

SERVICE DATE

NOV 27 1996

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for Arbitration)	
of an Interconnection Agreement Between)	DOCKET NO. UT-960309
)	
AT&T COMMUNICATIONS OF THE PACIFIC)	
NORTHWEST, INC. and U S WEST)	ARBITRATOR'S
COMMUNICATIONS, INC.)	REPORT AND DECISION
)	
Pursuant to 47 USC Section 252)	
)	
.....)	

I. INTRODUCTION

A. Procedural History

On March 1, 1996, AT&T Communications of the Pacific Northwest, Inc. ("AT&T") requested negotiations with U S WEST Communications, Inc. ("USWC") for interconnection under the terms of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56, codified at 47 USC § 151 et seq. (1996)("the Act" or "1996 Act").

On July 25, 1996, AT&T timely filed with the Washington Utilities and Transportation Commission ("Commission")¹ and served on USWC a request for arbitration pursuant to 47 USC § 252(b)(1). The matter was designated Docket No. UT 960309. On August 5, 1996, the Commission entered an Order on Arbitration Procedure appointing the undersigned as arbitrator and establishing certain procedural requirements. USWC timely filed its response to the petition.

"Final offer" (or "best and final offer") arbitration was adopted for this arbitration. In preparing the arbitration report in this matter, the arbitrator will select between the parties' last proposals as to each unresolved issue, selecting the proposal which is most consistent with the requirements of state and federal law and Commission policy. The arbitrator will choose either an entire proposal, or choose between parties' proposals on an issue-by-issue basis. In the event that neither proposal is consistent with law or Commission policy, the arbitrator will render a determination in keeping with those requirements.

A hearing was held before the arbitrator on October 21 and 22, 1996, in the

¹In this decision, the WUTC is referred to as the Commission. The Federal Communications Commission is referred to as the FCC.

Commission's main hearing room in Olympia, Washington. AT&T was represented by Dan Waggoner, Patricia Raskin, and Susan Proctor, attorneys at law. USWC was represented by Ed Shaw, Lisa Anderl, and Doug Owens, attorneys at law. Following the hearing, the parties filed final briefs and final or "last best offers" on November 5, 1996 (see following section).

B. Resolved Issues

The parties resolved a number of issues in this proceeding. The issues were presented in a number of formats.

The Matrix

The parties presented a joint issues statement entitled Matrix of Issues and Positions of AT&T and U S WEST Communications Inc. ("matrix"). The final version of this matrix was presented on November 5, 1996. The matrix lists both resolved and unresolved issues. The matrix was used by the arbitrator as the reference for the parties' positions, with additional reference made to other materials listed below and to the briefs. This decision refers to issues by the numbers shown on the matrix. In many cases, the statement of a party's position is taken from the matrix.

Final Offer of USWC

USWC filed a post-hearing brief and final offer contract language in a document titled "Final Offer of Terms To Be Included In an Arbitrated Interconnection Agreement with AT&T For the State of Washington." ("USWC Final Offer Contract"). The USWC final offer contract contained some agreed language. USWC 's proposed prices are set out in Appendix A, attached.

In addition, attached to the USWC post-hearing brief was an agreement for withdrawal of certain issues.²

Final Offer of AT&T

AT&T's final offer was submitted as revised contract language to be incorporated in Arbitrator's Notebook previously provided. AT&T's proposed prices are set out in Appendix B, attached.

Contract Language Issue

As a general matter, this decision is limited to the disputed issues presented for

²Agreement for Withdrawal and Modification of Arbitration Issues, Attachment A to USWC Post-Hearing Brief, November 5, 1996 ("Agreement for Withdrawal").

arbitration. 47 USC § 252(b)(4). In addition, except where specified, this decision resolves the issues presented, rather than focusing on particular contract language. However, adoption of one party's position generally implies that the parties should use that party's contract language incorporating the advocated position in preparing a final agreement. Contract language adopted remains subject to Commission approval. 47 USC § 252(e).

C. Generic Pricing Proceeding

On October 23, 1996, the Commission entered an order in this and other arbitration dockets declaring that a generic proceeding would be initiated in order to review costing and pricing issues for interconnection, unbundled network elements, transport and termination and resale.³ The Commission stated that rates adopted in the pending arbitrations would be interim rates, pending the completion of the generic proceeding. The proceeding has been initiated and set for prehearing conference.⁴ Accordingly, the price proposals made in this arbitration have been reviewed with the goal of determining which offers a more reasonable interim rate. The conclusions of the arbitrator with respect to price proposals and supporting information are made in this context and do not necessarily indicate Commission approval or rejection of cost and price proposals for purposes of the generic case.

D. The Eighth Circuit Order and the FCC Rules

As the parties are aware, the FCC rules⁵ implementing the local competition provisions of the Act have been appealed and those rules relating to costing and pricing have been stayed by the United States Court of Appeals for the Eighth Circuit.⁶ The provisions of the FCC order and rules not subject to stay are adhered to in this report. Those provisions which are subject to stay do not require compliance pending resolution of the underlying appeal. The arbitrator is free, therefore, to disregard those specific federal requirements. The stay does not preclude reference, however, to underlying rationale and analysis contained in the federal order for whatever value it may have on its merits.

³Order on Sprint's Petition to Intervene and to Establish Generic Pricing Proceeding (October 23, 1996) ("Generic Pricing Order").

⁴*In the Matter of the Pricing Proceeding For Interconnection, Unbundled Elements, Transport and Termination, and Resale*, UT-960369 (general), UT-960370 (USWC), UT-960371(GTE); Order Instituting Investigations; Order of Consolidation; and Notice of Prehearing Conference, Nov. 21, 1996.

⁵*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.

⁶*Iowa Utilities Board et al. v. FCC*, No. 96-3321, Order Granting Stay Pending Judicial Review (8th Cir. Oct. 15, 1996). The order also stays the "MFN" rule. See also, Order Lifting Stay in Part (November 1, 1996)(stay lifted for 47 CFR §§ 51.701, 51.703, and 51.717).

E. Standards for Arbitration

The Telecommunications Act states that in resolving by arbitration any open issues and imposing conditions upon the parties to the agreement, the state commission is to: (1) ensure that the resolution and conditions meet the requirements of section 251, including the regulations prescribed by the FCC under section 251; (2) establish rates for interconnection services, or network elements according to section 252(d); and (3) provide a schedule for implementation of the terms and conditions by the parties to the agreement. 47 USC § 252(c).

II. RESOLUTION OF DISPUTED ISSUES

A. Interconnection And Unbundling (Issue Nos. 1-13)

Issue No. 2: Ordering Process

AT&T Position

There must be a standard ordering process to be followed for each interconnection request. USWC should commit now to meeting any request for interconnection within a specific time frame under standard terms and conditions. AT&T has requested a proposal from USWC for such a procedure but it has not been provided. AT&T Contract, AT&T. 5.

USWC Position

USWC and AT&T must negotiate over points of interconnection for traffic termination on a central office by central office basis. No standard ordering procedure is required. The volume and location of services requested under an interconnection agreement must drive the provisioning intervals. The parties must jointly forecast in order for facilities to be available when needed.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

A standard ordering procedure is a reasonable means of ensuring that interconnection will occur in a non-discriminatory fashion, within a specific time frame, or will provide justification for inability to meet the request. USWC's position, that the parties must negotiate over points of interconnection, creates the potential for more disputes between the parties, and is inconsistent with the right of competitive carriers to interconnect at any feasible point. *FCC Interconnection Order*, ¶ 209. Moreover, USWC's recommendation that "volume and location" must drive the process and that

“joint forecasting” is required is at odds with the FCC’s determination that new carriers should not be required to provide detailed estimates of projected market demand.

Issue No. 4: Two-Way Trunking

AT&T Position

Two-way trunking is technically feasible and should be permitted. AT&T Contract, AT&T. 3, Appendix A, §§ 1.1.1 and 1.3.

USWC Position

USWC prefers the use of two-way trunking where technically feasible. Different types of traffic (such as toll and local) should be separated onto different trunk groups. USWC argues that these types of traffic have traditionally been separated because of the different rate structure, a practice which should continue until the opportunity for arbitrage is addressed through a consistent rate structure for both types of traffic.

Arbitrator’s Decision

The arbitrator adopts the USWC position.

Discussion

The parties differ primarily on the issue of traffic separation when two-way trunks are used, rather than on the use of two-way trunks per se.⁷ The positions are somewhat unclear. On the one hand, it appears to be addressed in the Agreement for Withdrawal. On the other, USWC states that AT&T continues to assert a dispute. AT&T does not address the issue in its brief. The Agreement for Withdrawal appears to clearly provide that separate trunk groups will be established for toll and local traffic. The USWC position is consistent with this provision.

Issue No. 9(a): Types of Collocated Equipment - Switching

AT&T Position

AT&T may collocate the type of equipment it deems necessary, except for large switching equipment such as 5ESS switches. AT&T Contract, AT&T. 4, § 2.1. AT&T initially requested the ability to place all such equipment in collocated space. In a spirit

⁷The issue of traffic separation for trunks is addressed in the Commission’s Interconnection Order. *WUTC v. USWC*, UT 941464 *et al.*, Fourth Supplemental Order, October 31, 1995, pp. 46-47 (“WUTC Interconnection Order”).

of compromise, AT&T now limits its request to (a) Remote Switching Units (RSUs) and (b) Digital Cross Connect System (DCS), along with the ability to remotely configure DCS. This equipment is useful in interconnection and should be permitted. AT&T Contract, AT&T. 4, § 2.2.4. AT&T will agree to not use RSU/RSMs or ORMs for the purpose of bypassing access charges.

USWC Position

Switching equipment is not required to be collocated because it does not meet the "necessary" requirement. *FCC Interconnection Order*, ¶ 581. RSUs are switching equipment that should not be collocated. USWC agrees to allow collocation of DCS.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

The FCC Interconnection Order, at ¶581, declines to "impose a general requirement that switching equipment must be collocated since it does not appear that it is used for the actual interconnection or access to unbundled network elements." Where, as here, the functionality of the particular equipment is in dispute, the FCC states that "the state commission will determine whether the equipment at issue is actually used for interconnection or access to unbundled elements." The record establishes that the RSU would primarily be used for switching functions rather than interconnection. Tr. 454-457 (Bohling).

Issue No. 9(c): Types of Collocated Equipment - Vendors

AT&T Position

AT&T must have the ability to select its own vendors for installation and engineering of both virtual and physical collocated equipment.

USWC Position

If AT&T wants to use an outside vendor for installation, it may do so, but the vendor must be on USWC's approved list.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

USWC agrees that AT&T may use outside vendors. It seeks to impose a condition, however, that the vendor must be approved by USWC. USWC does not provide a justification for this requirement and it does not appear reasonable. See, *FCC Interconnection Order*, ¶ 1182.

Issue No. 10: Collocation PremisesUSWC Position

Collocation may take place only in USWC central office buildings that house end-office and tandem switches. No collocation should be permitted in cable vaults, manholes, cross-connection points, or building closets. USWC expresses the concern that, in these premises, space limitations will prevent it from segregating its equipment from that of other carriers. The company suggests that this will require a case-by-case determination and should go through a bona fide request process.

AT&T Position

AT&T argues that the FCC Interconnection Order requires collocation at wire centers, local serving offices (LSOs), central offices (COs), controlled environmental vaults (CEVs), and Environmental Huts. AT&T Contract, AT&T. 4, § 2.1.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

Section 251(c)(6) requires that incumbent LECs must provide for "physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations." Neither physical nor virtual collocation is required at points where it is not technically feasible. 47 USC § 251(c)(2) and (3).

The FCC Interconnection Order concludes that the term "premises" in this section of the Act should be read "broadly to include LEC central offices, serving wire centers and tandem offices, as well as all buildings or similar structures owned or leased by the incumbent LEC that house LEC network facilities [and] any structures that house LEC network facilities on public rights-of-way, such as vaults containing loop concentrators or similar structures." *FCC Interconnection Order*, ¶ 573.

USWC cannot, therefore, exclude *ab initio* all premises other than central offices, or expressly exclude vaults or other such premises. It must provide physical collocation unless it has demonstrated to the State commission that a particular request for collocation is not practical for technical or space reasons. The company has not made that demonstration in this arbitration.

Issue No. 10 (a): Collocation General Terms

USWC Position

USWC would require that entry into collocated space must be on fiber. USWC argues that because of the relative size and capacity of fiber versus coaxial cable, it is impractical to use anything other than fiber. USWC also argues that it is unfair to price collocation entry on the basis of forward-looking technology (fiber), but permit use of less efficient technology which is more costly to USWC.

AT&T may use their physical collocated space to store spares for maintenance and outages (not disputed).

AT&T Position

There should be no restrictions on cable used for entry into collocated space, e.g., copper, fiber, or coaxial. AT&T must have the ability to store spares on USWC premises for maintenance and outages. AT&T should be compensated for delays in construction and turnover delays caused by USWC.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

Fiber may well be the most efficient technology to use for entrance facilities. In that case it is likely that AT&T will use fiber, as it will be in its economic interest to do so. Other technologies such as copper and coaxial cable are, however, still available and in use. There may be cases where it is necessary or appropriate to use such alternatives. USWC has not provided legal authority or persuasive policy or practical arguments in favor of limiting AT&T to one technological option.

Issue No. 12: Ordering Procedure for Collocation

(Agreed in principle, contract language differs)

Arbitrator's Decision

The arbitrator adopts the USWC contract language. USWC Final Offer Contract, §VII.E., p. 36

Discussion

USWC's proposed provisions establish clearer procedures than AT&T's recommended contract provision, AT&T Contract, Attachment 5, referenced in the matrix. Attachment 5 addresses a range of matters and does not appear to have a clear procedure specifically relating to collocation ordering.

B. Extent of Unbundling (Issue Nos. 14-26)**Issue No. 16: Bona Fide Request (BFR) Process for Subloop Unbundling**USWC Position

The parties agree that subloop unbundling should occur through the bona fide request process, rather than being required by this agreement. The parties disagree on the details of the process. USWC proposes a process which includes a 30 day preliminary analysis and determination of technical feasibility, and an additional 90 days for preparation of a quote. AT&T would then have an additional 30 days to commit to proceed, or otherwise act on or reject the quote.

AT&T Position

AT&T's proposes a BFR process which would require USWC, within 30 days of the request, to provide documentation setting forth the cost of subloop unbundling. In addition, USWC would have to file an objection with the Commission within 15 days of the request if it believed the requested unbundling was not technically feasible.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The USWC proposal requires AT&T to wait an unreasonably long period, as long as four months, before receiving a detailed quote in response to a request. Even at

that point, no actual work would begin to implement the request until AT&T had taken further steps to commit to the quote and make any necessary payment. In general, the proposed procedure involves more potential for burden and delay for the new competitor.

Issue No. 18: Local Switching

USWC Position

USWC disagrees with and is challenging the FCC's determination in its order that local switching includes the vertical features which are part of local switching (e.g., call waiting, call forwarding, call hold). USWC believes that these are clearly independent retail telecommunications services that should be available for resale. These features provide significant contribution to USWC and including them as part of the switching element, in USWC's view, will have a severely detrimental revenue impact.

AT&T Position

AT&T argues that the Act and the FCC Order require that vertical features which are part of local switching be unbundled.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The Act requires incumbent LECs to provide access to network elements on an unbundled basis. 47 USC § 251(c)(3). The FCC has concluded that the unbundled local switching element includes all vertical features that the switch is capable of providing. *FCC Interconnection Order*, ¶ 412. This is consistent with the definition of "network element" found in the Act. 47 USC § 153(29). The USWC position regarding resale was specifically considered and rejected by the FCC. *Id.*, ¶ 413.

Issue No. 19: Advanced Intelligent Network (AIN) Triggers

(Agreed, except as to contract language)

Arbitrator's Decision

The arbitrator adopts the USWC contract language.

Discussion

Based on the arguments set out in the briefs, USWC's contract language appears more reasonable.

Issue No. 22: Dark Fiber

USWC Position

USWC opposes the unbundling of dark fiber as outside the scope of the Act, noting that the FCC declined to make a decision on the issue. USWC argues that dark fiber is not a "network element" under sections 251(c)(3) or (d)(2) of the Act. USWC raises concerns that AT&T's proposed contract provisions would require USWC to turn over detailed information to AT&T on the amount and location of its dark fiber capacity, information which is competitively sensitive. USWC characterizes AT&T's position as a demand for exclusive use of USWC's dark fiber capacity which would interfere with USWC's ability to meet future customer needs. USWC is concerned that once AT&T obtains access to the fiber, it will not relinquish it when USWC requires it for its own customers. USWC argues that AT&T has a right of access to its ducts, conduits, and rights-of-way and that it should deploy its own fiber.

AT&T Position

AT&T argues that dark fiber is a network element and that it must be unbundled since USWC has not shown that it is technically infeasible. AT&T further argues that USWC should not be allowed to reserve dark fiber because it could fill up unused conduit space with dark fiber as a means of denying access to new entrants on the ground of space constraints. AT&T cites the *Electric Lightwave* decision of the Washington Supreme Court as support.⁸

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

Under the 1996 Act, "[t]he term 'network element' means a facility or equipment used in the provision of a telecommunications service[.]" 47 USC § 153(45). As USWC notes, the FCC felt it had an insufficient record to define dark fiber as a network element and declined to address the issue. *FCC Interconnection Order*, ¶ 450. The Washington Commission has not made a specific determination as to whether dark fiber constitutes

⁸*In Matter of the Consolidated Cases Concerning the Registration of Electric Lightwave*, 123 Wn2d 530, 545, 869 P2d 1045 (1994). See also, Order Changing Opinion (same case, April 28, 1994) replacing footnote 2, p. 534, which states a definition of dark fiber.

a network element. While there is no dispute that dark fiber is not currently being "used" to provide service, this is an overly literal reading of the statute. Clearly, the purpose of fiber is to be used to provide telecommunications service, as the Commission has recognized.⁹ Allowing access to dark fiber is comparable to allowing access to capacity on poles, conduits, or rights-of-way. Issues of technical feasibility can be addressed as they arise. In the meantime, this component of the network should be available to competitors to allow them to provide service. (See discussion at Issue No. 55 - Modification of Facilities).

Issue No. 25: Combinations ("Sham" or "Finished Service" Unbundling)

USWC Position

AT&T should not be permitted to recombine unbundled elements, without using any AT&T facilities, where the recombination does nothing more than rebundle all of the USWC elements of an existing USWC finished service. AT&T may buy the finished service for resale under § 251(C)(4) of the Act.

AT&T Position

AT&T should be permitted to purchase unbundled elements, either individually or in combination, whether or not AT&T provides its own facilities. AT&T Contract, AT&T. 5, § 2.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The 1996 Act states, in pertinent part, that it is:

"The duty [of the incumbent LEC] to provide, to any requesting telecommunications carrier *for the provision of a telecommunications service*...access to network elements on an unbundled basis[.] An incumbent local exchange carrier shall provide such unbundled network elements in a manner *that allows requesting carriers to combine such elements in order to provide such telecommunications service.*" 47 USC § 251(c)(3). (Emphasis added).

⁹Although the *Electric Lightwave* decision does not directly address the issue presented here, the opinion refers to a determination by the Commission that dark fiber is a telecommunications service. 123 Wn2d at 545. See also, *In re Digital Direct of Seattle, Inc.*, Docket Nos. UT-910776, UT-910777, Fourth Supplemental Order (April 1992).

The Act, on its face, therefore, appears to expressly permit the combination of elements by a requesting carrier for the purpose of providing a telecommunications service. The FCC takes this view, finding no basis to conclude from the Act's language "a limitation or requirement in connection with the right of new entrants to obtain access to unbundled elements." *FCC Interconnection Order*, ¶328.¹⁰ Consistent with this interpretation, the FCC rules permit the combination of unbundled elements by requesting carriers to provide a telecommunications service. 47 CFR § 51.315(a). This section of the FCC rules is not subject to the Eighth Circuit stay.

While USWC makes a number of practical and policy arguments against permitting combination of elements into a "finished service," USWC's primary statutory argument is that Congress' incorporation of distinct resale and unbundling provisions allows the inference that Congress intended the limitation that USWC seeks. It does not identify any language in Section 251(c)(3) which supports imposition of such a restriction on unbundling.

C. Resale (Issue Nos. 27-41)

Issue Nos 27-28: Services Subject to Resale

USWC Position

USWC will make the following services available for resale (per the matrix): Residence basic exchange, Centrex Plus, Operator Services, Directory Assistance, Optional Calling Plans, Volume Discount Plans, Discounted Feature Packages, Private Line Transport, Negotiated contract arrangements, Business Basic Exchange, PBX Trunks, Frame Relay Service, ISDN, Listings, Features, IntraLATA toll, and WATS. See *also*, Appendix A, p. 5.

While Lifeline, Link-Up, and relay services are listed on the matrix as services that will not be made available, hearing testimony partially resolved this question. (See discussion section)

¹⁰See generally, *FCC Interconnection Order*, ¶¶ 329-341. The FCC rejects many of the arguments raised here by USWC, stating, for example:

We disagree with the premise that no carrier would consider entering local markets under the terms of section 251(c)(4) [resale] if it could use recombined network elements solely to offer the same or similar services that incumbents offer for resale. We believe that sections 251(c)(3) and 251(c)(4) present different opportunities, risks, and costs in connection with entry into local telephone markets[.]

Id., ¶ 331.

Nontariffed/deregulated/notelecom services. USWC takes the position that enhanced and deregulated services should be excluded from resale, arguing that they do not constitute "telecommunications services" within the meaning of the Act. The matrix also lists "nontariffed" and "notelecom" services. Voice mail and inside wiring are the two services specifically mentioned by USWC as services that are not required to be made available for resale. USWC also relies on language in the FCC order stating that state commissions and other parties can look to incumbent LEC tariffs to determine what services must be provided for resale. *FCC interconnection Order*, ¶ 872. Since deregulated services are not tariffed, USWC argues they are not subject to resale.

AT&T Position

AT&T agrees that all retail services listed by USWC should be made available for resale. In addition, AT&T requests that the following retail telecommunications services be made available for resale: (1) non-tariffed services and (2) deregulated services. AT&T Contract, AT&T. 2, §§ 1 and 6.

USWC should also make available upon request: (3) Lifeline and Link-Up services; (4) relay services; (5) Voice Mail; and (6) Pay phone lines and services at parity.

Deregulated services. AT&T disagrees that only tariffed services must be made available for resale, arguing that restricting resale to tariffed services only is not supported by the Act or the FCC Interconnection Order. AT&T notes that customers will expect, for example, to continue voice mail when considering offerings from new entrants.

Arbitrator's Decision

The arbitrator adopts the AT&T position, except as to inside wire and payphones. (See discussion).

Discussion

USWC has the duty to "offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers[.]" 47 USC § 251(c)(4)(A). The Act defines telecommunications as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received." 47 USC § 3(48). The term "telecommunications service" means the offering of telecommunications for a fee directly to the public...regardless of the facilities used." 47 USC § 3(51).

Deregulated services. The Act contains no exception for deregulated or non-tariffed services. They must be offered for resale unless they are not "telecommunications services." Inside wire is not a "transmission" service and need not be made available for resale. Voice messaging presents a difficult issue. The Commission has not stated whether voice mail constitutes a telecommunications service. Neither party to this proceeding cites authority for its position to categorize the service. Both the federal and Washington definitions of telecommunications, however, refer to transmission of information. It is difficult to envision voice mail as a viable service without its related information transmission functions, which enable both the storage and retrieval of messages. If voice mail is not itself a telecommunications service, it has telecommunications services bundled with it. Voice mail functions are part of the switch "fabric."¹¹ For purposes of the resale requirements in this arbitration, I am unwilling to conclude that voice mail is not a telecommunications service.

Promotions. It appears there is no longer a dispute regarding the time limit for promotions subject to resale. While USWC asks that the time frame for promotions be extended for a period longer than that provided in the FCC order, it appears that the parties are prepared to abide by the FCC determination on this issue. The FCC adopts a presumption that promotional prices offered for a period of 90 days or less need not be offered at a discount to resellers.

Residential and volume service. Section 251(c)(4)(A) of the Act does not contain any exception to support excluding residential or volume services from the resale requirement. USWC's argument that they should be resold without a discount is addressed below.

Lifeline, Link-Up, and Relay. AT&T clarified at the hearing that it does not want to resell Lifeline and Link-Up per se. Instead, when it obtained a Lifeline customer from USWC, AT&T requests that the customer service record carry an indication that the customer has already qualified for the program, avoiding the need to requalify the customer. Tr. at 199 (Finnegan). USWC should provide this information. The AT&T position is the same with respect to relay service. *Id.* USWC should also provide the necessary information on this issue.

Payphones. Payphone lines and service are not a retail telecommunications service in that they are made available to payphone providers, not to end-users of the telecommunications service. See, 47 USC § 276. As such, they are not subject to the resale requirement.

¹¹Voice mail, for example, generally relies on a "stutter" dial tone obtained from the switch to indicate that messages have been received.

Issue No. 29: Resale Restrictions

USWC Position

Resale restrictions should prohibit any resale of a service other than to the same class of customers eligible to purchase the service from USWC.

AT&T Position

Resale restrictions should be prohibited except for those permitted by the FCC order. AT&T Contract, AT&T. 2, § 2.3.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

Section 251(c)(4)(B) prohibits unreasonable limitations or conditions on resale. The FCC has concluded generally that "resale restrictions are presumptively unreasonable." *FCC Interconnection Order*, ¶ 939. Incumbent LECs can rebut the presumption by showing that the restriction is narrowly tailored. *Id.* The FCC identified only two restrictions it found reasonable: (1) restrictions on resale of short-term promotions; and (2) restrictions on cross-class selling of residential and Lifeline service. *Id.*, ¶ 950, 962. *See also*, 47 CFR § 51.613 (not subject to stay). USWC has not made a showing that any additional restrictions are necessary.

Issue Nos. 31-36, 37 & 40: Wholesale Rates

USWC Position

USWC urges the adoption of wholesale discounts based on its own avoided cost studies. These studies would result in discounts between 1 and 8 percent below retail, depending on the service, except that for certain services, including residential service, USWC proposes reselling at 100 percent of the retail rate.¹² Appendix A, p. 5.

USWC also argues that certain services, while offered for resale, should not be subject to any discount. USWC agrees to offer volume discounted services for resale but proposes that no additional discount be provided. USWC argues that private line transport services, described as special access and private line, should not be required to be made available for resale because they are already offered to resellers at

¹²These services are Residence Basic Exchange, Centrex Plus, Operator Services and Directory Assistance, Optional Calling Plans, Switched Access, and Negotiated Contract Arrangements.

wholesale prices.

USWC asserts that the AT&T avoided cost study dramatically overstates the cost which USWC would avoid when reselling a service. USWC alleges a number of flaws in the study: (1) It does not "net" additional costs of serving resellers against avoided costs. (2) AT&T incorrectly assumes that USWC will have no marketing and billing expenses, no product management expenses, billing expenses, and no "uncollectible" expenses in providing service to resellers. (3) The AT&T study incorrectly subtracts operator services and directory assistance from the total local service expense. (4) AT&T uses different sets of numbers to calculate costs (unseparated ARMIS data) and revenues (separated data).

AT&T Position

AT&T prepared and submitted in the arbitration a "Simplified Avoided Cost Study" which results in an across the board discount of 38.87 percent for all resold services. As its best and final offer in the arbitration, AT&T proposes that the arbitrator adopt the following discounts pending further review of competing cost studies:

Residential service	25 percent
Business services	35 percent
Vertical services	50 percent
Toll and other services	38 percent

AT&T challenges the validity of the USWC avoided cost study on several grounds: (1) It only identifies a fraction of USWC's avoided costs, relying on a "bottom up" approach which uses TSLRIC rather than actual retail costs which underlie current retail rates. (2) USWC has not provided adequate documentation to describe how its study works. (3) The avoided cost study departs from the FCC methodology by failing to exclude indirect or shared costs and including "onset" costs.

Arbitrator's Decision

The arbitrator adopts neither party's position. A resale rate of 16% percent is adopted as an interim wholesale discount for those services subject to resale under this agreement.

Discussion

Section 252(d)((3), by its terms, adopts a "top-down" approach to the calculation of wholesale discounts. The Act states that wholesale rates shall be determined "on the basis of retail rates charged to subscribers . . . excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." This requirement, that wholesale rates be based on existing retail rates is most reasonably read to preclude the use of an

approach which uses a "bottom up" (TSLRIC) study to establish wholesale rates not related to the actual retail service rates.¹³ A significant difficulty with the USWC proposal in this case, therefore, is that it appears to be a "bottom up" approach. USWC Ex. 504, pp. 32-33 and Appendix 2 (Bowman Direct); AT&T Ex. 26, pp 3-4 (Dodds Rebuttal). USWC uses TSLRIC estimates of the cost of retailing activities rather than its actual expenditures of these activities. The effect of this is to understate the costs that would be avoided with providing services on a wholesale basis instead of a retail basis.

The AT&T calculation also has problems, however. The most significant is the use of both interstate and intrastate avoided costs in the numerator of the calculation while using intrastate revenues only in the denominator. USWC has recalculated the AT&T model using only intrastate data. Another well-founded adjustment by USWC is to remove directory assistance and operator revenues and expenses from the calculation. USWC's makes other adjustments to the AT&T model, and these adjustments also appear reasonable. The results are not perfect, particularly in that they include intrastate access charges in the numerator and denominator even though access services are not subject to resale.¹⁴ Taken in its entirety, however, the USWC adjustments to the AT&T model provide the most reasonable estimate of USWC's avoided costs.

USWC's adjustments were referred to by Dr. Bowman in hearing testimony, Tr.at 132, and detailed in USWC's response to Staff Bench Request 1b, filed October 23, 1996. By letter of November 6, 1996, AT&T objected to the response and moved to strike. AT&T also filed with the letter a "Preliminary Analysis of USWC's Response to Staff Bench Requests" and asked that the analysis be considered in the event the USWC response was not stricken. By letter of November 14, 1996, USWC responded, arguing that AT&T's "preliminary analysis" should be excluded from the record. The motions to exclude the USWC and AT&T filings from the record are denied. The Act permits the arbitrator to request information from the parties. 47 USC § 252(b)(4)(B). It is appropriate for AT&T to respond to that information when filed.

As noted above, the arbitrator's task under "best and final offer" arbitration is to choose the position most consistent with the state and federal law and Commission policy. In this arbitration, neither party proposes a discount rate which satisfactorily complies with the avoided cost requirements of the Act. 47 USC § 252(d)(3). For

¹³FCC Interconnection Order, ¶915.

¹⁴To put it in simple terms, where the AT&T calculation compared apples to oranges, the USWC calculation compares apples and oranges to apples and oranges. It is not clear how the result would change if the oranges (intrastate access services) were removed from both the numerator and denominator of the USWC calculation.

that reason, the alternative interim rate is adopted.¹⁵

Residential services (Issue No. 36). USWC must apply the wholesale discount to residential service. USWC's argument that residential service is below-cost has not been accepted by this Commission.¹⁶ Neither the Act nor the FCC order support the USWC position.

Packages/volume discounts (Issue No. 35).

Section 251(c)(4)(A) does not contain any exemptions or exceptions to the requirement that "any telecommunications service" must be offered for resale if it is offered at retail to end-users. Section 251(c)(4)(B) expressly precludes a LEC prohibition on resale of such services, and only permits restrictions or limitations which are reasonable and non-discriminatory. The Act's language, therefore, does not support USWC's position. As a practical matter, creating such an exemption would permit incumbent LECs to avoid the resale requirement altogether by switching all customers to some form of discounted or promotional service plan.

The FCC order is clear on volume discounted services. The FCC order states:

We find unconvincing the arguments that the offerings under section 251(c)(4) should not apply to volume-based discounts. The 1996 Act on its face does not exclude such offerings from the wholesale obligation. If a service is sold to end-users it is a retail service, even if it is priced as a volume-based discount off the price of another retail service. The avoidable costs for a service with volume-based discounts, however, may be different than without volume discounts.

FCC Interconnection Order, ¶ 951. The FCC rules on resale restrictions do not incorporate an exemption for volume discounts. 47 CFR § 51.613. This provision is not subject to the Eighth Circuit stay. The FCC does go on to note that, while there may be reasonable restrictions on promotions and discounts, *FCC Interconnection Order* ¶ 952, restrictions on resale of volume discounts will "frequently produce anticompetitive results [and] should be considered presumptively unreasonable." *Id.*, ¶ 953.

¹⁵The USWC response to the Bench Request states an adjusted resale discount of 16.03 percent for the AT&T model as corrected by USWC. The figure is rounded down to 16 percent.

¹⁶USWC rate order, p.90.

The FCC order also notes, however, that in calculating the proper wholesale rate, incumbent LECs may prove that their avoided costs differ when selling large volumes. In this arbitration, USWC argues that its volume discounts "already reflect the fact that USWC avoids many of the usual costs of selling at retail." USWC Post-Hearing Brief, p. 27; Ex. 503, 105 (Moran), Tr.at 174 (Moran). While this is not a basis for excluding volume discounts entirely from the resale requirement, it can be taken into account in establishing the proper wholesale rate. In this case, there is evidence in the record that USWC avoids retail costs when selling at volume. The record does not enable the arbitrator to determine, however, the extent of avoided costs which remain in volume services after USWC applies a discount.

As noted above, the arbitrator does not adopt the USWC wholesale discounts based on its avoided cost study. The Commission has referred resale pricing to a generic proceeding. Any resale rate adopted in this proceeding, therefore, will be an interim rate. In order to arrive at a rate for volume discounted services on an interim basis, therefore, the arbitrator will treat the volume discount as a reasonable approximation of the costs avoided by the volume sale. USWC may, therefore, apply the existing volume discount as a "credit." AT&T will receive either the volume discounted rate or 16 percent (off the original retail rate), whichever is the larger discount.

Private line transport service.

USWC proposes to offer private line (special access) transport for resale, but at a zero discount, on the ground that it is already offered at wholesale prices. The arbitrator adopts the same resolution for private line as for volume discount services. However, to the extent that this service is purchased by carriers, rather than end-users, for the purpose of exchange access service, the service is not subject to the resale requirement of the Act. *FCC Interconnection Order*, ¶ 873-875.

Centrex

Centrex is also subject to the wholesale discount. To the extent the service is already offered at wholesale or discounted rate, the arbitrator adopts the same resolution for Centrex as for volume discount services. In the event the Commission approves the withdrawal of Centrex, the service must be made available through resale to "grandfathered" customers. *FCC Interconnection Order*, ¶ 968.

Other "zero discount" proposals.

USWC must also offer the wholesale discount adopted here for any remaining services not discussed for which it has proposed a zero discount.

Service credits (Issue No. 37). The matrix indicates that AT&T has withdrawn its request for service credits as an additional resale discount element.

Issue No. 30: Branding

USWC Position

Consistent with the FCC Order, USWC will rebrand directory assistance, operator services, and announcements at AT&T's expense. The FCC Order does not require USWC to rebrand repair provision and maintenance. USWC is willing to provide repair information with AT&T's name written in.

AT&T Position

Pursuant to the FCC Order, USWC must rebrand Operator Services and DA. Repair provision and maintenance must also be rebranded to prevent customer confusion. AT&T Contract, § 15. Specifically, AT&T proposes that when USWC repair personnel go to a customer premise, they notify the customer the call is being made on behalf of AT&T and provide a card with AT&T repair call information. AT&T is not requesting rebranding of USWC trucks or employee uniforms.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

The parties are in agreement that rebranding of operator services, directory assistance, and announcements will occur as specified in the FCC rules. 47 CFR §51.613(c).

It is unclear whether there is remaining dispute about treatment of repair and maintenance functions. USWC need not rebrand repair and maintenance vehicles and uniforms, but should inform customers that resold repair and maintenance is being provided on behalf of AT&T and leave printed information prepared by AT&T about its service.

Issue No. 38: Deposits

USWC Position

Resellers should pay a deposit to USWC consistent with standard industry practice.

AT&T Position

Requiring resellers to pay a deposit before having access to USWC's services for resale would raise the barriers to entry and is thus contrary to the Act. AT&T argues that the Act makes no provision for deposits and that, in any event, it is a credit worthy customer. It states it would not oppose a provision in the contract making AT&T's credit history a reason for not requiring a deposit, preserving USWC's ability to request deposits in other cases.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

Neither the federal Act nor the FCC order provide for payment of a deposit prior to resale. USWC's contract provision appears reasonable, however. The deposit is discretionary and is capped at two months of estimated charges. USWC Final Offer Contract, XXX.G, p. 80. USWC conceded at the hearing that AT&T is unlikely to default on its obligation and unlikely to be assessed a deposit. Tr. at 122 (Moran). Inclusion of the provision preserves USWC's ability to request deposits in other appropriate cases, to which AT&T does not object.

Issue No. 39: Construction ChargesUSWC Position

If USWC is required to construct new facilities to provide service to a reseller, the reseller should pay the construction cost up-front.

AT&T Position

USWC must not be permitted to impose construction charges or any other costs of compliance with the mandatory resale provisions of the Act which it does not similarly bill its own retail customers. AT&T argues such charges are not provided for in the Act and characterizes this as an attempt at double recovery.

Arbitrator's Decision

The arbitrator adopts the AT&T position limiting USWC to construction charges for end users already provided for by tariff.

Discussion

The federal Act contains no specific authorization for construction charges. In

the event that a construction charge would be included in a retail rate to an end-user under tariff, however, USWC may assess that charge. It does not appear that AT&T opposes charges in this instance.

Issue No. 40: Customer Information

USWC Position

USWC must not be required to provide notice to its competitors; if required, this must be reciprocal. USWC will provide information on AT&T's customers to AT&T.

AT&T Position

AT&T needs to be advised of any changes in terms or conditions under which services are offered at retail to subscribers, including introduction or discontinuation of features, functions, services, or promotions, 45 days prior to their effective date. USWC will provide to AT&T all customer usage data recorded by USWC for local service and intraLATA toll. USWC will recognize AT&T as the customer of record for all local services and will send all notices, bills, and other pertinent information directly to AT&T, or as otherwise directed.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The AT&T position regarding notice is reasonable. In order to provide notice to its own customers (served by resale) of changes in their service, it must receive notice from USWC. Without such notice, AT&T customers could be subjected to disruptive and sudden changes in service levels. This level of service is not comparable to that of USWC's own customers. The requirement for USWC to provide information about AT&T customers to AT&T does not appear to be in dispute.

Issue No. 41: Customer Privacy

AT&T Position

AT&T proposes that USWC must safeguard all AT&T customer information according to Customer Network Proprietary Information guidelines.

USWC Position

This issue is not addressed in the issue matrix or USWC's Post Hearing Brief.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

USWC has not stated any opposition to the AT&T position. It appears reasonable and consistent with the Act. 47 USC § 222(c)(1).

Other Issues

Customer Transfer Charge. USWC proposes a schedule of customer transfer charges. Appendix A, p.6. Neither party addresses this issue in its brief, nor is it listed as a disputed issue in the matrix. AT&T does not propose a customer transfer charge. To the extent there is any dispute on this issue, USWC's customer transfer charges are adopted.

D. Electronic Interfaces (Issue Nos. 42-49)**Issue No. 42-43, 45, 49 (Interim Interface, Wholesale Billing, Long Term Interface**USWC Position

USWC agrees with the requirement to provide electronic interfaces. It disagrees for the most part, with the AT&T proposals for an interim solution, as to both timing and technology. USWC proposes to provide a "web page" type of technology¹⁷ as its primary interface on an interim solution, pending development of national standards. Customer Record Information System (CRIS) would continue to be used for billing. This would be available on January 1, 1997, for basic service, and by July or November 1997 for unbundled elements and resale of business and design services.

AT&T Position

AT&T agrees to use the web page for pre-ordering if it can participate in its development. It believes the web page is inappropriate for other services, however, because it will not be a national standard. AT&T recommends use of Electronic Data Interchange (EDI), Electronic Bonding-Trouble Administration (EB-TA), and Integrated Access Billing System (IABS) as standards already under review for use as national standards.

¹⁷The proposal does not involve use of the "world-wide web" but uses hypertext-markup (HTML), a web technology, as a screen interface for CLECs to access USWC's OSS. Tr. at 309 (Notariani).

Arbitrator's Decision

The arbitrator adopts the AT&T position except as to Issue No. 45 (wholesale billing).

Discussion

The parties are in general agreement that a long-term approach to electronic interfaces between companies will involve real-time electronic access, through a nationally standardized gateway (Issue No. 49), to operations support systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing. See, *FCC Interconnection Order*, ¶¶ 516-528. It is clear that the electronic interface is a critical component for provision of local service by new competitors. *Id.*, ¶ 521-522.

Pre-ordering, Ordering and Repair/Maintenance Interfaces. USWC's web page proposal has several drawbacks when compared with USWC's recommended use of EDI and EB-TA. It is a truly temporary solution not under discussion for use as a national standard. EDI, on the other hand, is under consideration. *FCC Interconnection Order*, ¶ 520, n. 1270. It appears a number of other incumbent LECs have agreed to use EDI for ordering and EB-TA for repair/maintenance. Tr. at 300 (EDI), at 301-302 (EB-TA)(Finnegan). Another issue is that the web page is untested and cannot be tested until after January 1. EDI, on the other hand, has been subject to industry analysis for a period of time. While it is true that there may be more costs associated with use of EDI, if the web page is used, costs of a change-over to a national standard are unavoidable for both USWC and new entrants. If EDI becomes the national standard, however, changeover costs for both parties would be mitigated. In addition, the web page will not be available for anything but basic service until July or November 1997. Thus the web page approach does not offer AT&T parity with access to OSS which USWC provides itself for a significant period. *FCC Interconnection Order*, ¶ 523. Neither is the proposal in compliance with the FCC requirement that access be made available by January 1, 1997. The FCC order does not contemplate a piecemeal phase-in of access. On balance, AT&T's proposal is more reasonable and conducive to implementation of effective local competition.

Wholesale Billing (Issue No.45). USWC's proposal is reasonable on an interim basis. For billing, USWC has an existing interface with AT&T using the CRIS system. AT&T's preference for IABS may be accommodated either by USWC's response to a bona fide request for use of the Integrated Access Billing System (IABS), currently under review, or by adoption of IABS as a national standard.

Cost Recovery/Pricing (Issue No. 46). USWC proposes an initial fee for access to electronic interfaces to cover labor, hardware, and software costs. It has not yet calculated a transaction fee. AT&T opposes the initial fee on the ground that it should be captured in the proper TELRIC rate on an ongoing basis. AT&T proposed that each party bear its own cost for "gateway" or "utilization." The arbitrator concludes that

USWC's initial fee is inconsistent with the pricing approach contemplated by the Act. As to transaction and other fees, since neither party has proposed a fee, each party shall bear its own costs.

Notice of Outages/Quality (Issue No. 47). AT&T takes the position that USWC must provide real time notice of outages and other problems associated with network reliability. USWC states it will provide non-discriminatory service to AT&T. The AT&T proposal is reasonable.

E. Number Portability (Issues 50-52)

Issue No. 51: Pricing of Interim Number Portability

USWC Position

USWC disagrees with the cost recovery rules adopted by the FCC and advocates that all costs of interim number portability (INP) should be borne by new entrants. Direct Inward Dialing trunks will be offered through existing tariffs.

USWC should be permitted to retain local switching and transport charges it receives when calls are forwarded to AT&T as a result of interim number portability. As a compromise, USWC will provide a credit to AT&T for carrier common line charges based on average minutes of use per number per month.

Nonrecurring charges for interim number portability include a service establishment charge, for the first number ported to a given central office and a charge for each additional number ported which will vary based upon whether numbers requested on a particular order are consecutive or nonconsecutive. Recurring charges will apply to each telephone number ported to AT&T and each additional call path that AT&T requests be assigned to each portable telephone number.

AT&T Position

Recovering Remote Call Forwarding (RCF) interim number portability costs should be done in a competitively neutral manner, either on a bill and keep basis or by allocating total costs of RCF to all working telephone numbers or to each carrier based on relative market share. AT&T recommends the method adopted in New York state for recovering RCF costs. AT&T Contract, AT&T. 9, § 4.6.3.

Arbitrator's Decision

1. The arbitrator adopts the AT&T position as to cost recovery as follows: total costs of RCF should be allocated in proportion to each carrier's share of active working numbers.

2. Access charges for terminating intraLATA toll and interLATA minutes shall be recovered by each carrier billing Inter Exchange Carriers, (IXCs) separately for its portion of the access charges, based on the functions and facilities provided by the carrier for call forwarding or termination. The parties agreement should take into account the fact that USWC will receive compensation for INP costs by means of the RCF charges discussed above.

3. The arbitrator adopts the USWC position on non-recurring charges.

Discussion

Access Charges. The FCC Number Portability order¹⁸ addresses the appropriate treatment of terminating access charges in the interim number portability context. While the FCC generally approves the model of meet-point billing arrangements between neighboring incumbent LECs, it requires incumbent LECs and competitors to share in the access revenues received for a ported call.

The FCC order states:

“[W]e direct forwarding carriers and terminating carriers to assess on IXCs charges for terminating access through meet-point billing arrangements....It is up to the carriers whether they each issue a bill for access to one ported call, or whether one of them issues a bill to the IXCs covering all of the transferred calls and shares the correct portion of the revenues with the other carriers involved.”

Id.

Neither proposal is sufficiently consistent with the FCC order. USWC and AT&T should draft a provision incorporating the foregoing requirements. Since the carriers have been unable to agree, the arbitrator determines that the contract should provide that each carrier issue a bill to the IXC for its portion of the access charges, based upon the functions and facilities provided by the carrier for call forwarding or termination. The parties' agreement should take into account the fact that USWC receives compensation for INP costs by means of the Remote Call Forwarding charges discussed below.

Cost Recovery. Section 251(e)(2) provides that “[t]he cost of establishing telecommunications . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the [FCC].” The FCC Number Portability Order identified a number of approaches for competitively neutral

¹⁸*In the Matter of Telephone Number Portability*, First Report and Order, CC Docket No. 95-116, FCC 96-286 (released July 2, 1996)(FCC Number Portability Order) ¶ 140.

cost recovery, including the apportionment of costs based on number of active telephone numbers.¹⁹ The AT&T proposal is, therefore, consistent with the FCC order and with the 1996 Act. The USWC position, however, finds no support in the statute or the FCC order. The FCC order specifically states that a cost recovery mechanism which places all the costs on the new entrant would not be competitively neutral.²⁰

Non-recurring charges. AT&T does not specifically propose any non-recurring charges for interim number portability in its Schedule 2, or address USWC's proposal. USWC's charges are adopted.

F. Access to Rights-of-Way

Issue No. 53: Scope of Access and Reciprocity

Parties' Positions and Arbitrator's Decision

There does not appear to be dispute regarding the general scope of access required by the Act. The matrix lists a disputed issue regarding reciprocity of the obligation to provide access. At the hearing, AT&T stated that when it becomes a local exchange carrier in Washington state it will "honor its obligation [under the Act] to afford access to poles, ducts, conduits, and rights-of-way." Tr. at 227 (Finnegan). On this basis this issue will be treated as resolved.

The parties should employ the AT&T contract language, except as required by the resolution of particular issues below. Its specificity should help avoid future disputes over implementation details.

Issue No. 54: Space Reservation

Arbitrator's Decision

The arbitrator adopts AT&T's contract language.

Discussion

The parties state this issue is agreed in principle but that they differ as to contract language. USWC does not provide an accurate reference to its proposed language.²¹

¹⁹FCC Number Portability Order, ¶¶ 130, 136.

²⁰*Id.*, ¶ 134, 138.

²¹USWC letter of November 22, 1996, from Lisa Anderl, with attached list of corrections to USWC contract references in matrix. The list contains no reference for space reservation.

AT&T's language in Attachment 4, § 3.2.5 appears reasonable.

Issue No. 55: Modification of Facilities

USWC Position

USWC will not construct or rearrange facilities once space on poles or in conduits is exhausted. However, USWC will negotiate with AT&T for facilities construction or rearrangement and may voluntarily agree to rearrange or construct facilities in some circumstances.

AT&T Position

AT&T requests that the terms of the FCC Order be adopted. USWC has the burden to prove that access requested is not technically feasible. AT&T Contract, § 9.4, AT&T. 4, § 3.2.17

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The FCC Interconnection Order declines to craft a specific rule that prescribes when an incumbent must replace or expand and existing facility on the one hand, or may deny access due to practical difficulties on the other. *FCC Interconnection Order*, ¶ 1163. The order does make clear, however, that lack of capacity on a particular facility is not an automatic basis for denial. *Id.*, ¶ 1162. USWC's position is inconsistent with the order on this point. USWC's proposed contract language is overly vague and susceptible to delays.

Issue No. 56 - Licenses

USWC Position

Where access to a right-of-way is restricted, AT&T must make arrangements with the grantor or licensor of the right-of-way in order to gain access.

AT&T Position

USWC has an obligation to affirmatively aid AT&T in gaining access to restricted rights-of-way. USWC has existing relationships with grantors and licensors and is in the best position to negotiate for increased access. AT&T Contract, AT&T. 4, § 3.2.4.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The FCC concludes that the incumbent is expected to exercise its right of eminent domain to expand an existing right-of-way over private property. *FCC Interconnection Order*, ¶ 1181. AT&T's contract language accommodates USWC's concern by acknowledging that USWC's ability to grant access to AT&T may be limited by the agreement with the third party. USWC does not propose contract language on this issue. The AT&T proposal is reasonable.

Charges for Access to Rights-of-way (Issue not listed in matrix)USWC Position

USWC has proposed charges for the access discussed in this section. The issue was raised in its brief.

AT&T Position

AT&T has not proposed alternative prices. Its proposed contract language, however, states that all USWC charges for access to rights-of-way shall be based on USWC cost. Attachment 4, § 3.2.6.

Arbitrator's Decision

None

Discussion

In its post-hearing brief, USWC raised the issue of charges for access to rights-of-way. Post-hearing Brief, p. 39. The issue was not identified on the issue matrix, nor did AT&T present a position. It is not clear from a comparison of AT&T's and USWC's contract provisions on this issue that there is a disagreement. The issue will not be addressed as a disputed issue.

G. Dialing Parity and Access to Number Resources (Issue Nos. 57-58)**Issue No. 58: Central Office Codes**USWC Position

USWC opposes the request to dedicate a central office code to AT&T's exclusive use. The limited availability of central office codes will not allow each reseller to have its own code. USWC will assign central office codes in compliance with existing industry standards.

AT&T Position

AT&T requires a central office code dedicated to its use.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

USWC position is reasonable. It states it is willing to set aside blocks of numbers within an NXX for AT&T's use and provide a full office code in the case of the transfer of a large customer. Tr. at 232 (Moran). Dedication of central office codes as requested by AT&T is inefficient and may be inconsistent with permanent number portability solutions. Tr. at 232-233 (Moran).

H. Ancillary Services and Branding (Issue Nos. 59-68)**Issue No. 60, 62: Rebranding of Directory Assistance**

These issues are agreed except as to price.

Arbitrator's Decision.

The arbitrator adopts the USWC position.

Discussion

AT&T has not proposed a price for rebranding of directory assistance or call completion services. USWC offers its TELRIC cost study in support of its prices. They will be adopted on an interim basis.

Issue No. 63-65: Access to Directory Assistance Database, UpdatesUSWC Position

USWC will offer on-line access to USWC's directory assistance database if AT&T reimburses USWC's cost in deploying that service and provides commitments regarding traffic volume and the locations at which the service is to be provided.

AT&T Position

AT&T argues that the directory assistance database must be unbundled and that it should have the same access that USWC itself has.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

Access to the directory assistance database is a network element subject to the unbundling requirement of the Act. *FCC Interconnection Order*, ¶ 538. Although parts of USWC's proposal appear reasonable, it places conditions on the provision of the access, including deployment costs and a requirement that AT&T first provide commitments regarding traffic volume and locations. These restrictions appear inconsistent with the requirement of non-discriminatory access. 47 USC § 251(b)(3), (c)(3).

Issue Nos. 66-67: Listings, DirectoriesUSWC Position

USWC will provide one white pages directory listing for AT&T or AT&T customers. Yellow Pages listings are a matter for negotiation between AT&T and U S WEST Direct.

USWC's logo is not on the cover of U S WEST DIRECT's directories. It appears to be impractical to place the name of every facilities-based competitor and reseller on the cover of a directory.

AT&T Position

USWC should be required to provide one white and one Yellow Page listing at no cost to AT&T or AT&T's customers and to make available enhanced White Page listings. AT&T Contract, AT&T. 2, §§ 3.2 and 3.3, AT&T. 4, § 5.

USWC will act as AT&T's agent in assisting AT&T end users in placing Yellow Pages advertisements. AT&T Contract, AT&T. 2, § 3.3.1.

USWC will deliver directories to AT&T customers. AT&T. 4, § 5.1.3. AT&T logo will be on the cover with USWC's logo. AT&T will have the ability to identify which white/yellow page directories an AT&T customer is eligible to receive and the quantity. AT&T must approve the sale of their end-user customer directories to third parties and will receive a pro-rata share of the sale. Centrex users will be allowed a main listing number and a listing for each station user at no charge to AT&T or the end user.

Arbitrator's Decision

The arbitrator adopts neither party's position. The parties are directed to draft contract language consistent with the Commission's Interconnection Order.

Discussion

The Act requires non-discriminatory access to directory listings. 47 USC § 251(b)(3). The parties do not cite, nor do I find, a discussion of listing issues in the FCC order. The Commission, however, has addressed listing issues in its Interconnection Order. The Commission required USWC to (1) include all listings of subscribers submitted to them by companies serving the same area (2) to provide this same database to the company's directory publishing subsidiaries and other directory publishers, (3) to provide simple listings in all published directories, and (4) to provide this service without additional charge. The Commission held that USWC would not be required to provide free copies of its directory, however, to competitive providers or their customers.²² USWC's proposal to limit AT&T to one white pages listing falls short of this requirement. AT&T's proposals on the other hand are a very expansive reading of the term "directory listing." AT&T does not provide authority for its requirements and they go significantly beyond those set out in the WUTC Interconnection Order. The parties are directed to draft a contract provision consistent with the Commission's order.

Issue No. 68: E-911

USWC Position

USWC agrees to provide E-911 service at no charge. The third-party manager of the E-911 database may assess nondiscrimination charges.

AT&T Position

USWC shall provide to AT&T, for AT&T end users, E911/911 call routing to the

²²WUTC Interconnection Order, pp. 56-57.

appropriate Public Safety Answering Point ("PSAP"). USWC shall provide and validate AT&T customer information with the PSAP. AT&T believes that USWC agreed to use its service order process to update and maintain the AT&T customer service information in the Automatic Location Identifier/Database Management System at parity with USWC customers. USWC now contends that AT&T must make arrangements with a third party database manager to perform this function.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

The USWC position appears reasonable. AT&T does not provide a rationale for why it cannot update its own customer information.

I. Quality (Issue Nos. 69-70)

Issue No. 69: Quality Standards

USWC Position

USWC opposes AT&T's proposal for "Direct Measures of Quality" (DMOQs). USWC argues that the standards are unreasonable and measure aspects of performance irrelevant to the end-user. USWC describes the standards as hyper-technical, onerous, unnecessary, costly, and burdensome.

USWC argues that it is already, under the Act, subject to the most rigorous anti-discrimination standards applicable to any business. This non-discrimination requirement sets the one overriding performance standard -- the obligation to treat new entrants as well as itself; any measurements should address whether USWC meets that standard.

USWC argues that the DMOQs allow AT&T to shift business risk and cost onto USWC without providing compensation for the level of service or any reciprocal benefit to USWC. This is not consistent with a competitive marketplace. It is USWC's position that Competitive Local Exchange Carriers, (CLECs) that desire higher quality service than that USWC provides to itself, i.e., a higher standard than the non-discrimination standard, should obtain it by means of the bona fide request process.

USWC identifies several problems with AT&T's proposal: the sheer number and complexity of the proposals will lead to disputes; no evidence was presented of the standards' reasonableness; AT&T has not produced contracts with its resellers in which it agrees to observe the same standards; and, USWC should not be subjected to inconsistent quality standards which vary from CLEC to CLEC.

AT&T Position

AT&T's DMOQ proposal requires that USWC provide all local services, network elements or combinations of elements in accordance with specific performance standards that are at least equal to or superior to the level of performance that USWC provides itself or is required to provide by law.

AT&T cites the Act, 47 USC § 251(c)(2)(C) and (D), the FCC Interconnection Order and rules, 47 CFR § 51.311(b) in support of the proposition that incumbent LECs must satisfy performance standards. AT&T asserts that USWC has refused to provide information regarding its internal quality standards and offers only assurances of equal treatment. AT&T argues it standards are needed to enable AT&T and the Commission to monitor USWC's performance, particularly in light of recent problems with service to other carriers.²³

As evidence of the reasonableness of its DMOQs, AT&T represents that USWC has itself sought to impose, and has agreed to, even more extensive standards than those suggested here, in the area of access services for AT&T. AT&T states further that these DMOQs are dwarfed by AT&T's quality requirements in the federal FTS 2000 contract. AT&T states that the standards are proposed in good faith, that it is willing to conform to the same standards, and to work with USWC to develop the standards. AT&T asserts that USWC has declined to engage in negotiations on this issue.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

The 1996 Act requires incumbent LECs to provide interconnection "that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection." 47 USC § 251(c)(2)(B). This non-discrimination requirement is echoed in the unbundling and resale provisions of the Act. 47 USC § 251(c)(3) and (4).

The FCC Interconnection Order concludes that the "equal in quality" standard of section 251(c)(2) requires an incumbent LEC to provide service to a CLEC that is indistinguishable from that it provides itself. The FCC further concludes that this obligation is not limited to the level of quality perceived by end-users, pointing out that such a standard could provide opportunities for discriminatory practices harmful to competitors, though not perceived by end-users, such as in pricing and ordering. FCC

²³AT&T cites the USWC rate order's discussion of quality of service to USWC's telecommunications company customers. USWC rate order, pp. 25-26.

Interconnection Order, ¶ 224, 314. The FCC also declared the standard to be a minimum and “to the extent a carrier requests interconnection of superior or lesser quality than an incumbent LEC currently provides, the incumbent LEC is obligated to provide the requested interconnection arrangement if technically feasible [...] as long as new entrants compensate incumbent LECs for the economic cost of the higher quality interconnection.” *Id.* ¶ 225, 314.

The FCC rules adopted pursuant to the order require the “equal in quality” standard. 47 CFR § 51.311(a). In addition, however, the rules provide that, to the extent technically feasible, the quality of elements and access “shall, upon request, be superior in quality to that which the incumbent LEC provides to itself.” 47 CFR § 51.311(c). If the incumbent fails to meet the requirement, it must prove to the state commission that it is not technically feasible to do so. *Id.*

Under the Act, the FCC order, and the rules, therefore, AT&T may clearly request local service, network elements, or combinations of elements that are “at least equal or superior to the level of performance that U S WEST provides to itself.”²⁴ Its position as to quality is more consistent with the law than that of USWC -- that its obligation does not extend beyond “equal quality.” USWC must provide the level of service requested, if AT&T agrees to pay for the higher level of service. It does not appear from this record, however, that the proposed contract provisions recognize and provide compensation for this higher level of service. In that respect, AT&T’s proposal is not consistent with the Act, as interpreted by the FCC. For that reason, I will depart from “final offer” arbitration on this issue. I am unwilling to adopt the DMOQs in this arbitration to be provided at the price level which has been set on an interim basis.

I will adopt USWC’s position, as set out in its final offer contract, Section XXXII, on an interim basis. “Equal quality” service should be provided pursuant to USWC’s proposed contract provision. AT&T may request service based on its DMOQ’s on a bona fide request basis. The parties should revise the contract language accordingly. The general issue of prices for superior levels of service can be addressed in the generic proceeding. Issues of technical feasibility can be presented to the Commission as provided in the FCC rule.

Issue No. 70: Performance Credits

AT&T states it has dropped its request for performance penalties. Given the resolution of Issue No. 69 on quality standards, performance credits as proposed by AT&T are not at issue.

²⁴AT&T’s Post-arbitration Brief, p. 42.

J. Dispute Resolution (Issues 71-72)

Issue No. 71-72: Form of Dispute Resolution Agreement; Fee Awards

USWC Position

USWC generally agrees with the concept of alternative dispute resolution and with many of AT&T's proposed terms. USWC objects to AT&T's proposed clause requiring the losing party to pay the costs and fees. USWC believes each party to an arbitration must be responsible for its own fees and costs. USWC also opposes the inclusion of any penalties or liquidated damages clause.

It is USWC's position that the Commission's authority to order penalties is strictly circumscribed by statute, citing RCW 80.04.380-400. A party's remedy for breach of an interconnection agreement should be the recovery of actual damages.

USWC proposes a contract provision addressing dispute resolution which provides that the parties will attempt to resolve disputes in good faith by means of negotiations or non-binding arbitration. The proposal preserves parties' rights to pursue legal or regulatory intervention under state and federal law. Final Offer, XXX.V.DD, pp. 107-108.

AT&T Position

AT&T's proposal is substantially more detailed than that of USWC. AT&T recommends a "sitting" arbitrator in order to minimize the education process with each dispute. AT&T requests a "loser pays" provision to encourage the parties to resolve disputes and prevent use of the ADR process for delay. The ADR process would be binding unless the Commission determines to review the award upon its own motion or that of a party.

Arbitrator's Decision

The arbitrator adopts neither position.

Discussion

The federal Act does not address the issue of dispute resolution, nor impose an express obligation on incumbent LECs to enter into ADR agreements for resolution of post-agreement disputes. Federal and state law provide a number of remedies to the parties if disputes arise, including the Commission complaint process and ADR rules. WAC 480-09-465. Absent a requirement in the 1996 Act, the inclusion of an ADR provision in a contract should be mutually agreed. Here, USWC raises some legitimate questions about the AT&T proposal and declines to agree. Under these circumstances, I will not select either party's proposal. The parties may include a mutually agreed

provision in the contract if they choose to do so, subject to the Commission approval process.

K. Pricing for Unbundled Elements, Interconnection and Collocation(Issues 73-80)

Issue Nos. 73-74: Cost and Pricing of Unbundled Elements

USWC Position

It is the USWC position that the Total Element Long Run Incremental Cost (TELRIC) study that it has submitted in this case and the prices based on the study are consistent with the FCC order and the 1996 Act. USWC asserts that the studies and prices are specifically tailored to Washington and provide a realistic estimate of the forward-looking cost of building a network. The company proposes a loop rate of \$38.22.²⁵

In support of its study, USWC argues that the reliability of its model is demonstrated by its realistic assumptions: proper economic depreciation rates, capital costs which account for increased risk, and an efficient network configuration based on "scorched node" analysis.

USWC challenges AT&T's proposed Hatfield model on a number of grounds. USWC argues that the inputs used for the model are not reliable, that unrealistic fill factors were used, and that assumptions regarding field conditions were inaccurate. In addition, USWC asserts that the capital cost was based on a rate-of-return proceeding, and is not forward looking, that depreciation lives were not forward looking, and fails to include appropriate costs.

AT&T Position

AT&T recommends use of the Hatfield Model, Version 2.2, Release 2 ("revised Hatfield"), for determining cost and pricing in this proceeding. It is AT&T's position that the model satisfies the costing principles in the Act, sound economic policy, and appropriate cost modeling principles.

AT&T raises a number of concerns with the USWC cost study proposed in this proceeding. The model itself is difficult to reproduce, is inaccessible and impossible to run with altered inputs and assumptions, uses software no longer available commercially, and relies on inputs external to the model which are unverifiable. AT&T alleges that the new TELRIC study differs little from the Average Direct and Shared Residual Cost (ADSRC) study rejected by the Commission in the last rate case.

²⁵On October 21, 1996, AT&T the hearing in this matter, USWC revised this loop amount to \$36.20. See, Errata to Washington Testimony and Exhibits of Robert Bowman, Item 7. It is unclear why the subsequent "last best offer" filed on November 5, 1996, contained the amount previously proposed.

AT&T points to the dramatic increases in costs reported in this latest study over previous estimates of unbundled loop cost.

In addition, AT&T argues that (1) the studies are based on generic models applicable to all 14 USWC states, ignoring differences in terrain and climate, (2) the easy/difficult trenching assumptions are generic for all USWC states, (3) fill factors are artificially low because they are based on actual, not forward looking fill, (4) depreciation rates are too low, and (5) the cost of money used is too high.

Arbitrator's Decision

The arbitrator adopts the AT&T proposed prices for unbundled network elements, including a loop cost of \$11.33. AT&T Schedule 2, Appendix B. In the event that AT&T does not propose a rate for an element, the USWC proposed rate is adopted on an interim basis. Appendix A.

Discussion

This is "final offer" arbitration. The two offers presented differ dramatically. The arbitrator's task is not to "split the difference" but to select the offer which most closely complies with the requirements of the federal Act, any applicable FCC requirements, and with this Commission's orders. The rate adopted here, following Commission approval of the interconnection agreement, will remain in effect pending the outcome of the Commission's generic pricing proceeding.²⁶

The provisions of the 1996 Act relevant to the determination of the loop pricing issue are contained in section 252(d). Section 252(d)(1) provides that rates shall be just and reasonable and shall be:

- "(I) based on the cost (determined without reference to a rate-of-return or other rate based proceeding) of providing the interconnection or network element (whichever is applicable), and
- (ii) nondiscriminatory, and
- (iii) may include a reasonable profit."

The Commission has previously had occasion to review loop costs for USWC. In *Washington Utilities and Transportation Commission v. U S WEST Communications, Inc.*, Docket No. UT-950200, Fifteenth Supplemental Order (April

²⁶Generic Pricing Order, at 5. This would be the case unless AT&T chose to invoke the provisions of 47 USC § 252(i).

1996) ("USWC rate order"),²⁷ the Commission found, based on evidence in the record that the approximate cost of USWC's unbundled loop was \$8.96.²⁸ These are TSLRIC figures which establish a price floor.²⁹

In the rate case, USWC submitted Average Service Incremental Cost (ASIC) presentations in support of its own position as to a proper price for local service. While the precise figures were confidential and not stated in the rate order, the Commission concluded that "the evidence is overwhelming that [residential] local exchange service does cover its [TSLRIC] --- even as calculated by the Company in its Average Service Incremental Cost (ASIC) presentation[.]"³⁰ Put another way, there was evidence in the record that USWC's own calculation placed the loop cost at something less than \$14.00.³¹ This provides an additional point of comparison demonstrating the reasonableness of the AT&T proposed rate.

The Commission has already expressed its general approval of the Hatfield model as a means of estimating cost. The Commission's conclusions regarding loop cost in the rate case were based on an earlier version of the Hatfield model sponsored by AT&T. The Commission found the model to be "[t]he most reasonable and accurate measure of incremental cost."³² The Commission was "satisfied from comparisons of underlying assumptions and comparisons of inputs that [Hatfield] accurately reflects costs incurred by USWC[.]" The Hatfield model has been revised

²⁷The Commission's rate order was affirmed this week by the Superior Court. *U S WEST Communications, Inc., v. WUTC*, No. 96-2-09623-7 SEA (King County Superior Court, Lasnik, J.), Summary Decision and Order Affirming Commission on All Aspects In the Rate Case (November 25, 1996). The Superior Court also affirmed the Commission's order on depreciation. *U S WEST Communications, Inc., v. WUTC*, Consolidated Nos. 96-2-09622-9 SEA, 96-2-16286-0 (King County Superior Court, Lasnik, J.), Memorandum Decision and Order On Depreciation Case (November 25, 1996).

²⁸The context of the finding was an analysis of the incremental cost of local service which includes both the loop and usage. The incremental cost of local service was \$4.42, which added to the loop cost yields a total of \$13.38. USWC rate order, p. 90, citing Hatfield model estimates presented in the proceeding. *See also*, USWC rate order, p. 132 (Finding of Fact 19), p. 135 (Ordering paragraph 2).

²⁹In the USWC rate order, the Commission found TSLRIC to be an appropriate measure of costs, representing an economic price floor. USWC rate order, p. 82. *See also*, USWC rate order, p. 132 (Finding of Fact 18).

³⁰USWC rate order, p. 79. *See also*, p. 82 (discussion of USWC ADSRC cost methodology, including ASIC), p. 86 ("Correcting the USWC local exchange model with the tools and inputs available provides verification for the Hatfield model").

³¹The \$14.00 figure includes \$10.50 for local residential exchanges service and \$3.50 for the subscriber line charge (SLC).

³²USWC rate order, p. 86.

since the rate case, increasing the loop cost estimate from \$8.96 to \$11.33.

The revised Hatfield study filed in this proceeding has several desirable attributes. It includes all network elements, estimates costs for both exchange services and individual network elements based on TSLRIC principles, and performs a detailed cost breakout. It is publicly available, a significant advantage for any model.

Significantly, the revised Hatfield study uses cost inputs which are more nearly consistent with those found by the Commission to be appropriate. Cost of money, fill factors, and depreciation rates are in line with those which the Commission has determined are reasonable. AT&T Ex. 9, p. 28, and AT&T Ex. 9(1), pp. 15-17 (Mercer).

USWC witness Peter Copeland expressed a number of criticisms of the Hatfield model results. USWC Ex. 507, pp. 1-9. Copeland argues that the results are biased downward because of improper inputs or assumptions. Three specific problem areas were identified: (1) cost of money and depreciation; (2) structure ratios, i.e., portion of construction costs (e.g. for trenching) that USWC would have to pay when sharing costs with other companies; and (3) the "homes passed" issue.

On the first issue, USWC recommends the use of its preferred cost of money and depreciation, rather than Commission prescribed figures. On the structure ratio issue, the Hatfield model assumes USWC will share structure (trenching, poles, etc.) costs with two other companies and, therefore, only 33 percent of these costs are included as costs of telephone service. On the third issue, Copeland argues that Hatfield seriously underestimates cable costs to serve given Census Block Groups (CBGs). This is said to occur because the distribution lengths in the model are only long enough to reach about half the homes in the CBG.

USWC performed a number of runs of the Hatfield model using USWC preferred inputs on these issues. Runs were performed using: (1) USWC inputs for cost of money and depreciation; (2) USWC inputs with an 80 percent structure ratio; and (3) USWC inputs + 80 percent structure ratio + additional factor for homes passed. These runs are very helpful in separating the effect of the Hatfield model as a model from the effect of various input assumptions made by AT&T. The results are as follows:³³

³³Ex. 2, p. 1, to USWC Ex. 507 (Copeland Rebuttal, October 8, 1996).

Run Inputs	Hatfield Result	Change	%Change over \$11.33
AT&T Results	\$11.33		
USWC C.O.M. Depreciation	\$14.36	\$3.03	27 %
USWC Inputs w/ Structure ratio at 80 %	\$17.93	\$6.60	58 %
USWC Inputs w/ 80 % + Add'l for Homes Passed	\$33.10	\$21.77	192 %

In addition to the foregoing points, Copeland also argues that equipment price data or other key parameters used in the model were provided by a single individual, a former NYNEX engineer, and that no supporting documentation was provided to show that the prices were representative of USWC prices. While criticizing AT&T's lack of documentation, however, USWC itself fails to offer, a run of the Hatfield model using its own specific equipment prices in place of AT&T's.

While Mr. Copeland raises some reasonable questions regarding various inputs to the study, on further analysis, their impact on the validity of the Hatfield results is limited. The first adjustment shown, using USWC cost of money and depreciation is clearly inconsistent with what the Commission has prescribed, as discussed above. The second adjustment, for 80% structure ratio, has merit, but the adjustment shown includes the improper cost of money and depreciation. The actual result of this adjustment would be significantly less than \$17.93, therefore, if applied to a base run using appropriate capital costs.³⁴

The third adjustment, for "homes passed," also includes the improper USWC cost of money and depreciation. In addition, it is based on a questionable premise. It assumes that all the areas served will be absolutely uniform in the spacing of customer locations. This is the most expensive arrangement to serve. There is no evidence that this arrangement occurs often enough to warrant an adjustment of this size. AT&T witness Dr. Mercer conceded at the hearing that the Hatfield assumptions used understate costs under this particular scenario, but pointed out that in other likely scenarios involving varied densities, the Hatfield model might well

³⁴After making the cost of money/depreciation change, the structure ratio change increases cost by 25% (17.93/14.36). Applying that 25% factor to the \$11.33 rate that uses Commission basis capital inputs yields an adjusted rate of \$14.16.

overstate the cost. Tr.at 545-546. USWC did not rebut this point. Because its adjustment, based on the most expensive possible distribution model, has the effect of assuming the highest possible cost to serve, it skews the results upward. As USWC notes, the upward adjustment is by far the greatest in magnitude of the three made.

Mr. Copeland's testimony also includes other runs of the Hatfield model, including a run which assumes that USWC would bear 100 percent of structure costs, an assumption not supported by testimony in the case. This run yields a loop rate of \$47.54, the only run to reach or exceed the rate proposed by USWC.³⁵

It is significant that the only USWC run of the Hatfield model which reaches or exceeds the loop price of \$38.22 being proposed by USWC, therefore, is the run which uses inputs at the highest cost end of the scale: Commission-rejected capital costs, depreciation, and fill factors, the assumption that USWC bears 100% of structure costs, and a "homes passed" adjustment which assumes the highest possible cost to serve. The remaining runs, by contrast, yield results far closer to that of the Hatfield model.

USWC's position is based on the premise that its TELRIC study complies with the Act, with FCC requirements, and is otherwise a reliable basis for setting prices. The record, however, indicates some serious flaws in the USWC approach which make the resulting loop prices unacceptable as interim rates.

First, as noted above, the USWC studies entirely disregard the Commission's existing determination as to loop cost.

Second, the USWC cost studies offered to support its final offer position use inputs which are inconsistent with the Commission's recent rate order as to cost of money and depreciation. USWC Ex. 504, p. 11 (Bowman). For example, the cost of money prescribed in the rate order was 9.37 percent, while that used in the USWC cost study was 11.4 percent. The rate case order states that authorized depreciation rates and the last authorized rate of return are the most appropriate for cost study purposes.³⁶

³⁵Ex. 2, p. 2 to USWC Ex. 507 (Copeland Rebuttal).

³⁶USWC rate order, at 88.

The rate order also requires the use of objective rather than actual fill factors.³⁷ USWC uses actual fill in its cost study.³⁸

Third, there are indications from the hearing record that USWC's TELRIC methodology may seek to recover embedded costs by an excessive allocation of shared and common costs. *See, e.g.*, USWC Ex. 503, p. 19, 22 (Moran). Such recovery is generally inconsistent with forward-looking cost methodology, which requires that forward-looking shared costs be directly attributable to a particular element or set of elements.

The fundamental flaw in USWC's position is its failure to propose a rate based upon cost inputs found by the Commission to be appropriate. By contrast, the AT&T proposal is developed from a model, albeit a revised version, already found to be satisfactory by the Commission. It employs appropriate inputs for cost of money, depreciation and fill factors. Even with some of the adjustments sought by USWC, the results are do not approach USWC's proposal. While the Hatfield model is not perfect, and AT&T inputs may require refinement, the AT&T proposal is the more reliable, just and reasonable for the establishment of interim rates in this arbitration. 47 USC § 252(d)(1). To the extent that AT&T's Hatfield study provides rates for interconnection and unbundled network elements, as reflected in AT&T's Schedule 2, attached hereto as Appendix B, they are adopted. In the event that AT&T does not propose a rate for an element, the USWC proposed rate is adopted on an interim basis. Appendix A.

Issue No. 75: Deaveraging

USWC Position

USWC opposes deaveraging of prices for network elements until retail rates are deaveraged. The company points out that the FCC's deaveraging rule has been stayed by the Eighth Circuit decision and argues that deaveraging will create unwarranted arbitrage opportunities contrary to the public interest.

AT&T Position

AT&T concedes that the deaveraging requirement has been stayed but argues

³⁷*Id.*

³⁸The arbitrator and arbitration staff asked USWC to perform several additional runs of its cost studies to examine the effect of using different inputs, including inputs consistent with the rate order. None of the additional runs provided in response used exclusively "Commission inputs," in part because cost models have evolved in ways that make it difficult to make direct comparisons to older runs. The additional runs consistently showed, however, that where Commission inputs were used, the resulting loop rate was lower than that proposed by USWC.

that the requirement is consistent with the Hatfield model results reflecting costs that vary by density as measured by Census Block Groups.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

Geographic deaveraging is not expressly required by the federal Act. The requirement contained in the FCC rules, 47 CFR § 51.507 (f), is currently stayed by the Eighth Circuit Order. Geographic deaveraging of unbundled loop rates is inconsistent with the Commission's decision against adopting retail rate deaveraging in the most recent USWC rate case.³⁹

Issue Nos. 76-78: Additional Charges for Physical and Virtual Collocation

USWC Position

USWC proposes that additional charges should apply for physical or virtual collocation, as set forth in its Appendix A, p. 3 (attached), covering the following items: Quote Preparation Fee; Expanded Interconnection Channel Termination; Entrance Facility; Fiber Splicing; 48 Volt and Power Cable; and Inspector Labor (charged whenever AT&T requires access to the interface point or collocated equipment). Additional charges are also proposed for Cage/Hardwall Enclosure; and Floor Space Rental. USWC states that these elements should be priced at TELRIC with a reasonable allocation of forward-looking common costs.

AT&T Position

AT&T argues that USWC's rates for physical or virtual collocation must reflect only the incremental costs it incurs in providing those services. USWC has the burden to prove costs. *FCC Interconnection Order*, ¶ 680. It may recover the directly attributable forward-looking costs of facilities and operations dedicated to the equipment provided. *Id.*, ¶ 682. It must allocate nonrecurring charges among all requesting carriers. 47 C.F.R. §51.507(e). The prices proposed by AT&T are those which it had presented in Oregon. AT&T argues that USWC prices are not consistent with the FCC order because they are not based on USWC's interstate rates.

Arbitrator's Decision

The arbitrator adopts USWC prices for physical and virtual collocation. In the

³⁹USWC rate order, pp. 106-107.

event USWC has not proposed a price, the AT&T price will apply, if any.

Discussion

The parties are in general agreement with most of the elements for which charges will apply. The primary difference has to do with the rates proposed for each element, although on a number of points the rates are relatively close. AT&T's proposed rates are said to be based on rates proposed at the Oregon Public Utility Commission. AT&T Post-Arbitration Brief, pp. 55-56. No detailed cost support or other justification is supplied for the AT&T proposal. This is inadequate support to provide a basis for adopting the proposal. USWC rates will be adopted on an interim basis.

Issue No. 79: Pricing of Unbundled Elements Not Mandated by the FCC

USWC Position

If USWC agrees to provide unbundled elements not required by the FCC Order, costs will be recovered using existing tariffs for special construction. These elements should be priced at TELRIC with a reasonable allocation of forward looking common costs.

AT&T Position

The pricing of all elements must be based on TELRIC. AT&T Contract §41.

Arbitrator's Decision

The arbitrator adopts the USWC position.

Discussion

The Act makes no provision for new special construction charges. USWC may, however, assess charges already contained in its tariffs on a non-discriminatory basis. In general, the pricing of all elements is to be based on TELRIC and a properly constructed study should include such costs. This issue can be reviewed in the "generic" proceeding.

Issue No. 80: Charges for Loop Conditioning

USWC Position

A carrier requesting that a loop be conditioned must pay the cost of conditioning. *FCC Interconnection Order*, ¶ 382. These elements should be priced at TELRIC with a reasonable allocation of forward-looking common costs.

AT&T Position

The cost of conditioning should be included in the TELRIC price of the loop facility purchased. The definition of "network element" in the Act includes all logical features, functions and capabilities provided by software located in the physical facility. 47 USC § 153(a)(45); *FCC Interconnection Order*, ¶ 260. AT&T argues that this includes conditioning, and that, in any event, USWC has not proposed a price. It is AT&T's position that the loop price adopted should include conditioning.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

While the FCC states that the requesting carrier must bear the cost of loop conditioning, *FCC Interconnection Order*, ¶ 382, USWC has not proposed a conditioning price. This issue should be addressed in the generic proceeding.

L. Transport and Termination Pricing (Issues 81-90)**Issue No. 81-82, 84- 87, 89: Bill and Keep, Transport, Termination**USWC Position

Bill and keep should not be adopted for call termination although USWC will waive reciprocal call termination charges if traffic in a given month is reasonably balanced, i.e., within 5%. Bill and keep should not be adopted for transport because it does not allow USWC to recover its costs.

AT&T Position

The Commission has adopted bill and keep as the appropriate interim measure. AT&T Contract, AT&T. 7, § 5.2. AT&T agrees. USWC has not rebutted the presumption that traffic is in balance and bill and keep is appropriate. Order, ¶ 1111.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The federal Act provides that reciprocal compensation arrangements must "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the facilities of the other carrier." 47 USC § 252(d)(2)(A)(I). The Act expressly does not

preclude "arrangements that waive mutual recovery (such as bill-and-keep arrangements)[.]" 47 USC § 252(d)(2)(B)(I).

The FCC order provides that states may adopt a presumption that traffic is in balance as a basis for approving bill and keep. *FCC Interconnection Order*, ¶ 1113. The burden is then on USWC to rebut the presumption. USWC has not offered evidence in the proceeding sufficient to rebut a presumption of traffic balance.

The Commission has adopted bill and keep as the appropriate interim method of reciprocal compensation for transport and termination. *WUTC Interconnection Order*, pp. 29-30. The order expressed a preference for a capacity-charge method of compensation rather than minutes-of-use.⁴⁰ AT&T's proposal is consistent with the Commission's Interconnection Order.⁴¹ It provides for mutual recovery of cost through offsetting of mutual obligations, pursuant to 47 USC § 252(d)(2).

Issue Nos. 83: Cost of Establishing Network

USWC Position

AT&T must share the cost USWC incurs in establishing a network of two-way trunks for transport in proportion to each party's traffic. Where AT&T requests that USWC develop specific network elements, AT&T must reimburse USWC for its development costs as required by the Order, ¶ 209.

AT&T Position

USWC must not impose "development fees" upon AT&T.

Arbitrator's Decision

The arbitrator adopts the AT&T position.

Discussion

The Act does not provide for recovery of development costs. The appropriate portion of the one-time costs should be included in the TELRIC rate. *FCC Interconnection Order*, ¶ 686.

⁴⁰The parties in this proceeding were asked to file a capacity based charge proposal but did not do so.

⁴¹Because bill-and-keep is adopted, it is not necessary to address Issue No. 86 (symmetry), Issue No. 87 (deaveraging), Issue No. 88 (tandem switching) or Issue No. 89 regarding cost studies. The parties' cost studies are discussed in Section K above.

Issue No. 90: Universal Service Charge

Based on the matrix, it appears the parties have no substantive disagreement that USWC will abide by the temporary transitional method for universal service set out in *FCC Interconnection Order*, ¶ 720.

III. IMPLEMENTATION SCHEDULE

Pursuant to 47 USC § 252(c)(3), the arbitrator is to “provide a schedule for implementation of the terms and conditions by the parties to the agreement.” In this case the parties did not submit specific alternative implementation schedules. Specific contract provisions, however, contain implementation timelines. The parties shall implement the agreement pursuant to the schedule provided for in the contract provisions, and in accordance with the 1996 Act, the applicable FCC rules, and the orders of this Commission.

In preparing a contract for submission to the Commission for approval, the parties may include an implementation schedule.

IV. CONCLUSION

The foregoing resolution of the disputed issues in this matter meets the requirements of 47 USC § 252(c).

The parties are directed to submit an agreement consistent with the terms of this report to the Commission for approval within 30 days, pursuant to the following requirements of the Interpretive and Policy Statement.⁴² Given the intervening holidays, the parties may request an extension of the 30 day time limit for filing.

Filing and Service of Agreements for Approval

1. An interconnection agreement shall be submitted to the Commission for approval under Section 252(e) within 30 days after the issuance of the Arbitrators’ Report, in the case of arbitrated agreements, or, in the case of negotiated agreements, within 30 days after the execution of the agreement. The 30

⁴²*In the Matter of Implementation of Certain Provisions of the Telecommunications Act of 1996*, Docket No. UT-960269, Interpretive and Policy Statement Regarding Negotiation, Mediation, Arbitration, and Approval of Agreements Under the Telecommunications Act of 1996 (June 27, 1996)(“Interpretive and Policy Statement”).

day deadline may be extended by the Commission for good cause. The Commission does not interpret the 9 month time line for arbitration under Section 252(b)(4)(C) as including the approval process.

2. Requests for approval shall be filed with the Secretary of the Commission in the manner provided for in WAC 480-09-120. In addition, the request for approval shall be served on all parties who have requested service (List available from the Commission Records Center. See Section II.A.2 of the Interpretive and Policy Statement) by delivery on the day of filing. The service rules of the Commission set forth in WAC 480-09-120 and 420 apply except as modified in this interpretive order or by the Commission or arbitrator. Unless filed jointly by all parties, the request for approval and any accompanying materials should be served on the other signatories by delivery on the day of filing.

3. A request for approval shall include the documentation set out in this paragraph. The materials can be filed jointly or separately by the parties to the agreement, but should all be filed by the 30 day deadline set out in paragraph 1 above.

Negotiated Agreements

a. A "request for approval" in the form of a brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to whether the agreement should be adopted or modified, including a statement as to why the agreement does not discriminate against non-party carriers, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state law requirements, including Commission interconnection orders.

b. A complete copy of the signed agreement, including any attachments or appendices.

c. A proposed form of order containing findings and conclusions.

Arbitrated Agreements

a. A "request for approval" in the form of a brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to whether the agreement should be adopted or modified; and containing a separate explanation of the manner in which the agreement meets each of the applicable specific requirements of Sections 251 and 252, including the FCC regulations thereunder, and applicable state requirements, including Commission interconnection orders. The "request for approval" brief may reference or incorporate previously filed briefs or memoranda. Copies should be attached to the extent

necessary for the convenience of the Commission.

b. A complete copy of the signed agreement, including any attachments or appendices.

c. Complete and specific information to enable the Commission to make the determinations required by Section 252(d) regarding pricing standards, including but not limited to supporting information for (1) the cost basis for rates for interconnection and network elements and the profit component of the proposed rate. (2) transport and termination charges; and (3) wholesale prices.

d. A proposed form of order containing findings and conclusions.

Combination Agreements (Arbitrated/Negotiated)

a. Any agreement containing both arbitrated and negotiated provisions shall include the foregoing materials as appropriate, depending on whether a provision is negotiated or arbitrated. The memorandum should clearly identify which sections were negotiated and which arbitrated.

b. A proposed form of order is required, as above.

4. Any filing not containing the required materials will be rejected and must be refiled when complete. The statutory time lines will be deemed not to begin until a request has been properly filed.

Confidentiality

1. Requests for approval and accompanying documentation are subject to the Washington public disclosure law, including the availability of protective orders. The Commission interprets 47 USC § 252(h) to require that the entire agreement approved by the Commission must be made available for public inspection and copying. For this reason, the Commission will ordinarily expect that proposed agreements submitted with a request for approval will not be entitled to confidential treatment.

2. If a party or parties wishes protection for appendices or other materials accompanying a request for approval, the party shall obtain a resolution of the confidentiality issues, including a request for a protective order and the necessary signatures (Exhibits A or B to standard protective order) prior to filing the request for approval itself with the Commission.

Approval Procedure

1. The request will be assigned to the Commission Staff for review and presentation of a recommendation at the Commission public meeting. The Commission does not interpret the approval process as an adjudicative proceeding under the Washington Administrative Procedure Act. Staff who participated in the mediation process for the agreement will not be assigned to review the agreement.

2. Any person wishing to comment on the request for approval may do so by filing written comments with the Commission no later than 10 days after date of request for approval. Comments shall be served on all parties to the agreement under review. Parties to the agreement file written responses to comments within 7 days of service.

3. The request for approval will be considered at a public meeting of the Commission. Any person may appear at the public meeting to comment on the request for approval. The Commission may in its discretion set the matter for consideration at a special public meeting.

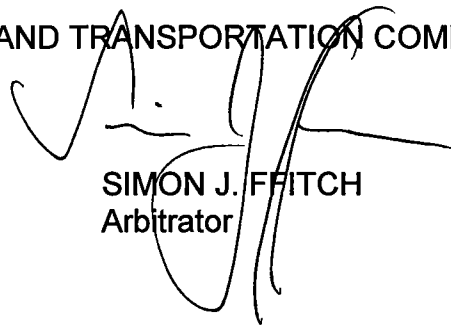
4. The Commission will enter an order, containing findings and conclusions, approving or rejecting the interconnection agreement within 30 days of request for approval in the case of arbitrated agreements, or within 90 days in the case of negotiated agreements. Agreements containing both arbitrated and negotiated provisions will be treated as arbitrated agreements subject to the 30 day approval deadline specified in the Act.

Fees and Costs

1. Each party shall be responsible for bearing its own fees and costs. Each party shall pay any fees imposed by Commission rule or statute.

DATED at Olympia, Washington and effective this ^{27th} day of November 1996.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


SIMON J. FITCH
Arbitrator

APPENDIX A
U S WEST INTERCONNECTION RATES
WASHINGTON

INTERCONNECTION - LOCAL EXCHANGE

Local Call Termination

U S WEST Proposed Price

End Office - Per Minute of Use	\$0.003141
Tandem Switch - Per Minute of Use (Note 1) (includes End Office Call Termination and Tandem Transport)	\$0.005604

Note 1: The above local tandem call termination rate includes tandem transmission, based on an assumed transport mileage of 10 miles. Should the average tandem transmission mileage experienced by the Parties exceed 10 miles, the Parties agree to adjust the tandem call termination rate based on the tandem transmission rates set forth below.

Direct Trunked Transport

	Fixed	Per Mile
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$41.72	\$0.67
DS1 - Over 8 to 25	\$41.72	\$0.84
DS1 - Over 25 to 50	\$41.73	\$2.97
DS1 - Over 50	\$41.73	\$3.49
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$283.30	\$13.83
DS3 - Over 8 to 25	\$284.17	\$15.03
DS3 - Over 25 to 50	\$291.31	\$39.19
DS3 - Over 50	\$293.91	\$44.74

Multiplexing, per arrangement

	Proposed Price Recurring	Proposed Price Nonrecurring
DS3 to DS1	\$218.58	\$418.45

Local Transport/Transit Traffic Rate

	Proposed Price
Tandem Switching, per MOU	\$0.001794

	Proposed Price Fixed	Proposed Price Per Mile
Tandem Transmission 0 Mile	None	None
Over 0 - 8 Miles	\$0.000411	\$0.000009
Over 8 - 25 Miles	\$0.000411	\$0.000007
Over 25 - 50 Miles	\$0.000408	\$0.000008
Over 50 Miles	\$0.000409	\$0.000015

INTERCONNECTION - EXCHANGE ACCESS

Proposed Price

Call Termination, Transport, and Transit

Per Switched Access Tariff

**APPENDIX A
U S WEST INTERCONNECTION RATES
WASHINGTON**

COMMON CHANNEL SIGNALLING ACCESS SERVICE	U S WEST Proposed Price	
Entrance Facility	Proposed Price Recurring	Proposed Price Nonrecurring
DS1	\$99.78	\$563.92
DS3	\$404.24	\$668.95
Direct Link Transport	Proposed Price Fixed	Proposed Price Per Mile
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	\$20.89	\$0.13
DS0 - Over 8 to 25	\$20.88	\$0.10
DS0 - Over 25 to 50	\$20.88	\$0.10
DS0 - Over 50	\$20.89	\$0.17
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$41.72	\$0.67
DS1 - Over 8 to 25	\$41.72	\$0.84
DS1 - Over 25 to 50	\$41.73	\$2.97
DS1 - Over 50	\$41.73	\$3.49
Direct Link Transport	Proposed Price Fixed	Proposed Price Per Mile
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$283.30	\$13.83
DS3 - Over 8 to 25	\$284.17	\$15.03
DS3 - Over 25 to 50	\$291.31	\$39.19
DS3 - Over 50	\$293.91	\$44.74
CCS Link - First Link	Proposed Price Recurring	Proposed Price Nonrecurring
CCS Link - Each additional Link	None	\$504.68
	None	\$72.42
STP Port - Per Port	\$208.57	None
Multiplexing		
DS1 to DS0	\$221.08	None
DS3 to DS1	\$218.58	None

**APPENDIX A
U S WEST INTERCONNECTION RATES
WASHINGTON**

PHYSICAL AND VIRTUAL COLLOCATION	U S WEST Proposed Price
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Common Elements

	Proposed Price Recurring	Proposed Price Nonrecurring
Quote Preparation Fee	None	\$2,437.30
Entrance Facility - 2 fibers	\$2.07	\$1,307.45
2-wire DS0 EICT	\$1.41	\$339.61
4-wire DS0 EICT	\$1.79	\$339.61
DS1 EICT	\$9.12	\$405.02
DS3 EICT	\$31.93	\$433.23
DS1 EICT - regeneration (Note 2)	\$14.38	\$405.02
DS3 EICT - regeneration (Note 2)	\$94.24	\$433.23

	Proposed Price Recurring	Proposed Price Nonrecurring
Cable Splicing	None	\$103.59
Per setup	None	\$12.95
Per Fiber Spliced		
48 Volt Power, per ampere, per month	\$13.45	None
48 Volt Power Cable		
20 Ampere Capacity - Recurring	\$0.15	\$68.37
40 Ampere Capacity - Recurring	\$0.20	\$92.71
60 Ampere Capacity - Recurring	\$0.22	\$104.42
Equipment Bay, Per Shelf	\$8.58	None

	Proposed Price Regular Hours	Proposed Price After Hours
Inspector per 1/2 Hour	\$28.62	\$37.20
Training per 1/2 Hour	\$25.36	None
Engineering per 1/2 Hour	\$24.73	\$33.09
Installation per 1/2 Hour	\$28.62	\$37.20
Maintenance per 1/2 Hour	\$25.36	\$33.73

Physical Collocation (Note 3)

	Proposed Price Recurring	Proposed Price Nonrecurring
Cage/Hard Wall Enclosure	ICB	ICB
Rent (w/ Maintenance) - per square foot - Zone 1	\$2.75	None
Rent (w/ Maintenance) - per square foot - Zone 2	\$2.26	None
Rent (w/ Maintenance) - per square foot - Zone 3	\$2.06	None

Note 2: If required. No NRC applies to regeneration ordered concurrently with an associated EICT element.

Note 3: Zones per NECA-4 Tariff

**APPENDIX A
U S WEST INTERCONNECTION RATES
WASHINGTON**

ANCILLARY SERVICES		U S WEST Proposed Price	
		Proposed Price	
Directory Assistance			
Price per Call – Facilities-Based Providers			\$0.34
Listings			
Primary Listings, Directory Assistance, White Pages			No Charge
E911			
LEC and AECs recover costs from PSAP			No Charge
Interim Number Portability		Proposed Price Recurring	
Without Transport			
Per Number Ported - First Path			\$4.25
Per Number Ported - Additional Path			\$3.02
With Transport			
Per Number Ported - First Path			\$8.73
Per Number Ported - Additional Path			\$7.50
Additional Charges		Proposed Price Nonrecurring	
Service Establishment, per switch, per route			\$43.80
Service Establishment - additional number ported or changes to existing numbers, per number ported			\$9.49
Additional and Consecutive Numbers -- additional number ported on same account name and consecutive numbers, per number ported			\$7.05
Assignment of Numbers		Proposed Price	
Assignments per industry guidelines			No Charge
Busy Line Verification			
Per Call			\$0.72
Busy Line Interrupt			
Per Call			\$0.87
Unbundled Loops (Note 4)		Proposed Price Recurring	Proposed Price Nonrecurring
Zone 1		\$33.16	
Zone 2		\$38.24	
Zone 3		\$52.40	
Weighted Area Average		\$38.22	
Without testing			\$96.30
With Basic Testing			\$153.86
With Basic Testing at Designated Time			\$206.02

Note 4: U S WEST opposes the establishment of deaveraged loop prices until Retail prices are deaveraged.

APPENDIX A

U S WEST PROPOSED RESALE
WHOLESALE RATES
WASHINGTON

100% Retail Rate (Note 1)	92% Retail Rate (Note 2)	96% Retail Rate (Note 2)	99% Retail Rate (Note 2)	96% Retail Rate (Note 2)
Residence Basic Exchange	Business Basic Exchange	Frame Relay Service	Listings	IntraLATA Toll
Centrex Plus	PBX Trunks	ISDN	Features	WATS
Oper. Svs. & D.A.				
Optional Calling Plans				
Switched Access				
Negotiated Contract Arrangements				

Note (1) USW believes the Commission should establish the Wholesale rate for below cost services (e.g. residence basic exchange service) at 100% of the Retail rate. is 96% of the Retail rate. USW also believes that the Commission should not further discount service packages and volume discount plans since they are already provided at the Wholesale rate.

Note (2) Discounts are based on the costs avoided when a service is provided on a wholesale basis to a reseller rather than to a retail end user customer. The discount calculation is in compliance with Section 252(d)(3) of the Federal Act.

Note (3) U S WEST need not make the following services available for Resale: Enhanced services (including Voice Mail) and Deregulated Services.

APPENDIX A
RESALE
NONRECURRING CHARGES
WASHINGTON

Description	U S WEST Proposed Price
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Customer Transfer Charge

Business, per line	\$56.60
Residence, per line	\$54.13
ISDN, per line	\$57.15

SCHEDULE 1
WHOLESALE DISCOUNT
FOR
WASHINGTON

RESIDENTIAL BASIC SERVICE 25%
BUSINESS BASIC SERVICE 35%
TOLL / OTHER SERVICES 38%
VERTICAL SERVICES 50%

U S WEST Communications Exchange & Network Services Tariff	1. Application and Reference <i>All subsections</i>	
	2. General Regulations <i>All subsections</i>	
	3. Service Charges <i>All subsections</i>	
	4. Construction Charges & Other Special Charges <i>All subsections</i>	
	5. Exchange Services <i>All subsections</i>	
	105. Obsolete Exchange Services <i>All subsections</i>	
	6. Message Telecommunication Service <i>All subsections</i>	
	106. Obsolete Message Telecommunication Services <i>All subsections</i>	
	7. Wide Area Telecommunication Service <i>All subsections</i>	
	8. Connections of Premises Equipment To Telecommunications Services <i>All subsections</i>	
	9. Central Office Services <i>All subsections</i>	
	109. Obsolete Central Office Services <i>All subsections</i>	
	10. Misc. Service Offerings <i>All subsections</i>	
	110. Obsolete Misc. Service Offerings <i>All subsections</i>	
	11. Pole Attachments <i>All subsections</i>	

SCHEDULE I
WHOLESALE DISCOUNT
FOR
WASHINGTON

U S WEST Communications Exchange & Network Services Tariff (continued)	12. Open Network Architecture (ONA) Services <i>Note: The (ONA) Service tariff section references other tariffs and sections which are listed in this exhibit. Wholesale discounts for referenced tariffed services apply to ONA</i>	
		13. Reserved
	14. Integrated Services Digital Network <i>All subsections</i>	
	15. Miscellaneous Switched Digital Services <i>All subsections</i>	
		16. - 19. Reserved
	20. Facilities for Radio Carriers <i>All subsections</i>	
		21. - 24. Reserved
	25. Customized Services <i>All subsections</i>	
	125 Obsolete Customized Services <i>All subsections</i>	
U S WEST Communications Private Line Transport Services Tariff	<i>Entire tariff, sections 1. through 6.</i>	
U S WEST Communications Competitive Advanced Communications Services Tariff	<i>Entire tariff: sections 1 - through 6.</i>	
U S WEST Communications Competitive Private Line Transport Services Tariff	<i>Entire tariff, sections 1. through 5.</i>	
U S WEST Communications Competitive Exchange and Network Services Tariff	<i>Entire tariff</i>	
Other Retail Services Deregulated	All retail services provided by U S WEST	
Other Retail Services Unregulated	All retail services provided by U S WEST	
Other Retail Services Detariffed	All retail services provided by U S WEST	

**Schedule 2
NETWORK ELEMENT PRICES
FOR
Washington**

Network Element	Price (Unbundled Network Elements)	Price (Bundled Loop)
Network Interface Device	\$0.53 per line per month	\$0.53 per line per month
Loop Distribution	\$6.08 per line per month	N/A
Loop Concentrator/Multiplexer	\$2.09 per line per month	N/A
Loop Feeder	\$2.63 per line per month	N/A
Aggregated Loop	N/A	\$11.33 per line per month
Switching (LEC switch): Port Usage	\$1.04 per line per month \$0.0018 per minute	\$1.04 per line per month \$0.0018 per minute
Operator Systems/Directory Assistance	\$0.14106 per line per month	\$0.14106 per line per month
Dedicated Transport	\$4.26 per DS-0 equivalent per month	\$4.26 per DS-0 equivalent per month
Common Transport	\$0.00092 per minute (Orig. or Term)	\$0.00092 per minute (Orig. or Term)
Tandem Switching	\$0.0014 per minute	\$0.0014 per minute
Signaling Links	\$45.81 per link per month	\$45.81 per link per month
Signal Transfer Points	\$0.00004 per message	\$0.00004 per message
Service Control Points/Databases	\$0.00095 per message	

m Number Portability	Bill and Keep	
Local Call Termination	Bill & Keep	
Operational Interfaces: Gateway Utilization	Each Party pays own cost TSLRIC / TELRIC	
Virtual & Physical Collocation: Entrance Enclosure: Manhole Handhold Conduit and Interduct from Entrance Enclosure to Cable Vault Core Drill Riser from Cable Vault to Customer Designated equipment Fiber Optic Cable (24 fiber increments) Fiber Cable Splicing Fiber Cable Placement in conduit and riser Copper Cable per 25 pair Copper Cable Splicing Copper Cable Placement in Conduit and Riser Coax Cable RG59 48 Volt DC Power 48 Volt DC Power Cable installation A and B Feeder Pair from Power Source to leased physical space: 20 amp feed 40 amp feed	 \$27.61 per month per manhole \$15.22 per month per handhold \$0.42 per foot per month \$363.13 per core \$0.47 per foot per month \$0.05 per foot per month \$417.43 per setup \$17.40 per fiber per splice \$1.66 per foot \$0.012 per month \$91.27 per splice \$1.66 per foot \$0.20 per foot per month \$7.52 per ampere per month \$0.28 per foot per feed per month and \$50.00 per installation \$0.38 per foot per feed per month and \$68.81 per installation	

60 amp feed	\$0.48 per foot per feed per month and \$86.42 per installation	
AC Power per Watt	\$0.06 per month	
Humidification per leased physical space	\$56.45 per month	
Rack Space Per Shelf	\$5.61 per month	
Labor Charges:		
Equipment Maintenance per 1/2 hour per technician	\$20.48 - Normal Business Hours \$31.33 - Out of Normal Business Hours	
Virtual Training per 1/2 hour	\$23.98 - Normal Business Hours	
Equipment Installation, Change, Removal - per 1/2 hour per technician	\$20.48 - Normal Business Hours \$31.33 - Out of Normal Business Hours	
Engineering Installation, Change, Removal per 1/2 hour per technician	\$25.79 - Normal Business Hours \$39.30 - Out of Normal Business Hours	
Inspector Labor per 1/2 hour per technician	\$22.00 - Normal Business Hours \$37.41 - Out of Normal Business Hours	
<u>Physical Collocation:</u>		
Wire Cage Enclosure, 4 Walls, 8 ft. High w/ Central HVAC:		
0 - 100 sq. ft.	\$175.00 per month	
101 - 200 sq. ft.	\$225.00 per month	
201 - 300 sq. ft.	\$265.00 per month	
301 - 400 sq. ft.	\$305.00 per month	
Wire Cage Enclosure, 4 Walls, 8 ft. High w/ Standalone HVAC:		
0 - 100 sq. ft.	\$355.00 per month	
101 - 200 sq. ft.	\$445.00 per month	
201 - 300 sq. ft.	\$550.00 per month	
301 - 400 sq. ft.	\$600.00 per month	
Wire Cage Enclosure, 4 Walls, 15 ft. High w/ Central HVAC:		
	\$255.00 per month	

0 - 100 sq. ft.	\$315.00 per month	
101 - 200 sq. ft.	\$365.00 per month	
201 - 300 sq. ft.	\$415.00 per month	
301 - 400 sq. ft.		
Wire Cage Enclosure, 4 Walls, 15 ft. High w/ Standalone HVAC:		
0 - 100 sq. ft.	\$385.00 per month	
101 - 200 sq. ft.	\$495.00 per month	
201 - 300 sq. ft.	\$600.00 per month	
301 - 400 sq. ft.	\$655.00 per month	

Schedule 2 DENSITY ZONE PRICING FOR Washington

Network Interface Device (NID):		
Zone 1 - low density	\$0.59	
Zone 2 - mid-density	\$0.62	
Zone 3 - high density	\$0.48	
Loop Distribution with NID:		
Zone 1 - low density	\$21.15	
Zone 2 - mid-density	\$7.77	
Zone 3 - high density	\$4.92	
Loop Concentrator/Multiplexer:		
Zone 1 - low density	\$3.55	
Zone 2 - mid-density	\$3.09	
Zone 3 - high density	\$1.81	
Loop Feeder:		
Zone 1 - low density	\$3.03	
Zone 2 - mid-density	\$2.03	
Zone 3 - high density	\$2.67	
Aggregated Loop:		
Zone 1 - low density	\$27.73	
Zone 2 - mid-density	\$12.89	
Zone 3 - high density	\$9.39	