

Decision 07-06-016

June 7, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Bell Telephone Company, d/b/a SBC California for Generic Proceeding to Implement Changes in Federal Unbundling Rules Under Section 251 and 252 of the Telecommunications Act of 1996.

A.05-07-024
(Filed July 28, 2005)

DECISION MODIFYING DECISION (D.) 06-03-014
AND DENYING REHEARING, AS MODIFIED

I. SUMMARY

This decision denies the application for rehearing of Decision (D.) 06-03-014, filed by Pacific Bell Telephone Company d/b/a SBC California (SBC), now AT&T California (AT&T).¹ In D.06-03-014, the Commission determined which Routine Network Modifications (RNMs) AT&T must perform for competitive local exchange carriers (CLECs). We modify the decision in certain respects, as discussed herein, and correct clerical errors. The rehearing of D.06-03-014, as modified, is denied in all respects.

II. FACTS/PROCEDURAL BACKGROUND

On July 28, 2005, SBC filed its application to initiate a generic proceeding to amend the existing interconnection agreements (ICAs) between SBC and various CLECs. It initiated this consolidated arbitration proceeding to resolve any disputed

¹ The names "SBC California" and "AT&T California," abbreviated as "SBC" and "AT&T," refer to the same entity and will be used interchangeably.

issues relating to the change of law in the *Triennial Review Order (TRO)*,² and in the *Triennial Review Remand Order (TRRO)*.³

On January 23, 2006, in D.06-01-043, the Commission resolved a plethora of issues that did not require evidentiary hearings. This decision resolves issues relating to RNMs, which required evidentiary hearings.⁴ Accordingly, the Administrative Law Judge (ALJ) convened hearings from November 28 to December 1, 2005. Opening briefs were filed on January 9, 2006, and Reply Briefs, on January 25, 2006. Issues regarding Batch Hot Cuts were assigned a separate briefing schedule and are being addressed in a separate decision.

On March 6, 2006, the Commission issued D.06-03-014, which determined which RNMs SBC must perform for CLECs at their request. D.06-03-014 determined that SBC is already recovering the relevant costs of all RNMs shown in Sections 8.1.2 and 8.2.2 of the Amendment adopted by D.06-03-014 through Total Element Long Run Incremental Cost (TELRIC) compliant rates recently adopted for SBC. Therefore, D.06-03-014 held that SBC is not entitled to assess any additional charges for the RNMs listed in Sections 8.1.2 and 8.2.2.

SBC timely filed an application for rehearing on April 3, 2006. SBC asserted that the Federal Communications Commission's (FCC's) pricing rules allow cost recovery for any loop modifications necessary to provision a CLEC's requested service, and D.06-03-014 disregarded the FCC's pricing rules. SBC believes that under the FCC's rules, it is entitled to cost recovery.

² *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking* (2003) 18 F.C.C. Rcd. 16978, F.C.C. 03-36 (*TRO*).

³ *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand* (Feb. 4, 2005) 20 F.C.C. Rcd. 2533, FCC 04-290 (*TRRO*).

⁴ RNMs are those activities that incumbent LECs regularly undertake for their own customers, which they must perform for competitive LECs.

On April 18, 2006, numerous parties (Joint CLECs) filed a joint response to the rehearing application.⁵ The Joint CLECs reject SBC's claim that the FCC's pricing rules permit cost recovery for any loop modifications necessary to provision a CLEC's requested service. They state that the sole exception to the TELRIC pricing rules is the FCC's treatment of loop "conditioning" costs, which they define as costs for removing legacy load coils, repeaters, and bridge taps to make a loop DSL-capable. The Joint CLECs state that the FCC made no such exception for RNMs. They assert that the FCC's rules apply to the issue of charges for RNMs.

XO Communications Services, Inc. (XO) also submitted a response to SBC's rehearing application. Its response is "limited to correcting SBC's alleged mischaracterization of the Final Arbitrator's Report (FAR) that the Commission adopted in the arbitration between XO and SBC."⁶

III. DISCUSSION

A. D.06-03-014 Did Not Disregard the FCC's Pricing Rules.

In D.06-03-014, the Commission determined which RNMs AT&T must perform for CLECs when requested, as required by FCC rules. The FCC's rules require incumbent local exchange carriers (ILECs) to perform all activities that ILECs regularly perform for their own customers, except the construction of a new loop. In accordance with FCC requirements, D.06-03-014 held that "SBC must perform *all* RNMs that it

⁵ *Joint CLEC Response and Opposition to SBC California's Application for Rehearing of Decision Adopting Provisions Relating to Routine Network Modifications in Existing Interconnection Agreements* (Joint CLEC Rhg. Response) was submitted on behalf of Advanced Telcom, Inc.; Arrival Communications, Inc.; CF Communications, LLC d/b/a Telekenex; Covad Communications Company; Curatel, LLC; DMR Communications, Inc.; Eschelon Telecom, Inc.; Mpower Communications Corp.; and TCAST Communications, Inc. (collectively, Joint CLECs Response).

⁶ XO Rhg. Response, p. 1.

performs for its own customers to make UNE loops DS1 capable, with the exception of the exclusions listed in Sections 8.1.3 and 8.2.3.”⁷

The Commission determined that AT&T is already recovering the relevant costs of all RNMs in Sections 8.1.2 and 8.2.2 of the Amendment through the TELRIC-compliant rates adopted in D.04-09-063.⁸ Therefore, AT&T was not entitled to impose additional charges for the RNMs listed in Sections 8.1.2 and 8.2.2. D.06-03-014 also held that the appropriate standard to be applied in setting UNE rates for purposes of addressing RNM cost recovery is TELRIC.

AT&T claims that D.06-03-014 disregarded the FCC’s pricing rules by “interpos[ing] a distinct cost-recovery test.”⁹ According to AT&T, under this “test,” an ILEC must show not only that a specific RNM cost is excluded from UNE rates, but also that the cost is “relevant” under TELRIC. To AT&T’s assertion that its current UNE rates do not include the costs of either repeaters or multiplexers, D.06-03-014 acknowledged that while true, it is irrelevant because for purposes of setting UNE rates and addressing RNM cost recovery, the relevant standard is TELRIC.¹⁰ From this statement, AT&T concludes that the Commission has devised a “test” as a requirement to the FCC’s cost-recovery approach. D.06-03-014 never asserted that there was any such “test,” and there is no indication in the decision that any such test was applied. Merely stating that only forward-looking costs are relevant under TELRIC is not to impose any test distinct from those mandated by the FCC.

The Commission has not interposed any cost recovery test apart from the FCC’s tests. The Commission observed all cost recovery rules set forth by the FCC,

⁷ D.06-03-014, p. 15; emphasis in original.

⁸ *Opinion Establishing Revised Unbundled Network Element Rates for Pacific Bell Telephone Company dba SBC California* [D.04-09-063] (2004) ____ Cal.P.U.C.3d _____. See D.06-03-014, p. 22, Finding of Fact No. 5; see also *id.* at p. 23, Conclusion of Law No. 4.

⁹ SBC Rhg. App., p. 10.

¹⁰ D.06-03-014, p. 11.

which the ensuing discussion demonstrates. We begin with *TRO* ¶632, which provides as follows:

We require incumbent LECs to make routine network modifications to unbundled transmission facilities used by requesting carriers where the requested transmission facility has already been constructed. By “routine network modifications” we mean that incumbent LECs must perform those activities that incumbent LECs regularly undertake for their own customers. Routine modifications, however, do not include the construction of new wires (i.e., installation of new aerial or buried cable) for a requesting carrier.¹¹

TRO ¶632 makes it clear that ILECs must perform all activities that they regularly perform for their own customers. The exception is that they are not required to construct new wires.

Within the guidelines set by the FCC, the ILECs can recover the costs of RNMs through recurring or non-recurring charges. The caveat is that there cannot be double recovery of those costs. D.06-03-014 highlighted the very specific requirements set forth in the *TRO* ¶640 for the recovery of costs related to RNMs:

The Commission’s [FCC’s] pricing rules provide incumbent LECs with the opportunity to recover the cost of the routine network modifications we require here [footnote omitted]. State commissions have discretion as to whether these costs should be recovered through non-recurring charges or recurring charges. We note that the costs associated with these modifications often are reflected in the recurring rates that competitive LECs pay for loops....The Commission’s rules make clear that there may not be any double recovery of these costs....¹²

¹¹ *TRO* ¶632.

¹² D.06-03-014, p. 7, citing *TRO* ¶640.

AT&T claims that in two instances its costs are not being recovered from existing rate elements, and it is entitled to recover those costs by separate charges. The first instance involves the installation of repeaters, and the second involves multiplexers. As explained in D.06-03-014, a repeater boosts the signal so that acceptable signal quality can be achieved. A multiplexer is a piece of equipment that takes a high bandwidth optical signal, converts it to an electrical signal and splits up the high bandwidth signal into many lower bandwidth signals.¹³ AT&T contends it must install a repeater in order to provision DS-1 service over a long copper loop, generally one that exceeds 12,000 feet in length, and that it must install multiplexers in order to provide DS-1 or DS-3 service. AT&T states that these costs are not already included in its existing UNE rates.

The Joint CLECs assert that the installation of repeaters to support DS1-based services would not be required in the forward-looking local network configuration adopted by the Commission as the basis for the loop rates currently in effect. They state that UNE loop rates do not include the costs of repeaters or multiplexers because the TELRIC-compliant network that is the basis for the current UNE rates does not require these components in order to support DS-1 UNE loops on any of SBC's loops.¹⁴

The Joint CLECs state further that for purposes of determining TELRIC-compliant costs and rates, AT&T's embedded loop network is irrelevant. They assert that the HM 5.3 network, as modified by the Commission, is forward-looking and its design criteria prevent the construction of copper loops that are so long that a repeater would be required. The Joint CLECs assert that the TELRIC-compliant UNE rates for AT&T were based on the modifications that were explicitly made so that all loops could

¹³ *Id.* at 8, n. 15 and n. 16.

¹⁴ Joint CLECs' Rhg. Response, p. 6.

support DS-1 service without further modifications. They conclude that the Commission has obviated the need for repeaters and multiplexers by its modifications to HM 5.3.

D.06-03-014 concurs with the Joint CLECs' view of the UNE rates the Commission adopted in D.04-09-063. Because the standard to be applied in setting UNE rates is TELRIC, AT&T's embedded loop network is not relevant to UNE rates. Only future, not embedded, costs should form the basis of UNE rates. The FCC, in its *First Report and Order*, affirms as much by stating that prices for UNEs should not reflect the cost of the ILEC's "existing network infrastructures," and costs imposed to construct facilities should be spread out over time in monthly recurring charges the ILEC receives from CLECs.¹⁵

AT&T asserts that the Commission erred in finding that allowing it to impose additional charges for adding repeaters would violate the FCC's prohibition on the double recovery of RNM costs. AT&T states that double recovery would occur only if the forward-looking labor and equipment costs of installing repeaters and multiplexers were already included in current UNE rates. It asserts that the ALJ's Draft Decision states that the costs of repeaters and multiplexers are not included in the UNE rates adopted by the Commission. Therefore, it contends, the Commission erred in finding that allowing AT&T to recover those costs would result in double recovery.

D.06-03-014 acknowledges that the costs of repeaters and multiplexers are not included in the UNE rates adopted in D.04-09-063. It also determined that repeaters and multiplexers are not required to make loops DS1-capable in the network architecture adopted in D.04-09-063. The Commission concurred with the Joint CLECs that because the HM5.3 Model, as modified by the Commission, obviated the need for repeaters and

¹⁵ *First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, ¶¶ 683-686 (1996) ("Local Competition Order").

multiplexers, it is irrelevant whether or not those costs are included.¹⁶ The methodology used to establish AT&T's UNE rates does not require repeaters or multiplexers to make loops DS-1 capable in the network architecture adopted as the basis for the TELRIC-compliant UNE rates.

AT&T's claim that double recovery would occur only if the forward-looking labor and equipment costs of installing repeaters and multiplexers were already included in current UNE rates has no merit. The test for double recovery is not whether the costs of repeaters and multiplexers are included in the UNE rates. Because repeaters and multiplexers are not required to make loops DS1-capable in the forward-looking network design adopted by the Commission, they are not eligible for recovery in charges to CLECs. D.06-03-014 determined that AT&T is already recovering the relevant costs of all RNMs in Sections 8.1.2 and 8.2.2 of the Amendment through the TELRIC-compliant rates adopted in D.04-09-063. To allow AT&T to assess an additional charge would amount to double recovery in violation of *TRO* ¶640:

The Commission's pricing rules provide incumbent LECs with the *opportunity* to recover the cost of the routine network modifications we require here....State commissions have discretion as to whether these costs should be recovered through non-recurring charges or recurring charges....The Commission's rules make clear that there may not be any double recovery of these costs (*i.e.*, if costs are recovered through recurring charges, the incumbent LEC may not also recover these costs through a NRC).¹⁷

In addition, permitting AT&T to impose additional charges for RNMs would violate the TELRIC standard, which applies to charges for RNMs. TELRIC

¹⁶D.06-03-014, p. 10.

¹⁷See *TRO*, ¶640; emphasis added. Footnote 1940 explicitly indicated that the *Local Competition Order* requires that there be "directly attributable forward-looking costs."

allows for the recovery of only forward-looking costs and prohibits the recovery of embedded costs. Because the costs of repeaters and multiplexers are not incurred in the Commission's adopted forward-looking local network configuration, they are not eligible for recovery in charges to CLECs. Accordingly, D.06-03-014 denied AT&T's request to be allowed to impose additional charges on CLECs for repeaters and multiplexers.

As D.06-03-014 states, "[t]he issue before us is whether SBC is already recovering the cost of RNMs in its recurring or nonrecurring UNE rates, and if not, should SBC be permitted to assess additional charges."¹⁸ Thus, the Commission mirrored the language of Section 8.1.4 of the interconnection agreement and the *TRO*, which state that if the relevant costs of an RNM are not recovered by means of existing non-recurring and monthly recurring charges, AT&T may file an application with the Commission that requests approval to impose charges associated with a specific RNM. AT&T's conclusion that the Commission's language "fully supports the conclusion that SBC California [AT&T] is entitled to recover the costs of repeaters and multiplexers" is just plain wrong.¹⁹ AT&T jumped to an unwarranted conclusion. Filing an application to recover charges is not the same as being entitled to recover charges.

Cost recovery is not excluded under these facts, as AT&T suggests. D.06-03-014 determined that "SBC is already recovering the relevant costs of all RNMs in Sections 8.1.2 and 8.2.2 of the Amendment through the TELRIC-compliant rates adopted in D.04-09-063."²⁰ For purposes of determining whether AT&T should recover additional costs for repeaters and multiplexers, the essential inquiry is whether repeaters and multiplexers are required to make loops DS1-capable in the network architecture that the Commission adopted as the basis for the TELRIC-compliant UNE rates adopted in D.04-09-063. The answer is no. The costs for repeaters and multiplexers would not be

¹⁸ D.06-03-014, p. 8.

¹⁹ SBC Rhg. App., p. 14; emphasis added.

²⁰ D.06-03-014, p. 22, Finding of Fact No. 5.

incurred in the adopted forward-looking network design, and therefore would not be eligible for recovery in charges to the CLECs. In other words, the revised TELRIC model adopted by the Commission for AT&T includes the full TELRIC costs required to make all loops capable of supporting DS-1 services without adding repeaters and multiplexers. The Commission's modifications to the HM5.3 Model obviated the need for repeaters and multiplexers; therefore, AT&T may not recover those charges from the CLECs.

B. FCC Pricing Rules Do Not Mandate Cost Recovery for Any Loop Modifications Necessary to Provision a CLEC's Requested Service. (Issues 41 and 43)

AT&T asserts that the FCC's pricing rules permit cost recovery for any loop modifications necessary to provide a CLEC's requested service. AT&T acknowledges that the FCC's pricing rules are based on TELRIC pricing methodology established in the *Local Competition Order*.²¹ However, AT&T claims that "the FCC has never held that TELRIC embodies a categorical rule that a fully efficient network configuration must be used to price every element of a network."²² Because CLECs are required to pay loop conditioning costs when such conditioning is required, pursuant to *Local Competition Order, supra*, at ¶382, AT&T declares the "principle" that "when SBC California must deploy a repeater or multiplexer to provision a CLEC UNE Order, SBC California must be permitted to recover its costs."²³

The Joint CLECs deny that there is any such "principle." Rather, their position is that the Commission is required to follow TELRIC in deciding RNM costing and pricing issues.²⁴ The TELRIC standard allows the recovery of only forward-looking

²¹ See *Local Competition Order, supra*, at ¶¶ 672-673.

²² SBC Rhg. App., p. 3.

²³ SBC Rhg. App., p. 6.

²⁴ Joint CLEC Rhg. Response, p. 4.

costs and explicitly prohibits the recovery of embedded costs. Therefore, the FCC's existing rules provide ILECs with the opportunity to recover the cost of network modifications required in its *Local Competition Order's* description of forward-looking cost principles.

The *Local Competition Order's* pricing rule to which both AT&T and the Joint CLECs refer is *TRO* ¶640. As previously stated, that rule provides ILECs with the opportunity to recover the costs of RNMs, but the charges must be directly attributable to forward-looking costs. In addition, there may not be any double recovery of the costs; therefore, if costs are recovered through recurring charges, they may not also be recovered through a non-recurring charge.

The Joint CLECs acknowledge that the sole exception to the TELRIC pricing rule is the FCC's treatment of loop conditioning costs, but that it is such a rare departure from TELRIC that it was explicitly codified in a section of the FCC's rules.²⁵ They argue that if the FCC had meant to establish a similar TELRIC carve-out for RNMs, it would have made a similar explicit codification. Thus, they reject the "principle" set forth by AT&T that ILECs may recover the costs of loop modifications mandated by the FCC when those modifications are necessary to provision a CLEC's requested UNE order. In addition, the Joint CLECs assert that the Commission should reject AT&T's claims because it did not comply with FCC Rule §51.505(e) which places an explicit burden on ILECs such as AT&T:

An incumbent LEC must prove to the state commission that the rates for each element it offers do not exceed the forward-looking economic cost per unit of providing the element, using a cost study that complies with the methodology set forth in this section and section 51.511 of this part.²⁶

²⁵ *Id.*, pp. 3-4. *Local Competition Order* ¶382 carves out an exception for loop conditioning costs.

²⁶ 47 C.F.R. §51.505(e).

To support AT&T's position that it is entitled to additional charges for providing some RNMs to CLECs, AT&T urged the Commission to turn to decisions in other states, in particular *Michigan Bell Telephone Co. v. Strand* (6th Cir. 2002) 305 F.3d 580. *Michigan Bell* involved a form of RNM where loop conditioning was necessary to provision UNE loops. The CLEC argued that Ameritech did not bill its own retail customers for similar work, and therefore any attempt to bill the CLEC was forbidden discrimination. The Sixth Circuit rejected this argument, reasoning that "the absence of special charges on the retail side is neither surprising nor sinister, because retail customers do not lease pieces of the network but instead buy *services* provided by Ameritech over its own existing network."²⁷

Although in D.06-03-014, we concurred with AT&T that any inquiry into how it recovers the costs of modifications to its network performed for special access customers is irrelevant, we are not persuaded by AT&T's argument that we should rely on other state decisions. Just as AT&T urges reliance on *Michigan Bell*, the Joint CLECs provided the Commission with citations to other state decisions that support this Commission's decision and counter those provided by AT&T.²⁸ As noted by the Joint CLECs, AT&T did not make a showing that "the other state decisions are based on the fact that, as in California, those commissions recently concluded a TELRIC study on which they explicitly used a study that could support DS-1 UNE loops on all loops without any required modification."²⁹ We agree that without such a showing, AT&T's

²⁷ *Michigan Bell, supra*, at p. 592; emphasis in original.

²⁸ See Joint CLEC Reply Brief, pp. 20-22, citing to the following cases: Washington Public Utilities Commission, Order No. 18, *Final Order Granting, In Part, and Denying, In Part, Verizon's Petition for Review; Denying AT&T's Petition for Review; Affirming, In Part, and Modifying, In Part, Arbitrator's Report and Decision*, Docket No., UT-043013, Sept. 22, 2005, p. 191; State of Maine Public Utilities Commission, Order, *Petition for Consolidated Arbitration*, Docket No. 2004-135, pp. 8-9, June 11, 2004.

²⁹ Joint CLEC Rhg. Response, p. 5.

citations are irrelevant. In any event, this Commission makes its decisions based on the evidence and applicable law before it.

In sum, AT&T is not entitled to additional charges for repeaters and multiplexers. D.06-03-014 determined that AT&T is already recovering the relevant costs of all RNMs in Sections 8.1.2 and 8.2.2 of the Amendment through the TELRIC-compliant rates adopted in D.04-09-063. Any further recovery would violate the FCC's rule against double recovery. The facts show that the TELRIC-compliant network upon which the current UNE rates are based does not require repeaters and multiplexers in order to support DS-1 UNE loops on AT&T's loops. Moreover, AT&T failed to prove that the rates it is seeking do not exceed the forward-looking costs of providing the network element, as required by Rule §51.505(e).

C. XO/SBC Arbitration

AT&T claims that D.06-03-014 is inconsistent with the Commission's decision regarding repeaters and multiplexers in the XO/SBC arbitration. AT&T relies on a passage in the Final Arbitration Report (FAR) which held that cost recovery is due for repeaters because "XO did not provide sufficient or compelling evidence that costs for...doublers, repeaters, and multiplexers[] are already incorporated in UNE rates."³⁰ AT&T concludes that "the Commission approved the ALJ fully on that point," and "necessarily found that the [XO/SBC] agreement satisfied 47 U.S.C. §251 and the FCC's rules, including its TELRIC pricing rules."³¹

First, the FAR is not the Commission's decision. D.05-09-042 is the Commission's decision, and the language that AT&T quotes in its rehearing application does not appear in D.05-09-042. That decision does not affirm or state that it agrees with

³⁰ SBC Rhg. App., p. 12, citing *Final Arbitrator's Report, In the Matter of the Request for Arbitration of XO California, Inc. of an Amendment to an Interconnection Agreement with SBC California Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*, A.04-05-002, at 4 (Aug. 15, 2005).

³¹ SBC Rhg. App., pp. 12-13.

the FAR on the issue of RNM recovery charges. Rather, page 13 of D.05-09-042 states that “the Final Arbitrator’s Report establishes that disputes over the magnitude of charges for routine network modifications and commingling should be handled through the dispute resolution process.”³² When the Commission concurs with any specific point, it is capable of clearly stating so as evidenced by its agreement with the FAR’s interpretation of enhanced extended loops (EEL) requirements.

Second, our focus is on the specific facts and circumstances of this proceeding. The Commission decides each case based on its own set of facts. The record is of sufficient depth to support our conclusion that repeaters and multiplexers are not required to make loops DS-1 capable in the network architecture adopted in D.04-09-063. Since those costs would not be incurred in the Commission’s forward-looking local network configuration, they are not eligible for recovery by AT&T from the CLECs. We are satisfied that we are in compliance with Public Utilities Code Section 1705, which requires findings and conclusions on all issues material to this decision.

IV. CONCLUSION

We have reviewed each and every allegation of error asserted by AT&T in its application for rehearing of D.06-03-014, and are of the opinion that legal error was not demonstrated. However, we modify D.06-03-014 for purposes of clarification and to correct clerical errors, as specified in the ordering paragraphs below.

Therefore, for the reasons stated herein, we deny the rehearing of D.06-03-014, as modified.

THEREFORE, IT IS ORDERED that:

1. D.06-03-014 is modified as follows:
 - a. Paragraphs 3 and 4 on Page 11 are modified to read as follows:

³² *In the Matter of the Request for Arbitration of XO California, Inc. of an Amendment to an Interconnection Agreement with SBC California pursuant to Section 252(b) of the Communications Act of 1934, as amended* [D.05-09-042] (2005) ___ Cal. P.U.C.3d ___.

“Thus, SBC’s claim that its current UNE rates do not include the costs of either repeaters or multiplexers, while true, is irrelevant in a TELRIC-based system. SBC’s current UNE rates recover all TELRIC costs associated with UNE loops. The Commission’s modifications to the HM5.3 Model obviated the need for repeaters and multiplexers. Because the costs of repeaters and multiplexers are not incurred in this forward-looking local network configuration, they are not eligible for recovery in charges to CLECs.

For purposes of setting UNE rates and addressing RNM cost recovery, it is immaterial that SBC must deploy repeaters and/or multiplexers in order to make loops DS-1 capable on its embedded legacy network. The standard to be applied in setting UNE rates is TELRIC, and we have complied with that standard.”

- b. Page 12, paragraph 2, the first sentence should be modified to read as follows:

“SBC has asserted that all of the RNMs listed in Sections 8.1.2 and 8.2.2 are covered in existing UNE rates, with the exception of repeaters and multiplexers.”

- c. Page 13, paragraph 2, line 6 of the quotation should be modified to read as follows:

“If, after the effective date of this Amendment, SBC believes that the relevant costs of a routine network modification are not recovered via existing non-recurring and monthly recurring charges, SBC may file an application with the Commission that requests approval to impose non-recurring and/or monthly recurring charges associated with a specific routine network modification.”

2. The rehearing of D.06-03-014, as modified, is hereby denied in all respects.

This order is effective today.

Dated June 7, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY A. SIMON
Commissioners