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Case Numbers: 96-1310-TP-COI

Date: 04/20/2009

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January 14, 2004 in this proceeding
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January 14, 2004

CONFIDENTIAL

Ms. Renee Jenkins
Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, OH 43215

Re: Case No. 96-1310-TP-COI
Confidential Supplemental Rebuttal Testimony of Michael Starkey

Dear Ms. Jenkins:

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, I am submitting to you under seal a Confidential Version of the Supplemental Rebuttal Testimony of Michael Starkey in the above matter which contain confidential information. The confidential information is contained on pp. 5 and 14. A Public Version of the testimony was filed with the Docketing Division. I have also filed a Motion for Protective Order seeking confidential treatment of the subject pages of the Supplemental Rebuttal Testimony.

A copy is being served upon Assistant Attorney General Satterwhite pursuant to Section 4901.16, Revised Code and a copy is being served upon Mr. Bergmann of the Ohio Consumers' Counsel under his office's protective agreement with SBC Ohio.

Please treat these three copies as confidential and keep them under seal.

Sincerely yours,

Stephen M. Howard

Stephen M. Howard

SMH/mlk

Enclosures

cc: Bill Adams
Dave Bergmann
Matt Satterwhite (all with encl.)

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Investigation into the Implementation of)
Section 276 of the Telecommunications) Case No. 96-1310-TP-COI
Act of 1996 Regarding Pay Telephone)
Services)

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SUPPLEMENTAL REBUTTAL TESTIMONY

OF

MICHAEL STARKEY

On behalf of

Payphone Association of Ohio

January 14, 2004

CONFIDENTIAL VERSION

Data which SBC Ohio has identified as "Confidential" is highlighted in the following manner ** __ **. This information is redacted from the PUBLIC VERSION.

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Michael Starkey. My business address is QSI Consulting, Inc., 703 Cardinal Street, Jefferson City, Missouri 65101-3748.

Q. ARE YOU THE SAME MICHAEL STARKEY WHO HAS PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

A. On August 4, 2003, SBC Ohio filed the testimony of Dr. Kent Currie and Ms. Helen Watkins. Included with Dr. Currie's testimony were a number of cost studies (and supporting documentation), upon which Dr. Currie replied in constructing SBC's New Services Test proposal. In my initial rebuttal testimony I complained that the timing of SBC Ohio's new cost study made an in depth review particularly difficult given the testimony schedule as original established in this docket. Likewise, the Payphone Association of Ohio filed with the Commission a number of motions first asking that the cost studies be stricken, and in the alternative, that more time be provided for me to review the underlying study. The Commission granted additional time to review the study. This supplemental rebuttal testimony is the result of that additional time granted by the Commission, and details the results of my review.

23 Q. CAN YOU SUMMARIZE THE RESULTS OF YOUR HAVING REVIEWED THE
24 SBC OHIO AUGUST 4, 2003 COST STUDIES?

25 A. Even with the additional time and the additional review it allowed, my conclusions
26 remain largely the same as I stated them in my August 18, 2003 rebuttal testimony. That
27 is, SBC's new cost study does not rely upon inputs, assumptions or methodology
28 previously approved by this Commission. Indeed, most of the inputs and assumptions
29 used by SBC in its new cost study are in direct conflict with the same inputs and
30 assumptions previously approved by the Commission in its last proceeding focused
31 primarily upon SBC's underlying costs (i.e., Case No. 96-922-TP-UNC). Perhaps most
32 egregious, SBC's new cost studies do not even rely upon the same underlying cost
33 models as those previously approved by the Commission, but are instead, built around a
34 whole new suite of models this Commission has, for the most part, never reviewed. And,
35 in almost all circumstances, SBC's new inputs and assumptions tend to increase the
36 resultant costs beyond reasonable levels. Finally, it is my understanding that on
37 December 17, 2003 the Commission established a procedural schedule for Case No. 02-
38 1280-TP-UNC wherein the cost models supporting Dr. Currie's August 4, 2003 proposed
39 studies will be studied in detail. Given the sheer magnitude of the studies, and their
40 importance to areas other than pay telephone services (i.e., UNEs, retail, etc.), it is my
41 recommendation that Dr. Currie's August 4, 2003 cost studies should be rejected as a
42 reasonable basis for SBC Ohio's proposed rates in this proceeding, and its initial cost
43 study detailed in my Direct Testimony should be used for that purpose. After the
44 Commission completes its analysis of SBC's new cost models in Case No. 02-1280-TP-
45 UNC, if it then chooses to require SBC to file new payphone studies based upon the

models ultimately adopted therein, with approved inputs and assumptions that would be, in the PAO's (Payphone Association of Ohio's) opinion, a reasonable course of action. However, for purposes of setting rates in this docket, the Commission should require SBC to use the cost studies originally submitted by SBC in this docket (June 2000). To adopt SBC's studies and inputs in this proceeding without any substantitive review by the industry, while at the same time reviewing those exact same models/inputs/assumptions in another docket, would be poor public policy.

Q. GIVEN YOUR DISCUSSION ABOVE, WHAT RATES ARE YOU RECOMMENDING THAT THE COMMISSION ADOPT IN THIS PROCEEDING COMPLIANT WITH THE FCC'S NEW SERVICES TEST?

A. I continue to recommend that the Commission adopt the rates included in my direct testimony in this proceeding. For purposes of reference, below I've included an excerpt from page 5 of my direct testimony which includes the rates I am recommending:

The PAO is recommending that these rates be adopted by the PUCO in this proceeding as SBC Ohio's permanent pay telephone rates.

Rate Element	PAO Proposed Permanent Rate
Access Lines, per month*	
Rate Group B	\$4.72
Rate Group C	\$7.56
Rate Group D	\$10.44
Local Usage**	
Per Minute Rate	\$0.003226

* EUCL has already been removed from these rates as they represent intrastate rate levels that would be recovered in addition to the interstate EUCL charge.

*** Payphone providers would pay for each minute of local usage purchased from SBC Ohio. Payphone providers would not be required to purchase some minimum number of minutes or messages (e.g., SBC Ohio's existing requirement that providers purchase a minimum of 73 local calls).*

Q. IN YOUR INITIAL REBUTTAL TESTIMONY YOU INCLUDED RATES THAT SHOULD BE ADOPTED WERE THE COMMISSION TO, CONTRARY TO YOUR RECOMMENDATION, USE SBC OHIO'S AUGUST 4, 2003 COST STUDIES AS THE BASIS FOR ITS NEW SERVICES TEST APPLICATION. DO THOSE RATES STILL SERVE AS YOUR SECONDARY RECOMMENDATION?

A. Yes, they do. As I've said from the beginning of this case, the two most important decisions to be made by the Commission are as follows: (1) What is the proper manner of allocation, and magnitude of, overhead costs to be applied to payphone services and (2) What is the most accurate rate structure for usage services (i.e., should the rate be per minute consistent with the manner by which costs are incurred, or if the rate is calculated per call, what is the proper average duration to be used to calculate the average cost per call)? While the underlying direct costs to be used are also important, they will have less of an impact on the manner by which SBC Ohio's payphone rates truly reflect their underlying costs than will decisions related to these other two issues. That being said, in my rebuttal testimony I provided rates that I would propose if the Commission decided, contrary to my recommendation, to use SBC Ohio's August 4, 2003 cost studies as the basis for its payphone rates. Those rates are as follows:

****The table below includes information SBC Ohio has claimed to be proprietary in nature****

MONTHLY NETWORK ACCESS			
COCOT Line Exchange Access	Access Area B	Access Area C	Access Area D
Direct Monthly Cost	\$8.87	\$12.72	\$14.06
SBC Intrastate Rate	\$6.32	\$11.40	\$13.17
SBC Interstate SLC	\$5.39	\$5.39	\$5.39
SBC Ohio Total Rate	\$11.71	\$16.79	\$18.56
SBC Ohio Overhead	32.00%	32.00%	32.00%

LOCAL USAGE		
		Source
a. Setup Cost per Call	\$0.000936	SBC Local Usage Study, Tab 3.0c
b. Duration cost per minute	\$0.002865	SBC Local Usage Study, Tab 3.0c
c. Average Duration of Call (in minutes)	1.96	Starkey Direct Testimony, pp. 42-43 and Starkey Rebuttal Testimony, p. 34 and Att. 4
d. Cost of First Minute	\$0.003801	Row A + Row B
e. Cost of Add'l Minutes	\$0.002865	Row B
f. Average Cost per Minute	\$0.003343	Row B + (Row A / Row C)
f1. PAO proposed markup	32%	
f2. PAO proposed per minute rate	\$0.004412	Row F * (1+Row F1)
g. Average Cost Per Call	\$0.006551	Row F * Row C
g1. PAO proposed markup	32%	
g2. PAO proposed per call rate	\$0.008648	Row G * (1+Row G1)
h. Cost per 73 Call Package	\$0.4783	Row G * 73
h1. PAO proposed markup	32%	
h2. PAO Proposed 73 Call Package Rate	\$0.631293	Row H * (1+Row H1)

Q. CAN YOU SUMMARIZE YOUR RECOMMENDATION SPECIFIC TO THE AUGUST 4, 2003 STUDIES AS IDENTIFIED IN THE CHART ABOVE?

A. Yes, if the Commission decides to rely upon the August 4, 2003 cost studies, I would recommend that SBC Ohio's intrastate payphone rates be set as follows:

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Rate Element	PAO Proposed Permanent Rate
Access Lines, per month*	
Rate Group B	\$6.32
Rate Group C	\$11.40
Rate Group D	\$13.17
Local Usage	
Per Minute Rate**	\$0.004412
If Commission decides usage rate should be per 73 call package:	\$0.631293

* *EUCL has already been removed from these rates as they represent intrastate rate levels that would be recovered in addition to the interstate EUCL charge.*

** *Payphone providers would pay for each minute of local usage purchased from SBC Ohio. Payphone providers would not be required to purchase some minimum number of minutes or messages (e.g., SBC Ohio's existing requirement that providers purchase a minimum of 73 local calls).*

Q. IT APPEARS THAT USING SBC OHIO'S AUGUST 4, 2003 STUDIES INSTEAD OF THE STUDY IT PREVIOUSLY FILED IN THIS PROCEEDING WOULD INCREASE THE LOOP RATES BY APPROXIMATELY \$3-\$4 PER MONTH ON AVERAGE. IS THAT CORRECT?

A. Yes, using SBC's new cost study with inputs and assumptions never approved by the Commission would increase rates by a notable degree.

Q. AS DISCUSSED AT PP. 5-6 OF HIS DIRECT TESTIMONY, DR. CURRIE BELIEVES THAT THE NEW SERVICES TEST IS MERELY A METHOD TO EVALUATE A PROPOSED RATE BASED UPON THE PROPOSED RATE BEING AT LEAST AT OR ABOVE THE SERVICE'S DIRECT COST AND

129 **THAT THE PROPOSED RATE MUST BE AT OR BELOW A CEILING THAT**
130 **REFLECTS THE MAXIMUM REASONABLE SHARE OF OVERHEAD**
131 **LOADINGS ATTRIBUTABLE TO THE SERVICE. DO YOU AGREE THAT**
132 **THIS IS THE PURPOSE OF THE NEW SERVICES TEST?**

133 A. I don't necessarily disagree with Dr. Currie on this point, as long as the "*maximum*
134 *reasonable share of overhead loadings attributable to the service*" is an allocation that
135 meets with the FCC's requirements in its *Wisconsin Payphone Decision*.¹ For example,
136 if the Commission were, in this proceeding, to give SBC the latitude to set its payphone
137 rates somewhere between its direct cost floor, and a ceiling equal to its direct costs plus
138 32% (i.e., Option 1 described in the *Wisconsin Payphone Decision* – UNE rate loadings),
139 I don't see a problem with Dr. Currie's description. However, I would substantially
140 disagree if SBC were given latitude to set prices in the somewhat willy nilly fashion
141 proposed by Dr. Currie where one method of attributing overhead is followed for one set
142 of rates while a completely different, and equally unreasonable, method is used for
143 others, with dramatically varying results.²

144
145 Q. **DO YOU AGREE WITH DR. CURRIE AT P. 10 OF HIS DIRECT TESTIMONY**
146 **THAT PRIOR TO THE *WISCONSIN PAYPHONE DECISION*, THE FCC NEVER**
147 **PRECISELY SET A LIMIT ON WHAT IT BELIEVED TO BE A REASONABLE**
148 **AMOUNT OF OVERHEAD LOADINGS FOR PAYPHONE SERVICES?**

¹ In the *Matter of Wisconsin Public Service Commission Order Directing Filings*, Bureau/CPD No. 00-01, released January 31, 2002 (hereafter "*Wisconsin Payphone Decision*").

² Nothing in this sentence should be construed to suggest that I agree even with the method by which Dr. Currie has applied the overhead allocation methodology discussed by the FCC in its *Wisconsin Payphone Decision*. My rebuttal testimony is replete with information criticizing Dr. Currie's application in that regard.

149 A. I would agree that the FCC has never established a precise overhead loading that carriers
150 must apply in compliance with the New Services Test, if by the word "precise" Dr.
151 Currie is referring to a given number. I would disagree, however, that the *Wisconsin*
152 *Payphone Decision* somehow constituted a change in that regard. The *Wisconsin*
153 *Payphone Decision* also doesn't set a precise number, but instead provides the
154 Commission three options it can review in choosing the most reasonable overhead
155 loading. Hence, though Dr. Currie and Ms. Watkins continue to try and portray the
156 *Wisconsin Payphone Decision* as a seminal change in the FCC's policy relative to its
157 New Services Test, the facts just don't support that notion.

158
159 **Q. AT P. 13, LINE 12 OF HIS DIRECT TESTIMONY, DR. CURRIE STATES THAT**
160 **THE USE OF THE LARGEST OVERHEAD LOADING FACTOR IS THE ONLY**
161 **FACTOR THAT IS CONSISTENT WITH THE FCC'S DIRECTIVES WHEN**
162 **DISCUSSING THE THREE METHODOLOGIES PERMITTED BY THE**
163 ***WISCONSIN PAYPHONE DECISION*. DO YOU AGREE?**

164 A. Not at all. As I've described before, the New Services Test was specifically designed to
165 protect against rates for non-competitive services that are too high in relation to their
166 direct costs. As such, in describing the most reasonable manner by which to assess an
167 individual overhead loading proposed by an ILEC, the FCC established the "comparable
168 services standard." That is, the FCC suggested that because overhead loadings attributed
169 to an ILEC's competitive services should, in theory, be somewhat restrained by the
170 market, those overhead allocations should serve as a good proxy for reasonable overhead
171 loadings attributable to comparable non-competitive services wherein no competitive

influence is available. The specific intention of the comparable services standard is to limit the amount of overhead allocation attributable to a given non-competitive service, using overhead for competitive services as a guide, so as to arrive at reasonable rates. Dr. Currie's notion that SBC should be allowed to search and find its most extreme overhead allocation example, and then use that as the benchmark for attributing overhead for all other services, simply isn't consistent with the intention of the New Services Test. Dr. Currie's approach in this regard seems aimed at stretching the "letter of the law" far beyond the "spirit of the law."

Q. WHY DON'T YOU AGREE WITH DR. CURRIE THAT THE PAYPHONE SERVICES USED BY SBC OHIO'S PAYPHONE UNIT SUCH AS NON-RESIDENCE ACCESS LINES, NON-RESIDENCE LOCAL USAGE, AND NON-RESIDENCE INTRALATA TOLL SERVICE ARE COMPARABLE SERVICES FOR PURPOSES OF IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I have two primary disagreements with Dr. Currie's approach. First, I believe the Commission has already reviewed and approved a sophisticated model (i.e., the UNE Shared and Common cost model from Case No. 96-922-TP-UNC) that attempts to measure the overhead costs SBC incurs in producing network related services. In my mind, that is simply the best source of information to be used in attributing a reasonable level of overhead costs to SBC's payphone services. Hence, Dr. Currie's methodology is simply less accurate because a more accurate source of data exists. Second, Dr. Currie has obviously attempted to locate services that produce relatively high levels of overhead

allocation so as to support SBC Ohio's excessive payphone rates. And, this is one of the primary flaws with the *Physical Collocation Order* option chosen by SBC, i.e., it is highly susceptible to manipulation. Were SBC to provide the overhead loadings attributable to other types of "comparable services" it offers (e.g., centrex, private line, inter-LATA toll, etc.), the resultant overhead loadings would be very different from those highlighted by Dr. Currie. Hence, instead of engaging SBC in a battle of comparable services, and likewise bombarding the Commission with multiple "comparable services" alternatives with overhead loadings exhibiting a broad range of values, the PAO believes the more reasoned approach is to rely upon this Commission's past analysis and findings related to overhead costs incurred by SBC Ohio (i.e., the allocation attributed to UNEs).

Q. DR. CURRIE ADMITS AT P. 15 OF HIS DIRECT TESTIMONY THAT THE FCC HAS NOT PROVIDED DETAILED GUIDANCE AS TO THE ESTABLISHMENT OF "COMPARABLE COMPETITIVE SERVICES" IN IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD. IF, IN FACT, THERE HAS NOT BEEN PROVIDED DETAILED GUIDANCE, WHAT DOES THIS SUGGEST IN TERMS OF THE APPROPRIATENESS OF THE USE OF THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I would agree that the *Physical Collocation Tariff Order* option lacks specific clarity regarding the comparable services to be used, largely because it is based upon an FCC order that is quite old, and relatively outdated. In my mind, that is one of the primary reasons it is a less attractive alternative. Nonetheless, the theory behind the comparable services standard (i.e., to limit excessive overhead allocation) is made very clear by the

FCC in numerous orders (including the *Physical Collocation Tariff Order*). Nonetheless, SBC did not attempt to find examples wherein its competitive services exhibited relatively low overhead allocations, but instead chose services with relatively high allocations so as to support its excessive payphone rates. Hence, I find it hard to believe that further clarification on the part of the FCC would have changed SBC Ohio's approach in apply the *Physical Collocation Tariff Order* option.

Q. IF A LRSIC STUDY, INSTEAD OF A TELRIC STUDY, IS USED IN ESTABLISHING DIRECT COSTS, WOULD THERE BE A MISMATCH IN USING OPTION 1--THE UNE METHOD--FOR ALLOCATING OVERHEAD LOADINGS FOR PAYPHONE SERVICES?

A. No, there would not be a mismatch. Long Run Service Incremental Cost studies ("LRSIC") and Total Element Long Run Incremental Cost studies ("TELRIC") largely rely upon the exact same underlying methodology (i.e., Long Run Incremental Cost -- "LRIC" -- analysis). The only difference between the two is the unit of output being studied, i.e., services versus network elements. Because SBC Ohio's UNE overhead allocation methodology is based upon attributing overhead costs as a percentage of direct costs (and not by unit of output, e.g., either the number of services or the number of network elements), as long as direct costs are calculated in a like manner between LRSIC and TELRIC (which they are), overhead costs should be attributable to either LRSIC or TELRIC output without substantial difficulty or "mismatch."

240 **Q. DO YOU BELIEVE THAT THE UNE OVERHEAD METHOD DESCRIBED BY**
241 **THE FCC IS PART AND PARCEL OF THE "COMPARABLE SERVICE**
242 **STANDARD"?**

243 **A.** Yes, I do. I believe in describing the UNE overhead method in its *Wisconsin Payphone*
244 *Decision*, the FCC was actually just adding additional detail to its "comparable service
245 standard" which has governed overhead allocation within the New Services Test for
246 more than a decade. Indeed, the *Wisconsin Payphone Decision* was the first time the
247 FCC had addressed its New Services Test in any substantial way since most states had
248 undergone major TELRIC proceedings. Hence, in my opinion, the FCC was, in the
249 *Wisconsin Payphone Decision*, pointing state commissions to their analysis already
250 completed relative to UNE shared and common costs, and suggesting that the scrutiny
251 applied to those loadings was a good method by which to restrain excessive overhead
252 loadings as had heretofore been accomplished by a review of "comparable services." In
253 effect, the FCC was suggesting that because overhead loadings for UNEs had undergone
254 substantial scrutiny, and those overhead allocations had accordingly been reduced to
255 reasonable levels, UNEs served as a good "comparable service" for purposes of applying
256 the New Services Test to payphone services.

257
258 **Q. AS A REGULATORY BODY, SHOULD THIS COMMISSION EXERCISE**
259 **INDEPENDENT JUDGMENT AND SELECT WHICH OF THE THREE**
260 **OVERHEAD LOADING OPTIONS BEST IMPLEMENTS THE PUBLIC POLICY**
261 **OBJECTIVES OF SECTION 276 OF THE ACT?**

262 A. Yes, in fact, I believe that is its specific charge. This Commission has been tasked with
263 approving cost-based payphone rates consistent with Section 276 of the Act. The FCC
264 has provided its New Services Test as a tool to be used in that regard, and has, in its
265 *Wisconsin Payphone Decision*, provided additional detail regarding its proper
266 application. Nonetheless, at the end of this proceeding, it is this Commission who will be
267 responsible for ensuring that SBC Ohio's pay telephone rates are cost-based, non-
268 discriminatory and effective toward further the development of pay telephone services in
269 Ohio. Hence, this Commission should chose the overhead allocation method that best
270 meets with these requirements, regardless of the method (or multiple methods) SBC has
271 chosen to present in its proposal.

272
273 **Q. DR. CURRIE IS CRITICAL OF THE UNE METHOD, BELIEVING THAT THE**
274 **UNE METHOD ISN'T THE BEST METHOD JUST BECAUSE IT MAY BE**
275 **EASIER TO USE. YET, HE ALSO ADMITS THAT THE USE OF THE**
276 **PHYSICAL COLLOCATION TARIFF ORDER METHOD DOES NOT DEMAND**
277 **THE SAME PRECISION FOR EVALUATING AN OVERHEAD LOADING**
278 **FACTOR AS MIGHT BE NEEDED FOR A UNE OFFERING. CAN YOU**
279 **RECONCILE THESE STATEMENTS?**

280 A. I believe Dr. Currie is referring to the fact that applying a straight percentage overhead
281 amount to SBC's underlying direct costs, as would be required by the UNE allocation
282 method, would be simpler to implement than would his proposal that allows a broad
283 range of overhead amounts based solely upon his finding some comparable service that
284 mimics that particular overhead allocation. Hence, his discussion of its simplicity is

related to its application. I believe his statements regarding the increased precision of the UNE overhead allocation method applies to its derivation, i.e., the process by which it was constructed, critiqued and ultimately approved in Case No. 96-922-TP-UNC. I wholeheartedly agree that the method employed in that docket was far more detailed and precise when compared to Dr. Currie's application of the *Physical Collocation Tariff Order* option. As such, I agree that the UNE overhead loading option is both simpler to apply, and more precisely constructed.

Q. WHAT IS THE APPROPRIATE OVERHEAD LOADING FACTOR THAT YOU RECOMMEND?

A. As I stated in previous testimony, I didn't have a good source for the exact percentage allocator used by SBC as result of the Commission's decisions in Case No. 96-922-TP-UNC. SBC had not, to my knowledge, ever provided that exact percentage, but had instead, simply produced UNE rates which included that specific allocation of shared and common costs.. Hence, I had, in previous testimony, used ****32%**** as a rough estimate/proxy for the exact figure. On September 17, 2003, in response to the PAO's Interrogatory No. 32, SBC Ohio has produced the exact allocator as follows: ****33.64%****. I would recommend the Commission adopt that percentage to be applied to SBC's direct payphone related costs for purposes of generating New Services Test compliant rates.

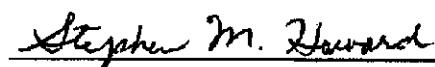
Q. IS DR. CURRIE'S AVERAGE MESSAGE DURATION BASED UPON LOCAL CALLS FROM PAYPHONES?

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- 308 A. No, it is not. In fact, it is not even representative of average business usage patterns
309 which would provide a far better proxy than the information provided by Dr. Currie.
310 Hence, Dr. Currie's average usage data is substantially less accurate and less reliable
311 than the data I provided in my rebuttal testimony taken directly from the Call Detail
312 Records ("CDR") of Ohio's payphone providers.
313
- 314 Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL REBUTTAL TESTIMONY?
- 315 A. Yes, it does.

Certificate of Service

I certify that a copy of the foregoing Confidential and Public Versions of the Supplemental Rebuttal Testimony of Michael Starkey was served upon Bill Adams and Dane Stinson, Bailey Cavaliere LLC, 10 West Broad Street, Suite 2100, Columbus, Ohio 43215; Dave Bergmann and Dirk Winkler, Ohio Consumers Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215; and Matt Satterwhite and Jodi Bair, Assistant Attorneys General, Public Utilities Commission of Ohio, 180 East Broad Street, Ninth Floor, Columbus, Ohio 43215 by hand delivery this 14th day of January, 2004.



Stephen M. Howard

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
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**SUPPLEMENTAL REBUTTAL TESTIMONY
OF
MICHAEL STARKEY**

On behalf of

Payphone Association of Ohio

January 14, 2004

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A. My name is Michael Starkey. My business address is QSI Consulting, Inc., 703 Cardinal Street, Jefferson City, Missouri 65101-3748.

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32 egregious, SBC's new cost studies do not even rely upon the same underlying cost
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34 whole new suite of models this Commission has, for the most part, never reviewed. And,
35 in almost all circumstances, SBC's new inputs and assumptions tend to increase the
36 resultant costs beyond reasonable levels. Finally, it is my understanding that on
37 December 17, 2003 the Commission established a procedural schedule for Case No. 02-
38 1280-TP-UNC wherein the cost models supporting Dr. Currie's August 4, 2003 proposed
39 studies will be studied in detail. Given the sheer magnitude of the studies, and their
40 importance to areas other than pay telephone services (i.e., UNEs, retail, etc.), it is my
41 recommendation that Dr. Currie's August 4, 2003 cost studies should be rejected as a
42 reasonable basis for SBC Ohio's proposed rates in this proceeding, and its initial cost
43 study detailed in my Direct Testimony should be used for that purpose. After the
44 Commission completes its analysis of SBC's new cost models in Case No. 02-1280-TP-
45 UNC, if it then chooses to require SBC to file new payphone studies based upon the

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Q. GIVEN YOUR DISCUSSION ABOVE, WHAT RATES ARE YOU RECOMMENDING THAT THE COMMISSION ADOPT IN THIS PROCEEDING COMPLIANT WITH THE FCC'S NEW SERVICES TEST?

A. I continue to recommend that the Commission adopt the rates included in my direct testimony in this proceeding. For purposes of reference, below I've included an excerpt from page 5 of my direct testimony which includes the rates I am recommending:

The PAO is recommending that these rates be adopted by the PUCO in this proceeding as SBC Ohio's permanent pay telephone rates.

Rate Element	PAO Proposed Permanent Rate
Access Lines, per month*	
Rate Group B	\$4.72
Rate Group C	\$7.56
Rate Group D	\$10.44
Local Usage**	
Per Minute Rate	\$0.003226

* EUCL has already been removed from these rates as they represent intrastate rate levels that would be recovered in addition to the interstate EUCL charge.

*** Payphone providers would pay for each minute of local usage purchased from SBC Ohio. Payphone providers would not be required to purchase some minimum number of minutes or messages (e.g., SBC Ohio's existing requirement that providers purchase a minimum of 73 local calls).*

Q. IN YOUR INITIAL REBUTTAL TESTIMONY YOU INCLUDED RATES THAT SHOULD BE ADOPTED WERE THE COMMISSION TO, CONTRARY TO YOUR RECOMMENDATION, USE SBC OHIO'S AUGUST 4, 2003 COST STUDIES AS THE BASIS FOR ITS NEW SERVICES TEST APPLICATION. DO THOSE RATES STILL SERVE AS YOUR SECONDARY RECOMMENDATION?

A. Yes, they do. As I've said from the beginning of this case, the two most important decisions to be made by the Commission are as follows: (1) What is the proper manner of allocation, and magnitude of, overhead costs to be applied to payphone services and (2) What is the most accurate rate structure for usage services (i.e., should the rate be per minute consistent with the manner by which costs are incurred, or if the rate is calculated per call, what is the proper average duration to be used to calculate the average cost per call)? While the underlying direct costs to be used are also important, they will have less of an impact on the manner by which SBC Ohio's payphone rates truly reflect their underlying costs than will decisions related to these other two issues. That being said, in my rebuttal testimony I provided rates that I would propose if the Commission decided, contrary to my recommendation, to use SBC Ohio's August 4, 2003 cost studies as the basis for its payphone rates. Those rates are as follows:

****The table below includes information SBC Ohio has claimed to be proprietary in nature****

MONTHLY NETWORK ACCESS			
COCOT Line Exchange Access	Access Area B	Access Area C	Access Area D
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SBC Ohio Total Rate	\$11.71	\$16.79	\$18.56
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		Source
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f. Average Cost per Minute	\$0.003343	Row B + (Row A / Row C)
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h. Cost per 73 Call Package	\$0.4783	Row G * 73
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Q. CAN YOU SUMMARIZE YOUR RECOMMENDATION SPECIFIC TO THE AUGUST 4, 2003 STUDIES AS IDENTIFIED IN THE CHART ABOVE?

A. Yes, if the Commission decides to rely upon the August 4, 2003 cost studies, I would recommend that SBC Ohio's intrastate payphone rates be set as follows:

106

Rate Element	PAO Proposed Permanent Rate
Access Lines, per month*	
Rate Group B	\$6.32
Rate Group C	\$11.40
Rate Group D	\$13.17
Local Usage	
Per Minute Rate**	\$0.004412
If Commission decides usage rate should be per 73 call package:	\$0.631293

* *EUCL has already been removed from these rates as they represent intrastate rate levels that would be recovered in addition to the interstate EUCL charge.*

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Q. IT APPEARS THAT USING SBC OHIO'S AUGUST 4, 2003 STUDIES INSTEAD OF THE STUDY IT PREVIOUSLY FILED IN THIS PROCEEDING WOULD INCREASE THE LOOP RATES BY APPROXIMATELY \$3-\$4 PER MONTH ON AVERAGE. IS THAT CORRECT?

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A. Yes, using SBC's new cost study with inputs and assumptions never approved by the Commission would increase rates by a notable degree.

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Q. AS DISCUSSED AT PP. 5-6 OF HIS DIRECT TESTIMONY, DR. CURRIE BELIEVES THAT THE NEW SERVICES TEST IS MERELY A METHOD TO EVALUATE A PROPOSED RATE BASED UPON THE PROPOSED RATE BEING AT LEAST AT OR ABOVE THE SERVICE'S DIRECT COST AND

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129 **THAT THE PROPOSED RATE MUST BE AT OR BELOW A CEILING THAT**
130 **REFLECTS THE MAXIMUM REASONABLE SHARE OF OVERHEAD**
131 **LOADINGS ATTRIBUTABLE TO THE SERVICE. DO YOU AGREE THAT**
132 **THIS IS THE PURPOSE OF THE NEW SERVICES TEST?**

133 A. I don't necessarily disagree with Dr. Currie on this point, as long as the "*maximum*
134 *reasonable share of overhead loadings attributable to the service*" is an allocation that
135 meets with the FCC's requirements in its *Wisconsin Payphone Decision*.¹ For example,
136 if the Commission were, in this proceeding, to give SBC the latitude to set its payphone
137 rates somewhere between its direct cost floor, and a ceiling equal to its direct costs plus
138 32% (i.e., Option 1 described in the *Wisconsin Payphone Decision* – UNE rate loadings),
139 I don't see a problem with Dr. Currie's description. However, I would substantially
140 disagree if SBC were given latitude to set prices in the somewhat willy nilly fashion
141 proposed by Dr. Currie where one method of attributing overhead is followed for one set
142 of rates while a completely different, and equally unreasonable, method is used for
143 others, with dramatically varying results.²

144
145 **Q. DO YOU AGREE WITH DR. CURRIE AT P. 10 OF HIS DIRECT TESTIMONY**
146 **THAT PRIOR TO THE WISCONSIN PAYPHONE DECISION, THE FCC NEVER**
147 **PRECISELY SET A LIMIT ON WHAT IT BELIEVED TO BE A REASONABLE**
148 **AMOUNT OF OVERHEAD LOADINGS FOR PAYPHONE SERVICES?**

¹ *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, Bureau/CPD No. 00-01, released January 31, 2002 (hereafter "*Wisconsin Payphone Decision*").

² Nothing in this sentence should be construed to suggest that I agree even with the method by which Dr. Currie has applied the overhead allocation methodology discussed by the FCC in its *Wisconsin Payphone Decision*. My rebuttal testimony is replete with information criticizing Dr. Currie's application in that regard.

149 A. I would agree that the FCC has never established a precise overhead loading that carriers
150 must apply in compliance with the New Services Test, if by the word "precise" Dr.
151 Currie is referring to a given number. I would disagree, however, that the *Wisconsin*
152 *Payphone Decision* somehow constituted a change in that regard. The *Wisconsin*
153 *Payphone Decision* also doesn't set a precise number, but instead provides the
154 Commission three options it can review in choosing the most reasonable overhead
155 loading. Hence, though Dr. Currie and Ms. Watkins continue to try and portray the
156 *Wisconsin Payphone Decision* as a seminal change in the FCC's policy relative to its
157 New Services Test, the facts just don't support that notion.

158
159 **Q. AT P. 13, LINE 12 OF HIS DIRECT TESTIMONY, DR. CURRIE STATES THAT**
160 **THE USE OF THE LARGEST OVERHEAD LOADING FACTOR IS THE ONLY**
161 **FACTOR THAT IS CONSISTENT WITH THE FCC'S DIRECTIVES WHEN**
162 **DISCUSSING THE THREE METHODOLOGIES PERMITTED BY THE**
163 ***WISCONSIN PAYPHONE DECISION*. DO YOU AGREE?**

164 A. Not at all. As I've described before, the New Services Test was specifically designed to
165 protect against rates for non-competitive services that are too high in relation to their
166 direct costs. As such, in describing the most reasonable manner by which to assess an
167 individual overhead loading proposed by an ILEC, the FCC established the "comparable
168 services standard." That is, the FCC suggested that because overhead loadings attributed
169 to an ILEC's competitive services should, in theory, be somewhat restrained by the
170 market, those overhead allocations should serve as a good proxy for reasonable overhead
171 loadings attributable to comparable non-competitive services wherein no competitive

influence is available. The specific intention of the comparable services standard is to limit the amount of overhead allocation attributable to a given non-competitive service, using overhead for competitive services as a guide, so as to arrive at reasonable rates. Dr. Currie's notion that SBC should be allowed to search and find its most extreme overhead allocation example, and then use that as the benchmark for attributing overhead for all other services, simply isn't consistent with the intention of the New Services Test. Dr. Currie's approach in this regard seems aimed at stretching the "letter of the law" far beyond the "spirit of the law."

Q. WHY DON'T YOU AGREE WITH DR. CURRIE THAT THE PAYPHONE SERVICES USED BY SBC OHIO'S PAYPHONE UNIT SUCH AS NON-RESIDENCE ACCESS LINES, NON-RESIDENCE LOCAL USAGE, AND NON-RESIDENCE INTRALATA TOLL SERVICE ARE COMPARABLE SERVICES FOR PURPOSES OF IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I have two primary disagreements with Dr. Currie's approach. First, I believe the Commission has already reviewed and approved a sophisticated model (i.e., the UNE Shared and Common cost model from Case No. 96-922-TP-UNC) that attempts to measure the overhead costs SBC incurs in producing network related services. In my mind, that is simply the best source of information to be used in attributing a reasonable level of overhead costs to SBC's payphone services. Hence, Dr. Currie's methodology is simply less accurate because a more accurate source of data exists. Second, Dr. Currie has obviously attempted to locate services that produce relatively high levels of overhead

allocation so as to support SBC Ohio's excessive payphone rates. And, this is one of the primary flaws with the *Physical Collocation Order* option chosen by SBC, i.e., it is highly susceptible to manipulation. Were SBC to provide the overhead loadings attributable to other types of "comparable services" it offers (e.g., centrex, private line, inter-LATA toll, etc.), the resultant overhead loadings would be very different from those highlighted by Dr. Currie. Hence, instead of engaging SBC in a battle of comparable services, and likewise bombarding the Commission with multiple "comparable services" alternatives with overhead loadings exhibiting a broad range of values, the PAO believes the more reasoned approach is to rely upon this Commission's past analysis and findings related to overhead costs incurred by SBC Ohio (i.e., the allocation attributed to UNEs).

Q. DR. CURRIE ADMITS AT P. 15 OF HIS DIRECT TESTIMONY THAT THE FCC HAS NOT PROVIDED DETAILED GUIDANCE AS TO THE ESTABLISHMENT OF "COMPARABLE COMPETITIVE SERVICES" IN IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD. IF, IN FACT, THERE HAS NOT BEEN PROVIDED DETAILED GUIDANCE, WHAT DOES THIS SUGGEST IN TERMS OF THE APPROPRIATENESS OF THE USE OF THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I would agree that the *Physical Collocation Tariff Order* option lacks specific clarity regarding the comparable services to be used, largely because it is based upon an FCC order that is quite old, and relatively outdated. In my mind, that is one of the primary reasons it is a less attractive alternative. Nonetheless, the theory behind the comparable services standard (i.e., to limit excessive overhead allocation) is made very clear by the

FCC in numerous orders (including the *Physical Collocation Tariff Order*). Nonetheless, SBC did not attempt to find examples wherein its competitive services exhibited relatively low overhead allocations, but instead chose services with relatively high allocations so as to support its excessive payphone rates. Hence, I find it hard to believe that further clarification on the part of the FCC would have changed SBC Ohio's approach in apply the *Physical Collocation Tariff Order* option.

Q. IF A LRSIC STUDY, INSTEAD OF A TELRIC STUDY, IS USED IN ESTABLISHING DIRECT COSTS, WOULD THERE BE A MISMATCH IN USING OPTION 1--THE UNE METHOD--FOR ALLOCATING OVERHEAD LOADINGS FOR PAYPHONE SERVICES?

A. No, there would not be a mismatch. Long Run Service Incremental Cost studies ("LRSIC") and Total Element Long Run Incremental Cost studies ("TELRIC") largely rely upon the exact same underlying methodology (i.e., Long Run Incremental Cost -- "LRIC" -- analysis). The only difference between the two is the unit of output being studied, i.e., services versus network elements. Because SBC Ohio's UNE overhead allocation methodology is based upon attributing overhead costs as a percentage of direct costs (and not by unit of output, e.g., either the number of services or the number of network elements), as long as direct costs are calculated in a like manner between LRSIC and TELRIC (which they are), overhead costs should be attributable to either LRSIC or TELRIC output without substantial difficulty or "mismatch."

240 Q. DO YOU BELIEVE THAT THE UNE OVERHEAD METHOD DESCRIBED BY
241 THE FCC IS PART AND PARCEL OF THE "COMPARABLE SERVICE
242 STANDARD"?

243 A. Yes, I do. I believe in describing the UNE overhead method in its *Wisconsin Payphone*
244 *Decision*, the FCC was actually just adding additional detail to its "comparable service
245 standard" which has governed overhead allocation within the New Services Test for
246 more than a decade. Indeed, the *Wisconsin Payphone Decision* was the first time the
247 FCC had addressed its New Services Test in any substantial way since most states had
248 undergone major TELRIC proceedings. Hence, in my opinion, the FCC was, in the
249 *Wisconsin Payphone Decision*, pointing state commissions to their analysis already
250 completed relative to UNE shared and common costs, and suggesting that the scrutiny
251 applied to those loadings was a good method by which to restrain excessive overhead
252 loadings as had heretofore been accomplished by a review of "comparable services." In
253 effect, the FCC was suggesting that because overhead loadings for UNEs had undergone
254 substantial scrutiny, and those overhead allocations had accordingly been reduced to
255 reasonable levels, UNEs served as a good "comparable service" for purposes of applying
256 the New Services Test to payphone services.

257
258 Q. AS A REGULATORY BODY, SHOULD THIS COMMISSION EXERCISE
259 INDEPENDENT JUDGMENT AND SELECT WHICH OF THE THREE
260 OVERHEAD LOADING OPTIONS BEST IMPLEMENTS THE PUBLIC POLICY
261 OBJECTIVES OF SECTION 276 OF THE ACT?

262 A. Yes, in fact, I believe that is its specific charge. This Commission has been tasked with
263 approving cost-based payphone rates consistent with Section 276 of the Act. The FCC
264 has provided its New Services Test as a tool to be used in that regard, and has, in its
265 *Wisconsin Payphone Decision*, provided additional detail regarding its proper
266 application. Nonetheless, at the end of this proceeding, it is this Commission who will be
267 responsible for ensuring that SBC Ohio's pay telephone rates are cost-based, non-
268 discriminatory and effective toward further the development of pay telephone services in
269 Ohio. Hence, this Commission should chose the overhead allocation method that best
270 meets with these requirements, regardless of the method (or multiple methods) SBC has
271 chosen to present in its proposal.

272
273 **Q. DR. CURRIE IS CRITICAL OF THE UNE METHOD, BELIEVING THAT THE**
274 **UNE METHOD ISN'T THE BEST METHOD JUST BECAUSE IT MAY BE**
275 **EASIER TO USE. YET, HE ALSO ADMITS THAT THE USE OF THE**
276 **PHYSICAL COLLOCATION TARIFF ORDER METHOD DOES NOT DEMAND**
277 **THE SAME PRECISION FOR EVALUATING AN OVERHEAD LOADING**
278 **FACTOR AS MIGHT BE NEEDED FOR A UNE OFFERING. CAN YOU**
279 **RECONCILE THESE STATEMENTS?**

280 A. I believe Dr. Currie is referring to the fact that applying a straight percentage overhead
281 amount to SBC's underlying direct costs, as would be required by the UNE allocation
282 method, would be simpler to implement than would his proposal that allows a broad
283 range of overhead amounts based solely upon his finding some comparable service that
284 mimics that particular overhead allocation. Hence, his discussion of its simplicity is

related to its application. I believe his statements regarding the increased precision of the UNE overhead allocation method applies to its derivation, i.e., the process by which it was constructed, critiqued and ultimately approved in Case No. 96-922-TP-UNC. I wholeheartedly agree that the method employed in that docket was far more detailed and precise when compared to Dr. Currie's application of the *Physical Collocation Tariff Order* option. As such, I agree that the UNE overhead loading option is both simpler to apply, and more precisely constructed.

Q. WHAT IS THE APPROPRIATE OVERHEAD LOADING FACTOR THAT YOU RECOMMEND?

A. As I stated in previous testimony, I didn't have a good source for the exact percentage allocator used by SBC as result of the Commission's decisions in Case No. 96-922-TP-UNC. SBC had not, to my knowledge, ever provided that exact percentage, but had instead, simply produced UNE rates which included that specific allocation of shared and common costs.. Hence, I had, in previous testimony, used ****32%**** as a rough estimate/proxy for the exact figure. On September 17, 2003, in response to the PAO's Interrogatory No. 32, SBC Ohio has produced the exact allocator as follows: ****33.64%****. I would recommend the Commission adopt that percentage to be applied to SBC's direct payphone related costs for purposes of generating New Services Test compliant rates.

Q. IS DR. CURRIE'S AVERAGE MESSAGE DURATION BASED UPON LOCAL CALLS FROM PAYPHONES?

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308 A. No, it is not. In fact, it is not even representative of average business usage patterns
309 which would provide a far better proxy than the information provided by Dr. Currie.
310 Hence, Dr. Currie's average usage data is substantially less accurate and less reliable
311 than the data I provided in my rebuttal testimony taken directly from the Call Detail
312 Records ("CDR") of Ohio's payphone providers.

313
314 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL REBUTTAL TESTIMONY?**

315 A. Yes, it does.

Certificate of Service

I certify that a copy of the foregoing Confidential and Public Versions of the Supplemental Rebuttal Testimony of Michael Starkey was served upon Bill Adams and Dane Stinson, Bailey Cavalieri LLC, 10 West Broad Street, Suite 2100, Columbus, Ohio 43215; Dave Bergmann and Dirk Winkler, Ohio Consumers Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215; and Matt Satterwhite and Jodi Bair, Assistant Attorneys General, Public Utilities Commission of Ohio, 180 East Broad Street, Ninth Floor, Columbus, Ohio 43215 by hand delivery this 14th day of January, 2004.

Stephen M. Howard

Stephen M. Howard

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into the Implementation of)	
Section 276 of the Telecommunications)	Case No. 96-1310-TP-COI
Act of 1996 Regarding Pay Telephone)	
Services)	

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**SUPPLEMENTAL REBUTTAL TESTIMONY
OF
MICHAEL STARKEY**

On behalf of

Payphone Association of Ohio

January 14, 2004

CONFIDENTIAL VERSION

Data which SBC Ohio has identified as "Confidential" is highlighted in the following manner **__. This information is redacted from the PUBLIC VERSION.**

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Michael Starkey. My business address is QSI Consulting, Inc., 703 Cardinal Street, Jefferson City, Missouri 65101-3748.

Q. ARE YOU THE SAME MICHAEL STARKEY WHO HAS PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

A. On August 4, 2003, SBC Ohio filed the testimony of Dr. Kent Currie and Ms. Helen Watkins. Included with Dr. Currie's testimony were a number of cost studies (and supporting documentation), upon which Dr. Currie replied in constructing SBC's New Services Test proposal. In my initial rebuttal testimony I complained that the timing of SBC Ohio's new cost study made an in depth review particularly difficult given the testimony schedule as original established in this docket. Likewise, the Payphone Association of Ohio filed with the Commission a number of motions first asking that the cost studies be stricken, and in the alternative, that more time be provided for me to review the underlying study. The Commission granted additional time to review the study. This supplemental rebuttal testimony is the result of that additional time granted by the Commission, and details the results of my review.

23 Q. CAN YOU SUMMARIZE THE RESULTS OF YOUR HAVING REVIEWED THE
24 SBC OHIO AUGUST 4, 2003 COST STUDIES?

25 A. Even with the additional time and the additional review it allowed, my conclusions
26 remain largely the same as I stated them in my August 18, 2003 rebuttal testimony. That
27 is, SBC's new cost study does not rely upon inputs, assumptions or methodology
28 previously approved by this Commission. Indeed, most of the inputs and assumptions
29 used by SBC in its new cost study are in direct conflict with the same inputs and
30 assumptions previously approved by the Commission in its last proceeding focused
31 primarily upon SBC's underlying costs (i.e., Case No. 96-922-TP-UNC). Perhaps most
32 egregious, SBC's new cost studies do not even rely upon the same underlying cost
33 models as those previously approved by the Commission, but are instead, built around a
34 whole new suite of models this Commission has, for the most part, never reviewed. And,
35 in almost all circumstances, SBC's new inputs and assumptions tend to increase the
36 resultant costs beyond reasonable levels. Finally, it is my understanding that on
37 December 17, 2003 the Commission established a procedural schedule for Case No. 02-
38 1280-TP-UNC wherein the cost models supporting Dr. Currie's August 4, 2003 proposed
39 studies will be studied in detail. Given the sheer magnitude of the studies, and their
40 importance to areas other than pay telephone services (i.e., UNEs, retail, etc.), it is my
41 recommendation that Dr. Currie's August 4, 2003 cost studies should be rejected as a
42 reasonable basis for SBC Ohio's proposed rates in this proceeding, and its initial cost
43 study detailed in my Direct Testimony should be used for that purpose. After the
44 Commission completes its analysis of SBC's new cost models in Case No. 02-1280-TP-
45 UNC, if it then chooses to require SBC to file new payphone studies based upon the

models ultimately adopted therein, with approved inputs and assumptions that would be, in the PAO's (Payphone Association of Ohio's) opinion, a reasonable course of action. However, for purposes of setting rates in this docket, the Commission should require SBC to use the cost studies originally submitted by SBC in this docket (June 2000). To adopt SBC's studies and inputs in this proceeding without any substantitive review by the industry, while at the same time reviewing those exact same models/inputs/assumptions in another docket, would be poor public policy.

Q. GIVEN YOUR DISCUSSION ABOVE, WHAT RATES ARE YOU RECOMMENDING THAT THE COMMISSION ADOPT IN THIS PROCEEDING COMPLIANT WITH THE FCC'S NEW SERVICES TEST?

A. I continue to recommend that the Commission adopt the rates included in my direct testimony in this proceeding. For purposes of reference, below I've included an excerpt from page 5 of my direct testimony which includes the rates I am recommending:

The PAO is recommending that these rates be adopted by the PUCO in this proceeding as SBC Ohio's permanent pay telephone rates.

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Per Minute Rate	\$0.003226

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67
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69 *purchased from SBC Ohio. Payphone providers would not be*
70 *required to purchase some minimum number of minutes or messages*
71 *(e.g., SBC Ohio's existing requirement that providers purchase a*
72 *minimum of 73 local calls).*
73

74 **Q. IN YOUR INITIAL REBUTTAL TESTIMONY YOU INCLUDED RATES THAT**
75 **SHOULD BE ADOPTED WERE THE COMMISSION TO, CONTRARY TO**
76 **YOUR RECOMMENDATION, USE SBC OHIO'S AUGUST 4, 2003 COST**
77 **STUDIES AS THE BASIS FOR ITS NEW SERVICES TEST APPLICATION. DO**
78 **THOSE RATES STILL SERVE AS YOUR SECONDARY RECOMMENDATION?**

79 **A. Yes, they do. As I've said from the beginning of this case, the two most important**
80 **decisions to be made by the Commission are as follows: (1) What is the proper manner**
81 **of allocation, and magnitude of, overhead costs to be applied to payphone services and**
82 **(2) What is the most accurate rate structure for usage services (i.e., should the rate be per**
83 **minute consistent with the manner by which costs are incurred, or if the rate is calculated**
84 **per call, what is the proper average duration to be used to calculate the average cost per**
85 **call)? While the underlying direct costs to be used are also important, they will have less**
86 **of an impact on the manner by which SBC Ohio's payphone rates truly reflect their**
87 **underlying costs than will decisions related to these other two issues. That being said, in**
88 **my rebuttal testimony I provided rates that I would propose if the Commission decided,**
89 **contrary to my recommendation, to use SBC Ohio's August 4, 2003 cost studies as the**
90 **basis for its payphone rates. Those rates are as follows:**
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****The table below includes information SBC Ohio has claimed to be proprietary in nature****

MONTHLY NETWORK ACCESS			
COCOT Line Exchange Access	Access Area B	Access Area C	Access Area D
Direct Monthly Cost	\$8.87	\$12.72	\$14.06
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h. Cost per 73 Call Package	\$0.4783	Row G * 73
h1. PAO proposed markup	32%	
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Q. CAN YOU SUMMARIZE YOUR RECOMMENDATION SPECIFIC TO THE AUGUST 4, 2003 STUDIES AS IDENTIFIED IN THE CHART ABOVE?

A. Yes, if the Commission decides to rely upon the August 4, 2003 cost studies, I would recommend that SBC Ohio's intrastate payphone rates be set as follows:

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Rate Element	PAO Proposed Permanent Rate
Access Lines, per month*	
Rate Group B	\$6.32
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Local Usage	
Per Minute Rate**	\$0.004412
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Q. IT APPEARS THAT USING SBC OHIO'S AUGUST 4, 2003 STUDIES INSTEAD OF THE STUDY IT PREVIOUSLY FILED IN THIS PROCEEDING WOULD INCREASE THE LOOP RATES BY APPROXIMATELY \$3-\$4 PER MONTH ON AVERAGE. IS THAT CORRECT?

A. Yes, using SBC's new cost study with inputs and assumptions never approved by the Commission would increase rates by a notable degree.

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Q. AS DISCUSSED AT PP. 5-6 OF HIS DIRECT TESTIMONY, DR. CURRIE BELIEVES THAT THE NEW SERVICES TEST IS MERELY A METHOD TO EVALUATE A PROPOSED RATE BASED UPON THE PROPOSED RATE BEING AT LEAST AT OR ABOVE THE SERVICE'S DIRECT COST AND

129 **THAT THE PROPOSED RATE MUST BE AT OR BELOW A CEILING THAT**
130 **REFLECTS THE MAXIMUM REASONABLE SHARE OF OVERHEAD**
131 **LOADINGS ATTRIBUTABLE TO THE SERVICE. DO YOU AGREE THAT**
132 **THIS IS THE PURPOSE OF THE NEW SERVICES TEST?**

133 A. I don't necessarily disagree with Dr. Currie on this point, as long as the "*maximum*
134 *reasonable share of overhead loadings attributable to the service*" is an allocation that
135 meets with the FCC's requirements in its *Wisconsin Payphone Decision*.¹ For example,
136 if the Commission were, in this proceeding, to give SBC the latitude to set its payphone
137 rates somewhere between its direct cost floor, and a ceiling equal to its direct costs plus
138 32% (i.e., Option 1 described in the *Wisconsin Payphone Decision* – UNE rate loadings),
139 I don't see a problem with Dr. Currie's description. However, I would substantially
140 disagree if SBC were given latitude to set prices in the somewhat willy nilly fashion
141 proposed by Dr. Currie where one method of attributing overhead is followed for one set
142 of rates while a completely different, and equally unreasonable, method is used for
143 others, with dramatically varying results.²

144
145 Q. **DO YOU AGREE WITH DR. CURRIE AT P. 10 OF HIS DIRECT TESTIMONY**
146 **THAT PRIOR TO THE *WISCONSIN PAYPHONE DECISION*, THE FCC NEVER**
147 **PRECISELY SET A LIMIT ON WHAT IT BELIEVED TO BE A REASONABLE**
148 **AMOUNT OF OVERHEAD LOADINGS FOR PAYPHONE SERVICES?**

¹ *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, Bureau/CPD No. 00-01, released January 31, 2002 (hereafter "*Wisconsin Payphone Decision*").

² Nothing in this sentence should be construed to suggest that I agree even with the method by which Dr. Currie has applied the overhead allocation methodology discussed by the FCC in its *Wisconsin Payphone Decision*. My rebuttal testimony is replete with information criticizing Dr. Currie's application in that regard.

149 A. I would agree that the FCC has never established a precise overhead loading that carriers
150 must apply in compliance with the New Services Test, if by the word "precise" Dr.
151 Currie is referring to a given number. I would disagree, however, that the *Wisconsin*
152 *Payphone Decision* somehow constituted a change in that regard. The *Wisconsin*
153 *Payphone Decision* also doesn't set a precise number, but instead provides the
154 Commission three options it can review in choosing the most reasonable overhead
155 loading. Hence, though Dr. Currie and Ms. Watkins continue to try and portray the
156 *Wisconsin Payphone Decision* as a seminal change in the FCC's policy relative to its
157 New Services Test, the facts just don't support that notion.

158
159 **Q. AT P. 13, LINE 12 OF HIS DIRECT TESTIMONY, DR. CURRIE STATES THAT**
160 **THE USE OF THE LARGEST OVERHEAD LOADING FACTOR IS THE ONLY**
161 **FACTOR THAT IS CONSISTENT WITH THE FCC'S DIRECTIVES WHEN**
162 **DISCUSSING THE THREE METHODOLOGIES PERMITTED BY THE**
163 ***WISCONSIN PAYPHONE DECISION*. DO YOU AGREE?**

164 A. Not at all. As I've described before, the New Services Test was specifically designed to
165 protect against rates for non-competitive services that are too high in relation to their
166 direct costs. As such, in describing the most reasonable manner by which to assess an
167 individual overhead loading proposed by an ILEC, the FCC established the "comparable
168 services standard." That is, the FCC suggested that because overhead loadings attributed
169 to an ILEC's competitive services should, in theory, be somewhat restrained by the
170 market, those overhead allocations should serve as a good proxy for reasonable overhead
171 loadings attributable to comparable non-competitive services wherein no competitive

influence is available. The specific intention of the comparable services standard is to limit the amount of overhead allocation attributable to a given non-competitive service, using overhead for competitive services as a guide, so as to arrive at reasonable rates. Dr. Currie's notion that SBC should be allowed to search and find its most extreme overhead allocation example, and then use that as the benchmark for attributing overhead for all other services, simply isn't consistent with the intention of the New Services Test. Dr. Currie's approach in this regard seems aimed at stretching the "letter of the law" far beyond the "spirit of the law."

Q. WHY DON'T YOU AGREE WITH DR. CURRIE THAT THE PAYPHONE SERVICES USED BY SBC OHIO'S PAYPHONE UNIT SUCH AS NON-RESIDENCE ACCESS LINES, NON-RESIDENCE LOCAL USAGE, AND NON-RESIDENCE INTRALATA TOLL SERVICE ARE COMPARABLE SERVICES FOR PURPOSES OF IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I have two primary disagreements with Dr. Currie's approach. First, I believe the Commission has already reviewed and approved a sophisticated model (i.e., the UNE Shared and Common cost model from Case No. 96-922-TP-UNC) that attempts to measure the overhead costs SBC incurs in producing network related services. In my mind, that is simply the best source of information to be used in attributing a reasonable level of overhead costs to SBC's payphone services. Hence, Dr. Currie's methodology is simply less accurate because a more accurate source of data exists. Second, Dr. Currie has obviously attempted to locate services that produce relatively high levels of overhead

allocation so as to support SBC Ohio's excessive payphone rates. And, this is one of the primary flaws with the *Physical Collocation Order* option chosen by SBC, i.e., it is highly susceptible to manipulation. Were SBC to provide the overhead loadings attributable to other types of "comparable services" it offers (e.g., centrex, private line, inter-LATA toll, etc.), the resultant overhead loadings would be very different from those highlighted by Dr. Currie. Hence, instead of engaging SBC in a battle of comparable services, and likewise bombarding the Commission with multiple "comparable services" alternatives with overhead loadings exhibiting a broad range of values, the PAO believes the more reasoned approach is to rely upon this Commission's past analysis and findings related to overhead costs incurred by SBC Ohio (i.e., the allocation attributed to UNEs).

Q. DR. CURRIE ADMITS AT P. 15 OF HIS DIRECT TESTIMONY THAT THE FCC HAS NOT PROVIDED DETAILED GUIDANCE AS TO THE ESTABLISHMENT OF "COMPARABLE COMPETITIVE SERVICES" IN IMPLEMENTING THE PHYSICAL COLLOCATION TARIFF ORDER METHOD. IF, IN FACT, THERE HAS NOT BEEN PROVIDED DETAILED GUIDANCE, WHAT DOES THIS SUGGEST IN TERMS OF THE APPROPRIATENESS OF THE USE OF THE PHYSICAL COLLOCATION TARIFF ORDER METHOD?

A. I would agree that the *Physical Collocation Tariff Order* option lacks specific clarity regarding the comparable services to be used, largely because it is based upon an FCC order that is quite old, and relatively outdated. In my mind, that is one of the primary reasons it is a less attractive alternative. Nonetheless, the theory behind the comparable services standard (i.e., to limit excessive overhead allocation) is made very clear by the

FCC in numerous orders (including the *Physical Collocation Tariff Order*). Nonetheless, SBC did not attempt to find examples wherein its competitive services exhibited relatively low overhead allocations, but instead chose services with relatively high allocations so as to support its excessive payphone rates. Hence, I find it hard to believe that further clarification on the part of the FCC would have changed SBC Ohio's approach in apply the *Physical Collocation Tariff Order* option.

Q. IF A LRSIC STUDY, INSTEAD OF A TELRIC STUDY, IS USED IN ESTABLISHING DIRECT COSTS, WOULD THERE BE A MISMATCH IN USING OPTION 1--THE UNE METHOD--FOR ALLOCATING OVERHEAD LOADINGS FOR PAYPHONE SERVICES?

A. No, there would not be a mismatch. Long Run Service Incremental Cost studies ("LRSIC") and Total Element Long Run Incremental Cost studies ("TELRIC") largely rely upon the exact same underlying methodology (i.e., Long Run Incremental Cost – "LRIC" – analysis). The only difference between the two is the unit of output being studied, i.e., services versus network elements. Because SBC Ohio's UNE overhead allocation methodology is based upon attributing overhead costs as a percentage of direct costs (and not by unit of output, e.g., either the number of services or the number of network elements), as long as direct costs are calculated in a like manner between LRSIC and TELRIC (which they are), overhead costs should be attributable to either LRSIC or TELRIC output without substantial difficulty or "mismatch."

240 Q. DO YOU BELIEVE THAT THE UNE OVERHEAD METHOD DESCRIBED BY
241 THE FCC IS PART AND PARCEL OF THE "COMPARABLE SERVICE
242 STANDARD"?

243 A. Yes, I do. I believe in describing the UNE overhead method in its *Wisconsin Payphone*
244 *Decision*, the FCC was actually just adding additional detail to its "comparable service
245 standard" which has governed overhead allocation within the New Services Test for
246 more than a decade. Indeed, the *Wisconsin Payphone Decision* was the first time the
247 FCC had addressed its New Services Test in any substantial way since most states had
248 undergone major TELRIC proceedings. Hence, in my opinion, the FCC was, in the
249 *Wisconsin Payphone Decision*, pointing state commissions to their analysis already
250 completed relative to UNE shared and common costs, and suggesting that the scrutiny
251 applied to those loadings was a good method by which to restrain excessive overhead
252 loadings as had heretofore been accomplished by a review of "comparable services." In
253 effect, the FCC was suggesting that because overhead loadings for UNEs had undergone
254 substantial scrutiny, and those overhead allocations had accordingly been reduced to
255 reasonable levels, UNEs served as a good "comparable service" for purposes of applying
256 the New Services Test to payphone services.

257
258 Q. AS A REGULATORY BODY, SHOULD THIS COMMISSION EXERCISE
259 INDEPENDENT JUDGMENT AND SELECT WHICH OF THE THREE
260 OVERHEAD LOADING OPTIONS BEST IMPLEMENTS THE PUBLIC POLICY
261 OBJECTIVES OF SECTION 276 OF THE ACT?

262 A. Yes, in fact, I believe that is its specific charge. This Commission has been tasked with
263 approving cost-based payphone rates consistent with Section 276 of the Act. The FCC
264 has provided its New Services Test as a tool to be used in that regard, and has, in its
265 *Wisconsin Payphone Decision*, provided additional detail regarding its proper
266 application. Nonetheless, at the end of this proceeding, it is this Commission who will be
267 responsible for ensuring that SBC Ohio's pay telephone rates are cost-based, non-
268 discriminatory and effective toward further the development of pay telephone services in
269 Ohio. Hence, this Commission should chose the overhead allocation method that best
270 meets with these requirements, regardless of the method (or multiple methods) SBC has
271 chosen to present in its proposal.

272
273 **Q. DR. CURRIE IS CRITICAL OF THE UNE METHOD, BELIEVING THAT THE**
274 **UNE METHOD ISN'T THE BEST METHOD JUST BECAUSE IT MAY BE**
275 **EASIER TO USE. YET, HE ALSO ADMITS THAT THE USE OF THE**
276 **PHYSICAL COLLOCATION TARIFF ORDER METHOD DOES NOT DEMAND**
277 **THE SAME PRECISION FOR EVALUATING AN OVERHEAD LOADING**
278 **FACTOR AS MIGHT BE NEEDED FOR A UNE OFFERING. CAN YOU**
279 **RECONCILE THESE STATEMENTS?**

280 A. I believe Dr. Currie is referring to the fact that applying a straight percentage overhead
281 amount to SBC's underlying direct costs, as would be required by the UNE allocation
282 method, would be simpler to implement than would his proposal that allows a broad
283 range of overhead amounts based solely upon his finding some comparable service that
284 mimics that particular overhead allocation. Hence, his discussion of its simplicity is

related to its application. I believe his statements regarding the increased precision of the UNE overhead allocation method applies to its derivation, i.e., the process by which it was constructed, critiqued and ultimately approved in Case No. 96-922-TP-UNC. I wholeheartedly agree that the method employed in that docket was far more detailed and precise when compared to Dr. Currie's application of the *Physical Collocation Tariff Order* option. As such, I agree that the UNE overhead loading option is both simpler to apply, and more precisely constructed.

Q. WHAT IS THE APPROPRIATE OVERHEAD LOADING FACTOR THAT YOU RECOMMEND?

A. As I stated in previous testimony, I didn't have a good source for the exact percentage allocator used by SBC as result of the Commission's decisions in Case No. 96-922-TP-UNC. SBC had not, to my knowledge, ever provided that exact percentage, but had instead, simply produced UNE rates which included that specific allocation of shared and common costs.. Hence, I had, in previous testimony, used ****32%**** as a rough estimate/proxy for the exact figure. On September 17, 2003, in response to the PAO's Interrogatory No. 32, SBC Ohio has produced the exact allocator as follows:
****33.64%****. I would recommend the Commission adopt that percentage to be applied to SBC's direct payphone related costs for purposes of generating New Services Test compliant rates.

Q. IS DR. CURRIE'S AVERAGE MESSAGE DURATION BASED UPON LOCAL CALLS FROM PAYPHONES?

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308 A. No, it is not. In fact, it is not even representative of average business usage patterns
309 which would provide a far better proxy than the information provided by Dr. Currie.
310 Hence, Dr. Currie's average usage data is substantially less accurate and less reliable
311 than the data I provided in my rebuttal testimony taken directly from the Call Detail
312 Records ("CDR") of Ohio's payphone providers.
313

314 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL REBUTTAL TESTIMONY?**

315 A. Yes, it does.

Certificate of Service

I certify that a copy of the foregoing Confidential and Public Versions of the Supplemental Rebuttal Testimony of Michael Starkey was served upon Bill Adams and Dane Stinson, Bailey Cavaleri LLC, 10 West Broad Street, Suite 2100, Columbus, Ohio 43215; Dave Bergmann and Dirk Winkler, Ohio Consumers Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215; and Matt Satterwhite and Jodi Bair, Assistant Attorneys General, Public Utilities Commission of Ohio, 180 East Broad Street, Ninth Floor, Columbus, Ohio 43215 by hand delivery this 14th day of January, 2004.



Stephen M. Howard