

CONSULTATION DOCUMENT
Recommendation of the Eastern Caribbean Telecommunications Authority
(“ECTEL”)
To the National Telecommunications Regulatory Commission (“NTRC”)
to consult on the
Assessment of the Access Deficit Scheme

Consultation Document

/NO.

June 2009

1. The NTRC is in receipt of a submission from ECTEL containing ECTEL’s assessment of the Access Deficit (“AD”) Scheme and issues related to any claims of an AD by LIME.¹
2. The Consultative Document is herein attached, and shall be referenced as Consultation Paper No. 2 (“CP2”).
3. The initial comments period will run from **June 19, 2009 to July 10, 2009**.
4. The reply comments period will run from **July 13 2009 to July 27, 2009**.
5. ECTEL may use information from CP2 for its decision on the appropriate form of regulation to establish in ECTEL member states (including another PCP) for regulated services.²
6. If respondents include certain confidential information with their responses to CP2, then such parties should also provide a redacted copy (without confidential information) of their comments. The redacted copy will be made publicly available on the ECTEL website. Respondents should be prepared to support any claims of confidentiality.
7. All public comments will be made available on ECTEL’s website, and the consultation process should be as transparent and open as possible.
8. All respondents are encouraged to provide (or cite) supporting documents, analysis, and calculations (including spreadsheets) for applicable information included in their comments. Accordingly, greater weight and value may be given to those comments supported by appropriate documentation.

¹ This consultation paper will refer to LIME in most cases (except sometimes when referring to former actions under C&W). C&W rebranded its Caribbean operations to the acronym LIME (Landline, Internet, Mobile and Entertainment) name towards the end of 2008 as part of consolidating its businesses in the Caribbean and selling off some of its international operations.

² The current PCP expires November 30, 2009, and it is anticipated that a new form of regulation or another price cap plan will be implemented December 1, 2009.

9. Although this consultation paper primarily addresses access deficit issues related to LIME, all parties are encouraged to provide comments regarding the direct or indirect impact of access deficits upon competitors, consumers, commercial entities, the ECTEL member economy in general, LIME actions, and other related matters addressed in this paper.
10. All parties will be provided a copy of CP2 in PDF format and parties are encouraged to use a format where their comments reference the various question/sections/issues in CP2.
11. All responses to CP2 should be written and sent by post, fax or e-mail **no later than 4:30 pm on July 10, 2009** to:

Managing Director
ECTEL
P.O. Box 1886
Vide Boutielle
CASTRIES
St. Lucia
Fax: 1-758-458-1698
Email: consultation@ectel.int

All comments should be clearly marked “Comments on Assessment of Access Deficit Scheme Consultation Paper”

Disclaimer

This consultative document does not constitute legal, commercial, or technical advice. The consultation is without prejudice to the legal position of ECTEL to provide advice and recommendations to the Ministers with responsibility for telecommunications and the National Telecommunications Regulatory Commissions.

**EASTERN CARIBBEAN
TELECOMMUNICATIONS AUTHORITY**



CONSULTATION PAPER NO. 2

ASSESSMENT OF ACCESS DEFICIT SCHEME

June 2009

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1 INTRODUCTION – FRAMEWORK FOR COMMENTS

1.1 Objectives

The objectives of this public consultation process related to an Assessment of the Access Deficit Scheme are addressed in this section. The comments provided for CP2 may be used in preparing a subsequent consultation paper that will seek comments on the appropriate form of regulation to establish in the ECTEL member states (including possibly another price cap plan) for regulated services.

The objectives in this AD consultation paper differs somewhat from the previous Access Deficit Charge consultation paper issued by ECTEL/NTRCs in August 2008. The 2008 AD consultation paper was intended to invite LIME to submit any claims and calculations regarding an ADC as part of revised tariffs for interconnection. However, CP2 is broader and intended to address more issues. In addition, it is appropriate to give parties another opportunity to comment on certain access deficit issues, or to re-consider their prior comments in other access deficit consultations, due to recent developments. Some of these recent developments include:

- The current PCP is nearing conclusion, so most of the results of the current PCP are known and should be considered.
- The March 13, 2009 decision by the Council of Ministers of ECTEL (19th Council of Ministers' Meeting) approval of the Long Run Incremental Cost ("LRIC") model to be used to determine cost-oriented interconnection rates in the ECTEL member states.
- The recently issued Consultation Paper No. 1 regarding Assessment of the Current Price Cap Plan.
- Recent interconnection tariffs/agreements between C&W and Digicel in St. Vincent and the Grenadines, between C&W and Columbus Communications ("FLOW") in Grenada, and any other recent agreements.³
- Any recent changes or potential impacts on Universal Service.
- Recent changes or developments in competition, infrastructure/technology, services and other related matters.

In addition to addressing any previous ADC claims by LIME, this consultation paper is part of a review of the entire retail tariff regime, including any future form of regulation to be established in the ECTEL member states.⁴

³ These agreements are currently treated as "confidential" documents, but parties involved in those tariffs/agreements may desire to address the implications of such documents upon the access deficit and this consultation paper. Also, LIME generally notes the expiration of current interconnection agreements on September 12, 2008 in its September 17, 2008 comments to ECTEL/NTRC regarding the 2008 Access Deficit consultation paper.

⁴ Section 1.0 of the ECTEL/NTRC August 2008 Access Deficit Charge Consultation Paper confirms that a complete review of the retail tariff regime will be the subject of a future public consultation.

Therefore, the objectives of CP2 are as follows:

- 1) Encourage parties to provide objective comments on any prior comments by LIME and other parties regarding an access deficit claim, calculation, and methodology.
- 2) Address additional policy issues regarding access deficit charges as they relate to interconnection policy, universal service, and impacts on LIME, competitors, commercial entities, the public (residential customers), and the ECTEL member states economy in general.
- 3) Encourage LIME and all parties to address new or alternative policy, assumptions, and methodology set forth by ECTEL/NTRC regarding calculations or determination of an access deficit claim.
- 4) Provide additional detailed clarification to terms/definitions, assumptions, guidelines, and methodology regarding the calculation of any access deficit.
- 5) Use comments in this consultation process to assist in preparing a subsequent consultation paper to seek comments on the appropriate form of regulation for the future, and to help establish an appropriate form of regulation for the future as part of a review of the entire retail tariff regime.

1.2 Avoid Simplifying Conclusions and Provide Documentation

The respondents should avoid making simplifying conclusions and assumptions, and parties should provide adequate documentation and support for their arguments. ECTEL and the NTRCs will generally give limited weight and value to general observations without further explanation and documentation.

1.3 International Best Practices

If a respondent refers to particular practices or policy as representing “international best practices”, the parties are encouraged to reference such specific precedent or action(s) adopted in other jurisdictions. Also, the parties can provide a cite to an authoritative document where such practices or policies are noted as being “international best practices” or have been widely used in numerous jurisdictions so they are consistent with “international best practices.”

1.4 Information Provided to Assist Comments

In order to assist respondents with their assessment of the AD issues, this consultation paper provides certain background information and references other relevant documents/sources.

Some of the information used or cited in this consultation paper is summarized below:

- Confidential and public comments of parties related to the Access Deficit Consultation Paper issued August 2008 by ECTEL/NTRCs.
- Confidential and public comments of parties related to specific ADC issues in Dominica, provided in response to the March 2008 consultation by the NTRC of Dominica.
- LIME's April 17, 2009, responses (non-confidential) to ECTEL's data requests related to access deficit issues.
- Universal Service regulations of the ECTEL member states.
- Interconnection regulations of the ECTEL member states.
- Comments from parties related to the January 2007 consultation issued by ECTEL/NTRC regarding a recommendation that LRIC models be used for calculating the cost of fixed and mobile interconnection services.
- March 13, 2009 ECTEL Decision on Interconnection Rates from the 19th Counsel of Ministers' Meeting – adopting Long Run Incremental Cost (“LRIC”) models to be used to determine cost-oriented interconnection rates, and adoption of various interconnection rates/charges. This document is available at the ECTEL web site.
- ECTEL *Annual Telecommunication Sector Review* (for period ended March 2008) – respondents can view this entire report, along with prior year reports, at the ECTEL website.
- ECTEL Socio-economic Impact of Liberalisation of Telecoms Sector in the ECTEL Member States (released May 2006) - respondents can view this entire report, along with prior year reports, at the ECTEL website.
- Board Paper – *Mid-Term Review of the Price Cap Plan in the ECTEL Member States*.
- International Telecommunications Union (“ITU”) - *World Telecommunication/ICT Indicators* – certain information is available at <http://www.itu.int/ITU-D/ict>
- LIME annual price cap filings.
- ECTEL member states Legislations and Regulations available at the ECTEL website.
- The actual price cap plans are available at the various National Telecommunications Regulatory Commission (“NTRC”) websites.

2 LEGAL FRAMEWORK

This section sets forth references to the Telecommunications Act (the “Act”) of the various ECTEL member states that authorizes ECTEL/NTRC actions regarding issues related to or impacting upon the access deficit. This could include references to the Act related to

interconnection, universal services and other matters. Generally, the Act is virtually the same for each ECTEL member state.

Those specific Acts governing decisions related to regulation for each of the ECTEL member states are set forth below:

- Saint Lucia Telecommunications Act, 2000
- Commonwealth of Dominica – Telecommunication Act 8 – 2000 and Amended Telecommunications Act 17 - 2001
- Grenada Telecommunications Act 31 - 2000
- St. Kitts Telecommunications Act – Amendment – No. 12 of 2000 and Telecommunications Act Amended – No. 11 of 2001
- St. Vincent and the Grenadines Telecommunications Act – Act 1 of 2001

In addition, Annex A attached to the previously issued consultation paper, Consultation Paper 1, summarizes certain important or relevant provisions of the respective Acts which address the authority of the Minister, ECTEL and respective NTRC, as it relates to regulation of the telecommunications sector and which impact upon this consultation paper.

In addition, the terms and definitions of the Telecommunications (Retail Tariff) Regulations (“TR”) for each ECTEL member state is set forth at the website of the respective NTRC, and those TRs can be addressed as appropriate in comments. Generally, the TR is similar or the same for each ECTEL member state.

3 BACKGROUND OF ACCESS DEFICIT ISSUES

This section addresses the history and background of access deficit issues for the ECTEL member states. This consultation on AD is the third on this important subject within about a one year time frame in the ECTEL member states. However, this consultation differs in several respects from the previous consultations issued by ECTEL/NTRCs and Dominica, and these differences will be addressed later. Also, this section will summarize the two previous consultations issued by ECTEL/NTRC and the NTRC of Dominica, although the actual comments provided by parties will be addressed in part in Section 4 and summarized at Annex B.

3.1 History of Access Deficits in the ECTEL Member States

This history of access deficits is taken primarily from LIME’s April 18, 2008, comments provided to the NTRC of Dominica. ECTEL is using this information on access deficits in this section because it is publicly available, whereas other access deficit information may be deemed

confidential.⁵ Although LIME addresses the history of access deficits in Dominica, it is presumed that similar situations existed in other ECTEL member states.

LIME April 18, 2008, Comments on AD to NTRC of Dominica

LIME initially negotiated ADC rates with Marpin Telecommunications and Broadcasting Company, LTD (“Marpin”) in 2001 and early 2002 in Dominica. At that time, an ADC was calculated using LIME’s fully allocated cost model (ECTEL believes this is a reference to as the Enhanced Allocation Model (“EAM”).⁶ Although LIME gives the impression that interconnection and ADC rates were based on “fully distributed costs/cost-based rates”, the final approval rates were not “cost-based” because the Dominica NTRC required revised rates. Also, LIME’s September 17, 2008 comments to ECTEL admit that previous ADCs were negotiated numbers that were not subject to much scrutiny and were based on rates in other markets rather than based on actual costs in the local market.⁷

The ADC calculated rates and the interconnection agreement (“IA”) were agreed to by both parties and submitted to the NTRC for approval. The NTRC raised concerns related to the ADC and it was subsequently revised downward to the current rate in agreements as of April 2008 at 4.2 cents EC per minute, and the ADC was approved by the NTRC on July 26, 2002. This same rate was then included in subsequent IAs with AT&T Wireless (now Digicel) in the fall of 2003 and Orange in 2004. The only change to the AT&T and Orange IAs was the introduction of the International Call Origination Service (“ICOS”), which permits fixed-line customers to choose the international network of their choice.

Under the IA, domestic services pay an average ADC of 4.2 cents per minute, although each minute of traffic carried pursuant to the ICOS service attracts a per minute ADC rate of 25 cents per minute. This same 25 cents per minute ICOS ADC rate was equal to rates previously approved by regulators in Grenada, Saint Lucia, and St. Vincent and the Grenadines. LIME believes that maintaining the same rate among ECTEL member states prevents arbitrage between these states and is consistent with a uniform retail intra-OECS international rate. LIME claims that since it carries the most fixed line minutes, it will end up paying most of the ADC and carries the majority of the burden of the AD.

The higher ADC rate for the ICOS service was implemented to reflect that, as opposed to domestic services, ICOS are used by competitors to compete against LIME in the international calling market. LIME indicates that with ICOS, competitors will not need to build out expensive

⁵ The LIME comments provide a source of background information on access deficits, but ECTEL does not necessarily agree with LIME’s comments regarding AD policy and related matters.

⁶ Subsequently, interconnection rates are now calculated via an incremental cost model (the LRIC model), and all parties now appear to agree that any current ADC should be calculated using the LRIC model. Furthermore, on March 13, 2009, the ECTEL Council of Ministers approved the Directorate’s recommendation for the LRIC model and related new cost-oriented interconnection rates determined from the LRIC model.

⁷ LIME comments, page 6, related to ECTEL’s August 8, 2008 AD consultation paper.

access lines, but can use LIME's existing access network to compete against LIME. LIME claims that if no ADC or a low ADC were levied on ICOS, then new competitors would be given an incentive to become an international operator, and LIME would face a competitive disadvantage. LIME claims that the higher ADC for ICOS is consistent with the practice of using a higher ADC for a higher profit service, such as international service.

Long Run Incremental Cost Comments

During January 2007, ECTEL/NTRC issued a consultation paper requesting comments on a long run incremental cost model for calculating the cost (but not the rates) of fixed and mobile interconnections services for the ECTEL member states. Comments were received from LIME, Digicel, NTRC of Dominica, NTRC of Saint Lucia, and the NTRC of St. Vincent and the Grenadines. On March 13, 2008, the ECTEL Council of Ministers approved the Directorate's recommendation for the LRIC models to be used to determine cost-based interconnection rates in the ECTEL Member States, and the related interconnection rates and guidelines were reflected in that decision. ECTEL's recommendation can be accessed on the website www.ectel.int.

3.2 ECTEL/NTRC August 2008 ADC Consultation

In August 2008, ECTEL/NTRC's issued a consultation paper on Access Deficit Charge. The intent of this ADC consultation paper was set forth in the document and included:

- 1) "This consultation is limited in its scope in that it does not propose to review the current ADC regime but rather to review the level of ADC as well as the services on which any ADC should be levied with the introduction of cost based interconnection rates. A complete review of the retail tariff regime will be the subject of a future public consultation."
- 2) "In this consultation ECTEL invites Cable & Wireless to submit any claim for ADC which will form part of the revised tariffs for interconnection. In submitting any claim for an ADC Cable & Wireless is to follow the guidelines present in this document."

The 2008 AD consultation indicates that Telecommunications (interconnection) Regulations⁸ provides that

The interconnection rates shall be imposed in a transparent manner and shall identify clearly –

- a) charges for interconnection services; and*
- b) any contribution to the interconnection provider's access deficit, where applicable.*

⁸ Regulation 12(1) in Dominica, Saint Lucia ...

The 2008 AD consultation indicated that under the current interconnection regime, C&W was allowed an ADC as an add-on to the following interconnection services:

- PSTN termination for incoming local and international calls
- PSTN Transit
- Domestic and international directory inquiry
- Emergency services
- International call origination

The guidelines included in the August 2008 ADC consultation included:

(a) Definition of Access Deficit – The difference between the cost incurred by the incumbent fixed public network provider for providing domestic regulated telecom services and the maximum revenue that the operator can secure for providing those services, based on the following:

- An access deficit was to be calculated for the cost of regulated services only, including access lines (line installation/rental) plus other regulated domestic services.
- An access deficit would exist if costs exceeded revenues, where revenues are calculated based on the maximum revenue that can be secured under the price caps for line installation/rental, plus revenues from other regulated domestic services. Costs are calculated to include retail costs of the same services.

(b) Services to which an ADC will be Applied – Any ADC will be assessed only on services that involve C&W fixed subscribers, and an AD will be assessed on the services of (ECTEL does not recommend applying the ADC to domestic fixed-to-fixed or transit services):

- Call origination – C&W fixed-to-international (service for which inefficient competition is of the greatest concern);
- Call termination – International-to-C&W fixed; (service for which inefficient competition is of the greatest concern); and
- Call termination – Mobile-to-C&W fixed (the deficit charge on mobile-to-C&W fixed contributes to competitive parity by requiring mobile operators to fund part of the local services deficit, and mobile-to-C&W fixed involves C&W's fixed subscribers).

(c) Constraints for Calculation of ADC are set forth below:

1. ECTEL proposes that any ADC be calculated as the access deficit divided by the number of minutes to which the deficit shall apply. The number of minutes is the

sum of C&W fixed-to-international, international-to-C&W fixed, and mobile-to-C&W fixed. The resulting charge per minute would be the **maximum** deficit charge that can be applied to any service.

2. Cable & Wireless must impute the deficit charge as part of the costs of the services that it supplies to end users. Cable & Wireless' retail prices of competitive services must cover economic costs plus the deficit charge that is applicable to that type of service.

3. The ADC should not generate a greater recovery than the ADC currently in force.

The 2008 AD consultation required that C&W submit its proposed rates for ADC in each member state by time bands, showing "day", "evening" and "week-end."

3.3 Dominica March 2008 ADC Consultation

The NTRC in Dominica initiated a public consultation on ADC in March 2008, prior to the ECTEL/NTRC August 2008 consultation. A separate consultation on ADC was conducted in Dominica because the interconnection agreements between providers in Dominica required the NTRC to determine the level of ADC that was applicable after the third year of the agreement. The Dominica AD consultation was specific to Dominica and sought to determine the level of ADC which was applicable after the third year of the interconnection agreements. This consultation sought to determine the level of ADC which is applicable on implementation of proposed cost based interconnection rates as determined by the LRIC models that were subject to public comment at that time.

4 ACCESS DEFICIT DEFINITION AND SUMMARY

This section is intended to address the overall definition of an access deficit and provide a summary of other important AD policy. As an example, this section summarizes access deficit definitions and important related policy from various parties' comments filed in response to the previous consultation papers issued by ECTEL/NTRC and the NTRC of Dominica. All parties are welcome to revise or update their definitions and related policy in this consultation paper, and this will be relied upon as the most recent information to be considered by ECTEL/NTRCs in the evaluation of the access deficit issue. Also, LIME's September 2008 comments in the AD consultation states that LIME believes that the ECTEL "guidelines" established for the AD

determination should have been subject to consultation. Therefore, the ECTEL guidelines from the previous AD, and any new guidelines proposed by parties in this consultation paper, are now subject to comment.

Annex A includes Section 4 which is a summary of the definition and policy positions on certain access deficit issues for the following parties:

- ECTEL
- NTRC of St. Vincent and the Grenadines
- LIME
- Digicel SVG and Digicel Dominica
- Columbus Communications Grenada Limited or FLOW
- Orange Dominica

4.1 ECTEL's Access Deficit Definition – Further Explanation

ECTEL's August 2008 consultation paper indicated that an access deficit should include the revenues and costs of the following services:

- Revenue from line installation and rental, and cost of access lines (where revenue from line installation and rental is based on maximum revenue that can be secured under price caps).
- Revenue and costs of other regulated domestic services, when the revenue minus the cost is positive and does not produce a deficit.

LIME's comments indicate that ECTEL's definition attempts to measure the "local service deficit" rather than just the "access deficit" because it has included other regulated services besides just "access", and ECTEL does not include any unregulated services. LIME states that ECTEL has only included "regulated domestic services", which is a subset of "all regulated services" in its AD definition. LIME does not disagree with ECTEL's approach, but believes ECTEL should clarify its definition so that all parties understand.

ECTEL does not believe that its AD definition requires clarification, but ECTEL will provide some further explanation and details to make sure all parties understand. These details include the following:

- 1) ECTEL does not agree with LIME regarding a distinction between "regulated domestic services" and "all regulated services." ECTEL's AD definition includes the services of line installation and rental, and "other regulated domestic services." ECTEL's use of the terminology "other regulated domestic services" was not intended to be limited by LIME's interpretation of the word "domestic." It is ECTEL's intent that "other regulated domestic services" potentially includes all other regulated services that

“access” the PSTN (in addition to line installation and rental), although services such as Leased Circuits and Data have not been included in ECTEL’s definition of “other regulated domestic services” for purposes of an access deficit calculation. Also, ECTEL’s position on access deficit is guided by the subsequent language.

- 2) In order to be included in the access deficit calculation, all other services (besides line installation and rental) must have revenues that exceed costs, such that the services do not have a deficit. These services would offset any deficit for line installation and rental.
- 3) ECTEL’s definition indicates that the revenues component of the AD calculation can include maximum revenue that can be secured under Price Caps for line installation and rental (this applies to only these two services for residential and business customers).
- 4) ECTEL has used the word “cost” in its AD definition. Generally, the term “cost”, could refer to either a long-run incremental cost or a fully allocated/distributed costs (“FAC” or “FDC”) that is based on embedded historical costs (such as from LIME’s Enhanced Allocation Model - EAM). In almost all cases, FAC or FDC costs exceed LRIC costs and would generally result in a greater AD calculation. However, it appears that LIME’s current AD calculation may include certain LRIC costs that exceed its embedded costs under the previous EAM, and this has caused an increase in the AD calculation. This issue will be addressed later because ECTEL has some concerns when comparing LIME’s 2003 EAM costs to the AD calculation using LRIC inputs and outputs (along with other inputs for revenues and volumes). One alternative is to consider the use of the lower of costs produced by either a model that primarily uses “incremental costs – LIME’s current AD calculation” costs or “embedded/historical costs – LIME’s 2003 EAM” in the calculation of any AD.

ECTEL will continue to evaluate its AD definition and the AD definition of other parties based on further comments from this consultation paper, so ECTEL’s previously stated definition could be subject to change.

4.2 Questions for Respondents

The respondents should consider all previous information in this consultation paper, along with any additional analysis they have performed, in answering the following questions.

Question 4.1 – Have any respondents changed their positions, or do they now agree with ECTEL’s proposed AD definition and guidelines (when considering the additional information provided by ECTEL)?

Question 4.2 – It would be helpful if the respondents could provide a summary of their positions and guidelines on access deficit in a similar format as Annex A, addressing a definition for access deficit and related important policy positions.

5 SERVICES INCLUDED IN ACCESS DEFICIT CALCULATION

This section will primarily address those services included in the calculation of an access deficit.

Those services to be included in an AD calculation can vary and can be significantly influenced by the regulator's objectives and judgment regarding affordable rates, preservation of universal service, the public interest generally, promotion of competition, transparency, interconnection policy, costing principles, issues unique to the incumbent, and other matters. There is not a one-size fits all formula for determination of an AD calculation, and the regulator retains substantial discretion regarding this matter.

Also, ECTEL is not necessarily conceding that there is an AD, or that there is a significant AD that requires recovery from other services/customers, especially after consideration of mitigating factors or other offsetting issues which will be addressed later in this consultation paper. However, this section will first focus on those services to be included in an AD. The next section will address the AD calculation performed by LIME.

5.1 Services Included in Access Deficit – Summary of Respondents

This section will address those services that should be included in the calculation of an access deficit. This is a different issue than those services/customers from which the access deficit should be applied and recovered, and this issue will be addressed in a subsequent section of this consultation paper.

The respondents to the ECTEL/NTRC August 2008 consultation paper had various opinions regarding which services should be included in the calculation of an access deficit as indicated below:

- ECTEL proposal in August 2008 CP – ECTEL proposed that an access deficit include only regulated services, consisting of access lines (installation/rental), plus other regulated domestic services that require “access” to the PSTN (and this definition currently excludes Leased Circuits, Data, and similar services). For other regulated services besides line installation and rental, ECTEL requires that revenues must exceed costs and there must not be a deficit for these “other regulated services.” Also, for line

installation and rental, revenues can be included at the maximum revenue level that can be secured under Price Caps. Although ECTEL proposes that an access deficit include only regulated services, this is not inconsistent with ECTEL's opinion that unregulated services (such as International and Mobile) should either: a) incur a reasonable allocation of common loop costs; or b) contribute revenues to recovery of a reasonable allocation of common loop costs. Also, ECTEL will continue to re-evaluate its original position on this matter as part of the consultation process.

- NTRC of St. Vincent and the Grenadines – SVG proposes to include regulated services and some unregulated services, such as international outgoing and incoming, in order to reduce the access deficit. SVG indicates that all services using the access network, including mobile-to-fixed, should be subject to inclusion in the AD calculation.
- LIME – LIME believes the AD should include those services, among all regulated services, that are provided at a loss due to regulated pricing below cost, and this generally means fixed access service (installation/rental). LIME apparently does not disagree with ECTEL's proposal which includes both regulated services that have an access deficit and those regulated services that do not have an access deficit. However, LIME suggests that ECTEL revise its definition in order to clarify this matter, so that all parties understand.
- Digicel – Although Digicel opposes an AD, they agree that any access deficit should include regulated fixed services that have an access deficit, such as line rental, installation, connection/reconnection and other services. On the other hand, Digicel indicates that an AD should not include any other local services (so Digicel appears to oppose ECTEL's proposal), because it claims this would require Digicel and other carriers to indemnify LIME's local business profitability.
- FLOW – Although FLOW opposes an AD, FLOW appears to agree with ECTEL's proposal that the AD be calculated using regulated services, and not unregulated services.
- Orange Dominica – Orange opposed an AD in its comments in the NTRC of Dominica consultation, but Orange did not provide a list of specific services that should be considered for inclusion in an AD.

5.2 Digicel's Concerns Regarding ECTEL AD Definition

Digicel expresses concerns with ECTEL's AD definition because it believes that inclusion of "other regulated services" will cause the AD to increase, and Digicel (and other carriers) will be required to subsidize various other services of LIME. ECTEL agrees with LIME's December 17, 2008 reply comments that ECTEL's method will actually "decrease" the AD, and will not increase the AD. ECTEL has reviewed the confidential AD calculations of LIME that

implement ECTEL's proposal,⁹ and ECTEL can confirm that inclusion of "other regulated services" has the impact of decreasing the AD by a significant amount (by including regulated services such as value added services, ADSL, and other services). ECTEL will explain later in this consultation paper how LIME's AD calculation (supposedly reflecting ECTEL's policy position on an AD) failed to properly remove access deficits for other regulated services and failed to offset the AD for certain business line rental and service connection charges in Basket 2.

ECTEL's proposal has the impact of mitigating any AD calculation. This is especially reasonable when working with AD calculations that include many estimates and subjective inputs. ECTEL believes its proposal is reasonable and balances the interests of all parties. Generally, all other regulated services cannot be provided without "access" to the PSTN, so it is reasonable to include these other regulated services, especially those services which do not result in an AD.

5.3 Treatment of Unregulated Services in an AD Calculation

ECTEL's previously issued definition of an access deficit indicated that unregulated services should not be included in the calculation of an AD. Although the AD may be applied to, and recovered from, unregulated services in part (and certain regulated services), the unregulated services were not used to increase or decrease the actual AD calculation. To the extent these unregulated services are subject to competitive pressures, it may be less appropriate to use these services to reduce the AD for regulated services. Some unregulated services may already be priced at premium levels by the incumbent in order to help recover or offset access deficits of certain regulated services. Therefore, it can be argued that these unregulated services should not bear a further burden. However, ECTEL believes it is still appropriate that unregulated services share in the common loop costs incurred by regulated services. ECTEL will continue to evaluate this matter in order to determine if the cost of "Access" includes a reasonable allocation of loop costs that benefit certain unregulated services. Also, excluding unregulated services from the AD calculation, but requiring unregulated services (and related customers) to bear part of the recovery of any AD calculation is a reasonable policy that properly balances the interests - especially if it is difficult to determine if unregulated services share a reasonable allocation of common loop costs.

5.4 Questions for Respondents

The respondents should consider all previous information in this consultation paper, along with any additional analysis they have performed, in answering the following questions.

⁹ LIME claims that it has implemented ECTEL's proposal, but there are exceptions in the calculation where LIME has included some other regulated services that have an access deficit. ECTEL proposed to "exclude" all other regulated services that had an AD.

Question 5.1 - Do the respondents believe that any unregulated services should be included in the AD calculation, and why?

Question 5.2 - Do the respondents believe the following services should or should not be included in the calculation of an access deficit, such as other fixed/local services including valued added services, voicemail, ADSL, national payphone, operator assistance, domestic and international directory query, emergency services, fixed-to-fixed, fixed-to-mobile/LIME, fixed-to-mobile/Other Mobile Carriers, ISDN, regulated portion of any bundled services, and any other services? Explain why or why not?

Question 5.3 - Can respondents provide any specific examples of recent access deficit calculations in other jurisdictions, and explain how regulated and unregulated services were treated, and provide a list of services included in the calculation of the access deficit?

6 ACCESS DEFICIT CALCULATION

This section will address the calculation of the access deficit (including LIME's comments and calculations regarding various access deficit scenarios in the August 2008 AD consultation). Those issues primarily impacting the amount of the AD include:

- 1) Services included in the access deficit calculation (addressed in the previous section).
- 2) Assumptions, inputs and calculations in the access deficit calculation (addressed in this section).
- 3) The LRIC cost study that underlies some of the calculations in LIME's current access deficit calculation (addressed in this section).
- 4) Any new price cap plans or forms of regulation that shift existing regulated services to unregulated services, or which increase the pricing flexibility for regulated services (addressed in section 7 related to Mitigating Factors).

Because the results of LIME's calculations regarding the access deficit were confidential, certain questions will be directed towards LIME. However, all parties are welcome to comment on all questions.

6.1 Background of AD Calculation

As part of its September 17, 2008, comments on the AD, LIME provided two calculations of an access deficit for each of the ECTEL member states. The first calculation is supposedly based on ECTEL's proposed AD definition and guidelines and the second calculation is based on LIME's preferred method (with revision to ECTEL's proposal) for calculating an AD. This section will focus on LIME's calculation of the AD using ECTEL's proposed AD definition and guidelines.

LIME's calculation of the ECTEL AD proposal raises various concerns and potential problems, and additional review is still necessary. Also, some further clarification of LIME's AD calculation is necessary.

Because these AD calculations and results are considered to be confidential by LIME, this makes it more difficult to address these issues in a public consultation where confidential data cannot be disclosed. However, ECTEL will attempt to convey its concerns and related questions in a manner that will allow other parties to respond.

LIME's AD calculation includes various inputs and outputs from the LRIC model, so LIME's AD calculation is impacted partially by the LRIC model. LIME's AD calculation appears to have used financial and volume data (that was current at that time) as some of the support for AD calculations, although it appears that some of these costs, revenues, and volumes were adjusted to reflect "long-run" considerations. Also, LIME indicates that it used competitor volumes in the AD calculation which reflect the latest six months (at the time of LIME's September 17, 2008, AD comments).

As part of a reasonableness test and review, ECTEL compared results of the LIME AD calculation to LIME's 2003 Enhanced Allocation Model ("2003 EAM").¹⁰ The 2003 EAM is a fully allocated (or fully distributed) cost model ("FAC" or "FDC") that primarily uses historical embedded costs and revenues from the company's financial statements as the basis for an AD calculation.¹¹ The 2003 EAM was apparently the last fully allocated model prepared by LIME for the ECTEL member states, although the EAM model is still prepared in other Caribbean jurisdictions by LIME. LIME appears to now be primarily relying on LRIC models for the ECTEL states.

¹⁰ The 2003 EAM calculations are based on the LIME March 31, 2003 financials and FAC for St. Lucia, and for the other four ECTEL states the ratios of expenses/plant investment from the March 31, 2001, FAC were applied to the March 31, 2003 financial reports.

¹¹ The term "fully allocated" or "fully distributed" refers to this type of cost method that identifies and "allocates/distributes" the costs all services (both regulated and unregulated services) - - thus the term "full" distribution/allocation. Generally, the supporting costs/revenues for this type of model can be tied back to the historical financial statements of the company.

The related “deficit” or “surplus” for a specific service (or grouping of services) differs from the related “profit” or “loss” of a service that would be measured by a typical “profit/loss financial statement” or “income statement” of a company. A typical “profit/loss” or “income statement” is one of the financial statements prepared as part of audited financial statements and is used to measure the twelve-month profits or loss of a company (and information is shown on a consolidated basis and not on a service-specific basis). This type of financial statement is represented as:

“Revenues (net of Outpayments) Less Operating Expenses, Depreciation and Taxes = Net Profit or Loss”

In contrast to a typical “profit/loss” or “income statement”, the surplus or deficit of a service (or a grouping of services) is calculated by comparing total revenues to total costs of a service, where total costs include both: a) operating expenses and b) a reasonable rate of return on capitalized plant investment (and perhaps other net assets and liabilities). If revenues exceed costs, then a “surplus” exists for the service (or group of services). If costs exceed revenues, then a “deficit” exists for the service (or group of services). Both the revenues and total costs may be subject to various adjustment or revisions to reflect normal operations, and this could include adjustments to remove the impact of extraordinary items, remove or adjust one-off costs, reflect projected changes in volumes, possible adjustment for inflation and productivity, adjust or remove certain costs that should not be incurred by customers, along with other possible adjustments. The costs of regulated services should include appropriate adjustments to remove the costs of unregulated services.

The 2003 EAM shows a “surplus” or “deficit” for each regulated and unregulated service of LIME. The related “surplus” or “deficit” for each regulated and unregulated service is generally calculated as the following:

“Revenues (net of Outpayments) Less Expenses, Depreciation, Taxes and Return on Capital Employed (“ROCE”) = Surplus or Deficit”

The ROCE consists of a weighted average cost of capital (“WACC”) or rate of return that is multiplied by capitalized plant costs (along with the net impact of other balance sheet assets and liabilities), so that the amount generally represents a reasonable rate of return on plant investment. The ROCE appears as an “expense” amount (as an offset or reduction to revenues) for each regulated and unregulated service in the EAM.

In contrast to the 2003 EAM that shows revenues and costs of all regulated and unregulated services, LIME’s AD calculation shows only revenues and costs of regulated services that access the PSTN (which excludes regulated services such as Leased Circuits, Data, and others). The absence of detailed information for unregulated services (such as revenues and costs) presents a problem with testing the reasonableness or accuracy of LIME’s AD calculation, and this is addressed later.

LIME's current AD calculation appears to use a formula that is generally consistent with the EAM formula (except LIME's AD calculation is based on "incremental" costs and is not based on "historical/embedded costs" that are used by the EAM) as set forth below to the best of ECTEL's knowledge:

"Revenues (net of Outpayment) Less Expenses, Depreciation, Taxes and ROCE (included in the Network Expense component) = Surplus or Deficit"

LIME's current AD calculation appears to vary from its 2003 EAM (and subject to further explanation and information from LIME), and some of the primary differences include:

- 1) LIME's current AD calculation is based on long run incremental costs, whereas the EAM was based in historical/embedded costs of the financial statements.
- 2) LIME's current AD calculation only shows the "surplus" or "deficit" for regulated services that access the PSTN, whereas the EAM showed the "surplus" or "deficit" for all regulated and unregulated services.
- 3) LIME's current AD calculation appears to include a ROCE component that is included in "Network Costs" and is not explicitly shown, whereas the ROCE component is explicitly shown as a line item in the EAM.
- 4) LIME's current AD calculation includes a "retail" mark up percentage for certain costs related to marketing, advertising, billing, collection and other customer operation expenses, whereas the EAM included the "actual" costs for these components and not an estimated mark up percentage.
- 5) LIME's current AD calculation uses projected volumes multiplied by unit costs to arrive at total aggregate costs, whereas the EAM relied more on actual historical costs for the underlying basis.
- 6) LIME's current AD calculation uses estimated or projected revenues, whereas the EAM used actual historical revenues.
- 7) LIME's current AD calculation may include other adjustments to costs (such as inflation) or other adjustments, and the EAM did not include these types of adjustments (further information is needed from LIME to confirm the types of adjustments to the costs and revenues in LIME's current AD calculation).
- 8) LIME's current AD calculation appears to use depreciation costs based on "economic" depreciation (economic depreciation costs usually exceeds both the depreciation costs recorded in the "regulatory" financial statements and the "statutory/audited" financial statements), whereas the EAM used regulatory depreciation expense (regulatory depreciation costs usually exceed depreciation costs from the statutory/audited financial statements).
- 9) LIME's current AD calculation and the EAM both use "regulatory" financial statements and not "statutory/audited" financial statements as the basis for costs, although "regulatory" costs form the underlying (or starting point) for costs in LIME's current AD calculation that are subject to further adjustment and projections.

LIME's current AD calculation (for each of the ECTEL member states) appears to take volumes of certain regulated services from the LRIC model (although not all volumes may be from the

LRIC model) and multiplies these by unit costs for these same services that are taken from the LRIC model, to arrive at costs for each service. ECTEL is not certain that all volumes in the LRIC model and the AD calculation are the same, and this issue is subject to further review by ECTEL (pending additional information to be received from LIME). LIME's current AD calculation separates the regulated costs of each service between both "Network" and "Retail" unit costs, and there are unit costs for each service in each of the Network and Retail categories.

The "Network" costs appear to include a WACC that has been applied to certain "capitalized plant costs" (and perhaps other balance sheet asset and liability amounts) and these amounts have been converted to a per unit cost, although more information is needed from LIME regarding this matter. The "Retail" costs would appear to include "expenses" only, but it is necessary to get additional information from LIME to confirm this. Also, the Retail costs have been marked up by a certain percentage by LIME to reflect an adjustment for marketing, advertising, billing, collection, and other customer operation expenses incurred by LIME. The "Access" service generally receives a smaller mark-up than the "Other Regulated Services", perhaps assuming a smaller amount (or no amount) of marketing and advertising costs assigned to this service.

The Network and Retail costs for each service are added together to arrive at "Aggregated" costs for each service. These "Aggregated" costs for each service are compared to "Total PSTN Regulated Revenues" for each service. If the revenues exceed the costs, then there is a "surplus" for the service and no access deficit. If costs exceed revenues, then the resulting amount is reflected as a "deficit." The service called "Access" (which includes line rental and installation revenues) has the largest deficit (or AD) of all services, and its deficit is significantly larger than any other service.

This consultation report will generally use the term "AD" when referring to the combined deficit of all regulated services, including "Access" service and all other regulated services. However, this report will focus on addressing the large deficit for "Access" service, and when referring only to "Access" services the report will address this as the "Access AD" or the "AD for Access".

LIME's current AD calculation does not provide information for any unregulated service, so it does not show or calculate a deficit for any unregulated service, and does not include any unit costs or revenues for unregulated services. Therefore, up to this time it has not been possible for ECTEL to determine the surplus or deficits for unregulated services, and it is not possible to determine with certainty if all proper costs have been assigned/allocated to unregulated services (or if some of these costs have been improperly included in the costs of regulated services).

6.2 Concerns with LIME's Current AD Calculation

ECTEL identified the following concerns and potential problems when comparing LIME's current AD calculation to the 2003 EAM AD calculations, and based on additional analysis. The main concerns and potential problems are addressed in more detail later in this section.

- 1) LIME's current AD calculations are not consistent with ECTEL's proposal and do not appear to: a) remove the AD for Other Regulated Services from the AD calculation; and b) does not offset maximum Price Cap Revenues for Basket 2 business rental/installation against the AD calculation. Although LIME had the ability to increase prices for services in Baskets 2, such prices were not increased. The ECTEL guidelines require that the maximum amount of revenues that could have been recovered under the PCP for rental and installation should be offset against the AD, and LIME has not included this revenue offset to its AD calculation.
- 2) LIME's current AD calculation for "Access" service of all ECTEL member states appears to have doubled since LIME's calculation under the 2003 EAM model (based on ECTEL's best estimates), and LIME's current calculations show an AD for Access service in each of the ECTEL member states (at the time of this consultation paper, ECTEL only had the 2003 EAM for Saint Lucia and not the other four ECTEL member states, although this data was used for estimating results for the other four member states).
- 3) LIME's current AD calculation for all combined PSTN regulated services (the net impact of Access service and all Other Regulated Services), shows an AD for all combined PSTN regulated services (which includes the AD for Access) that is about one-half of the AD for Access service. Based on the ECTEL's best estimates, it would appear that at least some of the ECTEL member states showed a surplus for all combined PSTN regulated services under the 2003 EAM, although LIME's current AD calculation shows an AD for all combined PSTN regulated services in all ECTEL member states. However, LIME has not properly calculated the AD for all combined PSTN regulated services under ECTEL's guidelines as addressed in item (1) above. If such guidelines are properly implemented, then this might result in a small surplus, or close to a surplus, for at least two of the ECTEL member states.
- 4) LIME's total costs allocated to regulated operations via the AD calculation appear to have significantly increased when compared to the costs in the 2003 EAM (based on ECTEL's best estimates).
- 5) LIME's AD calculation appears to allocate a greater percentage of total costs to regulated operations (so the costs of unregulated operations may be understated) when compared to the 2003 EAM (based on ECTEL's best estimates).
- 6) LIME's AD calculation (which uses some LRIC inputs) appears to produce costs for regulated and unregulated services that exceed the total amount of costs included in its financial statements, and this would be unusual for LRIC-related costs to exceed embedded/historical financial costs (based on ECTEL's best estimates).
- 7) LIME's AD calculation appears to show an inconsistency between projected PSTN residential and business access line volumes and the revenues projected for these

services, such that revenues may be understated and causing an increase in the AD calculation.

- 8) LIME's AD calculation applies a different mark up percentage to both "Access" service and "Other Regulated Services" for marketing, advertising, billing, collection, and other customer operation costs. This mark up needs to be reviewed for reasonableness in relation to actual costs, to determine if these types of costs should be subject to collection from competitors/other providers in an ADC, to determine if such costs should be recoverable within the context of an AD or cost study, and whether such costs are properly allocated between regulated and unregulated services.
- 9) LIME's AD calculation raises several issues regarding ADSL service. First, should the costs of ADSL service vary significantly between ECTEL member states and why. Second, it is not clear if the cost of the common loop (or other costs) are included in the costs of ADSL service or Access service. Third, should the cost of ADSL approximate the cost of "Access", should it be consistently less than the cost of Access, or should it be significantly below the cost of Access - - and what is the rationale for this difference in costs between Access and ADSL.
- 10) LIME's AD calculation raises concerns regarding the total costs (not the unit costs) for ADSL service when comparing the costs for ADSL in the AD calculation versus the 2003 EAM. If revenues have increased significantly for ADSL from 2003 through the period of the present AD calculation, should ADSL total costs (not unit costs) have remained about the same, should they have decreased, or should they have increased slightly or significantly. This concern relates to the total costs of providing ADSL service (although the "total" costs are calculated with information from "unit" costs).
- 11) LIME's AD calculations appear to have used interconnection rates in cost/revenue calculations in the 2007 to 2008 time period, but there are concerns whether recent changes in interconnection prices should now be reflected in the AD calculation (and how would this impact the AD).
- 12) LIME's AD calculation is not clear regarding its treatment of discounts or promotions for regulated and unregulated services. Such discounts/promotions could understate the amount of regulated revenues to offset against the AD without any imputation of such amounts, and such discounts/promotions for unregulated services could understate the amount of costs that should be allocated to unregulated operations (and overstate the amount of costs allocated to regulated operations) in those cases where revenues may be used as an allocator for such costs.
- 13) LIME's AD calculation is not clear regarding the treatment of costs and revenues for bundled services. It is not clear whether the related revenues (such as the full tariffed rate for the services, and not a discounted rate included in bundles) for those "regulated" service components (such as access rental, value added services and other services) that are included in bundles have been offset against related unit costs in the AD calculation.

- 14) The treatment of Retail Costs (which appear to include certain common/overhead costs) needs to be further evaluated for a reasonable allocation between all regulated and unregulated services. An allocation of common costs based on revenues of all services might result in a reduction of the AD calculation. Also, it is important to consider whether common/overhead costs should be allocated using a method at the discretion of ECTEL that achieves certain policy priorities such as universal service, affordable rates, and other policy.
- 15) LIME's AD calculation appears to use "regulatory" financial statements as the underlying basis (or starting point) for costs, subject to further adjustments based on an "incremental" cost methodology. These costs need to be reviewed for differences between "regulatory" costs and "statutory/audited" costs to determine which provides the best starting point for costs in the context of the AD calculation. This could include an evaluation of the basis for depreciation expense and depreciation rates used in calculating the AD, and whether these should be based on "economic" depreciation such as under a LRIC (which is presumably higher than statutory depreciation), statutory depreciation (per the audited financials), or some other basis or type of depreciation method.
- 16) LIME's AD calculation appears to use "regulatory" costs as the underlying basis (or starting point) for costs, subject to further revisions. These costs need to be evaluated regarding one-off costs, extraordinary costs, legacy costs, severance/force reduction costs, any amalgamation/rebranding costs associated with the combination of Saint Lucia cellular and business unit operations, write-offs for inventory and other policy issues.
- 17) LIME's AD calculation needs to be evaluated in more detail to determine if it includes certain assumptions that increase costs (such as inflation) and if offsetting assumptions are used to decrease costs (such as productivity), and whether such assumptions are reasonable in the context of an AD calculation.
- 18) LIME's AD calculation presumably uses the same WACC used in the original incremental cost model. ECTEL seeks comments on whether it is reasonable to adjust this WACC (rate of return component) for today's economic downturn and environment.
- 19) LIME's AD calculation needs to be evaluated in more detail to determine if "taxes" are based on statutory rates or actual amounts paid, and whether such method is reasonable for purposes of an AD calculation.
- 20) LIME's AD calculation needs to be evaluated in more detail to determine if "interest expense" was included twice in the recovery of costs, and if interest expense was recovered as both an incremental expense/costs of the service and as a component of the WACC in the "Network" costs.

6.2.1 LIME's Access Deficit Calculations Do Not Reflect ECTEL Proposal

LIME's September 17, 2008, AD comments provided two separate calculations of an AD amount, with one scenario supposedly reflecting ECTEL's AD guidelines and a second scenario reflecting LIME's preferred AD calculation. It appears that LIME's AD calculation supposedly reflecting ECTEL's AD guidelines was inconsistent in several respects.

First, LIME's AD calculations are not consistent with ECTEL's AD guidelines because several "Other Regulated Services" with a deficit have been included in the total AD column. ECTEL's AD proposal states that only "Other Regulated Services" without a deficit should be included in the AD calculation. This is not a significant problem and the deficits for these specific services can be easily removed from the total AD amount by ECTEL.

Second, LIME's AD calculations are not consistent with ECTEL's AD guidelines, because LIME does not offset maximum Price Cap Revenues for Basket 2 business rental/installation against the AD calculation. Although LIME had the ability to increase prices for services in Baskets 2, such prices were not increased. The ECTEL guidelines require that the maximum amount of revenues that could have been recovered under the PCP for rental/installation should be offset against the AD, and LIME has not included this revenue offset to its AD calculation. This would result in a reduction in the LIME AD calculation. The calculation of the maximum revenue offset for Basket 2 services has not been performed yet (it has only been estimated), and LIME should be encouraged to provide this calculation.

LIME currently shows an AD for all combined PSTN regulated services in all ECTEL member states using its current AD calculation. However, LIME has not properly calculated the AD for all combined PSTN regulated services under ECTEL's guidelines as addressed above. If such guidelines are properly implemented, then this could result in a surplus, or close to a surplus, for at least two of the ECTEL member states (based on a netting of all combined PSTN regulated services, including Access service).

6.2.2 Summary of Reasons for Increase in LIME's AD

These issues represent a significant concern for ECTEL. LIME's current AD calculation appears to produce an AD for "Access" service (line rental/installation) that is significantly greater than that produced by the 2003 EAM, based on ECTEL's best estimates.¹² Although LIME's current AD calculation represents more recent data, compared to the data in the 2003 EAM, the change

¹² ECTEL's estimate is based on data from the Saint Lucia 2003 EAM compared to the current LIME AD calculation for Saint Lucia and all ECTEL member states (with corresponding ratio analysis to estimate the 2003 EAM AD calculation for the other four ECTEL member states), because the 2003 EAM has not yet been provided by LIME for the other four ECTEL member states.

in revenues and costs from these different time periods does not appear to explain the significant increase in the AD for Access service. A full review cannot be performed without the actual Excel model for LIME's current AD calculation and without the 2003 EAM for all ECTEL member states. However, on a preliminary basis, it would appear that a different method of identifying and allocating costs between various services is the primary reason for the significant increase in the AD for Access service under LIME's current AD calculation. This significant change and increase in the AD for Access service appears unusual.

The information below summarizes the significant and unusual increase in the AD for Access services (line installation and rental) under LIME's current AD calculation model. Also, this information identifies some of the other changes that may have caused the increase in the AD, as well as identifying important missing information that would assist with the review of the increase in the AD. The key points are:

- The AD for Access has approximately doubled in amount from the 2003 EAM to the current LIME AD calculation based on ECTEL's best estimate, and this appears unusual and may be driven by the two different AD models which produce different costs and different cost allocations between services.
- LIME's current AD calculation shows an AD for Saint Lucia for all combined regulated PSTN services (without any further ECTEL proposed adjustments). However, applying the current ECTEL guidelines to LIME's AD calculations for Saint Lucia under the 2003 EAM would result in a "surplus" for all combined regulated PSTN services. It is not clear if this same conclusion can be reached for other ECTEL member states until the 2003 EAM is available for all other ECTEL member states.
- Total costs for all combined regulated PSTN services for St. Lucia (as well as similar costs for just Access service) have increased significantly using LIME's current AD calculation compared to the AD calculation using the 2003 EAM (but clearly LIME's total costs for regulated and unregulated services have not increased by this same percentage or level). The degree of cost increase for the other ECTEL member states is not certain until the 2003 EAM is available for all other ECTEL member states.
- LIME's current AD calculation shows that several of the PSTN Other Regulated Services have experienced substantive revenue increases with much lesser cost increases (when compared to the AD calculation under the 2003 EAM), which could mean that some of the costs of these Other Regulated Services are now allocated to Access service (although this is not necessarily the case).
- It appears initially that costs from LIME's financial statements exceed the total costs in LIME's current AD calculation, although not by a sufficient amount to cover the costs of unregulated services that are not included in LIME's costs for the current AD calculation. After including estimates of costs for unregulated services (and other regulated services not in the AD calculation), it appears that total costs from LIME's AD calculation would exceed total embedded/historical costs from LIME's financial statements (after

adjustments are made to convert financial statement costs to include a ROCE component). The primary concern is that regulated costs may be overstated and unregulated costs may be understated under LIME's current AD calculation.

- LIME has not provided related revenues and costs, or LRIC results, for unregulated services in its current AD calculation. Therefore, it is not possible to determine if a reasonable amount of costs have been allocated/assigned to unregulated services when compared to regulated services. The 2003 EAM showed revenues and costs for both regulated and unregulated services, but information for unregulated services is not currently available to enhance the review of LIME's AD calculation.

6.2.3 Allocation and Amount of Common/Overhead Costs May Impact AD Calculation

The category of costs referred to as "Retail" in LIME's current AD calculation appear to include common/overhead costs. Although it is not disputed that a reasonable level of common/overhead costs should be recovered in rates, the regulator can use its judgment to re-allocate common/overheads costs to services in a manner that might be more economically efficient or which might achieves certain regulatory objectives.

Such regulatory objectives might include the preservation of affordable rates, enhancing universal service, and other objectives. For example, the regulator may decide to allocate a smaller portion of common/overhead costs to those regulated services considered to be important in preserving affordable rates and universal service, such as line rental and installation. In addition, the regulator might consider disallowing or permanently removing certain excessive or unusual common/overhead costs, or leaving a significant amount of these costs to be recovered from unregulated services. Of course, the regulator should not "require" such common/overhead costs to be included in prices of unregulated services, but leave this decision to the discretion of the company. Removing a portion of these common/overhead costs (for various reasons) could significantly reduce the AD.

In addition, it may be reasonable to consider allocating common/overhead costs based on "revenues" for all regulated and unregulated services. Although this may not change the total amount of common/overhead costs in the AD calculation (if the current amounts are proper), it may re-allocate these common/overhead costs to different services and reduce the AD for "Access" service or other services. ECTEL believes this issue is important to evaluate, and that LIME should perform such calculation and provide documentation such that ECTEL can perform or evaluate this calculation. This would require that the amount and type of common/overhead costs included in the "Retail" category of costs be provided, and that common/overhead costs be provided for all regulated and unregulated services. It would also be necessary to reconcile the amount of "embedded" common/overhead costs from underlying financial statements to the amount of "incremental" common/overhead costs included in the "Retail" category of costs.

6.2.4 LIME's Mark Up of Retail Costs

LIME's AD calculation appears to apply a different mark up percentage to both "Access" service and "Other Regulated Services" for marketing, advertising, billing, collection, and other customer operation costs. The mark up for Access services is less than the Other Regulated Services, and this may be because Access incurs less marketing and advertising costs than the other services. It appears this mark up varies, depending upon each ECTEL member state. This mark up appears to be applied to the "Retail" costs category.

This mark up needs to be reviewed for reasonableness in relation to actual costs, to determine if these types of costs should be subject to collection from competitors/other providers in an ADC, to determine if such costs should be recoverable within the context of an AD or cost study, and whether such costs are properly allocated between regulated and unregulated services. LIME should provide additional documentation to justify the mark up percentage in the AD calculation, especially as it relates to actual embedded costs (and any revisions to these costs to reflect costs on an incremental basis) intended to be recovered by the mark up percentage.

ECTEL has concerns regarding the amount and type of marketing and advertising costs allocated to "Access" service via the mark up percentage, because generic "Access" service is not a typical retail-type service that is advertised or marketed to consumers by LIME. Also, it is not clear if other competitors/providers should help pay for LIME's advertising and marketing in an AD calculation, especially if an ADC is levied against such competitors/providers. Also, there are concerns regarding how much of the marketing and advertising is of such a generic nature that it represents "corporate enhancement or image", and is not advertising or marketing associated with a specific LIME service - although such costs may be allocated to "Access" or other regulated services.

It is not clear if LIME has allocated certain advertising and marketing costs to "Access" services via the mark up percentage, under the context that "Access" to the PSTN is relevant to all regulated services (and even some unregulated services). Therefore, it is not clear if LIME has allocated advertising for numerous regulated services (and perhaps some unregulated services) to the "Access" service category under this context.

Finally, it would appear that much of LIME's advertising and marketing is related to Mobile service, or other services which LIME may consider to be competitive services and which are currently unregulated. LIME should provide additional information regarding the allocation of advertising and marketing costs among various services via the mark up percentage. In the absence of further documentation provided by LIME, ECTEL raises the issue of whether almost all advertising or marketing costs (via the percentage mark up) should be allocated to Mobile, International and other similar unregulated services.

6.2.5 Other Concerns Regarding LIME's AD Calculation

ECTEL has identified various other issues in LIME's AD calculation that are concerns. Respondents are welcome to address these issues and any further concerns. For most issues, LIME should provide additional documentation to clarify or explain the concerns. Respondents should also comment on whether the issues and costs below should be considered differently within the context of an AD calculation compared to the treatment of such issues and costs within the determination of interconnection costs.

- 1) Access Revenues - LIME's AD calculation appears to show an inconsistency between projected PSTN residential and business access line volumes and the revenues projected for these services, such that revenues may be understated and causing an increase in the AD calculation.
- 2) Bundled Services - LIME's AD calculation is not clear regarding the treatment of costs and revenues for bundled services. It is not clear whether the related revenues (such as the full tariffed rate for the services, and not a discounted rate included in bundles) for those "regulated" service components (such as access rental, value added services and other services) that are included in bundles have been offset against related unit costs in the AD calculation. The AD calculation does not specifically identify bundle revenues, so it is not clear if the components of bundled services have been included in their respective service categories (such as including the residential rental component within PSTN access revenues), if they have been omitted from the AD calculation, or if bundled revenues have been included in the aggregate in one of the line items of the AD calculation. If the components of bundled services have not been properly treated in the AD calculation, this could have caused an increase in the AD.

6.2.6 Conclusions Regarding LIME's AD Calculation

ECTEL believes that the significantly different AD amounts produced by LIME's current AD calculation and the 2003 EAM can be an indication that either a significant AD does not exist, or at least the AD is very volatile and is difficult to accurately quantify. These conflicting results make it more difficult to support continued implementation of an ADC. Parties should address the burden of proof and additional documentation that is necessary to justify continued implementation of an ADC.

6.2.7 Questions for Respondents

Respondents should consider all previous information in this consultation paper, along with any additional analysis they have performed, in answering the following questions and respondents

are free to comment on any other area presented in Section 6 not highlighted in the questions below. Please note that some specific questions related to LIME's current AD calculations and the 2003 EAM AD calculation which are more appropriate for LIME's comments are presented in Annex A, but other parties are also welcomed to provide comments on those questions.

Question 6.1 – Explain whether it would be reasonable to use revenues as an allocator for common/overhead costs in the AD calculation.

Question 6.2 - Explain whether “incremental” costs should or should not exceed historical embedded costs for an AD calculation.

Question 6.3 – Should the regulated portion of services that are included in bundled services be reflected in the AD calculation, if so how should they be reflected in the AD calculation?

Question 6.4 – Regarding LIME's current AD calculations, under Constraint 3 for each ECTEL member state, LIME is asked to explain and provide supporting documentation and calculations for the six-month competitor/other party volumes for MTF, Directory Inquiry, International Termination, Emergency Service, Transit, and other relevant services. LIME should also provide the source for these six-month volumes and provide updated actual volumes. Other parties/competitors should provide these related revenues and volumes for their respective companies for each of the ECTEL member states for the most recent 2 year period.

Question 6.5 - Explain if discounts, promotions, or price concessions should be netted against revenues (or treated as expenses) in LIME's current AD calculation.

Question 6.6 – Explain if LIME has used the EAM model to determine an access deficit for any Caribbean jurisdiction in the past 5 years, provide the name of the Caribbean jurisdiction, and explain if an access deficit is being recovered in that jurisdiction based on the EAM model (or explain if the access deficit recovery was rejected in that jurisdiction). Parties should address any AD calculations in other jurisdictions and how the issues impact the determination of an AD for the ECTEL member states.

Question 6.7 – Explain if LIME has used incremental costs (and a similar LRIC model inputs) to determine an access deficit for any Caribbean jurisdiction in the past 5 years, provide the name of the Caribbean jurisdiction, and explain if an access deficit is being recovered in that jurisdiction based on incremental costs (or explain if the access deficit recovery was rejected in that jurisdiction). Parties should address any AD's based on incremental costs in other Caribbean jurisdictions.

Question 6.8 – LIME's current AD calculation applies a certain mark up percentage to both “Access” service and “Other Regulated Services” as an apparent surrogate for costs related to marketing, advertising, billing, collection, and other customer service operations. Should competitors or other providers reimburse LIME for its advertising/marketing costs (that are

used to market against other competitors/providers), especially if an ADC is implemented that would recover part of these costs from competitors/other providers.

Question 6.9 – Explain if LIME’s current AD calculation should be updated to reflect more recent interconnection rates.

Question 6.10 – LIME’s AD calculation appears to use “regulatory” costs (instead of statutory/audited financials) as the underlying basis (or starting point) for incremental costs. Explain why regulatory costs are appropriate to use for calculating an AD.

Question 6.11 – It would appear that LIME’s current AD calculation uses “economic” depreciation rates in the calculation of costs. Explain why “economic” depreciation is appropriate to use in an AD calculation, versus “regulatory” depreciation or depreciation from the audited financial statements.

Question 6.12 – If LIME’s current AD calculation includes “inflation” and “productivity” factors applied to certain costs, explain why these same factors are appropriate in today’s economy, or explain if these factors should be updated. Explain why such factors should be used in an AD calculation.

Question 6.13– If LIME’s current AD calculation includes the same WACC that was used in the LRIC model, explain why this WACC is reasonable in today’s economic environment.

7 MITIGATING FACTORS THAT IMPACT THE ACCESS DEFICIT

This section will address various mitigating factors that could reduce the amount of the AD or could justify the decision to not approve recovery of the AD. Some of these mitigating factors include:

- 1) A new price cap plan or additional regulatory flexibility (including ECTEL’s proposal that revenues for AD calculations include the maximum revenues that can be secured under a Price Cap Regime for line installation and rental), could be implemented to mitigate the AD because some rebalancing of prices could occur to offset the AD or the maximum revenues could be imputed to offset the AD claims (or some combination of both of these).

- 2) If LIME has made a voluntary decision to price certain non-essential services below incremental cost, then this implied acceptance of an access deficit for certain services does not justify recovery of an AD for essential services such as Access (at least unless, or until, LIME increases prices for existing services that are below incremental cost). Competition is not a valid excuse to price some services below cost and increase the AD calculation, and such practices do not validate recovery of an AD for certain regulated services.
- 3) When the credibility of the AD calculation is at issue by virtue of AD calculations that vary by a significant amount between different models, then an AD should not be subject to recovery until these varying calculations can be reconciled or adequate documentation is provided to explain and justify the differences. When two models arrive at completely different results regarding the AD amount, this is an indication that AD calculations are volatile, subjective, easily changed depending upon model assumptions and inputs, and not easily confirmed by alternative models. These inconsistent findings between two models may not provide substantive reasoning to support or implement an ADC.
- 4) Trends reflecting increasing ADs may be an indication of other underlying problems that need to be addressed and remedied internally by a carrier, before an ADC is implemented. Costs that may be significantly increasing, declining productivity, and declining revenues may be symptoms of other problems that should be resolved before an AD is addressed.
- 5) If the AD calculation can be significantly decreased by using reasonable alternative assumptions in LIME's current AD calculation or an EAM, then any AD recovery should be deferred or not implemented due to volatility or concerns regarding subjectivity of the calculated amount.
- 6) If implementation of an ADC will do more harm than benefit, then any AD recovery should be deferred or not implemented. Such cases would exist when affordable service, universal service, and competition would be impaired in exchange for non-quantifiable benefits of AD recovery.
- 7) If there is no proof that LIME is being financially harmed to a significant degree by an AD on various services, then AD recovery should be deferred or not implemented. Or if the AD is not significant, or cannot be shown to have any significant negative impact on an individual carrier or the region, then AD recovery should be deferred or not implemented.
- 8) If the AD would cause retail prices or interconnection prices to generally exceed those in the Caribbean region, then a careful examination of the cost and benefit should be evaluated before AD recovery is implemented.
- 9) If an AD exists, one alternative would be to rebalance part of the AD via an immediate increase in prices of Residential and Business access line service or via price cap

flexibility that would give LIME the option to increase prices for Residential and Business access line service. However, if LIME was earning a very high rate of return (“ROR”) on investment on all combined regulated and unregulated services prior to any rebalance (which exceeds a reasonable ROR that might be determined under ROR regulation) and prices were increased for Residential/Business access line services without a corresponding decrease in prices for International service or other unregulated services, this would achieve two outcomes: a) further escalate LIME’s already high ROR; and b) provide no offsetting benefit to customers using LIME’s alleged competitive International service. This circumstance does not appear to justify rebalancing of any alleged AD, unless LIME can provide further justification.

- 10) The current PCP has provided LIME the opportunity to increase prices for Basket 2 services (and other services) to reduce the alleged AD, but LIME has not implemented such price increases to reduce the AD (perhaps under an assumption of competitive pressures). However, it would appear reasonable that LIME take initial steps to cure any alleged AD before regulators take further drastic actions.
- 11) There must be a substantive showing that implementation of an ADC will provide significant quantifiable benefits to carriers and consumers, especially when implementation of an ADC would be the exception rather than the rule in the Caribbean region. If the benefits and quantification of the AD are considered to be known, determinable, and reasonable, it is not clear why other Caribbean jurisdictions and international jurisdictions have not adopted an ADC (or have not implemented significant rebalancing to address this issue).

7.1 Impact of Price Caps Plan on AD

ECTEL’s August 2008 consultation paper proposed that the calculation of any AD include revenues from line installation and rental based on maximum revenues that can be secured under a Price Cap Regime. LIME raised some concern with this provision, but stated they did not have much of a problem regarding this policy for line installation and rental because these rates are already at their maximum price cap level.¹³ Technically, the current PCP would allow some upward pricing flexibility for both Basket 2 (business access line rental and installation) and Basket 3 services, subject to inflation factors for Basket 2 and subject to an “I – X” formula for Basket 3, where X = 2.5%. Basket 1 prices are capped under the current PCP.

LIME has indicated that it has not increased the prices for any regulated or unregulated services in its cover letters for its most recent annual price cap filings in the ECTEL member states for various letters dated December 2008 (and a Dominica letter dated April 2009).¹⁴

¹³ LIME September 17, 2008, comments on AD, page 4.

¹⁴ However, in Saint Lucia, prices were increased in 2006 for various Frame Relay products.

However, the next PCP or form of regulation could have a significant impact on any claimed AD under the “maximum” revenue guidelines proposed by ECTEL. Also, the provisions of the next PCP could offset any claimed AD to some degree if: a) additional services are moved from regulated to unregulated; or b) if additional upward pricing flexibility is allowed for current services in Baskets 1, 2 and 3. Therefore, the next PCP could have a direct or indirect impact on any claimed AD. Under the “maximum” revenues rule, additional revenues for residential access lines could be imputed to offset any claimed AD without any real increases in prices (an indirect impact) - - under an assumption that additional upward pricing flexibility is granted for residential access lines. Also, additional revenues for residential access lines and other Basket 1 and 2 services could be used to offset any claimed AD if LIME actually increases prices for these services (direct impact) subject to additional flexibility (or deregulation) provided for these services under a new PCP. However, it would take substantial additional flexibility, numerous years of increases in prices, or imputation of “maximum” revenues, or some combination of all of these scenarios to offset the significant AD claimed by LIME.

A hypothetical scenario will be addressed whereas an AD is presumed to exist and LIME is provided additional upward pricing flexibility for existing Basket 1 and Basket 2 services in a subsequent PCP. Assume a new PCP allows residential access line rates to increase up to 10% per year (and this is subject to ECTEL’s “maximum” revenues provision). Also, assume that LIME does not elect to actually increase its residential access line rates due to claims of competition for these services. LIME recently made such a claim when it indicated that it was reducing rental and installation charges for various value added services due to fixed service competing with mobile offerings.¹⁵

This raises an interesting situation if LIME has the opportunity to increase rates for residential access lines in order to offset any claimed AD, but LIME elects not to increase any rates of services. Of course, if ECTEL’s maximum revenues provision was in place, residential access line revenues could be increased by an imputed amount of 10% in the first year, even if rates are not increased. In this circumstance, LIME is making a decision to not increase residential access line rates to offset its AD, due to concerns with competition for this service. If recovery of an AD had been allowed via an ADC component added to interconnection rates of competitors, this could result in other competitors providing an explicit subsidy for LIME to keep its residential access lines at lower rates in order to compete (although LIME has been granted flexibility from the regulator to increase its rates).

If we assume in this situation that residential access line service is transitionally competitive, it raises strong concerns about LIME being subsidized in part by its competitors (via increased ADC rates added on to interconnection rates) for this very service for which they compete. If regulators provided LIME the flexibility to increase prices for residential access line services because there are not any concerns regarding affordable rates or universal service, then LIME may make a strategic decision to not increase these residential access line rates because it already

¹⁵ LIME December 10, 2008, annual price cap compliance filing, page 2.

receives a subsidy from competitors in the form of an increased interconnection rate. It is situations such as these that make AD issues complicated. In this case, it can be argued that competitors should not be reimbursing LIME for an AD, because the ADC is not designed to subsidize local rates or preserve universal service and affordable rates (because affordable rates and universal service are not concerns in this scenario). In this case, LIME has the explicit opportunity to increase rates for local service in order to decrease its AD, but LIME's failure to increase local rates provides justification that competitors or other carriers should not have to subsidize LIME's residential local rates via an ADC or other means. It is very difficult to know when and how an ADC may be used by an incumbent to their competitive and financial benefit (and it is difficult to devise a method that can control any potential manipulation of the ADC). This is a difficult situation that will continue to be assessed, and parties should provide some comment on this situation.

7.2 Voluntary Decisions to Subsidize Other Non-Essential Services Does Not Justify Recovery of an Access Deficit for Essential Services

If LIME makes a conscious strategic and voluntary decision to price certain regulated services below incremental cost, then this implied acceptance and promotion of an access deficit (which would increase any access deficit) should not justify recovery of an AD for any services. At least recovery of an AD should not be a viable issue to address until, or unless, LIME increases prices for these services which are currently below the incremental cost level. Even if an AD exists for certain essential services that are subject to concerns regarding affordability and universal service (line installation/rental/FTF usage), an AD for other types of services that are not considered essential should not necessarily be condoned. Remedies for existing ADs of essential services should not be a priority or a consideration until subsidies for all other lower priority services and unregulated services are proven to be eliminated. The burden rests with LIME to show that this test has been met. It is not reasonable to endorse or indirectly implement a policy that promotes an increasing access deficit for competitive or unregulated services, yet requires access deficits for regulated services to be resolved via rate rebalancing or implementation of an ADC that is recovered from competitors of LIME.

7.3 AD Calculations Are Subjective, Volatile, and Easily Influenced

Section 6 explained how the AD for Access service has at least doubled (based on ECTEL's best estimate) based on LIME's current AD calculation compared to the prior EAM model. This indicates that AD calculations are highly subjective, subject to much volatility, and can be easily impacted by varying inputs and assumptions related to the determination of costs and the allocation of costs between regulated and unregulated services. LIME has relied extensively on both the current underlying LRIC model for the current AD calculation and the previously relied on the EAM model which uses embedded costs, so both models must have some inherent credibility in the opinion of LIME. For example, the EAM is still filed with the Barbados Fair Trading Commission on an annual basis. Therefore, when two different models can show

significantly different results for an AD, this raises concerns regarding objectivity and volatility of the calculations and related inputs/assumptions in these models. For example, ECTEL believes that other “reasonable” inputs and assumptions could be implemented in LIME’s current AD calculation to arrive at a surplus for all regulated PSTN services, or to arrive at a significantly smaller AD for all regulated PSTN services and for Access service. ECTEL continues to evaluate these alternative calculations.

LIME has relied significantly on the EAM model in the past, so its methodology and results cannot be ignored. Because different models are highly volatile and subjective in regards to AD calculations, there are significant concerns regarding the current AD calculation by LIME. ECTEL believes that if a significant and “objective” AD actually existed it should be justified and confirmed by alternative models and not result in significantly different outcomes. The 2003 EAM model calculated an immaterial AD for Saint Lucia (when considering all PSTN regulated services), and there are not any good reasons to ignore these findings. When the EAM becomes available for the other four remaining ECTEL member states, it may show that some or all of the remaining member states had an immaterial AD or perhaps even a surplus. Although these EAMs are not currently available to ECTEL, certain analysis has been performed to confirm that this could be the case.

ECTEL believes that the AD calculations produced by LIME’s current calculations and the 2003 EAM raise serious questions about the validity or magnitude of AD claims. When the credibility of the AD calculation is at issue by virtue of AD calculations that vary by a significant amount between different models, then an AD should not be subject to recovery until these varying calculations can be reconciled or adequate documentation is provided to explain and justify the differences.

7.4 Potential Financial Harm to LIME and Competitors from AD

ECTEL is interested in knowing how the absence of an ADC, or how the inability to rebalance various rates to recover the AD, has harmed LIME from a financial perspective over the current price cap period (which approximates the time period for the significant growth in the AD amounts claimed by LIME under its current AD calculations and the 2003 EAM). LIME should provide financial calculations showing its actual earned rate of return on investment for regulated services, unregulated services and all services if it wants to identify direct financial harm that it has incurred (information for the price cap period would be helpful). Also, LIME can provide other financial measures to indicate any negative impact on financial results.

ECTEL would be interested in reviewing any LIME financial data that shows significant increases in costs over the price cap period that would be consistent with significant increases in claimed AD amounts. Also, trends reflecting increasing ADs may be an indication of other underlying problems that need to be addressed and remedied internally by a carrier, before an ADC is implemented. Costs that may be significantly increasing, declining productivity, and declining revenues may be symptoms of other problems that should be resolved before an AD is addressed.

LIME should also show the positive financial impact that an AD recovery mechanism would have on LIME financial operations, including earnings and other measures.

ECTEL is not aware that LIME has been publicly vocal in asserting declined earnings or an impaired financial condition due to the absence of an AD recovery mechanism. LIME should identify public statements, statements by officers in financial statements or similar documents, and reference other documentation showing LIME's assertions of the necessity of an AD recovery mechanism. If the AD amount is immaterial, and thus has not justified public statements of concern, then claims regarding an AD are mitigated.

Also, other competitors/providers should explain if they believe LIME's AD calculation is valid and if recovery of this amount from competitors/providers in part, and recovery in part from increases in residential/business access line prices, will act to promote competition and eliminate barriers to entry. Competitors/other providers should indicate if they believe that current residential/business access line prices are substantially below cost, and if the approval of an AD recovery mechanism will make it easier for competitors/other providers to compete with LIME for access services and remove a barrier to entry.

If there is no proof that LIME or competitors/other providers are being financially harmed to a significant degree by an AD (to the degree an AD exists), then AD recovery should be deferred or not implemented. Or if the AD is not significant, or cannot be shown to have any other significant negative impacts on LIME or competitors/other providers in the region, then AD recovery should be deferred or not implemented.

7.5 AD Provides No Determinable Price Reduction Benefits to Consumers

LIME appears to assert that International service (and other services) provide a subsidy to "Access" and other regulated services (especially for residential and business line rental and connection). If an AD exists, one alternative would be to rebalance part of the AD via an immediate increase in prices of residential and business access line service or provide LIME the opportunity to increase prices at its discretion via increased price cap flexibility for residential/business line rental and connection, along with other services.

However, before any increases in prices is authorized or implemented to address an AD, ECTEL believes it is important to consider certain mitigating circumstances. First, for purposes of this example ECTEL will assume that LIME is currently earning a very high rate of return ("ROR")¹⁶ on investment on all combined regulated and unregulated services prior to any increase in prices for residential/business access line service. If prices were increased for residential/business

¹⁶ A high ROR may be interpreted to be a ROR that significantly exceeds a ROR authorized under ROR regulation or which significantly exceeds the WACC used in the LIME's current AD calculations.

access line services without a corresponding decrease in prices for International service or other unregulated services (which are claimed to be competitive and subsidizing residential/access line service), then this would achieve two outcomes for LIME: a) it would further increase LIME's already high ROR; and b) it would not provide any offsetting benefit to customers in the form of reduced prices for other alleged competitive services of LIME. Such an outcome appears to provide no immediate or determinable benefits to consumers and could appear contrary to claims of substantial competition for International service (and perhaps other services).

If the price increase for residential/business access line service is not used to immediately reduce prices for International services (or other alleged competitive services), then customers receive no real benefit from the reduction of the AD and LIME merely increases its profit levels (and such profit levels are already assumed to be very high under this example). This circumstance would not appear to justify rebalancing of any alleged AD if all benefits accrue to LIME and no benefits accrue to consumers or the competitive arena. This circumstance would appear to support a position that AD rebalancing should be delayed or not implemented.

ECTEL is interested in the response of LIME and competitors/providers to this concern. ECTEL would be interested in knowing how LIME would treat any potential price increases, or additional pricing flexibility for residential/business access line services and if LIME would immediately flow through such price increases in the form of price reductions for International service (or other alleged competitive services).

7.6 Questions for Respondents

The respondents should consider all previous information in this consultation paper, along with any additional analysis they have performed, in answering the following questions.

Question 7.1 – Respondents are welcome to address any issues raised in this section.

Question 7.2 – Respondents should address the scenario addressed at Section 7.1. First, assume LIME is given the opportunity to reduce the AD via increased upward pricing flexibility for residential/business access line services in a new price cap plan. Second, assume that an ADC is implemented to recover the AD in part from competitors. Third, assume that LIME does not use its new increased pricing flexibility to increase prices for residential/business access line service because of alleged competition for these services (or due to other reasons).

a) In this case, explain if the ADC that is paid by competitors/other providers acts as a subsidy from competitors to LIME that allows LIME to maintain lower prices for access line service and thus helps keep LIME from losing these access line customers to mobile or cable competitors.

- b) Explain if this scenario which identifies an AD and implements an ADC provides any significant or determinable benefits over a scenario that does not identify or implement any ADC. Explain and quantify benefits to LIME, competitors/other providers, and to consumers under this scenario.

Question 7.3 – Provide documentation to show that LIME is financially harmed in a significant manner by the absence of an AD recovery method or in the absence of flexibility to increase prices for residential/business access lines services to recover the AD, and provide financial statement results and examples of public statements asserting this harm. If such information is provided, show the actual earned ROR on capital plant investment, as well as profit levels, for regulated services, unregulated services and all combined services over the price cap period.

Question 7.4 – LIME should provide the positive financial and operational impact that an AD recovery mechanism would have on LIME, including impacts on cash flow, profits, and ROR on capital plant investment to the extent this can be determined. LIME should assume a scenario that all of its claimed AD is allowed to be recovered in a manner that LIME most prefers.

Question 7.5 – Other competitors/providers should explain if they believe LIME’s AD calculation is valid and if recovery of this amount from competitors/providers in part, and recovery in part from increases in residential/business access line prices, will act to promote competition and eliminate barriers to entry. Competitors/other providers should indicate if they believe that current residential/business access line prices are substantially below cost and market, and if the approval of an AD recovery mechanism will make it easier for competitors/other providers to compete with LIME for access services and remove a barrier to entry.

Question 7.6 –Other competitors/providers should explain how they would be financially harmed by continued assessments of existing AD charges in interconnection rates.

Question 7.7 – Explain why it is consistent and reasonable for LIME to voluntarily price certain services below incremental costs when it is to the benefit of LIME (which creates an increased AD), yet LIME proposes to recover such “voluntary” access deficits, along with any other access deficits, in the form of an ADC from competitors and from potential increase prices for residential/business access line service if this additional flexibility is granted. Please reconcile the inconsistency between creating increased access deficits, yet seeking recovery or relief of such access deficits from competitors and/or consumers.

Question 7.8 - Assume under a new price cap plan that LIME is given flexibility to increase prices for residential//business rental access lines by \$5 million and that LIME implements these price increases. Address the following:

- a) Explain if LIME would immediately offset the \$5 million increase in prices of regulated services with equivalent price reductions of \$5 million for International service (and other alleged competitive services), explain why or why not.

b) If residential/business rental access line service is subsidized by International services (and other services), and if prices for International services are maintained at artificially high (or at elevated prices which do not allow LIME to compete), explain why LIME would not immediately reduce prices for International services given these assumptions.

c) If LIME already earns a high ROR on plant investment for International services and all services combined, and LIME elects to keep the \$5 million in price increases to further increase its profits (without any offsetting price reductions to International service or other services), explain how this benefits LIME, consumers, and the competitive arena. Also, explain how this action justifies LIME's claims that International service subsidizes local rates and does not allow LIME to establish competitive market prices for International service (or other alleged competitive services).

d) If LIME retains the \$5 million without any offsetting reductions in prices for other services, explain how this benefits LIME from a competitive and financial standpoint and explain why this should not be viewed as a windfall to LIME.

Question 7.9 – Competitors/other providers should provide the amount of all access deficit charge amounts (not including any other interconnection charges) that they paid to LIME for the three most recent 12 month calendar years for the period January 1st to December 31st (2006, 2007 and 2008) Also, if possible, show a calculation or estimate of this amount by showing volumes multiplied by the access deficit charge, and show the access deficit charge/price for each of the related service volumes.

8 METHODS FOR RECOVERING AN AD

This section will address various methods that could be used for recovery of an AD. Another way to phrase the issue, “from which services/customers should the access deficit be applied and recovered.”

There are several primary methods for recovery of an AD, to the extent such an AD exists:

- Recovery from other carriers in the form of an additive to existing interconnection rates (this would also require imputation by LIME). This method could also force some carriers to pass along this rate increase to their customers via retail price increases.
- Rebalancing of certain regulated retail rates of LIME's.
- Recovery from a universal service fund.
- A combination of the previous options.

8.1 Rebalancing LIME's Retail Rates as an Option

In comments from the August 2008 AD consultation, parties provided comments on the various methods related to AD recovery. All other carriers/competitors (not including LIME) generally opposed an AD, and opposed recovery of such AD via increases or additives to existing interconnection rates.

ECTEL will briefly address the rebalancing option, because it desires additional information on this issue. This is certainly not an indication that ECTEL favors such an approach, it just happens to be the approach with the least documentation. Currently, carriers pay ADCs as an additive to their interconnection rates negotiated with LIME. Therefore, if an additive would continue to be used for any additional AD, this does not require much additional analysis because such a system is already in place.

LIME's comments in the Dominica ADC consultation briefly referred to several international examples of rate rebalancing for ADCs. Also, LIME's recent responses to ECTEL data requests indicates that in the Caribbean region, an ADC is currently only charged in the ECTEL member states. Of course, this is not a "mandatory" ADC that has been directly required and enforced by ECTEL or the NTRCs, but is the result of negotiations between LIME and other carriers. LIME's responses also indicate that it achieved substantial rebalancing in Anguilla, the British Virgin Islands, the Caymen Islands, and the Turks and Caicos Islands such that any ADC "would be immaterial at best." LIME's ICT License in the Cayman Islands expressly acknowledges that the issue of an AD may have to be revisited after the implementation of a forward-looking LRIC model. LIME indicates that no ADC is charged in Barbados or Jamaica, although LIME indicates that access line price increases in Jamaica mitigated the need for ADCs. LIME does not provide domestic fixed line services in Antigua and Barbuda, so this is not an issue.

Although LIME made various references to rate rebalancing in other jurisdictions which eliminated the necessity for an ADC, LIME did not provide any specific cites or references to documentation that indicate such price increases were rate rebalancing measures to address an ADC. ECTEL is currently evaluating this issue.

If those nations cited by LIME, as well as other nations, have approved rate rebalancing to mitigate or offset an AD, then this might generally show that these nations have higher local rates than nations that have not rebalanced. Also, nations that have not had any rate rebalancing, might similarly have local rates that are typically lower than average - - or at least lower than these other nations that have implemented some rate rebalancing. Also, it has been stated that rates for international calling services have been maintained at artificially high rates in order to maintain high profits on these services, so that higher rates and related profits can offset access deficits for "access" and local fixed services. If this is accurate, then those states that have rebalanced should have lower international calling rates than those states that have not implemented rate rebalancing. Conversely, those states that have not implemented rate rebalancing should have higher international calling rates.

ECTEL is interested in any analysis that proves the points in the previous paragraph, and which indicates a disparity in local/fixed rates and international rates between states that have rebalanced rates versus those states that have not rebalanced rates. ECTEL has not found many obvious cases of significant disparities in rates that can be definitely attributed to rebalancing issues, but this issue is still being reviewed.

8.2 Treatment of Existing ADCs if an AD Concept is Rejected

In previous AD comments, parties raised issues regarding the appropriate action to be taken if an AD cannot be identified or justified in the ECTEL member states. Some of those carriers currently paying an ADC to LIME as part of the interconnection rate, state that the existing ADC should be removed immediately from interconnection rates and LIME should be required to refund ADCs that have been paid by these carriers.

ECTEL continues to evaluate this issue. However, any retroactive refunds might be a recourse that carriers would need to pursue through other legal avenues outside the boundaries of ECTEL and the NTRCs. If the existence of an AD is minimal or is not endorsed by ECTEL, then it is reasonable that some action be taken to remove existing ADCs included with interconnection rates. There are two possible alternatives:

- 1) Phase-out the current ADC over an established period of time, or gradually reduce the amount of the ADC over a period of time, or.
- 2) Immediately eliminate the ADC (such as a flash-cut approach).

The parties should address the preferred approach and the potential impacts, along with legal or other problems. Parties should indicate if they believe that ECTEL/NTRC's does not have the authority to remove such ADCs from current contracts between LIME and other providers, and parties should cite appropriate law and precedent that would prevent ECTEL from taking such actions if this option is pursued.

8.3 Recovery of an AD from a Universal Service Fund

Another alternative for recovery of an access deficit is from a Universal Service Fund ("USF"). There are many options regarding how such a mechanism might work. If an AD is recognized, it would be more transparent and competitively neutral to address ADCs via a universal service fund instead of the current mechanism where ADCs are a part of the interconnection rates paid by parties. The creation of the USF would likely eliminate the current ADC "negotiation" process, and such ADCs would be specifically established at the same rates for all carriers such so that the ADC is competitively neutral in this respect.

The creation of a USF would require that costs be determined for those services considered to be “universal services”, such as residential rental services, along with any other essential services. The USF should address whether there is a difference between the cost of “access” (such as for an access deficit charge) and the cost of providing “universal services” in high cost areas where the cost of universal service exceeds revenues from universal services.

With a USF, there are issues regarding how much carriers should pay in to the USF, how much carriers should draw out of the USF, and how much customers should pay to support the USF. Respondents are invited to provide their comments regarding recovery of an AD from a USF.

8.4 An Access Recovery Method Would Require Monitoring

If an ADC was continued, it would be necessary and reasonable for ECTEL to monitor these amounts to make sure that LIME does not “over-recover” any AD amount, and to monitor any potential negative competitive impacts on other carriers. ECTEL might require LIME to provide financial statements and other documents to be made available on a period basis to enhance the monitoring process. In addition, it would take additional time and resources of ECTEL and the NTRCs to properly perform this monitoring function. ECTEL is interested in parties’ comments regarding a reasonable method to monitor any AD recovery method.

8.5 Questions for Respondents

The respondents should consider all previous information in this consultation paper, along with any additional analysis they have performed, in answering the following questions.

Question 8.1 – Respondents are welcome to address any issues raised in this section.

Question 8.2 – Respondents should address any alternatives for the removal or elimination of existing ADC charges, including a potential phase-out or phase-down of the ADC (glidepath approach) and an immediate elimination of the ADC (flash-cut approach).

Question 8.3 – Respondents should identify any existing laws or precedent that would prevent ECTEL or the NTRCs from immediately cancelling any ADCs in existing contracts between LIME and other providers.

Question 8.4 – LIME should provide a list of competitive or other services for which its prices exceed those of its competitors in the ECTEL member states and in the Caribbean region, or for which LIME does not believe its current prices are competitive (although they may not be above the prices of its competitors) with its competitors in the ECTEL member states and in the Caribbean region. In each case: a) provide the name of the service and provide LIME’s price in

the respective jurisdiction; b) provide the name of the competitor and the competitor's price in the respective jurisdiction. This information should be provided for International service, Mobile service, Internet, Leased Circuits, and any other applicable services.

Question 8.5 – Regarding the previous question and competition in the ECTEL member states, provide LIME's quantification of the dollar reduction in revenues that would be necessary for LIME's prices to be competitive with its competitors for all applicable services. In addition, provide LIME's current prices, the competitor's current prices, and LIME's proposed prices that would be necessary to compete with the competitor.

Question 8.6 – LIME should explain how much it would increase residential and business rental and connection prices for the next five years if given such flexibility to increase these prices, LIME should provide the prices that it would propose for each of the five projected years.

Question 8.7 – Competitors/other providers should provide the amount of all access deficit charge amounts (not including any other interconnection charges) that they paid to LIME for the three most recent 12 month calendar years for the period January 1st to December 31st (2006, 2007 and 2008) Also, if possible, show a calculation or estimate of this amount by showing volumes multiplied by the access deficit charge, and show the access deficit charge/price for each of the related service volumes.

Question 8.8 – Parties should provide specific examples in the Caribbean where high local/fixed prices exceed the surrounding Caribbean market price for these same services due to rate rebalancing related to the elimination of an access deficit. Respondents should also show that prices for International, Mobile, Internet, Leased Circuits, or other services have been correspondingly reduced to rates at or below the market level to reflect the rebalancing. Conversely, parties are invited to identify unusually low local/fixed rates in certain Caribbean markets where access deficits have not been eliminated, and to also show that prices for International, Mobile, Internet, Leased Circuits, or other services are also unusually high in order to maintain higher profit levels in the absence of rate rebalancing for access deficits.

Question 8.9 – Respondents should address how the implementation of any further ADC should be monitored by ECTEL on an on-going basis.

Question 8.10 – Respondents should generally address their preference for a Universal Service Fund or the existing method of paying for ADCs, and generally identify the benefits or problems with both approaches.

This concludes this consultation paper.

ANNEX A - QUESTIONS TO LIME ON CURRENT AD CALCULATION AND 2003 EAM CALCULATION

For each relevant question below, LIME should provide information for each ECTEL member state and provide the combined amounts for all ECTEL member states.

Question 6.1 – Provide a reconciliation and explain why the AD for “Access” service produced by LIME’s current AD calculation is significantly greater than the AD for “Access” service produced by the 2003 EAM, and explain why the two different calculations produce varying AD results for all other services by addressing the following:

- a) Explain all inputs, assumptions, and changes in calculation methods that caused the AD for “Access” and other regulated services to be greater under LIME’s current AD model, including differences related to revenues, expenses, capital inputs, WACC, depreciation rates, fill factors, network design assumptions, “incremental” versus “embedded” costs, and other matters.
- b) Explain if changes in LIME’s residence and business access lines and related revenues (as well as other revenues/volumes) from 2003 to the present impacted the AD calculation for “Access” service.
- c) Explain if decreases in LIME’s actual productivity over the price cap period lead to significant increases in costs which caused the increase in the AD for Access service over this period under LIME’s current AD calculation.
- d) Explain if LIME’s current AD calculation include certain one-off expenses, or other types of extraordinary or non-recurring costs that were not included in the 2003 EAM, and provide a description and the amounts for these costs.
- e) Explain if LIME’s current AD calculation identifies or treats “common/overhead” costs in a different manner than the 2003 EAM. Explain and show the methodology differences and the amounts of common/overheads costs for both LIME’s current AD calculation and the 2003 EAM.

Question 6.2 – Provide the working Excel spreadsheets and all supporting work papers, inputs, and assumptions for LIME’s current AD calculations provided with LIME’s September 17, 2008, consultation comments (provide all work papers and Excel documents for both scenarios calculated by LIME). Explain and show how revenues, volumes, and costs were identified for regulated services of LIME.

Question 6.3 - Explain and show LIME’s method for allocating incremental common/overhead costs between all regulated services in the AD calculation (and explain how this method varies from the method used in the 2003 EAM), and such calculation should also show the impact of

allocating common/overhead costs that are not included in the AD calculation, such as for: a) unregulated services; and b) regulated services not included in the current AD calculation, such as Leased Circuits, Data, etc. It is likely that such allocation method needed to consider all “costs” (including unregulated costs), as part of its underlying allocation calculation so these detailed calculations should be provided. In addition, provide related revenues (and other underlying allocation components) for all services if revenue was used as the allocation basis. Provide a reconciliation of the incremental common/overhead costs to the related underlying financial statement amounts for LIME’s current AD calculations.

Question 6.4 – Explain why it would not be reasonable to use revenues as an allocator for common/overhead costs in the AD calculation.

Question 6.5 – Explain and show LIME’s method for allocating all costs (besides common/overhead costs) between PSTN regulated services in the AD calculation, and all unregulated services and other regulated services (including those regulated services not included in the current AD calculation, such as Leased Circuits, Data, etc.) that are not included in the AD calculation. Explain how this allocation varies from the 2003 EAM. Provide a reconciliation of the incremental costs to the related underlying financial statement amounts.

Question 6.6 – LIME’s current AD calculation does not provide revenues for unregulated services and other regulated services (such as Leased Circuits, Data, etc.). Therefore, provide a list of all unregulated and regulated services which have not been included in LIME’s current AD calculation, and provide related revenues amounts and service descriptions (and explain if the services are unregulated). Provide the comparable revenues that would be included in an AD calculation for these services, and provide these revenues for the most recent 12-month period. Show these regulated and unregulated revenues both “gross” and “net” of any applicable discounts, promotions, or concessions that were offset against the revenues in the financial statements (an example would be concessions/discounts for Mobile service that were offset against revenues in the financial statements).

Question 6.7 - Explain why the incremental costs in LIME’s current AD calculation result in higher costs than a FAC-driven model/2003 EAM (which uses historical embedded costs from the financial statements). Explain why “incremental” costs exceed “historical embedded” costs and rationalize this explanation via economic theory and other justification. Other parties can explain why “incremental” costs should or should not exceed historical embedded costs for an AD calculation.

Question 6.8 – LIME’s current AD calculation includes a column of costs referenced as “Retail” costs, and items 51 and 54 of the LRIC model (pages 16 and 17 of the LRIC model Draft Manual) appear to indicate that such costs might include overhead/common costs and they are treated as a mark-up to the network operating costs. Explain if these “Retail” costs in the AD calculation are the same as those described in the LRIC Manual, or explain any differences.

Question 6.9 – Provide all documentation to show that unregulated services and all other regulated services (such as those other regulated services that are not included in the AD

calculation) would have been allocated a reasonable amount of costs under LIME's current AD calculations. Show total costs allocated to regulated and unregulated services in a manner consistent with LIME's current AD calculation, and reconcile the regulated and unregulated costs to total amounts in LIME's financial statements.

Question 6.10 - Explain and provide the amount of the "regulated" service component (such as line installation, rental, value added services, etc.) of any bundled service revenues that have been included or excluded from LIME's current AD calculation, and show where these amounts have been included in the AD calculation. Explain and show if the "regulated" amounts of such bundled services have been included in the AD calculation at the tariffed price (such as the tariff price for residential rental of an access line) or at a discounted price, and provide these amounts. Explain and show how these amounts were determined. Other parties can comment on whether the regulated portion of services that are included in bundled services should be reflected in the AD calculation, and how they should be reflected in the AD calculation.

Question 6.11 - Provide all work papers and an explanation of forecasted volumes/revenues and related impacts on elasticity in LIME's current AD calculations, this should include volumes/revenues for both LIME and other parties (LIME indicates that it used certain projected volumes for other parties in the ADC calculation). In all cases, compare revenues/volumes in LIME's AD calculations to actual revenues/volumes from the financial statements and provide an explanation and reconciliation between these amounts.

Question 6.12 – Regarding LIME's current AD calculations,, under Constraint 2 for each ECTEL member state, explain and provide supporting documentation and calculations for the average revenue per minute of MTF, International Termination, and International Origination.

Question 6.13 – Regarding LIME's current AD calculations, under Constraint 3 for each ECTEL member state, explain and provide supporting documentation and calculations for the six-month competitor/other party volumes for MTF, Directory Inquiry, International Termination, Emergency Service, Transit, and other relevant services. Provide the source for these six-month volumes and provide updated actual volumes. Other parties/competitors should also provide these related revenues and volumes for their respective companies for each of the ECTEL member states for the most recent 2 year period.

Question 6.14 - Explain if there were discounts, promotions, or price concessions that were netted against revenues (or treated as expenses) in LIME's current AD calculation, and provide both the gross revenues and the offsetting discount/promotion amounts for each service for the same time period as the AD calculation. Explain why LIME disagrees to any imputation of such amounts to the revenues of the AD calculation.

Question 6.15 – Explain why a greater percentage of total costs are allocated/assigned to regulated services (versus unregulated services) under LIME's current AD calculation, compared to the 2003 EAM, and explain the reason for this shift in costs.

Question 6.16 – Given the significant differences in cost and how costs are allocated between services for LIME’s current AD calculation and the 2003 EAM, explain which model is deemed to be more accurate and reasonable in the determination of AD, and explain why this is the case. Explain why incremental costs used in LIME’s current AD calculation are more accurate and reasonable to use in the determination of AD compared to embedded/historical costs from an EAM model, or explain if an EAM model is more accurate and reasonable for AD calculations. Explain why the EAM model continues to be prepared by LIME and filed with regulators in other Caribbean nations if incremental costs are considered to reflect a more accurate calculation of an AD.

Question 6.17 – Explain if LIME has used the EAM model to determine an access deficit for any Caribbean jurisdiction in the past 5 years, provide the name of the Caribbean jurisdiction, and explain if an access deficit is being recovered in that jurisdiction based on the EAM model (or explain if the access deficit recovery was rejected in that jurisdiction). Other parties should address any AD calculations in other jurisdictions and how the issues impact the determination of an AD for the ECTEL member states.

Question 6.18 – Explain if LIME has used incremental costs (and a similar LRIC model inputs) to determine an access deficit for any Caribbean jurisdiction in the past 5 years, provide the name of the Caribbean jurisdiction, and explain if an access deficit is being recovered in that jurisdiction based on incremental costs (or explain if the access deficit recovery was rejected in that jurisdiction). Other parties should address any AD’s based on incremental costs in other Caribbean jurisdictions.

Question 6.19 – LIME’s current AD calculation appears to show a projected change in PSTN residential/business access line volumes, but the related PSTN revenues that are used in the AD calculation appear to be understated in relation to these volumes. Explain and show how “PSTN Access Regulated Revenue” was calculated for PSTN Access Business and Residential in the AD calculations, and reconcile this amount to related volumes/quantities used in determination of costs.

Question 6.20 – LIME’s current AD calculation applies a certain mark up percentage to both “Access” service and “Other Regulated Services” as an apparent surrogate for costs related to marketing, advertising, billing, collection, and other customer service operations. Address the following:

- a) For each ECTEL member state, reconcile the mark up percentage to the related actual costs that are intended to be recovered by the mark up percentage at the regulatory financial statements. Show the actual costs by amount, account number, and description of cost by service (the description of the cost should show marketing, advertising, and branding costs allocated by service, and identify the types of billing, collection and other customer service costs) included in the regulatory financial statements of LIME.
- b) If not previously addressed, for each of the costs intended to be recovered by the mark up percentage, provide these amounts (by description and account number) from the regulatory

financial statements for the two most recent 12-month financial periods ending March 31, 2007 and 2008

- c) Provide the mark-up percentage that would be applicable to all other unregulated and regulated services not included in LIME's AD calculation, and address related issues for item (a) above.
- d) Explain why "Access" service should include recovery of any advertising or marketing costs via a mark up percentage since "Access" is not a service that LIME "markets" to consumers.
- e) Explain if any marketing and advertising costs that are intended to be recovered via the mark up percentage for "Access" service are specifically related to all regulated and unregulated services which use the PSTN "access" network including Internet, Mobile International, Residential Rental, Business Rental, and other services. Or explain if the mark-up for "Access" service is only intended to recover advertising/marketing costs related to Residential Rental and Business Rental.
- f) Explain why competitors or other providers should reimburse LIME for its advertising/marketing costs (that are used to market against other competitors/providers), especially if an ADC is implemented that would recover part of these costs from competitors/other providers.

Question 6.21 - LIME's current AD calculation shows "unit" costs and total costs for ADSL service that vary significantly between the various ECTEL member states. Address the following:

- a) Explain why unit costs (and total costs) vary significantly for ADSL between the ECTEL member states, and indicate if the reason is due to specific NTRC policies/rules that vary among the ECTEL member states and which cause costs to vary (and explain these related policies and rules and how they cause the cost of ADSL to vary).
- b) Explain if ADSL service includes any costs of the common copper loop, and explain which costs are included and excluded, and explain why. Address this for each ECTEL member state.
- c) Explain why the unit cost of ADSL service should approximate the cost of "Access" service, or why it should vary in a significant or insignificant amount from the cost of "Access" service. Or explain why this should vary for each ECTEL member state.
- d) Explain if the cost of the common copper loop for ADSL service is included in the cost of "ADSL" or included in the cost of "Access" service, and explain why this treatment is used.

Question 6.22 - For certain ECTEL member states, ADSL revenues have increased significantly but the related total incremental costs for the service have not increased by much since the 2003 time period (or from other prior years) as shown at LIME's current AD calculations. If revenues

and related volumes for ADSL have increased significantly in recent years, explain why total costs for ADSL have either stayed about the same or only increased by a relatively minor amount over this same time period. Explain if any “increased” costs for ADSL service have been allocated to “Access” service and explain why this is reasonable and provide these amounts.

Question 6.23 – Provide the cost of “access” for each regulated and unregulated service that is included in the “Access” service cost category in LIME’s current AD calculation, or explain where the cost of “access” for all other regulated and unregulated services are recorded in LIME’s current AD calculation. If “access” costs for unregulated services are not included in the AD calculation, then provide these related incremental revenues and costs.

Question 6.24 – Explain if LIME’s current AD calculation should be updated to reflect more recent interconnection costs and prices, and provide these amounts for each service.

Question 6.25 – LIME’s AD calculation appears to use “regulatory” costs (instead of statutory/audited financials) as the underlying basis (or starting point) for incremental costs. Please confirm or explain if this is correct, and identify all differences between “regulatory” and “statutory” costs and how this impacted the current calculation of the AD. Explain why regulatory costs are appropriate to use for calculating an AD.

Question 6.26 – LIME’s current AD calculation appears to use “regulatory” costs as the underlying basis for incremental costs. Explain if LIME’s current AD calculation includes one-off costs, extraordinary costs, legacy costs, severance/force reduction costs, amalgamation costs (goodwill amortization) or amalgamation productivity associated with the combination of Saint Lucia cellular and business unit operations, one-off bonuses or reward payments associated with the amalgamation of Saint Lucia operations (or for other extraordinary reasons), rebranding costs associated with amalgamation, or other unique or extraordinary costs - - explain why these costs should be included in an AD calculation. Provide these amounts included in LIME’s AD calculation, and reconcile these amounts to LIME’s regulatory financial statements.

Question 6.27 – It would appear that LIME’s current AD calculation uses “economic” depreciation rates in the calculation of costs. Provide the depreciation rates and related depreciation expense/costs for each type of plant asset included in the AD calculation, and provide similar information from the current “regulatory” financial statements. Explain why “economic” depreciation is appropriate to use in an AD calculation, versus “regulatory” depreciation or depreciation from the audited financial statements.

Question 6.28 – Explain if LIME’s current AD calculation includes “inflation” and “productivity” factors applied to certain costs, and provide these factors and the costs to which they are applied. Explain why these same factors are appropriate in today’s economy, or explain if these factors should be updated. Explain why such factors should be used in an AD calculation.

Question 6.29 – Explain if LIME’s current AD calculation includes the same WACC that was used in the LRIC model, provide any calculations regarding the WACC (including the time

period for data which it was based on) and explain why this WACC is reasonable in today's economic environment.

Question 6.30 – Explain if LIME's current AD calculation includes costs for "taxes" that are based on "statutory" tax rates or based on "actual" taxes paid, and explain why such method is reasonable for calculation of an AD.

Question 6.31 – Explain if LIME's current AD calculation includes the cost of interest expense (the cost of debt) twice in the cost of services, both as a cost of the service and within the WACC calculation.

Question 6.32 – ECTEL's August 2008 AD consultation paper indicated that the AD should be offset by revenue from line installation and rental based on maximum revenue that can be secured under the Price Cap Regime. LIME's current AD calculation does not include this offset for Basket 2 services (Basket 1 is not appropriate because rates were capped). Provide a calculation showing the maximum revenues which LIME could have received for Basket 2 line rental and installation under the current price cap plan, and show amounts for each year and the related calculations.

Question 6.33 – LIME should explain and show how it was able to financially absorb the significant increase in the AD for "Access" service from the amounts shown in the 2003 EAM to the amounts shown in the current AD calculation. The AD is significantly influenced by changes in revenues, costs, and cost allocation among services. LIME should explain how changes in revenues and costs (which impacted the AD calculation) also impacted the financial operations from the 2003 EAM to the current AD calculation. Also, LIME should indicate if it was primarily the "cost allocation issue" that impacted the increase in the AD, so that LIME's financial operations were not substantially impacted by the increase in the AD calculation.

ANNEX B – SUMMARY OF RESPONDENT POSITIONS ON ACCESS DEFICIT

ACCESS DEFICIT DEFINITION AND SUMMARY

ECTEL - Definition and Summary of Access Deficit

ECTEL's AD definition and related policy were previously set forth in **Section 3 Background of Access Deficit Issues**, based on the August 2008 consultation paper. All information cited is from public comments. However, these definitions and policy are subject to revision and may not necessarily reflect the most recent views of ECTEL or the NTRCs after consideration of additional issues, recent matters, and previous consultation comments of other parties.

A summary of the ECTEL definition and policy from the August 2008 consultation paper are set forth below.

- General definition of AD – The difference between the cost incurred by the incumbent fixed public network provider for providing domestic regulated telecom services and the maximum revenue that the operator can secure for providing those services. An access deficit would exist if costs exceeded revenues, where revenues are calculated based on the maximum revenue that can be secured under the price caps for line installation/rental, plus revenues from other regulated domestic services. Costs are calculated to include retail costs of the same services.
- Services/customers to be included in the calculation of an AD - An access deficit is to be calculated for the cost of regulated services only, including access lines (line installation/rental) plus other regulated domestic services. ECTEL does not include international services or other unregulated services in its determination of an AD.
- Services/customers from which an ADC should recovered – Under the current interconnection regime, LIME is allowed an ADC as an add-on to the following interconnection services:
 - ✓ PSTN termination for incoming local and international calls
 - ✓ PSTN Transit
 - ✓ Domestic and international directory inquiry
 - ✓ Emergency services
 - ✓ International call origination

However, ECTEL suggested that an ADC be applied to and recovered via the following LIME services that involve only LIME fixed customers (also, the AD rate

will be calculated by dividing the AD by total minutes that include international calling, although revenues from international calling will not be used in the AD calculation):

- ✓ Call origination – LIME fixed-to-international
 - ✓ Call termination – International-to-LIME fixed
 - ✓ Call termination – Mobile-to-C&W fixed
- Specific rate calculation method of AD – ECTEL proposes that any ADC be calculated as the access deficit divided by the number of minutes to which the deficit shall apply. The number of minutes is the sum of C&W fixed-to-international, international-to-C&W fixed, and mobile-to-C&W fixed. Thus, while ECTEL does not include international revenues as an offset to the AD, ECTEL does propose to spread the AD over a base that includes international minutes. The resulting charge per minute would be the **maximum** deficit charge that can be applied to any service. The proposed rates for ADC in each member state should be provided by time bands, showing “day”, “evening” and “week-end”.
 - Imputation standard – Cable & Wireless must impute the deficit charge as part of the costs of the services that it supplies to end users. Cable & Wireless’ retail prices of competitive services must cover economic costs plus the deficit charge that is applicable to that type of service.
 - Constraints or mitigating factors - The ADC should not generate a greater recovery than the ADC currently in force.

NTRC of St. Vincent and the Grenadines - Definition and Summary of Access Deficit

St. Vincent and the Grenadines (“SVG”) provided comments to ECTEL dated November 10, 2008 (in the 2008 ECTEL/NTRC consultation) in response to the LIME September 17, 2008 submission. All information cited is public information. These comments offered a definition of access deficit that differed from that proposed by the ECTEL consultation paper, and offered opinions on several other policy issues as set forth below.

- General definition of AD – The SVG NTRC offered a definition of access deficit from the “Principles of Telecommunication Regulation” by Interconnect Communications, “Charges levied upon interconnecting operators to help offset the excess cost of provisioning local access networks relative to the revenues they generate.” The primary difference is that ECTEL based its access deficit definition on “regulated services”, and SVG points out that both regulated and non-regulated services use the access network, so an access deficit should not be limited to considering just regulated services. SVG indicates that all services (and related revenues) of the incumbent that use the access network should be considered.

- Services/customers to be included in calculation of an AD – In addition to the previous definition, SVG appears to indicate that revenues from nonregulated services, such as international outgoing and incoming, should be included in any AD calculation (this inclusion would reduce the AD because of high profits on international service). SVG indicates that all services using the access network, including mobile-to-fixed, should be subject to inclusion in any AD calculation.
- Services/customers from which an ADC should be recovered – There is no problem including services that an ADC can be applied if an ADC exists.
- Specific rate calculation method of AD - Greater weight should go to recovery of AD from international-to-fixed calls, because such additional charges can be passed on to foreign providers and not local consumers.
- Constraints or mitigating factors – SVG indicates that LIME claims about an AD before competition entered the market is without proper justification, Barbados C&W was not able to justify a rate increase (to its flat-rate fixed line calls) to the Fair Trading Commission, and domestic rates were previously rebalanced in SVG (in the late 1990's) prior to competition entering the market and prior to the price cap plan. In addition, SVG notes that India just removed their ADC regime in March 2008. SVB points to these issues as not justifying an ADC.
- Other issues – SVG raises the issue of whether an ADC is anti-competitive because LIME would be able to collect an ADC from retail fixed services and from other interconnected providers, although a new entrant would not be able to collect these types of revenues.

LIME – Definition and Summary of Access Deficit

LIME's position on the AD issue are summarized below, and are primarily from its September 17, 2008, comments and its December 17, 2008 reply comments in response to the ECTEL/NTRC August 2008 consultation paper. This latest information is presumed to be LIME's most recent opinion. If LIME provided other important information in its comments for the separate AD consultation conducted by the NTRC of Dominica, then this information will be specifically referenced. All information cited is from LIME's redacted (public) version of its comments and no confidential information is revealed.

- General definition of AD – LIME indicates that an AD exists when a regulated operator's access charges (line rental and connection) are not set high enough to cover its provision of access services. LIME states that AD's arise from policies established during a monopoly period when the incumbent PSTN provider agrees, or is not allowed to recover, its full cost of access to the fixed public network from its

customers. The object of this approach is to ensure universal service and ensuring the public good. The policy of regulating access prices below cost is accompanied by an explicit or implicit acknowledgement that some other services (such as long distance and international service) provided by the incumbent will be charged at prices which are above costs in order to fund the access deficit.¹⁷

- Services to be included in calculation of an AD – LIME believes the AD should include those services, among all regulated services, that are provided at a loss due to regulated pricing below cost and which may be cross-subsidized by other services, and this generally means fixed access service (installation and rental). LIME believes ECTEL’s definition attempts to measure the “local service deficit” rather than just the “access deficit”, because ECTEL has included other regulated services besides just “access” (and ECTEL has not included any unregulated services). LIME indicates that ECTEL has included only “regulated domestic services”, which is a subset of “all regulated services”, in its AD definition. **LIME does not disagree with ECTEL’s approach, but believes that ECTEL must rewrite its definition and clarify this so all parties understand.** Further, LIME indicates that ECTEL’s approach will have the effect of minimizing the ADC because it offsets profits of other regulated services against the deficit of “access services.”
- Services/customers from which an ADC should be applied and recovered – LIME proposes that an ADC be applied/recovered in a manner that is competitively neutral, transparent and non-discriminatory among operators. LIME proposes ADC recovery from the following services (including those proposed by ECTEL):
 - ✓ Call origination – LIME fixed-to-international (per ECTEL)
 - ✓ Call termination – International-to-LIME fixed (per ECTEL)
 - ✓ Call termination – Mobile-to-C&W fixed (per ECTEL)
 - ✓ LIME also proposes an AD on other originated off-net calls, not just international
 - ✓ Once LRIC-based interconnection rates are established, ECTEL should consider an ADC on C&W fixed calls-to-mobile which may lower the level of ADC on other services
- Specific rate calculation method of AD – LIME disagrees with ECTEL’s suggestion of an implied uniform structure for ADCs which would take total ADC divided by total minutes, and the resulting charge per minute would be the maximum ADC that can be applied to any service. This means that the maximum ADC cannot be different among the various services. LIME believes it is reasonable that a higher ADC be levied on international origination and termination because of the higher profitability of this service compared to other interconnection services. LIME indicates the existing regime provides for a higher ADC on international origination

¹⁷ LIME’s April 18, 2008 comments to the Dominica NTRC.

service (“ICOS”). LIME indicates it is consistent with other jurisdictions that different ADCs be allowed for different types of calls, and this is justified because different types of calls provide different levels of cross-subsidy to access services. LIME disagrees with ECTEL’s proposal to require ADC rates to be disaggregated by time-of-day, especially at the wholesale level. LIME believes that carriers should be able to decide whether to differentiate these charges. LIME does not believe time of day disaggregation should be required if it is not proposed by interconnecting parties. LIME believes that ADC rates should not exceed existing rates in the market, and this should replace ECTEL’s constraint that bases a maximum rate on the total ADC amount divided by related total minutes.

- Imputation standard – LIME is unclear regarding ECTEL’s use of the term “competitive” in its constraint which states that LIME’s “retail prices for competitive services must cover economic costs plus the deficit charge that is applicable for that type of service.” LIME interprets this to mean that if LIME supplies the same services on which an ADC is charged to a competitor, the LIME service prices must be able to cover the equivalent level of charge in addition to the costs of providing the service.
- Constraints or mitigating factors – LIME believes that ECTEL’s use of the term “maximum revenue” should be clarified. LIME does not object if ECTEL intends “maximum prices” to be existing prices of line installation and rental which are already at their maximum price cap level. However, LIME disagrees if the intent is that maximum revenue should be calculated for all services subject to the price cap constraint because of the problems: 1) it is not clear how price cap headroom would be allocated among the various services; and 2) elasticity is a factor because it is difficult to understand what “maximum” revenue means given the interplay between price and quantity and the related impact on overall revenue. Also, LIME disagrees with ECTEL’s constraint that ADC recovery be no greater than current recovery. LIME believes that if there is an AD, and this is spread over a base of minutes as determined by ECTEL, then it becomes a mathematical exercise and ECTEL should not be putting further arbitrary caps on the level of ADC. LIME indicates that existing ADCs were negotiated in reference to those in other markets, rather than based on the actual cost in the local market and so they do not represent a principled level which can be used as a valid constraint. **LIME indicates that ADC caps are arbitrary and not cost-based, but without prejudice to its position, it appears that LIME agrees that rates should not generate any greater recovery than the current ADC regime.** In addition, LIME believes that ADC rates should not exceed existing rates in the market, and this should replace ECTEL’s constraint that bases a maximum rate on the total ADC amount divided by related total minutes.
- Recent negotiated ADCs in interconnection agreements – Current interconnection agreements with other carriers expired September 12, 2008, and LIME has now negotiated new interconnection agreements which include ADCs. These ADCs are not entirely in line with ECTEL’s view in the August 2008 consultation paper.

LIME is concerned that ECTEL could make a decision on ADCs that varies from the negotiated ADCs rates with carriers, and this could require renegotiation with no guarantee of success.

- **Glidepath** – LIME does not address whether a transition period from current ADC rates to maximum allowable ADC rates is appropriate in this consultation, but LIME agrees that any justification made for a transitional glidepath from current to cost-based interconnection rates is valid for the ADC as well.
- **Other comments** –LIME indicates that ADCs should not be reflected in prices via the Exogenous (“Z”) factor in price caps. Also, LIME indicates that a decision on AD should be made before changes are made to a new price cap plan because this presents an opportunity for retail prices to contribute to AD recovery.

Digicel – Definition and Summary of Access Deficit

Digicel’s position on the AD issue are from its November 10, 2008 comments, and its December 10, 2008 reply comments. If Digicel provided other important information in its comments for the separate AD consultation conducted by the NTRC of Dominica, then this information will be specifically referenced. The information cited from comments is public information and does not include any confidential data.

- **General definition of AD** – Digicel indicates an AD arises when the incumbent is required to price access (primarily line rental) at less than cost, and “access” means the non-traffic sensitive (“NTS”) aspect of the network which includes “access” from the customer premises to the line card in the central office. Non-traffic sensitive costs are those costs that exist whether or not subscribers make calls or use the internet. Digicel indicates an AD does not include other local services or costs, because this would mean LIME’s competitors would have to indemnify LIME’s local business profitability. Digicel opposes ECTEL’s “local service deficit” concept. Digital indicates that AD’s cause universal service/access problems instead of curing them, because it prevents the development of new infrastructure by other entrants. Digicel opposes an AD scheme and indicates that no AD exists in Dominica and likely does not exist in any ECTEL country. Digicel indicates that mobile services are complementary to fixed local service and are not competitive with fixed local service. Fixed networks benefit from the presence of mobile networks. Since ADCs are supposed to prevent cream-skimming by firms that are substituting for LIME services, it is not legitimate to apply the concept to mobile networks which are complimentary and supply their own access. Some calls will be made on mobile networks that would have been made on LIME’s fixed network if the mobile option did not exist, although many more calls pay retail or interconnection revenues to C&W fixed that would not have occurred at all if mobile

networks did not exist. Thus, Digicel indicates that where an AD exists and rebalancing has not been completed, any ADC scheme that might be adopted should only charge ADCs to firms that do not supply their own access. Digicel claims it would be an asymmetric situation if access competitors were required to pay part of LIME's access costs, but LIME does not pay part of the access cost of other access providers. Digicel indicates that the unjust and discriminatory nature of require access providers to pay ADC is illustrated by the two points: 1) competitive access providers have invested in their own access although LIME's access service is priced below cost, and there is no cream-skimming because new entrants will only make a profit if they are more efficient than LIME; and 2) competitive access providers are already being required to pay LIME ADCs for interconnected calls.

- Services to be included in calculation of an AD – While Digicel opposes an AD, they agree that access revenues include line rental, installation, connection/reconnection and any separate charges for maintenance work. Digicel also identifies the cost of access as two alternatives; 1) the remaining value of the incumbent's largely copper access network (NTS costs); 2) the cost of access technology that a new firm entering an untapped ECTEL country market for the first time would incur, and Digicel indicates that regulators usually implement method (2), but method (1) may be appropriate in regulatory environments until it is no longer viable for C&W to continue providing service in this manner. Digicel indicates that if an AD is calculated, it should impute revenues to LIME to account for discounts that LIME provides to customers, especially large access discounts to businesses. Digicel indicates if an AD is calculated, then certain LIME access costs should be excluded, such as those costs of installing an access line for a customer or group of customers that have imposed more costs than revenues on LIME - - and some of these customers may have subsequently cancelled service and moved to mobile access only.
- Services/customers from which an ADC should be applied and recovered - Digicel opposes the recovery of an ADC from the three services proposed by ECTEL.
- Specific rate calculation method of AD – Digicel opposes an AD.
- Imputation standard – If an ADC is implemented, Digicel appears to support an imputation standard at the minimum. Digicel indicates if an AD does exist, then equivalent internal cross-subsidies for each LIME service unit need to be determined, because this does not appear to have been paid by LIME to date.
- Other issues – Digicel indicates that if an AD does not exist in any ECTEL country, then ECTEL should require LIME to repay all ADC revenues paid to date to contributors.

FLOW - Definition and Summary of Access Deficit

FLOW's position on the AD issue are from its November 24, 2008, comments, and its December 12, 2008, reply comments related to the ECTEL/NTRC consultation. If FLOW provided other important information in its comments for the separate AD consultation conducted by the NTRC of Dominica, then this information will be specifically referenced. The information cited is all public data.

- General definition of AD – FLOW indicates its retail prices for fixed line services are constrained by competitive forces to the regulated rates of LIME's services. Therefore, FLOW's costs can be reasonably expected to be similar to LIME, so FLOW can be reasonably expected to also incur an AD. As competitors for fixed line services, both parties should be entitled to access deficit contributions, with the reduction in the access deficit charge equally applied to both operators, while any of the operators should be allowed to benefit from any improvements in efficiency over its competitor. FLOW believes the AD definition should be re-written to state: *Access Deficit means the difference between the cost incurred by a fixed public network provider for providing domestic regulated telecom services and the maximum revenue that such operator can secure for providing those services.*
- Services to be included in calculation of an AD – FLOW appears to agree with ECTEL that the AD be calculated for the cost of regulated services and not for unregulated services. including access lines (line installation/rental) plus other regulated domestic services.
- Services/customers from which an ADC should be applied and recovered – For purposes of services from which an ADC should be recovered, FLOW believes that call termination services should be re-defined as: 1) international to fixed; and 2) mobile to fixed. FLOW agrees with ECTEL and does not recommend applying the ADC to domestic fixed-to-fixed or transit services. However, FLOW also indicates it would not object to an ADC applied to fixed-to-fixed services, as long as both operators are eligible for access deficit charges. FLOW indicates that an ADC should not be applied to fixed-to-fixed calls because this will permit more affordable fixed telecommunications services. FLOW believes that most of the AD should be recovered from incoming international calls, which are not charged to the public telecommunications subscribers of Grenada, and encourages a continue inflow of currencies and revenue into Grenada. FLOW is more indifferent as to whether an ADC should be applied to transit services.
- Specific rate calculation method of AD – FLOW agrees with NTRC of SVG that a greater weight of the ADC should be applied to off-net international to fixed calls. FLOW believes that the ADC should be equally recovered from the incumbent operator's mobile operations, if it is recovered from interconnected operators.

- Imputation standard – FLOW agrees with ECTEL’s recommendation.

Orange Dominica – Definition and Summary of Access Deficit

Orange’s position on the AD issue are from its April 14, 2008, comments, and its May 26, 2008, reply comments related to the separate AD consultation conducted by the NTRC of Dominica. The information cited is all public data.

- General definition of AD – Orange opposes the ADC and indicates it does not promote competition and that dysfunctions in the telecommunications market in Dominica are likely due to the ADC. If the ADC is to be retained, Orange indicates that LIME should be required to provide qualitative and quantitative information on changes since the current ADC rates were first set and which would impact LIME’s cost of providing access.

This concludes Annex B.