

In the Matter of Determination of Prices,)
Terms, and Conditions of Certain Unbundled)
Network Elements: Consideration upon) **Case No. TO-2005-0037**
Remand from the United States District)
Court)

We disagree with the majority's decision to use a hypothetical capital structure of 70 percent equity and 30 percent debt. We believe the evidence supports a hypothetical level of 80 percent equity and 20 percent debt.

Therefore, it is inappropriate to adjust the hypothetical capital structure for differences in risk, as the majority did. Hirshleifer's proposed capital structure, unadjusted by any consideration of embedded book values, is based on an evaluation of essentially the same comparable companies as those used by SBC's witness. While SBC recommended a capital structure of 86 percent

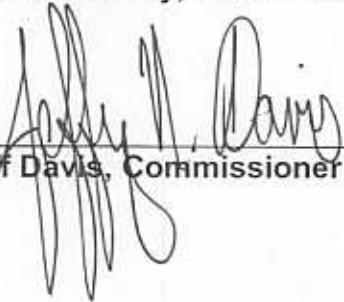
equity and 14 percent debt, we would give more weight to Hirshleifer's study because it used more current information. We believe the evidence supports the unadjusted capital structure of 80 percent equity and 20 percent debt proposed by Hirshleifer.

Therefore, we respectfully dissent.

Respectfully submitted,



Connie Murray, Commissioner



Jeff Davis, Commissioner

Dated at Jefferson City, Missouri,
on this 28th day of December, 2004.