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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale)	PHASE II
In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for U S WEST COMMUNICATIONS, INC.)	DOCKET NOS. UT-960369, UT-960370, UT-960371
.....)	U S WEST'S PETITION FOR RECONSIDERATION AND/OR CLARIFICATION OF 17th SUPPLEMENTAL ORDER
In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for GTE NORTHWEST INCORPORATED)	
.....)	

Pursuant to RCW 34.05.470 and WAC 480-09-810, U S WEST Communications, Inc.,
(U S WEST) hereby files the following petition for reconsideration and/or clarification of the
Seventeenth Supplemental Order in this case, entered on August 30, 1999¹. U S WEST seeks

¹ U S WEST is aware that the cited provisions of the law authorize petitions for reconsideration only of final orders. By its own terms, the 17th Supplemental Order is an interim order, as was the 8th Supplemental Order, which established costs. However, the Commission allowed petitions for reconsideration and clarification of the 8th Supplemental Order, which benefited the parties' understanding of that order and implementation of its requirements; the same should be true here. Additionally, U S WEST believes that the 17th Supplemental Order may well be a final order in many respects, even though it is not designated as such. A final order is one which finally determines the legal rights or duties of the parties, or is the agency's final pronouncement in a docket, and for which no further review within the agency is available (RCW 34.05.010(11)(a) and .461). The 17th Supplemental Order appears to be a final order in many respects, including the determination of the loop price and other UNE prices, the determination of the

U S WEST's Petition for Reconsideration

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2 reconsideration and/or clarification of the Commission's order in several limited areas, including
3 the rate design for recovery of installation and disconnection costs, and the effective date of the
4 prices established by the 17th Supplemental Order.

5 **Rate Design Issues/NRC for Installation and Disconnection**

6 U S WEST requests reconsideration of the Commission decision,
7 at paragraph 471 of the order, that U S WEST must submit separate
8 nonrecurring charges for installation and disconnection. The
9 Commission determined that separate charges are appropriate
10 because up-front charges might be a barrier to entry, and because
11 U S WEST and the CLEC have a commercial relationship that is
12 different from the relationship that U S WEST has with its retail
13 customers.

14 U S WEST asks the Commission to reconsider this decision on two grounds. First, a single
15 nonrecurring charge, which includes costs for installation and disconnection, is the industry norm,
16 and is used in both the wholesale and the retail environment. Second, the requirement of two
17 separate charges will impose potentially significant additional costs on U S WEST, which will
18 need to be factored in to the new disconnection charge. These costs are unnecessary if installation
19 and disconnection costs are bundled in a single nonrecurring charge.

20 The Commission is wrong in assuming that a commercial relationship is adequate grounds
21 for imposing this rate structure. The same type of commercial relationship exists between
22 U S WEST, IXCs, and other co-carriers, but all NRCs are based on costs which include both the
23 installation and disconnection activities. Nor is this a rate design that is present in IXC tariffs

appropriate nonrecurring charges, and the determination that U S WEST may recover OSS costs from CLECs. Thus,
it may be that reconsideration is directly authorized by RCW 34.05.470 and WAC 480-09-810 at this juncture.

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when they sell wholesale to other carriers. There is simply no basis, or precedent, upon which to split nonrecurring rates for installation and disconnection activities, and doing so essentially gives the CLECs a higher quality of service than what U S WEST provides all of its other customers. Additionally, the suggestion that separate rate elements may reduce a barrier to entry is speculative, as there is no evidence in this record that the magnitude of the disconnection costs create such a barrier when included in an up-front charge. Indeed, the relatively high penetration of telephone service in Washington (approximately 95%) would indicate that bundling those charges is not a deterrent to signing up for service on the retail side, and there is no reason to believe that it would be any different on the wholesale side.

With regard to the additional costs imposed by this new rate design, U S WEST asks the Commission to consider the following:

Existing processes do not support the application of a separate disconnect charge. System changes will definitely be needed in order to support the application of this charge on a disconnect order. This enhancement to systems such as the Service Order Processor and the Billing system could not be done until some time next year due to Y2K issues.

Nonrecurring charges for orders that were installed prior to the 17th Supplemental Order included the cost for both the installation and disconnection of the service. To prevent another disconnection charge from being applied, the Wholesale Service Delivery Center will need to verify the establishment date of the service and compare it to the date of the 17th Supplemental Order. Today this would all have to be done manually.

Systems are being designed to support the flow-through of loop orders. This effort will also be impacted. An enhancement to IMA/ICADS would need to be generated to support this requirement. The system would need to be enhanced to be able to verify the establishment date in order to determine if the charge should be applied.

There is an increased potential for uncollectible expense

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on the disconnect charge, which would increase costs.

U S WEST believes that the Commission should reconsider this rate design decision, and allow U S WEST to continue to charge a single nonrecurring charge up-front for installation, which includes both installation and disconnection costs.

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2 **Physical Collocation**

3 U S WEST also asks the Commission to reconsider its
4 requirement, set forth at paragraph 530 and elsewhere in the
5 order, that U S WEST's interim collocation prices shall equal
6 GTE's prices. U S WEST does not believe that GTE's prices are
7 necessarily reflective of U S WEST's costs, and U S WEST has not
8 had an opportunity to evaluate or even comment on GTE's
9 collocation prices. This issue was not raised in testimony or
10 during the hearings. No party proposed that U S WEST be required
11 to use GTE's prices, and U S WEST therefore did not comment on
12 this proposal in hearing or on brief. U S WEST believes that if
13 collocation rates are to remain interim until Phase III, then U S
WEST's own rates should remain in place for that interim period.

14 **Timing of Implementation of New Prices**

15 U S WEST has reviewed the 17th Supplemental Order in terms of
16 when U S WEST is permitted to implement the new prices established
17 by that order. The order contains seemingly contradictory
18 provisions on this issue, and U S WEST therefore asks the
19 Commission to clarify that, in accordance with paragraph 527, it
20 may begin charging the \$18.16 unbundled loop rate, pending a
21 Commission decision on geographically deaveraged prices in Phase
III. Paragraph 527 reads, in pertinent part as follows:

22 527. U S WEST and GTE shall charge statewide average
23 unbundled loop prices of \$18.16 and \$23.94, respectively,
pending a Commission decision on geographically
deaveraged prices in Phase III of this proceeding.

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2 The apparently contradictory paragraph is 539, which reads,
in pertinent part as follows:

3 539. The Commission has determined that deaveraged
4 prices for interconnection and unbundled network elements
(UNEs) should be established. Therefore, the current
5 interim rates for interconnection and UNEs which were
approved by the Commission in agreements filed pursuant
6 to the arbitration and negotiation provisions of the Act
shall remain in effect pending the outcome of Phase III
of this proceeding.

7 Thus, there is one paragraph which (correctly) indicates that
8 U S WEST may charge the new loop price pending the outcome of
9 Phase III, and another paragraph which seems to indicate that
10 U S WEST may charge only the \$11.33 or \$13.37 arbitrated loop rate
11 pending the outcome of Phase III.

12 U S WEST respectfully submits that the Commission should
13 clarify its order to eliminate any confusion or dispute, and
14 should affirmatively state that the new loop rates and other UNE
15 prices will be effective pending the outcome of Phase III. Any
16 other outcome would be legally flawed, and is without any rational
basis.

17 The Commission represented to the 9th Circuit Court of
18 Appeals in November 1998 that it would determine prices in this
19 phase of the proceeding. However, a determination of correct
20 prices is meaningless without implementation of those prices.
21 Further, the Commission determined early on in these consolidated
22 dockets that the arbitrated prices would be interim pending final
23 determination of the correct prices in this proceeding. Again,
this promise is meaningless until the Commission allows

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2 implementation of the prices that it has now determined are the
3 correct prices.

4 There is nothing about the \$18.16 loop rate that is not
5 final, and there is thus no reason not to implement it. Although
6 the Commission has stated that it will consider deaveraging in
7 Phase III, it has admonished the parties that Phase III will not
8 be an opportunity to relitigate or critique the loop prices
9 established in the 17th Supplemental Order. (Order at page 121,
10 discussion under "Rate Deaveraging"). U S WEST does not believe
11 that the Commission would deliberately leave in place prices it
12 knows to be incorrect after almost three years of investigation,
13 and continue under prices that have been disproved and shown to be
14 incorrect, especially because there is no true-up to prevent the
15 irrevocable harm that this would cause.

16 U S WEST understands that the Commission will be considering
17 deaveraging, and may be ordering deaveraged prices in the future.
18 However, this is no reason to be reluctant to allow a new
19 statewide averaged loop rate to go into effect. The current rate
20 is also a statewide average, but it has now been shown to be too
21 low by almost 50%. No harm could come from implementing the
22 Commission-determined correct rate pending a decision on
23 deaveraging. Additionally, it should be noted that although it
looks now as if we will have deaveraged rates in the future, that
is far from certain. The FCC could extend its stay of the
deaveraging requirement, or the rule itself could be held invalid.

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The possibility of deaveraged rates at some indefinite date in the future, perhaps a year or more away, should not deter implementation of a new statewide average loop rate now.

CONCLUSION

The Commission should reconsider or clarify its 17th Supplemental Order as set forth herein.

Respectfully submitted this 9th day of September, 1999.

U S WEST Communications, Inc.

Lisa A. Anderl, WSBA No. 13236