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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 773

In the Matter of U S WEST COMMUNI-)
CATIONS, INC.'s UM 351 Cost Study) ORDER
Summaries.)

DISPOSITION: UNBUNDLED NETWORK ELEMENT COSTS AND
PRICES ADOPTED

Background

In 1990, the Commission began a process designed to unbundle and reprice services provided by incumbent telecommunications utilities, including U S WEST Communications, Inc. (USWC)¹, and GTE Northwest Incorporated (GTE).² In Docket UM 351, we issued Orders No. 93-1118, 94-1056, 96-188, and 96-283 adopting various building blocks and establishing prices. In Docket UM 773, we issued Order No. 96-284 on November 1, 1996, establishing principles to be used in developing costs, including revisions to the cost methodology approved in Docket UM 351. In Order No. 97-239 in Docket UM 844, the Commission adopted revised building block rates based on cost studies prepared in accordance with Order No. 96-284 in Docket UM 773.

In Order No. 96-283, the Commission noted that costs and prices had not been developed for certain building blocks. Following extensive discussion among USWC, Staff, and other interested parties, on June 22, 1998, USWC filed Advice No. 1720 containing revisions and additions to its Interconnection and Unbundled Elements tariff with an effective date of January 1, 1999. USWC subsequently filed Supplement No. 1 to that Advice. On August 21, 1998, USWC filed Supplement No. 2, which supersedes Original Advice No. 1720 and its Supplement No. 1. These revisions to USWC's Interconnection and Unbundled Elements tariff are the subject of this docket. They incorporate into the tariff the building blocks noted in Order No. 96-283.

In December 1998, USWC requested that the effective date for the tariff be changed to May 1, 1999. USWC has made several additional requests to extend the

¹ U S WEST Communications, Inc., is now known as Qwest Corporation. For clarity in this order, we will use the title USWC throughout.

² GTE Northwest Incorporated is now known as Verizon Northwest, Inc. For clarity in this order, we will use the title GTE throughout.

effective date of the tariff. The latest request, made in February 2002, extends the effective date to June 5, 2002.

Following discovery and other prehearing processes, written testimony was submitted on the proposed tariff and a hearing held on November 9 and 11, 1998, before Allen Scott, Administrative Law Judge. The parties are set out in Appendix A to this order. The final briefs were filed in February 1999. The parties focused on an issues list containing 57 discrete issues.

Commission Disposition

Based upon the evidence, the Commission determines definitions and costs for certain unbundled network elements (UNEs) in this order.³ We believe they will provide guidance to telecommunications providers. We also determine prices for those elements by adopting the price markup percentage we adopted in Docket UM 844.

However, we will not permit the definitions, costs, and prices to go into effect as tariffs. On March 17, 1999, the Federal District Court for the District of Oregon issued a decision holding that the Commission's unbundled network element tariffs are preempted to the extent they allow requesting carriers to lease unbundled network elements without having an interconnection agreement under the Telecommunications Act of 1996 (the Act).⁴ The court emphasized that the Commission is not precluded from setting prices for unbundled network elements for a particular incumbent local exchange carrier (ILEC) and using those same prices in all interconnection agreements involving that ILEC. However, the Court also indicated that the unbundled network element prices established by the Commission are subject to modification if one of the parties to an arbitration proceeding demonstrates that there are "special costs" warranting a different price.

The UNE prices established by the Commission pursuant to this order therefore shall function as "initial" or "default" prices. Those prices shall be incorporated in interconnection agreements arbitrated by the Commission under the terms of the Act, unless the parties agree to different UNE prices or one of the parties to the arbitration demonstrates that there are "special costs" warranting a UNE price different from that established by the Commission.⁵ USWC and GTE shall file statements with the Commission listing recurring and nonrecurring UNE prices.⁶

³ In Dockets UT 138/139, Orders No. 00-316 and 01-1106, the Commission concluded that the Oregon "building block" terminology should be changed to correspond with the "unbundled network element" (UNE) terminology used by the Federal Communications Commission (FCC).

⁴ *MCI Telecommunications Corp., and MCImetro Access Transmission Services, Inc., v. GTE Northwest, Inc., et al.*, Civil No. 97-1687-JE, Opinion and Order, at 42-47.

⁵ See Orders No. 00-316 at 8; 01-1106 at 2.

⁶ See Order No. 00-316 at 8.

Elimination of Certain Issues from this Order

Several of the specific items originally at issue in this case were deleted from the UNE listing in Order No. 01-1106, Appendix B. We note those items below. In addition, we direct in this order that certain other issues be considered in Docket UM 1025. We note those items below.

Issue I. A.: Is the definition of Dark Fiber Network Access Channel (NAC) satisfactory?

USWC's original proposed definition of Dark Fiber NAC was as follows:

A pair of existing unused fiber strands (two fiber strands) from the Fiber Distribution Panel (FDP) at a USWC central office to the customer's premises FDP. The fiber optic terminations at each FDP are included. The customer premises must be located within the servicing area of that central office. The FDP provides a point for terminating in the USWC central office for the outside plant. An inquiry procedure will determine availability of existing unused fiber strands. A nonrecurring charge will apply for the inquiry regardless of findings.

Inclusion of FDPs: USWC now agrees with Staff that the definition should include the FDP at both ends. MCI disagrees, claiming that that definition would result in insufficient unbundling and would conflict with the structure of previously approved NACs. It argues that competitive local exchange carriers (CLECs) should be able to purchase the dark fiber strands separately from the fiber distribution frames, just as they can purchase a two-wire NAC separately from the NAC jumper or the network interface device (NID). USWC points out, however, that the NID is included in the NAC, not unbundled from it, and that MCI's argument is thus based on an inaccurate assumption.

Commission Disposition

The Commission adopts the definition agreed upon by Staff and USWC. This definition is consistent with other NAC definitions, which include the network interface device at the customer premises and the distributing frame terminations. MCI's argument on this matter is erroneous and we reject it.

New Construction Issue: USWC and Staff differ sharply on the issue of whether USWC should be required to construct new fiber facilities for CLECs upon request. Staff would have the Commission require USWC to install the facilities for a CLEC just as USWC would for any other customer. USWC claims that adoption of Staff's position would impose upon it a cost that it might not be able to recover and thus would violate Section 252(d)(1) of the Act, which requires that the rate for network elements be

based on the cost of providing the element. USWC argues that the Eighth Circuit Court in *Iowa Utils. Bd. v. FCC*⁷ held that under the Act CLECs may obtain unbundled access to an ILEC's existing network only. It points out, moreover, that that portion of the Eighth Circuit's decision was not challenged in the United States Supreme Court and is thus still in place.⁸

Staff asserts that USWC's arguments have been rejected by various courts or tribunals, which have held that the requirement proposed by Staff would not create *superior* quality access but only *equivalent* access to dark fiber NACs for CLECs. Staff notes that the Commission, in Order No. 98-444, at 103-107, in Dockets UT 138/139, reached a similar conclusion in deciding when special construction charges are applicable:

In addition, Staff's recommendation only requires the ILECs to provide such building block facilities where the ILEC's retail customers also have access to those facilities. Thus, in supplying building blocks to competing carriers, USWC and GTE must only assign the same construction priority that they assign to providing those same facilities to their retail customers. This policy will enable CLECs to offer their customers services equivalent to those that the ILEC supplies to its customers. Parity in the provision of building block facilities is essential to meet the nondiscriminatory access requirements of Section 251(c)(3) [of the Act].

GTE also challenges Staff's view that USWC should be required to construct new fiber facilities for CLECs upon request. It cites the Eighth Circuit's conclusion that an ILEC does not have to create a new network for its competitors.⁹ GTE argues that while the Act may require an ILEC to make facilities reasonably available to accommodate unbundling, it does not force them to "alter substantially [an ILEC] network to provide superior quality."¹⁰ If the Commission chooses to impose such a requirement, however, GTE argues that it should do so consistent with its order in Dockets UT 138/139 and with the U.S. Supreme Court's decision in *AT&T v. Iowa Utils. Bd.*, *supra*. According to GTE, any such requirement should meet the following conditions:

1. The facility being requested must be for use by an end user with which the requestor has an agreement to provide service. It cannot be used to simply piece out or reinforce the competitor's network.

⁷ 120F.3d753,813(8th Cir. 1997), *aff'd in part, rev'd in part, and remanded*, *AT&T Corp. v. Iowa Utils. Bd.*, 1999 U.S. LEXIS 903 (Jan. 25,1999).

⁸ *AT&T v. Iowa Utils. Bd.*, *supra*.

⁹ *Iowa Utils. Bd. v. FCC*, *supra*.

¹⁰ *Id.*

2. The service being requested by the end user must not be available over other facilities of the ILEC, of the requestor, or of some other telecommunications provider serving the area. Moreover, if others can construct the facilities, then the ILEC should not be forced to provide them. If other alternatives exist, the requestor should use them.
3. There has to be a demonstration that the facility will likely be reusable if it is abandoned by the requestor. Absent this assurance, special construction charges must apply.

Staff rejects GTE's argument. It asserts that the first condition is unnecessary and ambiguous. The second proposed condition, according to Staff, must be applied by the Commission, rather than by the ILEC. The third proposed condition, according to Staff, is answered by Order No. 98-444, at 105-107, wherein the Commission set out its conclusions regarding construction costs. In adopting Staff's position, the Commission said:

USWC and GTE maintain that the Staff proposal subjects them to the risk that they will not recoup their investment costs under recurring rates, because CLECs may prematurely abandon service. We do not believe the risk that the ILECs face is any greater than that which they now face in providing service to their retail customers, particularly large business customers. Moreover, special construction charges continue to apply in a number of cases where USWC and GTE are requested to provision facilities in a manner that might entail additional risk. Joint intervenors acknowledge that special construction charges are appropriate where a carrier requests special or unique arrangements.

Commission Disposition

We understand Staff's position to be that USWC should be required to construct new dark fiber facilities for a CLEC just as it would for any other customer. That position is consistent with our decision in Order No. 98-444 that ILECs must provide facilities "where the ILEC's retail customers have access to those facilities." Staff is correct that such a requirement is not in conflict with the Eighth Circuit's holding that an ILEC does not have to alter substantially its network to provide superior quality interconnection. That court differentiated between expanding for the purpose of superior service provision and expanding to provide access. All Staff is seeking is a requirement that ILECs do what is necessary to accommodate interconnection or access to network elements.¹¹ Staff's

¹¹ The difference between expanding for the purpose of superior service provision by CLECs and expanding

position is that if USWC has existing dark fiber NACs at a central office, but no spare dark fiber NACs, expansion of that facility to add more dark fiber NACs would not create superior quality access; rather, it would create equivalent access to dark fiber NACs for CLECs. This requirement would serve to implement the Act's antidiscrimination requirements. If a CLEC could not obtain fiber capacity which would allow it to serve prospective customers, while USWC had such capacity and used it to serve its customers, the CLEC would obviously be at a competitive disadvantage. Thus, where USWC has capacity and it is available to its retail customers, it must provide dark fiber capacity to a requesting CLEC. We agree with Staff that USWC's argument regarding cost recovery is not persuasive. The risk to USWC of not recovering its costs is not necessarily any greater than it would be when USWC provides service to its retail customers.

The Commission will not, however, impose a blanket requirement that USWC provide dark fiber under every circumstance in which a CLEC requests it. USWC does not have to provide these facilities in circumstances in which it does not provide its retail customers with access to them. To require it to do so would not further the antidiscrimination goals of the Act, because USWC, under these circumstances, would not be providing the facility to its customers and thus would not be denying an equivalent service to the CLEC. In effect, the CLEC is asking under these circumstances for USWC to be its construction company. The Act does not place that task on USWC or other ILECs nor does our policy. Moreover, that type of requirement would subject USWC and other ILECs to a significant potential loss of money because they would be unable to recover their costs from the requesting CLEC. We will thus limit our requirement that USWC construct dark fiber to the circumstances described in the previous paragraph.

Issue I. B.: Is the Nonrecurring Charge for the Dark Fiber NAC acceptable?

USWC claims that the cost of determining the availability of dark fiber is not recovered in the nonrecurring charges for these building blocks. This cost, called an "inquiry charge," occurs because USWC must perform a preorder inquiry process to determine whether facilities are available, and, if so, to assign identifying codes to the facilities. This cost of the preorder inquiry (as opposed to the costs of processing an order) is not included in USWC's nonrecurring charge study for the dark fiber NAC and thus will not be recovered without a separate inquiry charge.

Staff argues that this separate inquiry charge should be eliminated because the costs of the inquiry procedure are already included in the nonrecurring cost of the dark fiber building block. Moreover, Staff asserts that the double inquiry process described by

to provide access is clearly articulated by the court in *Iowa Utils. Bd.*, *supra*, note 33: "Although we strike down the Commission's rules requiring incumbent LECs to alter substantially their networks in order to provide superior quality interconnection and unbundled access, we endorse the Commission's statement that 'the obligations imposed by Sections 251 (c)(2) and 251 (c)(3) include modifications to incumbent LEC facilities to the extent necessary to accommodate interconnection or access to network elements.' First Report and Order, p. 198. The petitioners themselves appear to acknowledge that the Act requires some modification of their facilities." *See also* Order No. 98-444 at 105-106.

USWC is needlessly redundant and inefficient and its costs should not be imposed upon customers.

Staff also proposes a reduction in the service order costs to reflect use of an electronic interface. Staff notes that the service order cost issue was addressed in Order No. 98-444, at 63-71, in Dockets UT 138/139. The Commission concluded that USWC should develop two nonrecurring charges: one for manual processing and one for electronic processing. For electronically processed orders, the Commission directed that the cost studies incorporate a 98 percent "flow through" rate – that is, the proportion of service orders which are processed through several computer systems without human intervention. Staff asks that the Commission direct USWC to prepare two nonrecurring charges in the present case, one for electronic processing and one for manual processing, with the electronic order charge based on a 98 percent flow through rate.

Commission Disposition

The Commission rejects USWC's separate inquiry charge. Staff is correct in asserting that USWC's procedure is inefficient and the extra costs, if they exist, are thus not justified. The record establishes that the appropriate costs of the inquiry procedure are included in the nonrecurring cost of the dark fiber building block.

USWC must modify its costs to provide for use of an electronic interface. We noted in Order No. 98-444 that ILEC cost studies must incorporate flow through rates associated with fully automated operations support systems (OSS) interfaces. We also recognized that some carriers may submit manual orders. We thus directed ILECs to develop a separate nonrecurring charge to ensure that they are properly compensated for the costs of processing such orders. Our decision was based on sound evidence. We conclude that it is persuasive. We therefore direct USWC to develop separate charges for manual and electronic orders consistent with the conclusions set out in that order.

Issue I. C.: Is the dark fiber link between the USWC Central Office and the CLEC Central Office a Dark Fiber NAC or Dark Fiber Interoffice Transport?

Staff and USWC agree that the connection between the USWC central office and the CLEC central office is a dark fiber NAC, not Dark Fiber Interoffice Transport. No other party questioned this characterization.

Commission Disposition

The Commission adopts the agreed-upon definition of the dark fiber link between the USWC central office and the CLEC central office.

Issue I. D.: Is the definition of Dark Fiber Interoffice Transport acceptable?

USWC and Staff have the same two disagreements here that they set out with respect to Dark Fiber NAC (Issues I. A., B.). First, Staff argues for the deletion of the requirement that the Dark Fiber Interoffice Transport be an existing facility. Second, Staff recommends that the proposed inquiry charge be eliminated because the cost of the inquiry procedure is included in the nonrecurring cost of the dark fiber building block. USWC disagrees with Staff on both matters.

Commission Disposition

We reiterate our conclusions in Issues I. A. and B.: USWC must provide additional facilities under the circumstances described in that section; the proposed inquiry charge must be removed from the tariff for the reasons cited in that section.

Issue I. E. Do the definitions of Dark Fiber NAC and Dark Fiber Interoffice Transport adequately describe all of the components included in the pricing determination?

Staff and USWC agree that the definition of Dark Fiber NAC should include the FDPs at both ends. The parties are therefore in agreement about these definitions.

Commission Disposition

The Commission adopts the definition agreed upon by Staff and USWC.

Issue II. A.: Definition of Fiber Optic Termination.

USWC agrees with Staff's recommendation to modify the definition of Fiber Optic Termination to read: "A charge to terminate two Interoffice Transport Facilities-Dark Fibers at both ends of the interoffice fiber path." Staff and USWC also agree that the nonrecurring charge for Transport Termination-Fiber Optic should be waived if this building block is ordered at the same time and on the same service order as Transport Facilities-Dark Fiber, or a Dark Fiber NAC. The nonrecurring charge thus only applies when this building block is ordered on a stand-alone basis.

USWC disagrees, however, with the nonrecurring charge proposed by Staff. USWC claims that Staff significantly understates the amount of time needed to process an order for this building block on a stand-alone basis and also significantly overstates the percentage of flow through for USWC's process. According to USWC, Staff's proposal is based upon the assumption that a USWC representative will need to spend only 15 minutes to process an order and will need to do so for only 36 percent of orders, based on a flow through rate of 64 percent. USWC claims that it has demonstrated that there is no flow through for NACs and other building blocks. Even when flow through does exist, USWC claims that its Interconnect Service Center (ISC) representative must review orders from

CLECs to check for errors. USWC asks the Commission to reject Staff's costs related to this building block.

Staff points out, however, that USWC's proposed tariff states that the Fiber Optic Termination charge "does not apply when ordered at the same time and on the same service order as a Dark Fiber NAC or Transport Facilities-Dark Fiber." Thus, Staff argues, the provisioning activities are associated with the placement of the facilities being connected to the Fiber Optic Termination, not the use of Fiber Optic Termination. If the Fiber Optic Termination has been purchased alone, Staff argues that the nonrecurring costs are associated with making the fiber distribution panel appearance available to the purchaser. Using this building block does not involve any USWC provisioning activities because the termination point is already installed, inventoried, and ready for use. Staff claims that its recommended activity time is sufficient for that purpose.

Commission Disposition

We accept the agreed-upon definitions. In Order No. 98-444 in Dockets UT 138/139, we noted that while many CLECs might submit electronic orders for unbundled network elements, others may choose to continue to submit manual orders at this time. We therefore concluded that an ILEC may develop separate nonrecurring charges for the two types of ordering processes. We adopted a 98 percent flow through rate for electronically submitted orders and a zero percent flow through rate for manually submitted orders. We based this decision on sound evidence and conclude that it is still correct. We therefore adopt separate charges for manual and electronic orders consistent with that order.

Issue III. A.: Is the definition of Cross Connection OC-N acceptable?

Staff and USWC disagree on this issue. USWC proposes to define Cross Connection OC-N as a charge that covers "the costs of the fiber jumpers. . ." Staff claims that this conflicts with prior definitions in Dockets UM 773 and UM 844. The Commission's prior cases, according to Staff, base cross connection costs on the cost of the connection (or *appearance*) on a DSX panel or DCS, not the cost of the cable facility. Staff recommends that the definition of the Cross Connection OC-N be based on the connection of two fibers at a fiber distribution panel. USWC agrees that its definition is more detailed than prior definitions. It avers, however, that the detail is necessary to prevent CLECs from ordering the wrong building block.

Commission Disposition

USWC does not deny that its definition is inconsistent with prior Commission decisions. We are not persuaded that this inconsistency is justified by the explanation USWC provides. Staff's view is in keeping with the prior definitions of Cross Connection OC-N and is adopted.

Issue III. B.: Is the Cross Connection OC-N nonrecurring cost proposed by USWC acceptable?

Staff and USWC disagree on this issue. USWC proposes a charge of \$82.54. It argues that when this building block is ordered, it will incur the nonrecurring costs associated with connecting the fiber jumper, including the costs for the labor of a central office technician connecting the fiber jumper. According to USWC, Staff's proposed cost does not include any costs for the central office technician to connect the jumper, an activity which must be performed every time the building block is ordered. These costs are not, according to USWC, included in the jumper NAC building block cost studies and therefore should be recovered here. USWC contends that Staff's proposal significantly understates the forward looking costs.

Staff recommends that the nonrecurring charge not apply when the facility is ordered with an NAC or Transport Facilities, or that a charge of \$4.54 apply when it is ordered without the NAC or Transport Facilities. Staff bases its position on the same arguments used with respect to Issue II. A. above. It claims that the jumper related activities are included in the jumper NAC cost study. That is, the actual physical connection of the cable is associated with the jumper NAC and is included in the cost for it, not the cost for the cross connection OC-N. The activities in the USWC Cross Connection OC-N cost study are limited to jumper activities that duplicate the jumper NAC activities. If an additional charge for jumper activities is included for Cross Connection OC-N, that charge would duplicate the jumper NAC nonrecurring charge. On the other hand, if the CLEC connects its own fibers to the fiber distribution panel, it is not appropriate for USWC to charge the CLEC for jumper activities performed by the CLEC.

Commission Disposition

The Commission concludes that adoption of USWC's position would result in overcharges. Staff's analysis is correct. Its proposed cost structure will be sufficient to cover USWC's costs. Staff's position is adopted.

Issue IV. A.: Definition of Network Interface Device (NID)

USWC and Staff agree that the definition of the NID should state that the cost of the NID is included in the NAC rate. They also agree on the addition of a statement that the nonrecurring NID charge is a charge to have a NID replaced or reconnected to an end user's premises.

USWC and Staff disagree on whether the definition of NID should include other types of NIDs besides the modular NID with six lines. Staff notes that the NID building block is the expense of installing or modifying the NID, not the cost of the NID itself. Staff asserts that USWC has not proved that the expense of installing and modifying other kinds of NIDs is materially different or greater than the costs for the NID used in its cost study. USWC's position is that the cost study identifies the cost to

install a basic six-line NID, the type typically installed in residential areas. This cost does not necessarily apply to other types of NIDs. USWC argues that other types of NIDs may have different installation costs and the tariff would thus not be applicable to them. USWC argues that if an installation charge is required for additional types of NIDs, USWC can develop the necessary installation charges and modify its rates accordingly. Until that occurs, USWC argues that the Commission should not require it to apply the rate to every possible type of NID.

Commission Disposition

Staff is correct in its assertion that USWC has not provided any basis for concluding that the costs associated with other types of NIDs would be different from the basic six-line NID. We accordingly direct that the definition include every possible type of NID. USWC may provide additional studies that establish different costs. If so, it may modify its costs accordingly. UM 1025 would be an appropriate place to file such studies.

Issue IV. B.: Is the nonrecurring cost for the NID proposed by USWC satisfactory?

USWC claims that it established the nonrecurring cost for the NID by applying the average markup over the cost for building blocks as ordered in Docket UM 844 and that the Commission should therefore approve the cost. Staff's position is that the nonrecurring charge should be applied only when a CLEC requests that an ILEC technician visit. Staff also recommends that USWC be required to prepare two nonrecurring charges, one for electronic orders and one for nonelectronic orders, and that the electronic order charge should be based on a 98 percent flow through rate. USWC claims that Staff has produced no evidence to support a reduced charge for electronic ordering. Thus, the Commission should reject Staff's proposed reduction. Staff claims that its position is consistent with Order No. 98-444, at 63-71.

Commission Disposition

The Commission concludes that Staff's position on these issues is consistent with Order No. 98-444 and should be adopted. In that order we specifically adopted a flow through rate of 98 percent for all electronically submitted orders. We also noted that it is appropriate to develop a separate nonrecurring charge to deal with situations where a CLEC chooses not to submit electronic orders for unbundled elements. We made those decisions after considering an extensive factual record and lengthy argument presented by several of the companies most heavily involved in these issues and most knowledgeable about them, including USWC. We see no reason to modify those decisions now.

Issue V. A.: Interim Number Portability: Does the proposed tariff adequately describe Interim Number Portability?

Issue VI. A.: Is the Digital NAC (four-wire) recurring cost proposed by USWC acceptable?

Issue VI. B.: Was the Digital NAC (four-wire) nonrecurring cost adequately addressed in UT 138/139?

Issue VI. C.: Is the definition of Digital NAC (four-wire) acceptable?

Issue VI. D.: Digital NAC (four-wire): Is the additional charge for loop deloading appropriate?

Issues V. A. through VI. D. were resolved in Order No. 01-1106 by deletion of the elements from the list.

Issue VII. A.: Definition of Intra-Premises Riser Cable.

USWC agrees with Staff's recommendation to modify the definition of Intra-Premises Riser Cable to state that this building block is not required if a USWC NAC has been ordered by the CLEC. This modification reflects the fact that a charge for this facility is appropriate only when USWC owns the riser cable but no USWC NAC is involved.

Commission Disposition

We adopt the agreed-upon definition.

Issue VII. B.: Is the Intra-Premises Riser Cable Facility's nonrecurring cost proposed by USWC acceptable?

Staff recommends that USWC's proposed Intra-Premises Riser Cable service order costs be reduced to reflect use of an electronic interface. This recommendation is based on the Commission's decision in Order No. 98-444 in Dockets UT 138/139 at 63-71, discussed above. USWC argues that there is no evidence in the record to support Staff's 98 percent flow through rate or the assumed percentage of orders that will be submitted electronically.

Commission Disposition

Staff's position is consistent with our decision in Order No. 98-444 as discussed earlier in this order. We adopt Staff's position.

Issue VII. C.: When is the Intra-Premises Riser Cable Facilities charge applicable?

USWC and Staff agree that the CLEC should pay the nonrecurring charge when a CLEC requests an ILEC technician's visit. Staff contends, however, that USWC's position that the nonrecurring charge would always apply is inconsistent with the Commission's policy that a CLEC can itself connect its facilities to building

blocks purchased from an ILEC. USWC argues that its nonrecurring charge is cost-based and accordingly should be approved by the Commission.

Commission Disposition

The agreement between Staff and USWC that the nonrecurring charge can be imposed when a CLEC requests an ILEC technician's visit is reasonable. USWC's position that the charge should apply in every instance even though a CLEC can itself connect its facilities to building blocks purchased from an ILEC is not reasonable and is rejected.

Issue VIII. A.: Is the definition of Loop Concentration proposed by USWC satisfactory?

Issue VIII. B.: Is the Loop Concentration recurring cost proposed by USWC acceptable?

Issue VIII. C.: Is the Loop Concentration nonrecurring cost proposed by USWC acceptable?

Issue VIII. D.: When are the Loop Concentration charges applicable?

Issue IX. A.: Is the definition of a Remote Switching Device (RSD) Interconnection proposed by USWC satisfactory?

Issue IX. B.: Is the RSD Interconnection recurring cost proposed by USWC acceptable?

Issue IX. C.: Is the RSD Interconnection nonrecurring cost proposed by USWC acceptable?

Issue IX. D.: When are RSD Interconnection charges applicable?

Issues VIII. A. through IX. D. were resolved in Order No. 01-1106 by deletion of the elements from the list.

Issue X. A.: Is the definition of Integrated Digital Line Carrier (IDLC) Interconnection satisfactory?

USWC and Staff agree that USWC's definition of IDLC should be modified to allow for the unbundling of the IDLC system at the CLEC's request. MCI expresses concern that the quality of the unbundled loop will not meet the same standards of quality as the existing IDLC loop. It argues that USWC may substitute a copper or nonintegrated loop for IDLC loop plant, leading to quality and service problems. USWC argues that the loop will meet the same standards of quality as the existing loop. Staff proposes that

USWC's assurance of quality be included as a specific provision of USWC's proposed tariff.

Commission Disposition

The Commission concludes that USWC's definition should be modified in accordance with its agreement with Staff. The costs should also be modified to provide the assurance of quality suggested by Staff.

Issue X. B.: Is the IDLC Interconnection recurring cost proposed by USWC acceptable?

USWC and Staff disagree on this issue. USWC's proposed tariff includes an additional recurring cost for IDLC unbundling based on the need for additional equipment to groom the signal. The cost of this equipment, according to USWC, is not included in the cost for a basic NAC. USWC claims that under FCC Rules it is entitled to recover from the requesting carrier any costs associated with IDLC interconnection.¹² USWC assures the Commission that it will first attempt to provide the requested unbundled loop using an available copper facility. If one is not available, USWC will provide a Universal Digital Loop Carrier system. If, however, providing an unbundled loop via IDLC equipment requires placing additional equipment in the central office, that equipment is not included in the cost study for the basic NAC and USWC is entitled to recover this additional cost, which is \$5.39 for a two-wire and \$12.66 for a four-wire.

Staff argues that there should be no other cost in addition to the NAC cost for the IDLC interconnection. It claims that IDLC cost differences are factored into the NAC cost in that the studies assume that 25 percent of the USWC network is supplied by IDLC systems and 75 percent is supplied by analog facilities. Staff notes that this proportion is consistent with the USWC cost studies approved in Docket UM 773 and used in Order No. 98-444 in Dockets UT 138/139. USWC nevertheless reiterates its argument that the basic NAC cost does not include the additional equipment necessary to groom the signal.

Commission Disposition

The Commission agrees with Staff that the costs associated with grooming should be considered in connection with the basic NAC, not in connection with the IDLC building block. Staff's assumption about the proportion of analog and digital facilities is consistent with our decision in Order No. 98-444, at 78. We stated there that while these percentages may change over time, we will maintain consistency until shown that a change is necessary. We have not been shown that modification is now justified. We therefore direct USWC to remove this cost from its listing.

¹² First Report and Order, at 383-84.

Issue X. C.: Is the IDLC Interconnection nonrecurring cost proposed by USWC acceptable?

Staff and USWC agree that the CLEC's use of the IDLC may require the purchase of other building blocks and that the purchase of these would be subject to the applicable nonrecurring charges.

Issue X. D.: When are the IDLC Interconnection charges applicable?

USWC and Staff agree that there are no additional nonrecurring charges for IDLC Interconnection when it is ordered at the same time as an unbundled loop.

Issue XI. A.: Is USWC's statement that Service Management Systems Cost Studies are not yet available acceptable?

Issue XI. B.: How should the Commission address the lack of Service Management Systems Cost Studies?

Issues XI. A. and B. were resolved in Order No. 01-1106 by deletion of the elements from the list.

Issue XII. A.: Is the definition of Signaling System Seven (SS7) proposed by USWC satisfactory?

Issue XII. B.: Are the SS7 STP Port recurring costs proposed by USWC acceptable?

Issue XII. C.: Are the SS7 Signaling recurring costs proposed by USWC acceptable?

Issue XII. D.: Is the SS7 (CCSAC Link-Port Option) nonrecurring cost acceptable?

Issues XII. A.-D. shall be considered in Docket UM 1025.

Issue XIII. A.: Is the definition of Line Information Data Base (LIDB) proposed by USWC satisfactory?

Staff and USWC agree on this issue.

Issue XIII. B.: Are the LIDB Query Costs proposed by USWC acceptable?

Staff and USWC agree on this issue.

Issue XIII. C.: Is the definition of 800 Data Base System proposed by USWC satisfactory?

Staff and USWC agree on this issue.

Issue XIII. D.: Are the 800 Data Base Query Costs proposed by USWC acceptable?

Staff and USWC agree on these costs.

Commission Disposition (Issues XIII. A., B., C., and D.)

The Commission accepts the agreements on these issues.

Issue XIV. A.: Is the definition of Customized Routing Functions proposed by USWC satisfactory?

Staff and USWC agree on this definition.

Issue XIV. B.: Local Calls.

Staff and USWC now agree on USWC's proposal to charge for custom routing of local calls on an interim basis. The charge would apply when a CLEC orders custom routing in a switch or adds a custom routing trunk. The charge would not apply each time the CLEC adds a new local service customer to that switch or when a CLEC is using shared transport.

Commission Disposition (Issues XIV. A. and B.)

The Commission accepts the agreements on these issues.

Issue XV. A.: Definition of Testing Access.

Issue XV. B.: Is the nonrecurring cost appropriate?

Issue XV. C.: Is the Testing Access Recurring Charge acceptable?

Issues XV. A.-C. were resolved in Order No. 01-1106 by deletion of the elements from the list.

Issue XVI.: Operations Support Systems (OSS)

Issue XVI. A.: What is the likely impact of the pending FCC decision on Operations Support Systems?

Issue XVI. B.: Definition of OSS.

XVI. C.: Is the OSS Access nonrecurring cost proposed by USWC acceptable?

Issues XVI. A.-C. shall be considered in Docket UM 1025.

Issue XVII. A.: Has the cost of Digital Loop Conditioning been adequately addressed in UT 138/139?

Issue XVII. B.: Is the conditioning for HDSL or ADSL any different from other digital conditioning?

Issue XVII. C.: Digital Loop Conditioning: Should an additional charge be made for conditioning?

Issues XVII. A.-C. were resolved in Order No. 01-1106 by deletion of the elements from the list.

Issue XVIII. A.: Have the costs for machine and operator intercept been approved by the Commission?

Issue XVIII. B.: Are the recurring prices for machine and operator intercept acceptable?

Staff and USWC agree that the costs for machine and operator intercept were approved in Order No. 97-145. They also agree that the price for operator handled intercept should be \$0.143 per call.

Commission Disposition (Issues XVIII. A. and B.)

The Commission approves the agreements between USWC and Staff.

Issue XIX.: Has the cost for Operator Assistance been approved by the Commission?

Staff and USWC agree that the cost for Operator Assistance was approved in Order No. 97-145, Confidential Appendix B, at 70.

Commission Disposition

The Commission approves the agreement between Staff and USWC.

ORDER

IT IS ORDERED that:

1. The definitions and costs as set out herein are approved.
2. The prices for the unbundled network elements defined in this order shall be set in accordance with the markup established in Docket UM 844.

- 3. The UNE prices developed in accordance with this order shall function as default prices, which shall be incorporated in interconnection agreements arbitrated by the Commission under the terms of the Telecommunications Act of 1996 unless: (a) the parties agree to different UNE prices, or (b) one of the parties to the arbitration demonstrates that there are special costs warranting a UNE price different from that established by the Commission.
- 4. U S WEST Communications, Inc., and GTE Northwest Incorporated shall file statements within 90 days of the issuance of this order listing recurring and nonrecurring prices for the unbundled network elements in accordance with our decision in this order.
- 5. Advice No. 1720, Supplement No. 2, is permanently suspended.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.