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June 25, 2001

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

Re: UNE Docket No. 990649-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of AT&T Communications of the Southern States, Inc., MCI WorldCom, Inc., DIECA Communications, Inc. D/B/A Covad Communications Company and Rhythms Links Inc. is their Joint Response In Opposition to BellSouth's Motion for Reconsideration.

By copy of this letter, this document has been furnished to the parties on the attached service list.

Very truly yours,

Richard D. Melson

RDM/kcg
Enclosures
cc: Parties of Record

129471.5

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Pricing of Unbundled Network Elements	))))	Docket No. 990649-TP Filed: June 25, 2001

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC., MCI WORLDCOM, INC., DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY, AND RHYTHMS LINKS INC.'S JOINT RESPONSE IN OPPOSITION TO BELLSOUTH'S MOTION FOR RECONSIDERATION

AT&T Communications of the Southern States, Inc., MCI WorldCom, Inc., DIECA Communications Inc., d/b/a Covad Communications Company, and Rhythms Links Inc. (ALECs) respectfully submit their Response in Opposition to BellSouth Telecommunications, Inc.'s (BellSouth's) Motion for Reconsideration filed on June 11, 2001, in this docket. BellSouth requested that the Commission modify its conclusions on six items, four of which the ALECs oppose because the Commission properly considered the evidence before it in reaching its decision.

STANDARD OF REVIEW

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); *Pingree v. Quaintance*, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. *Sherwood v. State*, 111 So. 2d 96 (Fla. 3d DCA 1959) citing *State ex. rel. Jaytex Realty Co. v. Green*, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion

for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." *Stewart Bonded Warehouse* at 317.

BELLSOUTH'S ARGUMENTS REGARDING INFLATION FACTOR FAIL TO MEET STANDARD FOR RECONSIDERATION

BellSouth has requested that the Commission reconsider its decision rejecting BellSouth's proposed inflation factors. *BellSouth Reconsideration Motion* at 3. In its Order, the Commission explained:

> [W]e shall approve the loading factors proposed by BellSouth, with the exception of its proposed inflation factors. Regarding the inflation factors, we are persuaded that the application of inflation results in an inappropriate mismatch of as much as 18 months between the inflation-adjusted material costs and the demand levels utilized in BellSouth's cost study. Thus, in [an] effort to reduce or eliminate this mismatch, the proposed inflation factors are rejected.

UNE Final Order at 306. The Commission ordered BellSouth to refile its cost study within one hundred and twenty days and stated: "to the extent BellSouth can come forward with information in its refiling indicating an appropriate inflation adjustment that eliminates the growth mismatch, we will consider that information at that time." *Id.* at 307. Based on the language of the Order, it is clear that the Commission weighed the evidence before it and determined that there was a mismatch between the inflation-adjusted material costs and the demand levels used in BellSouth's cost study. In support of its motion, BellSouth repeatedly points to evidence in the record upon which the Commission based its decision. By raising this issue on reconsideration, BellSouth merely reargues matters that the Commission considered and rejected.

The Commission properly rejected BellSouth's proposed inflation factor. BellSouth states that the factor relationship between expense and investment is the key, not a relationship between expense and demand. *BellSouth Motion for Reconsideration* at 8. BellSouth states that

it develops its Plant Specific factor by dividing average projected expense by average projected investment in order to determine a relationship that is appropriate for the study period. *Id.* at 7-8. By its own admission, BellSouth's proposed inflation factor is not TELRIC-based: "... the Plant Specific factor is developed based on investments that reflect the **existing** network, not the least-cost, forward looking network considered in the cost study." *BellSouth Motion for Reconsideration* at 4. Incredibly, BellSouth asks that the Commission adopt its proposal when it obviously violates the Act. Thus, the Commission's rejection of BellSouth's proposed inflation was appropriate and consistent with the Act.

THE COMMISSION'S REQUIREMENT THAT BELLSOUTH MUST FILE A COST STUDY FOR HYBRID COPPER/FIBER LOOPS IS SUPPORTED BY THE RECORD AND SHOULD NOT BE RECONSIDERED

To maintain its stranglehold on the market for high speed DSL services for customers served by loops that traverse fiber fed Digital Loop Carrier ("DLC") units, BellSouth asks this Commission to reconsider its decision to require BellSouth to file a cost study for hybrid copper/fiber xDSL-capable loops. BellSouth relies upon two arguments to support its Motion, both of which must be rejected in light of the clear evidence to the contrary in the record. First, BellSouth argues that forward-looking DLC units that support xDSL services do not yet exist and are still in the "test" mode, an assertion rebutted by the evidence that BellSouth is deploying these NGDLC units and that other incumbent carriers are already using them to provide xDSL services over fiber/copper loops. *BellSouth Motion for Reconsideration at* 10. Second, BellSouth argues that its reliance upon fiber in its network and its ability to severely limit competition for xDSL customers served through fiber-fed loops does not support the ALECs claims that access to hybrid fiber/copper loops is necessary and competition is impaired without such access. *BellSouth Motion for Reconsideration at* 11. These arguments either were

addressed by the Commission based on the record before it or are improperly raised as new – and incorrect – arguments, and should therefore be rejected by the Commission.

The evidence introduced in this case revealed that BellSouth is in the process of deploying Next Generation Digital Loop Carrier ("NGDLC") units capable of supporting a variety of services, including xDSL services. Milner, Tr. 1992-94. In fact, BellSouth witness Milner was referred to the BellSouth ADSL planning directives, dated February 14, 2000, which stated that "by mid-2001 next generation digital loop carrier systems with ADSL channel units are expected to be available for deployment." Milner, Tr. 1993. The ADSL planning directives outlined the nature and timing of BellSouth's own deployment plans for DSL carried over DLC systems. Milner, Tr. 1994. Thus, BellSouth is currently deploying NGDLC capable of supporting DSL and is doing so rapidly to meet the expected demand for DSL services. Although BellSouth seeks to convince this Commission that such NGDLC systems are futuristic and far from deployment ready, the evidence of BellSouth's own use of these systems defeats that argument.

Furthermore, the evidence in the record establishes that other incumbent local exchange carriers are likewise rapidly deploying NGDLC and using these systems to provide DSL to customers served by fiber fed, hybrid copper/fiber loops. For example, the record reveals that SBC is deploying a $6 billion network upgrade of 25,000 remote terminals to enable it to provide an entire network that is capable to supporting DSL services for all potential customers. Murray, Tr. 2517-18. Recognizing that SBC and other incumbent carriers could use these NGDLC system upgrades to further crush competition, state public service commissions in Texas, Illinois, California and Kansas are investigating the terms and conditions under which incumbent carriers

must provide access to fiber-fed DSL loops.[1] In fact, the Illinois Commerce Commission has concluded that SBC must unbundle Project Pronto and offer competitors access to the fiber-fed DSL loops at unbundled network element rates.[2] In light of the nationwide interest in investigating the provision of xDSL service through fiber-fed DSL loops, the Florida Commission correctly concluded that it should likewise investigate the competitive impacts of BellSouth's ability to provide DSL over DLC units and should set rates, terms and conditions in a docket addressing hybrid copper/fiber loops. Further, this Commission correctly concluded that the appropriate time for such an investigation is now, before BellSouth has an even greater opportunity to dominate the DSL market in Florida.

The evidence demonstrates both that access to fiber-fed DSL loops is necessary and that competition will be impaired without it. First, as the FCC recently made clear, BellSouth must provide line sharing over an entire loop from the central office to the customer premise, even

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[1] *Complaint of Covad Communications Company and Rhythms Links, Inc. against Verizon Southwest, Inc. for Post-Interconnection Agreement Dispute Resolution and Arbitration Under the Telecommunications Act of 1996 Regarding Rates, Terms and Conditions related to Arrangements for Line Sharing*, Public Utility Commission of Texas, Docket 23537; *Petition of IP Communications Corporation to Establish Expedited Public Utility Commission of Texas Oversight Concerning Line Sharing Issues and Complaint of Covad Communications Company And Rhythms Links, Inc. Against Southwestern Bell Telephone Company and GTE Southwest Inc. for Post-Interconnection Agreement Dispute Resolution and Arbitration Under the Telecommunications Act of 1996 Regarding Rates, Terms and Conditions and Related Arrangements for Line-Sharing*, Public Utility Commission of Texas, Dockets No. 22168 and Docket No. 22469; *Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks and Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks,* Public Utilities Commission of the State of California, Rulemaking 93-04-003 (Filed April 7, 1993) and Investigation 93-04-002 (Filed April 7, 1993) (Line Sharing Phase); *Covad Communications Company Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Amendment for Line Sharing to the Interconnection Agreement with Illinois Bell Telephone (Consolidated) Company d/b/a Ameritech Illinois, and for an Expedited Arbitration Award on Certain Core Issues*, Illinois Commerce Commission, Docket No. 00-0312; *In the Matter of the General Investigation to Determine Conditions, Terms and Rates for Digital Subscriber Line Unbundled Network Elements, Loop Conditioning, and Line Sharing*, The State Corporation Commission of the State of Kansas, Docket No. 01-GIMT-032-GIT.

[2] *Covad Communications Company Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Amendment for Line Sharing to the Interconnection Agreement with Illinois Bell Telephone (Consolidated) Company d/b/a Ameritech Illinois, and for an Expedited Arbitration Award on Certain Core Issues*, Illinois Commerce Commission, Docket No. 00-0312, Final Order.

when that loop is fiber.[3] Furthermore, BellSouth must make line sharing available over fiber-fed loops, without requiring ALECs to place a splitter or DSLAM in the remote terminal.[4] The FCC has recognized that competitive carriers must have the flexibility to offer DSL services over fiber-fed loops. The same rationale applies whether customers are served using the high frequency portion of a voice loop or the entire stand alone DSL loop.

Second, the evidence shows that BellSouth has deployed almost a 40% fiber network. Without access to loops served by those DLC units, competitors will be precluded from offering xDSL services in an efficient, cost effective manner. Absent a regulatory constraint, it is simply rational for incumbents such as BellSouth to evolve their local exchange networks in a manner that supports advanced services options that they or their affiliates plan to implement, while creating technical or pricing disadvantages for competing providers. Moreover, the incumbents also have an incentive to delay competitors' access to options that are built into the incumbents' networks. Unless regulators give clear direction to incumbents to take the needs of competition into account as part of the network modernization process, the incumbents will continue to follow their self-interest, "slow rolling" competitors' access to network options. Such a process has the inefficient effect of forcing competitors to begin lengthy regulatory procedures to win access to network options one-at-a-time.

The Commission should uphold its UNE Order and investigate the costs associated with a collocation option in which BellSouth will place line cards in the DLC at the remote terminal on

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[3] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order on Reconsideration and Fourth Report and Order on Reconsideration (2001)("Line Sharing Reconsideration Order") at ¶ 10.

[4] Id. at ¶ 13.

behalf of the new entrant. Such an option is clearly in the spirit of the *SBC Waiver Order* [5] and *UNE Remand Order*,[6] which contemplates that "a requesting carrier [be allowed] to collocate its DSLAM in the incumbent's remote terminal, on the same terms and conditions that apply to its own DSLAM."[7] In a forward-looking network, BellSouth (or its affiliate) will achieve DSLAM functionality at the remote terminal through line cards placed in the DLC. The FCC has confirmed in its *SBC Waiver Order* that the plug-in cards that SBC will be placing at Remote Terminals as part of its Project Pronto are the functional equivalent of a DSLAM.[8] Thus, a collocation option that allows competitors to have BellSouth place line cards on their behalf as well as allowing competitors to place their own line cards to provide service over BellSouth's DLC is necessary to comply with the *UNE Remand Order*. Allowing new entrants to place their line-card-based "DSLAMs" at the remote terminal permits them to collocate on the same terms and conditions as will apply to BellSouth's DSLAM.

This option not only is consistent with the *UNE Remand Order*, it is essential to ensure that Florida consumers have access to the full range of DSL-based services that are technically feasible. By investigating costs and setting rates for the subloop components necessary to accommodate collocation of requesting carriers' line cards at BellSouth's remote terminals, the Commission can enable competitors to offer DSL options that BellSouth or its affiliates do not choose to provide. For these reasons, the Commission should not reconsider its decision on hybrid copper/fiber loops.

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[5] FCC Second Memorandum Opinion and Order, FCC 00-336, in CC Docket No. 98-141, ASD File No. 99-49, released September 8, 2000 ("*SBC Waiver Order*"), ¶ 16.

[6] FCC Third Report and Order, FCC 99-238, in CC Docket No. 96-98, released November 5, 1999 (*"UNE Remand Order).*

[7] *UNE Remand Order* at ¶ 313.

[8] *SBC Waiver Order* at ¶ 16.

THE COMMISSION'S FINDING THAT BELLSOUTH IS REQUIRED "TO PROVISION AN SL-1 LOOP AND GUARANTEE NOT TO ROLL IT TO ANOTHER FACILITY" IS FULLY SUPPORTED BY THE RECORD AND CONSISTENT WITH FCC RULES, AND SHOULD THEREFORE BE REAFFIRMED BY THE COMMISSION

BellSouth has requested that the Commission reconsider its decision requiring BellSouth to provide ALECs with an SL-1 loop and to guarantee that BellSouth will not convert the loop, once provisioned, to an alternative facility. *BellSouth Reconsideration Motion* at 1, 14-15. In its motion, BellSouth claims that the Commission ignored the distinction between an SL-1 loop and its other unbundled loop types, and the costs that BellSouth would incur were it to provide an SL-1 loop with a guarantee not to migrate facilities. *Id* at 14-15.

BellSouth's motion offers no basis for the Commission to reconsider its decision on this issue. Rather, the reconsideration motion (1) ignores the substantial evidence in the record supporting the Commission's decision, (2) misconstrues BellSouth's legal obligations as well as the Commission's decision, and (3) attempts to introduce new evidence not in the record. Accordingly, the Commission should reject BellSouth's motion for reconsideration on this issue.

First, as the Commission correctly stated, its decision is fully supported by the record.

> *[B]ased on [the] record*, we find it appropriate to require BellSouth to provision an SL-1 loop and guarantee not to roll it to another facility, or in other words, guarantee not to convert it to an alternative technology.

UNE Final Order at 76 (emphasis added). All parties agreed that xDSL services may be provided over SL-1 loops at the ALEC's discretion. *E.g.*, Latham, Tr. 1852-1854, 1877-886; Greer, Tr. 1709-1710; Pate Tr. 1617-1621, 1629-1631; Murray, Tr. 2616, 2619-2620, 2635-2638; Riolo, Tr. 2663-2666, 2669-2675, 2715, 2720-2721, 2776, 2834-2839. For example, Data ALEC witness Riolo testified that "the facilities used to provide xDSL services are identical or nearly identical to those used to provide voice-grade services." Riolo, Tr. 2669. Even BellSouth's own witnesses recognized that SL-1 loops may be used to provide xDSL services.

> [I]f the ALEC wants to sell its data service to its end user, the ALEC can choose an SL-1 loop, and SL-2 loop, an ADSL-compatible loop, an unbundled copper loop-short or an unbundled copper loop-long in order to provide the service[,] . . . [i]t is up to the ALEC to determine in a particular situation which of these loop types offers the needed technical characteristics at the lowest rate.

UNE Final Order at 51 (quoting BellSouth witness Greer, Tr. 1709-1710).

> If . . . the requesting carrier knows that the SL1 . . . loop is provisioned over non-loaded copper plant and the loop is within the distance limitations for the xDSL technology being utilized, or if the carrier utilizes BellSouth's loop makeup process to screen the loop facility at a particular customer address, the carrier may decide to use an SL1 . . . loop for its xDSL service.

Latham, Tr. 1852-1854; *see also* Latham, Tr. 1883-1884.

Moreover, while BellSouth now claims that there is an unspecified cost associated with providing a "'guaranteed copper' SL-1 loop" that the Commission has not permitted BellSouth to recover, *BellSouth Reconsideration Motion* at 15, the record simply does not support this allegation. To the contrary, the only significant showing regarding the cost of identifying a loop in BellSouth's databases is that there is no (or nominal) additional cost associated with such identification. Specifically, the Unbundled Digital Channel ("UDC") loop (a.k.a. the IDSL loop) is essentially the same as the ISDN loop except that it does not use certain time slots in certain specific line cards and that it is identified differently from ISDN loops in BellSouth's databases. Caldwell, Tr. 1375-1377. Yet, BellSouth proposed charging the same rates for the UDC loop as for the ISDN loop. Caldwell, Tr. 1376, 1383. Impliedly, any costs associated with uniquely identifying a specific loop type in BellSouth's databases must be negligible.

Second, while BellSouth admits that an ALEC may choose – and be able – to provide data services over an SL-1 loop, BellSouth nevertheless seeks reconsideration so that it may require a data ALEC to order a more expensive loop type to obtain a guarantee that BellSouth will continually provide the ALEC with the actual loop ordered. This is nothing more than a

cavalier attempt by BellSouth to flout its obligation under the federal Telecommunications Act of 1996 to provide access to loop makeup information during pre-ordering in order to charge higher rates to competitive data service providers. *UNE Remand Order* ¶¶ 424-431; 47 C.F.R. §§ 51.5, 51.319(g).

The purpose of BellSouth providing ALECs with access to loop makeup information is "so that the requesting carrier can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install." *UNE Remand Order* ¶ 427; *see* Riolo, Tr. 2776-2777. In using its "independent judgment," the ALEC voluntarily takes upon itself the risk that its judgment may be in error, a risk an ALEC is free to take. *UNE Final Order* at 74-75; *see* Riolo, Tr. 2838-2839; Latham, Tr. 1879-1880. The ALEC's independent judgment, however, does not go so far as to risk that the loop makeup information originally obtained may vary over time because BellSouth chooses to change the physical loop facility.

In requesting the Commission permit it to require an ALEC to incur this additional risk, BellSouth seeks to undermine the very purpose for which an ALEC obtains loop makeup information – to obtain a particular loop with specific characteristics. In order to provide specific services to its customer over that loop, the ALEC simply requires that BellSouth (1) provide loop makeup information to the ALEC, and (2) not subsequently change the physical characteristics of the specific ordered loop. *See* Riolo, Tr. 2776-2777. In other words, once an ALEC orders a specific SL-1 loop, the ALEC must be able to rely on BellSouth continuing to provide it with that specific loop facility. *See id*; Murray, Tr. 2635-2638. This is all that the Data ALECs requested, and this is what the Commission held "to be a reasonable request." *UNE Final Order* at 76.

BellSouth's position that it should not be required to guarantee that it will continuously provide the ALEC with the loop ordered, or at least with a loop of identical characteristics to the one ordered, reads all meaning out of its obligation to provide access to loop makeup information. If the ALEC cannot rely on the loop it ordered, after ordering and paying for loop makeup information, continuing to be consistent with that information, then there is no purpose in the ALEC ordering, or in BellSouth providing, such information. Without being able to rely on the long-term accuracy of the information, it is impossible for the ALEC to make informed independent judgments about the type of service to provide over a particular loop. *See* Murray, Tr. 2635-2638; Riolo, Tr. 2721.

BellSouth, however, is able to provide just such a guarantee if the ALEC coincidentally orders a more expensive loop type designed to meet certain BellSouth established parameters. *See BellSouth Reconsideration Motion* at 15. BellSouth should be required to meet its obligations in all situations, not only in situations in which it can leverage higher rates from ALECs.

Finally, BellSouth's attempt to introduce new evidence in its reconsideration motion is not an appropriate basis for the Commission to reconsider its decision. BellSouth's statements concerning new UNEs that it now offers, *BellSouth Reconsideration Motion* at 15, were made for the first time after the record had closed in its reconsideration motion. As such, they cannot be supported by the record, and therefore fail to present a valid basis for reconsideration.

Accordingly, for the aforementioned reasons, the Commission should deny BellSouth's motion for reconsideration and should reaffirm its decision on this issue.

THE COMMISSION'S DECISION ELIMINATING BELLSOUTH'S PROPOSED CHARGE FOR LOOP CONDITIONING FOR SHORT LOOPS REPRESENTS A CORRECT APPLICATION OF THE TELRIC PRICING METHODOLOGY AND IS FULLY SUPPORTED BY THE RECORD, AND THEREFORE BELLSOUTH'S RECONSIDERATION REQUEST SHOULD BE DENIED

In its UNE Order, this Commission correctly rejected BellSouth's rate proposal for conditioning loops less than 18,000 feet on the grounds that such work is inconsistent with a forward looking network. *UNE Final Order* at 394. In the first paragraph of its motion, on this issue, BellSouth admits that the Commission's *UNE Final Order* complies with TELRIC principles by excluding conditioning rates for short loops. BellSouth states:

> While BellSouth **does not dispute that a forward-looking network being designed today would not include load coils**, the fact is that ALECs are requesting unloaded copper loops from BellSouth's existing network, which contains both load coils and bridged tap.

BellSouth Reconsideration Motion at 16 (emphasis added). In essence, BellSouth seeks exactly what federal pricing rules preclude: recovery of the embedded cost of providing unbundled network elements based on its existing network. Load coils on loops are features of a network installed more than 20 years ago and their presence in the BellSouth plant today results from BellSouth's failure to bring its outside plant up to modern specifications. Riolo, Tr. 2730.

With this Commission's establishment of a rate of zero for conditioning loops under 18,000 feet, Florida joins a host of other state public service commission that have correctly concluded that incumbent local exchange carriers should not be permitted to charge for conditioning loops because such conditioning would not be necessary in a forward looking network.[9] Those commissions, like this one, correctly concluded that conditioning charges

[9] Massachusetts Department of Telecommunications and Energy – Order – *In re: Investigation as the propriety of rates and charges set forth in M.D.T.E. No. 17*, filed with the Department by Verizon New England, Inc., *Order in Docket D.T.E. 98-57-Phase III at 87*, September 28, 2000, p.86-89; *Utah Public Service Commission Phase III Part*

were inconsistent with a forward looking network and thus were impermissible under federal pricing rules. BellSouth dislikes that result and thus seeks reconsideration. Nonetheless, BellSouth offers no new evidence and fails to justify its request that this Commission reverse its decision.

Finally, the evidence demonstrates that BellSouth does not charge its retail customers a nonrecurring loop conditioning charge, even though ISDN, T-1, DS-1 loops can only be provisioned on loops without interferors like load coils. Caldwell, Tr. 1389. Thus, fairness dictates that no nonrecurring charge for conditioning be assessed on ALECs seeking the same type of clean, copper loops.

The Commission reached the correct conclusion. A forward-looking network is free of load coils on loops under 18,000 feet. BellSouth's recurring cost models assume that loops under 18,000 feet will have no load coils, and thus, will not require conditioning. Thus, the forward looking cost of removing load coils that do not exist on loops under 18,000 feet in a forward looking network is zero. As a result, the appropriate conditioning rate for loops under 18,000 feet is zero.

RESPECTFULLY SUBMITTED this 25th day of June, 2001.

Donna McNulty /RBR

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C Report and Order in Docket No. 94-999-01, issued June 2, 1999; *Oregon Public Utility Commission Order No. 98-444 in Docket Nos. UT-138 and UT-139*, entered November 13, 1998.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail, hand delivery (*) this 25th day of June, 2001.

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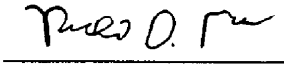

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