Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Ameritech Illinois, Ameritech Indiana, Ameritech Michigan, Ameritech Ohio, and Ameritech Wisconsin for Pricing Flexibility	)	CCB/CPD No. 00-26
	)	
Petition of Pacific Bell Telephone Company for Pricing Flexibility	)	CCB/CPD No. 00-23
	)	
Petition of Southwestern Bell Telephone Company for Pricing Flexibility	)	CCB/CPD No. 00-25

MEMORANDUM OPINION AND ORDER

Adopted: March 13, 2001 **Released:** March 14, 2001

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On November 17, 2000, the Ameritech Operating Companies[1] (Ameritech), Pacific Bell Telephone Company (Pacific Bell), and Southwestern Bell Telephone Company (SWBT) (collectively, SBC) filed petitions seeking pricing flexibility in the provision of certain interstate access services.[2] As detailed below, the Commission established the parameters for granting pricing flexibility for special access and dedicated transport services in its *Pricing Flexibility Order*.[3] In doing so, the Commission recognized the importance of granting pricing flexibility to incumbent LECs as competition develops in the market for interstate access services "to ensure that our regulations do not unduly interfere with the operation of those markets."[4] For the reasons that follow, we now grant SBC's petitions.

II. BACKGROUND

2. To recover the costs of providing interstate access services, incumbent LECs charge interexchange carriers (IXCs) and end users for access services in accordance with the Commission's

[1] The Ameritech Operating Companies are Illinois Bell Telephone Company (Ameritech Illinois), Indiana Bell Telephone Company, Inc. (Ameritech Indiana), Michigan Bell Telephone Company (Ameritech Michigan), The Ohio Bell Telephone Company (Ameritech Ohio), and Wisconsin Bell, Inc. (Ameritech Wisconsin).

[2] *See* Verizon, Pacific Bell, Ameritech, and Southwestern Bell File Pricing Flexibility Petitions, Pleading Cycle Established, *Public Notice*, CCB/CPD Nos. 00-23 *et al.*, DA 00-2617 (November 20, 2000).

[3] *See* Access Charge Reform, CC Docket No. 96-262, *Fifth Report and Order*, 14 FCC Rcd. 14221 (1999) (*Pricing Flexibility Order*), aff'd, *WorldCom, Inc. v. FCC*, 238 F.3d 449 (D.C. Cir. 2001). The *Pricing Flexibility Order* also addressed flexibility for switched services, but those services are not at issue in the SBC petitions.

[4] *Pricing Flexibility Order*, 14 FCC Rcd. at 14224.

Part 69 access charge rules.[5] In the *Access Reform First Report and Order*, the Commission adopted a market-based approach to access charge reform, pursuant to which it would relax restrictions on incumbent LEC pricing as competition emerges.[6] At that time, the Commission deferred resolution of the specific timing and degree of pricing flexibility to a future order.[7] Subsequently, in the *Pricing Flexibility Order*, the Commission provided detailed rules for implementing the market-based approach.[8]

3. The pricing flexibility framework the Commission adopted in the *Pricing Flexibility Order* grants progressively greater flexibility to LECs subject to price cap regulation as competition develops, while ensuring that: (1) price cap LECs do not use pricing flexibility to deter efficient entry or engage in exclusionary pricing behavior; and (2) price cap LECs do not increase rates to unreasonable levels for customers that lack competitive alternatives.[9] In addition, the reforms are designed to facilitate the removal of services from price cap regulation as competition develops in the marketplace, without imposing undue administrative burdens on the Commission or the industry.[10]

4. In keeping with these goals, the Commission established a framework for granting price cap LECs greater flexibility in the pricing of interstate access services once they make a competitive showing, or satisfy "triggers," to demonstrate that market conditions in a particular area warrant the relief they seek. Pricing flexibility for special access and dedicated transport services[11] is available in two

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[5] 47 C.F.R. Part 69. Part 69 establishes two basic categories of access services: special access services and switched access services. *Compare* 47 C.F.R. § 69.106 *with* 47 C.F.R. § 69.114. Special access services employ dedicated facilities that run directly between the end user and an IXC point of presence (POP)—the physical plant where an IXC connects its network with the LEC network. Charges for special access services generally are divided into channel termination charges and channel mileage charges. Channel termination charges recover the costs of facilities between the customer's premises and the LEC end office and the costs of facilities between the IXC POP and the LEC serving wire center. *See* 47 C.F.R. §§ 69.703(a)-(b). Channel mileage charges recover the costs of facilities (also known as interoffice facilities) between the LEC serving wire center and the LEC end office serving the end user. *See Pricing Flexibility Order*, 14 FCC Rcd. at 14226-27.

[6] Access Charge Reform, CC Docket No. 96-262, *First Report and Order*, 12 FCC Rcd. 15982 (1997) (*Access Reform First Report and Order*).

[7] *Id.* at 15989.

[8] *Pricing Flexibility Order*, 14 FCC Rcd. at 14225 (citing *Access Reform First Report and Order*, 12 FCC Rcd. at 15989, 16094-95).

[9] *Pricing Flexibility Order*, 14 FCC Rcd. at 14225. The Commission instituted price cap regulation for the Regional Bell Operating Companies (RBOCs) and GTE in 1991, and permitted other LECs to adopt price cap regulation voluntarily, subject to certain conditions. Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, *Second Report and Order*, 5 FCC Rcd. 6786, 6818-20 (1990). The *Pricing Flexibility Order* applies only to LECs that are subject to price cap regulation. Access reform for LECs that are subject to rate-of-return regulation will be addressed in a separate proceeding. *See* Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, CC Docket No. 98-77, *Notice of Proposed Rulemaking*, 13 FCC Rcd. 14238 (1998); Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, *Notice of Proposed Rulemaking*, FCC 00-448 (Jan. 25, 2001).

[10] *Pricing Flexibility Order*, 14 FCC Rcd. at 14225.

[11] For purposes of pricing flexibility proceedings, "dedicated transport services" refer to services associated with entrance facilities, direct-trunked transport, and the dedicated component of tandem-switched transport. *Pricing Flexibility Order*, 14 FCC Rcd. at 14234. These services are defined in 47 C.F.R. § 69.2(qq) (entrance facilities), § 69.2(oo) (direct-trunked transport) and § 69.2(ss) (tandem-switched transport).

phases, based on an analysis of competitive conditions in individual metropolitan statistical areas (MSAs).[12]

5. Phase I Pricing Flexibility. A price cap LEC that obtains Phase I relief is allowed to offer, on one day's notice, contract tariffs[13] and volume and term discounts for qualifying services, so long as the services provided pursuant to contract are removed from price caps.[14] To protect those customers that may lack competitive alternatives, a price cap LEC receiving Phase I flexibility must maintain its generally available price cap constrained tariffed rates for these services.[15] To obtain Phase I relief, a price cap LEC must meet triggers designed to demonstrate that competitors have made irreversible, sunk investments in the facilities needed to provide the services at issue. In particular, to receive pricing flexibility for dedicated transport and special access services (other than channel terminations to end users), a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 15 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 30 percent of the LEC's revenues from these services within an MSA.[16] In both cases, the price cap LEC also must show, with respect to *each* wire center, that at least one collocator is relying on transport facilities provided by a transport provider other than the incumbent LEC.[17]

6. Higher thresholds apply for obtaining Phase I pricing flexibility for channel terminations between a LEC end office and an end user customer. A competitor collocating in a LEC end office continues to rely on the LEC's facilities for the channel termination between the end office and the customer premises, at least initially, and thus is more susceptible to exclusionary pricing behavior by the LEC.[18] As a result, a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.[19] Again, the LEC also must demonstrate, with respect to each wire center, that at least one collocator is relying on transport facilities provided by a transport provider other than the incumbent LEC.[20]

7. Phase II Pricing Flexibility. A price cap LEC that receives Phase II relief is allowed to offer dedicated transport and special access services free from the Commission's Part 69 rate structure and Part 61 price cap rules. The LEC, however, is required to file, on one day's notice, generally available tariffs for those services for which it receives Phase II relief.[21] To obtain Phase II relief, a price

[12] *See* 47 C.F.R. § 22.909(a) (definition of MSA).

[13] A contract tariff is a tariff based on an individually negotiated service contract. *See Interexchange Competition Order*, 6 FCC Rcd. 5880, 5897 (1991); 47 C.F.R. § 61.3(o). *See also* 47 C.F.R. § 61.55 (describing required composition of contract-based tariffs).

[14] *Pricing Flexibility Order*, 14 FCC Rcd. at 14287.

[15] *Id.* at 14234-35.

[16] *Id.* at 14274, 14277-81; 47 C.F.R.§ 69.709(b).

[17] 47 C.F.R. § 69.709(b).

[18] *Pricing Flexibility Order*, 14 FCC Rcd. at 14279.

[19] *Pricing Flexibility Order*, 14 FCC Rcd. at 14280-81; 47 C.F.R.§ 69.711(b).

[20] 47 C.F.R. § 69.711(b).

[21] *Id.* at 14299-14301; 47 C.F.R. § 69.727(b)(3).

cap LEC must meet triggers designed to demonstrate that competition for the services at issue within the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period. To obtain Phase II relief for dedicated transport and special access services (other than channel terminations to end users), a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.[22] Higher thresholds apply for obtaining Phase II pricing flexibility relief for channel terminations between a LEC end office and an end user customer. To obtain such relief, a price cap LEC must demonstrate that unaffiliated competitors have collocated in at least 65 percent of the LEC's wire centers within an MSA, or have collocated in wire centers accounting for 85 percent of the LEC's revenues from these services within an MSA.[23] Once again, the LEC also must demonstrate, with respect to each wire center, that at least one collocator is relying on transport facilities provided by a transport provider other than the incumbent LEC.[24]

III. DISCUSSION

A. Petitions and Comments

8. Ameritech, Pacific Bell, and SWBT seek flexibility for certain dedicated transport and special access services listed in their respective petitions and set forth in Appendix A of this order.[25] In its petition, Ameritech seeks Phase I relief for dedicated transport and special access services (not including channel terminations to end users) in 10 MSAs[26] and Phase II relief in 11 MSAs.[27] It seeks Phase I relief for channel terminations to end users in 5 MSAs[28] and Phase II relief in 2 MSAs.[29]

[22] *Pricing Flexibility Order*, 14 FCC Rcd. at 14299; 47 C.F.R. § 69.709(c).

[23] *Pricing Flexibility Order*, 14 FCC Rcd. at 14235; 47 C.F.R. § 69.711(c).

[24] 47 C.F.R. §69.711(c).

[25] *See* Petition of Ameritech Illinois, Ameritech Indiana, Ameritech Michigan, Ameritech Ohio, and Ameritech Wisconsin for Pricing Flexibility, Appendix A (filed Nov. 17, 2000) ("Ameritech Petition"); Petition of Pacific Bell Telephone Company for Pricing Flexibility, Appendix A (filed Nov. 17, 2000) ("Pacific Bell Petition"); Petition of Southwestern Bell Telephone Company for Pricing Flexibility, Appendix A (filed Nov. 17, 2000) ("SWBT Petition"). In a subsequent *ex parte* filing, SBC submitted a more detailed listing of these services. *See* Letter from Jeffry A. Brueggeman, SBC, to Magalie Roman Salas, FCC at 1-2 (Mar. 6, 2001) ("SBC *ex parte*"). *See also infra* Appendix A.

[26] Ameritech seeks Phase I relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSAs: Madison, WI; Appleton-Oshkosh-Neenah, WI; Green Bay, WI; Racine, WI; Chicago, IL; Davenport-Rock Island-Moline, IA-IL; Decatur, IL; Peoria-Pekin, IL; Flint, MI; and South Bend, IN.

[27] Ameritech seeks Phase II relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSAs: Champaign-Urbana, IL; Rockford, IL; Springfield, IL; Evansville, IN; Indianapolis, IN; Kalamazoo, MI; Cleveland-Lorain-Elyria, OH; Columbus, OH; Dayton, OH; Toledo, OH; and Milwaukee-Waukesha, WI.

[28] Ameritech seeks Phase I relief for channel terminations between its end offices and customer premises for the following MSAs: Columbus, OH; Toledo, OH; Evansville-Henderson, IN-KY; Kalamazoo, MI; and Milwaukee-Waukesha, WI.

[29] Ameritech seeks Phase II relief for channel terminations between its end offices and customer premises for the following MSAs: Champaign-Urbana, IL and Springfield, IL.

9. In its petition, Pacific Bell seeks Phase I relief for dedicated transport and special access services (not including channel terminations to end users) in 1 MSA[30] and Phase II relief in 4 MSAs.[31] It seeks Phase I relief for channel terminations to end users in 3 MSAs.[32]

10. In its petition, SWBT seeks Phase I relief for dedicated transport and special access services (not including channel terminations to end users) in 2 MSAs[33] and Phase II relief in 13 MSAs.[34] It seeks Phase I relief for channel terminations to end users in 10 MSAs[35] and Phase II relief in 2 MSAs.[36]

11. AT&T, WorldCom, and OnFiber Communications, Inc. (OnFiber) oppose SBC's petitions.[37] First, they attack the pricing flexibility rules established by the *Pricing Flexibility Order,* arguing that the rules undermine the Commission's stated goal to accelerate competition. Second, they allege that each of the three SBC petitions fails to meet the Commission's pricing flexibility requirements. USTA, however, supports the Commission's pricing flexibility rules and all three SBC petitions.

12. SBC contends, in its reply comments, that the Commission should ignore facial attacks on the *Pricing Flexibility Order*. SBC also reaffirms its claim that the three petitions satisfy the pricing flexibility requirements. These comments are discussed in greater detail below.

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[30] Pacific Bell seeks Phase I relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSA: Los Angeles/Long Beach, CA.

[31] Pacific Bell seeks Phase II relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSAs: San Francisco/Oakland, CA; Sacramento, CA; San Diego, CA; and San Jose, CA.

[32] Pacific Bell seeks Phase I relief for channel terminations between its end offices and customer premises for the following MSAs: San Diego, CA; San Jose, CA; and Sacramento, CA.

[33] SWBT seeks Phase I relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSAs: El Paso, TX and St. Louis, MO.

[34] SWBT seeks Phase II relief for dedicated transport and special access services (not including channel terminations between its end offices and customer premises) for the following MSAs: Austin-San Marcos, TX; Amarillo, TX; Dallas/Fort Worth, TX; Corpus Christi, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Kansas City, MO-KS; Springfield, MO; Little Rock, AR; Oklahoma City, OK; Tulsa, OK; and Topeka, KS.

[35] SWBT seeks Phase I relief for channel terminations between its end offices and customer premises for the following MSAs: Austin-San Marcos, TX; Dallas/Fort Worth, TX; Corpus Christi, TX; Houston, TX; San Antonio, TX; Kansas City, MO-KS; Little Rock, AR; Oklahoma City, OK; Tulsa, OK; and Topeka, KS.

[36] SWBT seeks Phase II relief for channel terminations between its end offices and customer premises for the following MSAs: El Paso, TX and St. Louis, MO.

[37] AT&T, WorldCom, OnFiber, and the United States Telecom Association (USTA) each submitted a consolidated filing that addressed the three SBC petitions and another petition filed by Verizon. *See Public Notice, supra* note 1 (announcing pleading cycle for SBC and Verizon pricing flexibility petitions); *see also* AT&T Opposition to Petitions for Pricing Flexibility for Special Access and Dedicated Transport of Verizon, Southwestern Bell Telephone Co., Pacific Bell, and Ameritech (filed Dec. 4, 2000) ("AT&T Comments"); WorldCom Opposition (filed Dec. 4, 2000) ("WorldCom Comments"); Reply Comments of OnFiber Communications, Inc. (filed Dec. 14, 2000) ("OnFiber Comments"); Comments of the United States Telecom Association (filed Dec. 4, 2000) ("USTA Comments").

B. Adequacy of the Pricing Flexibility Rules

13. AT&T, WorldCom, and OnFiber make several arguments that are no more than collateral attacks on the adequacy of the pricing flexibility rules adopted by the Commission in the *Pricing Flexibility Order*.[38] The only issue before the Bureau in these proceedings, however, is whether the petitions satisfy the requirements for pricing flexibility for special access and dedicated transport services set forth in the Commission's rules. AT&T and WorldCom sought review of the *Pricing Flexibility Order* in the Court of Appeals for the District of Columbia Circuit. That proceeding was the appropriate forum in which to litigate the merits of the pricing flexibility rules, and the court recently affirmed those rules in their entirety.[39]

C. Competitive Showing Required for Pricing Flexibility

14. As noted above, pricing flexibility may be granted upon the satisfaction of certain competitive showings. An incumbent LEC bears the burden of proving that it has satisfied the applicable triggers for the pricing flexibility it seeks for each MSA.[40] For special access and dedicated transport services, the Commission established two means of satisfying this requirement. In the first, the incumbent must show: (1) the total number of wire centers in the MSA; (2) the number and location of the wire centers in which competitors have collocated; (3) the name, in each wire center on which the incumbent bases its petition, of at least one collocator that uses transport facilities owned by a provider other than the incumbent to transport traffic from that wire center; and (4) that the percentage of wire centers in which competitors have collocated and use competitive transport satisfies the trigger the Commission adopted with respect to the pricing flexibility sought by the incumbent LEC.[41] Alternatively, the incumbent must show: (1) the total base period[42] revenues generated by the services for which the incumbent seeks relief in the MSA for which the incumbent seeks relief; (2) the name, in each wire center on which the incumbent bases its petition, of at least one collocator that uses transport facilities owned by a provider other than the incumbent to transport traffic from that wire center; and (3) that the wire centers in which competitors have collocated and use competitive transport account for a sufficient percentage of the incumbent's base period revenues generated by the services at issue within the relevant MSA to satisfy the trigger the Commission adopted with respect to the pricing flexibility sought by the incumbent LEC.[43]

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[38] AT&T argues that these rules invite anticompetitive abuses within areas that lack meaningful competition. In particular, AT&T argues that the collocation triggers, which may demonstrate the existence of competition for entrance facilities, fail to constrain predatory pricing for interoffice transport and channel terminations within the same wire centers where collocation exists. AT&T Comments at 6. Furthermore, AT&T argues that the existence of competition in some limited areas of an MSA nevertheless fails to constrain predatory pricing in suburban and rural areas within the same MSA, where competition is weaker. *Id*. at 6-7. WorldCom adds that the Commission's revenue allocation rule overstates competitive supply for circuits based on the existence of collocation at only one end of a circuit, such as the entrance facility where competition is the greatest. WorldCom Comments at 4; *see also* 47 C.F.R. §69.725 (permitting incumbent LECs to allocate 50 percent of the revenue from an interoffice circuit to the wire center at each end of the transmission path). OnFiber echoes the contentions of AT&T and WorldCom that the Commission's pricing flexibility standards are inadequate. OnFiber Comments at 2.

[39] *WorldCom, Inc. v. FCC, supra* note 2.

[40] *Pricing Flexibility Order,* 14 FCC Rcd. at 14309.

[41] 47 C.F.R. §§ 1.774(a)(3)(i)-(iv)(A).

[42] For price cap LECs, the "base period" is the 12-month period (*i.e.*, the calendar year) ending 6 months before the effective date of the LECs' annual access tariffs. 47 C.F.R. § 61.3(g).

[43] 47 C.F.R. §§ 1.774(a)(3)(i)-(iii), (iv)(B).

15. Ameritech, Pacific Bell, and SWBT used similar methods to identify wire centers with collocation and revenues associated with special access and dedicated transport services. Each began with a database containing current wire center and switch information, within which each wire center is identified by an eight-digit Common Language Location Identifier (CLLI) code.[44] Collocation information was then extracted to identify specific collocators by wire center, to determine whether they were using alternative transport, and that the collocation arrangements were operational.[45] To ascertain revenue, the carriers gathered data for the twelve-month period ending December 31, 1999, from databases which are based largely on the Carrier Access Billing System (CABS).[46]

16. For purposes of allocating revenues to particular wire centers, all three carriers state that they complied with the Commission's rules requiring that revenues from entrance facilities and channel terminations to IXC POPs be allocated to the serving wire center and that revenues associated with channel terminations to end users be allocated to the wire center serving the end user.[47] With respect to services routed through multiple wire centers, the rules require LECs to allocate 50 percent of the revenue to the wire center at each end of the transmission path, unless a petitioner can make a convincing case that some other allocation is representative of the extent of competitive entry.[48] Ameritech attributed 50 percent of all interoffice channel mileage and direct-trunked transport mileage revenue to the wire centers at either end of a circuit.[49] Pacific Bell and SWBT, however, were unable to allocate revenues in this manner in the case of multi-point bridging circuits[50] and direct-trunked transport. For these services, the carriers could identify only the terminating, or billing, wire center.[51] In these instances, Pacific Bell and SWBT

[44] Ameritech Petition, Appendix D at 1-2 (extracted from Ameritech Network Services Information and Reporting System); Pacific Bell Petition, Appendix D at 1-2 (extracted from Collocation Implementation, Collocation Point of Contact and Tracking Database); SWBT Petition, Appendix D at 1-2 (extracted from Collocation Implementation, Collocation Point of Contact and Tracking Database).

[45] Ameritech Petition, Appendix D at 2 (extracted from Collocation Implementation Network Sales and Support and Tracking Database); Pacific Bell Petition, Appendix D at 2 (extracted from Collocation Implementation, Collocation Point of Contact and Tracking Database); SWBT Petition, Appendix D at 2 (extracted from Collocation Implementation, Collocation Point of Contact and Tracking Database).

[46] Ameritech Petition, Appendix D at 2 (extracted from Ameritech Long Distance Industry Services (ALDIS) Data Warehouse, which is based on CABS); Pacific Bell Petition, Appendix D at 2-3 (extracted from Corporate Data Warehouse database, which is based on CABS for carrier billed revenue and the Customer Record Information System (CRIS) for end user billed revenue); SWBT Petition, Appendix D at 2-3 (extracted from Corporate Data Warehouse database, which is based on CABS for both carrier and end user billed revenue). The petitioners note that the CABS and CRIS data are also used to provide demand data for annual price cap filings with the Commission and other filings requiring access services revenue and demand data. *See* Ameritech Petition, Appendix D at 2; Pacific Bell Petition, Appendix D at 2-3; SWBT Petition, Appendix D at 2-3.

[47] *See* Ameritech Petition, Appendix D at 3, 6-7 (explaining use of Circuit Location (CKL) number to identify type of channel termination: CKL 1 designates a channel termination to a carrier POP; all other CKLs designate channel terminations to end users); Pacific Bell Petition, Appendix D at 4, 10 (same); SWBT Petition, Appendix D at 4, 10 (same); *see also* 47 C.F.R. § 69.725(a)-(b).

[48] 47 C.F.R. § 69.725(c).

[49] Ameritech Petition, Appendix D at 3-5. All three petitioners treated each leg of a multi-point multiplexing circuit as a separate and distinct point-to-point circuit. *See* Ameritech Petition, Appendix D, at 3; Pacific Bell Petition, Appendix D at 3; SWBT Petition, Appendix D at 3.

[50] For a depiction of a "multi-point bridging circuit," *see, e.g.,* Ameritech Petition, Appendix D, Figure 3 at 5.

[51] Pacific Bell Petition, Appendix D at 4-5, 8-9; SWBT Petition, Appendix D at 4-5, 8-9.

attributed half of the revenue to the billing wire center, and allocated the other half equally among all wire centers within the MSA, on a non-weighted basis.[52] They contend that this is a conservative allocation method that most likely understates the revenues associated with collocated wire centers.[53]

17. SBC's petitions also describe methods of allocating revenues associated with SONET services and non-recurring charges. For SONET nodes that reside at a central office, all three carriers attributed the node and port revenue directly to that wire center.[54] Similarly, for SONET nodes that reside at a customer premise, the carriers attributed node and port revenue to the wire center serving that premise.[55] Ameritech allocated SONET ring mileage revenue evenly among all nodes in the ring; Pacific Bell and SWBT allocated ring mileage revenue equally among all wire centers within the MSA in which SONET revenue appeared.[56] With respect to non-recurring charges, the carriers attributed revenue to particular wire centers when possible.[57] When a specific wire center could not be identified, Ameritech allocated non-recurring revenue among wire centers on the basis of channel termination revenue, because, it states, most non-recurring charges are associated with channel terminations.[58] Pacific Bell and SWBT initially excluded non-recurring revenue from their revenue calculations when specific wire centers could not be identified.[59] In a subsequent *ex parte* filing, however, SBC amended the Pacific Bell and SWBT petitions to allocate this non-recurring revenue among wire centers based on channel termination and entrance facility revenue.[60]

18. In an *ex parte* letter filed on March 6, 2001, SBC explained that Pacific Bell had inadvertently omitted SS7 transport revenue from the revenue calculations in its petition, and SBC submitted a revised Appendix C for Pacific Bell reflecting the allocation of this revenue to wire centers on the basis of entrance facility revenue.[61] The addition of this revenue did not change the result in any MSA.[62]

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[52] Pacific Bell Petition, Appendix D at 4-5, 8-9; SWBT Petition, Appendix D at 4-5, 8-9. In an *ex parte* filing, SBC amended the diagrams of the multi-point bridging circuits for Pacific Bell and SWBT to reflect this revenue allocation, as it is described in the text of the petitions. *See* SBC *ex parte*, Appendix D at 9 (for both Pacific Bell and SWBT).

[53] Pacific Bell Petition, Appendix D at 5-6, 8-9, Attachments 1-2; SWBT Petition, Appendix D at 5-6, 8-9, Attachments 1-2. In both petitions, Attachments 1 and 2 of Appendix D compare the results of the non-weighted allocation of revenues employed by the carriers to the distribution that would result if revenues were allocated to wire centers on the basis of total revenues. In every case, a much smaller share of revenues was attributed to collocated wire centers when the allocation was made on a non-weighted basis.

[54] Ameritech Petition, Appendix D at 5; Pacific Bell Petition, Appendix D at 9; SWBT Petition, Appendix D at 9.

[55] Ameritech Petition, Appendix D at 5; Pacific Bell Petition, Appendix D at 9; SWBT Petition, Appendix D at 9.

[56] Ameritech Petition, Appendix D at 6; Pacific Bell Petition, Appendix D at 9; SWBT Petition, Appendix D at 9.

[57] Ameritech Petition, Appendix D at 6; Pacific Bell Petition, Appendix D at 9; SWBT Petition, Appendix D at 9.

[58] Ameritech Petition, Appendix D at 6.

[59] Pacific Bell Petition at 9; SWBT Petition at 9.

[60] SBC *ex parte* at 2, Appendix D at 10 (for both Pacific Bell and SWBT). This allocation changed the results in only one MSA (Topeka, KS), lowering the percentage of revenues associated with collocated wire centers from 85 percent to 84 percent, still well above the 65-percent trigger for the relief sought in that MSA.

[61] SBC *ex parte* at 3, Appendix C (for Pacific Bell).

[62] *Id.* Total SS7 transport revenue for the Pacific Bell region was $630,000, of which approximately $321,000 was associated with wire centers located in MSAs for which Pacific Bell seeks pricing flexibility. Total revenue for (continued….)

19. None of the commenters takes issue with SBC's methods of allocating revenues among wire centers. AT&T and WorldCom allege, however, that each of the SBC petitions fails to meet the Commission's pricing flexibility requirements. They argue that, in those cases where SBC relies on the revenue-based trigger, it fails to disaggregate revenue to the wire center level, but instead aggregates revenue by MSA.[63] AT&T and WorldCom contend that this level of aggregation makes it impossible to verify SBC's satisfaction of the applicable triggers.[64]

20. In its reply comments, SBC argues that it satisfied the revenue-based triggers for pricing flexibility because the Commission's rules do not require provision of revenue data on a wire-center-by-wire-center basis.[65] Moreover, SBC emphasizes that the source of its data is the same as that used to provide demand data for its annual price cap filings with the Commission.[66]

21. After reviewing SBC's revenue allocation methods, as described in the petitions and its March 6 *ex parte* letter,[67] together with the data provided in the public and confidential versions of its petitions and *ex parte* letter, we find that SBC has satisfied Section 1.774 of the Commission's rules.[68] As we stated in the *BellSouth Pricing Flexibility Order*, the rules do not require SBC to report revenue data at the wire center level.[69] We again caution future filers of pricing flexibility petitions, however, that lack of data disaggregated to the wire center level could pose a problem if the Commission were to determine that one of the wire centers upon which a petitioner relies does not meet the collocation requirements.[70] If the data is aggregated above the wire center level, and the Commission rejects non-revenue evidence with respect to a particular wire center, the Commission does not have the data necessary to determine whether the remaining wire centers in the MSA account for revenue sufficient to meet the trigger. Accordingly, by aggregating the data at the MSA level, an incumbent LEC risks rejection of its petition upon a determination that it had relied on an unqualified wire center. Because we have not rejected any of SBC's wire centers, however, the lack of revenue data at the wire center level is not relevant here.

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special access (excluding channel terminations to end users) and dedicated transport services in the relevant MSAs exceeds $167 million. *Id.*

[63] AT&T Comments at 9; WorldCom Comments at 2-3.

[64] AT&T Comments at 9; WorldCom Comments at 2-3.

[65] SBC Reply Comments at 5-6.

[66] *Id.* at 6. SBC also notes that, for each service at issue, the petitions list: (i) all of the wire centers in each relevant MSA; (ii) the wire centers in each MSA in which unaffiliated competitors have collocated; (iii) the names of non-LEC transport facility providers for each such wire center (in the confidential versions); (iv) the revenue attributable to all competitive wire centers in the MSA (confidential versions); and (v) the percentage of revenue that the competitive wire centers represent throughout the MSA. *Id.* at 5-6.

[67] Although the Bureau might not ordinarily accept, so late in the proceeding, the addition of revenues from a service that was excluded from the revenue calculations in the original petition, Pacific Bell's addition of $321,000 of SS7 transport revenue was so small as to have no effect on the results in any MSA.

[68] 47 C.F.R. § 1.774.

[69] *See* BellSouth Petition for Pricing Flexibility for Special Access and Dedicated Transport Services, *Memorandum Opinion and Order*, CCB/CPD No. 00-20, DA 00-2793 at ¶ 19 (rel. Dec. 15, 2000) ("*BellSouth Pricing Flexibility Order*").

[70] *Id.*

22. In its opposition, AT&T also claims that Ameritech and Pacific Bell erroneously identified AT&T as a collocator using competitive transport in certain wire centers cited in their petitions.[71] In reply, SBC counters AT&T's denials.[72] This disagreement, however, was resolved by both parties in subsequent *ex parte* filings, resulting in SBC's removal of one wire center from its calculations.[73] The associated changes in revenue calculations, however, do not affect SBC's eligibility for pricing flexibility.

23. Based upon a review of the information submitted, we conclude that Ameritech, Pacific Bell, and SWBT have satisfied their burdens of demonstrating that they have met the applicable triggers for each of the various services and MSAs for which they request relief.

IV. ORDERING CLAUSES

24. Accordingly, IT IS ORDERED, pursuant to Section 1.774 of the Commission's Rules, 47 C.F.R. § 1.774, and the authority delegated by Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, and the *Pricing Flexibility Order*, that the petition filed by the Ameritech Operating Companies IS GRANTED to the extent detailed herein.

25. IT IS FURTHER ORDERED, pursuant to Section 1.774 of the Commission's Rules, 47 C.F.R. § 1.774, and the authority delegated by Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, and the *Pricing Flexibility Order*, that the petition filed by the Pacific Bell Telephone Company IS GRANTED to the extent detailed herein.

26. IT IS FURTHER ORDERED, pursuant to Section 1.774 of the Commission's Rules, 47 C.F.R. § 1.774, and the authority delegated by Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, and the *Pricing Flexibility Order*, that the petition filed by the Southwestern Bell Telephone Company IS GRANTED to the extent detailed herein.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood
Chief, Common Carrier Bureau

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[71] AT&T Comments at 8-9 (attaching Declarations of Charles E. Stock). In both declarations, Stock contends that these collocations should not count toward the Commission's requirement that at least one collocator in each cited wire center use transport facilities provided by other than the incumbent LEC. *Id.*

[72] SBC Reply Comments at 4; Exhibit 1 to SBC Reply Comments, Affidavit of Hakim S. Williams at 2 ¶ 3-4 (filed Dec. 14, 2000). In his affidavit, Williams certifies that collocation records kept at Ameritech and Pacific Bell central offices indicate that transport facilities at all four contested locations were provided by AT&T, not by SBC or its affiliates. *Id.*

[73] *See* SBC *ex parte* at Attachment 1 (confidential version) and revised Appendix C (confidential version); Letter from Patrick Merrick, AT&T, to Magalie Roman Salas, FCC (Mar. 8, 2001) (confidential version).

APPENDIX A

SERVICES QUALIFYING FOR PRICING FLEXIBILITY

Ameritech Operating Companies:

Trunking Basket
SS7
Voice Grade
LT-1
LT-3
Switched Sonet
Signaling
Telecom Relay Service

Special Access Basket
Metallic
Telegraph Grade
Direct Analog
Program Audio
Video (TV Analog, Digital, ASVS, AMVS, WAVS, SCVS)
AIT Base Rate Service
AIT Direct Digital Service
AIT DS1
AIT DS3
AIT OC-3
AIT OC-12
AIT OC-48
AIT OC-192
AIT OC-3 Dedicated Ring
AIT OC-12 Dedicated Ring
AIT OC-48 Dedicated Ring
AIT OC-192 Dedicated Ring
Sonet Express Service

Pacific Bell Telephone Company:

Trunking Basket
Voice Grade
DS1
DS3 Fiber Advantage
SS7

Special Access Basket
Metallic
Telegraph Grade
Voice Grade
Program Audio
Video
Generic Digital Transport (GDT)
High Capacity (DS1, DS1 Fiber Advantage, DS3 Fiber Advantage)
Sonet Ring and Access Services
Broadband Circuit Services (BCS)

APPENDIX A

SERVICES QUALIFYING FOR PRICING FLEXIBILITY
(Continued)

Southwestern Bell Telephone Company:

Trunking Basket
Voice Grade
DS1
DS3
Switched Relianet

Special Access Basket
Metallic
Telegraph Grade
Voice Grade
Program Audio
Video
Megalink Data (DDS)
High Capacity (DS1)
DovLink Service
Megalink Custom (DS3)
Network Reconfiguration Service (NRS)
Transport Resource Management (TRM)
Broadband Circuit Services (BCS)
Self Healing Transport Network (STN)
Relianet