

are entitled to access a network element on an unbundled basis. We ask that comments discuss in detail the relationship, if any, between this new interpretation and the Commission's UNE pricing rules. In particular, we seek comment on the affect on our pricing rules of the limitations on the unbundling mandates associated with hybrid fiber/copper loops. We also seek comment on the affect limitations on fiber loop unbundling should have on UNE pricing rules. Further, we request that parties comment on how states should set rates for network elements that no longer are required to be provided on an unbundled basis.

7. In the universal service proceeding, the Commission determined that funding should be based on the forward-looking cost of providing universal service, and identified criteria to guide in the selection of a forward-looking universal service cost model. *Universal Service Order*, 62 FR 32862, June 17, 1997. The Commission applied these criteria to develop a computer cost model and to select the inputs necessary to develop forward-looking costs using this model. *USF Platform Order*, 63 FR 63993, November 18, 1998; *USF Inputs Order*, 64 FR 67372, December 1, 1999. In developing the universal service cost model and inputs, the Commission did not intend to provide any systematic guidance for TELRIC rate-setting, and emphasized that universal service cost inputs may not be appropriate for use in determining UNE prices. The Commission continues to discourage states from using the universal service nationwide inputs for the purpose of developing UNE rates. We invite parties to comment on the relationship between universal service cost rules and UNE pricing rules.

8. *Network Assumptions—General Theory*. One of the central internal tensions in the application of the TELRIC methodology is that it purports to replicate the conditions of a competitive market by assuming that the latest technology is deployed throughout the hypothetical network, while at the same time assuming that this hypothetical network benefits from the economies of scale associated with serving all of the lines in a study area. In the real world, however, even the most efficient carrier's network will reflect a mix of new and older technology at any given time. We thus seek comment on whether TELRIC's technology assumptions may result in forward-looking costs that are not achievable even in the most competitive markets and whether the TELRIC methodology, therefore, may undermine the incentive for either competitive

LECs or incumbent LECs to build new facilities.

9. We tentatively conclude that the TELRIC rules should more closely account for real-world attributes of the routing and topography of an incumbent LEC's network in the development of forward-looking costs. We seek comment on this approach and, in particular, on how such an approach may differ from the practices of state commissions in UNE pricing proceedings. We also ask parties to comment on proposals that would achieve these objectives. We seek comment on whether it is appropriate to assume that the cost of an existing element is the cost of that element if it were being replaced today. We also seek comment on whether we should define the relevant network as one that incorporates upgrades planned by the incumbent LEC over some objective time horizon (e.g., three or five years), as documented, for example, in an incumbent LEC's actual engineering plans. We request parties comment on any other alternatives that would ground the TELRIC rules in the attributes of an incumbent LEC's existing network. Further, we seek comment on whether any of these approaches would produce results that are more consistent across states and send better entry and investment signals to both incumbents and competitors.

10. The TELRIC methodology currently defines the term "long run" to mean a period long enough for all of a firm's costs to be variable or avoidable. We seek comment on whether our tentative conclusion compels us to shift away from a long run average cost methodology to a short run average cost methodology and, if so, what are the consequences of such a shift. We request parties comment on whether such an approach is consistent with the statute's heavy presumption against the use of embedded costs.

11. We ask the parties to suggest other ways of defining the network that is to be modeled in a UNE pricing proceeding. To what extent should network assumptions reflect evidence of the network decisions made by competitive LECs? Parties should explain in detail the network assumptions they advocate and the competitive assumptions implicit in their proposals. Parties should also explain whether they are proposing a theory based on short-run costs or long-run costs, and how their proposed definition of the network will produce more accurate economic signals and more consistent results than the current pricing regime.

12. The dispute as to the relevant network for pricing purposes is in large part a dispute over what constitutes efficiency. We seek comment on the efficiency standard that the Commission should use in order to achieve UNE prices that send correct economic signals regarding investment, while still achieving the necessary level of cost recovery. A central principle of the current UNE pricing rules is that competitive LECs should not pay rates that compensate incumbent LECs for past inefficiencies. Given that many incumbent LECs have been subject to price cap regulation for some time, we seek comment on whether we should find an incumbent LEC's practices presumptively efficient. Would the adoption of a productivity factor be necessary as part of a transition to a regime based more on the network assumptions of an existing network? We also ask parties to identify the evidence that would be necessary to overcome a presumption of efficiency by an incumbent LEC and what effect any asymmetry in access to information about an incumbent's practices and costs should have on any presumption we create. We ask parties to be very specific in defining the standard of efficiency and explaining how to determine whether a network is optimized for economic efficiency. We further ask parties that favor a change in network assumptions to identify how such a change would affect each component of the pricing rules (e.g., operating expenses, cost of capital, depreciation).

13. We ask parties to discuss whether a regime focused more closely on the existing network of an incumbent would be easier for state commissions to implement than the current TELRIC regime. For example, we seek comment on whether there would be issues of transparency and verifiability in placing a greater reliance on the attributes of an incumbent LEC's existing network. We seek comment on whether focusing the cost inquiry on an incumbent's existing network might place competitive LECs at an informational disadvantage in litigating any factual issues about which the incumbent LEC, as owner of that network, may have better information. We request parties propose concrete procedural safeguards designed to minimize risks of an informational imbalance resulting from methodological reforms discussed in the NPRM. We also ask parties to comment on ways in which UNE pricing proceedings can be streamlined without placing any party at a material informational disadvantage.