminate against them compared to private users. Telenet finds no support for MCI's contention that private systems would pay. Other carriers ignore this discrimination.

Telenet believes that enhanced and basic markets are distinct.

Telenet submits that AT&T's belief that enhanced providers can be identified is no substitute for facts. AT&T has sought reconsideration of dedicated access because it can not tell who is what, but this is inconsistent with the ability to determine who is an enhanced provider.

Telenet notes that the determination of what constitutes an enhanced service provider will have to be made by telephone companies. This may lead to additional discrimination.

Telenet states that the Order is silent on why private networks should be treated differently than enhanced service providers.

Telenet points out that imposition of carrier access charges on itself would drive its large users to private systems and force its small users off the network.

Telenet doubts that the Commission understood or intended the uneconomic effect resulting from imposing carrier charges on enhanced providers.

Tymnet

Tymnet views singling out enhanced providers as fatally flawed. Tymnet wishes to pay what others in similar situations pay. Tymnet submits that the Commission's treatment of enhanced service providers is discriminatory under Section 202(a) of the Communications Act and will have a devastating effect on service to the public. Others who use the network in a fashion functionally equivalent to ‘enhanced service providers' will not have carrier's carrier charges imposed. This is unlawfully discriminatory.

****103** Tymnet argues that MTS and value added services have low cross elasticities and are not functionally equivalent. Value added carriers use the public network only at one end. Using the Commission's logic, carriers carrier access charges would have to be expanded to any private line user capable of accessing the public switched network. No carrier's carrier access charge can be applied to

enhanced service providers on the basis of the record which exists in this proceeding. No notice was given. There is no explanation.

Tymnet cannot determine which carrier's carrier charges it will be subjected to.

***810** The transitional carrier's carrier charges which Tymnet apparently will be forced to pay may well lead to uneconomic bypass of value added public data communications networks by large users, increased rates to smaller users and elimination of service to many who rely on Tymnet.

Tymnet states that no one attempts to refute its showing that elimination of carrier charges on enhanced providers would increase carrier charges by only $.0015 per minute. Opponents do not address the uneconomic cost increases.

Tymnet notes the support for its position from numerous parties. Even opponents recognize the need to eliminate possible double charges.

Tymnet states that exchange carriers perceive difficulties in distinguishing between end users.

Tymnet agrees that it had notice that it would be subject to end user charges but not carrier charges.

Uninet

Uninet supports petitions filed by Telenet, ADAPSO, Ad Hoc, and CompuServe to the extent that the petitioners advocate that enhanced service providers be classified as end users for purposes of access charge rules.

Uninet has not heretofore participated since it did not know that its interests could be affected. Uninet believes that the Commission should modify its rules to permit the unencumbered development of the enhanced services market. An insufficient record exists to extend access charges to enhanced services. If a record existed, it would demonstrate anti-competitive effects of access charges.

United Telecommunications, Inc.

United finds the definition of dedicated access line troublesome as it requires identification of customer CPE. United recommends treating all private lines as special access.

United recommends an exception to § 69.3(e)(3) of the Rules to allow carriers to file their own billing and collection tariffs since these are not subject to rate of return constraints.

United believes that § 69.3(e)(3) and (9)(EAS) will force all carriers to concur in the EAS tariff for TS elements. The Commission should realize that other joint provisions of access arrangements will also exist. All that is required is agreement and procedures for identification of interstate traffic and compensation. Compensation could be effected through aggregated tariff charges. United believes that a general rule requiring joint arrangements in cases where joint provision is available is appropriate.

****104** United notes that many calls made from pay phones are not sent paid. United recommends cost recovery like that used for intercept. United does not agree with Rochester's proposal to cover pay phone costs through a local surcharge.

United also believes that MCI's proposal to recover pay telephone interstate revenue requirements from local exchange subscribers should be rejected, but finds AT&T's proposal that the charge be assessed on originating rather than total usage acceptable.

United finds proposals by USTS and Western Union involving exchange carrier pay station charges deficient since not all such calls can be identified and billed. Further, this requirement would be costly and burdensome.

United opposes SBS and SPCC proposals to recover costs only from interexchange carriers that can be accessed from those pay phones and to do so on the basis of actual ***811** (sampled) pay phone usage. Claims that overall usage measures would overstate OCC pay telephone usage are unsupported. Sampling would be unduly burdensome and costly.

United opposes unqualified inclusion of semipublic phones in the pay category. An identifiable end user exists, and a flat charge should be charged. United would concur if only equipment but not the local loop were included.

United believes that the third party billing requirement is burdensome. Third party billing should fall into the transitional surcharge category. The rules do not specify treatment of credit card calls. United suggests that these also be subject to the transitional surcharge. United believes that a general OCC surrogate waiver is needed. OCC arguments that such a surrogate would reduce their competitiveness should not be considered.

United supports the AT&T definition of conversation minutes. OCC proposals related to billing minutes do not reflect exchange carrier costs. Also local carriers have no means of verifying billable minutes. This issue should quickly and unambiguously be decided.

United believes that pleas for extending ENFIA should be rejected. United is not a party to ENFIA. Moreover, ENFIA has been found to be unlawful.

United believes that the proposal to advance the filing date is impossible, and the proposal to delay the effective date is premature.

United believes that USTS's proposal to shift the USF to end users is inappropriate. The present plan is neither unreasonable nor unduly burdensome.

United concurs with several AT&T/GTE proposals concerning traffic expenses. Network Administration (Accounts 621 and 624) should be apportioned on the basis of apportionment of COE Category 1–7. Centralized Ticket Investigation (Account 624) should be directly assigned to billing and collection. Traffic engineering (Account 621) should be apportioned on combined COE plus interexchange OSP investment. All other traffic expenses should be apportioned among interexchange category and Intercept, Information and Operator Assistance elements based on Standard Work Time Seconds.

****105** United believes Rochester's proposal to allocate all COE Category 4 to LS 2 local switchicng is deficient because this equipment will be used for billing other carriers. Also COE Cat 4 includes Account 651 metering equipment.

United recommends apportionment of Automatic-Message Recording Equipment among end user, carrier, and billing and collection elements.

United notes that Category 1C space investment includes space used by Category 8 COE, and argues that the 1C space investment should be more fully allocated. United also recommends apportioning Category 2 space equipment in the same proportion as Operator Wages.

United suggests that COE-CAT 1 manual switching be allocated based on weighted standard work time seconds.

United notes that local commercial expenses (Account 645) include pay station collections that should be directly assigned, and that remaining local commercial expenses be associated with billing, and work functions associated with end user and interexchange carrier access billing.

United believes that since Category 4 COE and Commercial expenses are projected for the interexchange category, it is appropriate that some Revenue Accounting Expenses also be assigned there.

United Technologies Communications Company (UTCC)

***812** UTCC requests that the Commission clarify the procedures under which it will count Centrex lines. UTCC recommends that each Centrex subscriber line be assessed an end user charge. Any alternative would be unreasonably discriminatory and contrary to technical or economic justification.

Although line-counting is straightforward in most uses, it is unclear how the Commission intends to

count Centrex lines. Technically a Centrex line is virtually identical to a standard common line loop. Centrex lines are fundamentally different from PBX lines and impose substantially greater network costs. In many cases, PBXs use 15 percent of the lines used by a comparable Centrex. Centrex offers station-by-station identification of toll calls, something not done by the central office for PBXs. From a user perspective, the only difference between a business line and a Centrex line is the need to dial 9.

UTCC states that the Commission must establish uniform rules for counting the various types of lines. The Commission should not prop up an inefficient service due to fears of adverse effects.

USITA

USITA believes that the purpose of the EAS requirement can be served by modifying the rules to permit development of a common tariff as the sum of the individual rate elements that each company would use were it to file its own tariff. USITA notes that there is little opposition to its proposal to eliminate the EAS requirement.

The requirement that the ECA tariff be targeted at 12.75 percent conflicts with the uncapped return on billing. USITA suggests that billing and collection be disassociated from other traffic sensitive rate elements and established as a separate rate element under a separate voluntary pool.

****106** USITA notes no opposition to its plea to allow average schedule companies to choose between individual company cost studies and average schedules.

USITA urges the Commission to modify rules to require the total recovery of interstate revenue requirements associated with interstate use of pay stations from all interexchange carriers, on a relative minutes of use basis.

USITA urges that OCC minutes of use not be deflated. How OCCs use access is under the OCCs' control, and exchange carriers should not be responsible for it.

USITA is concerned about the need for a traffic sensitive USF. While USITA believes that a Joint Board might be needed, USITA suggests that the Commission make clear on reconsideration that this issue will be thoroughly explored and resolved in the Joint Board case.

USITA believes that semipublic phones should be classified separately from coin phones. An access charge on semipublic phone customers appears appropriate and workable. Coin phones are different. For coin phones, access charges must be imposed on interexchange carriers.

The rules appear to treat various collect-type calls differently. The Commission should treat third party and credit card calls in a manner consistent with other sent collect-type calls and recover interstate costs associated with such calls on a usage basis.

It would be burdensome to divide up party line flat fees on a line-by-line basis. A study area or larger basis should be used to calculate average customer/line for each grade of service.

Dedicated access lines should be billed to whoever orders them.

***813** USITA suggests that the ECA bill only the premium, not the carrier's carrier charges.

USITA suggests to the extent that Appendix G reflects the views of the Commission rather than the thoughts of its anonymous authors, that this issue be reconsidered in depth.

USITA is concerned that if State tariffs follow interstate tariffs in the TS side, revenues may not match costs, yet states may have no alternative.

U.S. Telephone (U.S. Tel.)

U.S. Tel notes that the ACP hinders realization of the Commission's goals. The ACP closes the

present legitimate price differential between AT&T and others.

U.S. Tel states that the ACP sacrifices fair competition to insure below cost local pricing. Any subsidy should be paid by AT&T. As it stands, the ACP is an undue and inequitable hardship on the smallest carriers.

U.S. Tel recommends maintaining the existing price differential until competition develops.

U.S. Tel believes that the shortage of superior access arrangements increases the opportunity cost of premium access. Equal access will only start to be offered by the end of 1984, and independents will move even slower.

U.S. Tel argues that the ACP provides for unjustified cross-subsidy. A per line charge for the UST would be more appropriate.

U.S. Tel states that since the AT&T Class 4 office is strategically placed to minimize distance, distance-sensitive rates discriminate in favor of AT&T. The Commission's five mile rule does not remedy the basic flaw. The MFJ solution at least seriously addresses the untoward advantage enjoyed by AT&T.

****107** U.S. Tel notes that the transport distinctions find no support in the record.

Since AT&T is the reason for billing services, developmental costs should be charged to AT&T.

U.S. Tel urges the Commission to prohibit the ENFIA surrogate.

Placing AT&T as administrator of the ECA is inappropriate.

United States Transmission Systems (USTS)
USTS believes that the premium is illusory. USTS proposes $2.8 billion, in place until equal interconnection is achieved and phased out on the basis of access lines accorded equal interconnection.

USTS argues that nationwide averaging is inefficient, USTS calls for a timetable for deaveraging below the study area level. USTS opposes optional deaveraging.

Since eligibility for a USF is to be based on total NTS costs, USTS submits that there is no rationale for singling out interexchange carriers. A usage recovery of the USF will lead to bypass. Only a small per line surcharge would be required.

USTS states that the premium should reflect OCC costs incurred because of unequal interconnection. After the transition, if unequal access remains, the premium charge could be earmarked to cover the costs of conversion.

USTS states that AT&T ignored its analysis of the premium and that its own analysis reflects only OCC costs for compensating for unequal access based on empirical analysis.

***814** USTS states that the premium should be reduced in proportion to the availability of equal access. The adoption of an access charge does not signal full competition; this would require equal access.

USTS states that AT&T's position that the premium should be eliminated is not credible. Cost-based rates are not optimal until OCCs have a full choice over access. USTS denies that its premium proposal reflects value of service.

USTS states that ENFIA B and C are new types of inferior access and have interconnection shortcomings that render them unattractive. USTS states that rates for these services have never been cost justified. Given equal access shortly, OCCs would be foolish to reconfigure their systems twice.

Whenever the exchange carrier cannot identify the customer (e.g., ENFIA, collect calls, etc.) the interexchange carrier should be required to provide the necessary information (for a fee) to allow the exchange carriers to do the billing.

USTS states that OCCs do not object to surrogate charges in order to gain a competitive advantage but to prevent an anticompetitive handicap. USTS would not be able to properly assess such charges on end charges. The Commission need not revise its judgment that exchange of information is the appropriate solution. If this is not practical, USTS calls for elimination of the end user usage charge.

USTS supports SBS's proposal to recover pay telephone costs based on a sample of actual usage. USTS supports exclusion of semipublic phones and end user charges on these phones.

USTS argues that billed minutes are appropriate. AT&T and United define conversation minutes akin to holding time minutes. The result is unlawful discrimination. USTS believes that the ENFIA process has clarified the billed minute concept. Either the current ENFIA or some other specially designed approach could be used.

****108** USTS notes that meetings on interconnect standards are required by Docket 20099, are necessary, not inconsistent with the Order, and are not being held. It requests that the Commission clarify its order to require such meetings.

In view of the monopoly power held by exchange carriers; more detailed accounting rules are required.

USTS advances four principles that must be used: costs must be paid by the entity incurring the costs; costs must be allocated in the manner in which they are incurred; rates must be based on costs; and costs must be disaggregated. The Order does not apply these principles in a consistent manner.

For example, billing and collection should be cost-based and justified and TS costs should be paid by the end user.

USTS submits that excluding resellers would be unwarranted. USTS agrees with AT&T that double charging can be eliminated.

USTS believes that a longer tariff review period is necessary. A six-month notice and a 90-day review period are minimum periods.

USTS fears that if the Order is implemented as written OCCs will pay more for access than AT&T in 1984 and receive less.

Vermont Public Service Board
Vermont agrees with petitions claiming that the Commission has not given adequate attention to universal service. Vermont believes that carriers should pay more, that access ***815** charges should be averaged, and that there should be a mandatory pool for traffic sensitive costs.

Vermont believes that the access charge would cause significant numbers of Vermont customers to cancel service. It and Docket 80–286 would result in increases of 116 percent over the next five years in addition to a 47 percent increase in intrastate revenue requirements.

Vermont notes that Judge Greene also suggests that the Order will jeopardize universal service.

Vermont states that bypass has not been shown to be a real possibility.

Vermont believes that NTS costs are joint costs and cannot be allocated on an entirely economic basis. They should be allocated to meet goals.

Vermont believes that the FCC has gone too far to avoid bypass at the expense of universal service. The FCC should not rely on Congress for aid in preserving universal service.

In the alternative, Vermont supports the Illinois Petition to allow States to implement access charges.

Vermont believes that if access charges are deaveraged, MTS deaveraging is not far behind.

Washington Utilities and Transportation Commission (WUTC)
WUTC files in support of the AT&T Centrex peti-

tion.

The $4 per month would result in a 44 percent increase in Centrex bills in Washington and only a 6 percent rise for PBXs. The results would be a massive shift from Centrex resulting in stranded investment and resulting from uneconomic rates.

WUTC estimates that $58.4 million investment would be stranded if 95 percent of Centrex subscribers shift to PBXs.

WUTC believes that the application of the access charge is uneconomic because Centrex users are already priced to meet competition. Centrex lines are more similar to lines connecting phones to PBXs.

****109** WUTC states that additional costs would arise in non-Bell areas of Washington.

WUTC suggests that the answer is to keep Centrex competitive with PBX services.

Western Union
Western Union believes that the Commission cannot and should not abrogate the settlement agreement in Docket 20099 which requires six months notice before certain rates charged OCCs can be changed.

WU believes that notice that access charges were being considered does not constitute notice that an agreement was to be abrogated.

WU does not deny that the Commission can abrogate agreements, just that it did it validly. No party and no notice brought up abrogation as an issue.

The Commission's findings are inadequate under Sierra Mobile. The Commission did not and cannot find unequivocal public necessity as required by Permian Basin Area Rate Case. The Commission has not investigated the contract, just tariffs.

***816** WU claims that AT&T has told Congress that it could file new tariffs by June 1 (on March 22, 1983). WU cannot understand why 90 days are needed after reconsideration when only 90 days were required in the first place. At any rate, AT&T now has information needed for special access rules.

WU states that routine handling would result in Commission abdication of responsibility. WU states that the Commission has the authority to require longer filing periods when tariffs are filed in response to a Commission order. It would be better to delay AT&T's self-imposed deadline than to allow the most important tariffs ever filed with the Commission to go into effect without adequate review.

WU states that reconsideration of the premium cannot be deferred. If further proceedings are needed, existing ENFIA rates could be preserved. WU believes AT&T'S arguments for no premium are without merit. Customers who desire dialing convenience should be willing to pay.

The premium is too low, and should be recovered on a per minute basis. Value of premium access depends on minutes. The current ENFIA differential must be considered a starting point. Access received by OCCs is still the same as it was four years ago for most ENFIA lines. Furthermore, there is no basis for the premium selected.

Western Union argues that the premium in any year should depend on interconnection quality differences in that year, rather than on a present schedule.

WU finds its views supported by MCI and others.

WU believes that the AT&T petition would exacerbate the anticompetitive impact of the existing access disparity. In particular, AT&T's definition of conversation minutes should be rejected. OCCs suffer higher holding time because of inferior access.

OCCs do not get answer supervision. For this reason, WU states, it is virtually impossible for exchange carriers to measure their minutes of use.

WU states that OCCs cannot identify end users because of lack of ANI. The surcharge on OCCs would result in a higher uncapped charge for large users, reducing OCC competitiveness.

****110** WU states that AT&T's pay phone proposal would force OCCs to pay for equipment in areas they do not serve. Also they would be charged for services they do not provide like collect MTS and IN-WATS. Finally, OCCs cannot identify pay telephone users and would have to spread costs over all users to the OCC's disadvantage. WU suggests a clearing mechanism to collect revenues from billing carriers.

WU questions whether the Commission complied with the notice-and-comment requirement of the Administrative Procedures Act in determining the premium.

WU believes that non-recurring charges and disaggregation should not be used to frustrate competition.

WU believes that WATS should pay its full share of the USF.

The Commission must allow itself and the affected parties the time to analyze any tariffs.

The access charge plan harms competition by increasing the per minute NTS charge on OCCs and reducing the charge assessed AT&T with no change in access quality received.

WU believes that special access tariffs are separable. Delay of the effectiveness of special access tariffs would not require MFJ adjustments. Moreover, AT&T could file special access tariffs now in order to meet deadlines as these rules are not challenged in Reconsideration.

***817** WU argues that AT&T's Centrex proposal is frivolous, and inconsistent with cost-based rates. Access charges are levied on lines, not stations. AT& T's proposal, not the Rules, would create unjust discrimination. No one has shown a cost basis for different treatment of Centrex. WU states that the AT&T proposal constitutes an attempt to cross-subsidize Centrex. WU states that no one has provided any elasticity study to justify their extreme assumptions.

WU concurs with those seeking to treat enhanced service providers like end users. There is no record to treat these vendors as carriers. WU sees problems of discrimination and difficulties of enforcement.

WU states that it provides Telex and private line services over voice grade special access lines. These services do not utilize the CPE or ‘all other station equipment’ that AT&T proposes to recover from all ‘comparable voice grade lines.’ AT&T's special access proposal would, therefore, burden WU's customers and depart from cost-based rate.

To solve the identification problem, WU suggests that the interexchange carriers that order access facilities be permitted to certify the use of the ordered facilities to the exchange carrier to ensure that telex, video, and other private lines are not burdened with unrelated costs.

On reconsideration it is essential that the Commission specify the elements and subelements for computing charges for special access facilities and services.

***818** Table 1

Projected 1984 OCC NTS Discount VS. Effective OCC Cost-Per-Minute Discount

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***819** SEPARATE STATEMENT OF FCC Commissioner James H. Quello

In re: The Matter of MTS and WATS Market Structure, CC Docket No. 78–72, Phase I

****111** By its action today the Commission has

taken another very important step towards truly competitive telecommunications. As we move further toward cost-based pricing, we'll begin to see more and more of the positive elements of true competition in the form of innovation and efficiency that are vital to competitive markets. As real competition takes hold at an accelerating rate, the American people only stand to benefit. I have no illusions that our decision will be greeted with widespread applause because it includes elements of discomfort for virtually everyone. However, in leaving the relative comfort of the telecommunications monopoly and venturing into the competitive arena, some disruption is inevitable and we can only attempt to minimize the disruption. I believe that our decision will have that effect.

We are hearing anguished cries that universal service is threatened as a result of actions taken by this Commission and by the courts. Certainly, as we all embrace the concept of fully competitive telecommunications services, universal service is threatened. But I am convinced that the threat will be curbed by establishment of the Universal Service Fund and by continued Commission surveillance of the effects of our actions. I am fully committed to maintaining universal service and I know that this Commission shares that commitment. The Commission has sufficient flexibility to ensure that basic telephone service will continue to be available at affordable rates.

CONCURRING STATEMENT OF COMMISSIONER MIMI WEYFORTH DAWSON

Re: MTS AND WATS MARKET STRUCTURE, CC DOCKET NO. 78–72, PHASE I

The Commission's reconsideration of its December, 1982, access charge decision establishes another landmark in the history of telecommunications policy. In this *Reconsideration Order*, the Commission has affirmed its support of the concept of end-user access charges, the cornerstone of its access charge decision last December. By remaining steadfast in its commitment to the end-user access charge concept, the Commission has assured ratepayers that the benefits of an increasingly competitive telecommunications industry will not be denied the American public. The Commission decided in December and has affirmed on reconsideration that the cost recovery rules of an earlier ear in telecommunications should ***820** be modified to accommodate the evolving structure of the contemporary telecommunications industry.

While revolutionary from an historical perspective, end-user access charges are a logical and inevitable result of increasing competition in the telecommunications industry. By allowing entry in the markets for terminal equipment, private line services, and eventually switched network services, the Commission has allowed multiple industry suppliers to offer consumers a broader array of products and services at differing prices and grades of service. [FN156] A casualty of the Commission's open entry policies, however, is telecommunications pricing that is designed to subsidize one group of users by pricing some telecommunications services above cost. [FN157] The potential loss of subsidies embedded in telephone rates is not, however, a cause for alarm. In general, setting public utility rates above cost for some services so that the rates for other services are subsidized is a wasteful, inefficient way to pursue an income redistribution goal. [FN158, 159] Cost-based pricing of public utility services discourages the wasteful use of resources allocated to the production of telecommunications services and generally improves aggregate consumer welfare ***821** compared to pricing that is not closely aligned to cost. [FN160]

****112** In brief, the end-user access charge is consistent with the principle of cost-based rates or ‘cost-causation,’ the Commission's general benchmark for just and reasonable rates. [FN161] The non-traffic sensitive (NTS) costs of local exchange plant allocated to the interstate jurisdiction and recovered in interstate long distance telephone rates are, in reality, just a portion of the costs of *local* telephone service. Therefore, it is both efficient and

fair that these NTS costs, i.e., the local loop and other attendant facility costs of providing *dedicated* access for individual users to the local switch, should be borne by ratepayers who cause such investment in dedicated facilities to be made by telephone companies. The principle of cost causation is, therefore, entirely consistent with the Commission's policies fostering open entry and competition in the telecommunications industry. Such policies, together with the impending divestiture of the Bell operating companies from AT&T, have rendered obsolete the concept of a single, integrated nationwide monopoly in local and long distance telephone service. The Commission's procompetitive policies and the AT&T divestiture have created separate but interconnected markets in local and long distance telephone service. The Commission's access charge plan recognizes this structural change in the telecommunications industry and provides a transition toward the eventual full recovery of local telephone costs in local rates plus end-user access charges. Following the transition, interstate long distance telephone rates should more closely approximate the costs of long distance transmission, except for carrier contributions to the 'Universal Service Fund' paid as carrier's-carrier charges and ultimately reflected in interstate long distance rates.

In this *Reconsideration Order*, the Commission has refined the end-user access charge concept in several significant ways. First, the transitional, usage-sensitive end-user access charge (or 'mover') has been eliminated. Although a usage-sensitive end-user access charge may have provided exchange carriers with some flexibility in recovering interstate NTS costs, I expressed some concern in my Separate Statement to the Commission's *Third Report and Order* last December ('*Access Order*') that this flexibility may be a 'double-edged sword' that would introduce ratemaking complexities that exceeded their benefits to either consumers ***822** or carriers.[FN162] Therefore, I strongly support the Commission's decision on reconsideration to eliminate this aspect of the end-user access charge rate structure. By eliminating the end-user usage charges, the Commission has substantially simplified the estimation of revenues to be derived from end-user flat charges, has made the concept of end-user access charges easier to understand by ratepayers and easier to administer by exchange carriers, and has eliminated the need for complex surrogate charges for telephone subscribers who select other common carriers (OCCs) for their long distance telephone service.

****113** Second, the Commission has emphasized on reconsideration that it will entertain petitions for 'lifeline' waivers of the end-user access charge for residential subscribers. This waiver of the interstate end-user access charge should help alleviate the fear that the imposition of such charges will threaten the availability of telephone service to the minority of subscribers who may be unable to absorb this increase in the cost of telephone service. The Commission, on reconsideration of the *Access Order*, has established a mechanism through its lifeline waiver option that offsets any threat to the wide availability of telephone service. Residential ratepayers who simply cannot afford to pay the interstate portion of their telephone costs are provided significant protection by the lifeline waiver. The Commission's access charge decision, therefore, need *not* imply *any* threat to the availability of telephone service to the needy, elderly, or other targeted, deserving group of residential telephone ratepayers. It is not unfair, however, to expect ratepayers who can afford the full cost of their access to the local exchange to begin paying rates that more closely reflect these costs.

While I am pleased with the Commission's decision to modify the rate structure for the end-user access charge, I am concerned with the competitive impact of other aspects of the *Reconsideration Order*. In particular, I find three aspects of the *Reconsideration Order* especially troublesome; namely, the impact of access charges on the OCCs, the impact of access charges on the pricing of private line services; and the competitive implications of the Exchange Carrier Association (ECA). I expressed

some concern about the first two problems in my Separate Statement to the *Access Order* in December. The last problem, while less immediate in its competitive impact, may prove especially troublesome to the evolution of competition among the independent telephone companies and regional Bell operating companies following divestiture.

The short-term financial impact of the Commission's *Reconsideration Order* on the OCCs will be severe. If the Commission's access charge plan prescribed truly cost-based rates for local exchange access, the financial ***823** impact of the access charge plan on the OCCs should not be a major public interest concern to the Commission. The proper target of regulatory policy should be the welfare of ratepayers, not the protection of some industry participants from competition, technological change, or business risks in general. It is important to emphasize that the access charges to be paid by the OCCs and other users subject to carrier's access charges beginning in 1984 do *not* reflect just the costs of interconnection and the usage of switching, trunking, and transport facilities of local exchange carriers. For both AT&T and the OCCs, about half of the per minute cost of local exchange access in 1984 will represent a contribution toward the NTS costs of dedicated subscriber lines for business and residential users. While this 'subsidy' will be reduced but not eliminated at the conclusion of the six-year transition period, it represents in effect 'taxation by regulation' that distorts the pricing of telecommunications services.[FN163] This pricing distortion not only creates an incentive for inefficient use of telecommunications but also creates potential inequities among different classes of telecommunications users. The incidence of this regulatory taxation is largely unknown and may bear little relationship to the ratepayers' ability to pay, or benefits received, or other principles of fair taxation.

****114** Regardless of the merits of the goals achieved by such regulatory taxation, the level of such taxation, more than the underlying economic costs of network access, will have a major impact on the short-run sustainability of competition in the MTS/WATS market, since such subsidy payments are such a significant proportion of the total effective per-minute cost of network access. However, the absolute size of the interstate amount of the per-minute subsidy, how it is apportioned among carriers and end-users, and how smoothly it is phased-in are all within the control of the Commission. How the Commission implements such regulatory taxation should flow directly from its policies supporting competition in the interstate MTS/WATS market. At a minimum, the Commission's pro-entry policies for the interstate MTS/WATS market should support a transition to higher access charges for the OCCs consistent with its concern for the need for transition periods for other affected users and carriers, e.g., lifeline waivers and phased-in end-user charges for residential subscribers and a similar phase-in of end-user charges for Centrex lines. The Commission's *Reconsideration Order*, however, has in effect prescribed an approximately 100% 'flash cut' *increase* in the per-minute cost of access for OCCs beginning in January, 1984, while simultaneously *reducing* AT&T's estimated per-minute cost of access by approximately 17%. This aspect of the Commission's *Reconsideration Order* is puzzling in a rulemaking that has already ***824** found open entry and competition in the MTS/WATS market in the public interest.

A more complete assessment of the impact of the *Reconsideration Order* on the OCCs is provided by Table 1. Column (1) arrays values for 'OCC NTS Discounts' from zero to 100% in five percent intervals. The OCC NTS discount is defined as the ratio of the total amount of premium access to be paid by AT&T (and other premium interexchange carriers) to the residual industry interstate NTS revenue requirement, estimated to be $6.2 billion (B) in 1984.[FN164] Columns (2) and (3) show the premium amount and NTS residual at the different levels of OCC NTS discount. Column (4) provides an estimate of the OCCs' share of the NTS residual revenue requirement in 1984, assuming a projected 7% share of the MTS/WATS market in 1984. Column

(5) provides an estimate of the NTS residual revenue requirement on a per-minute basis in 1984. A forecast estimate of 127.4 billion 'access minutes' for 1984 is assumed.[FN165] Column (6) provides an estimate of AT&T's premium access charge per minute for 1984 (assuming 118.48 B access minutes for AT&T, i.e., 93% of the industry total of 127.4 B minutes). Column (7) is an estimate of the total AT&T NTS cost per minute in 1984, inclusive of the premium access charge in Column (6). Columns (8) and (9) provide mid-range estimates of the per minute cost of OCC line-side and AT&T trunk-side switching and transport, respectively, in 1984 as provided by the Central Services Organization and filed in CC Docket 78–72 by AT&T. Columns (10) and (11) provide estimates of the total NTS and switching and transport ('traffic sensitive' or TS) costs per minute for the OCCs and AT&T, respectively. Column (12) provides estimates of the differential in total per-minute cost of local exchange access for the OCCs and AT&T in 1984, i.e., the difference between Columns (10) and (11). Finally, Column (13) expresses the estimated cost per minute differential as a percentage of AT&T's estimated total cost per minute in 1984, i.e., Column (12) divided by Column (11) and multiplied by 100.[FN166]

****115 *825** The computations of Table 1 permit a straightforward comparison of the OCC NTS discount in Column (1) with the effective OCC cost per minute discount in column (13) that takes into consideration the estimated TS and NTS costs of network access. Thus, Table 1 shows that the 35% NTS discount adopted by the Commission in the *Reconsideration Order* corresponds to an effective OCC discount of approximately 24%. The significance of this 24% discount is meaningful only in comparison to some estimate of the existing differential between the OCCs' and AT&T's effective access cost per minute. In a letter dated July 18, 1983, and filed in CC Docket 78–72, AT&T summarizes the current ENFIA tariff elements as follows: $33.83 per line per month as a nationwide average for Rate Element 1, the central office connecting facility; $45.24 per line per month for Rate Element 2, the charge for local switching and trunking; and $180.53 per line per month for Rate Element 3, the charge for interstate NTS local exchange costs. The total ENFIA charge per line per month is, therefore, $259.60.[FN167] If 8380 is taken as an estimate of the industry average number of minutes per ENFIA line per month, then the effective ENFIA average total cost per minute is $0.0310. The current effective ENFIA average cost per minute for TS (inclusive of the central office connecting facility) costs is $0.0094 (i.e., $45.24 plus $33.88 divided by 8380). For NTS costs, the current effective average cost per minute is $0.0215. Since OCC minutes of use are effectively frozen, the average total monthly ENFIA cost of $259.60 is essentially a flat rate such that the effective cost per minute for originating or terminating OCC traffic varies directly with the actual minutes of use. For comparison purposes, a reasonable estimate of the OCCs' current average actual cost per minute pursuant to ENFIA is about $0.01 for TS costs and $0.02 for NTS costs.

In the same AT&T letter, AT&T reports that its current total costs per minute for the equivalent of ENFIA Rate Elements 1, 2, and 3 is $0.0992 or $0.0756 per minute for NTS costs and $0.0236 per minute for TS costs.[FN168] Thus, the current access cost-per-minute differential between AT&T and the OCCs is approximately $0.0682, i.e., $0.0992 minus $0.0310. This estimated cost-per-minute differential represents about a 68.75% discount from AT&T's current total access cost per minute. The Commission's***826** decision to prescribe a 35% NTS discount for the OCCs in the *Reconsideration Order* has, in effect, reduced on a flash-cut basis this discount from approximately 68.75% to about 24.4%. This sharp reduction in the discount represents an increase in the OCCs' TS costs per minute from about $0.01 to approximately $0.03 and NTS cost per minute from $0.02 to approximately $0.03. In effect, the OCCs' effective access cost per minute will increase by approximately 100% (from an estimated $0.031 to $0.062 per

minute) while AT&T's effective cost per minute will be reduced from $0.0992 to an estimated $0.082 per minute, an estimated reduction of $0.017 that represents about a 17% decrease in AT&T's per minute cost of access in 1984.[FN169] It must be stressed that this 100% increase in the per minute cost of access for the OCCs and a 17% reduction for AT&T beginning in January, 1984, will not be accompanied by any significant increase in the availability of equal access. The main difference in January, 1984, will simply be the drastic shift in the prices that AT&T and the OCCs will pay for their respective types of local exchange access as they presently receive it.

****116** I find it extremely difficult to understand how his sharp realignment in the prices that AT&T and the OCCs will pay for local exchange access supports the Commission's earlier decision in this docket that found competition in the MTS/WATS market to be in the public interest. As Table 1 suggests, even a 100% NTS discount for the OCCs, i.e., AT&T would in effect pay the entire 1984 NTS residual revenue requirement of $6.2 B as a premium amount, would *not* increase but only limit the amount of reduction in AT&T's estimated total cost per minute from approximately $0.099 today to approximately $0.084 while maintaining an estimated 64.3% OCC discount from AT&T's total per-minute cost. This 100% NTS discount would, in effect, roughly maintain the status quo in terms of the existing rates that the OCCs pay under ENFIA, i.e., approximately a 67% discount.

I am not sure, however, that a 100% NTS discount is appropriate or that even the status quo price differential should necessarily be maintained. To the extent that the TS costs of the access charge plan do approximate the underlying economic costs of switching, trunking, and transport, some upward adjustment from ENFIA TS costs may be justified.[FN170] Moreover, a ***827** premium access charge imposed on AT&T sufficient to maintain approximately the existing OCC-AT&T per-minute differential in the cost of access would hamper AT&T's ability to reduce interstate MTS/WATS rates next year when access charges become effective. Some reduction in rates is necessary to begin the transition to interstate MTS/WATS rates that more closely reflect the underlying costs of long distance transmission and switching. Delaying this transition will perpetuate the existing pricing distortions that deny consumers the benefits of interstate rates more reflective of costs. Moreover, delaying the transition will also encourage the wasteful entry of long distance service providers that offer no cost or service advantages over existing suppliers. But to the extent that premium interconnection will still remain largely unavailable to the OCCs by January, 1984, the opportunity cost of such premium access remains and should be fully reflected in the premium that AT&T pays for such access. While I fully recognize the conceptual and practical difficulties involved in estimating the value of premium access, I believe the Commission has nevertheless undervalued AT&T's premium access in both the December *Access Order* and the *Reconsideration Order*. From my review of the record in this docket, a premium amount in the range of $3–4 B appears reasonable[FN171] and should still permit a nontrivial reduction in MTS/WATS rates.[FN172]

However, whatever the Commission might determine to be a just and reasonable estimate of premium access and TS costs, there should be a ****828** transition* to the carrier access charges corresponding to these estimates not a sudden, flash-cut realignment of rates. The Commission has adopted a complex access charge plan largely in order to accommodate a smooth transition to end-user access charges and to alleviate sudden economic dislocations for affected industry participants, e.g., Centrex service providers, enhanced service providers, and residential end-users. It seems reasonable to treat the OCCs no less fairly than other groups directly affected by the Commission's *Reconsideration Order*. It is worth stressing once again that CC Docket 78–72 began as a market structure inquiry that has already concluded in an earlier phase of the proceeding that competition in the MTS/WATS market

was in the public interest. It would seem inconsistent for the Commission in this phase of the docket to nullify, at least for the near term, this earlier finding by altering so substantially the cost of network access to incumbent OCCs and other potential market entrants such that further market growth by these participants will be largely precluded in 1984. I cannot find any justification in the record of this proceeding that would support this policy outcome prior to the general availability of equal interconnection for *all* interexchange carriers.

****117** In my Separate Statement to the *Access Order* in December, I commented on the implications of adding NTS costs to private line rates that historically have not included a contribution to local exchange NTS costs.[FN173] From the perspective of cost causation, such pricing of interstate private line services has reflected only the costs attributable to providing such dedicated transmission service.[FN174] In general, interstate private line services made no 'contribution' to the cost of local exchange plant that was not directly allocated to interstate private line services. In a sense, private line rates were 'subsidy-free' and may have roughly approximated the opportunity cost of such facilities. Unfortunately, since MTS and WATS were *not* 'subsidy-free,' i.e., these rates made a contribution to the interstate allocation of local exchange NTS costs, powerful economic incentives were created to 'bypass' the subsidy by using private line ***829** channels and private switching capacity that provided MTS-WATS-equivalent services. The basic strategy in the Commission's access charge plan for neutralizing this incentive is to require interstate private line services to begin to contribute to the interstate NTS costs of local exchange service.

It is unfortunate that private line rates must be distorted in order to 'even out' the distribution of the subsidy and to reduce the incentive to bypass MTS and WATS. This distortion in private line rates is especially troublesome since the subsidy allocated to private line services is largely transitory, with the exception of contributions to the Universal Service Fund.[FN175] While private line channels can be used like MTS-WATS services, private lines have inherent technical and economic advantages that transcend straightforward substitutability for switched services. In particular, private lines provide building blocks for meeting specialized user needs including various grades of service. Thus, a private line user can vary certain transmission, switching, and network characteristics to satisfy diverse voice and data requirements. By contrast, MTS or WATS provides a fixed grade of service where the technical service parameters are established by the exchange or long distance carrier, not the user. The quality-of-service flexibility provided by private line services is unavailable.

In short, private line services allow users greater control over their communication links as compared to MTS or WATS. While spreading the burden of subsidy to private line services will help recover local exchange NTS costs, I fear that this short term regulatory strategy will encourage *inefficient* use of switched services, reduce the cost-effectiveness of user-designed and managed network services, and distort the further development of computer and telecommunications technology that is dependent on dedicated private line channels. Imposing surcharges or carrier's-carrier charges on private lines inevitably will result in both static and dynamic losses in economic efficiency.[FN176]

****118 *830** In addition to the threshold distortions in the pricing of private line services, the imposition of private line surcharges and carrier's-carrier charges will have substantial second-order effects on the choice of transmission facilities. Although the actual level of special access charges is unclear at present, it is likely that the resale of WATS by the OCCs or other resellers will prove more cost-effective than reselling foreign exchange services to transport interexchange traffic. Moreover, since interstate MTS-WATS-like traffic carried by private lines between reseller or OCC switches will be subject to carrier's-carrier charges at both ends when terminating or originating traffic with an exchange

carrier, there may be a reduced incentive to lease such private line channels. This reduction in the usage of private line channels will diminish the availability of different qualities of service to end-users. Moreover, restrictions in the usage of private line channels may contribute to further peak-loads on AT&T's switched network that could be attenuated by the diversion of traffic to dedicated facilities. In addition, there will be incentives for some carriers to attempt to take telex and video service channels and 'leak' them into the local exchange, given the exemption of these lines from surcharges and carrier's-carrier charges. In short, the short term distortion of private line rates will provide an incentive for carriers to reconfigure their networks and to adjust their mix of leased and owned facilities, although the underlying economic costs of the affected switching and transmission facilities will not have changed.

While the *Reconsideration Order* attempts to spread the NTS subsidy more evenly among interstate users (or potential users) of local exchange plant, it is sound public policy to affect enhanced service providers as little as possible.[FN177] In many respects, enhanced services are an 'infant industry' segment of the telecommunications industry that only recently has been freed from the confines of regulation and an uncertain regulatory future by the Commission's *Computer II* decision. The development of enhanced services will increase the productivity of industry and the quality of life for consumers. It is a segment of industry where economic growth and rising employment are inevitable. To stifle ***831** such development, even for a brief transition period, seems needlessly wasteful and ultimately self-destructive as enhanced service providers exit the industry, thereby paying neither carrier's-carrier charges nor wages to employees. The *Reconsideration Order* has probably reduced the risk of such a drastic, undesirable outcome. Nevertheless, some risk remains, and the Commission must remain sensitive to the possible negative consequences of its decision to include enhanced service providers within the ambit of its access charge plan.

In distributing the burden of interstate local exchange NTS costs widely, the *Reconsideration Order* has, in effect, perpetuated the historical tendency of the telephone industry and its regulators to adopt inefficient rate structures that incorporate some forms of price discrimination that may not improve consumer welfare. In particular, the access charge plan appears to adopt a price discrimination scheme based on the identity of the user, i.e., end-user, enhanced service provider, WATS reseller, and so forth. Since in many cases the same transmission facility will be tariffed at substantially different rates, there will exist strong incentives for users of local exchange access service to evade the higher priced classification of exchange access. The *Reconsideration Order* recognizes this incentive and largely delegates to the exchange carrier (in paragraph 85) the responsibility to ferret out resellers from other users of exchange access to prevent their escaping the payment of carrier's-carrier charges. As a result, the enforcement cost of the access charge plan, which ratepayers must ultimately absorb, represents still another dimension of the distortion resulting from a strategy of spreading the subsidy far and wide by attempting to plug all 'leaky' PBXs, both real and symbolic. The net effect of these pricing distortions on the development of competition in the long distance telecommunications market is unclear at this time. It is clear, however, that the Commission's access charge decision has introduced substantial complexities and uncertainty surrounding the applicable rates for users of local exchange access.[FN178, 179]

****119 *832** Finally, I do not think that the *Reconsideration Order* adequately addresses the potential impact of the Exchange Carrier Association (ECA) on the further development of telecommunications competition. In my view, the Commission should encourage competition among exchange carriers for the interstate network access business of competing interexchange carriers. The Commission should also encourage both Bell and independent exchange

carriers to compete in other lines of business that such carriers currently or may eventually offer to their subscribers. Unfortunately, the ECA may provide a forum for potentially collusive conduct among exchange carriers. As a possible antidote to such behavior, all meetings of the Board of Directors of the ECA should be open to the public. Moreover, the composition of the Board of Directors should also be amended to include representatives from the interexchange carrier industry.

In short, if the Commission i firmly committed to its pro-competitive policies, it should resist the temptation to fall back on mechanisms of industry cooperation that were the hallmark of the monopoly era of telephony. Industry practices such as revenue pooling or average schedules are all attributes of a monopoly industry, not an industry where technology and public policy have made competition possible and probably inevitable.[FN180]

***833** While I have reservations concerning the effects of some aspects of the *Reconsideration Order* on the further development of competition in the telecommunications industry, the order reaffirms nevertheless the Commission's major decision last December to introduce end-user access charges. This decision marks a turning point in the evolution of telecommunications competition, and I firmly support this aspect of the decision on reconsideration. Since the thrust of the Commission's access charge decision on reconsideration should ultimately prove supportive of telecommunications competition and the benefits such competition will offer consumers, I concur in the Commission's decision to adopt the *Reconsideration Order* in CC Docket 78–72.

FN1 FCC 82–579, released February 28, 1983.

FN2 As we explained in the *Access Charge Order:* In the context of this proceeding, a 'universal service objective' means avoiding actions that would cause a significant number of local exchange service subscribers to cancel this service.*Id.* at para. 86.

FN3 Parties filing petitions include: Ad Hoc Telecommunications Users Committee ('Ad Hoc'); American Telephone and Telegraph Company and the Bell System Operating Companies ('AT&T'); Association of Data Communications Users ('ADCU'); Association of Data Processing Service Organizations, Inc. ('ADAPSO'); Alaska and the Alaska Public Utilities Commission ('Alaska'); Bell Telephone of Pennsylvania, *et al.* ('Pennsylvania Bell'); Arthur W. Brothers; Central Telephone Co. ('Centrel'); CompuServe, Inc.; Delaware Public Service Commission ('Delaware'); Discount Phone; District of Columbia Public Service Commission ('District of Columbia'); GTE Service Corporation ('GTE'); Illinois Bell Telephone Company, *et al.* ('Illinois Bell'); Illinois Commerce Commission ('ICC'); Maryland People's Counsel; MCI Telecommunications, Inc. ('MCI'); Pacific Telephone and Telegraph Co. ('Pacific'); Pennsylvania Public Utility Commission ('Pennsylvania'); Rochester Telephone Corporation ('Rochester'); Roseville Telephone Utility, *et al.* ('Independent Alliance'); Rock Hill Telephone Company; Rural Electrification Administration ('REA'); Rural Telephone Coalition ('RTC'); Satellite Business Systems ('SBS'); Southern Pacific Communications Company ('SPC'); Telecommunications Association ('TCA'); Telenet; Tymnet; United States Independent Telephone Association ('USITA'); United States Telephone, Inc. ('U.S. Tel.'); United Telephone System, Inc. ('United'); United States Transmission Systems, Inc. ('USTS'); United Technologies Communications Corporation ('UTCC'); and Western Union Telegraph Company ('Western Union').

FN4 The following parties filed oppositions to or comments on the reconsideration petitions: ABC, CBS and NBC ('Networks'); Ad Hoc; Altel; Aeronautical Radio, Inc. ('ARINC'); AT&T; CompuServe; Discount Phone; IDCMA; Lexitel; MCI; Michigan Public Service Commission ('Michigan'); North American Telephone Association ('NATA'); National Data Corporation ('National Data'); Independent Alliance; RTC; SBS; SPC; TCA; Telecom-

munications Association of Minnesota ('TAM'); Uninet; United; Vermont Public Service Board ('Vermont'); Washington Utilities and Transportation Commission ('Washington'); and Western Union. Theodore Brophy, Chairman of the Board of GTE, sent a letter to the Commission addressing issues raised in reconsideration petitions relating to competition and the size of the premium access charge levied on AT&T. AT&T also filed a supplemental opposition on behalf of its interexchange operations (ATTIX).*See* paras. 69–70, *infra*.

FN5 Replies were filed by: Ad Hoc; Alaska; AT&T for itself and on behalf of ATTIX; ADAPSO; CompuServe; Discount Phone; General Electric Information Services Company (GEISCO); GTE; MCI; National Data, NATA; Independent Alliance; REA; RTC; SBS; SPC; TCA; Telenet, Tymnet, USITA; USTS; United; and Western Union.

FN6 Several persons including residential and business customers of telephone companies have sent letters to Commission officials expressing concern about one or more facets of the *Access Charge Order*. These letters, too, are included in the Docket 78–72 record.

FN7 During a transition period interexchange carriers would also pay some surcharges in lieu of end user usage charges for certain services such as collect MTS and Inward WATS.

FN8 We discuss charges levied on carriers to recover the costs of subscriber line outside plant *infra* at paras. 64–74.

FN9 Traditionally most of these costs have been recouped through the usage sensitive charges levied on MTS calls.

FN10 This proceeding began in February, 1978 with the issuance of a Notice of Inquiry and Proposed Rulemaking (the 'Initial Notice'), 67 FCC 2d 757 (1978). Four subsequent notices of inquiry followed. *See* Supplemental Notice of Inquiry and Proposed Rulemaking ('First Supplemental Notice'), 73 FCC 2d 222 1979), Second Supplemental Notice of Inquiry and Proposed Rulemaking ('Second Supplemental Notice'), 77 FCC 2d 224 (1980); Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking ('Third Supplemental Notice'), 81 FCC 2d 177 (1980); and Fourth Supplemental Notice of Inquiry and Proposed Rulemaking ('Fourth Supplemental Notice'), 90 FCC 2d 135 (1982). The comments filed in response to the *Initial, Supplemental, Second Supplemental* and *Fourth Supplemental Notices* related at least in part to access charge questions. We received one set of comments in response to the *Initial Notice*, three sets in response to the *Supplemental Notice*, two sets in response to the *Second Supplemental Notice* and two sets in response to the *Fourth Supplemental Notice*.

FN11 See *Access Charge Order* at paras. 27–33 for a discussion of economic efficiency and bypass.

FN12 Petition for Partial Reconsideration filed by Independent Alliance ('Independent Alliance Petition') at 16; Comments of the State of Michigan and the Michigan Public Service Commission Supporting Reconsideration ('Michigan Comments') at 3, 6.

FN13 Independent Alliance Petition at 13; Michigan Comments at 1.

FN14 For example, if the state regulators determined that a limited class of subscribers should only pay $5.00 for telephone service, they could set their local telephone rate for a 'lifeline' service at $3.00 in 1984, which, when combined with the $2.00 end user common line charge would yield a total charge of $5.00.

FN15 The carrier was nonetheless compensated for some of its costs either through the division of revenue and settlements process (for In WATS) or through charges it imposed upon the FX or CCSA subscriber under its local business exchange service tariff.

FN16 The term 'OCC' is used in this Order to describe non-traditional interexchange carriers offering MTS/WATS equivalent services.

FN17 *See, e.g.*, Petition for Reconsideration filed by AT&T ('AT&T Petition') at 36; Petition for Clarification of the GTE Telephone Companies ('GTE Petition') at 18; Opposition to Petitions for Reconsideration of United Telephone System, Inc. ('United Opposition') at 10.

FN18 Petition for Reconsideration filed by SBS ('SBS Petition') at 39–40; Petition for Reconsideration filed by SPC ('SPC Petition') at 31; Petition for Reconsideration filed by USTS ('USTS Petition') at 2; Petition for Reconsideration of U.S. Telephone, Inc. ('U.S. Tel. Petition') at 15.

FN19 Opposition to Petition for Reconsideration filed by MCI ('MCI Opposition) at 15.*See also*, Opposition and Supporting Comments filed by Ad Hoc ('Ad Hoc Opposition') at 19–20; Opposition to Petitions for Reconsideration filed by Western Union ('Western Union Opposition') at 11.

FN20 *See* AT&T Petition at 33–34; Petition for Reconsideration filed by Centel ('Centel Petition') at 7–8; GTE Petition at 12–13; Petition for Reconsideration of Rochester Telephone Corporation ('Rochester Petition') at 24–25; Petition for Reconsideration of United Telephone System, Inc. ('United Petition') at 9–10; Petition for Reconsideration filed by USITA ('USITA Petition') at 7.*See also* Comments of National Data Corporation ('National Data Comments') at 2–5.

FN21 Under our permanent rules the only Common Line costs that will not be apportioned to the End User Common Line element will be the cost of funding the Universal Service Fund, the costs associated with inside wiring, and the costs associated with public pay telephones.*See* para. 58 *infra*, and Section 69.501.

FN22 The business line end charge may be somewhat less than $6.00 in many exchanges because the end user charge that would be computed under the post-transition rules establishes a ceiling on all end user charges during the transition. That ceiling is likely to be between $4.00 and $6.00 for many carriers.

FN23 This amount would be the sum of the 1986 annual residential single line end user charge times the projected average number of residential single lines, the 1966 annual end user charge for each category of residential party line service times the projected average number of subscribers to that category of service, the 1966 annual end user charge for a business single line times the projected average number of single business lines and the 1966 annual end user charge for each category of business party line service times the projected average number of subscribers to that category of service.

FN24 By 'fill' AT&T means the ratio of the projected annual number of subscribers to a given class of service (*e.g.* two-party or four-party service) to the annual projected number of lines physically used to provide that service.

FN25 *See* petitions for reconsideration filed by Ad Hoc, AT&T, Delaware, District of Columbia, Pennsylvania, TCA, and UTCC, and comments supporting the AT&T petition filed by Illinois Bell, Pacific and Pennsylvania Bell.

FN26 In the past six months the BOCs have begun to market the service to most subscribers, and in some jurisdictions, all subscribers, regardless of the number of stations a customer leases.*See* Comments Supplementing the Petition for Reconsideration filed by the Bell Operating Companies and the American Telephone and Telegraph Company filed by Pacific ('Pacific Comments') at 3–4; Comments in Support of Bell Petition for Reconsideration filed by Illinois Bell ('Illinois Bell Comments') at 3.

FN27 A Centrex-CO customer may have some 'restricted' lines from which one can only reach another station if it is part of the same Centrex system. A share of the costs of even these 'restricted'

lines is, however, allocated to the interstate jurisdiction by separations procedures and must be recovered through interstate access charges levied on end users and, temporarily, on interexchange carriers.

FN28 *See* petitions for reconsideration filed by Delaware, District of Columbia and Pennsylvania as well as comments filed by Michigan and Washington.

FN29 *See* petitions for reconsiderations filed by Ad Hoc and TCA.

FN30 AT&T proposes that this charge be determined by using the engineering tables upon which the telephone company relies in advising a customer with a PBX of the number of trunks required to provide stations behind the PBX with the same quality of service enjoyed by single line subscribers. AT&T Petition at 12–13. The district of Columbia would impose a flat charge for each Centrex line equal to 16% of the single business line rate. Petition for Reconsideration filed by District of Columbia ('District of Columbia Petition') at 5–6.

FN31 The Reply Comments of Ad Hoc and TCA state that Centrex-CO lines should be treated differently from other lines because they are treated differently in the division of revenues procedures AT&T has developed for purposes of implementing the *Separations Manual*. Neither the present *Separations Manual* nor the revisions proposed by the Federal-State Joint Board in the exchange plant separations proceeding distinguish Centrex-CO lines from any other jointly used loop for purposes of apportioning investment to interstate services. The division of revenues of procedures cited in Reply Comments appear to relate to the weighting of exchanges for usage sampling purposes rather than the working loop count that is used to apportion investment in Outside Plant Category 1.3.

FN32 *See, e.g.*, Pacific Comments at 3; District of Columbia Petition at 2.

FN33 *See* Petition for Clarification filed by UTCC ('UTCC Petition') at 7–11; Comments and Oppositions to Petitions for Reconsideration Regarding Centrex filed by NATA ('NATA Opposition') at 6–12; Opposition filed by Western Union ('Western Union Opposition') at 16–19.

FN34 Although the use of PBX trunk equivalents might also provide a mechanism for phasing out the disparity between Centrex-CO users and other business customers, the use of such mechanism would create anomalies between Centrex-CO users and those paying for residential lines. We do not think it appropriate that residential subscribers pay more per line for service than some Centrex-CO subscribers. The equivalency ratios that AT&T proposed would produce that result. In addition, the difficulty in arriving at appropriate PBX trunk equivalency ratios for different classes of customers makes the plan based upon residential service equivalency simpler to administer.

FN35 For example, if the close-end of an FX line terminates in a PBX, the costs of the line would be allocated to the Dedicated Access Line element, with the end user being assessed the charge for the line. If the closed-end terminates in a handset, however, the costs of the line would be allocated to the Special Access element, with the interexchange carrier providing the FX service being assessed the charge for the line.

FN36 We are also revising language in the apportionment rules to clarify the status of CC-SA—ONALS and the private line portion of the open-end FX line. The original language might be misconstrued to describe those facilities as Dedicated Transport rather than Special Access.

FN37 Response of American Broadcasting Companies, Inc., CBS Inc. and National Broadcasting Company, Inc. to Petitions for Reconsideration and Clarification ('Networks Opposition') at 1–2 and Western Union Opposition at 13.

FN38 Accordingly, interexchange carriers must al-

low customers who decide to order Special Access lines directly from the exchange carriers to connect such lines to their interexchange networks.

FN39 *See, e.g.*, AT&T at p. 37; Centel Petition at p. 5; GTE Petition at p. 11.

FN40 A pay telephone is used to provide semipublic telephone service when there is a combination of general public and specific customer need for the service, such as at a gasoline station or pizza parlor. The BOCs provide directory listing with this service.*See* Engineering and Operations in the Bell System (Bell Engineering) at 684.

FN41 A pay telephone is used to provide public telephone service when a public need exists, such as at an airport lobby, at the option of the telephone company and with the agreement of the owner of the property on which the phone is placed.*See* Bell Engineering at 680.

FN42 *See* Opinion issued in United States v. American Telephone and Telegraph Co., Civil Action No. 82–0192 (D.D.C., filed July 8, 1983) at n. 195.

FN43 We reach no conclusion as to whether the BOCs may, or may not, under the MFJ offer coin or coinless public telephones which are capable of accessing the services of only one interexchange carrier. We treat this Limited Pay Telephone category generally because other carriers appear free to offer this type of service.

FN44 SBS Petition at 41–43.

FN45 Petition for Reconsideration filed by MCI (‘MCI Petition’) at 19–20.

FN46 SPC Petition at 10, 34.

FN47 Petition for Reconsideration and/or Clarification of the Association of Data Communications Users (‘ADCU Petition’) at 4–5.

FN48 Supplemental Reply on Behalf of the American Telephone and Telegraph Company Interexchange Operations (‘ATTIX Reply’) at 8–12.

FN49 In response to the ADCU Petition, it is our intent that the Carrier Common Line charge depend on projected costs for particular transition year. This tends to smooth the transition. We believe the rules do describe that intent with sufficient clarity.

FN50 The absence of an identifiable high cost factor in 1984 and 1985 would not prejudice end users under the transition plan we have adopted. The high cost factor will have no meaningful impact upon the computation of end user access charges until the second phase of the transition. Under this plan high cost companies during the first two years would receive the necessary relief through the Access plan's transitional NTS Revenue Requirement support from Common Carrier Line charge.

FN51 This decision should not be interpreted as foreclosing Bell Operating Companies including Cincinnati Bell and Southern New England Telephone Company from joining an AT&T filing and filing separate supplemental comments of their own.

FN52 *See* AT&T Petition at 24–25; Centel Petition at 11–12.

FN53 *See* MCI Petition at 17–21; USTS Petition, Attachment 3 at 26–30; Opposition filed by SBS (‘SBS Opposition’) at 4–5; SPC Opposition at 4–5; Western Union Opposition at 7–9.

FN54 We have used the term ‘access minute’ for this unit of measure because we find the use of the term ‘conversation minute’ to be a confusing misnomer for the kind of usage on which interexchange carrier's monthly Carrier Common Line charge will be based. We are also amending the rules for computing the charges associated with the Line Termination, Local Switching and Intercept access elements to require that these charges too be based on access minutes.

FN55 The leaky PBX phenomenon was described

in the Second Supplemental Notice, 77 FCC 2d 224.241.

FN56 *Id.* at para. 127.

FN57 Under the current ENFIA tariff arrangements such payments are credited back to the customers.

FN58 However, where two PBXs in the same state are tied together by private lines, in almost all cases such private lines are jurisdictionally interstate since the potential exists to handle interstate communications on such lines by switching to WATS, MTS, private lines or other transmission services which extend to out-of-state points.People of the State of California v. FCC, 567 F.2d 84 (D.C.Cir. 1977), *cert. denied*434 U.S. 1010 (2978). Since the nature of the communications determines jurisdiction, Ward v. Northern Ohio Telephone Company, 300 F.2d 816 (6th Cir. 1962), it would be most difficult to show that any switched private line within a state is not jurisdictionally interstate since it is not practical to separate the interstate from the intrastate traffic. It should also be pointed out that a private line which extends between points in different states can carry jurisdictionally intrastate communications. See Section 3(e) of the Act.

FN59 Private line service is a leased channel dedicated service. It can be distinguished from message, common access, or allocated service, e.g., MTS, principally by the fact that it is not currently metered or measured as a matter of course. See, for example, Private Line Rate Structure and Volume Discount Practices, Notice of Inquiry and Proposed Rulemaking (Docket No. 79–246), 74 FCC 2d 226, at 231 (1979).

FN60 There are of course occasions where a telephone subscriber will call a business office location to obtain MTS access, commonly through conferencing arrangements on telephone or key telephone handsets. This is done, however, principally to transfer the expense of the MTS call to a business rather than residential account, and not to achieve a lower rate for the call.

FN61 Docket No. 20097,Resale and Shared Use, 60 FCC 2d 261 (1976)*aff'd sub nom.* AT&T v. FCC, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978). Here, the key line drawn between resellers and sharers involved the need to determine whether a profit motive exists. The profit, moreover, must derive from the resale of the underlying carrier's service, and not from other service features or functions added to these services. Also, it is possible that a manager of a sharing group could be a profit-making entity. Up to now resellers have had an incentive to retain common carrier status in order to avail themselves of services which are not available to the general public (See, for example, the 19 Bell System Operating Companies' Facilities for Other Common Carriers tariffs filed with this Commission). Once that incentive is changed, the resellers might attempt to alter the nature of its operation or do whatever it could to avoid interstate access charges.

FN62 For example, a consistent set of criteria for identifying resellers could be used, so long as these criteria did not become a vehicle for expanding the definition of resale or including other classifications of users.

FN63 Consistent with the scope of the ENFIA tariff, we are limiting initial application of carrier access charges to situations in which private lines are resold to form OCC MTS-EATS-type services. Resellers or facility-based OCCs who also resold MTS, WATS or OCC MTS-WATS-type services should be charged business local exchange service rates rather than carrier access charges, since ENFIA by its terms does not apply to the resale of MTS and WATS provided by AT&T, nor to resold OCC MTS or WATS-type services.*See AT&T—Applicability of ENFIA to Certain OCC Services*, 91 FCC 2nd 568, 575–77 (1982), *appeal pending sub nom. U.S. Telephone Communication, Inc. v. FCC.* No. 82–2324 (D.C. Cir.) This treatment will avoid any dupication of charges or unreasonable discrimination which might otherwise have resulted. However, resellers of OCC WATS-

type service will pay a private line surcharge since a dedicated line to the OCC premises is generally required. In circumstances where carrier's carrier charges apply, such dedicated lines are to be furnished as Dedicated Transport Facilities in circumstances where carrier's carrier charges will not apply the dedicated facilities are to be furnished as private lines or WATS OPS to which a surcharge is applicable. For purposes of delineating the applicability of local business rates as opposed to carrier access charges, we will rely generally on the terms of the current ENFIA tariff as interpreted by Commission decisions. We shall address any controversies that may arise in this regard on a case-by-case basis.

FN64 By private lines we mean dedicated transmission services including nominal 4 kHz voice grade lines; digital voice capacity channels generally 56 kbps; all data transmission channels, e.g., 2.4.4.8.9.6 kbps; and higher capacity analog and digital channels, e.g., groups, supergroups, 1,544 Mbps, and 6.3 Mbps channels all of which have the potential to be subdivided into channels which can access the local exchange switched network. Where channels are of higher than voice bandwidth, the surcharge will be applied based on the number of voice capacity analog or digital channels to which the higher capacity channel is equivalent. To illustrate, a 48 kHz analog channel is equivalent to twelve 4kHz channels and thus the surcharge multiplied by twelve applies to each channel. Similarly, a 1,544 Mbps channel is equivalent to 24 voice channels. Since the local exchange network is made up of voice transmission and switching equipment, any private line below voice capacity, e.g., 1.2 or 2.4 kbps provided over analog or digital transmission lines, will be charged the full voice-capacity surcharge. Such lower bandwidth or lower speed lines impose the same burdens on the local network as a full voice line. We will consider allowing local exchange carriers to charge twice the per channel surcharge in cases where the voice-equivalent channel is four-wire instead of two-wire.

FN65 For example, multipoint private lines that include large numbers of stations may be shown to be capable of generating far less ‘leaky PBX’ traffic than the total amount of surcharges would appear to indicate.

FN66 It would not be practicable at this time to apply such a surcharge on the basis of the entity's interexchange transmission capacity since the exchange carrier appears to have no reliable way of determining how many usable voice equivalent communications channels terminate on a private customer's premises.

FN67 We would expect as a general matter that under the surcharge pricing scheme, customers most likely to generate large amounts of ‘leakage’ will pay more proportionally than customers who will generate smaller amounts. This is true because switched networks of the CCSA-type or tandem dial PBX variety employ an array of trunks interconnecting switching machines and access lines connecting switching machines to customer stations. Thus, a point-to-point communications path established on a switched network will generally transit three or more separate private lines rather than one, as would be the case, for example, in a simple ring-down non-switched arrangement. Since, under current telephone company rate structures one surcharge will generally apply to each access line and two surcharges will apply to each trunk, it can be seen that a charge multiplication effect takes place in some proportion to the amount of PBX leakage.

FN68 We in no way wish to indicate a lack of support for the efficient use of private lines. We emphasize that maximum economically efficient utilization of these lines is to be encouraged. Rather, the surcharge is designed solely to compensate for the use of the local exchange.

FN69 Separations Analysis, Form DR9999, AT&T Long Lines (June 1980). We have not been able to find data on the proportion of interstate to intrastate traffic over private lines. We recognize that the 8

percent figure may seem to be overly conservative. First, the 8 percent figure for subscriber line usage does not include interstate calls made over private networks, since such traffic is not currently measured, nor does it include OCC interstate services. Second, it appears that the proportion of interstate to intrastate usage has been increasing since 1980. Third, we recognize that the proportion of interstate usage is actually much higher for many private line users.

FN70 If this estimate of non-premium carrier usage charges does not survive our tariff review process, we shall adjust the surcharges accordingly.

FN71 We will allow, for good cause shown, a reasonable degree of variation in the level of the surcharge and its associated pricing structure provided a good faith effort is made by the exchange carrier to obtain revenues which in aggregate at least equal the revenues which would have accrued if the surcharge were in the prescribed manner. In this way, exchange carriers will, among other things, be able to make reasonable adjustments to, for example, temper customer impact within and among individual private line services.

FN72 A surcharge would effectively apply at each end of an interstate private line because of the fact that station terminals or local distribution channels are generally required at each end to connect the intercity channel to a local area station.

FN73 As it now stands, where customers do not have end-to-end switched network service, e.g., CCSA, from AT&T, the local channels connecting customer-provided PBX-type equipment to stations within the same exchange area are generally obtained under state tariffs. This is true for other types of interstate private line channels as well.*See, e.g.*, Department of Defense v. The Chesapeake and Potomac Telephone Companies, 75 FCC 2d 45 (1979) ; AFA Protective Systems, Inc., v. New Jersey Bell Telephone Company, File No. TS 1–78, Common Carrier Bureau, May 15, 1980. When the October 1983 tariffs are filed, all of the intracity channels now included in AT&T's interstate tariffs for CCSA, EPSCS, and AUTOVON will have to be unbundled and obtained from the exchange carriers. We anticipate that at such time, at least these local area or intracity channels which terminate in switched interstate networks will be filed with the Commission.

FN74 It can be argued that AT&T uses local exchange service in a way similar to OCCs. It must be recognized, however, that AT&T's use of local exchange service differs in operational terms from all others because of its premium access arrangements. This situation will continue until such time as equal access is provided by exchange carriers to all interexchange carriers.

FN75 The opportunity cost of scarce assets is a major equalizer in many economic endeavors. For example, farmers leasing prime farm land expect to reap larger harvests from the land, but must also pay high rents. On balance, rents adjust to compensate for differentials in land quality. By establishing the price of a scarce resource, be it either land or premium access, at an amount that an excluded party would have been willing to pay, competitors are put on an equal footing and the resource is put to its most efficient use. The benefits of premium access are, of course, shared by all the carriers that provide the services known as MTS and WATS. We are describing the premium as an AT&T assessment for purposes of this Order because AT&T will be receiving most of the MTS and WATS revenues and will be paying most of the premium charges. There are, however, other carriers that provide interstate MTS and WATS with premium access. The same methodology applies to assessing a premium access charge on other carriers enjoying premium interconnection arrangements for interstate services, e.g., the larger independent telephone companies.

FN76 Reply filed by MCI (‘MCI Reply’) at 8–9.

FN77 *See* USTS Petition, Attachment 2 at 4–2, 4–6; SPC Petition, Appendix A, Attachment 1 at 4.

FN78 SBS found the AT&T estimates not inconsistent with its estimates of the numbers of rotary phones and touch-tone phones to be in use in 1984. SBS Reply at 25. While SPC has challenged this estimate, it has offered no counter estimate.*See* SPC Reply at 9.

FN79 Supplemental Opposition on Behalf of the American Telephone and Telegraph Company Interexchange Operations (‘ATTIX Opposition’) Appendix at 2–3.

FN80 USTS Petition, Attachment 2 at 4–2, 4–6; SPC Petition Appendix A, Attachment 1 at 4.

FN81 This is based upon an assumption of 100 million lines, which appears to be a reasonable approximation.

FN82 SPC has estimated that additional dialing and connection time resulting from premium access ‘could add 16 to 50 seconds to a call or as much as 20 percent to the actual conversation minutes of a four minute call.’SPC Opposition at 20. This estimate appears unreasonably high. OCC minutes are inflated by the amount of time customers spend dialing PIN and long distance numbers (totalling about 14–17). Numbers can be dialed quickly on tone equipment. Moreover, many customers have automatic dialing equipment. For these reasons, an estimate of 10 seconds appears more realistic.

FN83 This estimate is based on AT&T's most recent estimate of originating MTS-WATS conversation minutes.

FN84 USTS Petition at Attachment 2.

FN85 SPC Petition at 10–12.

FN86 USTS Petition at Attachment 2.

FN87 ATTIX Opposition. Appendix at 7.

FN88 The Reynolds letter projects 105,000 lines in 1984. We will not use that number because it presumably assumes a higher market share than the one we are using for conversion purposes.

FN89 We have assumed total common line costs of $10.7 billion. In 1984, $3.5 billion is to be recovered through end user charges and $1 billion through private line surcharges leaving $6.2 billion to be recovered through carrier charges.
Before calculating a minute adjustment we had estimated a premium within the range of $1.606 billion and $2.691 billion. If AT&T is assumed to have 96 percent of the market and if AT&T's share should be inflated by 2 percent due to the extra minutes for which nonpremium carriers are billed, AT&T should pay an additional premium ranging between $67 million ($3.509 billion times .96 times .02) and $88 million ($4.41 billion times .96 times .02).

FN90 *See* para. 88, *supra*

FN91 In their recent letters to this Commission, see para. 99 *supra*, the OCCs have suggested that these assumptions are reasonable. Based upon these figures, the per minute, per end charge that AT&T would pay for the Carrier Common Line element would be 6.3 cents while the OCCs would pay 4.1 cents.

FN92 *Id.*

FN93 AT&T Petition at 22, A9.

FN94 *See id.* at A9–A10.

FN95 *See* SBS Opposition at 3–4.

FN96 *See* Ad Hoc Opposition at 21–22.

FN97 *See* SPC Opposition at 15–24.

FN98 *See* AT&T Petition at A–6.

FN99 Discount Phone Petition for Reconsideration of the Third Report Order (‘Discount Phone Petition’) at 4.

FN100 We are amending § 69.108 to require charges based on access minutes rather than con-

versation minutes.

FN101 *See, e.g.*, GTE Petition at 18–19; Petition for Reconsideration and Clarification of the Rural Telephone Coalition ('RTC Petition') at 6; SPC Opposition at 26.

FN102 See especially RTC Petition at 6–7; Petition for Reconsideration and Clarification by Rural Electricification Administration ('REA Petition') at 5–7; Independent Alliance Petition at 17–18.

FN103 That petition for rulemaking will be addressed in a separate order.

FN104 We have no reason to expect the filing of a deaveraged MTS tariff in October 1983. AT&T obviously would not have enough information about the transport charges that will be filed by or for the various exchange carriers to prepare the necessary cost justification. Moreover, 1984 access charge tariffs could not provide a justification for the sort of exchange-by-exchange deaveraging some petitioners appear to fear. Several of the Bell Operating Companies have elected to join the 1984 association tariffs. Therefore, the association transport charges for 1984 will in effect reflect considerable averaging of short and long trunks between Class 4 and Class 5 switches.

FN105 *See* AT&T Petition at A6; Central Petition at 13–14.

FN106 Billing functions would include some or all activities associated with the collection and recording of billing information needed to calculate the billed amount, the processing of such billing information into customer invoice form, mailing of bills to customers including any preparatory work, collection of monies from billed customers, and the disbursement of monies collected from the billed customers.

FN107 *See, e.g.*, SBS Opposition at 14; USTS Petition at 3.

FN108 It would not be unreasonable, however, for exchange carriers to include a reasonable notice requirement in their tariffs.

FN109 For example, facilities for program transmission and WATS are included in this access element. The cost characteristics of such facilities are very different, however, and could not justify the same charges being assessed to users of these distinct services.

FN110 *See* Ad Hoc Petition at 2–8; Petition for Reconsideration filed by Western Union ('Western Union Petition') at 12.

FN111 IDCMA Opposition at 5.

FN112 *See* Petition for Reconsideration filed by Alaska ('Alaska Petition') at 6–7; RTC Petition at 7.

FN113 *See* ADCU Petition at 7.

FN114 *See id.* at 11–12.

FN115 As we and the telephone companies gain more experience with access tariffs we might consider requiring that maintenance costs be unbundled from other costs associated with these elements and recovered through separate charges. In the alternative, we might consider carriers' proposals to do so.

FN116 Examples of the latter type of revision include deletion of references to the now eliminated Pay Telephone and Operator Assistance elements as well as reallocations of the investment and expense formerly apportioned to them among the remaining access elements and the interchange category.

FN117 *See* AT&T Petition at A15.

FN118 *See* GTE Petition at A–8. Under the Uniform system of Accounts, 47 CFR Part 31. Account 100.1 records Telephone Plant in Service while Accounts 100.2–100.4 record Telephone Plant Under Construction (100.2), Property Held for Future Telephone Use (100.3), and Telephone Plant Acquisition Adjustment (100.4) respectively. Account

122 records Materials and Supplies.

FN119 *See* Opposition to Petition for Reconsideration filed by AT&T ('AT&T Opposition') at A3.

FN120 Centel Petition at 12–13.

FN121 *See, e.g.*, AT&T Petition at A16, GTE Petition at A–6, A–7.

FN122 GTE Petition at A–7.

FN123 AT&T would apportion investment among the interexchange category and the Common Line, Local Switching, Common Transport, and Billing and Collection access elements in the same proportions as revenue accounting expense is allocated. AT&T Petition at A17–A18. Rochester would apportion the investment to LS2 because '[t]he investment is incurred as part of the cost of local dial switching capability of MTS-WATS and MTS-WATS-type services 'provided through a trunk side termination in a class 5 switch.'' (citation omitted) Rochester Petition at 21. United would allocate this investment among all access elements on the basis of revenue accounting expense attributable to each type of billing. United Petition at 11–12.

FN124 Examples of such private service offerings are Enhanced Private Switched Communications Service (EPSCS) and Electronic Tandem Network Service (ETN).

FN125 *See* Plan of Reorganization filed on December 16, 1982 in United States v. Western Electric Co., Civil Action No. 82–0192 (D.D.C.) at 34, 37.

FN126 *See*, GTE Petition at A–2; AT&T Opposition at A7.

FN127 *See* United Petition at 13; GTE Petition at A–4, A–5. United and GTE proposed to apportion this investment on the basis of combined investment in COE categories 2 through 7. AT&T opposed these proposals because they would be inconsistent with the change AT&T had proposed for the apportionment of Category 4 COE.*See* AT&T Opposition at A8. We have already rejected that AT&T proposal.*See* para. 165, *supra*.

FN128 Modification we make is basically the one United and GTE proposed.

FN129 United Petition at 14.

FN130 *See*, AT&T Opposition at A10; Reply to Oppositions by the GTE Telephone Companies ('GTE Reply'), Attachment 2 and 5. AT&T fails to identify the additional access elements to which it would apportion a share of the investment in Category 2 or Category 3 space. If at some later date the telephone companies would be prepared to identify additional access elements besides Intercept and Information to which this investment should be apportioned, we would then consider modifying the rule.

FN131 *See* GTE Petition at A–13. The *Separations Manual* apportions the cost of this space among the operations in proportion to the combined investment in station equipment, outside plant and materials and supplies.*See Separations Manual* at para. 22.237.

FN132 *See* AT&T Petition at A20; GTE Petition at A–9.

FN133 *See* Opposition to Petitions for Reconsideration of United Telephone System, Inc. ('United Opposition') at 4: Reply of the Bell System Operating Companies and the American Telephone and Telegraph Company to Oppositions to Petition for Reconsideration ('AT&T Reply') at A2: GTE Petition at A–9, A–10.

FN134 AT&T suggested a formula based upon various expenses attributed to each element. The expenses listed do not appear to have any particular relationship to sales and advertising expense. AT&T also states that some of these expenses can be directly assigned, but it appears doubtful that any sales or advertising expense could be directly assigned to any access element on the basis of existing records.

FN135 *See* AT&T Petition at A21–22; GTE Petition at A–5; United Petition at 15–16.

FN136 *See* AT&T Petition at A22; United Petition at 16.

FN137 *See* GTE Petition at A–13; A–15; AT&T Opposition at All, A16–17.

FN138 Rochester Petition at 24.

FN139 We would not anticipate this occurring any earlier than 1992, the year by which Rochester's capitalized investment in inside wiring would be completely amortized.

FN140 REA Petition at 9.

FN141 MCI Petition at 23. MCI's challenge to the legality of our requiring exchange carriers participating in extended area service agreements to file joint tariffs or to concur in the association tariff for traffic sensitive charges is rendered moot by our revision of the rules governing such carriers. See paras. 188–92 *infra.*

FN142 MCI Petition at 24.

FN143 *See. e.g.*, AT&T Petition at 33; RTC Petition at 20; USITA Petition at 4.

FN144 The rules do impose some restrictions on a carrier's decision to joint in these ‘voluntary’ tariffs. The *Access Charge Order* separated the access elements other than Carrier Common Line into two groups based upon whether the associated charges were to be assessed on end users or on interexchange carriers (traffic sensitive charges). A carrier choosing to concur in association tariff charges for one element in either of these groups had to concur in the association tariff's charges for all the other elements in the group.*See* Access Charge Order at paras. 318, 320; 47 CFR 69.3(e)(2)–(3).

FN145 *See* AT&T Petition at 13–17; Centel Petition at 3; CTE Petition at 7–10; Rochester Petition at 6–9; RTC Petition at 19.

FN146 Conceptually, transit through the exchange in which the FX line terminates could be described as interexchange if the call does not originate or terminate there, but it would be using facilities that are local exchange access facilities for every other purpose.

FN147 Party lines and Centrex-CO lines should, of course, be counted as separate lines for this purpose.

FN148 *See* Comments of the Vermont Public Service Board and ‘Vermont Department of Public Service on Petitions for Reconsideration (Vermont Comments') at 6–7; Michigan Comments at 1–8.

FN149 In its petition, Rock Hill Telephone Company asks us to clarify which commission has jurisdiction over calls between Rock Hill, South Carolina and points in North Carolina. In the absence of an appropriate extended area service agreements between Rock Hill and North Carolina telephone companies, such traffic is clearly within our jurisdiction and subject to the rules we have established for access charges for all interstate or foreign telecommunications. Rock Hill should recover its costs of originating and terminating this traffic through access charges under a tariff filed with this Commission.

FN150 *See* Petition for Reconsideration of the Maryland People's Counsel at 5.

FN151 *See, e.g.*, Telenet Petition at 1–4, 6–10; Tymnet Petition at 11–13.

FN152 Independent Alliance Petition at 3–7.

FN153 Maryland People's Counsel Petition at 4.

FN154 In a July 13, 1983 motion, the Western Union Telegraph Company requested the Commission to grant a stay pending judicial review of that portion of the *Access Charge Order* abrogating the six month notice requirement. Since we have now granted Western Union's petition for reconsideration with regard to the Settlement Agreement issue,

we shall dismiss Western Union's stay motion as moot.

FN155 In this Appendix we summarize the principal contentions of each person participating in this reconsideration proceeding without regard to whether these contentions appeared in a petition, opposition or reply. In the text of the *Memorandum Opinion and Order* we identify the persons filing comments at each state of the proceeding.

FN156 The Commission has examined the benefits of its open entry policies in various dockets over the years. See, for example, *Economic Implications Arising from Policies and Practices Relating to Customer Interconnection, Jurisdictional Separations and Rate Structures,* Second Report, 75 FCC 2d 506 (1980).

FN157 Various types of telecommunications subsidies have been discussed and debated over the years. One mode of classification distinguishes 'service cross-subsidies' from 'jurisdictional cross-subsidies.' Service cross-subsidies refer to revenues from one service recovering a portion of the allocated cost of another service. Jurisdictional cross-subsidies refer to the intrastate investment and expenses incurred by local telephone companies that is allocated in part to the interstate jurisdiction for recovery in interstate toll rates. The 'existence' of subsidies depends in substantial part on how such subsidies are defined. For an overview of some of the conceptual difficulties involved, see E. Zajac, *Fairness or Efficiency: An Introduction to Public Utility Pricing* Chapter 8 (1978). Regardless of definition, cross-subsidies embedded in public utility rates are vulnerable if closed-entry markets are opened and the pricing practices of the new entrants are largely unregulated.

FN158 Strictly speaking, optimum pricing by a multioutput public utility firm subject to a revenue requirements constraint may require that output prices optimally depart from marginal cost. Such 'Ramsey pricing' that is consistent with constrained, static welfare maximization should be contrasted with public utility rates that do *not* optimally depart from marginal cost and are *less* than marginal cost. For a survey of the Ramsey pricing literature, see Brock, *Pricing, Predation, and Entry Barriers in Regulated Industries* in *D. Evans*, ed., *Breaking Up Bell: Essays on Industrial Organization and Regulation*, Chapter 8 (1983).

FN159 For further discussion of the inefficiencies of untargeted subsidies, see Bridger M. Mitchell, 'Pricing Subscriber Access to the Telephone Network,' *The Rand Paper Series* # P–6815, October, 1982.

FN160 A study by the National Telecommunications and Information Administration has estimated that if local telephone rates fully recovered all local exchange non-traffic sensitive (NTS) costs and MTS rates were allowed to fall following removal of interstate local exchange NTS costs presently recovered in MTS rates, consumers would be better off economically by approximately $1.6 billion annually. See Comments of the National Telecommunications and Information Administration to the Federal-State Joint Board, CC Docket 80–286, Appendix D.

FN161 *Private Line Services (TELPAK),* 61 FCC 2d 587 (1976).

FN162 See Separate Statement of Commissioner Mimi Weyforth Dawson re: MTS and WATS Market Structure, March 10, 1983, p. 10.

FN163 Posner, *Taxation by Regulation, 2 Bell Journal of Economics* 22–50 (1971).

FN164 Conversion of an AT&T 'premium' to an OCC 'discount' provides a direct analogy to Rate Element 3 of the ENFIA tariff.

FN165 This estimate should probably be considered an 'upper bound' for access minutes in 1984. To the extent this assumption is correct, the per minute computations are *downward* biased, i.e., the effective per-minute cost is understated.

FN166 The computations of Table 1 should be viewed only as an industry-wide approximation of the financial impact of the *Reconsideration Order* on the OCCs and AT&T. The financial impact on any given carrier will vary depending on the average number of access minutes per line for the specific carrier and the ratio of leased and owned facilities. Table 1 does *not* distinguish between owned and leased facilities which may be subject to different access charges. For example, a carrier using a large number of WATS access lines rather than its own facilities to provide a MTS-equivalent service may find its average access cost per minute to be less than a carrier using fewer WATS lines. It is implicitly assumed in Table 1 that a carrier will pay the same carrier's-carrier charge per access minute for both leased and owned facilities. To the extent that leased facilities are subject to surcharges rather than carrier's-carrier charges, the per minute computations will tend to overstate that industry-wide effective access cost per minute.

FN167 This total current ENFIA charge per line reflects a Message Unit Credit of $30.44 per line per month. Part 69.107(f), (g), and (h) of the Access Charge Rules requires a similar message unit credit to be deducted from the Local Switching element access tariff element if end-users of the interexchange service pay message unit charges.

FN168 The comparison of ENFIA rate elements to AT&T's ‘equivalent’ cost per minute is difficult since the quality of interconnection received by AT&T as compared to the OCCs is substantially different.

FN169 Although the Commission's estimate of residual NTS costs has been revised upward since December, the predicted financial impact on the OCCs seems little changed from what I anticipated in my Separate Statement to the Access Order. See Separate Statement of Commissioner Mimi Weyforth Dawson re: MTS and WATS Market Structure, p. 12.

FN170 There remains, however, the difficulty that OCC access minutes per call will on average exceed AT&T access minutes per call as a result of the OCCs' line-side interconnectin to the local switch. As Table 1 shows, the per-minute TS costs for the OCCs and AT&T will differ only slightly, i.e., $0.03 vs. $0.032 per minute, which in my opinion may disadvantage the OCCs if the premium access charge is undervalued and therefore does not fully compensate for the extra OCC access minutes resulting from unequal local exchange access.

FN171 The *Reconsideration Order* remedies one possible defect in the administration of the premium access charge. Defining the OCC NTS discount as d = P/NTS where P is the total amount of the premium access charge and NTS is the total amount of the residual interstate local exchange NTS revenue requirement for 1984, then P = (d)(NTS). If the Commission prescribes an absolute value for the amount of P, then the effective OCC NTS discount will vary inversely with the absolute amount of NTS costs. Thus, if the actual amount of NTS costs to be recovered by carrier's-carrier charges for 1984 exceeds $6.2 B and P is fixed in amount, then d is reduced. The *Reconsideration Order* modifies the December *Access Order* by fixing the level of d at 35% which, in effect, makes P a variable quantity if residual NTS for 1984 differs from the projected level of $6.2 B. This change in the method of implementing the premium access charge, i.e., weighting OCC access minutes by the factor (1–d) or .65, should help stabilize the OCC-AT&T differential in the per-minute cost of access during the transition to equal interconnection. I strongly support this important technical modification to the Commission's access charge plan.

FN172 For example, a 45% NTS discount corresponding to a $2.79 billion premium charge as shown in Table 1 would reduce AT&T's per-minute cost of access from $0.099 today to $0.082 beginning next year. This $0.017 reduction would reduce AT&T's interstate revenue requirement by approximately $2 billion in 1984, i.e., $0.017 per minute times a forecast 118.48 billion minutes.

FN173 While the *Reconsideration Order* focuses on the pricing of local exchange access, the decision carries significant implications for the Commission's international telecommunications policies. More specifically, imposing surcharges and usage-sensitive carrier's-carrier charges on private line services will discourage the usage of private lines and will implicitly encourage the usage of switched network services. The Commission will need to reconcile this aspect of the access charge plan, designed to spread the burden of residual interstate NTS costs, with any prospective policies that may attempt to encourage non-usage-sensitive pricing of private line services provided jointly by domestic and foreign entities.

FN174 Whether all costs attributable to private line service have been 'properly allocated' to this service category over the years remains a controversial point. No opinion on this issue is implied by the discussion in the text.

FN175 In addition, the total amount of subsidy to be collected from resellers, sharers, and other users of private lines—about $1 B—is comparatively small, given the size of the interstate transmission market. A reasonable question is whether the costs of the economic distortions and dislocations resulting from imposing the subsidy on private lines exceed the value of additional revenues collected.

FN176 'Second best' welfare economics may suggest that protecting private line rates from 'regulatory taxation' may not necessarily prove superior to a policy that 'spreads the distortions' over both switched and private line services. Such a static analysis, however, ignores the potential dynamic inefficiencies that such a policy might imply. More important, recent 'third best' welfare economics generally supports policies that encourage piecemeal improvements in economic welfare. Thus, distorting private line rates that may already approximate 'first best' criteria for efficient pricing may be undesirable. For further discussion of third-best policies, *see Yew-Kwang Ng, Welfare Economics*, Chapter 9 (1980).

FN177 The Reconsideration Order properly recognizes the severe rate impact on enhanced service providers if such users were required to begin paying carrier's-carrier charges in 1984 rather than business local exchange rates that such users have customarily paid for local exchange access. Since the interim private line surcharge of $25 is only temporary pending the development of more precise estimates of PBX 'leakage' by exchange carriers, the Commission should remain especially sensitive to the effects of the more refined computations of private line surcharges on the further growth and development of the enhanced service market. In short, the Commission should remain alert to the possibility that the access charge transition plan envisioned for enhanced service providers may be quite short as the interim private line surcharge is replaced by surcharges computed by exchange carriers.

FN178 In the longer term, the Commission may wish to reconsider the basic structure of its access charge plan. One option has been proposed by former Commissioner Jones in her Separate Statement to the December *Access Order*. Commissioner Jones proposed that switched access to the local exchange be defined in terms of facilities actually used or in terms of service parameters rather than the identity of the user. Any user taking line-side switched access to the local exchange (business, residential, carrier, enhanced service provider, or whatever) would take such access pursuant to the *same* tariff. The tariff would reflect both the fixed and variable costs of such access and could include volume discounts such that the marginal price of the usage of network access would decline as a function of the cumulative amount of usage. A tariff of similar structure would apply to premium switched access. Non-switched access for private line services would be tariffed on a flat-rate, non-usage sensitive basis. In brief, Commissioner Jones proposed the adoption of flexible access charge rate structures such as self-selecting, two-part tariffs, rate tapers, and other rate designs suggested by recent theoretical work on efficient rate structures. (A

summary of the recent theoretical literature on rate structures is provided by *L. Phlips, The Economics of Price Discrimination* 166–75 (1980).) Commissioner Jones suggested that flexible access charge rate structures would permit state regulators and their local telephone companies to design local exchange access charges that balanced the goals of universal service and avoided the uneconomic bypass to reflect the relative importance of each goal for any given state.

Any NTS costs not recovered in the fixed component could be recovered through volume-based price discrimination built into the usage-sensitive part of the access rate structure. Commissioner Jones proposed that this type of access rate structure be implemented by asserting federal jurisdiction over all NTS and relevant TS costs of local exchange service. Such assertion of federal jurisdiction would greatly simplify the preparation of access tariffs since the distinction between interstate and intrastate access charge tariffs would be eliminated. Commissioner Jones further proposed that all access tariffs be filed with state regulatory commissions pursuant to non-discriminatory federal access rate structure guidelines prescribed by the Commission. Such guidelines would be far simpler and more straightforward than the existing rules the Commission has adopted to implement the current access plan.

FN179 Apart from the complexities of enforcing the various classifications of access to the local exchange, the lack of a peak off peak rate structure for network access may discourage the adoption of efficient rate structures by interexchange carriers. Since a substantial part of the ‘cost’ of network access in the early years of the transition plan represents subsidy and not the underlying costs of access, there appears to be no compelling reason why such subsidies must be collected on a uniform, time-of-day basis.

FN180 If a competitive market structure is one goal of telecommunications policy, is it really unreasonable to expect any exchange carrier, regardless of size, to determine its costs and price its services in line with such costs? What on the surface may appear unreasonable or totally unworkable may on closer inspection be entirely sensible if the benchmark is a competitive industry, not a regulated industry largely coordinated by one firm. In a competitive market, even the smallest firm must determine and control its costs of operations and price its products and services accordingly. Thus, what may seem unreasonably burdensome to a regulated firm may be on closer inspection a common-place management responsibility or cost of doing business to an unregulated firm.

54 Rad. Reg. 2d (P & F) 615, 97 F.C.C.2d 682, 1983 WL 183026 (F.C.C.)

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