BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

IN THE MATTER OF INVESTIGATION
INTO U S WEST COMMUNICATIONS,
INC.'S COMPLIANCE WITH CERTAIN
WHOLESALE PRICING REQUIREMENTS
FOR UNBUNDLING NETWORK
ELEMENTS AND RESALE DISCOUNTS

Docket No. T-00000A-00-0194

U S WEST'S RESPONSE TO
PROPOSED PHASE APPROACH SET
FORTH BY AT&T, TCG PHOENIX,
MCI WORLDCOM AND SPRINT

I. INTRODUCTION

U S WEST Communications, Inc. ("U S WEST") submits the following response to the comments of AT&T, TCG Phoenix, MCI Worldcom and Sprint (the "IXCs"). U S WEST agrees that the FCC's recent UNE Remand Order and Line Sharing Order identified new unbundled network elements (UNEs) for which the Commission has not yet set rates pursuant to Section 252(d)(1) of the Act. The IXCs' proposal, however, goes well beyond a request to price new UNEs. The IXCs ask that the Commission reopen its original cost docket for the purpose of redetermining 252(d)(1) rates for the unbundled loop, subloop and resale discounts. U S WEST does not believe that it is appropriate for the Commission to reopen the cost docket (which is still on appeal) and relitigate rates that the Commission has already set.
US WEST does recognize that the new docket should address the new UNE rates. Doing this in a "phased approach," as recommended by the IXCs, is also acceptable to US WEST especially given impending deadlines for setting certain rates. To avoid confusion, the Commission should conduct a procedural conference before scheduling testimony deadlines for each hearing to be conducted so that the issues to be covered can be specifically identified and so that differences between the parties as to particular issues can be addressed.

For example, with certain exceptions, US WEST does not believe that SGAT terms and conditions should be addressed in this proceeding. In the Commission's section 271 docket, the Commission is already addressing most of the terms and conditions of the SGAT and those terms and conditions should not be addressed twice. There are, however, already a few items that the parties agreed fall outside of Section 271 and need to be addressed in a separate docket. Given that US WEST's proposed new UNE rates are set forth in the SGAT (filed April 7, 2000), it would make sense to resolve these limited policy issues in this docket as well.

Thus, US WEST recommends that the next phase of this docket should be divided into three parts to address the following three groups of related topics:

1. PART 1: DS1 and DS3 capable loops, shared transport, dark fiber, custom routing.

2. PART 2: Line Sharing and collocation.
3. PART 3: Signaling and call related database and resolution of all remaining SGAT issues not already resolved in the 271 docket.

Since U S WEST v. Jennings is still on appeal, the Commission should not address issues from that proceeding in this docket.

II. U S WEST’S RESPONSE TO INDIVIDUAL ISSUES RAISED BY THE IXCs

A. Collocation

The Commission has already set rates for many aspects of collocation in its original cost docket. Those rates should not be revisited. However, U S WEST has offered additional forms of collocation since then including cageless and shared collocation. One new form of collocation is “splitter collocation” to support line sharing. The Commission should set rates for these new items. U S WEST strongly recommends that line sharing and collocation be discussed during the “same phase” of the docket because many of the rates will apply to both items.

It is important to note, however, that the IXCs claim that the FCC in Paragraph 42 of its Collocation Order requires “direct connection without the use of intermediate frames.” As a result, the IXCs suggest that rates be set for this architecture. As an initial matter, the cost of this architecture is completely dependent on the central office. Direct connections require a connection between the CLEC’s collocation and each module of the COSMIC frame. The number of modules of the COSMIC and the number of line-ups of the COSMIC is central office dependent and widely
divergent. As a result, the only fair way to price this item is on an individual case basis ("ICB"). Moreover, the D.C. Circuit Court of Appeals vacated Paragraph 42 of the FCC’s Collocation Order, the very paragraph that the IXCs rely upon for this proposition. The court held that the "sweeping language in paragraph 42 of the Collocation Order . . . goes too far and thus ‘diverges from any realistic meaning of the statute.’”

B. Loops/Subloops

As stated before, the Commission already set rates for the loop and subloop elements in the initial cost docket. The IXCs ask the Commission to reopen this docket and reprice these elements. There is simply no reason to do so. Furthermore, all five of the reasons the IXCs give for revisiting the unbundled loop rate are erroneous. (See IXC Comments, pp. 6-7). First, the Commission followed the FCC pricing rules when setting those rates. Second, as the parties’ testimony in the first phase of this docket demonstrates, it is possible to deaverage rates without resetting the loop rate. Third, the sale of exchanges to Citizens has not taken place and it is not yet known whether that sale will in fact take place. Fourth, it is inevitable that cost studies will be prepared at different times and will be based on slightly different inputs. (For example, the sale of exchanges to Citizens will result in approximately 4% less loop investment and a 5% decrease in access lines). Finally, that cost studies may be based on data that is not completely up to date, does not
mean that the cost studies are inaccurate. With TELRIC the cost studies must be forward looking and by their nature are not heavily dependent upon historical information.

C. High Capacity Loops

Although the Commission set rates for the 2-wire and 4-wire loops, it did not set rates for DS1 and DS3 capable loops. The UNE Remand Order identifies these as new UNEs. Thus, U S WEST agrees that the docket should resolve the 252(d)(1) rates for DS1 and DS3 capable loops.

D. NIDs

The IXCs assert that because the FCC changed the definition of NID, the Commission should revisit this issue and set new rates for the NID. There is no need for such action. The FCC changed the definition of NID to ensure that ILECs did not use the previous definition to prevent access to facilities that did not use a traditional NID. See UNE Remand Order at ¶ 234. The NID rate set in the original cost docket is acceptable as is.

E. EEL

In the UNE Remand Order, the FCC stated that U S WEST need not offer circuit switching as a UNE in “density zone one of the top 50 MSAs” throughout the country. The Phoenix/Mesa MSA is one of the top 50 MSAs. Two central offices fall within density zone one - Phoenix Main and Phoenix North. To take advantage of this UNE exception, U S WEST must offer enhanced extended link (EEL) to CLECs out of these two wire centers. However, there is no
need to set rates for EELs. An EEL is simply a combination of DS1/DS3 unbundled loop, multiplexing/concentrating equipment and unbundled dedicated interoffice transport. See UNE Remand Order at ¶ 477. Once the Commission sets the rate for high capacity loops, the Commission will have already set rates for these items. The Commission has already set rates for these items in the original cost docket.

F. Directory Assistance and Operator Services

In the UNE remand Order, the FCC found that the "the existence of multiple alternative providers of OS/DA service in the marketplace, coupled with evidence of competitors' decreasing reliance on incumbent OS/DA services, demonstrates that requesting carriers' ability to provide the services they seek to offer is not materially diminished without access to the incumbent's OS/DA service on an unbundled basis." UNE Remand Order at ¶ 449. Thus, the FCC found that the "growing OS/DA marketplace, embraces a deregulatory approach." Id. at ¶ 441. Thus, U S WEST is entitled to charge market rates for OS/DA. It is not the province of the Commission to set market rates; the market sets market rates.

The IXCs, however, also request that the Commission set 252(d)(1) rates for Customized Routing, which is contained in the SGAT, Section 9.12. U S WEST has no objection to the Commission pricing this element.
G. Dark Fiber, Shared Transport, Signaling and Call Related Databases

U S WEST agrees that the docket should resolve the 252(d)(1) rates for these new items. These items are set forth in the SGAT in Sections 9.7, 9.8, 9.13-9.17, and 10.2.

H. Special Access Circuits

In a Supplement to the UNE Remand Order, the FCC held that U S WEST need not convert special access circuits to UNE Combinations unless the circuit is carrying a "significant amount of local exchange traffic." The IXCs recognize this holding yet mysteriously request that certain rates be set nonetheless. The Commission has already set rates for unbundled interoffice dedicated transport (UDIT) and multiplexing. U S WEST has already requested that rates be set for DS1 and DS3 capable loops; therefore, no additional rates need to be set.

I. Line Sharing

U S WEST agrees that line sharing rates should be set by the Commission. U S WEST, however, disagrees with how the IXCs characterize certain aspects of the rates. Specifically:

1. When CLECs request a "shared loop", U S WEST is constitutionally entitled to fair compensation.

2. As to OSS, U S WEST has worked with several CLECs throughout its region over the past several months on the appropriate changes that U S WEST should make to its OSS to accommodate line sharing. Much of this work will be performed by Telcordia, a
third-party vendor. The cost of the work of Telcordia alone, will well exceed $5.0 million.

3. As to line conditioning, the IXCs state that line conditioning is a "feature, function and capability" of the loop and thereby suggest that U S WEST is not entitled to recover for line conditioning. Such a suggestion would be inaccurate. In the UNE Remand Order and Line Sharing Order, the FCC made plain that U S WEST is entitled to recover 252(d)(1) rates for line conditioning even if the loop to be conditioned is less than 18,000 feet long.

4. The Commission has already set rates for conditioning loops.

Again, U S WEST encourages the Commission to price line sharing and collocation in the same phase because many of the rates for both are identical.

J. Reciprocal Compensation

In the Arizona 271 docket, U S WEST and the IXCs have discussed reciprocal compensation in great detail. Although the parties were generally able to work out their differences as to the other six checklist items considered to date, reciprocal compensation led to five disputed issues. Those issues will be presented to the Hearing Division in the near term for resolution. In their proposal, the IXCs list three of the disputed issues. The IXCs are apparently trying to get two bites at the apple by litigating the issues again in this docket. The Commission’s March 31, 1999 Procedural Order (Docket T-01051B-99-0068) states that "[a]ny review and approval of an SGAT for
section 271 purposes shall be conducted within the context of U S WEST's pending Section 271 application docket."

Of course, to the extent that the Commission resolves the disputed issues in the 271 docket and the net effect is that a new rate needs to be set, U S WEST could have no objection to including that aspect of the case into Phase 4 of this docket. It is inappropriate, however, to argue legal issues that are already a part of the 271 docket here.

DATED this 5th day of May, 2000.

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