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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 ..... )	<b>PHASE II</b>
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
In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for GTE NORTHWEST INCORPORATED ..... )	U S WEST'S RESPONSE TO COMMENTS REGARDING COMPLIANCE FILING

**I. INTRODUCTION**

On November 15, 1999, U S WEST made its compliance filing in this docket in accordance with the Commission's Seventeenth, Eighteenth, and Nineteenth Supplemental Orders. U S WEST included prices for UNEs and interconnection in accordance with the Commission's prior orders, and included interim OSS cost recovery rates as authorized by the Commission.

On December 15, 1999, several of the parties to this case filed various comments regarding

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the compliance filing. Some of the parties dispute the actual prices or rate elements U S WEST filed, while others dispute the methodology U S WEST employed in determining a rate design that it believed was in accordance with the Commission's requirements. Some of the criticisms filed on December 15, 1999 belie a lack of understanding of the complicated history of this docket, while others reveal that the Commission's orders may well be susceptible to more than one interpretation. U S WEST desires nothing more than to attain final prices in this docket and move on. Thus, U S WEST files these reply comments, seeking to more fully explain or clarify the prices it filed on November 15, 1999, and the rationale for its rate design decisions.

**A. Cost Of Money**

Staff and AT&T criticize U S WEST's use of a cost of money of 11.4% in its OSS cost studies. They assert that U S WEST should be using the Commission-prescribed cost of 9.63%. U S WEST understands that it is required to use Commission-prescribed cost of money in its studies, and has done so consistently in this docket. However, in this one particular study, the use of Commission-prescribed cost of money results in a higher non-recurring charge than does the use of U S WEST's proposed economic cost of money. This is because in the OSS study the cost of money functions as a discount factor, and a lower cost of money produces higher net present value cost results. This was acknowledged and discussed on the record in Phase II, through cross examination by AT&T's counsel. During those same hearings U S WEST offered to use the 11.4% cost of money in the OSS study. (Tr. 1233, December 4, 1998 hearing.) As far as U S WEST knew, no one disputed the use of the 11.4% or otherwise suggested that U S WEST should not do so. Thus, U S WEST believed that the cost of money issue had essentially been resolved by stipulation or assent. The Commission has neither affirmatively accepted or rejected

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the use of the higher cost of money in the OSS study. U S WEST is willing to accept whatever the Commission determines is the proper cost of money in the OSS study. Staff’s and AT&T’s comments suggest that there is a need for clarification on this issue at this point.

**B. OSS**

Staff and others criticize U S WEST’s compliance filing for interim rates for OSS on a number of grounds. Staff states that U S WEST “went beyond” what was ordered in the Seventeenth Supplemental Order by including OSS cost elements for both start-up and ongoing maintenance. Staff suggests that U S WEST did not comply with ¶¶ 112 and 476 of the Seventeenth Order. Staff further contends that U S WEST may have included the costs of fax ordering in the IMA (manual) order charge, and that this was not appropriate. Other parties criticize U S WEST’s OSS compliance filing as well, including AT&T, NextLink/ELI/ATG, and Rhythms Links. AT&T’s comments seek to attack U S WEST’s underlying cost studies, contrary to decisions already made in prior phases of the proceeding. NextLink/ELI/ATG and Rhythms take issue with U S WEST’s interim OSS cost recovery, suggesting that U S WEST ought not to be permitted to recover these costs at all.

**1. Start-Up And Ongoing Maintenance Costs**

Staff and others contend that U S WEST improperly included additional categories of rates for development and enhancement (start-up) and ongoing maintenance. However, these categories have always been a part of U S WEST’s proposal and it is not correct to suggest that these rates are newly introduced in U S WEST’s compliance filing. U S WEST’s testimony since the inception of the OSS cost recovery portion of this docket has included separate rates for development and enhancement (start-up) and ongoing maintenance. In ¶ 89 of the Seventeenth

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Order, the Commission recognized and discussed that there are two types of costs associated with OSS, start-up costs and transaction costs, noting that there is little dispute that the transaction costs should be recovered from the CLEC. At ¶¶ 102 and 106 of that same order, the Commission allows cost recovery for the OSS transition or start-up costs. There is nothing in the Seventeenth Supplemental Order which limits U S WEST’s interim cost recovery to one or the other of those categories for OSS. U S WEST therefore properly included both categories of costs in its rate design proposal for interim OSS cost recovery.

**2. IMA Or Manual Ordering**

Staff and others also criticize U S WEST’s interim OSS cost recovery compliance filing because U S WEST seeks to recover non-IMA-related expenses in its “IMA” category. Staff and others suggest that it is inappropriate for U S WEST to have included cost recovery for orders transmitted by facsimile or some other method which requires manual processing in the IMA category.

Rhythms Links goes so far as to allege that U S WEST is attempting to sneak in unauthorized cost recovery for faxed orders, stating that U S WEST’s “cryptic explanation” in its compliance filing flags the issue only to a “diligent reader.” However, a diligent reader of the Seventeenth Supplemental Order would know that U S WEST was authorized to include the costs for fax order processing in its “non-electronic” category, and that the “cryptic” designation criticized by Rhythms is taken from the Commission’s order at ¶ 436. The Commission explicitly stated in ¶ 437 that OSS non-recurring costs may be recovered in the connection rate, and that those costs vary depending upon whether the order is placed electronically using EDI, or manually, using facsimile or IMA.

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2 Thus, U S WEST has included the costs for processing orders transmitted by facsimile in  
3 its non-electronic (e.g. IMA) cost recovery category, because the Commission permitted two  
4 separate categories for cost recovery of order processing. The one category designated “EDI” is  
5 clearly the electronic processing method. However, the “IMA” category is not limited to IMA, but  
6 included manual order costs such as orders submitted by fax. This seems clear from a reading of  
7 ¶¶ 112, 436, and 437 of the Seventeenth Order. According to those provisions, the “IMA”  
8 category is also denominated as the category wherein the costs of manual ordering can be  
9 recovered and appropriately includes the costs for processing orders transmitted by facsimile. As  
10 pointed out by Rhythms, a number of CLECs submit orders by facsimile. U S WEST incurs  
11 significant costs in processing those orders. Denial of cost recovery would be inconsistent with  
12 the Commission’s decision in this case. Further, if cost recovery is denied, U S WEST would  
13 potentially be forced to stop accepting orders transmitted via facsimile, which would not serve the  
14 interests of either U S WEST or the CLECs who submit orders in that manner.

### 15 **3. Cost Studies**

16 AT&T and Rhythms criticize U S WEST’s cost studies, raising arguments with regard to  
17 the compliance filing that are better raised in the next proceeding, or which should have been  
18 raised during hearings in October and December 1998. Perhaps this is understandable in that  
19 AT&T had new counsel, and Rhythms was not a party to the prior phases of this docket, but those  
20 reasons do not form a basis upon which to allow or consider these untimely and inappropriate  
21 challenges to the cost studies.

22 For example, AT&T criticizes U S WEST’s factors, including its administrative factor, its  
23 product management factor and its business fees factor. U S WEST believes that AT&T’s

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criticisms of these factors, which are a part of U S WEST's direct costs, are not appropriate at this stage of the proceeding. The Commission has made it clear that the parties are not to be relitigating direct costs at this phase of the proceeding and AT&T's attacks on U S WEST's factors and costs allocations are entirely inappropriate at this stage of the proceeding.

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**4. Rate Design Issues**

AT&T next suggests that U S WEST's cost calculations to produce separate charges for OSS cost recovery for both connect and disconnect are inappropriate. At pages 3 and 6 of AT&T's comments, AT&T suggests that U S WEST's rate design would result in double recovery of OSS costs. This is not correct. U S WEST has assumed a total number of connect and disconnect activities and has used that number as the denominator in calculating an appropriate OSS order processing cost for connect and disconnect activities. If U S WEST were not permitted to apply the per order charge to disconnect activities, the denominator would be smaller and the per order charge would be larger in terms of calculating an appropriate rate for cost recovery. There is no double recovery in the OSS connect and disconnect charges.

**5. Interim Rates**

Finally, the comments of Rhythms and NextLink appear to take issue with the Commission's decision to allow U S WEST interim OSS cost recovery. These parties' comments suggest that nothing short of a full new filing such as is contemplated in January 2000 will be satisfactory for interim rates. This is an absurd proposition. If such a full refiling were necessary, the Commission would not have permitted interim rates. The rates are just that, interim, and will be replaced after the Commission has had an opportunity to review U S WEST's OSS filing which will be submitted in accordance with prior Commission orders on January 31, 2000.

**C. Physical Collocation**

NextLink/ELI/ATG complain that U S WEST has not filed any interim collocation prices. These parties contend that because this docket will necessarily conclude before the new physical

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2 collocation docket has established permanent rates, U S WEST should be required to file a tariff  
3 that mirrors GTE's physical collocation rates as previously ordered by the Commission.  
4 U S WEST disagrees that this is required of it. The Commission's Eighteenth Supplemental Order  
5 clearly stated that U S WEST would not be required to mirror GTE's collocation rates on an  
6 interim basis and U S WEST has therefore not filed a tariff to that effect. U S WEST does not  
7 believe that these parties' criticisms are well taken in light of the clear language of the  
8 Commission's Eighteenth Supplemental Order. While these parties quote the Commission's  
9 Nineteenth Supplemental Order as suggesting that such a filing must be made, there is no language  
10 whatsoever in the Nineteenth Supplemental order which supports their suggestion that U S WEST  
11 be required to file a tariff with interim collocation rates.

12 **D. Connection And Disconnection Charges**

13 Staff criticizes U S WEST's nonrecurring charge for connection and disconnection, stating  
14 that "Staff finds it troubling that the cost elements that U S WEST used in the compliance filing  
15 are higher than the costs the Commission ordered in its Eighth Supplemental Order, even before  
16 applying the common cost mark-up of 4.05%." In the Eighth Supplemental Order, the  
17 Commission determined that the nonrecurring loop installation cost for U S WEST was \$30.15.  
18 U S WEST was permitted, in ¶ 435 of the Commission's Seventeenth Supplemental Order, to add  
19 a mark-up for attributed costs of 19.65% and to then apply the 4.05% factor for common costs.<sup>1</sup>  
20 Thus, U S WEST did not start with \$30.15 before it applied the 4.05%. Rather, U S WEST took  
21 the \$30.15 and applied a 19.62% factor for attributed costs, resulting in a TELRIC cost of \$36.07

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22 <sup>1</sup> As U S WEST explained in its initial filing, its attributed factor is 19.62%, and the 19.65% is assumed to be a  
23 typographical error.



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2 to which it subsequently applied the 4.05% mark-up. This calculation is explicitly authorized by  
3 the Seventeenth Supplemental Order in ¶ 435. Thus, there is no basis for rejecting U S WEST's  
4 nonrecurring connection and disconnection compliance filing. Representatives for U S WEST and  
5 Staff have discussed this issue, and U S WEST understands that Staff now accepts U S WEST's  
6 filing on these rate elements.

7 **E. ILNP**

8 Staff also takes issue with the nonrecurring costs that U S WEST has filed for interim local  
9 number portability (ILNP). U S WEST disagrees that there is anything incorrect about its  
10 nonrecurring costs. U S WEST again notes that the Seventeenth Supplemental Order in ¶ 435  
11 explicitly states that the Commission accepts U S WEST's nonrecurring cost compliance filing.  
12 Staff argues in its comments that the Commission discussed Staff's concern with U S WEST's  
13 ILNP nonrecurring costs in ¶ 355 of the Seventeenth Supplemental Order and that the Commission  
14 did not state that U S WEST's nonrecurring costs for ILNP were acceptable. However,  
15 U S WEST disagrees with Staff's argument and points again to ¶ 435 of the Seventeenth  
16 Supplemental Order where the Commission did accept U S WEST's nonrecurring cost compliance  
17 filing. Staff also argues that ¶ 533 of the Eighth Supplemental Order applies, requiring U S WEST  
18 to reduce its nonrecurring charges for interim local number portability by 50%. Staff and  
19 U S WEST have disagreed on this issue before and continue to disagree about the applicability of ¶  
20 533 in the Eighth Supplemental Order. In U S WEST's view, ¶ 533 of the Eighth Supplemental  
21 Order applies only to U S WEST's retail rates. That paragraph reads in its entirety as follows:

22 U S WEST and GTE must file, and the Commission must approve, avoided costs studies  
23 for nonrecurring activities. Until such avoided cost studies are approved, the Commission  
orders that a 50% avoided cost discount applies to retail nonrecurring activities.

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2 By its own terms, ¶ 533 only imposes a 50% avoided cost discount on *retail* nonrecurring  
3 activities. Interim local number portability is not a retail activity and the nonrecurring charges for  
4 that activity are thus appropriately imposed per U S WEST's compliance filing. To the extent that  
5 Commission Staff and U S WEST continue to disagree on this issue, U S WEST would ask the  
6 Commission for a determination or clarification on this issue in order that the parties have clarity  
7 going forward.

8 **F. Customer Transfer Charge**

9 Staff next criticizes U S WEST's compliance filing regarding the customer transfer charge,  
10 stating that U S WEST's filing does not comply with the Commission's Seventeenth Supplemental  
11 Order. Staff contends that the Commission required U S WEST to revise its customer transfer  
12 charge to include all of Staff's proposed adjustments and that a compliance filing must precisely  
13 mirror rates set forth in Exhibit C-664 (JYR-2). U S WEST's compliance filing does meet the  
14 requirements of the Commission's Seventeenth Supplemental Order. Requirements of that Order  
15 do not mandate that U S WEST mirror the rates in Exhibit C-664 exactly. In fact, U S WEST did  
16 mirror the rate structure proposed by Staff as U S WEST had committed to do and as ordered by  
17 the Commission. However, U S WEST added back the OSS systems costs to its customer transfer  
18 charge in order to comply with the Commission's requirement that it remove those wholesale OSS  
19 costs from its OSS cost study. These systems costs are clearly identified in the cost study  
20 submitted on November 15, 1999. See, for example, page 115 of 132.

21 U S WEST had committed that it would not seek double recovery of these costs, and, in  
22 response to AT&T's concerns, the Commission ordered U S WEST to remove those costs from its  
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OSS cost study (¶ 465, Seventeenth Supplemental Order). U S WEST did not believe that the Commission intended to prohibit U S WEST from recovering these costs. Because they had already been removed from the customer transfer charge as calculated by Staff, U S WEST added the systems cost back in to the customer transfer charge. U S WEST believes that such a calculation was proper in accordance with the Commission’s discussion and decision at ¶¶ 456-465 of the Seventeenth Supplemental Order. If the Commission does not believe that the inclusion of the wholesale OSS systems costs in the customer transfer charge is appropriate, U S WEST will add those costs back into its OSS cost study.

**G. Loop Conditioning Costs**

NextLink/ELI/ATG criticize U S WEST’s compliance filing for loop conditioning, including cable unloading and bridged tap removal. These parties claim that the Commission did not authorize any such prices to be included among compliance filings, citing the Nineteenth Supplemental Order. These parties are incorrect. In the Nineteenth Supplemental Order, in § II.A.7., the Commission permitted compliance filings in order to reflect the addition of common costs to previously established recurring and nonrecurring costs. The Commission had already previously established U S WEST’s loop conditioning costs in the Eighth Supplemental Order, and had previously established these prices at page 3 of the Seventeenth Supplemental Order, U S WEST appropriately included loop conditioning prices in its December 15, 1999 compliance filing.

**H. Tandem Switched Local Transport**

AT&T claims that U S WEST should not have included distance sensitive tandem switched transport rate elements, stating that no such rate elements are authorized by the

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Fourteenth Supplemental Order. AT&T is simply wrong, and has apparently not read the Fourteenth Supplemental Order, or U S WEST’s compliance filing. U S WEST’s compliance rate table very clearly references ¶ 30 of the Fourteenth Supplemental Order, which in turn very clearly states that as to the distance sensitive elements the Commission “will rely only upon the U S WEST and GTE cost estimates that are consistent with our findings in the 8th Order.” U S WEST is clearly entitled to include a distance sensitive element in its rate table.

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**II.CONCLUSION**

U S WEST believes that its compliance filing is just that, a filing that is in compliance with the Commission's prior orders in this docket. To the extent that the other parties' comments reflect areas of honest disagreement or lack of understanding of prior Commission orders, U S WEST believes that it would be appropriate for the Commission to enter an order clarifying those questions for the parties. On the other hand, to the extent that these parties' comments reflect an attempt to relitigate issues that have been already decided in prior phases of the proceeding, those attempts should be rejected by the Commission and U S WEST's compliance filing should be approved.

Respectfully submitted this 11th day of January, 2000.

U S WEST Communications, Inc.

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