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BELL ATLANTIC

Petition for Approval of Statement of Generally Available Terms Pursuant to the Telecommunications Act of 1996

Order Addressing Motions for Reconsideration

O R D E R   N O. 23,847

November 21, 2001

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I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued Order No. 23,738 on July 6, 2001 (*July 6th Order*), ruling on the pricing methodology and the terms and conditions of a Statement of Generally Available Terms (SGAT) filed by Bell Atlantic, the predecessor in interest of Verizon New England, Inc. d/b/a Verizon New Hampshire (Verizon). Within the statutorily prescribed time limitation several parties to the docket moved for reconsideration of the *July 6th Order*.

On August 2, 2001, AT&T Communications of New England, Inc. (AT&T) filed a Motion for Rehearing of the Recurring Cost and Non-Recurring Cost Issues. On August 3, 2001, Verizon filed a Motion for Rehearing and/or Reconsideration; and Freedom Ring Communications, L.L.C. d/b/a BayRing Communications (BayRing) and Network Plus, Inc. (Network Plus) jointly filed a Motion for Rehearing. BayRing and Network Plus jointly filed a Memorandum in Opposition to Verizon's Motion for Reconsideration and/or Rehearing on August 16, 2001. AT&T filed a Memorandum in Opposition and Response to Verizon's Motion for Reconsideration or Rehearing on August 17, 2001. Verizon filed its Reply to the Motions for Reconsideration by AT&T, BayRing and Network Plus on August 17, 2001.

II. GENERAL DESCRIPTION OF ISSUES

The *July 6th Order* adopted a costing methodology for the

unbundled network elements CLECs wish to purchase from Verizon. Consistent with orders of the Federal Communications Commission (FCC) implementing the Telecommunications Act of 1996, the Commission determined what constitutes Total Element Long-Run Incremental Cost (TELRIC) pricing in New Hampshire for both recurring and non-recurring costs. The precise meaning of TELRIC has been and continues to be the subject of appellate review. The FCC's *Local Competition First Report and Order*, issued August 8, 1996, set out pricing rules that were appealed to the 8th Circuit U.S. Court of Appeals.

Portions of the 8th Circuit's order (*Iowa Utilities Board v. FCC*, 120 F.3rd 753 (8th Cir. 1997), *Iowa I*, were appealed to the United State Supreme Court. The Supreme Court remanded the issue to the 8th Circuit. *AT&T v. Iowa Utilities Board*, 119 S.Ct. 721 (1999), *Iowa II.* On remand the 8th Circuit found that the FCC's pricing rule wrongly based forward-looking cost estimates on the costs of supplying a "hypothetical network" rather than an actual network. *Iowa Utilities Board, et al. v. FCC,* 219 F.3d 744 (8th Cir. July 18, 2000), Iowa III. The 8th Circuit, however, immediately stayed the implementation of its decision in Iowa III so that the parties could appeal the ruling.

BayRing, Network Plus, and AT&T seek reconsideration of the Commission's *July 6th Order*, arguing that the Commission overlooked the fact that Iowa III had been stayed and therefore

failed to comply with the currently-effective FCC-mandated TELRIC methodology. Section III of this order addresses TELRIC methodology questions generally.

The *July 6th Order* also ruled on Verizon's proposed terms and conditions for interconnection. Verizon seeks reconsideration of a number of those terms and conditions. Section IV addresses those terms and conditions.

III. TELRIC METHODOLOGY

A. AT&T

AT&T claims that the Commission expressly and illegally rejected TELRIC in favor of a totally new pricing system, based on an erroneous assumption that *Iowa III* is good law when it has been stayed. According to AT&T, the Commission's new pricing system was imposed without notice to the parties or opportunity to be heard. The new pricing system is not TELRIC-compliant; therefore, Verizon is not in compliance with §252 of the Act and should not receive approval for entry into the long distance market under § 271, according to AT&T.

AT&T claims Verizon's Motion for Reconsideration actually supports AT&T's argument that the Commission rejected TELRIC pricing. According to AT&T, Verizon's argument in support of the FCC's TELRIC construct, that "all costs must be estimated over the long run in which all costs are variable and avoidable," is the very essence of the hypothetical network approach that the

Commission rejected.

AT&T argues that the Commission's use of the Staff-sponsored Telecom Model for costing loop rates is *per se* not TELRIC-compliant because the Telecom Model yields a statewide average loop rate that is 17.8% higher than the statewide average loop rate produced by the Verizon model, when the Commission-approved 15% common cost factor is applied. AT&T cites FCC Rule 51.505(b)(1), based upon paragraph 685, which states

> "UNE costs should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration."

According to AT&T, the Telecom Model does not comport with FCC Rule 51.505(b)(1) since, according to AT&T, there is undisputed evidence that the Telecom Model is not the "optimum efficient network design" as required by the rule. The undisputed evidence, according to AT&T, was identified in its Initial Brief, where AT&T averred that no engineer had ever examined the algorithms underlying the Telecom Model to ensure that they accurately model the most efficient outside plant or appropriately modeled use of forward looking technology. AT&T claims that the Commission did not appropriately consider this undisputed evidence.

One ill effect of using the non-TELRIC Telecom Model, AT&T claims, is higher loop rates. AT&T asserts that the Commission failed to consider the unrebutted critique showing the Telecom

Model overestimates loop rates, *i.e.*, loop rates higher than the Verizon statewide average rate show that the Telecom Model is not the "lowest cost network configuration" mandated by FCC Rule 51.505(b)(1).

Reiterating arguments made in the SGAT hearings, AT&T attacks the Telecom Model's choice of a star design of feeder plant, its failure to use the pine tree network design and the Commission's failure to include GR 303 in the loop design. AT&T argues GR-303 technology is available as shown by Verizon testimony in Massachusetts, see AT&T Motion fn. 22, p. 11, and testimony in New York on Next Generation DLC as the most efficient technology for the feeder component, AT&T Motion at p. 13. AT&T recommends the Commission lower the loop costs immediately. AT&T does not ask the Commission to adopt the HAI 5.0a model it proffered during the hearings, nor to re-run the Telecom Model using pine tree and GR 303 design. Instead, on reconsideration, AT&T recommends the Commission order the use of Verizon's originally-filed model.

B. BayRing and Network Plus

BayRing and Network Plus (BayRing and Network Plus) also argue that the Commission's *July 6th Order* mandates non-TELRIC prices that do not comply with the FCC's Rule 51.505(b)(1), prices for unbundled network elements (UNEs) that may be significantly higher than TELRIC-compliant prices. According to

BayRing and Network Plus, the Commission's *July 6th Order*, disregarding the 8th Circuit's stay of its *Iowa III* decision, mistakenly "requires that UNE costs be based upon ILECs' actual incremental costs needed to serve competitors with the ILEC network facilities, including whatever upgrades the ILEC chooses to implement." BayRing and Network Plus Motion for Rehearing, at 2, citing to the Commission *July 6th Order* at 5. BayRing and Network Plus point out that Massachusetts and New York have used the TELRIC standard rather than the standard at issue in *Iowa III*.

BayRing and Network Plus argue that the Massachusetts DTE is currently holding a generic UNE costing proceeding that requires compliance with Rule 51.505(b)(1). The DTE's January 2001 Order of Notice on that proceeding stated that the *status quo* in Massachusetts is use of the FCC's TELRIC and avoided cost methods, despite regulatory uncertainty surrounding it, until a higher court rules otherwise.[1] Also, the New York PSC refused to apply *Iowa III* given the unpredictable duration of court review

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[1] *Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Costs Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts,* D.T.E. 01,20, Vote and Order to Open Investigation, at 4-5 (Mass D.T.E. Jan. 12, 2001.)

and/or FCC remand.[2]

BayRing and Network Plus claim Verizon itself recognizes that the AT&T interpretation of Rule 51.505(b)(1) results in lower prices, as demonstrated by Verizon's argument in the Supreme Court. Verizon's brief on Writ of Certiorari argues that the 8th Circuit erred in holding that neither the Takings Clause nor the TAct requires incorporation of ILEC "historical costs" into UNE rates. Verizon's argument is adamantly against TELRIC pricing as defined by the FCC because it completely ignores incumbents' past investments. *See* BayRing and Network Plus Motion, Exhibit 2.

[2] *Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements*, Case 98-C-1357, Ruling Denying Request for Reconsideration, (N.Y. P.S.C. Sept. 18, 2000).

BayRing and Network Plus also argue that the BA-GTE Merger Conditions mandate their proposed interpretation of Rule 51.501(b)(1) independent of any lower court decisions. BayRing and Network Plus support this claim by a letter dated September 22, 2000, from the FCC's Common Carrier Bureau Chief to Verizon's Deputy General Counsel. The letter, attached as Exhibit 3 to BayRing and Network Plus' motion, clarifies that under the *BA-GTE Merger Order* Verizon is obliged to make UNEs available in accordance with the FCC's *Local Competition Third Report and Order* and the *Line Sharing Order* until a decision by the US Supreme Court concludes the TELRIC litigation either by denying *certiorari* outright or by invalidating given pricing rules. Since the Supreme Court granted *certiorari*, BayRing and Network Plus assert that Verizon must follow the FCC rules or else it will violate the *BA/GTE Merger Order*.

C. Verizon

In opposition to the arguments by AT&T, BayRing and Network Plus, Verizon argues that the Commission correctly applied forward-looking economic cost principles consistent with TELRIC while refusing to consider speculative technologies and costing models. Verizon points out that in addition to language in the stayed *Iowa III decision*, the Commission specifically relied on ¶683 of the FCC's *Local Competition First Report and Order* when rejecting a purely hypothetical network for costing purposes.

¶683 rejects any purely hypothetical network because doing so would enable new entrants to use the existing network at the lower-than-actual prices. Verizon, like AT&T, also relies on ¶685 for support of its position, citing it almost in its entirety, as does AT&T for the opposite proposition.

Verizon argues that the *July 6th Order* is not inconsistent with a reasonable application of a TELRIC analysis. Verizon also points out that neither BayRing nor Network Plus identify any changes required in the Commission *SGAT Order* as a result of the 8th Circuit stay.

D. Commission Analysis

Motions for rehearing and/or reconsideration of a Commission order are governed by RSA 541. RSA 541:3 directs that the Commission may grant a motion for rehearing "if in its opinion good reason for the rehearing is stated in the motion." Pursuant to New Hampshire case law, "good reason" is shown when a party explains that new evidence exists that was unavailable at the original hearing. *Dumais v. State*, 118 N.H. 309, 386 A.2d 1269 (1978); *Appeal of Gas Service Inc.*, 121 N.H. 797, 475 A.2d 126 (1981); Re Consumers New Hampshire Water Company, Inc., 80 NH PUC 666 (1995). As stated in *Dumais*, 118 N.H. at 312, the purpose of a rehearing is to provide consideration of matters that were either overlooked or "mistakenly conceived" in the original decision.

In reviewing any motion for rehearing, the Commission analyzes each and every ground that is claimed to be unlawful or unreasonable to determine if there are grounds to grant the request, *i.e.*, if there is good reason shown. *In re Wilton Telephone Company and Hollis Telephone Company*, NH PUC Order No. 23,790 (September 28, 2001).

We first turn to the claims by AT&T, BayRing and Network Plus that we overlooked the *Iowa III* order is stayed and mistakenly applied the 8th Circuit's interpretation of TELRIC. The *Iowa III* decision's rejection both of a purely hypothetical network and purely historical costs does correspond with our determination that costing of unbundled network elements should have some basis in reality.[3] While we did not note in our *July 6th Order* that *Iowa III* had been stayed, our determination of costing is firmly based on forward-looking costs as defined by the TAct, 47 C.F.R. §51, and the FCC's *Local Competition First Report and Order*. Our decision was not based upon a misunderstanding that *Iowa III* is the law of the nation as a whole or of New Hampshire. Rather, our decision is consistent

[3]Oral arguments on the appeals of parts of Iowa III were made at the United States Supreme Court on October 10, 2001. Three questions are before the Court: (1) Did the 8th Circuit err in holding that §251(d)(1) forecloses FCC TELRIC methodology which is based on the replacement of existing technology to determine interconnection rates? (2) Did the 8th Circuit err in holding that neither the Takings Clause nor the TAct requires that historical costs be incorporated into UNE costs? and (3) Does §251(c)(3) prohibit regulators from requiring ILECs to combine previously uncombined UNEs? An order is expected before June 2002, perhaps as early as 1Q02.

with a sound TELRIC analysis. The arguments raised by AT&T, Bayring, and Network Plus do not present new evidence that was either unavailable or mistakenly overlooked by the Commission. No rehearing or reconsideration is compelled or necessary.

Although neither rehearing nor reconsideration is necessitated by the motions filed, we will clarify our intent regarding the TELRIC pricing decision. Our determination of what constitutes FCC-required TELRIC pricing for both recurring and non-recurring costs has as its foundation the "just and reasonable rates" requirements of the TAct and New Hampshire law. Section 252(d) of the TAct establishes pricing standards for states to determine just and reasonable rates, i.e., rates that are "(i)based on the cost of providing the interconnection or UNE, and (ii) non-discriminatory." The *July 6th Order* looks primarily to 252(d)(1) for guidance if an FCC directive was capable of different interpretations. In addition, the Commission made clear its intent to follow the FCC's direction in the Local Competition First Report and Order, the order establishing TELRIC as the pricing methodology. For example, when finding ¶685 unclear, the Commission looked to 252(d)(1) and to ¶683. <u>See</u> pp. 56-62 and pp. 85-87 of the *July 6th Order*, where we conclude that ¶685 is capable of differing interpretations and looked past ¶685 to the TAct language itself and to ¶683.

Our determination of "just and reasonable rates" is based on two premises regarding cost modeling. They are (1) economic cost modeling is an imprecise art that aspires to establish a zone of reasonableness rather than a single correct answer, and (2) a reasonable approach to modeling a forward-looking network requires some relationship to the reality of the current network world. *See* pp. 90-91 of the *July 6th Order*. In light of these two premises, the *July 6th Order* is not unreasonable. Further, as it does not look merely to historical costs, the *July 6th Order* does not violate TELRIC principles. As the FCC stated in its *Massachusetts 271 Approval Order*, citing to the FCC's *New York 271 Approval Order*, states have the "flexibility to set prices within a range of TELRIC-based rates."[4]

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[4]*In re Application of Verizon New England Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc. for Authorization to Provide In-region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, FCC 01-130, ¶33 (April 16, 2001).

IV. SPECIFIC COSTS, TERMS AND CONDITIONS

A. GR-303

1. AT&T

AT&T argues against the *July 6th Order's* exclusion of GR-303 integrated digital loop carrier (IDLC) from assumptions about UNE loop rates. AT&T bases its arguments for reconsideration of the *July 6th Order's* holdings regarding GR-303 upon the claim, discussed above, that the Commission failed to apply TELRIC properly, as it did not include 100% integrated digital loop carrier (IDLC), the most efficient alternative currently available.

In support of its motion, AT&T requests the Commission look again at Verizon's testimony in the Massachusetts DTE's 271 proceeding and at a 1999 NYPSC order, both of which AT&T provided as post-hearing submissions in this docket. In Massachusetts, Verizon's witness stated that the company would deploy GR-303 going forward. AT&T claims that the testimony confirms that AT&T's analysis is correct regarding the cost advantages accrued by assuming GR-303 in a forward-looking network. AT&T Motion, fn. 22, p. 11. The NYPSC Order found that GR-303 is available in New York and should be used in a forward-looking cost study.

By letter dated April 4, 2000, AT&T provided parts of Verizon's testimony in NYPSC Case 98-C-1357, a docket examining the company's UNE rates. In panel testimony in that case,

Verizon refers to GR-303 or Next Generation DLC as the latest and most cost effective technology available. Cost savings could be realized when GR-303 is used for both feeder and for line-side ports in switches, that is, for the switch recurring rate and the loop non-recurring rate, according to AT&T's interpretation of the Verizon New York testimony.

2. BayRing and Network Plus

These carriers do not address the issue of GR-303 in the cost model.

3. Verizon

Verizon contends that the Commission correctly decided the GR-303 issue regardless of the status of the *Iowa III* decision on TELRIC pricing. The record of the case, specifically Exhibit 53 and the transcripts from May 21, 1998 at pp 181-182, in Verizon's opinion, demonstrates that GR-303 technology is inappropriate in a multiple carrier environment and that inclusion of GR-303 would be purely speculative. The Commission produced a forward-looking design of feeder plant, rejecting both the Verizon and the AT&T proposals and crediting Staff's testimony in order to adjust cost study inputs. The reasoned results were based on substantial evidence on the record and, Verizon argues, should not be reconsidered. The argument was considered and rejected by the *July 6th Order*, according to Verizon. Verizon reasons that the Commission's decision did not overlook the evidence, no new

evidence has been adduced, and therefore the AT&T motion states no good reason for rehearing or reconsideration of these issues.

4. Commission Analysis

We recognize and appreciate AT&T's provision of material presented in proceedings before our sister state commissions, New York and Massachusetts. We were cognizant of AT&T's arguments at the time we issued the *July 6th Order*. We take this opportunity to better craft our language in considering this issue so as to avoid the perhaps understandable mischaracterization of our finding.

As we stated in the *July 6th Order*, we find that the appropriate equipment assumptions for a forward-looking cost model contemplate a blend of equipment, incorporating the most technologically advanced technology with that actually available. We have credible record evidence before us that in the foreseeable future TR-008 IDLC will be deployed in approximately 20% of the New Hampshire network. We also have record evidence that GR-303 is deployed in some places in New York but that it is not proven in a multi-carrier environment and that it has limits that could interfere with some competitors' provision of service. The *July 6th Order* requires a forward-looking study, one that assumes more than twice as much IDLC, 50% rather than the 20%, that Verizon judged would obtain in the future. AT&T, Bayring and Network Plus have not shown good reason for us to reconsider

our *July 6th Order* on this point. We will stand by our original assumption as we believe it is just, reasonable and forward-looking. We will not require a study to assume 100% IDLC as that has not been shown to be a reasonable or forward-looking assumption for New Hampshire.

B. Switch Weighting

1. AT&T

AT&T argues that the *July 6th Order* violates TELRIC principles by not reflecting all the discounts for switch investment that could be obtained when building an entirely new network, specifically citing to the FCC's *Massachusetts 271 Approval Order* at ¶35. In support of its Motion for Reconsideration, AT&T presents a recent case in which a federal court rejected Verizon's appeal of the Delaware Commission's ruling.[5] Stating that Verizon's proposed switch cost study improperly looked only to the short-run, the Delaware Commission held that, in the long-run, an efficient and rational competitor would replace all of its existing switches with the most current technology and receive bulk-rate discounts. AT&T concludes that TELRIC principles require that switching prices be based on the long-run assumption that the forward-looking network would consist of new switches that are available at deeper discounts

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[5] *Bell Atlantic-Delaware, Inc. v. McMahon* (*Delaware Order*), 80 F.Supp.2d 218 (D.Del. 2000).

and therefore lower prices.

2. Verizon

In Verizon's view, AT&T's proposed assumption of 100% new switches is inappropriate for a forward-looking cost study. Verizon argues that in the real world, entire networks are replaced over time. Therefore, the deep discounts available for purchases of new switches, offered because the manufacturer then knows the switch customer is captive for a decade or more, is not a reasonable assumption, and therefore is not an economic reality. Verizon cites Staff's testimony that a blend of the two prices is appropriate for long-run economic costing purposes. Verizon states that the Commission accepted the logic of a blend because it recognized that without the payback of future non-discounted growth purchases vendors will not offer the deep discount on new switches at all.

Verizon counters AT&T's reference to the rationale in the FCC's *Massachusetts 271 Approval Order* by pointing out that the FCC rejected AT&T's argument in that very order. The FCC, according to Verizon, found that Massachusetts properly exercised its flexibility to set prices within a range of TELRIC-based rates" as had the New York Commission, when it accepted the switching prices based on the smaller discount offered for growth switches. Thus, Verizon reasons, AT&T's reference to a phrase in ¶35 of the Massachusetts 271 Approval Order does not enable

AT&T's argument to prevail.

3. BayRing and Network Plus

The question of new versus growth switch investment is not addressed by the BayRing and Network Plus filings.

4. Commission Analysis

We understand the recent case law that AT&T presents as confirms a state commission's ability to use 100% new switching price inputs and have found that decision to be TELRIC-compliant, that is, as the FCC has stated, within the range of what a reasonable application of what TELRIC would produce. The *Delaware Order* rejected Verizon's challenge to the Delaware commission's interpretation of "long-run." However, we do not find the Delaware case compels a different conclusion in regard to switch weighting in the *July 6th Order*.

The FCC's Massachusetts 271 Approval Order cited by AT&T is instructive on that point. In ¶33 of that order, the FCC rejects the identical argument AT&T raises here; the FCC also rejected a similar argument advanced by commenters in the New York 271 application before the FCC. The FCC, as Verizon notes, found that both Massachusetts and New York could use the smaller switch discount and still be within the "range of TELRIC-based rates.[6]" *Id.*

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[6]The FCC also found that the switching rates of New York and Massachusetts were "no less TELRIC-compliant" for being the subject of ongoing New York and/or Massachusetts investigations, respectively. *Id.*

The *Delaware Order* can be read to hold that a decision to use 100% new switching is TELRIC-compliant and that 100% growth switching is not TELRIC-compliant. We find that it cannot be read to hold that the blend of new and growth switching, as established in the *July 6th Order*, is not TELRIC-compliant. Thus, even if the decision of a lower federal court in a circuit different from our own were dispositive, it would not require a reconsideration of our order. Therefore, we will not revise the *July 6th Order*.

C. Fall-Out Rate

1. AT&T

AT&T contends that a proper TELRIC model for non-recurring costs would assume only a 2% fall-out rate: only 2% of all UNE service orders would fall out of the electronic ordering system and require manual intervention. AT&T argued for that percentage but the Commission accepted a fall-out rate of 15%, as put forward by Verizon. AT&T requests reconsideration of this decision, pointing out that the Commission did not directly address AT&T's arguments.

AT&T reiterates its arguments with support from a Massachusetts DTE order and from an NYPSC ALJ's recommended decision.[7] The Massachusetts DTE decision found that state-of-

[7]Massachusetts Department of Telecommunications and Energy *Consolidated Arbitrations* Phase 4-L Order (*4-L Order)* (October 14, 1999), and "Recommended Decision on Module 3 Issues" (*NY ALJ Recommendation)*, New York PSC Case 98-C-1357 (May 16, 2001).

the-art operations support system (OSS) installed to process CLEC orders would have a higher flow-through rate than legacy retail service order systems. Efficiencies gained through electronic ordering would result in no more than a 2% fall-out rate. The NYPSC ALJ recommended a 2% rate and, according to AT&T, Verizon's request for a 4% rate was rejected by the ALJ. AT&T recommends that the New Hampshire Commission follow that combined rationale to find a 2% fall-out rate.

2. Verizon

The record in this docket, according to Verizon, supports the *July 6th Order's* conclusion, according to Verizon. There was evidence that the current fall-out rate is slightly more than 35%; thus, the 15% fall-out rate is reasonably forward-looking. It reflects the highest level of mechanization anticipated in Verizon's New Hampshire network in the foreseeable future. Exhibit 52 at 18. Therefore, Verizon reasons, the Commission should reject AT&T's motion on this point.

3. BayRing and Network Plus

BayRing and Network Plus have not provided comment regarding the fall-out factor.

4. Commission Analysis

In Massachusetts, Verizon proposed a 15% fall-out rate, and AT&T proposed a 2% fall-out rate. The arguments presented were essentially similar to the arguments presented at hearings in New

Hampshire. In section II.B.2.b.ii., the DTE's *4-L Order* found that fall-out standards should not be based on experience with, or analogy to, the legacy retail service ordering systems because a forward-looking wholesale network will be using newly installed, state-of-the-art OSS systems created by Verizon expressly for the wholesale market. The DTE also found that CLECs themselves, being large and sophisticated telecommunications carriers, should not be analogized to retail customers because CLECs have a strong commercial interest in providing accurate information. Therefore, the DTE adopted the 2% fall-out rate.

AT&T's additional information on this issue in the form of the Massachusetts DTE's *4-L Order* does not convince us to reconsider our *July 6th Order*. The arguments presented are not new; they were presented in this docket. The fact that the Massachusetts DTE weighed the evidence differently does not compel a rehearing or reconsideration. Furthermore, the decision was issued in October 1999, well before the issuance of our *July 6th Order.*

The *NY ALJ Recommendation*, however, issued on May 16, 2001, contains substantially new information for our consideration. The NY ALJ reports that, as in New Hampshire, AT&T and other CLECs proposed a fall-out rate of no more than 2%, arguing that a properly designed system would detect errors and automatically

return the order to the originator rather than manually correcting the problems. The arguments raised in New Hampshire are unlike those raised by Verizon in New York. There, Verizon contended that "fall-out rates will vary by activity, though for most UNEs, its studies reflect a 4% rate." The ALJ recommended adoption of the 2% level advocated by AT&T, noting that "[F]all-out rates can be expected to decline as experience is gained with more efficient OSS, and it is important that rates here be set on the premise of minimal fallout." *NY ALJ Recommendation* at p. 189.

The *NY ALJ Recommendation* noting the Massachusetts 2% fall-out rate, and Verizon's assertion that a 4% rate is accurate in most cases, convince us that the 15% fall-out rate we adopted for New Hampshire is too high. While AT&T did not persuade us that a 2% rate is appropriate, we find that Verizon's statement that 4% is representative of most UNE order fall-out rates compels us to revisit our earlier decision. Verizon does not provide any information to refute the ALJ's report of its New York position. Nor does it differentiate the process in New Hampshire from that in New York so as to explain why the 4% rate exists in New York and not in New Hampshire. We will order Verizon to use a 4% fall-out rate in New Hampshire for the NRC model.

D. Rate Design for Switching Cost Recovery

1. AT&T

AT&T also seeks rehearing of the Commission's approval of the stipulated switching cost recovery rates, arguing that the Commission misunderstood the basis of AT&T's argument on brief. AT&T Motion for Rehearing at 16. AT&T seeks rehearing of the following conclusion:

> AT&T's objection to the inclusion of switching costs in the recurring cost portion of the SGAT is not credible. Just as loop costs "recur," as that term is used in UNE cost modeling, so too do switch costs. The forward-looking nature of these studies includes the concept that neither loop nor switch costs occur as one-time costs.
> Order No. 23,738 at 92.

AT&T states that its objection was not to the inclusion of switching costs in recurring rates, but rather to the recovery of the "getting started" portion of switch costs on a usage basis, given AT&T's argument that such costs do not vary with usage. AT&T Motion for Rehearing at 16, citing AT&T Initial Brief at 14-15. AT&T argues that recovering fixed "getting started" costs on a minutes-of-use (MOU) basis will lead to over-recovery. AT&T Motion for Rehearing at 16.

AT&T stated in its initial brief that Verizon calculated a per-MOU fee for switching costs by spreading the total estimated switch investment, both fixed and variable, across the then-current usage of its existing switches. AT&T Initial Brief at 15, citing Exh. 63, Baker Track 2 Direct, Workpaper Part B, pp. 9-10, lines 1-2 and 91 (dividing estimated switch investment by historic busy hour minutes of use to derive unit cost per minutes of use). AT&T went on to argue that as the minutes of use

continue to increase over the years the switches will be in place, "the fixed cost of the switch will not change, but the revenues collected ... through this charge will continue to grow." *Id.* at 15. AT&T argues that such a result does not comport with the TELRIC methodology, "under which per unit costs are to be calculated using a reasonable projection of future demand," not current demand levels. *Id.*, citing 47 C.F.R. §51.511; First Report and Order, FCC 96-325, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1966,* CC Docket 96-98 (August 1, 1996), ¶682.

Paragraph 682 of the *First Report and Order* reads in pertinent part:

> Per-unit costs shall be derived from total costs using reasonably accurate "fill factors" (estimates of the proportion of a facility that will be "filled" with network usage); that is, the per-unit costs associated with a particular element must be derived by dividing the total cost associated with the element by a reasonable projection of the actual total usage of the element.

AT&T's witness Petzinger testified that minutes of use do not drive switch port investments, but rather port exhaust drives such investment. Tr. 9/22/98, p. 31. AT&T concluded that "getting started" switching costs should not be recovered on a usage-sensitive basis. AT&T Initial Brief at 15. Nowhere in AT&T's Initial Brief, Reply Brief or Motion for Rehearing does AT&T specify on what other basis it proposes that Verizon recover

its “getting started” switching costs, although in the Motion for Rehearing, AT&T implies that such costs ought to be recovered via a fixed monthly rate that does not vary with actual usage, in the way that line port costs are recovered. AT&T Motion for Rehearing at 16.

2. Verizon

Verizon responds that the Commission correctly rejected AT&T’s position, that the Commission’s decision was sound, and that no over-recovery will occur under the Commission’s ruling. Verizon asserts that the evidence in the case supports the determination that “getting-started” costs vary with switch size and usage, and therefore that assignment of such costs to traffic-sensitive rates properly matches the costs to their cause. Verizon Reply to Motions for Reconsideration, at 9. Verizon also cites the surrebuttal testimony of Stanley Baker, Exh. 65 at 13-14, to support the contention that Verizon’s unit costs were based on levelized, or averaged demand over the life of the switch.

3. BayRing and Network Plus

These carriers did not address the issue of switching costs recovery in their Opposition to Verizon’s Motion for Reconsideration and/or Rehearing.

4. Commission Analysis

Both AT&T and Verizon appear in their briefs and motions to

have mis-characterized what Verizon actually did in its study of recurring switch costs, including “getting started costs.” The cross-examination of Mr. Baker reveals that Verizon estimated total costs for such investments by running its SCIS model, and using December 1997 MOU as an input for determination of then-current investment requirements. Verizon also apparently then used the same historic minutes of use as the usage determinant over which the costs were spread to develop the unit cost factor. Tr. Day 9/14/98, pp. 131-132.

Mr. Baker essentially argued that this approach, current costs divided by current usage, met the TELRIC criteria, because as usage increased over time, so also would investment requirements given the increasing demand for more powerful processing switch capacity. *Id.* Mr. Baker opined that this approach would produce a conservative factor for cost-recovery, in that deriving investment costs based on an engineering estimate of investment needed to meet historic demand would produce a numerator lower than that which would have been developed had Verizon used actual (forecast) demand, which would have produced a more costly SCIS output. *Id.* at 129. This is a plausible observation, based on the record in this docket.

The FCC methodology, properly understood, does not require that the “getting started” costs be recovered in one fixed charge applied equally to each interconnecting CLEC, nor does it rule out the possibility of recovering such “getting started” costs

via a usage charge, including a charge based on minutes of use. Rather, it simply demands a proper matching of the cost to be recovered and the units over which such costs are to be spread. Verizon's proposal, and our Order, provided for such a matching.

AT&T also does not point to record evidence upon which we could implement the segregation of "getting started" costs and the fixed monthly per-switch recovery of such costs. Thus, AT&T falls short of providing a factual basis sufficient to require rehearing. While AT&T does point to reasoning in the *July 6th Order* that bears clarification, it does not cite to evidence that was overlooked or misconceived in the original Order.

We find that AT&T has not presented good reason to disturb our Order approving the recovery of "getting started" switching costs on an MOU basis. On this basis, we decline to grant AT&T's motion to reconsider or rehear this portion of the *July 6th Order*. On our own motion, we clarify that the basis for our approval of Verizon's proposal on recovery of getting started costs is as discussed above.

E. Collocation Power Costs

1. Verizon

Verizon contends that the Commission should reconsider its disallowance of charges to collocators for DC power. Verizon bases its request on the Commission's own recognition that collocators will draw power, Motion at p. 2, *July 6th Order* at

118, and on a contention that FCC TELRIC cost principles require consideration of the total, long-run, incremental costs, including forward-looking joint and common costs regardless of what entity is utilizing that element.

According to Verizon, the Commission's conclusion that no incremental costs exist for power generation since no additional power equipment must be installed "in the *short term*," Motion at 3 (characterizing the *July 6th Order*) does not satisfy the 'long-run' component of TELRIC. According to Verizon, to be considered long-run, the period contemplated must be long enough that all costs are treated as variable and avoidable so as to recover fixed investment costs that are inputs directly attributable to providing the element. Motion at p. 3, citing the FCC's *Local Competition Order* ¶ 692. The fact that Verizon's existing power plant currently can provide power without immediate placement of new components shows merely that no additional investment is required in the short-run. Recovery of the long-term cost must still be accounted for, according to Verizon.

Verizon also claims that the Commission's conclusion does not satisfy the 'incremental' component. The increment which must be measured is not the increment triggered by the CLEC but the entire increment of demand to supply both the CLEC and the ILEC. Verizon points out that the TELRIC costs for building space or switching use are based on the cost of the current building space and switches, whether or not Verizon has enough

current capacity to provide such elements to CLECs without building new buildings or switches. The same methodology applies to power, in Verizon's view. Hence, the incremental cost may and should be ascertained now rather than later when additional costs are incurred.

In Verizon's view, its cost study not only correctly determined power costs but it also demonstrated that additional power equipment may need to be installed in order to meet CLEC need, contrary to the Commission's conclusion at p. 118 of the Order. Verizon's witness Grenier stated, in Tr. 6/10/98 at p. 80-81, that even plants with a microprocessor capacity of 2600 amps would require an additional eight 200 amp rectifiers to enable it to operate at full capacity. Therefore, Verizon claims that it has shown an incremental cost and, pursuant to the *July 6th Order* at p. 118, Verizon must be compensated for its costs.

2. AT&T

AT&T supports the Commission decision. AT&T interprets the *July 6th Order* as rejecting the power charges based on the fact that Verizon's power costs are already fully recovered in the power factor used to calculate switching costs. The power factor, as detailed by Verizon Witness Baker, Tr 9/1/98 at 24,97, and 109 and Ex. 62, summary page and Workpaper Part B at 78, divides the total installed cost of CO power equipment by the total installed cost of digital switching equipment. In AT&T's

view, the fact that Verizon would be double counting makes the power charges improper, whether they are TELRIC-compliant or not.

3. BayRing and Network Plus

BayRing and Network Plus argue that the Commission's decision disallowing collocation power costs is correct under the TELRIC standard, whether or not Verizon demonstrated an incremental cost, since Verizon failed to prove that its incremental power costs are not already recovered in other charges such as the charge for unbundled switching. Opposition at p. 2.

BayRing and Network Plus also point out that Verizon's argument championing TELRIC with regard to power costs is antithetical to its position on recurring and non-recurring loop and switch costs. They argue that accepting Verizon's argument would mean that the Commission would also have to revise its decisions on all UNE pricing and reject the Iowa III decision. They also raise the issue that no power charges should apply in the absence of a CLEC's actual use of power.

4. Commission Analysis

The filings of Verizon, AT&T, BayRing and Network Plus on the issue of power costs have caused us to revisit our determination in the Order in this docket, and to review the record.

First, with respect to the arguments of the CLECs to the effect that Verizon would be double-counting if collocation costs included any power costs, the record does not support this

contention, and it was not the basis for our initial decision. As AT&T points out, the power factor used to calculate switching costs does use the total installed cost of digital switching costs in the denominator. Exh. 62, Workpaper Part B at p. 78. However, the numerator ($10.6 million) is not, contrary to AT&T's assertion, the total installed cost of central office (CO) power equipment. This can be ascertained by examining Exh. 43, Attachment C, Workpaper I, Part D, the calculation of collocation power costs. This workpaper shows investment by CO-type for the components of power investment, including microprocessor plants, rectifiers, batteries, breakers, power distribution service cabinets, and emergency engine/turbines. Summing these investment estimates for each type of CO (urban, rural and suburban), and multiplying each sum by the number of COs in the appropriate type (per the Stipulation, Exh. 61), the total installed cost of CO power equipment can be estimated at $27.6 million. Clearly, the power factor developed for digital switch investments in Exh. 62. Workpaper Part B, p. 78, is only intended to collect a subset of Verizon's installed power costs in New Hampshire. Thus, AT&T, BayRing and Network Plus are incorrect when they assert that applying the power factor developed for switch investments collects the entirety of power costs, and therefore the double-counting argument cannot serve to support our original determination on the collocation power cost issue.

We turn next to Verizon's argument that, contrary to our

initial decision Verizon failed to demonstrate an incremental need for power facilities in its COs, the evidence does show an incremental need which would be associated with incremental costs. We have reviewed the record and have determined that Verizon is correct. Our finding at p. 118 of the *July 6th Order*, to the effect that "Bell Atlantic has not shown that additional power equipment must be installed in order to meet CLEC needs," was based on a misconception of the testimony of Verizon witness Grenier. Our order was based on the assumption that the power plant investment modeled in Exh. 43, Attachment C, Workpaper I, Part D, represented a system with spare capacity, requiring no further investment for the foreseeable future to serve growth.

Mr. Grenier testified that the typical or representative power plant investment modeled in his Exh. 43, Attachment C, Workpaper I, Part D, assumes a configuration in which there is room to grow the use of the facilities by adding rectifiers, batteries, cabinets, and Battery Distribution Fuse Bays. Tr. 6/10/98, at 81. In other words, the estimated power plant investment modeled by Mr. Grenier was one that would require further investment to accommodate incremental growth, whether from collocators or from Verizon itself. Given this corrected reading of the record, we next turn to the proper calculation of TELRIC costs for such power needs.

Consistent with its derivation of building and land costs, Verizon took total costs for the power plant investment as it is

currently employed, and spread those costs over current amperage, to develop unit costs. We do not disturb this method, but upon careful review of Exh. 43, Workpaper I, Part D, we note that certain corrections must be made to the calculation if we are to base collocation power prices on it, as proposed by Verizon.

First, we noted that on Lines 30 and 45, Verizon has employed an installation factor of 2.8912, to gross up the investment cost of the facilities to their installed cost. This installation factor is over twice as high as the installation factor approved for switching costs, and represents the assumption that installation costs for power plant facilities are almost three times the cost of the facilities themselves. On its face, this assumption is improbable and unreasonable. In our reconsidered decision on collocation power plant costs, we find that the installation factor should be the same as the switch installation factor, or 1.36.

Second, we note that Verizon has made a computational error in its application of the Joint and Common Cost factor to power plant investments. Verizon derives an in place power investment and an associated building investment on Lines 31 and 35, and then applies a J&C factor of 0.0948 to this amount, to produce a so-called “Annual Joint and Common Cost” on Line 40. Verizon performs a similar calculation with respect to J&C costs for battery distribution fuse bays, on Lines 46, 50, 54 and 55. This calculation is incorrect, because the application of a J&C factor

to an underlying investment, without annualization, does not produce an annualized figure. This error can be corrected by applying the J&C factor to the underlying investments after annualizing.

Third, it is necessary to back out the power costs recovered via switching charges, in order to prevent double-counting of this amount of power costs. As noted above, power costs recovered in switching costs are approximately $10.6 million. The sum of power plant investments noted on Exh. 43, Attachment C, Workpaper I, Part D, shows that total engineered power costs for the present usage are approximately $27.6 million. The power costs not recovered by digital switch charges are thus $27.6 million minus $10.6 million, or $17.0 million. The ratio of such costs to total power costs, approximately two to three, must be applied to the power plant investment used in developing collocation costs, to prevent double-recovery of the $10.6 million in power costs.

With the three corrections noted above to Verizon’s calculation, the record reveals a per-amp recurring monthly cost for installations, in urban COs, less than or equal to 60 amps of $3.18, and a per-amp recurring monthly cost for installations over 60 amps of $3.03, as shown in the attached Appendix. Accordingly, we grant Verizon’s petition for reconsideration, and on reconsideration, we determine that the recurring monthly per-amp costs for collocation power are as developed in this Order

based on the record in this case.

F. Collocators Access to Central Office Space: Escorts and Separate Entrances

1. Verizon

The Commission's *July 6th Order* relied on the FCC's *Advanced Services Order*[8] *to* require Verizon to provide, among other items, direct access for collocation "in any unused space without the necessity of separate entrance or intermediate arrangements." Verizon argues that the Commission failed to take into account a Circuit Court of Appeals Order, *GTE Services Corporation v. FCC*, 205 F.3d 416 (D.C. Cir. 2000), reversing the collocation part of the FCC's *Advanced Services Order* by limiting the access requirement to comport more strictly with the language of §251(c)(6). The language of the statute, the court noted, requires only that ILECs provide space for "physical collocation of equipment necessary for interconnection or access to unbundled network elements." Since the circuit court specified that the FCC could not give CLECs total freedom to pick and choose space in a CO subject only to technical feasibility, the New Hampshire Commission may not broaden the access rights provided in §251(c)(6) by looking to other parts of the federal statute for support such as §224 of the Act, as the *July 6th Order* did.

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[8] *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability,* CC Docket No. 98-147, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-048 (1999)

Verizon further argues that the Commission should allow it to establish separate entrances for collocating CLECs as a valid and important security measure. According to Verizon, inadvertent or intentional damage to its facilities pose a danger to public safety and to the economy should universal service be affected.

In addition, Verizon objects to unescorted access as granted in the *July 6th Order*. Verizon requests that the Commission reconsider its decision to permit CLECs to have unescorted access to CO areas outside the CLEC's collocation node whenever a Verizon escort does not appear for a scheduled appointment. This decision restricts Verizon's ability to impose reasonable security arrangements to protect its equipment and network reliability, an ability authorized in the FCC's *Local Competition First Report and Order* and in the *Advanced Services Order*. Verizon argues that the Commission's decision is unreasonable given the fact that no continuing problem of missed appointments is demonstrated on the record. Further, Verizon claims that the decision will force it to resort to more costly measures in order to preserve security, the costs of which would be passed along to CLECs.

2. AT&T

Although AT&T agrees with Verizon that the D.C. Circuit Court of Appeals partially vacated the FCC's *Advanced Services*

First Report and Order, AT&T points out that on August 8, 2001, the FCC released its newly adopted rules, intended to meet the requirements of that order. The new rules, according to AT&T, do not grant incumbents like Verizon *carte blanche* to limit physical collocation arrangements and thereby discourage competition. The FCC's order containing the rules, the *Advanced Services Fourth Report and Order,*[9] specifically restricts Verizon's discretion. FCC Rule 51.323(i)(6) allows Verizon to require CLECs to use separate entrances to access collocation space only when four conditions are met: (1) construction of a separate entrance is technically feasible; (2) either legitimate security concerns or operational constraints unrelated to competitive concerns warrant such separation; (3) construction of the separate entrance will not artificially delay collocation provisioning; and (4) construction of the separate entrance will not materially increase the requesting carrier's costs. Since Verizon has not satisfied any of the rules' requirements, AT&T argues the Commission's order properly struck down the separate entrance requirement.

AT&T also relies on the FCC's *Advanced Services Fourth Report and Order* to argue against Verizon's complaints regarding unescorted access. Requiring security escorts is no longer

[9] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability,* CC Docket No. 98-147, Fourth Report and Order, No. FCC 01-204 (rel. August 8, 2001).

permissible under any circumstances, according to AT&T. Rule 51.323(i) states that an ILEC may not require a collocator to have security escort of any kind at any time. AT&T urges the Commission to require Verizon to revise its SGAT accordingly.

3. BayRing and Network Plus

BayRing and Network Plus also cite the *Advanced Services Fourth Report and Order* extensively to support their argument against Verizon's ability to require separate entrances. They refer to the FCC's explanation that a mandatory requirement for separate entrances could decrease collocation space, delay CLEC collocation and increase the CLEC's cost, as well as being unnecessary to ensure that the ILEC can protect its property. *Id.* at ¶¶99-100. The FCC also pointed out that security cameras or other, less injurious, monitoring systems would achieve the same end as separate entrances. *Id.* at ¶101.

4. Commission Analysis

This issue, among others, illuminates the tension between the security concerns as to which Verizon is rightly vigilant and the goal of competition that the Congress established in the TAct. Collocation is fundamental to the Congressional plan. There is an inherent tension to collocation, of course. Verizon needs flexibility to keep the communications network secure for its business purposes and for the public good. CLECs need reasonable access to facilities at their collocation sites in

order to promote competition.

Legitimate security concerns can certainly exist, although the FCC noted that ILECs have incentives to overstate the security concerns. At the time of the *Advanced Services Fourth Report and Order*, competition may have held primacy over property concerns. Since September 11th, the balance in the tension may have changed, although neither a separate entrance nor an escort requirement may insure against the harm that a determined enemy of the United States wishes to inflict.

We direct Verizon to take all necessary steps to assure the security of their premises. We require that whatever security measures Verizon chooses will not impede or delay CLEC business unnecessarily. Should a CLEC report that it experiences unnecessary delay or other abusive practices, we will take action as required.

G. Treatment of Collocation Space and Equipment

1. Verizon

a. Reservation

Verizon seeks rehearing of the Commission determination that "Bell Atlantic may not include provisions in its SGAT which would deny CLECs' capacity expansion requests." (*July 6th Order* at p. 140.) Verizon objects to the *July 6th Order's* restriction on its ability to reserve vacant CO space pursuant to §4.5.2.2.2.C of the SGAT. Verizon asserts that the section reflects FCC decisions that ILECs are allowed to retain a limited amount of floor space for defined future uses on a nondiscriminatory basis (*Local Competition First Report and Order* at¶604 and *Advanced Services Reconsideration Order*[10] at ¶52).

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[10]*Deployment of Wireline Services Offering Advanced Telecommunications Capability,* CC docket No. 98-127, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 15 Rcd 17806, FCC 00-297. (2000).

Verizon claims that §4.5.2.2.2.C correctly balances the importance of providing physical collocation to CLECs while addressing ILECs' and CLECs' need to reserve space to meet the future needs of their customers, as required by the FCC in its *Advanced Services Reconsideration Order* at ¶50. Further, as ¶61 of the *Advanced Services Reconsideration Order* requires Verizon to provide the Commission with floor plans and information to the Commission whenever it denies space to a collocator, Verizon believes that the Commission will have opportunity to detect and redress inappropriate space reservation. Therefore, Verizon urges the Commission to reconsider and to permit §4.5.2.2.2.C as proposed in Verizon's November 17, 2000 revision.[11]

b. Reclamation

Verizon also requests the Commission reconsider its deletion of §4.5.2.2.8.A, the SGAT section permitting reclamation of CO collocation space from CLECs when Verizon needs the space "to provide service or to fulfill its legal obligations." Motion at p. 15. Presenting its concern as that for fulfilling its legal obligation to provide collocation space on a nondiscriminatory basis to other requesting carriers, Verizon argues that FCC Rule

[11]The revised version of §4.5.2.2.2.C is: [Verizon] reserves the right to manage its own central office conduit requirements and to reserve vacant space for planned facilities. [Verizon] and its affiliates will retain and reserve a limited amount of vacant floor space within its premises for its own specific future uses on terms no more favorable than applicable to other [CLECs] seeking to reserve collocation space for their future use.

51.323(f)(6) allows an RBOC to impose reasonable restrictions on the warehousing of unused space by collocating carriers as long as the ILEC sets no space limitations without state commission approval based on demonstrable space constraints. For support, Verizon relies on the FCC's language in its *Local Competition First Report and Order*, ¶586, stating that inefficient use of space by one CLEC could deprive another entrant of collocation opportunities.

2. AT&T

a. Reservation

AT&T did not respond to Verizon's request for reconsideration of the Commission's ruling on reservation of CO space by Verizon.

b. Reclamation

AT&T asserts that §4.5.2.2.8.A was properly stricken from the SGAT as it permitted reclamation at any time Verizon wanted to use the space itself. AT&T characterizes the section as an impermissible unlimited take-back provision, rather than one narrowly tailored to protect against CLEC inefficiency; and furthermore, one inconsistent with the statutory obligation imposed by §251(c)(6) that collocation be provided on just, reasonable, and non-discriminatory terms. AT&T refers to the FCC's *Advanced Services 4th Report and Order* for support. In it the FCC stated that ILEC's have powerful incentives to allocate

space inconsistent with the aforementioned statutory obligation (¶92) and that once space has been assigned to a collocator it is no longer available for allocation to a different use, including a competing use by the ILEC (¶95). AT&T concludes that §4.5.2.2.8.A should not be reinstated into the SGAT.

3. BayRing and Network Plus

a. Reservation

These carriers find Verizon's argument specious and applaud the Commission's decision to facilitate collocation by precluding space reservation that would deny CLEC capacity expansion requirements. They argue that the Commission's decision is within the discretion afforded to state commissions. In fact, they state that ¶52 of the *Advanced Services Reconsideration Order*, cited by Verizon for support, does not limit the Commission's discretion but rather points out that state commissions should resolve issues related to space reservation as they can assess whether excessive space reservations are impeding physical collocation.

These carriers argue that Verizon's revised rule permits Verizon itself to establish the rules by which reservation is permitted, thus allowing Verizon to establish facially nondiscriminatory but actually unequal treatment. Thus, the Commission's prohibition of any space reservation by Verizon is reasonable and should stand.

b. Reclamation

BayRing and Network Plus agree with Verizon that warehousing by any carrier should not be countenanced where other carriers have a need for the space. Nonetheless, BayRing and Network Plus deplore §4.5.2.2.8.A as a *carte blanche* for evicting CLECs. Reclamation by Verizon to meeting Verizon's tariffed customer needs, regardless of a CLECs current use of space to serve CLEC customers is unacceptable: the CLECs customers' choices of carrier would be denied and the CLEC's investments in equipment and marketing squandered. Verizon's attempt to reserve a right to evict CLECs in favor of its own need for space conflicts with the nondiscrimination provisions of the TAct, according to BayRing and Network Plus, whereas the first-come-first-served basis produced by the Commissions deletion of §4.5.2.2.8.A is the level playing field sought by the TAct.

4. Commission Analysis

We agree that our choice of language in the July 6th Order is somewhat overbroad. The FCC's *Advanced Services Fourth Report and Order* addresses space assignment policies and practices in detail and, at ¶96 permits state commissions to impose additional space assignment requirements as long as they are consistent with the TAct and the FCC rules. The FCC is considering setting national standards governing the period of time for which ILECs and CLECs can reserve space for future use. *Id.* at fn. 235.

We will approve Verizon’s proposed §4.5.2.2.C. of the SGAT as revised, interpreted in the following manner. With regard to the planned facilities for which Verizon may manage its own CO conduit requirements and reserve vacant space, denying a CLEC request, Verizon shall have specifically planned, prior to the request, to use the space or conduit within one year after the CLEC request. We consider the one year time period reasonable and will require construction to commence within one year of the CLEC’s request.

As for the issue of reclamation of space previously assigned to CLECs, we will apply a rationale similar to that above. Verizon may reclaim space that a CLEC is not using in a manner connected with the provision of service by giving advance Notice of Reclamation and Reconfiguration to the Commission of its intent and reason for the reclamation and requesting Commission approval therefor. Both parties will have an opportunity to be heard before the Commission makes its decision.

G. Installment Payments for Conditioning Collocation Space

1. Verizon

Verizon objects to the *July 6th Order* requirement that it offer CLECs the opportunity to amortize nonrecurring collocation costs over five years, with a carrying charge equal to the overall cost of capital included in the cost study in this docket. According to Verizon, its 1997 SGAT §13.0 provisions currently permit CLECs to make installment payments on collocation space conditioning over an 18 month period if they have gross revenues of less than $2 billion per year arising from telecommunications provisioning. Forcing Verizon to become a lender to any CLEC, regardless of financial condition unfairly transforms Verizon into a lender of first resort for CLECs.

The Commission's order places on Verizon the effort and expense of administering and collecting installment payments, and the risk of non-payment for no valid reason. According to Verizon, the need for an installment plan has likely decreased since 1997 because of the collocation options that are available today. In addition to the various sized cages and virtual collocation, CLECs may choose shared-cage and cageless collocation pursuant to the FCC's *Advanced Services Order*. Verizon therefore requests the Commission reconsider this requirement.

2. AT&T

According to AT&T, the Commission's exercise of its authority to structure rates for the recovery of non-recurring costs via a reasonable installment plan is entirely proper. State commissions are granted such authority in 47 C.F.R. §51.507(e).[12] AT&T compares installment payments to the recovery of forward-looking fixed investment in outside plant through monthly recurring charges to CLECs, arguing that monthly charges are no different.

3. BayRing and Network Plus

According to Network Plus and BayRing, the Commission's rate design for nonrecurring collocation costs comports with ¶749 of the FCC's *Local Competition First Report and Order*. The FCC referred approvingly to decreasing the size of a competitor's initial capital outlay by such arrangements, thus reducing barriers to entry. BayRing and Network Plus note that Verizon does not protest the concept of installment payment but only the Commission's design of the installment plan; Verizon merely prefers its 18 month plan offered only to CLECs with gross revenues of less than $2 billion.

[12]47 C.F.R.51.507(e) states "State commissions may, where reasonable, require incumbent LECs to recover nonrecurring costs through recurring charges over a reasonable period of time."

Network Plus and BayRing consider that the design of the plan dictated *in the July 6th Order* is superior to Verizon's because (1) it uses the overall cost of capital established in this docket as opposed to the cost of capital used in the 1996 arbitrated Interconnection Agreement between AT&T and Verizon, (2) it lowers the barrier to entry to a greater extent, and (3) five years is a conservative estimate of the useful life of collocation facilities and therefore reasonable.

4. Commission Analysis

No new evidence has been adduced, nor has there been any claim that the Commission overlooked a fact or precedent. We find that the five year payment plan approved in our *July 6th Order* is reasonable and may encourage competition. We will deny the Motion for Reconsideration.

H. Building and Land Costs Excluded from Feeder

1. Verizon

Verizon claims the Commission premised its decision to eliminate all building and land costs from recurring feeder costs on an erroneous conclusion that all building and land costs are captured in switch costs. The three competing cost models in this docket all allocate a portion of building costs to the type of equipment housed in the particular building. For instance, one end of fiber feeder terminates on digital electronic equipment called the CO Terminal housed in the CO Building and

the other end on digital electronic equipment called the Remote Terminal housed in a hut or vault type structure. The costs of the CO Building are apportioned among the equipment housed in the CO and, therefore, the Telecom Model included a portion of building cost in its feeder costs. (Motion at p. 17.) Verizon argues that its model also included a portion of building costs in its feeder costs, a portion that should remain in feeder costs.

According to Verizon, the Commission's statement at page 84 of the *July 6th Order*, that building costs are fully included in switching costs is incorrect and not supported by the record. *See* Exhibit 63, Baker testimony, Workpaper E, p. 52. As shown by Verizon's workpaper, building investments are apportioned by a loading factor created by dividing total NH building investment by total CO-based plant investments, including all switching investments, and circuit and other investments. So, Verizon argues that the building factor has to be applied to feeder in order to collect the whole amount. Verizon claims that less than half of the building costs are allocated to switching, the rest have not been accounted for and should be by restoring the building cost component to feeder costs.

2. AT&T

In its Opposition and Response to Verizon’s Motion for Reconsideration or Rehearing, AT&T did not respond regarding this issue.

3. BayRing and Network Plus

Bayring and Network Plus argue that allowing Verizon to allocate land and building costs to feeder will result in double charging. According to them, Verizon fails to provide any record support for, but merely implies that the switching expenses do not include the CO Terminal equipment. Thus, according to Bayring and Network Plus, Verizon has not met its burden of proof.

4. Commission Analysis

We have carefully reviewed the record on this claim and agree with Verizon that our analysis mistakenly required the removal of a building and land cost factor from recurring feeder costs in the Johnson *Telecom Model*. Verizon directs our attention to the workpapers of its TELRIC witness, Mr. Baker, in support of its contention that removal of building and land costs from feeder cost recovery would result in an underrecovery of such costs. Contrary to the assertions of BayRing and Network Plus, a review of Exhibit 63, Workpaper E, p. 52, demonstrates that the building and land cost factor developed by Verizon was based on the ratio of total building costs to total investments,

including circuit equipment (of which feeders are a component) and other non-switch investments.

To apply such a factor only to switching investments would, as Verizon asserts, result in recovery of less than 100% of building investments. We grant Verizon's petition for reconsideration. To effect recovery of full building costs, then, we will allow Verizon to apply its BBL factor to feeder costs. The chart below demonstrates the effect of restoring that cost factor.

Element	BJA Group 1	BJA Group 2	BJA Group 3
Direct loop cost	$ 10.41	$ 13.94	$ 30.32
Common cost	$ 1.20	$ 1.74	$ 4.19
NID	$ 0.36	$ 0.36	$ 0.36
Total	$ 11.97	$ 16.04	$ 34.87

I. Wholesale Bills

1. Verizon

Verizon objects to the *July 6th Order* requirement that billing tapes should be available to CLECs within five days after the billing date each month because it claims the record does not support that time frame. Verizon suggests that the Commission had no evidence regarding the process for producing bills and thus could not judge the reasonableness of a five day turnaround time. In its motion, Verizon enumerates the billing information it provides to CLECs, arguing that the complexity of the

information and the wholesale billing process makes a five day time frame unfeasible. Verizon provides the bill in the form the CLEC chooses: paper, tape, CD-ROM or file transfer. Verizon provides daily usage files (DUF); retail and wholesale call usage is recorded if appropriate. Usage data are captured for both Verizon and each CLEC at the same time, on the same media, and delivered to the same data center before being checked automatically for format and sent to the Carrier Access Billing System and Message Processing System. The Message Processing system rates the usage where appropriate and creates Exchange Message Interface records (EMI files).

Verizon points out that the timeliness of these billing actions is measured monthly by Carrier to Carrier Guidelines agreed upon by an industry working group and approved in a New York Public Service Commission proceeding. The Guidelines require a delivery of 98% of bills within 10 business days and 95% of usage records within four business days of the creation of the record.

Verizon further contends that the five day time frame is unnecessary for CLECs to render a bill to the CLEC end-user. CLECs receive usage files electronically on a daily basis within a target of four business days. Therefore, CLECs can use that information to bill their end users.

2. AT&T

AT&T did not provide arguments in opposition to Verizon’s

Motion.

3. Bayring and Network Plus

Network Plus and Bayring contend that the record before the Commission was sufficient for the Commission's decision and that Verizon had the burden of providing evidence suggesting otherwise. Furthermore, they argue that the five day time frame is reasonable because (1) Verizon has immediate access to the information, (2) timely (and accurate bills) are critical to the maintenance of the CLEC's relationship to its end-user.

Bayring and Network Plus dispute Verizon's claim that CLECs can effectively utilize Verizon's DUF feeds to render end-user bills. They assert that option is both inefficient and impractical, besides being additionally hampered by lack of a full month of billing tapes. Finally, Bayring and Network Plus claim that New Hampshire CLECs needs for a five day turnaround should not be turned aside simply because New York has accepted a longer period.

4. Commission Analysis

We find that no new evidence has been presented in Verizon's motion. Nor has Verizon convinced us that reason exists that would compel a change in the requirement that Verizon provide billing tapes to CLECs within five days after the billing date each month. Verizon does not claim impossibility, merely that it is unnecessary and, further, that a New York industry working group recommends a 10 day period.

We expect to consider the reasonableness in New Hampshire of the proposed New York carrier-to-carrier guidelines including the ten-day billing time frame in our currently-pending docket, DT 01-006. Until we rule otherwise, in that or another docket therefore, our decision in the *July 6th Order* will stand.

J. Service Charge

1. Verizon

Verizon seeks reconsideration of the Commission's decision to apply a service charge to Verizon when a Trouble is determined to be on the Verizon side of the CLEC Point of Termination, ¶4.5.2.2.6.D. As above, Verizon suggests that the Commission had insufficient evidence before it on the issue. Verizon avers that the CLEC has an obligation to its customer to test the entire circuit serving its customer, since the switch performs the testing and the loop is connected to the CLEC's switch. The CLEC's test results determine how to restore service to its end-

user. If the test determines that Verizon's network is at fault and must take action to clear the trouble, and Verizon does find trouble in the CO wiring, Verizon will do so at no charge to the CLEC. If, however, Verizon finds no trouble in the CO wiring, Verizon issues a charge for its unnecessarily incurred diagnostic expenses. Verizon argues that the reverse situation is not comparable. When Verizon finds trouble on the Verizon side, the CLEC has not incurred any unnecessary expense. Therefore, no compensating charge is justified. According to Verizon, the position of the CLEC is not symmetrical with that of Verizon and should not be treated symmetrically.

2. AT&T

AT&T chose not to respond to Verizon's Motion for Reconsideration or Rehearing on this issue.

3. Bayring and Network Plus

Bay Ring and Network Plus assert that Verizon could in fact cause CLECs to incur unnecessary expenses associated with trouble reports. Verizon's technicians could fail to uncover a problem on the Verizon side of the network and incorrectly report that no trouble existed, prompting an charge to be levied unnecessarily and CLEC resources to be depleted in redundant searches for problems on the CLEC side. Verizon should be liable for the expenses associated with retests that reconfirm the prior conclusion that the trouble is on the Verizon side. The CLECs

argue that they are entitled to recoup these unnecessary expenses just as Verizon is. Symmetry does exist and should be maintained.

4. Commission Analysis

Verizon has presented no new evidence to revise our judgment that symmetry should be obtained in the levying of charges for unnecessary trouble-shooting by CLECs and Verizon. We will deny Verizon's motion on the issue. The language of page 148 of the *July 6th Order*, however, should be tightened to reduce confusion. The goal of Verizon's §4.5.2.2.6D in the SGAT is to deter a CLEC from causing Verizon to test its lines before the CLEC tests its own equipment and/or to deter a CLEC from performing less than adequate testing before going to Verizon. We mandate a rule to achieve the same goal for CLECs. Therefore, Verizon must pay a service charge whenever a CLEC-reported Trouble as is found to be on the Verizon side of the Point of Termination after Verizon has reported the contrary.

K. Requirement to Re-arrange Conduit

1. Verizon

The *July 6th Order* placed a condition on Verizon's §4.5.2.2.8.E by requiring a Verizon-instigated rearrangement of CLEC facilities in conduit be done without disrupting services provided to the CLEC's customers. The condition, according to Verizon, is impossible and should be eliminated. While it always

strives to avoid service disruptions, accidents happen. Therefore, Verizon urges that the Commission's absolute prohibition should be deleted or rephrased to make good-faith efforts or reasonable care the standard for avoiding service outages.

2. AT&T

AT&T argues that Verizon's § 4.5.2.2.8.E, as proposed, allows Verizon to interrupt service to CLEC customers at will. The Commission's condition mandating that Verizon not disrupt service to the CLEC's customer holds Verizon to a standard of care. AT&T points out that unavoidable and accidental disruptions may occur but that Verizon should not have what amounts to a license to interrupt CLEC service. Therefore, AT&T urges the Commission to retain the condition.

3. Bayring and Network Plus

These carriers agree with AT&T that Verizon's request to delete the condition placed on §4.5.2.2.8.E should be denied. Bayring and Network Plus also oppose Verizon's request that the condition be rephrased to a good faith or reasonable care standard.

Bayring and Network Plus argue that even Verizon mishaps, resulting in service disruptions, cause stress on the CLEC's relationship to end-users, undermining the customer's expectation of reliable and uninterrupted service. The lost good will would

not occur, in the opinion of Bayring and Network Plus, if Verizon exercises a heightened standard of care, breach of which would make Verizon liable for consequential damages. Hence, rejecting a good faith or reasonable care standard, Bayring and Network Plus recommend that the Commission require, at a minimum, that Verizon be held to a "best effort" standard of care, along with liability for failure to meet that standard.

4. Commission Analysis

In analyzing this issue, the central principle that must be observed is symmetry of treatment between Verizon's own retail customers, and the retail customers of its competitors. Both sets of customers should enjoy the same high standards of reliable and uninterrupted service. The differences between the parties as to the standard of care to which Verizon should be held, and when it must rearrange circuits, can be traced to different views of what standard, and associated consequences, will produce such symmetry.

It must be recognized that Verizon's own customers occasionally, and through no fault of Verizon, must experience service interruptions when Verizon works on circuits, as when on very rare occasions it must temporarily disconnect circuits in order to complete a rearranging job to improve the network. To the extent our Order does not permit Verizon any leeway at all to make such network improvements if it must temporarily disrupt service to a CLEC's customers, we will reconsider that standard

below.

It is also observably true that, as Verizon puts it, accidents will happen, even when Verizon is provisioning service to its own customers. However, here Verizon’s argument for rehearing stands on weaker ground, because it amounts to a request to be relieved of all responsibility for the consequences of its actions, even when some level of negligence or imprudence is involved, and regardless of the consequences to customers. Verizon has a higher level of obligation to its own customers, and should not be permitted to relax that duty of care merely because the harmed party is the CLEC’s customer or the CLEC.

Accordingly, we will permit Verizon to amend its SGAT, to include language permitting it to interrupt CLEC customers temporarily, under the same terms and conditions as Verizon would interrupt its own customers, in order to perform necessary work on its system, provided that Verizon must give the CLEC sufficient advance notice, where possible, to permit the CLEC to give its customers as much notice as Verizon gives to its own customers. We note that we do not expect this provision to be involved except in extraordinary and rare circumstances.

L. Bidding to Determine Collocation Cage Costs

1. Verizon

The *July 6th Order*, at pp. 155-156, requires that Verizon compare two competitive bids against its in-house estimate for

special construction of collocation space, that is for construction necessitated when conditioned CO space is unavailable. Verizon claims that physical collocation construction is not special construction, but a normal process producing normal expenditures associated with providing collocation space to accommodate transmission equipment. These expenses may include installation of cable holes, wire mesh caging materials, floor tiles, expanded HVAC system, lighting and grounding modifications, etc.

Verizon argues against any bidding requirement because it spreads the costs of the special construction over "the entire area that it (Verizon) conditions," then it charges all collocators in the area a *pro rata* portion of the costs. Verizon further argues: (1) the same contractors that conduct work on Verizon's facilities will do the work on the same terms as for Verizon's work, (2) Verizon cannot identify when special construction will be required and a bidding requirement for each job could delay provisioning, and (3) Verizon will be forced to prepare plans, draft and publish an RFP, receive and evaluate bids, and then complete the contract process.

Finally, Verizon claims that nothing on the record justifies a conclusion that a bidding process would be beneficial. Therefore, Verizon requests the Commission reconsider its decision.

2. AT&T

AT&T chose not to respond to Verizon's Motion for Reconsideration or Rehearing on this issue.

3. Bayring and Network Plus

Bayring and Network Plus argue that a bidding process is necessary to ensure that the charges imposed on CLECs are reasonable. These carriers reject Verizon's claim that no bidding process is warranted because the charges are applied indirectly, *i.e.* the actual costs of construction are collected by spreading them across all CLECs who request collocation in the area. The indirect nature of the charges does not change the need that the charges be appropriate and reasonable. BayRing and Network Plus contend that the record supports the Commission's conclusion that the need to customize cage construction does not preclude the attainment of efficiencies in planning and design. In addition, since Verizon uses the same contractors to do the work whether it charges directly or indirectly, BayRing and Network Plus argue that the Commission's conclusions regarding efficiencies apply equally to direct and indirect charges.

Bayring and Network Plus refute Verizon's contention that the record does not address the benefits of a bidding process. In support, they cite Staff's recommendation for such a process to minimize barriers to competition and to assure that the charges are not inflated by Verizon.

4. Commission Analysis

We disagree with Verizon that the burdens of a bidding process outweigh the benefits. We also disagree that the record does not support such a conclusion, based upon Staff's recommendation. The record is sufficient; no new evidence is adduced; and CLECs do not object to the delay in collocation that Verizon foresees. We will not reconsider our *July 6th Order*.

M. Changes Derived from the Telecom Model

Verizon's Motion for Rehearing or Reconsideration conditionally objects to providing a compliance SGAT tariff that includes rates derived from the Telecom Model. Verizon avers it has no access to the Telecom Model and cannot comply unless and until the Staff facilitates re-running the model to reflect the required changes to inputs.

The Commission understands that Staff has facilitated the necessary re-running of the Telecom Model and that rate changes have been properly completed. Hence, no reconsideration is required.

N. Request for a Compliance Proceeding

AT&T requests that we require Verizon to make a compliance filing of cost studies, and provide an opportunity for review and investigation of those revised cost studies. AT&T Motion at 19. AT&T urges the Commission to require that such compliance filing be accompanied by workpapers, and an explanation of what specific changes were made to carry out each of the Commission's specific

directives. Id. at 20.

Verizon opposes AT&T's compliance filing concept, arguing that AT&T interposes the request solely for the purpose of delaying the adoption of the SGAT and hinder Verizon's entry into the long-distance market in New Hampshire. Verizon Opposition at 11. Verizon notes that it intends, as part of its compliance filing, to submit workpapers reflecting the adjustments to Verizon's cost models ordered by the Commission.

It is unnecessary to grant AT&T's request for a procedural order setting out a formal hearing schedule on the compliance filings. We will direct Verizon to submit workpapers, as promised, together with a listing of areas where adjustments were made from the original order, and references to the appropriate workpapers in each case. We will allow parties ten days from the date of the compliance filing with respect to this Order to file any comments they may have on the Verizon compliance filing. If it appears from the filing and the comments that further procedural steps are warranted, we will make the decision to proceed at that time.

O. Effective Date

The Commission's pending Docket DT 00-072 will consider the issue of the retroactive SGAT rates raised by BayRing. Our decision herein regarding the date for implementation of the rates approved in the *July 6th Order* and in this Order is not dispositive of that issue. DT 00-072, which was placed on hold

until the completion of this docket, will now proceed.

The effective date of the revised tariffs to be filed in compliance with this order shall be the date our initial order issued, that is, July 6, 2001. We will order Verizon to implement the rates approved herein as of July 6th.

Based upon the foregoing, it is hereby

ORDERED, that the Motion for Reconsideration and/or Rehearing filed by AT&T, Bayring and Network Plus regarding the *July 6th Order's* interpretation of TELRIC is hereby DENIED; and it is

FURTHER ORDERED, that AT&T's Motion for Reconsideration and/or Rehearing regarding the *July 6th Order's* exclusion of GR-303 from the loop model is hereby DENIED; and it is

FURTHER ORDERED, that AT&T's Motion for Reconsideration and/or Rehearing regarding switch weighting is hereby DENIED; and it is

FURTHER ORDERED, that AT&T's Motion for Reconsideration and/or Rehearing of the percentage of fall-out from the electronic ordering system assumed in the model is hereby GRANTED; and it is

FURTHER ORDERED, that the fall out rate adopted in our *July 6th Order* shall be revised to 4%; and it is

FURTHER ORDERED, that AT&T's Motion for Reconsideration and/or Rehearing of the rate design for switching cost recovery

adopted by the *July 6th Order* is hereby DENIED; and it is

FURTHER ORDERED, Verizon's Motion for Rehearing and/or Reconsideration regarding the *July 6th Order's* disallowance of charges to collocation for DC power is GRANTED; and it is

FURTHER ORDERED, that the per amp recurring monthly cost for installations less than or equal to 60 amps shall be $3.18 and for installations over 60 amps the charge shall be $3.03 per amp; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing or Reconsideration of the *July 6th Order* regarding unescorted access to CO space and separate entrances to CO space is hereby GRANTED in part and DENIED in part; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order* regarding reservation of space is hereby GRANTED with conditions; and it is

FURTHER ORDERED, that Verizon's revised §4.5.2.2.2.C is hereby approved as interpreted herein; and it is

FURTHER ORDERED, that Verizon's Motion to reinstate §4.5.2.2.8.A, regarding reclamation of space is hereby GRANTED with conditions, as provided herein; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order* regarding CLEC installment payments for space conditions is hereby DENIED; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order* regarding building and land costs excluded from feeder is hereby GRANTED; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order* regarding a 5-day provision of billing tapes to CLECs is hereby DENIED; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order's* revision of §4.5.2.2.6.D, permitting service charges imposed by CLECs for trouble testing,

is hereby DENIED; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order's* condition placed on §4.5.2.2.8.E to prohibit disruption of CLEC services during Verizon instigated conduit rearrangement is hereby GRANTED in part; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order's* requirement for competitive bidding on certain collocation construction is hereby DENIED; and it is

FURTHER ORDERED, that Verizon's Motion for Rehearing and/or Reconsideration of the *July 6th Order* that the Commission schedule a compliance hearing is DENIED; and it is

FURTHER ORDERED, that the rates approved herein are effective July 6th, the date of our initial order, as discussed above.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 2001.

Thomas B. Getz Chairman	Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Debra Howland
Executive Director and Secretary

NEW HAMPSHIRE						
POWER COST						
Power				Urban	Suburban	Rural
Microprocessor Plant (BUSS BAR)	AMP	L1		2,600	2,600	1,200
	Material	L2	.62*Material	$10,486	$7,402	$5,551
	Unit Investment Per AMP	L3	L2/L1	$4.03	$2.85	$4.63
Rectifiers	Quantity	L4		5	6	5
	AMPS per unit	L5		200	200	200
	Tot. AMPS	L6	L4*L5	1,000	1,200	1,000
	Utilization	L7	(L4-1)*L5/L6	0.800	0.833	0.800
	Material	L8	.62*Material	$18,505	$22,021	$18,505
	Total Investment	L9	L8/L7	$23,131	$26,425	$23,131
	Unit Investment Per AMP	L10	L9/L6	$23.13	$22.02	$23.13
Batteries	Strings	L11		3	4	3
	AMPs per String	L12		310	310	310
	Tot. AMPS	L13	L11*L12	930	1,240	930
	Total Investment	L14	.62*Total Investment	$24,981	$32,630	$24,981
	Unit Investment Per AMP	L15	L14/L13	$26.86	$26.31	$26.86
Automatic Breaker	AMP per Breaker	L16		1,200	800	400
	Total Investment	L17	.62*Total Investment	$24,673	$21,589	$12,337
	Unit Investment Per AMP	L18	L17/L16	$20.56	$26.99	$30.84
Power Distribution Service Cabinet	Amps	L19		800	400	400
	Material	L20	.62*Material	$2,467	$2,282	$1,665
	Unit Investment Per AMP	L21	L20/L19	$3.08	$5.71	$4.16
Emergency engine/turbine (auto start)	AMP Capacity	L22		1,216	868	278
	Utilization	L23		0.70	0.70	0.70
	Utilized AMPS	L24	L22*L23	851	608	195
	Emerg. Engine Invest.	L25	.62*Emerg. Engine Invest.	$23,563	$20,972	$13,262
	Conduit/Emer Lights	L26	.62*Conduit/Emer Lights	$18,505	$15,421	$12,337
	Total Investment	L27	L25+L26	$42,068	$36,393	$25,598
	Unit Investment Per AMP	L28	L27/L24	$49.42	$59.86	$131.27
Power Plant Investment-PER AMP		L29	L3+L10+L15+L18+L21+L28	$127.09	$143.73	$220.90
	Installation Factor	L30	ORDER	1.36	1.36	1.36
	In Place Power Investment	L31	L29*L30	$172.85	$195.47	$300.42
	Annual Carrying Charge Factor	L32		0.1618	0.1618	0.1618
	Annual Power Cost	L33	L31*L32	$27.97	$31.63	$48.61
	Building Factor	L34		0.1406	0.1406	0.1406
	Building Investment	L35	L31*L34	$24.30	$27.48	$42.24
	Annual Building Carrying Charge Factor	L36		0.2174	0.2174	0.2174
	Annual Building Cost	L37	L35*L36	$5.28	$5.97	$9.18
	Annual TELRIC Cost	L38	L33+L37	$33.25	$37.60	$57.79
	Joint & Common Cost Factor	L39		0.0948	0.0948	0.0948
	Annual Joint & Common Cost	L40	(L39*L33)+(L39*L37)	$3.15	$3.56	$5.48
Recurring Annual Cost per AMP - Greater Than 60 Amps		L41	L38+L40	$36.40	$41.17	$63.27
Monthly Recurring Cost Per Amp>60			L41/12	**$3.03**	**$3.43**	**$5.27**
Battery Distribution Fuse Bay	Amp Capacity	L42		800	800	800
	Material	L43	.62*8181	$5,046	$5,046	$5,046
	Unit Investment Per AMP	L44	L43/L42	$6.31	$6.31	$6.31
	Installation Factor	L45	Order	1.36	1.36	1.36
	In Place Power Investment	L46	L44*L45	$8.58	$8.58	$8.58
	Annual Carrying Charge Factor	L47		0.1618	0.1618	0.1618
	Annual Power Cost	L48	L46*L47	$1.39	$1.39	$1.39
	Building Factor	L49		0.1406	0.1406	0.1406
	Building Investment	L50	L46*L49	$1.21	$1.21	$1.21
	Annual Building Carrying Charge Factor	L51		0.2174	0.2174	0.2174
	Annual Building Cost	L52	L50*L51	$0.26	$0.26	$0.26
	Annual TELRIC Cost	L53	L48+L52	$1.65	$1.65	$1.65
	Joint & Common Factor	L54		0.0948	0.0948	0.0948
	Annual Joint & Common Cost	L55	(L54*L52)+(L54*48)	$0.16	$0.16	$0.16
	BDFP cost per AMP	L56	L53+L55	$1.81	$1.81	$1.81
Recurring Annual Cost per AMP - Less Than or Equal to 60 AMPS		L57	L41+L56	$38.21	$42.97	$65.08
Monthly Recurring Cost Per Amp<60			L57/12	**$3.18**	**$3.58**	**$5.42**