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May 18, 2001

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001810-TP (TCG/Teleport Arbitration)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Beth Shiroishi, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

E. Earl Edenfield Jr.

E. Earl Edenfield Jr.

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy White

CERTIFICATE OF SERVICE
Docket No. 001810-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U. S. Mail this 18th day of May, 2001 to the following:

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BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF BETH SHIROISHI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001810-TP

MAY 18, 2001

Q. PLEASE STATE YOUR NAME AND COMPANY NAME AND ADDRESS.

A. My name is Elizabeth R. A. Shiroishi. I am employed by BellSouth as Managing Director for Customer Markets – Wholesale Pricing Operations. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME BETH SHIROISHI WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to rebut several assertions in the testimony of TCG's witnesses Richard T. Guepe and Fran Mirando.

Q. HAS THE FCC RELEASED AN ORDER ADDRESSING THE ISSUE OF ISP-BOUND TRAFFIC SINCE DIRECT TESTIMONY WAS FILED IN THIS DOCKET?

A. Yes. On April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Docket Numbers 96-98 and 99-68 *Inter Carrier Compensation for ISP-Bound Traffic* ("ISP Order on Remand"), which was adopted on April 18, 2001.

Q. DOES THAT ORDER AFFECT THIS COMMISSION'S JURISDICTION IN THIS MATTER?

A. Yes. This Commission generally has authority to interpret and enforce interconnection agreements approved by the Commission. However, in exercising this authority, the Commission's interpretation of an agreement must not conflict with federal law. Clearly, the FCC has resolved the issue of the nature and jurisdiction of ISP-bound traffic, finding it to be information access under Section 251(g) of the Telecommunications Act of 1996 ("the Act") and subject to exclusive FCC jurisdiction under Section 201 of the Act.

Therefore, any interpretation of the Second TCG Agreement must be consistent with the FCC's findings and conclusions in its ISP Order on Remand, issued April 27, 2001.

Q. WHAT EFFECT DOES THE FCC'S RECIPROCAL COMPENSATION ORDER HAVE ON THIS CASE?

A. First and foremost, the ISP Order on Remand states that ISP-bound traffic is, and always has been, exclusively interstate. Second, in this Order, the FCC

maintained its end-to-end analysis, which finds that a call to an ISP does NOT terminate at the ISP server, but instead continues to the ultimate destination, which is generally a website in a distant location.

Q. PLEASE COMMENT ON MR. GUEPE'S QUOTE ON PAGE 6 OF HIS DIRECT TESTIMONY FROM THE FCC'S DECLARATORY RULING ADOPTED ON FEBRUARY 25, 1999 ABOUT STATE COMMISSIONS' AUTHORIZATION TO DECIDE RECIPROCAL COMPENSATION ISSUES INVOLVING ISP TRAFFIC.

A. The FCC's Declaratory Ruling adopted on February 25, 1999, was vacated by the DC Circuit court in its entirety and remanded back to the FCC. The passage quoted by Mr. Guepe here does not appear in the ISP Order on Remand, nor does the concept it is conveying. Therefore, the paragraph quoted by Mr. Guepe is no longer applicable and therefore should not be relied upon by this Commission.

Q. MR. GUEPE, ON PAGE 4, LINE 18 AND ON PAGE 7, LINE 31 OF HIS DIRECT TESTIMONY, STATES THAT LOCAL INTRAFFIC INCLUDES TRAFFIC BOUND FOR ISPS. DO YOU AGREE WITH THESE COMMENTS?

A. No. First and foremost, Mr. Guepe states on page 4, line 18, that "such compensation is due for all Local Traffic, including traffic bound for ISPs." The FCC has made perfectly clear that local traffic does NOT include traffic

bound for ISPs. Perhaps even more telling, AT&T, the parent of TCG and a party to the negotiation of this original agreement, has itself asserted that that local traffic does NOT include traffic bound for ISPs. Prior to signing and during the negotiation and arbitration period of the AT&T and BellSouth Interconnection Agreement (which is the Second TCG Agreement), AT&T filed comments with the FCC on March 24, 1997 in CC Docket No. 96-263 (*In the Matter of Usage of the Public Switched Network by Information Service and Internet Service Providers),* which are attached as Exhibit ERAS-1. In these comments, AT&T explicitly and repeatedly stated that calls to ISPs or ESPs are interstate calls. In fact, in these comments, AT&T recommended that the compensation mechanism for ISP-bound traffic be established by cost-based access rates that ISPs or ESPs would **pay to** the ILEC. There is absolutely no mention or suggestion that reciprocal compensation should or would be paid by the ILEC to a CLEC serving an ISP.

On page 7, line 31, Mr. Guepe seems to assume that since there was no exclusion for ISP-bound traffic in the definition of "local traffic" in the Second TCG Agreement, such traffic must be included as local traffic. This is absolutely incorrect. At the time of the execution of the Second TCG Agreement as well as today, the law was clear. ISP-bound traffic is not local traffic. Therefore, there was and is no need for the parties to explicitly exclude ISP-bound traffic from the definition of "local traffic," because as a matter of law, such traffic does not constitute "local traffic" under the Act.

From an operations perspective, it is important to note that BellSouth was separating and segregating Local Traffic from ISP-bound traffic. On BellSouth's bills to TCG, BellSouth excluded calls to BellSouth-served ISPs. Likewise, in remitting payment for TCG's bills, BellSouth also excluded payment for calls to TCG-served ISPs. TCG was well aware of this, and has acknowledged receiving monthly letters explaining that BellSouth has deducted calls to ISPs from payment (See Mirando's direct testimony at page 2, line12 – 15).

Q. PLEASE ADDRESS MR. GUEPE'S ALLEGATION, ON PAGE 7 OF HIS DIRECT TESTIMONY, THAT "BELLSOUTH'S REFUSAL TO PAY [RECIPROCAL COMPENSATION] VIOLATES SECTION 251(B)(5) OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996."

A. As confirmed by the FCC in its ISP Order on Remand, ISP-bound traffic is NOT subject to Section 251(b)(5) of the Act. Thus, BellSouth's refusal to pay reciprocal compensation for ISP-bound traffic does not violate Section 251(b)(5) of the Act. The Second TCG Agreement states that the Parties will bill, and thus pay, each other reciprocal compensation for "Local Traffic." "Local Traffic" is defined in the agreement as "any telephone call that originates and terminates in the same LATA and is billed by the originating party as a local call . . ." This definition requires three criteria be met before reciprocal compensation is due:

1. The call must originate in the same LATA,
2. The call must terminate in the same LATA, and

3. The call must be billed by the originating Party as a local call.

As I stated in my direct testimony and as the FCC has confirmed, a call to an ISP does **not** terminate at the ISP but rather at the ultimate destination of the call. Therefore, it is clear that ISP-bound traffic does not satisfy the "Local Traffic" definition in the agreement. Thus, neither the Act nor the agreement in question requires the payment of reciprocal compensation for ISP-bound traffic.

Additionally, as established by the comments AT&T filed with the FCC in March of 1997, there is no doubt that AT&T would also agree with this conclusion. On page 30 of those comments, AT&T states:

> Thus, such calls made to an ESP do no *terminate* at the ESP's POP, as they would if the ESP were truly a business user. Like an IXC's POP, the ESP's node or POP merely collects traffic for interstate transmission.

Obviously, BellSouth and AT&T had exactly the same understanding and intent about the nature and jurisdiction of ISP-bound traffic at the time they executed their agreement, which in turn became the Second TCG Agreement. Indeed, BellSouth was not and is not paying AT&T reciprocal compensation for ISP-bound calls under their agreement, which is now the Second TCG Agreement.

Q MR. GUEPE STATES, ON PAGE 8 LINE 28 OF HIS DIRECT TESTIMONY, THAT "BELLSOUTH WAS WELL AWARE AT THE TIME

OF THE EFFECTIVE DATE OF THE SECOND TCG-BELLSOUTH AGREEMENT THAT IT WAS OBLIGATED TO PAY TCG RECIPROCAL COMPENSATION." PLEASE COMMENT.

A. BellSouth was well aware that it was obligated to pay reciprocal compensation for Local Traffic. BellSouth agrees with the proposition that it owes reciprocal compensation for Local Traffic and has thus compensated TCG since the execution of the second agreement TCG-BellSouth agreement for *Local Traffic*. After the Commission issued its Order PSC-12169-FOF-TP, BellSouth was well aware that it was obligated to pay reciprocal compensation for ISP-bound traffic for the term of the First BellSouth Agreement. To the extent Mr. Guepe is inferring that BellSouth was well aware that it was obligated to pay reciprocal compensation for ISP-bound traffic under the Second TCG Agreement, he is incorrect. At the time that BellSouth and TCG entered into the Second TCG agreement, which was July 14, 1999, the FCC's Declaratory Ruling was in effect. The Declaratory Ruling clearly stated that ISP-bound traffic was jurisdictional interstate in nature, and not local traffic. Accordingly, as of the execution of the Second TCG Agreement, as a matter of law, BellSouth was not obligated to pay reciprocal compensation for ISP-bound traffic.

Q. PLEASE ADDRESS MR. GUEPE'S DISCUSSION REGARDING THE "ADDITIONAL NEGOTIATIONS" THAT LED TO TCG'S ADOPTION OF THE AT&T-BELLSOUTH 1997 INTERCONNECTION AGREEMENT.

A. At the time that BellSouth and TCG entered into the Second TCG agreement, the FCC's Declaratory Ruling, adopted on February 25, 1999, was in effect. With that ruling, the FCC held that ISP-bound traffic was not local traffic, but rather interstate traffic. Thus, there was no need to negotiate the definition of "Local Traffic" under the Second TCG Agreement. Through this complaint, AT&T, the parent of TCG and the employer of TCG's witnesses, is attempting to recover the revenue windfall associated with reciprocal compensation. To help put this into context, let me set out a brief chronology of the relevant facts:

1. July 15, 1996 - BellSouth and TCG entered into their first interconnection agreement, which was a negotiated agreement.
2. March 24, 1997 – AT&T files comments in CC Docket No. 96-263 stating that ISP-bound traffic is interstate in nature.
3. June 10, 1997 – BellSouth and AT&T enter into their first interconnection agreement.
4. August 8, 1997 - BellSouth posted a notice on its Carrier Notification website advising all ALECs, including TCG, of BellSouth's view that ISP traffic was interstate in nature and thus not subject to the payment of reciprocal compensation.
5. July, 1998 – AT&T acquires TCG
6. February 25, 1999 – FCC Releases its Declaratory Ruling
7. July 14, 1999 – First TCG Agreement expires and TCG Ops into the AT&T Agreement

The change made to Section 37 of the Agreement discussed by Mr. Guepe is specifically addressing the rates, terms, and conditions for the purchase of facilities by TCG or BellSouth for the purpose of interconnecting the networks of the parties. The provisions for the per minute of use charges that apply to local traffic still refer to Table 1, which is the same provision that applies in the AT&T-BellSouth Interconnection Agreement. I am not sure what Mr. Guepe's statement "under AT&T's agreement with BellSouth, there is a different billing system involved that does not allow for this type of compensation" is intended to mean. Simply put, the change in Section 37 of the Second TCG agreement does not change the definition of Local Traffic or the compensation for Local Traffic from that of the AT&T/BellSouth Interconnection Agreement. The purpose of the change to Section 37 is to make clear that the Parties will charge the rates out of BellSouth's tariffs for facilities needed to interconnect the two networks.

Q. HAS AT&T BROUGHT FORTH A CLAIM FOR RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC UNDER THE ORIGINAL AGREEMENT, WHICH WAS ADOPTED BY TCG FOR THE SECOND TCG AGREEMENT?

A. No. As I stated in my direct testimony, AT&T has not filed a complaint on reciprocal compensation for ISP-bound traffic under the BellSouth/AT&T Agreement, which TCG opted into. In fact, AT&T's comments discussed above confirm that AT&T believed that ISP-bound traffic is interstate traffic.

According to this Commission's ruling in Global NAPS, a carrier opting into another Interconnection Agreement cannot have more rights than the carrier to the original agreement. Likewise, the subsequent agreement cannot have a different interpretation than the original agreement. Thus, under the Commission's prior decision, TCG is bound by AT&T's intent regarding reciprocal compensation for ISP-bound traffic (BellSouth does not agree with the Commission's holding in Global NAPS and has appealed the decision).

Q. DOES THIS COMMISSION'S ORDER NUMBER PSC-98-1216-FOF-TP ADDRESSING THE FIRST TCG AGREEMENT CONTROL THE SECOND TCG AGREEMENT?

A. Absolutely not. This Commission's Order Number PSC-98-1216-FOF-TP does not address the agreement in question in this docket. In fact, the Order addressing the First TCG Agreement was issued in September of 1998, well before the Second TCG Agreement (the Agreement in question in this docket) was even signed. Specific terms, rates, and conditions define each interconnection agreement and are applicable only for the specified term of that agreement. It is disingenuous for Mr. Guepe, an AT&T employee, to argue that the interpretation of the terms of a specific agreement, which rely solely on the specific facts associated with that agreement, apply to a different agreement, executed under totally different circumstances.

In fact, this Commission considered the intent of the parties in rendering its Order on the First TCG Agreement. Mr. Guepe has acknowledged on page 9

of his direct testimony that TCG was aware of BellSouth's position that ISP-bound traffic was not local traffic at the time they entered into the Second TCG agreement.

Simply put, the First TCG Agreement had a term and that term expired. This Commission's Order addressed the First TCG Agreement, and the conclusion reached in that Order applies only to that Agreement. TCG's argument is an attempt to divert attention away from the facts and circumstances surrounding the execution of the Second TCG Agreement.

Q. MR. GUEPE, ON PAGE 14 OF HIS DIRECT TESTIMONY, AND MS. MIRANDO, ON PAGE 2 OF HER DIRECT TESTIMONY, CLAIM THAT BELLSOUTH HAS REFUSED TO PAY THE RATE OF $0.00325 PER MINUTE BILLED BY TCG. PLEASE ADDRESS THIS ISSUE.

A. Mr. Guepe and Ms. Mirando both assert that the appropriate rate for reciprocal compensation under this agreement is $.00325, but neither offers any support as to why that is the appropriate rate. In the Second TCG agreement, there is an elemental rate structure for "Local Traffic." Such a rate structure means that each Party pays the other the appropriate rate elements for the functions actually performed. As an example, if a TCG customer made a local call to a BellSouth customer, and that call only traversed an end office switch (which would occur if TCG had direct end office trunking), BellSouth will bill, and TCG should pay, the rate for end office local interconnection, which is $.002 in the agreement at issue. If a TCG customer made a local call to a BellSouth

customer, and that call traversed a tandem switch and an end office switch (which would occur if TCG had trunking to the tandem only), BellSouth would bill, and TCG should pay, the rate for tandem interconnection, which is $.00325 in the agreement at issue.

With ALEC interconnection, there is an issue as to whether or not an ALEC is entitled to claim compensation at the tandem interconnection rate when that ALEC switch "acts" as both a tandem and end office switch (i.e., serves a comparable geographic area to that served by BellSouth's tandem switches and performs local tandem functionality). Regardless of the test used to determine whether the tandem rate is appropriate, TCG has put forth no evidence in its direct testimony to establish that TCG is entitled to any rate other than $.002.

Q. MS. MIRANDO CLAIMS THAT BELLSOUTH HAS ONLY "PARTIALLY" PAID TCG'S SWITCHED ACCESS BILLS. PLEASE ADDRESS THIS ISSUE.

A. Ms. Mirando states, on page 3 of her direct testimony, that TCG bills BellSouth switched access at the rate of $.02733 per minute of use. Ms. Mirando states that this is "based on the rate elements in BellSouth's intrastate switched access tariff." Similar to the discussion earlier about the elemental nature of the reciprocal compensation rates for local traffic, the switched access usage elements in BellSouth's intrastate switched access tariff are elemental in nature. Simply put, you pay for what you use. TCG has not provided in its direct testimony or on the bills submitted to BellSouth any explanation as to

what rate elements it is combining to achieve the rate of $.02733. In paying TCG's bills, BellSouth has calculated the rate for intraLATA usage using the rate elements we know TCG is providing (i.e, Carrier Common Line, Local Switching, and Interconnection) and the rates from the tariffs in effect at the time of the contract. The appropriate Carrier Common Line rate is the terminating access minute rate of $.01767 per minute of use pursuant to the Fifth Revised Page 11, Section E3.10 of the Florida Intrastate Access Services Tariff (see tariff page attached as Exhibit ERAS-2). The appropriate Local Switching rate is the LS2 switching rate of $.00876 per minute of use pursuant to the First Revised Page 117, Section E6.8.2 of the Florida Intrastate Access Services Tariff (see tariff page attached as Exhibit ERAS-3). The appropriate Interconnection rate is the BellSouth interconnection rate of $0.00 pursuant to the Second Revised Page 109, Section E6.8.1 of the Florida Intrastate Access Services Tariff (see tariff page attached as Exhibit ERAS-4).

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does. Thank you.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket. No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Service Providers	)	CC Docket No. 96-263
	)	

COMMENTS OF AT&T CORP.

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March 24, 1997

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SUMMARY

As the Commission notes in the Notice of Inquiry, the proliferation of new packet-switched services offered by information service and Internet service providers now warrants reexamination of existing regulations regarding information services. The demand for packet-switched data services is growing rapidly, and the information services industry is growing rapidly to meet that demand. But information and other enhanced service providers (collectively, "ESPs") today still use the public local switched network to deliver dial-up services to their customers.

The public switched local network, however, is neither designed nor priced to carry data traffic efficiently. And, as demand continues to grow, packet-switched access networks will be necessary to carry this data traffic. The Commission's current policies have not facilitated the deployment of such networks and have, in fact, created artificial incentives to use existing, circuit-switched networks inefficiently. These failures are due in part to the ESPs' exemption from the obligation to pay federal access charges, even though ESPs clearly use interstate exchange access just as interexchange carriers do.

Contrary to the arguments of some local exchange carriers (LECs), however, the solution is *not* to subject ESPs to the same inflated and subsidy-laden access charges currently paid by IXCs. For reasons explained by AT&T in its comments in the Commission's access charge proceeding, those charges should be set at a level equal to the LECs' total element long-run incremental cost of service (TELRIC) -- for everyone,

including the IXCs. But even if the Commission forces some carriers to pay access charges in excess of TELRIC, it should not force the ESPs to do so.

On the other hand, the ESPs' blanket exemption from access charges no longer produces benefits that exceed its costs to the public. The Commission granted ESPs this exemption in 1983, but only as a transitional measure, and only because imposition of subsidy-laden access charges on ESPs would have likely resulted in severe rate impacts. Fourteen years later, however, ESPs have grown dramatically and can afford to pay *TELRIC-based* charges for their use of the local network.

Imposition of TELRIC-based access charges on ESPs will not require significant rate increases to consumers, but will remove most of the inefficiencies and perverse effects of the current system. First, under that system, access services provided to ESPs are not priced efficiently. In particular, ESPs typically buy access as a flat-rate business line from state tariffs. This provides an artificial incentive to continue loading data traffic onto the existing public switched network, even though public switched networks cannot handle such traffic efficiently. Second, the current system blunts the incentive to build more efficient packet-switched access networks, because the exemption keeps access through the public switched network priced artificially below-cost. And third, ending the blanket exemption will facilitate consideration of whether and how ESPs should participate in fostering the goal of universal service.

By contrast, pricing the existing network at cost will give both the incumbents and competitors the incentive to build more efficient packet-switched access networks.

Moreover, although network congestion is clearly not a problem today, TELRIC-based, traffic-sensitive pricing will send appropriate economic signals and thereby help deter any potential network congestion. And cost-based pricing will protect the universal service contribution base, by stanching the flow of *artificially induced* migration of traffic from the public switched network to the Internet.

Cost-based access charges will not harm the enhanced service industry. Analysis of information provided by CompuServe in the access reform proceeding shows that the transition from state-regulated business lines to TELRIC-based interstate access charges would increase CompuServe's costs by only 56 cents per customer per month. Such an increase will not materially affect overall demand for ESPs' services (assuming the increase is passed on to customers) and, in all events, would not impose significant financial harm upon ESPs operating in competitive environments. Requiring the ESPs to pay cost-based access rates also will not provide a windfall to the incumbent LECs because the Commission can (and should) adjust their price caps to reflect this exogenous increase in revenue.

Finally, there can be little doubt that most ESP services fall squarely within the Commission's jurisdiction. Particularly with respect to the Internet and online services, ESPs and LECs are incapable of dividing the traffic into interstate and intrastate communications, and therefore such services are "inseverably" interstate. Such traffic is therefore fully subject to the Commission's jurisdiction.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket. No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Service Providers	)	CC Docket No. 96-263

COMMENTS OF AT&T CORP.

Pursuant to the Commission's December 24 Notice of Inquiry ("NOI"),[1] and its subsequent January 24 Order,[2] AT&T Corp. ("AT&T") hereby submits these comments concerning usage of the public switched network by information service and Internet service providers ("ISPs").

INTRODUCTION

AT&T welcomes the Commission's effort to determine whether "additional actions relating to interstate information services and the Internet" are warranted in view of the sweeping changes that have occurred in the information services industry in recent years,

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[1] *Usage of the Public Switched Network by Information Service and Internet Service Providers*, CC Docket No. 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry (released December 24, 1996).

[2] *Usage of the Public Switched Network by Information Service and Internet Service Providers*, CC Docket No. 96-263, Order (released January 24, 1997).

and in light of the Commission's ongoing access reform and universal service proceedings. NOI at ¶ 312. AT&T agrees that the time has come to examine the extent to which advances in technology, and the proliferation of new digital services accessed through the circuit-switched networks of the LECs, warrant changes to the regulation of local exchange and exchange access services.

Recent technological and market developments make such an examination both timely and necessary. New information services based on packet-switched technology are becoming increasingly available to American consumers and businesses on a dial-up basis over their residential and business narrow-band phone lines, creating enormous demand for packet-switched higher-speed data services. The information services industry is growing exponentially to meet this growing demand.

Nevertheless, the packet-switched local networks that would be capable of providing those services efficiently have not yet emerged. As a result, these packet-switched services continue to utilize the local public circuit-switched network, which has not been expanded to accommodate, and in all events is not designed or priced to provide, efficient data services. Accordingly, it is becoming increasingly clear that existing regulatory policies neither "facilitate the development of the high-bandwidth data networks of the future" nor "preserv[e] efficient incentives for investment and innovation in the underlying voice network." NOI at ¶ 311.

The tremendous growth of packet-switched services -- and the lack of a market-based response to the demand for new networks to accommodate that growth -- exacerbate

the economic inefficiencies of the current access pricing scheme. These inefficiencies can be traced, in part, to the exemption from access charges that the Commission granted to enhanced service providers ("ESPs") in 1983.[3] At that time, the exemption was a reasonable accommodation to the then-fledgling ESP industry. ESPs had been paying for use of the local network by purchasing business lines under state-tariffed rates, in the same manner as MCI and other common carriers that could not obtain full-feature access services from the LECs. The Commission recognized that the newly created interstate access charge structure it developed in 1983 had many uneconomic subsidies built into it, and that access charges would therefore be considerably higher than the business rates the ESPs were accustomed to paying.[4] Thus, even though the Commission acknowledged that ESPs "employ exchange access for jurisdictionally interstate communications," the Commission found that ESPs would "experience severe rate impacts were we immediately to assess carrier access charges upon them," and classified them under its rules as "end users," thereby removing them from carrier access charges.

In granting this exemption, the Commission explained that it would apply only during a "transition" period.[5] The ESP exemption, however, has now been in place nearly fourteen years, even though the Commission has eliminated a similar exemption for data

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[3] In these comments, AT&T generally uses the term ESP to refer to all categories of enhanced services providers, including Internet service providers ("ISPs"), online service providers, and electronic business information service providers.

[4] *MTS and WATS Market Structure*, Memorandum Report and Order, 97 F.C.C. 2d 682, 715 (1983) ("*MTS Market Structure Order*").

[5] *Id.*

and telex carriers.[6] Like those carriers, ESPs are now capable of paying *cost-based* local network charges, which would represent only a modest increase in the rates ESPs currently pay.

Moreover, it is increasingly clear that perpetuation of the access charge exemption to ESPs causes greater public harm -- in the form of market distortions that send the wrong economic signals to network suppliers, network customers, and end users -- than benefit. For example, new technologies have made it possible for ESPs to provide services that were unimaginable in 1983, such as allowing subscribers to make traditional phone calls over the Internet. As a result, enhanced services are beginning to compete directly with traditional telephony -- to the point that an estimated 16 percent of all U.S. long distance traffic will have migrated to the Internet by 2000.[7] And the ability to provide voice and data services over the same packet-switched networks is leading to a rapid convergence in *all* communications markets.

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[6] *MTS and WATS-Related and Other Amendments of Part 69 of the Commission's Rules*, CC Docket No. 86-1, Second Report and Order, 60 Rad. Reg. 2d 1542 (¶ 11) (rel. Aug. 26, 1986) ("As we indicated in the Supplemental Notice, telex and data carriers, like carriers offering MTS/WATS-type services, use ordinary subscriber lines and end office facilities through their dial-up connections, and should therefore pay the same charges as those assessed on other interexchange carriers for their use of these local switched access facilities. We believe that the non-MTS/WATS nature of these services is irrelevant in determining whether these carriers should pay access charges. Our intention in adopting the exemption in question . . . was not to exempt carriers who provide non-MTS/WATS-type services permanently from carrier access charges, but only to grant them some transitional relief.").

[7] John W. Verity, "Calling All Net Surfers," Business Week, August 5, 1996, p. 27.

The growth of these services presents two distinct and important problems. First, the ESPs' use of the LEC networks is not priced efficiently. ESPs use interstate exchange access from the LECs that is the same as to that provided to the interexchange carriers. Yet ESPs still purchase that access by buying flat-rate business lines, because they remain exempt from paying interstate access charges. This irrational pricing system encourages usage patterns by ESPs that may be efficient when occurring over a totally packet-switched network, but are extremely inefficient over the public switched network. The existing system also maintains powerful incentives to continue loading data traffic onto the existing local circuit-switched networks that are not adequate for that purpose.

Second, to carry traffic between the end-user and the ESP's network, the ESPs that provide packet-switched data services must rely on the incumbent LECs' existing circuit-switched networks, which were not designed for data traffic and are not efficient for that purpose. To best accommodate the continued rapid growth of enhanced services, new packet-switched access networks are already necessary. Yet the access charge exemption, in the Commission's words, "hinder[s] the development of emerging packet-switched data networks" by blunting the incentives to build them. NOI at ¶ 311.

To address these concerns, parties have proposed a range of options. At one extreme are the incumbent local exchange carriers ("ILECs"), who have made grossly exaggerated claims that the growth of packet-switched services is causing severe network congestion that threatens the public switched network. Although access charges paid by IXCs already provide the ILECs with billions of dollars every year in uneconomic and unwarranted

subsidies, the ILECs nonetheless ask for additional revenues to respond to what is still only a limited congestion "problem." The Commission should resist the ILECs' efforts to subject ESPs to the same inflated and inefficient access charges that the ILECs currently impose on IXCs.

At the same time, however, the Commission should not simply perpetuate the status quo. If the status quo is maintained, circuit-switched networks will continue to be used inefficiently, thereby creating a risk of greater congestion, and adequate incentives will not be in place to build alternative packet-switched access networks that are more effective for the delivery of packet-switched data services. In particular, prospective new providers will have little incentive to invest in new networks that will compete against the incumbents' artificially inexpensive circuit-switched access. And the migration of long-distance traffic to the Internet based on these distorted pricing advantages will threaten the funding for the Commission's and Congress' universal service priorities.

The Commission should therefore heed the mandate of Congress in the 1996 Telecommunications Act by removing implicit subsidies from access charges and by pricing access elements under a total element long-run incremental cost (TELRIC) standard. When prices for the local network components provided by incumbent LECs are brought down to their true costs, sound economic and regulatory principles will require that *all* users of those services pay the same prices for those access services, regardless of the nature of the communications being transmitted.

But even if the Commission initially maintains the IXCs' access charges above TELRIC levels for other (and, in AT&T's view, flawed) reasons, the Commission should require the ESPs to pay that TELRIC-based amount. This would help reduce the marketplace distortions and unfair advantages that the current system fosters, even while the Commission moves toward a fully cost-based regime. And the tools for calculating TELRIC costs are readily available; indeed, many states have adopted those costing tools today.

In considering these changes, moreover, the Commission should not be deterred by concerns that such a policy would somehow mire the Commission in "regulating the Internet." As a provider of Internet and other online services, AT&T staunchly opposes unnecessary regulation of truly competitive markets, including the enhanced services market.[8] However, the Commission already regulates (through the ESP exemption) the prices of the basic telecommunications services that ESPs currently use as an input in their own services. The substitution of access charges for the flat-rate business lines ESP purchase today will simply replace the current pricing system with one that more accurately reflects the costs imposed by the ESPs and the manner in which those costs are incurred. Requiring ESPs to pay the true economic cost of the telecommunications services they employ thus does not constitute "regulation of the Internet" any more than price regulation

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[8] The enhanced services industry is already demonstrating that it can regulate itself in content-related areas, such as individual privacy, primarily through technology solutions that enable customer empowerment and customer choice.

of electricity used at an automobile factory can be said to "regulate" the automobile industry.

In short, AT&T supports cost-based pricing for all users of the network as the most rational, pro-competitive, and efficient means of achieving the Commission's twin objectives in this proceeding, namely, "facilitat[ing] the development of the high-bandwidth data networks of the future, while preserving efficient incentives for investment and innovation in the underlying network." NOI at ¶ 311. As an Internet and online service provider (through its AT&T WorldNet℠ service), AT&T supports the imposition of cost-based rates on all network users because such reform would give both incumbent and prospective local exchange carriers the proper incentives to build the packet-switched networks that AT&T wants for the delivery of its information services. As a potential entrant into the local and exchange access market, AT&T supports that policy because it would eliminate the distortions that currently allow ESPs to obtain circuit-switched access at below-market prices, and thus make investments in newer, competing technologies less attractive than they otherwise would be. And, as an exchange access customer, AT&T supports that policy because it is the only way to eliminate the uneconomic subsidies that inflate the price of access (and therefore toll) services and artificially drives traffic from the public switched network to the Internet.

The remainder of these Comments is organized as follows. Section I describes the rapid transformation of and growth in the information services market, and explains why existing circuit-switched networks are neither designed nor priced to accommodate this

growth. Section II explains why cost-based pricing for access services would provide the proper incentives for the deployment of packet-switched networks and the efficient pricing of all information services. Section III explains why such a policy would not threaten the viability of ESPs, or give the LECs a windfall. And Section IV explains why the Commission has statutory authority to impose cost-based access charges on these entities.

I. PACKET-SWITCHED DATA SERVICES CARRIED OVER THE PUBLIC SWITCHED NETWORK ARE GROWING RAPIDLY, BUT THE EXISTING ACCESS NETWORKS ARE NEITHER DESIGNED NOR PRICED TO ACCOMMODATE THIS GROWTH.

The Commission first seeks comment on "the effects of the current system on network usage, incumbent LEC cost-recovery, and the development of the information services marketplace." NOI at ¶ 315. In fact, a broad array of new information services based on packet-switched technology are becoming increasingly available on a dial-up basis over residential and business narrow-band phone lines. The rapid growth of these new packet-switched services is most welcome, because of the innovative new features and functions that they provide. Their emergence, however, is also profoundly important because they are becoming directly competitive with traditional telephony. Thus, as the Commission notes, the growth of these services and the subsidies they enjoy presents questions that "concern no less than the future of the public switched telephone network in a world of digitalization and growing importance of data technologies." NOI at ¶ 311.

A. The Enhanced Services Market Has Grown Rapidly In Recent Years.

The recent growth rates of packet-switched data services have been dramatic. For example, Internet service revenue in the United States was expected to grow more than 200 percent from 1995 to 1996 (from $956 million to $3.1 billion).[9] Consumer online services revenues are also anticipated to grow 120 percent over the same period,[10] outpacing the expected increase in the number of subscribers to consumer online services during that same period.[11] It is estimated that there are currently more than 18 million Internet and consumer online subscribers,[12] and that there will be 23.3 million by year-end.[13]

These astonishing growth rates are expected to continue. Internet service revenue in the U.S. is expected to grow at a compound average growth rate of 76 percent from 1995 through 2000, which would lead to nearly $16.2 billion in revenue in 2000.[14] Revenues from U.S. consumer online services are predicted to grow at a compound average growth rate of 64 percent from 1995 to 2000, from $384 million to $4.6 billion.[15]

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[9] International Data Corporation (IDC), "U.S.-Based Worldwide ISP Market Overview 1996-2000" (IDC No. 12373), November 1996, p. 6.

[10] The Yankee Group, "Internet Service Provider Market Analysis," July 1996, ch. 1, p. 2.

[11] Consumer online services subscribers increased from 10.3 million in 1995 to 14.7 million in mid-1996 – a 42 percent increase. *Id.*

[12] Information and Interactive Services Report, January 31, 1997, p. 1.

[13] IDC, "Interactive Services Bulletin, US Consumer Online Services Forecast 1997-2001," March 1997, Table 2.

[14] IDC, "U.S.-Based Worldwide ISP Market Overview 1996-2000," p. 6.

[15] Yankee Group, ch. 1, p. 2.

Consistent with recent historical trends, moreover, this huge revenue growth is expected to surpass the growth in subscribers. The number of Internet and consumer online subscribers is expected to grow to 43.2 million households by 2000 (a compound average growth rate of 33 percent).[16] Others have estimated that 40 percent of U.S. households will be online by 2000.[17] And the number of Internet users is almost doubling every year: it will grow from about 35 million worldwide today to 160 million in 2000.[18]

Another sign of the emerging stability in the Internet and on-line services market is the consolidation of Internet providers from 1525 in 1995 to 1310 in 1996. Analysts predict that there will be 95 such providers in the year 2000.[19] Moreover, all of the major interexchange carriers now provide consumer Internet and online services. The RBOCs, too, have begun or are about to begin providing such services.[20]

While the Internet and consumer online services providers have been achieving increased growth and approaching stability, other ESPs have already grown into mature,

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[16] *Id.* at ch. 1, p. 1.

[17] IDC, Interactive Services Bulletin, at 5. Most consumers already own or have access to the equipment necessary for Internet use. For example, more than two-thirds (71%) of all Americans have access to a computer at home or at work. Moreover, 45 percent have access to commercial or Internet-based online services at home or at work. Odyssey Report, Taking Off: The State of Electronic Commerce in America, Fall 1996, p. 7.

[18] Kevin Maney, "Online Community grapples with gridlock on info highway," USA Today, January 20, 1997, p. B1.

[19] Yankee Group, "Internet Service Provider Market Analysis," Executive Summary, p. i.

[20] Veronis, Suhler & Associates, "The Veronis, Suhler and Associates Communications Industry Forecast," August 1996, Ch. 14, Interactive Digital Media, p. 319.

highly profitable industries. For example, electronic business information service, which includes electronic messaging services, is already a multi-billion dollar business that is expected to grow at a compound average rate of 10 percent annually from 1996 to 2000.[21] Well-established companies such as Dow Jones & Co., Dun & Bradstreet, Equifax, Knight-Ridder and McGraw-Hill enjoy healthy revenue growth from such activities and generate millions of dollars in profits.[22] Remote dial-up access to corporate networks and databases is also a well-established business. Such services have been provided for years by such major companies as IBM and GEIS.

B. Packet-Switched Technologies Are Already Beginning To Compete With Traditional Telephony.

Moreover, packet-switched technology, and the equipment used with such technology, is quickly evolving to enable ESPs to offer telecommunications over their networks. Packet-switched networks carry digitized information -- *i.e.*, information converted into a common language of 0s and 1s. Virtually *any* form of information, however, can be converted into digital form. Thus, the same packet-switched communications network can deliver voice, data, or video to a customer; customers can use the same information appliance to receive voice, data and video, even in the same session; and the same information resource may create, distribute, and store information content. For example, with new product and service platforms that support multiple functions during

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[21] IDC/Link, "Business Information Services Forecast, 1996 to 2000," November 1996, p. 1.

[22] SIMBA Information, Inc., Electronic Information Report, December 20, 1996, p. 3.

a single "session," a consumer can simultaneously send and receive electronic mail, browse the World Wide Web, and complete a phone call by clicking on an icon on a computer screen.

For these reasons, packet-switched networks are rapidly leading to a convergence in all communications markets. Packet-switched technology is already making substantial inroads into traditional telecommunications markets. A good example is the international fax business. ESPs have a significant cost advantage in that market, both because of the access charge exemption, and because of their ability to bypass international settlements. As a result, businesses are quickly moving their fax traffic to the Internet. One analyst has noted that "five months ago, no one was talking about it. Now all of a sudden, there are 40 or 50 companies with new services for faxing over the Internet."[23] Analysts estimate that the Internet fax server and router market will grow to $38 million by 1998,[24] and AT&T

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[23] Brett Mendel, "Net Faxing Awaits Its Day," LAN Times, December 19, 1996, at 25 (quoting Peter Davidson, president of Davidson Consulting).

[24] Barbara DePompa, "New Life for the Fax Machine," Information Week, October 14, 1996, at 62, 64. This projected growth is already being realized. For example, FaxSav offers international fax service, with nodes in England, Hong Kong, France, Germany, South Korea, and the U.S. Rates are quoted at a 90 percent savings over the telephone network. Charlotte Dunlap, "Beating Ma Bell at own game; Internet Faxing aims to replace long-distance calls," Computer Reseller News, June 6, 1996. PSINet Inc. is building Internet fax software into its network, which will allow for centralized management of transmissions. The company claims savings of at least 40 percent over the "high cost of sending faxes over standard phone lines." Wall Street Journal Technology Brief, "PSINet Inc.: Internet Provider to Install Fax Software in Network," December 12, 1996.

estimates that 20-40 percent of U.S. originated international fax traffic will migrate to the Internet before 2000.

Similarly significant migration of basic telephony may be just around the corner. Numerous companies -- including Microsoft, Netscape, Intel, VocalTec, and NetSpeak -- have already placed Internet telephony products on the market. These products have been broadly publicized in articles in the New York Times,[25] Newsweek,[26] Business Week,[27] and other similar publications. These companies may have shipped as many as 1.5 million Internet telephony software packages.[28] Indeed, Microsoft and Netscape are beginning to embed such telephony options into their standard Web browsers; other companies provide the software for free on the Internet.[29]

Although Internet telephony has some limitations, they are being quickly overcome by technological innovation. For example, Internet telephony today usually requires both parties to be online, using a computer. But that is already changing. Voice gateways between the Internet and the Public Switched Network are being deployed that allow telephony over the Internet using regular telephones, without the assistance of a personal

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[25] Peter H. Lewis, "Free Long-Distance Phone Calls," New York Times, Aug. 5, 1996, p. D1; John H. Cushman, Jr., "Calling Long Distance, on a PC and the Internet," New York Times, May 19, 1996, p. 8.

[26] Steven Levy, "Calling All Computers," Newsweek, p. 43 (May 13, 1996).

[27] "Try Beating These Long Distance Rates," Business Week, p. 43 (April 22, 1996).

[28] *Id.*

[29] "Toll Free Net Calls," PC Computing, February 1997, pp. 130-32.

computer. Such technology includes signaling capability so that a call carried over the Internet can "ring" the called party's phone (or personal computer).

Once such technology becomes broadly available, large-scale migration of traffic from the public switched network to the Internet will be facilitated. While such migration may be the logical result of technological innovation, it is also being artificially stimulated by the large disparity in prices resulting largely from the access charge exemption. ISPs typically charge a flat fee of $19.95 per month to users. Using a conservative estimate of ten hours of usage per month per customer,[30] the customer effectively pays a retail price of $0.032 per minute, compared to the charges for "traditional" long distance calls, of which the switched access alone is about $0.05. (On a purely incremental basis, the retail price of such telephony services over the Internet is zero.) These prices are likely to induce many "traditional" long distance customers to switch even where the Internet is not the most efficient option. Thus, it is predicted that today's estimated 400,000 Internet telephony users could swell to 16 million by the end of 1999.[31] Indeed, Probe Research estimates that 16 percent of U.S. long distance traffic will migrate to the Internet by 2000.[32] And as many

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[30] In 1996, the average time online was 12.1 hours per month. Newsweek, September 23, 1996, p. 14.

[31] PC Week, December 12, 1996.

[32] John W. Verity, "Calling All Net Surfers," Business Week, August 5, 1996, p. 27.

as 12.5 billion long distance minutes of use will be carried over packet-switched networks by 2001 -- a compound average growth rate of 137.9 percent over current levels.[33]

Such large-scale migration of traffic raises many issues. Although the demand for high speed data services is growing by leaps and bounds, the local networks capable of supporting such services have not emerged. Therefore, ESPs and their customers continue to use the public switched network inefficiently, and ESPs continue to invest heavily in infrastructure (*e.g.*, modems) to support more traffic over the public switched network. Moreover, flat-rate pricing has given ESPs an artificial economic advantage that only reinforces their incentives to use the network in an inefficient manner. So long as traffic-sensitive local switching and transport costs are being recovered through flat-rate business line charges, the incentive to load the maximum amount of usage onto the network will continue, even as flat-rate pricing provides no incentive to the incumbent LECs to upgrade their networks to accommodate additional traffic.

The 1996 Act has made these concerns especially urgent. As the local exchange and exchange access markets are opened to competition, new entrants can be expected -- and should be encouraged -- to deploy alternative facilities-based networks. The current irrational pricing system, however, sends incorrect signals, not only to ILECs, but also to competitive local exchange carriers ("CLECs"), that discourages the deployment of data networks, which must compete with the below-cost access the ESPs currently receive.

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[33] IDC/LINK, "Residential Broadband Services, Internet Telephony: An Alternative Dialtone?," January 1997, p. 1.

II. REQUIRING ESPs TO PAY COST-BASED CHARGES FOR NETWORK USAGE IS NECESSARY TO ACHIEVE THE COMMISSION'S TWIN OBJECTIVES OF FACILITATING THE DEVELOPMENT OF HIGH-BANDWIDTH NETWORKS AND PRESERVING EFFICIENT INCENTIVES FOR INVESTMENT AND INNOVATION IN THE EXISTING VOICE NETWORK.

The solution to these anomalies, and a necessary condition to ensure the proper incentives for the efficient development of both the information services market and the networks of the future to support that market, is to require *all* users of the local network, including ESPs, to bear their fair share of their costs of using the local network. Such a policy is essential if the Commission is to achieve its stated objectives in this proceeding, namely, "facilitat[ing] the development of the high-bandwidth data networks of the future, while preserving efficient incentives for investment and innovation in the underlying voice network." NOI at ¶ 311.

A. Cost-Based Network Charges Are Necessary To Encourage Prudent Investment In Building The Packet-Switched, Higher-Speed Networks Of The Future.

First, cost-based pricing is necessary to provide the correct incentives for investment in the packet-switched local networks that are efficient for the delivery of packet-switched services. The ILECs' existing networks are circuit-switched networks that were designed primarily for voice traffic. Although these networks can carry data traffic, they are not the most efficient networks for those purposes. For example, during an Internet session, the circuit-switched connection must remain open for the entirety of the session, even though data are being transmitted only a small fraction of that time. *Cf.* NOI at ¶ 313.

A more appropriate solution -- and one that would facilitate the broader availability of packet-switched services -- would be the deployment of high-speed, packet-switched local networks. Such networks could efficiently route data packets from many users without the need to tie up individual switching and transport facilities, as is required in circuit-switched networks.

The access charge exemption, however, creates powerful *disincentives* to build or use such alternative packet-switched networks. Because of the exemption, ESPs today are using traffic-sensitive network facilities but paying for them on a flat-rate basis. As a result, neither the incumbent LECs nor prospective competitive LECs are receiving accurate economic signals that would encourage them to upgrade their existing networks -- or to engineer their planned networks -- to handle traffic more efficiently.[34]

In light of the Commission's (and Congress') overarching goals of opening up the local exchange and exchange access markets to competitive entry,[35] it is particularly important for the Commission to establish market-based rules that send the appropriate signals to potential competitors. Continued below-cost pricing of ILEC network facilities for some users subsidized by higher prices for others will make it *less* likely -- not more likely -- that the efficient packet-switched networks of the future will be built.

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[34] Moreover, to the extent the LECs perceive that they are not being compensated for ESP traffic, that simply increases their incentives to keep access charges above cost as a source of cross-subsidies for the costs imposed by the ESPs.

[35] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, 11 FCC Rcd. 14171, 14172-73 (1996).

A LEC's incentive to build an alternative network depends largely upon the demand a LEC expects for service on that network. But because the existing network is a substitute for the new network -- albeit an imperfect one -- demand for services on the new network necessarily depends upon the price being charged for service on the old network. And if that price is artificially low -- as it undoubtedly is because of the access charge exemption -- this will artificially suppress demand for service on the new network, thereby reducing both the ILECs' and CLECs' incentives to build a new network.

This is why the Commission should require ESPs to pay cost-based local network charges. The Commission, moreover, should do so promptly because the deployment of alternate networks will take years, and the sooner the pricing system is rationalized, the sooner companies can make rational business decisions to build such networks. Such action is by far the most effective means of encouraging the LECs to "install [] new high-bandwidth access technologies." NOI at ¶ 313. It would be far more effective and defensible than establishing any kind of mandated subsidy scheme in which non-ESPs subsidize the construction of "data-friendly" networks to be used for ESPs' packet-switched services. The Commission should not adopt such a scheme. The proper course is to establish all rates for exchange access at cost-based levels, and allow the marketplace to find and construct the most efficient networks.

Nor should the Commission pick and choose among possible technologies, or mandate the construction of particular networks based on particular technologies. Several data-friendly technologies already exist today. However, there will be a need for multiple

network solutions involving loop, switching, and transport, because of the inherent limitations of each technology. These technologies vary greatly in terms of speed, cost, technical maturity, availability for implementation, reliability, and limits on growth. For example, turning to new generation loop technologies, Integrated Services Digital Network ("ISDN") offers up to 128 Kbps speeds to the home or office over existing narrow-band local loop, and therefore could be widely deployed. Coverage is not universal, however, because of limitations of plant layout and physical loop distances. By contrast, Local Multipoint Distribution Service (LMDS) offers significant two-way voice, data and video delivery, but it is expensive and its coverage is highly limited by physical terrain. Another technology, Digital Subscriber Lines ("DSL"), offers digital communications over existing copper loops, and in one of its three formats (High bit-rate, or "HDSL") it operates at speeds of 2 Mbps. DSL technology is very expensive to deploy (*i.e.*, estimates are $1500 to $3000 per customer), and it suffers from the same limitations as ISDN in that load coils and bridged-taps must be removed from the local loop in order to maximize its capabilities.[36] Similar advantages and disadvantages exist for packet switching and transport as well.

Each of these technologies has advantages and limitations, and indeed, future networks will likely require some combination of a number of these technologies. Similarly, each technology makes possible a different set of features, and therefore which technology wins out will depend on what features customers will want and their willingness

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[36] A table comparing the various alternative access technologies is appended as Attachment 1.

to pay. The Commission has no basis for predicting that one or another of these technologies will emerge as the superior technology, and it should not try. Rather, the soundest approach the Commission could take to ensure the development of new, needed higher-speed technologies is to create a pro-competitive environment in which such new services can emerge -- primarily through the establishment of cost-based pricing and enforcement of the local competition rules. Such a technology-neutral approach is consistent with the pro-competitive dictates of the 1996 Act.

B. Cost-Based Network Charges Are Also Necessary To Encourage Efficient Utilization Of Existing Networks.

The Commission also seeks comment on whether its current rules are encouraging inefficient use of the existing network and whether it should change its rules in response to the rise of Internet telephony. NOI at ¶¶ 315-16. The answer to both questions is "yes," but not for the reasons advanced by some RBOCs.

Those RBOCs claim that packet-switched services are causing serious network congestion. Those claims, however, are greatly exaggerated.[37] To be sure, virtually all of ESPs' traffic today is carried over incumbent LECs' facilities to ESP switching centers. Also, the ILECs' facilities were concededly designed to carry voice traffic of relatively

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[37] "Report of Bell Atlantic on Internet Traffic," June 28, 1996; "Pacific Bell ESP Impact Study," July 2, 1996; Letter from NYNEX to James Schlichting, Chief, Competitive Pricing Division, FCC, dated July 10, 1996; "US West Communications ESP Network Study -- Final Results," October 1, 1996; Amir Atai, Ph.D., and James Gordon, Ph.D., "Impacts of Internet Traffic on LEC Networks and Switching Systems," Red Bank, New Jersey, Bellcore, 1996.

short duration, yet users of information services often stay online for significantly longer periods of time, tying up their phone lines when they do so.

ESPs, however, have convincingly shown that the RBOCs' studies purporting to show network congestion are seriously flawed.[38] Those studies are based on a very small set of selectively chosen exchanges where congestion was abnormally high.[39] Therefore, based on careful examination of the data provided in the RBOCs' own studies, it appears that network congestion is not a significant problem today outside of a very small handful of exchanges.[40]

There is nevertheless a significant risk of congestion in the future if the Commission's policies are not reformed. This risk arises from the fact that switching and transport costs are significantly traffic-sensitive,[41] and that the ESPs' use of those network elements therefore generates additional costs. Yet because the ESPs do not *pay* for access on a traffic-sensitive basis, they have an incentive to use it inefficiently.

For the same reasons, the ILECs do not receive the proper economic signals concerning this increased usage because this class of user is exempt from paying traffic-sensitive charges. The existing ESP exemption thus undermines the incentives that the

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[38] Lee Selwyn and Joseph Laszlo, "The Effect of Internet Use on the Nation's Telephone Network," Economics and Technology, Inc. (January 22, 1997) ("ETI Study").

[39] *See id.*, pp. 19-22.

[40] AT&T agrees with the ETI Study (p. 13) that the overpricing of more efficient trunk-side connections has contributed to the proliferation of business line usage by ESPs.

[41] Comments of AT&T Corp. at 55-60 (January 29, 1997); Reply Comments of AT&T Corp. at 29-33 (February 14, 1997).

ILECs would otherwise have to perform the necessary upgrades to accommodate this increased usage. Both of these effects tend to exacerbate congestion. Thus, although there appears to be little network congestion today, network congestion is *potentially* a problem if uncompensated (or under compensated) usage continues to increase at the rate it has been increasing in recent years.

Moreover, as noted above, the access charge exemption and the resulting artificial cost advantages to ESPs are driving forces behind the rapid migration of traffic from the public switched network to the Internet. Such large-scale migration of traffic to services that are exempt from access charges will put enormous pressure on the remaining users of the public switched network to cross-subsidize this growing use of the network by ESPs. Today, interexchange carriers pay above-cost access charges that are used in part to subsidize the ESPs' use of the network. As traffic continues to migrate to the ESPs -- and it is migrating at a rapid rate -- the minutes of use that generate the revenue to pay for that usage will decline. Under the current access charge regime, that will put upward pressure on access charges, and thus on long distance rates.[42] This in turn will encourage all carriers to promote their Internet offerings and to induce more users to migrate to the networks that do not bear those costs.[43]

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[42] This will result from artificially reducing (1) the growth ("G") factor in the common line formula; (2) the LECs' sharing obligations (to the extent that they have selected a sharing option); and/or (3) measured productivity growth and the "X" factor at subsequent price cap review proceedings.

[43] Indeed, the proliferation of Internet-based services is already blurring the distinction between basic and enhanced services, indicating that the exemption will be increasingly (continued...)

This will inevitably lead to two serious, adverse effects. First, it will separate the market into "haves" and "have-nots" -- *i.e.*, "haves" who have access to ESPs' services and thus can obtain telecommunications and enhanced services at low, subsidized rates, and "have-nots" who remain on the public switched network and pay higher rates.

More ominously, the artificially induced migration of traffic to the Internet will shrink the contribution base for universal service support. Ironically, the growth and popularity of ESPs' packet-switched data services may *increase* the demand for and usage of the public switched network, and yet the costs of carrying out the Commission's universal service priorities would have to be recovered from an ever smaller contribution base.

For all of these reasons, the Commission should require ESPs to pay their fair share, and should no longer exempt them from access charges based solely on the basis of technology they use to provide service.[44] Thus, even if the Commission determines, in the access charge reform docket, not to require TELRIC-based charges (and even if the Commission adopts -- improperly, in AT&T's view -- a flat charge per presubscribed line),

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[43] (...continued)
difficult to administer.

[44] The Commission recognized in 1988 that the exemption given to ESPs constitutes discriminatory treatment vis-a-vis those carriers that must pay access charges, but concluded that "it remains, for the present, not an unreasonable discrimination within the meaning of Section 202(s) of the Communications Act." *Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd. 2631, 2633 (1988). As demonstrated above, the events of the last nine years -- and especially of the last two years -- confirm that maintaining the exemption is indeed "unreasonable discrimination." Moreover, ending the exemption will facilitate consideration of whether and how ESPs should participate in fostering the goal of universal service.

the Commission can and should still address the imbalances created by the current ESP exemption in order to avert the adverse consequences its continuation will create. At a minimum, the Commission can assess TELRIC-based charges on ESPs, as a transitional step until network charges for all access customers are brought down to actual cost.[45]

III. RATIONALIZATION OF NETWORK PRICING WILL NOT ADVERSELY AFFECT THE HEALTH OF THE INFORMATION SERVICES INDUSTRY OR GIVE THE LECS A WINDFALL.

Rationalizing network pricing and assessing cost-based rates on ESPs and ISPs, moreover, will not adversely affect the health of the information services industry as long as the Commission proceeds in a sensible way. As AT&T and others have explained in the access reform docket, the mechanism the Commission should use to set access charges at cost is an immediate reinitialization of price caps so that the access charges paid by all users are based on TELRIC.[46] Significantly, under the TELRIC methodology, access charges would not include nontraffic-sensitive ("NTS") costs like the Common Carrier Line Charge ("CCLC"). Nor would it include non-cost-based charges like the Transport Interconnection Charge ("TIC"). Consistent with TELRIC, therefore, ESPs should pay only for local switching (about 0.21 cents per minute) and for transport (which would vary according to the nature of the facilities used but would be around 0.17 cents per minute) --

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[45] Obviously, the long term viability of this approach would depend on the Commission rapidly moving all access charges to a TELRIC cost basis. Any long term disparity between access prices based on the technology utilized would only give rise to distortions and inefficiencies similar to those of the current access charge structure.

[46] *See* Comments of AT&T Corp., pp. 49-61 (January 29, 1997); Reply Comments of AT&T Corp., pp. 24-34 (February 14, 1997).

a total of approximately 0.38 cents per minute.[47] Whether or not the Commission adopts the proposal to establish TELRIC-based access charges in the access reform docket, the Commission can and should require ESPs to pay these TELRIC-based access charges now.

In the past, the Commission has been understandably reluctant to require ESPs to pay the inflated access charges that the Commission currently permits the LECs to charge to interexchange carriers, on the grounds that such high access charges might radically alter ESPs' rates.[48] That the imposition of TELRIC-based rates will not have this effect is made clear from an examination of data provided in CompuServe's Comments in the access reform proceeding.[49] Based on CompuServe's data, CompuServe is today effectively paying $0.24 cents per minute to the LECs.[50] AT&T estimates that TELRIC-based access charges would increase CompuServe's per minute charges by approximately 0.14 cents per minute -- from 0.24 cents to about 0.38 cents.[51] This increase would translate into an increase in

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[47] *See* Attachment 2 for an illustration of access elements and costs.

[48] *MTS Market Structure Order*, 97 F.C.C. 2d at 715 ("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 tariffs").

[49] *See* Comments of CompuServe, pp. 10-11 (January 29, 1997). CompuServe is the second largest provider of on-line services in the country, with some 3 million users.

[50] CompuServe indicates that it spends $35,700,000 per year to purchase 85,000 business lines from the LECs; it also indicates that it uses those local lines "in the range of 240 hours per month." Id., p. 11 n.25. Multiplying that out, CompuServe pays 0.24306 cents per minute.

[51] *See* Attachment 2 for a comparison of current charges compared with TELRIC-based charges.

CompuServe's costs of 56 cents per month per customer.[52] Even if CompuServe chose to pass on that cost to its customers, the price increase resulting from cost-based access rates would not be very large.[53] Thus, the change to market-based pricing of access -- and the resulting economic benefits of such access pricing reform -- can be achieved with little if any adverse consumer impact.

This change, moreover, can and should be implemented in a way that does not create a windfall for the ILECs. To that end, as long as IXCs are required to pay access charges in excess of cost, the Commission should mandate an adjustment to the ILECs' price caps to ensure that the addition of ESP access revenues is revenue neutral to the ILECs. Today's access charges are grossly inflated and provide the ILECs with billions of dollars in pure uneconomic subsidy. The flaw in the current system is not that the LECs are under recovering -- far from it. Rather, the flaw in that system is that it results in a rate structure that does not reflect the way the costs are actually incurred. The ILECs should not be allowed to recover a windfall from the correction of that flaw.

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[52] According to CompuServe, it uses about 1,224,000,000 minutes per month (240 hours x 60 minutes x. 85,000 lines). Since it has 3,000,000 subscribers (*see* Compuserve Comments at 10), an additional 0.13694 cents per minute x 1,224,000,000 minutes per month divided by 3,000,000 subscribers comes to 56 cents per month per customer.

[53] According to the Graphic, Visualization, and Usability Center's (GVU) WWW User Survey, the average household income of all Internet subscribers is $59,000. Nearly three-fourths of the respondents are from the U.S. *See* GVU's WWW Users Survey, www.cc.gatech.edu/gvu/user, April 1996. This modest increase in the monthly price is not likely to repress demand significantly among users at this income level.

IV. TRAFFIC GENERATED BY ESPs SHOULD BE CLASSIFIED AS INTERSTATE TRAFFIC SUBJECT TO THE COMMISSION'S JURISDICTION.

The Commission also seeks comment on the scope of its jurisdiction over access charges paid by ESPs, especially in light of "the difficulty of applying jurisdictional divisions . . . to packet-switched networks such as the Internet." NOI at ¶ 315. The answer is that, in part because of that very difficulty, the Commission should adopt a rebuttable presumption that access services provided to an ESP are entirely subject to the Commission's jurisdiction because of their interstate character, but allow that presumption to be rebutted on a showing that the enhanced service for which access is provided is itself intrastate in nature.

Settled case law establishes that when a service or facility (1) has a significant interstate use or character but (2) cannot readily be broken down into distinct interstate and intrastate components, the service or facility can be treated as subject in its entirety to the Commission's jurisdiction under the Communications Act.[54] Both of these conditions are amply satisfied by most enhanced services, in particular Internet and online services.

First, access services provided to most ESPs are not only substantially interstate in character -- as the Commission expressly recognized in finding that ESPs "employ exchange access for jurisdictionally interstate communications"[55] -- but overwhelmingly so.

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[54] *E.g.*, *Louisiana Pub. Serv. Comm'n* v. *FCC*, 476 U.S. 355, 375-79 (1986); *Public Utility Comm'n of Texas* v. *FCC*, 886 F.2d 1325, 1331-34 (D.C. Cir. 1989); *California* v. *FCC*, 39 F.3d 919, 931-933 (9th Cir. 1994), *cert. denied*, 115 S. Ct. 1427 (1995).

[55] *MTS Market Structure Order*, 97 F.C.C. 2d 682, 715 (1983).

For the provision of Internet and online services, for example, the ESP typically routes calls from its POP along a dedicated line to its data center or web server, which is where its "home page" resides. ESPs generally have only a few data centers in the entire country, however, and therefore the caller and the data center are almost always in different states.

For example, AT&T WorldNet has two data centers in the United States, which means that simply accessing WorldNet's home page already involves interstate transmission for virtually all callers. Indeed, when a dial-up customer accesses AT&T's home page, AT&T does not necessarily route that call to the data center that is geographically nearer to the customer.[56]

But even in the small fraction of cases in which a call can reach the ESP's network or home page without crossing state boundaries, during most sessions a customer will still access *applications* and databases that require interstate transmission. For example, when a customer wants to use the Internet to access the home page of a retail business down the street, it is not unusual for that home page to be housed in a server thousands of miles away. Moreover, during a typical session, a customer accesses multiple applications and databases, a large fraction of which are likely to involve interstate transmission. Even a cursory review of the home pages of both large and small Internet service providers reveals literally a "world" of information available at the click of the mouse.[57] Therefore, it cannot

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[56] Attachment 3 provides an illustrative diagram of AT&T WorldNet℠ Service's network, which is representative of how ESPs provide consumer mass market service.

[57] *See, e.g.*, the home pages for ISPs: America Online (www.aol.com); Prodigy (www.prodigy.com); Erol's Internet Service (www.erols.com); and SpectraNet (continued...)

be seriously questioned that the vast majority of ESPs' Internet and online services overwhelmingly involve interstate traffic which falls squarely within the Commission's jurisdiction.

For the same reasons, access services provided for the vast majority of enhanced services applications are just as "interstate" in character as access services provided to interexchange carriers. To be sure, under the Commission's current rules, ESPs benefit from their artificial classification as "end-users," and thus are allowed to buy state-tariffed business lines just like true business users. But the ESPs generally use the LEC's local switching and transport as part of a much more extensive transmission path, just as IXCs do. As already noted, calls to an ESP are typically routed over the local network to the ESP's node, or POP, and from there to a distant data center or Internet site. Thus, such calls made to an ESP do not *terminate* at the ESP's POP, as they would if the ESP were truly a business user. Like an IXC's POP, the ESP's node or POP merely collects traffic for interstate transmission. In fact, the ESPs today use business lines in precisely the same manner that MCI used business lines in providing its Execunet service, prior to the establishment of the current access charge regime.[58]

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[57] (...continued)
(www.spectra.com).

[58] Prior to that time, carriers such as MCI obtained switched access for use in providing long distance service by purchasing line-side service, just as the ESPs do today. *See, e.g., Exchange Network Facilities for Interstate Access*, Memorandum Opinion and Order, 1 FCC Rcd. 618, 619 (1986); 71 F.C.C. 2d 440, 445 (1979). The Commission permitted this arrangement because, at that time, full-feature access services designed for use by competitive interexchange carriers were not available. The Commission mandated the (continued...)

Second, for Internet and online service applications, there is no way to separately identify (much less meter and bill) interstate and intrastate traffic for jurisdictional purposes. *A fortiori*, the LECs providing access to the ESPs likewise cannot possibly determine which calls being made to an ESP are wholly intrastate in character, or interstate.[59] The advent of new product and service platforms that allow customers to perform many different functions at once, coupled with the inability to track which of these applications involve interstate or intrastate communications, means that access services provided to the ESPs for their interstate communications are "inseverable" from access services provided to the ESPs for use in any "intrastate" services.

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[58] (...continued)
development of switched access, however, and in the interim the Commission oversaw a series of transitional access charge arrangements (first the ENFIA tariffs, followed by Feature Group A access and other arrangements, and culminating in today's Feature Group D). In so doing, the Commission considered "the effect of sudden rate increases upon competition and concluded that the phase-in of [the ENFIA tariffs] as OCC revenues increased provided adequate time for OCCs to absorb the increased payments for exchange services." The Commission also found "that the practice of connecting the OCCs to local exchange facilities pursuant to local business exchange tariffs could not continue because the OCCs did not make a contribution to the interstate costs of local exchange service." *See* id. at 620; *see also* id. at 618-24; *Exchange Network Facilities for Interstate Access*, Memorandum Opinion and Order, 71 F.C.C. 2d 440 (1979); *MTS and WATS Market Structure*, Memorandum Opinion and Order, 97 F.C.C. 2d 834, 858-63 (1984) ("OCCs that receive equal access will pay the same per minute charges that are assessed for MTS or WATS usage as equal access becomes available in each end office"); *Investigation of Access and Divestiture Related Tariffs*, Memorandum Opinion and Order, 97 F.C.C. 2d 1082 (1984). In short, the Commission recognized that, as the interexchange market matured and as equal access became available, the interexchange carriers should move to a system in which they paid for the access they used.

[59] *See PUC of Texas* v. *FCC*, 886 F.2d at 1331 (recognizing this inability as key factor in determining that inseparability doctrine applied in that case).

In other contexts, the Commission has recognized that services involving both intrastate and interstate elements -- such as mixed-use special access -- are properly considered interstate in nature for precisely this reason. Most pertinently, the Commission found special access to be an interstate service in large part because attempting to separate the intrastate and interstate traffic "would involve substantial difficulties since . . . the LECs cannot readily measure state and interstate special access traffic . . .," and neither could their customers.[60] The Commission also noted that introducing divided federal-state jurisdiction into an area that has not been jurisdictionally divided in the past would "necessitate significant changes in the LECs' present billing systems," and "would greatly complicate customer bills since both state and interstate charges would apply to each mixed use special access line."[61] Similarly here, for the most prevalent ESP services, it is impossible to separate interstate and intrastate traffic--indeed, both types of communication often take place during the very same "call." Because of this inseverability, *all* access services provided in connection with such services should be presumed to be interstate in character and subject to the Commission's jurisdiction.

Such a presumption, moreover, is supported by sound policy considerations. As explained above, federally imposed, cost-based access charges will remove the existing disincentive for the construction of modern, packet-switched networks; reduce the risk of

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[60] *MTS and WATS Market Structure*, Recommended Decision and Order, 4 FCC Rcd. at 1356; *see also PUC of Texas* v. *FCC*, 886 F.2d at 1331.

[61] *MTS and WATS Market Structure*, Recommended Decision and Order, 4 FCC Rcd. at 1356

future congestion on existing circuit-switched networks; and help protect the revenue base for the universal service fund. Imposition of such charges at the federal level, moreover, will discourage the states from imposing a patchwork of their own access charges on ESPs -- a result that could not only undermine each of these goals, but also hamper the full development and utilization of the Internet.[62]

To be sure, some enhanced services may be completely or almost completely intrastate in character, or their intrastate aspects may be capable of easy identification and separation from their interstate aspects.[63] For example, voice mail could be jurisdictionally intrastate, depending on its network configuration. For these services, and upon a proper showing, the ESP could properly purchase intrastate access (or local network) services, which would not be subject to the Commission's jurisdiction.[64]

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[62] Although the Commission might have authority to preempt such state regulation under the court decisions cited above, AT&T is not requesting such action and, indeed, does not believe there is any need or basis to consider such action here.

[63] *Cf. MTS and WATS Market Structure*, CC Docket Nos. 78-72, 80-286, Recommended Decision and Order, 4 FCC Rcd. 1352 (1989); *MTS and WATS Market Structure*, CC Docket Nos. 78-72, 80-286, Decision and Order, 4 FCC Rcd. 5660 (1989); *Petition of New York Telephone Co. for a Declaratory Ruling with Respect to the Physically Intrastate Private Line and Special Access Channels Utilized for Sales Agents to Computer New York Lottery Communications*, Memorandum Opinion and Order, 5 FCC Rcd. 1080 (Feb. 21, 1990).

[64] The Commission also seeks comment (¶ 315) on metering and billing issues, "given the difficulty of applying jurisdictional divisions or time-sensitive rates to packet-switched networks such as the Internet." With respect to the feasibility of requiring ESPs to pay access charges, metering and billing issues are red herrings. The only issue is how to measure local switching and transport, and the LECs have a system in place for measuring such usage. Indeed, ESPs would receive bills just as the IXCs do today. ESPs, in turn, are certainly capable of billing their customers on a usage-sensitive basis if they choose, as (continued...)

Finally, although the Commission clearly should regulate the prices ESPs pay for network access services, there is no need for the Commission to consider here whether to exercise jurisdiction over any of the services ESPs provide.[65] Indeed, if the Commission adopts cost-based pricing for all users of exchange access -- or at a minimum requires ESPs to pay TELRIC-based access charges -- there will be no need to explore substantive regulation of any services provided on non-traditional networks. The market incentives that cost-based pricing will generate for deployment of new high-speed technologies (provided meaningful local competition is permitted to develop) should send the appropriate signals to suppliers and customers. It would be especially premature for the Commission either to forbear from regulation of new services that constitute "basic" services under the Commission's current rules, or to impose traditional common carrier regulation on them.[66]

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[64] (...continued)
many have done in the past. Even today, many ESPs offer tiered usage plans. For example, America Online offers a Light-Usage Program that allows three hours a month for $9.95, and $2.95 for each additional hour. Prodigy, CompuServe and other providers have similar pricing plans.

[65] *See* NOI ¶ 316 (seeking comment on how new services such as Internet telephony (which appears to be a basic service), as well as real-time streaming of audio and video services over the Internet, "should affect its [the Commission's] analysis")

[66] The Commission also seeks comment (¶ 315) on whether it should distinguish different categories of enhanced and information services for differing regulatory treatment. The answer is no. ESPs use local switching and transport today, and therefore should pay the TELRIC cost of using those services, regardless how their services are classified. Indeed, it has become difficult, if not impossible, to distinguish between the existing regulatory classifications of "basic" and "enhanced" services in today's world of converging communications services.

CONCLUSION

The Commission has before it, in several related dockets, overwhelming evidence that the rational pricing of monopoly LEC network components will create the proper incentives to meet the requirements of the 1996 Act to promote competition in the local exchange and exchange access markets. This docket illustrates the wisdom of that mandate. By pricing the elements of the local network at their actual cost, all entities in the market will receive the proper incentives to upgrade existing networks, develop and deploy new networks and technologies, and build innovative new services to meet customer needs.

For the reasons discussed above, AT&T urges the Commission to issue a Notice of Proposed Rulemaking to eliminate the exemption from Part 69 access charges for enhanced service providers, establish TELRIC pricing for those providers, and adopt a presumption

that all enhanced communications are interstate in nature. AT&T neither recommends nor supports any "regulation" of Internet or online services at this time, and further recommends that the Commission not seek at this time to distinguish between different categories of information or enhanced services for different regulatory treatment.

Respectfully submitted,

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March 24, 1997

ATTACHMENT 1

Comparison of Alternative Access Service Technologies

ALTERNATIVE ACCESS SERVICE TECHNOLOGIES

Technology Comparison:
Probable Relative Capabilities & Limitations

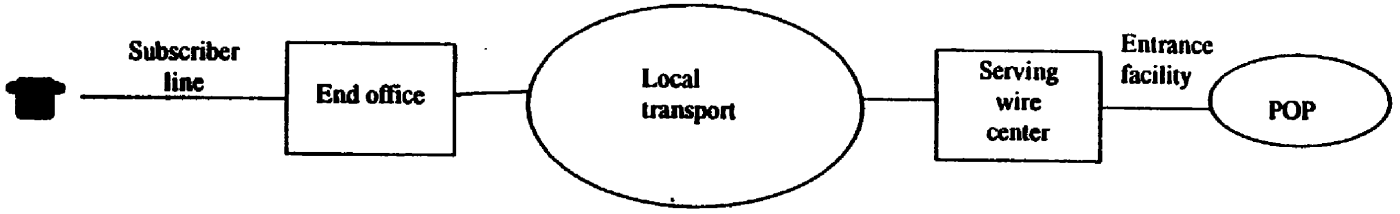
	[illegible]	ISDN	DSL	[illegible]	DBS	LMDS	MMDS
Downstream Bandwidth	Low	Medium	Very High	Very High	High	High	High
Upstream Bandwidth	Low	Medium	Very High	Medium	Low	Medium	Medium
Maximum Territory Coverage	100%	70%	60%	90%	85%	80%	85%
Range	3 mi	2 mi	3 mi	2 mi	U.S.	1 mi	10+ mi
Customer Cost	Low	Medium	High	Medium	High	Medium	Medium
Likelihood of widespread deployment	Exists	High	Medium	Medium	Exists	Low	Lower

ISDN - Integrated Services Digital Network
DSL - Digital Subscriber Line
HFC - Hybrid Fiber Coax
DBS - Direct Broadcast Satellite
LMDS - Local Multipoint Distribution Service
MMDS - Multichannel Multipoint Distribution Service

ATTACHMENT 2

Illustration of Access Elements and Costs

ILLUSTRATION OF ACCESS ELEMENTS AND COSTS



Current Access Rates: Average Costs (Cents per Minute)[1]

	Subscriber line	End office[2]	Local transport	Entrance facility	Total
IXC	CCLC = 0.78	LS = 0.92 Other TS = 0.12 TIC = 0.69	Combined = 0.28 per minute		2.79
ESP - with exemption	0	0	0[3]	Business line rates, depending on type of connectivity. 0.24/MOU according to CompuServe[4].	0.24+

Cost-based Access Rates: Average Costs (Cents per Minute)[5]

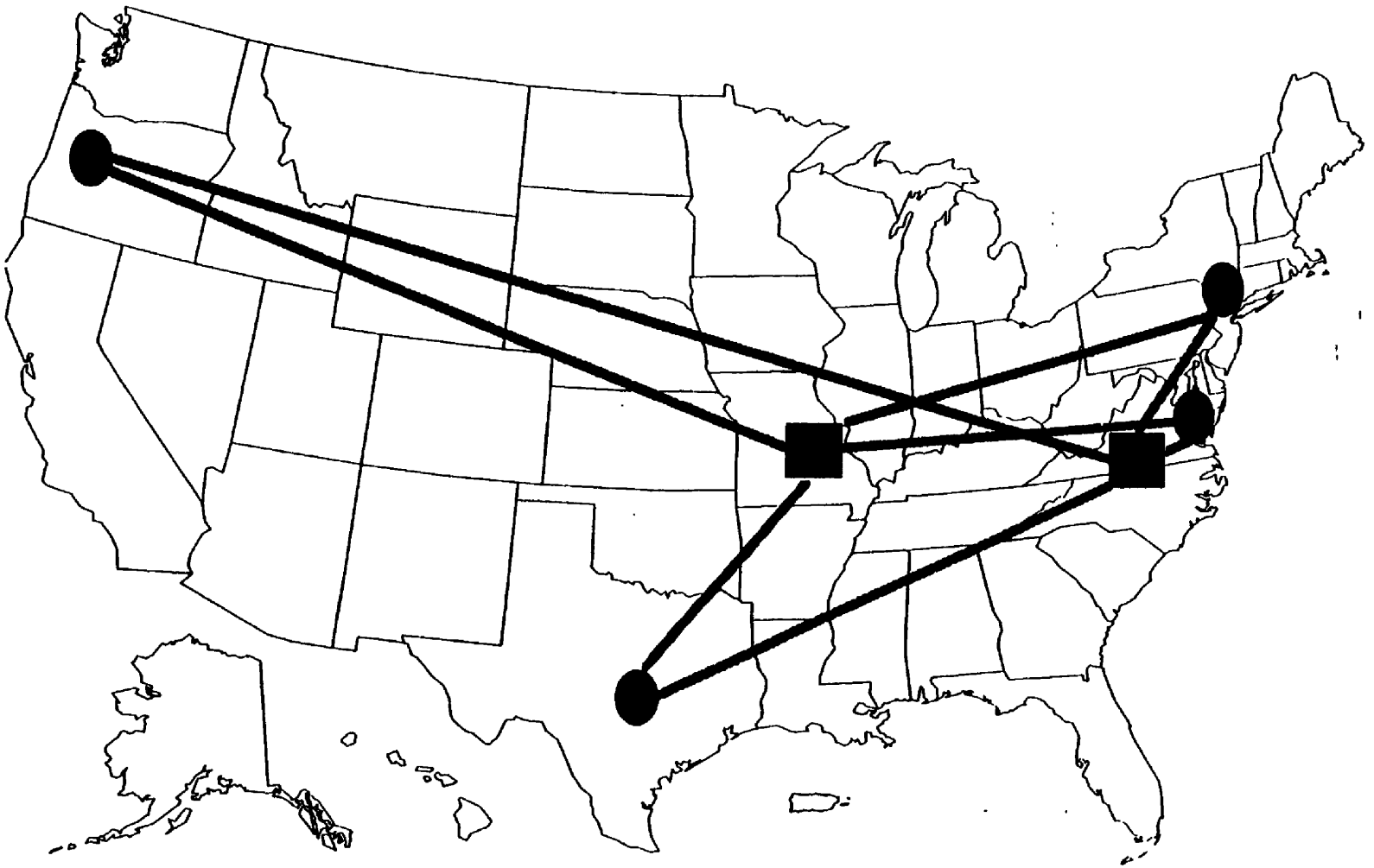
	Subscriber line	End office	Local transport	Entrance facility	Total
IXC	0	LS & signaling = 0.21	Combined = 0.17 per minute		0.38
ESP - with exemption	0	0	0 (See note 2)	Business line rates, depending on type of connectivity	0.24+
ESP - without exemption	0	LS & signaling = 0.21	Combined = 0.17 to 0.27 per minute[6], depending on the type of facilities and connectivity.		0.38 to 0.48

[1] Based on 1996 annual access filings of the RBOCs and GTE, and includes both usage and flat-rated elements.
[2] LS is the abbreviation for Local Switching; Other TS for Other Traffic Sensitive; and TIC for Transport Interconnection Charge.
[3] If the ESP and end user are not in the same local calling area, the ESP may purchase FX lines (at private line rates) to the end offices near its customers.
[4] Calculated from data presented in Comments of CompuServe and Prodigy in Docket 96-262, 1/29/97, pp. 10-11.
[5] Based on results from Hatfield model, version 3.1, for LECs with more than 100,000 lines.

ATTACHMENT 3

Diagram of AT&T WorldNet℠ Services Network

ILLUSTRATIVE DIAGRAM OF AT&T WORLDNET℠ SERVICES DIAL-UP NETWORK



■ Data Center/Web Svrs ● Representative Dial-up POP

CERTIFICATE OF SERVICE

I, Thomas A. Blaser, do hereby certify that on this 24th day of March, 1997, I caused a copy of the foregoing Comments of AT&T Corp. to be served upon each of the parties listed on the attached Service List by U.S. first class mail, postage prepaid.

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BellSouth Telecommunications, Inc.
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E3. CARRIER COMMON LINE ACCESS

E3.10 Rates and Charges (Cont'd)

A. The rate for Carrier Common Line Access is: (Cont'd)

1. Per Originating Access Minute (Cont'd)

		Rate	USOC	
(a)	BellSouth Telecommunications, Inc. - BellSouth SWA FGA, BellSouth SWA FGB, BellSouth SWA FGD, BellSouth SWA LSBSA, BellSouth SWA TSBSA 1 and BellSouth SWA TSBSA 3.	**$.01000**	**NA**	
(b)	Indiantown Telephone System - Feature Groups A, B, D, LSBSA and TSBSA Technical Options 1 and 3	**.0247**	**NA**	
(c)	For all other Independent Companies concurring in this Tariff	**.0304**	**NA**	

2. Per Terminating Access Minute

(a)	BellSouth Telecommunications, Inc. - BellSouth SWA FGA, BellSouth SWA FGB, BellSouth SWA FGD, BellSouth SWA LSBSA, BellSouth SWA TSBSA 1 and BellSouth SWA TSBSA 3.	**.01767**	**NA**	
(b)	Indiantown Telephone System - Feature Groups A, B, D, LSBSA and TSBSA Technical Options 1 and 3	**.0325**	**NA**	
(c)	Frontier Communications of the South, Inc. - Feature Groups A, B, D, LSBSA and TSBSA Technical Options 1 and 3	**.034420**	**NA**	(R)
(d)	For all other Independent Companies concurring in this Tariff	**.0382**	**NA**	

BellSouth Telecommunications, Inc.
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E6. BELLSOUTH SWA SERVICE

E6.8 Rates and Charges (Cont'd)

E6.8.2 Local Switching

A. Local Switching Rates and Optional Features

1. Per Access Minute

		Rate	USOC	
(a)	LS1 - ***BellSouth Telecommunications, Inc.*** ***BellSouth SWA FG***A and ***BellSouth SWA FG***B	$.00876	NA	(T)
(b)	LS2 - ***BellSouth Telecommunications, Inc.*** ***BellSouth SWA FG***C and ***BellSouth SWA FG***D	.00876	NA	(T)
(c)	LS3 - ***BellSouth Telecommunications, Inc. BellSouth SWA*** LSBSA and ***BellSouth SWA*** TSBSA 1	.00874	NA	(T)
(d)	LS4 - ***BellSouth Telecommunications, Inc. BellSouth SWA*** TSBSA 2 and ***TSBSA*** 3	.00874	NA	(T)
(e)	LS1 - Indiantown Telephone Company - Feature Groups A and B	.01150	NA	
(f)	LS2 - Indiantown Telephone Company - Feature Groups C and D	.01150	NA	
(g)	LS3 - Indiantown Telephone Company - LSBSA and TSBSA Technical Option 1	.01147	NA	
(h)	LS4 - Indiantown Telephone Company - TSBSA Technical Options 2 and 3	.01147	NA	
(i)	For all other Independent Companies concurring in this Tariff	.01770	NA	

2. Common Switching Optional Features (***BellSouth SWA FG*** Customers Only) [1] (T)
   a. Hunt Group Arrangement, available with ***BellSouth SWA*** FGA Per Tranmission Path Group (T)
   b. Uniform Call Distribution Arrangement, available with ***BellSouth SWA*** FGA Per Transmission Path Group (T)
   c. Nonhunting Numbers for use with Hunt Group Arrangements or Uniform Call Distribution Arrangement available with ***BellSouth SWA*** FGA Per Transmission Path (T)
   d. Automatic Number Identification /Charge Number,[2] available with ***BellSouth SWA*** FGB, ***BellSouth SWA*** FGC and ***BellSouth SWA*** FGD Per Transmission Path Group (T)
3. Common Switching (***BellSouth SWA FG*** and ***BellSouth SWA Basic Serving Arrangement*** Customers Only)[3] (T)

Note 1: These Common Switching Optional Features are not available for ***BellSouth SWA Basic Serving Arrangement***. See E6.8.2.A.4. for the appropriate BSE. (T)

Note 2: Charge number is applicable only to ***BellSouth SWA*** FGD. (T)

Note 3: References to ***BellSouth SWA FG***s will also include the applicable ***BellSouth SWA Basic Serving Arrangement*** as detailed in the matrix in E6.1.3.A. (T)

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E6. BELLSOUTH SWA ACCESS SERVICE

E6.8 Rates and Charges (Cont'd)

E6.8.1 BellSouth SWA Transport (Cont'd)

C. Switched Interoffice Channel - ***BellSouth SWA*** Common Transport (Cont'd)

1. Per Mile (Cont'd)

		Rate Per Access Minute	USOC
(a)	Zone 1	$.00004	NA
(b)	Zone 2	.00004	NA
(c)	Zone 3	.00004	NA

2. Facilities Termination

(a)	Zone 1	.00036	NA
(b)	Zone 2	.00036	NA
(c)	Zone 3	.00036	NA

D. Access Tandem Switching

1. Premium

(a)	Per Access Minute	.00050	NA

E. Interconnection

1. Rate

(a)	BellSouth	-	NA
(b)	Indiantown Telephone System, Inc.	.01552	NA

F. Installation of New Service

1. Line Side Service

		Nonrecurring Charge			Monthly	
		First	Additional	Rate	USOC	
(a)	Per Line	$285.00	$263.00	$-	TPP++	
(b)	Per Inward Only ***BellSouth SWA*** LSBSA Line for DID Service	285.00	263.00	-	TPP+1	(T)
(c)	Per Two-way ***BellSouth SWA*** LSBSA Line for DID/DOD Service	285.00	263.00	-	TPP+2	(T)
(d)	Per ***BellSouth SWA*** LSBSA Line with Answer Supervision	285.00	263.00	-	TPP+3	(T)

2. Trunk Side Service

(a)	Per Trunk or Signaling Connection	915.00	263.00	-	TPP++	