

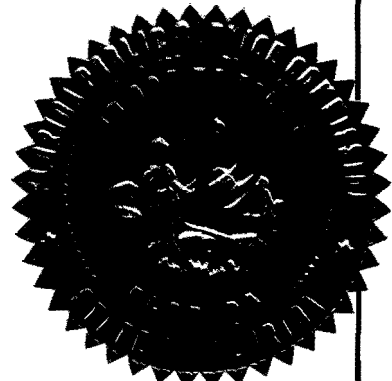
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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF COMPETITIVE CARRIERS FOR DOCKET NO. 981834-TP
COMMISSION ACTION TO SUPPORT LOCAL
COMPETITION IN BELLSOUTH
TELECOMMUNICATIONS, INC.'S SERVICE
TERRITORY.

PETITION OF ACI CORP. d/b/a DOCKET NO. 990321-TP
ACCELERATED CONNECTIONS, INC. FOR
GENERIC INVESTIGATION TO ENSURE THAT
BELLSOUTH TELECOMMUNICATIONS, INC.,
SPRINT-FLORIDA, INCORPORATED, AND GTE
FLORIDA INCORPORATED COMPLY WITH
OBLIGATION TO PROVIDE ALTERNATIVE LOCAL
EXCHANGE CARRIERS WITH FLEXIBLE, TIMELY,
AND COST-EFFICIENT PHYSICAL COLLOCATION.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 3

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON

DATE: Tuesday, August 17, 2004

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

REPORTED BY: TRICIA DEMARTE, RPR
Official FPSC Reporter
(850) 413-6736

1 PARTICIPATING:

2 BETH KEATING, ESQUIRE, ADAM TEITZMAN, ESQUIRE, TODD
3 BROWN, SHEVIE BROWN, DAVID DOWDS, STEPHANIE CATER, LAURA KING,
4 ANNE MARSH, MATT BRINKLEY, BETTY GARDNER, and ANDREW MAUREY,
5 representing the Florida Public Service Commission Staff.

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CHAIRMAN BAEZ: And now we are back on Item 3.

MR. BROWN: Good morning, Commissioners. Item Number 3 is staff's recommendation in the pricing phase of the collocation docket, the generic collocation docket, Docket Number 981834-TP and 990321-TP.

This recommendation specifically addresses the appropriate definitions, costs, and associated terms and conditions to provide certain collocation elements. At this time, staff has three corrections it needs to make. The first of those is on Page 23. Okay. On Page 23 under the Verizon heading, there's an order number that needs to be changed. It should read "Order Number PSC-02-1574-FOF-TP." I believe it's in the third line.

COMMISSIONER BRADLEY: Give me that again, please.

MR. BROWN: Yes, Commissioner. The order number referenced on Page 23 in that last paragraph should read "PSC-02-1574-FOF-TP."

COMMISSIONER BRADLEY: Thank you.

MR. BROWN: The second modification or correction is on Page 27 in the third full paragraph. The cite at the end of the paragraph should be corrected to read "TR 669-670."

Are we ready for the third correction? Okay. The third correction is on Page 143, and in the first sentence under conclusion we need to add some language to the

1 first sentence. After "collocation cable records," we need to
2 insert the language, "through separate rate." And then right
3 after "elements," just following that, a comma "as they."
4 Would you like me to read the sentence as corrected?

5 CHAIRMAN BAEZ: Go ahead.

6 MR. BROWN: Okay. "Since there is no apparent double
7 recovery of CCM costs, staff recommends that BellSouth be
8 allowed to recover its cost of collocation cable records
9 through separate rate elements, as they appear to be
10 reasonable."

11 CHAIRMAN BAEZ: Thank you.

12 MR. BROWN: Those are the only corrections staff has.
13 Staff is prepared to answer your questions at this time.

14 CHAIRMAN BAEZ: Commissioners, what's your pleasure?
15 We have three issues -- four issues. We can go issue by issue.
16 Okay. And I guess the first one is 9A.

17 MS. MARSH: Issue 9A is, "For which collocation
18 elements should rates be set for each ILEC?" Although not
19 originally an issue in this docket, AT&T proposed a single
20 model approach for all three ILECs. I will address the single
21 model approach, and Ms. King will address the collocation
22 elements.

23 Staff recommends that AT&T's single model approach
24 should not be adopted. Rates should be set for the collocation
25 elements identified in the ILEC's individual cost studies as

1 adjusted by staff in the following issues. The recommended
2 rates are contained in Appendices B through D.

3 CHAIRMAN BAEZ: Commissioners, questions?

4 Go ahead, Commissioner Davidson.

5 COMMISSIONER DAVIDSON: Thank you, Chairman. At
6 Page 12 of the recommendation staff states in the
7 first sentence under Roman numeral II that AT&T advocates the
8 use of a unitary model, the BellSouth Cost Calculator. Just
9 for clarification, the BellSouth Cost Calculator is also a
10 model that BellSouth would agree with for estimating cost;
11 correct?

12 MS. MARSH: Yes, that's the model they used.

13 COMMISSIONER DAVIDSON: Do Covad and FDN join in that
14 assertion that a unitary model should be used?

15 MS. MARSH: They joined in the brief, so I believe
16 that they are actually joining in that.

17 MS. KING: Commissioners, just as further
18 information, neither Covad or FDN had a witness in this case,
19 but they were part of the joint brief that AT&T filed.

20 COMMISSIONER DAVIDSON: Well, is it fair to state
21 that Covad and FDN advocate the use of a unitary model, the
22 BellSouth Cost Calculator?

23 MS. KING: Based on the brief, I would say, yes, sir.

24 COMMISSIONER BRADLEY: I missed the last part of that
25 answer.

1 MS. KING: Based on the brief that -- the joint brief
2 that was filed, I would say, yes, FDN and Covad agree with this
3 unitary model approach, or they support the unitary model
4 approach.

5 COMMISSIONER DAVIDSON: And Sprint and Verizon would
6 disagree.

7 MS. KING: Correct.

8 COMMISSIONER DAVIDSON: And in a nutshell, the
9 essence of the disagreement and the essence of staff's
10 recommendation that a single model is not appropriate is what?

11 MS. MARSH: The approach used by AT&T actually goes
12 far beyond the use of a single model. They're actually
13 advocating the same costs, so that's one of the bases for
14 staff's recommendation that it's inappropriate.

15 COMMISSIONER DAVIDSON: And that would be the
16 approach. I mean, you just stated that would be the approach
17 advocated by AT&T, Covad, and FDN.

18 MS. MARSH: Yes.

19 COMMISSIONER DAVIDSON: Okay. Sorry. Go ahead and
20 finish, please.

21 MS. MARSH: I say AT&T because only AT&T had a
22 witness, so it was AT&T's witness that advocated the use.

23 The companies are very different companies with
24 different costs, and so the use of the costs really, as I said,
25 goes far beyond the use of a single model. The models in this

1 case are also not -- I wouldn't even truly call them models.
2 They're cost calculators. They're very simple spreadsheets.
3 They are not difficult to follow or understand. And there are
4 problems that would be caused by forcing companies to use a
5 single approach in Florida where they're using different
6 approaches in other states, would cause more confusion for the
7 CLECs, we believe, than what would be gained by having simply
8 one set of spreadsheets, so -- and one approach to look at.

9 COMMISSIONER DAVIDSON: Thank you.

10 CHAIRMAN BAEZ: Commissioners, any other questions?

11 COMMISSIONER DEASON: Yes, I have a question for
12 staff --

13 CHAIRMAN BAEZ: Go ahead, Commissioner.

14 COMMISSIONER DEASON: -- and just kind of follow up
15 there on that last answer. You indicated that these are really
16 not models per se in the classic sense of that term but are
17 really cost calculators and are spreadsheet-based; is that
18 correct?

19 MS. MARSH: That's correct, sir.

20 COMMISSIONER DEASON: So I'm trying to get a feel for
21 the additional amount of staff time and resources which are
22 required to process three of these as opposed to using one.
23 Can you give me any feel for that?

24 I take it by your previous comment it's not that
25 burdensome, but you may wish to elaborate on that.

1 MS. MARSH: I'm not certain I could answer that.
2 Perhaps Mr. Dowds could shed some light on that.

3 COMMISSIONER DEASON: Okay.

4 MR. DOWDS: To follow up on something Ms. Marsh
5 mentioned, the BellSouth Cost Calculator literally is that.
6 Most of the analysis is done in determining what company
7 specific inputs are appropriate such as the materials priced
8 for building a cage, labor rates associated with performing a
9 given function. In the case of nonrecurring charges, once the
10 activities are identified and an estimate of the time to
11 perform the activity determined, they are then input into a
12 spreadsheet. Structurally, the spreadsheets are very
13 straightforward. Collocation, to quote another staffer, is not
14 really rocket science. It's not like a cost model for outside
15 plant or transport or loops. This is fairly straightforward.
16 So the analysis of the calculators themselves is relatively
17 minimal.

18 COMMISSIONER DEASON: It's the inputs that are --

19 MR. DOWDS: Yes.

20 COMMISSIONER DEASON: Now, would there be any savings
21 of staff time and resources in doing the inputs if you had one
22 calculator that was used for all three companies?

23 MR. DOWDS: Not necessarily. And it's primarily
24 because -- let me speak to the BellSouth Cost Calculator.
25 BellSouth obviously advocates the use of its cost calculator

1 for itself but not for the other two companies. And the
2 reason, as I recall for that, is the cost calculator that they
3 developed reflects their preferred rate structure, which also
4 reflects how they keep their books and records, which
5 presumably does not lay down necessarily with the way Sprint
6 and Verizon keep their records. Also, the resulting rate
7 structure is not the same as the preferred rate structures of
8 Verizon and Sprint. So to put it, I guess, in a nutshell, the
9 cost calculator that we've been discussing here is essentially
10 hard wired, so it will generate the rate structure that Bell
11 wants as opposed to Sprint or Verizon. And since the actual
12 calculations are relatively straightforward, unless one wants
13 to advocate a uniform rate structure across all companies,
14 there's really no need to have a single cost calculator because
15 the math is straightforward.

16 COMMISSIONER DEASON: Should there be a uniform rate
17 structure across all companies? I mean, different rates based
18 upon cost of the companies but a rate structure that is the
19 same.

20 MS. KING: Commissioners, I don't believe so. It
21 appears based on the testimony we received in this docket that
22 if you set a standard rate structure in Florida, while there
23 may be some efficiencies gained here, the CLECs would have to
24 deal with rate structures in other Sprint states or other
25 Verizon states. So I'm not sure that there would be any

1 gains --

2 COMMISSIONER DEASON: But there would be efficiencies
3 in Florida, would there not?

4 MS. KING: There could be, yes, sir.

5 COMMISSIONER DEASON: Well, I know there's been a lot
6 of expression of concern about the cost of regulation and the
7 amount of staff time and staff personnel which have to be at
8 hearings and have to participate and the regulatory costs
9 associated with that. Would this be a way to reduce that
10 burden to benefit the companies so that they wouldn't have to
11 pay as much in regulatory costs?

12 MR. DOWDS: I think it would be fair to say that
13 you'd be shifting the burden away from the Commission and onto
14 the companies because it would necessitate Verizon and Sprint
15 trying to determine how to extract the necessary unit
16 investments and other inputs to force them into a standardized
17 model.

18 COMMISSIONER DEASON: So you're saying that it may be
19 a little more burdensome on the Commission but that it would be
20 more efficient for all entities as a whole.

21 MR. DOWDS: On balance probably, yes.

22 COMMISSIONER DEASON: That's fine. Thank you.

23 CHAIRMAN BAEZ: Let me go down the line and we'll --
24 Commissioner Bradley, did you have any questions?

25 Go ahead, Commissioner Davidson.

1 COMMISSIONER DAVIDSON: Thanks. Following up on
2 Commissioner Deason's question. Notwithstanding that it might
3 be more efficient from just a purely regulatory cost
4 assessment, is staff's recommendation in 9A that not using a
5 unitary cost model is the sort of sound, economically rational
6 policy approach, cost aside? Is that a fair statement?

7 MS. MARSH: In this case that would be correct.

8 COMMISSIONER DAVIDSON: Thank you. I have no further
9 questions.

10 CHAIRMAN BAEZ: I have a question and maybe it's a
11 legal question. There's been some discussion as to how the
12 necessity to address rate structure if it's not really
13 addressing a cost calculator, which we have -- which is
14 employed, I guess, in these circumstances, but rather the rate
15 structure that would actually yield the efficiencies that might
16 be out there. Is the question of a rate structure before us
17 properly?

18 MR. TEITZMAN: Well, I think as noted, the actual
19 language of the issue I would answer with a no. However, as we
20 noted, AT&T did raise the issue of a unitary cost model, and
21 staff chose to address that as that was what AT&T filed
22 testimony on.

23 CHAIRMAN BAEZ: And I guess in the interest of fair
24 play, I mean, if there isn't -- let me ask you this. In your
25 opinion, is it sufficient that one party raises, for instance,

1 rate structure questions by filing testimony on that in the
2 normal course of hearings, does that constitute putting that
3 issue in question despite the fact that it's not addressed by
4 the parties to which it -- that it's being held against? I
5 don't know how better to put it. I'm struggling for the word,
6 I guess.

7 MS. KEATING: Mr. Chairman, I think I see your
8 concern, but I think in this instance I think the issue was
9 brought out by AT&T very early on. It is how they approach
10 this issue.

11 CHAIRMAN BAEZ: Okay.

12 MS. KEATING: And there was a full opportunity to
13 address the question from both sides of the case. So I think
14 to that extent it is within the scope.

15 CHAIRMAN BAEZ: So then, in your opinion, there is no
16 legal impediment for us to not have the rate structure question
17 before us.

18 MS. KEATING: I don't think that there's any
19 impediment in you addressing AT&T's proposal as put forth. If
20 you were looking for in a broader context whether or not the
21 companies need to have some sort of unified rate structure,
22 that's probably beyond the scope. But as far as AT&T's
23 specific proposal, I think that is something that's --

24 CHAIRMAN BAEZ: All right. Thank you.

25 Commissioners, any other questions or --

1 COMMISSIONER DAVIDSON: Move staff on Item 9A.

2 COMMISSIONER BRADLEY: Second.

3 CHAIRMAN BAEZ: Moved and seconded. All those in
4 favor say, "aye."

5 (Simultaneous affirmative vote.)

6 CHAIRMAN BAEZ: Thank you, Commissioners.

7 Issue 9B.

8 MR. BROWN: Issue 9B addresses the proper rates and
9 the appropriate application of those rates for certain
10 collocation elements. Staff has divided its recommendation on
11 this issue into two separate categories, nonelement specific
12 inputs and major categories of elements. The inputs are
13 discussed first followed by the element discussion.

14 Staff has prepared a table beginning on Page 15 that
15 summarizes its recommendations here. And then staff also has
16 in the appendices the rate comparison tables for BellSouth,
17 Sprint, and Verizon, and those are in Appendices B, C, and D
18 respectively. AT&T's rate restatement for each ILEC is found
19 in Appendix A.

20 CHAIRMAN BAEZ: Commissioners, questions?

21 It's kind of a big -- I would request this simply, if
22 there are major points of contention that you think you need to
23 draw our attention to, if you can -- anything you can think of
24 because it is a rather lengthy recommendation and to fish out
25 individual numbers would be kind of difficult.

1 MR. BROWN: Okay. Ms. King, I know you had some that
2 had some options.

3 MS. KING: Commissioners, if it's helpful, we'll be
4 glad to just briefly hit on each element in this table just
5 very quickly and let you know if there's controversies in our
6 introduction, if that's appropriate.

7 CHAIRMAN BAEZ: Go ahead. We can work it that way.
8 Thank you.

9 MR. BROWN: Hello, Commissioners. I'll be addressing
10 the first two topics. BellSouth, Verizon, and Sprint are
11 proposing labor and tax rates that were previously approved in
12 our UNE proceedings. No parties opposed any of the labor or
13 tax rates; therefore, staff is recommending that they be
14 approved as we have recommended in our recommendation.

15 CHAIRMAN BAEZ: We can just move down the line.

16 MR. BRINKLEY: Commissioners, Ms. Gardner and I
17 examined the depreciation inputs for BellSouth, Verizon, and
18 Sprint. And she can handle any questions for Verizon and
19 BellSouth. And in both cases, BellSouth proposed the same
20 collocation inputs as they had in their UNE docket, and for
21 Verizon and Sprint slight differences. We are proposing also
22 what was used in the UNE docket.

23 CHAIRMAN BAEZ: Okay. Mr. Maurey.

24 COMMISSIONER DEASON: Let me ask a question on that.

25 CHAIRMAN BAEZ: Go ahead, Commissioner.

1 COMMISSIONER DEASON: I understand that Verizon in
2 their case were proposing things that were different than what
3 the Commission voted out in the UNE proceeding. And I
4 understand it's primarily those items that they have taken
5 on -- they have disagreed with the Commission and that they
6 were as part of their appeal. What is Sprint's situation? You
7 said that they also had some depreciation rates that were
8 different from the UNE proceeding.

9 MR. BRINKLEY: For the collocation docket, they
10 referred to economic life studies to propose shortening the
11 lives for the three asset accounts that they were changing and
12 also modifying their salvage values.

13 COMMISSIONER DEASON: And this is different from what
14 the Commission approved in the UNE proceeding?

15 MR. BRINKLEY: Correct.

16 COMMISSIONER DEASON: And what was the basis for
17 their desire to change it for collocation purposes?

18 MR. BRINKLEY: They indicated that for the UNE
19 proceeding that they adopted what was used for BellSouth, but
20 for this docket they wanted to refer to their economic life
21 studies.

22 COMMISSIONER DEASON: And it's your position that,
23 what, the UNE proceeding amounts be utilized here as well for
24 collocation?

25 MR. BRINKLEY: Yes. It is my position that the

1 information they provided was not persuasive enough to augment
2 what was approved in the UNE.

3 I will point out that there were two cases where I
4 did deviate from what was approved in the UNE. One was
5 offering up a primary and an alternative recommendation for the
6 digital switching life. The primary recommendation was to
7 recognize that the information they provided indicated that
8 possibly their lives were shorter than what was used in the
9 UNE, and my primary recommendation is to lower it while staying
10 within the FCC range with the belief that the information they
11 provided was not persuasive enough to go below the FCC range.

12 For conduit, I recommended going along with the
13 company's proposed salvage value of negative 29 percent, and in
14 that case, I believe that the information showed a
15 long-standing pattern of lower salvage value than what was
16 approved in the UNE proceeding.

17 COMMISSIONER DEASON: And that was for conduit?

18 MR. BRINKLEY: Correct.

19 COMMISSIONER DEASON: Now, this goes back to a more
20 generic basic question, not too much to the specifics of this,
21 but when we do a collocation docket, would there be time
22 savings for staff if it's just clear that this is not the time
23 to litigate new inputs and new amounts? It's that whatever is
24 approved in your last UNE proceeding is going to apply. Would
25 that save Commission time and resources?

1 MS. KING: I believe so, Commissioner.

2 COMMISSIONER DEASON: But the company saw fit that
3 they wanted to raise these additional issues in this docket,
4 realizing it was going to take more time and resources; is that
5 correct?

6 MS. KING: I believe I would say, yes, I believe it
7 would save some time with the caveat that if they are updating
8 information in their study to bring it to a more recent study
9 period, that would be appropriate. For example, if labor rates
10 had changed from the prior --

11 COMMISSIONER DEASON: I guess I'll ask this to legal.
12 What is our requirement? I mean, when we do a collocation
13 docket, are all of the issues that companies see fit to raise
14 to us -- realize it's going to take time and resources and
15 litigation costs, are we obligated to do that, or do we have
16 the ability to say, we're just going to use what was done in
17 your last UNE docket, and when those are updated, we'll update
18 everything accordingly?

19 MS. KEATING: Commissioner, I'm trying to think
20 through --

21 COMMISSIONER DEASON: I'm just trying to understand
22 how we can streamline regulation, which seems to be a concern
23 for a lot of people.

24 MS. KEATING: I understand where you're coming from,
25 Commissioner, and you raise a good point. I think in this

1 proceeding it was designed to address specifically collocation
2 rates and to the extent that new information was provided in
3 the proceeding that is a part of the record that there is an
4 obligation to consider everything in the record. Now, you may
5 reach a conclusion that the decisions you made in a prior
6 docket are the best supported by the record, but this was a
7 separate proceeding with its own separate record.

8 COMMISSIONER DEASON: These were issues that were
9 raised by the companies, not by staff; is that correct?

10 MS. KEATING: That is correct.

11 COMMISSIONER DEASON: And they chose to put on
12 additional testimony to deviate from what the Commission had
13 approved in their cases; is that correct?

14 MS. KEATING: That is correct.

15 COMMISSIONER DEASON: Okay.

16 CHAIRMAN BAEZ: Commissioners, any other questions?
17 We can have a motion.

18 COMMISSIONER DEASON: I thought we were going to go
19 down the list.

20 CHAIRMAN BAEZ: Oh, I'm sorry. Can you tell I want
21 to -- all right.

22 Go ahead, Mr. Maurey. I'm sorry.

23 MR. MAUREY: Commissioners, Sprint and BellSouth each
24 use the same weighted average cost of capital approved in their
25 most recent UNE dockets for purposes of the collocation

1 dockets. No testimony was filed on behalf of Sprint or
2 BellSouth regarding cost of capital for purposes of this
3 proceeding. Only Verizon advocated using a different cost of
4 capital for collocation in the return approved for UNE pricing
5 in general. Three witnesses filed testimony. There is a range
6 of recommendations. On Page 46 of staff's recommendation
7 there's a table that summarizes the positions of each of the
8 witnesses that testified on this issue.

9 Based on its analysis of the record before you, staff
10 recommends a weighted average cost of capital of 9.8 percent
11 for Verizon for purposes of this proceeding. At this time,
12 staff is prepared to respond to any questions you have.

13 COMMISSIONER DEASON: I'm sorry. That rate again was
14 what?

15 MR. MAUREY: 9.8 percent.

16 COMMISSIONER DEASON: 9.8. That's under the staff
17 recommendation column on Page 46?

18 MR. MAUREY: Correct.

19 COMMISSIONER DEASON: And how does that compare to
20 what was approved in the UNE proceeding?

21 MR. MAUREY: In the last UNE proceeding, Verizon was
22 9.63 percent.

23 COMMISSIONER DEASON: What has changed since that
24 proceeding that results in an increase in the cost of capital?

25 MR. MAUREY: Actually, it was a blend. The cost of

1 debt is a little lower than the cost of debt in the last
2 proceeding, but the cost of equity is a little higher. The net
3 of the two is a slight increase in the overall cost of capital.

4 COMMISSIONER DEASON: This is an issue that was
5 raised by Verizon, not by our staff; is that correct?

6 MR. MAUREY: I'm sorry?

7 COMMISSIONER DEASON: This is an issue that was
8 raised by Verizon. This was not an issue that you raised, is
9 it?

10 MR. MAUREY: That's correct, Verizon raised this
11 issue.

12 COMMISSIONER DEASON: Okay.

13 CHAIRMAN BAEZ: If there is no other questions, we
14 can move on to the next part, the loadings and common costs.

15 MS. CATER: Yes. It's over here. Commissioners, the
16 loadings section of this recommendation addresses the various
17 loadings and factors applied to the monthly recurring rate
18 elements in order to recover the annual costs associated with
19 the items such as depreciation, cost of capital, and taxes.
20 Staff points out that no party contested any of the loadings
21 and factors proposed by the ILECs and recommends that the
22 ILECs' proposed loadings be applied.

23 CHAIRMAN BAEZ: Commissioners, any questions? All
24 right. We can move on.

25 MS. CATER: All right. Commissioners, the common

1 costs section in this recommendation addresses the appropriate
2 application of common costs to the ILEC rate elements. For
3 BellSouth and Sprint, staff recommends that the Commission
4 adopt the proposed factors. For Verizon, staff recommends that
5 the common costs factor approved in its UNE proceeding be
6 approved.

7 CHAIRMAN BAEZ: Go ahead.

8 MS. CATER: Commissioners, the materials costs
9 section in this recommendation addresses the manner in which
10 various materials costs were determined by the ILECs. Staff
11 notes that the costs for individual materials will be addressed
12 in various portions of this recommendation where specific
13 materials are used. Staff recommends that the proposed
14 methodologies for determining materials costs be those proposed
15 by the ILECs.

16 CHAIRMAN BAEZ: Thank you. Commissioners, any
17 questions?

18 All right. Moving right along.

19 MS. KING: Commissioners, now we're away from the
20 input section of the recommendation and getting into the
21 specific elements. With regard to application and engineering
22 fees, each company proposed a nonrecurring charge for
23 application and engineering fees. There was some testimony;
24 however, staff -- there was some testimony where AT&T did not
25 agree with the charges for application and engineering fees.

1 Staff reviewed the cost studies, however, filed by the ILECs
2 and believe that the application and engineering fees are
3 appropriate as filed.

4 With regard to DC power, which is the next element,
5 there was a great deal of discussion both in the first phase of
6 this docket and the second phase of this docket. Staff
7 reviewed the filings of the parties and found that the DC power
8 cost, the investment portion was appropriate; however, staff is
9 recommending that BellSouth modify its rectifier efficiency
10 factor from 85 percent to 90 percent based on the testimony in
11 the record. There was a great deal of discussion on this
12 element specifically with BellSouth using augments as opposed
13 to new construction or any other method discussed by AT&T. But
14 staff reviewed the information and found it to be appropriate.

15 CHAIRMAN BAEZ: Commissioners, any questions?

16 Go ahead.

17 COMMISSIONER DAVIDSON: If you can, summarize,
18 please, sort of across all the different parties the major
19 points of contention. I remember this being a major issue in
20 both phases of the docket.

21 MS. KING: Yes, sir. With regard to BellSouth for --
22 and I will begin with just the power plant investment initially
23 because DC power is made up of two components. You have the
24 power plant investment and then the AC commercial power
25 element. With regard to the DC power plant investment,

1 BellSouth had proposed using a costing -- simply to allocate
2 costs of looking at 711 augments across its region. AT&T
3 believed that that was inappropriate. They argued that that
4 was not TELRIC compliant and that this Commission should
5 approve an investment amount that was adopted by this
6 Commission in I believe it was an arbitration in '96 or
7 '97 which was significantly less than what BellSouth was
8 proposing here.

9 BellSouth argued that since that investment was
10 approved a lot has been gained as far as knowledge with regard
11 to collocation, a lot more actual collocations having put in
12 place. DC power plant upgrades have been done. There were a
13 lot of assumptions made back in the '96-'97 time frame. So
14 they believe that that lower investment amount is not
15 appropriate as AT&T advocates.

16 Staff witness Curry also disagreed with BellSouth's
17 711 augment costing method, and he advocated using a bottoms-up
18 approach. He thought that would be more reasonable. However,
19 staff does not have the data to do a bottoms-up approach.
20 While that may be the preferred method -- I believe that's
21 probably a cleaner method -- we just don't have the data to do
22 that, and that would probably cause significant delay if we
23 required BellSouth to go back and do a study like that.

24 We believe on balance that the 711 augments that were
25 used to determine the investment input for this component are

1 appropriate. There is testimony in the record that the Verizon
2 witnesses actually believe that BellSouth is underestimating
3 its cost for this element.

4 COMMISSIONER DAVIDSON: And what -- on this issue --
5 is it fair on all of these issues that Covad and FDN share
6 AT&T's position?

7 MS. KING: Yes, sir. They filed a joint brief and a
8 joint position statement.

9 COMMISSIONER DAVIDSON: Thank you.

10 CHAIRMAN BAEZ: Commissioners, any other questions on
11 the DC power issue?

12 Go ahead, Ms. King.

13 MS. KING: I believe Ms. Cater, I believe, addresses
14 cross-connects, but I believe they were noncontroversial.

15 MS. CATER: Commissioners, on cross-connects
16 BellSouth -- staff recommends that BellSouth's proposed changes
17 are appropriate with the exception of the cost of repeaters in
18 the DS1 cross-connect arrangements for assembly point
19 collocation where staff believes that the repeaters should be
20 removed. For Sprint, the company modified their brief, and in
21 their brief modified their position to allow the parties to do
22 their own installations. And staff recommends that Sprint's
23 proposed cross-connect rates be approved as reflected in the
24 post-hearing brief.

25 CHAIRMAN BAEZ: Any questions, Commissioners? Okay.

1 MS. KING: The next element is security charges.
2 Staff is addressing BellSouth and Sprint security charges here
3 and believe that they should be approved as filed after
4 reviewing all the testimony and documents presented.

5 CHAIRMAN BAEZ: And as to the cage construction.

6 MS. KING: Cage construction, again, staff recommends
7 that the Commission should approve BellSouth's and Verizon's
8 cage construction costs as filed after review of the record.

9 Also, in its brief Sprint filed a -- in its brief
10 Sprint noted that it has changed its policy, and it will allow
11 certified vendors now to build the cages for CLECs. And staff
12 believes that's an appropriate change in Sprint's policy and
13 would recommend approving that change.

14 The next element, for floor space, staff recommended
15 approving BellSouth's and Sprint's floor space investment as
16 filed. However, staff believes that Verizon's methodology for
17 calculating its floor space rate is not TELRIC compliant and
18 should be rejected. And staff recommends that the Commission
19 order Verizon to refile its study as outlined on Page 121 of
20 staff's recommendation.

21 COMMISSIONER DEASON: I have a question.

22 CHAIRMAN BAEZ: Go ahead, Commissioner.

23 COMMISSIONER DEASON: Okay. You say that the Verizon
24 filing was not TELRIC compliant and it should be rejected.

25 MS. KING: Yes, sir.

1 COMMISSIONER DEASON: Was Verizon cognizant of the
2 fact that it was going to -- that their filing should be TELRIC
3 compliant? Was that an understanding?

4 MS. KING: I believe so, sir, yes.

5 COMMISSIONER DEASON: And was their position that it
6 was TELRIC compliant?

7 MS. KING: Yes, sir.

8 COMMISSIONER DEASON: And why is it that you disagree
9 with that determination?

10 MS. KING: I believe that they're using embedded
11 costs as the basis for this investment calculation for
12 buildings. And our staff witness Gabel, the staff witness in
13 this case, while he advocated Verizon's methodology, he
14 actually said that he believes it was not TELRIC compliant
15 either.

16 COMMISSIONER DEASON: Okay. And the question I have
17 now, it's your recommendation that it be rejected and that
18 Verizon be required to refile its study.

19 MS. KING: Yes, sir.

20 COMMISSIONER DEASON: And my question, it goes to
21 trying to understand the dynamics of that, what would be
22 required, what would be the time frames, and how significant is
23 it to require an additional study? What does staff perceive to
24 be the difference in cost based upon Verizon's methodology even
25 though it may be flawed as opposed to the time and cost of

1 requiring another study, evaluating it, and making a
2 determination? Are we talking about a 1 percent difference in
3 cost, 100 percent difference in cost? What's the significance
4 of this?

5 MS. KING: I don't know, Commissioners. We had no
6 other data on the record to try to back into some other cost.
7 We actually have given Verizon the option -- we believe that
8 the Sprint methodology or the BellSouth methodology is
9 appropriate, and we are asking Verizon to evaluate which
10 methodology they would like to use in calculating the floor
11 space cost and refile within 60 days. I'm sorry we don't -- I
12 don't --

13 COMMISSIONER DEASON: Well, I'm just trying to
14 understand how we can streamline regulation. This is something
15 staff is requiring and I understand that. And maybe it's
16 because Verizon -- maybe they understood the requirement that
17 it had to be TELRIC based, and maybe they thought it did and
18 they didn't meet that burden. But I'm just trying to ascertain
19 before we go to all the time and expense of requiring another
20 study, perhaps discovery on the study, perhaps testimony by
21 parties, I'm not sure what is envisioned, maybe it's another
22 hearing involved, I'm trying to ascertain is this something
23 that we need to be concerned about, or is this something that
24 can just be put on notice the next time the standard is going
25 to be no embedded costs in your TELRIC study? Or at least put

1 the burden on them to demonstrate up front why there should be
2 some type of embedded cost in the TELRIC study and have that
3 determined up front.

4 I'm uneasy requiring additional studies. I mean,
5 folks, this is a 200-page recommendation, and we've had days of
6 testimony, I don't know how many hundreds of pages of
7 transcript and briefs and everything. We need to bring this to
8 a close.

9 MS. KING: I would agree, Commissioner. I would
10 defer to legal. I mean, staff believes it's not TELRIC
11 compliant, but however, there is some argument made that --
12 Verizon argues that it is. And I believe that's a judgment
13 call. If you believe it's an appropriate rate --

14 COMMISSIONER DEASON: I'm not saying I agree or
15 disagree that it is. I'm just saying at some point you've got
16 to say, is this something that we need to pursue any further?
17 Just the practicality of it. You can litigate something to
18 death. That applies to the companies as well as to this
19 Commission, and I don't want to be guilty of that.

20 MS. KING: Yes, sir, I understand.

21 CHAIRMAN BAEZ: Commissioner, I think at the outset
22 you may have raised a question of process or what process
23 was -- maybe that's something Ms. Keating can address.

24 MS. KEATING: I was just going to say, Commissioners,
25 I'm sure that if the parties were able to reach a negotiated

1 resolution, that that would negate the need for any further
2 proceedings on any refiling by Verizon.

3 CHAIRMAN BAEZ: So what I hear you suggesting is that
4 the fact that this Commission, should it follow staff's
5 recommendation in terms of rejecting the Verizon methodology,
6 that it is still an issue -- what it does is have the effect of
7 keeping it an issue for the parties that are participating.

8 MS. KEATING: That's right. And it would be -- to
9 some extent, the ball would be in their court.

10 CHAIRMAN BAEZ: Is there a way -- because I sense
11 where Commissioner Deason is coming from and I think I agree
12 with him to a complete extent, if not more, on this issue, but
13 is there a way for staff as part of their recommendation -- I
14 mean, are we capable of saying more than simply we reject
15 Verizon's methodology? I mean, is there more that the
16 Commission could say that would settle the matter,
17 understanding again that you did say that it remains an issue
18 between the parties based on our rejection, but is there more
19 that we could say as a Commission to get as close to settling
20 the matter for the parties as possible? I'm not saying the
21 answer is there, but I'm speaking, I guess, conceptually.

22 MS. KEATING: Conceptually, I suppose you could give
23 additional time which would give the parties more time to
24 discuss it amongst themselves and see if there is an
25 opportunity for a negotiated resolution of the issue.

1 CHAIRMAN BAEZ: I'm thinking --

2 MS. KEATING: Another -- I'm sorry. Go ahead.

3 CHAIRMAN BAEZ: I didn't mean to interrupt, but I'm
4 thinking more along the lines, Ms. King suggests I don't know
5 what I would call it, but she did mention the opportunity for
6 the parties to adopt either Sprint's methodology or BellSouth's
7 methodology because those are acceptable -- at least at the
8 staff level they are acceptable as methodologies and as
9 alternatives for Verizon to choose between which was more
10 appropriate. Now, I understand that that doesn't necessarily
11 quell whatever questions or whatever concerns, for instance,
12 AT&T and FDN and Covad may have as to the methodologies. I'm
13 just curious as to your recollection on the record whether even
14 accepting BellSouth's or Sprint's methodologies would still
15 keep the conflict alive.

16 MS. KEATING: I think you raise a good point, and I
17 agree with what Ms. King had said earlier. You could also look
18 at if you approve the Sprint or the BellSouth methodology, you
19 could give Verizon the opportunity of refileing using one of
20 those methodologies and perhaps give staff administrative
21 authority to review the filing. And if the filing appeared
22 compliant with the Commission's decision, to go ahead and
23 consider that issue final.

24 COMMISSIONER DEASON: Can I raise a question at this
25 point?

1 CHAIRMAN BAEZ: Please.

2 COMMISSIONER DEASON: And I guess maybe I'll direct
3 it first to legal. Here again, I've not yet made a judgment.
4 I've not cast any vote as to whether the Verizon study is or is
5 not TELRIC compliant. But just for the sake of this question,
6 let's make the assumption that the Commission finds it's not
7 TELRIC compliant. And it seems to me at some point -- there's
8 this old standard, you know, that has been ingrained in me;
9 it's the burden of proof. They did not meet the burden of
10 proof. They realized coming in that it was a TELRIC standard.
11 I asked staff that question, the very first question I believe
12 I asked. Everyone was on notice as to what the standard was
13 going to be. They chose to include some costs which maybe in
14 their minds it did meet the standard, but in at least staff's
15 mind it did not. So according to staff, they failed their
16 burden.

17 Now, some schools of thought is you fail your burden,
18 you suffer the consequences. We just make a decision that
19 lowers the rate, and then you do better the next time you file
20 and none of this "we're going to give you another bite of the
21 apple." How does that fit into what we're doing here?

22 MS. KEATING: You're certainly correct. There is a
23 burden of proof. If you reject Verizon's filing and find that
24 it was not TELRIC compliant, then the following question is,
25 well, what rate is supported by the record? And that's where

1 you would end up --

2 COMMISSIONER DEASON: That's what I'm trying to
3 ascertain.

4 MS. KEATING: -- is, what does the record support?

5 COMMISSIONER DEASON: Does staff have any idea as to
6 what they think the amounts should be if we did not use the
7 embedded cost, if we had some surrogate number? Could we just
8 go ahead and utilize that as the best information we have
9 available, realizing that the applicant in this case did not
10 meet their burden and we just go forward? That may be the most
11 expeditious, efficient, and least expensive way to get this
12 resolved.

13 MS. KEATING: I certainly see where you're coming
14 from, Commissioner, and I defer to Ms. King on the record. But
15 my understanding is that there was very little to support an
16 alternative, and that was the reason that staff had sort of
17 reached this last resort conclusion that we really needed or
18 would like to see additional information using a new
19 methodology, was that we were having difficulty being able to
20 reach a surrogate number.

21 COMMISSIONER DEASON: You know, it may be at some
22 point where Verizon says, you know, we may come up with a
23 number they say we can live with because it's going to cost us
24 more in time to put together another study, file it, have the
25 lawyers litigate it, have discovery filed on it, go through

1 that entire process than it's worth. I mean, I don't want to
2 impose cost on somebody if it's not a significant issue that we
3 need to deal with. And I'm not getting a feel that -- I still
4 don't know whether this is a penny issue or if this is a
5 million dollar issue.

6 MR. DOWDS: Commissioner, needless to say, staff
7 agrees with you that Verizon failed to meet its burden of proof
8 as to a TELRIC-compliant rate for floor space. So given that
9 they failed their burden of proof, we were left in a quandary.

10 Ms. King did separate analyses with respect to floor
11 space based upon the approach advocated by Sprint and the
12 approach advocated by BellSouth, which are not identical, but
13 she concluded that on balance they generate reasonable results.
14 Unfortunately, it's my understanding that we did not have
15 analogous data for Verizon in the form that was presented by
16 either Sprint or BellSouth. So intuitively, subject to legal
17 intervening here, the one rate that's supported by Verizon in
18 the record if they failed to meet the burden of proof is zero
19 because they supported no valid rate. Alternatively, which is
20 what Ms. King is recommending, is giving Verizon an opportunity
21 to refile in an attempt to come up with a TELRIC-compliant
22 floor space rate element. And I would note that floor space is
23 a fairly significant chunk of change for a typical collocation
24 arrangement.

25 Here, I have to defer to legal, but perhaps on an

1 interim basis the Commission could use as a surrogate one of
2 the investment per amp values that they deemed to be TELRIC
3 compliant, assuming that you agree with staff on their
4 conclusions for BellSouth and for Sprint. That conceivably
5 might be an option at least on an interim bases.

6 COMMISSIONER DEASON: I'm sorry. Could you repeat
7 that again? An option on an interim basis.

8 MR. DOWDS: Again, I'm assuming this passes legal
9 muster. You could conclude, for example, that absent a
10 TELRIC-compliant investment per amp figure for Verizon, that
11 perhaps Bell's figure is a reasonable surrogate and put the
12 onus on Verizon to say that's not a reasonable surrogate, which
13 they always have the option of --

14 COMMISSIONER DEASON: And then they would be the ones
15 to make the affirmative decision as to whether they're going to
16 utilize their time and resources and this Commission's time and
17 resources to relitigate the issue.

18 MR. DOWDS: Well, I have to defer to legal as to
19 whether that will pass legal muster, but conceptually, that is
20 an option.

21 COMMISSIONER DEASON: Ms. Keating, what say ye?

22 MS. KEATING: I think it's a viable option,
23 Commissioner.

24 COMMISSIONER DEASON: I just have difficulty being
25 the party that is requiring additional studies and time. You

1 know, if we can put the burden on them to -- I mean, and I
2 don't want to deny somebody due process. If it's a significant
3 enough issue that they feel compelled to come in and file and
4 make another study, incur their time and resources and this
5 Commission's time and resources, that's their choice. But I
6 feel more comfortable putting the burden on them doing that as
7 opposed to us saying, you failed to meet your burden of proof,
8 so just refile.

9 CHAIRMAN BAEZ: Commissioner Bradley, you have a
10 question?

11 COMMISSIONER DEASON: As long as that meets legal
12 muster.

13 MS. KEATING: Well, there's certainly information in
14 the record with regard to the floor space element for the other
15 company, so there's record support for that. And I don't know
16 how much differentiation there is in the definition of that
17 element across the companies, but, I mean, it would certainly
18 be a reasonable surrogate. I think that's something that would
19 be within your discretion.

20 CHAIRMAN BAEZ: Go ahead, Commissioner.

21 COMMISSIONER BRADLEY: Yes. And I understand where
22 the Commissioner is coming from as it relates to this
23 particular issue, but let me ask staff a question. And I think
24 staff has already alluded to this. If we use the BellSouth and
25 the Sprint model, if we take the BellSouth and the Sprint model

1 and apply that to Verizon, would that -- would we be on a sound
2 legal basis for making a decision as it relates to this
3 particular item and Verizon? And if Verizon does not agree
4 with that outcome, then wouldn't they have the option to appeal
5 our decision?

6 MS. KEATING: Oh, certainly, Verizon is going to have
7 an opportunity to appeal. But I think in this instance you're
8 not really applying the BellSouth and Sprint methodologies
9 wholesale to Verizon. You're looking at one specific element
10 that you found Verizon hasn't adequately supported in the
11 record, and for lack of other record evidence other than what
12 the other methodologies support, I think you've got -- it's
13 certainly an option that you could make use of.

14 COMMISSIONER BRADLEY: And let me tell you why I'm
15 suggests this, maybe, and this is something we might want to
16 consider in order to move past this issue of floor space.
17 Apparently staff feels that BellSouth and Sprint did adhere
18 to -- I'm sorry, BellSouth and Sprint are TELRIC compliant, and
19 there's some question about Verizon being TELRIC compliant.

20 MS. KEATING: That's correct, Commissioner.

21 COMMISSIONER BRADLEY: Well -- Commissioner Deason.

22 CHAIRMAN BAEZ: I'm sorry. You had --

23 COMMISSIONER DEASON: No. I'm just looking for an
24 avenue that protects all the parties' due process rights but
25 just doesn't automatically get us into a situation where we're

1 requiring an additional study when there may be an accurate,
2 reasonable, less costly way to get to an end result that
3 everybody can live with.

4 CHAIRMAN BAEZ: Thank you, Commissioner.

5 Ms. King, I'm looking at you, and you may not be the
6 right person, but if you can kind of emcee this as we move
7 along.

8 MS. KING: Okay. Give me just a moment. I'm sorry
9 about that, Commissioners. Would you like me to move on to the
10 next element?

11 CHAIRMAN BAEZ: Yes.

12 MS. KING: Okay. The next element is space
13 preparation/building modification. Staff recommends that
14 BellSouth's space preparation charges be approved as filed.
15 However, with regard to Verizon, there are a couple of options
16 there. Verizon filed its space preparation or site -- building
17 modification charges which include site preparation and some
18 security access fees, and they based their cost on the -- they
19 allocated their cost, prorated their cost based on the number
20 of occupants as opposed to square foot, which the Commission
21 had approved in a prior case. Staff believes that Verizon's
22 methodology is appropriate. It's a change from Commission
23 policy, but it appears to be reasonable. But there are other
24 alternatives there listed in the recommendation.

25 CHAIRMAN BAEZ: Commissioners, questions? I have a

1 question and I need you to clear it up because I think picking
2 up on Commissioner Deason's point -- I mean, is this one of
3 those issues in terms of Verizon suggesting a different way of
4 doing things that might not -- I keep sensing this subtle
5 dependence on what we have done before and why we should change
6 it. Is this one of those issues where a better way was
7 proposed and --

8 MS. KING: I don't know that it's a better way; I
9 think it's reasonable. I think it's perfectly appropriate.
10 It's supported by the record. It's a reasonable way of
11 prorating the costs amongst all the CLECs that occupy Verizon's
12 central office, and it meets the goal of the Commission's prior
13 order.

14 CHAIRMAN BAEZ: And in terms of the differentiation
15 between the two methods, I mean, there are cost
16 differentiations or certainly rate differentiations. What are
17 those?

18 MS. KING: If we go with as Verizon proposed just
19 adjusting the occupancy rate, the rate was reduced by -- the
20 rate is reduced. It goes from about \$227 to \$203. So that is
21 a reduction.

22 If the Commission prefers that Verizon follow the
23 prior Commission order and do everything based on a per square
24 foot basis, again, we would need them to refile making those
25 adjustments. Or if the Commission wants, you know, security

1 charges done one way and site preparation done a different way,
2 we would need Verizon to refile to be able to come up with that
3 calculation. And I don't think that that is -- that's not a
4 complete refiling. I believe that is certainly easier than
5 reevaluating an entire element.

6 CHAIRMAN BAEZ: Is that one of those refiling
7 situations where it's essentially a fallout? I mean, there's
8 nothing more for the -- no further process for the Commission
9 to take up or --

10 MS. KING: I believe so, because in testimony Verizon
11 actually provided some numbers if the Commission were to make
12 them do things based on the prior order. So I believe they
13 have already been through that exercise.

14 CHAIRMAN BAEZ: Okay. Commissioners, any other
15 questions on this part? Okay. We can move along.

16 MR. BROWN: Commissioners, I've got four of the next
17 six elements. They share a similar recommendation if you'd
18 like me to hit those all at once.

19 CHAIRMAN BAEZ: Go ahead.

20 MR. BROWN: Okay. Space availability, all three of
21 the ILECs have that element. Sprint and Verizon have never had
22 a request for one, and BellSouth has had no more than five
23 requests across its territory. Cabling, there's a lot of
24 elements or a lot of different -- I guess elements is the
25 proper word discussed under cabling, but relatively few made

1 their way into the testimony, but nothing really controversial
2 there either. Minor augments, BellSouth does not have an
3 element labeled minor augments. Sprint's and Verizon's minor
4 augment rates were unchallenged here. Similarly, disconnects,
5 Sprint does not have a disconnect element and the others were
6 unchallenged. As such, staff has recommended that the rates
7 proposed by the ILECs are appropriate in this proceeding
8 subject to incorporating the other changes ordered.

9 CHAIRMAN BAEZ: Commissioners, any questions on the
10 remaining sections? All right. If there is no other, we can
11 entertain a motion on Issue 9B.

12 MR. BROWN: Commissioners, there's still collocation
13 cable records and there's a category called other that
14 Ms. Cater will discuss.

15 CHAIRMAN BAEZ: I'm sorry, Ms. Cater. I had just
16 been following down the line and I thought they'd got them all.
17 Go ahead.

18 MS. CATER: Okay. Commissioners, collocation cable
19 records section addresses BellSouth's proposed elements to
20 recover its costs for updating its cable records. Staff
21 recommends that BellSouth's proposed rates for collocation
22 cable records be adopted as filed. Staff notes that BellSouth
23 is the only ILEC that proposed separate cable records elements
24 and that Sprint and Verizon recover these costs in other
25 manners.

1 CHAIRMAN BAEZ: Commissioners, questions? No.

2 Go ahead, Ms. Cater.

3 MS. CATER: And this is the last section. It's the
4 other element section which addresses elements that do not fit
5 into any other category. Many of these elements are not
6 contested, and staff recommends that the appropriate rates for
7 those elements be those filed by the ILECs.

8 CHAIRMAN BAEZ: Thank you. Commissioners, questions?
9 None. All right. And there's several subparts to this
10 recommendation obviously that we had questions on, and I think
11 we did have a lot of discussion on the floor space methodology,
12 among others, so I guess a motion -- there are subquestions
13 that we have to kind of answer based on our discussions here.
14 So, Commissioners, if you can keep that in mind in your
15 motions, we'll try and muddle through this.

16 COMMISSIONER BRADLEY: Well, in order to resolve that
17 issue before we take a motion, do we need to have a motion as
18 it relates to this specific issue?

19 CHAIRMAN BAEZ: No, I don't believe so. If you have
20 thoughts that you want to offer up, I mean --

21 COMMISSIONER DEASON: Before we get -- let me ask one
22 further question --

23 CHAIRMAN BAEZ: Absolutely.

24 COMMISSIONER DEASON: -- before we get into, I guess,
25 actually the voting stage, and I failed to do so earlier. And

1 it has to do with depreciation rates. I guess I kind of
2 focussed my question on Sprint. But depreciation rates -- and
3 there may be some other issues as well as it pertains to
4 Verizon, and, staff, you can indicate where that is the
5 situation. In the UNE proceeding, there were a number of
6 determinations made by the Commission. I know depreciation was
7 one of those that Verizon disagreed with, chose to appeal that
8 and it's still in appeal status. And for purposes of this
9 proceeding, and I may be oversimplifying, but for purpose of
10 this proceeding, Verizon chose to utilize parameters and values
11 that they believe the Commission should have approved in the
12 UNE proceeding. Am I characterizing that correctly, or am I
13 overlooking something?

14 MS. GARDNER: You are correct, Commissioner.

15 COMMISSIONER DEASON: And staff's recommendation is
16 that we utilize what this Commission determined to be the
17 correct amounts for the UNE docket in the collocation docket,
18 and that's correct as well?

19 MS. GARDNER: That is correct.

20 COMMISSIONER DEASON: Okay. Now, what happens if
21 Verizon is successful in their appeal? Would it then also have
22 the effect of requiring the Commission to change what we have
23 approved for Verizon in terms of collocation rates, or would
24 that be something that would be on Verizon's -- it would be
25 their burden to come in and to make a filing with the

1 Commission and demonstrate that there needs to be a change in
2 collocation? How would that work?

3 MS. GARDNER: It would be based -- based upon what
4 was provided in the record by Verizon, I think there is -- the
5 burden goes back on Verizon because basically in the UNE docket
6 they did not provide adequate support of the information they
7 provided for depreciation. So within the collocation
8 proceeding, they came back and stated that, well, since we
9 didn't provide adequate information in the UNE docket, this is
10 additional information that we are providing to support what we
11 have. Based upon staff review of that documentation through
12 discovery and requested information, they did not provide it,
13 and a lot of their comments were "no documents exist" to
14 further analyze their position on depreciation.

15 COMMISSIONER DEASON: So staff was not convinced that
16 there was any reason to deviate from what was determined in the
17 UNE proceeding.

18 MS. GARDNER: That is correct.

19 COMMISSIONER DEASON: Okay. Ms. Keating, what
20 happens if on the appeal there's some remand or change that the
21 court sees fit? How do we address that? In terms of -- I know
22 we would have to address it in the UNE docket. Would it have
23 an effect on this docket, and if so, how do we process that?

24 MS. KEATING: I think that depends entirely on to
25 what extent the court remands the Commission's decision for

1 further action, whether the court finds some error in the
2 Commission's decision on the methodologies that we've applied
3 or that we didn't take into account information that the
4 Commission should have considered. Where the error is would
5 depend whether there's any fallout for this docket.

6 CHAIRMAN BAEZ: But there is a potential that the
7 appeal once it's, you know, resolved or settled by the court,
8 that it could reach into this decision.

9 MS. KEATING: Certainly there is some potential
10 there, but I'd also point out that this is a separate record.
11 So there may be -- again, depending upon the extent to which
12 the court finds error in the Commission's UNE decision, that
13 may have some impact on whether or not it really flows over
14 into this docket.

15 CHAIRMAN BAEZ: Commissioners, any other questions?

16 COMMISSIONER DEASON: Let me -- I'm eager to hear
17 from fellow Commissioners on these various categories of
18 elements. The only one -- I'm satisfied. I think staff has
19 done a very thorough and adequate job of addressing all of
20 these matters. The only one that I find exception to is the
21 floor space with the recommendation that we require Verizon to
22 refile its study. I have -- I understand that -- and I don't
23 disagree with staff that there are concerns about the study
24 being TELRIC compliant, and to me, it's a situation of failure
25 to meet the burden in that if there's any appropriate means of

1 coming forward with a value which we think is supported in the
2 record, that we can go forward and put the burden back on
3 Verizon to come forward and to make the filing at their own
4 volition if they see fit, and obviously we will entertain it,
5 as it's our duty to do that. But it would be their decision to
6 come forward with that and their burden once again to
7 demonstrate that. That's what I would prefer, but I certainly
8 would like to hear from fellow Commissioners.

9 CHAIRMAN BAEZ: Commissioner, just a question so that
10 I can clarify it in my mind. Are you saying that you are
11 comfortable with the discussion that staff provided or the
12 explanation that staff provided that on the record, based on
13 the record and our authority there is an adequate surrogate
14 that we can go -- I mean, is that what you're saying that
15 you're comfortable with?

16 COMMISSIONER DEASON: Yes. There is an adequate
17 surrogate out there, which may even be a little on the
18 conservative side, but that's not all that wrong either.
19 Realizing that the applicant had the burden, realizing that it
20 was supposed to be TELRIC compliant -- I understand it was
21 their position that it was, but staff disagrees that it was --
22 if we can come up with a surrogate, put the burden back on the
23 company. If they want to refile, that would be their decision,
24 but I don't want to be the entity ordering them to refile.

25 MS. SALAK: Commissioner, if you choose to do that or

1 you decide to do that, could you give a small break for staff
2 so we could discuss it among ourselves about what we think
3 would be the most appropriate recommendation for you for the
4 surrogate?

5 CHAIRMAN BAEZ: And that would be from a perspective
6 of coming up with language, how we represent that in the order.
7 Because I think, Commissioner, philosophically I'm there. I
8 think this is an opportunity that perhaps we would have rather
9 not -- we would've rather have had a more complete record, but
10 at the same time you can't -- I think it's -- the Commission
11 would be acting responsibly to the extent that it could fill in
12 the blanks in an appropriate manner to try and get the most
13 result out of our decisions because I do share a
14 sensitivity towards trying to -- not keeping issues alive
15 unnecessarily, and that's not always going to be the case. But
16 I'm fairly comfortable with the options that the staff has laid
17 out.

18 To me, the ultimate question at least on this, and
19 perhaps it bears some more discussion, is, it seems to me that
20 we're boiling it -- if we were of a mind to use a reasonable
21 surrogate, to coin a phrase, then we need to decide what that
22 fallout number is going to be. And I guess that's the only
23 question that would be resolved, assuming we were all of a mind
24 to do something, follow that kind of process.

25 COMMISSIONER DEASON: And I think it's probably a

1 good idea to give the time to staff to look at that. And I
2 want staff to be comfortable that there is a reasonable
3 surrogate out there and legal to be confident that it's
4 something that can be defended in case Verizon chooses to
5 appeal this, which is certainly within their rights to do.

6 CHAIRMAN BAEZ: Right. Commissioner Bradley, you had
7 one last question. Commissioners, with your indulgence, what I
8 would hope to do is before -- because we need to be sensitive
9 to how the motion might take place to incorporate at least
10 whatever our pleasure on this discussion might be, to actually
11 have that 30-minute break after Commissioner Bradley gets his
12 question out and perhaps gets it answered.

13 COMMISSIONER BRADLEY: Right. And my question is
14 this. If we eliminate the language that is in dispute, would
15 Verizon still have the ability or have the prerogative to -- if
16 they feel that the language is adverse to them in this
17 particular section, would they still have, even without this
18 language, the ability to come back to this Commission and seek
19 redress?

20 MR. TEITZMAN: Yes, Commissioner. They could still
21 file a motion for reconsideration or appeal.

22 CHAIRMAN BAEZ: Right. In addition, I was going to
23 say there is also the right to appeal to the court as well. I
24 mean, I don't think we can have any decision that would have
25 ultimate final effect without considering the appellate

1 process.

2 COMMISSIONER BRADLEY: Okay.

3 CHAIRMAN BAEZ: Commissioner Davidson.

4 COMMISSIONER DAVIDSON: I was just going to request,
5 before we break, would it be possible to break and perhaps move
6 on to another agenda item so we don't just lose time?

7 CHAIRMAN BAEZ: Not at all. Commissioner, what's
8 your pleasure? I mean, if we can hold out for another half
9 hour, we can break for lunch and have a more extended --

10 COMMISSIONER DAVIDSON: Or perhaps even we finish
11 this when they come back from their half-hour break. It's not
12 too complicated for me. I was thinking, break on this item and
13 then move to Items 4 and 7, and I believe that wraps us up
14 except for the return of this item.

15 MR. TEITZMAN: Chairman, just one other possibility.
16 We could address Issues 10 and 11. They would be unrelated to
17 9B and they're relatively short issues, if you wanted to get
18 that out of the way now; otherwise, we could handle it when we
19 come back.

20 CHAIRMAN BAEZ: Commissioner Davidson, is that -- I
21 mean, just to not waste time, are you all right with that?

22 COMMISSIONER DAVIDSON: At your discretion, whatever
23 you prefer.

24 COMMISSIONER DEASON: We can't do Issue 11 until
25 we --

1 CHAIRMAN BAEZ: Well, I don't think Issue 11 is up,
2 but Issue 10, certainly to the extent that there are any
3 questions or no questions, we can probably deal with that.

4 Do you want to tee it up for us, Mr. Teitzman, or
5 whoever the technical staff --

6 MS. KING: Commissioners --

7 CHAIRMAN BAEZ: Go ahead, Ms. King.

8 MS. KING: -- Issue 10 addresses, "What are the
9 appropriate definitions and associated terms and conditions for
10 the collocation elements to be determined by the Commission?"
11 Staff believes that the definitions and terms and conditions
12 are those that are filed by the incumbent LECs subject to
13 incorporating any other changes approved by this Commission.

14 CHAIRMAN BAEZ: Thank you. Commissioners, questions?

15 COMMISSIONER DEASON: Move staff.

16 COMMISSIONER DAVIDSON: Second.

17 CHAIRMAN BAEZ: Moved and seconded. All those in
18 favor say, "aye."

19 (Simultaneous affirmative vote.)

20 CHAIRMAN BAEZ: Thank you. Well, now, I think
21 Commissioner Davidson's good question is on for us. I don't
22 know, Commissioner, there may be some lengthy discussion on
23 Item 4 at this point, so I would -- I don't know that we want
24 to get into that one.

25 COMMISSIONER DEASON: How long is staff going to

1 need?

2 CHAIRMAN BAEZ: Yes. What kind of time --

3 MS. SALAK: I would say at least a half hour. If you
4 want to TP us to the end, you know, that's fine with us, or if
5 you want to give us a time certain, that's fine too.

6 CHAIRMAN BAEZ: Well, I'm trying gauge --

7 COMMISSIONER DEASON: Let's just plow forward and
8 if -- I'm not opposed to doing Item 7. I think I had a
9 question on that which I don't think will take a long time,
10 Mr. Chairman.

11 CHAIRMAN BAEZ: Why don't we take Item 7 up first.

12 (Brief recess.)

13 CHAIRMAN BAEZ: Mr. Dowds.

14 MR. DOWDS: Commissioners, you had expressed an
15 interest in perhaps coming up with a surrogate rate for
16 Verizon. And the notion I threw out is perhaps we could use --

17 COMMISSIONER BRADLEY: Excuse me. I think that --
18 just for the record, I think we need to identify the specific
19 item that we are discussing.

20 MR. DOWDS: I'm sorry. We are back on Item 3 and I
21 think it's Issue 9A -- 9B, excuse me. And we were discussing
22 the floor space rate for Verizon. And one option I had teed up
23 as a possibility would be to arrive at a floor space rate for
24 Verizon is to use the investment per square foot from the
25 record that we have for either BellSouth or Sprint as a

1 surrogate.

2 What we discovered -- what we realized actually when
3 we took our break is that we have an apples and oranges
4 problem, and in particular -- Ms. King can help me on the
5 details -- the cost components that the various ILECs include
6 to be recovered under the rubric of floor space apparently
7 differ quite a bit. In particular, I know Ms. King informed me
8 that Sprint includes common systems modifications in their
9 floor space element, whereas Bell has a separate rate for it.
10 And we were not able in the time allotted to be able to
11 identify all the gives-and-takes.

12 Accordingly, we have severe misgivings about trying
13 to implement the proposal I originally teed up because we have
14 concerns that may engender double recovery. We just don't --
15 haven't tracked all the ripple effects. Ironically, although
16 we have concluded that the approach that Verizon used appears
17 to run afoul to the TELRIC rules, well, based upon a cursory
18 examination that we were able to make, the irony is that the
19 magnitude of the number they use appears within a range of
20 reasonableness. So we're back to a puzzle as to what to do.

21 On Page 190 of the rec, just for your information,
22 there is a rate shown of \$1.78.

23 COMMISSIONER DEASON: Give us a moment, please.

24 MR. DOWDS: I'm sorry. Yes, sir.

25 COMMISSIONER BRADLEY: 190?

1 MS. KING: Yes, Commissioners. It's on Page 190 in
2 Footnote 85 is the rate that staff proposed for Verizon using
3 their investment numbers.

4 MR. DOWDS: Commissioners, just to clarify, what that
5 rate represents is if one were to use the Verizon proposed
6 investment amount but incorporating staff's other
7 recommendations, in particular the recommendations as to
8 depreciation, cost of capital, and I believe the common cost
9 factor, that is the resulting value one would get.

10 COMMISSIONER DEASON: So you're saying that with
11 other adjustments even using what staff considers to be a
12 flawed TELRIC methodology in terms of investment cost, that
13 with making other adjustments that the rate that results is
14 reasonable.

15 MR. DOWDS: Yes.

16 COMMISSIONER DEASON: And that that would -- if we
17 used your adjusted recommended rate, there would be no need for
18 an additional study.

19 MR. DOWDS: Yes.

20 COMMISSIONER DEASON: And that rate is \$1.78 as
21 opposed to staff's proposed 3.25?

22 MS. KING: The 3.25 was Verizon's rate as filed. The
23 \$1.78 is the rate after staff's adjustments have been made.

24 COMMISSIONER DEASON: Okay.

25 MR. DOWDS: Just one other observation I forgot to

1 mention is admittedly based on a quick review, although the
2 approach Verizon used appears to run afoul, we think that the
3 result that they're proposing, the investment amount in their
4 rate, appears to be conservative.

5 CHAIRMAN BAEZ: A legal question. What is the -- I
6 guess, in light of the way Mr. Dowds has framed an answer, if
7 you will, of what legal significance is this Commission finding
8 that Verizon's proposed methodology was not TELRIC compliant?

9 MS. KEATING: Commissioner, we're essentially
10 recommending that the \$1.78 is the best surrogate in the
11 record.

12 CHAIRMAN BAEZ: Okay. Well, and I guess does that --
13 that still doesn't dispose any issue the company may take with
14 a finding of noncompliance. I mean, that's a debateable issue,
15 is it not?

16 MS. KEATING: Certainly, that is a debateable issue --

17 CHAIRMAN BAEZ: An appealable issue at the very
18 least.

19 MS. KEATING: -- but the rate that we are looking at
20 is derived from the rate that the company proposed.

21 CHAIRMAN BAEZ: Okay. Go ahead, Commissioner.

22 COMMISSIONER BRADLEY: So what would staff suggest as
23 substitute language then for this particular floor space issue?
24 Do you have some language, specific language in mind, or is it
25 just that you want to -- well, you can't just delete. It would

1 seem to me that the language needs to be amended.

2 MR. DOWDS: I'm sorry, Commissioner, I didn't hear
3 the last sentence you made. Forgive me.

4 COMMISSIONER BRADLEY: I said we just can't delete.
5 It would seem to me that the language -- it would appear to me
6 that the language needs to be amended or we need to have a
7 rewording.

8 MR. DOWDS: Yes, sir. I assume that the
9 recommendation statement would have to be amended to, I
10 presume, eliminate the sentence about telling Verizon to file a
11 follow-up study. And again, I'm winging off the top of my head
12 as to wording. But I suppose the motion would -- or the
13 proposal would be that although the approach used by Verizon to
14 arrive at its investment amount appears not to be TELRIC
15 compliant on balance, we conclude that the value that they
16 propose appears on balance reasonable and is probably
17 conservative. Absent any other basis to propose a rate for
18 Verizon, recommend using that investment amount, or something
19 to that effect, something grammatically to that effect,
20 hopefully.

21 CHAIRMAN BAEZ: Commissioners, any other questions?

22 COMMISSIONER DEASON: I'm prepared to make a motion.

23 CHAIRMAN BAEZ: Have at it, Commissioner.

24 COMMISSIONER DEASON: I would move staff's
25 recommendation -- let's see, we were on Item 9B; is that

1 correct?

2 CHAIRMAN BAEZ: We are. I'm not sure that we
3 disposed of 9A, did we? We did. Okay. I'm sorry. Yeah,
4 we're on 9B.

5 MR. TEITZMAN: Commissioner, there's one other
6 element that had some options.

7 COMMISSIONER DEASON: Yes. I'm going to get to that.

8 MR. TEITZMAN: Okay.

9 CHAIRMAN BAEZ: Okay.

10 COMMISSIONER DEASON: You're talking about space prep
11 and building modification?

12 MR. TEITZMAN: Yes, Commissioner.

13 COMMISSIONER DEASON: Okay. I would move staff's
14 recommendation with the modification just described by staff on
15 floor space, and that the rate that staff has recommended, that
16 we would accept that as being reasonable for floor space. And
17 in terms of space prep/building modification, I would move that
18 we would adopt staff's recommendation to accept Verizon's per
19 occupant methodology, but that we change it from the
20 recommended occupancy level of 4 to 5.43. That is consistent
21 with staff's recommendation; correct?

22 MR. TEITZMAN: That is correct.

23 COMMISSIONER DEASON: Okay. That would be my motion.
24 And on all other items that we have discussed, that we would
25 move staff's recommendation.

1 CHAIRMAN BAEZ: Commissioners.

2 COMMISSIONER DEASON: And I guess that would be for
3 Issues 9A and 9B.

4 COMMISSIONER DAVIDSON: I can second that motion.

5 CHAIRMAN BAEZ: Commissioners, there's a motion and a
6 second to approve staff's recommendation on 9A and 9B as
7 modified by the motion with respect to floor space and space
8 preparation. All those in favor say, "aye."

9 (Simultaneous affirmative vote.)

10 CHAIRMAN BAEZ: All those opposed. The motion
11 carries.

12 COMMISSIONER DEASON: And Issue 11.

13 CHAIRMAN BAEZ: And we have Issue 11, that's right.

14 COMMISSIONER DEASON: And as I understand it, there's
15 no need for Verizon to file a study.

16 MR. TEITZMAN: That is correct, Commissioner.

17 COMMISSIONER DEASON: They may take issue with the
18 amount, but they can either do that through reconsideration or
19 an appeal.

20 MR. TEITZMAN: Correct.

21 CHAIRMAN BAEZ: So the motion, Commissioners, would
22 be modified to -- accordingly, I guess.

23 COMMISSIONER BRADLEY: (Inaudible. Microphone off.)

24 COMMISSIONER DEASON: To close the docket, yes.

25 CHAIRMAN BAEZ: Close the docket.

1 COMMISSIONER DEASON: And there's not going to be a
2 need for a study. So I can move staff's recommendation as
3 modified considering that there's no study to be filed by
4 Verizon.

5 CHAIRMAN BAEZ: A motion. Is there a second?

6 COMMISSIONER DAVIDSON: Second.

7 CHAIRMAN BAEZ: A motion and a second. All those in
8 favor say, "aye."

9 (Simultaneous affirmative vote.)

10 CHAIRMAN BAEZ: Thank you, staff. Thank you for the
11 work and your efforts. And thank you, Commissioners. I think
12 that about does it for us. Have a good afternoon.

13 (Agenda Item Number 3 concluded.)

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1 STATE OF FLORIDA)
 :
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4 I, TRICIA DeMARTE, RPR, Official Commission Reporter,
do hereby certify that the foregoing proceeding was heard at
the time and place herein stated.

5
6 IT IS FURTHER CERTIFIED that I stenographically
reported the said proceedings; that the same has been
transcribed under my direct supervision; and that this
7 transcript constitutes a true transcription of my notes of said
proceedings.

8
9 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' attorneys or counsel
10 connected with the action, nor am I financially interested in
the action.

11 DATED THIS 24th DAY OF AUGUST, 2004.

12

13

Tricia DeMarte

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