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BEFORE THE ARIZONA CORPORATION COMMISSION

**IN THE MATTER OF THE U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271 OF
THE TELECOMMUNICATIONS ACT OF
1996**

DOCUMENT CONTROL
Docket No. T-00000B-97-0238

**U S WEST'S OPPOSITION TO THE MOTION TO COMPEL
OF ACI, ELI AND NEXTLINK**

U S WEST Communications, Inc. ("U S WEST"), submits this opposition to the motion to compel of ACI Corp. ("ACI"), Electric Lightwaves, Inc. ("ELI"), and NEXTLINK Arizona, Inc. ("NEXTLINK") (collectively "AEN").

I. INTRODUCTION

The underlying premise of AEN's motion to compel is that U S WEST is refusing to cooperate in the discovery process and is delaying the production of relevant information. This sweeping allegation is exaggerated advocacy that does not reflect the truth. As shown below, U S WEST has gone to unusual lengths to meet the discovery demands of this case and has objected to discovery requests only when those requests have been overreaching and not relevant to the issues that are raised by U S WEST's application under section 271 of the Telecommunications Act of 1996 (the "Act"). AEN's demand for further responses from U S WEST generally relates to data requests that are plainly improper and, in some cases, to requests to which U S WEST has fully responded.

As discovery has progressed in this proceeding, the intervenors have placed enormous discovery demands on U S WEST. In the past eight weeks alone, U S WEST has been required to respond to more than 400 data requests that the intervenors have propounded, including 67

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1 requests from AEN.¹ To meet these demands, U S WEST has devoted a team of between 20 and
2 30 people who have been working daily to keep pace with the intervenors' requests. This team
3 has responded to the intervenors' requests expeditiously and thoroughly. They have provided
4 more than 400 written responses to the data requests and have produced more than 50,000 pages
5 of documents to the intervenors.

6 While AEN's motion may suggest otherwise, U S WEST has a strong incentive to be
7 fully responsive to appropriate requests for discovery from the intervenors. Not only is it
8 U S WEST's obligation to respond in that manner, but U S WEST also recognizes that the
9 disclosure of all non-privileged information relevant to its section 271 application is important to
10 the success of its application. For these reasons, U S WEST has devoted very substantial
11 resources to the task of providing discovery in this case. But even with those resources in place,
12 U S WEST must draw the line at requests that are not designed to serve any meaningful purpose
13 and that would unnecessarily increase the demands on its discovery team. AEN's motion largely
14 involves requests of that nature.²

15 For example, AEN seek to require U S WEST to produce approximately 500,000 pages
16 of material from an unrelated civil antitrust suit pending in another state involving disputes that
17 are unrelated to U S WEST's provision of service in Arizona. AEN also seek information
18 concerning the percentage of the central offices throughout U S WEST's 14-state region that have
19 space available to accommodate certain collocation equipment. U S WEST has 150 central
20 offices in Arizona and 1259 region-wide. No CLEC is collocating in 110 of the Arizona central
21

22 ¹ U S WEST recently received an additional 50 requests from AT&T alone. This is in addition to the 287
23 requests received from AT&T, TCG, MCI WorldCom and Sprint earlier.

24 ² AEN assert that U S WEST has not responded to AEN Data Requests 38, 43, and 44. AEN Motion to
25 Compel at 2 n.1. This is inaccurate. U S WEST has responded to AEN Data Requests 38 and 44 on May
26 13, 1999 and responded to AEN Data Request 43 on May 7, 1999. Accordingly, AEN Data Request
56 -- requesting approximately 500,000 pages of material from unrelated Washington civil antitrust
litigation -- is the only AEN Data Request to which U S WEST has not responded.

1 offices, and 1059 of the offices region-wide have no collocators. AEN's request for information
2 outside Arizona has no bearing on U S WEST's ability to provide collocation in Arizona and is
3 not reasonably calculated to lead to the discovery of admissible evidence. Moreover, to respond
4 to this request, U S WEST would have to gather information for the 1259 central offices in its
5 region. This process would require an enormous amount of time for no legitimate end.

6 Similarly, AEN demand that U S WEST list all 150 central offices in Arizona where
7 U S WEST will not be able to accommodate physical collocation. CLECs are collocating in only
8 40 central offices, leaving 110 without any physical collocations at all. This pattern results from
9 CLEC decisions to focus on densely populated areas to maximize profits. Thus, AEN's request
10 would require U S WEST to provide information for many central offices, particularly in highly
11 rural areas, where no CLEC has requested collocation and where there is no realistic likelihood
12 of such a request. This information has no reasonable bearing on U S WEST's section 271
13 application.

14 With respect to AEN's allegation that U S WEST has delayed in producing information,
15 U S WEST has responded with all relevant information that is readily available and has promptly
16 initiated the processes necessary to gather information that is not readily available. As
17 U S WEST has acknowledged, when U S WEST and Global Crossings recently announced their
18 intended merger, U S WEST temporarily had to divert some of its legal resources to issues
19 relating to the merger. That circumstance caused a short-lived delay of only a few days. In
20 addition, when AEN asked for additional information in meet and confer sessions, U S WEST
21 agreed to provide much of the requested information and has now provided virtually all of that
22 information.

23 AEN's other objection appears to be that U S WEST has not supplemented its responses
24 quickly enough. U S WEST has tried diligently to balance the needs of all intervenors to
25 discovery from U S WEST. With respect to AEN's requests, U S WEST has responded to the
26 vast majority of those requests, has supplemented its responses as it discovered additional

1 information, and produced the additional agreed-upon materials by Friday, June 4.

2 For these reasons and those set forth below, the Hearing Division should reject AEN's
3 motion to compel.

4 **II. DISCUSSION**

5 **A. U S WEST Has Produced And Is In the Process Of Producing All**
6 **Relevant Documents Regarding Collocation in Arizona (AEN Data**
7 **Requests 20, 31 and 34).**

8 Data Request 20 requests that U S WEST identify central offices in Arizona in which it
9 anticipates that it will be unable to accommodate requests for physical collocation. In its March
10 31, 1999 order regarding advanced services and collocation, the FCC ordered incumbent local
11 exchange carriers ("ILECs") to post information on the Internet regarding central offices that
12 ILECs know are full. First Report and Order and Further Notice of Proposed Rulemaking,
13 Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC
14 Docket No. 98-187, FCC 98-48 ¶ 58 (rel. Mar. 31, 1999) ("Collocation Order"). In accordance
15 with the Collocation Order, U S WEST has established a publicly available Internet site that
16 provides this information to AEN and any other interested carrier. AEN can access this site at
17 http://www.uswest.com/carrier/customer_specific/clecs/index.html. By clicking on "Bulletins,"
18 AEN can access U S WEST's "Collocation Space Availability Summary." U S WEST refers
19 AEN to the U S WEST website in response to this data request. It is entirely permissible for
20 U S WEST to refer AEN to this publicly-available Internet site in lieu of reproducing the
21 information it contains.

22 Paragraph 58 of the Collocation Order does not require, as AEN imply, U S WEST to
23 provide the global information it requests in any other form. Paragraph 58 merely requires an
24 ILEC that receives a specific request for collocation at a particular ILEC central office to provide
25 a report within 10 days specifying the amount of collocation space available at the specific
26 requested premises, the number of collocators, and any modifications in the use of the space

1 since the last report. Collocation Order ¶ 58. Thus, the additional reporting referenced in
2 paragraph 58 relates solely to actual requests for collocation at a particular ILEC premises, not an
3 obligation to respond to a discovery request regarding collocation space in central offices where
4 no CLEC has formally requested collocation.

5 As set forth above, only 40 central offices in Arizona have collocators. It is a waste of
6 U S WEST's time and resources to investigate space availability in the overwhelming majority
7 (110) of central offices that have no collocators and where CLECs have expressed no interest in
8 obtaining collocation. Accordingly, the Hearing Division should reject AEN's motion to compel
9 a further response to Data Request 20.

10 AEN Data Request 31 seeks information regarding the percentage of space available in
11 central offices in Arizona and region-wide to accommodate DS0 and DS1 ICDFs and how many
12 lines can be provisioned from each office using DS0 ICDFs. U S WEST opposed this request
13 because the information sought exceeds the scope of information U S WEST is required to
14 provide under paragraph 58 of the FCC's Collocation Order, is burdensome, and requests region-
15 wide information that is irrelevant to this proceeding. With respect to space constraints in its
16 central offices, U S WEST has established the requisite Internet site which provides AEN the
17 type of information they need. Contrary to AEN's arguments, U S WEST must do no more.

18 Furthermore, U S WEST should not be required to survey all of its Arizona central
19 offices regarding space availability for DS0 and DS1 ICDF frames. As noted above, U S WEST
20 has 150 central offices in Arizona alone, many of which are located in rural areas in which no
21 CLEC has requested collocation or will likely request collocation. U S WEST should not be
22 required to expend its time and resources investigating space availability in central offices in
23 which AEN and other CLECs have no interest in ever collocating. This is even more true for the
24 1059 central offices region-wide in which no CLEC has collocated. If AEN can identify specific
25 Arizona central offices in which they intend to collocate or specific Arizona central offices in
26 which they believe there may be space constraints, U S WEST will provide the information.

1 In addition, AEN are not entitled to region-wide information regarding central offices that
2 have space available to accommodate DS0 and DS1 ICDF frames. U S WEST does not provide
3 collocation on a region-wide basis. The FCC's Section 271 Orders make clear that region-wide
4 information is relevant only where a region-wide solution, such as an OSS interface, is used.
5 See, e.g., Application of BellSouth Corp., BellSouth Telecomm., Inc., and BellSouth Long
6 Distance, Inc. for Provision of In-Region, interLATA Services in Louisiana, CC Docket No. 98-
7 121, Memorandum Opinion and Order ¶ 56 (rel. Oct. 13, 1998) ("Second BellSouth Louisiana
8 Order") ("In situations where BellSouth provides access to a particular checklist item through a
9 region-wide process such as its OSS, we will consider both region-wide and state specific
10 evidence in our evaluation of that checklist item"). Where a BOC does not provide a checklist
11 item on a uniform, region-wide basis (as with collocation), region-wide information is irrelevant
12 to determining whether the BOC satisfies the checklist item in a specific state.

13 Regardless, AEN state that information regarding "U S WEST's collocation activities
14 outside Arizona may assist the Commission in evaluating whether U S WEST satisfies the
15 requirements of checklist item 1 of the Section 271 14-point checklist." AEN Motion to Compel
16 at 6. Beyond this conclusory statement, AEN do not explain how such information is relevant to
17 this proceeding. In fact, it is difficult to conceive how information regarding possible space
18 limitations in central offices in other states is remotely relevant to determining whether
19 U S WEST accommodates collocation in Arizona. Each state poses unique demands for
20 collocation facilities, depending on the competitive climate of the state, population and
21 demographics, the number and configuration of central offices in the state, and the number of
22 CLEC requests for collocation.

23 AEN Data Request 34 asks U S WEST to identify spare COSMIC frame/MDF capacity
24 in all Arizona central offices, spare capacity on ICDF frames in all Arizona central offices, and
25 vacant floor space in all central offices that could be used to expand COSMIC frames and MDFs.
26 This request is overbroad and unrelated to U S WEST's obligation to provide collocation.

1 As set forth above, the FCC's Collocation Order does not impose the broad reporting
2 obligations regarding spare frame capacity that AEN seek in Data Request 34. ILECs are only
3 required to identify central offices in which it is known that space is unavailable for physical
4 collocation and to respond to specific requests for physical collocation. Collocation Order ¶ 58.
5 Since ILECs are not required to survey their central offices for space availability issues relating
6 to their own distribution frames, AEN's request is irrelevant and overly burdensome.

7 Furthermore, as noted above, U S WEST should have be required to devote resources to
8 surveying frame capacity and floor space in all of its 150 Arizona central offices, particularly its
9 rural central offices. AEN and other CLECs have shown no interest in collocating in 110 of
10 these Arizona central offices; surveying frame capacity and floor space in those central offices is
11 unnecessary to determining whether U S WEST accommodates collocation requests.

12 U S WEST has provided the collocation information it is required to provide under the
13 FCC's orders and any reasonable standard of relevance. AEN's requests for further information
14 are overly broad, and any marginal relevancy of the information is far outweighed by the burden
15 imposed on U S WEST. The Commission should reject AEN's motion to compel further
16 responses to Data Requests 20, 31, and 34.

17 **B. U S WEST Has Produced And Is In the Process Of Producing All**
18 **Relevant Documents Regarding Trunking (AEN Data Requests 3, 4,**
19 **7-11, and 14).**

20 These data requests relate to information concerning trunks, trunk capacity, and
21 provisioning intervals for trunk orders. At the meet and confer session, AEN initially
22 complained that U S WEST had not provided this information in a disaggregated form -- by
23 specific trunk groups and carriers. AEN claimed they need this information to compare blockage
24 on each CLEC's network with blockage on U S WEST's network. U S WEST has supplemented
25 its responses to AEN Data Requests 3, 9, 10, 11 and 14.

26 During the week of May 17, U S WEST informed AEN -- ELI, in particular -- that it
would provide this information in a disaggregated form. In doing so, U S WEST emphasized

1 that providing this information by trunk group in response to AEN Data Requests 4, 7, and 8
2 would reveal highly confidential information about U S WEST and its competitors alike.
3 Specifically, the information shows the extent to which carriers are utilizing trunk groups, which
4 bears directly on their business plans. For this reason, U S WEST always has treated as highly
5 confidential information relating to its trunk use and the trunk use of carriers that are
6 interconnected with U S WEST.

7 Upon learning that production of the trunk data would reveal confidential information,
8 AEN told U S WEST to postpone producing the information to permit AEN to consider the risk
9 of having it produced. On June 2, 1999, ELI, on behalf of the intervenors, asked U S WEST to
10 produce the information, but to mask CLEC-specific information. Masking the data, however,
11 will not allow AEN to perform a nondiscrimination analysis, which calls into question the basis
12 for the request. AEN now claim that they need the information to compare blocking on a "switch
13 by switch basis between CLECs and U S WEST." This, however, is not a proper analysis.
14 Section 251(c)(2)(C) of the Act requires U S WEST to provide CLECs with "interconnection that
15 is at least equal in quality to that provided . . . to itself" To perform this analysis, the
16 Commission must compare U S WEST's Arizona network with the CLEC's Arizona network.
17 Such an analysis does require CLECs to obtain information about the U S WEST trunk groups to
18 which they are interconnected, and that their calls pass over. At the same time, this analysis
19 cannot be performed without knowing the trunk groups attributed to each CLEC. Moreover,
20 redacting this information, as AEN request, would be a tremendous undertaking and a waste of
21 time.

22 AEN's purported basis for masking the information is to protect against other CLECs
23 using information improperly. Importantly, at the same time, they ask U S WEST to trust that
24 the confidentiality agreements in place will protect its data. However, if a CLEC wanted to
25 obtain confidential information, it could determine which trunk groups belong to each CLEC by
26 comparing the data AEN seek with the fiber maps being produced to U S WEST in response to

1 Data Request 5 of Attachment A. Thus, the Hearing Division should order AEN to make a
2 choice: (1) disaggregated data for all parties with all information disclosed; or (2) no
3 disaggregated data at all. Treating all parties the same way, U S WEST and CLECs alike, seems
4 the fair and appropriate option.

5 **C. U S WEST Has Produced All Relevant Documents Regarding**
6 **Affiliate Transactions (AEN Data Requests 12, 16, 46, and 63).**

7 U S WEST responded to AEN Data Requests 12, 16, 46 and 63 and provided information
8 regarding affiliate transactions in its original data request responses served on April 25, 1999.
9 All of the information AEN seek is contained in those materials and U S WEST's responses. In
10 an attempt to assist AEN, however, U S WEST has provided supplemental information to clarify
11 the information it has already provided. Accordingly, there is no basis to compel further
12 responses from U S WEST.

13 **D. U S WEST's Responses to AEN Data Requests 29, 36, and 37 Are**
14 **Proper And Complete Given The State Of The Law.**

15 AEN Data Requests 29, 36, and 37 request information regarding the combinations of
16 network elements U S WEST will provide and the unbundled network elements U S WEST will
17 provide. U S WEST responded to these requests regarding the elements it will provide while the
18 FCC adopts new unbundling rules and the means by which CLECs can access unbundled
19 elements during this interim period. U S WEST should be required to provide no further
20 response.

21 In AT&T Corp. v. Iowa Utils. Bd., 119 S. Ct. 721 (U.S. 1999), the United States Supreme
22 Court vacated in its entirety the FCC rule -- 47 C.F.R. § 51.319 -- that defined the network
23 elements ILECs must unbundle under 47 U.S.C. §§ 251(d)(2) and 251(c)(3). The Court held that
24 the FCC failed to consider adequately the standard for determining which elements must be
25 unbundled set forth in Section 251(d)(2). The FCC has issued a notice of proposed rulemaking
26 in response to the Supreme Court's decision and is in the process of receiving comments from

1 numerous industry participants. It has not, however, issued final orders setting forth the network
2 elements ILECs must provide under the Act. As a result, there is currently no valid FCC rule
3 setting forth the elements ILECs must provide to competitors under the Act.

4 Because there is no rule establishing which network elements ILECs must unbundle in
5 the first instance, and the FCC has not yet finished its rulemaking to address the Supreme Court's
6 decision, there is currently no means of determining what currently combined elements
7 U S WEST must provide pursuant to 47 C.F.R. § 51.315(b), and no rules establishing the terms
8 and conditions for accessing both unbundled network elements and combinations of network
9 elements. State commissions that have considered this issue have agreed with U S WEST's
10 position. For example, in considering U S WEST's section 271 application in Nebraska, the
11 Nebraska commission agreed that until the FCC issues new unbundling rules, it is not possible to
12 predict which network elements must be unbundled and which combinations CLEC are entitled
13 to access. See Factual Findings and Partial Verification, In the Matter of U S WEST
14 Communications, Inc., Denver, Colorado, Filing Its Notice of Intention to File Section 271(c)
15 Application with the FCC and Request for Commission to Verify U S WEST Compliance with
16 Section 271(c), Application No. C-1830, at 55 (Neb. PSC April 9, 1999).

17 In light of this uncertain state of the law, U S WEST has responded to the data requests in
18 the most forthright manner currently possible. During the interim period until the FCC issues
19 new unbundling rules in response to AT&T Corp. v. Iowa Utils. Bd., U S WEST has notified the
20 FCC that U S WEST will honor existing interconnection agreements with respect to the
21 availability and pricing of unbundled network elements. Accordingly, during this interim period,
22 U S WEST will provide the elements set forth in those agreements. With respect to
23 combinations, during this interim period, it is the CLEC's responsibility to combine any
24 unbundled elements purchased from U S WEST and to perform all engineering design functions
25 to ensure the end-to-end functionality of the combinations the CLEC creates.

26 Once the FCC issues valid unbundling rules in response to the Supreme Court's decision,

1 U S WEST will comply with all legal obligations in providing access to UNEs, including
2 obligations arising under AT&T Corp. v. Iowa Utils. Bd. Thus, the response U S WEST has
3 provided informs AEN how U S WEST "intend[s] to provision combinations of unbundled
4 network elements" in light of AT&T Corp. v. Iowa Utils. Bd. as Data Request 29 asks and
5 responds to AEN's request "whether there are any unbundled network element combinations that
6 U S WEST will provide on an unseparated basis . . ." as requested in Data Request 37.

7 U S WEST provides a similar response to Data Request 36, which asks U S WEST to
8 identify the unbundled network elements it currently offers and to explain any possible alteration
9 to that list of elements. AEN argue that U S WEST's response does not "provide any detailed
10 information responsive to the specific data sought in the request." AEN Motion to Compel at 9.
11 In addition to its explanation regarding the effect of AT&T Corp. v. Iowa Utils. Bd., U S WEST
12 also stated that its Arizona Statement of Generally Available Terms and conditions for
13 Interconnection ("SGAT") provides CLECs with access to the network elements in now-vacated
14 Rule 319. In response to Data Request 36(a), U S WEST identified the parties that have
15 requested access to unbundled loops and refers AEN to Exhibit WGA-6 for copies of existing
16 interconnection agreements. In response to Data Request 36(b), (c), and (e), regarding rates,
17 U S WEST referred AEN to its Arizona interconnection agreements and its SGAT. Finally, in
18 response to Data Request 36(d), U S WEST identified the unbundled loops it has provisioned as
19 of April 10, 1999. Thus, U S WEST has provided information in response to the specific data
20 sought in Data Request 36.

21 U S WEST should not be compelled to predict what the FCC will require with respect to
22 network element unbundling and combinations of elements. The response U S WEST has
23 provided to the AEN Data Requests is a complete, straightforward response given the current
24 state of the law.

1 **E. U S WEST Has Produced And Is In the Process Of Producing All**
2 **Relevant Documents Regarding Local Loops (AEN Data Requests 51**
3 **and 40).**

4 AEN complain about U S WEST's responses to two data requests seeking information
5 about U S WEST's provisioning of unbundled loops. Neither complaint has merit.

6 First, AEN state that U S WEST has not responded adequately to AEN Data Request 51,
7 which seeks information about the types of unbundled loops U S WEST has provisioned in
8 Arizona, including, for example, how many of the loops are two-wire analog and four-wire
9 analog. U S WEST responded to this request by stating accurately that it does not track the
10 detailed information the request seeks. That statement is true; U S WEST does not have a data
11 base for recording information about the detailed characteristics of each loop it provisions in
12 Arizona.

13 Nevertheless, in response to the concerns AEN expressed during the meet and confer
14 process, U S WEST's discovery team extracted loop-specific information that responds to AEN
15 Data Request 51. This process was extremely time-consuming, but resulted in the information
16 that AEN apparently seek. U S WEST has provided AEN with that information, rendering moot
17 AEN's complaint about U S WEST's response to this data request.

18 Second, AEN assert that U S WEST has not adequately responded to AEN Data Request
19 40, which asks U S WEST to describe the method by which a CLEC can gain access to an
20 unbundled loop from a remote switch without being collocated at the switch. However, as
21 shown by the request and response, set forth below, U S WEST has fully responded:

22 **AEN Request No. 40**

23 Will U S WEST permit a CLEC to have access to an unbundled loop
24 provisioned from a remote switch without being collocated at the remote
25 switch? If so, please describe the method by which U S WEST will permit
26 a CLEC access to such unbundled loops.

U S WEST Response

1 Yes. U S WEST will permit a CLEC to have access to an unbundled loop
2 that is provisioned from a remote switch where a CLEC is not collocated.
3 The method that the CLEC would use to access these loops is listed below.

4 U S WEST has various unbundled network elements (UNEs), that the
5 CLEC can purchase, access, and combine to transport the desired
6 telecommunications services.

7 A number of these UNEs, including dedicated transport and unbundled
8 loops, could be combined to create an extended loop product if desired by
9 a CLEC. Unbundled dedicated transport, usually referred to as unbundled
10 interoffice dedicated transport or UDIT, consists of facilities between
11 U S WEST Central Offices. Unbundled loops consist of facilities between
12 U S WEST Serving Wire Centers and network interface devices on end
13 user premises. High and low side multiplexing equipment provides the
14 required interface between unbundled dedicated transport and unbundled
15 loops.

16 It is the responsibility of the CLEC to combine any UNEs purchased from
17 U S WEST. It also is CLEC's responsibility to perform all engineering
18 design functions required to ensure the end-to-end functionality of
19 combined elements.

20 This response explains the options available to CLECs that desire to access an unbundled
21 loop provisioned from a remote switch without being collocated at the remote switch. As such,
22 the response provides the information requested in the data request. Accordingly, there is no
23 basis for compelling a further response.

24 **F. U S WEST Will Produce All Relevant Documents Regarding Number
25 Portability In Response To AEN Data Requests 59 and 60 When That
26 Information Is Available.**

AEN seek information regarding orders for interim number portability since January
1999. U S WEST responded that it would provide the information with its rebuttal testimony in
this proceeding or earlier if it is completed in advance. AEN argue, however, that U S WEST
should provide this material sooner so that AEN have the opportunity to respond.

The simple answer to AEN's request is that the information it seeks has not yet been
compiled. U S WEST responded that it would provide the requested information, at the latest,
along with its rebuttal testimony because U S WEST knew the data would be available at that

1 time. To the extent the number portability data AEN seek is available sooner, however,
2 U S WEST will certainly provide it.

3 **G. U S WEST Is Not Required To Produce Cost Information Already**
4 **Providing in Commission Cost Proceedings (AEN Data Requests 21**
5 **and 26).**

6 AEN Data Requests 21 and 26 ask U S WEST to produce cost materials on which it
7 relied for determining the costs of physical and virtual collocation (AEN Data Request 21) and
8 for determining the cost of unbundled network elements (AEN Data Request 26). U S WEST
9 has already produced the materials AEN seek in the Commission's cost docket proceeding,
10 Docket No. U3021-96-448, and the Commission has rendered its decision. That decision has
11 also been reviewed by the Arizona federal district court.

12 AEN argue that U S WEST should be required to reproduce all of this material because
13 some parties to this proceeding were not parties to the cost docket proceeding. AEN Motion to
14 Compel at 12. Regardless, there is no reason to require U S WEST to assume the significant
15 burden of reproducing all of its cost data and support in this proceeding. The information AEN
16 seek is publicly available in the Commission's files. To the extent any of the requested material
17 is not confidential, AEN are free to obtain whatever materials they desire from those files. To
18 the extent AEN simply wish to know the basis for the UNE rates, as their motion implies, AEN
19 should consult the Commission's cost docket decision, attached hereto as Exhibit 1, as the best
20 source for determining the basis for the Commission's pricing decisions.

21 **H. Outdated Studies Regarding U S WEST COSMIC and MDF Frame**
22 **Reliability Are Irrelevant To This Proceeding. Regardless,**
23 **U S WEST Does Not Have Possession Of Those Outdated Studies**
24 **(AEN Data Request 33).**

25 AEN Data Request 33 seeks studies comparing the reliability of COSMIC frames with
26 main distribution frames ("MDFs"). U S WEST responded that the only studies of which it was
aware are Bellcore studies that pre-date the divestiture of AT&T and, accordingly, are more than
15 years old. Because of their age, these reports have marginal relevance, especially because

1 COSMIC and MDF frames continue to be in use. U S WEST further responded that because
2 both frame types are extremely reliable, it has seen no need to replicate the Bellcore studies.

3 Nevertheless, in meet and confer sessions with AEN, U S WEST agreed to provide these
4 studies if it could locate them. After investigating the issue, U S WEST has been unable to
5 locate copies of the studies. Accordingly, it has no material to produce in response to this
6 request. If AEN wish to obtain copies of these studies, they should consult Bellcore, the entity
7 that performed them.

8 **I. U S WEST Should Not Be Compelled To Provide Further Responses**
9 **To AEN Data Requests 15, 13, 39 and 56.**

10 AEN argue that U S WEST has not yet supplemented its responses to AEN Data
11 Requests 13, 15 and 39. As of this date, U S WEST has responded to or provided supplemental
12 clarification to AEN Data Requests 13, 15 and 39, as requested. Accordingly, there is no basis to
13 compel responses to these data requests.

14 U S WEST, however, objects to AEN Data Request 56 altogether, which asks U S WEST
15 to produce all responses and all documents U S WEST produced to any non-U S WEST party in
16 Electric Lightwave, Inc. v. U S WEST, Docket No. C9701073, Western District of Washington,
17 Seattle Division, a civil antitrust suit involving disputes in Oregon, Utah and Washington.
18 U S WEST opposed this request because it is unduly burdensome, calls for the production of
19 privileged information, and is irrelevant. AEN claim that these objections are "perfunctory" and
20 should be denied.

21 U S WEST's objections are well founded. In the Washington ELI litigation, which is still
22 ongoing, U S WEST has responded to countless interrogatories and requests for production of
23 documents. By U S WEST's estimation, providing the information AEN seek would require
24 U S WEST to produce approximately 500,000 pages of materials. Responding to this single data
25 request would require U S WEST to produce approximately ten times the pages of material it has
26 produced in the entirety of this proceeding. Rather than focus its requests to topics that may be

1 relevant to this Arizona proceeding, AEN impose the tremendous burden on U S WEST of
2 producing hundreds of thousands of pages of irrelevant material.

3 In addition to the tremendous burden this request imposes, the requested material is
4 irrelevant to this proceeding. The ELI Washington litigation involves disputes from Oregon,
5 Utah and Washington, not Arizona,³ and U S WEST's discovery responses in that litigation have
6 focused on issues in those states. Thus, discovery from that unrelated litigation has no bearing
7 on U S WEST's compliance with the competitive checklist in Arizona.

8 AEN assert, without explanation, that this 500,000 pages of material "relates directly to
9 U S WEST's policies concerning interconnection," AEN Motion to Compel at 15, but they do not
10 state how or why material from a civil antitrust suit in another state involving disputes in other
11 states is relevant to this proceeding. As set forth above, the FCC's Section 271 Orders make
12 clear that region-wide information, which is essentially what AEN seek, is relevant only where a
13 region-wide solution is used. See, e.g., Second BellSouth Louisiana Order ¶ 56 ("In situations
14 where BellSouth provides access to a particular checklist item through a region-wide process
15 such as its OSS, we will consider both region-wide and state specific evidence in our evaluation
16 of that checklist item"). Unlike OSS, "interconnection" is not a region-wide system with region-
17 wide applicability. Accordingly, region-wide information is irrelevant to determining whether
18 U S WEST satisfies the interconnection checklist item in Arizona. U S WEST has provided and
19 will provide information in response to AEN's data requests relating to interconnection activities
20 in Arizona. Since interconnection is not a region-wide system, the information AEN seek from
21 the Washington ELI litigation is irrelevant to this proceeding.

22 AEN also take U S WEST to task for not preparing a privilege log with respect to this
23 request. Because U S WEST has interposed general relevancy and burdensomeness objections to
24

25
26 ³ Indeed, in the Washington litigation, ELI initially raised some vague complaints regarding U S WEST's
provision of service in Arizona. The Court, however, dismissed those issues over a year ago.

1 this request, and will not produce the requested material unless compelled to do so, U S WEST
2 has not prepared a specific privilege log.⁴ Similarly, because this material is irrelevant to this
3 proceeding, U S WEST opposes requiring the Hearing Division to take valuable time and devote
4 scarce resources to pouring over countless pages of irrelevant materials in camera.

5 **III. CONCLUSION**

6 The Hearing Division should deny AEN's motion to compel. U S WEST has worked
7 diligently to respond to over 400 data requests served by numerous parties in this proceeding.
8 With respect to AEN, in meet and confer sessions, U S WEST agreed to supplement its responses
9 on virtually every issue AEN raised and has provided that supplemental information to AEN.
10 There is simply no basis for compelling further responses from U S WEST.

11 Respectfully submitted,

12
13 By: 
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16 Thomas M. Dethlefs
17 U S WEST Law Department
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22
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25 3003 North Central Ave., Suite 2600
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Attorneys for U S WEST Communications, Inc.

26 ⁴ Given the amount of material at issue, preparation of such a log alone could be a monumental task.

1 **ORIGINAL and 10 copies of the foregoing filed**
2 **this 1st day of June, 1999, with:**

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 W. Washington St.
6 Phoenix, AZ 85007

7 **COPY of the foregoing hand**
8 **delivered this 1st day of June, 1999, to:**

9 Maureen A. Scott, Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 W. Washington St.
12 Phoenix, AZ 85007

13 Ray Williamson, Acting Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 W. Washington St.
17 Phoenix, AZ 85007

18 Jerry Rudibaugh, Chief Hearing Officer
19 Hearing Division
20 ARIZONA CORPORATION COMMISSION
21 1200 W. Washington
22 Phoenix, AZ 85007

23 **COPY of the foregoing faxed and mailed**
24 **this 1st day of June, 1999, to:**

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26



EXHIBIT 1

BEFORE THE ARIZONA CORPORATION COMMISSION

2 JIM IRVIN
COMMISSIONER - CHAIRMAN
3 RENZ D. JENNINGS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER

5 IN THE MATTER OF THE PETITION OF)
6 AMERICAN COMMUNICATIONS SERVICES,)
7 INC. AND AMERICAN COMMUNICATIONS)
8 SERVICES OF PIMA COUNTY, INC. FOR)
9 ARBITRATION WITH U S WEST)
10 COMMUNICATIONS, INC. OF)
INTERCONNECTION RATES, TERMS, AND)
CONDITIONS PURSUANT TO 47 U.S.C.)
§ 252(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996.)

DOCKET NO. U-3021-96-448
DOCKET NO. U-3245-96-448
DOCKET NO. E-1051-96-448

11 IN THE MATTER OF THE PETITION OF)
12 AT&T COMMUNICATIONS OF THE)
13 MOUNTAIN STATES, INC. FOR)
14 ARBITRATION WITH U S WEST)
15 COMMUNICATIONS, INC. OF)
16 INTERCONNECTION RATES, TERMS, AND)
CONDITIONS PURSUANT TO 47 U.S.C.)
§ 252(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996.)

DOCKET NO. U-2428-96-417
DOCKET NO. E-1051-96-417

17 IN THE MATTER OF THE PETITION OF)
18 MFS COMMUNICATIONS COMPANY, INC.)
19 FOR ARBITRATION WITH U S WEST)
20 COMMUNICATIONS, INC. OF)
21 INTERCONNECTION RATES, TERMS, AND)
CONDITIONS PURSUANT TO 47 U.S.C.)
§ 252(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996.)

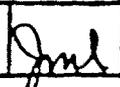
DOCKET NO. U-2752-96-362
DOCKET NO. E-1051-96-362

22 IN THE MATTER OF THE PETITION OF)
23 TCG PHOENIX FOR ARBITRATION WITH)
24 U S WEST COMMUNICATIONS, INC. OF)
25 INTERCONNECTION RATES, TERMS, AND)
CONDITIONS PURSUANT TO 47 U.S.C.)
§ 252(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996.)

DOCKET NO. U-3016-96-402
DOCKET NO. E-1051-96-402

Arizona Corporation Commission
DOCKETED

JAN 30 1998

DOCKETED BY 

1 IN THE MATTER OF THE PETITION OF)
2 MCIMETRO ACCESS TRANSMISSION)
3 SERVICES, INC. FOR ARBITRATION OF)
4 THE RATES, TERMS, AND CONDITIONS OF)
5 INTERCONNECTION WITH U S WEST)
6 COMMUNICATIONS, INC. PURSUANT TO)
7 47 U.S.C. § 252(b) OF THE)
8 TELECOMMUNICATIONS ACT OF 1996.)

DOCKET NO. U-3175-96-479
DOCKET NO. E-1051-96-479

6 IN THE MATTER OF THE PETITION OF)
7 BROOKS FIBER COMMUNICATIONS OF)
8 TUCSON, INC. FOR ARBITRATION OF THE)
9 RATES, TERMS, AND CONDITIONS OF)
10 INTERCONNECTION WITH U S WEST)
11 COMMUNICATIONS, INC. PURSUANT TO)
12 § 252(b) OF THE TELECOMMUNICATIONS)
13 ACT OF 1996.)

DOCKET NO. U-3009-96-478
DOCKET NO. E-1051-96-478

11 IN THE MATTER OF THE PETITION OF)
12 SPRINT COMMUNICATIONS COMPANY, L.P.)
13 FOR ARBITRATION WITH U S WEST)
14 COMMUNICATIONS, INC. OF)
15 INTERCONNECTION RATES, TERMS, AND)
16 CONDITIONS PURSUANT TO 47 U.S.C.)
17 § 252(b) OF THE TELECOMMUNICATIONS)
18 ACT OF 1996.)

DOCKET NO. U-2432-96-505
DOCKET NO. E-1051-96-505

16 IN THE MATTER OF THE PETITION OF)
17 GST TUCSON LIGHTWAVE, INC.)
18 FOR ARBITRATION OF THE)
19 RATES, TERMS, AND CONDITIONS OF)
20 INTERCONNECTION WITH U S WEST)
21 COMMUNICATIONS, INC. PURSUANT TO)
22 § 252(b) OF THE TELECOMMUNICATIONS)
23 ACT OF 1996.)

DOCKET NO. U-3155-96-527
DOCKET NO. E-1051-96-527

21 IN THE MATTER OF THE PETITION OF)
22 COX ARIZONA TELECOM, INC. FOR)
23 ARBITRATION WITH U S WEST)
24 COMMUNICATIONS, INC. OF)
25 INTERCONNECTION RATES, TERMS, AND)
26 CONDITIONS PURSUANT TO 47 U.S.C.)
27 § 252(b) OF THE TELECOMMUNICATIONS)
28 ACT OF 1996.)

DOCKET NO. U-3242-97-017
DOCKET NO. E-1051-97-017

DECISION NO. *60635*

OPINION AND ORDER

26
27
28

DATE OF PRE-ARBITRATION
CONFERENCE:

November 14, 1996

DATES OF ARBITRATION:

November 18, 19, 20, 21, 22, 25, 26 and 27, 1996

PLACE OF ARBITRATION:

Phoenix, Arizona

PRESIDING ARBITRATORS:

Jerry Rudibaugh, Lyn Farmer, and Barbara M. Behun

APPEARANCES:

FENNEMORE CRAIG, by Mr. Timothy Berg on behalf of U S WEST Communications, Inc.; and Norton Cutler and Kathryn E. Ford on behalf of U S WEST, Inc. and PERKINS COIE, by Mr. Robert L. Deitz on behalf of U S WEST Communications, Inc.;

BROWN & BAIN, P.A., by Mr. Lex Smith on behalf of TCG Phoenix;

BROWN & BAIN, P.A., by Mr. Michael Patten and KELLEY DRYE & WARREN, LLP, by Mr. Chip Yorkgitis on behalf of American Communications Services, Inc. and American Communications Services of Pima County, Inc.;

OSBORN MALEDON, P.A. by Ms. Joan S. Burke and DAVIS WRIGHT TREMAINE, by Mr. Daniel Waggoner, Ms. Mary E. Steele, and Mr. Richard S. Wolters on behalf of AT&T Communications of the Mountain States, Inc.;

SWIDLER & BERLIN, by Mr. Douglas G. Bonner on behalf of MFS Communications Company, Inc. and GST Tucson Lightwave, Inc.;

LEWIS & ROCA, LLP, by Mr. Thomas H. Campbell on behalf of MCI metro Access Transmissions Services, Inc.;

MCI TELECOMMUNICATIONS CORPORATION, by Mr. Thomas F. Dixon, Jr., Senior Attorney, on behalf of MCI metro Access Transmission Services, Inc.;

SNELL & WILMER, LLP, by Mr. Thomas L. Mumaw on behalf of Brooks Fiber Communications of Tucson, Inc.;

Mr. Donald A. Low on behalf of Sprint Communications Company, L.P.;

Mr. Paul Michaud on behalf of the Residential Utility Consumer Office; and

Mr. Christopher C. Kempley, Assistant Chief Counsel, on behalf of the Utilities Division of the Arizona Corporation Commission.

1 BY THE COMMISSION:

2 In separate dockets, each of the above parties filed with the Arizona Corporation Commission
3 ("Commission") a petition for arbitration of interconnection rates, terms and conditions with U S WEST
4 Communications, Inc. ("U S WEST"), pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act
5 of 1996 ("Act"). Decisions regarding issues raised in each party's arbitration have been or will be
6 handled separately, with the exception that many of the pricing issues were either resolved on an interim
7 basis, to be tried up after this Decision, or were deferred to this Decision.

8 I. INTRODUCTION

9 A. Legal and Procedural History

10 The Act, effective February 8, 1996, sets forth the duties of telecommunications carriers and
11 establishes particular obligations of local exchange carriers ("LECs") regarding interconnection, the
12 provision of telecommunications services on an unbundled basis, and the offering of telecommunications
13 services for resale at wholesale rates. The Act also instructed the Federal Communications Commission
14 ("FCC") to issue regulations interpreting the Act by August 8, 1996. On July 2, 1996, the FCC issued
15 *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of
16 Proposed Rulemaking, FCC 96-268 ("TNP Order"), which established rules to provide for a customer
17 who changes LECs to keep the same telephone number.¹ On August 8, 1996, the FCC released
18 *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket
19 No. 96-98, First Report and Order, FCC 96-325 ("FCC Order") and *Implementation of the Local*
20 *Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report
21 and Order and Memorandum Opinion and Order, FCC 96-333, which established initial rules ("FCC
22 Rules") to accomplish the goals of the Act.

23 Concurrently, the Commission approved A.A.C. R14-2-1301 through R14-2-1311
24 ("Interconnection Rules"), in Decision No. 59761 (July 22, 1996), which govern interconnection of
25 networks of incumbent LECs ("ILECs") and competing LECs ("CLECs"). A.A.C. R14-2-1501 through
26 R14-2-1507 ("Arbitration and Mediation Rules"), approved in Decision No. 59762 (July 22, 1996).

27
28 In the individual arbitration Decisions, the Commission has decided interim number
portability issues in accordance with the FCC's methodology, and incorporates that resolution herein.

1 authorized the Hearing Division to establish procedures and conduct arbitrations to resolve disputes
2 regarding interconnection, the provision of telecommunications services, and resale services.

3 The Act provides for a CLEC to attempt to negotiate interconnection terms directly with the
4 ILEC, and if unsuccessful, either party may request the State commission to arbitrate the unresolved
5 issues. The Act requires the State commission to resolve the remaining issues within 180 days of a
6 telecommunications carrier's initial interconnection request. Pursuant to the Act, § 252, just and
7 reasonable rates for interconnection and network elements are to be based on the cost of providing the
8 interconnection or network element. The rates must be nondiscriminatory and may include a reasonable
9 profit. The wholesale rates for resale services are to be the ILEC's retail rates excluding costs of
10 marketing, billing, collection and other costs avoided when selling resale rather than retail.

11 As stated in the Act, § 252(d)(1):

12 **INTERCONNECTION AND NETWORK ELEMENT CHARGES.** -
13 Determinations by a State commission of the just and reasonable rate for the
14 interconnection of facilities and equipment for purposes of subsection (c)(2) of section
251, and the just and reasonable rate for network elements for purposes of subsection
(c)(3) of such section -

- 15 (A) shall be -
16 (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
17 (ii) nondiscriminatory, and
(B) may include a reasonable profit.

18 The Act requires the following regarding the sale of services available for resale, at § 252 (d)(3):

19 **WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.** - For the
20 purposes of section 251(c)(4), a State commission shall determine wholesale rates on the
21 basis of retail rates charged to subscribers for the telecommunications service requested,
excluding the portion thereof attributable to any marketing, billing, collection, and other
costs that will be avoided by the local exchange carrier.

22 The FCC's Rules require the use of total element long run incremental cost ("TELRIC")
23 methodology to compute rates. TELRIC methodology includes the forward-looking costs that can be
24 attributed directly to the provision of services using that element, and includes a reasonable share of an
25 ILEC's forward-looking joint and common costs. The FCC Order established default proxy ceilings or
26 ranges, which the FCC determined to be reasonable and in compliance with TELRIC methodology.
27 A.A.C. Rule 14-2-1309 requires the use of total service long run incremental costs ("TSLRIC") to
28 determine costs. TSLRIC is the total additional cost incurred by a telecommunications company to

1 produce the entire quantity of a service, given that the company already provides all of its other services.
2 TSLRIC is based on the least cost, most efficient technology that is capable of being implemented at the
3 time the decision to provide the service is made.

4 American Communications Services, Inc. and American Communications Services of Pima
5 County, Inc. (collectively "ACSI"), AT&T Communications of the Mountain States, Inc. ("AT&T").
6 MFS Communications Company, Inc. ("MFS"), TCG Phoenix ("TCG"), MCImetro Access Transmission
7 Services, Inc. ("MCI"), Brooks Fiber Communications of Tucson, Inc. ("Brooks"), Sprint
8 Communications Company, L.P. ("Sprint"), and GST Tucson Lightwave, Inc. ("GST") have each
9 requested arbitration of unresolved issues arising from its attempt to enter into an interconnection
10 agreement with U S WEST. Cox Arizona Telcom, Inc. ("Cox") agreed that it would be bound by the
11 determinations made in this consolidated docket. Given the short time frame in which the Commission
12 had to resolve the disputed interconnection issues, on September 10, 1996, a Procedural Order was issued
13 which consolidated portions of the arbitration proceedings filed by that date to consider the cost studies
14 submitted by U S WEST in each of the existing dockets.

15 The Procedural Order indicated that interim rates would be set in each docket where relevant in
16 accordance with the FCC Order, at the proxy ceilings or mid-points of proxy ranges, unless a party
17 showed that an alternative interim price consistent with the proxies would be appropriate. The interim
18 rates were to be subject to true-up upon establishment of prices based upon Commission-approved cost
19 studies. As subsequent petitions for arbitration were filed, the cost portion of those proceedings were also
20 consolidated into the cost study proceeding.

21 On September 27, 1996, the United States Court of Appeals for the Eighth Circuit ("Court")
22 issued an Order Setting Hearing and Imposing Temporary Stay regarding the pricing provisions of the
23 FCC Order and Rules. On October 15, 1996, the Court stayed the operation and effect of the FCC's
24 "pricing provisions and the 'pick and choose' rule" pending the Court's final determination of the issues
25 raised in the petitions for review. On January 17, 1997, oral arguments were presented to the Court
26 regarding the appealed provisions of the FCC Order and Rules. As a result of the stay, the Commission
27 approved interim prices that were reasonable based upon the information provided at the individual
28 arbitrations. In some cases, the prices were the average of the FCC's proxy prices and U S WEST's

1 proposed prices.

2 On July 18, 1997, the Court issued its Decision regarding the FCC Order and Rules. The Court
3 stated:

4 In total, we vacate the following provisions: 47 C.F.R. §§ 51.303, 51.305(a)(4),
5 51.311(c), 51.315(c)-(f), 51.317 (vacated only to the extent this rule establishes a
6 presumption that a network element must be unbundled if it is technically feasible to do
7 so), 51.405, 51.501-51.515 (inclusive, except for 51.515(b)), 51.601-51.611 (inclusive),
8 51.701-51.717 (inclusive, except for 51.701, 51.703, 51.709(b), 51.711(a)(1), 51.715(d),
9 and 51.717, but only as they apply to CMRS providers), 51.809; First Report and Order,
10 ¶¶ 101-103, 121-128, 180. We also vacate the proxy range for line ports used in the
11 delivery of basic residential and business exchange services established in the FCC's
12 Order on Reconsideration, dated September 27, 1996.

13 *Iowa Utilities Board v. Federal Communications Commission*, 1997 WL 403401, *32, fn 39 (8th Cir.
14 1997).²

15 This matter came before duly authorized Arbitrators of the Commission at the Commission's
16 offices in Phoenix, Arizona on November 18, 1996. U S WEST, ACSI, AT&T, MFS, TCG, MCI,
17 Brooks, Sprint, GST, the Residential Utility Consumer Office ("RUCO"), and the Commission's Utilities
18 Division Staff ("Staff") appeared through counsel. All of the above parties, with the exception of Sprint,
19 RUCO and Staff, sponsored pre-filed testimony as well as witnesses at the arbitration. The parties filed
20 post-arbitration briefs on January 3, 1997 and January 24, 1997. In addition, the parties filed final
21 proposals of cost outcomes on February 7, 1997 and February 13, 1997.

22 On August 30, 1996, U S WEST filed cost studies, which included TSLRIC and TELRIC cost
23 studies. U S WEST further supplemented its cost studies on September 30, 1996, and filed nine new or
24 revised cost studies on November 8, 1996. U S WEST's 1995 depreciation study was filed on November
25 18, 1996 as an exhibit to the supplemental rebuttal testimony of a U S WEST witness³. After the
26 arbitration, on December 23, 1996, U S WEST submitted revised cost studies, in which four studies were
27 updated, four used a revised customer transfer charge, and one totally new study was submitted.

28 **B. Primary Focus of Proceeding**

The primary focus of this proceeding is twofold: (1) to establish permanent prices for the

² On rehearing, the Court also vacated 47 C.F.R. §51.315(b).

³ The U S WEST depreciation study had previously been provided to Staff in October 1995.

1 unbundled loop and network elements, and (2) to establish a permanent discount rate for the resale of any
 2 telecommunications service. The FCC's proxy rates for Arizona are \$12.85 for an unbundled loop and
 3 a resale discount range of 17-25 percent. In the individual arbitrations for the various CLECs, the
 4 Commission established an interim loop price of \$21.76 and an interim resale discount rate of 17 percent,
 5 both of which were subject to a true-up.

6 Pursuant to the Act, Commission Rules, and other applicable law, the unbundled loop prices and
 7 the resale discount are derived from two distinct networks. The unbundled loop prices are based upon
 8 a forward-looking, least cost, efficient network, in order to stimulate economic efficiency. There was
 9 a wide disparity in the recommended loop costs, ranging from \$11.46 (ACSI) to \$30.20 (U S WEST).
 10 The resale discount is based upon the LEC's currently approved charges for services, less "avoided
 11 costs". The efficiency of the existing network is not part of the determination of the resale discount. The
 12 proposed "avoided cost" discount ranged from as low as 1.01 percent for certain services (U S WEST)
 13 to a high of 36.14 percent (AT&T).

14 Pursuant to the Act, Title 14 of the Arizona Administrative Code, and all other applicable law,
 15 the Commission hereby resolves the issues presented in the consolidated cost proceeding.

16 II. INTERCONNECTION AND NETWORK ELEMENT CHARGES

17 A. Cost Methodology for Network Elements and Interconnection

18 1. Cost Study Models

19 Issue: Whether to adopt a cost study model, and if so, which one.

20 U S WEST proposal

21 U S WEST designed a cost model which it used to run a number of cost studies. U S WEST
 22 stated that its model was the appropriate one to use in determining costs, as it was based upon the
 23 presently existing system, which it claimed was the most accurate method of determining replacement
 24 costs of the network. U S WEST inputted factors to trend for anticipated labor costs, inflation, revised
 25 cost of capital, estimates of difficulty of construction, and other items. U S WEST then ran a number of
 26 cost studies using its model, to estimate the cost of the various network elements. For its loop costs, U
 27 S WEST used the Regional Loop Cost Analysis Program ("RLCAP").
 28

AT&T and MCI proposal

AT&T and MCI sponsored an alternative cost study model, the Hatfield Model. Version 2.2. Release 2 ("Hatfield Model"), which they used as a basis for submitting a cost proposal. AT&T and MCI had initiated the development of the model to provide input to the FCC in developing proxy rates, and for use in proceedings such as the one herein.

AT&T and MCI contended that the Hatfield Model properly models an interconnection network and calculates the TELRIC according to the dictates of the Act, and in compliance with the FCC Order. AT&T and MCI claimed that the Commission should look to the FCC Order to provide guidance in setting prices, and that the FCC's TELRIC methodology is an extension of the TSLRIC methodology ordered by the Commission in its Interconnection Rules. According to AT&T and MCI, the Hatfield Model design is in compliance with the Act. The Hatfield Model considers the demographics and geology of each state in forecasting element costs, and was used by the FCC in the determination of proxy prices.

Other parties' proposals

A number of petitioners did not submit their own cost proposals. Parties recommended acceptance of the Hatfield Model as the more accurate of the two models proposed, or proposed revising U S WEST's model so that the inputs closely matched the Hatfield Model inputs. Certain parties suggested that U S WEST's model be rejected and the Hatfield Model be adopted on an interim basis, until U S WEST submitted cost studies which were in compliance with Commission requirements.

Commission resolution

Testimony indicated fundamental differences in the way the models were crafted, but the inputs - the factors to be considered by the models in running the study - ultimately determine the costs upon which rates will be based. Adjusting inputs in one model produced charges similar to the outputs from the other model, except for nonrecurring costs ("NRCs"). The Hatfield Model element costs include costs for which U S WEST sought to charge non-recurring fees.

We are not adopting either the Hatfield Model or U S WEST's cost study models as presented by the parties in its entirety. Both used certain assumptions which are not acceptable. The Hatfield Model uses certain inputs which may not reflect forward-looking, least cost, efficient network technology

1 and the current financial environment. The U S WEST models are based upon embedded costs and
 2 technology, and do not consider particular demographics and geology of the State of Arizona. Although
 3 the U S WEST models were supposed to represent forward-looking models, the results were similar to
 4 its embedded cost studies. This result was in spite of U S WEST's own acknowledgment that its existing
 5 system embodied different technologies installed over many years and did not represent the most efficient
 6 current technology. Furthermore, U S WEST claimed NRCs far in excess of tariffed charges. Despite
 7 imperfections in the Hatfield Model, it will be the starting point of our analysis from which to determine
 8 the cost of unbundled elements.

9 **B. Annual Cost and Overhead Assumptions**

10 **1. Capital Structure and Cost of Capital**

11 Issue: What capital structure and cost of capital should be used in calculating costs.

12 **U S WEST proposal**

13 U S WEST requested that the capital structure and cost of capital factored into approved element
 14 costs be revised from the capital structure authorized in Decision No. 58927 (Docket No. E-1051-93-183,
 15 January 3, 1995) as a result of its last ratemaking application, as follows:

	<u>debt %</u>	<u>cost of debt</u>	<u>equity %</u>	<u>cost of equity</u>	<u>cost of capital</u>
17 Decision No. 58927	38.30	7.09%	61.70	11.40%	9.75%
19 U S WEST Proposed	28.00	7.50%	72.00	12.85%	11.40%

20 **All other parties' proposal**

21 All of the other parties to this proceeding have requested that the last approved capital structure
 22 and cost of capital be used in this matter.

23 **Commission's resolution**

24 U S WEST's proposed capital structure is a "market value capital structure" based upon the
 25 "market values of debt and equity" as of December 31, 1995. We do not agree that a market value capital
 26 structure from year end 1995 is appropriate in this proceeding, especially in light of such evidence as
 27 Value Line's estimated debt ratio and U S WEST's recent issuance of one of the largest debt offerings
 28 in United States history. Likewise, we do not believe that the Hatfield Model defaults should be used.

1 because they are not reflective of U S WEST's actual capital structure. We believe that the actual capital
 2 structure should be used and find that the December 31, 1993 actual capital structure as used in Decision
 3 No. 58927 is appropriate because it reflects both the actual capital structure and increased competition.
 4 Decision No. 58927 recognized that the equity percentage was on "the high end of reasonable", but that
 5 with "increasing competition . . . [a] conservative capital structure" was appropriate for the company.
 6 Accordingly, we will use a capital structure consisting of 38.3 percent debt and 61.7 percent equity.

7 U S WEST presented testimony that its cost of new debt is 7.5 percent (including issuance costs)
 8 and that its cost of equity is 12.85 percent. We believe that U S WEST's actual cost of debt is the
 9 appropriate debt cost to be used, because it is most reflective of what terms U S WEST can obtain and
 10 therefore what its costs are. The Commission has repeatedly expressed its preference for use of objective
 11 market-based measures and we note that the previous determination of cost of equity was based upon the
 12 discounted cash flow analyses provided by Staff, RUCO, and U S WEST. At that time, we found that
 13 a reasonable range for the cost of equity was between 10.95 percent and 11.87 percent, and adopted the
 14 midpoint, or 11.4 percent as the appropriate cost of equity. We agree with U S WEST that competition,
 15 legislation, regulation, and market conditions have increased the risks faced by U S WEST's investors.
 16 however, we do not believe that U S WEST presented sufficient evidence to support its "estimated cost
 17 of equity" of 12.85 percent. We find that the appropriate cost of equity for this proceeding is 12.4
 18 percent.

19 Accordingly, we will use a cost of debt of 7.09 percent and a cost of equity of 12.4 percent, for
 20 a total weighted cost of capital of 10.37 percent. The following is the approved capital structure and cost
 21 of capital:

Cost of Capital Structure

Capital Components	Percentage of Total	Cost	Composite Cost
Long-Term Debt	38.30%	7.09%	2.72%
Common Equity	61.70%	12.40%	7.65%
			10.37%

1 **2. Depreciation**

2 Issue: Whether to use the Commission approved depreciation rate from U S WEST's last rate case or
3 a revised depreciation rate.

4 **U S WEST proposal**

5 U S WEST proposed that the Commission accept revised, shortened depreciation lives for a
6 number of elements. U S WEST claimed that shorter depreciation lives were necessary because the
7 depreciation lives used in the rate case filed in 1993 were out of date. U S WEST submitted a
8 depreciation study in 1995 which the Commission has never reviewed. U S WEST also claimed that
9 shorter lives were necessary in the new era of competition, when equipment would need to be replaced
10 earlier than in a monopoly environment in order to compete with companies using the latest technology.
11 U S WEST indicated that AT&T's depreciation lives approved by the FCC were significantly shorter
12 than the lives approved for U S WEST by the Commission.

13 U S WEST submitted a depreciation study performed by Technology Futures, Inc. ("TFI"), a
14 company funded primarily by the regional Bell operating companies ("RBOCs") to perform depreciation
15 studies to support requests to revise depreciation lives. U S WEST requested approval of the shortened
16 lives recommended by TFI, except for buried, and aerial and underground copper cable, which U S
17 WEST requested be shortened from TFI's recommendation of 20 to 15 years, and 14 to 11.3 years,
18 respectively.

19 U S WEST's focus, and most of the testimony, concerned underground copper cable, as it
20 comprises the majority of the local loop and therefore its approved life has a significant effect on the cost
21 of the local loop. U S WEST stated that copper was outdated technology, and fiber would be replacing
22 it in the loop. According to U S WEST, any new technology using copper was interim technology until
23 fiber was available on the local loop.

24 **All other parties's proposal**

25 All of the other parties requested that the Commission adopt the depreciation lives used in
26 Decision No. 58927, including 24 year lives for buried and underground copper cable⁴. The parties

27 ⁴ We also note that the GST witness acknowledged that depreciation lives approved by state
28 commissions were generally longer than actual economic lives. The GST witness worked for 30 years
 for Southwestern Bell and was responsible for developing cost study methodologies to present to

1 contended that new technology such as Asymmetrical Digital Subscriber Line ("ADSL") service, which
2 was being implemented on copper cable, prevented the copper cable from being outdated. The parties
3 claimed that while U S WEST planned to replace copper cable with fiber, U S WEST's plan to replace
4 interoffice copper first, then distribution and then feeder cable, would take over 20 years to complete. so
5 it was premature to shorten copper's life now. The parties also indicated that U S WEST's Director of
6 Construction in Arizona testified that copper presently has a field life of approximately 20 years. Certain
7 of the parties suggested that if the Commission desired to shorten the life of underground copper cable.
8 20 years would be an appropriate alternative. In addition, some of the parties including Staff argued that
9 U S WEST was precluded from changing its depreciation rates outside of a rate case pursuant to A.A.C.
10 R14-2-102 ("Rule 102").

11 **Commission's resolution**

12 We concur that Rule 102 generally requires a public service corporation to seek a change in its
13 depreciation rates as part of a rate application. Rule 102 further provides that a waiver of the
14 requirements can be made if the Commission determines that there is good cause. It is not altogether
15 clear that Rule 102 would apply in this case since we are not adopting depreciation rates affecting U S
16 WEST end-user customers. In this case, the Commission is determining the appropriate depreciation
17 lives to be used in determining the costs of a forward-looking, least cost, efficient network consistent with
18 the Act, Commission Rules, and all other applicable law. We find that in this proceeding there is
19 economic "good cause" to use depreciation rates that conform with a forward-looking, least cost, efficient
20 network in an environment which is going to become more competitive.

21 Based on the evidence of this case, we find that the appropriate depreciation rates to utilize for
22 setting CLEC rates would be those as set forth in the TFI depreciation study, including 15 years for
23 underground copper cable. While those rates are generally based upon shorter lives than those approved
24 in U S WEST's last rate case, they are more consistent with depreciation lives utilized in the interLATA
25 arena and with the general proposition that increased competition will result in innovations occurring at
26 a more rapid pace than in a monopoly environment.

27
28 _____
regulatory agencies.

1 3. Depreciation Reserve Deficiency

2 Issue: Whether U S WEST has a depreciation reserve deficiency, and if so, should it be recovered as part
3 of this proceeding.

4 **U S WEST proposal**

5 U S WEST claimed that the historic asset lives set by the Commission in its rate proceeding were
6 set artificially long in order to keep rates low. U S WEST claimed that TELRIC pricing would not allow
7 it to recover its embedded costs, including this alleged capital reserve deficiency. U S WEST proposed
8 to recalculate the depreciation of its elements based upon the new rates, and determine how much
9 depreciation will not be recovered because of the alleged historical artificially low rates. It proposed to
10 recover this depreciation reserve as a five year surcharge on unbundled local and tandem switching costs.
11 If the Commission does not authorize such a surcharge in this proceeding. U S WEST proposed that the
12 surcharge begin after its next rate case. so that it could charge the surcharge to its retail operations. to be
13 passed on to its retail customers.

14 **All other parties' proposal**

15 All other parties requested that the Commission reject U S WEST's attempt to have a depreciation
16 reserve deficiency recognized, and deny U S WEST's requested surcharge. The parties stated that U S
17 WEST has not established that its asset lives as a monopoly are artificially long, or that asset lives should
18 be shortened with the advent of competition. The parties believe that there is no basis for recalculating
19 depreciation lives as of the last rate case, even if the lives are shortened in this proceeding, and that any
20 revised depreciation life/rate should be on a going-forward basis.

21 The Act, § 251.d.A, specifically states that interconnection and element charges:

22 (A) shall be-

23 " (i) based on the cost (determined without reference to a rate-of-return or
24 other rate-based proceeding) of providing the interconnection or network element
25 (whichever is applicable), and

26 " (ii) nondiscriminatory....

27 According to the other parties, any such surcharge would be based upon U S WEST's embedded
28 costs, not the price of interconnection or a network element. They argue that the surcharge as originally

proposed would be discriminatory, as carriers would bear the brunt of payment. They further argue that

it would be a barrier to competition, because competitors would be forced to base their charge on more

than the interconnection or element cost, and would be more than U S WEST would charge for comparable service.

Commission resolution

A depreciation reserve deficiency surcharge would be in contravention of the Act, which is designed to encourage competition. U S WEST has not established that it in fact has a capital reserve deficiency, nor that it is appropriate to impute any revised rates to the time of the last rate case. No depreciation reserve deficiency will be recognized, nor any surcharge authorized at this time.

4. Corporate Overhead

Issue: What is the appropriate overhead expense factor to use in forward-looking, least cost, efficient network cost estimates.

U S WEST proposal

U S WEST requested an overhead factor of 22 percent as a markup over TELRIC, plus an additional 5 percent common cost factor. U S WEST stated that the factor was based upon the ratio of actual U S WEST overhead compared to direct expenses, using 1995 book costs. In its Reply Brief, U S WEST claimed that only the 5 percent factor was overhead, while the 22 percent is attributed costs.

ACSI proposal

ACSI estimated that U S WEST requested a 32.3 percent markup over its TELRIC to cover overhead expenses. ACSI claimed that U S WEST's request relied upon embedded costs; was not forward-looking; did not account for productivity gains likely to occur in a competitive environment; and U S WEST's analysis was not based upon cost causation principles.

ACSI recommended using a market surrogate to estimate the mark-up in a competitive environment. ACSI proposed use of BellSouth Telecommunications, Inc.'s mark-up for its competitive operations of 15 percent.

All other parties' proposal

All other parties proposed a ten percent overhead factor, pursuant to A.A.C. R14-2-1310.B.1. The Hatfield Model's default factor is also ten percent, based upon a regression analysis on the industry. The analysis produced a 13 percent overhead estimate, which the Hatfield Model reduced by three percent to reflect competitive market efficiencies.

1 AT&T estimated that U S WEST requested a 27 percent markup over direct expenses. Much of
 2 the discrepancy between the estimates of ACSI and AT&T appear to be caused by U S WEST's revisions
 3 to its claimed TELRIC price after the filing of ACSI's prefiled testimony.

4 **Commission's resolution**

5 A.A.C. R14-2-1310 authorizes forward-looking, least cost, efficiently incurred prices to include
 6 an assignment of verifiable indirect costs or a ten percent addition for indirect costs, at the election of the
 7 ILEC. As it would be difficult to determine the economically-optional allocation of joint and common
 8 costs and the likely asymmetry of access to the information, the incumbent LEC has the burden to prove
 9 the nature and magnitude of common costs. The FCC anticipated that common costs related to elements
 10 would be less than common costs associated with the TSLRIC. FCC Order ¶¶ 694-698.

11 U S WEST's overhead calculations are based upon embedded costs and include costs which are
 12 unconnected to an element's production, and therefore will be rejected. AT&T has not offered sufficient
 13 support for the ten percent overhead calculation. Although our Rules provide for a factor of ten percent
 14 when the ILEC has not substantiated its figures, based upon the evidence presented in this matter, it
 15 appears that ten percent is insufficient to cover overhead expenses.

16 The Hatfield regression study factor of 13 percent and the ACSI factor of 15 percent are
 17 appropriate reflections of overhead expenses. Therefore, we will adopt an overhead cost factor, including
 18 attributed, joint and common costs, of 15 percent.

19 **5. Taxes**

20 Issue: What is the appropriate tax rate to include as a factor in setting forward-looking, least cost,
 21 efficient network prices.

22 **U S WEST proposal**

23 U S WEST claimed that AT&T reduced the Hatfield Model default value from 40 to 34 percent,
 24 reducing the tax obligation for U S WEST. U S WEST proposed that a tax rate of 40.46 percent be used,
 25 to reflect a 39.7 percent effective tax rate.

26 **AT&T proposal**

27 AT&T proposed a 34 percent tax rate for state and federal taxes. The Hatfield Model includes
 28 other tax factors for local taxes and franchise fees. AT&T stated that the 34 percent tax rate reflects

1 40 percent overall effective tax rate.

2 **Commission resolution**

3 We will approve a 39.7 percent effective tax rate for state and federal taxes.

4 **6. Forward-Looking Network Modifications**

5 Issue: What are the network equipment maintenance costs in a forward-looking, least cost, efficient
6 network.

7 **U S WEST proposal**

8 U S WEST proposed adoption of its claimed 1995 maintenance expense, trended for inflation and
9 productivity. U S WEST disputed the Hatfield Model's thirty percent reduction of U S WEST's
10 maintenance cost estimate. U S WEST claimed that although TELRIC would involve new equipment,
11 maintenance over the life of the equipment should be calculated, and therefore a maintenance cost
12 reduction was inappropriate.

13 **All other parties' proposal**

14 The parties addressed this issue generally, advocating the Hatfield Model's costs as being the
15 more reasonable of the two models. ACSI disputed U S WEST's trending for inflation and productivity,
16 presenting testimony which indicated that any inflation or labor cost increases would be more than offset
17 by productivity improvements in the telephone industry.

18 AT&T indicated that the factor input of a thirty percent reduction in maintenance expenditures
19 was related to reduced maintenance costs of the latest generation equipment, not the newness of the
20 equipment.

21 **Commission resolution**

22 Generally, the Commission concurs with the Hatfield Model's reduction in maintenance costs to
23 reflect the latest generation of equipment. However, it is unclear if savings as high as thirty percent can
24 be achieved. Based on the evidence presented, we find that the Hatfield reduction is on the high end of
25 reasonableness. We find that approximately one-half of that amount, or a fifteen percent reduction,
26 would be more reasonable.
27 ...
28 ...

1 C. Network Design and Structure Modifications

2 1. Distribution Design

3 Issue: What is the appropriate network design and amount of facilities required to provide service to
4 customers within a service area.

5 **U S WEST proposal**

6 U S WEST proposed that the RLCAP's distribution design be followed, or that the Hatfield
7 Model's distribution line factor be doubled. U S WEST claimed that the Hatfield Model understates the
8 loop plant mileage, as the Hatfield Model produces a cable sheath mileage factor which is 36 percent of
9 the embedded system and 46 percent of RLCAP's estimated mileage.

10 **AT&T proposal**

11 AT&T proposed adoption of the Hatfield Model cable sheath mileage factor. Testimony revealed
12 that U S WEST's embedded plant was reinforced over time. As sheath mileage was measured, U S
13 WEST's placing more lines to the same area would increase the amount of sheath mileage. In a TELRIC
14 estimate, the appropriate number of cables would be supplied to an area, removing the need to place more
15 cable, and therefore would reduce sheath mileage.

16 **Commission's resolution**

17 We agree that an existing system built and reinforced over time would use multiples of the sheath
18 mileage necessary in a forward-looking, least cost, efficient network. Therefore, the Commission adopts
19 26.092 miles for the cable sheath mileage factor, rather than that utilized in the Hatfield Model. The
20 Commission will limit the effect on the loop price, as compared to the price resulting from utilizing the
21 factor contained in the Hatfield Model, to the actual effect up to a maximum of \$4.00, whichever is
22 lower.

23 2. Feeder and Distribution Fill Factors

24 Issue: What feeder and distribution fill factors should be used in modeling a forward-looking, least cost,
25 efficient network.⁵

26
27 ⁵ Fill is the ratio of the number of a particular type telephone plant in use to the total number
28 available. This factor will affect the cost of the loop, as it determines the amount of plant that must be
installed in order to serve customers. Generally, higher fill factors reflect more efficient networks.

U S WEST's proposal

U S WEST proposed to use its historical actual average fill for distribution and feeder plant, which would be the ratio of plant currently in use in its system. U S WEST claims that approximately 35 percent of its plant is currently in use, and proposed to calculate feeder fill based upon an allowance of three telephone lines per living unit, which it stated that it put into effect in the field in the early 1990s.

All other parties' proposal

The parties claim that using the historical actual average fill of the presently existing network is inappropriate in a TELRIC environment. U S WEST's use of its present structure places the inefficiencies of a network built during the past 100 years, and rate base interests of a monopoly onto a theoretical system which is supposed to be built with the most efficient and advanced technology without rate base concerns.

The parties advocate use of the Hatfield Model's default inputs regarding feeder and distribution fill. The Hatfield Model uses achievable average fill, which inputs a fill range from 65 percent to 80 percent for feeder and from 50 percent to 75 percent for distribution, depending on the distribution group. The Hatfield Model then calculates the standard cable size which is large enough to support the inputted demand. After sizing for standard cable, actual fill factors in Arizona are 71.5 percent for feeder and approximately 51 percent for distribution cable.

The parties also request that anticipated demand be based upon two lines per living unit, rather than the three lines advocated by U S WEST. The parties state that U S WEST has not established a need for three lines per household. U S WEST presented evidence that as of May 1995, use was 1.1 lines per living unit, as approximately 108,000 of 1,610,870 access lines were second lines, 2,500 were third lines, and 370 were fourth lines.

Commission resolution

There were discussions at the arbitration of three possible fill factors: objective; achievable average; and U S WEST actual. The issue the Commission must decide is which one of these factors is most appropriate in a forward-looking, least cost, efficient network cost model. The objective fill of 85 percent would theoretically be the appropriate fill factor for an efficient network. However, that would not allow for any growth of the network. We agree that the actual fill rate of the U S WEST network is

1 not appropriate with a forward-looking, least cost, efficient network. We find that the use of achievable
 2 average fill factors of the Hatfield Model would be more representative of a forward-looking, least cost,
 3 efficient network. Accordingly, we will approve the fill factors utilized by the Hatfield Model. This will
 4 represent an efficient network while still allowing room for growth.

5 While the three lines per living unit allowance is not reflected in the May 1995 data, it must be
 6 recognized that we are utilizing a forward-looking, least cost, efficient network model in a scorched node
 7 environment. Historically there has been a lot of room for growth on the network; however, much of the
 8 slack has been taken out by utilizing a forward-looking, least cost, efficient network model. The cost of
 9 providing a third line initially is much less than adding one later. Accordingly, we will approve use of
 10 the three lines as proposed by U S WEST.

11 3. Placement: Easy v. Difficult

12 Issue: What is the appropriate difficulty of placement and techniques used, such as boring or trenching,
 13 to assume in constructing a forward-looking, least cost, efficient network in a scorched node
 environment.

14 U S WEST proposal

15 In estimating loop placement costs, U S WEST factored in whether placement would be easy or
 16 difficult. In its 1995 TSLRIC study, U S WEST estimated that 80 percent of loop placement would be
 17 easy, with the remaining 20 percent difficult, due to the cost of repairing or boring under property. After
 18 revising its study to estimate TELRIC, U S WEST claimed that 82 percent of placement in its region,
 19 including statewide, would be in developed areas, and therefore difficult. In addition, U S WEST
 20 claimed that boring would occur in 50 percent of the linear feet of cable placed in nonrural areas.

21 U S WEST used five density zone models for cable placement region-wide. The easy/difficult
 22 ratio used in its TELRIC study defined developed areas as ones in which loops presently exist. The
 23 TELRIC placement of existing loops was considered to be difficult. U S WEST forecast growth to be
 24 four percent per year, or 18 percent over five years. U S WEST concluded that 82 percent of the loops
 25 would be in developed areas, and 18 percent in undeveloped areas. The 82/18 was then applied to each
 26 central office category, assuming that 82 percent of loop construction in each density type, such as urban,
 27 suburban and rural, would be difficult, with the remainder being easy.

28 U S WEST claimed that the reversal in its estimate of loop placement difficulty was due to a

change in the manner in which placement was considered, not in the ease of placement itself. U S WEST originally estimated the incremental cost of adding each loop according to TSLRIC, and assumed that most new loops would be placed in currently undeveloped areas. U S WEST estimated the TELRIC of placing loops as though every loop had to be replaced, and most loops are in developed areas. U S WEST also assumed that it was the only utility which needed to place facilities to customers, and would not be able to share placement costs in developed areas with any other utility.

All other parties' proposal

The other parties criticized U S WEST's loop placement cost estimate. The parties claimed that U S WEST's reversal of its historical easy v. difficult placement ratio was unsupported and unreasonable. U S WEST assumed that it would use very costly boring techniques for fifty percent of the linear feet placed in developed areas, yet its construction witness testified that boring occurred only in 20 to 30 percent of the distance in developed areas. If, for example, conduit were already placed in developed areas, use of the conduit would not be considered difficult placement.

The parties indicated that when estimating the cost of placing plant, cost efficiencies for modern placement, and economies of scope and scale were supposed to be realized. Instead, U S WEST estimated increased installation costs.

In addition, evidence indicated that U S WEST's estimated annual growth rate for Arizona is five percent, rather than the four percent included in RLCAP, which would yield a 39 percent easy placement ratio if RLCAP's methodology were accepted. The parties also stated that five years of growth is too short a time period for calculating TELRIC.

The parties also argued that RLCAP's application of the easy/difficult ratio statewide was illogical. RLCAP applied the percentage to all density groups, including rural. The result was an assumption that 82 percent of rural placement would be difficult. U S WEST's justification for the ratio in general was that laying cable to avoid obstacles such as streets, sidewalks, gardens, lawns, fences and sprinkler systems would be expensive. However, placement in rural areas, for example, even though considered to be 82 percent developed, would not necessarily require avoidance of such obstacles and the related higher costs assumed to occur in difficult placements. U S WEST's revised placement ratio significantly increased placement cost in rural areas, although supposedly responding to difficulties

1 encountered in a more urban environment.

2 Placement costs in the Hatfield Model are calculated based upon actual conditions within census
3 block groups. The Hatfield Model determines the census block groups which exist in the State, and
4 calculates installation costs related to the density of development.

5 TCG indicated that the population growth in Arizona means that a significant portion of access
6 line growth would be in new residential subdivisions. Line placement in new subdivisions is paid for
7 by the developer, pursuant to R14-2-506.E.3, regardless of whether growth is in a developed or
8 undeveloped area. TCG also disputed U S WEST's contention that high installation costs will be
9 incurred by U S WEST in a scorched node environment. TCG stated that all residential connections may
10 be considered new, and developer-provided, in a scorched node environment. RLCAP also did not
11 consider feeder and distribution costs advanced by developers, which also is done routinely.

12 **Commission resolution**

13 RLCAP is flawed in its limitations. It allows for only five density configurations in U S WEST's
14 14-state region. It applies the same easy/difficult placement ratio everywhere across the State, although
15 it is unlikely that placement difficulty is the same everywhere. The RLCAP input assumptions were
16 contradicted by U S WEST's own witnesses.

17 The Hatfield Model was attacked because its inputs are in part derived from the memory of one
18 particular engineer. However, the Hatfield Model's method of calculating placement based upon the
19 density of census block groups is superior to RLCAP's method. The input source was subject to cross-
20 examination, and in general, the overall cost inputs are reasonable. Differences between the U S WEST
21 model's method of construction and the Hatfield Model's method often are resolved when realizing that
22 the Hatfield Model is based upon the TELRIC method, using the most efficient technology, rather than
23 the method developed over history in a non-competitive environment. Therefore, the Commission will
24 adopt the Hatfield Model's method for calculating placement costs.

25 **4. Shared Structure**

26 Issue: Whether costs for cable placement would be shared with another utility in a "scorched node
27 environment."

28 **U S WEST's proposal**

U S WEST proposed that the percentage of the cost that would be borne by it in the theoretical scorched node environment, in which the network between the central offices and end users was installed using the least cost, most efficient technology, would be the same as had occurred historically. U S WEST presented an historical pattern of the percentage of the cost of placement of facilities it has paid for both distribution and feeder plant, as follows:

Aerial	50 percent
Underground	100 percent
Buried	83 percent ⁶

U S WEST claimed that its aerial facilities have been shared by one other utility, and 17 percent of the time it has been able to place its facilities in developer-supplied trenches.

All other parties' proposal

The other parties requested that the Commission adopt the Hatfield Model defaults for shared facilities. The Hatfield Model assumes that in a scorched node, competitive environment, the ILEC would pay one-third of the cost of installing distribution and feeder facilities, either by sharing installation with two other utilities, or using developer-provided trenches. Testimony in support of the Hatfield Model default indicated that in a competitive environment, an ILEC would have both an incentive to share placement costs and interested competitors with whom to share the cost.

The parties point out that while the attachments to the closing statement indicate that RLCAP assumes 50 percent sharing for aerial facilities, other evidence indicates that RLCAP does not assume that any sharing exists.

Commission's resolution

The Commission finds the sharing of costs between U S WEST and other utilities shall be:

Aerial	50%
Buried	50%
Underground	50%

5. Geographic Deaveraging

Issue: Whether rates and charges should be geographically deaveraged, and if so, when.

U S WEST proposal

⁶ A U S WEST witness indicated that 23 percent, rather than 17 percent, of buried cable was being placed in developer-provided trenches.

1 It is unclear whether U S WEST supported geographic deaveraging of the unbundled loop cost.
2 If the cost is to be deaveraged, U S WEST requested that deaveraging not occur until it is authorized to
3 charge its retail customers a deaveraged price. Otherwise, competitors could obtain the unbundled loops
4 of urban customers at a deaveraged element price, and purchase longer loops at a non-deaveraged retail
5 cost less the avoided cost discount. U S WEST would be left with the obligation to maintain more
6 expensive, longer loops without receiving offsetting revenues of either higher averaged loop prices or
7 higher deaveraged long loop prices.

8 **All other parties' proposal**

9 All other parties proposed that loop costs should be deaveraged in this Decision. The parties
10 claimed that the FCC directed in ¶ 743 of its Order that element rates should reflect the way in which
11 costs are incurred and this requires geographic deaveraging. Paragraph 765 of the FCC Order, which was
12 stayed at the time of the arbitration, required that prices be deaveraged into a minimum of three
13 geographic zones. Less dense, longer loops cost more than more dense, shorter loops typically found in
14 urban areas.

15 The CLECs claimed that delayed deaveraging would repress the development of facilities-based
16 competition, as loops in the urban areas would be overpriced. Competitors would not build their own
17 loops, as their TELRICs would be higher than U S WEST's, without U S WEST's economies of scope
18 and scale.

19 Element cost deaveraging would have a significant effect on prices. For example, AT&T
20 proposed using six price zones, based upon the number of loops per square mile. Its proposed state
21 average cost of \$13.94/month per aggregated loop would vary from \$9.66/month for the most dense price
22 zone to \$99.83/month for the least dense price zone.

23 **Commission resolution**

24 While the Act requires cost-based rates, it leaves to the discretion of the individual state whether
25 ~~or not the rates should be cost-based on a state-wide basis or cost-based to reflect geographic~~
26 ~~deaveraging. The FCC Rules' requirement that costs be deaveraged into a minimum of three zones has~~
27 ~~been overturned by the Court. We do not find the record in this proceeding provides a proper basis for~~
28 geographic deaveraging. Even if there was sufficient evidence to support geographic deaveraging, we

share U S WEST's concerns that geographic deaveraging would need to occur for U S WEST retail customers at the same time it occurs at the wholesale level.

We will direct the Hearing Division to set a proceeding to determine whether it is appropriate to geographically deaverage rates established pursuant to this Decision, and if so, what method should be used to set the deaveraged rates and when they should become effective.

D. Element Price Factors Affecting Loop Costs

1. Terminal Investment

Issue: What is the cost of installing a terminal and line splicing to distribute the copper loop to an end user.

U S WEST proposal

U S WEST proposed adoption of its claimed current cost for installation of a terminal and splicing of \$280.80 to serve three lines, for a per line cost of \$93.60.

All other parties' proposal

The other parties requested that the Commission adopt the Hatfield Model input for terminal installation and line splicing of \$35 per line. AT&T asserted that the Hatfield Model default cost was based upon installation using a pedestal terminal method which could serve eight living units, and which was a more modern and cost-efficient method than the method and related pricing factor used by U S WEST. AT&T also claimed that the terminal installation method was used in parts of Arizona.

Commission's resolution

In keeping with a forward-looking, least cost, efficient network methodology, the Commission adopts the Hatfield Model default cost for terminal installation and splicing. However, we find it reasonable that the pedestal terminal method could serve four living units. Accordingly, we will adjust the Hatfield per line cost to \$70.00.

2. Drop Investments

Issue: What is the cost of running a telephone line to the end user.

U S WEST proposal

U S WEST claimed that the average cost of a drop and network interface device ("NID") is \$92

1 per household.⁷ U S WEST proposed that drop costs in a least cost, most efficient technology
2 environment would be the same as its historical cost.

3 **All other parties' proposal**

4 The parties claimed that U S WEST either overstated its drop cost or must be inefficient.
5 Evidence was presented in support of the Hatfield Model default calculation of \$70 per drop and NID
6 installation.

7 **Commission resolution**

8 Pursuant to the Act, Commission Rules, and other applicable law, pricing is to be based upon the
9 forward-looking, least cost, most efficient technology. We do not accept U S WEST's claim that its
10 present cost of installation uses the most efficient technology possible. We therefore adopt the Hatfield
11 Model default calculation of drop and NID installation costs.

12 **3. 4-Wire Loop Cost**

13 Issue: What is the appropriate charge for a 4-wire loop.

14 **U S WEST proposal**

15 U S WEST proposed a 4-wire loop cost of \$57.21, almost double the \$30.20 cost of a 2-wire loop.

16 **ACSI proposal**

17 ACSI proposed that the 4-wire loop charge should be 4.2 percent higher than the 2-wire loop
18 charge, citing U S WEST witnesses who testified that the price differential between installing two or
19 three pair of copper lines per household was based upon the cost of the additional length of cable.

20 **AT&T proposal**

21 Although there does not appear to be any difference in the itemized costs listed for 2 or 4-wire
22 loops, AT&T proposed that the aggregated state average for the 2 and 4-wire loop to be \$13.94 and
23 \$27.37 per month, respectively.

24 **Commission resolution**

25 There was no evidence of more or different equipment being used for a 4-wire loop rather than
26 a 2-wire loop. It appears reasonable that placing a 4-wire loop should not be significantly more

27
28 ⁷ When revising the Hatfield Model with U S WEST inputs, it stated that the RLCAP cost was \$94.36.

expensive than placing a 2-wire loop. The Commission will adopt ACSI's proposal regarding the 4-wire loop charge.

E. Service Provisioning Costs

1. Unbundling Integrated Loops

Issue: How the expense should be borne for unbundling loops from an integrated digital loop carrier.

U S WEST proposal

U S WEST proposed to include in the price of the unbundled loop the cost of equipment to route the loop to a CLEC. U S WEST presented testimony that when a loop is provisioned on an integrated digital loop carrier ("IDLC"), either equipment must be added to the loop to enable it to be pulled from the IDLC and routed to a CLEC, or the loop must be hair pinned into and out of a switch termination before routing to a CLEC.

In its Reply Brief, U S WEST claimed that it would be necessary to add equipment to the IDLC loop to hairpin it to a CLEC. U S WEST stated that the cost of the additional equipment would be more than the cost of the unbundling equipment.

ACSI proposal

ACSI emphasized that U S WEST's testimony indicated that only five percent of loops are IDLC provisioned and would need additional equipment to be rerouted. A CLEC purchases a loop to serve a particular customer, without consideration of whether the loop is on an IDLC. ACSI proposed that to retain competitive neutrality, the cost of the additional equipment on five percent of the loops should be spread over all loops.

AT&T proposal

AT&T proposed that no charge be assessed to the loop price for routing of IDLC provisioned loops. AT&T indicated that options other than the unbundling equipment U S WEST claimed was necessary, such as hair pinning. As U S WEST did not claim until its Reply that the cost of equipment necessary to perform this option was more expensive than the cost of the unbundling equipment, AT&T has not had the opportunity to respond to U S WEST's allegation.

Commission's resolution

We adopt the positions of AT&T and ACSI that the Hatfield Model includes the cost of IDLC

1 unbundling. U S WEST may pursue dispute resolution or request the Commission's assistance if it can
 2 establish that the Hatfield Model does not include the costs as inherent within the loop result.

3 **2. Transport and Termination Charges**

4 Issue: Whether charges for transport and termination should be adopted at this time or at the end of the
 5 bill and keep period, and what prices satisfy the Act's requirements that charges be incrementally based,
 and provide for mutual and reciprocal recovery of costs.

6 **U S WEST proposal**

7 U S WEST proposed that the Commission adopt its recommended rates for transport and
 8 termination. U S WEST restated its opposition to the bill and keep arrangement approved by the
 9 Commission during the onset of competition, and requested that costs be adopted which will be put into
 10 effect if the Commission's Orders regarding bill and keep are overturned.

11 **All other parties' proposal**

12 Since bill and keep has been adopted for the present time, the other parties believe that no costs
 13 for transport and termination need to be adopted at this time. The parties have been unable to operate
 14 U S WEST's switching cost model, and therefore are not able to thoroughly review and challenge U S
 15 WEST's calculations.

16 **MCI's alternative proposal**

17 MCI proposed that in keeping with the FCC Order ¶ 1085, symmetrical, reciprocal rates for
 18 transport and termination be adopted. This would permit a CLEC to obtain the same price from U S
 19 WEST for use of its network as it has to pay U S WEST to use its network. MCI proposed that the
 20 Hatfield Model rates be adopted. MCI recognized that U S WEST's transport and termination costs may
 21 be higher than costs for CLECs which employ the latest technology. MCI indicated that asymmetrical
 22 rates based upon actual costs would be anticompetitive, as it would penalize a competitor with newer and
 23 less expensive technology.

24 **Commission resolution**

25 ~~For the parties who have not qualified for interim bill and keep, we will adopt transport and~~
 26 ~~termination costs as estimated in the Hatfield Model.⁸ However, upon termination of the interim bill and~~

27
 28 ⁸ A carrier which was unable to establish that its service territory was equivalent to U S
 WEST's tandem switch territory may qualify for tandem switch treatment when it serves equivalent

keep period. any party may request a consolidated proceeding at which we will review the pricing inputs for appropriate adjustment. In the meantime, U S WEST should provide an operable switching cost model to the parties for their review.

3. **Loop Conditioning**

Issue: What is the appropriate charge, if any, for conditioning analog loops to provide digital services.

U S WEST proposal

U S WEST proposed an NRC of \$557.12 whenever a loop is conditioned to provide digital service. Such conditioning may be necessary for the provision of integrated services digital network ("ISDN"), ADSL and high-bit rate digital subscriber line ("HDSL") service.

AT&T proposal

AT&T proposed that there should be no additional charge for conditioning a loop, as a conditioned loop is part of the network element.

ACSI proposal

Originally, ACSI proposed to pay an additional TELRIC to condition analog loops for digital service, but claimed that U S WEST did not submit a cost study regarding the issue. ACSI proposed in the interim that no additional charge be assessed, with a true-up when the TELRIC for conditioning is established.

In its Reply Brief, ACSI agreed with AT&T that the cost of conditioning be included in the forward-looking cost of the loop facility, and recommended that either no separate NRC be assessed or that the cost be capitalized and recovered through reasonable recurring rates. ACSI disputed U S WEST's conditioning cost study, asserting that U S WEST's requested NRC is more than two times the NRC currently charged to ISDN customers. ACSI also challenged the specific costs included in the conditioning cost.

territory.

1 Commission resolution

2 U S WEST's loop conditioning charge is significantly overstated. We find that the loop
3 conditioning charge should be the tariffed charge, less the NRC avoided cost discount.⁹ If the Hatfield
4 Model included a loop conditioning charge, it should be removed.

5 4. Nonrecurring Costs

6 Issue: Whether initial charges should be paid by CLECs to recoup expenses incurred by an ILEC when
7 a service is established, disconnected or changed, or whether the cost should be included in the monthly
8 recurring cost of the related element.

8 U S WEST proposal

9 U S WEST proposed NRCs in addition to the cost of network elements. After the arbitration, U
10 S WEST submitted revised and alternative cost studies, acknowledging that certain functions for which
11 a separate NRC was claimed may be incorporated in the loop NRC when the loop is provisioned, or may
12 be eliminated when electronic interfaces become operational. One revision concerned the NRC for an
13 expanded interconnection channel termination ("EICT") when connecting loops which terminate at an
14 ILEC's main distribution frame to a CLEC's point of interconnection. Although originally requesting
15 approximately \$300 for the EICT NRC in addition to the loop NRC, after the arbitration, U S WEST
16 stated that it would assess only the loop NRC if an EICT is ordered in conjunction with an unbundled
17 loop.

18 ACSI proposal

19 ACSI focused on the NRCs for unbundled loops and EICTs. ACSI's testimony indicated that U
20 S WEST's EICT charge was duplicative when ordered with the unbundled loop, and that the cost studies
21 U S WEST submitted were for digital design circuits, not plain old telephone service. ACSI claimed that
22 U S WEST's studies did not account for cost savings to occur due to the implementation of
23 mechanization processes in 1997; that excessive testing costs were included in the loop price when a
24 competitor desired to narrow the time period during which a service changeover would occur; that U S
25 WEST's cost studies assumed that certain activities, such as customer premises visit, would occur with
26 every loop provisioning, when they may not occur; that the studies include functions associated with U
27

28 ⁹ See Avoided Cost Discount, Issue II.C below.

1 S WEST's switch which are not unbundled loop activities; that the cost of disconnecting the loop and
 2 cross-connect are included improperly; that the studies assume connection through a point of termination
 3 bay ("POT") rather than directly to the main distribution frame; and that the studies do not reflect
 4 economies of scope and scale.

5 ACSI proposed that the appropriate NRC for the loop and cross-connects would be U S WEST's
 6 TSLRIC plus shared costs for establishing 1FB service, which U S WEST testified was \$42.70. ACSI
 7 proposed that the NRC should be no greater than the charge that applies when U S WEST establishes
 8 exchange service for a retail customer.

9 ACSI objected to U S WEST's revised NRC, even after deducting the EICT charge, ordering and
 10 testing expenses. ACSI indicated that the remaining NRC still includes a disconnect charge, and
 11 overhead charges of approximately 100 percent over the remaining TELRIC.

12 **AT&T proposal**

13 AT&T claimed that the Hatfield Model element costs are based upon both recurring and NRC as
 14 reported by U S WEST in the Automated Report Management Information System ("ARMIS"), and
 15 therefore, any NRCs in addition to Hatfield Model rates would allow U S WEST to double recover its
 16 costs. The Hatfield Model calculates many of the NRCs as recurring charges, to avoid creating a barrier
 17 to competition in the telecommunications industry. Recovery of NRCs through recurring charges is
 18 permitted in the FCC Order ¶ 749.

19 AT&T stated that it was not able to fully evaluate the cost studies filed shortly before the
 20 arbitration, and that the studies filed after the arbitration should not be considered. AT&T claimed that
 21 U S WEST was attempting to use NRCs as a barrier to competition, which was reflected in U S WEST's
 22 high proposed NRCs compared to charges assessed to retail customers.

23 **Commission resolution**

24 It appears that the cost study models provide similar results if inputs are consistent. However,
 25 the models provide significantly different outcomes when the results are translated into the cost of
 26 elements to be purchased from an ILEC. The Hatfield Model prices yield the cost of elements, and the
 27 computation of services which may be derived from a combination of the elements. The U S WEST cost
 28 ...

1 studies add NRCs, which it claims are the cost of performance functions, to the actual prices of many of
2 the elements.

3 U S WEST's proposed NRCs, if approved, would act as barriers to competition. A CLEC would
4 have to pay U S WEST charges significantly in excess of the charges U S WEST would assess its end-
5 users. If the CLEC would then attempt to recoup those charges from prospective customers, it could
6 significantly affect its ability to compete. U S WEST has not satisfied its burden to establish that these
7 costs are reasonable, and the information was provided without sufficient time for the competing carriers
8 to properly analyze.

9 U S WEST significantly overstated its NRCs. Consistent with our resolution for the loop
10 conditioning charge, we will approve the current tariffed charges for NRCs, less the NRC avoided cost
11 discount. The Hatfield Model costs will be used for any non-tariffed NRCs. To the extent that U S
12 WEST believes that there are NRCs not compensated by the Hatfield Model prices, it may request an
13 additional proceeding at which it may present cost studies consistent with the methodology approved
14 herein to justify its price proposals. However, we want to make it clear that any additional cost studies
15 must be provided to the other parties in a timely manner.

16 We find that AT&T's proposed \$5.00 customer transfer charge is appropriate and should not be
17 discounted.

18 **F. CLEC Cross-connect**

19 **- - 1. Cross-connect Between CLECs**

20 Issue: When CLECs which are in collocated space in an ILEC's facility desire to connect their networks
21 to each other at that location, what type of cross-connect is appropriate; who may perform the connection;
and what is the proper cost of the cross-connect.

22 **U S WEST's proposal**

23 U S WEST proposed that CLECs which want to cross-connect in U S WEST's collocated space
24 be required to interconnect through EICTs on their terminations at a POT bay. U S WEST proposed to
25 charge for the installation of a POT bay and an EICT, as well as design circuit installation of the EICT.

26 **The other parties' proposal**

27 ACSI proposed that, pursuant to FCC Order ¶¶ 594 and 595, carriers should be permitted to
28 connect directly with each other, without traversing U S WEST's network or a POT bay. If U S WEST

provides the connection, it should be compensated on a time and materials basis. If the carriers are not allowed to connect directly, U S WEST should be limited to installing and charging for one EICT at an existing POT bay, without a recurring charge. The other parties agreed with ACSI's request that the CLECs should be allowed to cross-connect directly with each other where feasible.

Commission resolution

While the FCC Order requires ILECs to permit interconnection between CLECs collocated at the same ILEC facility, it concludes that ILECs need not permit connecting transmission facilities-outside of the collocation area. FCC Order at ¶ 595. The FCC Order also grants to ILECs the option to provide the connection or to permit CLECs to perform the connection.

Similarly, we recognize that safety and liability concerns justify U S WEST requiring that its personnel perform the interconnection between non-adjacent collocating CLECs. In those instances, U S WEST should provide the interconnection between collocation cages in the most cost-efficient manner that is acceptable to the CLECs. However, where CLECs' collocation cages are adjacent, U S WEST may not prohibit CLECs from interconnecting their own networks with facilities they provide, as long as those facilities do not cross spaces in use by U S WEST. The collocating CLECs, whether adjacent or non-adjacent, may elect to provide the cables or other facilities necessary to perform the collocation.

CLECs may choose to connect through an EICT. If a POT bay is present already, the CLECs should be charged only the cost of an EICT.

III. PRICING OF WHOLESALE SERVICES

A. Avoided Versus Avoidable Costs

Issue: The Act, § 252.d.3, provides that wholesale rates should be determined "on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." Whether a cost that "will be avoided" is limited to costs which, in the discretion of the ILEC, actually are avoided, or would it include costs which are avoided by a reasonable ILEC in the efficient performance of its wholesale business.

U S WEST proposal

U S WEST interpreted the Act's provision to mean that only expenses which are actually avoided should be included in the avoided cost discount applicable to resale services. U S WEST claimed that only the net costs it will avoid when selling services wholesale should encompass the resale discount.

1 adding expenses it claimed would be incurred in wholesaling its products.

2 **All other parties' proposal**

3 All other parties proposed that the FCC Order's interpretation of the Act § 252.d.3, although
4 stayed at the time of the arbitration, be followed by the Commission. The FCC Order ¶ 911 indicates that
5 states should "make an objective assessment of what costs are reasonably avoidable when a LEC sells
6 its services wholesale." The parties argue that the discount is not limited to expenses which a particular
7 LEC actually avoids or eliminates when selling wholesale, but includes costs which an economically
8 efficient competitor would avoid as a result of providing services at wholesale rather than retail.

9 The CLECS request adoption of the FCC's position that costs of serving customers are presumed
10 avoidable; and indirect expenses, such as overhead, are presumed partially avoidable. By definition, a
11 reseller's margin is the wholesale price less the reseller's own retail and overhead costs. The CLECs
12 believe that a reseller should not have to pay the ILEC's unrelated retail costs in addition to its own,
13 because if the wholesale price is inflated, a reseller may be unable to compete. Likewise, ILECs should
14 not be able to manipulate the discount by declining to reduce certain expenditures.

15 **Commission resolution**

16 The Act § 251.c.4 requires that services be offered for resale at wholesale rates. Section 252.d.1
17 of the Act requires that interconnection and network element charges be based on the cost of providing
18 the interconnection or network element. In keeping with the provisions of the Act which do not allow
19 for assessing charges not incurred in the provision of an item, the charge for wholesale services should
20 not include charges for interconnection, the sale of network elements, or the service of retail customers.
21 In addition, wholesale charges should not include charges for services which the reseller provides itself.
22 at its own expense, such as advertising. A reseller cannot be expected to compete if paying twice for the
23 cost of a service. While the Act uses the phrase "avoided costs", the interpretation must include costs
24 which would be avoided by a wholesaler acting in a just and reasonable manner.

25 ...
26 ...
27 ...
28 ...

B. Resale - TSLRIC v. Embedded Costs

Issue: Should the wholesale discount be the percentage of costs saved from the most efficient, least cost method of producing the service at retail, or should the discount be the retail price less the costs saved when selling at wholesale rather than retail.

U S WEST proposal

U S WEST proposed that the avoided cost discount be based upon the amount of the TELRIC for each element that it estimated will be avoided in a service offered for resale. U S WEST disputed the FCC's preclusion of a TSLRIC study to establish wholesale rates that are not related to retail service rates. FCC Order ¶ 915.

MCI proposal

MCI proposed that the FCC's method, which was stayed at the time of the arbitration, is consistent with the Act and should be used as guidance to determine the proper method. MCI followed the FCC's guidance in its proposal for which categories of costs are avoidable by an economically efficient carrier selling at wholesale, and the percentage of each category which is avoidable. MCI then applied the percentage avoidable to each category of publicly available U S WEST cost data for 1995, yielding a percentage of its total costs which would be avoidable. MCI based the discount on U S WEST's embedded costs, using actual expenditures rather than TSLRIC.

AT&T proposal

AT&T proposed to use the ratio of U S WEST's total ARMIS costs less interstate costs to local service and intrastate revenues as the avoided cost discount. AT&T used Bell Atlantic data to determine costs typically incurred in interstate revenue.

Commission resolution

The Commission generally approves the methodology used by MCI in calculating the avoided cost discount. U S WEST's retail rates have been set on an embedded cost basis, in compliance with rate of return on rate base methodology. It would be improper to set the discount based upon the amount of forward-looking costs which would be avoided, as prices were not set using such methodology. To do so would yield a discount which would assume efficiencies in U S WEST's expenditures, while discounting prices which were set without consideration of efficient operating costs.

1 C. Avoided Cost Discount

2 Issue: What is the proper discount from retail price for a wholesale service, and how is the discount
3 calculated.

4 **U S WEST proposal**

5 U S WEST stated that the avoided cost discount level should not be set too high, or facilities-
6 based competition will be discouraged in favor of reselling services at a discount. U S WEST claimed
7 that it reviewed each expenditure attributable to the TELRIC of each element, to evaluate which
8 expenditure would cease when wholesaling. U S WEST proposed avoided cost discounts based upon
9 types of services, as follows:

10 8.17 percent for basic exchange business, including PBX
11 4.41 percent for ISDN/ACS services
12 4.35 percent for toll, including MTS, WATS and 800 service
13 1.01 percent for listing services, central office features and information services
14 3.86 percent for basic exchange residential
15 8.64 percent for private line service

16 U S WEST disputed many assumptions of the AT&T avoided cost study. U S WEST criticized
17 AT&T's single discount for all services as being without basis. U S WEST had criticized AT&T's
18 previously submitted cost study, which had varied discounts for different services. U S WEST claimed
19 that AT&T's discount ratio allows it to claim avoided costs on items which are not subject to a resold
20 discount, such as access services. Although still disputing AT&T's methodology, U S WEST
21 recalculated the discount after adjusting for items U S WEST claimed were included improperly. These
22 adjustments reduced AT&T's discount from 36.14 percent to 16.53 percent.

23 U S WEST also stated that MCI's cost study was flawed for a number of reasons. Although still
24 disputing the MCI study, U S WEST recalculated MCI's discount based upon revisions to MCI's
25 calculations, resulting in a weighted discount revised from 22.5 percent to 14.09 percent. U S WEST also
26 contended that MCI's single discount is misleading, and in its Reply Brief, provided the following service
27 breakdown based upon the "corrected" MCI methodology:
28

25	Business and PBX	12.85%
	ISDN	19.69%
26	Toll	17.25%
	Vertical Features	44.02%
27	Residential	7.00%
	Private Line	13.74%

MCI, TCG and AT&T proposal

2 MCI and AT&T have submitted separate and significantly different discount recommendations.
3 MCI, TCG and AT&T agree that it is important to set the avoided cost discount at an appropriate level
4 because too great a discount may discourage facilities-based competition and too small a discount would
5 discourage any competition. Most companies anticipate competing as resellers before building their own
6 facilities through which to compete, and too small a discount would not enable carriers to enter the
7 market as reseller competitors. The CLECs believe that it is unrealistic to expect that many carriers will
8 have the initial capital necessary for facilities-based growth. Further, carriers would not have the
9 economies of scope and scale available to U S WEST, and would not be able to compete effectively on
10 that basis.

11 MCI, AT&T and TCG argued that U S WEST's proposed discount was unreasonable,
12 anticompetitive, and in violation of the Act, the FCC Order and other applicable law. As stated above,
13 U S WEST claimed to subtract the TELRIC of the avoided elements from their currently approved costs,
14 which were set on an embedded basis. U S WEST removed only those costs which it actually would not
15 incur, instead of the costs which would not be incurred in support of a wholesale business. U S WEST
16 also added such costs as marketing and product management. However, U S WEST has not indicated
17 any willingness to provide its data or conclusions to the CLECs for any shared benefit.

18 The parties also disputed the method U S WEST used to calculate its avoided cost. Rather than
19 the percentage of retailing activities U S WEST will avoid when wholesaling, U S WEST compared
20 expenses to revenues, without accounting for any avoided return and taxes. U S WEST's method resulted
21 in a percentage which would yield the same absolute dollars of profit whether wholesaling or retailing,
22 which would result in an increased profit margin for wholesaling.

23 MCI's proposal

24 MCI submitted an across-the board discount, claiming that U S WEST did not provide sufficient
25 data for a service by service discount. MCI stated that U S WEST's revision of the MCI method,
26 providing service by service discounts, was not provided in sufficient time to evaluate. In addition, as
27 a service by service discount would likely yield a lower discount for residential services, such a discount
28 would be a barrier to entry into the residential market.

1 MCI used avoided expenses in its calculations, claiming that it did not need to calculate avoided
2 return and taxes. In response to U S WEST's criticisms, MCI claimed that a portion of property taxes
3 would be avoided with U S WEST's reduced need for staff and supporting facilities. MCI contended that
4 the same portion of property taxes equal to the overall avoided cost discount will be avoided, so there
5 would be no overall impact to its avoided cost discount if property taxes were added to its ratio. MCI
6 responded to a number of specific criticisms by U S WEST of its methodology. MCI claimed that its
7 proposed avoided cost of 22.5 percent resulted in the same profit margin whether retailing or
8 wholesaling.

9 AT&T proposal

10 AT&T stated that it confirmed the validity of its study by substituting U S WEST data for the Bell
11 Atlantic data. The substitution produced almost no change, verifying that the Bell Atlantic estimates
12 were reasonable to use in estimating the appropriate avoided cost discount.

13 TCG proposal

14 TCG claimed that U S WEST's proposed discounts ranging from approximately 1 to 8 percent
15 for costs avoided when wholesaling rather than retailing was unreasonable. Likewise, AT&T's proposal
16 of 36.14 percent seemed unreasonably high. TCG proposed that an appropriate discount would be
17 located somewhere between those two proposals, but did not propose its own method for obtaining the
18 discount.

19 Commission resolution

20 U S WEST's inputs and calculations yields an avoided cost discount that is unreasonably low on
21 its face. Its chosen methodology of subtracting avoided costs from forward-looking costs of retail
22 activities is not a reasonable method, and is not in keeping with the Act's discount method. Section
23 252(d)(3) provides that wholesale prices shall be determined "on the basis of retail rates charged to
24 subscribers for the telecommunication service requested, excluding the portion thereof attributable to any
25 marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."

26 Pursuant to § 252(d)(3), calculation of a wholesale discount requires the deduction of avoided costs from
27 the service's actual retail price. U S WEST's method does not adequately consider cost savings and
28 efficiencies, including planned efficiencies, which reasonably would occur if it operated in a wholesale

environment.

AT&T's method is too generous in attributing cost savings to a wholesale business. AT&T has added to avoided costs the cost of services which would not be subject to an avoided cost discount. AT&T's method also considers costs that are avoidable, without attributing any costs to wholesaling. U S WEST added excessive and unsupported costs it claimed would be attributable to supporting its wholesale business. MCI added a reasonable amount of costs, by not deducting the full amount from certain retail categories, claiming that the remaining portion may be necessary in wholesaling.

In general, MCI's method appears to be the most reasonable in calculating the avoided cost discount. MCI estimated costs which reasonably would be avoided in selling at wholesale. While we generally concur with the methodology of MCI, there are areas of concern which we share with U S WEST. First, property taxes should not have been excluded from the denominator of the MCI avoided cost ratio. In addition, we are concerned with MCI's unsupported assumption that 90 percent of all marketing type costs would be avoided. We find that marketing should be discounted 75.44 percent, as indicated in U S WEST's prefiled testimony. The wholesale discount proposed by MCI will be reduced by approximately 2.28 percent as a result of the property tax and marketing adjustments. The resulting discount is 20.22 percent.

The discount should be weighted according to the different types of services. Residential services do not advertise, and likely would have a lower discount than most other services. Similarly, NRCs would have associated discountable overhead, but no advertising costs. Certain services, such as Centrex/Centron, already are offered at a discount for bulk purchasing. Vertical features are heavily advertised, with low actual costs, and should have a separate discount. The Commission approves the following discounts:

Business and PBX	18.00%
ISDN	18.00%
Toll	18.00%
Vertical Features	18.00%
Residential	12.00%
NRCs	18.00%
Private Line	18.00%

Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 FINDINGS OF FACT

3 1. U S WEST is certificated to provide local exchange and intraLATA telecommunications
4 services to the public in Arizona, pursuant to Article 15 of the Arizona Constitution.

5 2. On June 27, 1996, MFS filed with the Commission a Petition pursuant to the Act. On July
6 19, 1996, U S WEST filed its Response.

7 3. On July 17, 1996, TCG filed with the Commission a Petition pursuant to the Act. On
8 August 12, 1996, U S WEST filed its Response.

9 4. On July 29, 1996, AT&T filed with the Commission a Petition pursuant to the Act. On
10 August 23, 1996, U S WEST filed its Response.

11 5. On August 14, 1996, ACSI filed with the Commission a Petition pursuant to the Act. On
12 September 6, 1996, U S WEST filed its Response.

13 6. By Procedural Order on August 30, 1996, the portions of the above dockets concerning
14 U S WEST's cost studies and rates were consolidated for an arbitration proceeding set for November 18,
15 1996.

16 7. On August 30, 1996, U S WEST filed cost studies, which included TSLRIC and TELRIC
17 cost studies.

18 8. On September 4, 1996, MCI filed with the Commission a Petition pursuant to the Act.
19 On September 24, 1996, U S WEST filed its Response.

20 9. On September 4, 1996, Brooks filed with the Commission a Petition pursuant to the Act.
21 On September 30, 1996, U S WEST filed its Response.

22 10. By Procedural Order on September 10, 1996, the cost studies and rates portions of MCI
23 and Brooks' dockets were consolidated into the November 18, 1996 proceeding.

24 11. On September 11, 1996, Sprint requested intervention in the consolidated arbitration
25 proceeding. By Procedural Order on September 13, 1996, Sprint was allowed to participate in the
26 consolidated proceeding, conditioned upon its filing a Petition for arbitration of an Interconnection
27 Agreement with U S WEST.

28 12. On September 23, 1996, Sprint filed with the Commission a Petition pursuant to the Act.

On October 15, 1996, U S WEST filed its Response.

2 13. U S WEST supplemented its cost studies on September 30, 1996.

3 14. On October 7, 1996, RUCO requested intervention in the consolidated arbitration
4 proceeding. By Procedural Order dated October 9, 1996, the Commission granted RUCO leave to
5 intervene.

6 15. On October 15, 1996, GST filed with the Commission a Petition pursuant to the Act. On
7 October 21, 1996, the portions of GST's Petition concerning U S WEST's cost studies and rates were
8 consolidated into the November 18, 1996 proceeding. On November 5, 1996, U S WEST filed its
9 Response.

10 16. U S WEST filed nine new or revised cost studies on November 8, 1996.

11 17. U S WEST submitted a depreciation study to the Commission in October 1995.

12 18. U S WEST's 1995 depreciation study was filed on November 18, 1996 as an exhibit to
13 the supplemental rebuttal testimony of a U S WEST witness.

14 19. The arbitration in the consolidated proceeding was held as scheduled, beginning on
15 November 18, 1996 and concluding on November 27, 1996.

16 20. U S WEST submitted revised cost studies on December 23, 1996, in which four studies
17 were updated, four used a revised customer transfer charge, and one new study was submitted.

18 21. On January 3, 1997, the parties filed their initial post-arbitration briefs.

19 22. On January 10, 1997, Cox filed with the Commission a Petition pursuant to the Act. On
20 February 5, 1997, U S WEST filed its Response.

21 23. On January 23, 1997, MFS and GST filed a joint post-arbitration reply brief.

22 24. On January 24, 1997, the remaining parties filed their post-arbitration reply briefs.

23 25. On March 13, 1997, Cox and U S WEST filed a Joint Motion and Stipulation which, in
24 relevant part, indicated that the parties agreed to be bound to the cost and pricing results arising from the
25 consolidated cost arbitration proceeding.

26 26. On June 11, 1997, Cox filed an application to intervene in this proceeding, which was
27 granted by Procedural Order on June 12, 1997.

28 27. The existing U S WEST network incorporates different technologies installed over many

1 years and does not represent a forward-looking, least cost, efficient network.

2 28. The results from the U S WEST embedded cost study were approximately the same as its
3 cost study for a forward-looking, least cost, efficient network.

4 29. In its 1995 study, U S WEST utilized a 20/80 percent difficult to easy placement ratio.

5 30. In its 1996 study, U S WEST utilized an 82/18 percent difficult to easy placement ratio.

6 31. The Commission has analyzed the issues as presented by the parties and has resolved the
7 issues as stated in the Discussion above.

8 32. The Commission hereby adopts the Discussion and incorporates the parties' positions and
9 the Commission's resolution of the issues herein.

10 33. Exhibit A is the price list for unbundled elements, interconnection and the resale discount
11 in accordance with the Findings herein.

12 CONCLUSIONS OF LAW

13 1. U S WEST is a public service corporation within the meaning of Article XV of the
14 Arizona Constitution.

15 2. U S WEST is an ILEC within the meaning of 47 U.S.C. § 252.

16 3. The Petitioners are public service corporations within the meaning of Article XV of the
17 Arizona Constitution.

18 4. The Petitioners are telecommunications carriers within the meaning of 47 U.S.C. § 252.

19 5. The Commission has jurisdiction over the parties and of the subject matter of the Petitions.

20 6. The Commission's resolution of the issues pending herein is just and reasonable.
21 consistent with the Act, the FCC Order and Rules, the Commission's Rules, and all applicable law, and
22 is in the public interest.

23 7. There is economic "good cause" to use depreciation rates that conform with a forward-
24 looking, least cost, efficient network in an environment which is going to become more competitive.

25 8. The burden of proof to establish a proper cost basis under the Act was on U S WEST.

26 9. The prices for unbundled network elements are intended to recover the costs of a forward-
27 looking, least cost, efficient network, not embedded costs.

28 10. Any depreciation reserve deficiency would be an embedded cost.

11. "Avoided costs" pursuant to the Act includes costs which would be avoided by a wholesaler acting in a just and reasonable manner.

12. Pursuant to the Act, the "avoided costs" discount is to be based on retail rates charged to subscribers for the telecommunications service requested.

ORDER

IT IS THEREFORE ORDERED that the Commission hereby adopts and incorporates as its Order the resolution of the issues contained in the above Discussion.

IT IS FURTHER ORDERED that all parties that are subject to a true-up mechanism for costs set forth in this Decision shall make the appropriate refunds/payments within 60 days of the date of this Decision.

IT IS FURTHER ORDERED that U S WEST Communications, Inc. shall file within thirty days of the date of this Decision, a schedule setting forth all rates and charges approved herein.

IT IS FURTHER ORDERED that the rates and charges approved herein shall be effective immediately.

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1 IT IS FURTHER ORDERED that the Hearing Division is directed to set a proceeding to
2 determine whether it is appropriate to geographically deaverage rates established pursuant to this
3 Decision, and if so, what method should be used to set the deaveraged rates and when they should
4 become effective.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7
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10 COMMISSIONER - CHAIRMAN

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13 COMMISSIONER

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16 COMMISSIONER

17 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona
18 Corporation Commission, have hereunto set my hand and caused the official seal
19 of the Commission to be affixed at the Capitol, in the City of Phoenix, this
20 30th day of January 1998.

21
22 
23 JACK ROSE
24 EXECUTIVE SECRETARY

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SEE ATTACHED DISSENTING OPINION

DISSENTING OPINION

COMMISSIONER RENZ D. JENNINGS

NAME: U.S. WEST COMMUNICATIONS, INC. et al. (Arbitration)

DOCKET NO. U-3021-96-448 et al. OPEN MEETING DATE: January 9, 1998

=====

Genuine competition in local phone service has failed to emerge anywhere in the country two years after the passage of the 1996 Telecommunications Act. Because of amendments proposed and passed by my two colleagues, this Order is especially detrimental to competition in Arizona. It sets resale discounts well below what other states have done and it sets the unbundled loop rate way above what other states have done. Normally business-friendly Texas, for example, set the unbundled loop at \$14.15, compared to \$21.98 in this order. Texas also set a 21.64% resale discount rate, compared to this Order's 12% for residential and 18% for other services. This Order essentially confirms that we will have competition in name only.

The Recommended Opinion and Order (RO&O) of our three fine hearing officers was based on hearing the evidence in a lengthy hearing, reviewing the extensive record, and then writing a RO&O based on the evidence. The RO&O set the unbundled loop rate at \$16.28 and established resale discounts ranging from 10.05% to 63.1%, or a weighted average of 20.22%.

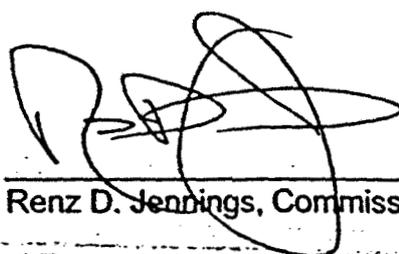
After U.S. West testimony in the 1995 rate case of \$5.96 for the business loop and \$11.46 for the residential loop (which the CLECS advocated for the unbundled loop in this case), the Commission set the price of 1FR residential service, which includes the loop, at \$13.18. Then, only three years later, U.S. West hired a \$375 per hour consultant, who after putting in enough hours to collect over a half million dollars, testified that the cost of the loop alone was \$30.20. Through their amendments the majority has moved aggressively toward this latest U.S. West number and has sided almost totally with U.S. West, using "evidence" not in the record, such as post-hearing models when the results suit U.S. West. The majority has even gone beyond U.S. West's recommendation to set copper depreciation at 15 years. If the numbers the Commission majority has declared as "cost" are adopted in the next rate case, it assures a very huge rate increase for residential customers, perhaps as much as 70%.

At this point I'm going to go beyond the record myself to advocate future Commission action. Like the majority and many others, U.S. West also likes to talk Competition, as long as they can retain 99% of the market. Actually, U.S. West is sitting pretty in Arizona. It serves in one of the fastest growing states. It has the fastest growth of orders for second

phone lines for residential customers surfing the Internet. It has seen an increase in voice mail and caller ID, reportedly to 28% penetration in Arizona. It serves in a state with 80%+ of its population in 2 urban areas. Its stock is being touted as "sweet." Its share of monopoly directory publishing revenues, which Judge Greene said in the divestiture order should be used to hold down local rates, should be much higher than the \$43 million agreed upon 10 years ago. In addition, because the Commission made a procedural error in imputing those revenues in the last rate case, U.S. West is collecting \$17+ million/year plus another \$34+ million voted by my two colleagues in Decision 60381 last summer. Apparently, despite all of the above and despite U.S. West being the "900 lb. gorilla" in Arizona, U.S. West has a Commission majority that views U.S. West as beleaguered. It is hard to envision that U.S. West needs rate relief, as they sometimes claim. In any case, I would challenge my two fellow commissioners to join me in issuing an Order to Show Cause with regards to U.S. West's earnings and rates.

Instead of competition since the 1996 Telecommunications Act, we've had billions of dollars in mergers and acquisitions, lawyers by the carload arguing the "fine points" of the Telecommunications Act, U.S. West and the other BOCs doing everything possible to slow down competitive local interconnection, and potential competitors hesitant to put in facilities to compete with the existing \$300 billion local networks (6X the long distance networks). It is ludicrous to think that competitors are going to duplicate or triplicate the local network in order to get a fraction of the customers. The real path to competition was framed in the RO&O, and the majority has dealt a severe blow to competition in Arizona with this Order. If the determination is made that the local telephone service is not conducive to both competition and a unified and universal national phone system, then we should take a different course. And if the majority and others around the country don't want competition in substance, they should forthrightly make the case that U.S. West and the other BOCs are and should remain natural monopolies and then convincingly regulate them. We would save spending billions more for competition in form only, which is what this Order provides.

I dissent.



Renz D. Jennings, Commissioner

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DOCKET NOS.:

U-3021-96-448; U-3245-96-448; E-1051-96-448; U-2428-96-417; E-1051-96-417; U-2752-96-362; E-1051-96-362; U-3016-96-402; E-1051-96-402; U-3175-96-479; E-1051-96-479; U-3009-96-478; E-1051-96-478; U-2432-96-505; E-1051-96-505; U-3242-96-527 and E-1051-96-527

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Appe. A

ARIZONA
Price List

in performance with the June 13, 1997 and September 12, 1997 recommended order in Docket U-3021-96-448 et al.,
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BUNDLED NETWORK ELEMENTS**TARIFF
(Note 10)****Unbundled Loop**

Network Interface Device, Recurring (Note 1)	\$	0.58
Network Interface Device, New Customer, Nonrecurring (Note 2)	\$	30.00
Loop Distribution (Note 5 & 12)	\$	15.33
Unbundled 2 Wire Loop, Recurring (Note 5)	\$	21.98
Unbundled 4 Wire Loop, Recurring (Note 5)	\$	22.90

Residence Nonrecurring - Per 2 Wire Loop

\$ 40.92

Exchange &
Network
Services Tariff
Sec 5.2.4

1FR

Business Nonrecurring - Per 2 Wire Loop

\$ 45.92

Exchange &
Network
Services Tariff
Sec 5.2.4

1FB

Residence Nonrecurring - Per 4 Wire Loop

\$ 41.81

Exchange &
Network
Services Tariff
Sec 14.2.1

ISDN

Business Nonrecurring - Per 4 Wire Loop

\$ 46.92

Any Loop with Conditioning (One Time Charge)

\$ 114.80

Exchange &
Network
Services Tariff
Sec 14.28.2

ISDN

Extension Technology, Recurring

\$ 6.75

Switching (Note 3)

Usage Per Minute

\$ 0.0028

Per Port, Recurring

\$ 1.61

Per Port, Nonrecurring (Note 6)

\$ 42.58

Entrance Facility (Note 3)

DS1, Electrical, Recurring

\$ 89.42

DS3, Electrical, Recurring

\$ 357.16

DS1, Electrical, Nonrecurring, First

\$ 256.87

FCC No. 5
Section 6

DS1, Electrical, Nonrecurring, Subsequent

\$ 256.87

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DS3, Electrical, Nonrecurring

\$ 256.87

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UNBUNDLED NETWORK ELEMENTS**Direct and Dedicated Transport (Note 3)**

DS0 Dedicated, Recurring	\$	5.05	
			USWC
			Proposed and adopted thru negotiation
			<u>Fixed</u> <u>Per Mile</u>
DS1 - 0 Miles		None	None
DS1 - Over 0 to 8	\$	35.98	\$ 0.65
DS1 - Over 8 to 25	\$	35.99	\$ 0.94
DS1 - Over 25 to 50	\$	36.00	\$ 1.75
DS1 - Over 50	\$	36.00	\$ 1.59
		None	None
DS3 - 0 Miles	\$	243.17	\$13.32
DS3 - Over 0 to 8	\$	246.15	\$15.90
DS3 - Over 8 to 25	\$	250.66	\$22.91
DS3 - Over 25 to 50	\$	249.26	\$22.49

 Multiplexing, per arrangement	\$	196.85	
DS3 to DS1, Recurring	\$	164.00	FCC No. 5 Section 6 Page 237.1
DS3 to DS1, Nonrecurring	\$	0.00088	
Common Transport/Tandem Transmission, Per Minute, Per Leg (Note 3)	\$	0.00140	
Tandem Switching, Per Minute of Use (Note 3)	\$		
Signaling (Note 7, Note 4 & Note 11)			
Entrance Facility			
DS1, Electrical, Recurring	\$	89.42	
DS3, Electrical, Recurring	\$	357.16	
DS1, Electrical, Nonrecurring, First	\$	560.88	FCC No. 5 Section 20 Page 15
DS1, Electrical, Nonrecurring, Subsequent	\$	560.88	FCC No. 5 Section 20 Page 15
DS3, Electrical, Nonrecurring	\$	\$0.00	FCC No. 5 Section 20 Page 15

Direct Link Transport

		<u>Fixed</u>	<u>Per Mile</u>
		None	None
DS1 - 0 Miles	\$	35.98	\$ 0.65
DS1 - Over 0 to 8	\$	35.99	\$ 0.94
DS1 - Over 8 to 25	\$	36.00	\$ 1.75
DS1 - Over 25 to 50	\$	36.00	\$ 1.59
DS1 - Over 50	\$		
		None	None
DS3 - 0 Miles	\$	243.17	\$13.32
DS3 - Over 0 to 8	\$	246.15	\$15.90
DS3 - Over 8 to 25	\$	250.66	\$22.91
DS3 - Over 25 to 50	\$		

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DS3 - Over 50	\$ 249.26	\$22.49	
Multiplexing			
DS1 to DS0, Recurring	\$ 200.08		
DS3 to DS1, Recurring	\$ 196.85		
DS1 to DS0, Nonrecurring	\$0.00		FCC No. 5 Section 20 Page 16
DS3 to DS1, Nonrecurring	\$0.00		FCC No. 5 Section 20 Page 16
CCS Link - First Link, Nonrecurring	\$ 464.94		FCC Part 5 Section 20 page 16 CCS Links
CCS Link - Each additional Link, Nonrecurring	\$ 147.60		FCC Part 5 Section 20 page 16 CCS Links
STP Port - Per Message, Recurring	\$ 0.00005		
Signaling Link			
First Link, Recurring DS0	\$ 24.85		
Additional Link, Recurring DS0	\$ 24.85		
SCP/Databases - Per Message	\$ 0.00100		
ANCILLARY SERVICES			
Directory Assistance			
Price per Call - Facilities-Based Providers	\$ 0.28		
Listings			
Primary Listings, Directory Assistance, White & Yellow Pages	No Charge		
E911			
LEC and CLECs recover costs from PSAP	No Charge		
Assignment of Numbers			
Assignments per industry guidelines	No Charge		
Busy Line Verification			
Per Call	\$ 0.72		
Busy Line Interrupt			
Per Call	\$ 0.87		
Interim Number Portability			
Service Establishment, Per Route, Per Switch, Nonrecurring	\$ 20.65		
Service Establishment, Per Ported Number, Nonrecurring	\$ 4.47		
Service Establishment, Additional and Consecutive Numbers Per Number Ported, Nonrecurring	\$ 3.32		

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PHYSICAL AND VIRTUAL COLLOCATION**Common Elements**

Quote Preparation Fee, Nonrecurring (Note 8)	\$ 1,381.54	FCC Part 5 Section 20 page31	Quotation Fee
Cable Splicing			
Per Setup, Nonrecurring	\$ 375.40	FCC Part 5 Section 20page36	Cable Splicing
Per Fiber Spliced, Nonrecurring	\$ 15.79	FCC Part 5 Section 20 page36	Cable Splicing
48 Volt Power, Per Ampere, Recurring, Per Month	\$ 12.89		
48 Volt Power Cable			
20 Ampere Capacity - Recurring	\$ 0.21		
40 Ampere Capacity - Recurring	\$ 0.29		
60 Ampere Capacity - Recurring	\$ 0.35		
40 Ampere Capacity - Nonrecurring	\$ 59.14	FCC Part 5 Section 20 page34	Power Supply
40 Ampere Capacity - Nonrecurring	\$ 80.69	FCC Part 5 Section 20 page34	Power Supply
60 Ampere Capacity - Nonrecurring	\$ 95.34	FCC Part 5 Section 20 page34	Power Supply
Equipment Bay, Per Shelf Rack Space, Recurring	\$ 6.41		
Inspector per 1/2 Hour, Regular	\$ 24.49		
Inspector per 1/2 Hour, After Hours	\$ 36.24		
Training per 1/2 Hour	\$ 23.95		
Engineering per 1/2 Hour, Regular	\$ 24.55		
Engineering per 1/2 Hour, After Hours	\$ 35.25		

PHYSICAL AND VIRTUAL COLLOCATION (Note 9)**Common Elements**

Installation per 1/2 Hour, Regular	\$ 23.73
Installation per 1/2 Hour, After Hours	\$ 33.20
Maintenance per 1/2 Hour, Regular	\$ 22.20
Maintenance per 1/2 Hour, After Hours	\$ 31.57

EICT CHANNEL TERMINATIONS (Note 13)

2-wire DS0 EICT, Recurring	\$ 0.44
4-wire DS0 EICT, Recurring	\$ 0.86
DS1 EICT, Recurring	\$ 4.28
DS3 EICT, Recurring	\$ 14.98

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ARIZONA
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2-wire DS0 EICT, Nonrecurring	\$ 383.30	FCC Part 5 Section 20 page32	Private Line Transport Service
4-wire DS0 EICT, Nonrecurring	\$ 383.30	FCC Part 5 Section 20 page32	Private Line Transport Service
DS1 EICT, Nonrecurring	\$ 256.87	FCC Part 5 Section 20 page32	Private Line Transport Service
DS3 EICT, Nonrecurring	\$ 269.78	FCC Part 5 Section 20 page32	Private Line Transport Service
EICT Regeneration			
DS1 EICT, Regeneration, Recurring	\$ 6.30		
DS3 EICT, Regeneration, Recurring	\$ 41.32		
DS1 EICT, Regeneration, Nonrecurring	\$ 0.00		
DS3 EICT, Regeneration, Nonrecurring	\$ 0.00		
Element Group 1			
Entrance Facility - 2 fibers, Recurring	\$ 1.52		
Entrance Facility - 2 fibers, Nonrecurring	\$ 1,184.74	FCC Part 5 Section 20 page33	VEIC Entrance Facility
Element Group 2			
Entrance Enclosure:			
Manhole - Per Month Per Manhole	\$ 13.81	AT&T Proposed Rates	
Handhold - Per Month Per Handhold	\$ 7.61		
Conduit & Interduct fm Entrance Enclosure to Cable Vault, Per Foot/Month	\$ 0.21		
Core Drill, Per Core, Nonrecurring	\$ 181.57		
Riser from Cable Vault to Customer Designated Equipment, Per Foot/Month	\$ 0.24		
Fiber Optic Cable (24 Fiber Increment), Per Foot/Month	\$ 0.03		
Fiber Placement in conduit and riser, Per Foot	\$ 0.83		
Copper Cable 25 Pair, Per Month, Per Foot	\$ 0.006		
Copper Cable Splicing - Per Splice	\$ 45.64		
Copper Cable Placement in Conduit and Riser - Per Foot	\$ 0.83		
Coax Cable RG59 - Per Foot Per Month	\$ 0.10		
AC Power Per WATT, Per Month	\$ 0.03		
Humidification Per Leased Physical Space	\$ 28.03		
Cage/Hard Wall Enclosure	ICB		
Rent (w/ Maintenance) - per square foot Zone 1, Recurring	\$ 2.75		
Rent (w/ Maintenance) - per square foot Zone 2, Recurring	\$ 2.26		
Rent (w/ Maintenance) - per square foot Zone 3, Recurring	\$ 2.06		
RESALE			
Customer Transfer Charge			
Business	\$ 5.00		
Residence	\$ 5.00		
ISDN	\$ 5.00		

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Resale Discount	
Residential	12.00%
All other services	18.00%

Notes

- 1 Applicable where CLEC terminates its loop to a USWC NID.
- 2 Applicable only to new customers, new premise.
- 3 For companies that qualify for Bill and Keep, this charge will not apply in the event of Reciprocal Compensation. This Charge will be assessed upon the contract provisions.
- 4 Signaling Elements are taken from Hatfield with exceptions of DS1 and DS3 because Hatfield does not calculate these services.
- 5 Company proposing to use BFR has to overcome rebuttable assumption that Hatfield prices are appropriate. Applies to recurring charge only. BFR will be used for ordering, provisioning, including any additional equipment and NRCs.
- 6 This non-recurring charge does not apply in the event unbundled local switching is ordered with an unbundled loop. If Ordered through Switching, only one NR Charge Applies.
- 7 The USWC and AT&T rate structures differ. To establish rates, each party's rate structure has been retained, and the proposed rate halved, in accordance with the Arbitrator's order.
- 8 The QPF is credited to the payment for enclosure buildout, if priced on an ICB basis.
- 9 When purchasing Collocation, AT&T will pay the listed price for elements in Element Group 1 and Element Group 2.
- 10 PL: Competitive Private Line Transport Service Administrative Guidelines.
- 11 If Ordered Concurrent with the CCS Link, only one NR Charge Applies.
- 12 This includes the price of the NID. If a NID is not needed, the price is \$14.74.
- 13 There will be no charge for an expanded interconnection channel termination when such facility is ordered in conjunction with an unbundled loop.