BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649-TP

In the Matter of:

INVESTIGATION INTO PRICING OF UNBUNDLED NETWORK ELEMENTS.
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PROCEEDINGS: SPECIAL AGENDA CONFERENCE

BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER

DATE: Wednesday, April 18, 2001

TIME: Commenced at 9:30 a.m.
Concluded at 4:00 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
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Chief, Bureau of Reporting

PARTICIPATING:

BETH KEATING and WAYNE KNIGHT, FPSC Division of Legal Services.

ANNE MARSH, LAURA KING, SUE OLLILA AND. DAVID DOWDS, FPSC Division of Competitive Services .

PETE LESTER, PAT LEE, FPSC Division of Economic Regulation .

DEMETRIA WATTS and GREG FOGLEMAN, FPSC Division of Policy & Interagency liaison.

PROCEEDINGS

CHAIRMAN JACOBS: Call the agenda to order. Do we need to read the notice, Counsel? We don't need a notice. No.

We are here on a significant item, Docket 990649-TP.

Staff, how would you like to proceed?

MS. MARSH: Excuse me?

CHAIRMAN JACOBS: How would you like to proceed? Do you want to introduce the item?

MS. MARSH: We are prepared to introduce the item, if you would like.

CHAIRMAN JACOBS: Go ahead.

MS. MARSH: Commissioners, we are here today to present staff's recommendation for unbundled network element rates for BellSouth. Some of the early issues in the recommendation are generic in nature dealing with pricing and costing philosophy, while other issues address specific inputs to BellSouth's cost model. Appendix A contains the rates which are produced by the model using the inputs recommended by staff.

The Telecommunications Act of 1996, Section 251(c)(3) requires an incumbent LEC to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

Section 252(d)(1) of the act specifies the pricing standards that are to be employed by a state commission in setting rates for unbundled neither elements. It provides that just and reasonable rate for those networks elements shall be based on cost of providing the network element, nondiscriminatory, and may include a reasonable profit.

Applying those standards, the staff has developed the rates contained in this recommendation. The rate proposals include rates for more than 20 categories of elements. This Commission has set rates previously for some of these elements, such as voice grade local loops, various types of DSL loops, and switching. There are also many elements for which you have not previously set rates. Some of those include subloop feeder and distribution elements, loop conditioning, signaling network databases and call-related databases, dark fiber, advanced intelligent network, and UNE combinations.

The staff recommends that you approve the rates contained in Appendix A. However, there are some areas where we recommend additional filings or other follow-up action. Some of those may require an expedited hearing to address what rate revisions and true-ups are appropriate. Although the rates today that are proposed are final rates, modifications may be needed at a later date as a result of the recommended actions. The issues affected are 3A, 4B, 7S, 7K, and 11.

We are prepared to address those now, or we can address them as we address each issue. We are prepared to go issue-by-issue or to answer your questions, however you prefer.

COMMISSIONER DEASON: Let me ask a question. You just listed those issues, could you list those again and tell me why you segregate those?

MS. MARSH: Issue 3A -- these are issues that will require later action if you approve staff's recommendation. Issue 3A, the staff recommends that BellSouth be required to submit a hybrid copper loop study, a copper fiber loop study within 120 days. We also recommend that BellSouth should submit modified versions of its xDSL nonrecurring cost studies that separate out the cost of providing certain items.

4B, staff recommends that the parties should meet in an attempt to negotiate a resolution of BellSouth's concerns pertaining to network reliability and inventory accuracy as it relates to network terminating wire and intrabuilding cable. The parties are recommended to report back to the Commission within 120 days the results of those negotiations.

Issue 7S, staff recommends that BellSouth should be required to refile its BellSouth loop model and associated BellSouth cost calculator within 120 days with all cable engineering and placement and supporting structures explicitly modeled.

Issue 7K, staff recommends that BellSouth be required in 120 days to explain certain anomalies that staff determined existed in the network interface device, or NID studies, and incorporate the changes in the refiled versions of the BellSouth loop model and BellSouth cost calculator.

In Issue 11, staff recommended that the next phase of BellSouth's mechanized loop makeup process be implemented no later than June 1, 2001, and that BellSouth should report to the Commission specifically what enhancements have been made and describe in detail the capabilities of the revised loop makeup system.

COMMISSIONER DEASON: Okay. Thank you.

Mr. Chairman, when you get a recommendation that is this length and the first nine pages is nothing but acronyms, you know that you are in store for a real treat. I would propose that we go issue-by-issue, but I think that there are some issues that we can probably move through rather quickly. There are some issues which I think have some policy implications that we probably need to discuss further. I also believe that some of the issues are interrelated. As we discuss some issues there are references made to other issues. One thing that drops out in my mind is Issue 7S, where a lot of things kind of get put into.

So, I think that we need to go issue-by-issue, but we need to be aware that the issue -- some of the issues are interrelated. It may necessitate that we may have to go back and revisit if we make a decision later on that impacts something we decided earlier, but I'm going to depend on staff to point out to us where those changes and reconciliations for consistency have to be made.

COMMISSIONER JABER: I would agree with that. But I would also add, I have questions about the appendix itself, and I didn't know the timing of asking those questions because I don't want to get through the recommendation and have the questions I have related to the appendix be already addressed to put us in the posture of reconsidering something. Does that make sense?

It's hard to tell from the appendix which issue the numbers relate to, so what is your preference? Do you want me to go through the questions I have related to the appendix, or can we all be flexible so that at the end if there are questions from the appendix that might affect a decision we have made in a previous issue we can --

COMMISSIONER DEASON: Let me ask this question. Are your questions on the appendix more clarification or do you think there are some policy questions within it?

COMMISSIONER JABER: Both.

COMMISSIONER DEASON: Both. Well, maybe you need to go ahead then and do the appendix section so we can get that out of the way.

CHAIRMAN JACOBS: Here is my thought. I can agree that there are some policy questions that probably -- but so much of what would happen in the appendix seems to be affected by what would happen in the substantive issues, so I would echo that same caveat that you gave about the issues themselves. But, yes.

COMMISSIONER JABER: Do you want me to give staff an example and maybe they can -- with a better, you know, specific example?

CHAIRMAN JACOBS: Go right ahead.

COMMISSIONER JABER: Here is an easy example. Page 649. It's all relative. There are easy examples and there are hard examples. On Page 649, A.19, loop testing beyond voice grade. BellSouth's proposed rates for nonrecurring, 122.47. Staff's proposed rates, 122.93. My question relates to why there is a difference. And if that is an appropriate discussion to have on a specific issue I can do that. What issue would that be? That's the kind of question I have.

And then on -- I think the more difficult question would be on Page 648. There is some reference in the recommendation about BellSouth changing its nonrecurring rate for loop conditioning in a brief, in their brief, and it refers to a letter that is not in the record. Staff's proposed rate is 343.12, which is lower than what is in the record, but not lower than what BellSouth is willing to provide. So those are the kinds of questions I have.

COMMISSIONER DEASON: Let me understand. Are you asking in every instance where staff is higher than BellSouth why they are?

COMMISSIONER JABER: Yes.

COMMISSIONER DEASON: Okay.

COMMISSIONER JABER: And those are the ones I caught.

I don't even know if there are other examples in the appendix where that might be the case.

COMMISSIONER DEASON: Perhaps let me make a suggestion. If we can go through and address the issues -- this is going to have to be rerun.

CHAIRMAN JACOBS: I agree.

COMMISSIONER DEASON: And I assume it's going to be brought back to us at some point. Perhaps at that point once we go through our first whack at the issues, so to speak, and we get another run, if there are -- maybe this is an improper term, but abnormalities, or the appearance of abnormalities within the results, perhaps then we could spend some time in trying to get clarification of those.

COMMISSIONER JABER: That is acceptable to me. Whatever is easier. Although I don't think this example is really an abnormality. Perhaps it's one of a legal concern, too. So don't let me forget to bring this back up at the end. Which is we have a document that BellSouth has submitted, it's not in the record, but they agree to a price that is lower than what was originally submitted. So how do we cure that? And we can come back to that.

CHAIRMAN JACOBS: That sounds like a consensus. I agree with that approach. So that takes us back to the issues themselves, and we'll agree that we can go issue-by-issue. That takes us then to Issue A.

COMMISSIONER DEASON: Mr. Chairman, unless there are questions, I move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: I didn't have questions. It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Issue A is approved. Issue B.

COMMISSIONER DEASON: If there are no questions, I move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Issue B is approved.

Issue C. I'm sorry, Issue 1.

COMMISSIONER DEASON: If there are no questions, I move staff.

COMMISSIONER JABER: Let me make sure. Second.

CHAIRMAN JACOBS: I had a brief clarifying question. Staff, on Page 40, the position is that forward-looking cost methodologies should be adopted. Does that entail the economic cost idea that was put forward by the ALECs? Essentially what they are saying is that a forward-looking methodology should give you marginal cost, plus some contribution, plus some common costs.

MR. DOWDS: I think at a high level in terms of what I will call costing philosophy they are in agreement, but the devil is in the details. I don't think they are fundamentally in disagreement as to the general methodology, but how it should be implemented is another matter.

CHAIRMAN JACOBS: Right. Because there are some subsequent issues where there are a lot of those details that are in dispute. So the idea that we accept a forward-looking costing methodology still leaves those issues very much in play as to how it all works out in terms of whether or not we have true economic costs, would you agree?

MR. DOWDS: Yes.

CHAIRMAN JACOBS: Okay. With that I have no other questions on it.

COMMISSIONER DEASON: We are on Issue 1, correct?

CHAIRMAN JACOBS: Issue 1.

COMMISSIONER DEASON: I can move Issue 1.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Opposed. Issue 1 is approved.

Issue 2A.

COMMISSIONER DEASON: Mr. Chairman, I have some questions on 2A.

CHAIRMAN JACOBS: Same here. You can begin, Commissioner.

COMMISSIONER DEASON: I will just get the ball rolling here. Staff, you are recommending that we use a methodology of deaveraging which in simple terms, as I understand it, you are using -- you're grouping rate centers or wire centers, rather, according to relative costs less than 100 percent, between 100 and 200 percent of average and over 200 percent of average.

MR. DOWDS: That is correct, sir.

COMMISSIONER DEASON: Okay. And we had testimony in the record that I think it was presented by Sprint, if I'm not mistaken, that they used a 20 percent distribution technique. If you could just describe that and then I may have some clarifying questions on that.

MR. DOWDS: Certainly. The basic premise of the Sprint proposal is that what I refer to as a 20 percent criterion should be used. And essentially what that is is that with respect to the rate for any zone, the cost of the wire centers included in that zone should not vary by plus or minus 20 percent of the resulting rate.

COMMISSIONER DEASON: Okay. Now, you have run -- taking that basic approach which is in the record, you have utilized that approach and come up with some numbers based upon -- I know the numbers themselves are based upon many other issues in here, but just as a frame of reference, can you provide us that result?

MR. DOWDS: Certainly. At the request of various offices earlier this week, I asked Mr. Fogleman to do an analysis based upon our cost results but employing the 20 percent criterion. And this was in a memorandum that was distributed to your offices on the 16th. The result of that analysis yields -- based on staff's recommended cost results, yields five zones. The Zone 1 rate comes out at $8.14, Zone 2 is at 12.80, Zone 3 at 17.20, Zone 4 at 30.60, and Zone 5 at 50.46.

With respect to Zone 1, the arithmetic application of the 20 percent criterion ends up that only four wire centers are included in that zone. And based upon the data in the record, our numbers indicate that approximately only 26,000 loops are in that zone. Which equates to .4 percent of the universe of loops.

Zone 2 consists of approximately, under this methodology, maps approximately 40 wire centers to that zone and those wire centers in total serve on the order of 1.9 million lines, or loops, rather, which is approximately 28 percent of the universe.

Similarly, Zone 3 maps the largest by far number of wire centers to that zone, and it maps approximately 110 wire centers and approximately 68 percent of the total loops to that zone.

The fourth zone only has 31 wire centers and fewer than 200,000 loops.

The fifth zone, as to be expected, has 11 wire centers, and our data indicated approximately 30,000 lines.

In contrast to these distributional amounts, the staff proposal, which has far less deaveraging, our Zone 1 rate, which for Nassau 1 is around 14.13, that zone under our approach includes approximately 83 wire centers out of the total of 196, and the Zone 1 mapped 83 wire centers and they serve approximately 3.9 million lines, or 59 percent of the total. Our Zone 2 maps about 87 wire centers using that technique, or 2.6 million lines which is around 40 percent. Zone 3 only has 26 wire centers, and these are under our approach the truly high cost wire centers. And it accounts for approximately 26 wire centers and 82,000 lines.

Given that there was interest from the various offices in alternative calculations, this morning at Commissioner Jaber's aide's request, I distributed a --

COMMISSIONER JABER: Mr. Dowds, can I interrupt you before you tell us about the updates so that I can have a clarification?

MR. DOWDS: Certainly.

COMMISSIONER JABER: You also in coming up with the zones and your groupings, you took out some cost that you thought was inappropriately included in those wire centers, right?

MR. DOWDS: No and yes. What we did is the rate calculations are based on our recommended loop costs. And in other issues, primarily input issues, we made -- we differed with BellSouth and/or the parties as to what the appropriate value of certain inputs should be. And notably, for example, depreciation, cost of capital, and the tax rates affect the recurring costs. Consequently, our recurring costs differ from those that Bell sponsored. So to that extent we will reduce the cost and thus our -- they filter through to our rates.

COMMISSIONER JABER: Okay. Thank you. You had an update?

MR. DOWDS: I'm sorry. We discerned that there was interest in alternative scenarios for deaveraging loop rates. Mr. Fogleman, at my request, performed some additional calculations. If you turn to the second -- I'm going to do this backwards, but bear with me. If you turn to the second page of the handout I distributed, at the top is the same numbers that were referred to as the 20 percent Sprint criterion. And what I asked Mr. Fogleman to do is to do an analysis where those first two zones were collapsed into one. And my rationale for wanting to see what that result would be is a straight application of 20 percent criterion only maps 26,000 lines out of 6-1/2 million to the first zone, which looks to my point of view somewhat odd to have a zone that narrow.

The result of the calculation I asked Mr. Fogleman to provide ends -- if you take the Zone 1 and Zone 2 wire centers under the Sprint proposal that we provided a couple of days ago and collapse them into one, you end up with one zone whose rate is approximately 12.74. There is some minor fine-tuning on these numbers, needless to say, and it contains 44 wire centers, which is approximately 24 or 25 percent of the total, and it has a total of roughly 1.9 million lines.

The Zone 2 rate under the calculation I asked Mr. Fogleman to perform is the same as the preceding Zone 3. It is still at 17.20, it still consists of 110 wire centers and 4.4 million lines. And similarly, the new 3 and 4 correspond to the previous 4 and 5.

The other calculation, which is a variation of the Sprint analysis that I asked Mr. Fogleman to conduct, goes one step further. And relative to the original five zone Sprint proposal -- or not Sprint proposal, but it's the outcome of applying that methodology -- is the third option collapses 1 and 2 and 4 and 5. The reasoning being that Zones 4 and 5 as originally computed total only have 42 wire centers.

COMMISSIONER JABER: Do you mean Zones 3 and 4?

MR. DOWDS: Yes, or the original 4 and 5. The result of that is that the new Zone 3 has a weighted average rate of approximately $33.22, consists of 42 out of the 196 wire centers, and has approximately 230,000 lines. So the result of that calculation is that Zone 1 consists of around 44 wire centers, Zone 2, 110, and Zone 3, 42. Viewed in terms of lines, it is approximately 1.9 million served in Zone 1, 4.4 in the resulting

Zone 2, and around 230,000 in the tail block, or Zone 3.

COMMISSIONER DEASON: I'm sorry, are you finished?

MR. DOWDS: I wanted to turn to the first page and explain what this is. As Commissioner Deason indicated, staff's technique was conceptually similar to what the Sprint witness was advocating. We first rank ordered the wire center costs from low to high. In the Sprint proposal they then basically determined where the zones were based upon the application of the plus or minus 20 percent criterion. What we did is in lieu of applying a formula-like approach is we basically tried to look at the dispersion of cost results implicit for the 196 wire centers. And, in general, our results indicated, as reflected in our recommendation, is that 170 out of the 196 wire centers have a cost that is less than or equal to 200 percent of the average, which basically implies to me that this is not a high cost company. It is somewhere in the middle in all likelihood.

Based upon looking at those data, that's why we admittedly exercised judgment and recommended a Zone 1 where the line was drawn for all of those wire centers whose cost was 100 percent or less than of the average, and in Zone 2 was 101 to 200 percent, and Zone 3 is basically the residual.

Interest was expressed in possibly having alternative proposals. The first page of the document I provided earlier this morning provides alternatives. The very first one at the top, where it is labelled .75 scenario, what that is is the Zone

1 consists of all wire centers whose cost is less than or equal to 75 percent of the average. Zone 2 is 76 percent to 150 percent. Zone 3 is 151 to 225, and Zone 4 is over 225 percent of the average. And these are not absolute numbers, but the resulting rates are approximately 11.54, 16.41, 28.58, 45.63. This results in a Zone 1 that has 21 wire centers as opposed to under staff's proposal on the order of 83. And it ends up putting 130 wire centers in Zone 2, 28 in Zone 3, and 17 in Zone 4.

I won't go through all of these, but just to give you another example is down two-thirds of the way there is a 4 Zone alternative which is based upon a break point of 85 percent. So Zone 1 is the weighted average of the cost of all wire centers whose cost is less than or equal to 85 percent of the statewide average, Zone 2 is 86 to 170, and Zone 3, 171 to 225 -- or 255, rather, and Zone 4 is over 255. And the rates there range from a Zone 1 rate of 12.39 to a Zone 4 rate of almost $53.

The corresponding wire centers range from Zone 1 mapping 37 wire centers, 108 in Zone 2, 25 in Zone 3, and 9 in Zone 4. The scenario on the very bottom differs from the one I just described only by collapsing the preceding Zones 3 and 4 into one.

COMMISSIONER DEASON: Thank you very much for that explanation. Commissioners, I think this is a very critical issue that we need to decide. And I have a concern -- first of all, I definitely have a concern and agree with staff with some of the shortcomings which were perceived with the deaveraging process that was employed by BellSouth. So I am in agreement that we should not utilize that deaveraging methodology. The question is should we adopt staff's as recommended within the main recommendation or should we look at some of the alternatives which have been proposed.

At this point I am reluctant -- it's my viewpoint, but I want some dialogue and feedback from fellow Commissioners. But let me just share my viewpoint. I am concerned with staff's recommended deaveraging. They have three zones. The first zone contains almost 60 percent of the total number of loops within that zone.

COMMISSIONER JABER: Right.

COMMISSIONER DEASON: It seems to be heavily weighted within Zone 1. The resulting rate of 14.13, while it is certainly -- by definition since it is Zone 1 it would be below the average, the average is 16.47. For it to be Zone 1 it doesn't seem to be that significantly below, amount below the average.

COMMISSIONER JABER: Right.

COMMISSIONER DEASON: I think one of the policy considerations that we need to consider is the degree of incentive, based upon cost, that we give to competitors to go into the low cost areas to go ahead and kickstart competition in those areas. Economics would indicate that that would be the area where competition should originate.

It would be wonderful if we lived in a world where given all of these costs everyone was eager to go in and compete even in the most expensive wire centers, but we know as a reality that is not going to happen. So I would like to have a result which indicates that we have a Zone 1 rate which is -- which is lesser than the 14.13 recommended by staff, which is lower, has a greater disparity between it and the average. I think that would be good for competition.

Staff has come up with various alternatives. I believe that we need to be cognizant of the fact that to the extent possible we need -- everything that we do today has got to be based upon the record. Obviously, though, we have got to have a certain amount of discretion. I am comfortable with Sprint's 20 percent criterion as staff has developed it. But also I realize the reality of things is that on the two extremes, Rate Group 1 and Rate -- I keep using the term rate groups. But whatever. Zone 1 and Zone 5, that the absolute number of loops within those zones are kind of like the tail end of a bell-shaped curve, and that it would be appropriate probably to group those in and to have a result of just three groups. And what the result of that would be would be staff's last alternative on Page 2. Which still has three zones, but I think what is significant is that in Zone 1 the resulting rate is 12.74.

Now, we know that rate is subject to change based upon other issues, but it just gives us a frame of reference. 12.74, which I would note is $1.39 less than what staff is recommending for their Zone 1. But according to the laws of math, you know, as a result, though, if you lower that rate you are going to have a smaller number of loops which fit within that zone. And that is the case. But we still have a very significant number of loops within Zone 1. We have almost 2 million loops. I think staff has calculated 1.9 million that fit within that category.

And just doing some back of the envelope math here, if you take the difference of staff's recommended Zone 1 rate of 14.13, the difference between that and the Zone 1 rate with staff's last alternative, there is a difference of $1.39, and these are monthly rates. So if you multiply that by 12 you get a yearly rate of almost $17 a year. And if you multiplied that by 1.9 million -- I didn't do that calculation by hand, but I would assume it would be in the neighborhood of something like $32 million.

So you are talking about reducing the cost for competitors to come in and provide service within -- for loops within Zone 1, for those wire centers of about $32 million, which I think is significant. And the number of lines which would be affected are significant.

When we go to Zone 2, that is where the bulk of the lines are. And, here again, if you go back to the theory of a bell-shaped curve that probably would be what you would expect. The rate would be 17.20, which is only 1.04 percent higher. Let me see, 1.04 is the ratio of that rate to staff's recommended 16.47. So even though it is Zone 2, it is only slightly higher than staff's recommended average.

And then there is Zone 3, some 230,000 access lines or loops within that zone, with a high rate of 33.22. That is a high rate, but realistically I don't think that we are going to expect competition within those wire centers any time soon. And in all honesty, to get competition in those areas we may have to have some type of universal service fund or something of that nature. But that is a debate for another day.

So, what I would suggest is that we consider deviating from staff's recommendation, look at a distribution -- I would still prefer the three zones. I think there is administrative ease in just having three zones, and I think that we can accomplish hopefully some of the kickstart effect by utilizing Sprint's 20 percent criteria as it has been collapsed by staff. So those are my thoughts.

COMMISSIONER JABER: Well, Commissioner Deason, you will be pleased to know that is the one I circled. So I'm there. But I would also add to what you said that even though it is not likely and we don't have great hope that there is an immediate competitive effect on those high cost zones, I think that it will happen quicker with a zone that reflects 33.22 versus 50.46.

And, staff, I think you did an outstanding job on the iterations. But when I saw the 50.46 I thought to myself, why would anyone go to Zone 5? Or actually that is Sprint's proposal, and staff's was 41.94. And I thought the same thing. We will definitely see competition in Zone 1 and perhaps in Zone 2, but not in the high cost zones. And I think that the new proposal evens that out a little bit, and then adds the advantage of the lower Zone 1 price. So I'm there. I mean, I think to get this moving along I would certainly support, if you wanted to make a motion, the bottom scenario.

COMMISSIONER DEASON: Well, Mr. Chairman, I don't want to do anything -- I want your input, as well, but, I mean, I'm comfortable with that.

CHAIRMAN JACOBS: Great.

COMMISSIONER DEASON: And hopefully you are, too, but I would like to listen to what you have to say.

CHAIRMAN JACOBS: Thank you. I'm encouraged to hear the dialogue, and I think it takes us very much in the direction where we need to go on this issue. I was very taken by the analysis, as is the case throughout this whole, this whole docket. Staff is to commended because these are not lightweight issues. Very complex, very involved. But what I would like to take note of are two things. What are we called to do and what are the criteria that apply to how we do it.

In the recommendation it states that the FCC requires three zones, at a minimum I should say three zones. You can have more. But then as stated by the recommendation and as iterated by witnesses, there are cost issues that are to drive that. And the thing that took me to the rationale of following the Sprint proposal is while BellSouth does look at costs somewhat, it is more looking at what their retail rate zones would be.

We tried to focus more and more precisely on the cost dispersions with a specific goal, that in a zone you not disincent in a disproportionate fashion emerging companies going into a zone for competitive purposes. And I think the proposals that are before us do an effective job of reaching that objective. And I will particularly note on Page 49 of the recommendation in the first paragraph staff makes the finding that Sprint's proposal comports with the FCC's deaveraging rule. However, staff chose not to adhere to that proposal because it felt that this 20 percent criterion was too narrow.

I think that is absolutely a discretion that they have. But what I hear us saying is that we are exercising discretion that that 20 percent margin is not too narrow. That we are comfortable with the idea that if you adopt that criterion that it will result in a more -- in an environment that is more conducive to competition in the greatest number of wire centers possible.

And I think the results that are in the example that you have identified, Commissioner Deason, seem to go there. I, quite frankly, could even go further. But I agree -- the issue that you cited in the proposal for five zones, I think I would agree that that is probably a bit extreme, so I can go along with the idea that while we are not increasing the numbers of lines too dramatically, the prospect of competition in both of those two zones that were in the five zones is going to be about the same.

The prospect for competition if you were to go with the five zones up top will be about the same. And we are probably even improving it somewhat. But ultimately the whole question will come down to whether or not we address a question of a universal service fund in the state. But I think the option that you have looked at is very much in line with what the objectives of the Act are, and I think reasonable with our objective to promote competition.

COMMISSIONER JABER: Let me ask one question of staff, Commissioner Deason, before you make a motion. The Sprint proposal, is it consistent with what staff did with eliminating costs? You took out depreciation and cost of capital costs before you arranged your wire centers, right, David?

MR. DOWDS: Yes. The wire center costs that were aggregated in different approaches were all based upon staff's recommended results.

COMMISSIONER JABER: Okay. Since we are using the Sprint proposal as a foundation, I am assuming we will end up agreeing with the proposal at the bottom of your revised chart. But before we do that, is what Sprint did consistent with what you did with removing costs? Do you know?

MR. DOWDS: I guess the short answer is no, because there were issues that were in Issue 7 through whatever which Sprint didn't file testimony on some of the issues. There were certain issues that they did file testimony and they may have differed, and probably did, I don't know, from the conclusions that staff ended up with.

COMMISSIONER JABER: We just don't know, then?

MR. DOWDS: But Sprint never -- they had selected testimony on certain inputs issues primarily, and the key testimony was on this deaveraging methodology, but they never sponsored their own numbers.

COMMISSIONER DEASON: And that is what we are voting on here is the methodology. We realize that the numbers themselves are going to be impacted by a whole array of other issues that we will get to today and maybe some 120 days plus from now. But what we are doing here is a methodology. And, staff, I know it wasn't your first original recommendation, but I think that it is supported in the record and I hope that you are comfortable. If you have any extreme reservations, voice them now or forever hold your peace.

MR. DOWDS: No. We don't have any problems with it, sir. May I make one minor, just a suggested wording? This is --

the proposal that Commissioner Deason and Commissioner Jaber are advocating is not strictly speaking the Sprint. It is a modified Sprint approach.

COMMISSIONER JABER: No, it's ours if we --

MR. DOWDS: Yes.

CHAIRMAN DEASON: Right, I understand that. I know that you have taken it and utilized some discretion, and we have collapsed some zones and that sort of thing. But the 20 percent basis for at least the initial phases of this calculation are in the record and that gives me some comfort.

MR. DOWDS: Yes, sir.

COMMISSIONER DEASON: And I see counsel shaking her head affirmatively. Okay. Given that, Mr. Chairman, I would move that for Issue 2A that we would adopt staff's modified calculation using the Sprint 20 percent criteria. And it is contained on the sheet which staff has given us, which is entitled Sprint scenario, collapsing original Zones 1 and 2 into Zone 1, and collapsing original Zones 3 and 4 into Zone 3.

COMMISSIONER JABER: And I would second that.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 2A is approved as modified. Do we need to do anything to make this official, or you can just incorporate this into the order?

MS. KEATING: We can just incorporate that into the order. Essentially the discussion that you have had lays the basis for us to get it in there.

CHAIRMAN JACOBS: Very well. Commissioners, that takes us to Issue 2B.

COMMISSIONER DEASON: Unless there are questions, I can move staff.

COMMISSIONER JABER: I'm sorry, Commissioner Deason, let me go back for one minute. Legal, there is some case law that supports the Commission exercising its discretion and extrapolating information from the record, and I would ask that you incorporate that into the order, please.

MS. KEATING: Okay. Certainly.

COMMISSIONER JABER: I'm sorry, Commissioner Deason.

COMMISSIONER DEASON: I was just saying if there are no questions on Issue 2B, I can move staff.

COMMISSIONER JABER: I can second that.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Issue 2B is approved.

Issue 3A.

COMMISSIONER JABER: I have questions on 3A.

COMMISSIONER DEASON: Are we going to take 3A and 3B together?

MS. LEE: The staff recommendation addresses both of them together.

CHAIRMAN JACOBS: I think -- if it's okay, I think we can probably discuss them both together. They seem to be sufficiently interrelated.

COMMISSIONER DEASON: Very well.

COMMISSIONER JABER: The foundation question is -- staff, tell me what BellSouth's local rates are? Give me a range.

MR. DOWDS: I know Rate Group 12, I believe, used to be 10.65 and they just increased it 1.5 percent, whatever that would be. So it is about 10.80 is their highest rate. And their lowest I think is in the 8s.

COMMISSIONER JABER: Okay. That is residential, and what is their business?

MR. DOWDS: I'm sorry, I don't have that information. I believe it's on the order of probably low 20s to high 20s for a B-1.

COMMISSIONER JABER: So if I just wanted to be realistic and say that UNE prices, loop prices are not going to get below $10.80 for residential, is that a correct statement?

MR. DOWDS: I'm sorry, I didn't hear you.

COMMISSIONER JABER: Is it possible for UNE prices to get below 10.80?

MR. DOWDS: Only if you price at the wire center level.

COMMISSIONER JABER: What does that mean?

MR. DOWDS: If you had distinct prices based upon the cost of providing the average loop of Type X on a wire center-by-wire center basis, which means if you had --

COMMISSIONER DEASON: If you had 196 zones, right?

MR. DOWDS: Yes, 196 rates; one for each wire center, then you could have a rate below 10.80.

COMMISSIONER JABER: Okay. And then the specific questions are on Pages 85 and 86. We discussed this a lot at the hearing with respect to what kind of loop the ALECs could order and who would take the risk of the quality of the loop being sufficient. And I think if I understood staff's recommendation correctly, you agree that it is the ALECs' right to buy whatever loop they want, even an S-1 loop, is that correct, David?

MR. DOWDS: Yes.

COMMISSIONER JABER: But I have a concern with respect to the data ALECs' allegation that BellSouth could roll that SL-1 loop into a fiber loop and that would disconnect the DSL service to the ALEC customer.

MS. LEE: That's correct. And that's why as part of the recommendation for the nonrecurring cost study modifications for BellSouth to propose what it would cost or a rate for that guarantee that that loop will not be rolled to fiber.

COMMISSIONER JABER: You're asking for that, or are you asking for BellSouth to give us a cost study on the hybrid copper? Is that the same thing?

MS. LEE: No. The cost study for the hybrid copper fiber loop is for recurring costs. Then we are asking for modifications to the nonrecurring cost study that includes almost -- the idea is to give the ALECs a menu of options. If you want the designed loop, that is X dollars. If you just want the test points, if you want the design layout record, if you want the guarantee that you will not be rolled to fiber. Individually price these options so that the ALEC can choose which ones they would like to have. They would be nonrecurring costs.

COMMISSIONER JABER: Why is there a charge associated with just tagging that loop so that if the ALEC chooses to, you know, select the S-1 loop, that is their right, have the Bell company just tag that particular loop. Is there a cost associated with that?

MS. LEE: And that I don't know, because I think the way we phrased it was for BellSouth to submit a cost for that, if any, and we will look at that and look at the derivation of that.

COMMISSIONER JABER: What do they do now?

MS. LEE: Right now for a DSL loop my understanding is that it is tagged in the field.

COMMISSIONER JABER: It is tagged.

MS. LEE: Yes.

MR. DOWDS: But not SL-1s.

COMMISSIONER JABER: Are they providing SL-1s?

CHAIRMAN JACOBS: I'm sorry, what did you say again?

MR. DOWDS: But our understanding is they don't do that for SL-1 loops.

MS. LEE: Correct. Remember, if you go into the database the only thing that they can't purchase now or look for now is one of BellSouth's DSL packages. Whether its ADSL, HDSL, UCL long, UCL short. You purchase the package which comes with a recurring rate. And the nonrecurring rate which guarantees the loop is the way that you want it, it comes with the test points that they can go out and shoot for trouble. It comes with the guarantee it will not be rolled to fiber because it is that designed loop.

COMMISSIONER JABER: Pat, help me understand why we are not -- is there anything wrong with my making a motion that an SL-1 loop could be provided, tagged by BellSouth, and allowing BellSouth to come in later and saying, you know, there is too much of a cost associated with this, as opposed to the opposite where we are suggesting that BellSouth give us a cost study, then we will look at tagging and hybrid copper and --

MS. LEE: I don't think there is a problem with that. Right now in LFACS, though, they cannot order and reserve an SL-1 loop. I think that comes up in Issue 11, if I'm not mistaken, where the staff recommendation is for that portion of LFACS to be up and running by June 1st.

COMMISSIONER JABER: I follow that.

MS. LEE: We are here at the end of April, it's not going to be too much longer. But at that point the ALEC conceivably would be able to go into LFACS and order and reserve an SL-1 loop. There is nothing wrong at least in my opinion with you saying that there would be no charge for that tagging and let BellSouth come in.

COMMISSIONER JABER: And petition for it later or something like that?

MS. LEE: Uh-huh.

COMMISSIONER JABER: If they tag loops, and maybe I just don't understand if the loops are all in one place, and if BellSouth is tagging loops for their own use, why they can't go ahead and tag SL-1 loops.

MS. LEE: I think that was one of the reasons why we said put this in your nonrecurring cost study and let us see what you have to say. Because we weren't sure, either.

COMMISSIONER JABER: I would be interested in doing that, Commissioners, just to give you a heads-up.

CHAIRMAN JACOBS: One quick question. You say you want to tag it so that they can't roll it up into fiber.

MS. LEE: Correct.

CHAIRMAN JACOBS: I seem to recall a mention somewhere that they might also come back and put a DLC on this loop, as well.

MS. LEE: That is the rolling.

CHAIRMAN JACOBS: That is what this is?

MS. LEE: Right. Your DSL technologies right now are provided over an all copper loop, which is different from an SL-1 voice grade loop. A voice grade loop, remember, can work over fiber, it can work over copper, it can work over a hybrid. But you put DSL over a SL-1 loop, your voice grade loop, if the company goes over and puts a DLC in there, your DSL will no longer work.

CHAIRMAN JACOBS: So this would tag it so that that doesn't happen, as well.

MS. LEE: Right.

COMMISSIONER JABER: My concern is that there isn't a disruption of service to the customer.

MS. LEE: Exactly.

CHAIRMAN JACOBS: Okay. Great.

COMMISSIONER JABER: And we -- well, it's outside of this record. Well, no, there was testimony in this record by the ALEC witness that consumers have complained about DSL disruption. Wasn't there testimony that BellSouth has, in fact, rolled the copper into fiber and that created some disconnection of service?

MS. LEE: I do not remember that specifically. I know there was discussion regarding service quality and who was at risk for it. And I think there was some BellSouth witnesses saying that if an ALEC chose an SL-1 loop and provided DSL service, if something happened and there was a problem with that DSL service, sometimes the ALEC might go back to BellSouth and say, you know, fix this problem. In which case BellSouth would be saying, you ordered -- you have bought an SL-1 loop, we will maintain it as far as voice grade loop goes. Because at this point there is nothing in there that as far as for an SL-1 loop that it cannot be rolled. Does that make sense?

COMMISSIONER JABER: Yes. Are there any questions?

CHAIRMAN JACOBS: This is in reference to your analysis on Page 85 of the recommendation.

MS. LEE: Yes, sir.

CHAIRMAN JACOBS: It sounds like -- and this is the second full paragraph. It sounds like in this revised or modified cost study, given how the assumptions would work, it would be -- you were saying it would be reasonable for these shorter length digital loops to come back with a lower recurring -- is it recurring or nonrecurring, I'm confused on that?

MS. LEE: On a recurring cost --

CHAIRMAN JACOBS: Right.

MS. LEE: -- recurring price, yes. The price of loops is distance sensitive, especially with copper. The shorter the loop, the less the cost. HDSL is your shortest loop length and it would make sense it would have the lowest price.

CHAIRMAN JACOBS: Okay.

COMMISSIONER DEASON: Staff, you need to help me for a moment. I'm trying to reconcile the -- not that there is a difference, I'm just trying to understand the relationship between your recommendation on this issue and the recommendation on Issue 7A. Okay. I think there is a relationship here, and I'm trying to understand what that relationship is.

Issue 7A deals with network design. The three scenarios that BellSouth came up with within their cost study. Someone explain to me the relationship between these two issues.

MR. DOWDS: It occurred at the hearing that there were conflicting paradigms as to what constitutes an xDSL capable loop. When BellSouth filed its loop cost study results, it used its loop model and ran three different scenarios. The first scenario is called BST 2000, and it assumes that the provision of UNE loops will be one at a time, essentially provided on a stand-alone basis to a LEC. Or, I'm sorry, to a CLEC, where the CLEC would get access to the unbundled loop at the main distribution frame.

A second run they did is called the combos run. And there are two types of combos, and I'm trying to remember what they are. One of them is a two-wire voice grade loop/port combination, and the other one I don't recall, that they can actually provide at a lower price than is indicated in the BST 2000. And it is because with this particular kind of loop/port combination, they don't have to demultiplex at the central office from a digital to an analog signal. In contrast, the modeling assumption in the BST 2000 is that the handoff of the unbundled loop is at the analog level.

The third scenario they did was a copper-only scenario. And what they essentially did is they made one change to the inputs. There is a variable called the fiber/copper breakpoint. And in the BST 2000 that variable is set at 12,000 feet. What that means is if a loop exceeds 12,000 feet then that is the point at which digital loop carrier equipment begins to be installed.

What they did in the copper-only run is they set -- they changed it from 12,000 feet to a million feet to generate an unlimited length copper only loop. And the reason they did this is there was testimony that some CLEC asked for a copper loop length -- a copper loop of unlimited length. So unfortunately they gave them what they asked for as opposed to what they probably wanted.

Putting that aside, how does this tie into the DSL issue? The DSL loops offerings, the bundles as Ms. Lee refers, that BellSouth is proposing in this docket are copper-only loops. In contrast, it came to arise during the hearings that --

COMMISSIONER DEASON: Now let me interrupt for just a second. For Issues 3A and B, the assumption is that these are copper-only loops, that there would not be required any type of conditioning for them to be able to provide the services as described?

MS. LEE: You may have to provide conditioning over the loop, but these are all copper loops. And they may have bridge tap on them, they may have load coils. The company may have to go through and ask for the loops to be conditioned.

COMMISSIONER DEASON: So depending on their length they may have to be conditioned.

MS. LEE: Correct.

MR. DOWDS: Let me clarify Ms. Lee's comment. If the CLEC ordered an SL-1 that they wanted to use for xDSL, it may need to be conditioned. If they order one of BellSouth's as it were packaged loops, like an ADSL loop, it has already been conditioned. It is guaranteed to have certain characteristics.

COMMISSIONER DEASON: Okay. So that when they order it, it is guaranteed to have those characteristics.

MR. DOWDS: Right. And it has presumably already been groomed, I think.

CHAIRMAN JACOBS: But isn't that a point that the ALECs contended with that --

MS. LEE: That was one of the concerns the ALECs had, correct, that number one -- well, several concerns. Number one, they didn't want to be locked into BellSouth's packages on ADSL; number two, they did not need the designed loop. The designed loop comes with the package. You want the ADSL service and you buy the ADSL package which comes with the designed loop, which includes the order coordination, the test points, the design layout record. And as Mr. Dowds said, the conditioned loop. And if you buy the ADSL package, or the HDSL package, it is correct that BellSouth then guarantees that that service will work.

CHAIRMAN JACOBS: Right. The issue -- and the reason I wanted to bring this out is the issue seems to imply that a DSL loop necessarily must be packaged in a given way. But as you look at it more carefully what the issue really is is how does BellSouth anticipate maintaining that loop going forward. And correct me if I'm wrong, but the DSL can be provided over a whole range of specifications on a loop. The reason there was this aggregation or variation of DSL offerings was because of how they would be maintained going forward. If BellSouth sells a loop that has these conditions on it, then it's going to maintain those conditions on that loop going forward. If it doesn't, then it won't going forward. Is that a fair statement?

MS. LEE: When you purchase the designed loop in one of those packages, yes.

CHAIRMAN JACOBS: They are going to maintain it as a designed loop.

MS. LEE: BellSouth will maintain with it those specifications and that technology. Yes, they will.

CHAIRMAN JACOBS: But if you don't purchase a designed loop, you can still do DSL over that loop, it just won't be maintained to the specifications that may be necessary.

MS. LEE: Exactly. The risk then shifts from BellSouth maintaining it or being responsible for the --

COMMISSIONER JABER: ALEC.

MS. LEE: Pardon me?

COMMISSIONER JABER: Or the ALEC.

MS. LEE: Right.

COMMISSIONER JABER: And there is plenty of testimony in the record that the ALEC is willing to take that risk.

MS. LEE: Exactly.

COMMISSIONER JABER: But at the very least they want that loop tagged. Which brings me to where I was in the beginning. If there is no problem tagging that loop, or if there is agreement that there is plenty of testimony in the record that the ALECs are willing to assume the risk if they order the SL-1 loop and it is not maintained by Bell, is there anything wrong with allowing that to happen at the ALECs' risk, but adding the requirement on BellSouth to tag DLS-1 loops? And if it becomes too costly or burdensome, then BellSouth can petition us with a cost study and -- well, they can petition us for a cost and show us the cost.

MS. LEE: I don't see a problem with that. There is certainly nothing in the record that would substantiate a cost.

COMMISSIONER JABER: And I guess that is exactly why I reached the conclusion I did. That if there is nothing in the record to substantiate the cost, why not require it and let them come back and tell us what the cost is. I don't want to assume there is a cost if the record is silent. There might not be a cost. Maybe that's why they didn't present testimony in that regard.

COMMISSIONER DEASON: Okay. If I may, if we could go back to trying to coordinate at least in my own mind the relationship between 3A an B and 7A. For purposes of Issue 3B, you just indicated that the assumption was that these were copper-only loops, correct?

MR. DOWDS: Right.

COMMISSIONER DEASON: Okay. Now, what are the length limitations on these loops which are implied or assumed within Issue 3B?

MS. LEE: I could answer that, Commissioner. If you look on Page 58 and 59, these are all the packages that BellSouth offers. And your HDSL, no more than 12,000 feet. Your ADSL --

COMMISSIONER DEASON: Let me cut you short. There are length limitations?

MS. LEE: Oh, yes.

COMMISSIONER DEASON: Okay. Now, carry me back to Issue 7A, where there is a copper-only run within the network design component of the cost study which basically throws out the length limitation so that you have a copper-only network.

MR. DOWDS: Yes.

COMMISSIONER DEASON: I'm trying to reconcile this.

Explain to me how I reconcile it?

MR. DOWDS: Fundamentally, the only reason they did that copper-only run where they set the breakpoint so it is unlimited is to get the investment associated with the unbundled copper loop long. You can basically -- by changing the fiber/copper breakpoint for the other xDSL loops --

COMMISSIONER DEASON: Let me interrupt you.

MR. DOWDS: Okay.

COMMISSIONER DEASON: For unbundled copper loop long, okay, who needs that and why would they need it if it is so prohibitively expensive to run copper that length?

MS. LEE: Certainly the technology doesn't exist today.

COMMISSIONER DEASON: I mean, if you were designing a network you would not do that. You would use -- you would use some type of digital loop carrier or something, some other technology other than running a copper loop some of these lengths that this cost study indicates, is that correct?

MS. LEE: Yes, yes. Witness Murray, the data ALEC witness, I mean, she was saying that typically today, I think DSL is -- a maximum of 21 kilofeet will work.

COMMISSIONER DEASON: What I'm trying to ascertain is what is the relevance of this copper-only component, the scenario within the cost study, how does it influence the cost? Are we inflating the cost unnecessarily by making this assumption?

MR. DOWDS: The copper-only run essentially has no bearing on anything other than the copper-only loop long.

COMMISSIONER DEASON: So you are saying that that component, that whole scenario is run just to get a cost for one UNE?

MR. DOWDS: Essentially, yes, with one caveat. And the caveat is if you wanted to determine the cost of a copper-only ADSL loop, what you would do is you would go -- you could just go into the BST 2000 run and redo it setting the breakpoint, and set it for 12 at 18, 18,000 feet. And then what you would do is you would conceptually sort the results and pull out all of the copper loops that are 18 kilofeet or under, and that is your universe of loops for determining an average cost for an ADSL loop.

COMMISSIONER DEASON: Okay. Why didn't BellSouth do that? You think that is the preferable way?

MR. DOWDS: It's really six of one or half a dozen of the other. But the only reason they had this unlimited loop was for the UCL long. Now, I'm not -- I don't recall offhand, but I suspect what they may have done is they may have partitioned the results of that run at 18 and then 12 as surrogates for an ADSL or UCL short, or at 12 kilofeet for the HDSL. But my only point was they didn't have to do a separate run to do that, but they did have to do something where they changed the breakpoints or sorted so they end up with a subset of the loops constructed.

Now, the confusion over in Issue 3A is there is -- it appears that there is two things the data CLECs want. One is they want to buy nice clean well-behaved copper loops, and they want to order them as an SL-1, and they don't want all of this design stuff. The second thing they wanted apparently is they want to be able to order what we referred to as a hybrid fiber/copper loop. And essentially what they really want to do is as follows, you may have heard over the last few months there is something called Project PRINO (phonetic), which SBC is -- it's a deployment project.

And what they're doing is they are essentially redesigning their outside plant and they are putting in certain kinds of whizbang next generation digital loop carrier equipment -- which apparently, and we don't have any record evidence on this in terms of the details -- allows for certain DSL services to be provided through a carrier system. That is the exception rather than the rule. And the data CLECs want both. In other words, they want to be able to order copper loops, they want to be able to order a quote, loop, which may extend through a carrier system back to a central office. Our record will not allow us to determine what the cost would be of what we refer to as this hybrid fiber/copper.

So in Issue 7A what we said was given the scenarios and the purposes for which BellSouth did those three scenarios, we said it was reasonable. We note in 7A and also in 3A, however, there was something that some people wanted whose costs we could not determine. Namely what the cost would be for a DSL capable loop which extends from an end user premise through a carrier system and presumably back to a central office where it would be picked up by a data CLEC. We don't know how to determine the cost of that because we don't know --

COMMISSIONER DEASON: That's what you want filed.

MS. LEE: Right.

COMMISSIONER DEASON: Is that correct?

MR. DOWDS: Yes. That is the --

MS. LEE: 120 days recurring cost study.

COMMISSIONER JABER: On the hybrid? I'm sorry, I couldn't hear.

MS. LEE: Yes. The hybrid fiber/copper loop.

COMMISSIONER DEASON: Okay.

MR. DOWDS: Because intuitively I don't think we even have a reasonable surrogate that we can come up with in this record.

COMMISSIONER JABER: Commissioner Deason --

MR. DOWDS: Because we just don't know how it would be provisioned.

COMMISSIONER JABER: -- do you think we should take up a motion for 3A and 7A together, or are you not done asking questions?

COMMISSIONER DEASON: I believe I'm finished on 7A. If you would give me just a moment.

CHAIRMAN JACOBS: I have some questions on 7A. Unless you want to do a joint motion, I can wait until we do it in order.

COMMISSIONER DEASON: Well, I assume we will get to 7A in due course. I just felt like there was a relationship between the two issues, and I was trying to understand what that relationship is. Explain to me if -- in reviewing the record, it appeared to me that the ALECs were very concerned about Bell's use within its cost study of this copper-only scenario. Now, did I misapprehend that or not?

And if there was concern about that, why were they so concerned if you are indicating to me it was only done for one loop element, an unbundled copper loop long, which I assume if it is a long copper loop it is tremendously expensive and nobody is probably going to use it anyway. So explain that to me.

MR. DOWDS: It's not completely clear, but under at least one interpretation it appears that what the data CLECs want is a single price for any loop regardless of how it is provisioned over which ADSL could be provided. In other words, I think they want a hybrid fiber/copper and copper loop or something. They want a single price. It's the only price they ever have to worry about.

MS. LEE: That is correct. They would like to -- they want the price of an SL-1 loop and they can provision any DSL service over it that they can. They want to pay the price of an

SL-1 loop for anything.

COMMISSIONER DEASON: I can understand that. But I guess the question becomes then if they order an SL-1 loop they may not be able to provision the service they want to provide.

MS. LEE: Absolutely. And that is where the data ALECs were saying that is our risk. We know what the technical specifications are, we know what the --

COMMISSIONER DEASON: Let's back up a second. I understand that. If that is what they want, well, then why are they so concerned about Bell's use of a copper-only scenario within its cost study?

MR. DOWDS: Because they want a loop which will also operate through a carrier system. To digress a moment --

COMMISSIONER JABER: But the SL-1 loop does not do that.

MR. DOWDS: Well, yes, it does. But let me get back to your point, Commissioner. ADSL. The limiting factor generally is that the distance from the end user to the DSLAM, digital subscriber line access multiplexer, is typically no more than 18, and I believe the data CLECs Witness Murray said up to, under certain conditions, 21 kilofeet. So the issue is if you want to provide ADSL service you have got to get within 18 kilofeet normally. Or you have to get your DSLAM within 18 kilofeet of the potential customers. From the DSLAM back to the customer is almost always copper.

So the issue is if I want to serve more customers, I've got certain options. One is I go into a neighborhood where they have all short copper loops that hopefully are clean, they are groomed. Option two is, well, I move my DSLAM closer in to the incumbents network so I get closer to copper loops. We haven't addressed this issue, but I'm sure we will, and that is whether or not a data CLEC, for example, would or could collocate via what is called adjacent collocation, for example, next to a digital loop carrier site.

Because typically what happens on most digital loop carrier systems today is from the central office out to the carrier system is more often than not fiber fed. And then from the digital loop carrier your basic distribution -- copper cable distribution pairs are spun off. So if I'm trying to offer xDSL service, one option, my option two would be I go put my DSLAM somewhere contiguous to a digital loop carrier and get access to the pairs.

Option 3, which we don't know how to do, which is why we are proposing the 120-day study, is assuming the technology will allow, and I'm a data CLEC, I would love it to be able to sit in a collocation facility at the central office and connect -- we don't know how it's done technically, and basically pick up a DSL capable loop at the central office regardless of whatever equipment it goes through, including the fiber feeder out to that carrier system. It appears that is a key component.

COMMISSIONER DEASON: Is this a new technology you are speaking of or is this existing technology?

MR. DOWDS: It is our understanding that it is leading-edge technology. Our record really -- there is testimony that it is doable, but there is no testimony as to how it is done, if that makes sense.

CHAIRMAN DEASON: And you are wanting that information and a cost study to go along with it?

MR. DOWDS: Right. Hence, that's why we keep repeating -- or Ms. Lee keeps repeating in Issue 3 that we are limiting the xDSL capable loop rates are predicated on copper-only loops. Now, understandably the data CLECs want more than that, and that's why we are having this study filed.

COMMISSIONER JABER: But the other thing they are saying is it is almost an exercise in futility to even be thinking about a copper-only UNE price, because that is not very forward-looking anyway. That, you know, why are we in establishing TELRIC rates looking at copper-only.

MR. DOWDS: Well, copper is not going away. I mean, most of the DSL technologies are provided primarily on copper-only loops. The universe is like that. My understanding is that incumbent LECs are only beginning to deploy new next generation DLC equipment that is capable of doing what they want, and it is not inexpensive, I'm sure. So the issue is more -- I think of it as a footprint issue. If I am limited to serving customers where from where they live their copper loop to wherever I park my DSLAM is 18 kilofeet, I have segmented the market. I can only serve so many people. So I either move my DSLAM or -- because I can't move the customers. In other words, where you live may dictate whether you ever get anything.

Now, the one caveat and the hoped for solution by various companies, both data CLECs and incumbent LECs, is downstream that there will be technologies where they can provide xDSL type services to customers served on hybrid forms of equipment who are farther away from the central office. Currently it is highly distance limited and most of the installations are done on copper.

COMMISSIONER DEASON: Okay.

CHAIRMAN JACOBS: One of the concerns with this has to do with the additive effect of these three scenarios, is that correct?

MR. DOWDS: Well, it is alleged that they are additive, but they really aren't.

CHAIRMAN JACOBS: Okay. Walk me through that.

MR. DOWDS: Let me work backwards. Why do they do the copper-only run? And the reason is they are going to market copper-only loops that meet certain criteria.

CHAIRMAN JACOBS: Right.

MR. DOWDS: HDSL by definition is no more than 12 kilofeet on 24 gauge copper, et cetera. So for mile length purposes they want to figure out what -- on average over what is being modeled at the wire center level, what is the cost of provisioning a copper-only maximum 12 kilofoot loop. So they did an analysis looking just at that segment of the network and/or the market. And they identified all loops that meet that criteria, determined the cost, and that's what it is. That is why they did the copper-only loop, because by definition the product they are offering has that specification.

CHAIRMAN JACOBS: I guess then -- I can see Commissioner Deason's point, because it is counter intuitive that -- well, first of all, let's go to Page 161 of the recommendation. Here is where you recount the reasons why -- the reasons that BellSouth gives to support the copper-only run. And it begins in the -- I guess really the meat of it is in the last four paragraphs. It says the reason why the copper-only loop should not be derived from the combination run, which is what the ALECs prefer, they only want the combination runs, is that correct?

MR. DOWDS: Yes.

CHAIRMAN JACOBS: Okay. And you say that -- well, I should say that BellSouth says that the -- one of the scenarios, I assume it was the combination scenario assumes fiber fed DLC systems, which you would not want in a copper-only.

MR. DOWDS: Right. And it also assumes that the trunks are terminated at the switch -- rather, on the switch at a DS-1 rate.

CHAIRMAN JACOBS: Uh-huh. And that doesn't happen with copper-only.

MR. DOWDS: Right. Well, copper-only you wouldn't have -- it wouldn't be at DS-1, it would be an analog copper circuit.

CHAIRMAN JACOBS: Which is going to terminate at the switch.

MR. DOWDS: Right. It would be a copper-only facility, it would not be a digital facility at all.

CHAIRMAN JACOBS: Okay. And then the second reason given here is that -- was what you have just indicated, is that the combination model limited the length of those loops to 12,000, to 12 kilofeet. To 12,000 feet. And my point is this. Earlier on you indicated -- or maybe it was the ALECs asserted, I don't know if you made the finding, is that you could have derived the cost of the copper components of this loop in the combination run, so the idea of making this whole extra scenario was unnecessary. Do you agree that you could have derived the cost of a copper loop at least up to 12 kilofeet by the other run, by the combination run?

MR. DOWDS: You can derive the cost of copper-only loops up to any specified distance, 12, 18 kilofeet, using the BST 2000 run. And then all you would need to do is to identify which loops, which are the copper-only loops so you don't inadvertently pick up a 27 kilofoot loop that is hybrid. So you just basically segregate out those that meet the distance limitation that you modeled.

CHAIRMAN JACOBS: So if that is possible, what do we gain, then, by doing this extra run?

MR. DOWDS: The only --

CHAIRMAN JACOBS: Do we filter out something, do we clarify something, do we refine data?

MR. DOWDS: The only reason they had to do that run as opposed to generating the same result in a different -- using one of the other runs, but changing -- they have to change the fiber/copper break point in order to restrict or expand the copper loop length.

CHAIRMAN JACOBS: Right.

MR. DOWDS: Now, the only reason that they did the copper only run is they let it do double duty. They set it to a million feet so they have by definition a copper-only loop of unlimited length that we mentioned earlier that nobody in their right mind would probably buy. But they probably also essentially segmented the results to identify all of those that are 18 or under copper-only, because by definition that is what is building. And those which are 12 and under and determine the cost. And my point earlier was except for this unlimited length assumption, they could have done the same kind of calculation for an 18 kilofoot loop using BST 2000 rerun at 18. It just so happened that BST 2000 used a break point of 12 kilofeet.

CHAIRMAN JACOBS: Okay. And you have stated in the recommendation on Page 168 and 169 that you agree that we could have gotten those results out of the BST 2000 run?

MR. DOWDS: Yes. Well, in essence, that is what they did, but they didn't do it one run -- okay. What they did is they changed one input in BST 2000 and they changed it from its default value that is used for basically POTS type services. They changed it from 12 to a million, and then they basically harnessed or harvested all of the results for the particular copper loops of a certain length that they wanted. And my point was alternatively they could have changed it not to a million, but to 18 kilofeet to determine the cost of an ADSL or a UCL short.

CHAIRMAN JACOBS: Right. And the reason why your recommendation goes along with the idea that the objective of deriving costs for copper-only loops could have been met by this other run, it is an acceptable thing to accept this three scenario process because we want to get copper-only loops at specific lengths.

MR. DOWDS: Yes, that was their intent. And what they did is reasonable given what they were trying to do.

CHAIRMAN JACOBS: But to counter that, what we have heard from the ALECs is that all they say is just give us something that we can get specifications on, we will figure out how to get from there.

MR. DOWDS: Right. And I believe they advocate the combo one. And the reason they advocate the combo run is they want one rate for all loops that are purported to be DSL capable. But the problem is using the combo run basically smushes (phonetic) together copper-only loops and carrier-fed loops. And the carrier-fed loops that are modeled in the BST-LM, to our knowledge we do not think they necessarily can provide DSL service. There is nothing in the record that indicates that they can.

CHAIRMAN JACOBS: But what they are saying is, okay, guys, we accept that. We will take that risk. Isn't that my understanding of their response to that problem?

MR. DOWDS: No, they are trying to impose an obligation on Bell which the cost study results do not necessarily support. Presumably when you -- excuse me. A digital loop carrier system with the whizbang stuff sufficient to provide ADSL and/or the line cards and the equipment, odds are is more expensive than the digital loop carrier systems that are modeled in this docket. We don't know one way or the other, but I would be rather hesitant to try to set a rate without knowing how it is provisioned.

And because we don't know the exact technical configuration of how you would provision DSL through a digital loop carrier system, we are saying, well, you really shouldn't assume a priori that a voice grade, a carrier system that is primarily designed to provide voice services, different kinds, of course, can do -- can, in fact, provide DSL without any differences in cost or whatever. We just don't know.

CHAIRMAN JACOBS: Okay. Given that ambiguity, it sounds like that the risk of any overstatement of cost is going to be on the ALECs if they say we will be only -- we want to go for the combination run to get our costs for our copper loop as opposed to doing this copper-only run. It sounds like the risk of any overstatement swings to them, doesn't it?

MR. DOWDS: No, it's the other way around.

CHAIRMAN JACOBS: Okay. Help me understand that.

MR. DOWDS: They want -- they want to pay an SL-1 rate, okay. Now, the SL-1 rate is predicated on voice grade service, but they want that SL-1 to be not just SL-1, they want to be able to pay the SL-1 rate and be guaranteed that, in essence, they can provide DSL through an incumbent LEC carrier system.

COMMISSIONER JABER: You know, I just did not get that in the hearing, David. As a matter of fact, I asked those questions of each witness, BellSouth and the ALECs. They said they would assume the risk. The BellSouth witness acknowledged that they wouldn't have a problem with that. And, as a matter of fact, I asked and if the ALEC doesn't get to provide DSL on that DLS-1 loop, that is their problem and they can come back and ask BellSouth for the designed loop, or the customer, the end use customer could actually get so fed up with the ALEC that they would call BellSouth.

MR. DOWDS: Right. But there is an under -- what is the word I'm looking for. There is two spins going on. One is exactly what you said, is they want to take the risk in a copper-only provisioned world that they order a copper-only SL-1 loop and it works or it doesn't work and they don't want to have to pay what they view as horrendous nonrecurring charges associated with service initiation of a designed loop. They also, however, want to pay a single rate for what they call an xDSL capable loop, which appears to be two things. It is the plain vanilla copper loop stuff that they want to pay the SL-1 rate, and it is also an SL-1 loop that happens to be provisioned through a carrier system.

CHAIRMAN JACOBS: That's what you call the integrated, right?

MR. DOWDS: That's what we call the hybrid copper.

COMMISSIONER DEASON: That's what you want additional information on.

MR. DOWDS: Yes. Because we don't know what the costs -- we don't want to assume that the SL-1 rate that is appropriate for voice grade service is transferrable to this, whatever you want to call it, SL-1 that is also capable of xDSL service through a carrier system.

COMMISSIONER JABER: But they are clearly separable in my mind, too. Just an SL-1 loop requested by an ALEC, and who cares what they want to use it for, I think can be tagged by BellSouth. That is a separate issue. Their wanting to ask for a copper-only loop for the purpose of running it through BellSouth's circuit system, that's what you want additional information on. They are separable issues.

MR. DOWDS: Oh, I agree. But they collapse the two. They want one rate for one kind of loop and that's it. And all I'm saying is that I would respectfully urge caution here. That we agree wholeheartedly they should be able to order an SL-1 loop, but they take the risk, because SL-1 loops, they are what they are, okay. They may be provisioned off a carrier system, they may be 27 kilofeet long. Of course, they are not going to use the 27 kilofoot all copper loop.

But what I would urge caution on is we don't -- I would not recommend that you inadvertently require BellSouth to provision hybrid copper, hybrid fiber/copper loops through a carrier system that are DSL capable without setting a rate that reflects the level of cost associated with that provisioning. We don't know the level of cost associated with provisioning it that way, hence the study we are asking for.

COMMISSIONER JABER: Right, yes.

MR. DOWDS: Because we don't know what the equities would be.

CHAIRMAN JACOBS: And now I think we will get back to the original questions.

MR. DOWDS: Sorry.

COMMISSIONER DEASON: And I apologize for the diversion that we have been in here, but maybe it will speed us up when we get to Issue 7. I have one question before we do leave Issue 7A. It's on Page 161 of the recommendation, the very first paragraph, first sentence. You are referencing Witness Caldwell, and you indicate Witness Caldwell states that the copper-only run is necessary in order to derive costs for nonloaded copper facilities. Can you explain to me why that witness used the term nonloaded?

MR. DOWDS: The BellSouth loop model, when it installs copper cable, there is no capability in the model for putting load coils on loops. So by definition all the copper facilities that are built don't have load coils. That's why it is nonloaded.

COMMISSIONER DEASON: Let me ask another question, and I'm sure there is an explanation, but explain it to me. If we go through the cost study and for copper-only facilities it is not -- the model does not put in load coils and things of that nature, why then in the later issue are we including costs to remove load coils, which the cost study says don't exist?

MR. DOWDS: From a modeling technique, when you refer to a forward-looking economic cost analysis of providing X where X is a recurring service, such as an unbundled loop, what you are looking at is perspectively based upon currently available and reasonably deployable technologies, what is --

COMMISSIONER DEASON: And isn't that what the cost study is supposed to do, though?

MR. DOWDS: I know, but what I'm saying --

COMMISSIONER DEASON: Okay. I'm sorry, go ahead.

MR. DOWDS: I'm sorry, forgive me. That is how one should do a recurring cost study. Similarly, if you were going to do a forward-looking cost study for nonrecurring work activities, what you are looking at is based upon reasonable techniques and experience levels of available personnel and similar factors, what is a reasonable estimate of the times and associated labor costs for doing X.

Now, the fact that you model -- have a recurring cost study that doesn't include something that you don't want removed is not really the issue. It's apples and oranges. Notwithstanding that, it may be a policy decision, but not a cost modeling issue that you may determine that it is inappropriate to -- may or may not -- the issue of whether you assess load coil removal charges is not a cost modeling issue, it's a policy issue. Because the forward-looking perspective doesn't cross between recurring and nonrecurring, notwithstanding certain testimony in the record. They are not interchangeable. It is the perspective in which one does analysis.

COMMISSIONER DEASON: So for recurring we model a network that doesn't have the loadings, the coils or whatever;

for the nonrecurring, we do include the cost of the removal of those facilities.

MR. DOWDS: Well, presumably what you do on the nonrecurring side is based upon hopefully efficient employees that are experienced at doing load coil removal, how long would it take them to do it and what is their loaded labor rates. The issue of whether you should assess that is independent from how you do the cost analysis is all I'm saying. It's a policy decision as to whether you think that it should or should not.

COMMISSIONER DEASON: Well, we will get to that later today, and hopefully sooner rather than later. Commissioners, I apologize. We can go back to Issues 3A and 3B.

COMMISSIONER JABER: Why would BellSouth roll over copper to fiber?

MS. LEE: Why would they?

COMMISSIONER JABER: Uh-huh.

MS. LEE: Well, if it's a voice grade loop, if they are upgrading their network rather than putting in additional copper cable they would put in a digital loop carrier system.

COMMISSIONER JABER: And that digital loop carrier system would allow them to provide DSL to customers, wouldn't it? It would allow -- a digital cable system would allow BellSouth to provide DSL service to customers?

MS. LEE: With a digital loop carrier system there is a DSL service on the horizon with some digital loop carrier systems that could work. We don't know all the details.

CHAIRMAN JACOBS: Right now it would disrupt the DSL on copper loop.

MS. LEE: At this point if you were providing DSL service over an SL-1 loop and it was rolled over to fiber, put in a DLC, it would disrupt your DSL service, yes.

COMMISSIONER JABER: I want to take a stab at modifying staff's recommendation and go ahead and make a motion, Commissioners, for your consideration. Pat, what I'm trying to do is keep staff's recommendation with respect to the hybrid, getting the cost study on the hybrid copper --

MS. LEE: Yes, ma'am.

COMMISSIONER JABER: -- lines, but I am also trying to make a statement that an ALEC can order any loop that it wants, SL-1 or a designed loop. And I think that if I delete staff's recommendation from the word further to the end, I accomplish that. But would you just take a minute or two and double-check me.

MS. LEE: You are suggesting to strike everything from further down?

COMMISSIONER JABER: Right, but I don't want to take too much out. I want to make the statement that an ALEC can ask for any loop, including an SL-1 loop. I need to add that the SL-1 loop should be tagged so that there is no rollover of that loop to fiber.

MS. LEE: Right now I think it's going to take more than that to change the rec, because if you go back to the first paragraph it says they are designed -- xDSL capable loops are designed copper loops. Giving them -- by going to say that instead of an SL-1 loop, it can be provided over an SL-1 loop, I think you are taking away that you are not even going down the path of the designed loop. Is that where you wanted to go?

COMMISSIONER JABER: No. I'm trying to acknowledge that ALECs said they would assume the risk that the SL-1 loop might not work for DSL, but that it should be tagged so that it is not rolled over.

MS. LEE: Now, right now today, yes, a data LEC -- my understanding is a data LEC can purchase an SL-1 loop from BellSouth. At that point BellSouth doesn't know whether that data LEC is providing voice service, or data service, or what service they are providing.

COMMISSIONER JABER: So it's the ALEC that has to tell BellSouth to tag that particular loop?

MS. LEE: Right.

COMMISSIONER JABER: Okay. So then the language needs to be upon indication or request by the ALEC, the SL-1 loop should be tagged. Would it be better to take just a few minutes? Should we temporarily pass this issue and let staff give me some language?

CHAIRMAN JACOBS: Actually, we probably need to take a break for a moment just to give the court reporter a break. Would it be useful to take ten minutes?

COMMISSIONER JABER: Yes. And just so that you think about it some more, if you want a cost study from BellSouth after the fact, that's fine. I just don't think that the Commission has to tell BellSouth that they can petition the Commission to show that the cost associated with tagging would be burdensome.

MS. LEE: Okay.

CHAIRMAN JACOBS: We will break for ten minutes.

(Brief recess.)

CHAIRMAN JACOBS: We will go back on the record.

COMMISSIONER JABER: Commissioners, I had asked -- before we took a break, I had asked staff to give us some language to present as a motion for your consideration, and I think that Ms. Lee has done that for me and it would be easier if she read it into the record.

CHAIRMAN JACOBS: This will be the amended recommendation?

COMMISSIONER JABER: For 3A and 3B.

CHAIRMAN JACOBS: Okay.

MS. LEE: The additional language would be, "At the request of an ALEC, BellSouth will provision an SL-1 loop and guarantee not to convert it to an alternative technology." Then we would strike the sentence in the second paragraph of the recommendation that begins with the word "further." We would just strike that sentence.

CHAIRMAN JACOBS: Okay.

COMMISSIONER JABER: Only that sentence?

MS. LEE: Yes, because the rest of it is the nonrecurring items associated with the test points and the order coordination, those things that we would like to give them a menu of options.

COMMISSIONER JABER: Right. And I would only clarify that I'm not talking about every SL-1 loop, I am just talking about the SL-1 loops that the ALECs have indicated that they want not to be turned over to fiber.

MS. LEE: And that is at the request of an ALEC. It has to be requested by the ALEC, BellSouth will provision the loop and guarantee that it will not be rolled to another technology.

COMMISSIONER JABER: Right. And just for clarification, that has no effect on our wanting a hybrid copper/fiber study, cost study within 120 days.

MS. LEE: Correct.

COMMISSIONER JABER: Commissioners, that would be my motion for your consideration.

COMMISSIONER DEASON: I will second the motion, but let me ask a clarifying question. Has staff given serious thought to the 120 days, whether it is doable?

MS. LEE: Commissioner, the 120 days was based on the time staff felt that BellSouth would need to gather the data. It did not include how your calendar looks, or take into consideration staff's work load, or anything else. It was just 120 days was what we felt was a reasonable amount of time for BellSouth to gather that information and to make those runs.

COMMISSIONER JABER: And it is 120 days from the order, also, which is another month, really, right? Another 20 days.

COMMISSIONER DEASON: Okay. Second the motion.

CHAIRMAN JACOBS: It has been moved and seconded to adopt the amended recommendation on Issue 3A and 3B. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show that the amended recommendation is approved.

Before we go on, let me announce that we will work through lunch in an effort to try and make sure we can complete the agenda today.

COMMISSIONER DEASON: And Walter has volunteered to go get us fried chicken.

CHAIRMAN JACOBS: Yep, I heard him do it.

That takes us to Issue 4A.

COMMISSIONER DEASON: If there are no questions, I can move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 4A is approved. 4B.

COMMISSIONER DEASON: I have a question on 4B. I'm encouraged by staff's optimism that there may be a middle ground here and that we can address some of the security issues. I guess my concern is if we make the determination now that the subloop elements will be provided in the manner proposed by BellSouth along with the accompanying cost of so doing, what is the incentive for Bell to negotiate anything?

MS. WATTS: That is a good question, Commissioner, and staff has given that some consideration. Basically, my focus in the recommendation was, of course, on what the ALECs had proposed, and what they wanted was direct access. And like you, I am hopeful that they can come to terms on that.

As far as an incentive, we didn't really reach a decision on that. If the Commission would prefer that staff revisit some possible alternatives to consider in the event that they do not reach --

COMMISSIONER DEASON: What about a 50/50 cost sharing? Bell absorbs 50 percent of the cost and the ALEC pays 50 percent of the cost until they come up with some other different solution. And if they can do that, well, then we will entertain it. Can we do that?

MS. KEATING: I think I would have to ask Ms. Watts if there is enough in the record to support that.

MS. WATTS: In my opinion there is not enough evidence in the record to support that type of conclusion. The witnesses did mention the fact that as far as the cost of the access terminal, or panel, that that was something that they could definitely obtain at a lesser cost. So there was thought to allowing the ALECs to purchase their own access terminals, panels. But, again, the meat of the cost is in the setup costs to install the access terminals for the BellSouth technicians, so I'm not sure how --

COMMISSIONER DEASON: See, my rationale is that that gives an incentive to the parties to do something. If we just adopt BellSouth's position, what incentive do they have to negotiate anything any different? And I'm willing to put a time frame on it, and, you know, if -- it seems to me that BellSouth benefits from this, as well. That not 100 percent of these costs -- they are concerned about security, we all should be concerned about security. If there is a lesser way to achieve and remedy the security concerns, that we all should be working towards that.

You know, and you say there is not evidence in the record. I think it is within our discretion to allocate costs. We need evidence in the record as to what the costs are, but if Bell is going to recover 100 percent of the costs, we know what the costs are. And I'm just talking about an allocation. And if

50 percent of the cost becomes a burden on BellSouth, well, then I think they have an incentive to look at a different remedy.

COMMISSIONER JABER: Commissioner Deason, I guess I looked at it as we actually had conflicting evidence. So with respect to your 50/50, there was testimony in the record on this issue that the ALECs believed that it was BellSouth's concern with respect to security and reliability and therefore they were the cost-causer. And, of course, the BellSouth testimony is, well, had it not been for the ALEC request we wouldn't have this -- we wouldn't have to construct the access terminal or the garden terminal. And that supports a sharing, I think, if anything. If there is any testimony at all, I viewed it as conflicting, and therefore we had a lot of discretion.

But I had a lot of problems with this issue with respect to -- I didn't think that BellSouth met whatever burden they have in a generic proceeding to show any costs, because as I recall the testimony and reading staff's recommendation, the testimony BellSouth offered with respect to examples of security were from unauthorized carriers. Correct me if I'm wrong, but I don't remember any testimony of security problems with carriers that were authorized by the PSC.

MS. WATTS: That is correct, they really didn't address that, and that is something I discussed in the conclusion. And that's another reason that I thought that the parties should be able to come together and reach some type of proposal to address those concerns, because I believe that once policies and procedures are in place, that, you know, we would have a system in place so that authorized access could be monitored.

COMMISSIONER JABER: I guess I'm where Commissioner Deason is, but probably a little bit -- with respect to the incentive, I was taking the view that if they haven't met the burden of proof and we want the parties to get together and negotiate a solution, then I didn't think that we necessarily had to do anything with this issue. I wouldn't necessarily have said that -- I would either not rule on this issue or say that there should be direct access but the parties should come together and reach a solution because we recognize that there might be security and reliability issues.

COMMISSIONER DEASON: Well, I guess my concern is what happens in the mean time. You know, if there is someone out there who needs access on a subloop basis and they want to go forward with provisioning service, if we do something, they know what the rules are and they know they are going to have to pay 50 percent and they can go forward with that. If we just don't make a decision on this issue, does it leave the parties in a situation where they have no basis to go forward.

COMMISSIONER JABER: That's a good question. I guess what they are doing now is entering into individual interconnection agreements.

MS. WATTS: Correct.

COMMISSIONER JABER: But what have the interconnection agreements said with respect to the access terminal?

MS. WATTS: In the MediaOne decision, the Commission ruled that the access terminal was a reasonable means of addressing BellSouth's network security and reliability issues. And --

COMMISSIONER JABER: That was when it came up for arbitration. But the interconnection agreements that we don't arbitrate, have they --

MS. WATTS: I haven't seen the interconnection agreements to see what else they would say on this issue.

CHAIRMAN JACOBS: Was there not testimony here as to the means by which the ALECs could give BellSouth some guarantee of security?

MS. WATTS: There was testimony, I think it was the AT&T witness that suggested procedures to address like indemnification issues. And they indicated that -- both sides seemed agreeable to coming up with a solution to address the network security problems. And the BellSouth witness did testify that if something was brought to them and they could reach an agreement, that that will be acceptable. That is their primary concern in this issue.

CHAIRMAN JACOBS: I shared the concern. I can agree that there are legitimate issues and concerns that I think are raised, but I didn't come away from the testimony thinking that those concerns rose to the level that you would interpose such a significant cost to deal with it. I thought that there was a range of flexibility in some of those options that were given that will be less costly than interposing this kind of a systemic broad cost requirement on new companies.

Now, and there was another point that I could not recall. Was BellSouth -- were they going to take all of their connections and put them onto the access terminal, too?

MS. WATTS: In the situation in accessing network terminating wire in the garden apartment scenario, they will prewire so that the ALEC has access to all of the wire that BellSouth has access to. In the highrise situation where there is intrabuilding network cable or riser cable, they will only prewire those lines that the ALEC requests.

And the BellSouth witness raised the issue that it is a business decision of the ALEC. They can have one panel prewired, they can have five, but that is an ALEC decision. And that accounts for the differences in the pricing structures.

And what the ALECs brought to this issue, again, basically focused on direct access. We can directly access BellSouth's network and we will pose no greater security risk than BellSouth's own technicians do. And that is how they proposed their costs also on the notion that they could perform direct access.

So staff didn't really propose any pricing changes because it was, you know, everything centered back on that access terminal and the labor incurred in installing it. Now, the rates that have come out in the appendix are lower, but that is due to like fallout from other issues, so the rates have been reduced.

CHAIRMAN JACOBS: Okay. Commissioner Deason, did you have any questions or do you have a motion?

COMMISSIONER DEASON: Well, I think that -- I mean, I will throw out a motion and there is a second -- and if not we will deal with it. I would just propose that we --

COMMISSIONER JABER: Commissioner Deason, I'm sorry, I think I can support your motion. Let me just ask one question, though. I thought you weren't done with your questions.

COMMISSIONER DEASON: No.

COMMISSIONER JABER: In the brief by Joe McWhirter, the FCCA brief, there was an allegation in there that the access terminal actually results in a disconnection of service. You know, that while BellSouth is in the access terminal getting the pairs done, that there is a disconnection of service. But isn't that true with direct access, as well?

MS. WATTS: That there would be a potential interruption of service? I believe so. The way that I read the record, the testimony.

COMMISSIONER JABER: Commissioner Deason, I was also concerned about the incentive, but I could certainly support a 50/50 sharing of costs.

COMMISSIONER DEASON: Well, that would be my proposal, that we would adopt staff's recommendation and that we would approve the manner of access as proposed by BellSouth and the safeguards that are inherent within that. But we know that that is a costly proposition, and that the costs would be split 50/50. So, in other words, Bell could only charge 50 percent of the cost as contained within staff's recommendation.

COMMISSIONER JABER: I would second that.

CHAIRMAN JACOBS: The only caveat -- let me see if I can suggest this. That to the extent -- I want to encourage the parties to pursue means alternative to access terminals, but that meet both the objectives of both parties. And so I would like to see if we can have some language that says, you know, have the parties -- if they can come to some arrangement that does not impose those costs.

COMMISSIONER DEASON: Let me say this, this is the whole reason for this motion is that I think that this is going to put a cost burden on both entities and that they both have a mutual incentive to try to reach a less costly solution to the security question.

CHAIRMAN JACOBS: I agree, that should be the result. It has been moved and seconded.

MS. KEATING: And, Commissioners, could I just ask for a little clarification for purposes of writing the order from this recommendation? You are basing that decision on the evidence that BellSouth and the ALECs -- well, result in equal security risks to the system.

COMMISSIONER JABER: They are both cost-causers is my opinion. That BellSouth has a concern about security and reliability and would like to secure its system, therefore, it needs the access terminal. But the ALEC needs access to the BellSouth system and, but for that --

MS. KEATING: But based on the testimony about security risks.

CHAIRMAN JACOBS: Here is how I saw the testimony is that it was controverted whether or not the level of security risk was as purported by the ILEC. And in my mind when you say it is cost-causer, there is protection being given to both parties here. And, therefore, there is reason to share the costs to both parties. And in my mind that derives from the idea that we legitimately could conclude that the security concerns are not as great and therefore don't require this kind of an access mechanism, or we could conclude that they are. And we are choosing to conclude that there is some measure of concern and this is a way to go about it.

COMMISSIONER DEASON: And it's fine with me if you include -- part of the rationale to include in the order is that this is an incentive for the parties to reassess the issue and come up to a solution that is less costly and still maintains the security that both parties are interested in.

COMMISSIONER JABER: Actually, everything we have said is in the recommendation. I think the only difference -- and correct me if I'm wrong, Commissioner Deason, the only difference in your motion, which I support, would be that rather than saying BellSouth can collect the entire cost, it would be half.

COMMISSIONER DEASON: That's right.

MR. DOWDS: Commissioners, may I ask a clarification? On the 50/50 sharing between BellSouth and the CLEC, does the 50/50 sharing only pertain to those costs associated with the provisioning of an access terminal?

COMMISSIONER DEASON: Well, whatever costs that you have contemplated in as a result of Issue 4B, whatever costs are being imposed upon the ALEC. So you answer that question to me, what costs are being imposed upon the ALEC?

MR. DOWDS: I would have to defer to Ms. Watts, but my recollection is there is a difference in the rate structure between network terminating wire and intrabuilding cable.

COMMISSIONER JABER: David, all we are doing, all we are trying to do is cut the sharing of the costs associated with this issue in half. So whatever --

MR. DOWDS: I'm just trying to clarify. Bear with me a moment. My recollection, and Ms. Watts will correct me, there are multiple rate elements for intrabuilding cable, one of which is associated with the installation of an access terminal. There is a separate rate element which really doesn't have anything to do with that, but it is basically like a lease charge for using the inside wire, I mean, the intrabuilding cable. Is that split as well or just the cost of the terminal?

COMMISSIONER DEASON: Just the cost associated with the security concerns is what I am -- that's all I want it limited to. And hopefully by doing that there can be a meaningful resolution of the issue to the benefit of both parties with there being cost minimization.

MR. DOWDS: That's what I thought, I was just making it clear.

COMMISSIONER JABER: And, Demetria, is that consistent with what you had in mind with this issue or is there something we are missing?

MS. WATTS: No, no, that's fine.

CHAIRMAN JACOBS: We have a motion and a second. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show the recommendation as amended is approved. That is 4B. We are on to Issue 5.

COMMISSIONER DEASON: If there are no questions, I can move Issue 5.

CHAIRMAN JACOBS: It has been moved.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 5 is approved. Issue 6.

COMMISSIONER DEASON: If there are no questions, I can move staff.

CHAIRMAN JACOBS: I have a couple. Actually, I think I can defer my questions to a later issue. Yes, I can. Okay. So I can defer my question to a later issue. You have a motion, Commissioner Deason?

COMMISSIONER DEASON: Yes. I move staff on Issue 6.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 6 is approved. Issue 7. And we will begin with Issue 7A.

COMMISSIONER DEASON: We have had extensive discussion on Issue 7A. I just have, I guess, a follow-up question.

I guess maybe let me ask this preliminary question as we delve into this whole series of Issues A through V within Issue 7. Let me ask this question. There are certain -- there are provisions which allow the cost to be done on a forward-looking basis, there even was a comparison to it's like a projected test year in a rate proceeding.

First of all, I want to understand where that is within this series of issues, or is it within this series of issues?

MS. LEE: It's in 7S as a loading.

COMMISSIONER DEASON: 7S as a loading. Okay. I will make a note of that when we get there. Then the depreciation, we are setting depreciation rates, which is 7B, I understand that. I guess my question is once we set that depreciation rate, since we are going on a forward-looking basis, do we calculate any accumulated depreciation into these forward-looking costs? If we are looking three years into the future, do we go ahead and calculate a year and a half worth of depreciation on these costs to set the rates?

MS. LEE: No, sir.

COMMISSIONER DEASON: Why not?

MS. LEE: I will try to answer your question.

COMMISSIONER DEASON: You're making it like a test year, you know, you are looking forward.

MS. LEE: The way the cost calculator works is it calculates it like an annuity. It calculates the depreciation expense, and I think in a round-about sort of way it does calculate a reserve, but -- I'm not sure that it is an implicit reserve, but the expense is based on an annuity calculation.

COMMISSIONER DEASON: So you are saying that the end recurring rates are based upon -- it's like an amortization type arrangement?

MS. LEE: Kind of --

COMMISSIONER DEASON: Kinda, kinda maybe.

MS. LEE: Kinda sorta. The cost calculator takes the depreciation, it takes the cost of capital, it takes the taxes, it rolls it altogether to a -- I think they call it an annual charge factor, if you will. They apply that to your unit -- to your unit investment, if I'm not mistaken, and it calculates it out over the life of that account, or that group of assets.

COMMISSIONER DEASON: So the annual charge factor has in it the impacts of the depreciation accumulating? Does the annual charge factor apply to the investment amount, does it contemplate or have within it, implicit within it the impacts of depreciation being calculated and accumulated over the life of the asset?

MS. LEE: Yes.

COMMISSIONER DEASON: Okay. And you are 100 percent sure of that?

MS. LEE: Yes, I am.

COMMISSIONER DEASON: Okay. All right. Specifically then on Issue 7A, I'm looking at Page 170 of the recommendation, and I'm trying to get a handle on the impact of a statement, a paragraph within staff's recommendation. It is the last paragraph under the heading outside plant loop design engineering. And this paragraph basically says that staff agrees about cost minimization, that it is a desirable goal. Then it goes on to say, however, and the conclusion is that staff's modeling approach is reasonable because it reflects BellSouth's current and prospective engineering principles and deployment practices.

Reading between the lines, the impression I get is that it is not necessarily true that BellSouth's current and prospective engineering principles are least cost, but we are going to use them anyway. Now, if I am mistaken on that, correct me.

MR. DOWDS: Not quite. What Witness Donovan and Pitkin did is -- and I don't mean this in a pejorative sense, but they did data snooping on an early model run. And they basically did a sensitivity analysis to try to determine by modifying a combination of three variables which one yields the lowest cost or lowest amount of investment in the aggregate after the fact.

COMMISSIONER DEASON: This was different loop lengths with different gauge wire and all this sort of thing?

MR. DOWDS: Yes. And at what point in time do you switch from 26 to 24 gauge, when do you use extended range line guards, what loop lengths do you -- what is the maximum copper loop length you impose. And they are all dynamic. What they did is they did iterations to try to figure out what would be the least cost -- the lowest cost in terms of the investment produced by the loop model. What BellSouth did is the modeling assumptions that went in on the front end of the model reflect its engineering practices.

COMMISSIONER DEASON: And is that consistent with the requirements of a forward-looking least cost --

MR. DOWDS: I would argue that it is. Now, they don't obviously generate the same result. Now, in order for them to generate the same optimization trial and error -- and I don't mean that in a negative sense, now -- that the AT&T/WorldCom witnesses conducted, you would have to add additional optimization routines on a disaggregated basis in the model. So, for example, on a carrier serving area you would have to determine case-by-case throughout the territory which combination of loop of 26 versus 24 gauge modifying the normal copper loop length and whether to use extended range line cards on a case-by-case basis.

The actual model as calculated, they used global values. They decided, for example, that the normal break point between copper and digital loop carrier deployment is 12 kilofeet for voice grade circuits. And I forget the exact inputs they used. I think they normally used -- they installed extended range line calls, I believe, on loops wherever they exceeded 17.6 kilofeet.

In other words, the difference was global versus case-by-case, if you follow me, in terms of which inputs do you use. To the extent that the general guidelines that formed the basis for the inputs on a global basis, in fact, represent BellSouth's general engineering practices, and we had testimony that indicated that that was the case, unless we redo the model, then our presumption was they are, in fact, reasonable.

COMMISSIONER DEASON: But there was conflicting testimony that indicated that a different scenario, that the cost could be optimized by making different assumptions that perhaps vary to some extent from Bell's normal engineering and deployment practices, is that correct?

MR. DOWDS: Yes.

COMMISSIONER DEASON: Did you feel that that was sufficient evidence to utilize and depart from Bell's normal practices?

MR. DOWDS: There were two aspects here. The analysis that was originally performed by the AT&T/WorldCom witnesses was on the pre-August filing, and it turned out that there was testimony that the pre-August -- in the pre-August filing, Bell made a boo-boo and hence the wrong input values or cutover points for extended line range cards which basically invalidated the analysis that the AT&T/WorldCom witnesses had done, and they did not do another one.

In principle, one could go back and, I suppose, replicate the kind of analysis they did on a trial and error basis. But the trade-off is do you design a network, see what the results are and then do trial and error, or is it reasonable to go with a set of global engineering values, you know, that specify on average, or in 99 percent of the circumstances you do X. And that is really the trade-off.

Theoretically, any model that operates using global constraints as opposed to optimizes every smaller area will not yield the least cost results, because you can always optimize to a lower level of disaggregation, it is just extremely complicated, time consuming, lots of stuff.

COMMISSIONER DEASON: And you saying that the optimization iterations that were done by the AT&T witnesses is no longer relevant because it was done on a previous cost run that has been modified subsequent?

MR. DOWDS: Yes. Or put another way, we don't have the right adjustments based upon the revised BellSouth loop model in the record.

COMMISSIONER DEASON: So you are not sure that if you made the same adjustments as testified to by the AT&T witnesses that it would, in fact, result in a lower cost than the most current run that you have now using Bell's standard practices?

MR. DOWDS: No, we don't know one way or the other.

CHAIRMAN JACOBS: I had a couple of questions somewhat similar, and we can stay on Page 170 under the section entitled allocation of shared investments. A criticism of this process is that it allocates more cost to digital wholesale customers than others. And it's similar, I think, because the rationale for taking the allocation formula using the DS-0s is that that is the way it has been done historically. That's how the company allocates the costs. And my question is, first of all, is that the cost driver?

MR. DOWDS: There was testimony from the BellSouth Witness Stegeman that there was an indirect causal relationship that he testified supports allocating these shared investments on a per DS-0 basis. And, basically, the line of reasoning is the quote that starts on 170 and begins on 171. And he is talking, I believe, about fiber-optic cable there. And it is basically -- the line of reasoning goes something like this, the sizing of digital loop carrier equipment, common equipment, for example, and fiber, is a function of the number of DS-0 equivalent circuits provided by that system, okay.

So the first premise is that DS-0s drive the sizing of a digital loop carrier remote terminal as to, for example, whether you have one bay, or two bays, or three bays. The sizing of the digital loop carrier terminals in turn affects the number of fiber pairs that would be needed to -- I believe their argument goes to serve, and the overall size of the SONET ring that serves that carrier's site and other carriers' sites. So to that extent there is an albeit indirect relationship between the DS-0s served and even the fiber cable by what he is representing on Page 171.

CHAIRMAN JACOBS: Right. It does not appear that doing it at the level of pairs is inherently inefficient. I didn't see very much to the counter that says that doing it at the pairs level -- I take that back. They did say that you could -- they did admit that as you indicated somewhere, maybe not in this one, but another one, that if you do it that way you could have a risk of understating some costs. And I can't remember what those costs were. But if you choose to do it at the pair level, there was a risk of understating certain kinds of costs.

But even in that instance it didn't sound like there was an incredible inefficiency by doing so. What struck me when I read this is -- well, if I recall from our prior discussion, most of these people are not -- most of the data ALECs are going to try and not be on these loops with DLCs on them, and so what we are going to do is we are going to load a higher proportion of the cost to provide that service on the people who won't use them. That's what struck me when I read this.

MR. DOWDS: I think that's close. Let me see if I can embellish. What happens when you allocate, for example, the cost of the digital loop carrier cabinet, which is an example of common equipment, and the cost of the power supply that powers the entire remote terminal based on DS-0s, or similarly you allocate fiber-optic cable on DS-0s, high bandwidth services that have bandwidth equal to or greater than one DS-0, which is nominally 64 kilobits, get allocated more.

For example, ISDN is 2B plus D, it's roughly 144 kilobits per second, so it is going to get allocated a little more than twice as much pro rata share of the cabinet and the power supply than a POTS circuit would. A T-1 would be allocated 24 times. Their concern was entities including the ACLECs and presumably end users who purchase higher capacity circuits, would be, they argued, absorbing a higher share of the common cost than if you allocated it based on straight pair equivalents.

The point about if you use pairs, the actual BellSouth loop model, as is generally the case with many other models, it uses DS-0s to size the actual digital loop carrier equipment. It basically plays double duty. It uses DS-0s served in a given area to determine how many widgets you need for the digital loop carrier line cards, whatever, and it also used the DS-0s to allocate the shared investment.

CHAIRMAN JACOBS: For the purposes of allocating those costs to UNEs, though, does that give us the kinds of forward-looking efficiency that we are trying to obtain here, or does it wound up for UNEs, specifically, allocating more of that cabinet there than probably should be?

MR. DOWDS: I guess my reply would be allocating based on 0s is preferable of the two. Yes, it does. In fact, by definition it will allocate a higher pro rata share of shared investment to higher bandwidth services definitionally. However, there is an indirect causal relationship which supports allocating things based on DS-0s. There is no causal relationship whatsoever that supports allocating based on pairs.

The argument proposed by the AT&T/WorldCom witnesses is you should allocate on pairs because it generates a more competitively equitable result. And I concluded that of the two approaches, if there is, in fact, a causal relationship of any kind to support an allocation methodology, that would be preferable.

CHAIRMAN JACOBS: Would it be fair to say, however, that this is a case of if you want to call it first impression, when looking at cost in the network for purposes of the wholesale unbundling, is that correct?

MR. DOWDS: With the caveat we did do -- the Commission did look at UNE rates in 960833, the AT&T/BellSouth arbitration.

CHAIRMAN JACOBS: Did we look at this particular issue?

MR. DOWDS: I don't believe the issue arose.

CHAIRMAN JACOBS: Do we have any kind of sensitivity analysis as to the differences between the two approaches?

MR. DOWDS: We have not conducted that.

CHAIRMAN JACOBS: It would be real instructive to me. It strikes me, again, that what we are trying to allocate, as I understand it, are the costs of provisioning digital loop carriers. And it strikes me that when we are talking about allocating those costs to UNEs, the people who are buying UNEs are trying not to buy that service. And what we have chosen to do by this process is to allocate them a heavy portion of that cost. And it sounds to me like that works -- if for no other reason, yes, it does work to a competitive disadvantage.

And I would like to explore how -- you know, sensitivity analysis or what, but I would like to explore how we can come to some idea of looking at this. And I recognize that this is the first time we have done this from this perspective. Before we engage in the elaborate modeling idea, I would probably like to see a sensitivity analysis first to see if we are talking about something of significance. If we are, I would like to explore how we can do it in a more precise way.

MR. DOWDS: Commissioner, one observation I would note. In the recommendation, and it was also in the testimony, BellSouth Witness Stegeman apparently did an analysis wherein he was trying to estimate the trade-off between the understatement in the DLC investments that results from allocating based on pairs, and his analysis as I recall indicates that by allocating on pairs it undersizes the digital loop carrier investment in the aggregate by 3 percent.

And he also observed, however, that of the loops that were at issue here, only 1 percent were served by carrier systems. So the high bandwidth circuits that are at issue, very few of them have anything to do with the carrier systems.

CHAIRMAN JACOBS: Does his analysis anticipate allocation on pairs for everything or just for UNEs?

MR. DOWDS: On everything.

CHAIRMAN JACOBS: Could we separate out UNEs?

MR. DOWDS: No. The loop model models everything that looks like a loop that might be a loop UNE.

CHAIRMAN JACOBS: I understand. That's how it derives at the cost. When we come down to allocating, can we allocate everything else based on DS-0s and allocate the UNEs based on pairs?

MR. DOWDS: But my point is they are -- if you tried to only model the UNEs, you would only get about 1 percent of the sample. There aren't that many UNEs out there. In other words, they are modeling loops that serve real live customers and where they exist they are implicitly modeling UNE loops that are in place. But there are far more of the former than there are of the latter. So when they are trying to determine -- the model tries to determine the cost of a UNE loop, it uses as surrogates the various kinds of loops that provide service to both retail and wholesale customers.

CHAIRMAN JACOBS: This issue comes up in several instances. It comes up in this and in network design. I think it comes up in structure costs, does it not?

MS. LEE: It comes up, I think, in 7S, loadings, as part of loadings.

CHAIRMAN JACOBS: And I think between -- and between those three, there potentially could be significant cost issues here, and I'm really concerned that I don't understand the difference between the two approaches. And I don't know that the string -- it sounds like the only argument against doing it at the pair level is that it could potentially underestimate, understate, rather, or undercollect the investment for digital loop carriers. So I assume somebody has done that analysis because otherwise you couldn't make that assertion, agreed?

MR. DOWDS: As I indicated, Witness Stegeman in his rebuttal testimony indicated that he had done the analysis. And basically what he testified to is that if you allocated shared investments and digital loop carrier investment and fiber-optic cable on pairs as opposed to DS-0 equivalents, then you underbuild the network. Or you under -- the level of associated investment is undersized by 3 percent, which translates in that any and everything that used fiber-optic cable or digital loop carrier common equipment is underpriced by 3 percent.

CHAIRMAN JACOBS: Then can we find another way to get that 3 percent? Is that a reasonable approach? Or alternatively, do we know how much more than 3 percent we are collecting here. Back off whatever we are getting from the allocating based on the DS-0, only so that we can get just that 3 percent?

MR. DOWDS: I think the answer to your question is no, but let me explain I think what you are asking. And we have not done this, and I'm not sure if we know how to do it, but it's possible. The model is designed to let DS-0s do double duty. They both size many kinds of network equipment and they are used to allocate shared investments to services and UNE types. I think --

CHAIRMAN JACOBS: What I'm suggesting is keep the first. What I'm suggesting I don't think has anything to do with the first role. I think what I am speaking to only is the second role of service.

MR. DOWDS: Right, but I guess what we would probably need to do is figure out some way to essentially outside of the model make an adjustment to reallocate these shared investments. And my only point is theoretically it's possible, offhand I don't know how to do it. But I'm not saying it can't be done.

CHAIRMAN JACOBS: And what I'm suggesting is I don't know that it should be done, but it is raised consistently enough as an impediment to the costs that will ultimately -- to the prices that will ultimately result for digital services that it causes me a concern. Because if I understand the arguments that are being made by the ALECs, particularly the data ALECs, is that when you do this over these -- basically just these three items that we are talking about, there is an additive effect that essentially begins to price these offerings out of their range. And at most ironically for a cost that they probably won't impose on the network.

That is the real ultimate concern that I have here and why I think it may be reasonable to explore if we could do this in a more precise fashion. If that is not correct, if that is not a prospect, I can accept that, as well. But I see it raised on several occasions, and it causes me that level of concern.

COMMISSIONER DEASON: Well, what we are dealing here with is an allocation of cost and what methodology that you use to allocate those costs. So it's not like that we are trying to do something that is going to minimize costs or reduce costs. It's just a question of what services or what UNEs are going to have the costs allocated to them, is that correct?

MR. DOWDS: Yes, sir.

COMMISSIONER DEASON: What is good for one may be bad for another. If you use a methodology which reduces costs for individuals that are going to be using the asset to provide a certain type of service means, well, that cost may be lower, but then you are going to be allocating more costs somewhere else. Maybe plain old telephone service costs are then going to go up. Am I oversimplifying or is that correct?

MR. DOWDS: If you allocate the common investment on per pairs, you will increase the allocation to voice grade services, low bandwidth POTS and voice grade services, you will decrease it to high bandwidth offerings.

COMMISSIONER DEASON: And I'm not so sure that is a good policy, either. It seems to me that staff has come up with a reasonable way to make the allocation. I'm not convinced that there is a better way now, but we may explore it further and may determine that there is a better way.

CHAIRMAN JACOBS: Here is what -- if a sensitivity analysis has been done then -- well, let's do it this way. We can move off this today, but I would like to see that because we can still reconsider this if it appears that that is something they want to pursue. But I would like to see a sensitivity analysis determined to what we are talking about here.

And to be very clear, I want to understand -- I want to understand that 3 percent that you talked about. And I might want to explore -- I think you're right, Commissioner Deason, in how you phrased it exactly. But think about it, not only -- you could collect it from retail voice grade lines, you could collect it from resale, you could collect it from other services out there. So, the range of options to collect this 3 percent are not just really prohibitive.

And I'm not opposed to collecting a portion of costs from the high bandwidth services. It occurs to me, however, that to really begin to price them into an unacceptable range in order to recover costs that they really don't impose on the network works a particularly bad result if what we are doing here is trying to foster competition. And it seems that competition is most fervent in this arena.

So I want to explore, first of all, are we talking significant numbers; and if we are, I want to explore more precise ways of looking at how to do that cost, the cost allocation. Not to take away -- if it's a legitimate cost, not to deny it, but to figure out how to get it in a more precise formula.

COMMISSIONER JABER: I just have a couple of questions on the issue before we leave it. David, help me understand TELRIC as it applies to network design. When we apply a forward-looking methodology, and as discussed by the Iowa court and by the FCC, that envisions that you look at a design, or an element, or a structure, and say what would it cost today to build on the same location, is that correct? I know I'm oversimplifying, but is that basically the idea? Do you want to talk about scorched node a little bit?

MR. DOWDS: The FCC's notion of TELRIC as embodied in 51.505(b) has really two components. (b) says it is supposed to be a forward-looking economic cost that takes into consideration all services being offered, et cetera. Conceptually in my opinion no different from the underlying conceptual underpinnings of prior TSLRIC analyses that this Commission has reviewed for eons.

The wild card shows up in .505(b)(1), which says -- I lost my place. It reads here as the efficient network configuration, which is the TELRIC of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration given existing location of the incumbent LEC's wire centers, also known as the scorched node assumption.

What that means is for purposes of modeling an outside plant network to determine the cost of, say, loops and interoffice facilities, or what have you, you assume that nothing exists other than the location of existing wire centers, so that there is a switch where a switch exists, but you are free to optimize the switches that you subsequently put in place. The BellSouth loop model appears to be a scorched node model that comports with this requirement.

COMMISSIONER JABER: The scorched node theory is only to be applied with outside plant?

MR. DOWDS: In my opinion, the only clear example where it makes a whole lot of sense is with outside plant.

COMMISSIONER JABER: Okay. What I'm trying to reconcile is network design as it includes copper-only UNEs.

MR. DOWDS: Right.

COMMISSIONER JABER: Common sense tells me that if I am looking at a system in the future, BellSouth will not -- applied to the same location -- BellSouth would not construct a copper-only -- a network design that would involve copper-only UNEs.

MR. DOWDS: No and yes. No, they would never construct a copper-only network, but they would provision copper-only UNEs. By definition, for example, a drop is always copper-only in a residential setting. There are multiple technologies -- let me try again. It depends on which UNEs you are talking about. Some UNEs given current technology can use one or more different technologies to provide the service. An example is POTS, or a two-wire voice grade analog loop is essentially the loop that is used to provide POTS service.

I can provide POTS service on copper-only on the short loops, I can provide POTS service on long copper loops like I unfortunately have that has lots of nasty load coils. I can provide it on a mixture of digital loop carrier with copper hanging off the digital loop carrier system. I can use fiber-optic technology if they are an extremely large customer and it is cost-effective to run fiber into the building, park a digital loop carrier there. There are many options. Conceptually those are all two-wire voice grade analog loops from a pricing point of view, so they can be provisioned different ways.

COMMISSIONER JABER: All right. Well, I'm looking at Sprint's position as you have reflected on Page 142. They say BellSouth's proposal basically for a copper-only UNE loop is incorrect. This copper-only UNE loop is inappropriate. It erroneously presumes that xDSL will continue to be provided over copper-only facilities and uses a network which is neither forward-looking nor real world. And candidly that is the first thing I thought, too. And what is wrong with thinking that, you know, in a forward-looking environment there won't be copper-only loops?

MR. DOWDS: Sprint's comment more appropriately refers to Issue 3A than it does to the broader issue we are dealing with here. It's the relationships between 3A and 7A.

COMMISSIONER JABER: That is the hybrid copper study that you want?

MR. DOWDS: Essentially, yes. What they are challenging here, the way I interpret this, is they think that Bell was in error when it essentially modeled all DSL loops as copper-only because it doesn't reflect the fact that the forward-looking state of the art networks would be a mixture of copper loops -- ideally short copper loops hanging off of new state of the art digital loop carrier equipment.

The network that Bell modeled does have a mixture of copper and digital loop carrier, but what is not clear and probably is not the case is that the digital loop carrier equipment they modeled can provide DSL. That's what we don't know and that's why we punt back to Ms. Lee.

COMMISSIONER JABER: Okay. And loop conditioning, what issue is that?

MR. DOWDS: 11.

COMMISSIONER JABER: Okay.

COMMISSIONER DEASON: Mr. Chairman, I would -- I am a little concerned about the automatic default use of Bell's engineering principles and deployment practices, but I don't think that we really have a viable alternative at this stage.

I am concerned -- I've got some questions later on about some of the loadings, inflation factors, and things like that, but that is really not within Issue 7A. We have talked about Issue 7A, we have talked about the three scenario approach. I am concerned about that, the copper only. Commissioner Jaber, you have touched upon that, as well.

I am hopeful that staff's recommendation to get the cost study looking at hybrid fiber and copper will alleviate those concerns. And so having said all of that, I would move staff on Issue 7A.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Let me ask a question real quickly, because that was a question I had earlier that you brought up. The results of the study that is being requested in Issue 3A will play into resolution of Issue 7A?

MR. DOWDS: Yes. In particular it hopefully will address and resolve Sprint's concerns as it expressed in its position on Issue 7A.

CHAIRMAN JACOBS: Uh-huh. Okay. Very well. It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 7A is approved. Issue 7B.

COMMISSIONER JABER: Pat, this is the issue -- Pat and David, that you were saying BellSouth's cost model did include inappropriately depreciation that you all have taken out in establishing the zones, correct?

MS. LEE: Yes. The run that Mr. Dowds was referring to includes the staff recommended depreciation and cost of capital that is being recommended in the tax factors rather than BellSouth's.

COMMISSIONER JABER: But we are not sure about the modified Sprint methodology, whether those original costs included depreciation and cost of capital, right?

MR. DOWDS: Well, Sprint was essentially silent on those input issues. It's pricing proposal presumably would have been applicable to any resulting cost analysis.

COMMISSIONER JABER: Okay. But when we vote on these issues, you are going to include our decisions in these issues and incorporate them into the methodologies. In other words, the zones will be a fallout of these decisions right here.

MR. DOWDS: Yes. The decisions made by the Commission on the 7s will basically translate into input yea, nay, or modify that feed into various and sundry cost analyses which will generate costs which will then be deaveraged according to the methodology that you voted on earlier.

COMMISSIONER DEASON: Let me ask this question. Where within these issues do we address Bell's utilization of projected costs within its cost study?

MS. LEE: Projected costs?

COMMISSIONER DEASON: Uh-huh. Is that the inflation issue? When I use the term projected costs what I'm saying is -- and maybe it is inflation. I understand that we have gone forward a three year time frame. You explain it to me instead of me explaining it to you.

MS. LEE: My understanding is the 1998 prices, material prices that BellSouth had based on what it had purchased that year, they applied your TPIs, your inflation factors to it to escalate it out or to inflate it out to what those prices would be in 2000, 2001, and 2002. And then took an average, almost like -- well, to me it's almost like a test year or a midpoint in the test year, which would be 2001, basically, when you average the three together.

COMMISSIONER DEASON: So they took 1998 material costs and inflated them for the years 2000, 2001, and 2002, and basically took an average which you think would be about 2001?

MS. LEE: Right, correct.

CHAIRMAN JACOBS: Is this one of those instances where -- I don't think it was raised in this issue, but it was raised later on where we could have gotten actuals instead of doing the inflation factors, we could have gotten actual costs?

MS. LEE: Well, you couldn't have gotten actual costs for 2002 or 2001. But what they did for their -- when they did their expenses, if I'm not mistaken, they took budgeted additions and retirements for 2000, 2001, and 2002 rather than using inflation. So there is a little bit of a difference between what they did with expenses versus what they did with material prices.

COMMISSIONER DEASON: Repeat that again, they did what with expenses?

MS. LEE: If I'm not mistaken -- and, Ms. Marsh, please correct me if I'm wrong -- for their expenses they actually took budgeted or forecasted additions and retirements to forecast that investment out to 2002. Now, why that approach was not used rather than using inflation on the investment in 7S, I don't know.

COMMISSIONER DEASON: Well, you need to help me. If we are doing a cost study which is projecting out what the network would be and applying material costs to that, and then applying loadings as far as engineering and placement, and that sort of thing, what does budgeted additions and retirements have to do with anything?

MS. LEE: It gave them cost relationships to forecast their expenses.

COMMISSIONER DEASON: Cost relationships for forecasting expenses.

MS. LEE: Well, for estimating the expenses that they used in their study.

COMMISSIONER DEASON: And the expenses are estimated on a historical embedded relationship between historical expenses and historical investment?

MS. LEE: That is the first step.

COMMISSIONER DEASON: Okay. What is the second step, then? And when I'm talking historical, I'm talking about --

we're talking about embedded costs, are we not, the relationships?

MS. LEE: According to -- this is getting a projected average investment for the 2000 to 2002 period, and this is an Excel spreadsheet that BellSouth provided. It was used in the -- it is one of the spreadsheets that is used in the determination of expenses. But it starts off with the 1998 end of year investment, booked investment, and then it forecasts that forward using 2000 additions, 2001, and 2002 additions. And then finds an average, if you will.

COMMISSIONER DEASON: So it starts with historical investment in 1998 and it does additions and retirements up to when, 2001?

MS. LEE: 2002.

COMMISSIONER DEASON: 2002. And then it applies this historic relationship between expenses and investment to this 2002 number to result in expenses?

MS. LEE: This is one of the -- it applies -- let me see. You get the average investment and then you have an expense level that is based on 1998 actual expenses. And then there is a -- it takes -- I think what it does is it takes the historical relationship of your investments. I mean, historical relationship of your expenses to investment of '98 and uses that same relationship, that same ratio.

COMMISSIONER DEASON: Okay. You have got 1998 actual expenses compared to 1998 investment, and you use that ratio and apply it to what?

MS. LEE: It looks like from the spreadsheet that it is applying it to the -- I think it is applying it to your forecasted investment.

COMMISSIONER DEASON: Forecasted investment?

MS. LEE: Yes.

COMMISSIONER DEASON: As a result of the cost study or as a result of 1998 investment being --

MS. LEE: This would be a factor applied to the investment that is built in the cost study.

COMMISSIONER DEASON: Investment from the cost study?

MS. LEE: Yes. This would be a factor applied to that.

COMMISSIONER DEASON: Well, I guess the question that I have then is for purposes of estimating expenses which become -- these expenses, they are part of the cost of providing UNEs, correct?

MS. LEE: Correct.

COMMISSIONER DEASON: Recurring cost of providing UNEs. Okay. If we are basing it on a historical relationship between 1998 actual expenses and 1998 investment, and I assume that is net investment in 1998, correct?

MS. LEE: Yes.

COMMISSIONER DEASON: And then you apply that to the forecasted investment, I just get the feeling that is apples and oranges. You are talking about actual expenses compared to a depreciated embedded investment base which is going to give you a higher ratio than when you apply it to this so-called new state of the art, let's build it right now, it's brand new investment that we are going to put in place.

MS. LEE: I'm sorry, I misspoke. It is not the net investment in '98, it is gross.

COMMISSIONER DEASON: It is what?

MS. LEE: Gross investment in '98. It's not the net.

COMMISSIONER DEASON: Okay. It's gross investment. But then you are still going to get a higher ratio because once you apply the inflation factors on a going-forward basis you are going to have a higher investment amount that the expenses are going to be compared -- that this factor is going to be compared to, are you not?

MS. LEE: If I'm not mistaken, when they did their expense calculation they also included not only this, but they included a productivity factor, as well, is that correct?

COMMISSIONER DEASON: A productivity factor? Okay.

MS. MARSH: There is a productivity factor included in it, and that is discussed in Issue 7U.

COMMISSIONER DEASON: 7 what?

MS. MARSH: U.

COMMISSIONER DEASON: U?

MS. MARSH: Yes.

COMMISSIONER DEASON: What is the productivity factor, what amount is it?

MS. MARSH: The one that BellSouth used was 3.1 percent. There was some discussion from the parties recommending a higher rate. Basically, the productivity factor offsets the inflation, the effect is to offset the inflation factor. And the discussion in 7U is relating more to the common cost than to the general expenses, but the productivity factor and the inflation factor pretty much cancel out. I think the inflation factor was a little bit higher, so there would be a very slight effect of the expenses increasing in the common cost.

COMMISSIONER DEASON: These were the expenses?

MS. MARSH: Yes.

COMMISSIONER DEASON: So productivity and inflation almost offset each other all for expenses?

MS. MARSH: Yes. The inflation is just slightly higher. I don't know, I can't put my finger on it. But it is just a very, just a fraction of a percent higher.

COMMISSIONER DEASON: Do we have any productivity factor applied to the investment?

MS. LEE: No, there is no productivity factor applied to the investment, and I think there was a Sprint witness who made that point. But I guess in an inadvertent way, yes, there is because the geocoding -- in building the network, the geocoding data that was used, which would be your demand information, we could not verify it, but we are thinking that that geocoding information was probably the end of '99, beginning of 2000. You are looking at where your investment was inflated in mid-year, midpoint 2001, and most had looked like there may be a year mismatch there, but we didn't think it was going to be that significant.

COMMISSIONER DEASON: So why do we include any inflation on the material?

MS. LEE: Pardon me?

COMMISSIONER DEASON: Why do we include any inflation on the material cost for projecting the network?

MS. LEE: I think from my perspective it was that the inflation or deflationary rate, and remember there were some that had deflationary rates, was simply to bring the price levels up to the midpoint of the study year. That's all it was used for.

COMMISSIONER DEASON: And I guess my question is is that just one side; if we are looking at material costs, if we are looking forward to that extent, are there going to be new advances in technology, are there going to be new things deployed which require less maintenance, which are going to reduce expenses? We are taking one thing and just kind of lopsiding it a little bit, which is to BellSouth's favor, potentially.

MS. LEE: Potentially, yes. And I would agree with you, yes, as new technology is developed, you do have productivity enhancements, and many times they will lower O&M

expenses and things like that. And have they been properly considered, probably not.

COMMISSIONER DEASON: Okay. But we talk about inflation on loadings, is that where that falls in?

MS. LEE: Yes. It's in 7S.

COMMISSIONER DEASON: Okay.

MR. DOWDS: Commissioner, just to interject a moment. With respect to the investments, conceptually what they are trying to do is -- so the three go, they are trying to do a cost study covering the period 2000/2002, so they are trying to target what the input values should be for midpoint. So that is why they applied a quote, inflation factor.

For investment what they did, as Ms. Lee described, is they used BellSouth's telephone plant indices and they applied, in essence, the equivalent --

CHAIRMAN DEASON: I'm sorry.

MR. DOWDS: They are called TPIs, telephone plant indices. They have a private contractor that tracks price trends for materials on a recurring basis. And essentially what they did is they took the average factor for three years divided by three and multiplied it times the base year to estimate what it would cost for equipment component number X in mid-study year.

Now, these TPIs as she mentioned are both, quote, inflators and deflaters. Certain accounts are exhibiting, subject to correction by Ms. Lee, steady downward trends. Like I believe fiber-optic is a deflator. So they are actually assuming a lower price probably for the study than their starting point. It basically cuts both ways on the investment side, and I don't know what the preponderance would be.

COMMISSIONER DEASON: So you are saying that it is appropriate to include inflation factors in a forward-looking cost study?

MR. DOWDS: I think it's reasonable to estimate the going level of investment prices that would be confronted by the person building the network at the point where it is building it. Now, the Catch-22 is how comfortable one feels with the TPIs that were used to take a historic number and inflate it, adjust it to a study year or midpoint study year level.

Per se, I guess there is really a couple of different ways you could do it. You could try to do a budget, but then that gets very, very iffy. Or you could use the TPI technique. In principle, I don't think there is anything wrong with using inflation and deflation factors, but I guess the fundamental issue at least to my mind in this context is to what extent do you consider them to be reasonable.

COMMISSIONER DEASON: How are the growth in the number of access lines, loops, whatever, how is that accounted for in this whole process? Obviously one would think that you are going to have more, or is there any adjustment for that on a going-forward basis?

MS. LEE: If I'm not mistaken, there is an adjustment for growth or it's considered in the expenses. It's not included in the investment except from the geocoding data.

COMMISSIONER JABER: You're asking about the growth in access lines by BellSouth, right?

COMMISSIONER DEASON: Right.

MS. LEE: Which is the demand.

COMMISSIONER DEASON: Right.

MS. LEE: Which would be from the geocoding data, and it is based on the demand at that period of time, which like we are saying our instincts are telling us that that information was probably the end of 1999, beginning of 2000. So we applied -- we are using the average inflation and saying that is around 2001, we are talking a year mismatch at the most, a year to 18 months. And we didn't think that would have that much of a significant impact.

COMMISSIONER DEASON: You say there is a mismatch?

MS. LEE: Yes, sir, there is a mismatch. There is a mismatch probably anywhere from a year to 18 months.

COMMISSIONER DEASON: So explain to me, again, where the mismatch comes in?

MS. LEE: I'm probably not doing a very good job of this. The demand comes from the geocoding data, okay?

COMMISSIONER DEASON: That's as of 1998?

MS. LEE: No. We could not verify the date of the geocoding, but we are thinking that it was the end of 1999, beginning of 2000.

COMMISSIONER DEASON: Okay.

MS. LEE: The inflation -- applying the inflation rates, we are saying that is midpoint 2001. Well, then the difference between the two is probably anywhere from a year to 18 months.

COMMISSIONER DEASON: So what you are saying is that they are taking the geocoding data, which is basically the number and location of customers, okay, as of the end of '99, and they are determining -- the cost study determines the cost of facilities that have to be deployed to provide services for those locations.

MS. LEE: Right.

COMMISSIONER DEASON: They take those material costs and inflate them for a year, or 18 months, or whatever the average works out to be. I guess 18 months.

MS. LEE: Well, now the inflation, remember the inflation is 2000, 2001, 2002, and they take the average which I'm saying the average is 2001.

COMMISSIONER DEASON: Okay. Now, once they inflate it or deflate or whatever the average works out to be, how do they -- do they then apply that to the number of customers as of the geocoding data to come up with averages, or do they anticipate growth in that to come up with the average?

MS. LEE: There is no growth assumed.

CHAIRMAN DEASON: Now, is there growth assumed in expenses?

MS. MARSH: I don't know the answer to that, whether that is assumed or not.

MR. DOWDS: I think so.

MS. MARSH: I think so, too.

MR. DOWDS: I think that the expense inflation, whatever you want to call it process, has three variables. One is an inflation measure, I don't know what they used, I'm sorry. They took into consideration growth, and I believe it's growth in access lines, and then the third component is a productivity offset. So the first two go up, the third one goes down. And as Ms. Marsh said earlier, I believe that the productivity offset and the growth basically offset one another.

COMMISSIONER JABER: Let me ask one question, Commissioner Deason, on this issue. How do you take into account that in a truly competitive market there should not be as much growth in access lines or maybe even a reduction in growth in access lines by BellSouth? Does that make sense? Theoretically the competitors are supposed to be taking away some of the service by BellSouth, right?

MR. DOWDS: I guess I would respond that from a costing point of view it doesn't matter because what today is a BellSouth service is tomorrow's UNE. It is the same universal loops, putting aside, quote, normal growth that Bell would incur anyway, or the market as a total would incur.

COMMISSIONER JABER: Okay. So just to follow-up, then, that growth should be much higher because the more competitors you have the more UNEs they have to provide.

MR. DOWDS: I'm sorry, whose growth?

COMMISSIONER JABER: BellSouth.

MR. DOWDS: Maybe, maybe not. I understand -- just to try to summarize the issue that we are discussing, I think we are discussing here, my recollection is that one of the Sprint witnesses, and I forget whether it is Dickerson or Sichter.

CHAIRMAN DEASON: I believe it is Dickerson.

MR. DOWDS: Dickerson testified that there is a mismatch because the inflation adjustment -- and it is for expenses, I think, only, subject to my hazy recollection. There is an adjustment that picks up growth in the expense inflation adjustment, but the denominator, in other words, the demand is not grown to the same point.

And as Ms. Lee was mentioning, whereas the expense stuff basically started with '98 book data and then they adjusted it with stuff to 2000/2001 level, we don't know the exact vintage of the demand units. We suspect that the geocoding was probably done towards the end of 1999, and we suspect that there is a mismatch, what we don't know is how significant it is.

We are not denying that there is, we just don't know --

we really have -- we don't know the exact vintage, so we have two options at least conceptually. One is to figure out some -- well, if we knew the vintage of the denominator or the demand units, which we don't, figure out some way to do 18 months worth of growth. Or conversely, figure out some way to either eliminate or ratchet down the growth adjustment that is in the inflation analysis for expenses so that they are basically on the same page.

COMMISSIONER DEASON: How do we do that? I mean, you say we have got a mismatch, but we can't correct it.

MR. DOWDS: Yes, that is correct.

COMMISSIONER DEASON: So we just give the benefit of the doubt to Bell?

MR. DOWDS: That is ultimately your decision. Given our record, we didn't know how to fix it. We could add this to the list --

COMMISSIONER DEASON: Could we just do away with all inflation, all deflation, all growth, we just take it and those relationships exist?

MR. DOWDS: I'm not sure I know the answer, but I can give you three options.

COMMISSIONER DEASON: Okay, please.

MR. DOWDS: I don't know which is preferable. What we did is we acknowledged that there is a probable mismatch, didn't know how to fix it, so basically let it go. Option two is we could -- the Commission could adopt Witness Dickerson's recommendation and eliminate the growth component of the inflation adjustment completely and let the chips fall where they may.

Now, one caveat here. My recollection is that growth adjustment is not in the -- is not applied in factoring up the investment unit prices to test year or study year levels, but I'm not certain. I have to punt on that. So option two is to eliminate it. Option three is to add this to the list of things that we try to resolve in a future filing, which is a possibility.

COMMISSIONER DEASON: Do we have the information to do what Witness Dickerson suggests and eliminate the growth component of the inflation adjustment?

MS. LEE: I don't know how to do that.

COMMISSIONER DEASON: You don't know if we have that or not?

MS. LEE: No. Witness Dickerson did not make a -- he just talked in generalities. One of the suggestions he did do -- did make, excuse me, was he said he would suggest the Commission use the rates that were adopted in the universal service proceeding and then have BellSouth refile. There is a problem with that because the universal service proceeding, as you know, was for a whole different purpose than the unbundled network element proceeding.

COMMISSIONER DEASON: I'm looking at Sprint's brief, okay. I'm looking at Sprint's brief, and this is -- when I read the brief, this is what I got. This is what they said as to how you fix the problem, okay? I'm looking at Page 20 of their brief. It says, "The proper way to perform these cost studies would be to identify the current vendor cost that BellSouth pays for state of the art equipment items. These would be the least cost most efficient equipment items." Blah, blah, blah. "Then BellSouth should appropriately include the installation and engineering cost of these devices. BellSouth should also account for the expenses to operate that investment at current cost and should divide it by current demand."

And it goes on to say that that is the appropriate way to do it. What is wrong with that? I mean, it seems plain to me that that would cure the problem.

MR. DOWDS: I guess if I were arguing BellSouth, I would say if you did that you would always have a lag. So the issue is do you want to have a lag or a lead.

COMMISSIONER JABER: You would always have a what?

MR. DOWDS: A lag. So, for example, what Bell did as a starting point before they added magic factors is they went to -- they wanted to know what it cost for cable purchases. So I believe their starting point is they went to 1998 purchasing records and they determined -- they looked at all the purchases for cable type X to figure out on average what it cost per foot for 26 gauge cable or that sort of thing. And then they proceeded since that was based on data -- they are doing the study in mid, late-1999. So since their starting point was 1998 historic data, they opted to adjust it/inflate to 2001, I think.

MS. LEE: Midpoint.

MR. DOWDS: Midpoint of whatever the study would be. So it's a Catch-22. You either have a lag or a lead. I mean, in principle Witness Dickerson's point is well taken that you should use, quote, the most current prices available. I'm playing devil's advocate, obviously, but Bell would argue that is what they did. But inevitably they always have a lag.

Alternatively, they could have gone to the vendors and called Secor (phonetic) and other vendors and find out what the current prices are, but that would still have a lag, just less of one.

COMMISSIONER DEASON: Well, this seems to me to be the crux of the problem. And I'm looking at the brief. It goes on to say, "It is clearly incorrect to be projecting equipment cost increases and operating expense increases associated with future demand growth, but yet turn around and divide those inflated costs by current demand levels."

MR. DOWDS: And we agree.

MS. LEE: We agree.

COMMISSIONER DEASON: We just don't how to fix it.

MR. DOWDS: Right.

MS. LEE: Yes, sir. We don't know how significant the mismatch is. We think the mismatch could be as much as 18 months, but how significant that is on the prices, we don't know.

COMMISSIONER DEASON: Is this information we can get to fix?

MS. LEE: It may be information we can get through a refiling, it is not information that we could find in this filing.

COMMISSIONER DEASON: Okay. What information would we need to get in a future filing to fix the problem of the mismatch?

MR. DOWDS: I'm on thin ice, but here is what I think one solution would be. Assume for sake of argument that the vintage of the demand data is third quarter '99, and the result of the various inflation adjustments that are made end up getting to, I don't know, beginning of second quarter 2001. Just assume for the sake of argument. If we had something based on some subject or projection that would let us estimate what the amount of growth in access lines in the aggregate would be between the vintage of the demand units that we have to get out to June, or whatever, 6/30/01, I think that would remedy the problem. Basically, what we would end up doing is we would be increasing the denominator of all the rate calculations.

COMMISSIONER DEASON: The denominator then would also be reflective of growth, as well?

MR. DOWDS: Yes. I mean, what we would do is instead of changing the way they inflate or did inflation for expenses and/or investment will increase the number of loops implicitly by which the costs are divided. Did I say that right?

MS. LEE: It will increase the demand, and it is the unit prices divided by the demand -- I mean, the trouble price cost, material cost divided by the demand which gives you your unit cost.

COMMISSIONER DEASON: Okay.

MS. LEE: So as your demand increases it will decrease your unit cost.

CHAIRMAN DEASON: And we don't know how significant that is. It might be miniscule and then again it might be --

MS. LEE: That is correct.

COMMISSIONER DEASON: Okay. I guess actually we are on Issue 7B, which is the depreciation rates. Commissioners, we have got a whole series of issues in the 7 category. I have been talking about inflation and loading factors, which really I think get down to 7S. And those inflation and loading factors, of course, are going to have impacts on all if not most of these other issues in this 7 series.

That is where the bulk of my questions and concerns are are within inflation and the loadings. So, I'm at your pleasure. As far as, you know, B through R, I really don't have a concern with other than the fact that they may be, they may be impacted by inflation and the loadings and that sort of thing.

COMMISSIONER JABER: Yes. And also the productivity factor, I thought, in staff's responding to some of your questions they said there were some -- problem is not the right word.

COMMISSIONER DEASON: 7U, I believe.

MS. LEE: That is correct.

COMMISSIONER JABER: And it wasn't mismatch that you used, I think it was inconsistency. Was it the discussion as it relates to the productivity factor? You said there might be an inconsistency with respect to whether it was applied to the investment versus whether they were applied to the expenses?

MS. LEE: Uh-huh, correct.

COMMISSIONER JABER: Was that included in yours?

MS. LEE: I'm not sure.

COMMISSIONER DEASON: I would like to have that confirmed one way or another. I just want there to be consistency and that we don't have mismatches. And if staff can confirm to me that that is the case, well, I will be happy.

COMMISSIONER JABER: What are you suggesting, Commissioner, we maybe take a break and let them come back with a discussion on all of 7, or am I misunderstanding?

COMMISSIONER DEASON: Well, no, we don't have the -- according to staff we don't have the information now to eliminate the mismatch on growth.

MS. LEE: That is correct.

COMMISSIONER DEASON: We are going to be getting additional information --

MS. LEE: That is correct.

COMMISSIONER DEASON: -- within 120 days plus or minus, I guess. 120 days plus, maybe. Perhaps we can get that information to eliminate that mismatch.

MS. LEE: We can ask for that as part of the refiling, yes.

COMMISSIONER DEASON: Okay. Now, whether there is a mismatch associated with the productivity factor that it was only applied to expenses and not to investment, I think that is something staff needs to confirm.

MS. LEE: Let me confirm that. My recollection is that productivity was included in the expenses. There was not a productivity factor in the --

COMMISSIONER DEASON: And is it appropriate for investment, or does the fact that the investment is a forward-looking projected -- that the productivity is inherent in making that projection to start with?

MR. DOWDS: I would say that you don't need to make a separate productivity investment, because what you are trying to do is get a surrogate for the price that BellSouth would have to pay for something. And what they are doing is they are using TPIs to measure market price changes, taking into consideration increasing productivity of the people producing the products.

It's not BellSouth's productivity, but it is implicit in the way the TPIs are presumably calculated that they pick up price changes and the fact that there is -- they have got better devices to make cable and things like that, so the unit price may or may not -- they have factors going up and down. So the TPIs presumably pick up productivity so you don't need to adjust separately.

MS. LEE: Implicitly.

COMMISSIONER JABER: Commissioner, I could support that, but I had better ask the rest of the questions I have on the other items so that if there is more information to be requested, we might as well include that.

COMMISSIONER DEASON: Sure.

CHAIRMAN JACOBS: I have some questions on some of those. Why don't we do this, though, before we get into those questions. Let's take a 15 minute break and give the court reporter a moment.

COMMISSIONER JABER: Sure.

(Recess.)

CHAIRMAN JACOBS: Back on the record. Commissioner Jaber.

COMMISSIONER JABER: Yes. I thought we would ask the rest of the questions on 7. And I think -- I'm sorry, I stopped using flags at some point. Okay. Page 268, staff. The first thing that really came out at me with the recommendation was the word historical, but I was listening to your explanation to Commissioner Deason of 7A, and if I'm understanding your use of the word historical, you are talking about BellSouth's going back to historical information for purposes of comparison. This smacked of, well, if we are supposed to be applying forward-looking methodology, why are we looking at historical discounts.

MR. DOWDS: Okay. Perhaps here historical was an inartful term. What we are talking about is trying to determine prospectively what switch discounts would BellSouth face were it to buy switches today. Those discounts are derived from its existing contracts with the switch vendors and they extend into the future. So at some prior point in time they enter into a contract, but the contract is still in play and extends into the future.

COMMISSIONER JABER: All right. And on Page 293. Your analysis, "Except where otherwise noted the averages used by BellSouth provide a reasonable approach. Staff agrees, however, with Witness Page that AT&T/WorldCom's alternative approach is a gross oversimplification. Although the simplicity of it may be appealing, we don't believe it is a workable solution."

Do we know enough to do some combination of what BellSouth was suggesting and what AT&T is suggesting? I got the impression from reading your analysis that you really didn't like either solution, either proposal.

MR. DOWDS: I think that is an apt characterization. The BellSouth new SST U&P models are the lesser of the two evils, I guess, is how I would view it. By definition, models are approximations, but the simplified approach that is described over on Page 292, basically I think is, you know, that is a bit of oversimplification. There is more detail that is meaningful in the Bell model than this assumes.

COMMISSIONER JABER: Walk me through then what you don't particularly like about BellSouth. And then the follow-up question is can't we use some hybrid?

MR. DOWDS: Well, to answer the second question, I don't think so. Basically, as I understand the AT&T witnesses' position is you take some numbers from SCIS, just like BellSouth did, and you take very large broad categories of investment and then you divide them through by broad categories of trunks. If you want to know the cost of terminated trunk, you look at all trunk related investments from SCIS/MO.

The real difference is right or wrong it seems that this approach finesses the feature costing issues that the AT&T witnesses criticized the Bell witness vociferously for. They just finessed over the entire thing, they ignore it. And to the extent feature costing has some relevance, then it should be done separately.

Now, I would note one or two points about switching.

In essence, both parties would use what is called SCIS/MO, which is the model office, which basically determines the investment for a reconstituted switch that meets certain characteristics. There is another Telcordia product called SCIS/IN, which is for intelligent -- or it's for feature costing, I forget what IN stands for now. Which BellSouth opted not to use in this proceeding, but based upon the testimony of the BellSouth witness and to a lesser extent the AT&T witness, it looks like they looked at IN, the SCIS/IN model in designing their own.

And it appears that one of the implicit criticisms of the AT&T witness is that, well, it is the resulting BellSouth models, especially when it comes to features, doesn't -- presumably doesn't -- they think doesn't do as good a job as the original SCIS/IN, which raises question marks to me. But given what was available in the record, I don't think that the AT&T proposal is a viable option here. I would note that we basically adopted the lion's share of their recommended adjustments.

COMMISSIONER JABER: AT&T's?

MR. DOWDS: Yes. The one major one we did not is the issue of the switch discounts.

COMMISSIONER JABER: All right. That's what you mean by as where otherwise noted the averages used by BellSouth provide a reasonable approach. Where you thought the model wasn't accurate, you didn't accept BellSouth's numbers.

MR. DOWDS: No. We made no -- excuse me, numerator in the rec statement, and there is quite a few adjustments that we accepted.

COMMISSIONER JABER: Okay. 7S, loadings. Page 302. And I know that based on previous discussion we might ask for some additional information, but let me just tell you my concern when I see true-ups, I think refunds and surcharges, and that relates to a past life, I know, but I can't help it. What is it we expect from the expedited hearing? Do we expect to be changing prices retroactively, prospectively?

MS. LEE: It will be a prospective true-up if there is one made.

CHAIRMAN JACOBS: So there will not be any collections, further collections by BellSouth and there won't be any refunds to any ALEC?

MS. LEE: Correct.

COMMISSIONER JABER: Okay. Page 345. Legal, is that something -- well, depending on what we ultimately do today, but should we add the word prospectively in where appropriate?

MS. KEATING: We could certainly add some language to make that clearer, but that sort of goes to a point, I think, that Ms. Marsh raised earlier that, you know, what we are recommending here based on the record is final rates, they just may be temporarily final if we obtain more information into the record at the later date.

COMMISSIONER JABER: When this Commission previously established interim rates, did you put some language in that order to say that any changes would be made prospectively?

MS. KEATING: Well, those rates were based on a stipulation. I mean, it was contemplated that those would change.

COMMISSIONER JABER: But you could make that clarification here?

MS. KEATING: Certainly.

COMMISSIONER JABER: On Page 345, at the bottom. "Staff is troubled with BellSouth's use of linear in-plant factors and agrees with AT&T and WorldCom and Sprint that linear loadings distort costs between rural and urban areas."

MS. LEE: Yes. And that goes specifically to the -- primarily to the placement factors, installation and placement factors. If you recall the way that these were determined, let's say the factor is 1.5. Well, it's 1.5 for each size of cable. And if you are talking about 26 gauge copper cable, whether it is a 25 pair or a 400 pair, it's the same factor.

When you are deaveraging loops, those linear factors will cause the cost in your urban areas or in your high density areas to be greater than they should be, and conversely, understating the cost in your more rural areas.

COMMISSIONER JABER: So how do we fix that?

MS. LEE: That goes back to the 120 days. We are asking for those specific loading factors to be explicitly modeled. And remember, in the BellSouth loop model the loop model has the capability to explicitly model placement costs and installation costs. BellSouth chose not to do it that way. They chose to use loading factors because it was easier. What we are saying is because it makes a difference especially when you are deaveraging loop rates, go back and explicitly model that information, those placement and installation costs for loops and all loop type structures.

Q Let me ask Commissioner Deason a question before we go on. What you had in mind was that we not rule on some of these issues with respect to 7, and wait 120 days to get the information, or what did you have in mind?

COMMISSIONER DEASON: No, I am in agreement with staff's methodology that we go ahead and base a decision on what we have in front of us today, which is the best that we can do. And that when we get additional information we would make prospective changes.

COMMISSIONER JABER: All right. Well, then that brings up a question in my mind. Isn't one alternative then based on what we have to not include inflation, or deflation, or productivity factors, and also -- that is an option, too, right?

MS. LEE: That is an option, yes, ma'am. It certainly is.

COMMISSIONER JABER: Would a decision like that have to be PAA, Beth?

MS. KEATING: I think you could take out inflation and it still be final.

MS. LEE: Inflation is a loading factor, it is part of 7S. It is part of -- let's see. It is part of what BellSouth is considering miscellaneous factors.

COMMISSIONER JABER: I guess I was thinking that a potential option could be that because the record indicates there are mismatches and inconsistencies that you could also say we are not going to do that, we are not going to include those in costs, but prospectively we will take another look at this after we get more information.

COMMISSIONER DEASON: Yes, and I think that to the extent that BellSouth can come up with information which makes an inflation adjustment without having the growth mismatch, that if they can come forward with the data or the mechanism to do that, we certainly can entertain it at that time.

CHAIRMAN JACOBS: One of the thoughts I had was keeping -- the prices that will be conditioned on that, could we just leave them essentially in a revised temporary status rather than making them permanent, or do we have to make them permanent and then come back and revise? Because I don't think it makes a difference or not.

COMMISSIONER JABER: Well, you might be dealing with rebates and surcharges, though.

MS. KEATING: Well, like on the other issues where you are asking for additional information at 120 days, you are still making a decision. I mean, I think you can take that same route in this issue. Now you could do something different.

MS. LEE: One of the options --

COMMISSIONER DEASON: Now, let's make it clear, if we decide today to not allow the inflation adjustment, it's going to have an impact on the numbers that will result from today's decision. I don't know if it is going to be up or down because there is inflation and there is deflation. I don't know what the overall balance is, but at least we would be eliminating the mismatch.

MS. LEE: Correct. And you could eliminate -- I mean, you could choose to eliminate inflation on your decision today, BellSouth could come back and put that in, give us more information in their refiling in 120 days, we can readdress it.

COMMISSIONER JABER: Yes. And that would also make me comfortable with this issue, where we knowingly would be establishing a cost that might have overestimated the high cost area.

MS. LEE: That is on your linear loadings, right. And that is what the recommendation did address, right. That's why we are asking for explicitly modeling those placement costs associated with loops and any loop type things.

COMMISSIONER JABER: Commissioners, that's what -- I would be interesting in going issue-by-issue on 7 with staff pointing out to us where the inconsistencies are, where the mismatches are. And my motion or my support for a motion would be that because we know there are problems with the model in that regard, that we not include those costs and that we allow BellSouth 120 days to -- is it a whole new cost study model that they have to --

MS. LEE: It would be a rerun of their loop model, BST/LM, explicitly modeling structures and loop placement costs.

COMMISSIONER JABER: Right. Is that something you all --

COMMISSIONER DEASON: Definitely. And to the extent that you want to go issue-by-issue, that's fine, but I'm not sure that we need to go through every one of these.

CHAIRMAN JACOBS: Why don't we proceed to either vote them out -- there are a couple that I have questions on, but it sounds like at that point we can identify those questions. Because it sounds like what we need is a check-off to understand where the --

COMMISSIONER JABER: Yes. That's really what I'm looking for. The concerns I have heard staff express relate to inflation, deflation, productivity factors, and the --

MS. LEE: Your loading, replacement loading factors.

COMMISSIONER JABER: Right. Have I forgotten anything?

MS. LEE: No, I don't think so. In every one of the issues in the 7 series where the inputs are addressing material and placement, all of the placement is in 7S.

COMMISSIONER JABER: So a motion like that.

CHAIRMAN JACOBS: In fact, I had a note to whether or not we would need to reopen -- no, I think given the process that we have described that would be fine. So we have taken care of Issue 7B. So 7C is cost of capital?

COMMISSIONER DEASON: Have we addressed 7B yet?

MS. LEE: No, I think you just kind of went --

COMMISSIONER DEASON: We just kind of jumped to 7S.

CHAIRMAN JACOBS: We started it, but we never concluded it, that is correct.

COMMISSIONER DEASON: I can move staff on 7B, C, and D.

MR. LESTER: Commissioners, on 7C, I would like to correct one of the parties' positions that is on Page 189. The position of the FCCA ALECs is incorrect. The correct position is this sentence, "The midpoint of the forward-looking economic cost of capital for BellSouth is 8.54 percent."

CHAIRMAN JACOBS: That doesn't change your recommendation?

MR. LESTER: No, sir, it does not.

CHAIRMAN JACOBS: So we have a motion on 7B, C, and D.

COMMISSIONER JABER: And I can second that motion.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show that B, C, and D are approved.

We are on 7E.

COMMISSIONER DEASON: I didn't know if there were questions. If there are no questions, I can move 7E.

CHAIRMAN JACOBS: I had a brief question, but it really goes back to the same point that we have been talking about, the loading factors. And, specifically -- and let me make sure that whatever rerunning of the model will deal with this. It sounds like we rejected the idea that was put forward by the ALECs that there should be some consideration of additional structure sharing, and they cite specifically pole attachments. Would the rerun of this deal with that or is that formally rejected?

MS. LEE: That is not one of the things we had considered in the rerun. It would consider your poles and conduits and your manholes because all of those are part of the loadings.

CHAIRMAN JACOBS: Right. Two instances came to mind. One, we have heard countless examples of fixed wireless people wanting to get pole access. So it strikes me as a reasonable idea that there will be further sharing of poles at least from them, if not from others. Second of all, is -- and I don't know if this has a direct impact, but we have heard about the access -- I mean, the higher demand to get access to multiple dwelling units.

So I would think, you know, while -- I don't know what percentage they make up of conduits out there, you are going to have some element of greater sharing of that. Suffice it to say is it a reasonable thing to rule out out-of-hand that there would be -- that the old formula for structure sharing should be accepted in a forward-looking model?

MS. LEE: I think the answer is no. Would you re-ask your question again, though.

CHAIRMAN JACOBS: Should we accept the old formula for structure sharing, which is what I understand is being proposed, and the original recommendation accepts. What has been done with regard to the formula for structure sharing, should that be applied in a forward-looking modeling of costs?

MS. LEE: I'm going to let Ms. Ollila answer that, but one point I wanted to put in here is that when we go back and we are going to rerun the BSTLM, we are going to be asking for the explicit modeling of their conduit and poles. I think that there will be some assumptions of structure sharing when they do that. I think in the run that they did make it was implicitly implied. So I think they will essentially explicitly model that, but I'm going to let Ms. Ollila --

MS. OLLILA: Ms. Lee is correct, structure sharing is implicit in the way BellSouth developed the costs of the structures using their loading factors. My recommendation says to accept BellSouth's factors to the extent modified -- to the extent as it is modified by 7S. So when that information is refiled that will take care of that.

CHAIRMAN JACOBS: Okay.

COMMISSIONER DEASON: Mr. Chairman, I can move 7E, F, G, and H.

CHAIRMAN JACOBS: Very well.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: So 7E, F, G and -- H and G -- got me confused there for a minute -- are approved. I'm sorry, wait a minute. Fill factors. I had a question. I don't think it will change my vote on 7G, but we kind of categorically in every instance where they were proposed, the idea of using factors from a prior study simply because -- I shouldn't say simply, but the rationale was that there was substantial distinctions and differences between those two studies.

I didn't understand that those differences were that great so that to rule out out-of-hand the use of those factors. I can understand there being an issue of whether or not we can do them in this record, but in terms of the substance of those, of the two tests, I didn't understand the differences to be that great. Any thoughts on that?

MS. OLLILA: Chairman, as far as 7G is concerned, the fill factor issue, the recommendation within staff analysis, we state that we didn't believe that it was appropriate to use the universal service inputs in this case. And my understanding is staff did that individually throughout their recommendations.

CHAIRMAN JACOBS: Right.

MS. OLLILA: The universal service proceeding was a different kind of proceeding. It so happened that the distribution fill factor input that the Commission ordered in universal services, 1.5 pairs per household, for this proceeding staff believes that two pair is appropriate.

CHAIRMAN JACOBS: Okay. And then the other point is the 47 percent factor for distribution on a going-forward basis sounds low.

MS. OLLILA: Well, it sounds --

CHAIRMAN JACOBS: Help me understand why that is reasonable.

MS. OLLILA: BellSouth provided some information that said a more recent actual fill factor is around 40 or 41 percent. When you think of distribution, it's from the cross box, the feeder distribution interface out into the neighborhood. Typically there is two ways you get a lower fill factor. One is by explicitly including growth, which BellSouth did not do in this case. What they did was they made the assumption of two pairs per household. And for businesses they used actual number of pairs, or actual number of lines for each business.

They used a cable sizing factor, and essentially they -- and I think there is an example in here. If you have ten homes -- or 25 homes on a street, two pairs per household, 50 pairs, then you look to the next larger cable size.

CHAIRMAN JACOBS: And the thought occurred to me, then, would it -- as a matter of practice, would it be a better modeling idea to look at -- to begin to look down these routes and to make some decisions about what size cabling you are going to do. Because in my mind if I am in that posture and I want to do the most effective and efficient costing, I would start to look -- if I know I'm going to have more, if I'm going to run past 50 homes very quickly, I'm going to start looking at a 100 pair cable. I don't know if that is the right sizing or not, so that I can get the best bang for that dollar.

MS. OLLILA: And that is really what the outside plant engineers do, is they look at what they expect. Data CLEC Witness Riolo talked about the distribution fill factor, and he was actually comfortable with two pairs per household. I think he said in some neighborhoods six pair might not even be out of line.

CHAIRMAN JACOBS: What troubled me is that it -- and that wasn't Riolo, but the other witness said that that tends to drive up your cost because -- that low, low factor tends to drive up your cost. And I'm thinking, well, how would one begin to address that. And the thought occurred me that that there would be some way of looking more precisely at how you do this, how the outside engineers do this process. If I understand it correctly, the 40 percent factor simply says that at the point that something reaches 47 percent of utilization they are going to start looking at building another one. Is that kind of a gross --

MS. OLLILA: Well, I'm not sure for distribution at what point relief is going to be planned, but when you think about neighborhoods, most people don't enjoy having their streets torn up or their yards torn up for telephone poles. So I would think that from that perspective that is one of the factors that any outside plant engineer has to occur. The way you could vary that would be in this case to vary the number of pairs per household.

CHAIRMAN JACOBS: Okay. Well, I don't know enough about that to do that, so I will leave that one. And we already voted that out anyway, 7G. That takes us to I.

COMMISSIONER DEASON: Mr. Chairman, I can move staff on I and J with the understanding that whatever adjustments we make in 7S would apply.

COMMISSIONER JABER: Yes. And is that enough for 7I? There was -- let me see which one it is. 7I is clearly going to be modified by 7S.

MS. LEE: 7I and 7J are -- the staff recommendation addresses specifically your gross prices, material prices. Any of your placement installation, your inflation, all of those loading factors are addressed in 7S.

COMMISSIONER JABER: Okay. Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 7I is approved. Question. These models assumes that both the third party, the ALECs pay prices based on these loading factors and BellSouth's subsidiary that provides DSL pays these same, or is that an assumption on here? Do we check to see that the price is paid, the result here are paid by both BellSouth and BellSouth's competitors?

MR. DOWDS: These UNE prices would apply to any CLEC who wished to purchase UNEs from BellSouth.

CHAIRMAN JACOBS: Okay. Very well.

COMMISSIONER DEASON: Mr. Chairman, I can move staff on 7K and 7L.

COMMISSIONER JABER: Let me ask a question on 7K. With the spirit of our motion, would you be making an adjustment now for 7K or -- on Page 252 staff says, "Given these inconsistencies, staff is fairly certain that an adjustment must be made." However, you don't know what the correction is.

MS. LEE: That is correct, Commissioner.

COMMISSIONER JABER: Commissioner Deason's motion would not allow you to make the adjustment now, right?

MS. KING: Correct, because we are not quite certain what adjustment needs to be made, and at present we recommend just going with the numbers that are in the model and then adjusting those once when we get the appropriate information in 120 days.

COMMISSIONER JABER: Is what is in the model higher or lower than what the interim rate is? I should have asked that earlier. I'm trying to figure out what it really means to not make an adjustment, is that a higher UNE or is that a lower UNE price?

MS. KING: With regard to the NID, I don't believe there are any interim rates set for NIDs right now, and I'm not quite sure once we get the information from BellSouth if this rate will go up or down. It's just not clear enough in the record to make that decision.

COMMISSIONER JABER: I can second the motion.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show Issue 7J and K are approved.

COMMISSIONER DEASON: K and L.

CHAIRMAN JACOBS: K and L, I'm sorry. So we did J already?

COMMISSIONER DEASON: Yes. We did I and J together.

CHAIRMAN JACOBS: Okay. I knew that. Issue 7M.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: I may have had one brief question here. Oh, I had the same issue here with regard to what we discussed earlier on allocation of cost and based on DSL equivalents. And would the analogy be the same here? It sounds like it will be different when you talk about allocation of costs related to -- no, the same issue, the same issue.

MS. MARSH: Yes, sir, it is the same issue.

CHAIRMAN JACOBS: Okay. So I will take the same posture here, that I would like to see the sensitivity analysis.

MS. MARSH: Yes, that would be the consistent thing to do.

CHAIRMAN JACOBS: Okay. With that, a motion on 7M?

COMMISSIONER DEASON: 7M, yes.

CHAIRMAN JACOBS: And second. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 7M is approved. 7N.

COMMISSIONER DEASON: I move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 7N is approved. 7O.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: 7O as modified, right, Commissioner Deason? This is the one where -- no, I take it back. Second.

CHAIRMAN JACOBS: Okay.

COMMISSIONER DEASON: You asked some questions on that, but we didn't modify --

COMMISSIONER JABER: Right. And it's not necessary to modify it, at least for me, because staff clarified that they did, in fact, modify BellSouth's proposal as appropriate. So, second.

CHAIRMAN JACOBS: Okay. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 7O is approved. 7P, as in Paul.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 7P is approved. 7Q.

COMMISSIONER DEASON: I can move staff on 7Q.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 7Q is approved. 7R.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 7R is approved. 7S.

COMMISSIONER JABER: This is the one.

COMMISSIONER DEASON: This is the issue that we have literally been discussing for most of today. In a nutshell, staff has identified the problem with the linear loadings, and staff is recommending that we get information as part of the 120 day filing, correct?

MS. LEE: Correct. It will be the explicit modeling.

COMMISSIONER DEASON: And then a question comes up as to what we do with inflation, and I think that it has been suggested that we simply eliminate the inflation related adjustments for purposes of calculating the number that results from today's decision. And to the extent that BellSouth can come forward with a future filing indicating an appropriate inflation adjustment that eliminates the growth mismatch, well, then that would be considered at that time.

COMMISSIONER JABER: I would second that.

CHAIRMAN JACOBS: Very well. It has been moved and seconded, 7S as amended. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 7S is approved. 7T, as in Tom.

COMMISSIONER JABER: The same thing would apply to expenses?

COMMISSIONER DEASON: Well, there was -- we have a productivity factor associated with expenses, correct?

MS. MARSH: The productivity factor is discussed in the next issue, Issue U. There was a productivity factor in there that offsets a portion, a large portion of the inflation. I believe that that also computes into the factors that are used. The way expenses are calculated, they develop a factor and apply it to the related plant.

COMMISSIONER DEASON: I guess my concern is that -- and I need input from staff, by eliminating the inflation related adjustments to eliminate the mismatch, do we also need to eliminate productivity adjustments so that we are consistent, or is that a separate item which needs to be left intact?

MR. DOWDS: I think the productivity -- let me digress a moment and bear with me. The inflation adjustments to investments to basically get a unit investment mid-study period were computed by applying a telephone plant indice, or an average, a three years average. An average of three years.

COMMISSIONER DEASON: That's where the growth mismatch comes into place is with the investment, correct?

MR. DOWDS: Right. Because the unit investment is 2001, we think the widgets are around late '99. With respect to expenses, and I'm on thin ice, but the big picture, there is three variables they consider in doing the inflation adjustment for expenses. One is an inflation measure, and I don't know offhand exactly what they use. It's probably GDPPI or something like that.

Then they also considered growth in lines. This is what in particular the Sprint witness was arguing against. So the two of those go up. The third thing was the productivity adjustment, and as Ms. Marsh was saying, the productivity adjustment basically offsets the growth. Offhand I don't know if it is 100 percent, but it's close.

Now, I guess to be consistent with the prior vote on inflation for investment you eliminate the inflation as applied to expenses and then you have to decide whether you want to include or exclude the productivity adjustment. If you leave it in, the adjustment would be less than what would otherwise be. Does that make sense? Did I say that right?

COMMISSIONER JABER: Isn't leaving it in actually a mismatch, also?

MR. DOWDS: Let me think. I guess you can argue either way. To the extent that you zeroed out completely the inflation adjustment for investment, and the way that was computed was based on TPIs, and whoever derived the TPIs, they took into consideration total industry productivity, the productivity of the vendors, not of BellSouth. Then I guess you could argue that the same exclusion would be appropriate here, you exclude both of them.

COMMISSIONER DEASON: I think that is probably correct, and I think that that gives us the best balance.

CHAIRMAN JACOBS: I agree with that.

MS. LEE: And then they could readdress this in their 120 day filing, as well.

COMMISSIONER DEASON: Absolutely. So with that clarification, I can move staff on T.

CHAIRMAN JACOBS: Yes, we are on T.

COMMISSIONER JABER: And U.

COMMISSIONER DEASON: And U.

CHAIRMAN JACOBS: It sounds like it goes through U.

COMMISSIONER DEASON: And V. We might as well go ahead and finish 7.

COMMISSIONER JABER: Second. Well, actually there is not even a vote necessary on V, apparently.

COMMISSIONER DEASON: That is correct. That one is easy, right?

COMMISSIONER JABER: So second on T and U.

COMMISSIONER DEASON: Yes.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 7T and U are approved. No vote on 7V, as in Victor. That takes us to Issue 8, beginning 8A.

COMMISSIONER JABER: I didn't have questions on 8A. I don't know if anyone else does.

COMMISSIONER DEASON: Let me check just a second.

CHAIRMAN JACOBS: I think I have one.

COMMISSIONER DEASON: If there is a motion, I can second it to approve staff.

COMMISSIONER JABER: I can move --

CHAIRMAN JACOBS: I have a question, I think, briefly on 7. I'm sorry, on 8A. The dispute here seems to have to do with the idea that there is such a great distinction made between the modeling of recurring costs versus nonrecurring costs. I guess I didn't understand a lot about what that distinction is. What differences are really prevalent and how the recurring versus nonrecurring were modeled. I understand what those costs are, but it sounds like they were modeled differently.

MR. DOWDS: The issue is what is a forward-looking cost study when you are looking at recurring cost versus nonrecurring. A forward-looking cost study for a recurring cost, such as the cost of provisioning a loop, should be based upon those provisioning techniques, technologies, prevailing prices, discounts, and the like that are reasonably achievable prospectively.

How should one conduct a forward-looking nonrecurring study? The first thing one needs to do is to identify what is it we are looking at. If you are looking at the cost of load coil removal or the cost of service initiation, then the appropriate perspective is not the way that you used to initiate service 20 years ago, but the fact that you use all kinds of neat little devices, and you may remotely dispatch I&M forces from their homes as opposed from a central location.

You basically take into consideration the current and prospective techniques and methods used to do the required activities. Implicit as I recall, I think it was Witness Murray. Witness Murray basically says that you can mix or match recurring and nonrecurring costs. I respectfully disagree, and at least one other party in the proceeding did, as well. It is apples and oranges.

The fact that a forward-looking cost study mandates a network topology, for example, that doesn't have load coils in and of itself has nothing to do with what a nonrecurring prospective forward-looking cost study would look like for removing load coils. Now, the issue of whether anybody should pay for load coil removal is not a costing issue, it's a policy/pricing issue. And that is implicit -- I think that is the implicit dynamics that occurred during the hearing.

CHAIRMAN JACOBS: The thought occurred to me on this if we go through on -- if we adopt -- I can't remember which it is, I think it was Issue 3, the idea that BellSouth should offer this -- basically, this generic kind of a loop and let the ALECs figure out how to adjust it, that would seem to me to lower BellSouth's nonrecurring cost to develop a wholesale servicing function. Do you agree?

MR. DOWDS: Yes. To the extent that an ALEC can offer a loop that is satisfactory from its perspective that is not a designed loop and the nonrecurring charges don't have a bunch of mandatory options that they claim they don't want, then the price facing the CLEC would be lower, yes.

CHAIRMAN JACOBS: Okay. There was one other thing. Oh. The big point that we talked about on this, on this issue for recurring costs was allocation of common cost. Is there much -- there shouldn't be much of that in nonrecurring, should there? Most of that should occur in recurring. The allocation of common investment and common cost, most of that should be taken care of in the recurring side, shouldn't it? We shouldn't be doing much of that here.

MR. DOWDS: Yes.

CHAIRMAN JACOBS: Okay. That's all I have on that.

COMMISSIONER JABER: I can move 8A.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 8A is approved.

COMMISSIONER JABER: On B, do you want us to wait until 8E, staff?

MS. WATTS: It doesn't matter.

COMMISSIONER JABER: What would I be moving for, that we --

MS. WATTS: Well, the parties basically combined Issues 8B and 8E in their discussions, they are so closely related.

CHAIRMAN JACOBS: I think it would probably be better to combine the discussion of those, yes.

COMMISSIONER JABER: So, on 8C I have a question, then. Walk me through, staff, what BellSouth used for its labor rate calculation and then tell me what you mean by the paragraph on Page 381. I didn't understand Witness McMahon, however, does not address whether BellSouth's labor rates comport with his view of how labor rates should be calculated.

MS. OLLILA: Okay. Your first question, first. What BellSouth did, and it is contained on Page 380 in the quote from the transcript. They accumulated their labor expense and the hours, their PC application processed this information, and they were able to accumulate their costs by different work or different types of work, direct expense and so forth.

COMMISSIONER JABER: Then they looked at what they have historically done, right?

MS. OLLILA: In essence, yes. And they used a 1998 base labor rate and they used an inflation factor to increase that. Their union contract took -- their current union contract took effect in 1998 and is scheduled to expire this summer.

COMMISSIONER JABER: Okay.

MS. OLLILA: Did that answer your question?

COMMISSIONER JABER: Yes, my first question. And then Sprint is proposing what?

MS. OLLILA: What Witness McMahon said was that it is -- you need to identify the labor rates for each activity, but what he didn't say was whether or not he thought BellSouth's labor rates were appropriate. So it seems as if he agrees in general that you have to be able to identify the labor rates, but he didn't say in his testimony that he thought BellSouth's rates were about right, too high, or too low.

COMMISSIONER JABER: Isn't he speaking to the methodology, though? Is Sprint trying to say that you look at each activity and you associate a rate with the activity as opposed to an average, I think, is what they said, right?

MS. OLLILA: Well, identifying the labor rates for each work group, and this actually kinds of bleeds into Issue 8D a little bit. But BellSouth uses job function codes, and those codes based on my understanding of the record determine the labor rates. Now, BellSouth --

COMMISSIONER JABER: Is a job function code the same as identifying the activity?

MS. OLLILA: That I'm not completely clear on, and that drives part of my recommendation in 8D.

COMMISSIONER JABER: All right. So, again, because we are a little bit confused by the distinction that Sprint is trying to make with BellSouth, you think the BellSouth labor rate is reasonable?

MS. OLLILA: There was really no evidence to the contrary.

COMMISSIONER JABER: Forward-looking, should labor rates be decreasing? No? Either approach, whether it be that we do the BellSouth 1998 figures plus an inflation factor, which apparently uses the job function code as the basis, David, or we take Sprint's proposal to look at each activity and set a rate associated with each activity, are those forward-looking methodologies?

MR. DOWDS: With what is going on here, they are just trying to determine what the labor rate should be that applied to work hours for different kinds of activities. And as I understand, as Ms. Ollila has said, they started with probably 1998 data and they wanted to get what is called a fully loaded rate, so intuitively the $10 an hour they pay us or something, they actually pay us more than that when you figure in the fact they are paying FICA and benefits and all of that.

So they are trying to figure out for each job function code which corresponds to a job category for a different kind of employee who does certain tasks, what that fully loaded labor rate is as of -- and their starting point was '98. And as I understand it, and this is not my area of expertise, but Ms. Ollila's, they came up with a labor specific TPI that they applied to it. And I don't know how that was computed, but intuitively certain pay grades in telephone company are union, so they probably have a pretty good basis to know what they have got to pay in the next couple of years. But, you know, I would defer --

COMMISSIONER JABER: Was that included in the inflation factor that they applied?

MS. OLLILA: You mean the inflation factor in 7S?

COMMISSIONER JABER: That they applied to the 1998 information?

MS. OLLILA: I'm sorry, I just want to make sure I understand your question.

COMMISSIONER JABER: When you were explaining to me what BellSouth used for a labor rate, you said that they used 1998 historical data and added an inflation factor.

MS. OLLILA: That's correct.

COMMISSIONER JABER: Would some of the elements that David just talked about, the FICA and the union rates be included in that?

MS. OLLILA: I think I see what you are asking. In effect, are they being counted twice?

COMMISSIONER JABER: Uh-huh. Yes. I really need to be more -- I am looking for -- it is not comfortable for me to know that we believe that there isn't enough information in the record to determine what the rate should be. And what is unknown then is where is the rate inflated or is it inflated. I can't answer that question.

MS. OLLILA: Whether included within the TPI that is actually inflating it is an inflation factor itself.

COMMISSIONER JABER: Yes.

MS. OLLILA: I can't answer that for sure. I would suspect not, though. And to some extent that is based on the record, because I believe that is something the ALECs would have -- would have brought forth.

COMMISSIONER JABER: Okay. I can move 8C.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: Show 8C is approved. We did 8B, correct?

COMMISSIONER JABER: We did 8D?

CHAIRMAN JACOBS: B as in Baker.

COMMISSIONER DEASON: 8B as in boy, did we do that?

COMMISSIONER JABER: I thought we were going to skip that because --

CHAIRMAN JACOBS: That's right, we were going to go down to 8E. You're right.

COMMISSIONER JABER: It's included in the discussion. So we are on 8D, then.

CHAIRMAN JACOBS: 8D.

COMMISSIONER DEASON: I have a question on 8D. There was no adjustment for deaveraging, none proposed by any of the parties, correct?

MS. OLLILA: None of the parties proposed any deaveraging for nonrecurring rates. Commissioner Jaber, earlier you mentioned a disparity for rate element A.19. I can address that know if you would like?

COMMISSIONER JABER: Yes, please.

MS. OLLILA: Okay. A.19 is loop testing beyond voice grade, and the rates in Appendix A on Page 649 show that staff's rates are approximately the same as BellSouth's rate. That results from a staff error. We have since calculated the rates based on the recommendation in 8D, and I do have new rates that I can read to you if you would like.

COMMISSIONER JABER: And they will be changed again, but just for the sake of sanity, could you go ahead and repeat --

MS. OLLILA: Sure. A.19.1, the initial staff recommended rate is $77.09. For each additional the rate is $33.12. A.19 --

COMMISSIONER JABER: Wait a second. I'm supposed to be looking at A.19.1, nonrecurring first should be what?

MS. OLLILA: $77.09.

CHAIRMAN JACOBS: As opposed to --

COMMISSIONER JABER: 122.93.

MS. OLLILA: That is correct.

COMMISSIONER JABER: And then for nonrecurring?

MS. OLLILA: You mean the additional?

COMMISSIONER JABER: Yes.

MS. OLLILA: $33.12.

COMMISSIONER JABER: Okay.

MS. OLLILA: For A.19.2, the initial or the first rate is $100.76, and the additional rate is $43.43. And the last one is A.19.3. The rate for the first one is $124.43, and the additional is $53.74.

COMMISSIONER JABER: Thank you.

MS. OLLILA: There was one other area in Appendix A that we looked at where our rate turned out to be higher, and that was on Page 688. And it's the very top line on Page 688. And in looking at it and recalculating it, it looks as if there is an error in BellSouth's calculation of its proposed rate. Based on the elements that BellSouth told us would be in this rate, we calculate their proposed rate at $224.87 for the first, and $124.46 for each additional. We have just -- it looks to just be a mathematical error.

And there is just one more area where our rate is in this case a little bit higher than BellSouth, and that is on Page 666. It is element K.2.2, which is the AIN toolkit training session. In looking at how that rate was actually calculated, that rate appears to depend on the cost of the development of the training material as well as the cost of the actual trainers.

And I'm not quite sure why our rate is slightly higher, but we don't really believe it is appropriate to apply work group reductions. Training is very different than some of the other work group functions that we see in 8D, but as to why we are a few dollars higher, at this point I can't answer that.

COMMISSIONER JABER: I don't understand. You don't -- you are not sure if BellSouth included the employee in that. You are not sure if it is just the cost associated with the toolkit?

MS. OLLILA: According to the worksheet there is a cost associated with the development cost and there is a cost associated with BellSouth Technical Solutions, and those costs are somehow melded together to come up with a rate.

COMMISSIONER JABER: Well, should we be second-guessing what is in that, or should we just accept their number?

MS. OLLILA: Well, as with a number of other things, there was no evidence on this particular one, and --

COMMISSIONER JABER: But there is this evidence. The evidence that we do have indicates that AIN toolkit service is 8,407.34. That is the evidence you do have.

MS. OLLILA: That is correct. And certainly we could change staff's rate to BellSouth's rate.

COMMISSIONER JABER: Isn't that legally what we have to do, Ms. Keating? I mean, if that is the only evidence we have, why would we do anything other than that?

MS. KEATING: I don't think that is what Ms. Ollila is saying, that that is the only evidence.

MS. OLLILA: Well, the other evidence we have is the actual spreadsheet.

COMMISSIONER JABER: Which shows --

MS. OLLILA: Which shows a BellSouth nonrecurring additive for BellSouth Technical Solutions as well as another additive for training development costs with a forecast of one training session per year.

COMMISSIONER JABER: I understand now. And does the appendix break out those additives?

MS. OLLILA: No. This is the spreadsheet that BellSouth used to calculate their costs. The appendix is just the end result of that.

COMMISSIONER JABER: Okay. I don't think I understand. I don't understand. What you are saying is the spreadsheet indicates that the cost is probably higher than the 8,407.

MS. OLLILA: Our calculation of the cost came up a little bit higher. That is what we are not entirely sure about why. One of my questions was, well, should we actually take a reduction to the work time, or in this case the training time, and we have discussed it and don't feel that it is the best way to go because it is a different kind of work time. And we can certainly check into the spreadsheet more to see why there is a difference.

MR. DOWDS: Commissioner, to embellish somewhat on Ms. Ollila's point, if you look on Page 382 of her recommendation, there is the summary of the adjustments that she recommends to various work groups. At the very end she has a residual adjustment that she based upon the prior entries that she recommends that all other work groups should be adjusted by that amount.

The issue that we discovered earlier today is whether or not the nature of the adjustments that is implicit in this all other, whether it should be made to this peculiar AIN toolkit nonrecurring charge, because it's a peculiar nature as near as we can tell. It is Bell specific training in how to use AIN toolkits to train a CLEC. And we discussed it and the consensus was that the 45 percent adjustment should not be made to this particular labor.

COMMISSIONER JABER: It could be.

MR. DOWDS: Yes.

COMMISSIONER JABER: And let me understand why you did not.

MS. OLLILA: It's really the nature of what is being done. There is to my mind at least a difference between someone taking an order and checking it, or someone going out to a cross box. There is a difference between those kinds of activities and a training session that is held for the CLEC.

COMMISSIONER JABER: Okay. I understand. Were there questions on 8D, Commissioners?

COMMISSIONER DEASON: I had one simple question, it was answered. I can move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: I'm satisfied with the answers that you got for my questions, as well. It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 8D as in David is approved. 8E. Do you have questions?

COMMISSIONER JABER: 8E and 8B we can take up together, and I can make a motion on both.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: I have a question on 8E. Page 470 of the recommendation, the first full paragraph. We are accepting an assumption that 50 percent of CLEC orders or complex orders will fall out?

MS. WATTS: Yes. And there was no testimony specifically refuting that. There were general recommendations made, but no witness specifically addressed that percentage.

CHAIRMAN JACOBS: Doesn't that -- that really points out the overall argument that goes into this idea of accepting a non-mechanized process if we say we are prepared to accept on a going-forward basis that one out of two of every CLEC order is going to be handled manually. Now, and I assume -- I believe I saw it somewhere that that won't necessarily apply to BellSouth's complex orders. We had that discussion sometime back. Maybe not, probably not in this docket.

But if I understand there is an historical difference. BellSouth orders, complex orders do not fall out at this rate. So if we move forward with this assumption it sounds like then there is a -- and the reason it is important is that you add manual processing costs for 50 percent of these orders.

MS. WATTS: Well, that takes into account the CLEC error, but, again, I mean, for this proceeding the testimony that staff reviewed did not specifically refute that. I'm not sure if the other proceeding was pertaining to another -- to an arbitration or the third party testing --

CHAIRMAN JACOBS: I'm sure it was in another proceeding, and I guess we can't use that to consider here. My question for purposes of this is that on a going-forward basis it sounds to me like we would want to set a higher standard. On a going-forward basis you would expect that CLECs would train -- would be better trained as these systems are deployed, as the OSS systems are deployed the CLECs would be better trained. And just on that notion alone you would see lower fallout rates.

But then in addition, I guess what we are saying, we dispel the notion totally that there should be at least a greater mechanization of this process. Maybe not a full mechanization, but a greater mechanization. Are we rejecting that notion?

MS. WATTS: No. We are not rejecting that notion, but staff found BellSouth's projections reasonable based on the data that they referred to. And what the ALECs provided was more or less the notion that the processes should be fully automated, and that is not something that exists today.

COMMISSIONER JABER: But that is not the standard when you are setting prices, right? It doesn't -- it's not that you are looking at the system and figuring out if it is something that could exist today, the standard as I understand it is that we are to look at the use of the most efficient telecommunications technology currently available. And automated networks are currently available.

MR. DOWDS: That is not substantiated by the record. The issue -- I'm trying to remember. I think it was discussed somewhat in 8A and one of the prior issues, and probably in here, as well, is the ALECs basically argue that contrary to what actually is in place, certain functions should be 100 percent automated and have basically 100 percent electronic flow-through. Nobody ever touches them and it's wonderful. However, during cross-examination the witness who stated that admitted that he was not aware of any system in place by any incumbent LEC in this country that could achieve that standard.

And the other thing, just coming at it from a different point of view, the issue is basically how good is good enough for an OSS. And not my area of expertise, but the standard is one of parity, it's not one of what could be. This is why I referred to it euphemistically as a scorched employee analysis. I don't think that is the right standard.

In other words, the standard of what is good enough, as I understand it, is it is parity. If the lion's share of an incumbent -- for better or for worse, the lion's share of an incumbent LEC's complex orders are handled manually, they cannot be required to have 100 percent of the complex orders of a CLEC handled automated. But that is for another docket, actually.

COMMISSIONER JABER: If UNE prices were established on the basis that it is a fully automated system, would that give BellSouth an incentive to get a fully automated system?

MR. DOWDS: Perhaps. But the presumption is that it is achievable, and as --

COMMISSIONER JABER: The presumption is what?

MR. DOWDS: Implicit in your question is that it, in fact, is achievable, and the record demonstrates otherwise.

CHAIRMAN JACOBS: I can accept that. But my question, I think, is a bit different. And correct me if I'm wrong, but the reason that I take it this 50 percent is accepted -- in fact, it says here, it says that the input assumes that a fallout due to CLEC errors will be at a rate of 3 percent of basic orders and 50 percent of complex orders. That says that over time going forward you expect CLECs to continue to fail to correctly code one out of every two of the orders they send in. That is counter intuitive to me.

First of all, if they continue to do that they shouldn't be in that business. I wouldn't let that go for two months, let alone on a going-forward basis, a forward-looking basis. That is troublesome for me. I can accept that perhaps the ALECs did not -- and maybe we are stuck with that. But what I hear your take on this is that you rejected the notion that there can be a fully automated ordering, a fully automated ordering system for complex orders. I guess then does that necessarily mean we accept the notion that going forward that we would expect this high of a rejection rate, because you don't -- because the process will be manual. And I guess I don't agree that because the process will be manual it will automatically include a 50 percent error rate.

MR. DOWDS: I guess my response would be as follows, the number can't be zero, and it's not 100 based on our record. In other words, the record --

CHAIRMAN JACOBS: Excuse me, which number are you talking about?

MR. DOWDS: The 50 percent.

CHAIRMAN JACOBS: Okay.

MR. DOWDS: I would defer to Ms. Watts on what underlies the 50 percent and whether Bell provided any data to demonstrate its reasonableness. My only point was that assuming zero, which is basically a 100 percent automated flow-through system, the record -- there is clearly testimony that demonstrates that that is not achievable. That's all I'm saying. The 50 percent may be too high.

CHAIRMAN JACOBS: The recommendation is clear that this comes from the inputs to the model, so I don't have any confusion about how we came up with the 50 percent. I guess what I'm questioning is can we scrutinize that input to the model.

MR. DOWDS: I think you can exercise judgment if you believe that the 50 percent is an unduly pessimistic assumption going forward as to the level of ineptitude of CLECs, if that is what we are talking about.

CHAIRMAN JACOBS: I think that that probably accurately characterizes my thoughts on that.

MR. DOWDS: With the caveat that I don't know what record support there is for the 50 percent. That is Bell's number.

CHAIRMAN JACOBS: Is there a way to get at this to fix it? Any idea? First of all, I guess the first question is do we know what the impact is. Is there something that we could look at to determine what kind of numbers we are talking about, because if the numbers are not that big, then we shouldn't, in my mind, belabor it.

But if this winds up imposing -- and it sounds like what it does is under this section is it establishes nonrecurring costs that reflect a high, an unduly high proportion of manually processed complex orders. And what I have heard outside of this docket about complex orders gives me nightmares anyway, but this would seem to add even more complexity to that.

MS. OLLILA: Chairman, if I might refer you back to my recommendation in Issue 8D. For example, in the service inquiry function, the complex resale support group, BellSouth's original time -- proposed time was 45 minutes. Looking at the record and what was being done, staff's recommendation was for 20 minutes.

The LCSC, local carrier service center, BellSouth recommended 45 minutes, staff recommended 10 minutes for a couple of reasons. One, there was some discrepancy between what had been provided in discovery and what was in the cost study. The other reason was what appeared to be duplicative work from one group to the next. So in looking at the actual work groups we tried to take into account what appeared to be reasonable in terms of manual effort.

CHAIRMAN JACOBS: I understand. And that is the positive result. What that does is that reduces the effort on any particular order. What I want to get to, then, is even for ten minutes per order is it reasonable to expect that over the course of 100 you would expend that ten minutes for 50 of them, or is there some number less than 50 that we will expend that ten minutes on. And I'm suggesting that on a going-forward basis, I really would question that we would expect for there to be 50 percent of errors caused by CLECs that would result in fallout.

MR. DOWDS: Commissioner, I think Ms. Ollila's point is that indirectly in her adjustments to the CRSG work times and the LCSC, which I believe are -- the assumption is they occur 100 percent of the time, but she has significantly reduced the work times. So implicitly she has accounted for a probability of occurrence which would be driven typically by fallout.

CHAIRMAN JACOBS: Uh-huh.

MR. DOWDS: Because you have reduced the work times by a very large number.

MS. OLLILA: 55 percent.

MR. DOWDS: Thank you. A large number. So, implicitly I couldn't tell you exactly what the 50 percent dropped to, but because she has cut the times down that apply 100 percent of the time, the implicit fallout rate is probably below the 50 percent.

CHAIRMAN JACOBS: I understand the approach you are taking. I still say that is a positive, but I think this is -- this should be done, as well.

MR. DOWDS: The Commission's pleasure. If you have doubts about the 50 percent, I imagine it is your discretion to so comment.

CHAIRMAN JACOBS: I would like to do that. Can we fix it in the next run? But we don't have anything to fix it with, do we? We don't have any evidence to support another number.

MR. DOWDS: Well, I think Ms. Ollila has implicitly fixed this, but not directly. Because as I understand there may not be an explicit thing labeled complex order fallout or whatever it is labeled. The other adjustments have basically accounted for and offset this number.

CHAIRMAN JACOBS: Well, is there any -- this has to do with how costs of OSS are going to be allocated to UNEs, right? We won't be able to look at this in another proceeding, i.e., in the OSS proceeding, will we, as to the costs there, will we?

MR. DOWDS: Now, are you talking about labor costs or interface system? Let me make sure I answer the right question.

Here we are talking about the cost of service inquiry primarily. And, basically, the theory is that Bell incurs more service inquiry cost to the extent that orders are not successfully processed through electronic means.

CHAIRMAN JACOBS: Okay. I can live with that. That's what this is?

MR. DOWDS: Yes.

CHAIRMAN JACOBS: Okay. That's all the questions I have.

COMMISSIONER JABER: I moved and seconded something, so do I need to modify a motion, or is that --

CHAIRMAN JACOBS: What I took to be the answer I got is that the modifications that have been made in Issue 8D appear to address the concern I have with regard to the overall impact of that number. I still disagree, and I think what we said is I would like the order to so state that we question the validity of that input, but there is no record of support to counter that assumption. I would like the record to state that.

COMMISSIONER JABER: Okay. Well, there has been a motion and a second, then, on 8B and 8E with that addition to the order.

CHAIRMAN JACOBS: Very well. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 8B as in Baker, and 8E as in Edward are approved. 8F.

COMMISSIONER DEASON: I think there is a nonissue there, isn't there?

CHAIRMAN JACOBS: That takes us to Issue 9. We will begin with 9A.

MR. DOWDS: Chairman Jacobs, could I refer back to a prior issue, something I just thought about. Inflation. What is expenses? Let me back up a minute. Inflation with respect to investments. What we did, the way they are computed is they are computed using TPIs. TPIs implicitly have productivity offsets and stuff like that. We deleted that. The effect of not having that at all means that the material prices, I believe, are base year 1998.

With respect to the expenses, we deleted the adjustment completely which would have had three terms, but we just deleted the entire adjustment. So the expenses presumably -- expensed and the associated investments, and on what the expense factors are based is calendar year 1998.

Going back to Ms. Ollila's Issue 8C, which is the labor rates, according to the description on the left-hand page, whose number I don't remember, it indicates a labor TPI was applied to the calculations they performed. Which, again, were on a base year 1998. So I infer, I think, that we need to exclude the labor TPI and the labor rates, as well. And if so, we will need to have the same kind of language allowing Bell to provide additional support for this TPI when they want to.

COMMISSIONER JABER: Which issue was that, David?

MR. DOWDS: Labor rates is 8C.

CHAIRMAN JACOBS: Oh, just in labor rates.

COMMISSIONER JABER: So are you saying someone needs to move to reconsider -- for the sake of consistency, to move to reconsider 8C?

MR. DOWDS: I think so.

CHAIRMAN JACOBS: Is it 8C?

COMMISSIONER JABER: Yes, it was 8C.

MR. DOWDS: Because basically what I think that would give us is the investment inputs would all have a base year of 1998 without any -- without being adjusted to mid-study year. Ditto for the expenses, and so I think we need to make the same adjustment for the labor rates that --

COMMISSIONER DEASON: I move we reconsider 8C to make that adjustment.

COMMISSIONER JABER: I would second.

CHAIRMAN JACOBS: Moved and seconded. We are back on 8C.

COMMISSIONER DEASON: For consistency, I move that we leave labor rates based upon a 1998 base without adjustment to be consistent with other adjustments.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: It has been moved and seconded that 8C as amended is approved. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show it approved as amended. And so we are back to 9A.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 9A is approved. 9B.

COMMISSIONER DEASON: Move staff.

COMMISSIONER JABER: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: 9B is approved. Issue 10.

MR. DOWDS: Just a clarification. By approving 9A, are you approving the rates that will result from all the machinations of prior --

COMMISSIONER DEASON: I looked at 9A as a fallout.

MR. DOWDS: Right, I'm just making sure.

CHAIRMAN JACOBS: Yes. This is a fallout after the subsequent process.

COMMISSIONER JABER: We are on 10?

CHAIRMAN JACOBS: Issue 10.

COMMISSIONER JABER: If there are no questions, I can move 10.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Issue 10 is approved.

COMMISSIONER JABER: I have questions on 11. See Page 648 of the appendix.

MS. KING: And, Commissioner Jaber, just to remind you that this is where you wanted to discuss BellSouth's letter.

COMMISSIONER JABER: Yes. And what page of the recommendation is -- oh, here it is. Different question. Where is it you discussed that letter in this issue?

MS. KING: That is discussed on Page 555 of staff's recommendation, the second full paragraph.

COMMISSIONER JABER: Okay. If I understand this correctly, BellSouth's original proposal included a proposal of $710.71. In their brief they refer to a letter where they agree to change the price to 341.63, or they agree that the price is 341.63. Your dilemma is that letter is not in the record. So in running --

MS. KING: I'm sorry.

COMMISSIONER JABER: Go ahead.

MS. KING: You are correct, that letter is not in the record, and that letter specifically notes what adjustments they have made to bring that rate down. Staff's proposed rate on this element is approximately $1.49 higher than what was discussed in the letter.

COMMISSIONER JABER: And I realize that it will change again, but it might change to something higher still. Not higher than what you have here, but a little bit higher than the 341.63? What I'm trying to understand is do we need to reopen the record to take that letter into account, or make the portion of this PAA --

MS. KING: Based on my understanding of the adjustment BellSouth made, if I were to apply that adjustment to all the other adjustments I have recommended here, the rate may actually be lower than 341.63. I would defer to Ms. Keating or Mr. Knight to address whether or not the record should be reopened.

MS. KEATING: You could probably do it either way. Have it as a late-filed exhibit, allow parties to respond, and then do a short hearing on it to give parties an opportunity to cross-examine based on it. Or you could accept it as a PAA, and --

COMMISSIONER JABER: But it might also be irrelevant if staff's rerun numbers come in lower, which they should. Is that correct, David?

MR. DOWDS: I'm dozing.

COMMISSIONER JABER: Should your prices rerun come in lower because we have taken out a lot of the cost inclusions that

BellSouth had in its proposal?

MR. DOWDS: Yes. And also because we reduced all the labor rates. However, the point -- their adjustment, Bell's is in a denominator, I think, isn't it?

MS. KING: It is based on one of the assumptions with regard to the number of load points on the loop. That is part of what their adjustment was about.

COMMISSIONER JABER: The cleanest way to do it would be to -- if we were inclined to reopen the record, take the letter into account and we could reject it or find it irrelevant at the end of the day anyway, but --

MS. KEATING: I don't know that one way is really cleaner than the other. I was thinking actually if you accepted it as PAA there is always the possibility that no one would object to that.

COMMISSIONER JABER: And then if we did that as PAA it would be clear that the only thing that is PAA is the decision to reopen the record and to accept the 341 -- no, and to consider that letter as an exhibit?

MS. KEATING: To accept the correction identified by BellSouth in that letter.

COMMISSIONER JABER: Okay.

MS. KEATING: That is an option, but I think --

COMMISSIONER JABER: Okay. Let me go back to the other questions before that. Loop conditioning. The ALECs make the argument that going forward loop conditioning is something that should not be necessary, so therefore in establishing forward-looking pricing, it is something we shouldn't be taking into account today. Could staff address that for me?

MS. KING: Certainly, Commissioner Jaber. What the ALECs argued in particular with loops under 18 kilofeet was that loops under 18 kilofeet do not require load coils in order to provide voice grade service. Therefore, they say there should be no cost to remove those load coils. That was BellSouth's choice to put in loads coils for their CEDRIC (phonetic) services that they were offering and the PBX services they were offering. So the ALECs make the argument that no rate should apply to remove load coils.

In the alternative, the ALECs said if this Commission believes a rate is appropriate, they proposed several adjustments to BellSouth's inputs and proposed a rate, I believe, of $8.32.

COMMISSIONER JABER: You rejected that price, why?

MS. KING: I didn't reject that price, what I did was I looked at the assumptions made by the ALEC witness and how they compared to some of the assumptions made by BellSouth. There was no way to do a direct apples-to-apples comparison of the two, so I looked at the proposals of both parties and chose reasonable assumptions.

For example, with regard to the actual deloading of a loop, the parties were actually quite close with the number of minutes both proposed once various other assumptions were looked at. And staff just reviewed all of -- I mean, there are lots of inputs that go into the loop conditioning rate, and made adjustments accordingly.

COMMISSIONER JABER: If we applied the scorched node theory to loop conditioning, companies would not have coils or -- what is the other word, the bridged tap?

MS. KING: Bridged tap.

COMMISSIONER JABER: Anything on there.

MS. KING: I believe for loops under 18 kilofeet that could be true, but for the loops over 18 kilofeet there was substantial evidence in the record from all parties saying that voice grade service will not work on an unloaded loop over 18 kilofeet, copper loop.

COMMISSIONER JABER: Okay. And on Page 521, the bottom. I think this is a typo, I'm not sure. "While staff agrees with Witness McPeak's 25 pair proposal, staff does necessarily support," do you mean does not?

MS. KING: Does not. Thank you for pointing that out, Commissioner. In Footnote 13 the not should be added after that comment. It should be, "Staff does not necessarily support the calculations made by the witness."

COMMISSIONER JABER: Okay. And what did you mean by that clarification?

MS. KING: Well, staff is recommending on short loops that they be conditioned 25 pairs at a time. That happens to be what Witness McPeak is also advocating. But Witness McPeak goes through this whole calculation where he applies fill factors and estimates of how much BellSouth's plant will grow, and things like that. And I'm not saying just because I am advocating 25 that I necessarily agree with all of his inputs and calculations on how he came up with, you know, his calculation of 25 pair.

COMMISSIONER JABER: Okay. And then back on line conditioning, we would be establishing a rate for line conditioning for those lines below 18 feet (sic) and the lines above 18 feet (sic)?

MS. KING: Yes, ma'am. BellSouth has proposed, I believe it is six different line conditioning elements. Line conditioning for loops under 18, loops over 18, bridged tap removal on all loops of various lengths, and then they have the subloop loop conditioning elements. So they propose five different conditioning elements.

CHAIRMAN JACOBS: But you do agree that forward-looking, and if we apply scorched node there shouldn't be any line conditioning that occurs for lines below 18 feet (sic)?

MS. KING: I believe that is an accurate statement, Commissioner. The reason staff is proposing the rate for loops under 18 kilofeet is because, first of all, based on what the FCC order said that, yes, there are -- although it is embedded, these devices are out there. They acknowledge that, and I talk about that on Page 499 of my recommendation.

COMMISSIONER JABER: And the FCC has said applying a forward-looking methodology there shouldn't be line conditioning, but we recognize that a lot of these costs have been actually incurred. Is that a requirement to the states to allow line conditioning, to allow prices for line conditioning of 18 feet (sic) or under, or was that some sort of guidance that they were giving us that we could but we didn't have to?

MS. KING: I think I would defer that question to Ms. Keating.

MS. KEATING: I think it's guidance. That is the way I interpret it. I mean, it's possible that you could find that there --

COMMISSIONER JABER: It's not forward-looking.

MS.KEATING: And that there aren't legitimate costs associated with it. I think it's guidance.

MR. DOWDS: Earlier somebody either asked me or I mentioned anyway, a forward-looking cost analysis needs to have the object of analysis defined. The fact that a forward-looking cost study for outside plant presumably may have less bridged tap than currently exists, or that it may not have load coils is independent from how one would conduct a forward-looking cost study for removing such distributing devices.

The decision of whether or not you wish to set rates for loop conditioning or some combination thereof is not based upon the FCC's pricing rules. It doesn't have anything to do with TELRIC. It is merely a matter from a policy point of view what is the appropriate pricing decision.

COMMISSIONER JABER: David, I don't understand your point. Explain it to me again.

MR. DOWDS: The notion of a forward-looking economic cost, least cost, most efficient configuration, et cetera, forget the wire center thing, because obviously that only applies in a recurring context. What 505 tells you is from what mind-set do I do my cost analysis. And my mind-set is it is based upon least cost, most efficient technology, and deployment procedures, and whatever.

But the first question you have to ask before you start doing a cost study is what am I studying. And the fact that I'm studying the cost from a forward-looking perspective of deploying outside plant to provide loops to 6.5 million customers, then my forward-looking engineering perspective is I will do certain things today that I would have done differently 20 years ago. But that has nothing to do with and it has no impact on whether or not you should ever charge for load coil removal in the real world.

The analogous object of analysis, if you are doing a nonrecurring study is what is the most cost-effective efficient way to remove load coils if they happen to exist. Because, you know, the fact that the mythical network doesn't have them is not on point for the forward-looking perspective of the nonrecurring cost analysis.

COMMISSIONER JABER: How to remove them.

MR. DOWDS: Right. The cost standard has nothing to do with whether you should set prices for loop modification. That is a policy decision. That is not -- the pricing rules won't give you that answer.

COMMISSIONER JABER: No, but as a matter of policy I thought we should be deciding whether that element would even be necessary.

MR. DOWDS: Right. And that is consistent with Ms. Keating's comment.

COMMISSIONER JABER: So if you apply the forward-looking methodology and you say, well, you know, loop conditioning isn't something that --

MR. DOWDS: Forgive me for interrupting. Application of the forward-looking methodology won't give you the answer. It has nothing to do with that. Your decision, the fact that a hypothetical network doesn't have load coils doesn't tell you one way or the other whether you should set a rate for loop modification.

If from a policy point of view you think that would be an impediment to competitive entry to assess loop modification charges to data CLECs, that is one thing. But looking at -- the TELRIC standard won't tell you whether or not to charge a rate, and it won't tell you whether or not a rate is appropriate in this context. It is apples-and-oranges is the only point I'm making.

COMMISSIONER JABER: How is it different from looking at whether there are labor costs, or inflation costs, or -- I'm still missing the point. Beth, did you have something you were going to say that might help me?

MS. KEATING: Well, I don't know if this is going to help or not, but I think what Mr. Dowds is saying is that whether or not a forward-looking network would have load coils on it or not doesn't address the issue here, which is what do you do if they are on there.

COMMISSIONER JABER: And I guess my hang-up is if it is not supposed to be there you don't have to address the costs associated with removing it.

MS. KEATING: You don't have to --

MR. DOWDS: Well, it's not supposed to be there if you are modeling the forward-looking recurring cost of a network, but that doesn't tell you anything about whether you should charge a nonrecurring charge for something that happens to exist in the current network.

MS. KEATING: To assess a charge for this that you are addressing in this issue is not necessarily not forward-looking.

MR. DOWDS: The issue is if you opt to assess a charge, the way of doing whatever it is that needs to be done should be forward-looking and efficient and stuff like that.

COMMISSIONER JABER: Okay.

CHAIRMAN JACOBS: (Inaudible, microphone not on.)

COMMISSIONER JABER: Commissioners, let me ask you for input, because I wanted dialogue on two things. I don't know what to do with the letter now that I know about it. It might not be important because of the adjustments we have made. The numbers will be rerun, but the letter has troubled me because it is such a difference from the original proposal. The amount in the letter is different, significantly different. Commissioner Deason, I'm referring to Page 555.

COMMISSIONER DEASON: Well, I guess I'm trying to understand what the letter does. It significantly reduces the first charge and just goes with a single nonrecurring charge which is significantly less than the first charge, but significantly more than the second charge.

MS. KING: Let me see if I can help clarify. Based on what was in the brief, there was some detail in the brief. Originally for line conditioning on loops over 18 kilofeet, BellSouth was proposing to condition one loop at a time. In its brief it noted that this new rate structure it is adopting would condition two loops at a time, therefore cutting the cost essentially in half. And they did away with the first and additional charge. There would just be one nonrecurring charge. That was all in the brief, that is all on the record. Staff also

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COMMISSIONER JABER: And the brief is not in the record, but it's based on transcript cites is that what you are saying?

MS. KING: No, ma'am, I guess I misspoke. That information was in the brief, that they went from one pair to two pair. More detail as far as what brought that rate down a little further was not in the brief, but contained in the letter. So I hope that explains why that rate came down so dramatically. According to the brief, they went from conditioning one pair at a time on those long loops to conditioning two pair at a time.

COMMISSIONER DEASON: What is staff -- what are you recommending on these loops, that they -- how many do they do at a time?

MS. KING: Staff is recommending on long loops that they be conditioned two at a time. Staff felt that because we are using a cost study, that, again this would be a reasonable assumption that the engineer when he is out in the field may at times only feel it is necessary or only be able to condition one loop at a time, or they may condition five loops at a time on these long loops where they have that latitude. But we felt for the cost study two was a reasonable average for long loops.

And since load coils and repeaters are necessary for voice grade service, we felt that going anything more than that could actually harm ALECs that wanted voice grade service where they would actually may have to have load coils added eventually.

COMMISSIONER DEASON: So in your recommendation you feel that an average of two reconditionings is appropriate?

MS. KING: Yes, sir, on long loops.

COMMISSIONER DEASON: On long loops.

MS. KING: Yes.

COMMISSIONER DEASON: It looks to me like the bulk of the adjustment is accomplished by staff's recommendation.

COMMISSIONER JABER: Right. And it may actually be -- the price may end up being less than the 341.63, which would really defeat the purpose of --

COMMISSIONER DEASON: And, staff, let me make it clear, and your recommendation is based upon what you think is good engineering practice supported by the record, not the letter?

MS. KING: That is correct, that is correct.

CHAIRMAN JACOBS: Yes.

MS. KING: And, Commissioner Jaber, I do believe this rate -- just for the mere fact that we are adjusting labor rates, this rate will be lower.

COMMISSIONER JABER: Exactly. Okay. I'm comfortable with that. And then the --

COMMISSIONER DEASON: But then there is the question that you have been addressing as to whether you have a rate -- well, this is for over 18,000.

MS. KING: Yes, sir. I think the most -- the most intense discussion was on the loops under 18,000 with regard to should load coils even be there in the first place, along those lines. So there was a difference between over and under as far as technology and as far as where the debate really was.

COMMISSIONER JABER: And there is evidence, there is sufficient evidence in the record to -- what is it, the ALECs testified that at least 18 feet (sic) and under would not be forward-looking. That in applying a forward-looking methodology, you wouldn't have to condition loops 18,000 feet and under.

MS. KING: They said if BellSouth had incorporated what they believe are appropriate engineering guidelines and if BellSouth wouldn't have proactively loaded its plant, which it did in the '70s for their own business choice, there would not be conditioning required.

COMMISSIONER JABER: Commissioners, I would be interested in at least modifying staff's recommendation in that regard, to make the distinction between loops 18,000 feet and under. Because there is testimony in the record that would indicate that you would still do loop conditioning for loops that are over 18,000 feet.

CHAIRMAN JACOBS: Is that a motion?

COMMISSIONER JABER: Yes. I don't know if there are any other questions on that issue, that's the only reason I didn't make --

COMMISSIONER DEASON: So is the motion to approve staff's recommendation with the exception that for loops under 18,000 feet that there would not be a reconditioning element charged?

COMMISSIONER JABER: Yes.

MS. KING: Excuse me, Commissioner Jaber. Is that also applicable to the loop makeup issues at the end of the recommendation?

COMMISSIONER JABER: Yes.

MS. KING: Okay.

COMMISSIONER DEASON: I'm sorry, clarify that, please.

MS. KING: After we talked about loop conditioning, we also addressed loop makeup, the rate for loop makeup of mechanized rate and the manual rate. And I was just clarifying what Commissioner Jaber had proposed, or what her recommendation was.

COMMISSIONER DEASON: Well, what is the clarification?

MS. KING: You said --

COMMISSIONER JABER: The clarification would be that anything on the loop that is 18,000 feet or less would not need a price because in a forward-looking methodology you wouldn't need anything on that loop.

COMMISSIONER DEASON: There would be no conditioning charges --

COMMISSIONER JABER: Period.

COMMISSIONER DEASON: -- period.

MR. DOWDS: May I ask a clarification? Are you referring both to load coil removal and bridged tap removal?

COMMISSIONER JABER: I am referring to anything that would be on that loop that is 18,000 feet or less. Would it be easier to look at the appendix and just go right down the line?

MR. DOWDS: Well --

COMMISSIONER JABER: What would be on the loop that is 18,000 feet or less? There is a load coil. Is there a bridged tap?

MS. KING: The way BellSouth set up their modification elements, bridged tap is not divided with bridged taps that are on loops over 18 and loops under 18. It is just a charge for removing bridge taps on a loop.

COMMISSIONER DEASON: And what is the significance, what is the engineering significance of bridged tap in relation to length of a loop, or is there?

MS. KING: Bridged tap was put on loops to allow the incumbents greater flexibility as far as where a pair could appear at more than one location at one time. It is not a distance sensitive type element. For example, with the load coils, those over 18 kilofeet do need the load coil where those under do not. Bridged tap really is not length sensitive.

COMMISSIONER DEASON: It just gives them flexibility in designing their network as to how to meet growth as it develops, correct?

MS. KING: Correct. And because of certain DSL services, the loop length restrictions on certain DSL services, some of those DSL services also take into consideration the amount of bridged tap that is on the loop.

COMMISSIONER JABER: So then really the only thing you would be talking about is the load coil.

MS. KING: It would be the element A.17.1, which is loop modification on short loops.

COMMISSIONER JABER: And loop modification would be removing the load coil?

MS. KING: Load coil, repeaters, right. Electronic devices. We generally just say load coil, but there are some other electronic devices, also.

COMMISSIONER JABER: Okay. That would be my motion.

COMMISSIONER DEASON: So your motion then would be to approve staff with the exception of A.17.1, which would be to remove the charge for that particular conditioning element?

COMMISSIONER JABER: Yes.

CHAIRMAN JACOBS: I have a question not related directly to that, but it goes back to the discussion of the optimum practice for the pairs, the number of pairs that you are going to unbundle. To unbridge, rather. And in reading your analysis you indicate that there is little support for any options. But you dispel the idea of doing 50 loops for a couple of reasons.

I'm not convinced that that option should be ruled out altogether. And I'm wondering if there is a way that we can make the 25 some kind of a bottom line standard, but encourage where it is reasonable to do the 50. Because, first of all, I don't think the record indicates a strong support of either, but it would -- here is the point. If you can under proper circumstances encourage 50, it sounds like you get a substantial increase -- a decrease in overhead price and, therefore, you can get that overhead cost down even more. And I would think that in my mind that swings me toward the 50 number.

MS. KING: Commissioner, with regard to the other elements where I have recommended 25 pairs be conditioned, which would be for bridged tap removal and the subloop conditioning.

CHAIRMAN JACOBS: Right.

MS. KING: I believe you do have latitude in the record if you wanted to use 50 pairs. Basically, the whole debate about number of pairs conditioned in general was based on subject matter input. And we have subject matters advocating a wide range, and I don't think there is anything in the record that would preclude you from recommending that 50 pair bridged tap be conditioned, as opposed to 25, as opposed to ten.

COMMISSIONER JABER: The witness on Page 496, Commissioner. Witness Riolo recommended --

CHAIRMAN JACOBS: The conclusion was on Page 564.

COMMISSIONER JABER: Yes. If you look, though, on Page

496, Witness Riolo recommends that the Commission recognize that conditioning should be done 50 pairs at a time.

CHAIRMAN JACOBS: Right.

COMMISSIONER JABER: So is what you are saying, Ms. King, that that is sufficient testimony for us to require 50 pairs?

MS. KING: I think it is certainly within your discretion.

COMMISSIONER DEASON: Which elements do you say it would be reasonable to utilize the 50 assumption?

MS. KING: That would be elements A.17.3, A.17.5, A.17.6. And those are found on Page 648 in Appendix A. And staff has actually done some sensitivity analysis taking into consideration a 50 pair assumption as opposed to a 25 pair, and I have those numbers if you would like those.

CHAIRMAN JACOBS: Yes, would you give them.

MS. KING: Certainly. If you assumed 50 pairs for element A.17.3, your nonrecurring rate would be reduced from 21.04 to $10.52. A.17.5, staff's proposed rate would be reduced from 10.56 to 7.39. Element A.17.6, staff's proposed rate would be reduced from 16.04 to $10.13. Now, that is strictly making that adjustment. That certainly doesn't include everything we have talked about here today.

COMMISSIONER DEASON: Commissioner Jaber, are you accepting that as part of your motion?

COMMISSIONER JABER: I would be willing to. I was just going to wait until Chairman Jacobs was done. And let me just make sure. Staff is saying we have sufficient evidence in the record to do that, but that from a practical standpoint it would make sense to do it for 17.3, 17.5, and 17.6. And, Chairman Jacobs, I would modify my motion to make that adjustment, as well.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show then --

MS. KING: I'm sorry, I don't mean to add controversy, but are you voting out all of Issue 11? Did you have any questions on loop makeup, that is another rate element within this recommendation? I just wanted to be clear if you were moving staff on that, also.

CHAIRMAN JACOBS: I'm glad you said that because --

MS. KING: That is summarized on Page 614.

COMMISSIONER DEASON: You are recommending that that be done by June the 1st, correct?

COMMISSIONER JABER: Right.

MS. KING: Staff is recommending, yes, that that next phase of mechanized loop makeup that the ALECs desire be in place by June 1st with BellSouth reporting to this Commission what enhancements have been made to that system.

COMMISSIONER JABER: Right. I wasn't interested in changing that, Commissioners. My motion included that.

CHAIRMAN JACOBS: And we are going to come back after that again and look at nonrecurring?

MS. KING: No, sir. With regard to the enhancement to the loop makeup system, what staff is recommending is that by June 1 of this year BellSouth implement that system and if the ALECs believe or anyone believes that that is still not sufficient, they certainly can come back to this Commission and let us know.

With regard to the rate for mechanized loop makeup, staff is recommending that that rate be interim at this time and be looked at again when OSS cost-recovery is addressed by this Commission.

CHAIRMAN JACOBS: Okay. Now, what about that factor that we just talked about, the allegation by the ALECs that there is an overreliance on manual processes in the nonrecurring cost. What was that, that was --

MS. KING: Are you talking about the fallout?

CHAIRMAN JACOBS: It was in one of these we just talked about.

MS. KING: The nonrecurring charges?

CHAIRMAN JACOBS: 8E.

COMMISSIONER JABER: 8E. Oh, the manual versus the electronic.

MS. KING: That was raised under loop conditioning. Excuse me, under loop makeup. One of the parties did say that, wait a minute, Bell, we should be able to have electronic access to loop makeup, and BellSouth does have an electronic or mechanized process for loop makeup information.

CHAIRMAN JACOBS: Uh-huh.

MS. KING: They have implemented that, and as part of our recommendation we are saying they need to even go one step further and provide them with the capability to query and reserve SL-1 loops.

CHAIRMAN JACOBS: Was that an element, because we never did look at the rate element that was attached to 8E. Would the opportunity be available to revisit that once the loop makeup mechanization is brought out?

MS. KING: The rate for mechanized loop makeup, I am recommending that the Commission revisit.

CHAIRMAN JACOBS: Thank you. That takes care of -- so then, is it -- Commissioners, did your motion include all of Issue 11, or do we need to go back specifically to vote on loop makeup?

COMMISSIONER JABER: I was including all of 11. The only modifications I made were deleting the loop conditioning short, and then also changing 25 pairs to 50 pairs.

CHAIRMAN JACOBS: Great. So that takes care of Issue

11. Issue 12, and we will begin with 12A.

COMMISSIONER DEASON: I can move staff on 12A and B.

CHAIRMAN JACOBS: I think this is what one of my questions was on. Yes. This sounds like a perfect example to do what we said we would do in Issue 6, i.e., roll nonrecurring costs into a recurring rate.

MS. KING: For combinations?

CHAIRMAN JACOBS: Yes.

MS. KING: I'm going to have to let Mr. Dowds address that.

CHAIRMAN JACOBS: It sounds like all the criteria you set out match perfectly here.

MR. DOWDS: I don't know what to say other than the fact that no party recommended that in this docket.

CHAIRMAN JACOBS: But we have the discretion. We said that in Issue 6, that we had the discretion to do that if we like, if there was -- no, under the criteria that you laid out, I should say. And this in my mind seems to fit that very well and it could do a lot towards encouraging competition. In the event that we -- I understand that we are not requiring by this proceeding that these combinations be offered. I understand that, but it sounds like to allow that process for this UNE would do a lot towards advancing competition.

COMMISSIONER DEASON: Well, wouldn't we have to make a finding that the current rate being distinguished between recurring and nonrecurring, that that is a barrier to competition, and you are saying no party has presented any evidence on that?

MR. DOWDS: That is correct. And by way of clarification, in Issue 6 what we said is that no criteria had been proposed as to how to determine under what circumstances nonrecurring should be combined with recurring. In other words, there were claims by --

MS. MARSH: Let me answer that, please. What we recommended in Issue 6 is that it would be preferable to spread the nonrecurring charges over a time payment plan rather than put them in recurring charges, just because once you put them in recurring charges, you don't necessarily assign them to the person who got the benefit. There may be overrecovery, there may be underrecovery.

But you do have the discretion if you believe that there are reasons -- and a barrier to entry is one reason -- that you could put them in a recurring rate. Once it is in that recurring rate, though, it is there.

CHAIRMAN JACOBS: Well, where I get my analysis -- maybe I shouldn't have said a barrier to entry, but I should more accurately phrase it as an incredible incentive to entry. And what I look to is Mr. Gillan's testimony. He had an exhibit in his testimony that demonstrates the penetration that has occurred in another state since the availability of the combination. And his direct testimony, his testimony says that he felt that it was directly proportional to the availability of the combination.

So while I may have misstated when I said the absence of it is a barrier to entry, I think the presence of it seems to indicate a -- have a direct correlation to the prospect of entry by companies.

MS. KING: Commissioner Jacobs, I'm not familiar with which portion of Mr. Gillan's testimony you are speaking of --

CHAIRMAN JACOBS: It was rebuttal.

MS. KING: -- but was it the availability of the combination or the rate structure of the combination?

CHAIRMAN JACOBS: No, it was the availability of the combination, let me say that. However, what I am suggesting here is that to the extent -- particularly with medium and smaller sized ALECs -- you can help ease the burden of getting access to the combination, it would occur to me that you would have the same effect. You would make it more available and more accessible to the medium and the smaller ALECs. That is the reason I suggest this as a potential approach.

COMMISSIONER DEASON: Well, I'm inclined to approve staff's recommendation, that's my preference. But, I mean, I have stated that. I don't see -- I agree that once you combine it in with the recurring rate you run the risk that some people are going to overpay and some underpay. You have to make some -- you know, the assumption being that there is going to be some period of time that you are going to try to recover that under, and absent a showing that to do otherwise is going to be a barrier to entry, I am reluctant to make such a modification at this point.

CHAIRMAN JACOBS: Let me take another stab at it. One of the rationale that I saw you give is exactly that risk, the risk of some lack of recovery that might occur. But if I understood your counter-argument is that that risk is minimized when there will be a high potential that this thing that you do, this one time thing that you do will have on-going effects.

I can't think of a more perfect example of that than attaching these combinations to a pair. From what I understand is that any ALEC out there who serves that customer will probably want to have this combination. And so even if that risk exists, in this particular instance it is probably minimal because most people would come in and pay and use that combination and incur this recurring -- whatever recurring charge you put on this.

COMMISSIONER JABER: One of the allegations that Sprint made, or the arguments that Sprint made, I should say, is that ordering the elements separately might actually be cheaper than the combination.

CHAIRMAN JACOBS: That is because I think probably the nonrecurring charge --

COMMISSIONER JABER: Because of the total nonrecurring cost. And my question to staff in that regard, Mr. Chairman, is is that correct?

MS. KING: In some cases that is correct. Ordering --

COMMISSIONER JABER: So if it is in some cases cheaper for the elements to be ordered --

MS. KING: I think I said that backwards. Wait.

COMMISSIONER JABER: Okay, take your time.

MS. KING: If I am remembering the record correctly, in some cases that may be true because of the time necessary to combine the elements. And I don't know if Mr. Dowds might could elaborate on that in any way, or if that satisfies your question.

COMMISSIONER JABER: All right. Well, then if that is correct, then won't the ALEC have the choice of ordering the elements separately and combining them itself? Is that something that the ALECs from a technological standpoint can do?

MS. KING: I'm sorry, Commissioner, that is beyond my area. I'm not sure.

COMMISSIONER JABER: Do you want me to ask David? Mr. Dowds, my question relates to what is on the bottom of 625 and on the top of 626. Sprint makes the argument that in some cases it is cheaper to buy the individual elements separately than to buy the combinations. And so my follow-up question is if that is the case, then can't the ALEC just buy the elements separately and combine them themselves?

MR. DOWDS: Yes.

COMMISSIONER JABER: Does that satisfy your concerns?

I'm not sure I understood --

CHAIRMAN JACOBS: Not really. It goes in that direction, but it is my belief that the availability of this combination will have a significant, if not a determinative impact on entry decisions for a lot of middle to small companies. And I think to the extent that you can give them an opportunity to get access to this combination -- and they will probably be less able to combine them themselves, but they perhaps will. To the extent you can make this accessible to those companies, I think you would enhance competition significantly.

COMMISSIONER JABER: I'm not disagreeing with you, I just don't know how to -- the nonrecurring costs will be the nonrecurring costs.

CHAIRMAN JACOBS: Here is what I'm hearing is that we would like to get a -- Commissioner Deason would like to get a showing as to some kind of sensitivity analysis as to what you would expect will be the take rate of this UNE with present staff analysis, and alternatively with implementing the provisions in Issue 6. Don't let me misstate, but --

COMMISSIONER DEASON: Well, I'm comfortable with staff's recommendation as it is stated, and I am not concerned about the interaction of Issue 6 with this issue. I know that we voted on Issue 6, it seems to me that there was either overtly or implicitly or whatever that within Issue 6 there was a determination that before we would require there to be recurring costs -- I'm sorry, nonrecurring costs incorporated in the recurring charge that we would need to make a finding that to do otherwise would be a barrier to competition.

I don't think we have the evidence here to make a finding that there is a barrier to competition if we do not combine the nonrecurring with the recurring. Now, maybe I'm misunderstanding the issue and what you are wanting to accomplish, but based upon what I understand so far that is my position.

CHAIRMAN JACOBS: I agree with everything except I didn't understand that we had put that condition on Issue 6.

MS. MARSH: Let me clarify that. What the FCC rules require is that state commissions may where reasonable require incumbent LECs to recover nonrecurring costs through recurring charges over a reasonable period of time.

In the issue, I discuss some FCC orders that talked about barriers to entry, and I don't recall it being discussed in a particular rule, but there has been discussion and that is one reason you might find that it is reasonable to do that, a barrier to entry. I don't believe there is a limit that requires that is the only thing that you find to be a reasonable -- reason to put the nonrecurring into the recurring costs.

MS. KEATING: But correct me if I'm wrong, I don't --

COMMISSIONER JABER: Even in Issue 6, though, you discuss barrier to entry because the FCC allows us to take that into account.

MS. MARSH: Yes.

COMMISSIONER JABER: As I recall -- I'm looking at Issue 6, you said there wasn't any testimony in the record that showed that there was a barrier to entry. And, in fact, you talked about a payment plan, and that any ALEC could request payment plans or similar mechanisms, but there wasn't any testimony in that regard, either.

MS. MARSH: That is correct. What I'm saying -- I'm just clarifying that barrier to entry is one of the things that the parties brought up and that the FCC has discussed. But what the rule says is that if you believe it is reasonable, you can do it.

CHAIRMAN JACOBS: So am I to take it that -- and, I'm sorry, I did not bring Mr. Gillan's testimony down. It was either his first rebuttal or his second rebuttal. He had an exhibit in the back, which was a table, which demonstrated the difference in I believe it was New York before the availability of the combination and after the availability of the combination, and there was an order of magnitude difference.

COMMISSIONER DEASON: But now that has to do with whether it was a combination or not, not whether it is nonrecurring included in recurring, is it?

CHAIRMAN JACOBS: I can agree that that is not the direct issue here. My preference would be is that there would be a very small nonrecurring charge such that this combination will be readily accessible to anyone who picks it up. I have a concern given the nonrecurring charge that we are approving that it may not. And, therefore, I'm trying to find a way to develop an avenue for medium and smaller companies to get access to this combination.

MS. KEATING: Let me just throw out a little concern before Mr. Dowds takes over, and that is I don't think there is anything in the record on which you could say it is reasonable to do that, which is one of the criteria that the FCC was talking about. And also there is nothing on which you could base what is a reasonable amount of time. I mean, you are not going to do this in perpetuity.

CHAIRMAN JACOBS: So tell me what we need so that when we go at it again we can figure that out.

MS. MARSH: Are you talking about for Issue 6?

CHAIRMAN JACOBS: What I want to know is to what extent the availability or lack of availability of this combination represents a significant decision point for medium and small ALECs. If they have it, they come. If they don't have it, they won't come. That's what I want to know. And I want to know to what extent the nonrecurring charge we have established in this docket affects that decision, okay?

MR. DOWDS: In Issue 6, Ms. Marsh indicates in the last sentence of her recommendation, it says something to the effect that, however, no criteria were presented as to what constitutes a barrier of entry.

CHAIRMAN JACOBS: It sounds like we are losing the battle on the record on this docket, so I don't want to belabor it too much longer. We have been here a long time. But I would look to find out if, number one, if that analysis can be done; nobody two, if that analysis can be done and it demonstrates that this element, this combination represents a critical element for determining whether or not medium and smaller companies will enter into UNEs in this state. And I want to find out if in another proceeding, some other future proceeding can we make that showing. That's what I'm asking for.

MR. DOWDS: Now, is your question with respect to rolling nonrecurring costs into recurring?

CHAIRMAN JACOBS: Let me restate it. The issue here was whether or not we could take the nonrecurring and roll it into recurring.

MR. DOWDS: Yes, sir.

CHAIRMAN JACOBS: The basis of my raising that issue is -- my basic premise is that what we are establishing as a nonrecurring charge for this combination will represent a substantial impediment for medium and smaller sized companies. What I am hearing now is that that has not been established in this record and therefore cannot be used as a basis for making that decision on this issue. Okay, I accept that.

We are beyond that on this issue. We can move on. But going forward, I do need to understand how that -- what the status of those facts are, and if there is another proceeding where we can address that issue.

COMMISSIONER JABER: And the issue is whether the price of the UNE-P --

CHAIRMAN JACOBS: Whether the availability of UNE-P is a critical issue for medium and smaller companies to gain competition into this state, number one; and, number two, whether or not the prices that we have established for it cause it to be unavailable to medium and smaller companies. It sounds like that would give us some answer as to whether or not it is a barrier to competition.

MS. MARSH: So your concern is specific to the combos in the UNE-P?

CHAIRMAN JACOBS: Yes.

COMMISSIONER DEASON: And let me say I'm not opposed to looking at that at some future time. But, in addition, I think that it is certainly permissible that if an ALEC finds itself in that situation they are free to negotiate with BellSouth to have an accommodation, and if BellSouth feels like that their investment is secure and that they are willing to recover that over a period of time, probably with some type of an interest component, the parties are free to negotiate that.

MS. MARSH: That is correct.

MS. KEATING: And, Mr. Chairman, can I just -- to be clear for purposes of the order, you are not intending for this to be incorporated in the language of the order?

CHAIRMAN JACOBS: Say again?

MS. KEATING: You are not intending for this to be incorporated in the language of the order, correct? You are wanting this as a staff briefing sort of thing?

CHAIRMAN JACOBS: You are correct, I'm not looking for this to be incorporated in this issue in the order. Any other questions? Do I have a motion?

COMMISSIONER JABER: Was there a motion? If not, I can move it.

CHAIRMAN JACOBS: We are on 12A.

COMMISSIONER DEASON: Well, I think I had moved 12A and B.

COMMISSIONER JABER: Okay. I can second.

CHAIRMAN JACOBS: It has been moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

CHAIRMAN JACOBS: Show 12A and B are approved. 13.

MR. LESTER: Commissioners, on Issue 13 I need to amend the staff recommendation to include two sentences. Those two sentences are at the bottom of Page 630, and I will read them very quickly. "For new interconnection agreements, the rate should become effective when the Commission approves the agreement. Pursuant to Section 252(e)(4) of the Telecommunications Act of 1996, should the Commission fail to act to approve or reject the agreement adopted by negotiation within 90 days after submission by the parties, the agreement is deemed approved."

COMMISSIONER JABER: Just one question on this. The ALECs made the argument that the recurring and nonrecurring rates should take effect immediately upon issuance of the order, and staff's recommendation is that the rates take effect after or with a negotiated or revised interconnect agreement and with future agreements. I thought we didn't have a choice in that regard, that legally you had to wait until an interconnection agreement was revised.

MS. KEATING: I think what we're saying is don't automatically impose these rates on current agreements.

COMMISSIONER JABER: How could we? Those agreements are executed by the parties.

MS. KEATING: Correct. But let me just point out that a lot of these agreements that are out there do have a change of law provision that may actually allow the parties to come in before the actual termination date of the agreement to amend their agreements to incorporate the new rates.

COMMISSIONER JABER: Right. But it would take the action by the party to say I want to use that change of law provision to revise the rates.

MS. KEATING: Right. That is our interpretation.

COMMISSIONER JABER: Okay. I can move staff on Issue 13.

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: All in favor, aye.

(Simultaneous unanimous vote.)

CHAIRMAN JACOBS: Show Issue 13 is approved. Issue 14.

COMMISSIONER DEASON: I wish we could close the docket.

COMMISSIONER JABER: Before Issue 14, I wanted to say that I have gone through the appendix, you may recall we started this morning by my saying I had a lot of questions on the appendix --

CHAIRMAN JACOBS: Before we do that, in Issue 3, I believe it was, the issue where I think we agreed to have them tag certain lines?

MS. LEE: Issue 3 was the guarantee --

CHAIRMAN JACOBS: Right. I have a question on that.

COMMISSIONER JABER: For the S-1 loop where the ALEC has requested that the loop not be converted to fiber.

CHAIRMAN JACOBS: And the question I have is in the event where they are requesting that if that conversion to fiber is a part of a bundle, are we doing anything to disrupt the conversion of the others, the rest of that to fiber, or can that be accomplished?

MS. LEE: It would only be for that loop, and it is only at the request of the ALEC. Presumably the ALEC knows what technology will work.

CHAIRMAN JACOBS: Okay. And what I want to make sure is that we don't come back and start hearing that there is a make or break decision about because this cable happens to be -- I mean, this pair has to be in this cable, you can't get fiber anymore. I mean, there will be options out there for them, I would assume.

MS. LEE: Are you talking about how it is going to effect other loops?

CHAIRMAN JACOBS: Yes.

COMMISSIONER JABER: Yes. Is the S-1 loop included in a bundle?

CHAIRMAN JACOBS: One pair in a cable is what we are going to tag and say you don't upgrade this to go to fiber.

MS. LEE: It would be a guarantee for that particular loop that is purchased by the ALEC.

CHAIRMAN JACOBS: And the other --

MS. LEE: The guarantee would not effect anything else.

CHAIRMAN JACOBS: We may want to get that clarified to see how -- to make sure that we don't introduce any unintended consequences, just to be sure about that.

COMMISSIONER DEASON: I'm sure we will have a very lengthy petition for reconsideration on a number of points.

CHAIRMAN JACOBS: Yes. Very well.

COMMISSIONER JABER: I just wanted to state that I don't have any questions on the appendix. Staff, you have addressed all of my questions. And do we need to move Issue 14?

COMMISSIONER DEASON: Second.

CHAIRMAN JACOBS: Moved and seconded. All in favor, aye.

(Simultaneous affirmative vote.)

COMMISSIONER DEASON: I want to congratulate staff on a yeoman's work. Everybody except Walter did an outstanding job on a very lengthy, voluminous, complex, controversial docket. Job well done.

CHAIRMAN JACOBS: I think probably this is one of the most challenging dockets the Commission has seen, and I have seen work that is stellar. It stands out. I think I will echo those comments.

MR. D'HAESELEER: (Inaudible. Not at microphone.)

COMMISSIONER JABER: I was going to compliment every one but you and just add that the reason it went so well is because you weren't involved. You had to ask.

CHAIRMAN JACOBS: I wanted to make sure I echoed the comments excluding Walter from that. Thank you all very much. The agenda is adjourned.

(The agenda concluded at 4:00 p.m.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, FPSC Bureau of Reporting FPSC Commission Reporter, do hereby certify that the Special Agenda Conference in Docket No. 990649-TP was heard by Commissioners Jacobs, Deason and Jabers at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript, consisting of 209 pages, constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 30th day of April, 2001.

Jane Faurot, RPR

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