

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	)	
	)	DOCKET NO. UT-960323
MFS COMMUNICATION COMPANY, INC.	)	
	)	
Petition for Arbitration Pursuant to	)	
47 U.S.C. § 252(b) of the Interconnection	)	
Rates, Terms and Conditions with	)	
U S WEST Communications, Inc.	)	
.....	)	
In the Matter of	)	
	)	DOCKET NO. UT-960326
TCG SEATTLE	)	
	)	
Petition for Arbitration Pursuant to	)	
47 U.S.C. § 252(b) of the	)	
Telecommunications Act of 1996.	)	
.....	)	
In the Matter of the Interconnection	)	
Agreement Between	)	DOCKET NO. UT-960337
	)	
ELECTRIC LIGHTWAVE, INC., and	)	COMMISSION DECISION
U S WEST COMMUNICATIONS, INC.,	)	AND FINAL ORDER
	)	MODIFYING INITIAL ORDER,
Pursuant to 47 U.S.C. Section 252.	)	IN PART, AND AFFIRMING,
.....	)	IN PART

**SUMMARY**

**PROCEEDINGS:** This proceeding presents issues of first impression regarding the physical collocation of facilities by local exchange carriers interconnecting pursuant to provisions of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56, *codified at* 47 U.S.C. § 151 et seq. (1996) (“the Telecom Act”). Section 251(c)(6) of the Telecom Act states that an incumbent local exchange carrier (“ILEC”) has the duty to provide space, at its central offices, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements of a competitive local exchange carrier (“CLEC”). Section 251(c)(6) also states that an ILEC may alternatively provide for virtual collocation if it demonstrates to the Commission that physical collocation is not practical because of space limitations.

U S WEST Communications, Inc. (“U S WEST”), filed comments with the Commission in response to three separate requests for physical collocation.

U S WEST is an ILEC. The requesting parties are MFS Communications Company, Inc., now known as WorldCom Technologies, Inc. ("MFS"), TCG Seattle ("TCG"), and Electric Lightwave, Inc. ("ELI"). MFS, TCG, and ELI are CLECs. In each case, U S WEST maintained that physical collocation was not practical because of space limitations.

The cases were combined by the Commission for administrative convenience. Commission Staff entered its appearance, and NEXTLINK Washington L.L.C. ("NEXTLINK") and MCImetro Access Transmission Services, Inc. ("MCImetro") were granted limited intervention. On August 22, 1997, a Prehearing Conference Order was entered establishing procedures regarding requirements in the Telecom Act to determine the practicality of physically collocating facilities. Briefs were filed on October 17, 1997.

On December 23, 1997, an Initial Order was entered which provided that 1) U S WEST must file a report when it denies requests for physical collocation, 2) U S WEST cannot reserve space for virtual collocation, 3) U S WEST may deny a request without a caged enclosure, 4) U S WEST must provide for shared physical collocation, 5) U S WEST has a duty to reclaim space, 6) U S WEST must bear the costs of reclamation, and 7) CLECs must bear the costs to condition space for their use.

U S WEST petitions for administrative review on procedural grounds, arguing that it was not provided a full opportunity to present relevant evidence. All other parties support the Initial Order, arguing that it complies with established procedures. On February 25, 1998, the Commission remanded this matter to the presiding officer to receive additional evidence which the Commission now considers as part of its review. Additional direct testimony was filed on March 11-12, 1998. Additional rebuttal testimony was filed on April 15, 1998.

U S WEST also petitions for modification and clarification 1) to clarify the definition of underutilized space, 2) to clarify the reporting requirements, 3) to reverse the decision that U S WEST must provide for shared collocation, 4) to reverse the decision that U S WEST may not recover reclamation costs from CLECs, and 5) to reverse the decision that U S WEST must make space available in the Seattle Main central office. MFS, TCG, NEXTLINK, and ELI agree that U S WEST should only be required to inventory its own equipment. They answer the U S WEST petition in support of the Initial Order on all other issues. Commission Staff answers the U S WEST petition in support of the Initial Order.

TCG, NEXTLINK, and ELI jointly petition to reverse the decision that U S WEST may deny a request for physical collocation without a caged enclosure. Commission Staff answers in support of the joint petition. U S WEST answers in support of the Initial Order.

MFS asks that the Commission clarify that its final Order shall apply to pending requests for reclamation. U S WEST and the other parties concur.

On July 17, 1998, the parties jointly filed a Stipulation and Settlement Agreement (“Agreement”) resolving disputes regarding physical collocation at the Seattle Main central office. They request that the Commission approve the Agreement.

**COMMISSION:** The Commission affirms the Initial Order, in part, and modifies the Initial Order, in part.

Procedural Objections. The Commission addresses U S WEST’s procedural objections by its remand on February 25, 1998.

Seattle Main Stipulation. The Commission approves the Agreement resolving disputes regarding the Seattle Main central office.

Reporting Requirements. U S WEST is required to inventory only its own active, inactive, and underutilized equipment. U S WEST is required to generally identify the work performed in each central office area and provide spatial dimensions when submitting floor plans. U S WEST is required to report descriptions of plans and internal policies for the conversion of central office space.

Reclamation. U S WEST must reclaim central office space by removing inactive equipment and consolidating equipment that is being phased out. Consolidation only applies to equipment that is experiencing declining utilization, and not equipment with spare capacity for growth.

Collocation. U S WEST cannot reserve space for virtual collocation. U S WEST must provide shared physical collocation if it is requested. U S WEST may deny a request for physical collocation without a caged enclosure. U S WEST cannot require CLECs to contract for any more space than is reasonably necessary, subject to the minimum requirement for an enclosure.

Cost Allocation. U S WEST must bear the cost of performing an equipment inventory and space assessment as part of its demonstration. U S WEST must bear the cost of removing inactive equipment (“equipment reclamation”). There is insufficient evidence in the record to allocate costs for grooming (moving circuits and consolidating equipment). U S WEST may demonstrate that requesting CLECs cause costs for grooming on a case-by-case basis. CLECs must bear the costs of conditioning space for equipment installation. Costs incurred by warehousing retired equipment, risk management, and reinstallation of equipment are not interconnection costs. The allocation of costs should apply to pending, as well as future, requests for reclamation.

Timetables for Reviews. This Order provides timetables for U S WEST to review requests for physical collocation, for the Commission to review U S WEST's denials, and for supplementing this proceeding.

**APPEARANCES:** Gregory Kopta, attorney, Seattle, represents TCG and NEXTLINK; Douglas G. Bonner, attorney, Washington, D.C., represents MFS; Timothy Peters, Director Regulatory and Industry Affairs, represents ELI; Lisa Anderl, attorney, represents U S WEST; and Gregory Trautman, Assistant Attorney General, represents Commission Staff.

## MEMORANDUM

### I. BACKGROUND

In this case, the Commission for the first time addresses denials by U S WEST of CLEC requests for physical collocation. The Telecom Act and the Federal Communications Commission's First Report and Order ("FCC Order"), including Appendix B - Final Rules ("FCC Rules"),<sup>1</sup> require that U S WEST demonstrate to the Commission that physical collocation is not practical because of space limitations whenever it denies a request on that basis. The FCC Order leaves state public utility commissions considerable discretion and provides minimal guidance regarding the conduct of a demonstration. Consequently, this case is as much about the process of resolving physical collocation disputes as it is about the issue of physically collocating equipment. This Order establishes certain requirements and procedures to be followed in the future.

On January 22, 1997, U S WEST filed "Comments on Physical Collation" and denied collocation requests by MFS in Docket No. UT-960323. U S WEST subsequently filed denials of collocation requests by TCG and ELI in Docket Nos. UT-960326 and UT-960337, respectively. On August 1, 1997, a prehearing conference was convened. Commission Staff entered its appearance, and limited intervention was granted to MCImetro and NEXTLINK. On August 22, 1997, a Prehearing Conference Memorandum and Order ("Prehearing Order") was entered. The Prehearing Order states that this case is ancillary to proceedings previously conducted at the Commission subject to the Telecom Act. Accordingly, this proceeding was not conducted subject to the Washington Administrative Procedure Act, but was guided by many of its principles.

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<sup>1</sup> *In the Matter of the Implementation of the Local Competition Rules of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order (August 8, 1996), Appendix B- Final Rules.

On September 24, 1997, U S WEST made a presentation to the Commission on the availability of space in the central offices at which physical collocation had been denied. Other parties also were allowed the opportunity to make presentations. U S WEST stated that there was no vacant space available, but also stated that it was prepared to reclaim space at the expense of requesting parties. MFS and TCG made presentations claiming that vacant space was either immediately available or available through reclamation. The parties filed briefs, and an Initial Order was entered on December 23, 1997.

On January 14, 1998, U S WEST, TCG, and MFS filed petitions for review. On January 29, 1998, those parties and Commission Staff answered the several petitions. On February 25, 1998, the Commission remanded this matter to receive additional evidence. Written direct testimony was filed by the parties on March 11-12, 1998, and rebuttal testimony was filed on April 15, 1998. This final Order addresses the issues that were raised in the petitions for review and by the additional evidence.

Disputes over the availability of vacant space in the Seattle Main central office have been resolved. However, disputes over the availability of vacant space in the Bellevue Glencourt and Vancouver Orchards central offices remain unresolved.

## **II. INITIAL ORDER**

The Initial Order established procedures for assessing space, determined conditions for providing collocation, allocated costs for assessing and reclaiming space, and assessed the availability of space at three central offices. The Initial Order analyzed the following questions and recommended the following answers:

- A. Can U S WEST reserve space for virtual collocation? **No.**
- B1. Is U S WEST required to provide for cageless physical collocation? **No.**
- B2. Is U S WEST required to provide for shared physical collocation? **Yes.**
- C. Can U S WEST recover costs for reclamation from CLECs? **No.**
- D. Should U S WEST be required to file reports with the Commission? **Yes.**

## **III. PETITIONS FOR ADMINISTRATIVE REVIEW**

Petitions for review were filed by U S WEST, MFS, and jointly by TCG, NEXTLINK, and ELI on January 14, 1998.

**A. The U S WEST Petition for Review.** U S WEST raised procedural objections and stated that it should be allowed to present additional evidence. Commission Staff, MFS, TCG, NEXTLINK, and ELI answered in opposition to U S WEST. The Commission agreed with U S WEST and remanded this matter. The Commission considers additional evidence on the following issues:

- The distinction between equipment that is being phased out and equipment with spare capacity for growth;
- The recovery of costs associated with reclamation, including equipment removal costs recovered through depreciation rates; and
- The reasonable timetables for U S WEST to conduct its review of requests for physical collocation and for the Commission to review

U S WEST's denials.

U S WEST also petitions for review of factual findings, arguing that 1) the definition of underutilized equipment be clarified to mean declining use, 2) the requirement to inventory central office equipment should not apply to equipment owned by other carriers, 3) it should not be required to report total administrative space on a per square foot basis, 4) it should not be required to disclose specific plans and policies for the conversion of space, 5) the order approving shared collocation be reversed because the issue was not raised in the proceeding, 6) it recover the costs of reclamation from CLECs because they cause those costs, 7) it recover the costs of reclamation as an interconnection cost, and 8) space is not available in the Seattle Main central office.

MFS, TCG, NEXTLINK, and ELI agree that U S WEST should not be required to inventory another carrier's equipment. They answer the U S WEST petition in support of the Initial Order on all other issues. Commission Staff specifically answers the issue of allocating costs in support of the Initial Order.

**B. The TCG, NEXTLINK, and ELI Joint Petition for Review.** TCG, NEXTLINK, and ELI jointly argue that U S WEST did not produce evidence to substantiate that caged physical collocation enclosures are necessary. They also argue that the Initial Order mistakenly relies on the FCC Order as an error of law, conflicts with the TCG interconnection agreement approved by the Commission, and conflicts with public policy. Commission Staff answers in support of the joint petition. U S WEST answers the joint petition in support of the Initial Order.

**C. The MFS Petition for Review.** U S WEST, TCG, NEXTLINK, and ELI concur in MFS's request that this final Order should apply to all pending requests for reclamation.

#### **IV. STATEMENT OF JURISDICTION AND AUTHORITY**

This proceeding is conducted pursuant to the Telecom Act, the FCC Order, the FCC Rules, and the Commission's *Interpretive and Policy Statement Regarding, Negotiation, Mediation, Arbitration, and Approval of Agreements Under the Telecommunications Act of 1996*, Docket No. UT-960269, issued June 28, 1996. Section 251(c)(6) of the Telecom Act, FCC Rule 51.321, and Rule 51.323 specifically refer to physical collocation.

#### **V. ADMISSION OF EXHIBITS**

Twelve exhibits were admitted at the U S WEST demonstration on September 24, 1997. Subsequently, this case was remanded to the ALJ to receive additional evidence from the parties. On March 17, 1998, the Commission ordered that written testimony and attachments submitted by the parties be admitted as exhibits in this proceeding.<sup>2</sup> A complete exhibit list is attached to this Order as Attachment A.

#### **VI. SEATTLE MAIN CENTRAL OFFICE AGREEMENT**

On July 17, 1998, the parties jointly requested that the Commission approve their Agreement resolving disputes regarding the Seattle Main central office. The Agreement states that U S WEST shall provide for physical collocation in the adjacent Mutual Building that is technically equivalent to physical collocation on the eighth floor of Seattle Main. The parties request that this dispute be withdrawn from discussion and decision by the Commission.

The Commission finds that the Agreement does not discriminate against any other carrier because it establishes a collocation space that is available to all carriers on a first-come, first-served basis. The Agreement is consistent with the public interest, convenience, and necessity because it provides for definite physical collocation space that would not be otherwise available. Finally, the Agreement is consistent with the Telecom Act and applicable state law, including prior Commission Orders.

The Commission approves the Agreement. Consequently, the issue of vacant space in the Seattle Main central office is moot, and related factual findings are unnecessary at this time.

#### **VII. REQUEST FOR CLARIFICATION - EQUIPMENT INVENTORY REPORTS**

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<sup>2</sup> *Procedural Conference Memorandum and Order*, Docket Nos. UT-960323, UT-960326, and UT-960337 (March 17, 1998).

The Initial Order required U S WEST to provide an inventory of central office equipment when it denies a request for physical collocation because of space limitations. U S WEST's petition for review requests clarification that it only inventory its own equipment. U S WEST does not contest the requirement that it report the total amount of space occupied by interconnecting collocators or third parties, including a description of that use of space. There is no opposition to U S WEST's request. The Commission agrees that U S WEST should only inventory its own equipment. U S WEST's request for clarification of other reporting requirements are disputed and discussed below.

### **VIII. REQUEST FOR CLARIFICATION - RECLAMATION**

The Initial Order provides that underutilized equipment be consolidated to reclaim space. U S WEST believes such consolidation can be accomplished only on equipment that is experiencing declining utilization, not equipment that has spare capacity for growth.<sup>3</sup>

Commission Staff submitted written testimony stating that, generally, new equipment is sized to provide a certain amount of spare capacity for growth. Therefore, it is not necessary to keep older equipment in service. A company may choose to keep older equipment in service and provide for growth with the newer equipment. Under this scenario, the aging equipment is gradually phased out over time and does not function as spare capacity for growth.<sup>4</sup> This evidence supports the U S WEST request.

The Commission agrees with U S WEST. FCC Rules provide that U S WEST may reserve floor space for future growth.<sup>5</sup> Consolidation of equipment to reclaim space can be accomplished only on equipment that is experiencing declining utilization, and not equipment that has spare capacity for growth.

### **IX. PENDING REQUESTS FOR RECLAMATION**

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<sup>3</sup> U S WEST's Petition for Administrative Review, p.11.

<sup>4</sup> Exhibit T-18, p. 2-3.

<sup>5</sup> FCC Rule 51.323(f)(4).



MFS states that it has initiated space reclamation requests at U S WEST central offices while this case is pending. MFS seeks clarification that the Commission's final Order shall apply to currently pending requests for space reclamation. U S WEST states that it opposes the allocation of reclamation costs in the Initial Order, but it agrees with MFS that the Final Order should apply to all pending requests. The Commission agrees that the allocation of reclamation costs in this Order applies to pending, as well as future, requests.

**X. ISSUES PRESENTED UPON REVIEW**

- A. Should U S WEST be required to calculate and report square footage of central office administrative space?
- B. Should U S WEST be required to report plans and policies regarding space conversion?
- C. Should U S WEST be required to provide for cageless physical collocation?
- D. Should U S WEST be required to provide for shared collocation?
- E. Does U S WEST have a duty to reclaim equipment and space?
- F. How should costs to perform an equipment inventory and space assessment be allocated?
- G. How should costs to reclaim equipment be allocated?
- H. Does TELRIC pricing of equipment reclamation constitute double recovery?
- I. How should costs to groom circuits and consolidate equipment be allocated?
- J. Do incidental costs to remove equipment constitute interconnection costs?
- K. What are reasonable timetables for U S WEST's review of requests for physical interconnection and Commission review of U S WEST's denials?
- L. What is a reasonable process for supplementing this proceeding?

## COMMISSION DISCUSSION AND DECISION

### A. Should U S WEST Be Required to Calculate and Report Square Footage of Administrative Space?

The Initial Order requires U S WEST to file a report with the Commission within thirty (30) days after receiving a request for physical collocation. The report includes specific information that is relevant to determining whether vacant space exists in the central office.

U S WEST opposes the requirement that it report the total square footage of administrative space. U S WEST states that the reporting of administrative space on a per square foot basis may lead the Commission to unreasonably impose a uniform requirement or ratio for administrative space.<sup>6</sup>

TCG, NEXTLINK, and ELI point out that nothing precludes U S WEST from explaining its use of administrative space in addition to reporting square footage.<sup>7</sup> MFS states that U S WEST's argument on this point is speculative and underestimates the Commission's ability to collect and evaluate information.<sup>8</sup>

The calculation of square footage of any given work space is simple math. The floor plans filed in this proceeding generally identified the work performed in each central office area and provided spatial dimensions. The Initial Order places the burden on U S WEST to calculate square footage. Insofar as U S WEST claims that it does not currently compile this information, the Commission will not require U S WEST to make the calculations; however, the calculations produce useful information. The Commission agrees with U S WEST that there is no single benchmark that can be established to determine the reasonable allocation of administrative space in a central office.

**Decision.** U S WEST is required to generally identify the work performed in each central office area and provide spatial dimensions when submitting floor plans.

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<sup>6</sup> U S WEST's Petition for Administrative Review, p. 13.

<sup>7</sup> TCG, NEXTLINK, and ELI Response to Petitions for Review of Initial Order, p. 11.

<sup>8</sup> MFS' Answer to U S WEST's Petition for Administrative Review, p. 12-13.

**B. Should U S WEST Be Required To Report Plans and Policies Regarding Space Conversion?**

The Initial Order requires that U S WEST report the description of plans and internal policies to convert administrative, maintenance, equipment, and storage space in relevant central offices. U S WEST states that the requirements are unclear and it offers to provide a general policy statement regarding its conversion of space from one use to another.

U S WEST previously committed to make information about future plans for switch replacement available so that parties requesting physical collocation can make informed decisions about their own networking plans.<sup>9</sup> Therefore, U S WEST recognizes that the objective of disclosing such future plans is to enable CLECs to make informed decisions. General policy statements cannot accomplish this objective. While the conversion of administrative, maintenance, equipment, and storage space may not produce additional space for physical collocation, the description of U S WEST's current plans and policies will assure that requesting CLECs make informed decisions on a non-discriminatory basis.

**Decision.** Reporting requirements for the description of plans and internal policies related to the conversion of administrative, maintenance, equipment, and storage space in relevant central offices are plainly stated in the Initial Order and require no further clarification.

**C. Should U S WEST Be Required to Provide for Cageless Physical Collocation?**

The Initial Order allows U S WEST to deny a request for physical collocation of equipment without a caged enclosure. TCG, NEXTLINK, and ELI jointly argue that the record does not support the Initial Order and that U S WEST did not present sufficient evidence of its security concerns. They argue that U S WEST already allows collocation in proximity to its equipment.<sup>10</sup> TCG, NEXTLINK, and ELI also point to U S WEST's decision to voluntarily provide for cageless physical collocation as a sign that the Commission should require U S WEST to do so.

Mark Reynolds testified for U S WEST, stating that U S WEST takes precautions in a multi-provider environment that were not necessary in the monopoly

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<sup>9</sup> TR. at 65: 6-21.

<sup>10</sup> TCG, NEXTLINK, and ELI Petition for Partial Review of Initial Order, p. 2-3.

era. TR. at 113:7-13. These precautions arise out of a concern for the security of its sensitive equipment to ensure that service disruptions do not occur. TR. at 112:25-113:4. Mr. Reynolds stated that disruptions can occur inadvertently. TR. 113:4-7.

The evidence does not support the conclusion that U S WEST presently allows other competitors “a free run of the house” as suggested by TCG, NEXTLINK, and ELI. The Initial Order states that parties who physically collocate at central offices are entitled to nondiscriminatory access, twenty-four hours a day, seven days a week. Unlimited access to U S WEST’s central office facilities does not necessitate or justify unlimited access to its equipment. U S WEST’s independent decision to offer cageless collocation is consistent with this Commission’s conclusion that the requirement for caged enclosures may be waived or modified by an express agreement between the parties.

TCG, NEXTLINK, and ELI next seek review based upon error of law, contending that the Initial Order mistakenly relies on the FCC Order as the basis for allowing U S WEST to deny cageless collocation.<sup>11</sup> The FCC Order expressly rejects the TCG, NEXTLINK, and ELI suggestion that physical security arrangements be provided only at the request of the collocating party.<sup>12</sup> The Initial Order properly refers to the FCC Order for guidance in this proceeding.

TCG, NEXTLINK, and ELI also contend that the Initial Order conflicts with the Arbitrator’s Report and Decision in Docket No. UT-960326.<sup>13</sup> The Commission’s Order in that case approved an interconnection agreement between TCG and U S WEST.<sup>14</sup> Both NEXTLINK and ELI subsequently adopted that agreement. U S WEST disputes the contention that those interconnection agreements provide for cageless collocation and states that neither TCG, NEXTLINK, nor ELI has requested cageless collocation on that basis.

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<sup>11</sup> *Supra*, p. 3-4.

<sup>12</sup> FCC Order, paragraph 598.

<sup>13</sup> TCG, NEXTLINK, and ELI Petition for Partial Review of Initial Order, p. 4.

<sup>14</sup> See *Commission Order Approving Agreement*, In the Matter of the Petition for Arbitration of an Interconnection Agreement Between TCG Seattle and U S WEST Communications, Inc., Pursuant to 47 U.S.C. Section 252 (February 7, 1997).

The Commission's Order in Docket No. UT-960326 considered whether TCG personnel should be allowed unlimited, unescorted access to its physically collocated equipment in U S WEST central offices, and it does not discuss cageless collocation. The interconnection agreement approved by the Commission is outside the scope of this proceeding.

Finally, TCG, NEXTLINK, and ELI argue that the Initial Order conflicts with public policy.<sup>1</sup> The Commission agrees that space in U S WEST's central offices is at a premium, virtual collocation is a poor substitute for physical collocation, and cageless physical collocation requires less space than caged collocation. However, a public policy promoting the efficient use of scarce central office space must take legitimate ILEC security concerns into account. Mr. Reynolds testimony on this issue was credible and convincing.

**Decision.** U S WEST may deny a request for physical collocation of equipment without a caged enclosure. TCG, NEXTLINK, and ELI fail to establish that an error of law has occurred. There is no conflict between the Initial Order and the Commission's Order in Docket No. UT-960326. Finally, the Initial Order does not conflict with public policy.

#### **D. Should U S WEST Be Required to Provide for Shared Collocation?**

The Initial Order stated conditions under which U S WEST must accept requests for shared physical collocation from CLECs. U S WEST argues that the issue was not raised in this proceeding and it should not be required to do so.

TCG presented evidence that shared collocation is an acceptable alternative to a denial of separate physical collocation.<sup>2</sup> Shared physical collocation is merely cageless collocation between two or more CLECs. There is considerable evidence in the record regarding cageless collocation. The requirement that U S WEST provide for shared collocation is a critical adjunct to the decision allowing U S WEST to require caged enclosures. U S WEST must accept requests from two or more CLECs to share caged enclosures because, in that instance, U S WEST's legitimate security concerns have been addressed.

**Decision.** The Commission adopts the relevant findings and conclusions stated in the Initial Order.

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<sup>1</sup> TCG, NEXTLINK, and ELI Petition for Partial Review of Initial Order, p. 4-5.

<sup>2</sup> TR. 241:12 - 242:18.

**E. Does U S WEST's Have a Duty to Reclaim Equipment and Space?**

U S WEST presented a physical collocation policy, including a "space reclamation" process, as part of its demonstration.<sup>3</sup> U S WEST introduced the concept of vacant space. The Initial Order adopted U S WEST's terminology, but expanded its operative definition to include space containing inactive or underutilized central office equipment that can be consolidated and/or removed. The Initial Order concluded that U S WEST has a duty to reclaim central office space by removing inactive, and consolidating underutilized, equipment.

U S WEST's petition for review proposes that the Commission's final Order utilize its reclamation policy for transforming reclaimable equipment and space to vacant space. U S WEST defines vacant space as unused, empty space.

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<sup>3</sup> See Exhibit 2.

U S WEST disagrees that it should bear the cost of space assessment and reclamation, and argues that CLECs requesting physical collocation cause those costs. The FCC Order recognizes that ILECs have the incentive and capability to impede competitive entry by minimizing the amount of space that is available for collocation by competitors.<sup>1</sup> An ILEC may retain a limited amount of floor space for its own specific future uses, provided, however, that the incumbent may not reserve space for future use on terms more favorable than those that apply to other carriers seeking to reserve collocation space for their own future use.<sup>2</sup>

The Commission considers the warehousing of inactive and underutilized equipment in central offices to constitute a discriminatory reservation of space. Section 261(c) of the Telecom Act allows the Commission to impose requirements on a telecommunications carrier for intrastate services that are necessary to further competition, so long as the requirements are not inconsistent with the Telecom Act or FCC regulations.<sup>3</sup>

**Decision.** Equipment and space reclamation is necessary to further competition by providing for physical collocation. The requirement that U S WEST reclaim central office equipment and space pursuant to requests for physical collocation is not inconsistent with the Telecom Act or FCC regulations.

#### **F. How Should Costs To Perform An Equipment Inventory and Space Assessment Be Allocated?**

The Initial Order reviewed U S WEST's physical collocation policy statement. U S WEST proposed that it would initially apply certain criteria as part of a space evaluation process to determine whether vacant space is available. If vacant

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<sup>1</sup> FCC Order, paragraph 585.

<sup>2</sup> 47 C.F.R. § 51.323.(f)(4).

<sup>3</sup> Section 261(c) states: "**Additional State Requirements:** Nothing in this part precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access, as long as the State's requirements are not inconsistent with this part or the [Federal Communications] Commission's regulations to implement this part."

space is not available, U S WEST proposed a review to identify opportunities for space reclamation subject to a quote preparation fee.

The Initial Order decided that space occupied by inactive or underutilized equipment be treated as if it were vacant. The Initial Order expands



U S WEST's space evaluation criteria to include an activity that U S WEST proposed to perform for a fee. The requirement that U S WEST identify opportunities for reclamation as part of its demonstration effectively shifts the allocation of the cost to assess space to U S WEST.

Written testimony by U S WEST witness Reynolds states that the cost of conducting an inventory of working, inactive, and underutilized equipment are identifiable costs that are not recovered elsewhere. Mr. Reynolds concludes that when U S WEST is required to incur costs for equipment inventory or space assessment, the CLEC is the cost causer and should bear the expense.<sup>4</sup>

Commission Staff argues that it would be unfair to require CLECs to bear the cost of U S WEST's demonstration. TCG , NEXTLINK, and ELI claim that a CLEC's request for physical collocation does not cause U S WEST to incur any costs.

U S WEST reclaims equipment and space in its normal course of business.<sup>5</sup> Pending reclamation, inactive central office equipment is warehoused in place by U S WEST. Thus, the warehousing of inactive equipment in place is a de facto reservation of space for future use. In central offices where the warehousing of inactive equipment results in a denial of request for physical collocation because of space limitations, U S WEST's use of space constitutes a discriminatory practice. U S WEST states that this is not done in central office locations where space is at a premium.<sup>6</sup> This general declaration is not credible. Equipment inventories and space assessments must be performed on an office-by-office basis.

**Decision.** The requirement that U S WEST incur the cost of performing an inventory of its central office equipment status and a space assessment is not inconsistent with the Telecom Act or FCC regulations. Unless U S WEST reports the status of central office equipment, the Commission cannot ascertain whether vacant space exists. It is not just or reasonable for U S WEST to recover its demonstration costs from its competitors who are being denied access. Furthermore, U S WEST is in a position to mitigate or avoid these costs altogether by proactively implementing policies to maximize available space, such as U S WEST's decision to offer cageless collocation.

## **G. How Should Costs To Reclaim Equipment Be Allocated?**

The Initial Order allocated the cost of removing equipment to U S WEST.

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<sup>4</sup> Exhibit T-13, p. 4.

<sup>5</sup> TR. 120:15-23.

<sup>6</sup> Exhibit T-14, p.6.

U S WEST testified that when it is required to reclaim equipment the CLEC is the cost causer and should bear the expense.<sup>7</sup>

Commission Staff argues that the cost of reclaiming equipment is not a cost that is “caused” by collocators; it is caused by U S WEST’s decision to take the equipment out of service.<sup>8</sup> Commission Staff testified that U S WEST incurs costs to remove equipment in the normal course of business and currently recovers the costs of removal through depreciation whether or not it chooses to actually reclaim equipment.<sup>9</sup>

TCG , NEXTLINK, and ELI argue that U S WEST’s ability to obtain equipment removal costs through depreciation necessarily includes the assumption that U S WEST will actually reclaim equipment at the end of its useful life. Therefore, U S WEST causes the cost by using depreciation principles to recover its capital investment. They also argue that far from causing costs, equipment reclamation provides U S WEST with a source of revenue for the use of central office space.<sup>10</sup>

MFS states that equipment reclamation represents ongoing, day-to-day management costs of operating a local exchange business. Such costs are incurred in making U S WEST’s network more efficient, and cannot be directly attributed to a collocating competitor.<sup>11</sup>

Central office space is a scarce and valuable network resource and U S WEST cannot use that space to warehouse equipment when requests for physical collocation are pending. This kind of space constraint unfairly impedes competitive entry as forewarned by the FCC Order. When central office equipment is rendered inactive, obsolescence is the cost causer.

**Decision.** A request for physical collocation by a CLEC does not cause U S WEST to incur costs for reclaiming central office equipment. The removal of inactive equipment represents ongoing, day-to-day management cost of operating a local exchange business and cannot be directly attributed to a collocating competitor.

#### **H. Does TELRIC Pricing of Equipment Reclamation Constitute Double Recovery?**

U S WEST’s petition for review states that the Telecom Act allows U S

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<sup>7</sup> Exhibit T-13, p. 4.

<sup>8</sup> Staff’s Answer to Petitions for Administrative Review, p. 4-5.

<sup>9</sup> Exhibit T-21, p. 4.

<sup>10</sup> TCG , NEXTLINK, and ELI Response to Petitions for Review of Initial Order, p.6-7.

<sup>11</sup> MFS’ Answer to U S WEST’s Petition for Administrative Review, p. 10.

WEST to recover all of its interconnection costs, including equipment removal costs. U S WEST cites the Eighth Circuit Court of Appeals decision to support its claim that it should recoup these costs from CLECs. U S WEST argues that physical collocation costs and prices should be based on Total Element Long Range Incremental Cost (TELRIC) methodology.<sup>12</sup> U S WEST argues that a fundamental tenet of TELRIC is that costs are to be recovered from the cost causer.<sup>13</sup>

Commission Staff witness Spinks submitted written testimony that forward-looking TELRIC methodology is irrelevant, because customers' rates have been recently adjusted and the costs of removing equipment are included in depreciation. If U S WEST is allowed to charge equipment removal costs in collocation tariffs, it would result in double recovery and an unjustified windfall.<sup>14</sup>

TCG, NEXTLINK, AND ELI state that TELRIC principles support the conclusion that U S WEST should bear the costs of equipment reclamation. They argue that U S WEST submitted cost studies in the generic costing proceeding, Docket Nos. UT-960369, *et al.*, which include depreciation as part of its capital investments in interconnection and network facilities. Therefore, CLECs will pay for removal of central office equipment through the U S WEST TELRIC-based rates for access to, and interconnection with, U S WEST's network.<sup>15</sup>

U S WEST responds to arguments that the cost of removing equipment is already recovered through calculation of its book depreciation. U S WEST argues that depreciation costs are embedded costs that are used to establish its revenue requirement, not prices. Treatment of equipment removal costs as recovered through book depreciation constitutes a cross subsidy. Finally, U S WEST argues that such treatment sends uneconomic signals to the market by failing to properly assign costs, thus creating incentives for uneconomic market entry.

The Commission agrees with U S WEST that it must not send uneconomic signals to the market by failing to properly assign costs. The written testimony of Mr. Spinks supports the Initial Order's determination that recovery by U S WEST of equipment reclamation costs through TELRIC methodologies would provide double recovery. The Commission gives greater weight in this determination to Mr. Spinks' expert testimony on this point. Mr. Reynolds' qualifications do not appear to include detailed training or experience in working categories of accounts in U S WEST's books and records.

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<sup>12</sup> U S WEST's Petition for Administrative Review, p. 8-9.

<sup>13</sup> Exhibit T-17, p. 3.

<sup>14</sup> Staff's Answer to Petitions for Administrative Review, p.4-5; Exhibit T-18, p. 3-4.

<sup>15</sup> TCG, NEXTLINK, and ELI Response to Petitions for Review of Initial Order, p. 6-7.

The Code of Federal Regulations (“C.F.R.”) 47 C.F.R. Part 32.3100(c) requires companies to account for removal costs in depreciation and states:

At the time of retirement of depreciable operating telecommunications plant, this account shall be charged with the original cost of the property retired **plus the cost of removal** and credited with the salvage value and any insurance proceeds recovered. (Emphasis added.)

Consequently, equipment reclamation costs are already being recovered in rates. Placing the removal costs on collocators would send an uneconomic signal by unnecessarily raising the cost of market entry for potential competitors and would result in a double recovery of the expense by U S WEST.

U S WEST’s citation to the Eighth Circuit Court of Appeals decision is not on point. The issue before the Court was whether ILECs were at a financial disadvantage because the Telecom Act allows CLECs to unilaterally designate points of interconnection. The Court’s ruling does not encompass costs that are not caused by CLECs, nor does it account for costs that already are recovered by ILECs through depreciation rates. Finally, the Commission agrees with TCG, NEXTLINK, and ELI that TELRIC principles support the conclusion that U S WEST should bear the costs of equipment reclamation. If cost studies include depreciation as part of capital investments in interconnection and network facilities, TELRIC-based rates for access to, and interconnection with, U S WEST’s network will include compensation for removal of central office equipment.

**Decision.** U S WEST would receive double recovery and an unjustified windfall if it is allowed to charge equipment removal costs in collocation tariffs. If U S WEST is allowed to recover the cost of reclaiming central office equipment from CLECs in addition to equipment removal cost recovery as a component of depreciation, it would have no incentive to remove inactive equipment. This double recovery would send an uneconomical signal to the market by promoting the warehousing of inactive equipment in scarce central office space.

## **I. How Should Costs To Consolidate Equipment and Groom Circuits Be Allocated?**

The Initial Order allocated costs associated with consolidating underutilized equipment to U S WEST as a consequence of its general duty to reclaim central office space. U S WEST submitted written testimony detailing the steps required to consolidate equipment and groom circuits.<sup>16</sup> Grooming normally takes place over an extended period of time for a variety of reasons, including avoiding disruption of

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<sup>16</sup> Exhibit T-14, p. 7-8.

service and allowing attrition to vacate live circuits. Costs include quote preparation, circuit redesign, and cutting-over circuits from one piece of equipment to another. U S WEST argues that when it is required to incur these costs pursuant to a request for physical collocation, the CLEC is the cost causer and should bear the expense.<sup>17</sup> U S WEST also claims that costs associated with grooming are not recovered in book depreciation.<sup>18</sup>

Commission Staff testified that the costs of removing underutilized equipment have likely been fully recovered because U S WEST uses vintage group averaging for the calculation of depreciation rates. Vintage group averaging relies on some property being in service longer than the average, while some property retires before the average life is reached. Commission Staff argues that U S WEST has to retire the equipment eventually and should incur the costs of doing so in the normal course of business as an ordinary operating expense.<sup>19</sup>

Commission Staff, TCG, NEXTLINK, and ELI argue that the mandate to remove aging equipment earlier than otherwise planned should not act to shift the allocation of costs between parties. TCG, NEXTLINK, and ELI also argue that early removal does not cause additional costs; thus, underutilized equipment should be treated the same as inactive equipment for purposes of cost recovery.<sup>20</sup>

The conclusion that U S WEST has a duty to reclaim central office space is not determinative of cost allocation. U S WEST extends the useful life of aging equipment while allowing attrition to reduce the ultimate cost of moving circuits to newer equipment that provides spare capacity for growth. Accordingly, U S WEST may incur additional expense for space reclamation.

**Decision.** As discussed above, U S WEST is not entitled to recover the costs of reclaiming equipment. However, there is insufficient evidence in the record to determine whether U S WEST will incur additional costs for grooming. The Commission is receptive to U S WEST's claim that it is entitled to recover costs to prepare a quote, redesign, and cut-over circuits. While this record does not explicitly support such a claim for cost recovery, U S WEST should be allowed to make a factual

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<sup>17</sup> Exhibit T-13, p. 4.

<sup>18</sup> U S WEST's Petition for Administrative Review, p.9-10.

<sup>19</sup> Exhibit T-18, p.5-6.

<sup>20</sup> TCG, NEXTLINK, and ELI Response to Petitions for Review of Initial Order, p. 7-8.

demonstration in support of its claim for cost recovery on a case-by-case basis.

**J. Do Incidental Costs To Remove Equipment Constitute Interconnection Costs?**

The Initial Order requires U S WEST to remove inactive equipment to provide for physical collocation. U S WEST claims that it will incur additional costs to warehouse that equipment offsite. Moving equipment, which may be reusable in another office, can cause damage. Finally, U S WEST states that equipment which is removed and placed in storage is usually parted out because some of the preparatory work necessary for the re-installation of equipment is best done before the equipment leaves a central office.<sup>21</sup>

TCG, NEXTLINK, and ELI argue that U S WEST is compensated for removal and disposal of its old equipment through depreciation and that CLECs should not pay for storage or repair as a cost of interconnection.<sup>22</sup>

The central office locations under review in this case include uncrating areas, equipment assembly and staging areas, and administrative areas. U S WEST argues that these spaces are essential in order to safely and efficiently receive, assemble, install, and maintain equipment. The contention that U S WEST needs to warehouse central office equipment in place in order to perform some of the preparatory work necessary for its installation at other offices is neither credible nor efficient. Adequate space to perform equipment preparation and set-up exists at central offices. If equipment that is removed and placed in storage is susceptible to being parted out, then it is likely that piece-part support is the best use of that equipment.

**Decision.** Costs associated with the warehousing of retired equipment, risk management, and re-installation expenses are not interconnection costs. CLECs requesting physical interconnection do not cause these costs.

**K. What Are Reasonable Timetables for U S WEST's Review of Requests for Physical Interconnection?**

The Commission requested that the parties submit additional evidence regarding reasonable timetables to govern the review of CLEC requests for physical interconnection by U S WEST. The Commission also requested additional evidence relating to its review of U S WEST's denials based upon space limitations.

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<sup>21</sup> U S WEST's Petition for Administrative Review, p. 10; Exhibit 16, p.2.

<sup>22</sup> TCG, NEXTLINK, and ELI Response to Petitions for Review of Initial Order, p.8.

U S WEST proposed to complete a feasibility study to determine whether physical collocation space is available within fifteen (15) days after the date of request (“DOR”) (DOR+15). If space is *available*, U S WEST would complete planning and quote preparation within an additional twenty-five (25) days (DOR+40). Thereafter, U S WEST argues that neither the Telecom Act nor FCC Rules authorize any oversight review by the Commission, and that interconnection agreements control the timetable for collocation. If space is *unavailable*, U S WEST proposes to file relevant central office floor plans and a narrative of its space use within twenty (20) days. If challenged by requesting CLECs, U S WEST proposes that a fact-finding hearing be conducted expeditiously.

TCG proposes that U S WEST respond to requests for collocation with a space availability analysis, *including consolidation of space or reclamation review*, within fifteen (15) days. If the request is denied, an additional sixty (60) day process would follow and include a central office tour, meetings by an audit team, filing of audit reports, and a Commission Order.

MFS contends that under its agreement with U S WEST, space availability is confirmed within fifteen (15) days and that all other deadlines for collocation have been agreed to with U S WEST.<sup>23</sup> In the event U S WEST denies its request, MFS proposes that the Commission resolve all issues within sixty (60) days.

Furthermore, MFS complains that U S WEST is breaching their agreement and requests that the Commission forbid U S WEST from processing requests for physical collocation as requests for unbundled elements. MFS relies upon a Joint Position Statement dated October 2, 1996.<sup>24</sup>

There is no evidence in the record that indicates whether the terms of the Joint Position Statement are enforceable subsequent to the Commission’s approval of an interconnection agreement between MFS and U S WEST.<sup>25</sup> However, the Commission will enforce the terms of approved interconnection agreements between parties, including specific terms pertaining to collocation. The Commission has adopted rules to expedite the process of resolving disputes involving interconnection agreements. MFS’ complaint is not germane to this case, but MFS may raise this dispute in another proceeding.

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<sup>23</sup> Exhibit 26, *Joint Position Statement of MFS Intelenet, Inc. And U S WEST Communications, Inc. On Negotiated Terms To Be Included In An Arbitrated Interconnection Agreement for the State of Washington* (October 2, 1996).

<sup>24</sup> Exhibit 26.

<sup>25</sup> *Order Approving Negotiated and Arbitrated Interconnection Agreement*, In the Matter of the Petition for Arbitration of an Interconnection Agreement Between MFS Communications, Company, Inc. And US WEST Communications, Inc., Pursuant to 47 U.S.C. § 252, Docket No. UT-960323 (January 8, 1997).

**Decision.** All parties agree that U S WEST should complete a feasibility study within fifteen (15) days after the date of request. The U S WEST feasibility study will include a notice that either vacant space is available or physical collocation is not practical because of space limitations. U S WEST must file a copy of the feasibility study with the Commission. Furthermore, there is no disagreement that an additional twenty-five (25) days is a reasonable time for U S WEST to complete planning and quote preparation if space is available.

If the feasibility study concludes that physical collocation is not practical because of space limitations, the requesting CLEC may file a complaint with the Commission to review U S WEST's denial. Within twenty-five (25) days after service of the complaint, U S WEST must file a report including the following information:<sup>26</sup>

1. Central Office Common Language Identifier, where applicable;
2. Requesting CLEC, including the amount of space sought by the CLEC;
3. Written inventory of active, inactive, and underutilized equipment, consistent with this Order, including the signatures of U S WEST personnel certifying the accuracy of the information provided;
4. Color-coded floor plans that identify office space work areas, provide spatial dimensions to calculate the square footage for each area, and locate inactive and underutilized equipment;
5. Narrative of the central office floor space use;
6. Total amount of space occupied by interconnecting collocators for the sole purpose of interconnection;
7. Total amount of space occupied by third parties for purposes other than interconnection, and a narrative of the space use;
8. The number of central office employees employed and job titles;
9. Description of central office renovation/expansion plans;
10. Description of conversion of administrative, maintenance, equipment, and storage space plans; and,
11. Description of any internal policies for conversion of administrative, maintenance, equipment, and storage space in central offices.

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<sup>26</sup> The FCC Order suggested that these items of information would be helpful to the Commission's review.



U S WEST reasonably should be able to perform these tasks in the same time period as it would take to complete planning and quote preparation. Although several parties express a desire for predetermined deadlines to complete the review process, this proceeding demonstrates that circumstances between central offices can vary widely. The Commission will expeditiously conclude physical collocation complaint proceedings.<sup>27</sup>

**L. What Is A Reasonable Process for Supplementing This Proceeding?**

The availability of vacant space at the Vancouver Orchards and Bellevue Glencourt central offices remains at issue. The Initial Order directed U S WEST to complete an inventory of active, inactive, and underutilized equipment and a space assessment at the Vancouver Orchards and Bellevue Glencourt central offices, and file reports with the Commission within thirty days.

TCG requested to physically collocate at the Bellevue Glencourt central office. TCG argues that no purpose would be served by additional Commission involvement in making space available, and requests that the Commission require U S WEST to complete space preparation and allow TCG to begin installing equipment.

The record does not establish whether vacant space, as defined by this Order, is available at either the Bellevue Glencourt or Vancouver Orchards central offices. U S WEST is required to make an initial assessment of whether vacant space is available. While testimony established that some vacant space is available, the Commission cannot determine whether it is sufficient to accommodate pending requests based upon the record.

In the event that U S WEST determines that sufficient vacant space is available, it is entitled to demonstrate that it has efficiently used its space for the purpose of allocating costs. If U S WEST determines that sufficient vacant space is not available, then it is required to file a report with the Commission. U S WEST has already provided the majority of the required information; however, this Order imposes additional reporting requirements consistent with the expanded definition of vacant space. U S WEST is required to provide a written inventory of active, inactive, and underutilized equipment as part of its report and provide a color-coded central office floor plan that locates that equipment. These requirements are intended to provide information that will enable the Commission to determine whether U S WEST has met its burden to demonstrate that physical collocation is not practical.

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<sup>27</sup> These complaints may be appropriate for use of the Commission's recently adopted rules for an expedited process governing enforcement of interconnection agreements.

These supplemental matters must be concluded as soon as possible. These additional requirements are stated in the Initial Order and the parties have been aware of them for over eight months. Accordingly, this case will proceed on an expedited schedule. U S WEST shall make its determination and file its report twenty-five (25) days after service of this Order. The Commission also will issue a notice setting a supplemental demonstration date to review U S WEST's report and to allow U S WEST an opportunity to address its efficient use of central office space, if necessary.

With the modifications described in the text of this Order, the Commission adopts the findings and conclusions of the Initial Order as its own.

## **FINDINGS OF FACT**

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, services, facilities, practices, rules, accounts, and transfers of public service companies, including telecommunications companies.

2. U S WEST Communications, Inc. ("U S WEST"), MFS Communication Company, Inc., now known as Worldcom Technologies, Inc. ("MFS"), TCG Seattle ("TCG"), NEXTLINK Washington L.L.C. ("NEXTLINK"), Electric Lightwave, Inc. ("ELI"), and MCImetro Access Transmission Services, Inc. ("MCImetro"), are engaged in the business of furnishing telecommunications services to customers in the state of Washington as public service companies. U S WEST is an incumbent local exchange carrier ("ILEC"). MFS, TCG, NEXTLINK, ELI, and MCImetro are competing local exchange carriers ("CLECs").

### Clarifications

3. Third parties own equipment that is physically collocated in U S WEST central offices.

4. Underutilized central office equipment is either being phased out or has spare capacity for growth.

5. MFS has initiated space reclamation requests while this case is pending.

### Reservation of Space

6. U S WEST internal planning for switch augmentation and/or replacement can take up to 36 months, including design work and systematic transition

of circuits from one switch to another. Transmission equipment deployment and augmentation can take up to 12 months. U S WEST also has growth requirements associated with frame and cross-connect expansion, and battery power and generator expansion in association with switch expansion.

#### Caged and Shared Physical Collocation

7. U S WEST takes security precautions in a multi-provider central office environment that were not necessary in prior years.

8. Central office equipment is sensitive and susceptible to inadvertent service disruptions.

9. Unrestricted access to U S WEST central office equipment constitutes a security risk.

10. Access to U S WEST central offices by persons who are not bonded constitutes a security risk.

11. A minimum requirement for caged physical collocation space provides for an enclosure, rack space for switching and interconnection equipment, and space for a technician to remain on the premises, if necessary. The need for additional space is not restricted by minimum requirements.

12. Shared physical collocation occurs when two or more CLECs share a caged enclosure.

13. Shared physical collocation is a cageless collocation between two or more CLECs and does not constitute a security risk to U S WEST.

14. The coexistence of shared and separate physical collocation enclosures within the same central office does not constitute a security risk.

#### Causation and Allocation of Costs

15. U S WEST reclaims equipment and space on an as needed basis in its normal course of business.

16. U S WEST warehouses inactive or underutilized equipment in place at central offices.

17. Underutilized equipment is susceptible to deactivation by grooming circuits and combining its functionality with other equipment.

18. The inactive or underutilized status of relevant U S WEST central

office equipment is not known.

19. Space occupied by inactive or underutilized equipment constitutes vacant space.

20. A request for physical interconnection by a CLEC does not cause U S WEST to incur costs to conduct an equipment inventory or space assessment.

21. U S WEST is in a position to mitigate or avoid costs to conduct an equipment inventory or space assessment.

22. The location of inactive or underutilized equipment on central office floor plans is necessary to assess vacant space.

23. U S WEST space assessments will differ from office-to-office.

24. Central office space is a scarce and valuable network resource.

25. The warehousing of inactive or underutilized central office equipment in place constitutes a space constraint.

26. A request for physical collocation by a CLEC does not cause U S WEST to incur costs to reclaim equipment.

27. The removal of inactive equipment represents ongoing, day-to-day management costs and cannot be directly attributed to a collocating CLEC.

28. U S WEST employs book depreciation accounting to recognize that its physical assets are consumed in the process of providing services and products. Book depreciation provides for the recovery of original investment in the assets concerned, but not for their replacement.

29. Part of the capital recovery provided by depreciation accounting is net salvage value. Net salvage value is the salvage value of property retired less the cost of removal. Cost of removal is the cost of demolishing, dismantling, tearing down, or otherwise removing utility plant, including the cost of transportation and incidental handling.

30. U S WEST may incur a cost when it removes equipment, but it recovers its capital expenditure through book depreciation.

31. U S WEST will receive a double recovery if costs for reclaiming equipment are allocated to CLECs.

32. Grooming normally takes place over an extended period of time for a

variety of reasons, including avoiding disruption of service and allowing attrition to vacate live circuits.

33. U S WEST extends the useful life of aging equipment while allowing attrition to reduce the ultimate cost of moving circuits to newer equipment that provides spare capacity for growth.

34. U S WEST could incur additional reclamation costs for grooming caused by CLEC requests.

35. The central offices under review contain areas for uncrating, equipment assembly, staging, and technical administration.

36. Costs associated with the warehousing of retired equipment, risk management, and re-installation are not interconnection costs and are not caused by CLECs requesting physical interconnection.

#### U S WEST Reporting Requirements

37. There is no single benchmark that can be established to determine the reasonable allocation of administrative space in a central office.

38. U S WEST does not currently compile the calculation of square footage of administrative space in a central office.

39. Reporting requirements for the description of plans and internal policies related to the conversion of administrative, maintenance, equipment, and storage space in relevant central offices are plainly stated in the Initial Order.

40. Information relevant to the determination of whether physical collocation at U S WEST central offices is not practical includes whether vacant space is available, whether vacant space is required for growth needs, and whether sufficient aisle and buffer space exists to accommodate the request. Other relevant information includes 1) a current written inventory of active, inactivate, and underutilized equipment, 2) the location of inventoried equipment identified on the color-coded central office floor plan, and 3) the specific information numbered one through eleven in Section XI.K of this Order.

41. The signature of U S WEST personnel certifying the accuracy of the information provided in the equipment inventory provides useful information.

### **CONCLUSIONS OF LAW**

1. The Washington Utilities and Transportation Commission has

jurisdiction over the subject matter of this proceeding and the parties.

2. This proceeding is ancillary to the proceedings previously conducted between the parties pursuant to the Telecommunications Act of 1996, and is not subject to the State of Washington Administrative Procedure Act.

3. The Stipulation and Settlement Agreement between the parties resolving disputes regarding the Seattle Main central office does not discriminate against any non-party carrier because it establishes a collocation space that is available to all carriers on a first-come, first-served basis. The Agreement is consistent with the public interest, convenience, and necessity because it provides for definite physical collocation space that would not be otherwise available. Finally, the Agreement is consistent with the Telecom Act and applicable state law, including prior Commission Orders.

#### Clarifications

4. It is reasonable that U S WEST only inventory its own central office equipment when complying with reporting requirements.

5. Consolidation of equipment to reclaim space can be accomplished only on equipment that is experiencing declining utilization, not equipment that has spare capacity for growth.

6. It is just and reasonable that the allocation of reclamation costs applies to pending, as well as future, requests.

#### Reservation of Space

7. Pursuant to the Section 251(c)(6) of the Telecom Act, U S WEST must provide for physical collocation when it is requested unless an exception is applicable.

8. Each CLEC requesting collocation is entitled to make an independent determination of its interconnection needs for separate, shared, or virtual collocation.

9. U S WEST does not have a duty to reserve existing space for projected collocation demands.

10. It is unreasonable to reject a request for physical collocation if space limitations are caused by the reservation of space for virtual collocation.

11. Reservation of space by U S WEST for switch augmentation and/or replacement for up to 36 months and transmission equipment augmentation and/or replacement for up to 12 months is reasonable. However, the reservation of floor space must have a documented beginning date. If U S WEST fails to implement the

projected growth need within the reasonable reservation period, it must make the space available for collocation unless good cause is shown for an extension of time.

#### Caged and Shared Physical Collocation

12. The requirement that physically collocated equipment be placed in caged enclosures is reasonable and responsive to legitimate security concerns.

13. The requirement that persons under the supervision and control of parties requesting physical collocation be bonded as a prerequisite to enter U S WEST's central offices is reasonable and responsive to legitimate security concerns.

14. The U S WEST requirement of a minimum physical collocation space of 100 square feet is reasonable.

15. Shared physical collocation is not inconsistent with the Telecom Act or the FCC Rules. U S WEST is entitled to receive just and reasonable compensation from CLECs requesting shared physical collocation. The requirement that CLECs release and indemnify U S WEST from any damages that may be caused by individuals who are authorized to access shared space, other than persons under its direct control and supervision, is reasonable and not inconsistent with the Telecom Act or the FCC Rules.

16. The requirement that shared and separate physical collocation enclosures may co-exist within the same central office is not inconsistent with the Telecom Act or the FCC Rules.

17. It is unreasonable to require that parties requesting separate or shared physical collocation contract for any more space than is reasonably necessary to meet their needs, subject to the minimum requirement for an enclosure.

#### Causation and Allocation of Costs

18. The warehousing of inactive or underutilized central office equipment in place is a de facto reservation of space for future use.

19. U S WEST's use of space constitutes a discriminatory practice if the warehousing of inactive or underutilized equipment causes a denial of a CLEC request for physical collocation.

20. The requirement that U S WEST inventory central office equipment when it seeks an exception to its statutory duty to provide for physical collocation is reasonable and is not inconsistent with the Telecom Act or the FCC Rules.

21. Space occupied by inactive or underutilized equipment constitutes vacant space.

22. The Commission cannot ascertain whether U S WEST has complied with its statutory duty to provide for physical collocation unless the status of central office equipment is known.

23. It is unreasonable for U S WEST to recover its costs for demonstrating that physical collocation is not practical from CLECs who are being denied access.

24. A request for physical interconnection by a CLEC does not cause U S WEST to incur costs to conduct an equipment inventory or space assessment.

25. U S WEST may mitigate or avoid costs to conduct an equipment inventory or space assessment.

26. Reclamation is necessary to further competition by providing for physical collocation.

27. The requirement that U S WEST reclaim equipment and space in central offices by removing inactive equipment and grooming circuits is reasonable and is not inconsistent with the Telecom Act or the FCC Rules.

28. The requirement that U S WEST bear the cost to assess whether reclamation will create vacant space is reasonable and is not inconsistent with the Telecom Act or the FCC Rules.

29. There is not sufficient evidence in the record to determine whether U S WEST will incur additional costs for grooming circuits.

30. The warehousing of inactive or underutilized central office equipment in place constitutes a space constraint and unfairly impedes competitive entry.

31. A request for physical collocation by a CLEC does not cause U S WEST to incur costs to reclaim equipment.

32. The removal of inactive equipment represents ongoing, day-to-day management costs of operating a local exchange business and cannot be directly attributed to a collocating competitor.

33. U S WEST will receive a double recovery if costs to reclaim equipment are allocated to CLECs.

34. Double recovery to remove inactive equipment by U S WEST would send an uneconomic signal by unnecessarily raising the cost of market entry for CLECs.



35. By including depreciation as part of capital investments in interconnection and network facilities, U S WEST will receive compensation for removal of central office equipment through TELRIC-based rates for interconnection.

36. U S WEST will not have an incentive to remove inactive central office equipment if it is allowed to double recover its costs.

37. U S WEST may make a factual demonstration supporting its claim that it is entitled to recover costs to groom circuits, on a case-by-case basis.

38. The warehousing of central office equipment in place in order to perform some of the preparatory work necessary for its installation at other offices is inefficient and unreasonable.

39. Costs for warehousing retired equipment, risk management, and re-installation are not interconnection costs.

40. U S WEST is entitled to just compensation from CLECs for quote preparation and costs to condition space for physical collocation.

#### U S WEST Reporting Requirements

41. The spatial dimensions of central office work areas are useful to determine the reasonable allocation of central office space.

42. Reporting requirements for the description of plans and internal policies related to the conversion of administrative, maintenance, equipment, and storage space in relevant central offices are plainly stated in the Initial Order and require no further clarification.

43. Information relevant to the determination of whether physical collocation at U S WEST central offices is not practical includes: whether vacant space is available, whether vacant space is required for growth needs, and whether sufficient aisle and buffer space exists to accommodate the request. Other relevant information includes 1) a current written inventory of active, inactivate, and underutilized equipment, 2) the location of inventoried equipment identified on the color-coded central office floor, and 3) the specific information numbered one through eleven in Section XI.K of this Order.

44. The signature of U S WEST personnel certifying the accuracy of the information provided in the equipment inventory provides useful information.

45. To assess whether a reservation of space for growth needs is reasonable, U S WEST must disclose the date upon that it was first asserted and describe the growth need. If U S WEST fails to implement the projected growth need

within the established reservation period, the space must be made available for collocation unless good cause is shown for an extension of reservation time.

Timetables

46. The reporting requirement timetables stated in Sections XI.K and XI.L of this Order are not inconsistent with the Telecom Act and the FCC Rules.

**O R D E R**

THE COMMISSION ORDERS:

1. The Agreement resolving disputes regarding U S WEST's use of space in the Seattle Main central office is approved.
2. U S WEST is required only to inventory its own equipment when submitting reports.
3. U S WEST is required to generally identify the work performed in each central office work area and provide spatial dimensions when submitting floor plans.
4. The requirement that U S WEST's reports include descriptions of plans and internal policies related to the conversion of administrative, maintenance, equipment, and storage space in relevant central offices is plainly stated in the Initial Order, requires no further clarification, and is adopted.
5. The allocation of reclamation costs applies to pending, as well as future, requests for reclamation.
6. U S WEST cannot reserve space for virtual collocation if the reservation causes a denial of physical collocation because of space limitations.
7. U S WEST must not reject a request for physical collocation if vacant space is available unless the space is reasonably reserved for specific future uses, space limitations exist, or physical collocation is not technically feasible.
8. U S WEST may deny a request for physical collocation of equipment without a caged enclosure.
9. U S WEST may require that persons under the supervision and control of parties requesting physical collocation in central offices be bonded as a prerequisite to entry upon U S WEST premises.
10. Two or more CLECs may request shared physical collocation.

11. If CLECs request shared physical collocation and vacant space exists, U S WEST must accommodate the request upon the condition that the CLECs execute an agreement stating terms for shared collocation and U S WEST receives just and reasonable compensation from the parties. U S WEST shall not be responsible for enforcing shared collocation agreements between CLECs.

12. U S WEST may require that it be legally released and indemnified from any damages that may be caused by individuals who are authorized to access shared space, other than persons under its control and supervision.

13. U S WEST cannot impose restrictions against shared and separate physical collocation enclosures coexisting within the same central office.

14. U S WEST cannot require parties requesting separate or shared physical collocation to contract for any more space than is reasonably necessary to meet their needs, subject to the minimum requirement for an enclosure.

15. U S WEST must reclaim equipment and space to provide requesting carriers with physical collocation.

16. U S WEST must bear the cost to conduct an inventory of inactive and underutilized equipment and to assess space when seeking an exception to physical collocation requirements. This inventory must disclose the physical location and status of all equipment on central office floor plans.

17. U S WEST must bear the cost to reclaim equipment.

18. Consolidation of equipment to reclaim space can be accomplished only on equipment that is experiencing declining utilization, not equipment that has spare capacity for growth.

19. U S WEST may make a factual demonstration that it is entitled to recover its costs for grooming circuits, on a case-by-case basis.

20. Any reservation of space by U S WEST for specific future uses must describe and disclose the date upon that any related space reservation was previously asserted or reported.

21. U S WEST must complete an inventory of active, inactive, and underutilized equipment and an assessment of vacant space at the Vancouver Orchards and Bellevue Glencourt central offices, and file reports with the Commission within twenty-five (25) days of service of this Order. The location of active, inactive, and underutilized equipment shall be identified on color-coded central office floor plans.

22. The equipment inventory must include the signature of U S WEST

personnel certifying the accuracy of the information.

23. U S WEST must complete a feasibility study to determine whether physical collocation space is available within fifteen (15) days after the date of request. The feasibility study will include a notice that either vacant space is available or physical collocation is not practical. U S WEST must file a copy of the feasibility study with the Commission. Furthermore, U S WEST must complete planning and quote preparation within an additional twenty-five (25) days if space is available.

24. If the feasibility study concludes that physical collocation is not practical because of space limitations, the requesting CLEC may file a complaint with the Commission to review U S WEST's denial. Within twenty-five (25) days after service of the complaint, U S WEST must file a report including the following information:

1. Central Office Common Language Identifier, where applicable;
2. Requesting CLEC, including the amount of space sought by the CLEC;
3. Written inventory of active, inactive, and underutilized equipment, consistent with this Order, including the signatures of U S WEST personnel certifying the accuracy of the information provided;
4. Color-coded floor plans that identify floor space work areas, provide spatial dimensions to calculate the square footage for each area, and locate inactive and underutilized equipment;
5. Narrative of the central office floor space use;
6. Total amount of space occupied by interconnecting collocators for the sole purpose of interconnection;
7. Total amount of space occupied by third parties for purposes other than interconnection, and a narrative of the space use;
8. The number of central office employees employed and job titles;
9. Description of central office renovation/expansion plans;
10. Description of conversion of administrative, maintenance, equipment, and storage space plans; and,
11. Description of any internal policies for conversion of administrative, maintenance, equipment, and storage space in central offices.

Such complaint proceedings will be processed expeditiously.

DATED at Olympia, Washington and effective this        day of September 1998.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANNE LEVINSON, Chair

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

# **ATTACHMENT A**

## **UT-960323, et al., Exhibit List**

**EXHIBIT LIST****Docket Nos. UT-960323, UT-960326, & UT-960337; Physical Collocation**

<b>NUMBE</b>	<b>WITNESS</b>	<b>A/R</b>	<b>DATE</b>	<b>DESCRIPTION</b>
1	US WEST - Reynolds	A	9/24/97	U S WEST Presentation Materials; PC in WA
2	“ ”	A	“	US WEST Policy Statement re: PC
3	“ ”	A	“	Collocation Cage Diagram
4	“ ”	A	“	Floor Plan Color-Key Code
C-5	“ ”	A	“	Color Coded Floor Plan - Bellevue Glencourt
C-6	“ ”	A	“	Confidential US WEST Resp. to Data Requests
7	“ ”	A	“	Non-Confidential US WEST Resp. to Data Requests
C-8	“ ”	A	“	Color Coded Floor Plan - Vancouver Orchards
C-9	“ ”	A	“	Color Coded Floor Plan - Seattle Main
10	MFS - Anderson	A	“	MFS/Worldcom Presentation Materials
11	TCG - Morris	A	“	Report: The Pot Bay
12	“ ”	A	“	Report: The Pot Bay Phase II
T-13	US WEST - Reynolds	A	3/12/98	Direct Testimony
T-14	US WEST - Gosselin	A	“	” “
C-15	“ ”	A	“	Seattle Main Floor-by-Floor Tactical Plans
16	US WEST - Bench Request	A	4/7/98	US WEST Equipment Retention Policy Statement
T-17	US WEST - Reynolds	A	4/15/98	Rebuttal Testimony
T-18	Commission Staff - Spinks	A	3/11/98	Direct Testimony
19	“ ”	A	“	Qualifications of Thomas L. Spinks
20	“ ”	A	“	US WEST Historic Removal Costs

