

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the )  
Interconnection Contract ) DOCKET NO. UT-960307  
Negotiations Between AT&T )  
COMMUNICATIONS OF THE PACIFIC )  
NORTHWEST, INC., and GTE NORTHWEST )  
INCORPORATED, Pursuant )  
to 47 U.S.C. Section 252 )

PETITION FOR PARTIAL RECONSIDERATION  
OF ARBITRATOR'S REPORT AND DECISION BY  
AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.

AT&T Communications of the Pacific Northwest, Inc. ("AT&T") generally concurs with the Arbitrator's Report and Decision. On three issues, however, the decision fails to comply with the requirements of the Telecommunications Act of 1996 (the "Act") and FCC rules and orders implementing the Act. AT&T requests reconsideration of these three errors of fact in law and revision of the decision to comply with federal law.

**Issue 3: Cost Models**

The Report and Decision adopts the Hatfield Model to provide interim recurring prices for interconnection and unbundled network elements, but also adopts GTE's proposals for substantial non-recurring charges to be added to those recurring charges calculated by the Hatfield Model. The record establishes that because the Hatfield Model already includes the non-recurring

costs upon which GTE based its non-recurring cost study, this decision will result in a recovery by GTE of charges in excess of costs. The Arbitrator either overlooked the evidence or erred in not considering it. This aspect of the Report and Decision violates the Act and will produce barriers to entry into the local exchange market in Washington.

The Act requires that prices for interconnection and unbundled network elements be nondiscriminatory and based on the cost. 47 U.S.C. § 252(d)(1). In interpreting the Act as it applies to non-recurring costs, the FCC has determined that state Commissions may require incumbent local exchange carriers to recover such charges through recurring charges over a reasonable period of time. 47 C.F.R. 51.507(e). Moreover, non-recurring charges must be allocated among requesting carriers and "shall not permit an incumbent LEC to recover more than the total forward-looking economic cost of providing the applicable element." Id.

The recurring charges developed by the Hatfield Model are based on GTE's actual expenses, as reported in ARMIS. AT&T/31/BAKER/9. The Hatfield Model results, therefore, already include the additional costs of service ordering and installation GTE proposes to recover through non-recurring charges. Id. Adding GTE's proposed non-recurring charges to the recurring charges calculated by the Hatfield Model thus results in a double

recovery to GTE. GTE will recover "more than total applicable forward-looking cost of providing the applicable element".

The Arbitrator's Report and Decision fails to comply with the Act and the FCC Rules by permitting this double recovery. Moreover, permitting GTE to recover charges in excess of its own costs will make entry into the local exchange markets more difficult, delaying or preventing competition. AT&T34/KLICK/30.

Consequently, AT&T requests that the Report and Decision be revised to provide that GTE may not recover non-recurring charges for interconnection and access to network elements.

#### **Issue 50: Types of Collocated Equipment**

The Arbitrator's Report and Decision characterized Remote Switching Units ("RSUs") as switching equipment and determined on this basis that AT&T should not be permitted to collocate RSUs in GTE central offices. While RSUs do have limited switching capabilities, the record demonstrates that they are also necessary for interconnection. For this reason, the Act and the FCC Order require that GTE permit collocation of RSUs.

Section 251(c)(6) of the Act requires that new entrants be permitted to collocate equipment "necessary for interconnection or access to unbundled elements." The FCC concluded that the term "necessary" as used within the statute requires that an incumbent local exchange company must permit the collocation of any equipment "used" or "useful" in interconnection, so long as

it is technically feasible to do so. FCC First Interconnection Order, ¶ 579.

GTE does not contest that it is technically feasible to collocate RSUs, and, in fact, has stated that it may "at some point be interested in negotiating such arrangements as unregulated real estate transactions". GTE Post-Hearing Brief at 120. The record just as clearly demonstrates that RSUs are useful for interconnection. AT&T intends to use RSUs to interconnect with GTE's network and unbundled elements. They are needed to avoid serious quality problems, including echo, delay, and noise associated with back-to-back placement of subscriber loop carriers ("SLCs"). AT&T/25, BOHLING/14-15. They are also useful for interconnection in that they provide AT&T maintenance and testing capabilities at parity with GTE. They also provide parity (and community safety) by permitting completion of 911/E911 call and intra-community calls even if the facility is accidentally severed. Id.; Tr. 30.

As the FCC recognized, "modern technology has tended to blur the line between switching equipment and multiplexing equipment".

FCC Order ¶ 581. The fact that RSUs may have some switching capability does not compel the conclusion that collocation of RSUs should be prohibited. Rather, because RSUs are necessary for interconnection at parity with GTE, both the Act and the

FCC's Order require that GTE permit their collocation. 28 U.S.C. § 251(c)(6); FCC Order ¶ 579.

Faced with this precise question, commissions in other states have recognized that RSUs are useful for interconnection and have, therefore, permitted them to be collocated. For example, the Minnesota Commission determined that RSUs would be "used for interconnection or access to unbundled elements to the extent that they perform multiplexing functions." The Commission further determined that "GTE's concerns about space requirements do not justify its refusal to provide for collocation of RSUs" and ordered that GTE permit RSUs to be collocated. Arbitration Decision, In the Matter of AT&T's Petition for Arbitration with GTE, OAH Docket No. 78-2500-10733-2, MUPC Docket No. P-442,407/m-96-939, Minn. Pub. Utils. Comm'n (Nov. 12, 1996). Other commissions have reached the same conclusions. See Opinion and Order, In Re Petition of AT&T for Arbitration of Interconnection Rates, Terms, and Conditions with U S WEST, Docket No. U-2428-96-417, (Ariz. Corp. Comm'n November 26, 1996); Arbitrator's Report, In re AT&T's, MCI's and MFS's Consolidated Petitions for Arbitration with U S WEST, OAH Docket No. 9-2500-10697-2, MPUC Docket Nos. P442,221/M-96-855, et al., Minn. Pub. Utils. Comm'n (November 5, 1996); In re Arbitration of AT&T, MCI and U S WEST, Docket Nos. ARB-96-1 and 2, Preliminary Arbitration Decision (Iowa Utils. Bd. October 18, 1996); In the Matter of

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Interconnection Contract Negotiations Between AT&T and U S WEST,  
Docket No. 96A-345T, (Co. Pub. Utils. Comm'n Dec. 2, 1996). AT&T  
requests that the arbitrator revise the Report and Decision to  
conform with these findings and the Act by permitting the  
collocation of RSUs in GTE central offices.

**Issue 1: Services Available for Resale**

The Report and Decision appears to provide AT&T with no  
discount from the package or volume discounted prices charged by  
GTE charges retail customers. Report and Decision at 21.  
Without any additional avoided cost discount on volume discounted  
services, however, GTE could limit or avoid its resale  
obligations simply by switching customers to such services.  
AT&T will certainly have costs associated with providing service  
to volume customers. GTE, just as clearly, will avoid costs when  
a volume customer is served by AT&T. If GTE is permitted to  
charge AT&T the same price it charges its retail customer, AT&T  
will be unable to compete for volume discounted business.

For this reason, the FCC stated that restrictions on resale  
of volume discounted services are "presumptively unreasonable".  
FCC First Interconnection Order ¶ 953. According to the FCC,  
volume discounted services should be subject to the same avoided  
cost discount as other services, unless "the incumbent LEC ...  
prove[s] that their avoided costs differ when selling in large  
volumes." Id. AT&T, therefore, requests that the Report and

Decision be modified to provide AT&T with the same wholesale discount on package and volume discounted services as applies to other services subject to resale.

**CONCLUSION**

On this basis, AT&T requests that the Arbitrator's Report and Decision be modified to correct the errors set forth above.

DATED this \_\_\_\_\_ day of December, 1996.

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