

ATTACHMENT 3

Page 1

-----Original Message-----

From: Duda, Dorothy
Sent: Wednesday, November 12, 2003 2:06 PM
To: 'chuther@prestongates.com'; 'megant@prestongates.com'; 'mhazzard@kelleydrye.com'; 'terrance.spann@hqda.army.mil'; 'lupita.reyes@verizon.com'; 'bcobb@covad.com'; 'esther.h.northrup@xo.com'; 'kkirby@davisdixon.com'; 'karen.potkul@xo.com'; 'jeff@callamericacom.com'; 'lfinkel@adamsbroadwell.com'; 'cmailloux@turn.org'; 'elaine.duncan@verizon.com'; 'rcosta@turn.org'; Wales, Natalie; 'anitataffrice@earthlink.net'; 'steve.bowen@bowenlawgroup.com'; 'david.discher@sbc.com'; 'jtobin@mofo.com'; 'jk1786@sbc.com'; 'stephanie.krapf@sbc.com'; 'william.harrelson@mci.com'; 'glenn@stoverlaw.net'; 'davidjmiller@att.com'; 'deanhardt@att.com'; 'smallecs@cwclaw.com'; 'jclark@gmssr.com'; 'michael.morris@algx.com'; 'smallecs@cwclaw.com'; 'davidmarchant@dwt.com'; 'mmattes@nossaman.com'; 'ens@loens.com'; 'karen.potkul@xo.com'; 'esprague@pacwest.com'; 'mash@mpowercom.com'; 'dlee@snavely-king.com'; 'cronis@wilmer.com'; 'john.felz@mail.sprint.com'; 'arooker@cwa9400.com'; 'pagemont@cox.net'; 'mmulkey@arrival.com'; 'heidineal@momsavesjobs.org'; 'es3982@sbc.com'; 'eric.batongbacal@sbc.com'; 'nnail@caltel.org'; 'emitchell@angnewspapers.com'; 'pceguera@covad.com'; 'mbazeley@mercurynews.com'; 'jsumpter@pacwest.com'; 'jgordon@cwa-union.org'; Stevens, Maria E.; Poschl, Christopher; Lakritz, Jonathan; Ragsdale, Keith; Billingsley, Natalie; Phillips, Paul; Litkouhi, Simin; Koundinya, Sridarshan; Banuelos, Victor; Fung, William; Johnston, William; Lofaso, Alan; Machado, Carlos
Subject: SBC UNE Reexamination Proceeding/ Request for Comparison Exhibit

All:

This e-mail is to memorialize a request I made on Monday, November 10, for SBC and Joint Applicants to jointly create a comparison exhibit showing an "apples to apples" comparison of the "achieved" fill factors in their loop models. Specifically, I requested that they create a spreadsheet showing the various fill factors used in the loop portion of their models for copper distribution cable, fiber feeder, copper feeder, and DLC equipment. Joint Applicants were asked to translate their fill inputs into "achieved fill" for easier comparison with the achieved fills used in the SBC LoopCat model. SBC was also asked to list the fill levels by zone, where they had proposed this. SBC clarified that premises termination is another fill input that they will include in the response. Per my instructions, this spreadsheet should include citations to the critical arguments in support of or opposition to the positions taken for each of these fill factors.

When the exhibit is complete, Joint Applicants and SBC should e-mail it to me and the parties on this service list.

Thank you,

Dorothy J. Duda
Administrative Law Judge
California Public Utilities Commission
415-703-2800
dot@cpuc.ca.gov

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-----Original Message-----

From: Duda, Dorothy
Sent: Thursday, December 04, 2003 3:07 PM
To: 'david.discher@sbc.com'
Subject: FW: Follow up Questions on Fill Factor Comparison Exhibit

perhaps I was too hasty with the praise. It's actually not that helpful that you list all your cites in one lump sum on pg. 9 of the matrix rather than telling me which of your 7 witnesses on fill spoke on which fill type. Perhaps you can quickly tell me if certain of these 7 witnesses you list on pg. 9 addressed a specific fill category?

-----Original Message-----

From: Duda, Dorothy
Sent: Thursday, December 04, 2003 2:12 PM
To: 'david.discher@sbc.com'; 'davidjmiller@att.com'
Cc: 'chuther@prestongates.com'; 'megant@prestongates.com'; 'mhazzard@kelleydrye.com'; 'terrance.spann@hqda.army.mil'; 'lupita.reyes@verizon.com'; 'bcobb@covad.com'; 'esther.h.northrup@xo.com'; 'kkirby@davisdixon.com'; 'karen.potkul@xo.com'; 'jeff@callamericacom.com'; 'lfinkel@adamsbroadwell.com'; 'cmailoux@turn.org'; 'elaine.duncan@verizon.com'; 'rcosta@turn.org'; Wales, Natalie; 'anitataffrice@earthlink.net'; 'steve.bowen@bowenlawgroup.com'; 'david.discher@sbc.com'; 'jtobin@mofo.com'; 'jk1786@sbc.com'; 'stephanie.krapf@sbc.com'; 'glenn@stoverlaw.net'; 'deanhardt@att.com'; 'smallecs@cwclaw.com'; 'jclark@gmssr.com'; 'michael.morris@algx.com'; 'smallecs@cwclaw.com'; 'davidmarchant@dwt.com'; 'mmattes@nossaman.com'; 'ens@loens.com'; 'karen.potkul@xo.com'; 'william.harrelson@mci.com'; 'esprague@pacwest.com'; 'pcronin@mpowercom.com'; 'dlee@snavely-king.com'; 'cronis@wilmer.com'; 'john.felz@mail.sprint.com'; 'arooker@cwa9400.com'; 'pagemont@cox.net'; 'mmulkey@arrival.com'; 'heidineal@momsavesjobs.org'; 'es3982@sbc.com'; 'eric.batongbacal@sbc.com'; 'nnail@caltel.org'; 'cynthia_walker@icgcomm.com'; 'emitchell@angnewspapers.com'; 'pceguera@covad.com'; 'mbazeley@mercurynews.com'; 'jsumpter@pacwest.com'; 'jgordon@cwa-union.org'; Stevens, Maria E.; Poschl, Christopher; Duda, Dorothy; Lakritz, Jonathan; Ragsdale, Keith; Billingsley, Natalie; Phillips, Paul; Litkouhi, Simin; Koundinya, Sridarshan; Banuelos, Victor; Fung, William; Johnston, William; Lofaso, Alan; Machado, Carlos
Subject: Follow up Questions on Fill Factor Comparison Exhibit

Messrs. Discher and Miller:

Thank you for all the effort to put together the comparison exhibit. It was well worth the wait. I do have two follow-up questions after looking at it.

1. Pg. 2, 2nd paragraph under SBC column. SBC cites to Tardiff 3/12 p. 9-10 as discussing the concept that spare capacity is not "used up". I don't think this cite is correct because I don't see a discussion of that topic on that page. Can you check and get me the correct page number if there is one?
2. Pg. 9. This page shows an overall LoopCat fill for copper distribution. (The actual number is allegedly proprietary so I will not put it in this e-mail.) In his 3/12 testimony, Donovan had calculated SBC's copper fill at a slightly different number, approximately 3 % higher. (Donovan 3/12 p. 82, para. 188.) Can Joint Applicants explain why these numbers are not the same?

As always, I appreciate your prompt response.
Thank you,

Dorothy J. Duda
Administrative Law Judge
California Public Utilities Commission
415-703-2800
dot@cpuc.ca.gov

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-----Original Message-----

From: DISCHER, DAVID (Legal) [mailto:dd2526@sbcc.com]

Sent: Thursday, December 04, 2003 3:17 PM

To: 'Duda, Dorothy'

Subject: RE: Follow up Questions on Fill Factor Comparison Exhibit

sorry. some did talk about specific fills. some had general comments on fill and use of actual fill (such as tardiff, cass, and aron). smallwood and bash would have talked about virtually all of the fills. cohen and makarewicz had general comments on the relation of fill to expense. i can break out the pages more discreetly by type of plant by tomorrow noon. would that work?

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-----Original Message-----

From: DISCHER, DAVID (Legal) [mailto:dd2526@sbc.com]
Sent: Thursday, December 04, 2003 3:38 PM
To: 'Duda, Dorothy'; 'davidjmilller@att.com'
Cc: 'chuther@prestongates.com'; 'megant@prestongates.com';
'mhazzard@kelleydrye.com'; 'terrance.spann@hqda.army.mil';
'lupita.reyes@verizon.com'; 'bcobb@covad.com';
'esther.h.northrup@xo.com'; 'kkirby@davidsdixon.com';
'karen.potkul@xo.com'; 'jeff@callamericacom.com';
'lfinkel@adamsbroadwell.com'; 'cmailloux@turn.org';
'elaine.duncan@verizon.com'; 'rcosta@turn.org'; Wales, Natalie;
'anitataffrice@earthlink.net'; 'steve.bowen@bowenlawgroup.com';
'jtobin@mofo.com'; KIEREN, JOE (PB); KRAPF, STEPHANIE (Legal);
'glenn@stoverlaw.net'; 'deanhardt@att.com'; 'smalllecs@cwclaw.com';
'jclark@gmssr.com'; 'michael.morris@algx.com'; 'smalllecs@cwclaw.com';
'davidmarchant@dwt.com'; 'mmattes@nossaman.com'; 'ens@loens.com';
'karen.potkul@xo.com'; 'william.harrelson@mci.com';
'esprague@pacwest.com'; 'pcronin@mpowercom.com';
'dlee@snavely-king.com'; 'cronis@wilmer.com';
'john.felz@mail.sprint.com'; 'arooker@cwa9400.com'; 'pagemont@cox.net';
'mmulkey@arrival.com'; 'heidineal@momsavesjobs.org'; STRAW, ELAINE J
(PB); BATONGBACAL, ERIC R (PB); 'nnail@caltel.org';
'cynthia_walker@icgcomm.com'; 'emitchell@angnewspapers.com';
'pceguera@covad.com'; 'mbazeley@mercurynews.com';
'jsumpter@pacwest.com'; 'jgordon@cwa-union.org'; Stevens, Maria E.;
Poschl, Christopher; Lakritz, Jonathan; Ragsdale, Keith; Billingsley,
Natalie; Phillips, Paul; Litkouhi, Simin; Koundinya, Sridarshan;
Banuelos, Victor; Fung, William; Johnston, William; Lofaso, Alan;
Machado, Carlos
Subject: RE: Follow up Questions on Fill Factor Comparison Exhibit

Your honor and parties: I erroneously cited Dr. Tardiff's Rebuttal Declaration at pages 9-10 for these points. The citation should be to Dr. Tardiff's Reply Declaration of 2/7, same pages.

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-----Original Message-----

From: DISCHER, DAVID (Legal) [mailto:dd2526@sbc.com]

Sent: Friday, December 05, 2003 11:54 AM

To: 'Duda, Dorothy'

Subject: RE: Follow up Questions on Fill Factor Comparison Exhibit

ok, here we are (and just under the wire):

copper distribution

bash opening pp. 19, 21-28, 34-37

bash rebuttal pp. 17-22, 34-38

smallwood opening pp. 15-16

smallwood rebuttal pp. 43-44

mcneill reply p. 19

fiber feeder

bash opening pp. 19-21, 34

bash rebuttal pp. 22-23, 24-27

smallwood pp. 57-59

mcneill reply p. 20

copper feeder

bash opening pp. 19-21

bash rebuttal pp. 22-23, 24-27

smallwood rebuttal p. 45

dlc

bash opening p. 21

bash rebuttal pp. 23-24

smallwood rebuttal pp. 53-57

mcneill reply pp. 21-22

sai

smallwood rebuttal p. 47

prem term

smallwood rebuttal pp. 36-38

the other citations in the matrix refer to more general discussions of fill issues, and why we view actual fill as the right number. makarewicz and cohen talk about the relationship between fill and expense in loopcat. sorry to cause this problem.

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-----Original Message-----

From: Miller, David J - LGCRP [mailto:davidjmill@att.com]
Sent: Friday, December 05, 2003 12:00 PM
To: Duda, Dorothy; david.discher@sbc.com
Cc: chuther@prestongates.com; megant@prestongates.com;
mhazzard@kelleydrye.com; terrance.spann@hqda.army.mil;
lupita.reyes@verizon.com; bcobb@covad.com; esther.h.northrup@xo.com;
kkirby@davidisdixon.com; karen.potkul@xo.com; jeff@callamericacom.com;
lfinkel@adamsbroadwell.com; cmailloux@turn.org;
elaine.duncan@verizon.com; rcosta@turn.org; Wales, Natalie;
anitataffrice@earthlink.net; steve.bowen@bowenlawgroup.com;
david.discher@sbc.com; jtobin@mofo.com; jk1786@sbc.com;
stephanie.krapf@sbc.com; glenn@stoverlaw.net; Deanhardt, W C (Clay) -
LGCRP; smalllecs@cwclaw.com; jclark@gmssr.com; michael.morris@algx.com;
smalllecs@cwclaw.com; davidmarchant@dw.com; mmattes@nossaman.com;
ens@loens.com; karen.potkul@xo.com; william.harrelson@mci.com;
esprague@pacwest.com; pcronin@mpower.com; dlee@snavely-king.com;
cronis@wilmer.com; john.felz@mail.sprint.com; arooker@cwa9400.com;
pagemont@cox.net; mmulkey@arrival.com; heidineal@momsavesjobs.org;
es3982@sbc.com; eric.batongbacal@sbc.com; nnail@caltel.org;
cynthia_walker@icgcomm.com; emitchell@angnewspapers.com;
pceguera@covad.com; mbazeley@mercurynews.com; jsumpter@pacwest.com;
jgordon@cwa-union.org; Stevens, Maria E.; Poschl, Christopher; Lakritz,
Jonathan; Ragsdale, Keith; Billingsley, Natalie; Phillips, Paul;
Litkouhi, Simin; Koundinya, Sridarshan; Banuelos, Victor; Fung, William;
Johnston, William; Lofaso, Alan; Machado, Carlos
Subject: RE: Follow up Questions on Fill Factor Comparison Exhibit

Your Honor And Parties:

Mr. Donovan's March 12 testimony erroneously refers (at p. 82, para. 188) to the copper distribution fill percentage for one particular SBC wire center in LoopCAT, rather than the overall weighted average percentage for SBC's service territory. The correct copper distribution fill percentages for comparison purposes are shown at page 9 of the fill factor comparison exhibit.

Joint Applicants will be happy to issue an errata to Mr. Donovan's testimony should Your Honor deem it appropriate or necessary. We apologize for any inconvenience this error has caused.

Respectfully submitted,

David J. Miller
Senior Attorney
AT&T Law & Government Affairs
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San Francisco, CA 94107
(415) 442-5509 (voice)
(281) 664-9478 (fax)

(END OF ATTACHMENT 3)