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PUC BULLETIN

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TELEPHONE

Docket No. 5113, Petition of the Public Utility Commission of Texas for an Inquiry Concerning the Effects of the Modified Final Judgment and the Access Charge Order upon Southwestern Bell Telephone Company and the Independent Telephone Companies of Texas, Examiner's Report, Phase II..... 859

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Editor's Note: The Examiner's Report, Phases I and II, and final Orders in Docket No. 5113, Petition of the Public Utility Commission of Texas for an Inquiry Concerning the Effects of the Modified Final Judgment and the Access Charge Order upon Southwestern Bell Telephone Company and the Independent Telephone Companies of Texas, will be continued in the January, February, March, and April issues of the **PUC Bulletin,** Volume 13, Nos. 5-8.

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DOCKET NO. 5113
PHASE II

PETITION OF THE PUBLIC UTILITY COMMISSION OF TEXAS FOR AN INQUIRY CONCERNING THE EFFECTS OF THE MODIFIED FINAL JUDGMENT AND THE ACCESS CHARGE ORDER UPON SOUTHWESTERN BELL TELEPHONE COMPANY AND THE INDEPENDENT TELEPHONE COMPANIES OF TEXAS	PUBLIC UTILITY COMMISSION OF TEXAS

EXAMINER'S REPORT

IV. Interexchange Carrier Access Charge

A. Rate

The Interexchange Carrier Access Charge (ICAC) is a pooled rate; therefore, the access revenue requirement, revenues, and access minutes of each company must be known before the ICAC can be calculated. This report recommends adoption of the staff methodology for calculating the ICAC rate itself, as described in the Group 9 testimony of staff witness Price (Staff Exhibit No. 44 at 11-12), although the ICAC requirement for each independent local exchange company should be calculated pursuant to the recommendations for each company made in Section III of this report. SWB's minutes of use should be those filed by TECA on July 3, 1984, and its ICAC requirement should be $57,031,878, as determined in Docket No. 5220. In addition, any independent local exchange companies which will overrecover their access revenue requirements (calculated as recommended in this report) under rates at parity with interstate access rates should be shown to have a zero ICAC requirement and should be required to implement a Carrier Common Line (CCL) Credit, calculated according to the staff methodology (Staff Exhibit No. 44 at 10-11), to eliminate the overrecovery. Since this report does not contain the numbers which would result from the recalculations recommended herein, those companies which would overrecover cannot be specifically identified. Furthermore, whether a company overrecovers or not depends on which CCL rate the Commission adopts, since a lower parity CCL rate will yield lower revenues. The parties are encouraged to make their calculations using premium/non-premium CCL rates of both $0.0603/$0.0271 and

$0.0543/$0.0244, and any other CCL rates the FCC may have adopted. The overrecovering companies which concur in SWB's access tariff should simply include the CCL credit in the statement of concurrence which goes in their own access tariffs.

B. Duration of ICAC Rate Element

Although the ICAC has been in place as an access rate element for more than two years, it must be emphasized that the methodology for setting access charges in this docket--including use of the ICAC rate--is temporary. The Commission has not made any permanent decisions concerning any of the methodologies utilized in this docket, including the use of parity access rates and the ICAC rate element. Attention is directed to the second paragraph on page 50 of the Examiner's Report in Phase I of Docket No. 5113, in which the examiners carefully point out that use of parity access charges is the starting point, not a blanket endorsement of every element of that structure, and that the implementation of parity access tariffs pursuant to the Commission's order in no way obligated it to adopt every FCC rate and structure for access. Likewise, the ICAC was intended as a substitute for the end user access charge, but it was acknowledged that the ICAC might or might not recover the same revenue as would the parity end user access charge.

The access charge structure implemented as a result of the Phase I Orders served its purpose well: It minimized the impact of divestiture on the independent local exchange companies and helped provide for a more equitable recovery of non-traffic sensitive (NTS) costs from all interexchange carriers. There are, however, obvious difficulties in continuing to use a pooled rate element such as the ICAC. Some companies might not need to receive ICAC revenues as a result of receiving rate relief from this Commission at some time in the future; the ICAC would then need to be recalculated for all companies. On the other hand, rate case filings by other companies could reveal a need for increased ICAC revenues, again with the need to recalculate the ICAC for all companies. In light of the costly and time-consuming burden of participating in Docket No. 5113, resetting the pooled ICAC rate for all companies every time one telephone company files a rate case is impractical at best.

Because of the temporary nature of the access charge structure envisioned in the Phase I Orders and the difficulty of changing a pooled rate, this report recommends elimination of the ICAC rate element as of January 1, 1987. This should give the local exchange companies ample time to make any necessary refunds, and to determine if rate relief will be necessary upon termination of the ICAC and to file for that relief at the Commission.

V. Other Issues

A. Refunds

In its May 14, 1984, Order, the Commission determined that after reviewing the specific level of the access revenue requirements of the independent local exchange companies in Phase II, it would determine the amount of any refunds that might be due. The Commission ordered that refunds of interim access charges should not be determined until a final order is issued in Phase II. Further, the order stated that refunds should be calculated on a customer-by-customer basis and should be based on the difference between the total access charges paid under the interim tariffs and the total access charges which would have been paid under the final order to be issued in Phase II. Although SWB's access revenue requirement was not to be determined in Phase II, SWB has been charging a pooled ICAC rate that would change if other companies' access revenue requirements decreased. Consequently, the Commission also ordered that SWB refund to any interexchange carrier any reduction of the interim pooled ICAC charge as may be finally determined in Phase II. The refund by SWB is not to affect its portion of the total statewide ICAC pool as determined in Docket No. 5220. In accordance with the order in Phase I, this report recommends that the local exchange companies and SWB make refunds based on the access revenue requirements and the ICAC rate set in this docket. No party disagreed that refunds should be made if the permanent rates set in Phase II are lower than the interim rates set in Phase I.

1. Methodology

Staff witness Price described in detail the procedure that should be used for calculating refunds; no other witness proposed an alternative to his methodology. For the independent local exchange companies, Mr. Price recommended that refunds be based on the net difference between the interim rates charged and the access rates approved in Phase II; for SWB, he recommended that only the difference between the interim ICAC rate and the final ICAC rate be subject to refund because all SWB rates except the ICAC received final approval in Docket No. 5220

Mr. Price recommended that refunds be calculated on a period-by-period basis, with four important dates acting as the boundaries for the different time periods. Essentially, he recommended that the independent local exchange companies calculate surrogate ICAC rates to determine their refund liability for each period. The important dates noted by Mr. Price are as follows:

> January 1, 1984--First interim ICAC went into effect.
>
> June 1, 1984--WATS was transferred from special access to switched access; transfer resulted in a change in treatment of WATS minutes of use for purpose of calculating switched access revenues and deriving ICAC rates. Also, ICAC requirement of SWB was set at $57,031,878. SWB began charging ICAC rates of $0.0303

to the OCCs. SWB's increased rates for intraLATA MTS and Private Line service went into effect.

July 5, 1984--Effective date of Commission interim approval of independent companies' access tariffs for OCCs. CCL charge and ICAC rates changed. AT&TC and the independents signed interexchange lease agreements.

November 1, 1984--Level of assumed minutes of use in the SWB access service tariff for OCC connections increased from 3,080 to 9,312.

For the January 1 to June 1, 1984 surrogate ICAC, Mr. Price would use the ICAC revenue requirement approved by the Commission in Phase II and total state interLATA access minutes to develop a per minute of use ICAC rate. Schedule IV in Staff Exhibit No. 44 shows the basic methodology of the ICAC calculation. For this period, the switched access MOU should reflect the fact that WATS MOU were not subject to switched access charges. The ICAC requirement in effect for SWB, as set by the Commission in December 1983, should be reflected in this period's surrogate calculation, as should the assumed minutes of use in SWB's tariff at the time. Although Mr. Price said that SWB's increased intraLATA MTS and Private Line rates need not be taken into account, his recommendation was based on the treatment of those revenues recommended by Mr. Klaus. It would appear that because this report recommends that Mr. Klaus's recommendation not be adopted, the impact of the rate increases must be calculated into the surrogate ICAC. (Tr. at 7254-56.) Finally, Mr. Price recommended that the interexchange lease revenues be removed from the surrogate ICAC calculation because the data used in the TECA filing to calculate the permanent ICAC rate includes the interexchange lease revenues.

Once the surrogate ICAC for the period is determined for the first period, each independent company would refer to its billing records to calculate refunds for AT&TC. Overcharges for this period would be cumulated with refund liability for the other periods to obtain a total. No refund liability for the period January 1 to July 5 exists insofar as the OCCs are concerned because they did not begin to pay tariffed access charges until July 5, 1984. (This point is discussed in more detail in the section immediately following.)

For SWB's refund liability, it appears that the company would simply use the difference between the ICAC rate charged in any period and the ICAC rate set in Phase II and apply the difference to the traffic volumes for the period. Mr. Price's description of the surrogate ICAC rates as appropriate for determining refund liability appears to apply to the independents only. (Staff Exhibit No. 44 at 14.) Thus, this report assumes that SWB's refund liability is simply the difference between the ICAC rate charged in a period and the permanent ICAC set in this phase of the docket, which would be applied to the traffic volume of the period. This method is to be used for all three time periods for SWB.

For the June 1 to July 5, 1984, time period, the independents should calculate a second surrogate ICAC taking into account all changes that occurred on June 1, 1984. The third surrogate ICAC should be based on changes occurring July 5, 1984, and should be used to calculate refunds for the period July 5 through November 1, 1984. No surrogate ICAC need be calculated for the time period from November 1, 1984, to the present because no changes in conditions concerning the application of switched access charges have occurred since then. Thus, the ICAC rate calculated in Phase II could simply be subtracted from the ICAC rate charged from November 1, 1984, to the present to obtain the refund liability.

Mr. Price stressed in his testimony that the pool administrator must reallocate the pooled ICAC revenues to give effect to the new rates established in Phase II. Each independent company should calculate its own refund liability according to its billing records and the surrogate ICAC rates. Each company should file a refund liability report with the ICAC pool administrator, who should also file a report with each company on the status of the flow of funds between the pool and that company. Each company should prepare refund checks for each customer entitled to a refund. Mr. Price suggested that refunds could be completed within 90 to 120 days of a final order in Phase II of this docket. No party contested the refund methodology proposed by the staff, and this report recommends that it be adopted. Refunds should be completed within 90 days of the final order in this docket. Each company should demonstrate compliance with this portion of the order by filing with the Commission a statement under oath showing all calculations of refund and interest amounts for each customer and the date(s) the refunds were made to each customer.

In his prefiled testimony, Mr. Price proposed one other feature of the refund calculation that did stir some controversy. He proposed that for purposes of calculating the refund, amounts paid by the OCCs to the independents under contract from January 1, 1984 until July 5, 1984, (when OCCs began paying access charges under the access tariffs), should be considered to be access charges. If these contractual charges were considered to be access charges, they would become a part of the refund calculation. Because the contract payments by OCCs to the independent companies generally were lower than the access payments made under the tariffed rates (Tr. at 7166), viewing the contract payments as access charges generally would reduce the independent companies' refund liabilities. Mr. Price explained that refunds are calculated on the net difference to a customer between the interim rates charged and the access rates approved in Phase II. If the contract charges are considered to be "interim access rates," then for January 1 through July 5, 1984, with the "interim access rates" lower than the access charges now being set, a negative refund liability would exist. Mr. Price recommended that the negative liability be credited against any positive refund liability experienced for the period July 5, 1984, to the present for the OCCs. The result is that any refund liability for July 5, 1984, to the present is reduced by the negative refund liability for the period January 1 to July 5, 1984. This methodology is

dependent upon interpreting contract charges as access charges for the period January 1 to July 5, 1984.

The general counsel acknowledged (Brief of General Counsel at 33) that the Commission's Phase I Orders did not make it clear whether contractual rates are to be considered access charges. However, the general counsel also noted that the Commission ordered that any new higher access rates should not be made retroactive. (May 14, 1984, Order at FOF No. 254.) The general counsel apparently did not consider the calculation of a negative refund liability to be used to offset any positive refund liability to be the same as a retroactive application of the higher ICAC rate (i.e., higher than the contractual charges).

GTE Sprint and U.S. Tel disagreed with the staff's proposal. GTE Sprint argued that the Commission had distinguished contract payment from access charges in its Phase I orders. For example, in its December 22, 1983, Order, the Commission said the following:

> OCCs shall not be assessed access charges by the Independents. Present contractual arrangements shall continue in effect during the interim. New OCC connections made during the interim shall be by contract.

Further, in the May 14, 1984, Order, the Commission ordered that customer-by-customer refunds be based on the difference between the total access charges paid under the interim tariffs and the total access charges which would have been paid under the Phase II final order. GTE Sprint noted, as did the general counsel, that the Commission had prohibited retroactivity of higher access charges that might result from Phase II. U.S. Tel made similar arguments based on the language of the Commission's orders.

This report recommends that the Commission reject the staff proposal to calculate a negative refund liability for the period of time when the OCCs paid contract charges, not tariffed access charges. The language used in the Commission's orders indicates that contract charges were not considered to be the same as access charges. The OCCs did not begin to pay tariffed access charges until July 5, 1984. To calculate a negative refund liability by using the difference between contract charges and the access charges now being set would in effect be to impose retroactively higher access rates on the OCCs, despite the Commission's order that higher rates not be imposed retroactively. There simply is no support in the record or in the Commission's orders for the staff's proposal.

2. Financial Ability to Make Refunds

One matter of concern for many parties was the ability of the local exchange companies to make refunds. However, it appears that all companies will be able to meet their refund obligations without experiencing severe financial consequences. The attorney for U.S. Tel questioned representatives of the

independent telephone companies about their ability to make refunds and was told by most, if not all, that they had the financial ability to do so. No evidence to the contrary was produced by any company.

Although the companies anticipated the need to make refunds and generally appear able to do so, they did not anticipate the staff proposal regarding redistribution of pooled revenues and large reductions to the ICAC. Several independent telephone companies as well as the Commission staff were concerned that if ICAC revenues were cut dramatically in the expectation that pooled toll revenues would be redistributed to reduce the revenues received by SWB from the pool and to increase the revenues the independents received from the pool, then any refund of money resulting from the decrease to the ICAC should be contingent upon the redistribution of pooled revenues. In that event, they argued, SWB should redistribute revenues to the other pool members before those members are required to refund ICAC revenues to their customers.

The recommendation to synchronize redistribution of pool revenues with refunds to customers is an outgrowth of the staff's proposal regarding redistribution of pooled revenues and concurrent reduction of the ICAC. However, because this report recommends against adoption of the staff's proposal, no timing problem should occur. Other than the timing issue, there was no evidence that refunds could not be made by the local companies within 90 days of the final order in Phase II. If the Commission declines to adopt this recommendation, however, and instead orders the redistribution of pooled toll revenues as urged by the staff, then such redistribution should occur prior to the independents' making the required refunds of ICAC revenues.

3. Interest Rate

Although all parties agreed that refunds should be made if access charges set in this proceeding are lower than the interim rates, not all agreed upon what interest rate should be paid along with the refunds. Three proposals were made: (1) no interest should be paid; (2) interest of 6 percent per year should be paid; or (3) interest of 9.37 percent per year should be paid.

The main proponents of the view that no interest should accompany the refunds were Continental and GTSW. (Reply Brief of Continental at 19 and Reply Brief of GTSW at 13.) Continental argued that prejudgment interest historically has been ordered to be paid only when the amount in dispute is fixed or exactly determined. No citations to case law accompanied this assertion. GTSW argued that payment of any amount of interest is not in compliance with the spirit of the Commission's Phase I directives because it would prevent the local exchange companies from having an opportunity to earn their actual earned return on toll for 1983. Apparently no interest expense was included in the access revenue requirements because it was neither a known and measurable expense nor a divestiture related expense. Second, GTSW argued that it would be inequitable to expect the local exchange companies to pay interest on any refunds because they relied on the Commission's order setting interim rates.

The position of GTSW and Continental should be rejected by the Commission. The level of interim rates was in large part determined by the local exchange companies themselves. They themselves estimated their access revenue requirements upon which the interim rates were based. The companies were aware from the beginning that any amounts above the permanent rates would be subject to refund, and Commission policy has been to require interest to accompany refunds. In fact, where refunds are mentioned in the PURA, interest is specifically ordered to be paid as well. See PURA section 43(e) and (h). Further, the fact that payment of interest will affect the companies' opportunity to earn their 1983 toll rate of return should not dissuade the Commission from ordering refunds. It appears that the companies did not even attempt to include interest as a known and measurable change to expenses in their toll revenue requirements that could be removed if the Commission ordered no interest payments to be made. At this point, the record is incomplete regarding the level of interest expense simply because the companies chose to include no interest expense as part of the evidence in this docket.

Finally, one purpose of requiring companies to pay interest on refunds is to make the customer whole and to prevent the utility from reaping the benefits of capital which is not theirs to keep. Any excess ICAC revenues would have provided the utilities with a cost-free source of capital and would have deprived the customers of capital that would need to be replaced from some other source at some cost to the customer. To restore the balance, refunds should be accompanied by interest payments. Under this analysis, even GTSW's assertion that return would be reduced by payment of interest is questionable because the companies had the excess available and could have placed it in interest-bearing accounts or had it available for operating or construction expenses in the stead of borrowed or shareholder funds on which interest or dividends would have had to be paid. Thus, it is not clear that the utilities reaped no benefits from the excess ICAC revenues that would neutralize the impact on return that interest payments might have. For these reasons, this report recommends that some rate of interest be paid.

Two alternative interest rates were proposed--6 percent and 9.37 percent. Generally speaking, those who are to pay the interest sought to have the lower rate adopted, and those who are to receive the interest payment sought to have the higher rate adopted. The general counsel and Commission staff recommended payment of 6 percent interest.

The advocates of the 6 percent interest rate argued that such a rate should be used because P.U.C. SUBST. R. 23.43(c)(3) provided that the interest rate on customer deposits was to be 6 percent. On December 2, 1985, however, the Commission established a 7.29 percent interest rate on deposits for the calendar year 1986, and official notice of that change is hereby taken. Continental erroneously argued (Reply Brief of Continental at 20) that the Commission has by rule established payment of the 6 percent rate on customer refunds. This is simply not so. Further, Continental argued that 6 percent is the legal rate of

interest specified by Article 5069-1.03, Tex. Rev. Civ. Stat. Ann. (Vernon Supp. 1986) for all accounts and contracts when no specified rate of interest is agreed upon. Continental argues without citations that the statute has been applied to a wide variety of situations other than written contractual arrangements. Even if one accepts the argument that the 6 percent rate has been applied in many other situations, there is nothing to suggest that it must or should be applied to a rate refund situation.

GTSW also advocated use of 6 percent interest rate on refunds and further suggested that the Commission allow the local exchange companies to amortize the interest payments over a two year period as a cost of access and collect the amount as a surcharge on its carrier common line charge. (Reply Brief of GTSW at 14.) Without doing so, the companies would have no way to recover the expense from their customers, according to GTSW. Because this idea was proposed in GTSW's reply brief, no other comments on it were made by other parties.

The general counsel and staff supported the 6 percent rate because they saw no reason for the refund interest rate to differ from the deposit refund interest rate. Mr. Price noted (Tr. at 7162) that nothing binds the Commission to a 6 percent rate on refunds of a rate charge but said that 6 percent would be a more universal interest rate to use than would be the 9.37 percent rate.

Mr. McElyea testified on behalf of AT&TC that a 9.37 percent fixed interest rate should be used. This was the rate calculated for refunds ordered in Docket No. 5220. The proposal drew criticism from the staff and many independent local exchange companies which argued that SWB's cost of capital should not be imputed to the independents. No evidence was produced to show what the cost of capital was for the independents. However, GTE Sprint argued that a 9.37 percent rate more nearly approximates current cost of debt, which interexchange carriers would have had to bear to finance any overcharges of access rates. (Reply Brief of GTE Sprint at 16.) Also, this party noted that some part of the refund obligation would be borne by SWB, and 9.37 percent represents SWB's most recently-found cost of debt.

The evidence on this issue was poor. The independent local exchange companies never attempted to introduce evidence of their cost of debt, which could be used as the interest rate on refunds. The interexchange carriers never attempted to introduce evidence regarding the cost of debt prevailing during the period in question. Further, no convincing reason was advanced for relying on the Commission rule regarding customer deposits and the interest rate payable on such deposits. As the Commission tacitly acknowledged by establishing a 9.37 percent interest rate for refunds in Docket No. 5220, refunds of overcharges need not and should not be treated as customer deposit refunds. The function of customer deposits and the treatment of deposits in the rule differ from refunds of overcharges. Thus, the rate of interest on refunded deposits should not automatically be applied to the refund of overcharges.

Although some parties claimed that 9.37 percent interest rate, based on SWB's cost of debt, has little relevance for the other local exchange companies, it has more relevance than does 6 percent. The 9.37 percent interest rate represents the cost of debt for one local exchange company, which is more than the 6 percent interest rate represents. The independent companies could have proposed another alternative interest rate based on their specific cost of debt but did not do so. Cost of debt, even if it is only SWB's, is a reasonable basis for determining a refund interest rate because it represents the cost that the companies would have faced to obtain the money that they would otherwise have had to borrow had overcharges not been occurring. Thus, this report recommends that any refunds be accompanied by 9.37 percent interest per year.

GTSW's proposal to amortize the interest expense and collect it as a surcharge on the Carrier Common Line charge should be rejected. GTSW based this proposal on the claim that they have no other way to recover the expense from the ratepayers. This argument ignores the fact that all companies could either have placed any overcharge amount in an interest bearing account or used the excess amount instead of obtaining and paying interest on a loan. The companies have, for two years, reaped the benefits of the overcharges. Paying interest on refunds simply tips the scales back to a more neutral position--it does not result in an unconstitutional confiscation of property.

In summary, this report recommends that the Commission order interest to be paid on the amounts refunded by the local exchange companies to their customers. The interest should be based on an annual simple interest rate of 9.37 percent. No surcharge to recover this expense should be allowed.

4. Duration of Refund Period

Refunds and the calculation of interest should be based on rates paid by AT&TC since January 1, 1984, and paid by the OCCs since July 5, 1984. The termination date of the refund period should be the date on which the interim rates are supplanted by the rates finally approved in this proceeding. As a practical matter, new tariffs will probably not be approved and placed into effect until approximately three weeks after a final order is signed in this docket. Thus, the period for which refunds are calculated should include the time during which compliance tariffs are being prepared and reviewed. When the tariffs are approved, the refund period should terminate. The end of the refund period may differ on a company-by-company basis depending on when a particular company's tariff is approved.

B. General Tariff Issues

At the hearings and in their briefs, parties raised many questions and made suggestions regarding the access tariffs of various companies. Many of the company-specific problems have been discussed previously in this report. This part of the report will concentrate on general issues applicable to all

independent local exchange company tariffs that are awaiting final approval in this docket. Issues to be discussed are the need for consistency in interpretation and application of access tariffs, methods for changing access tariffs in the future, the special access tariffs, WATS credits, application of FG-A rates to the open-end of intraLATA foreign exchange service, and LATA-wide origination and termination for FG-A service.

1. Consistency in Interpretation and Application

In its brief, TEXALTEL concentrated more on tariff issues and specific tariff language than on access revenue requirements and settlement methodology. The brief was helpful in focusing on specific problems that could arise under existing tariff language. Many of the comments applied only to particular parts of GTSW's and Centel's tariffs, such as limitations on access services, customer and company obligations, ordering and billing procedures, technical capabilities of the company's facilities, and cross-referencing. Problems relating to company-specific tariffs have been discussed earlier in this report. However, TEXALTEL raised other general issues also.

One such issue was the nature of some independent companies' concurrence in SWB's access tariff. Although many companies concur in SWB's tariff, TEXALTEL argued that not all provide the same services as offered by SWB; yet the concurring statements do not provide notice to customers of any limitations on access services. TEXALTEL recommended that the Commission require specific statements of services not offered and permit blanket concurrence only if the concurring company is willing and able to provide the same access service under the same terms and conditions as the local company whose tariff it has adopted.

This report agrees with the recommendation of TEXALTEL concerning concurring tariffs. No party offered any good reason not to require specific statements of "non-concurrence." The general counsel noted that a customer can bring a complaint if it discovers that a particular service is not offered, but this suggestion does not solve one problem caused by the absence of the service offering. As TEXALTEL pointed out (Brief of TEXALTEL at 10), a customer may design its network in expectation of services it cannot receive. Advance notification through a specific tariff is simpler, cheaper, faster, and more effective in helping the customer make business decisions than a complaint proceeding would be.

The only other real criticism of TEXALTEL's proposal came from several of the local exchange companies which argued first, that they do provide notice as requested by TEXALTEL and second, that listing all services not provided may impede the provision of new services. (Reply Brief of Undersigned Companies at 10.) Both of the arguments are unpersuasive. The notice that the companies currently give simply states that concurrence is limited to services currently provided or that may be provided in the future. Such tariff language does not notify customers of what services are not provided. Further, the argument that

listing a service not offered would mean that a tariff change would be needed once the service is offered and that delay would result may be correct but is not an adequate reason to refrain from requiring specific notice. A fundamental function of a tariff is to notify customers of services available and rates applicable. The general language currently in concurring tariffs is uninformative at best and misleading at worst. Limitations on services provided should be clearly and specifically expressed in the tariffs.

The general counsel raised another issue related to the phenomenon of concurrence. (Reply Brief of General Counsel at 22.) She noted that concurrence formerly was used for toll tariffs and that all toll rates formerly were pooled. Now, many concurrences are in tariffs that involve no pooling. The general counsel suggested that the Commission may want to consider this issue at some point. No specific recommendation was provided as to whether or not the Commission should approve such concurring tariffs before it in this docket. With an undeveloped record on this matter, this report also makes no recommendation on it.

One problem related to the concurrence phenomenon is that companies may not interpret the same tariff provisions consistently. To solve this problem, TEXALTEL proposed that the Commission establish a committee composed of staff members and local exchange company and interexchange company representatives. The Committee would examine tariff questions, resolve tariff problems, and present recommendations to the Commission.

Many local exchange companies and the general counsel opposed TEXALTEL's proposal. The companies argued that different companies offer different services and have different tariffs because they may face different circumstances. (Reply Brief of Undersigned Companies at 12.) The companies suggested that individual negotiation and accommodation are better approaches than committee vote to solve a problem. Any unresolved disputes can be forwarded to the Commission. The general counsel argued that a committee simply is not a practical solution. Further, the complaint process was said to be a more appropriate means for resolving potential problems.

While the Commission should not discourage attempts by the local exchange companies and the interexchange companies to resolve disputes without recourse to the formal complaint process, this report agrees with the general counsel that a committee is not a practical solution. Parties appearing before the Commission in a formal, official setting tend to behave more inflexibly than they would in private settings or negotiations. Though a committee is not as formal a setting as a contested hearing, it would nevertheless become a Commission-created battleground for opposing ideas and special interests. New, innovative means of problem solving that provide alternatives to lengthy, expensive, and often unproductive hearings should be sought out by the Commission. A formal committee of adversaries is not conducive to resolving problems.

The Cities expressed a different concern about the access tariffs proposed by the local exchange companies and given interim approval by the Commission. They noted that in Phase I the Commission intended to change rates only for the OCCs and AT&TC, not for other customers. Thus, they recommended that the Commission reject any language suggesting that end-user charges have been authorized. Further, they suggested that the Commission carefully review the proposed tariffs to be sure that the local exchange companies are not burying rate changes for other customers in complex tariff provisions, which also could be "designed to serve some AT&T secret agenda to invoke other technicalities to avoid payment of a proper amount to local exchange companies. . . ." (Brief of Cities at 9-10.) The proposed solution is a very short tariff that simply sets forth the per minute rate for premium and non-premium service.

The report endorses the Cities' proposal that language suggesting end-user access charges be rejected. The Cities correctly noted that the Commission rejected the imposition of such charges in Phase I. Further, the Cities also correctly noted that in Docket No. 6147, Petition of the Office of Public Utility Counsel for Emergency Relief Involving General Telephone Company of the Southwest's Rules for FX Customers in Rockwall, Texas, _____ P.U.C. BULL. _____ (May 22, 1985), the Commission determined that rate changes resulting from this docket should be imposed only on AT&TC and the OCCs. This point should be clarified by Commission order in this proceeding also. Finally, careful review and clear, simple language in the tariffs are worthy goals. All parties and the staff should strive to achieve them.

2. Methods for Changing Access Tariffs in the Future

Although the parties and the staff did not request specific relief regarding the manner in which future changes in access tariffs should be made, it is necessary to address the matter in the report because as tariff changes have been filed, the potential for certain types of problems has become apparent. The problems relate to the parity tariffs and the concurring tariffs.

First, parties should understand that simply because parity tariffs may be approved by the Commission in this docket (e.g., parity special access tariffs), the Commission is not indicating any on-going and automatic approval of subsequent changes that may be made at the federal level. If changes are made at the federal level that the local exchange companies wish to incorporate on the state level, they still must file tariff change proposals. The proposals will be processed through the tariff or docketing procedures of the Commission. Any proposal made to comport with rate changes made at the federal level will be docketed, and the company will be required to comply with the statutory and procedural rule notice requirements applicable to rate change proposals.

Second, a similar caution is in order for companies filing a concurring tariff. Concurrence, if approved by the Commission, in another company's tariff

is concurrence in that tariff as it exists on the date the Commission approves the statement of concurrence. Commission approval of a concurrence statement should not imply automatic approval of subsequent revisions made by the company in whose tariff the other company is concurring. For example, if a company is concurring in SWB's toll rate tariff and if SWB changes those rates, the first company cannot automatically increase its toll rates by claiming it has concurred in SWB's tariff and all future changes to the SWB toll tariff. It must file a new statement of concurrence, which will be handled as a tariff filing or docketed matter, whichever is appropriate. If the new concurrence reflects incorporation of another company's rate change, the concurring company must provide notice to its customers of the rate change, pursuant to PURA section 43.

Companies must remember that use of a parity or concurrence tariff does not relieve them of the responsibility of filing tariff and rate change applications when they wish to incorporate new features or rate levels of the interstate tariff or of the intrastate tariffs in which they concur for particular services. The statutory provisions governing rate and tariff changes take precedence over the administrative convenience that would result for both the companies and the Commission if parity or concurring tariffs were to be interpreted as allowing on-going, automatic changes. Further, companies cannot relieve themselves of their obligations by including in their statements of concurrence any language to the effect that the concurrence incorporates any changes. Many companies currently use such language, which, in order to avoid confusion, should be omitted from the compliance tariffs to be filed in this docket.

3. Special Access Tariffs

Parties expressing an opinion on the matter agreed that the Commission should order the local exchange companies to continue to mirror the special access tariffs approved for use on the interstate level. Parties also agreed that it should be the most recently approved special access tariffs that should be mirrored for intrastate use. GTSW, Centel, and United/Palo Pinto, which do not concur with SWB's access tariff, should file their federally-approved special access tariffs with the Commission. The general counsel noted (Reply Brief of General Counsel at 20-21) that in April 1985 the FCC approved special access tariffs for these companies and the NECA tariff in which the other independent local exchange companies concur. Thus, the companies should be able to file parity special access tariffs within 30 days of a final order in this docket.

The general counsel further suggested a procedure by which the NECA tariff should be filed. She noted that the NECA tariff approved by the FCC is not the same as the SWB special access tariff approved in Docket NO. 5220. Thus, concurring companies cannot simply concur in SWB's special access tariff and thereby achieve parity with the FCC-approved special access tariff. General

counsel proposed that one of the concurring companies file the approved NECA tariff so that the others will have something in which to concur. General counsel further suggested that one of the larger concurring companies be the one required to file the NECA tariff because a larger company would have more administrative resources than the smaller ones would. Apparently, no company volunteered to accept the responsibility of filing more than a statement of concurrence.

Although no party specifically objected to adoption of parity special access tariffs, many of the local exchange companies pointed out problems that would result. (Reply Brief of Undersigned Companies at 8-9.) First, they said that adoption of the parity special access tariffs will result in a change to special access revenues from those reported in Phase II; the change in revenues should be reflected in the companies' ICAC requirements and the ICAC rate. Second, the companies were concerned that simply approving any future special access tariff changes made at the federal level would shortchange them on revenues, and they recommended that a procedure be devised to increase the ICAC rate to compensate for any loss of special access revenues. Third, the companies argued that any new special access tariff rates approved now should not be made to apply retroactively. To do so would cause an accounting problem, yet any lost revenues would be made up by an increased ICAC rate. Further, they argued that retroactive applicability of parity special access tariffs would cause the independent companies' tariffs to differ from the SWB tariff in which they concurred. Thus, they recommended that the interim special access rates be approved as permanent rates for the period in which they have been charged. The new parity special access tariffs should be filed and approved on a permanent basis for future use only.

This report recommends that the Commission order companies to file parity special access tariffs within 30 days of the date of the final order in this proceeding. No party opposed this proposal. With regard to the question of which concurring company should file the NECA tariff so that the other companies could then concur, no recommendation is made. Since there is no agreement among the concurring companies, each company should simply file its interstate-approved tariff as its intrastate special access tariff.

Although several companies raised concerns about the parity special access tariffs, none of the concerns requires corrective measures. First, although the companies argued that different special access tariffs will result in different revenues and the ICAC therefore should be adjusted, there is no evidence of the difference in revenues under each tariff; therefore, no adjustment to an ICAC rate or revenue requirement is possible. Also, the companies' argument that revenue impacts caused by future special access rate changes should be reflected in the ICAC rate is moot because of the recommendation that the ICAC be terminated. Insofar as retroactive application of the new special access tariffs is concerned, this report recognizes that some accounting effort would be needed simply to reach the same dollar amount of access revenues, because any

revenues "lost" through retroactive application of the special access tariffs would be recovered through a higher ICAC rate in order to achieve the prescribed access revenue requirement. Also, the independent companies' special access tariffs would, by retroactivity, be made to differ from the SWB tariff in which they concurred. However, such concurrence was approved on an interim basis only. If, in this phase of the docket, the Commission determines that another special access tariff should have been in effect, the interim approval of the concurrence tariff will be rescinded and new tariffs will be substituted for them. The fact that the new ones will not match the special access tariff approved for SWB in Docket No. 5220 is of no consequence. However, because the impact of retroactively changing the special access tariff is revenue neutral since the ICAC revenue requirement would increase, this report recommends that the interim approved special access tariffs be approved on a permanent basis for the period of time in which they were in effect. The parity special access tariffs should be filed as part of the compliance tariffs and put into effect on a prospective basis.

4. WATS Credits

In its brief, TEXALTEL requested that companies concurring in SWB's access tariff be required to interpret and apply consistently the WATS credit provisions. Without any citation to evidence in the record, TEXALTEL asserted that it has encountered different interpretations of the WATS credit provisions from companies that concur in the SWB tariff. (Brief of TEXALTEL at 11.) As a result of different interpretations, some interexchange carriers have engaged in billing disputes with some independent companies, according to TEXALTEL. This party requested that all local exchange carriers be required to adopt consistent tariff provisions with regard to WATS credit provisions and to interpret them similarly. The provisions that TEXALTEL urged be adopted were those explained in an FCC order issued on April 27, 1984, in Docket 83-1145.

Many local exchange companies opposed TEXALTEL's proposal, primarily because they could not understand exactly what TEXALTEL was requesting. (Reply Brief of Undersigned Companies at 12.) They noted that TEXALTEL had not specified the portion of the FCC order to which TEXALTEL referred. Further, they argued that there are many facility arrangements that cause differing application of WATS credits. Also, the companies correctly pointed out that there was no evidence in the record to show that different interpretations and billing disputes are occurring. Finally, even if such disputes are occurring, the complaint process can be used to handle them.

The only other hearing participant to address this matter was the general counsel, who argued that interpretation of the tariffs as suggested by TEXALTEL would circumvent the intention of the FCC and would prevent the local exchange carriers from recovering the switching costs associated with the use of the local network.

This report recommends that TEXALTEL's proposal not be adopted. There was no support in the record for the assertion that problems are occurring. Further, it is not at all clear what TEXALTEL's proposal would entail. The record simply was not well developed on this issue. As some of the local exchange carriers noted, companies must comply with their tariffs. If they are not doing so, a complaint may be brought. Companies should take care in their statements of concurrence to note any differences or limitations that they will enforce with regard to WATS credits. By failing to recommend adoption of TEXALTEL's proposal, this report does not mean to imply that no problem exists or that no better approach could be devised. It simply means that the factual issues, policy decisions, and legal arguments were not well developed in this proceeding. Thus, the Commission should refrain from entering broad rulings on an issue that received very little attention in the evidentiary record from any party in this docket.

5. LATA-wide Origination and Termination Capability for FG-A and FG-B Service

Two parties to the proceedings, TEXALTEL and SP&GSC, encouraged the Commission either to modify some companies' tariffs to provide for LATA-wide termination capabilities for FG-A circuits or to change the rate applicable to the service. First, TEXALTEL noted that neither Centel nor GTSW offers LATA-wide origination and termination for Feature Groups A and B. (Brief of TEXALTEL at 12.) This company argued that the Commission should not approve mirrored interstate rates for these companies because the rates were based on the cost of service that included LATA-wide origination and termination. To mirror the rates without requiring LATA-wide origination and termination capabilities would permit recovery of excess revenues. These arguments were considered and rejected earlier in this report in the sections discussing the GTSW and Centel tariffs in particular.

SP&GSC also expressed concern about the lack of LATA-wide termination for FG-A service. This party's concern stems from its use of intraLATA foreign exchange (FX) circuits in its communications network. Local exchange companies have applied FG-A rates to the dial portion of intraLATA FX instead of the old flat FX rates. SP&GSC noted first that the application of FG-A rates to FX service results in additional revenues that were not included in the TECA filing. This point has already been discussed. Further, SP&GSC suggested that the Commission should find that FG-A access charges do not apply to the open-end of intraLATA FX. (Brief of SP&GSC at 6). In SP&GSC's opinion, this was the Commission's holding in Docket No. 6147, which was OPC's petition involving GTSW's FX rates. However, if the Commission allows the FG-A rates to be applied and requires the companies to report the revenues properly, then it should also require the companies to provide LATA-wide termination over the circuits. SP&GSC claims that termination of LATA-wide scope is necessary for it to configure its network most efficiently and economically. Apparently, SP&GSC is requesting this relief with regard to GTSW, United, and Centel only.

The general counsel disagreed with the SP&GSC proposal regarding intraLATA FX rates and LATA-wide termination. First, she disputed SP&GSC's characterization of the Commission's holding in Docket No. 6147. According to the general counsel, the Commission simply found that the Phase I Order in Docket No. 5113 did not give GTSW the authority to charge FG-A rates at the open-end of FX to business and residential customers; the issue of whether they can be charged for any other customers was not litigated in Docket No. 6147 or in this proceeding. (Reply Brief of General Counsel at 17.) Further, the general counsel said that the tariffs of SWB, GTSW, and Centel show, when the premium transport rates and the FG-A rates are compared, that the companies' intrastate access tariffs were not necessarily based on interstate cost of access service that included the cost of providing LATA-wide termination. (Reply Brief of General Counsel at 18.)

Centel noted that there simply was no evidence to support the contention that its interstate FG-A rates were based on the cost of providing LATA-wide origination and termination capability. Further, it said that its FCC-approved interstate tariff does not require it to provide LATA-wide origination or termination. Centel argued that FCC orders do not compel LATA-wide termination. (Reply Brief of Undersigned Companies at 6-8.) GTSW made similar arguments regarding its interstate tariffs and access costs. (Reply Brief of GTSW at 19-21.)

This report recommends that the Commission not adopt TEXALTEL's and SP&GSC's recommendation regarding LATA-wide termination for FG-A service. The record is totally devoid of evidence to support the contention that FG-A rates were based on access costs that included LATA-wide termination. Further, the evidence cited by SP&GSC in support of the contention that FG-A access charges should not apply to the open-end of intraLATA FX is simply a misinterpretation of the Commission's holding in Docket No. 6147. Finally, the direct testimony offered by SP&GSC through its witness Bruce H. Schremp on the issue of LATA-wide termination was stricken because it was improperly offered during the Group 9 hearing. It could have (and should have) been offered in the hearings dealing with GTSW's, Centel's, and United's tariffs and access revenue requirement but was not. The question of LATA-wide termination is a tariff issue, not an issue related to the TECA methodology. Furthermore, the evidence referred to by SP&GSC in its brief regarding the benefits of LATA-wide termination to the state communications network is not (and should not be) in the record. The need and justification for LATA-wide termination were not proved in this docket, and the Commission therefore should reject SP&GSC's and TEXALTEL's recommendations.

6. SP&GSC's Requests for Clarification of Tariff Treatment

In the testimony of its witness, Mr. Schremp, and in its brief, SP&GSC requested that the Commission clarify exactly what tariff treatment would be accorded certain facilities and services that are part of the State Telecommunications System (STS) network. Again, although SP&GSC asserted that

it has been encountering problems with inconsistent tariff application by various companies, this party did not introduce evidence of such problems in the specific hearings related to each of the local exchange companies. Instead, it waited until the Group 9 hearing to raise questions about certain companies' tariffs and about various tariff problems. For example, SP&GSC requested that the Commission order companies to provide access service directly to the State of Texas as a customer, but Mr. Schremp attempted to testify that only GTSW is refusing to provide such service directly. This testimony was stricken from the Group 9 hearing because it is the type of matter that should have been raised in Group 1, GTSW's hearing. If GTSW continues to refuse to provide such service, SP&GSC may file a complaint. In such a proceeding, SP&GSC may fully develop the record regarding why it should be able to subscribe directly to access service provided by GTSW.

Some testimony offered by SP&GSC was admitted to show the effect that inconsistent tariff applications and revenue reporting methodologies could have on the ICAC calculation. SP&GSC relies on that evidence to request that consistent tariff treatment be ordered. In its brief, SP&GSC specifically requested that the tariff treatment for its Off Network Access Lines (ONALs), its Network Access Lines (NALS), and its detached station lines be determined. (Brief of SP&GSC at 10, 12.) SP&GSC considers the ONALs to be the same type of physical facility as FX lines but says that it cannot determine whether the ONALs will be subject to special access, Private Line, or some other charges for the Private Line portion of its ONALs and whether switched access, flat business line, or some FG-A rate for dial part of intraLATA FX other charges apply to the dial portion.

The source--or at least one source--of SP&GSC's confusion over what rates apply to various facilities is the fact that many of the facilities are provided to SP&GSC by AT&TC. Local exchange companies charge AT&TC one type of rate, but AT&TC charges SP&GSC a different rate. For example, the local companies bill AT&TC switched access charges at the dial tone end of the STS ONALs and special access charges for the dedicated circuit. However, STS pays only the local flat rate to AT&TC for Local Off Network Access Lines (LONALs) and nothing for the dial tone provided to ONALs. (SP&GSC Exhibit No. 27 at 3.) This was the evidence cited by SP&GSC for its assertion that the Commission must clarify tariff treatment for ONALs and other STS facilities.

From the evidence presented, this report finds that any difference in treatment appears to be related to the fact that AT&TC's tariff treatment does not correspond to the local exchange companies' treatment of certain services. At the time of the Group 9 hearing, AT&TC had not completed a rate case in which its tariff could be revised to allow it to restructure certain charges to recover specific access charges imposed by the local companies. Thus, SP&GSC appears to have been reaping some benefits from the time lag between the imposition of access charges by the local exchange companies and AT&TC's revision of its tariff. If SP&GSC does subscribe directly to access services

provided by local exchange companies, it must pay the rates in those companies' tariffs. At that point, AT&TC's tariff treatment of a particular service would become irrelevant. SP&GSC would look to the tariff of the company providing service, not to the tariff of AT&TC, to determine the applicable rates.

Further, SP&GSC offered very limited testimony to show that some local exchange companies are reporting revenues differently and therefore must be treating the state network services differently. (SP&GSC Exhibit No. 27 at 6.) However, the SP&GSC witness contrasted only two companies' treatment of ONALs. For one company, San Marcos Telephone Company, SP&GSC does not directly subscribe to any services offered by it; for the other, Lufkin/Conroe/Alto, SP&GSC subscribes indirectly through AT&TC. (Tr. at 6669.) From this testimony, it again appears that any discrepancy in treatment can be linked to discrepancies between AT&TC's tariff and various local exchange companies' tariffs. In summary, there was no evidence to show that any further clarification of tariff provisions or their applicability is needed. In essence, SP&GSC seems to be requesting that the local exchange companies' tariffs be made to conform to AT&TC's tariff or vice versa. AT&TC's tariff is not at issue in this proceeding and cannot be changed in it; on the other hand, SP&GSC presented no evidence to support the revision of all of the independent companies' tariffs to conform to AT&TC's. Thus, its requests for clarification should be denied. If in fact specific problems develop and some companies appear not to be adhering to their tariffs, SP&GSC may file a complaint. However, no evidence was presented in this docket to show which of the independent companies are not complying with their tariff obligations or are rating services improperly insofar as SP&GSC is concerned.

C. Carrier Common Line Rate

For the Carrier Common Line (CCL) access rate element, the Commission staff proposed that a rate in parity with the FCC-approved rate be continued. The CCL rate approved by the FCC at the time the briefs were filed in this docket was $0.0543 per premium access minute of use. The staff noted that a parity CCL rate is administratively simple, reduces the incentive for tariff shopping, and reduces customer confusion. Further, a reduction in the intrastate CCL rate from the current $0.0603 to the $0.0543 parity rate would reduce the overrecovery of access revenue requirements that some local exchange companies currently are experiencing. For those still overrecovering, the staff recommended that the CCL rate be further adjusted to match revenues and revenue requirements. If reductions are necessary for a company that uses a concurring tariff for the CCL rate, it should simply file an amendment to its concurrence sheet to set out the company-specific CCL rate. The staff found that the following companies should use non-parity CCL rates:

Company	"Make Whole" CCL Rate
Blossom	$0.0367
Centel	0.0274
Century	0.0521
Conroe	0.0378
Mustang	0.0424
SW Arkansas Co-op.	0.0393
Tatum	0.0343

No party disagreed with the staff proposal. SWB requested that the new rate be implemented at the same time as the new CCL rate is established for SWB in Docket No. 6200, in which SWB has requested approval of the $0.0543 rate. However, the staff recommended that for companies concurring in SWB's CCL tariff, an exception could be filed and could set out a different rate from SWB's rate.

This report recommends adoption of the staff proposal for the reasons set forth above. The advantages of parity should be acknowledged except in the instances where parity causes some companies to overrecover their access revenue requirements. In those cases, the CCL rate should be reduced to equalize revenues and revenue requirements. Finally, the new parity CCL and make whole non-parity CCL rates should go into effect immediately upon approval by the Commission rather than after approval of SWB's CCL rate. While the time periods may be very close, the Commission should not permit some companies to continue to overrecover revenues and to require an additional refund calculation simply to match exactly the implementation dates of the new rates for SWB and the independent companies. The method of amending their concurrence sheets suggested by the staff should be used by the companies to implement the appropriate CCL rate, whether it differs from SWB's tariff or from the new interstate tariff because of the need to eliminate overrecovery of revenues.

As alluded to in Section IV.A. above, the need for non-parity "make-whole" CCL rates may be obviated by use of a parity CCL rate lower than $0.0543; however, it will not be known until the Commission staff (and the parties desiring to do so) submit calculations for each of the companies according to the guidelines in this report which companies will still need the non-parity "make-whole" CCL rates. When making the computations for each company, the staff methodology for calculating the non-parity "make-whole" CCL rates should be used for those companies which would overrecover their revenue requirements at each CCL rate ($0.0603/$0.0271; $0.0543/$0.0244; or any other premium/non-premium CCL rate established by the FCC).

D. SP&GSC's Proposed Findings of Fact

In its brief, SP&GSC proposed specific findings of fact to be made by the Commission. (Brief of SP&GSC at 12-26.) Pursuant to APTRA Section 16(b) and P.U.C. PROC. R. 21.108(a)(5), the following rulings are made on each proposed finding of fact.

1. SP&GSC's proposed Findings of Fact Nos. 1 and 7 are not adopted because the proposed findings of fact which support them are not adopted.

2. SP&GSC's proposed Findings of Fact Nos. 2, 3, 7, 23, 24, 26, 48, and 49 are not adopted for the reasons discussed in Sections II.A. and B. of this report.

3. SP&GSC's proposed Findings of Fact Nos. 4, 8, 9, 10, 11, 16, 17, 18, 19, 20, 21, 25, 27, 28, 36, 37, 38, 39, 40, 52, 57, 60, 73, 74, 75, 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 91, 92 and 93 are not adopted because they are irrelevant to the issues in Phase II of this docket.

4. SP&GSC's proposed Findings of Fact Nos. 29, 30, 31, 32, 33, 34, 35, 41, 42, 46, 47, 50, 51, 54 and 79 are not adopted because they do not identify which companies are being referred to; the proposed findings are not specific enough.

5. SP&GSC's proposed Findings of Fact Nos. 12, 13, 14, 22, 55, 56, 70, 71, 72, 76, 79 and 89 are not adopted because they are not proper findings of fact.

6. SP&GSC's proposed Finding of Fact No. 53 concerning special access tariffs is not adopted for the reasons stated in Section V.B.3. of this report.

7. SP&GSC's proposed Findings of Fact Nos. 69, 72, 73, 74, 75 and 76 are not adopted because there is no evidence of record to support them; the portions of SP&GSC's witness's testimony supporting these proposed findings were stricken from the record.

8. SP&GSC's proposed Findings of Fact Nos. 44, 45, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68 are not adopted for the reasons set forth in Sections V.B.5. and 6. of this report.

9. SP&GSC's proposed Finding of Fact No. 15 is not adopted because it is unnecessarily duplicative of findings of fact adopted in the Phase I Orders.

10. SP&GSC's proposed Findings of Fact Nos. 5 and 6 are adopted as Findings of Fact Nos. 50 and 86, respectively, in Section VII.A. below.

VI. Summary

This report recommends specific methodologies for calculating the access revenue requirements, revenues, and ICAC requirements of all independent local exchange companies in Texas. The report also recommends use of SWB's simulated intraLATA toll revenue requirement (adjusted as recommended herein), the TECA per-loop adjustment (the specific amount of which may change when all the calculations are made according to the guidelines of this report) and rejection of the staff's proposed redistribution of pooled intraLATA toll revenues. The

ICAC rate calculation should be made pursuant to the TECA methodology; calculation of "make-whole" CCL rates for any companies still overrecovering their access revenue requirements should be made according to the staff methodology. The ICAC rate element should be terminated as of January 1, 1987.

The interim switched access tariffs of the independent companies, amended as recommended herein, should be given final approval. The interim special access tariffs should be given final approval for the period in which they have been in effect, and new parity special access tariffs should be filed within 30 days of the final order in this docket to be effective on a prospective basis after approval by the Commission.

Refunds of any ICAC overcharges should be made at 9.37 percent simple annual interest and should be completed within 90 days of the final order in this docket.

All other relief not specifically recommended to be granted herein should be denied for want of merit.

VII. Findings of Fact and Conclusions of Law

It is recommended that the Commission adopt the following Findings of Fact and Conclusions of Law.

A. Findings of Fact

1. Phase II of Docket No. 5113 is the result of Commission Orders in Phase I of this docket which directed that evidentiary hearings be held to determine whether the independent local exchange companies had complied with the Commission's Phase I Orders in calculating their access revenue requirements, and whether their access tariffs should be given final approval. The issue of the amount of refunds which might be due was also ordered taken up in Phase II.

2. Prehearing conferences in Phase II were convened on June 15, 1984, July 9, 1984, and September 5, 1984.

3. The parties in Phase II of Docket No. 5113 are the same as the parties in Phase I, with the exception of TEXALTEL, which was allowed to intervene pursuant to the grant of its motion to intervene on June 15, 1984.

4. The independent local exchange companies filed their access tariffs between May 25 and June 4, 1984, pursuant to the Commission's Phase I Orders, and revised them between June 8 and 11, 1984.

5. Centel, United, Palo Pinto and GTSW filed separate tariffs; all other companies filed statements of concurrence in Southwestern Bell's access tariff, with the exception of the Billing and Collection section. Continental filed the

ECA Billing and Collection Services Tariff Section No. 8 in which those independent companies not filing separate tariffs concurred.

6. Following a period of comment on the tariffs by all parties and the Commission staff, the parties were notified on June 28, 1984, that the entire access tariffs would be approved on July 5, 1984, if and only if certain corrections were made by July 3, 1984.

7. On July 5, 1984, before a letter approving the corrected tariffs could be sent to the parties, the Commission was notified that a District Court had entered a temporary restraining order against the Commission, keeping the tariffs from becoming effective.

8. On August 6, 1984, the parties were notified that on August 3, 1984, the District Court's temporary restraining order had been dissolved and that the access tariffs were approved on an interim basis effective July 5, 1984.

9. The parties agreed to the grouping of the independent local exchange companies into eight groups for purposes of hearing, and to the timetable for discovery and prefiling of direct cases.

10. On October 29, 1984, pursuant to motions filed by AT&T, U.S. Tel and general counsel, SWB was ordered to present testimony and other evidence of how the industry calculations were performed for the tariff filing of July 3, 1984, and of how the SWB toll revenue requirement was developed and used in the simulation of the distribution of toll revenue.

11. A ninth hearing and procedural schedule was established for the purpose of taking SWB's evidence.

12. The structure of access charges, including the ICAC rate element, was determined by the Commission in Phase I.

13. The purpose of Phase II is to determine the independent companies' compliance with the Phase I Orders, not to redesign access charges or to determine the legality of the Phase I procedures.

14. The questions of whether this docket should be treated as a major rate case for the independent companies and of whether the ICAC is an illegal subsidization of the interexchange carriers' competitors were decided in Phase I and now are issues to be decided by the courts on appeal.

15. The Commission's Phase I Orders clarified the procedure by which the independent local exchange companies were to calculate their access revenue requirements, apply available revenues and derive their ICAC requirements; this is contained in amended Finding of Fact No. 249 in the Commission's Order signed July 2, 1984.

16. The Commission ordered the independent local exchange companies to use 1983 settlement data, the actual earned toll rate of return for 1983, and known and measurable changes, including the impact of divestiture.

17. The apparent conflict between use of "traditional toll settlements methodologies" and "known and measurable changes" can be resolved by interpretation of the Phase I Orders.

18. The position taken by AT&TC, MCI, GTE Sprint and U.S. Tel, that the Commission ordered that the independent local exchange companies are entitled to replacement of the revenue lost as a result of divestiture and nothing more, is not an accurate interpretation of the Phase I Orders.

19. The position that since the access rates, including the ICAC, established in this docket would be in effect for the 1984-1985 time frame it is appropriate to make adjustments known and measurable at the time of the Phase II hearings to the 1983 data through the 1984-1985 time frame so that the rates would recover the costs of the companies and allow them to earn the 1983 earned rate of return in 1984 and 1985, is not an accurate interpretation of the Commission's Phase I Orders.

20. There is no indication in the Phase I Orders that the overriding goal of the Commission in replacing lost toll was to freeze the NTS cost recovery relationship between intrastate toll and local rates exactly at the 1983 level, since the Commission explicitly required inclusion of the 1984 increases in MTS/WATS and Private Line revenues in the calculations.

21. The Commission did not restrict known and measurable changes to only that of the impact of divestiture.

22. The Commission declined to grant general counsel's motion for rehearing in Phase I on the point that 1983 settlement revenues were the lost toll replacement revenues.

23. The Commission staff's interpretation of the Commission's Phase I Orders correctly reconciles the use of traditional toll settlements methodologies and known and measurable changes by deriving an access revenue requirement for each independent local exchange company using toll settlements methodologies but using 1983 year end expense and investment levels instead of averages and making pro forma adjustments for known and measurable changes based on activity up to but not after December 31, 1983, unless it was a divestiture-related event.

24. The Commission staff complied with the Commission's directives that known and measurable changes, including the impact of divestiture, be recognized in calculating the access revenue requirements of the independent local exchange companies, but correctly limited those known and measurable changes in order to minimize the possibility of revenue enhancement.

25. The Commission did not intend to guarantee the independent local exchange companies a specific rate of return.

26. The staff's approach results in some revenue enchancement, but it is minimized by limiting the known and measurable changes to 1983 activity except for divestiture related events.

27. Bringing the actual 1983 booked expenses to their 1983 year end level is reasonable, since settlement expenses are growing annually faster than revenues, and is particularly appropriate since the Phase I Orders require recognition of 1984 increases in MTS/WATS and Private Line revenues resulting from Docket No. 5220.

28. Prior to January 1, 1984, there were no LATAs and no identification of intrastate toll services and revenues as intraLATA or interLATA.

29. The independent local exchange companies utilized 1983 data to develop their access revenue requirements as ordered by the Commission in the Phase I Orders.

30. Each independent local exchange company utilized a Subscriber Line Use (SLU) analysis of the intraLATA/interLATA nature of sampled messages to develop its own intraLATA (or split) factor, which when multiplied times the its intrastate toll revenue requirement yielded its intraLATA toll revenue requirement.

31. Revenue split factors were applied to the 1983 intrastate MTS and WATS toll billings for each company to identify the intraLATA portion of the 1983 intrastate toll billings for each company; to this was added the ten percent increase in intraLATA MTS revenues ordered in Docket No. 5220 to identify the total amount of toll revenues available to be distributed to the companies.

32. The 1983 Private Line revenues were allocated between intraLATA and interLATA based on each company's relative return on assigned intraLATA Private Line revenue requirement; these amounts were increased by the 30 percent Private Line revenue increase ordered in Docket No. 5220.

33. Even after the increases in MTS and Private Line revenues ordered in Docket No. 5220 were added to the 1983 intraLATA MTS and Private Line revenues, the revenue requirement allocated to the intraLATA arena (using the methodologies described in Findings of Fact Nos. 29 through 32 inclusive) exceeded intraLATA revenues.

34. In order for the revenues to permit recovery of allocated costs plus a uniform rate of return to the toll pool participants, the intraLATA MTS/WATS revenue requirements exceeding revenues were allocated out of the intraLATA toll pool on the basis of access lines. The Private Line revenue requirements in

excess of revenues were allocated on the percentage that each company's return and tax components of its Private Line revenue requirement bears to the industry return and tax components of the total industry Private Line requirement.

35. The amounts allocated out of the intraLATA toll pool, the "shortfall adjustment," fall to the ICAC revenue requirement.

36. The shortfall adjustment is essential to the Commission's plan because use of the SLU factor alone does not recognize the greater contribution of longer haul (usually interLATA) calls to NTS cost recovery; therefore, this shortfall adjustment should be adopted as part of the calculations of access revenue requirements, revenues, and ICAC requirements for the industry.

37. Use of the SLU factor to allocate revenue requirements between intraLATA and interLATA services is reasonable, since there are no cost studies or separations studies available for the local exchange companies to use.

38. Allocating part of the intraLATA revenue requirement to interLATA services does not violate the Commission's Phase I Orders; since the local exchange companies were directed to calculate an access revenue requirement and apply all available revenues (MTS/WATS, Private Line and access revenues), any revenue requirement not met by those revenues falls to the ICAC requirement.

39. Mathematically, the same ICAC requirement would result whether or not the revenue requirements are split between intraLATA and interLATA.

40. The per-loop shortfall adjustment of expense is necessary to determine each independent company's share of the pooled toll revenues.

41. The per-loop adjustment of expense out of the intraLATA toll pool prior to making settlements on intraLATA toll revenues has the effect of maintaining the NTS cost recovery from intraLATA toll at roughly the same level as prior to divestiture.

42. Since revenues from that portion of the toll business (mainly interLATA longer haul traffic) which is no longer provided by the toll partnership (SWB and the independent local exchange companies) now flow to the interexchange carriers as the providers of that service, and recognizing the greater NTS contribution of longer haul calls, it is consistent with the Commission's prior determinations that additional NTS cost support will come not from flat rate end user charges but from the increases in MTS/WATS and Private Line and from the interexchange carriers through the ICAC.

43. The scope of the Group 9 hearing was to determine how the industry calculations in the July 3, 1984, TECA filing were performed.

44. The hearing in Group 9 began on April 8, 1985 and adjourned on May 3, 1985.

45. The TECA filing of July 3, 1984, was made in response to the Commission's May 14, 1984, Order, which set forth the structure of access charges, the continuation of the ICAC, and the manner in which the local exchange companies should calculate their access revenue requirements, which were to be offset by available revenue streams.

46. Since divestiture, the local exchange companies have pooled their intraLATA toll revenues.

47. The intraLATA toll pool contains less revenue than the pre-divestiture intrastate toll pool.

48. Independent local exchange companies receive revenues from the intraLATA toll pool through the settlements process.

49. The revenues received by the independent companies from the intraLATA toll pool affect the ICAC because the ICAC requirement is based on the difference between companies' intrastate access revenue requirements and their post-divestiture revenue streams, including intraLATA toll settlement revenues.

50. It is necessary to determine SWB's intraLATA revenue requirement in this docket only so that every other pool member's percentage share of pooled revenues can be determined and so that the ICAC revenue requirements of the independent local exchange companies can be calculated.

51. According to the evidence produced in Docket No. 5220, the independent companies were to receive total settlement payments of $309,898,000, but the TECA filing showed the total independent intraLATA revenue requirement as $288,598,837.

52. The discrepancy between settlement payments as predicted in Docket No. 5220 and actual settlements payments was the result of overestimation of settlement payments.

53. The overestimation of settlement payments was caused by the fact that settlement procedures and agreements had not yet been finalized by the local exchange companies at the time the estimate was made.

54. The overestimation of settlement payments did not amount to a promise or a representation by SWB to the Commission that settlement payments would be made in the amount or in the manner projected.

55. The estimation of intrastate toll revenues available to SWB from the post-divestiture intraLATA toll pool did not amount to a promise to make the independents whole for their intraLATA toll costs brought to the settlement pool.

56. During the August 30, 1983, meeting between Mr. Klaus and SWB regarding post-divestiture toll revenues, the nature of intraLATA toll pool settlements was not discussed.

57. Even if SWB had "represented" that the settlements agreement after divestiture would cause the independent companies to recover all intraLATA toll costs from the toll pool, SWB had no authority to decide unilaterally the shape of the post-divestiture settlements agreement.

58. The staff methodology to redistribute pooled revenues would result in SWB's pooled costs being determined differently from the other pool members and in SWB's earning a rate of return on its intraLATA toll business that would differ from the rate of return earned by the independent companies, contrary to the holding in Docket No. 3957.

59. The staff's proposal would cause the elimination of the $2.31 per loop adjustment and thus would cause intraLATA toll customers to bear a greater portion of intrastate intraLATA NTS costs than they currently must bear.

60. The staff's proposal would result in an ICAC rate reduction that would benefit the interexchange customers, not the local exchange customers or intraLATA toll customers who were most harmed by any alleged overrecovery by SWB in Docket No. 5220.

61. Under AT&TC's proposal regarding distribution of pooled revenues, the $2.31 per loop adjustment would be eliminated because SWB would pay all of the independent companies their total intraLATA toll costs plus SWB's intrastate toll rate of return.

62. Although the Commission ordered pooling and settlements to continue after divestiture, the specific nature of pooling or settlements was not described. "Traditional settlements methodologies" was the extent of the description given by the Commission.

63. The current settlements process does not deviate in any significant respect from the pre-divestiture process.

64. The Commission's Phase I Order recognized that settlements could not continue in precisely the same manner as existed before divestiture. Findings of Fact Nos. 97, 98, 99, 104, 212, 214, 215, and 221 of the Phase I Final Order recognize the differences.

65. The settlements process begins with a proper determination of costs to be reimbursed from the toll pool.

66. The estimation of intraLATA toll costs using the SLU minutes of use factor alone does not properly reflect the intraLATA toll costs because the SLU factor

alone does not recognize the greater length of haul of interLATA long distance calls.

67. It is necessary to make the $2.31 per loop adjustment to intraLATA toll in order to determine properly the intraLATA toll costs, because such an adjustment compensates for the overallocation of costs resulting from use of SLU alone as an allocator.

68. Because the post-divestiture pooled business differs from the pre-divestiture pooled business, the determination of pooled costs cannot be exactly the same after divestiture as before.

69. Using the $2.31 per loop adjust causes each pool member to remove costs from the intraLATA toll pool in a consistent and reasonable manner.

70. The current settlements methodology distributes revenues to SWB and to the independent companies in a manner similar to pre-divestiture settlements because all parties remove their costs and earn the same rate of return on their pooled business.

71. Although AT&TC characterized SWB's pre-divestiture role as a broker which retained the residual pooled revenues, the decision in Docket No. 3957 actually caused the pool members to share the risk and benefits equally because all members recovered their costs equally and earned the same rate of return on the pooled business.

72. The local exchange companies would earn a return lower than the 1983 actual intrastate toll settlement rate of return if the $2.31 per loop adjustment were removed.

73. A lower rate of return on pooled business would not necessarily lower the ICAC rate because the independents would still be authorized to use the 1983 actual intrastate toll settlement rate of return in their overall access revenue requirement calculation.

74. The intraLATA toll rate of return--rather than SWB's intrastate toll rate of return--should be the basis of revenue distribution from the pool to the independent companies because after divestiture the pooled business is intraLATA toll, not intrastate toll.

75. The fact that pooled toll revenues are now reported to TECA rather than booked by SWB is a purely administrative difference that does not materially affect the pooling or settlements process.

76. The TECA pooling and settlements methodology fairly allocates the intraLATA toll costs and revenues among the pool members and does not deprive the independents of any revenues that should be used to reduce the ICAC requirement.

77. SWB's intraLATA toll revenue requirement is a component of the TECA filing and helps to determine the distribution of revenues and each company's relative share of revenues from the intraLATA toll pool.

78. SWB's simulated intraLATA toll revenue requirement provided to the independent companies for use in the July 3, 1984, TECA filing was $490,138,119.

79. SWB simulated its intraLATA toll revenue requirement by applying LATA factors to its actual 1983 intrastate toll revenue requirement.

80. SWB's intrastate toll directory assistance revenues of $612,241 should be included in the calculation of intraLATA toll revenues to be allocated to the pool members in the TECA filing.

81. New intraLATA revenue factors as reported by Mr. Hutton should be used to calculate intraLATA toll revenues.

82. The 1983 toll settlement rate of return to be used to calculate access revenue requirements is 11.94 percent for all companies except GTSW, for which the rate of return is 12.04 percent, and for the Average Schedule companies, which do not settle on the basis of actual costs.

83. SWB's intraLATA toll revenue requirement did not include any known or measurable changes as did the independent companies' requirements.

84. There was insufficient evidence in this docket to conclude that the LATA factors used by SWB to calculate its intraLATA toll revenue requirement adequately reflect the impact of divestiture.

85. SWB and the independent companies did calculate their intraLATA revenue requirements differently. The difference results in an overstatement of SWB's revenue requirement in relation to the independent companies' revenue requirements.

86. If SWB's claimed revenue requirement is overstated, there will be a dollar-for-dollar increase in the ICAC revenue requirement.

87. A decrease of 11.5 percent should be made to SWB's intraLATA revenue requirement calculated using the 11.94 percent rate of return to approximate the reduction in intrastate revenue requirement resulting from divestiture.

88. In 1983, SWB inadvertently omitted settlement payments to average schedule companies to reflect their CPE phase-out expenses.

89. The average schedule companies' revenue requirements in the TECA filing were understated by $294,614 because of the omission of CPE phase-out payments.

90. SWB's MTS/WATS intraLATA revenue requirement should be reduced by $9,782,771 to reflect the intraLATA operator service expense incurred by the independent companies after divestiture because they now purchase such services from AT&TC rather than from SWB.

91. No official toll cost adjustment other than that included in the 11.5 percent decrease to SWB's intraLATA revenue requirement should be made to reflect the reduction to SWB in the expenses for official toll calls caused by divestiture.

92. Although a CMDS processing expense adjustment should be made for SWB's intraLATA revenue requirement, the amount of the adjustment does not appear in the record.

93. The intraLATA revenue requirement for SWB to be used in the calculation of the independent companies' revenue streams and of the industry ICAC should be recalculated using the 11.94 percent rate of return and the adjustments recommended in Section II.B. of this report.

94. The Carrier Common Line (CCL) rates to be used should be $0.0543 (premium) and $0.0244 (non-premium) unless the Commission finds that different rates have been approved at the interstate level by the FCC and determines that the different rates should be mirrored at the intrastate level.

95. A change in the CCL rates to be used to calculate access revenues will result in a change in the ICAC rate but not in the total revenues to be recovered from access charges paid by interexchange carriers.

96. The Group 1 hearing for GTSW convened as scheduled on October 15, 1984, and adjourned on November 2, 1984.

97. The access revenue requirement for GTSW should be calculated using a 12.04 percent rate of return and the adjustments recommended by this report in Section III.A.2.

98. GTSW's access and intraLATA MTS/WATS and Private Line revenues should be calculated according to the recommendations set forth in Section III.A.3. of this report.

99. The directory assistance provision should be removed from GTSW's tariff and the directory assistance costs recovered through the ICAC, for the reasons set forth in Section III.A.4. of this report.

100. GTSW's ICAC requirement should be calculated as recommended in Section III.A.5. of this report.

101. GTSW's switched access tariff should be amended as recommended in Section III.A.6. above and approved.

102. The Group 2 hearing for Centel convened as scheduled on November 5, 1984, and adjourned on November 12, 1984.

103. Centel's access revenue requirement should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.B.2. of this report.

104. Centel's access and intraLATA MTS/WATS and Private Line revenues should be calculated according to the recommendations set forth in Section III.B.3. of this report.

105. Centel's ICAC requirement should be calculated as recommended in Section III.B.5. of this report.

106. Centel's switched access tariff should be amended as recommended in Sections III.B.6. and V.B.2. of this report and approved.

107. The Group 3 hearing for Alto, Big Bend, Cap Rock, Conroe, Kerrville, Lufkin, Romain, Southwest Texas, Sugar Land, Sweeney-Old Ocean, Texas-Midland and Trinity Valley convened as scheduled on November 26, 1984, and adjourned on November 30, 1984.

108. The access revenue requirement for Romain should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.2.a. of this report.

109. The access and intraLATA MTS/WATS and Private Line revenues for Romain should be calculated according to the recommendations set forth in Section III.C.2.b. of this report.

110. The ICAC requirement for Romain should be calculated as recommended in Section III.C.2.c. of this report.

111. The switched access tariff for Romain should be amended according to the recommendations in Section V.B.2. of this report and approved.

112. The access revenue requirement for Texas-Midland should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.2.a. of this report.

113. The access and intraLATA MTS/WATS and Private Line revenues for Texas-Midland should be calculated according to the recommendations set forth in Section III.C.2.b. of this report.

114. The ICAC requirement for Texas-Midland should be calculated as recommended in Section III.C.2.c. of this report.

115. The switched access tariff for Texas-Midland should be amended according to the recommendations in Section V.B.2. of this report and approved.

116. The access revenue requirement for Trinity Valley should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.2.a. of this report.

117. The access and intraLATA MTS/WATS and Private Line revenues for Trinity Valley should be calculated according to the recommendations set forth in Section III.C.2.b. of this report.

118. The ICAC requirement for Trinity Valley should be calculated as recommended in Section III.C.2.c. of this report.

119. The switched access tariff for Trinity Valley should be amended according to the recommendations in Section V.B.2. of this report and approved.

120. The access revenue requirement for Lufkin should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.3.a. of this report.

121. The access and intraLATA MTS/WATS and Private Line revenues for Lufkin should be calculated according to the recommendations set forth in Section III.C.3.b. of this report.

122. The ICAC requirement for Lufkin should be calculated as recommended in Section III.C.3.c. of this report.

123. The switched access tariff for Lufkin should be amended according to the recommendations in Section V.B.2. of this report and approved.

124. The access revenue requirement for Conroe should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.3.a. of this report.

125. The access and intraLATA MTS/WTS and Private Line revenues for Conroe should be calculated according to the recommendations set forth in Section III.C.3.b. of this report.

126. The ICAC requirement for Conroe should be calculated as recommended in Section III.C.3.c. of this report.

127. The switched access tariff for Conroe should be amended according to the recommendations in Section V.B.2. of this report and approved.

128. The access revenue requirement for Alto should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.3.a. of this report.

129. The access and intraLATA MTS/WATS and Private Line revenues for Alto should be calculated according to the recommendations set forth in Section III.C.3.b. of this report.

130. The ICAC requirement for Alto should be calculated as recommended in Section III.C.3.c. of this report.

131. The switched access tariff for Alto should be amended according to the recommendations in Section V.B.2. of this report and approved.

132. The access revenue requirement for Sugar Land should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.4.a. of this report.

133. The access and intraLATA MTS/WATS and Private Line revenues for Sugar Land should be calculated according to the recommendations set forth in Section III.C.4.b. of this report.

134. The ICAC requirement for Sugar Land should be calculated as recommended in Section III.C.4.d. of this report.

135. The switched access tariff for Sugar Land should be amended according to the recommendations in Section V.B.2. of this report and approved.

136. The access revenue requirement for Sweeney-Old Ocean should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.5.a. of this report.

137. The access and intraLATA MTS/WATS and Private Line revenues for Sweeney-Old Ocean should be calculated according to the recommendations set forth in Section III.C.5.b. of this report.

138. The ICAC requirement for Sweeney-Old Ocean should be calculated as recommended in Section III.C.5.d. of this report.

139. The switched access tariff for Sweeney-Old Ocean should be amended according to the recommendations in Section V.B.2. of this report and approved.

140. The access revenue requirement for Kerrville should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.6.a. of this report.

141. The access and intraLATA MTS/WATS and Private Line revenues for Kerrville should be calculated according to the recommendations set forth in Section III.C.6.b. of this report.

142. The ICAC requirement for Kerrville should be calculated as recommended in Section III.C.6.d. of this report.

143. The switched access tariff for Kerrville should be amended according to the recommendations in Section V.B.2. of this report and approved.

144. The access revenue requirement for Big Bend should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.7.a. of this report.

145. The access and intraLATA MTS/WATS and Private Line revenues for Big Bend should be calculated according to the recommendations set forth in Section III.C.7.b. of this report.

146. The ICAC requirement for Big Bend should be calculated as recommended in Section III.C.7.d. of this report.

147. The switched access tariff for Big Bend should be amended according to the recommendations in Section V.B.2. of this report and approved.

148. The access revenue requirement for Cap Rock should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.8.a. of this report.

149. The access and intraLATA MTS/WATS and Private Line revenues for Cap Rock should be calculated according to the recommendations set forth in Section III.C.8.b. of this report.

150. The ICAC requirement for Cap Rock should be calculated as recommended in Section III.C.8.d. of this report.

151. The switched access tariff for Cap Rock should be amended according to the recommendations in Section V.B.2. of this report and approved.

152. The access revenue requirement for Southwest Texas should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.C.9.a. of this report.

153. The access and intraLATA MTS/WATS and Private Line revenues for Southwest Texas should be calculated according to the recommendations set forth in Section III.C.9.b. of this report.

154. The ICAC requirement for Southwest Texas should be calculated as recommended in Section III.C.9.d. of this report.

155. The switched access tariff for Southwest Texas should be amended according to the recommendations in Section V.B.2. of this report and approved.

156. The Group 4 hearing for Brazoria, Cameron, Colmesneil, Comanche County, Fort Bend, Ganado, Industry, La Ward, Lake, Lake Dallas, Muenster, ALLTELL, Peeples, Riviera and Valley View convened as scheduled on December 17, 1984, and adjourned on December 20, 1984.

157. The access revenue requirement for Colmesneil should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.2.a. of this report.

158. The access and intraLATA MTS/WATS and Private Line revenues for Colmesneil should be calculated according to the recommendations set forth in Section III.D.2.b. of this report.

159. The ICAC requirement for Colmesneil should be calculated as recommended in Section III.D.2.d. of this report.

160. The switched access tariff for Colmesneil should be amended according to the recommendations in Section V.B.2. of this report and approved.

161. The access revenue requirement for Ganado should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.3.a. of this report.

162. The access and intraLATA MTS/WATS and Private Line revenues for Ganado should be calculated according to the recommendations set forth in Section III.D.3.b. of this report.

163. The ICAC requirement for Ganado should be calculated as recommended in Section III.D.3.d. of this report.

164. The switched access tariff for Ganado should be amended according to the recommendations in Section V.B.2. of this report and approved.

165. The access revenue requirement for La Ward should be calculated using 11.94 percent rate of return and the adjustments recommended in Section III.D.4.a. of this report.

166. The access and intraLATA MTS/WATS and Private Line revenues for La Ward should be calculated according to the recommendations set forth in Section III.D.4.b. of this report.

167. The ICAC requirement for La Ward should be calculated as recommended in Section III.D.4.d. of this report.

168. The switched access tariff for La Ward should be amended according to the recommendations in Section V.B.2. of this report and approved.

169. The access revenue requirement for Fort Bend should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.5.a. of this report.

170. The access and intraLATA MTS/WATS and Private Line revenues for Fort Bend should be calculated according to the recommendations set forth in Section III.D.5.b. of this report.

171. The ICAC requirement for Fort Bend should be calculated as recommended in Section III.D.5.d. of this report.

172. The switched access tariff for Fort Bend should be amended according to the recommendations in Section V.B.2. of this report and approved.

173. The access revenue requirement for ALLTEL should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.6.a. of this report.

174. The access and intraLATA MTS/WATS and Private Line revenues for ALLTEL should be calculated according to the recommendations set forth in Section III.D.6.b. of this report.

175. The ICAC requirement for ALLTEL should be calculated as recommended in Section III.D.6.d. of this report.

176. The switched access tariff for ALLTEL should be amended according to the recommendations in Section V.B.2. of this report and approved.

177. The access revenue requirements for Muenster and Valley View should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.7.a. of this report.

178. The access and intraLATA MTS/WATS and Private Line revenues for Muenster and Valley View should be calculated according to the recommendations set forth in Section III.D.7.b. of this report.

179. The ICAC requirements for Muenster and Valley View should be calculated as recommended in Section III.D.7.d. of this report.

180. The switched access tariffs for Muenster and Valley View should be amended according to the recommendations in Section V.B.2. of this report and approved.

181. The access revenue requirement for Brazoria should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.8.a. of this report.

182. The access and intraLATA MTS/WATS and Private Line revenues for Brazoria should be calculated according to the recommendations set forth in Section III.D.8.b. of this report.

183. The ICAC requirement for Brazoria should be calculated as recommended in Section III.D.8.d. of this report.

184. The switched access tariff for Brazoria should be amended according to the recommendations in Section V.B.2. of this report and approved.

185. The access revenue requirement for Lake Dallas should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.9.a. of this report.

186. The access and intraLATA MTS/WATS and Private Line revenues for Lake Dallas should be calculated according to the recommendations set forth in Section III.D.9.b. of this report.

187. The ICAC requirement for Lake Dallas should be calculated as recommended in Section III.D.9.d. of this report.

188. The switched access tariff for Lake Dallas should be amended according to the recommendations in Section V.B.2. of this report and approved.

189. The access revenue requirement for Comanche County should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.10.a. of this report.

190. The access and intraLATA MTS/WATS and Private Line revenues for Comanche County should be calculated according to the recommendations set forth in Section III.D.10.b. of this report.

191. The ICAC requirement for Comanche County should be calculated as recommended in Section III.D.10.d. of this report.

192. The switched access tariff for Comanche County should be amended according to the recommendations in Section V.B.2. of this report and approved.

193. The access revenue requirement for Industry should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.11.a. of this report.

194. The access and intraLATA MTS/WATS and Private Line revenues for Industry should be calculated according to the recommendations set forth in Section III.D.11.b. of this report.

195. The ICAC requirement for Industry should be calculated as recommended in Section III.D.11.d. of this report.

196. The switched access tariff for Industry should be amended according to the recommendations in Section V.B.2. of this report and approved.

197. The access revenue requirement for Peeples should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.12.a. of this report.

198. The access and intraLATA MTS/WATS and Private Line revenues for Peeples should be calculated according to the recommendations set forth in Section III.D.12.b. of this report.

199. The ICAC requirement for Peeples should be calculated as recommended in Section III.D.12.d. of this report.

200. The switched access tariff for Peeples should be amended according to the recommendations in Section V.B.2. of this report and approved.

201. The access revenue requirement for Riviera should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.13.a. of this report.

202. The access and intraLATA MTS/WATS and Private Line revenues for Riviera should be calculated according to the recommendations set forth in Section III.D.13.b. of this report.

203. The ICAC requirement for Riviera should be calculated as recommended in Section III.D.13.d. of this report.

204. The switched access tariff for Riviera should be amended according to the recommendations in Section V.B.2. of this report and approved.

205. The access revenue requirement for Lake should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.14.a. of this report.

206. The access and intraLATA MTS/WATS and Private Line revenues for Lake should be calculated according to the recommendations set forth in Section III.D.14.b. of this report.

207. The ICAC requirement for Lake should be calculated as recommended in Section III.D.14.d. of this report.

208. The switched access tariff for Lake should be amended according to the recommendations in Section V.B.2. of this report and approved.

209. The access revenue requirement for Cameron should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.D.15.a. of this report.

210. The access and intraLATA MTS/WATS and Private Line revenues for Cameron should be calculated according to the recommendations set forth in Section III.D.15.b. of this report.

211. The ICAC requirement for Cameron should be calculated as recommended in Section III.D.15.d. of this report.

212. The switched access tariff for Cameron should be amended according to the recommendations in Section V.B.2. of this report and approved.

213. The Group 5 hearing for United and Palo Pinto convened as scheduled on January 7, 1985, and adjourned on January 10, 1985.

214. The access revenue requirements for United and Palo Pinto should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.E.2. of this report.

215. The access and intraLATA MTS/WATS and Private Line revenues for United and Palo Pinto should be calculated according to the recommendations set forth in Section III.E.3. of this report.

216. The Directory Assistance charge in United's and Palo Pinto's tariffs should be deleted and this revenue requirement recovered through the ICAC, as discussed in Section III.E.4. of this report.

217. The ICAC requirements for United and Palo Pinto should be calculated as recommended in Section III.E.5. of this report.

218. The switched access tariffs for United and Palo Pinto should be amended according to the recommendations in Sections III.E.6. and V.B.2. of this report and approved.

219. The Group 6 hearing for Brazos, Central Texas, Coleman County, Colorado Valley, Dell, Eastex, Eastern New Mexico, Etex, Five Area, Guadalupe Valley, Hill Country, Mid-Plains, Peoples, Poka-Lambro, Santa Rosa, South Plains, Southwest Arkansas, Taylor, Valley, Wes-Tex, West Texas, and XIT convened as scheduled on January 28, 1985, and adjourned on January 29, 1985.

220. The access revenue requirement for XIT should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.2.a. of this report.

221. The access and intraLATA MTS/WATS and Private Line revenues for XIT should be calculated according to the recommendations set forth in Section III.F.2.b. of this report.

222. The ICAC requirement for XIT should be calculated as recommended in Section III.F.2.d. of this report.

223. The switched access tariff for XIT should be amended according to the recommendations in Section V.B.2. of this report and approved.

224. The access revenue requirement for Peoples should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.3.a. of this report.

225. The access and intraLATA MTS/WATS and Private Line revenues for Peoples should be calculated according to the recommendations set forth in Section III.F.3.b. of this report.

226. The ICAC requirement for Peoples should be calculated as recommended in Section III.F.3.d. of this report.

227. The switched access tariff for Peoples should be amended according to the recommendations in Section V.B.2. of this report and approved.

228. The access revenue requirement for Santa Rosa should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.4.a. of this report.

229. The access intraLATA MTS/WATS and Private Line revenues for Santa Rosa should be calculated according to the recommendations set forth in Section III.F.4.b. of this report.

230. The ICAC requirement for Santa Rosa should be calculated as recommended in Section III.F.4.d. of this report.

231. The switched access tariff for Santa Rosa should be amended according to the recommendations in Section V.B.2. of this report and approved.

232. The access revenue requirement for South Plains should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.5.a. of this report.

233. The access and intraLATA MTS/WATS and Private Line revenues for South Plains should be calculated according to the recommendations set forth in Section III.F.5.b. of this report.

234. The ICAC requirement for South Plains should be calculated as recommended in Section III.F.5.d. of this report.

235. The switched access tariff for South Plains should be amended according to the recommendations in Section V.B.2. of this report and approved.

236. The access revenue requirement for Taylor should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.6.a. of this report.

237. The access and intraLATA MTS/WATS and Private Line revenues for Taylor should be calculated according to the recommendations set forth in Section III.F.6.b. of this report.

238. The ICAC requirement for Taylor should be calculated as recommended in Section III.F.6.d. of this report.

239. The switched access tariff for Taylor should be amended according to the recommendations in Section V.B.2. of this report and approved.

240. The access revenue requirement for Valley should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.7.a. of this report.

241. The access and intraLATA MTS/WATS and Private Line revenues for Valley should be calculated according to the recommendations set forth in Section III.F.7.b. of this report.

242. The ICAC requirement for Valley should be calculated as recommended in Section III.F.7.d. of this report.

243. The switched access tariff for Valley should be amended according to the recommendations in Section V.B.2. of this report and approved.

244. The access revenue requirement for Wes-Tex should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.8.a. of this report.

245. The access and intraLATA MTS/WATS and Private Line revenues for Wes-Tex should be calculated according to the recommendations set forth in Section III.F.8.b. of this report.

246. The ICAC requirement for Wes-Tex should be calculated as recommended in Section III.F.8.d. of this report.

247. The switched access tariff for Wes-Tex should be amended according to the recommendations in Section V.B.2. of this report and approved.

248. The access revenue requirement for Brazos should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.9.a. of this report.

249. The access and intraLATA MTS/WATS and Private Line revenues for Brazos should be calculated according to the recommendations set forth in Section III.F.9.b. of this report.

250. The ICAC requirement for Brazos should be calculated as recommended in Section III.F.9.d. of this report.

251. The switched access tariff for Brazos should be amended according to the recommendations in Section V.B.2. of this report and approved.

252. The access revenue requirement for Central Texas should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.10.a. of this report.

253. The access and intraLATA MTS/WATS and Private Line revenues for Central Texas should be calculated according to the recommendations set forth in Section III.F.10.b. of this report.

254. The ICAC requirement for Central Texas should be calculated as recommended in Section III.F.10.d. of this report.

255. The switched access tariff for Central Texas should be amended according to the recommendations in Section V.B.2. of this report and approved.

256. The access revenue requirement for Coleman County should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.11.a. of this report.

257. The access and intraLATA MTS/WATS and Private Line revenues for Coleman County should be calculated according to the recommendations set forth in Section III.F.11.b. of this report.

258. The ICAC requirement for Coleman County should be calculated as recommended in Section III.F.11.d. of this report.

259. The switched access tariff for Coleman County should be amended according to the recommendations in Section V.B.2. of this report and approved.

260. The access revenue requirement for Eastex should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.12.a. of this report.

261. The access and intraLATA MTS/WATS and Private Line revenues for Eastex should be calculated according to the recommendations set forth in Section III.F.12.b. of this report.

262. The ICAC requirement for Eastex should be calculated as recommended in Section III.F.12.d. of this report.

263. The switched access tariff for Eastex should be amended according to the recommendations in Section V.B.2. of this report and approved.

264. The access revenue requirement for Etex should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.13.a. of this report.

265. The access and intraLATA MTS/WATS and Private Line revenues for Etex should be calculated according to the recommendations set forth in Section III.F.13.b. of this report.

266. The ICAC requirement for Etex should be calculated as recommended in Section III.F.13.d. of this report.

267. The switched access tariff for Etex should be amended according to the recommendations in Section V.B.2. of this report and approved.

268. The access revenue requirement for Guadalupe Valley should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.14.a. of this report.

269. The access and intraLATA MTS/WATS and Private Line revenues for Guadalupe Valley should be calculated according to the recommendations set forth in Section III.F.14.b. of this report.

270. The ICAC requirement for Guadalupe Valley should be calculated as recommended in Section III.F.14.d. of this report.

271. The switched access tariff for Guadalupe Valley should be amended according to the recommendations in Section V.B.2. of this report and approved.

272. The access revenue requirement for Hill Country should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.15.a. of this report.

273. The access and intraLATA MTS/WATS and Private Line revenues for Hill Country should be calculated according to the recommendations set forth in Section III.F.15.b. of this report.

274. The ICAC requirement for Hill Country should be calculated as recommended in Section III.F.15.d. of this report.

275. The switched access tariff for Hill Country should be amended according to the recommendations in Section V.B.2. of this report and approved.

276. The access revenue requirement for Southwest Arkansas should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.16.a. of this report.

277. The access and intraLATA MTS/WATS and Private Line revenues for Southwest Arkansas should be calculated according to the recommendations set forth in Section III.F.16.b. of this report.

278. The ICAC requirement for Southwest Arkansas should be calculated as recommended in Section III.F.16.d. of this report.

279. The switched access tariff for Southwest Arkansas should be amended according to the recommendations in Section V.B.2. of this report and approved.

280. The access revenue requirement for Poka-Lambro should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.17.a. of this report.

281. The access and intraLATA MTS/WATS and Private Line revenues for Poka-Lambro should be calculated according to the recommendations set forth in Section III.F.17.b. of this report.

282. The ICAC requirement for Poka-Lambro should be calculated as recommended in Section III.F.17.d. of this report.

283. The switched access tariff for Poka-Lambro should be amended according to the recommendations in Section V.B.2. of this report and approved.

284. The access revenue requirement for Mid-Plains should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.18.a. of this report.

285. The access and intraLATA MTS/WATS and Private Line revenues for Mid-Plains should be calculated according to the recommendations set forth in Section III.F.18.b. of this report.

286. The ICAC requirement for Mid-Plains should be calculated as recommended in Section III.F.18.d. of this report.

287. The switched access tariff for Mid-Plains should be amended according to the recommendations in Section V.B.2. of this report and approved.

288. The access revenue requirement for West Texas should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.19.a. of this report.

289. The access and intraLATA MTS/WATS and Private Line revenues for West Texas should be calculated according to the recommendations set forth in Section III.F.19.b. of this report.

290. The ICAC requirement for West Texas should be calculated as recommended in Section III.F.19.d. of this report.

291. The switched access tariff for West Texas should be amended according to the recommendations in Section V.B.2. of this report and approved.

292. The access revenue requirement for Dell should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.20.a. of this report.

293. The access and intraLATA MTS/WATS and Private Line revenues for Dell should be calculated according to the recommendations set forth in Section III.F.20.b. of this report.

294. The ICAC requirement for Dell should be calculated as recommended in Section III.F.20.d. of this report.

295. The switched access tariff for Dell should be amended according to the recommendations in Section V.B.2. of this report and approved.

296. The access revenue requirement for ENMR should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.21.a. of this report.

297. The access and intraLATA MTS/WATS and Private Line revenues for ENMR should be calculated according to the recommendations set forth in Section III.F.21.b. of this report.

298. The ICAC requirement for ENMR should be calculated as recommended in Section III.F.21.d. of this report.

299. The switched access tariff for ENMR should be amended according to the recommendations in Section V.B.2. of this report and approved.

300. The access revenue requirement for Five Area should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.22.a. of this report.

301. The access and intraLATA MTS/WATS and Private Line revenues for Five Area should be calculated according to the recommendations set forth in Section III.F.22.b. of this report.

302. The ICAC requirement for Five Area should be calculated as recommended in Section III.F.22.d. of this report.

303. The switched access tariff for Five Area should be amended according to the recommendations in Section V.B.2. of this report and approved.

304. The access revenue requirement for Colorado Valley should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.F.23.a. of this report.

305. The access and intraLATA MTS/WATS and Private Line revenues for Colorado Valley should be calculated according to the recommendations set forth in Section III.F.23.b. of this report.

306. The ICAC requirement for Colorado Valley should be calculated as recommended in Section III.F.23.d. of this report.

307. The switched access tariff for Colorado Valley should be amended according to the recommendations in Section V.B.2. of this report and approved.

308. The Group 7 hearing for Continental convened as scheduled on February 18, 1985, and adjourned on February 19, 1985.

309. The access revenue requirement for Continental should be calculated using the 11.94 percent rate of return and the adjustments recommended in Section III.G.2. of this report.

310. The access and intraLATA MTS/WATS and Private Line revenues for Continental should be calculated according to the recommendations set forth in Section III.G.3. of this report.

311. The ICAC requirement for Continental should be calculated as recommended in Section III.G.5. of this report.

312. The switched access tariff for Continental should be amended according to the recommendations in Section V.B.2. of this report and approved.

313. The Group 8 hearing for Alenco, Blossom, Byers-Petrolia, Century, Community, Cumby, Electra, Knippa, Lipan, Livingston, Mustang, San Marcos, Tatum, Tri-County and Waterwood convened as scheduled on March 18, 1985, and adjourned the same day.

314. The access revenue requirement for Alenco should be calculated as recommended in Section III.H.3.a. of this report.

315. The access and intraLATA MTS/WATS revenues for Alenco should be calculated according to the recommendations set forth in Section III.H.3.b. of this report.

316. The ICAC requirement for Alenco should be calculated as recommended in Section III.H.3.d. of this report.

317. The switched access tariff for Alenco should be amended according to the recommendations in Section V.B.2. of this report and approved.

318. The access revenue requirement for Blossom should be calculated as recommended in Section III.H.4.a. of this report.

319. The access and intraLATA MTS/WATS revenues for Blossom should be calculated according to the recommendations set forth in Section III.H.4.b. of this report.

320. The ICAC requirement for Blossom should be calculated a recommended in Section III.H.4.d. of this report.

321. The switched access tariff for Blossom should be amended according to the recommendations in Section V.B.2. of this report and approved.

322. The access revenue requirement for Livingston should be calculated as recommended in Section III.H.5.a. of this report.

323. The access and intraLATA MTS/WATS and Private Line revenues for Livingston should be calculated according to the recommendations set forth in Section III.H.5.b. of this report.

324. The ICAC requirement for Livingston should be calculated as recommended in Section III.H.5.d. of this report.

325. The switched access tariff for Livingston should be amended according to the recommendations in Section V.B.2. of this report and approved.

326. The access revenue requirement for Byers-Petrolia should be calculated as recommended in Section III.H.6.a. of this report.

327. The access and intraLATA MTS/WATS and Private Line revenues for Byers-Petrolia should be calculated according to the recommendations set forth in Section III.H.6.b. of this report.

328. The ICAC requirement for Byers-Petrolia should be calculated as recommended in Section III.H.6.d. of this report.

329. The switched access tariff for Byers-Petrolia should be amended according to the recommendations in Section V.B.2. of this report and approved.

330. The access revenue requirement for Community should be calculated as recommended in Section III.H.7.a. of this report.

331. The access and intraLATA MTS/WATS and Private Line revenues for Community should be calculated according to the recommendations set forth in Section III.H.7.b. of this report.

332. The ICAC requirement for Community should be calculated as recommended in Section III.H.7.d. of this report.

333. The switched access tariff for Community should be amended according to the recommendations in Section V.B.2. of this report and approved.

334. The access revenue requirement for Cumby should be calculated as recommended in Section III.H.8.a. of this report.

335. The access and intraLATA MTS/WATS revenues for Cumby should be calculated according to the recommendations set forth in Section III.H.8.b. of this report.

336. The ICAC requirement for Cumby should be calculated as recommended in Section III.H.8.d. of this report.

337. The switched access tariff for Cumby should be amended according to the recommendations in Section V.B.2. of this report and approved.

338. The access revenue requirement for Electra should be calculated as recommended in Section III.H.9.a. of this report.

339. The access and intraLATA MTS/WATS and Private Line revenues for Electra should be calculated according to the recommendations set forth in Section III.H.9.b. of this report.

340. The ICAC requirement for Electra should be calculated as recommended in Section III.H.9.d. of this report.

341. The switched access tariff for Electra should be amended according to the recommendations in Section V.B.2. of this report and approved.

342. The access revenue requirement for Knippa should be calculated as recommended in Section III.H.10.a. of this report.

343. The access and intraLATA MTS/WATS revenues for Knippa should be calculated according to the recommendations set forth in Section III.H.10.b. of this report.

344. The ICAC requirement for Knippa should be calculated as recommended in Section III.H.10.d. of this report.

345. The switched access tariff for Knippa should be amended according to the recommendations in Section V.B.2. of this report and approved.

346. The access revenue requirement for Lipan should be calculated as recommended in Section III.H.11.a. of this report.

347. The access and intraLATA MTS/WATS and Private Line revenues for Lipan should be calculated according to the recommendations set forth in Section III.H.11.b. of this report.

348. The ICAC requirement for Lipan should be calculated as recommended in Section III.H.11.d. of this report.

349. The switched access tariff for Lipan should be amended according to the recommendations in Section V.B.2. of this report and approved.

350. The access revenue requirement for Tri-County should be calculated as recommended in Section III.H.12.a. of this report.

351. The access and intraLATA MTS/WATS and Private Line revenues for Tri-County should be calculated according to the recommendations set forth in Section III.H.12.b. of this report.

352. The ICAC requirement for Tri-County should be calculated as recommended in Section III.H.12.d. of this report.

353. The switched access tariff for Tri-County should be amended according to the recommendations in Section V.B.2. of this report and approved.

354. The access revenue requirement for Waterwood should be calculated as recommended in Section III.H.13.a. of this report.

355. The access and intraLATA MTS/WATS and Private Line revenues for Waterwood should be calculated according to the recommendations set forth in Section III.H.13.b. of this report.

356. The ICAC requirement for Waterwood should be calculated as recommended in Section III.H.13.d. of this report.

357. The switched access tariff for Waterwood should be amended according to the recommendations in Section V.B.2. of this report and approved.

358. The access revenue requirement for Century should be calculated as recommended in Section III.H.14.a. of this report.

359. The access and intraLATA MTS/WATS and Private Line revenues for Century should be calculated according to the recommendations set forth in Section III.H.14.b. of this report.

360. The ICAC requirement for Century should be calculated as recommended in Section III.H.14.d. of this report.

361. The switched access tariff for Century should be amended according to the recommendations in Section V.B.2. of this report and approved.

362. The access revenue requirement for Mustang should be calculated as recommended in Section III.H.15.a. of this report.

363. The access and intraLATA MTS/WATS and Private Line revenues for Mustang should be calculated according to the recommendations set forth in Section III.H.15.b. of this report.

364. The ICAC requirement for Mustang should be calculated as recommended in Section III.H.15.d. of this report.

365. The switched access tariff for Mustang should be amended according to the recommendations in Section V.B.2. of this report and approved.

366. The access revenue requirement for San Marcos should be calculated as recommended in Section III.H.16.a. of this report.

367. The access and intraLATA MTS/WATS and Private Line revenues for San Marcos should be calculated according to the recommendations set forth in Section III.H.16.b. of this report.

368. The ICAC requirement for San Marcos should be calculated as recommended in Section III.H.16.d. of this report.

369. The switched access tariff for San Marcos should be amended according to the recommendations in Section V.B.2. of this report and approved.

370. The access revenue requirement for Tatum should be calculated as recommended in Section III.H.17.a. of this report.

371. The access and intraLATA MTS/WATS and Private Line revenues for Tatum should be calculated according to the recommendations set forth in Section III.H.17.b. of this report.

372. The ICAC requirement for Tatum should be calculated as recommended in Section III.H.17.d. of this report.

373. The switched access tariff for Tatum should be amended according to the recommendations in Section V.B.2. of this report and approved.

374. The methodology for setting access charges in this docket and the ICAC access rate element are temporary.

375. The Commission has not made any permanent decisions concerning any of the methodologies utilized in this docket.

376. The major difficulty of continuing the pooled ICAC rate element is the need to reset the rate for all local exchange companies each time any one company changes its rates, which is impractical at best.

377. The ICAC access rate element should be eliminated as of January 1, 1987. This will give the local exchange companies ample time to make refunds, assess the need for rate relief and file for rate relief if necessary.

378. The methodology proposed by staff witness Price for calculating refunds of access charges is uncontested and is a reasonable method of determining refund liability--except for the determination of refunds to OCCs.

379. The evidence showed that refunds can be made within 90 days of the final order in this docket.

380. For OCCs the method of determining refunds proposed by Mr. Price is reasonable except that revenues paid by OCCs to the independent companies between January 1, 1984, and July 5, 1984, should not be considered to be access charges paid under tariff.

381. The charges paid by the OCCs to the independent companies between January 1 and July 5, 1984, were contract charges, not access charges paid under tariff.

382. The evidence showed that the local exchange companies have the financial ability to make refunds.

383. Payment of no interest on refunds would result in the independent companies' having the use of cost free capital for two years at the expense of their customers.

384. There was no convincing evidence that payment of interest will materially affect the local companies' opportunity to earn their 1983 toll rate of return.

385. A 9.37 percent interest rate better approximates the cost of debt for independent companies than does a six percent rate.

386. Deposit refunds and rate overcharge refunds are not the same and should not automatically bear the same interest rate.

387. The 9.37 interest rate represents the cost of debt for one local exchange company (SWB); no other local company's cost of debt was introduced into evidence.

388. Not allowing GTSW to collect any interest expense as a surcharge on the CCL charge does not necessarily result in a loss of revenues to GTSW because it could have placed excess ICAC revenues in an interest bearing account.

389. The refund period should begin on January 1, 1984, for AT&TC and on July 5, 1984, for the OCCs and should terminate on the date of approval of the compliance tariff of each independent local exchange company.

390. Many local exchange companies that concur in other companies' tariffs do not adequately inform customers through their concurring tariffs of services not available to customers.

391. The record on the extent to which concurrence should be allowed was inadequate to support any recommendation of changes.

392. Problems of inconsistent interpretation can be handled adequately through the Commission's complaint procedures.

393. The most recently approved interstate special access tariffs for all local exchange companies except SWB should be mirrored for intrastate use in order to maintain parity with regard to these tariffs.

394. New special access tariffs should be filed by the independent local exchange companies within thirty days of a final order in this docket.

395. The new special access tariff should not be applied retroactively because to do so would cause accounting problems but would not affect the total access revenue amount.

396. There is no evidence in the record to support TEXALTEL's proposal to interpret and apply consistently the WATS credit provisions of the independent local exchange companies' tariffs.

397. Neither Centel nor GTSW offers LATA-wide termination or origination for FG-A or FG-B service.

398. There is no evidence to show that the interstate rates for FG-A and FG-B were based on the costs of the services that included LATA-wide origination and termination.

399. There is no evidence that local exchange companies are treating STS Network Services inconsistently under their tariffs.

400. Although AT&TC may be treating STS Network Services differently than the local exchange companies are, the difference in treatment does not require the local exchange companies to conform to AT&TC's tariff.

401. There was no credible evidence to support SPGSC's argument that the local companies' tariffs needed to be revised to attain consistency in treatment of various services.

402. At the close of the evidentiary record in this docket, the CCL rate approved by the FCC was $0.0543 per premium access minute of use.

403. A parity CCL rate should be continued because it is administratively simple, reduces the incentive for tariff shopping, and reduces customer confusion; therefore, the Commission should adopt the CCL rate currently approved by the FCC.

404. An adjustment to the parity CCL rate of $0.0543 is needed to prevent overrecovery of access revenue requirements by the following companies; at that CCL rate, the following substituted CCL rates will prevent overrecovery and should be adopted if the $0.0543 CCL rate remains in effect for other independent local exchange companies:

Blossum	$0.0367
Centel	$0.0274
Century	$0.0521
Conroe	$0.0378
Mustang	$0.0424
SW Arkansas Co-op.	$0.0393
Tatum	$0.0343

405. The Commission does not adopt SP&GSC's proposed Findings of Fact Nos. 1 through 4, inclusive, and 7 through 93, inclusive, for the reasons given in Section V.D. of this report.

B. Conclusions of Law

1. The Commission has jurisdiction of this matter pursuant to PURA Sections 2, 16, 18, 37, 38 and 42, and its own orders of May 14, 1984, and July 2, 1984, in Phase I of this docket.

2. It is not within the scope of Phase II to relitigate the decisions made in Phase I; rather, the purpose of Phase II is to investigate whether the local exchange companies complied with the directives of the Phase I Orders.

3. In Phase I, the local exchange companies were ordered to pool their intraLATA toll revenue after divestiture.

4. In Phase I, the Commission ordered that settlements procedures should be used to develop access revenue requirements for establishing the ICAC rate.

5. The settlements methodology currently used by SWB and the independent companies is in compliance with the Commission's Phase I Order.

6. SWB's intraLATA toll revenue requirement, its ICAC revenues, and its access tariffs are not at issue in this docket.

7. Even if SWB's rates in Docket No. 5220 were based in part on a settlements methodology that would produce less revenue for SWB than the one currently in use, the Commission cannot adjust SWB's rates in this docket to correct the assumed overrecovery of revenues.

8. The independents and SWB are not required by the terms of the Phase I Orders to re-negotiate their settlements agreements to match the agreement that SWB at one time speculated would exist among the local exchange companies but which in fact did not and does not exist.

9. The Commission has never ordered in Docket No. 5220 nor in Phase I of Docket No. 5113 that the settlements contract make the independents whole (i.e., that the independents would recover all of their intraLATA toll costs before SWB recovers any revenues from the pool).

10. The redistribution of pooled toll revenues proposed by the staff would produce a result similar to that found to be unlawful and inequitable in Docket No. 3957 and would itself be inequitable.

11. The redistribution of pooled toll revenues proposed by the staff is not in compliance with the Phase I Orders because it would cause intraLATA toll

customers to bear a greater portion of intrastate intraLATA NTS costs than they currently must bear.

12. The staff's proposal to reduce the ICAC by $37.7 million and to require the renegotiation of the settlement contract is rejected because it is not supported by the evidence and is not in accord with the Commission's Orders in Phase I or its policy as expressed in Docket No. 3957.

13. The $2.31 per loop adjustment does not cause the TECA methodology to fail to comply with the Phase I Orders.

14. The post-divestiture pooling and settlements methodology used by the local exchange companies is in compliance with the Commission's Phase I Orders.

15. Additional settlements revenues should not be imputed to the independent companies for the purpose of calculating the ICAC because to do so would also impute a settlements methodology not in compliance with the Phase I Orders.

16. SWB was not required to file an intraLATA toll revenue requirement reflecting known and measurable changes, including the impact of divestiture.

17. Although SWB did not violate the Phase I Orders by not filing an access revenue requirement reflecting known and measurable changes, including divestiture-related changes, its intraLATA revenue requirement was not calculated in a manner similar to the other companies. Thus, the distribution of revenues from the pool is skewed in SWB's favor.

18. In order to reflect the appropriate distribution of toll revenues, SWB's intraLATA toll revenue requirement (recalculated using the 11.94 percent rate of return and other recommended adjustments) should be reduced by 11.5 percent, for purposes of calculation of the distribution of toll revenues only, as discussed in Section II.B.3.a. above.

19. CPE phase-out expense totalling $294,614 should be included in the average schedule companies' revenue requirements.

20. The access revenue requirements, revenues, and ICAC requirements for all the independent local exchange companies calculated as described in Findings of Fact Nos. 97-101, 103-106, 108-155, 157-212, 214-218, 220-307, 309-312, and 314-373, inclusive, will comply with the directives of the Phase I Orders.

21. PURA sections 31 and 32 require that local exchange companies list the services offered and rates charged; to list a service that is not offered or to omit conditions of service would cause a tariff not to be in compliance with the PURA.

22. PURA sections 31 and 32 require limitations on services to be specified in the tariffs.

23. In Phase I, the Commission rejected the imposition of end user charges. Thus, any tariff references to such charges should be eliminated.

24. The rates determined in this docket should be applied to interexchange carriers only.

25. A company wishing to change its tariff to be in parity with an interstate tariff or a tariff in which the company is concurring must file its own rate or tariff change application as required by PURA section 43.

26. Parity special access tariffs are in compliance with the Phase I Orders.

27. The Commission did not find in Docket No. 6147 that FG-A access charges do not apply to the open end of intraLATA FX.

28. The Commission should not require LATA-wide termination or origination of FG-A or FG-B service.

29. The Phase I Orders required that refunds be made after the conclusion of Phase II on a customer-by-customer basis to reflect the difference between the total access charges paid under the interim tariffs and the total charges that would have been paid under the final Order in Phase II; the refund mechanism set forth in Findings of Fact Nos. 378 through 389 inclusive complies with the Phase I Orders.

30. The payment of refunds should be accompanied by the payment of interest in accordance with Commission policy and the PURA.

31. No Commission rule specifies the rates of interest on customer deposits.

32. A 9.37 percent interest rate on refunds is reasonable.

33. All relief not affirmatively granted herein should be denied.

Respectfully submitted,

Mary Ross McDonald

MARY ROSS McDONALD
ADMINISTRATIVE LAW JUDGE

APPROVED on this the 16th day of May 1986.

Rhonda Colbert Ryan

RHONDA COLBERT RYAN
DIRECTOR OF HEARINGS

km

DOCKET NO. 5113

PETITION OF THE PUBLIC UTILITY COMMISSION OF TEXAS FOR AN INQUIRY CONCERNING THE EFFECTS OF THE MODIFIED FINAL JUDGMENT AND THE ACCESS CHARGE ORDER UPON SOUTHWESTERN BELL TELEPHONE COMPANY AND THE INDEPENDENT TELEPHONE COMPANIES OF TEXAS	§	PUBLIC UTILITY COMMISSION OF TEXAS

PROPOSED
ORDER

In public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that the above-styled application was heard and processed in accordance with applicable statutes and Commission rules by an administrative law judge who prepared and filed a report containing Findings of Fact and Conclusions of Law, which Examiner's Report is hereby ADOPTED and made a part hereof. The Commission further issues the following Order:

1. The access revenue requirements, revenues, and ICAC requirements for the independent local exchange companies SHALL be calculated according to the recommendations in the Examiner's Report.

2. SWB's access revenue requirement and revenues SHALL be calculated according to the recommendations in the Examiner's Report and utilized only for the purpose of simulating the distribution of the pooled toll revenues in order to determine the toll revenues available to the independent local exchange companies.

3. Within 20 days after the date of this Order, each independent local exchange company SHALL file with the Commission five copies of all pertinent switched access tariff sheets revised to incorporate all the directives of this Order, and SHALL serve one copy upon each party of record and the general counsel. No later than ten days after the date of the switched access tariff filing by each independent local exchange company, parties SHALL file any objections to the switched access tariff proposal of each independent local exchange company, and the general counsel SHALL file the staff's comments recommending approval or rejection of the individual sheets of each independent local exchange company's switched access tariff proposal. No later than 15 days after the date of the switched access tariff filing by each independent local exchange company, all parties and the general counsel SHALL file in writing any responses to the previously filed comments of other parties. The Hearings Division SHALL by letter approve or reject each switched access tariff sheet, effective the date of the letter, based upon the materials

submitted to the Commission under the procedure established herein. The switched access tariff sheets SHALL be deemed approved and SHALL become effective upon expiration of 20 days after the date of filing, in the absence of written notification of approval or rejection by the Hearings Division. In the event that any switched access tariff sheets are rejected, the independent local exchange company SHALL file proposed revisions of those switched access tariff sheets within ten days after that letter, with the review procedures set out above again to apply. Copies of all filings and of the Hearings Division letter(s) under this procedure SHALL be served on all parties of record and the general counsel.

4. Within 20 days after the date of this Order, Southwestern Bell Telephone Company (SWB) SHALL file with the Commission five copies of all pertinent switched access tariff sheets revised to incorporate the ICAC rate found by the Commission and adopted by this Order, and SHALL serve one copy upon each party of record and the general counsel. No later than ten days after the date of SWB's tariff filing, parties SHALL file any objections to the tariff proposal of SWB, and the general counsel SHALL file the staff's comments recommending approval or rejection of the individual tariff sheets of SWB's tariff proposal. No later than 15 days after the date of the tariff filing by SWB, all parties and the general counsel SHALL file in writing any responses to the previously filed comments of other parties. The Hearings Division SHALL by letter approve or reject each tariff sheet, effective the date of the letter, based upon the materials submitted to the Commission under the procedure established herein. The tariff sheets SHALL be deemed approved and SHALL become effective upon expiration of 20 days after the date of filing, in the absence of written notification of approval or rejection by the Hearings Division. In the event that any sheets are rejected, SWB SHALL file proposed revision of those sheets within ten (10) days after that letter, with the review procedures set out above again to apply. Copies of all filings and of the Hearings Division letter(s) under this procedure SHALL be served on all parties of record and the general counsel.

5. The interim special access tariffs of the independent local exchange companies are hereby APPROVED for the period for which they have been and will be in effect.

6. Within 30 days of the date of this Order, each independent local exchange company SHALL file with the Commission five copies of its parity special access tariff or its statement of concurrence

in the parity special access tariff filed at this Commission by another independent local exchange company. The parity special access tariff or concurrence sheet(s) of every independent local exchange company SHALL be filed under cover separate from its switched access tariff sheets filed pursuant to paragraph 2 of this Order. Each independent local exchange company SHALL serve one copy of its parity special access tariff or concurrence sheet(s) upon each party of record and the general counsel. No later than 15 days after the date of the parity special access tariff or concurrence sheet(s) filing by each independent local exchange company, parties SHALL file any objections to the parity special access tariff proposal of each independent local exchange company, and the general counsel SHALL file the staff's comments recommending approval or rejection of the individual parity special access tariff or concurrence sheet(s) of each independent local exchange company's parity special access tariff proposal. No later than 25 days after the date of the parity special access tariff or concurrence sheet(s) filing by each independent local exchange company, all parties and the general counsel SHALL file in writing any responses to the previously filed comments of other parties. The Hearings Division SHALL by letter approve or reject each parity special access tariff or concurrence sheet, effective the date of the letter, based upon the material submitted to the Commission under the procedure established herein. The parity special access tariff or concurrence sheet(s) SHALL be deemed approved and SHALL become effective upon expiration of 30 days after the date of filing, in the absence of written notification of approval or rejection by the Hearings Division. In the event that any parity special access tariff or concurrence sheets are rejected, the independent local exchange company SHALL file proposed revisions of those parity special access tariff or concurrence sheets within ten days after that letter, with the review procedures set out above again to apply. Copies of all filings and of the Hearings Division letter(s) under this procedure SHALL be served on all parties of record and the general counsel.

7. No sooner than November 1, 1986, and no later than November 26, 1986, SWB and the independent local exchange companies SHALL file with the Commission five copies of all pertinent switched access tariff sheets revised to eliminate the Interexchange Carrier Access Charge (ICAC) rate to be effective January 1, 1987. No local exchange company is authorized to charge the ICAC rate after December 31, 1986.

8. Within 90 days after the date of this Order, SWB and the independent local exchange companies SHALL have made refunds of access charges calculated pursuant to the directives of this Order, including simple interest of 9.37 percent per annum. Within 120 days after the date of this Order, each local exchange company SHALL file five copies with the Commission of its proof that it has made the refunds ordered herein. One copy of its proof SHALL be served on each party of record and the general counsel. Such proof SHALL be in the form of the affidavit of a person authorized to make an affidavit on behalf of the local exchange company for which it is made, and SHALL state the name of the customer(s) to whom a refund was made, and the amount and the date of that refund.

9. This Order is effective the date it is signed.

10. All relief not affirmatively granted herein is DENIED.

SIGNED AT AUSTIN, TEXAS on this the _____ day of May 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: _____
PEGGY ROSSON

SIGNED: _____
DENNIS L. THOMAS

SIGNED: _____
JO CAMPBELL

ATTEST:

_____
RHONDA COLBERT RYAN
SECRETARY OF THE COMMISSION

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DOCKET NO. 5113

PETITION OF THE PUBLIC UTILITY COMMISSION OF TEXAS FOR AN INQUIRY CONCERNING THE EFFECTS OF THE MODIFIED FINAL JUDGMENT AND THE ACCESS CHARGE ORDER UPON SOUTHWESTERN BELL TELEPHONE COMPANY AND THE INDEPENDENT TELEPHONE COMPANIES OF TEXAS

PUBLIC UTILITY COMMISSION OF TEXAS

ORDER

In a public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that the above-styled application was heard and processed in accordance with applicable statutes and Commission rules by an administrative law judge who prepared and filed both a report containing Findings of Fact and Conclusions of Law and a supplemental report, which Examiner's Report and Supplemental Examiner's Report are hereby ADOPTED and made a part hereof, with the following amendments:

1. The recommendation in Section IV.B. (page 235) of the Examiner's Report that the ICAC rate element should be eliminated as of January 1, 1987, is not adopted. Finding of Fact No. 377 and Conclusion of Law No. 26 therefore are not adopted. The proceeding to be initiated by the general counsel of the Public Utility Commission of Texas pursuant to the Commission's Order in Docket No. 6200 shall be the forum for investigating alternative methods for recovery of non-traffic sensitive costs.

2. The recommendation in Section V.A.1. (pages 236-239) of the Examiner's Report and in Section II.B. (page 5) of the Supplemental Examiner's Report is not adopted; instead, Southwestern Bell Telephone Company (SWB) shall use the same methodology for calculating refunds as is recommended for the independent local exchange companies.

3. The recommendation in Section V.B.3. (pages 247-249) of the Examiner's Report and in Section II.F. (pages 8-9) of the Supplemental Examiner's Report that the interstate special access tariffs approved April 1, 1985, should be adopted at the intrastate level is not adopted. Findings of Fact Nos. 393, 394, and 395 therefore are not adopted.

4. The exception of Fort Bend Telephone Company to paragraph 5(b) (pages 133-134) of the Examiner's Report is hereby GRANTED, and the report is AMENDED to show Fort Bend's AT&TC special access revenues to be $6,376 and its AT&TC ancillary revenues to be $125,700.

5. The exception of the general counsel of the Public Utility Commission of Texas regarding the FG-A minutes of use for Conroe Telephone Company, Kerrville Telephone Company, and Sugar Land Telephone Company is hereby GRANTED. The Examiner's Report is AMENDED to reflect that use of 9,000 assumed minutes of use per OCC FG-A trunk in calculating FG-A access revenues for these companies is appropriate. Finding of Fact No. 125 is amended to read as follows:

125. The access and intraLATA MTS/WATS and private line revenues for Conroe should be calculated according to the recommendations set forth in Section III.C.3.b. of this report, except that 9,000 assumed minutes of use should be used in calculating FG-A access revenues for Conroe.

Finding of Fact No. 133 is amended to read as follows:

133. The access and intraLATA MTS/WATS and private line revenues for Sugar Land should be calculated according to the recommendations set forth in Section III.C.4.b. of this report, except that 9,000 assumed minutes of use should be used in calculating FG-A access revenues for Sugar Land.

Finding of Fact No. 141 is amended to read as follows:

141. The access and intraLATA MTS/WATS and private line revenues for Kerrville should be calculated according to the recommendations set forth in Section III.C.6.b. of this report, except that 9,000 assumed minutes of use should be used in calculating FG-A access revenues for Kerrville.

6. The Joint Calculations (filed July 25, 1986) should be corrected as described in the letter from the Texas Exchange Carrier Association (TECA) filed on August 25, 1986. The OCC FG-A revenues of General Telephone Company of the Southwest (GTSW) at Tabs 9, 10, and 11, page 11, line 104 should be the same OCC FG-A revenues of $4,136,321 as reported at Tab 7, page 11, line 104. This correction results in a decrease of $76,827 to GTSW's ICAC requirement as shown in the calculations at Tabs 9, 10 and 11 a corresponding decrease to the total industry ICAC requirement shown at Tabs 9, 10, and 11.

7. The pre-Docket No. 6200 access tariff of Southwestern Bell Telephone Company SHALL be amended to reflect the provisions of this Order and, as amended, SHALL be maintained as the access tariff of the concurring independent local exchange companies.

8. The access tariff of each local exchange company SHALL provide that any person (not just interexchange carriers) may subscribe to the switched and/or special access tariff of that local exchange company.

9. The exception of General Telephone Company of the Southwest (GTSW) that the Cities should be reimbursed in this docket for expenses incurred in Docket No. 5113 is DENIED; this issue should be addressed in GTSW's pending rate case, Docket No. 5610.

The Commission further issues the following Order:

10. The access revenue requirements, revenues, and ICAC requirements for the independent local exchange companies SHALL be calculated according to the recommendations in the Examiner's Report and the Supplemental Examiner's Report, as amended by this Order.

11. SWB's access revenue requirement and revenues SHALL be calculated according to the recommendations in the Examiner's Report and the Supplemental Examiner's Report, as amended by this Order, and utilized only for the purpose of simulating the distribution of the pooled toll revenues in order to determine the toll revenues available to the independent local exchange companies.

12. The interim switched and special access tariffs of the independent local exchange companies as amended by this Order are approved. The effective date of these tariffs will be established as set forth in paragraph 15 below.

13. Within 20 days after the date of this Order, each independent local exchange company SHALL file with the Commission five copies of only those switched and special access tariff sheets which require revision in order to incorporate all the directives of this Order, and SHALL serve one copy upon each party of record and the general counsel. Each independent local exchange company SHALL, in its statement of concurrence, identify clearly and specifically any limitations on the access services which that company provides as compared to the access services described in the pre-Docket No. 6200 SWB access tariff. No later than ten days after the date of the filing of the revised switched and special access tariff sheets by each independent local exchange company, parties SHALL file any objections to the revised switched and special access tariff sheets of each independent

local exchange company, and the general counsel SHALL file the staff's comments recommending approval or rejection of the individual sheets of each independent local exchange company's switched and special access tariff proposal. No later than 15 days after the date of the filing of the revised switched and special access tariff sheets by each independent local exchange company, all parties and the general counsel SHALL file in writing any responses to the previously filed comments of other parties. The Hearings Division SHALL by letter approve or reject each switched and special access tariff sheet, as of the date of the letter, based upon the materials submitted to the Commission under the procedure established herein. The revised switched and special access tariff sheets SHALL be deemed approved upon expiration of 20 days after the date of filing, in the absence of written notification of approval or rejection by the Hearings Division. In the event that any switched or special access tariff sheets are rejected, the independent local exchange company SHALL file proposed revisions of those switched or special access tariff sheets within ten days after that letter, with the review procedures set out above again to apply. Copies of all filings and of the Hearings Division letter(s) under this procedure SHALL be served on all parties of record and the general counsel.

14. Within 20 days after the date of this Order, Southwestern Bell Telephone Company (SWB) SHALL file with the Commission five copies of all pertinent switched access tariff sheets revised to incorporate the ICAC rate found by the Commission and adopted by this Order, and SHALL serve one copy upon each party of record and the general counsel. No later than ten days after the date of SWB's tariff filing, parties SHALL file any objections to the tariff proposal of SWB, and the general counsel SHALL file the staff's comments recommending approval or rejection of the individual tariff sheets of SWB's tariff proposal. No later than

15 days after the date of the tariff filing by SWB, all parties and the general counsel SHALL file in writing any responses to the previously filed comments of other parties. The Hearings Division SHALL by letter approve or reject each tariff sheet, as of the date of the letter, based upon the materials submitted to the Commission under the procedure established herein. The tariff sheets SHALL be deemed approved upon expiration of 20 days after the date of filing, in the absence of written notification of approval or rejection by the Hearings Division. In the event that any sheets are rejected, SWB SHALL file proposed revision of those sheets within ten (10) days after that letter, with the review procedures set out above again to apply. Copies of all filings and of the Hearings Division letter(s) under this procedure SHALL be served on all parties of record and the general counsel.

15. The access tariffs of all independent local exchange companies and SWB's tariff sheets reflecting the ICAC rate established by this Order SHALL become effective only upon written notification by the Hearings Division. That notification will be given only after all local exchange companies have submitted the required tariff sheets revised in compliance with this Order and those tariff sheets have been approved pursuant to the procedures outlined in paragraphs 13 and 14 above. When all tariff filings have been made in compliance with this Order and all compliance tariff filings have been approved, all such compliance tariffs SHALL become effective on the same day as established in the written notification from the Hearings Division. Under this procedure, it is possible that a tariff will have an approval date different from its effective date, as explained in Section II.C. (pages 5-6) of the Supplemental Examiner's Report.

16. Within 90 days after the date of this Order, SWB and the independent local exchange companies SHALL have made refunds of

access charges calculated pursuant to the directives of this Order, including simple interest of 9.37 percent per annum. Within 120 days after the date of this order, each local exchange company SHALL file five copies with the Commission of its proof that it has made the refunds ordered herein. A copy of its proof SHALL be served on each party of record and on the general counsel. Such proof SHALL be in the form of an affidavit of a person authorized to make an affidavit on behalf of the local exchange company for which it is made, and SHALL state the name(s) of the customer(s) to whom a refund was made, and the amount and the date of that refund.

17. This Order is effective the date it is signed.

18. All relief not affirmatively granted herein is DENIED.

SIGNED AT AUSTIN, TEXAS on this the 12th day of September 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: _____
PEGGY ROSSON

SIGNED: _____
DENNIS L. THOMAS

SIGNED: _____
JO CAMPBELL

ATTEST:

_____
RHONDA COLBERT RYAN
SECRETARY OF THE COMMISSION

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DOCKET NO. 5113

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PETITION OF THE PUBLIC UTILITY COMMISSION OF TEXAS FOR AN INQUIRY CONCERNING THE EFFECTS OF THE MODIFIED FINAL JUDGMENT AND THE ACCESS CHARGE ORDER UPON SOUTHWESTERN BELL TELEPHONE COMPANY AND THE INDEPENDENT TELEPHONE COMPANIES OF TEXAS	)	OF TEXAS

ORDER ON REHEARING

On September 12, 1986, the Public Utility Commission of Texas entered an order in the above-styled and numbered docket. Motions for rehearing were filed by the Cities, State Purchasing and General Services Commission (SP&GSC), MCI Telecommunications Corp. (MCI), AT&T Communications of the Southwest, Inc. (AT&T), Texas Association of Long Distance Telephone Companies (TEXALTEL), US Sprint Communications Company (US Sprint) (a party to this proceeding by virtue of the intervenor status granted its predecessor companies US Telephone, Inc. and GTE Sprint Communications Corporation), General Telephone Company of the Southwest (GTSW), and Texas Exchange Carriers' Association (TECA) together with the following local exchange companies: Central Telephone Company of Texas, Conroe Telephone Company, Lufkin Telephone Exchange, Inc., Alto Telephone Company, Sugar Land Telephone Company, Sweeny-Old Ocean Telephone Company, Kerrville Telephone Company, Cameron Telephone Company, General Telephone Company of the Southwest, United Telephone Company of Texas and Palo Pinto Telephone Company, Texas Statewide Telephone Cooperative, Inc. member companies, Alenco Communications, Inc., Blossom Telephone Co., Colmesneil Telephone Co., Inc., La Ward Telephone Co., Inc., Livingston Telephone Company, Southwest Texas Telephone Company, Byers/Petrolia Telephone Company, Brazoria Telephone Company, Community Telephone Company, Inc., Lake Dallas Telephone Company, Inc., Muenster Telephone Corporation of Texas, San Marcos Telephone, Valley View Telephone Co., Cumby Telephone Co-op, Electra Telephone Co., Knippa Telephone Co., Lipan Telephone Co., Waterwood Communications, Inc., Tri-County Telephone Co., Fort Bend Telephone Company, Continental Telephone Company of Texas, Southwestern Bell Telephone Company, ALLTEL Texas, Inc., Mustang Telephone Company, Great Southwest Telephone Corp., Texas-Midland Telephone Company, Trinity Valley Telephone Company, Romain Telephone Company, and Southwest Arkansas Telephone

Cooperative, Inc. Replies to the motions for rehearing were filed by the general counsel of the Public Utility Commission of Texas, Southwestern Bell Telephone Company, AT&T, and MCI.

In open meeting at its offices in Austin, Texas, the Public Utility Commission of Texas has considered said motions for rehearing and replies thereto, and hereby issues the following Order:

1. The motion for rehearing of the Cities is GRANTED with respect to the Cities' request that the Commission's final order be amended to delete Finding of Fact No. 376. The Commission finds that Finding of Fact No. 376 does not support the Commission's decision to reject the recommendation in the Examiner's Report that the ICAC be eliminated. Finding of Fact No. 376 therefore is not adopted.

2. The motion for rehearing of TECA and the local exchange companies is GRANTED with respect to their request that an additional finding of fact and conclusion of law be adopted which support the Commission's determination that the ICAC rate element should be continued. The Commission therefore adopts the following finding of fact and conclusion of law:

> Finding of Fact No. 406. The Commission finds that the Interexchange Carrier Access Charge (ICAC) is a reasonable substitute for end user charges because it requires interexchange carriers using local exchange plant to originate and terminate interexchange calls to share in the NTS costs of that plant. The Commission further finds that this non-traffic sensitive cost recovery mechanism should not be eliminated in the absence

of a thorough investigation of alternative methods for recovery of non-traffic sensitive costs.

Conclusion of Law No. 34. For the reasons stated in the Phase I Order and in the exceptions of the parties who recommended continuation of the ICAC rate element, the Commission finds such rate element to be a just and reasonable mechanism for recovery of non-traffic sensitive costs.

3. The motion for rehearing of TECA and the other local exchange carriers is GRANTED with respect to their request that the Commission adopt an additional finding of fact and conclusion of law which support the Commission's determination that the interim special access tariffs should be approved on a final basis. The Commission therefore adopts the following finding of fact and conclusion of law:

Finding of Fact No. 407. The special access tariffs currently in place for the independent telephone companies should be continued; although these tariffs are not at parity with the interstate special access tariffs, these tariffs are the only tariffs which were presented on the record.

Conclusion of Law No. 35. Although the Commission recognizes there are a number of problems with the special access tariffs currently charged by the local telephone companies, no other tariffs were presented on the record below, nor could the revenue effects of any alternative tariffs be considered due to lack of evidence.

The Commission further issues the following Order:

3. In all other respects, the requests for relief contained in the motions for rehearing and replies thereto are hereby DENIED for lack of merit.

4. This Order hereby incorporates by reference all aspects of the Order of September 12, 1986, including all findings of fact and conclusions of law made by the Commission in that Order, except as expressly amended, deleted, or supplemented by this Order.

SIGNED AT AUSTIN, TEXAS on this the 17th day of November 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: _____
PEGGY ROSSON

SIGNED: _____
DENNIS L. THOMAS

SIGNED: _____
JO CAMPBELL

ATTEST:

_____
PHILLIP A. HOLDER
SECRETARY OF THE COMMISSION