TC99-057

CH/HB

DOCKET NO. TC99-057

In the Matter of — IN THE MATTER OF THE FILING BY U S WEST COMMUNICATIONS, INC. FOR APPROVAL OF AGREEMENT FOR LOCAL WIRELINE NETWORK INTERCONNECTION AND SERVICE RESALE BETWEEN MCLEODUSA COMMUNICATIONS SERVICES, INC. AND U S WEST COMMUNICATIONS, INC.

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
5/26/99	Filed and Docketed;
5/27/99	Faxed Filing;
6/17/99	U S West's Opening Comments Regarding whether ISP Traffic is subject to Reciprocal Compensation;
6/18/99	Comments of Sprint;
7/7/99	McLeodUSA's Comments regarding the Eligibility of ISP Traffic for Reciprocal Compensation;
7/8/99	Letter Withdrawing Filing;
7/23/99	Order Approving Adoption of Agreement;
7/23/99	Docket Closed

TC99-057

RECEIVED
MAY 26 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

May 24, 1999

Via Overnight Delivery

Mr. William Bullard, Jr.
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Re: Filing of Wireline and Adoption Interconnection Agreement between McLeodUSA Communications Services, Inc. and U S WEST Communications, Inc.

Pursuant to 20:10:32:21 of the Admin. Rules of South Dakota enclosed for filing is an original and ten (10) copies of the Interconnection Agreement between U S WEST Communications, Inc. ("U S WEST") and McLeodUSA Communications Services, Inc. ("McLeodUSA") for approval by the Commission. The Agreement is a negotiated agreement setting forth the terms, conditions and prices under which U S WEST agrees to provide (a) services for resale, (b) certain unbundled network elements, ancillary functions and additional features to McLeodUSA (collectively referred to as "Network Elements") for McLeodUSA's offering and provisioning of telecommunications services. The Agreement also sets forth the terms, conditions and prices under which the parties agree to interconnect and pay reciprocal compensation for the exchange of local traffic.

The Agreement does not discriminate against other telecommunications carriers, and the Agreement is consistent with the FCC's guidelines for negotiation and performance. Additionally, other telecommunications carriers have the option to adopt any negotiated or arbitrated agreement approved by the Commission.

The Agreement is consistent with the public interest as identified in the state statutes of South Dakota, the Commission's rules, the federal Telecommunications Act of 1996, and rules of the Federal Communications Commission. Expeditious approval of this Agreement will enable McLeodUSA to enter the local exchange market and provide customers with increased choices among local exchange services. However a dispute remains between the parties regarding Reciprocal Compensation provisions. It is U S

WEST's position that those provisions apply only to local traffic. U S WEST requests that the Commission resolve this issue in dispute.

McLeodUSA has authorized U S WEST to submit this Agreement on McLeodUSA's behalf. Please date and file stamp and return the extra copy of the Application in the enclosed self-addressed and postage paid envelope. If you have any questions, please do not hesitate to contact me at the above-referenced number.

Very truly yours,

Todd Lundy

Todd Lundy

/ld
Enclosures

cc: Mr. Bill Haas
Director – McLeodUSA Communications Services, Inc.
6400 C Street, S.W.
Cedar Rapids, IA 52406

Ms. Colleen Sevold
Manager - Public Policy
125 S. Dakota Avenue, 8th Floor
Sioux Falls, SD 57194

TC99-057
PART A

ORIGINAL

AGREEMENT
FOR LOCAL WIRELINE NETWORK INTERCONNECTION
AND
SERVICE RESALE

RECEIVED
MAY 26 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Between

McLeodUSA Communications Services, Inc.
and
U S WEST Communications, Inc.

for the State of South Dakota

Agreement Number
CDS-990318-0145

[NOTE: In this Agreement, *italicized language* corresponds to language agreed to by the Parties; Courier New pt 10 font language corresponds to U S WEST proposed language; Times New Roman pt. 11 font language corresponds to AT&T proposed language; **bold language** corresponds to language included to comply with the Commission's Order; bracketed [ ] language corresponds to language proposed to be deleted by a Party]. Issues identified as "Parked" are pending before the United States Supreme Court and will be resolved in accordance with the Court's ruling.

TABLE OF CONTENTS

PART A

RECITALS 1

SCOPE OF AGREEMENT 1

DEFINITIONS 2

TERMS AND CONDITIONS 12

1. General Provisions 12
2. Most Favored Nation Terms and Treatment 12
3. Payment 12
4. Taxes 13
5. Intellectual Property 13
6. Severability 14
7. Responsibility for Environmental Contamination 14
8. Branding 15
9. Independent Contractor Status 16
10. Referenced Documents 16
11. Publicity and Advertising 17
12. Executed in Counterparts 17
13. Headings Not Controlling 17
14. Joint Work Product 17
15. Survival 17
16. Effective Date 17
17. Amendment of Agreement 18
18. Indemnification 18
19. Limitation of Liability 19
20. Term of Agreement 19
21. Governing Law 20
22. Cancellation Charges 20
23. Regulatory Approvals 20
24. Compliance 20
25. Force Majeure 21
26. Escalation Procedures 22
27. Dispute Resolution 22
28. Nondisclosure 23
29. Notices 24
30. Assignment 25
31. Warranties 25
32. Default 26
33. Remedies 27
34. Waivers 27
35. No Third Party Beneficiaries 27
36. Physical Security 27

37. Network Security 28
38. Revenue Protection 28
39. Law Enforcement Interface 29
40. Collocation 29
41. Technical References - Collocation 40
42. Number Portability 40
43. Dialing Parity 47
44. Directory Listings 48
45. [Intentionally Left Blank for Numbering Consistency] 50
46. U S WEST Dex Issues 51
47. Access to Poles, Ducts, Conduits, and ROW 51
48. Bona Fide Request Process for Further Unbundling 56
49. Audit Process 58
50. Miscellaneous Services 59
51. Unused Transmission Media 75
52. Service Standards 76
53. Entire Agreement 80
54. Reservation of Rights 80

ATTACHMENTS

Attachment 1	Rates and Charges
Attachment 2	Resale
Attachment 3	Unbundled Access/Elements
Attachment 4	Interconnection
Attachment 5	Business Process Requirements
Attachment 6	Electronic Interface
Attachment 7	Implementation Schedule

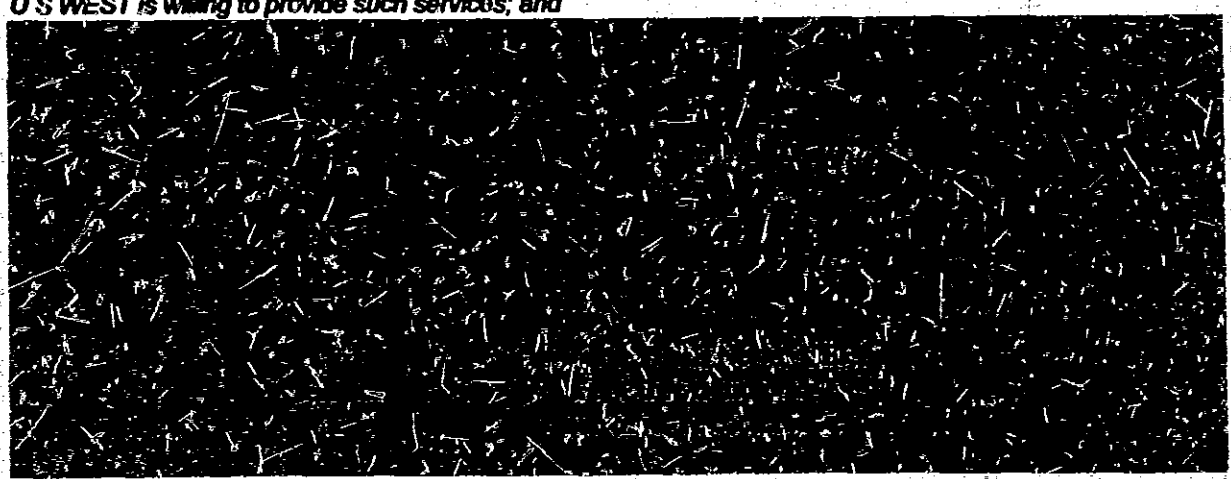
This Interconnection Agreement (this "Agreement"), effective insert date, 1998 (the "Effective Date"), is entered into by and between McLeodUSA Communications Services, Inc., a New York corporation, and U S WEST Communications, Inc., a Colorado corporation, to establish the rates, terms and conditions for local interconnection, local resale, and the purchase of unbundled network elements (individually referred to as the "service" or collectively as the "services").

RECITALS

WHEREAS, pursuant to this Agreement, McLeod and U S WEST will extend certain arrangements to one another within each LATA in which they both operate within South Dakota This Agreement is a combination of agreed terms and terms imposed by arbitration under Section 252 of the Communications Act of 1934, as modified by the Telecommunications Act of 1996, the rules and regulations of the Federal Communications Commission, and the orders, rules and regulations of the Public Utilities Commission of the State of South Dakota; and as such does not necessarily represent the position of either Party on any given issue; and

WHEREAS, the Parties wish to interconnect their local exchange networks in a technically and economically efficient manner for the transmission and termination of calls, so that subscribers of each can seamlessly receive calls that originate on the other's network and place calls that terminate on the other's network, and for McLeod's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, McLeod wishes to purchase Telecommunications Services for resale to others, and U S WEST is willing to provide such services; and



Now, therefore, in consideration of the terms and conditions contained herein, McLeod and U S WEST hereby mutually agree as follows:

SCOPE OF AGREEMENT

A. This Agreement specifies the rights and obligations of each Party with respect to the purchase and sale of Local Interconnection, Local Resale and Network Elements in the LATAs in South Dakota where U S WEST operates.

B. In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistently with the intent of the Act. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement (including, without limitation, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

C. U S WEST will provide interconnection, network elements and other services to McLeod with the level of service quality or performance of obligations set forth in Part A, Section 52 of this Agreement.

D. U S WEST shall provide to McLeod Services for Resale that are equal in quality, subject to the same conditions (including the conditions in U S WEST's effective tariffs which are not otherwise inconsistent with the terms and conditions contained herein), within the same provisioning time intervals that U S WEST provides these services to itself, its Affiliates and others, including end users, and in accordance with any applicable Commission service quality standards, including standards the Commission may impose pursuant to Section 252 (e)(3) of the Act.

E. [Intentionally left blank for numbering consistency]

F. The Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, provisioning and billing and in reasonably resolving issues which result from such implementation on a timely basis.

G. If a Party makes a change in its network which it believes will materially affect the interoperability of its network with that of the other Party, the Party making the change shall provide advance notice of such change to the other Party in accordance with applicable FCC or Commission regulations.

H. In accordance with Section 251(c)(5) of the Act and the rules and regulations established by the FCC and the Commission, the Parties shall provide reasonable notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or network, as well as of any other changes that would affect the interoperability of those facilities and networks.

I. Except as otherwise provided for in Section 8 of Attachment 2, U S WEST shall not discontinue or refuse to provide any service required hereunder without McLeod's prior written agreement in accordance with Section 17 of this Part A, nor shall U S WEST reconfigure, reengineer or otherwise redeploy its network in a manner which would materially impair McLeod's ability to offer Telecommunications Services in the manner contemplated by this Agreement, the Act or the FCC's rules and regulations. U S WEST agrees that all obligations undertaken pursuant to this Agreement, including, without limitation, performance standards, intervals, and technical requirements are material obligations hereof and that time is of the essence.

DEFINITIONS

Certain terms used in this Agreement shall have the meanings set forth herein or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined herein will have the meanings ascribed to them in the Act and the FCC's rules and regulations.

"911 Service" means a universal telephone number which gives the public direct access to the Public Safety Answering Point (PSAP). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.

"911 Site Administrator" is a person assigned by McLeod to establish and maintain 911 service location information for its subscribers.

"Access Services" refers to interstate and intrastate switched access and private line transport services.

"Act" means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or by the Commission.

"ADSL" or "Asymmetrical Digital Subscriber Line" means a transmission technology which transmits an asymmetrical digital signal using one of several transmission methods (for example, carrier-less AM/PM discrete multi-tone, or discrete wavelet multi-tone).

"Affiliate" is an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity. For the purposes of this Agreement, the term "own" means to own an equity interest (or equivalent) of more than ten percent (10%).

"AIN" ("Advanced Intelligent Network") is a network functionality that permits specific conditions to be programmed into a switch which, when met, directs the switch to suspend call processing and to receive special instructions for further call handling instructions in order to enable carriers to offer advanced features and services.

"AIN Services" means architecture and configuration of the AIN Triggers within the SCP as developed and/or offered by U S WEST to its customers.

"ALI" (Automatic Location Identification) is a database developed for E911 systems that provides for a visual display of the caller's telephone number and address, and the names of the emergency response agencies responsible for that address. The ALI also shows an Interim Number Portability (INP) number, if applicable.

"ALI/DMS" (Automatic Location Identification/Data Management System) means the emergency service (E911/911) database containing subscriber location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (PSAP) to route the call.

"AMA" means the Automated Message Accounting structure that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Bellcore as GR-1100-CORE, which defines the industry standard for message recording.

"Ancillary Services" or "Ancillary Functions" means, collectively, the following: (1) Collocation as described in Section 40; (2) access to poles, ducts, conduits and rights of way as described in Section 47; (3) unused transmission media as described in Section 51; (4) Directory Listings as described in Section 44; (5) E911 as described in Section 50.1; (6) Directory Assistance Service as described in Section 50.2; (7) Operator Services as described in Section 50.3; (8) Directory Assistance and Listings services requests as described in Section 50.4; and (9) Directory Assistance data as described in Section 50.5.

"ANI" (Automatic Number Identification) is a feature that identifies and displays the number of a telephone that originates a call.

"ARS" (Automatic Route Selection) is a service feature that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.

"ASR" (Access Service Request) means the industry standard forms and supporting documentation used for ordering Access Services. The ASR may be used to order trunking and facilities between McLeod and U S WEST for Local Interconnection.

"McLeod" means McLeod and any Affiliates, subsidiary companies or other entities performing any of the obligations of McLeod set forth in this Agreement. For purposes of Section 47 of this Part A of this Agreement, the obligations of McLeod shall be limited to those facilities of McLeodUSA Communications Services, Inc. that are used for the purpose of providing local services under the terms of this Agreement

"BLV/BLI" (Busy Line Verify/Busy Line Interrupt) means an operator call in which the end user inquires as to the busy status of, or requests an interruption of, a telephone call.

"Business Day" means any day Monday through Friday except for mutually agreed to holidays.

"CABS" means the Carrier Access Billing System which is defined in a document prepared by the Billing Committee of the OBF. The Carrier Access Billing System document is published by Bellcore in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-0011869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services.

"Calling Party Number" or "CPN" is a CCS parameter which refers to the number transmitted through a network identifying the calling party.

"CCS" (Common Channel Signaling) means a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.

"Central Office Switch" means a switch used to provide Telecommunications Services, including, but not limited to:

a) "End Office Switches" which are used to terminate Customer station loops for the purpose of interconnecting to each other and to trunks;

b) "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches. Access tandems provide connections for exchange access and toll traffic while local tandems provide connections for local/EAS traffic; or

c) Combination End Office/Tandem Office Switches.

"Centrex", including Centrex Plus, means a Telecommunications Service that uses central office switching equipment for call routing to handle direct dialing of calls and to provide numerous private branch exchange-like features.

"Charge Number" is a CCS parameter which refers to the number transmitted through the network identifying the billing number of the calling party.

"CLASS" (Bellcore Service Mark) is a set of call-management service features that utilize the capability to forward a calling party's number between end offices as part of call setup. Features include Automatic Call-back, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.

"CLEC" (Competitive Local Exchange Carrier) means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent LEC.

"Combinations" consist of two or more connected Network Elements that are reasonably related to provide Telecommunications Service in a geographic area or to a specific customer.[1]

"Commission" means the Public Utilities Commission of the State of South Dakota.

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[1] Pursuant to the Eighth Circuit Decision Per Iowa Utilities Bd., et al. v. FCC, 120 F.3d 753 (8th Cir. 1997), the Parties agree to this change.

"Conduit" means a tube or protected pathway that may be used to house communication or electrical cables. Conduit may be underground or above ground (for example, inside buildings) and may contain one or more innerducts.

"Confidential Information" has the meaning set forth in Section 28 of Part A of this Agreement.

"Contract Year" means a twelve (12) month period during the term of this Agreement commencing on the Effective Date and each anniversary thereof.

"Control Office" is an exchange carrier center or office designated as its company's single point of contact for the provisioning and maintenance of its portion of local interconnection arrangements.

"Custom Calling Features" is a set of call-management service features available to residential and business subscribers including call-waiting, call-forwarding and three-party calling.

"Customer" means a third-party (residence or business) that subscribes to Telecommunications Services provided by either of the Parties.

"DBMS" (Database Management System) is a computer system used to store, sort, manipulate and update the data required to provide, for example, selective routing and ALI.

"Databases" are the Network Elements that provide the functionality for storage of, access to, and manipulation of information required to offer a particular service and/or capability. Databases include, but are not limited to: Number Portability, LIDB, Toll Free Number Database, Automatic Location Identification/Data Management System, and AIN.

"Digital Signal Level" means one of several transmission rates in the time division multiplexing hierarchy, including, but not limited to:

"Digital Signal Level 0" or "DS-0" means the 56 or 64 Kbps zero-level signal in the time-division multiplex hierarchy.

"Digital Signal Level 1" or "DS-1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-1 is the initial level of multiplexing.

"Digital Signal Level 3" or "DS-3" means the 44.736 Mbps third-level in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-3 is defined as the third level of multiplexing.

"Directory Assistance Database" refers to any set of subscriber records used by U S WEST in its provision of live or automated operator-assisted directory assistance including, but not limited to, 411, 555-1212, NPA-555-1212.

"Directory Assistance Services" provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.

"Directory Listings" or "Listings" refers to subscriber information, including, but not limited to, name, address and phone numbers, in Directory Assistance Services or directory products.

"Discloser" means that Party to this Agreement which has disclosed Confidential Information to the other Party.

"E911" (Enhanced 911 Service) means a telephone communication service which will automatically route a call dialed "911" to a designated Public Safety Answering Point (PSAP) attendant and will provide to the attendant the calling party's telephone number and, when possible, the address from which the call is being placed, and the emergency response agencies responsible for the location from which the call was dialed.

"E911 Message Trunk" is a dedicated line, trunk or channel between two central offices or switching devices which provides a voice and signaling path for E911 calls.

"EAS" (Extended Area Service) is intraLATA traffic treated as "local" traffic between exchanges (rather than as "toll" traffic) as established by the Commission and as reflected in the effective U S WEST tariffs.

"Effective Date" is the date, indicated in the Preamble, on which this Agreement shall become effective.

"Emergency Response Agency" is a governmental entity authorized to respond to requests from the public to meet emergencies.

"EMR" means the Exchange Message Record System used among LECs for exchanging telecommunications message information for billable, non-billable, sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, published by Bellcore, which defines the industry standard for exchange message records.

"ESN" (Emergency Service Number) is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.

"FCC" means the Federal Communications Commission.

"FCC Interconnection Order" is the Federal Communications Commission's First Report and Order in CC Docket No. 96-98 released August 8, 1996, as effective.

"Fiber-Meet" means an interconnection architecture method whereby the Parties physically interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually agreed upon location.

"Gateway" (ALI Gateway) is a telephone company computer facility that interfaces with McLeod's 911 administrative site to receive ALI data from McLeod. Access to the Gateway will be via a dial-up modem using a common protocol.

"HDSL" (High-Bit Rate Digital Subscriber Line) means a two-wire or four-wire transmission technology which typically transmits a DS1-level signal (or, higher level signals with certain technologies), using, for example, 2 Binary / 1 Quartenary ("2B1Q").

"IDLC" (Integrated Digital Loop Carrier) means a digital subscriber loop carrier system which interfaces with the switch digitally at a DS1 (1.544Mbps) or higher level.

"ILEC" means the incumbent local exchange carrier.

"Information Service Traffic" means traffic which originates on a local access line and which is addressed to an information service provider.

"INP" (Interim Number Portability) is a service arrangement whereby subscribers who change local service providers may retain existing telephone numbers with minimal impairment of quality, reliability, or convenience when remaining at their current location or changing their location within the geographic area served by the initial carrier's serving central office.

"Interconnection" is as described in the Act and refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing of telephone exchange service traffic and exchange access traffic.

"ISDN" (Integrated Services Digital Network) means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B+D). Primary Rate Interface-ISDN (PRI-ISDN) provides for a digital transmission of twenty-three (23) 64 Kbps bearer channels and one 64 Kbps data channel (23B+D).

"Itself" shall mean U S WEST Communications Inc. or any Affiliate or Subsidiary thereof.[2]

"IXC" (Interexchange Carrier) means a provider of interexchange Telecommunications Services.

"LATA" means Local Access Transport Area.

"LEC" means local exchange carrier.

"LIDB" (Line Information Data Base(s)) is an SCP database that provides for such functions as calling card validation for telephone line number cards issued by LECs and other entities and validation for collect and billed-to-third services.

"Local Interconnection" shall have the meaning set forth in the Recitals to this Agreement.

"Local Resale" or "Services for Resale" means, collectively, Telecommunications Services and service functions provided by U S WEST to McLeod pursuant to Attachment 2 of this Agreement.

"Local Traffic" is intraLATA traffic within an exchange that is treated as toll free traffic as established by the Commission and as reflected in the effective tariffs of U S WEST.

"Loop" is a transmission facility between a distribution frame, or its equivalent, in a U S WEST central office or wire center, and the Network Interface Device (as defined herein) or network interface at a subscriber's premises, to which McLeod is granted exclusive use. This includes, but is not limited to, two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide ISDN, ADSL, HDSL, and DS-1 level signals. A Loop may be composed of the following components:

Loop Concentrator / Multiplexer
Loop Feeder
Network Interface Device (NID)
Distribution

"Main Distribution Frame" or "MDF" means the distribution frame of the Party providing the Loop used to interconnect cable pairs and line and trunk equipment terminals on a switching system or transmission facility.

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[2] Per Second Arbitration Order at page 4, ¶4.

"MECAB" refers to the Multiple Exchange Carrier Access Billing (MECAB) document prepared by the Billing Committee of the OBF, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an Access Service provided by two or more LECs (including a LEC and a CLEC), or by one LEC in two or more states within a single LATA.

"MECOD" refers to the Multiple Exchange Carriers Ordering and Design (MECOD) Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the OBF, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Bellcore as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more LECs (including a LEC and a CLEC). It is published by Bellcore as SRBDS 00983.

"Meet-Point Billing" or "MPB" refers to an arrangement whereby two LECs (including a LEC and McLeod) jointly provide Switched Access Service to an Interexchange Carrier, with each LEC (or McLeod) receiving an appropriate share of the access element revenues.

"Mid-Span Meet" is a point of Interconnection between two networks, designated by two Telecommunications Carriers, at which one carrier's responsibility for service begins and the other carrier's responsibility ends.

"MSAG" (Master Street Address Guide) is a database defining the geographic area of an E911 service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and emergency service numbers provided by the counties or their agents to U S WEST.

"NANP" (North American Numbering Plan) means the numbering plan used in the United States that also serves Canada, Bermuda, Puerto Rico and certain Caribbean Islands. The NANP format is a 10-digit number that consists of a 3-digit NPA code (commonly referred to as the area code), followed by a 3-digit NXX code and 4-digit line number.

"NENA" (National Emergency Number Association) is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.

"Network Element" means a facility or equipment used in the provision of a telecommunications service, including features, functions, and capabilities that are provided by means of such facility or equipment, including **Operational Support Systems**[3]*, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a Telecommunications Service.*

"NP" (Number Portability) means the use of the Location Routing Number (LRN) database solution to provide fully transparent NP for all subscribers and all providers without limitation.

"NPA" (Numbering Plan Area) (sometimes referred to as an area code) is the three digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 792 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs." A "Geographic NPA" is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A "Non-Geographic NPA," also known as a "Service Access Code (SAC Code)" is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

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[3] Pursuant to the Eighth Circuit Decision, the Parties agree to this change.

"NXX" means the fourth, fifth and sixth digits of a ten-digit telephone number within the NANP.

"OBF" means the Ordering and Billing Forum, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS).

"Operator Services" includes, but is not limited to, (1) operator handling for call completion (e.g., collect calls); (2) operator or automated assistance for billing after the subscriber has dialed the called number (e.g., credit card calls); and (3) special services (e.g. emergency agency call).

"P.01 Transmission Grade of Service" (GOS) means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.

"PLU" (Percent Local Usage) is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection trunks. Directory assistance, BLV/BLI, 900, 976, transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.

"Party" means either U S WEST or McLeod and "Parties" means U S WEST and McLeod.

"Person" means, collectively, an Affiliate, subsidiary, Customer, end user and subscriber of U S WEST.

"POI" (Point of Interconnection) means the physical point that establishes the technical interface, the test point, where applicable, and the operational responsibility hand-off between McLeod and U S WEST for the local interconnection of their networks for the mutual exchange of traffic.

"Point of Interface" is the physical point where McLeod hands off transmission media to the U S WEST provided entrance facility associated with a Collocation arrangement for the purpose of connecting the entrance facility to some point located within U S WEST's premises.

"Pole Attachment" means the connection of a facility to a utility pole. Some examples of facilities are mechanical hardware, grounding and transmission cable, and equipment boxes.

"POP" means an IXC's point of presence.

"Premium Listing", such as additional, foreign, cross reference, informational, non-listed, privacy, etc., are as described in the U S WEST general exchange listing tariff.

"Primary Listing" (for example, main list, additional main, joint user, client main list or answering service list) shall mean the one appearance of an end user telephone subscriber's main telephone number and other content such as name and address, which each McLeod residence or business subscriber is entitled to receive in the White Pages Directory published by U S WEST Dex at no charge from U S WEST Communications. Where U S WEST business end users are entitled to receive a courtesy listing in the yellow pages section of any directory published on U S WEST's behalf, McLeod's business customers will receive the same entitlement.

"Proprietary Information" shall have the same meaning as Confidential Information.

"PSAP" (Public Safety Answering Point) is the public safety communications center where 911 calls placed by the public for a specific geographic area will be answered.

"Rate Center" means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to U S WEST or McLeod for its provision of basic exchange Telecommunications Services. The "Rate Center Point" is the finite geographic point iden-

tified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The "Rate Center Area" is the exclusive geographic area identified as the area within which U S WEST or McLeod will provide basic exchange Telecommunications Services bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center Point must be located within the Rate Center Area.

"Rating Point" means the point at which transport mileage is calculated for the termination of calls. Each Party shall establish its own Rating Point(s) for its own services.

"Real Time" means the actual time in which an event takes place, with the reporting on or the recording of the event simultaneous with its occurrence.

"Recipient" means that Party to this Agreement (1) to which Confidential Information has been disclosed by the other Party, or (2) who has obtained Confidential Information in the course of providing services under this Agreement.

"Reseller" is a category of Telecommunications Services providers who obtain Telecommunications Services from another provider through the purchase of wholesale priced services for resale to their end user subscribers.

"Routing Point" means a location which U S WEST or McLeod has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Telecommunications Services provided by U S WEST or McLeod which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Bellcore Practice BR 795-100-100, the Routing Point may be an "End Office" location, or a "LEC Consortium Point of Interconnection." Pursuant to that same Bellcore Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)KD in positions 9, 10, 11, where (x) may by any alphanumeric A-Z or 0-9. The Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.

"ROW" (Right of Way) means the right to use the land or other property owned, leased, or controlled by another party to place poles, conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property) and may include the right to use discrete space in buildings, building complexes or other locations.

"SAG" (Street Address Guide) is a database containing an alphabetical list of street names, high-low house number ranges, descriptive addresses, community names, tax codes, subscriber names, telephone numbers, NXXs, central office names, CLLI and other information maintained by U S WEST.

"SCP" (Service Control Point) is a specific type of Database Network Element functionality deployed in a Signaling System 7 (SS7) network that executes service application logic in response to SS7 queries sent to it by a switching system also connected to the SS7 network. SCPs also provide operational interfaces to allow for provisioning, administration and maintenance of subscriber data and service application data (e.g., a toll free database stores subscriber record data that provides information necessary to route toll free calls).

"SECAB" means the Small Exchange Carrier Access Billing document prepared by the Billing Committee of the OBF. The Small Exchange Carrier Access Billing document, published by Bellcore as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.

"Selective Routing" is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone from which 911 is dialed, irrespective of telephone company exchange or wire center boundaries.

"STPs" (Signaling Transfer Points) provide functionality that enable the exchange of SS7 messages among and between switching elements, database elements and Signaling Transfer Points.

"Subsidiary" shall mean any company in which an entity owns directly or indirectly 50% or more of the voting stock or 50% or more of the equity; or any other venture in which it owns either 50% or more of the voting rights or 50% or more of the equity.

"Switch" – See Central Office Switch.

"Switched Access", "Switched Access Service", "Switched Exchange Access Service" or "Switched Access Traffic" are as defined in the Parties' applicable tariffs.

"Tandem Office Switches" are Class 4 switches which are used to connect and switch trunk circuits between and among end office switches and other tandems.

"Tariff Services" as used throughout this Agreement refers to the applicable Party's interstate tariffs and state tariffs, price lists, price schedules and catalogs.

"Technically Feasible" refers solely to technical or operational concerns, rather than economic, space, or site considerations, in accordance with the rules and regulations of the FCC and the Commission.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing Telecommunications Services, except that the FCC shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"Telecommunications Services" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

"Toll Traffic" is traffic that originates in one Rate Center and terminates in another Rate Center with the exception of traffic that is rated as EAS.

"Transit Service" provides the ability for a Telecommunications Carrier to use its connection to a local or access tandem for delivery of calls that originate with a Telecommunications Carrier and terminate to a company other than the tandem company, such as another CLEC, an existing LEC, or a wireless carrier. In these cases, neither the originating nor terminating end user is a customer of the tandem Telecommunications Carrier. The tandem Telecommunications Carrier will accept traffic originated by a Party and will terminate it at a Point of Interconnection with another local, intraLATA or interLATA network Telecommunications Carrier. This service is provided through local and access tandem switches.

"Transit Traffic" is any traffic, other than Switched Access Traffic, that originates from one Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network.

"TRCO" means Trouble Reporting Control Office.

"U S WEST" means U S WEST Communications, Inc. and any Affiliates, subsidiary companies or other entities performing any of the obligations of U S WEST set forth in this Agreement.

"Voluntary Federal Subscriber Financial Assistance Programs" are Telecommunications Services provided to low-income subscribers, pursuant to requirements established by the appropriate federal or state regulatory body.

"Wire Center" denotes, for the purposes of Collocation, a building or space within a building, that serves as an aggregation point on a given carrier's network, where transmission facilities and circuits are connected or switched. Wire Center can also denote a building where one or more central offices, used for the provision of Telecommunications Services and Access Services, are located. Wire Center shall mean those points eligible for such connections as specified in FCC Docket No. 91-141, and rules adopted pursuant thereto.

TERMS AND CONDITIONS

1. General Provisions

1.1 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with McLeod's network and to terminate the traffic it receives in that standard format or the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

1.2 Neither Party shall impair the quality of service to other carriers or to either Party's Customers, and each Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice of such violation, at the earliest practicable time.

1.3 [Intentionally left blank for numbering consistency]

2. Most Favored Nation Terms and Treatment

2.1 Until such time as there is a final court determination interpreting Section 252(i) of the Act, U S WEST shall make available to McLeod the terms and conditions of any other agreement for Interconnection, unbundled Network Elements and resale services approved by the Commission under Section 252 of the Act, in that agreement's entirety. If McLeod selects the terms and conditions of another agreement in that agreement's entirety, McLeod may do so only after expiration of this Agreement. After there is a final court determination interpreting Section 252(i) of the Act, the Parties agree to revise this Section 2.1 to reflect such interpretation.[4]

3. Payment

3.1 In consideration of the services provided by U S WEST under this Agreement, McLeod shall pay the charges set forth in Attachment 1. The billing procedures for charges incurred by McLeod hereunder are set forth in Attachment 5 to this Agreement.

3.2 Amounts payable under this Agreement, unless reasonably disputed, **are due and payable within thirty (30) days after the date of U S WEST's invoice**[5] *or within twenty (20) days*

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[4] Per Commission Order in Docket TC96-184, March 20, 1997 ("First Order") Per First Order at page 5, Paragraph 21.

[5] Per First Order at page 4, Paragraph 13.

after receipt of the invoice, whichever is later. If the payment due date is not a Business Day, the payment shall be made the next Business Day.

3.3 **A late payment charge.**[6] *of 1.5% applies to all billed balances, not reasonably disputed, which are not paid within the applicable time period set forth in Section 3.2 above To the extent McLeod pays the billed balance on time, but the amount of the billed balance is reasonably disputed by McLeod, and, it is later determined that a refund is due McLeod, interest shall be payable on the refunded amount in the amount of 1.5% per month. To the extent McLeod pays the billed balance on time, but the amount of the billed balance is reasonably disputed by McLeod, and, it is later determined that no refund is due McLeod, no interest shall be payable on the disputed amount.*

3.4 *Late payment charges shall not be used as a "credit" to a deposit, if any, without the express approval of U S WEST.*

3.5 *Unless specified otherwise in this Agreement, U S WEST shall bill all amounts due from McLeod for each resold service in accordance with the terms and conditions as specified in the U S WEST tariff.*

4. Taxes

4.1 *Any federal, state or local excise, sales, or use taxes (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The Party so obligated to pay any such taxes may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The Party obligated to collect and remit taxes shall cooperate fully in any such contest by the other Party by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party during the applicable reporting period.*

5. Intellectual Property.

5.1 **Obligations of Party Requesting Access. As a condition to the access or use of patents, copyright, trade secrets, and other intellectual property (including software) owned or controlled by a third party to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to interconnection and access to telecommunications facilities and services ("Third Party Intellectual Property"), the Party providing access may require the other, upon written notice from time to time, to obtain a license or permission for such access or use of Third Party Intellectual Property, make all**

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6 Per First Order at page 4, Paragraph 13.

payment, if any, in connection with obtaining such license, and provide evidence of such license.[7]

5.2 Obligations of Party Providing Access. The party Providing Access shall provide a list of all known and necessary Third Party Intellectual Property applicable to the other Party. The Party Requesting Access may request that the Party Providing Access negotiate any necessary licenses. If that request is made, the party providing Access shall enter into good faith negotiations with the owner of the intellectual property to obtain any necessary licenses. Any costs associated with obtaining the necessary licenses are the responsibility of the party Requesting Access. If no request is made, it is the responsibility of the Party Requesting Access to obtain any necessary licenses. The treatment of Third party licenses shall be in accordance with FCC rules and regulations and/or judicial determination.[8]

5.3 Any intellectual property jointly developed in the course of performing this Agreement shall belong to both Parties who shall have the right to grant non-exclusive licenses to third parties except as otherwise designated in writing by one Party to another. Any intellectual property which originates from or is developed by a Party shall remain the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property presently or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.[9]

6. Severability

6.1 In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable or invalid in any respect under law or regulation, the Parties will negotiate in good faith for replacement language. If any part of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will affect only the portion of this Agreement which is invalid or unenforceable. In all other respects this Agreement will stand as if such invalid or unenforceable provision had not been a part hereof, and the remainder of this Agreement shall remain in full force and effect.

7. Responsibility for Environmental Contamination

7.1 McLeod shall in no event be liable to U S WEST for any costs whatsoever resulting from the presence or release of any environmental hazard McLeod did not introduce to the affected work location. U S WEST shall, at McLeod's request, indemnify, defend, and hold harmless McLeod, and each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) arising out of or resulting from (a) any environmental hazard U S WEST, its contractors or agents introduce to the work location, or (b) the presence or release of any environmental hazard for which U S WEST is responsible under applicable law.

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[7] Per Second Order at page 5, ¶7.
[8] Per Second Order at page 5, ¶9.
[9] Per Second Order at page 6, ¶4.
[8]

7.2 *U S WEST shall in no event be liable to McLeod for any costs whatsoever resulting from the presence or release of any environmental hazard U S WEST did not introduce to the affected work location. McLeod shall, at U S WEST's request, indemnify, defend, and hold harmless U S WEST, and each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) arising out of or resulting from (a) any environmental hazard McLeod, its contractors or agents introduce to the work location, or (b) the presence of release of any environmental hazard for which McLeod is responsible under applicable law.*

7.3 *In the event any suspect materials within U S WEST-owned, operated or leased facilities are identified to be asbestos-containing, McLeod will ensure that, to the extent any activities which it undertakes in the facility disturb such suspect materials, such McLeod activities will be in accordance with applicable local, state and federal environmental and health and safety statutes and regulations. Except for abatement activities undertaken by McLeod or equipment placement activities that result in the generation of asbestos containing material, McLeod shall not have any responsibility for managing, nor be the owner of, not have any liability for, or in connection with, any asbestos containing material. U S WEST agrees to immediately notify McLeod if U S WEST undertakes any asbestos control or asbestos abatement activities that potentially could affect McLeod equipment or operations, including, but not limited to, contamination of equipment.*

7.4 *Each Party will be solely responsible, at its own expense, for proper handling, storing, transport and disposal of all (a) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations, or (b) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations.*

8. Branding

8.1 *At the request of McLeod and where technically feasible, U S WEST will rebrand operator services and directory assistance in McLeod's name, provided the costs associated with such rebranding are paid by McLeod. Where not technically feasible to add McLeod's brand, U S WEST will unbrand. U S WEST may not unreasonably interfere with branding by McLeod.*

8.2 *Branding includes front-end branding, back-end branding, and unbranding to be determined by McLeod. Where services are to be rebranded, McLeod shall have the option of providing its own branding materials or audio announcements, as appropriate. U S WEST will provide comprehensive unbranding of a service when U S WEST can demonstrate that the cost of rebranding such service is unreasonably expensive and when the failure to comprehensively unbrand is competitively discriminatory.*

8.3 *[Intentionally left blank for numbering consistency.]*

8.4 *[Intentionally left blank for numbering consistency.]*

8.5 *[Intentionally left blank for numbering consistency.]*

8.6 **With respect to resold repair and maintenance service, U S WEST's personnel shall inform McLeod Customers that such service is being provided on behalf of McLeod. Informational materials (including repair receipts and bills) distributed by repair and maintenance personnel shall be in a generic, carrier-neutral form.**[10]

8.7 *U S WEST shall provide, for McLeod's review, the methods and procedures, training and approaches to be used by U S WEST to assure that U S WEST meets McLeod's branding requirements.*

8.8 *This Section 8 shall confer on U S WEST no rights to the servicemarks, trademarks and tradenames owned by or used in connection with services by McLeod or its Affiliates, except as expressly permitted by McLeod.*

8.9 *At the request of McLeod and where technically feasible, U S WEST will rebrand operator services and directory assistance in McLeod's name.*

9. Independent Contractor Status

9.1 *Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.*

9.2 *Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes, and other payroll taxes with respect to their respective employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.*

9.3 *Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (a) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal, and (b) the acts of its own Affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder. Except for provisions herein expressly authorizing one Party to act for the other, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, neither Party shall undertake to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.*

10. Referenced Documents

[10] Per First Order at page 21, Paragraphs 169, 171.

10.1 *All references to Sections, Exhibits, and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, McLeod practice, U S WEST practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) or such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, McLeod practice, U S WEST practice, or publication of industry standards, unless the parties agree otherwise.*

11. Publicity and Advertising

11.1 *Neither Party shall publish or use any advertising, sales promotions or other publicity materials that use the other Party's logo, trademarks or service marks without the prior written approval of the other Party.*

12. Executed in Counterparts

12.1 *This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute one and the same instrument.*

13. Headings Not Controlling

13.1 *The headings and numbering of Sections, Parts, Appendices and Attachments in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.*

14. Joint Work Product

14.1 *This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.*

15. Survival

15.1 *Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement; any obligation of a Party under the provisions regarding indemnification, confidential information, limitation of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive, or to be performed after, termination of this Agreement, shall survive cancellation or termination thereof.*

16. Effective Date

16.1 *This Agreement shall become effective pursuant to Sections 251 and 252 of the Act, on _____, 1998.*

17. Amendment of Agreement

17.1 *Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same is in writing and signed by an officer of the Party against whom such amendment, waiver or consent is claimed. If either Party desires an amendment to this Agreement during the term of this Agreement, it shall provide written notice thereof to the other Party describing the nature of the requested amendment. If the Parties are unable to agree on the terms of the amendment within thirty (30) days after the initial request therefor, the Party requesting the amendment may invoke the dispute resolution process under Section 27 of this Part A of this Agreement to determine the terms of any amendment to this Agreement.*

18. Indemnification

18.1 *Notwithstanding any limitations in remedies contained in this Agreement, each Party (the "Indemnifying Party") will indemnify and hold harmless the other Party ("Indemnified Party") from and against any loss, cost, claim, liability, damage and expense, including reasonable attorney's fees, to third parties, relating to or arising out of the libel, slander, invasion of privacy, misappropriation of a name or likeness, actual or alleged infringement or other violation or breach of any patent, copyright, trademark, service mark, trade name, trade dress, trade secret or any other intellectual property right, now existing or later created, negligence or willful misconduct by the Indemnifying Party, its employees, agents, or contractors in the performance of this Agreement or the failure of the Indemnifying Party to perform its obligations under this Agreement. In addition, the Indemnifying Party will, to the extent of its obligations to indemnify hereunder, defend any action or suit brought by a third party against the Indemnified Party.*

18.2 **If, after the Party providing access under this Agreement gives written notice to the other Party pursuant to Section 6.1, the other Party fails to obtain a license or permission for access or use of Third Party Intellectual Property, the Party providing access shall have no indemnification obligation hereunder for any loss, cost, claim, liability, damage and expense, including reasonable attorney's fees, to third parties, relating to or arising out of the failure of the other Party to obtain such license or permission.[11]**

18.3 *The Indemnified Party also will cooperate in every reasonable manner with the defense or settlement of such claim, demand, or lawsuit. The Indemnifying Party shall keep the Indemnified Party reasonably and timely apprised of the status of the claim, demand or lawsuit. The Indemnified Party shall have the right to retain its own counsel, including in-house counsel, at its expense, and participate in but not direct the defense; provided, however, that if there are reasonable defenses in addition to those asserted by the Indemnifying Party, the Indemnified Party and its counsel may raise and direct such defenses, which shall be at the expense of the Indemnifying Party.*

18.4 *The Indemnifying Party will not be liable under this Section 18 for settlements or compromises by the Indemnified Party of any claim, demand or lawsuit unless the Indemnifying Party has approved the settlement or compromise in advance or unless the defense of the*

[11] Per Second Order at page 5-6, ¶10.

claim, demand or lawsuit has been tendered to the Indemnifying Party in writing and the Indemnifying Party has failed to timely undertake the defense. In no event shall the Indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the Indemnified Party.

19. Limitation of Liability

19.1 Except as otherwise provided in the indemnity section, no Party shall be liable to the other Party for any Loss, defect or equipment failure caused by the conduct of the other Party, the other Party's agents, servants, contractors or others acting in aid or concert with the other Party.

19.2 [Intentionally left blank for numbering consistency.]

19.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including, but not limited to revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation to indemnify, defend and hold the other Party harmless against any amounts payable to a third party, including any losses, costs, fines penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third party. Nothing contained in this section shall limit either Party's liability to the other for (i) willful or intentional misconduct (including gross negligence); (ii) bodily injury, death or damage to tangible real or tangible personal property proximately caused by such party's negligent act or omission or that of their respective agents, subcontractors or employees, nor shall anything contained in this section limit the Parties indemnification obligations, as specified above.

19.4 [Intentionally left blank for numbering consistency.]

19.5 Notwithstanding the provisions of Section 19.3, to the extent that U S WEST tariffs contain limitations on liability, McLeod shall submit language for inclusion in its Intrastate retail tariffs, that is substantially similar to the limitation of liability language contained in U S WEST's tariffs, and such limitations of liability shall govern for Customer claims. In addition, notwithstanding the provisions of Section 19.3, to the extent that the Commission's quality of service rules provide for remedies to McLeod or its Customers for Customer claims, then those remedies shall govern as to such claims.

20. Term of Agreement

20.1 This Agreement shall be effective upon commission approval and shall expire on March 3rd, 2002 , and thereafter shall continue in force and effect unless and until a new agreement, addressing all of the terms of this Agreement, becomes effective between the Parties. The Parties shall commence negotiations on a new agreement no later than one year prior to the expiration of the term of this Agreement. Either Party may request resolution of open issues in accordance with the provisions of Section 27 of this Part A of this Agreement, Dispute Resolution, beginning nine (9) months prior to the expiration of this Agreement. Any disputes regarding the terms and conditions of the new interconnection agreement shall be resolved in accordance with Section 27 of this Agreement and the resulting contract shall be

submitted to the Commission. This Agreement shall remain in effect until a new interconnection agreement approved by the Commission has become effective.

21. Governing Law

21.1 This Agreement shall be governed by and construed in accordance with the Act and FCC rules and regulations, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the State of South Dakota, without regard to its conflicts of laws principles, shall govern.

22. Cancellation Charges

22.1 Except as provided pursuant to a Bona Fide Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

23. Regulatory Approvals

23.1 This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with Section 252 of the Act. In the event any governmental authority or agency rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.

23.2 U S WEST shall provide McLeod a summary describing the proposed change(s) to each Telecommunications Service which is available pursuant to this Agreement. U S WEST shall also provide McLeod a summary describing the proposed change(s) of each intrastate and interstate tariff which provides for an Interconnection, unbundled Network Element or Ancillary Service that is available pursuant to this Agreement. Such summaries shall be available through an Internet Web page to be posted on the same day the proposed change is filed with the Commission or the FCC or at least thirty (30) days in advance of its effective date, whichever is earlier.

23.3 In the event any governmental authority or agency orders U S WEST to provide any service covered by this Agreement in accordance with any terms or conditions that individually differ from one or more corresponding terms or conditions of this Agreement, McLeod may elect to amend this Agreement to reflect any such differing terms or conditions contained in such decision or order, with effect from the date McLeod makes such election. The other services covered by this Agreement and not covered by such decision or order shall remain unaffected and shall remain in full force and effect.

23.4 The Parties intend that any additional services requested by either Party relating to the subject matter of this Agreement will be incorporated into this Agreement by amendment.

23.5 **Each Party shall be responsible for maintaining such regulatory approvals as necessary for it to perform under this Agreement. Each Party shall have an obligation to cooperate with the other Party in obtaining and maintaining necessary regulatory approvals.**[12]

24. Compliance

12 Per First Order at page 5, Paragraph 26.

24.1 *Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.*

24.2 *Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the Communications Law Enforcement Act of 1994 ("CALEA"). Each Party (the "Indemnifying Party") shall indemnify and hold the other Party (the "Indemnified Party") harmless from any and all penalties imposed upon the Indemnified Party for such noncompliance and shall, at the Indemnifying Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.*

24.3 *All terms, conditions and operations under this Agreement shall be performed in accordance with all applicable laws, regulations and judicial or regulatory decisions of all duly constituted governmental authorities with appropriate jurisdiction, and this Agreement shall be implemented consistent with the FCC Interconnection Order and any applicable Commission orders. Each Party shall be responsible for obtaining and keeping in effect all FCC, Commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement. In the event the Act or FCC or Commission rules and regulations applicable to this Agreement are held invalid, this Agreement shall survive, and the Parties shall promptly renegotiate any provisions of this Agreement which, in the absence of such invalidated Act, rule or regulation, are insufficiently clear to be effectuated, violate, or are either required or not required by the new rule or regulation. During these negotiations, each Party will continue to provide the same services and elements to each other as are provided for under this Agreement. Provided, however, that either Party shall give ten (10) Business Days notice if it intends to cease any development of any new element or service that is not at that time being provided pursuant to this Agreement. In the event the Parties cannot agree on an amendment within thirty (30) days from the date any such rules, regulations or orders become effective, then the Parties shall resolve their dispute, including liability for non-compliance with the new clause or the cost, if any, of performing activities no longer required by the rule or regulation during the renegotiation of the new clause under the applicable procedures set forth in Section 27 herein.*

25. Force Majeure

25.1 *Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers. No delay or other failure to perform shall be excused pursuant to this Section 25 unless such delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. In the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delaying Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of a labor dispute or strike, the Parties agree to provide service to each other at a level equivalent to the level they provide themselves. In the event of a labor dispute or strike or work stoppage that continues for a period in excess of forty-eight (48)*

hours, McLeod may obtain replacement services for those services effected by such labor dispute or strike or work stoppage, in which event any liability of McLeod for the affected services shall be suspended for the period of the work stoppage or labor dispute or strike. In the event of such performance delay or failure by U S WEST, U S WEST agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of McLeod.

26. Escalation Procedures

26.1 McLeod and U S WEST agree to exchange escalation lists which reflect contact personnel including vice president-level officers. These lists shall include name, department, title, phone number, and fax number for each person. McLeod and U S WEST agree to exchange up-to-date lists as reasonably necessary.

27. Dispute Resolution

27.1 If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents ("Dispute") cannot be settled through negotiation, it may be resolved by arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all Disputes. The arbitrator shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof and shall be noticed to the Commission. The arbitrator shall determine which Party or Parties will bear the costs of arbitration, including apportionment, if appropriate. The arbitration shall occur in Denver, Colorado and the governing law shall be in accordance with Section 21.1 above.

27.2 In the event McLeod and U S WEST are unable to agree on certain issues during the term of the Agreement, the Parties may identify such issues for arbitration before the Commission. Only those points identified by the Parties for arbitration will be submitted.

27.3 If a Dispute is submitted to arbitration pursuant to Section 27.1 above, the procedures described in this Section 27.3 shall apply, notwithstanding the then current rules of the AAA. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set forth below. Each Party may submit in writing to a Party, and that Party shall so respond, to an agreed amount of the following: interrogatories, demands to produce documents, and requests for admission. Not less than ten (10) days prior to the arbitration hearing, the Parties shall exchange witness and exhibit lists. Deposition discovery shall be controlled by the arbitrator. Additional discovery may be permitted upon mutual agreement of the Parties or the determination of the arbitrator. The arbitration hearing held in accordance with the provisions of Section 27.1 shall be commenced within thirty (30) days after a demand for arbitration by either Party, and shall be held in Denver, Colorado. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within seven (7) days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. The decision of the arbitrator shall be final and entered in a court having jurisdiction. The decision shall also be submitted to the Commission.

28. Nondisclosure

28.1 *All information, including, but not limited to, specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (a) furnished by one Party to the other Party dealing with Customer specific, facility specific, or usage specific information, other than Customer information communicated for the purpose of publication of directory database inclusion, or (b) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (c) declared orally or in writing to the Recipient at the time of delivery, or by written notice given to the Recipient within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the Discloser. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.*

28.2 *Upon request by the Discloser, the Recipient shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the Recipient's legal counsel may retain one (1) copy for archival purposes.*

28.3 *Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.*

28.4 *Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:*

28.4.1 *was, at the time of receipt, already known to the Recipient free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the Discloser; or*

28.4.2 *is or becomes publicly known through no wrongful act of the Recipient; or*

28.4.3 *is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the Discloser with respect to such information; or*

28.4.4 *is independently developed by an employee, agent, or contractor of the Recipient which individual is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or*

28.4.5 *is approved for release by written authorization of the Discloser; or*

28.4.6 *required by law, a court, or governmental agency, provided that the Discloser has been notified of the requirement promptly after the Recipient becomes aware of the requirement, and provided that the Recipient undertakes all lawful measures to avoid disclosing such information until the Discloser has had reasonable time to obtain a protective order. The Recipient agrees to comply with any protective order that covers the Proprietary Information to be disclosed.*

28.5 *For a period of ten (10) years from receipt of Proprietary Information, the Recipient shall (a) use it only for the purpose of performing under this Agreement, (b) hold it in confidence and disclose it only to employees, authorized contractors and authorized agents who have a need to know it in order to perform under this Agreement, and (c) safeguard it from unauthorized use or disclosure using no less than the degree of care with which the Recipient safeguards its own Proprietary Information. Any authorized contractor or agent to whom Proprietary Information is provided must have executed a written agreement comparable in scope to the terms of this Section. Notwithstanding the foregoing, each Party shall provide advance notice of three (3) Business Days to the other of the intent to provide Proprietary information to a governmental authority and the Parties shall cooperate with each other in attempting to obtain a suitable protective order. The Recipient agrees to comply with any protective order that covers the Proprietary Information to be disclosed.*

28.6 *Each Party agrees that the Discloser would be irreparably injured by a breach of this Section 28 by the Recipient or its representatives and that the Discloser shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of this Section 28. Such remedies shall not be exclusive but shall be in addition to all other remedies available at law or in equity.*

28.7 *CPNI related to either Party's subscribers obtained by virtue of Local Interconnection or any other service provided under this Agreement shall be the Discloser's Proprietary Information and may not be used by the Recipient for any purpose except performance of its obligations under this Agreement, and in connection with such performance, shall be disclosed only to employees, authorized contractors and authorized agents with a need to know, unless the subscriber expressly directs the Discloser to disclose such information to the Recipient pursuant to the requirements of Section 222(c)(2) of the Act. If the Recipient seeks and obtains written approval to use or disclose such CPNI from the Discloser, such approval shall be obtained only in compliance with Section 222(c)(2) and, in the event such authorization is obtained, the Recipient may use or disclose only such information as the Discloser provides pursuant to such authorization and may not use information that the Recipient has otherwise obtained, directly or indirectly, in connection with its performance under this Agreement.*

28.8 *Except as otherwise expressly provided in this Section 28, nothing herein shall be construed as limiting the rights of either Party with respect to its subscriber information under any applicable law, including, without limitation, Section 222 of the Act.*

28.9 *Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all Proprietary Information furnished by either Party with a claim of confidentiality or proprietary nature at any time.*

29. Notices

29.1 *Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt requested, or delivered by prepaid overnight express mail, and addressed as follows:*

To McLeod: *McLeodUSA Telecommunications Services, Inc.*
Bill Haas - Director
6400 C Street, S.W.
Cedar Rapids, Iowa 52406

To U S WEST:	*Director - Interconnect Compliance* *1801 California Street, 24th Floor* *Denver, CO 80202*
Copy to:	*Vice President-U S WEST, Sioux Falls* *125 S. Dakota Avenue* *Sioux Falls, SD 57194*
Copy to:	*U S WEST, Inc. Law Department* *Attention: General Counsel Interconnection* *1801 California Street, 51st floor* *Denver, CO 80202*

29.2 If personal delivery is selected to give notice, a receipt of such delivery shall be obtained. The address to which notices or communications may be given to either Party may be changed by seven (7) days written notice given by such Party to the other pursuant to this Section 29.

30. Assignment

30.1 Neither Party may assign, transfer (whether by operation of law or otherwise) or delegate this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided that each Party may assign this Agreement to an Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted under the provisions of this Section 30 is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement.

30.2 If any obligation of U S WEST under this Agreement is performed by a subcontractor or Affiliate, U S WEST shall remain fully responsible for the performance of this Agreement in accordance with its terms and U S WEST shall be solely responsible for payments due to its subcontractors.

30.3 If any obligation of McLeod under this Agreement is performed by a subcontractor or Affiliate, McLeod shall remain fully responsible for the performance of this Agreement in accordance with its terms, and McLeod shall be solely responsible for payments due to its subcontractors.

31. Warranties

31.1 U S WEST shall conduct all activities and interfaces which are provided for under this Agreement with McLeod Customers in a carrier-neutral, nondiscriminatory manner.

31.2 U S WEST warrants that it has provided, and during the term of this Agreement it will continue to provide, to McLeod true and complete copies of all material agreements in effect between U S WEST and any third party (including Affiliates) providing any services to McLeod on behalf of or under contract to U S WEST in connection with U S WEST's performance of this Agreement, or from whom U S WEST has obtained licenses or other rights used by U S WEST to perform its obligations under this Agreement, provided, however, that U S WEST may provide such agreements under appropriate protective order.

32. Default

32.1 In the event of a breach of any material provision of this Agreement by either Party, the non-breaching Party shall give the other Party and the Commission written notice thereof, and:

32.1.1 if such material breach is for non-payment of amounts due hereunder pursuant to Section 3.2 of Part A of this Agreement, the breaching Party shall cure such breach within thirty (30) calendar days of receiving such notice. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach. Amounts disputed in good faith and withheld or set off shall not be deemed "amounts due hereunder" for the purpose of this provision.

32.1.2 if such material breach is for any failure to perform in accordance with this Agreement, which, in the sole judgment of the non-breaching Party, adversely affects the non-breaching Party's subscribers, the non-breaching Party shall give notice of the breach and the breaching Party shall cure such breach to the non-breaching Party's reasonable satisfaction within ten (10) calendar days or within a period of time equivalent to the applicable interval required by this Agreement, whichever is shorter. If the breaching Party does not cure such breach within the applicable time period, the non-breaching Party may, at its sole option, terminate this Agreement, or any parts hereof. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach. Notice under this Subsection 32.1.2 may be given electronically or by facsimile, provided that a hard copy or original of such notice is sent by overnight delivery service.

32.1.3 if such material breach is for any other failure to perform in accordance with this Agreement, the breaching Party shall cure such breach to the non-breaching Party's reasonable satisfaction within forty-five (45) calendar days, and if it does not, the non-breaching Party may, at its sole option, terminate this Agreement, or any parts hereof. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach.

32.2 **This Agreement may be terminated by either party in whole at any time only for cause upon sixty (60) calendar days' prior written notice.**[13]

32.3 In the event of any termination under this Section 32, U S WEST and McLeod agree to cooperate to provide for an uninterrupted transition of services to McLeod or another vendor designated by McLeod to the extent that U S WEST has the ability to provide such cooperation.

32.4 Notwithstanding any termination hereof, the Parties shall continue to comply with their obligations under the Act.

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13 Per First Order at page 3, Paragraph 12.

33. Remedies

33.1 *In the event U S WEST fails to switch a subscriber to McLeod service as provided in this Agreement, U S WEST shall reimburse McLeod in an amount equal to all fees paid by such subscriber to U S WEST for such failed-to-be-transferred services from the time of such failure to switch to the time at which the subscriber switch is accomplished. This remedy shall be in addition to all other remedies available to McLeod under this Agreement or otherwise available.*

33.2 *All rights of termination, cancellation or other remedies prescribed in this Agreement, or otherwise available, are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled at law or equity in case of any breach or threatened breach by the other Party of any provision of this Agreement. Use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing the provisions of this Agreement.*

34. Waivers

34.1 *No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.*

34.2 *No course of dealing or failure of either Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.*

34.3 *Waiver by either Party of any default or breach by the other Party shall not be deemed a waiver of any other default or breach.*

34.4 *By entering into this Agreement, neither Party waives any right granted to it pursuant to the Act.*

35. No Third Party Beneficiaries

35.1 *The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person; provided, however, that this shall not be construed to prevent McLeod from providing its Telecommunications Services to other carriers. This Agreement shall not provide any person not a Party hereto with any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing without reference hereto.*

36. Physical Security

36.1 *U S WEST shall exercise the same degree of care to prevent harm or damage to McLeod or its employees, agents or subscribers, or their property as U S WEST provides itself. McLeod shall exercise the same degree of care to ensure the security of its equipment physically collocated within U S WEST's space as McLeod provides such security to itself.*

36.1.1 *U S WEST will restrict access to approved personnel to U S WEST's buildings. McLeod is responsible for the action of its employees and other authorized non-McLeod personnel; U S WEST is responsible for the action of its employees and other authorized non-U S WEST personnel.*

36.1.2 U S WEST will furnish to McLeod the current name(s) and telephone number(s) of those central office supervisor(s) where a physical Collocation arrangement exists. The central office supervisor(s) will be the only U S WEST employee(s) with access to McLeod Collocation space.

36.1.3 U S WEST will comply at all times with U S WEST security and safety procedures at the individual central office locations where McLeod has physical Collocation arrangements. The Parties will cooperate to analyze security procedures of each company to evaluate ways in which security procedures of U S WEST may be enhanced.

36.1.4 U S WEST will allow McLeod to inspect or observe its physical spaces which house or contain McLeod equipment or equipment enclosures at any time upon completion of the physical Collocation quotation. Upon completion of the build out of the physical space, U S WEST will furnish McLeod with all keys, entry codes, lock combinations, or other materials or information which may be needed to gain entry via direct access to McLeod's physical space.

36.1.5 U S WEST agrees to logically partition any U S WEST owned access device systems, whether biometric or card reader, or types which are encoded identically or mechanical coded locks on external and or internal doors to spaces which house McLeod equipment.

36.1.6 U S WEST agrees to limit the keys used in its keying systems for spaces which contain McLeod equipment to the U S WEST supervisor for the specific facility to emergency access only. McLeod shall further have the right to change locks where deemed necessary for the protection and security of its physical spaces and will provide the U S WEST supervisor with the current key.

36.1.8 U S WEST shall control unauthorized access from passenger and freight elevators, elevator lobbies and spaces which contain or house McLeod equipment or equipment space in the same manner as U S WEST provides such control for itself.

36.1.9 U S WEST will provide notification to designated McLeod personnel to indicate an actual or attempted security breach of McLeod physical space in the same time frame as U S WEST provides such notification to itself.

37. Network Security

37.1 U S WEST shall provide an appropriate and sufficient back-up and recovery plan to be used in the event of a system failure or emergency.

37.2 U S WEST shall install controls to (a) disconnect a user for a pre-determined period of inactivity on authorized ports; (b) protect subscriber proprietary information; and (c) ensure both ongoing operational and update integrity.

37.3 Each Party shall be responsible for the security arrangements on its side of the network to the Point of Interconnection. The Parties shall jointly cooperate to analyze network security procedures and cooperate to ensure the systems, access and devices are appropriately secured and compatible.

38. Revenue Protection

38.1 *U S WEST shall make available to McLeod all present and future fraud prevention or revenue protection features that U S WEST provides to itself or others. These features include, but are not limited to, operator screening codes, information digits '29' and '70' which indicate prison and COCOT pay phone originating line types respectively, in accordance with the requirements established by the FCC, call blocking of domestic, international blocking for business and residence, 900, NPA-976, and specific line numbers. U S WEST shall additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent Operations Support Systems ("OSS") which include, but are not limited to, Line Information Data Base Fraud monitoring systems. Fraud prevention upgrades as part of the normal*

38.2 *Uncollectible or unbillable revenues resulting from, but not confined to, provisioning, maintenance, or signal network routing errors shall be the responsibility of the Party causing such error.*

38.3 *Uncollectible or unbillable revenues resulting from the accidental or malicious alteration of software underlying Network Elements or their subtending operational support systems by unauthorized third parties shall be the responsibility of the Party having administrative control of access to said Network Element or operational support system software.*

38.4 *Each Party shall be responsible for any uncollectible or unbillable revenues resulting from the unauthorized use of facilities under its control or services it provides, including clip-on fraud.*

38.5 *The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.*

39. Law Enforcement Interface

39.1 *U S WEST shall provide all necessary assistance to facilitate the execution of wiretap or dialed number recorder orders from law enforcement authorities.*

40. Collocation

40.1 General Description

40.1.1 *"Collocation" is the right of McLeod to obtain dedicated space in U S WEST Local Serving Office (LSO) or other U S WEST locations, including, but not limited to, U S WEST serving wire center and tandem offices, as well as all buildings or similar structures owned or leased by U S WEST, including those on public rights-of-way, that house U S WEST network facilities, including, but not limited to, vaults containing loop concentrators or similar structures, and the right to place equipment in such spaces for the purposes of interconnection with U S WEST's network or access to U S WEST's unbundled Network Elements. Collocation also includes U S WEST providing resources necessary for the operation and economical use of collocated equipment, as provided below in this Section 40, and by the Act and FCC rules.*

40.1.2 *Collocation is offered for network interconnection between the Parties. McLeod may cross connect to other collocated parties via facilities provided by U S WEST,*

provided that McLeod's collocated equipment is also used for Interconnection with U S WEST or access to U S WEST's unbundled Network Elements.

40.1.3 McLeod is responsible for bringing its own or leased facilities to the U S WEST-designated Point of Interface ("POI"). U S WEST will extend McLeod's facilities from the POI to the cable vault within the wire center. If necessary, U S WEST may bring the facilities into compliance with U S WEST internal fire code standards and extend the facilities to the collocated space.

40.1.4 McLeod will be provided two (2) points of entry into the U S WEST wire center only when there are at least two (2) existing entry points for U S WEST cable and when there are vacant entrance ducts in both.

40.1.5 McLeod may collocate transmission equipment (including Digital Cross Connect Systems and Remote Switching Units (RSUs)) to terminate basic transmission facilities. U S WEST is not required to permit Collocation of equipment used to provide enhanced services. [14] *McLeod must identify what equipment will be installed, to allow for U S WEST to use this information in engineering the power, floor loading, heat release, environmental particulant level, and HVAC.*

40.1.6 McLeod may collocate the amount and type of equipment it deems necessary in its collocated space in accordance with FCC Rules and Regulations. U S WEST shall not restrict the types of equipment to be installed except to the extent that U S WEST may demonstrate to the Commission that a particular request is not technically feasible.[15]

40.1.7 Expanded Interconnection Channel Termination (EICT). Telecommunications interconnection between McLeod's collocated equipment and U S WEST's network may be accomplished via an Expanded Interconnection Channel Termination (EICT). This element can be at the DS-3, DS-1, DS-0, or any other technically feasible level, subject to network disclosure requirements of the FCC, depending on the U S WEST service to which it is connected. The terms and conditions of the tariff for EICT are incorporated only to the extent that they are agreed to by the Parties. Within ninety (90) days of a request by either Party the Parties will meet to review the tariff and seek resolution on disagreed items.

40.1.8 Consistent with U S WEST's internal practice, within ten (10) Business Days of McLeod's request for any space, U S WEST shall provide information available to it regarding the environmental conditions of the space provided for placement of equipment and interconnection, including, but not limited to, the existence and condition of asbestos, lead paint, hazardous substance contamination, or radon. Information is considered "available" under this Agreement if it is in U S WEST's possession or files, or the possession of an agent, contractor, employee, lessor, or tenant of U S WEST's that holds such information on U S WEST's behalf.

40.1.9 U S WEST shall allow McLeod to perform any environmental site investigations, including, but not limited to, asbestos surveys, which McLeod deems to be

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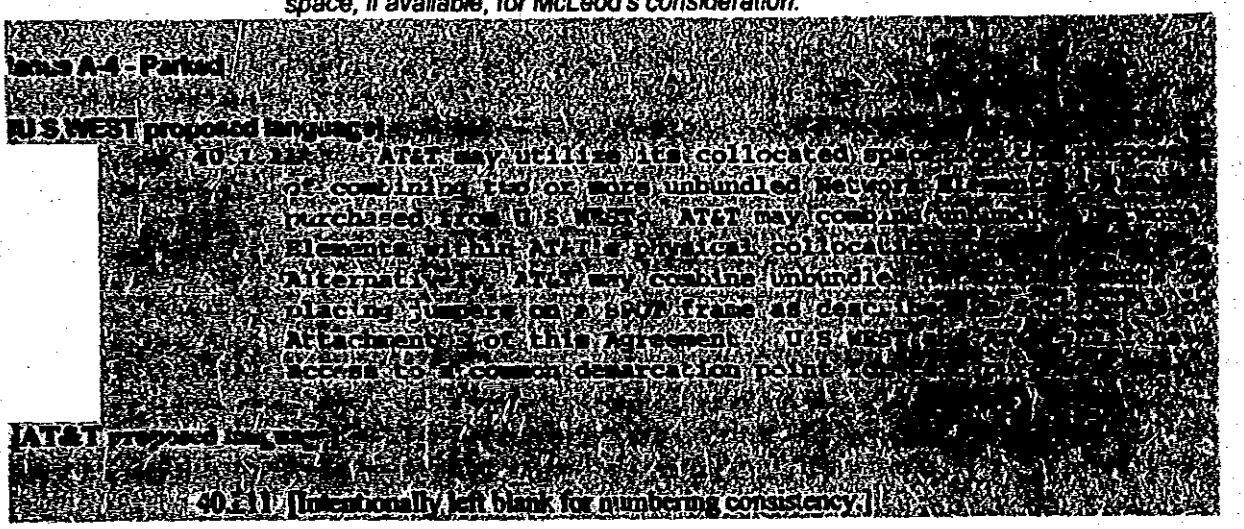
14 Per First Order at page 9, Paragraph 55.
15 Per First Order at page 8, Paragraph 49.

necessary in support of its Collocation needs. McLeod shall advise U S WEST in writing of its intent to conduct such investigation, and shall receive written approval from U S WEST to proceed. McLeod shall indemnify U S WEST according to Section 18 of this Agreement for any loss or claim for damage suffered by U S WEST as a result of McLeod's actions during any site inspection.

40.1.10 If the space provided for the placement of equipment, Interconnection, or provision of service contains environmental contamination or hazardous material, particularly, but not limited to, asbestos, lead paint or radon, which makes the placement of such equipment or Interconnection hazardous, U S WEST shall offer an alternative space, if available, for McLeod's consideration.



40.2 Virtual Collocation

40.2.1 U S WEST shall provide virtual Collocation for the purpose of Interconnection or access to unbundled Network Elements subject to the rates, terms and conditions of this Agreement.

40.2.2 Upon mutual agreement, McLeod will have physical access to the U S WEST wire center building pursuant to a virtual Collocation arrangement.

40.2.3 McLeod will be responsible for obtaining and providing to U S WEST administrative codes, e.g., common language codes, for all equipment specified by McLeod and installed in wire center buildings.

40.2.4 McLeod will be responsible for payment of training of U S WEST employees for the maintenance, operation and installation of McLeod's virtually collocated equipment when that equipment is different than the equipment used by U S WEST. Training conditions are further described in the Virtual Collocation Rate Element section following.

40.2.5 McLeod will be responsible for payment of reasonable charges incurred as a result of agreed upon maintenance and/or repair of McLeod's virtually collocated equipment.

40.2.6 U S WEST does not guarantee the reliability of McLeod's virtually collocated equipment, but U S WEST is responsible for proper installation, maintenance and repair

of such equipment, including the change out of electronic cards provided by McLeod.

40.2.7 McLeod is responsible for ensuring the functionality and interoperability of virtually collocated SONET equipment provided by different manufacturers.

40.2.8 McLeod, as bailor, will transfer possession of McLeod's virtually collocated equipment to U S WEST, as bailee, for the sole purpose of providing U S WEST with the ability to install, maintain and repair McLeod's virtually collocated equipment. Title to the McLeod virtually collocated equipment shall not pass to U S WEST.

40.2.9 McLeod shall ensure that upon receipt by U S WEST of McLeod's virtually collocated equipment, McLeod will make available all access to ongoing technical support to U S WEST, as available under the equipment warranty or other terms and conditions, all at McLeod's expense. McLeod shall advise the manufacturer and seller of the virtually collocated equipment that it will be installed, maintained and repaired by U S WEST.

40.2.10 McLeod's virtually collocated equipment must comply with the Bellcore Network Equipment Building System (NEBS) Generic Equipment Requirements TR-NWT-000063, electromagnetic compatibility (EMC) per GR-1089-CORE, Company wire center environmental and transmission standards and any statutory (local, state or federal) and/or regulatory requirements, all of the foregoing which may be in effect at the time of equipment installation or which may subsequently become effective. McLeod shall provide U S WEST interface specifications (e.g., electrical, functional, physical and software) of McLeod's virtually collocated equipment.

40.2.11 McLeod must specify all software options and associated plug-ins for its virtually collocated equipment.

40.2.12 McLeod is responsible for purchasing and maintaining a supply of spares. Upon failure of the McLeod virtually collocated equipment, McLeod is responsible for transportation and delivery of maintenance spares to U S WEST at the wire center housing the failed equipment.

40.2.13 Where McLeod is virtually collocated in a premises which was initially prepared for virtual Collocation, McLeod may elect to retain its virtual Collocation in that premises and expand that virtual Collocation according to the rates, terms and conditions of this Agreement.

40.3 Physical Collocation

40.3.1 U S WEST shall provide to McLeod physical Collocation of equipment necessary for Interconnection or for access to unbundled Network Elements, except that U S WEST shall provide for virtual Collocation where space is available or expansion or rearrangement is possible if U S WEST demonstrates to the Commission that physical Collocation is not practical for technical reasons or because of space limitations, as provided in Section 251(c)(6) of the Act. McLeod shall pay a prorated amount for expansion of said space. U S WEST shall provide such Collocation for the purpose of Interconnection or access to unbundled Network Elements, except

as otherwise mutually agreed to in writing by the Parties or as required by the FCC or the Commission subject to the rates, terms and conditions of this Agreement.[16]

40.3.1.1 U S WEST shall permit McLeod to use vendors for all required engineering and installation services associated with its collocated equipment which are being collocated by McLeod pursuant to this Agreement. Within one hundred and twenty (120) days of a request by either U S WEST and McLeod shall compose and agree on a list of approved vendors and/or agree on minimum qualifications for such contractors consistent with industry standards, such agreement not to be unreasonably withheld. In the event such agreement cannot be reached and the dispute resolution process outlined herein has not concluded on the issue of approved vendors, the list of approved vendors maintained by U S WEST as of the Effective Date of the Agreement shall be the default list until the conclusion of the dispute resolution process. **If U S WEST objects to a vendor, U S WEST shall have the burden of proof as to why the vendor is unacceptable.**[17]

40.3.2 Where McLeod is virtually collocated in a premises which was initially prepared for virtual Collocation, McLeod may elect, unless it is not practical for technical reasons or because of space limitations, to convert its virtual Collocation to physical Collocation at such premises in which case McLeod shall coordinate the construction and rearrangement with U S WEST of its equipment (IDLC and transmission) and circuits for which McLeod shall pay U S WEST at applicable rates, and pursuant to the other terms and conditions in this Agreement. In addition, all applicable physical Collocation recurring charges shall apply.

40.3.3 McLeod will be allowed access to the POI on non-discriminatory terms. McLeod owns and is responsible for the installation, maintenance and repair of its equipment located within the space rented from U S WEST.

40.3.4 McLeod must use leased space as soon as reasonably possible and may not warehouse space for later use or sublease to another provider. Physical Collocation is offered on a space-available, first-come, first-served basis.

40.3.5 The minimum standard leasable amount of floor space is one hundred (100) square feet. McLeod must efficiently use the leased space and no more than fifty percent (50%) of the floor space may be used for storage cabinets and work surfaces. McLeod and U S WEST may negotiate other storage arrangements on a case-by-case basis. McLeod may store spares within its collocated space.

40.3.6 McLeod's leased floor space will be separated from other competitive providers and U S WEST space through cages or hard walls. McLeod may elect to have U S WEST construct the cage, or choose from U S WEST approved contractors to construct the cage, meeting U S WEST's installation Technical Publication 77350. Any deviation to McLeod's request must be approved.

40.3.7 The following standard features will be provided by U S WEST:

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16 Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: U S WEST will enable McLeod to combine two or more unbundled Network Elements through physical collocation arrangements consistent with the re-bundling provisions of this Agreement.

17 *Per First Order at page 9, Paragraph 57.*

(a) Heating, ventilation and air conditioning.

(b) Smoke/fire detection and any other building code requirement.

40.3.8 U S WEST Responsibilities

(a) Design the floor space within each location which will constitute McLeod's leased space.

(b) Ensure that the necessary construction work is performed on a timely basis to build McLeod's leased physical space and the riser from the vault to the leased physical space.

(c) Develop a quotation specific to McLeod's request.

(d) Extend U S WEST-provided and owned fiber optic cable from the POI through the cable vault and extend the cable to McLeod's leased physical space or place the cable in fire retardant tubing prior to extension to McLeod's leased physical space.

(e) Installation and maintenance and all related activity necessary to provide Channel Termination between U S WEST's and McLeod's equipment.

(f) Work cooperatively with McLeod in matters of joint testing and maintenance.

40.3.9 McLeod Responsibilities

(a) Determine the type of enclosure for the physical space.

(b) Procure, install and maintain all fiber optic facilities of McLeod up to the U S WEST designated POI.

(c) Provide for installation, maintenance, repair and service of all McLeod's equipment located in the leased physical space.

(d) Ensure that all equipment installed by McLeod complies with Bellcore Network Equipment Building System Generic Equipment requirements, U S WEST environmental and transmission standards, and any statutory (local, federal, or state) or regulatory requirements in effect at the time of equipment installation or that subsequently become effective.

40.3.10 The installation of any Interconnection service will be coordinated between the Parties so that McLeod may utilize those services once McLeod has accepted its leased physical space.

40.3.11 If, at any time, U S WEST reasonably determines that the equipment or the installation does not meet standard industry requirements, such failure being due to actions of McLeod or its agents, McLeod will be responsible for the costs associated with the removal, modification to, or installation of the equipment to bring it into compliance. If McLeod fails to correct any non-compliance within thirty (30) calendar days or as soon as reasonably practical after the receipt of written notice

of non-compliance, U S WEST may have the equipment removed or the condition corrected at McLeod's expense.

40.3.12 If, during installation, U S WEST reasonably determines that McLeod activities or equipment are unsafe, non-industry standard or in violation of any applicable laws or regulations, U S WEST has the right to stop work until the situation is remedied. If such conditions pose an immediate threat to the safety of personnel, interfere with the performance of U S WEST's service obligations, or pose an immediate threat to the physical integrity of the conduit system or the cable facilities, U S WEST may perform such work and/or take action as is necessary to correct the condition at McLeod's expense.

40.3.13 U S WEST shall provide basic telephone service with a connection jack as requested by McLeod from U S WEST for the collocated space. Upon McLeod's request and following the normal provisioning process, this service shall be available at the McLeod collocated space on the day the space is turned over to McLeod by U S WEST.

40.3.14 Where available, U S WEST shall provide access to eyewash stations, bathrooms, and drinking water within the collocated facility on a twenty-four (24) hours per day, seven (7) days per week basis for McLeod personnel and its designated agents.

40.3.15 U S WEST shall provide McLeod with written notice five (5) Business Days prior to those instances where U S WEST or its subcontractors may be performing work that could reasonably potentially affect McLeod's service. U S WEST will make reasonable efforts to inform McLeod by telephone of any emergency related activity prior to the start of the activity that U S WEST or its subcontractors may be performing that could reasonably potentially affect McLeod's service, so that McLeod can take any action required to monitor or protect its service.

40.3.16 U S WEST shall provide information regarding the location, type, and cable termination requirements (i.e., connector type, number and type of pairs, and naming convention) for U S WEST point of termination to McLeod within five (5) Business Days of McLeod's acceptance of U S WEST's quote for collocated space.

40.3.17 U S WEST shall provide the dimensions for McLeod outside plant fiber ingress and egress into McLeod collocated space within five (5) Business Days of McLeod's acceptance of U S WEST's quote for collocated space.

40.3.18 U S WEST shall provide the sizes and number of power feeders for the collocated space to McLeod within ten (10) Business Days of McLeod's acceptance of U S WEST's quote for collocated space.

40.3.19 U S WEST shall provide positive confirmation to McLeod when construction of McLeod collocated space is fifty percent (50%) completed. This confirmation shall also include confirmation of the scheduled completion and turnover dates.

40.3.20 [Intentionally left blank for numerical consistency.]

40.3.21 With the exception of Subparagraph (b) below, U S WEST shall provide the following information to McLeod within five (5) Business Days or as reasonably necessary upon receipt of a written request from McLeod:

(a) additional work restriction guidelines.

(b) U S WEST or industry technical publication guidelines that impact the design of U S WEST collocated equipment, unless such documents are already in the possession of McLeod. The following U S WEST Technical Publications provide information regarding central office equipment and Collocation guidelines:

77350 Central Office Telecommunications Equipment Installation and Removal Guidelines
77351 Central Office Telecommunications Equipment Engineering Standards
77355 Grounding - Central Office and Remote Equipment Environment
77386 Expanded Interconnection and Collocation for Private Line Transport and Switched Access Services.

McLeod may obtain the above documents from

Faison Office Products Company
3251 Revere St. Suite 200
Aurora, Colorado 80011
(303) 340-3672

(c) appropriate U S WEST contacts (names and telephone numbers) for the following areas:

Engineering
Physical & Logical Security
Provisioning
Billing
Operations
Site and Building Managers
Environmental and Safety

(d) escalation process for the U S WEST employees (names, telephone numbers and the escalation order) for any disputes or problems that might arise pursuant to McLeod's Collocation.

40.3.22 Power as referenced in this Agreement refers to any electrical power source supplied by U S WEST for McLeod equipment. U S WEST will supply power to support McLeod equipment at equipment specific DC and AC voltages.[18] U S WEST shall supply power to McLeod at parity with that provided by U S WEST to itself. If U S WEST performance, availability or restoration falls below industry standards, U S WEST shall bring itself into compliance with such industry standards as soon as technologically feasible.

(a) Central office power supplied by U S WEST into the McLeod equipment area, shall be supplied in the form of power feeders (cables) on cable racking into the designated McLeod equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity

18 Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "at a minimum".

and capacity of McLeod equipment. The termination location shall be mutually agreed upon by the Parties.

(b) U S WEST power equipment supporting McLeod's equipment shall:

i. comply with applicable industry standards (e.g., Bellcore, NEBS, IEEE, UL, and NEC) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout;

ii. have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for McLeod equipment, or,[19] at parity with that provided for similar U S WEST equipment at that location;

iii. provide central office ground, connected to a ground electrode located within the McLeod collocated space, at a level above the top of McLeod equipment plus or minus two (2) feet to the left or right of McLeod's final request;

iv. provide an installation sequence and access that will allow installation efforts in parallel without jeopardizing personnel safety or existing services of either Party;

v. provide cabling that adheres to Bell Communication Research (Bellcore) Network Equipment-Building System (NEBS) standards TR-EOP-000063;

vi. provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines; and

vii. ensure that installed equipment meets Bellcore specifications.

40.4 Collocation Rate Elements

40.4.1 Common Rate Elements

The following rate elements are common to both virtual and physical Collocation:

(a) Quote Preparation Fee. This covers the work involved in developing a quotation for McLeod for the total costs involved in its Collocation request.

(b) Entrance Facility. Provides for fiber optic cable on a per two (2) fiber increment basis from the point of interconnection utilizing U.S WEST owned, conventional single mode type of fiber optic cable to the collocated equipment (for virtual collocation) or to the leased space (for physical Collocation). Entrance facility includes riser, fiber placement, entrance closure, conduit/innerduct, and core drilling.

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[19] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "at a minimum".

(c) *Cable Splicing. Represents the labor and equipment to perform a subsequent splice to the McLeod provided fiber optic cable after the initial installation splice. Includes a per-setup and a per-fiber-spliced rate elements.*

(d) *48 Volt Power. Provides 48 volt power to the McLeod collocated equipment. Charged on a per ampere basis.*

(e) *48 Volt Power Cable. Provides for the transmission of -48 Volt DC power to the collocated equipment. It includes engineering, furnishing and installing the main distribution bay power breaker, associated power cable, cable rack and local power bay to the closest power distribution bay. It also includes the power cable (feeders) A and B from the local power distribution bay to the leased physical space (for physical Collocation) or to the collocated equipment (for virtual collocation).*

(f) *Inspector Labor. Provides for the U S WEST qualified personnel necessary when McLeod requires access to the POI after the initial installation or access to its physical Collocation floor space, where an escort is required. A call-out of an inspector after business hours is subject to a minimum charge of four (4) hours. Maintenance Labor, Inspector Labor, Engineering Labor and Equipment Labor business hours are considered to be Monday through Friday, 8:00 am to 5:00 pm and after business hours are after 5:00 pm and before 8:00 am, Monday through Friday, all day Saturday, Sunday and holidays.*

(g) *Expanded Interconnection Channel Regeneration. Required when the distance from the leased physical space (for physical Collocation) or from the collocated equipment (for virtual Collocation) to the U S WEST network is of sufficient length to require regeneration.*

(h) *U S WEST will provide external synchronization when available.*

(i) *U S WEST will provide 20 hertz ringing supply when available.*

40.4.2 Physical Collocation Rate Elements

The following rate elements apply only to physical Collocation arrangements:

(a) *Enclosure Buildout. The Enclosure Buildout element, either Cage or Hardwall, includes the material and labor to construct the enclosure specified by McLeod or McLeod may choose from U S WEST approved contractors to construct the cage, meeting U S WEST's installation Technical Publication 77350. It includes the enclosure (cage or hardwall), air conditioning (to support McLeod loads specified), lighting (not to exceed 2 watts per square foot), and convenience outlets (3 per cage or number required by building code for the hardwall enclosure). Also provides for humidification, if required. Pricing for Enclosure Buildout will be provided on an individual basis due to the uniqueness of McLeod's requirements, central office structure and arrangements.*

(b) *Floor Space Rental. This element provides for the rental of the floor space provided to McLeod pursuant to physical Collocation arrangement.*

40.4.3 Virtual Collocation Rate Elements

The following rate elements apply only to virtual Collocation arrangements:

(a) Maintenance Labor. Provides for the labor necessary for repair of out of service and/or service-affecting conditions and preventative maintenance of the McLeod virtually collocated equipment. McLeod is responsible for ordering maintenance spares. U S WEST will perform maintenance and/or repair work upon receipt of the replacement maintenance spare and/or equipment for McLeod. A call-out of a maintenance technician after business hours is subject to a minimum charge of four (4) hours. Maintenance Labor, Inspector Labor, Engineering Labor and Equipment Labor business hours are considered to be Monday through Friday, 8:00 am to 5:00 pm and after business hours are after 5:00 pm and before 8:00 am, Monday through Friday, all day Saturday, Sunday and holidays.

(b) Training Labor. Provides for the billing of vendor-provided training for U S WEST personnel on a metropolitan service area basis, necessary for McLeod virtually collocated equipment which is different from equipment used by U S WEST. U S WEST will require three (3) U S WEST employees to be trained per metropolitan service area in which the McLeod virtually collocated equipment is located. If, by an act of U S WEST, trained employees are relocated, retired, or are no longer available, U S WEST will not require McLeod to provide training for additional U S WEST employees for the same virtually collocated equipment in the same metropolitan area. Fifty percent (50%) of the amount of training billed to McLeod will be refunded to McLeod should a second collocator or U S WEST in the same metropolitan area select the same virtually collocated equipment as McLeod. The second collocator or U S WEST will be charged one half of the original amount paid by McLeod for the same metropolitan area.

(c) Equipment Bay. Provides mounting space for the McLeod virtually collocated equipment. Each bay includes the seven (7) foot bay, its installation, and all necessary environmental supports. Mounting space on the bay, including space for the fuse panel and air gaps necessary for heat dissipation is limited to 78 inches. The monthly rate is applied per shelf.

(d) Engineering Labor. Provides the planning and engineering of the McLeod virtually collocated equipment at the time of installation, change or removal.

(e) Installation Labor. Provides for the installation, change or removal of the McLeod virtually collocated equipment.

40.5. Collocation Installation Intervals

40.5.1 U S WEST shall have a period of thirty (30) calendar days after receipt by McLeod of a Request for Collocation to provide McLeod with a written quotation containing all nonrecurring charges and fees for the requested Collocation (the "Quotation Preparation Period"). McLeod shall make payment of fifty (50) percent of the nonrecurring charges and fees upon acceptance of the quotation ("Initial Payment") with the remainder due upon completion of the construction. In the event McLeod disputes the amount of U S WEST's proposed nonrecurring charges and fees, McLeod shall deposit fifty percent (50%) of the nonrecurring charges and fees to an interest bearing escrow account prior to the commencement of construction ("Initial Depo-

sit"). The remainder of the nonrecurring charges and fees shall be deposited into the escrow account upon completion of the construction. Upon resolution of the dispute, the escrow agent shall distribute amounts in the account in accordance with the resolution of such dispute and any interest that has accrued with respect to amounts of the account shall be distributed proportionately to the Parties. U S WEST shall complete installation pursuant to the McLeod Request for Collocation within a maximum of three (3) months after the Initial Payment or Initial Deposit for physical or virtual Collocation. If there is a dispute between U S WEST and McLeod regarding the amount of any nonrecurring charges and fees, such dispute shall be resolved in accordance with Section 27. The pendency of any such dispute shall not affect the obligation of U S WEST to complete Collocation within the installation intervals described above.

41. Technical References - Collocation

Subject to Sections 52.5.1 and 52.5.2 of this Part A of this Agreement, U S WEST shall provide collocation in accordance with the following standards:

41.1 Institute of Electrical and Electronics Engineers (IEEE) Standard 383, IEEE Standard for Type Test of Class 1 E Electric Cables, Field Splices, and Connections for Nuclear Power Generating Stations;

41.2 National Electrical Code (NEC), use most recent issue;

41.3 TA-NPL-000286, NEBS Generic Engineering Requirements for System Assembly and Cable Distribution, Issue 2 (Bellcore, January 1989);

41.4 TR-EOP-000063 Network Equipment-Building System (NEBS) Generic Equipment Requirements, Issue 3, March 1988;

41.5 TR-EOP-000151, Generic Requirements for 24-, 48-, 130-, and 140- Volt Central Office Power Plant Rectifiers, Issue 1 (Bellcore, May 1985);

41.6 TR-EOP-000232, Generic Requirements for Lead-Acid Storage Batteries, Issue 1 (Bellcore, June 1985);

41.7 TR-NWT-000154, Generic Requirements for 24-, 48-, 130, and 140- Volt Central Office Power Plant Control and Distribution Equipment, Issue 2 (Bellcore, January 1992);

41.8 TR-NWT-000295, Isolated Ground Planes: Definition and Application to Telephone Central Offices, Issue 2 (Bellcore, July 1992);

41.9 TR-NWT-000840, Supplier Support Generic Requirements (SSGR), (A Module of LSSGR, FR-NWT-000064), Issue 1 (Bellcore, December 1991);

41.10 TR-NWT-001275 Central Office Environment Installations/Removal Generic Requirements, Issue 1, January 1993; and

41.11 Underwriters' Laboratories Standard, UL 94.

42. Number Portability

42.1 Interim Number Portability (INP)

42.1.1 General Terms.

(a) *The Parties shall provide Interim Number Portability (INP) on a reciprocal basis to the extent technically feasible.*

(b) *Until permanent number portability is implemented by the industry pursuant to regulations issued by the FCC or the Commission, the Parties agree to provide INP to each other through Remote Call Forwarding, Direct Inward Dialing, or other appropriate means as agreed to by the Parties.*

(c) *Once permanent number portability is implemented pursuant to FCC or Commission regulation, either Party may withdraw, at any time and at its sole discretion, its INP offerings, subject to advance notice to the other Party with sufficient time to allow for coordination to allow the seamless and transparent conversion of INP Customer numbers to permanent number portability. Upon implementation of permanent number portability pursuant to FCC regulations, both Parties agree to conform and provide such permanent number portability. Parties agree to expeditiously convert Customers from interim number portability to permanent number portability, provided that the interim service is not removed until the Customer has been converted.*

(d) *U S WEST will update and maintain its Line Information Database ("LIDB") listings for numbers retained by McLeod and its Customer, and restrict or cancel calling cards associated with these forwarded numbers as directed by McLeod. Further, U S WEST will not block third party and collect calls to those numbers unless requested by McLeod.*

(e) *The ordering Party shall specify on a per telephone number basis which method of INP is to be employed and the providing Party shall provide such method to the extent technically feasible.*

(f) *Where either Party has activated an entire NXX, or activated a substantial portion of an NXX with the remaining numbers in that NXX either reserved for future use or otherwise unused, if these Customer(s) choose to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead-times for movement of NXXs from one switch to another.*

42.1.2 Description Of Service

(a) *Interim Number Portability Service ("INP") is a service arrangement that can be provided by U S WEST to McLeod or by McLeod to U S WEST.*

(b) *INP applies to those situations where an end-user Customer elects to change service providers, and such Customer also wishes to retain its existing or reserved telephone number(s). INP consists of providing the capability to route calls placed to telephone numbers assigned to one Party's switches to another Party's switches.*

(c) *INP is available as INP-Remote Call Forwarding ("INP-RCF") permitting a call to a U S WEST assigned telephone number to be translated to McLeod's dialable local number. McLeod may terminate the call as desired. Additional capacity for simultaneous call forwarding is available where technically feasible on a per path basis. McLeod will need to specify the number of simultaneous calls to be forwarded for each number ported.*

(d) *DID is another INP method that makes use of direct inward dialing trunks. Each DID trunk group used for INP is dedicated to carrying DID INP traffic between the U S WEST end office and the McLeod switch. Traffic on these trunks cannot overflow to other trunks, so the number of trunks shall be conservatively engineered by U S WEST. Also, inter-switch signaling is usually limited to multi-frequency (MF). This precludes passing Calling Line ID to the McLeod switch.*

(e) *RI-PH will route a dialed call to the U S WEST switch associated with the NXX of the dialed number. The U S WEST switch shall then insert a prefix onto the dialed number which identifies how the call is to be routed to McLeod. The prefixed dialed number is transmitted to the U S WEST tandem switch to which McLeod is connected. Route indexing is only available with seven digit local dialing.*

(f) *The prefix is removed by the operation of the tandem switch and the dialed number is routed to McLeod's switch so the routing of the call can be completed by McLeod.*

i. *DN-RI is a form of RI-PH that requires direct trunking between the U S WEST switch to which the ported number was originally assigned and the McLeod switch to which the number has been ported. The U S WEST switch shall send the originally dialed number to the McLeod switch without a prefix.*

ii. *U S WEST shall provide RI-PH or DN-RI on an individual telephone number basis, as designated by McLeod. Where technically feasible, calls to ported numbers are first directed to the McLeod switch over direct trunks but may overflow to tandem trunks if all trunks in the direct group are occupied.*

iii. *For both RI-PH and DN-RI the trunks used may, at McLeod's option, be the same as those used for exchange of other local traffic with U S WEST. At McLeod's option, the trunks shall employ SS7 or in band signaling and may be one way or two way.*

(g) *INP is subject to the following restrictions:*

i. *An INP telephone number may be assigned by McLeod only to McLeod's Customers located within U S WEST's local calling area and toll rating area that is associated with the NXX of the ported number. This is to prevent the possibility of Customers using number portability to extend the local calling area.*

ii. *INP is applicable only if McLeod is engaged in a reciprocal traffic exchange arrangement with U S WEST.*

iii. *INP is not offered for NXX Codes 555, 976, 960 and 1+ sent-paid telephones, and Service Access Codes (i.e. 500, 700, 800/888, 900). INP is not available for FGA seven-digit numbers (including foreign exchange (FEX), FX and FX/ONAL and foreign Central Office Service),. Furthermore, INP numbers may only be used consistent with network efficiency and integrity, i.e., inhibitions on mass calling events.*

iv. *The ported telephone number will be returned to the switch which originally had the ported number when the ported service is disconnected. The normal intercept announcement will be provided by the porting company for the period of time until the telephone number is reassigned.*

v. *Within thirty (30) days of a request of either McLeod U S WEST shall provide McLeod a list of those features that are not available for INP telephone numbers due to technical limitations.*

42.1.3 Ordering and Maintenance

(a) *McLeod is responsible for all direct interactions with McLeod's end users with respect to ordering and maintenance.*

(b) *U S WEST shall exchange with McLeod SS7 TCAP messages as required for the implementation of Custom Local Area Signaling Services (CLASS) or other features available in the U S WEST network.*

(c) *Each Party's designated INP switch must return answer and disconnect supervision to the other Party's switch.*

(d) *U S WEST shall disclose to McLeod any technical or capacity limitations that would prevent use of a requested INP in a particular switching office.*

(e) *The Parties will develop and implement an efficient deployment process to ensure call routing integrity for toll and local calls, with the objective to eliminate Customer downtime.*

(f) *For INP, McLeod shall have the right to use the existing U S WEST 911 infrastructure for all 911 capabilities. When RCF is used for McLeod subscribers, both the ported numbers and shadow numbers shall be stored in ALI databases. McLeod shall have the right to verify the accuracy of the information in the ALI databases via direct connection to the SCC ALI database pursuant to the same process and procedures SCC makes available to U S WEST.*

42.2 Permanent Number Portability (PNP)

42.2.1 Upon implementation of Permanent Number Portability (PNP) pursuant to FCC regulations, both Parties agree to conform and provide such Permanent Number Portability. To the extent consistent with the FCC rules as amended from time to time, the requirements for PNP shall include the following:

42.2.2 *Subscribers must be able to change local service providers and retain the same telephone number(s) consistent with FCC rules and regulations and the Western Region LLC agreements as amended from time to time.*

42.2.3 *The PNP network architecture shall not subject alternate local exchange carriers to any degradation of service compared to U S WEST in any relevant measure, including transmission quality, switching and transport costs, increased call set-up time and post-dial delay, and McLeod shall not be required to rely on the U S WEST network for calls completing to its ported Customers.*

42.2.4 *When an office is equipped with PNP, in accordance with the procedures specified by the North American Numbering Council, the NXXs in the office shall be defined as portable and translations will be changed in the Parties' switches to open those NXXs for database queries.*

42.2.5 *When an NXX is defined as portable, it shall also be defined as portable in all PNP-capable offices which have direct trunks to the given switch.*

42.2.6. *Upon introduction of PNP in a Metropolitan Statistical Area ("MSA"), the applicable switches will be converted according to a published schedule with no unreasonable delay. All portable NXXs shall be recognized as portable, with queries launched from these switches.*

42.2.7 *Prior to implementation of PNP, the Parties agree to develop, implement, and maintain efficient methods to maintain 911 database integrity when a subscriber ports to another service provider. The Parties agree that the Customer should not be dropped from the 911 database during the transition.*

42.2.8 *When a subscriber ports to another service provider and has previously secured a reservation of line numbers from the donor provider for possible activation at some future point, these reserved but inactive numbers shall "port" along with the active numbers being ported by the subscriber. So long as McLeod maintains the reserved numbers, U S WEST shall not reassign said numbers. Upon request by either Party, the Parties will allocate the revenue generated from number reservations in accordance with a schedule to be mutually agreed upon. U S WEST shall provide McLeod the ability to reserve numbers.*

42.2.9 *During the process of porting a subscriber, the donor service provider shall implement the 10-Digit trigger feature, when the technology is made available in each switch in accordance with the schedules adopted by the FCC. When the donor provider receives the porting request, the unconditional trigger shall be applied to the subscriber's line at the time that has been agreed to via the Western Region LNP Operations Guidelines in order to overcome donor network time delays in the disconnection of the subscriber. Alternatively, when an activation notice is sent to an NPAC to trigger a broadcast to service provider databases, the donor switch shall have its translations changed to disconnect the subscriber's line within four hours or less after the donor network Local SMS's has received the broadcast. Porting requests that require coordination between service providers, in accordance with the guidelines, will be handled on a case-by-case basis and will not be covered by the above.*

42.2.10 *Both McLeod and U S WEST shall:*

(a) *support all emergency and Operator Services.*

(b) use scarce numbering resources efficiently and administer such resources in a competitively neutral manner.

(c) jointly cooperate with each other to provide the information necessary to rate and bill all types of calls.

(d) jointly cooperate with each other to apply PNP consistently on a nationwide basis, and in accordance with all FCC directives.

42.2.11 A ten-digit code, consistent with the North American Numbering Plan, shall be used as a network address for each switch that terminates subscriber lines, i.e., an end office. This address shall support existing six-digit routing and may be implemented without changes to existing switch routing algorithms. In existing end offices, this address shall be selected from one of its existing NPA-NXXs. New end offices shall be assigned an address through normal administrative processes.

42.2.12 PNP employs an "N-1" (N minus 1) Query Strategy for interLATA or intraLATA toll calls, by which the originating carrier will pass the call to the appropriate toll carrier who will perform a query to an external routing database and efficiently route the call to the appropriate terminating local carrier either directly or through an access tandem office.

42.2.13 U S WEST shall furnish McLeod with the first six digits of the originating address when it supplies McLeod with the Jurisdiction Information Parameter for the originating address message.

42.2.14 U S WEST agrees to begin the introduction of PNP to end user subscribers who may begin changing local service providers and retaining their existing telephone number based on the time line set out by the FCC in its Telephone Number Portability Order (CC Docket No. 95-116), or in accordance with a Commission order if such time for introduction of PNP set by the Commission is earlier than would result under the FCC Order.

42.2.15 The generic requirements for the PNP alternative will be implemented in accordance with industry-standard specifications.

42.2.16 For a local call to a ported number, the originating carrier is the "N-1" carrier. It will perform an external database query as soon as the call reaches the first PNP-capable switch in the call path and pass the call to the appropriate terminating carrier. A PNP-capable originating switch shall query on a local call to a portable NXX as soon as it determines that it (the originating switch) does not serve the dialed number.

42.2.17 U S WEST shall be the default carrier for database queries where McLeod is unable to perform its own query due to abnormal conditions. McLeod shall be the default carrier for database queries where U S WEST is unable to perform its own query due to abnormal conditions.

42.2.18 U S WEST will provide McLeod PNP for subscribers moving to a different location, or staying at the same location, within the same rate center area.

42.2.19 U S WEST will work cooperatively with other local service providers to establish the Western Region Number Portability Administration Center/Service Management

System (SMS). The SMS shall be administered by a neutral third party to provide for the efficient porting of numbers between carriers. There must be one (1) exclusive NPAC per portability State or region, and U S WEST shall provide all information uploads and downloads regarding ported numbers to/from, respectively, the exclusive NPAC. U S WEST and McLeod shall cooperate to facilitate the expeditious deployment of PNP through the process prescribed by the FCC, including, but not limited to, participation in the selection of a neutral third party and development of SMS, as well as SMS testing for effective procedures, electronic system interfaces, and overall readiness for use consistent with that specified for provisioning in this Agreement.

42.3 Requirements for INP and NP

42.3.1 *[Intentionally left blank for numbering consistency.]*

42.3.2 Cut-Over Process

The Parties shall cooperate in the process of porting numbers from one carrier to another so as to limit service outage for the ported subscriber. This shall include, but not be limited to, each Party updating its respective network element translations within fifteen (15) minutes following notification by the industry SMS, or ported-to local service provider, and deploying such temporary translations as may be required to minimize service outage, e.g., unconditional triggers. In addition, McLeod shall have the right to determine who initiates the order for INP in specific cut-over situations. The timeframes in this paragraph shall be pursuant to Generic Requirements for SCP Application and GTT Function for Number Portability, Issue 0.99, January 6, 1997 and subsequent versions which may be adopted from time to time. The Parties shall cooperate to review, and if necessary, adjust the above time frame based on their actual experiences.

42.3.3 Testing

U S WEST and McLeod shall cooperate in conducting McLeod's testing to ensure interconnectivity between systems. U S WEST shall inform McLeod of any system updates that may affect the McLeod network and U S WEST shall, at McLeod's request, perform tests to validate the operation of the network. Additional testing requirements may apply as specified by this Agreement.

42.3.4 Engineering and Maintenance

(a) U S WEST and McLeod will cooperate to ensure that performance of trunking and signaling capacity is engineered and managed at levels which are at least the same level of service as provided by U S WEST to its subscribers and to ensure effective maintenance testing through activities such as routine testing practices, network trouble isolation processes and review of operational elements for translations, routing and network fault isolation.

(b) Additional specific engineering and maintenance requirements shall apply as specified in this Agreement.

42.3.5 Recording and Billing

The Parties shall provide each other with accurate billing and subscriber account record exchange data necessary for billing their subscribers whose numbers have been ported.

42.3.6 Operator Services and Directory Assistance

With respect to Operator Services and Directory Assistance associated with NP for McLeod subscribers, U S WEST shall provide the following:

(a) While INP is deployed and prior to conversion to PNP:

i. The Parties acknowledge that technology, as of the Effective Date of this Agreement, does not permit the provision of BLV/BLI to ported numbers. When such becomes available in the U S WEST network, such technology shall be made available to McLeod.

ii. U S WEST shall allow McLeod to order provisioning of Telephone Line Number (TLN) calling cards and Billed Number Screening (BNS), in its LIDB, for ported numbers, as specified by McLeod. U S WEST shall continue to allow McLeod access to its LIDB. Other LIDB provisions are specified in this Agreement.

iii. Where U S WEST has control of Directory Listings for NXX codes containing ported numbers, U S WEST shall maintain entries for ported numbers as specified by McLeod in accordance with the Listings Section of this Agreement.

(b) When PNP is in place:

i. The provisions in Section 42.3.6 preceding, shall apply when PNP is in place.

ii. If Integrated Services Digital Network User Part (ISUP) signaling is used, U S WEST shall provide the Jurisdiction Information Parameter in the SS7 Initial Address Message. (See Generic Switching and Signaling Requirements for Number Portability, Issue 1.0, February 12, 1996 (Editor - Lucent Technologies, Inc.)).

iii. The Parties shall provide, when received from the NPAC, a 10-Digit Global Title Translation (GTT) Node for routing queries for TCAP-based Operator Services (e.g., LIDB). The acquiring company will provide the GTT to the NPAC. The NPAC will distribute this information to the donor company and all other parties.

iv. U S WEST OSS shall meet all requirements specified in "Generic Operator Services Switching Requirements for Number Portability," Issue 1.1, June 20, 1996 as updated from time to time.

43. Dialing Parity

43.1 The Parties shall provide dialing parity to each other as required under Section 251(b)(3) of the Act or state law or regulation as appropriate.

43.2 U S WEST shall ensure that all McLeod Customers experience the same dialing parity as similarly-situated Customers of U S WEST services, such that, for example, for all call types: (a) an McLeod Customer is not required to dial any greater number of digits than a similarly-situated U S WEST Customer; and (b) the McLeod Customer may retain its local telephone number, so long as the Customer continues receiving service in the same central office serving area.

44. Directory Listings

44.1 Directory Listings General Requirements

44.1.1 This Section 44 pertains to Directory Listings requirements for the appearance of McLeod end user Directory Listings in Directory Assistance service or directory product.

44.1.2 U S WEST shall include in its master Directory Listing database all list information for McLeod Customers.

44.1.3 U S WEST shall not sell or license, nor allow any third party, the use of McLeod Customer Listings without the prior written consent of McLeod. U S WEST shall not disclose nor allow any third party to disclose non-listed name or address information for any purpose other than what may be necessary to complete directory distribution.

44.1.4 McLeod Customer Listings in the U S WEST Directory Assistance database and Directory Listing database shall be co-mingled with listings of U S WEST and other CLEC Customers.

44.1.5 Each McLeod Customer Primary Listing shall be provided, at no charge, the same white page listings that U S WEST provides its Customers.[20]

44.1.6 Each McLeod business Customer Primary Listing shall be provided, at no charge, the same yellow page classified courtesy listings that U S WEST provides its Customers.

44.1.7 U S WEST shall also ensure that its directory publisher publishes all types of listings for McLeod Customers that are available to U S WEST Customers under the same terms, and conditions, including but not limited to:

(a) Foreign Listings
(b) Reference Listings
(c) Information Listings
(d) Alternate call Listings
(e) Multi-line Listings
(f) Multi-line/Multi-owner Listings

44.1.8 McLeod end user Listings properly identified by McLeod as State, Local, and Federal government Listings shall be appropriately coded in the U S WEST Directory Listing database. U S WEST will provide government code information to McLeod.

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[20] Per First Order at page 30, Paragraph 246.

44.1.9 The listing and handling of McLeod listed and non-listed telephone numbers shall be at least at parity with that provided by U S WEST to its own Customers, including McLeod customers who have ported telephone numbers from U S WEST.

44.1.10 U S WEST shall ensure that its directory publisher publishes McLeod sales, service, billing, and repair information for business and residential Customers, along with the McLeod logo in the customer information/guide pages of each directory at no charge to McLeod.

44.1.11 U S WEST is responsible for maintaining Listings, including entering, changing, correcting, rearranging and removing listings in accordance with McLeod's orders. Upon request, and at least one (1) month prior to a given white page directory close, a method of reviewing and correcting Listings will be provided.

44.1.12 Any other issues with respect to directory listings must be negotiated with U S WEST Dex.[21]

44.1.13 U S WEST will permit McLeod Customers to place orders for Premium Listings and privacy listings. McLeod will be charged for Premium Listings and privacy listings at U S WEST's general exchange tariff rates less the wholesale discount rate. The Premium and privacy listing charges will be billed to McLeod and itemized at the telephone number sub-account level.

44.1.14 U S WEST shall ensure a third party distributes appropriate alphabetical and classified directories (white and yellow pages) and recycling services to McLeod Customers at parity with U S WEST end users, including providing directories, a) upon establishment of new service; b) during annual mass distribution; and c) upon Customer request.

44.1.15 [Intentionally left blank for numbering consistency.]

44.1.16 U S WEST will provide the option of having CENTREX users listed when McLeod purchases CENTREX type services for resale.

44.1.17 [Intentionally left blank for numbering consistency.]

44.2 Scope

44.2.1 McLeod grants U S WEST a non-exclusive license to incorporate Listings information into its Directory Assistance database. McLeod shall select one of two options for U S WEST's use of Listings and dissemination of Listings to third parties.

EITHER:

a Treat the same as U S WEST's end user Listings - No prior authorization is needed for U S WEST to release Listings to directory publishers or other third parties. U S WEST will incorporate Listings information in all existing and future Directory Assistance applications developed by U S WEST. McLeod authorizes U S WEST to sell and otherwise make Listings

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21 Per First Order at page 30, Paragraph 248.

available to directory publishers. Listings shall not be provided or sold in such a manner as to segregate end users by carrier.

OR:

b. Restrict to U S WEST's Directory Assistance services -- Prior authorization required from McLeod for all other uses. McLeod makes its own, separate agreements with U S WEST, third Parties and directory publishers for all uses of its Listings beyond Directory Assistance. U S WEST will sell or provide Listings to directory publishers (including U S WEST's publisher affiliate) or other third Parties only after the third party presents proof of McLeod's authorization. Listings shall not be provided or sold in such a manner as to segregate end users by carrier.

(c) U S WEST shall be entitled to retain all revenue associated with any sales pursuant to subparagraphs (a) and (b) above.

44.3 U S WEST will take reasonable steps in accordance with industry practices to accommodate non-published and non-listed Listings provided that McLeod has supplied U S WEST the necessary privacy indicators on such Listings.

44.4 McLeod Responsibilities

44.4.1 McLeod agrees to provide to U S WEST its end user names, addresses and telephone numbers in a standard mechanized format, as utilized by U S WEST.

44.4.2 McLeod will supply its ACNA/CIC or CLCC/OCN, as appropriate, with each order to provide U S WEST the means of identifying Listings ownership.

44.4.3 McLeod represents the end user information provided to U S WEST is accurate and correct. McLeod further represents that it has reviewed all Listings provided to U S WEST, including end user requested restrictions on use such as non-published and non-listed.

44.4.4 McLeod is responsible for dealings with, and on behalf of, McLeod's end users on the following subjects:

a) All end user account activity, e.g., end user queries and complaints.

b) All account maintenance activity, e.g., additions, changes, issuance of orders for Listings to U S WEST.

c) Determining privacy requirements and accurately coding the privacy indicators for McLeod's end user information. If end user information provided by McLeod to U S WEST does not contain a privacy indicator, no privacy restrictions will apply.

45. *[Intentionally left blank for numbering consistency.]*

46. U S WEST Dex Issues

46.1 U S WEST and McLeod agree that certain issues, such as yellow page advertising, directory distribution, access to call guide pages, and yellow page listings, will be the subject of negotiations between McLeod and U S WEST Dex or other directory publishers.[22] *U S WEST acknowledges that McLeod may request U S WEST to facilitate discussions between McLeod and U S WEST Dex.*

47. Access to Poles, Ducts, Conduits, and Rights of Way

47.1 Each Party shall provide the other Party nondiscriminatory access to its poles, ducts, rights-of-way and conduits it controls on terms, conditions and prices as described herein. While the language in Section 47 describes the provision of poles, ducts, rights-of-way and conduits by U S WEST to McLeod, the language in this Section shall apply reciprocally to the provision of poles, ducts, rights-of-way and conduits by McLeod to U S WEST when McLeod becomes a local exchange carrier.[23]

47.2 U S WEST shall provide McLeod nondiscriminatory access to poles, ducts, rights-of-way and conduits it owns or controls, except where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.[24]

U S WEST may not reserve space for its local exchange service to the detriment of an entrant into the local exchange business. U S WEST shall provide nondiscriminatory access on a first come, first served basis.[25] U S WEST shall take all reasonable steps to accommodate requests for access.[26] Before denying access based on lack of capacity, U S WEST must explore potential accommodations in good faith with the party seeking access.[27]

47.3 Definitions

"Poles, ducts, conduits and ROW" refer to all the physical facilities and legal rights which provide for access to pathways across public and private property. These include poles, pole attachments, ducts, innerducts, conduits, building entrance facilities, building entrance links, equipment rooms, remote terminals, cable vaults, telephone closets, building risers, rights of way, or any other requirements needed to create pathways. These pathways may run over, under, across or through streets, traverse private property, or enter multi-unit buildings. A Right of Way ("ROW") is the right to use the land or other property owned, leased, or controlled by any means by U S WEST to place poles, ducts, conduits and ROW or to provide passage to access such poles, ducts, conduits and ROW. A ROW may run under, on, or above public or private property (including air space above public or private property) and shall include the right to use discrete space in buildings, building complexes, or other locations.

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22 Per First Order at Page 30, Paragraph 248.
23 Per First Order at page 27, Paragraph 223.
24 Per First Order at page 27, Paragraph 221.
25 Per First Order at page 27, Paragraph 222.
26 Per First Order at page 27, Paragraph 224.
27 Per First Order at page 27, Paragraph 224.

47.4 Requirements

47.4.1 U S WEST shall make poles, ducts, conduits and ROW available to McLeod upon receipt of a request for use within the time periods provided in this Section, providing all information necessary to implement such a use and containing rates, terms and conditions, including, but not limited to, maintenance and use in accordance with this Agreement and at least equal to those which it affords itself, its Affiliates and others. Other users of these facilities, including U S WEST, shall not interfere with the availability or use of the facilities by McLeod.

47.4.2 Within ten (10) Business Days of McLeod's request for specific poles, ducts, conduits, or ROW, U S WEST shall provide any information in its possession or available to it regarding the environmental conditions of such requested poles, ducts, conduits or ROW route or location including, but not limited to, the existence and condition of asbestos, lead paint, hazardous substance contamination, or radon. Information is considered "available" under this Agreement if it is in U S WEST's possession or files, or if reasonably obtainable, in the possession of an agent, contractor, employee, lessor, tenant of U S WEST's that holds such information on U S WEST's behalf. If the poles, ducts, conduits or ROW contain such environmental contamination, making the placement of equipment hazardous, U S WEST shall offer alternative poles, ducts, conduits or ROW for McLeod's consideration. U S WEST shall allow McLeod to perform any environmental site investigations, including, but not limited to, Phase I and Phase II environmental site assessments, as McLeod may deem to be necessary.

47.4.3 U S WEST shall not prevent or delay any third party assignment of ROW to McLeod.

47.4.4 U S WEST shall offer the use of such poles, ducts, conduits and ROW it has obtained from a third party to McLeod, to the extent such agreement does not prohibit U S WEST from granting such rights to McLeod. They shall be offered to McLeod on the same terms as are offered to U S WEST. **U S WEST shall exercise its eminent domain power to expand an existing ROW, to the extent permitted by law, when necessary to accommodate McLeod's request for access.**[28] *If U S WEST exercises its eminent domain authority on behalf of McLeod at McLeod's request, then McLeod shall reimburse U S WEST for U S WEST's reasonable costs, if any, incurred as a result of such exercise of its eminent domain authority.*

47.4.5 U S WEST shall provide McLeod non-discriminatory access to poles, ducts, conduit and ROW and any other pathways on terms and conditions equal to that provided by U S WEST to itself or to any other Person. Further, U S WEST shall not preclude or delay allocation of these facilities to McLeod because of the potential needs of itself or of other Person, except a maintenance spare may be retained as described below.

47.4.6 U S WEST shall not attach, or permit other entities to attach facilities on, within or overlashed to existing McLeod facilities without McLeod's prior written consent.

47.4.7 On a timely basis, U S WEST agrees to provide immediately necessary information, on a case-specific route basis, current detailed engineering and other plant records

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28 Per First Order at page 27, Paragraph 225.

and drawings for specific requests for poles, ducts, conduit and ROW, including facility route maps at a city level, and the fees and expenses incurred in providing such records and drawings on the earlier of twenty (20) Business Days from McLeod request or the time within which U S WEST provides this information to itself or any other Person. If U S WEST is unable to provide this information within the twenty (20) day period, it shall immediately advise McLeod of the expected delay, the reason for such delay, and the expected date on which McLeod will receive the information requested. McLeod may request an earlier response time. Such information shall be of equal type and quality as that which is available to U S WEST's own engineering and operations staff. U S WEST shall also allow personnel designated by McLeod to jointly examine with U S WEST personnel, at no cost to McLeod for such personnel, such engineering records and drawings for a specific routing at U S WEST Central Offices and U S WEST Engineering Offices upon ten (10) days' written notice to U S WEST. U S WEST acknowledges that the request for information and the subject matter related to the request made under this Section shall be treated as Proprietary Information

47.4.8 U S WEST shall provide to McLeod a Single Point of Contact for negotiating all structure lease and ROW agreements.

47.4.9 U S WEST shall provide information regarding the availability and condition of poles, ducts, conduits and ROW within five (5) Business Days of McLeod' s request if the information than exists in U S WEST's records (a records based answer) and within twenty (20) Business Days of McLeod's request if U S WEST must physically examine the poles, ducts, conduits and ROW (a field based answer) ("Request"). McLeod shall have the option to be present at the field based survey and U S WEST shall provide McLeod at least twenty-four (24) hours' notice prior to the start of such field survey. During and after this period, U S WEST shall allow McLeod personnel to enter manholes and equipment spaces and view pole structures to inspect such structures in order to confirm usability or assess the condition of the structure. U S WEST shall send McLeod a written notice confirming availability pursuant to the Request within such twenty (20) day period ("Confirmation").

47.4.10 **US WEST may not reserve space for its local exchange service to the detriment of an entrant in the local exchange business. U S WEST shall provide nondiscriminatory access on a first come, first served basis.**[29] *For the period beginning at the time of the Request and ending ninety (90) days following Confirmation, U S WEST shall reserve such poles, ducts, conduits and ROW for McLeod and shall not allow any use thereof by any Party, including U S WEST. McLeod shall elect whether or not to accept such poles, ducts, conduits and ROW within the ninety (90) day period following Confirmation. McLeod may accept such facilities by sending written notice to U S WEST ("Acceptance"). From the time of the Request pursuant to Section 47.4.9 above until ninety (90) days after Confirmation, U S WEST shall reserve any such requested poles, ducts, conduits and/or ROW for McLeod's use, provided, however, that if another party makes a bona fide request in writing to use any such requested poles, ducts, conduits and/or ROW, including U S WEST, U S WEST shall so inform McLeod. U S WEST shall not allow the requesting party, including itself, to use the requested poles, ducts, conduits and/or ROW without first giving McLeod the right to continue its reservation of such poles, ducts, conduits and/or ROW. If McLeod chooses to exercise its*

[29] Per First Order at page 27, Paragraph 222.

right of first refusal, it shall compensate U S WEST in a manner equal to the amount the requesting party would have otherwise paid U S WEST for McLeod's reserved facilities.

47.4.11 Reservation. After Acceptance by McLeod, McLeod shall have six (6) months to begin attachment and/or installation of its facilities to the poles, ducts, conduits and ROW or request U S WEST to begin make ready or other preparation[30] activities. Any such construction, installation or make ready by McLeod shall be completed by the end of one (1) year after Acceptance. McLeod shall not be in default of the 6-month or 1-year requirement above if such default is caused in any way by any action, inaction or delay on the part of U S WEST or its Affiliates or subsidiaries.

47.4.12 Make Ready. U S WEST shall rearrange, modify and/or make ready existing poles, ducts, conduits and ROW where necessary and feasible to provide space for McLeod's requirements. Subject to the requirements above, the Parties shall endeavor to mutually agree upon the time frame for the completion of such work within five (5) days following McLeod's request; provided, however, that any such work required to be performed by U S WEST shall be completed within sixty (60) days or a reasonable period of time based on standard[31] intervals in the industry, unless otherwise agreed by McLeod in writing.

47.4.13 Construction After Acceptance. U S WEST shall complete any new construction, relocation or installation of poles, ducts, conduits or ROW required to be performed by U S WEST or any U S WEST construction, relocation or installation requested by McLeod within a reasonable period of time based on standard construction intervals in the industry or sixty (60) days after obtaining all governmental authority or permits necessary to complete such construction, relocation or installation. If U S WEST anticipates that construction, relocation or installation will go beyond standard industry intervals or the sixty (60) day period, U S WEST shall immediately notify McLeod and the Parties shall mutually agree on a completion date.

47.4.14 McLeod shall begin payment for the use of newly constructed poles, ducts, conduits, and ROW upon completion of such construction and installation and confirmation by appropriate testing methods that the facilities are in a condition ready to operate in McLeod's network or upon use (other than for testing) by McLeod, whichever is earlier.

47.4.15 McLeod shall make payment for construction, relocation, rearrangements, modifications and make ready in accordance with Section 3, Construction and Implementation Costs of Attachment 1 of this Agreement.

47.4.16 [Intentionally left blank for numbering consistency.]

47.4.17 McLeod may, at its option, install its facilities on poles, ducts, conduits and ROW and use McLeod or McLeod designated personnel to attach its equipment to such U S WEST poles, ducts, conduits and ROW.

47.4.18 If available, U S WEST shall provide McLeod space in manholes for racking and storage of cable and other materials as requested by McLeod.

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30 Pursuant to the Eighth Circuit Decision, the Parties agree to add "preparation" and delete the following: "construction".

31 Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "construction".

47.4.19 U S WEST shall rearrange, modify and/or make ready any conduit system or poles with retired cable by removing such retired cable from conduit systems or poles to allow for the efficient use of conduit space and pole space. Before denying access based on a lack of capacity, U S WEST must explore potential accommodations with McLeod.

47.4.20 Where U S WEST has innerducts which are not, at that time, being used or are not reserved as emergency or maintenance spare in accordance with FCC rules and regulations, U S WEST shall offer such ducts for McLeod's use.

47.4.21 Where a spare innerduct does not exist, U S WEST shall allow McLeod to install an innerduct in U S WEST conduit, at McLeod's cost and expense. U S WEST must review and approve any installation of innerduct in any U S WEST's duct prior to the start of construction. Such approval shall not be unreasonably delayed, withheld or conditioned. McLeod shall provide notice to U S WEST of any work activity not less than twenty-four (24) hours prior to the start of construction.

47.4.22 Where U S WEST has any ownership or other rights to ROW to buildings or building complexes, or within buildings or building complexes, U S WEST shall offer such ROW to McLeod:

(a) Subject to the approval of the building owner, if required, the right to use any available space owned or controlled by U S WEST in the building or building complex to install McLeod equipment and facilities;

(b) Subject to the approval of the building owner, if required, ingress and egress to such space; and

(c) Subject to the approval of the building owner, if required, the right to use electrical power at parity with U S WEST's rights to such power.

47.4.23 Whenever U S WEST intends to modify or alter any poles, ducts, conduits or ROW which contain McLeod's facilities, U S WEST shall provide written notification of such action to McLeod so that McLeod may have a reasonable opportunity to add to or modify its facilities. McLeod shall advise U S WEST, in writing, of its intentions to add or modify the facilities within fifteen (15) Business Days of U S WEST's notification. If McLeod adds to or modifies its facilities according to this paragraph, McLeod shall bear a proportionate share of the costs incurred by U S WEST in making such facilities accessible.

47.4.24 McLeod shall not be required to bear any of the costs of rearranging or replacing its facilities, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any entity other than McLeod, including U S WEST.

47.4.25 U S WEST shall maintain the poles, ducts, conduits and ROW at its sole cost. McLeod shall maintain its own facilities installed within the poles, ducts, conduits and ROW at its sole cost. In the event of an emergency, U S WEST shall begin repair of its facilities containing McLeod's facilities within a reasonable time frame based on industry standards or a time frame requested by McLeod. If U S WEST cannot begin repair within the requested time frame, upon notice and approval of U S WEST, which shall not be unreasonably withheld, McLeod may begin such repairs without the presence of U S WEST personnel. McLeod may climb poles

and enter the manholes, handholds, conduits and equipment spaces containing U S WEST's facilities in order to perform such emergency maintenance, but only until such time as qualified personnel of U S WEST arrives ready to continue such repairs. For both emergency and non-emergency repairs, McLeod may use spare innerduct or conduits, including the innerduct or conduit designated by U S WEST as emergency spare for maintenance purposes; provided, however, that McLeod may only use such spare conduit or innerduct for a maximum period of ninety (90) days.

47.4.26 In the event of a relocation necessitated by a governmental entity exercising the power of eminent domain, when such relocation is not reimbursable, all parties shall share pro rata in costs for relocating the base conduit or poles and shall each pay its own cost of cable and installation of the facilities in the newly rebuilt U S WEST poles, ducts, conduits and ROW.

48. Bona Fide Request Process

48.1 Any request for Interconnection or access to an unbundled Network Element not already available via price lists, tariff, or as described herein shall be treated as a "Request" under this Section.

48.2 USWC shall use the Bona Fide Request (BFR) process, as described in this Section 48, to determine the technical feasibility of the requested interconnection or Network Element(s) and, for those items found to be technically feasible, to provide the terms and timetable for providing the requested items. Additionally, elements, services and functions which are materially or substantially different from those services, elements or functions already provided by USWC to itself, its Affiliates, Customers, or end users may, at the discretion of McLeod, be subject to this BFR process.

48.3 A Request shall be submitted in writing and, at a minimum, shall include: (a) a complete and accurate technical description of each requested Network Element or interconnection; (b) the desired interface specifications; (c) a statement that the interconnection or Network Element will be used to provide a telecommunications service; (d) the quantity requested; (e) the location(s) requested; and (f) whether McLeod wants the requested item(s) and terms made generally available. McLeod may designate a Request as Confidential.

48.4 Within forty-eight (48) hours of receipt of a Request, USWC shall acknowledge receipt of the Request and review such request for initial compliance with Subsection 48.3 above. In its acknowledgment, USWC shall advise McLeod of any missing information reasonably necessary to move the Request to the preliminary analysis described in Subsection 48.5 below.

48.5 Unless otherwise agreed to by the Parties, within thirty (30) calender days of its receipt of the Request and all information necessary to process it, USWC shall provide to McLeod a preliminary analysis of the Request. As reasonably requested by McLeod, USWC agrees to provide weekly status updates to McLeod. USWC will notify McLeod if the quote preparation fee, if any, will exceed $5,000. McLeod will approve the continuation of the development of the quote prior to USWC incurring any reasonable additional expenses. The preliminary analysis shall specify whether or not the requested interconnection or access to an unbundled Network Element is technically feasible and otherwise qualifies as a Network Element or interconnection as defined under the Act.

48.5.1 If USWC determines during the thirty (30) day period that a Request is not technically feasible or that the Request otherwise does not qualify as a Network Element or interconnection required to be provided under the Act, USWC shall so advise McLeod as soon as reasonably possible of that fact, and promptly provide a written report setting forth the basis for its conclusion in no case later than ten (10) calendar days after making such determination.

48.5.2 If USWC determines during the thirty (30) day period that the Request is technically feasible and otherwise qualifies under the Act, it shall notify McLeod in writing of such determination in no case later than ten (10) calendar days after making such determination.

48.5.3 Unless otherwise agreed to by the Parties, as soon as feasible, but no more than ninety (90) calendar days after USWC notifies McLeod that the Request is technically feasible, USWC shall provide to McLeod a Request quote which will include, at a minimum, a description of each interconnection and Network Element, the quantity to be provided, the installation intervals (both initial and subsequent), the impact on shared systems software interfaces, the ordering process changes, the functionality specifications, any interface specifications, and either:

(a) the applicable rates (recurring and nonrecurring), including the amortized development costs, as appropriate pursuant to Section 48.5.4 below, of the interconnection or Network Element; or

(b) the payment for development costs, as appropriate per Section 48.5.4, of the interconnection or Network Element and the applicable rates (recurring and nonrecurring), excluding the development costs.

48.5.4 The choice of using either option (a) or (b) above shall be at USWC's sole discretion. A payment for development cost, however, is appropriate only where McLeod is the only conceivable user of the functionality (including consideration of USWC as a potential user) or where the requested quantity is insufficient to provide amortization.

48.6 If USWC has used option (a) above in its Request quote, then, within thirty (30) days of its receipt of the Request quote, McLeod must indicate its nonbinding interest in purchasing the interconnection or Network Element at the stated quantities and rates, cancel it Request, or seek remedy under the Dispute Resolution Section of this Agreement.

48.7 If USWC has used option (b) above in its Request quote, then, within thirty (30) days of its receipt of the Request quote, McLeod must either agree to pay the development costs of the interconnection or Network Element, cancel its Request, or seek remedy under the Dispute Resolution Section of this Agreement.

48.8 If USWC has used option (b) in its Request quote and McLeod has accepted the quote, McLeod may cancel the Request at any time, but will pay USWC's reasonable development costs of the interconnection or Network Element up to the date of cancellation.

48.9 USWC will use reasonable efforts to determine the technical feasibility and conformance with the Act of the Request within the first thirty-two (32) days of receiving the Request. In the event USWC has used option (b) above in its Request quote and USWC later determines that the interconnection or Network Element requested in the Request is not

technically feasible or otherwise does not qualify under the Act, USWC shall notify McLeod within ten (10) business days of making such determination and McLeod shall not owe any compensation to USWC in connection with the Request. Any quotation preparation fees or development costs paid by McLeod to the time of such notification shall be refunded by USWC.

48.10 To the extent possible, USWC will utilize information from previously developed BFRs to address similar arrangements in order to shorten the response times for the currently requested BFR. In the event McLeod has submitted a BFR and USWC determines in accordance with the provisions of this Section 48 that the Request is technically feasible, the Parties agree that McLeod's subsequent request or order for the identical type of Interconnection or Network Element shall not be subject to the BFR process. To the extent USWC has deployed an identical Network Element under a previous BFR, a subsequent BFR is not required. For purposes of this Section 48.10, an "identical" request shall be one that is materially identical to a previous request with respect to the information provided pursuant to Subsections (a) through (e) of Section 48.3 above.

48.11 In the event of a dispute under this Section 48, the Parties agree to seek expedited Commission resolution of the dispute, to be completed within twenty (20) days of U S WEST's response denying McLeod's BFR, and in no event more than thirty (30) days after the filing of McLeod's petition. Alternatively, the Parties may mutually agree to resolve any disputes under this section through the Dispute Resolution process pursuant to Section 27, Part A of this Agreement .

48.12 All time intervals within which a response is required from one Party to another under this Section 48 are maximum time intervals. The Parties agree that they will provide all responses to the other Party as soon as the Party has the information and analysis required to respond, even if the time interval stated herein for a response is not over.

49. Audit Process

49.1 As used herein "Audit" shall mean a comprehensive review of services performed under this Agreement. Either Party (the "Requesting Party") may perform up to three (3) Audits per 12-month period commencing with the Effective Date.

49.2 Upon thirty (30) days' written notice by the Requesting Party to the other Party (the "Audited Party"), the Requesting Party shall have the right, through its authorized representative, to make an Audit, during normal business hours, of any records, accounts and processes which contain information related to the services provided and performance standards agreed to under this Agreement. Within the above-described 30-day period, the Parties shall reasonably agree upon the scope of the Audit, the documents and processes to be reviewed, and the time, place and manner in which the Audit shall be performed. The Audited Party agrees to provide Audit support, including appropriate access to and use of the Audited Party's facilities (e.g., conference rooms, telephones, copying machines).

49.3 Each Party shall bear its own expenses in connection with the conduct of the Audit. The reasonable cost of special data extractions required by the Requesting Party to conduct the Audit will be paid for by the Requesting Party. For purposes of this Section 49.3, a "Special Data Extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to the Requesting Party's specifications and at the Requesting Party's expense, the Requesting Party shall specify at the time of request whether the program is to be

retained by the Audited Party for reuse for any subsequent Audit. Notwithstanding the foregoing, the Audited Party shall pay all of the Requesting Party's external expenses (including, without limitation, the fees of any independent auditor), in the event an Audit results in an adjustment in the charges or in any invoice paid or payable by the Requesting Party hereunder in an amount that is, on an annualized basis, more than the greater of (a) one percent (1%) of the amount in dispute or (b) $10,000.

49.4 Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) days from the Audited Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit and are agreed to by the Parties. The highest interest rate allowable by law for commercial transactions shall be assessed and shall be computed by compounding daily from the time of the original due date of the amount of dispute.

49.5 Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise.

49.6 This Section 49 shall survive expiration or termination of this Agreement for a period of two (2) years after expiration or termination of this Agreement.

49.7 All transactions under this Agreement which are over thirty-six (36) months old are no longer subject to Audit.

49.8 All information received or reviewed by the Requesting Party or the independent auditor in connection with the Audit is to be considered Proprietary Information as defined by this Agreement. The Audited Party reserves the right to require any non-employee who is involved directly or indirectly in any Audit or the resolution of its findings as described above to execute a nondisclosure agreement satisfactory to the Audited Party. To the extent an Audit involves access to information of third parties, the Audited Party will aggregate such competitors' data before release to the Requesting Party, to insure the protection of the proprietary nature of information of other competitors. To the extent a competitor is an Affiliate of the Audited Party (including itself and its subsidiaries), the Parties shall be allowed to examine such Affiliate's disaggregated data, as required by reasonable needs of the Audit.

49.9 "Examination" shall mean an inquiry reasonably requested by either Party into a specific element of or process where the requesting Party raises a dispute concerning services performed by the other Party under this Agreement and such dispute has not been resolved through the escalation process described in this Agreement. Only that information that is necessary to resolve the dispute in issue must be provided in the course of an Examination and the total time involved for each Party may not exceed three people for three days and no more than 10,000 pages of documents may be reviewed. Appropriate provisions of Section 49 that apply to Audits shall also apply to Examinations, except that either Party may conduct only a total of six (6) Examinations and Audits per year, with a maximum of three (3) Audits per year.

50. Miscellaneous Services

50.1 Basic 911 and E911 General Requirements

50.1.1 Basic 911 and E911 provides a caller access to the appropriate emergency service bureau by dialing a 3-digit universal telephone number (911). Basic 911 and E911 access from Local Switching shall be provided to McLeod in accordance with the following:

50.1.2 Each Party will be responsible for those portions of the 911 System for which it has reasonable control, including any necessary maintenance to each Party's portion of the 911 System.

50.1.3 E911 shall provide additional routing flexibility for 911 calls. E911 shall use Customer data, contained in the Automatic Location Identification/Data Management System (ALI/DMS), to determine to which Public Safety Answering Point (PSAP) to route the call.

50.1.4 If available in the U S WEST network, U S WEST shall offer a third type of 911 service, S911. All requirements for E911 also apply to S911 with the exception of the type of signaling used on the interconnection trunks from the local switch to the E911 Tandem.

50.1.5 Basic 911 and E911 functions provided to McLeod shall be at least at parity with the support and services that U S WEST provides to its Customers for such similar functionality.

50.1.6 Basic 911 and E911 access from Local Switching shall be provided to McLeod in accordance with the following:

50.1.6.1 U S WEST shall conform to all state regulations concerning emergency services.

50.1.6.2 For E911 provided to resold lines or in association with unbundled switching, U S WEST shall use its service order process to update and maintain Customer information in the ALI/DMS data base. Through this process, U S WEST shall provide and validate Customer information resident or entered into the ALI/DMS data base.

50.1.7 U S WEST shall provide for overflow 911 traffic consistent with U S WEST policy and procedure.

50.1.8 Basic 911 and E911 access from the McLeod local switch shall be provided to McLeod in accordance with the following:

50.1.8.1 If required by McLeod, U S WEST shall interconnect direct trunks from the McLeod network to the E911 Tandem for connection to the PSAP. Such trunks to the E911 Tandem may alternatively be provided by McLeod.

50.1.8.2 In government jurisdictions where U S WEST has obligations under existing agreements as the primary provider of the 911 System to the county, McLeod shall participate in the provision of the 911 System as follows:

(a) Each Party shall be responsible for those portions of the 911 System for which it has control, including any necessary maintenance to each Party's portion of the 911 System.

(b) U S WEST shall be responsible for maintaining the E-911 database.

50.1.8.3 *If a third party is the primary service provider to a government agency, McLeod shall negotiate separately with such third party with regard to the provision of 911 service to the agency. All relations between such third party and McLeod are totally separate from this Agreement and U S WEST makes no representations on behalf of the third party.*

50.1.8.4 *If McLeod or Affiliate is the primary service provider to a government agency, McLeod and U S WEST shall negotiate the specific provisions necessary for providing 911 service to the agency and shall include such provisions in an amendment to this Agreement.*

50.1.8.5 *Interconnection and database access shall be priced as specified in Attachment 1 to this Agreement or at any rate charged to other interconnected carriers, whichever is lower.*

50.1.8.6 *McLeod will separately negotiate with each county regarding the collection and reimbursement to the county of applicable Customer taxes for 911 service.*

50.1.8.7 *U S WEST shall comply with established, competitively neutral intervals for installation of facilities, including any Collocation facilities, diversity requirements, etc.*

50.1.8.8 *In a resale situation, where it may be appropriate for U S WEST to update the ALI database, U S WEST shall update such database with McLeod data in an interval no less than is experienced by U S WEST Customers, or than for other carriers, whichever is faster, at no additional cost.*

50.1.9 *The following are Basic 911 and E911 Database Requirements:*

50.1.9.1 *The ALI database shall be managed by U S WEST, but is the property of U S WEST and any participating telephone company and CLEC for those records provided by the company.*

50.1.9.2 *U S WEST, or its agent, will be responsible for maintaining the E-911 Database. U S WEST, or its agent, will provide a copy of the Master Street Address Guide ("MSAG"), and periodic updates, to McLeod.*

50.1.9.3 *Copies of the MSAG shall be provided within twenty-one (21) calendar days from the time requested and shall be provided on diskette, magnetic tape, or in a format suitable for use with desktop computers.*

50.1.9.4 *McLeod assumes all responsibility for the accuracy of the data that McLeod provides to U S WEST for MSAG preparation and E-911 Database operation.*

50.1.9.5 *McLeod shall be solely responsible for providing McLeod database records to U S WEST for inclusion in U S WEST's ALI database on a timely basis.*

50.1.9.6 *McLeod will provide end user date to the U S WEST ALI database that are Master Street Address Guide (MSAG) valid.*

50.1.9.7 *McLeod will update its end user records provided to the U S WEST ALI database to agree with the 911 MSAG standards for its service areas.*

50.1.9.8 *U S WEST and McLeod shall arrange for the automated input and periodic updating of the E911 database information related to McLeod end users for resold lines in accordance with Attachment 2 to this Agreement. McLeod may request, through the BFR process, similar arrangements for McLeod customers served on a non-resale basis. U S WEST will furnish McLeod any variations to NENA recommendations required for ALI database input. The cost of magnetic tape transfer shall be borne by McLeod.*

50.1.9.9 *U S WEST and McLeod shall arrange for the automated input and periodic updating of the E911 database information related to McLeod end users. For resold services, U S WEST shall work cooperatively with McLeod to ensure the accuracy of the data transfer by verifying it against the Master Street Address Guide (MSAG). For McLeod's customers served by unbundled Network Elements or through McLeod's own facilities, McLeod shall ensure the accuracy of its 911 data by verifying it against the MSAG.*

50.1.9.10 *McLeod shall assign an E911 database coordinator charged with the responsibility of forwarding McLeod end user ALI record information to U S WEST or via a third-party entity, charged with the responsibility of ALI record transfer. McLeod assumes all responsibility for the accuracy of the data that McLeod provides to U S WEST.*

50.1.9.11 *The Parties shall maintain a single point of contact to coordinate all E911 activities under this Agreement.*

50.1.9.12 *For resold services, McLeod shall provide information on new Customers to U S WEST within one (1) Business Day of the order completion. U S WEST shall update the database within two (2) Business Days of receiving the data from McLeod. If U S WEST detects an error in the McLeod provided data, the data shall be returned to McLeod within two (2) Business Days from when it was provided to U S WEST. McLeod shall respond to requests from U S WEST to make corrections to database record errors by uploading corrected records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly. McLeod may request, through the BFR process, similar services from U S WEST for their customers who are served on a non-resale basis.*

50.1.9.13 *The Parties will cooperate to implement the adoption of a Carrier Code (NENA standard five-character field) on all ALI records received from McLeod, when those standards, NENA-02-00N, are adopted by the industry standards process. U S WEST will furnish McLeod any variations from NENA recommendations required for ALI database input. The Carrier Code will be used to identify the carrier of record in INP configurations.*

50.1.9.14 *McLeod will provide end user data to the U S WEST ALI database utilizing NENA-02-001 Recommended Formats For Data Exchange, and Recommended Standard For Street Thoroughfare Abbreviations*

and Protocols For Data Exchange and Data Quality utilizing NENA Recommended Formats for Data Exchange document dated June 1993.

50.1.9.15 U S WEST shall identify which ALI databases cover which states, counties or parts thereof, and identify and communicate a point of contact for each.

50.1.9.16 U S WEST will provide McLeod with the identification of the U S WEST 911 controlling office that serves each geographic area served by McLeod.

50.1.9.17 U S WEST shall provide to McLeod, for McLeod Customers, E911/911 call routing to the appropriate Public Safety Answering Point ("PSAP") for resold lines. U S WEST shall provide and validate McLeod Customer information to the PSAP in the same fashion as it does for its own Customers. U S WEST shall use its service order process to update and maintain, on the same schedule that it uses for its end users, the McLeod Customer service information in the ALI/DMS used to support E911/911 services. McLeod may request, through the BFR process, similar services from U S WEST for their customers who are served on a non-resale basis.

50.1.9.18 McLeod exchanges to be included in U S WEST's E-911 Database will be indicated via written notice and will not require an amendment to this Agreement.

50.1.10 The following are Basic 911 and E911 Network Requirements:

50.1.10.1 U S WEST, at McLeod option, shall provide a minimum of two (2) E911 trunks per jurisdictional area, or that quantity which will maintain P.01 transmission grade of service, or the level of service provided by U S WEST to itself, whichever is the higher grade of service. These trunks will be dedicated to routing 911 calls from McLeod switch to a U S WEST E911 tandem.

50.1.10.2 U S WEST shall provide McLeod a data link to the ALI/DMS database or permit McLeod to provide its own data link to the ALI/DMS database. U S WEST shall provide error reports from the ALI/DMS database to McLeod immediately after McLeod inputs information into the ALI/DMS database. Alternately, McLeod may utilize U S WEST or a third party entity to enter Customer information into the database on a demand basis, and validate Customer information on a demand basis.

50.1.10.3 U S WEST shall provide the selective routing of E911 calls received from McLeod switching office. This includes the ability to receive the ANI of McLeod Customer, selectively route the call to the appropriate PSAP, and forward the Customer's ANI to the PSAP. U S WEST shall provide McLeod with the appropriate CLLI codes and specifications regarding the tandem serving area associated addresses and meet points in the network.

50.1.10.4 Copies of E911 Tandem Boundary Maps shall be available to McLeod. Each map shows the areas served by that E91 tandem. The map provides McLeod the information necessary to set up its network to route E911 callers to the correct E911 tandem.

50.1.10.5 McLeod shall ensure that its switch provides an eight-digit ANI consisting of an information digit and the seven-digit exchange code. McLeod shall also ensure that its switch provides the line number of the calling station. In the event of a change in industry standards, the Parties shall cooperate to incorporate the changed standards in their respective networks.

50.1.10.6 Each ALI discrepancy report shall be jointly researched by U S WEST and McLeod. Corrective action shall be taken immediately by the responsible party.

50.1.10.7 Technical specifications for E911 network interface are available through U S WEST technical publication 77338. Technical specifications for database loading and maintenance are available through the third party database manager – SCC.

50.1.10.8 U S WEST shall begin restoration of E911 and/or E911 trunking facilities immediately upon notification of failure or outage. U S WEST must provide priority restoration of trunks or networks outages on the same terms/conditions it provides itself and without the imposition of Telecommunications Service Priority (TSP).

50.1.10.9 U S WEST shall identify any special operator-assisted calling requirements to support 911.

50.1.10.10 Trunking shall be arranged to minimize the likelihood of central office isolation due to cable cuts or other equipment failures. There will be an alternate means of transmitting a 911 call to a PSAP in the event of failures.

50.1.10.11 Circuits shall have interoffice, loop and carrier system diversity when such diversity can be achieved using existing facilities. Circuits will be divided as equally as possible across available carrier systems. Diversity will be maintained or upgraded to utilize the highest level of diversity available in the network.

50.1.10.12 Equipment and circuits used for 911 shall be monitored at all times. Monitoring of circuits shall be done to the individual circuit level. Monitoring shall be conducted by U S WEST for trunks between the tandem and all associated PSAPs.

50.1.10.13 Repair service shall begin immediately upon receipt of a report of a malfunction. Repair service includes testing and diagnostic service from a remote location, dispatch of or in-person visit(s) of personnel. Technicians will be dispatched without delay.

50.1.10.14 All 911 trunks must adhere to the Americans with Disabilities Act requirements.

50.1.10.15 The Parties will cooperate in the routing of 911 traffic in those instances where the ALI/ANI information is not available on a particular 911 call.

50.1.10.16 McLeod is responsible for network management of its network components in compliance with the Network Reliability Council Recommendations and meeting the network standard of U S WEST for the 911 call delivery.

50.1.11 Basic 911 and E911 Additional Requirements

50.1.11.1 All McLeod lines that have been ported via INP shall reach the correct PSAP when 911 is dialed. U S WEST shall send both the ported number and the McLeod number (if both are received from McLeod). The PSAP attendant shall see both numbers where the PSAP is using a standard ALI display screen and the PSAP extracts both numbers from the data that is sent.

50.1.11.2 U S WEST shall work with the appropriate government agency to provide McLeod the ten-digit POTS number of each PSAP which subtends each U S WEST E-911 Tandem to which McLeod is interconnected.

50.1.11.3 U S WEST will provide McLeod with the ten-digit telephone numbers of each PSAP agency, for which U S WEST provides the 911 function, to be used by McLeod operators for handling emergency calls in those instances where the McLeod Customer dials "O" instead of "911."

50.1.11.4 McLeod will provide U S WEST with the ten-digit telephone numbers of each PSAP agency, for which McLeod provides the 911 function, to be used by U S WEST operators for handling emergency calls in those instances where the U S WEST Customer dials "O" instead of "911."

50.1.11.5 U S WEST shall notify McLeod forty-eight (48) hours in advance of any scheduled testing or maintenance affecting McLeod 911 service, and provide notification as soon as possible of any unscheduled outage affecting McLeod 911 service.

50.1.11.6 McLeod shall be responsible for reporting all errors, defects and malfunctions to U S WEST. U S WEST shall provide McLeod with the point of contact for reporting errors, defects, and malfunctions in the service and shall also provide escalation contacts.

50.1.11.7 McLeod may enter into subcontracts with third parties, including McLeod affiliates, for the performance of any of McLeod duties and obligations stated herein.

50.1.11.8 U S WEST shall provide sufficient planning information regarding anticipated moves to SS7 signaling for the next twelve (12) months.

50.1.11.9 U S WEST shall provide notification of any pending tandem moves, NPA splits, or scheduled maintenance outages, with enough time to react.

50.1.11.10 U S WEST shall provide "reverse ALI" inquiries by public safety entities, consistent with U S WEST's practices and procedures.

50.1.11.11 U S WEST shall manage NPA splits by populating the ALI database with the appropriate new NPA codes, consistent with U S WEST's practices and procedures for resold services.

50.1.11.12 U S WEST must provide the ability for McLeod to update 911 database with end user information for lines that have been ported via INP or NP.

50.1.11.13 The data in the ALI database shall be managed by U S WEST, but is the property of U S WEST and all participating telephone companies.

50.1.12 Performance Criteria. E-911 Database accuracy shall be as set forth below:

50.1.12.1 Accuracy of ALI (Automatic Location Identification) data submitted by McLeod to U S WEST will be measured jointly by the PSAPs and U S WEST. All such reports shall be forwarded to McLeod by U S WEST and will indicate incidents when incorrect or no ALI data is displayed. A report regarding any inaccuracy shall be prepared by U S WEST.

50.1.12.2 Each discrepancy report will be jointly researched by U S WEST and McLeod. Corrective action will be taken immediately by the responsible party.

50.1.12.3 Each party will be responsible for the accuracy of the Customer records it provides.

50.2 Directory Assistance Service

50.2.1 U S WEST shall provide for the routing of Directory Assistance calls (including but not limited to 411, 555-1212, NPA-555-1212) dialed by McLeod Customers directly to either the McLeod Directory Assistance service platform or U S WEST Directory Assistance service platform as specified by McLeod.

50.2.2 McLeod Customers shall be provided the capability by U S WEST to dial the same telephone numbers for access to McLeod Directory Assistance that U S WEST Customers use to access U S WEST Directory Assistance.

50.2.3 U S WEST shall provide Directory Assistance functions and services to McLeod for its Customers as described below until, at McLeod's discretion, U S WEST routes calls to the McLeod Directory Assistance Services platform.

50.2.3.1 U S WEST agrees to provide McLeod Customers with the same Directory Assistance service available to U S WEST Customers.

50.2.3.2 U S WEST shall notify McLeod in advance of any changes or enhancements to its Directory Assistance Service, and shall make available such service enhancements on a non-discriminatory basis to McLeod.

50.2.3.3 U S WEST shall provide Directory Assistance to McLeod Customers in accordance with U S WEST's internal operating procedures and

standards, which shall, at a minimum, comply with accepted professional and industry standards.

50.2.3.4 *U S WEST shall provide McLeod with the same level of support for the provisioning of Directory Assistance as U S WEST provides itself.*

50.2.3.5 *Service levels shall comply, with the Commission requirements for Directory Assistance or with what U S WEST provides itself, if greater.*

50.2.3.6 *U S WEST agrees to maintain an adequate operator work force based on a review and analysis of actual call attempts and abandonment rate.*

50.2.3.7 *In the event that McLeod becomes aware of complaints or concerns about Directory Assistance services provided by U S WEST pursuant to this Agreement, McLeod shall be entitled, upon written notice to U S WEST, to retain a mutually acceptable independent third party to monitor Directory Assistance services. Subject to the provisions of applicable U S WEST collective bargaining agreements, the third party retained by McLeod shall be entitled to participate in call monitoring activities available to U S WEST and to remote call monitor for the express purpose of investigating the complaints or concerns. The written request from McLeod shall specify the nature of the complaints or concerns, the limited period for which call monitoring is being requested, and the identity of the third party that is to perform such activities. The third party retained by McLeod shall limit its report to McLeod to information relating only to the complaints or concerns giving rise to the call monitoring program or any issues identified by the third party during the course of the call monitoring program that concern services provided to McLeod and its end users. In addition, McLeod is entitled at any time during the course of this Agreement to place test calls into U S WEST Directory Assistance service offices similar to end user calls to monitor test quality. It is expressly understood that U S WEST will not be required to add recorded announcements specifically to allow for third party call monitoring if U S WEST does not make such announcements for itself.*

50.2.3.8 *U S WEST shall provide the following minimum Directory Assistance capabilities to McLeod Customers:*

(a) *A maximum of two Customer listings and/or addresses or U S WEST parity per McLeod Customer request.*

(b) *Name and address to McLeod Customers upon request, except for unlisted numbers, in the same states where such information is provided to U S WEST Customers.*

(c) *For McLeod customers who are served exclusively through resold U S WEST retail services, McLeod may resell U S WEST's Directory Assistance call completion services to the extent U S WEST offers call Directory Assistance completion to its own end users. For McLeod customers who are served from an McLeod switch, McLeod may request Directory Assistance*

call completion services through the BFR process. Such BFR process shall address the identification of the McLeod end user at the U S WEST Directory Assistance platform for purposes of routing and billing of intraLATA and interLATA toll calls.

(d) When the mechanized interface is available, U S WEST will populate the Directory Assistance database in the same manner and in the same time frame as for U S WEST Customers.

(e) Any information provided by a Directory Assistance Automatic Response Unit (ARU) shall be repeated the same number of times for McLeod Customers as for U S WEST Customers.

(f) When an McLeod Customer served on a resale or unbundled switching basis requests a U S WEST Directory Assistance operator to provide instant credit on a Directory Assistance call, the U S WEST Directory Assistance operator shall inform the McLeod Customer to call an 800 number for McLeod Customer service to request a credit. The accurate identification of McLeod as the customer's local service provider by the U S WEST Directory Assistance operator requires the use of separate McLeod trunks to the Directory Assistance Platform.

50.2.3.9 For resold lines and unbundled switching, U S WEST shall provide data regarding billable events as requested by McLeod.

50.2.3.10 U S WEST agrees to (1) provide to McLeod operators, on line access to U S WEST's Directory Assistance database equivalent to the access provided to U S WEST operators; (2) allow McLeod or an McLeod designated operator bureau to license U S WEST's subscriber listings database on terms and conditions equivalent to the terms and conditions upon which U S WEST utilizes such databases; and (3) in conjunction with branded or unbranded Directory Assistance services pursuant to Section 8 of this Part A, provide caller-optional Directory Assistance call completion service which is comparable in every way to the Directory Assistance call completion service U S WEST makes available to its own users. McLeod may, at its option, request U S WEST not to provide call completion services to McLeod.

50.2.3.11 In addition to charges for Directory Assistance, when call completion for an intraLATA toll call is requested, the applicable charge for the completion of such intraLATA toll call will apply.

50.3 Operator Services

50.3.1 U S WEST shall provide for the routing of local Operator Services calls (including but not limited to 0+, 0-) dialed by McLeod Customers directly to either the McLeod Operator Service platform or U S WEST Operator Service platform as specified by McLeod.

50.3.2 McLeod Customers shall be provided the capability by U S WEST to dial the same telephone numbers to access McLeod Operator Service that U S WEST Customers dial to access U S WEST Operator Service.

50.3.3 U S WEST shall provide Operator Services to McLeod as described below until, at McLeod's discretion, U S WEST routes calls to the McLeod local Operator Services platform.

50.3.3.1 U S WEST agrees to provide McLeod Customers the same Operator Services available to U S WEST Customers. U S WEST shall make available its service enhancements on a non-discriminatory basis.

50.3.3.2 U S WEST shall provide the following minimum Operator Service capabilities to McLeod Customers:

(a) U S WEST shall complete 0+ and 0- dialed local calls, including O-Coin, Automatic Coin Telephone Service (ACTS) and the completion of coin calls, the collection of coins and, the provision of coin rates.

(b) U S WEST shall complete 0+ intraLATA and, when offered, interLATA toll calls. The Parties will cooperate to develop industry standards to include the end user's PIC in Operator Services signaling and the development of associated routing procedures.

(c) U S WEST shall complete calls for McLeod Customers that are billed to calling cards and other commercial cards on the same basis as provided to U S WEST own customers and McLeod shall designate to U S WEST the acceptable types of special billing.

(d) U S WEST shall complete person-to-person calls.

(e) U S WEST shall complete collect calls.

(f) U S WEST shall provide the capability for callers to bill to a third party and complete such calls.

(g) U S WEST shall complete station-to-station calls.

(h) U S WEST shall process emergency calls.

(i) U S WEST shall process Busy Line Verify and Busy Line Interrupt requests.

(j) U S WEST shall process emergency call trace in accordance with its normal and customary procedures.

(k) U S WEST shall process operator-assisted Directory Assistance calls.

(l) U S WEST operators shall provide McLeod Customers with long distance rate quotes to the extent U S WEST provides such rate quotes to its own end users. Based on technology available as of the Effective Date of this Agreement, the provision of rate quotes to McLeod Customers requires a separate McLeod trunk

group to the U S WEST Operator Services platform to identify the caller as an McLeod Customer.

(m) U S WEST operators shall provide McLeod Customers with time and charges to the extent U S WEST provides such time and charges to its own end users. Based on technology available as of the Effective Date of this Agreement, the provision of time and charges to McLeod Customers requires a separate McLeod trunk group to the U S WEST Operator Services platform to identify the caller as an McLeod Customer.

(n) U S WEST shall route 0- traffic to a "live" operator team.

(o) When requested by McLeod, U S WEST shall provide instant credit on Operator Services calls on a non-discriminatory basis as provided to U S WEST Customers or shall inform McLeod Customers to call a toll free number for McLeod Customer service to request a credit. U S WEST shall provide one (1) toll free number for business Customers and another for residential Customers. Pending Commission approval of permanent pricing, U S WEST may charge McLeod, on an interim basis, the costs of providing such credit as specified by the Operator Assistance line item in Appendix A.

(p) U S WEST shall provide caller assistance for the disabled in the same manner as provided to U S WEST Customers.

(q) When available to U S WEST end users, U S WEST shall provide operator-assisted conference calling to McLeod.

50.3.3 U S WEST shall exercise at least the same level of fraud control in providing Operator Service to McLeod that U S WEST provides for its own operator service, where the McLeod fraud control data is in U S WEST's LIDB database.

50.3.4 U S WEST shall perform billed number screening when handling collect, third party, and calling card calls, both for station to station and person to person call types.

50.3.5 In the event that McLeod becomes aware of complaints or concerns about Operator Services provided by U S WEST pursuant to this Agreement, McLeod shall be entitled, upon written notice to U S WEST, to retain a mutually acceptable independent third party to monitor Operator Services. Subject to the provisions of applicable U S WEST collective bargaining agreements, the third party retained by McLeod shall be entitled to participate in call monitoring activities available to U S WEST and to remote call monitor for the express purpose of investigating the complaints or concerns. The written request from McLeod shall specify the nature of the complaints or concerns, the limited period for which call monitoring is being requested, and the identity of the third party that is to perform such activities. The third party retained by McLeod shall limit its report to McLeod to information relating only to the complaints or concerns giving rise to the call monitoring program or any issues identified by the third party during the course of the call monitoring program that concern services provided to McLeod and its end users. In addition, McLeod is entitled at any time during the course of this

Agreement to place test calls into U S WEST Operator Service offices similar to end user calls to monitor test quality. It is expressly understood that U S WEST will not be required to add recorded announcements specifically to allow for third party call monitoring if U S WEST does not make such announcements for itself.

50.3.6 U S WEST shall direct Customer account and other similar inquiries to the Customer service center designated by McLeod.

50.3.7 U S WEST shall provide an electronic feed of Customer call records in "EMR" format to McLeod in accordance with the time schedule mutually agreed between the Parties.

50.3.8 U S WEST shall update the Line Information Data Base ("LIDB") for McLeod Customers. Additionally, U S WEST must provide access to LIDB for validation of collect, third party billed, and LEC card billed calls

50.3.9 Where INP is deployed and when a BLV/BLI request for a ported number is directed to a U S WEST operator and the query is not successful (i.e., the request yields an abnormal result), McLeod may request, through the BFR process, that the operator confirm whether the number has been ported and direct the request to the appropriate operator.

50.3.10 U S WEST shall allow McLeod to order provisioning of Telephone Line Number ("TLN") calling cards and BNS, in its LIDB, for ported numbers, as specified by McLeod. U S WEST shall continue to allow McLeod access to its LIDB.

50.3.11 Toll and Assistance ("T/A") refers to functions Customers associate with the "O" operator. Subject to availability and capacity, access may be provided via Operator Services trunks purchased from U S WEST or provided by McLeod via Collocation arrangements to route calls to McLeod's platform.

50.3.12 Automated Branding is the ability to announce the carrier's name to the Customer during the introduction of the call.

50.3.13 Interconnection to the U S WEST Toll and Assistance Operator Services from an end office to U S WEST T/A is technically feasible at least at three (3) distinct points on the trunk side of the switch. The first connection point is an Operator Services trunk connected directly to the T/A host switch. The second connection point is an Operator Services trunk connected directly to a remote T/A switch. The third connection point is an Operator Services trunk connected to a remote access tandem with operator concentration capabilities.

50.3.14 All trunk interconnections will be digital.

50.3.15 The technical requirements of Operator Services type trunks and the circuits to connect the operator positions to the host are covered in the Operator Services Switching Generic Requirements ("OSSGR") Bellcore Document number FR-NWT-000271.

50.3.16 Busy Line Verify and Interrupt

50.3.16.1 *At the request of McLeod operators or Customers, U S WEST operators will perform Busy Line Verify ("BLV") and/or Busy Line Interrupt ("BLI") operations where such capacity exists.*

50.3.16.2 *When possible and where consistent with the service U S WEST provides to its own Customers and/or end users, U S WEST shall engineer its BLV/BLI facilities to accommodate the anticipated volume of BLV/BLI requests during the busy hour. McLeod may, from time to time, provide its anticipated volume of BLV/BLI requests to U S WEST. In those instances when failures occur to significant portions of the BLV/BLI systems and databases and those systems and databases become unavailable, U S WEST shall promptly inform McLeod.*

50.3.16.3 *BLV is performed when one Party's Customer requests assistance from the other Party's operator or operator bureau to determine if the called line is in use, provided however, that the operator bureau will not complete the call for the Customer initiating the BLV inquiry. Only one (1) BLV attempt will be made per Customer operator bureau call, and a charge shall apply whether or not the called party releases the line.*

50.3.16.4 *BLI is performed when one Party's Customer requests assistance from the other Party's operator bureau to interrupt a telephone call in progress after BLV has occurred. The operator bureau will interrupt the busy line and inform the called party that there is a call waiting. The operator bureau will only interrupt the call and will not complete the telephone call of the Customer initiating the BLI request. The operator bureau will make only one BLI attempt per Customer operator telephone call and the applicable charge applies whether or not the called party releases the line.*

50.3.16.5 *Each Party's operator bureau shall accept BLV and BLI inquiries from the operator bureau of the other Party in order to allow transparent provision of BLV/BLI traffic between the Parties' networks.*

50.3.16.6 *Each Party shall route BLV/BLI Traffic inquiries over direct trunks between the Parties' respective operator bureaus. Unless otherwise mutually agreed, the Parties shall configure BLV/BLI trunks over the interconnection architecture defined in Attachment 4 to this Agreement.*

50.4 Directory Assistance and Listings Service Requests

50.4.1 *These requirements pertain to U S WEST's Directory Assistance and Listings Service Request process that enables McLeod to (a) submit McLeod Customer information for inclusion in U S WEST Directory Assistance and Directory Listings databases; (b) submit McLeod Customer information for inclusion in published directories; and (c) provide McLeod Customer delivery address information to enable U S WEST to fulfill directory distribution obligations.*

50.4.1.1 *(Intentionally left blank for numerical consistency.)*

50.4.1.2 *U S WEST will accept the following Directory Listing Migration Orders from McLeod, valid under all access methods, including but not limited*

to, Resale, unbundled Network Elements and facilities-based, and will process the orders in a mechanized format:

(a) Migrate with no Changes: Maintain all Directory Listings for the Customer in both Directory Assistance and Directory Listing. Transfer ownership and billing for listings to McLeod.

(b) Migrate with Additions: Maintain all Directory Listings for the Customer in both Directory Assistance and Directory Listing. Incorporate the specified additional listings order. Transfer ownership and billing for the listings to McLeod.

(c) Migrate with Deletions: Maintain all Directory Listings for the Customer in both Directory Assistance and Directory Listing. Delete the specified listings from the listing order. Transfer ownership and billing for the listings to McLeod.

50.4.1.3 The Directory Listings Migration Options should not be tied to migration options specified for a related service order (if any) such that a service order specified as migration with changes may be submitted along with a Directory Listing order specified as migration with no changes.

50.4.1.4 U S WEST shall enable McLeod to electronically transmit multi-line listing orders.

50.4.1.5 U S WEST agrees to work cooperatively with McLeod to define specifications for, and implement a daily summary report of Directory Service Requests. The summary information will include but is not limited to the following information:

(a) White page listings text and format (name, address, phone, title, designation, extra line requirements)

(b) Listing Instruction codes

50.4.1.6 To ensure accurate order processing, U S WEST shall provide to McLeod the following information, with updates within one (1) Business Day of change and via electronic exchange:

(a) A matrix of NXX to central office
(b) Geographical maps if available of U S WEST service area
(c) A description of calling areas covered by each directory, including but not limited to maps of calling areas and matrices depicting calling privileges within and between calling areas
(d) Listing format rules
(e) Listing alphebetizing rules
(f) Standard abbreviations acceptable for use in listings and addresses
(g) Titles and designations

50.4.1.7 Based on changes submitted by McLeod, U S WEST shall update and maintain Directory Assistance and Directory Listings data for McLeod Customers who:

(a) Disconnect Service
(b) Change carrier
(c) Install Service
(d) Change any service which affects Directory Assistance information
(e) Specify Non-Solicitation
(f) Are Non-Published, Non-Listed, or Listed

50.4.1.8 U S WEST shall not charge for storage of McLeod Customer information in the Directory Assistance and Directory Listing systems.

50.4.1.9 McLeod shall not charge for storage of U S WEST Customer information in the Directory Assistance and Directory Listing systems.

50.5 Directory Assistance Data

50.5.1 This Section refers to the residential, business, and government Customer records used by U S WEST to create and maintain databases for the provision of live or automated operator assisted Directory Assistance. Directory Assistance Data is information that enables telephone exchange carriers to swiftly and accurately respond to requests for directory information, including, but not limited to name, address and phone numbers. Under the provisions of the Act and the FCC's Interconnection Order, U S WEST shall provide unbundled and non-discriminatory access to the residential, business and government Customer records used by U S WEST to create and maintain databases for the provision of live or automated operator assisted Directory Assistance.

50.5.2 U S WEST shall provide an initial load of Customer records and Customer list information to McLeod, in a mutually-agreed-to format, via electronic transfer, within thirty (30) calendar days of as requested by McLeod. The initial load shall include all data resident in the U S WEST databases and/or systems used by U S WEST for housing Directory Assistance data and/or Customer listing data. In addition, the initial load shall be current as of the prior Business Day on which the initial load is provided.

50.5.3 U S WEST shall provide McLeod daily updates to the Customer records and Customer list information in a mutually-agreed-to format via electronic transfer.

50.5.4 U S WEST shall provide the ability for McLeod to electronically query the U S WEST Directory Assistance database and Listings database in a manner at least consistent with and equal to that which U S WEST provides to itself or any other Person.

50.5.5 U S WEST shall provide McLeod a complete list of ILECs, CLECs, and independent telephone companies that provided data contained in the database.

50.5.6 On a daily basis, U S WEST shall provide updates (end user and mass) to the Listing information via electronic data transfer. Updates shall be current as of one Business Day prior to the date provided to McLeod.

50.5.7 U S WEST shall provide McLeod access to Directory Assistance support databases. For example, McLeod requires access to use restriction information including, but not limited to, call completion.

50.5.8 Directory Assistance data shall specify whether the Customer is a residential, business, or government Customer.

50.5.9 Directory Assistance data shall be provided on the same terms, conditions, and rates that U S WEST provides such data to itself or other third parties.

50.5.13 U S WEST shall provide complete refresh of the Directory Assistance data upon request by McLeod.

50.5.14 U S WEST and McLeod will cooperate in the designation of a location at which the data will be provided.

51. Unused Transmission Media

51.1 Definitions

51.1.1 Unused Transmission Media is physical inter-office transmission media (e.g., optical fiber, copper twisted pairs, coaxial cable) which have no lightwave or electronic transmission equipment terminated to such media to operationalize transmission capabilities.

51.1.2 **Dark fiber is excess fiber optic cable which has been placed in a network and is not currently being lit by electronics from any carrier.[32]** *Dark Fiber, one type of Unused Transmission Media, is unused strands of optical fiber. Dark Fiber also includes strands of optical fiber which may or may not have lightwave repeater (regenerator or optical amplifier) equipment interspliced, but which has no line terminating facilities terminated to such strands. Unused Transmission Media also includes unused wavelengths within a fiber strand for purposes of coarse or dense wavelength division multiplexed (WDM) applications. Typical single wavelength transmission involves propagation of optical signals at single wavelengths (1.3 or 1.55 micron wavelengths). In WDM applications, a WDM device is used to combine optical signals at different wavelengths on to a single fiber strand. The combined signal is then transported over the fiber strand. For coarse WDM applications, one (1) signal each at 1.3 micron and 1.55 micron wavelength are combined. For dense WDM applications, many signals in the vicinity of 1.3 micron wavelength and/or 1.55 micron wavelength are combined.* **Dark fiber is not a network element.[33]**

51.2 *While U S WEST is not required to provide Unused Transmission Media,* **other than Dark Fiber,[34]** *McLeod may, subject to the agreement of U S WEST, lease copper twisted pairs, coaxial cable or other Unused Transmission Media.* **U S WEST may not refuse a request for fiber based on lack of lit fiber if it has installed dark fiber that it can make functional in order to meet the capacity request. U S WEST will not be required to light its installed dark fiber if it needs to retain the dark fiber to accommodate its customers in the future. The burden is on U S WEST to show that dark fiber is needed for its own customers.[35]**

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32 Per First Order at page 10, Paragraph 69.
33 Per First Order at page 10, Paragraph 72.
34 Per First Order at page 10, Paragraph 72.
35 Per First Order at page 10, Paragraph 72.

51.3 Requirements

51.3.1 Subject to Section 51.2 above, U S WEST shall make available Unused Transmission Media to McLeod under a lease agreement or other arrangement.

51.3.2 U S WEST shall provide a single point of contact for negotiating all Unused Transmission Media use arrangements.

51.3.3 McLeod may test the quality of the Unused Transmission Media to confirm its usability and performance specifications.

51.3.4 Where Unused Transmission Media is required to be offered or is agreed to be offered by U S WEST, U S WEST shall provide to McLeod information regarding the location, availability and performance of Unused Transmission Media within ten (10) Business Days for a records-based answer and twenty (20) Business Days for a field- based answer, after receiving a request from McLeod ("Request"). Within such time period, U S WEST shall send written or electronic confirmation or any other method of notification agreed to by the Parties of availability of the Unused Transmission Media ("Confirmation").

51.3.5 Where Unused Transmission Media is required to be offered or is agreed to be offered by U S WEST, U S WEST shall make Unused Transmission Media available for McLeod's use in accordance with the terms of this Section 51 within twenty (20) Business Days or a reasonable time frame consistent with industry standards after it receives written acceptance from McLeod that the Unused Transmission Media is wanted for use by McLeod. Splicing of McLeod fiber may be performed at the same points that are available for U S WEST splices.

51.4 Requirements Specific to Dark Fiber

51.4.1 McLeod may test Dark Fiber leased from U S WEST using McLeod or McLeod designated personnel subject to Section 51.2. U S WEST shall provide appropriate interfaces to allow testing of Dark Fiber. U S WEST shall provide an excess cable length of twenty-five (25) feet minimum, where available, for fiber in underground conduit. U S WEST shall provide splicing of McLeod fiber to U S WEST Dark Fiber under normal circumstances (e.g., no construction) in metropolitan areas within seventeen (17) calendar days of McLeod's request, and within thirty (30) calendar days of a request in a non-metropolitan area. McLeod may request expedited splicing, which shall be subject to available U S WEST resources.

51.4.2 For WDM applications, U S WEST shall provide to McLeod an interface to an existing WDM device or allow McLeod to install its own WDM device (where sufficient system loss margins exist or where McLeod provides the necessary loss compensation) to multiplex the traffic at different wavelengths. This applies to both the transmit and receive ends of the Dark Fiber.

51.5 [Intentionally left blank for numbering consistency.]

51.6 Portions of the bandwidth of the fiber may be sectioned and McLeod may share the bandwidth with U S WEST and other CLECs.

52. Service Standards

52.1 General. *U S WEST shall provide services to McLeod under this Agreement in conformity with the performance standards specified in this Agreement, subject to this Section 52, and in conformity with applicable law.*

52.2 Interconnection. *With respect to any performance standard specified in this Agreement, U S WEST will provide interconnection to McLeod with at least the level of service quality or performance of obligations under this Agreement as U S WEST provides itself or any other Person. McLeod acknowledges that certain provisions contained in this Agreement may conflict with this standard. If McLeod requests a particular level of quality for interconnection set forth herein, but U S WEST demonstrates that it does not provide that level of quality to itself, U S WEST shall only be required to provide McLeod that level of quality that U S WEST provides to itself.*[36]

52.3 Network Elements.

52.3.1 *U S WEST shall provide nondiscriminatory access to the network elements specified in this Agreement at any technically feasible point that is equal in quality to the access which U S WEST provides to itself*[37] *or any other Person and that is on rates, terms and conditions that are just, reasonable and nondiscriminatory. McLeod acknowledges that certain provisions contained in this Agreement may conflict with this standard.*

52.3.2 *For purposes of this Agreement, "rates, terms and conditions that are just, reasonable and nondiscriminatory" shall mean that (i) such terms and conditions are equal in quality to the terms and conditions that U S WEST provides to itself*[38] *or any other Person, or, (ii) where it is technically infeasible to provide such terms and conditions to McLeod, such terms and conditions are offered equally to all requesting carriers.*

52.3.3 **For purposes of this Agreement, "equal in quality" shall mean, among other things, equal to the timeliness, responsiveness, accuracy and integrity of the provisioning of or access to the Network Element U S WEST provides itself and equal in the quality of design, performance, features, functions, capabilities and other characteristics, including, but not limited to, levels and types of redundant equipment and facilities for power, diversity and security, that U S WEST provides to itself.**[39]

52.3.4 *If McLeod requests a particular level of access that is set forth herein, but U S WEST demonstrates that it does not provide that particular level of access to itself or that such access is technically*

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[36] Pursuant to the Eighth Circuit Decision, the Parties agree to this language.
[37] Per Second Arbitration Order, page 4, ¶6.
[38] Per Second Arbitration Order, page 4, ¶6.
[39] Per Second Arbitration Order, page 4, ¶6.

infeasible, U S WEST shall not be required to provide that level of access to network elements,[40] but rather the level of access U S WEST provides itself (if technically feasible) or the level of access equal to that provided to all other competing carriers.

52.4 *Technical Feasibility. The Parties recognize that providing a number of the services specified in this Agreement depend upon the "technical feasibility" of providing that service, as that term is defined under the Act and/or by FCC or Commission rules and decisions. If the Parties cannot agree on whether providing a service is technically feasible, the matter, including cost and expenses (if any), shall be resolved through good faith negotiation or the dispute resolution process outlined in this Agreement.*

52.5 *Equipment.*

52.5.1 *The Parties recognize that equipment vendors may manufacture telecommunications equipment that does not fully incorporate and may deviate from industry standards referenced in this Agreement. Due to the manner in which individual equipment manufacturers have chosen to implement industry standards into the design of their products, along with differing vintages of individual facility components and the presence of embedded technologies pre-dating current technical standards, some of the individual facility components deployed within U S WEST's network, including, without limitation, Network Elements and associated business processes and the standards associated with the equipment providing such Network Elements (collectively, "Network Components"), may not adhere to all the specifications set forth and described in the Bellcore, ANSI, ITU and other technical and performance standards outlined in this Agreement. Upon request by either Party, the Parties will develop a process by which U S WEST will inform McLeod of deviations from standards referenced in this Agreement. In addition, the Parties agree that those deviations from such standards documented by U S WEST to McLeod shall, to the extent permitted by FCC and Commission rules and regulations, supersede sections of this Agreement referencing technical standards otherwise applicable for the affected Network Elements.*

52.5.2 *U S WEST agrees that in no event shall it intentionally allow any Network Component provided by U S WEST to McLeod under this Agreement to perform below the standards or deviations therefrom reflected in Section 52.5.1. U S WEST shall minimize any degradation to its equipment relative to currently applicable service, where reasonable in view of industry adopted performance standards and technological developments. Written notice (the "Change Notice") of any planned changes in standards for any Network Component which could impact that Network Component will be provided at least ninety (90) days (or at the make/buy point) prior to the planned implementation. If McLeod notifies U S WEST of how the proposed change may adversely impact McLeod or its Customers within fourteen (14)*

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[40] Pursuant to the Eighth Circuit Decision, the Parties agree to this language.

calendar days after receipt of U S WEST's Change Notice, U S WEST and McLeod will schedule joint discussions to address and attempt to resolve the matter, including without limitation consideration of proposed alternatives. In addition, if U S WEST learns that any Network Component purchased by McLeod under this Agreement has been permitted (even if not intentionally) to fall materially below the level or specification in effect as of the Effective Date, U S WEST shall inform McLeod immediately.

52.6 *Services and Processes. The Parties recognize that services and processes to be provided or followed by U S WEST may deviate from those desired by McLeod or otherwise outlined in this Agreement. Due to the manner in which U S WEST has chosen to adopt its own processes or implement industry standards into the design of its services or support functions, some of the services or support functions deployed within U S WEST may not adhere to all the specifications set forth and described in this Agreement. Within forty-five (45) days after a request by either Party, the Parties will develop processes by which U S WEST will inform McLeod of the standards known by U S WEST to differ from standards referenced in this Agreement for services or support functions actually provided to McLeod. In addition, the Parties agree that such deviations documented by U S WEST pursuant to such process shall, to the extent permitted by FCC and Board rules and regulations, supersede sections of this Agreement referencing such standards, services, or functions.*

52.7 *U S WEST and McLeod agree to amend this Section and all relevant portions of this Agreement, to incorporate any performance standards and reporting measures to which the Parties may mutually agree. In the event the Parties do not reach agreement as to specific performance standards and reporting measures, U S WEST will provide to McLeod performance standard reports that U S WEST prepares for itself or can reasonably develop.*[41] *Either Party may resolve specific disputes regarding performance standards and reporting measures in accordance with the dispute resolution process contained herein. However, McLeod is not entitled to demand in the name of parity service levels at any predetermined level, nor will any performance penalties or credits be included in this agreement except as the Parties may otherwise agree.*

52.8 *Existing Network. Nothing in this Agreement shall be construed as an agreement by the parties to waive any continuing legal requirement that U S WEST need only provide access to or interconnection with its network as it exists at the time that McLeod may request such access. Modifications to U S WEST's network may be limited to those required to accommodate interconnection or access to unbundled network elements as required by law. Nothing in this agreement shall constitute a waiver of any obligation that U S WEST has to meet applicable state or federal*

41 Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "McLeod may request any additional reports, provided that it pays U S WEST's efficient incremental costs for providing these additional reports."

standards respecting the nature, extent, or capabilities of its network that serves customers in South Dakota.

52.9 Application. *These provisions in Section 52 shall apply to each and every provision in this Agreement. Failure to specifically refer to these provisions shall not be construed to mean these provisions do not apply. The provisions of this Section 52 are applicable for the entire contract and takes precedence over any other conflicting section. The absence of specific references to this Section 52 in potentially conflicting sections is not to be construed to mean that this Section does not apply. Resolution of disputes under this provision shall be resolved by the Commission or through the dispute resolution process of Section 27 of Part A of this Agreement.*

53. Entire Agreement

53.1 *This Agreement shall include the Attachments, Appendices and other documents referenced herein all of which are hereby incorporated by reference, and constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.*

53.2 *If a provision contained in any U S WEST tariff conflicts with any provision of this Agreement, the provision of this Agreement shall control, unless otherwise ordered by the FCC or the Commission.*

54. Reservation of Rights

54.1 *The Parties acknowledge that the terms of this Agreement were established pursuant to an order of the Commission. Any or all of the terms of this Agreement may be altered or abrogated by a successful challenge to this Agreement (or the order approving this Agreement) as permitted by applicable law. By signing this Agreement, neither Party waives its right to pursue such a challenge.*

54.2 *The Parties enter into this Agreement without prejudice to any position they may have taken previously, or may take in the future in any legislative, regulatory, or other public forum addressing any matters, including matters related to the types of arrangements prescribed by this Agreement.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

McLeodUSA Communications Services, Inc.**

Signature

DAVID R. CROWN
Name Printed/Typed

VICE PRESIDENT
Title

3/30/99
Date

U S WEST Communications, Inc.**

*Signature

Kathy Fleming
Name Printed/Typed

Executive Director - Interconnect
Title

4/27/99
Date

*Signed as ordered by the arbitrator/commission in Docket No. TC96-184. Signature does not indicate agreement with all aspects of the arbitrator's decision, nor does it waive any of U S WEST's right to seek judicial review of all or part of the agreement, or to reform the agreement as the result of successful judicial review.

** This Agreement is made pursuant to Section 252 (i) of the Act and is premised upon the Interconnection Agreement between AT&T Communications of the Midwest, Inc. and U S WEST Communications, Inc. (the "Underlying Agreement"). The Underlying Agreement was approved by the Commission on March 4th, 1999.

With respect to this Agreement, the Parties understand and agree:

i) The Parties shall request the Commission to expedite its review and approval of this Agreement.

ii) Notwithstanding the mutual commitments set forth herein, the Parties are entering into this Agreement without prejudice to any positions they have taken previously, or may take in the future, in any legislative, regulatory, or other public forum addressing any matters, including those relating to the types of arrangements contained in this Agreement. During the proceeding in which the Commission is to review and approve the Agreement, U S WEST may point out that it has objected, and continues to object, to the inclusion of the terms and conditions to which it objected in the proceedings involving the approval of the Underlying Agreement.

iii) This Agreement contains provisions based upon the decisions and orders of the FCC and the Commission under and with respect to the Act. Currently, court and regulatory proceedings affecting the subject matter of this Agreement are in various stages, including the proceedings where certain of the rules and regulations of the FCC are being challenged (see, Iowa Utilities Board v. Federal Communications Commission, 120 F.3d 753 (8th Cir. 1997), et sec.) and the proceedings where the Commission's decision(s) giving rise to the Underlying Agreement are under and subject to appeal and review (the "Proceedings"). The Agreement has not been corrected to reflect the requirements, claims or outcomes of any of the Proceedings, although the pricing does reflect the Commission's most current generic order, if any. Accordingly, when a final, decision or decisions are made in the Proceedings that automatically change and modify the Underlying Agreement, then like changes and modifications will similarly be made to this Agreement.

iv) Subsequent to the execution of this Agreement, the FCC or the Commission may issue decisions or orders that change or modify the rules and regulations governing implementing of the Act. If such changes or modifications alter the state of the law upon which the Underlying Agreement was negotiated and agreed, and it reasonably appears that the parties to the Underlying Agreement would have negotiated and agreed to different term(s) condition(s) or covenant(s) than as contained in the Underlying Agreement had such change or modification been in existence before execution of the Underlying Agreement, then this Agreement shall be amended to reflect such different terms(s), condition(s), or covenant(s). Where the parties fail to agree upon such an amendment, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement.

* Local traffic is that traffic which originates and terminates in the same local calling area. Each company bears the burden of proof that the traffic being exchanged is local in nature. It is USW position that the Reciprocal Compensation provision apply only to local traffic. It is USW belief that ISP traffic which does not originate and terminate with in the local calling area does not qualify for Reciprocal Compensation under this Agreement.

TABLE OF CONTENTS

1. General Principles 1

2. Resale Rates and Charges 1

3. Construction and Implementation Costs 2

4. Network Elements 5

5. Transport and Termination 5

6. Number Portability 6

7. Collocation – Physical and Virtual 6

8. Rate Structure 6

9. Unbundled Switching 7

10. Operational Support Systems 7

11. Poles, Conduits, Ducts and Rights-of-Ways 7

RATES and CHARGES

1. General Principles

1.1 All rates provided under this Agreement shall remain in effect for the term of this Agreement unless they are not in accordance with all applicable provisions of the Act, the rules and regulations of the FCC, or the Commission's rules and regulations.

1.2 Except as otherwise specified in this Agreement, as approved or ordered by the Commission, or as agreed to by the Parties through good faith negotiations, nothing in this Agreement shall prevent a Party through the dispute resolution process described in this Agreement from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement.

1.3 The rates, terms and conditions in this Attachment 1 (including Appendix A[1]) are interim in nature. Permanent rates will be established by the Commission in its generic costing and pricing docket.[2]

2. Resale Rates and Charges

All services that U S WEST provides at retail to subscribers who are not Telecommunications Carriers shall be provided at wholesale rates as provided in the Pricing Schedule.

2.1 A Customer Transfer Charge (CTC) of $5.00 applies when transferring any resale customer to another reseller.[3]

2.2 All services that U S WEST provides at retail to subscribers who are not telecommunications carriers shall be provided at a resale discount rate of 15.55% for the services subject wholesale discount. If McLeod provides its own operator services and directory assistance the discount rate will be 15.23%[4]. If McLeod provides its own billing and collections, the discount rate will be 15.61%.[5] If McLeod provides its own operator services, directory assistance and billing and collections, the discount rate will be 15.28%.[6]

2.3 If the resold services are purchased pursuant to tariffs and the tariff rates change, charges billed to McLeod for such services will be based upon the new tariff rates less the

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[1] The Order on Reconsideration required U S WEST to rerun its models and adjust its price list. U S WEST submitted its revised price list to McLeod on September 10, 1997 and, consequently, the price list is under review at the time.

[2] Per Order on Reconsideration at page 5, Paragraph 1

[3] Per First Order at page 22, Paragraph 182.

[4] Per Reconsideration Order at page 4.

[5] Per First Order at page 24, Paragraph 196.

[6] Per First Order at page 24, Paragraph 196.

applicable wholesale discount as agreed to herein. The new rate will be effective upon the tariff effective date.

2.4 *A Subscriber Line Charge (SLC) will continue to be paid by McLeod without discount for each local exchange line resold under this Agreement. All federal and state rules and regulations associated with SLC or as found in the applicable tariffs also apply.*

2.5 *McLeod will pay to U S WEST the PIC change charge without discount associated with McLeod end user changes of inter-exchange or intraLATA carriers.*

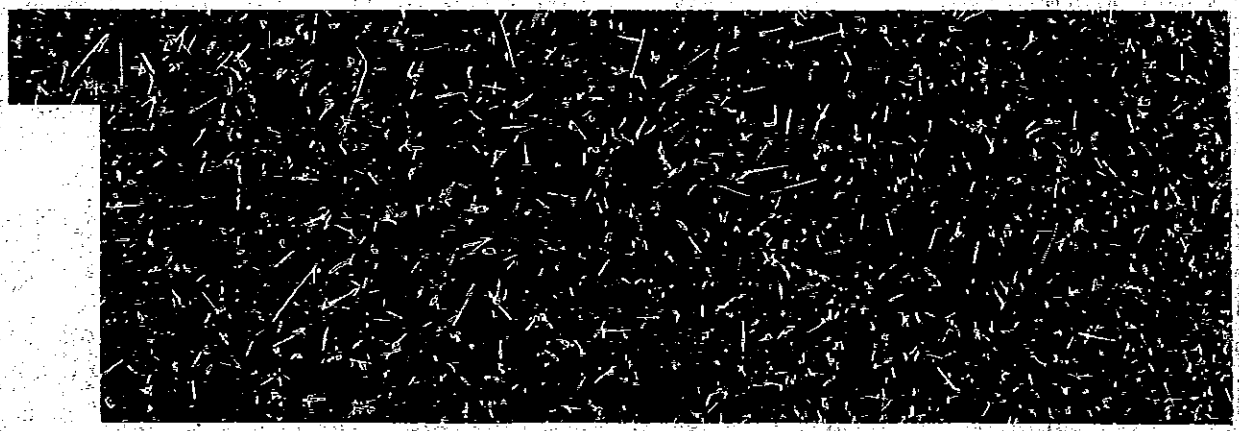
2.6 *McLeod agrees to pay U S WEST at the wholesale discounted rate when its end user activates any services or features that are billed on a per use or per activation basis (e.g., continuous redial, last call return, call back calling, call trace, etc.). U S WEST shall provide McLeod with detailed billing information per applicable OBF standards unless otherwise agreed to by the Parties as necessary to permit McLeod to bill its end users such charges.*

2.7 *(Intentionally left blank for numbering consistency.)*

2.8 *Nonrecurring charges will be billed as approved by the Commission.*

2.9 *(Intentionally left blank for numbering consistency.)*

2.10 *(Intentionally left blank for numbering consistency.)*



2.12 *U S WEST shall bill McLeod and McLeod is responsible for all applicable charges for the resold services. McLeod shall be responsible for all charges associated with services that McLeod resells to an end user.*

3. Construction and Implementation Costs

3.1 U S WEST shall be obligated to modify its network to the extent necessary to accommodate McLeod's request for interconnection and access to network elements. U S WEST shall construct when necessary to meet its general obligations as an incumbent LEC as ordered by the Commission or federal law. All other construction shall be at the discretion of U S WEST.

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[7] Per First Order at page 20, Paragraph 183.

3.2 McLeod shall only pay those nonrecurring charges of construction that U S WEST charges an end user.[8]

3.3 (Intentionally left blank for numbering consistency.)

3.4 Quote Preparation Procedures

A quote for McLeod's request will be provided in writing to McLeod. The quote shall provide a timeline for the construction and shall specify the payment or charges required. The construction charges shall be calculated using existing intrastate pricing methodology. The quote will be binding for ninety (90) days after the issue date. When accepted, McLeod will be billed the quoted price and construction will commence after receipt of payment in accordance with the payment provision of Section 3.5 below. If McLeod chooses not to have U S WEST construct the facilities, U S WEST reserves the right to bill McLeod for the expense incurred for producing the engineered job design.

3.5 Payment

McLeod shall make payment of fifty percent (50%) of the nonrecurring charges and fees upon acceptance of the quotation with the remainder due upon completion of the construction. In the event that McLeod disputes the amount of U S WEST's proposed construction costs, McLeod shall deposit fifty percent (50%) of the quoted construction costs into an interest bearing escrow account prior to the commencement of construction. The remainder of the quoted construction costs shall be deposited into the escrow account upon completion of the construction. Upon resolution of the dispute, the escrow agent shall distribute amounts in the account in accordance with the resolution of such dispute, and any interest that has accrued with respect to amounts in the account shall be distributed proportionately to the Parties. The pendency of any such dispute shall not affect the obligation of U S WEST to complete the requested construction.

4. Network Elements

4.1 Unbundled Network Elements prices shall not be deaveraged unless retail prices are deaveraged.[9]

4.2 Interim rates for vertical switching features are set forth in Appendix A.

4.3 [Intentionally left blank for numbering consistency]

4.4 The rates and charges to be paid by McLeod for unbundled Network Elements are shown on Appendix A hereto.[10]

4.5 Pricing for Toll and Assistance Operator Services shall be determined upon request.

4.6 U S WEST may charge a fee of $58.50 for conditioning of loops at the request of McLeod for loops which, at the time requested by McLeod, have not been

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[8] Per First Order, at page 22, Paragraph 178.
[9] Per First Order at page 12, Paragraph 88.
[10] Per First Order at pages 9-18, Paragraphs 83-141.

conditioned.[11]

4.7 McLeod shall pay for the cost or redesigning and reconfiguring the loop facilities in the requested location to allow for access to subloop elements.[12]

5. Transport and Termination

5.1 U S WEST may charge for three functions associated with transport and termination: call termination within a given month, call transport and call transit. U S WEST shall waive reciprocal compensation call termination charges if traffic exchanged between McLeod and U S WEST is within +/- 5%.[13]

5.2 U S WEST may charge for three rate elements associated with call transport: direct trunked transport based on a fixed per month charge and per mile charge, tandem switching based on per minute use, and tandem transmission based upon a fixed per minute charge and per mile charge.[14]

5.3 Except as otherwise specifically outlined in this Agreement, U S WEST may not charge McLeod switched access tariff prices for local exchange access.[15]

5.4 McLeod shall not receive the tandem switched rate for terminating calls.[16]

6. Number Portability

6.1 McLeod may request U S WEST to provide McLeod call detail records identifying each IXC which are sufficient to allow McLeod to render bills to IXCs for calls IXCs place to ported numbers in the U S WEST network which U S WEST forwards to McLeod for termination. To the extent that U S WEST is unable to provide billing detail information within a reasonable time frame, the Parties may agree on an interim method to share access revenues pursuant to a mutually agreed upon surrogate approach.

6.2 Cost for number portability will be allocated on the basis of the "New York Method" as described in the FCC's First Report and Order and Further Notice of Rulemaking in CC Docket No. 95-116, In the Matter of Telephone Number Portability (Number Portability Order), at Paragraph 136.[17]

6.3 Each Party, when it is the terminating carrier, shall receive the common carrier line and local switching charges. Transport charges shall be shared based on meet point billing arrangement.[18]

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[11] Per First Order at page 15, Paragraph 114.
[12] Per First Order at page 10, Paragraph 68.
[13] Per First Order at page 29, Paragraphs 235 and 238
[14] Per First Order at page 29, Paragraph 236.
[15] Per First Order at page 29, Paragraph 239.
[16] Per First Order at pages 29-30, Paragraphs 240-241.
[17] Per First Order at page 26, Paragraphs 213-215.
[18] Per First Order at page 27, Paragraph 218.

7. Collocation – Physical and Virtual

See Appendix A, attached to this Attachment.

8. Rate Structure

See Appendix A attached to this Attachment.

9. Unbundled Switching

9.1 U S WEST may charge a nonrecurring charge of $101.15 for the first port and $54.43 for each additional port requested by McLeod. Additionally, McLeod shall pay U S WEST the amount set forth in Appendix A per month per port utilized by McLeod and $.003334 per minute of use of such port.[19]

10. Operational Support Systems

10.1 A company shall be allowed to assess users of its gateway systems used to access its databases a per transaction charge. The costs used to derive the transaction charge may include the costs incurred for the development of the gateway and recurring costs associated with use of the gateway.[20]

11. Poles, Conduits, Ducts and Rights-of-Ways

11.1 McLeod shall pay U S WEST a just and reasonable rate[21] for access to poles, conduits, ducts and rights-of-ways, the following fees , which shall be based upon Commission based rules and as follows:[22]

11.1.1 Annual usage fee for the use of poles and conduit.
11.1.2 Make ready charges for facility arrangements.
11.1.3 Charge for inspection or supervision of facility.

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19 Per First Order at pages 15-16, Paragraphs 116 and 120.
20 Per First Order at page 25, Paragraph 208.
21 Per First Order at page 28, Paragraph 227.
22 Per First Order at page 28, Paragraphs 226-231.

TABLE OF CONTENTS

1. DESCRIPTION 1

2. GENERAL TERMS AND CONDITIONS FOR RESALE 2

3. BASIC SERVICE REQUIREMENTS 3

4. REQUIREMENTS FOR SPECIFIC SERVICES 3

5. SERVICE FUNCTIONS 7

6. SECURITY AND LAW 8

7. ORDERING AND MAINTENANCE 8

8. CHANGES IN RETAIL SERVICE 9

9. CUSTOMER AUTHORIZATION PROCESS 9

10. MCLEOD RESPONSIBILITIES 10

11. PRICING 11

12. DEPOSIT 11

RESALE

1. Description

1.1 *U S WEST will make the following services available for resale: residence basic exchange, Centrex Plus, Operator Services, Directory Assistance, Optional Calling Plans, Volume Discount Plans, Discounted Feature Packages, Private Line Transport, negotiated contract arrangements, Business Basic Exchange, PBX Trunks, Frame Relay Service, ISDN, listings, features, IntraLATA toll, AIN Services and WATS. This list of services is neither all inclusive nor exclusive. U S WEST will not prohibit, nor impose unreasonable or discriminatory conditions or limitations on the resale of its Telecommunications Services.*

1.2 **McLeod may resell to any and all classes of end-users Telecommunications Services obtained from U S WEST under this Agreement, except that (i) services U S WEST makes available only to residential customers or to a limited class of residential customers may not be resold to classes of customers who are not eligible to subscribe to such services from U S WEST,[1] and (ii) Lifeline Assistance and Link-up Services may be resold only to those customers eligible for those services.[2]** *The foregoing shall permit, without limitation, the resale of Telecommunications Services to another Reseller.*

1.3 *At the request of McLeod, and pursuant to the requirements of the Act, and FCC rules and state regulations, U S WEST shall make available to McLeod for resale any Telecommunications Services that U S WEST currently provides or may offer hereafter, including, but not limited to,* **Telecommunications Services offered through promotions of more than ninety (90) days duration, contract service arrangements, special arrangements, and discount plans.[3]** *Resale discounts may vary from the standard resale discount, subject to the approval of the Commission.*

1.4 *This Section describes several services which U S WEST shall make available to McLeod for resale pursuant to this Agreement. This description of services is neither all inclusive nor exclusive. Except as may be noted elsewhere in this Agreement, all services or offerings of U S WEST which are to be offered for resale pursuant to the Act are subject to the terms herein, even though they are not specifically enumerated or described. U S West shall also provide Service Functions, as agreed to in this Attachment 2. The Telecommunications Services and Service Functions provided by U S WEST to McLeod pursuant to this Attachment 2 are collectively referred to as "Local Resale."*

1.5 **U S WEST is not required to make enhanced services, including voice mail, available for resale.[4]**

1.5.1 Voice Mail

U S WEST shall make available the SMDI-E ("Station Message Desk Interface-Enhanced"), where available, or SMDI (Station Message Desk Interface), where SMDI-E is not available, feature capability allowing for Voice Mail Services. U S WEST shall make available, where available, the MWI (Message Waiting Indicator) stutter dialtone and message waiting light feature capabilities.

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[1] Per First Order at page 19, Paragraph 145.
[2] Per First Order at page 19, Paragraph 152.
[3] Per First Order at page 20, Paragraph 157.
[4] Per First Order at page 19, Paragraph 151.

U S WEST shall make available CF-B/DA (Call Forward on Busy/Don't Answer), CF/B (Call Forward on Busy), and CF/DA (Call Forward Don't Answer) feature capabilities allowing for Voice Mail services.

1.6 Grandfathered Services.

U S WEST shall offer for resale to McLeod all grandfathered services. McLeod may resell such services only to the same limited group of customers that have purchased such services in the past. For purposes of this Agreement, a grandfathered service is a service that U S WEST no longer offers to new subscribers or a class of new subscribers. McLeod shall be notified of any U S WEST request for the termination of service and/or its grandfathering filed with the Commission or U S WEST's intent to grandfather/withdraw a service at least thirty (30) calendar days prior to the effective date of such grandfathering or intended termination. The form of notification may be either in written or electronic form.

1.7 N11 Service.

McLeod shall have the right to resell any N11 service, including, but not limited to, 411 and 911 services.

1.8 Promotions.

Promotions of ninety (90) days or less need not be made available to McLeod at the wholesale discount rate.[5]

1.9 The specific business process requirements and systems interface requirements are set forth in Attachment 5 and Attachment 6.

2. General Terms and Conditions for Resale

2.1 Primary Local Exchange Carrier Selection. U S WEST shall apply the principles set forth in Section 64.1100 of the FCC Rules, 47 C.F.R. § 64.1100, as implemented, to the process for end-user selection of a primary local exchange carrier. In accordance with the customer authorization process described elsewhere in this Agreement, U S WEST shall not require notification from the customer, another carrier, or another entity, in order to process an McLeod order for Local Resale for a customer.

2.2 Except where otherwise provided, McLeod, or McLeod's agent, shall act as the single point of contact for its end users' service needs, including, without limitation, sales, service design, order taking, provision, change orders, training, maintenance, trouble reports, repair, post-sale servicing, billing, collection and inquiry. McLeod shall inform its end users that they are customers of McLeod for resold services. McLeod's end users who inadvertently contact U S WEST with questions regarding their McLeod service will be instructed to contact McLeod. U S WEST end users who inadvertently contact McLeod with questions regarding their U S WEST service will be instructed to contact U S WEST. Nothing in this Agreement shall be deemed to prohibit either Party from discussing its products and services with customers of the other Party who solicit such information or who are directly contacted by a Party.

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[5] Per First Order at page 20, Paragraph 157.

3. Basic Service Requirements

3.1 Call Types

3.1.1 *U S WEST shall provide the following call types, features and functions to McLeod and its end users with no loss of feature or functionality: (a) dial tone and ringing; (b) capability for either dial pulse or touch tone; (c) flat and measured services; (d) speech recognition as available with other custom calling and CLASS features; (e) same extended area service free calling area; (f) 1 + intraLATA toll calling; (g) access to interLATA toll calling; (h) access to international calling; (i) lines as well as trunks (DID, DOD); (j) analog and digital private line - all speeds; (k) off-premises extensions; (l) CENTREX; and (m) ISDN.*

3.2 *U S WEST will provide access for McLeod and all its end user customers to all call types, including, but not limited to, 500, 700, 800, 900, exchanges and dial around services (10XXX).*

3.3 *U S WEST shall impose no restrictions on customer's calling (e.g., there should not be a 750 minute limit on flat rate calling).*

3.4 *U S WEST will provide pre-subscription services for intraLATA, when the Commission orders the provision of 1+ pre-subscription, and interLATA toll services in accordance with currently accepted methods and procedures.*

3.5 Features Requirements

3.5.1 *U S WEST will provide McLeod the ability to suspend and restore customer service, including vacation suspension service, at the direction of McLeod.*

3.5.2 *End Office Features. U S WEST will provide to McLeod the same end office features available to U S WEST's end users, including, but not limited to, CLASS features, Custom Calling features, and AIN features.*

3.5.3 *Call Blocking Features. U S WEST will provide to McLeod the same call blocking features as are available to U S WEST's own customers.*

3.6 *Upon request by McLeod, U S WEST shall provide McLeod a list, in an agreed upon format by central office, of all the Telecommunications Services, features and functions offered by U S WEST and shall provide updates to such lists as further described in Attachment 5. U S WEST shall also provide an electronic access method for McLeod to ascertain the service availability of a particular USOC in a given central office.*

4. Requirements for Specific Services

4.1 IntraLATA Toll

U S WEST will provide McLeod its intraLATA toll service to McLeod for resale where 1+ intraLATA toll presubscription is not available.

4.2 Private Line Services

The following private line services shall be made available without restriction from U S WEST: (a) voice grade private line services; (b) off premise extensions; (c) foreign

exchange line service; (d) point-to-point and multi-point digital services (e.g., 9.6 kbps-56 kbps; fractional DS-1); (e) DS-1 Services; (f) DS-3 services; (g) OC-3 service (where available); (h) frame relay service; (i) packet switched services; (j) switched digital services; and (k) other private line services as they are made available.

4.2.1 Special access services are not required to be offered for resale at the wholesale discount rate.[6]

4.3 CENTREX Requirements

4.3.1 At McLeod's option and as they are available to U S WEST's own end users via interstate tariffs and state tariffs, price lists, price schedules, catalogs, or Individual Case Basis, McLeod may purchase a single, any combination, or the entire set of CENTREX features, including CENTREX Management System (CMS) or its equivalent as described in Attachment 5. The CENTREX Service provided for resale will meet the requirements set forth in the following provisions of this Section.

4.3.2 All service levels and features of CENTREX Service provided by U S WEST for resale by McLeod shall be at parity with levels and features provided to U S WEST's own customers or as mutually agreed upon by the Parties.

4.3.3 McLeod may aggregate the CENTREX local exchange and intraLATA traffic usage of McLeod subscribers to the extent U S WEST makes such aggregation available to itself or to U S WEST end users, Customers, or Affiliates.

4.3.4 McLeod may aggregate multiple McLeod customers on dedicated access facilities.

4.3.5 U S WEST shall make CMS information available to McLeod at the common block level via an electronic interface, as provided to U S WEST's own end users.

4.3.6 McLeod may use remote call forwarding in conjunction with CENTREX Service to provide service to McLeod Local Service Customers residing outside of the geographic territory in which U S WEST provides local exchange service. However, U S WEST is not obligated to provide facilities outside its service territory.

4.3.7 McLeod may purchase any and all levels of CENTREX Service for resale without restriction on the minimum or maximum number of lines that may be purchased for any one level of service, equivalent to what is offered to U S WEST's own end users.

4.3.8 U S WEST will provide to McLeod the ability to suppress the need for McLeod customers to dial "9" when placing calls outside the CENTREX system.

4.3.9 U S WEST shall make available to McLeod for resale, at no additional charge, intercom calling among all McLeod customers within a common block who utilize resold CENTREX Service.

4.4 CLASS and Custom Features Requirements

McLeod may purchase a single, any combination, or the entire set of CLASS and custom features and functions, on a customer-specific basis. CLASS features shall include, but not

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[6] Par First Order at page 20, Paragraph 155.

*be limited to: caller identification, name and number; call screening; call tracing; and automatic call back on busy (*69). U S WEST shall provide to McLeod a list of all such CLASS and custom features and functions within ten (10) days of a request by McLeod and shall provide updates to such list when new features and functions become available.*

4.5 Customer Financial Assistance Programs

4.5.1 Local Services provided to low-income subscribers, pursuant to requirements established by the appropriate state regulatory body, include programs such as Lifeline, Voluntary Federal Customer Financial Assistance Program, and Link-Up America ("Voluntary Federal Customer Financial Assistance Programs"). When a U S WEST subscriber eligible for the Voluntary Federal Subscriber Financial Assistance Programs or other similar state programs chooses to obtain local service from McLeod, U S WEST shall forward information available to U S WEST regarding such subscriber's eligibility to participate in such programs to McLeod and in electronic format when available in accordance with the procedures set forth herein.

4.5.2 U S WEST shall offer for resale Lifeline and Link-Up Service; provided, however, that McLeod may only resell Lifeline and Link-Up Service to those Customers eligible to receive such services.[7] *U S WEST will provide information about the certification process for the provisioning of Lifeline, Link-up, and similar services. U S WEST will forward to McLeod, in electronic format (when available), information available to U S WEST regarding a subscriber's program eligibility, status and certification when a U S WEST subscriber currently on any U S WEST telephone assistance program changes service to McLeod as their local exchange carrier. U S WEST will cooperate in obtaining any subsidy associated with a subscriber transfer to McLeod.*

4.5.2.1 In connection with the transfer of a customer from U S WEST to McLeod, U S WEST shall provide to McLeod customer profile, including customer name, billing and residence address, billing telephone number(s), eligibility for Voluntary Federal Customer Financial Assistance Program and other similar services, and identification of U S WEST features and services subscribed to by the customer.

4.6 Discount Plans and Services

4.6.1 McLeod can utilize any volume discounts that U S WEST makes available to its end user customers. U S WEST's volume discounts are subject to the wholesale discount set forth in Attachment 1 to this Agreement.[8]

4.7 Hospitality Service.

U S WEST shall provide all blocking, screening, and all other applicable functions available for hospitality lines utilized as such.

4.8 Telephone Line Number Calling Cards. *Effective ten (10) Business Days after the date of an end-user's subscription to McLeod Service or within twenty-four (24) hours after McLeod has notified U S WEST that it has replaced the subscriber's calling card, whichever is earlier,*

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[7] Per First Order at page 19, Paragraph 152.
[8] Per First Order at page 20, Paragraph 163.

U S WEST will terminate its existing telephone line number-based calling cards and remove any U S WEST-assigned telephone line calling card number subaccount and PIN (including area code) ("TLN") from the LIDB. McLeod may issue a new telephone calling card to such customer, utilizing the same TLN, and McLeod shall have the right to enter such TLN in the LIDB for calling card validation purposes. U S WEST will assume responsibility for billing its calling card calls that appear before the card is terminated. Nothing in this section shall prohibit U S WEST from terminating calling card service to U S WEST customers who have been determined to be a credit risk, according to U S WEST's normal business practices.

4.8.1 Except as provided above, the Parties will cooperate in the deactivation and activation of calling cards and will make reasonable efforts to minimize the time a customer is without an active calling card.

4.8.2 U S WEST shall not prohibit McLeod from issuing a new telephone calling card to an McLeod customer utilizing the same TLN and McLeod shall have the right to enter the TLN in the LIDB for calling card verification purposes.

4.8.3 U S WEST will provide McLeod the ability to utilize U S WEST's LIDB for calling card validation.

4.9 U S WEST shall make engineering support available to McLeod for resold services on the same basis as it provides such support for U S WEST end users. To the extent the cost of such engineering support has been considered an avoided cost in the development of the avoided cost discount, the cost of such engineering support shall be borne by McLeod.

4.10 Payphone Services

U S WEST agrees to sell for resale all tariffed PAL Services at an appropriate wholesale discount to be determined by the Commission.

4.10.1 U S WEST shall offer for resale, at a minimum, the following Coin Line, PAL, and PAL Coinless features:

Billed Number Screening
Ability to "freeze" PIC selection
One (1) bill per line and/or multiple lines per BAN
Point of demarcation at the Network Interface location
Detailed billing showing all 1+ traffic on paper, diskette or electronic format
Touch-tone service
Option for listed or non-listed numbers
Access to 911 service
One (1) directory per line

4.10.2 At a minimum, U S WEST shall offer for resale the following Coin Line features:

Access to all Central Office intelligence required to perform answer detection, coin collection, coin return, and disconnect
Answer Detection
Option to block all 1+ calls to international destinations
IntraLATA Call Timing
Option of one-way or two-way service on line
Flat Rate Service, where available
Originating line screening
U S WEST central office intelligence for rating and other functions

Option of measured service, where available
Ability to block any 1+ service that cannot be rated by the coin circuits/TSPS/OSPS to the extent provided on U S WEST coin lines
Protect against clip on fraud to the extent provided on U S WEST coin lines
Protect against blue box fraud to the extent provided on U S WEST coin lines
Provision of Information Digit 27

4.10.3 At a minimum, U S WEST shall offer for resale the following PAL and PAL Coinless features:

Originating line screening
Two-way service option
Flat rate service based on rate groups, where available
Option of one-way service on the line, where available
Option of measured service, where available
Ability to keep existing serving telephone numbers if cutover to McLeod resale line incoming/outgoing screening
Provision of Information Digit 07
Provision of International Toll Denial Recognition Tone, when available

4.10.4 At a minimum, U S WEST shall offer for resale the following PAL Coin feature:

Blocking for 1+ international, 10XXXX1 + international, 101XXXX1 + international, 1+900, N11, 976 and option to block all 1-700 and 1-500 calls
Line side supervision option

4.10.5 At a minimum, U S WEST shall offer for resale the following PAL Coinless feature:

Blocking for 1 + international, 10XXXX1 + international, 101XXXX1 +International, 1+900, N11, 976, and 7 digit local

4.10.6 U S WEST shall provide installation intervals to McLeod for ordering, call transfer, billing, and PIC changes in accordance with performance standards that are established by the Commission, pursuant to subsequent agreement between the Parties or as provided to any other Person.

5. Service Functions

5.1 U S WEST shall provide McLeod with the information available to U S WEST that McLeod will need to certify subscribers who transfer from U S WEST as exempt from charges (including taxes), or eligible for reduced charges associated with providing services.

5.2 U S WEST shall provide McLeod with appropriate notification of all area transfers with line level detail one hundred twenty (120) days before service transfer, and will also notify McLeod within one hundred twenty (120) days before such change or any LATA boundary changes.

5.3 U S WEST will work cooperatively with McLeod in practices and procedures regarding the handling of law enforcement and service annoyance calls.

5.4 Support Functions

5.4.1 Routing to Directory Assistance, Operator and Other Services

5.4.1.1 U S WEST shall make available to McLeod the ability to route:

(a) all Local Directory Assistance calls (411, (NPA) 555-1212) dialed by McLeod Customers directly to the McLeod Directory Assistance Services platform, where technically feasible and consistent with FCC rules; and

(b) Local Operator Services calls (O+, O-) dialed by McLeod Customers directly to the McLeod Local Operator Services platform, where technically feasible and consistent with FCC rules. Such traffic shall be routed over trunk groups between U S WEST end offices and the McLeod Local Operator Services Platform, using standard Operator Services dialing protocols of O+ or O-.

5.4.1.2 All direct routing capabilities described herein shall permit McLeod Customers to dial the same telephone numbers for McLeod Directory Assistance and Local Operator Service as U S WEST customers use to access similar services.

6. Security and Law

6.1 U S WEST will maintain and safeguard all McLeod customer information according to CPNI privacy guidelines.

6.2 U S WEST and McLeod will work jointly in security matters as they relate to McLeod customers in a resale environment including, but not limited to, harassment and annoyance calls.

6.3 U S WEST and McLeod will work jointly to support law enforcement agency requirements including, but not limited to, taps, traces and court orders.

6.4 U S WEST will work jointly with McLeod with respect to prevention and settlement of fraud.

6.5 U S WEST and McLeod will work jointly to provide access to lines in a hostage situation.

7. Ordering and Maintenance

7.1 McLeod shall transmit to U S WEST the information necessary for the installation (billing, listing and other information), repair, maintenance and post-installation servicing according to U S WEST's standard procedures, as described in the U S WEST resale operations guide that will be provided to McLeod. When U S WEST's end user or the end user's new service provider discontinues the end user's service in anticipation of moving to another service provider, U S WEST will render its closing bill to the end user effective with the disconnection. Should McLeod's end user, a new service provider or McLeod request service be discontinued to the end user, U S WEST will issue a bill to McLeod for that portion of the service provided to the McLeod end user. In no event, shall the transition of an end user from U S WEST to McLeod cause a disconnection of service other than as specifically provided for in this Agreement. It is understood that McLeod's decision to request a change in class of service (or a conversion to a re-used unbundled loop) at "transition" may involve a few minutes out-of-service. The preceding may be modified by agreement of the Parties.

7.2 *U S WEST will notify McLeod by Fax or other processes as agreed to by the Parties, when an end user moves to another service provider.*

7.3 *The new service provider shall be responsible for issuing either a transfer of service or disconnect/new connect order, as appropriate.*

7.4 *The Parties agree that they will work cooperatively to develop the standards and processes applicable to the transfer of such accounts that are in arrears.*

8. Changes in Retail Service

8.1 *U S WEST will notify McLeod of any changes in the terms and conditions under which it offers Telecommunications Services at retail to subscribers who are not telecommunications service providers or carriers, including, but not limited to, the introduction or discontinuance of any features, functions, services or promotions.*

8.2 *U S WEST will provide to McLeod advance notice of the availability of new Telecommunication Services in accordance with Part A, Section 23.2 of this Agreement.*

8.3 *In the event U S WEST intends to terminate the provisioning of any resold services to McLeod for any reason, McLeod shall be responsible for providing any and all necessary notice to its end users of the termination. In no case shall U S WEST be responsible for providing such notice to McLeod's end users. U S WEST will provide sufficient written notice to McLeod of U S WEST's intent to terminate a resold service so that McLeod may notify its customers or intervene in the proceedings on a timely basis consistent with Commission rules and notice requirements.*

9. Customer Authorization Process

9.1 *U S WEST and McLeod will use the existing PIC process as a model, and the same or similar procedures for changes of local providers. For a local carrier change initiated by McLeod or an agent of McLeod to a customer, one of the following four (4) procedures will constitute authorization for the change: (a) Obtain the customer's written authorization (letter of authorization or LOA); (b) Obtain the customer's electronic authorization by use of an toll-free number; (c) Have the customer's oral authorization verified by an independent third party (third party verification); or (d) Send an information package, including a prepaid, returnable postcard, within three (3) days of the customer's request for a local carrier change, and wait fourteen (14) days before submitting the local carrier change to the previous carrier.*

9.2 **It is understood by U S WEST and McLeod that these procedures may be superseded or modified by FCC rules, state law or industry standards.[5]**

9.3 *U S WEST will provide McLeod authorization for a local carrier change that is initiated by a customer call to McLeod. In this case McLeod will: (a) maintain internal records verifying the customer's stated intent to switch carriers; and (b) produce the record in case of a slamming dispute consistent with the FCC rules.*

9.4 *Should an end user dispute or a discrepancy arise regarding the authority of McLeod to act on behalf of the end user, McLeod is responsible for providing a written response evidencing its authority to U S WEST within five (5) Business Days of receipt of a written request from*

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[5] Per First Order at page 6, Paragraph 32 and Reconsideration Order at page 5.

U S WEST describing the basis of the dispute or discrepancy. If there is a conflict between the end user designation or McLeod does not provide a response within five (5) Business Days, U S WEST shall honor the designation of the end user. In the event the end user designation is honored by U S WEST as described above then McLeod shall remit a slamming charge, if any, in accordance with Section 258 of the Act and Commission Rules.

9.5 Should an end user dispute or a discrepancy arise regarding the authority of U S WEST to act on behalf of the end user, U S WEST is responsible for providing a written response evidencing its authority to McLeod within five (5) Business Days of receipt of a written request from McLeod describing the basis of the dispute or discrepancy. If there is a conflict between the end user designation or U S WEST does not provide a response within five (5) Business Days, McLeod shall honor the designation of the end user. In the event the end user designation is honored by McLeod as described above then U S WEST shall remit a slamming charge, if any, in accordance with Section 258 of the Act and Commission rules.

9.6 McLeod shall designate the Primary Interexchange Carrier (PIC) assignments on behalf of its end users for interLATA services and for intraLATA services when intraLATA presubscription is implemented.

9.6.1 U S WEST shall not be required to assign central office codes in a U S WEST central office for the exclusive use of McLeod.[10]

9.7 When Customers switch from U S WEST to McLeod, or to McLeod from any other service provider, such Customers shall be permitted to retain their current telephone numbers if they so desire and if they do not change their service address to an address served by a different central office. U S WEST shall take no action to prevent McLeod customers from retaining their current telephone numbers.

10. McLeod Responsibilities

10.1 McLeod must send to U S WEST either (a) complete and accurate end user listing information for Directory Assistance and 911 Emergency Services using processes mutually agreed to by the Parties, or (b) notification of as is migration. McLeod must provide to U S WEST accurate end user information to ensure appropriate listings in any databases in which U S WEST retains and/or maintains end user information. McLeod assumes liability for the accuracy of information provided to U S WEST. After receiving accurate information from McLeod, U S WEST assumes liability for the accuracy of transmission of such information to the database provider (e.g., SCC).

10.2 U S WEST shall provide McLeod with the capability to assign large quantities (i.e., greater than ten (10)) telephone numbers for multiple line and PBX customers in accordance with U S WEST's tariffs and/or its own internal practices.

10.3 McLeod will provide a three (3) year non-binding forecast within ninety (90) days of a request by U S WEST.. The forecast shall be updated and provided to U S WEST on a quarterly basis. The initial forecast will provide:

The date service will be offered (by city and/or state)
The type and quantity of service(s) which will be offered
McLeod's anticipated order volume
McLeod's key contact personnel

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[10] Per First Order at page 31, Paragraph 250.

11. Pricing

The wholesale discount rate charged to McLeod for Local Resale is set forth in Attachment 1 of this Agreement.

12. Deposit

12.1 *U S WEST may require a suitable deposit to be held by U S WEST as a guarantee for payment of U S WEST's charges for companies which cannot demonstrate sufficient financial integrity based on commercially reasonable standards, which may include a satisfactory credit rating as determined by a recognized credit rating agency reasonably acceptable to U S WEST.*

12.2 **For purposes of this Agreement, a deposit will not be required from McLeod[1]** *regardless of whether a deposit may be required from any other CLEC.*

[1] Per First Order at page 22, Paragraph 176.

TABLE OF CONTENTS

1	Introduction	1
2	Unbundled Network Elements	1
3	Standards for Network Elements	2
4	Tandem Switching	3
5	Shared Transport	6
6	[Intentionally left blank for numbering consistency]	6
7	Dedicated Transport	8
8	Loop	16
9	Distribution	22
10	Local Switching	24
11	Network Interface Device	30
12	Operator Systems	32
13	E911	32
14	Directory Assistance Data	32
15	Signaling Link Transport	32
16	Signaling Transfer Points (STPs)	33
17	Service Control Points/Databases	37
18	Additional Requirements	44

UNBUNDLED ACCESS/ELEMENTS

1. Introduction

The following standards shall apply to each provision in Attachment 3. Failure to specifically reference this standard, or individual subsections 1.1 - 1.3 below, shall not be construed to mean this standard does not apply.

1.1 Pursuant to the Act, U S WEST shall provide nondiscriminatory access to the network elements specified in this Attachment 3 at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory.

1.2 For purposes of this Attachment 3, "rates, terms and conditions that are just, reasonable and nondiscriminatory" shall mean that (i) such terms and conditions are equal in quality to the terms and conditions that U S WEST provides to itself, or, (ii) where it is technically infeasible to provide such terms and conditions to McLeod, such terms and conditions are offered equally to all requesting carriers.

1.3 Notwithstanding any performance standard set forth in this Attachment, U S WEST will provide the services set forth in this Attachment to McLeod with the level of service quality set forth in Section 52, Part A of this Agreement.

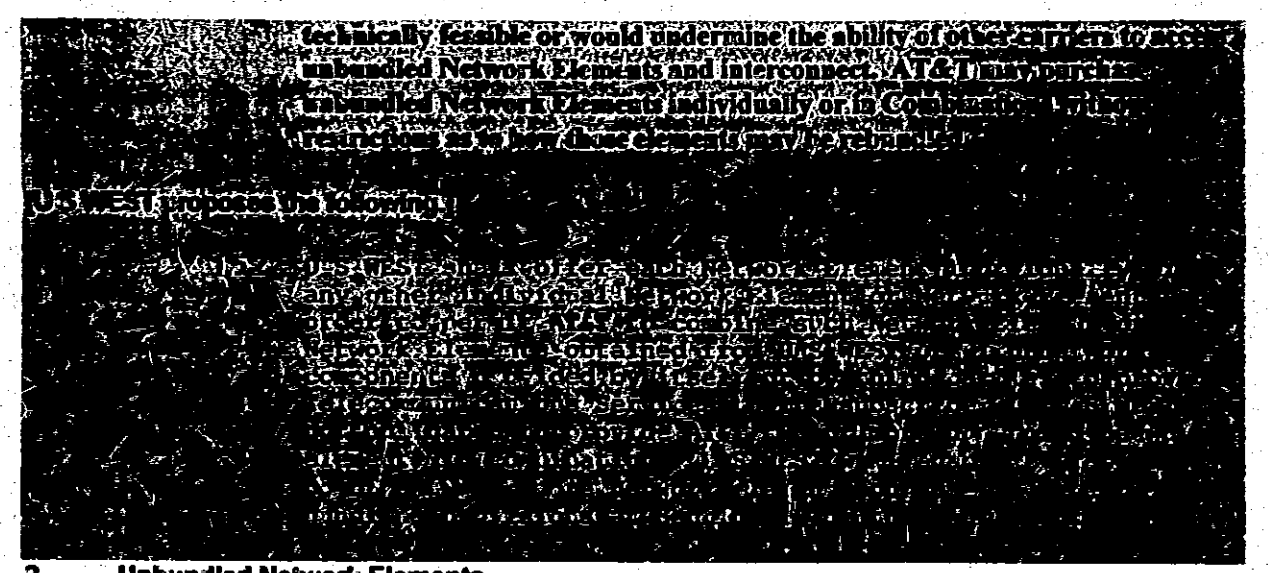
1.4 U S WEST shall provide unbundled Network Elements in accordance with this Agreement, the Act, FCC rules and regulations, and state rules, regulations and orders. The price for each Network Element is set forth in Attachment 1 of this Agreement. Except as otherwise set forth in this Attachment, McLeod may order Network Elements as of the Effective Date of this Agreement.

1.5 General Terms

1.5.1 U S WEST agrees to make available the following unbundled Network Elements which are addressed in more detail in the following sections of this Attachment: (a) local loop, (b) local and tandem switches (including all vertical switching features provided by such switches);[1] (c) interoffice transmission facilities, (d) network interface devices, (e) signaling and call-related database facilities, (f) operations support systems functions, and (g) operator and directory assistance facilities.

[redacted]

[1] Per First Order at page 11, Paragraph 78.



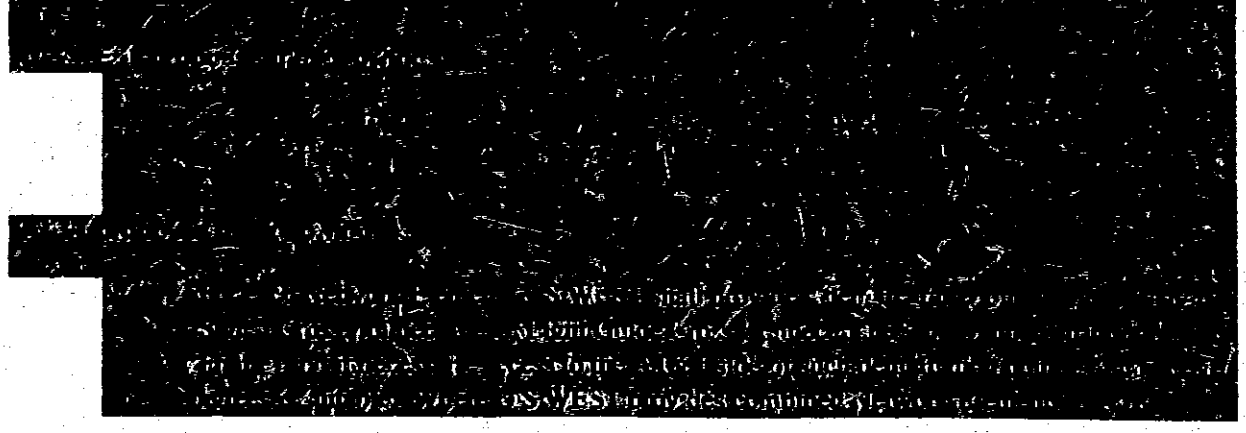
2. Unbundled Network Elements

2.1 U S WEST shall offer Network Elements to McLeod on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.

2.2 U S WEST shall permit McLeod to connect McLeod's facilities or facilities provided to McLeod by third parties with each of U S WEST's unbundled Network Elements at any technically feasible point designated by McLeod.

2.3 McLeod may use one or more Network Elements to provide any feature, function, capability, or service option such Network Element(s) is capable of providing or any feature, function, capability, or service option described in the technical references identified herein, or as may otherwise be determined by McLeod.

2.3.1 McLeod may, at its option, designate any technically feasible point of access to unbundled Network Elements.



[2] Per First Order at page 12, Paragraph 83.

2.5 *[Intentionally left blank for numbering consistency.]*

2.6 *This Attachment describes the initial set of Network Elements which McLeod and U S WEST have identified as of the Effective Date of this Agreement:*

Loop
Network Interface Device
Distribution (subject to the BFR)
Local Switching
Operator Systems
Shared Transport
Dedicated Transport
Signaling Link Transport
Signaling Transfer Points
Service Control Points/Databases
Tandem Switching
911
Directory Assistance
Operational Support Systems[3]

2.7 *McLeod and U S WEST agree that the Network Elements identified in this Attachment are not all of the possible Network Elements.*

2.8 *McLeod may identify additional or revised Network Elements as necessary to provide Telecommunications Services to its subscribers, to improve network or service efficiencies or to accommodate changing technologies, customer demand, or other requirements.*

3. Standards for Network Elements

3.1 *Each Network Element shall be furnished at a performance level equal to the performance level that U S WEST provides itself as to*[4] *the requirements set forth in the technical references identified herein for each such Network Element, as well as any performance or other requirements, identified in this Attachment, subject to Sections 52.5.1 and 52.5.2 of Part A of this Agreement.*

3.2 *If one or more of the requirements set forth in this Agreement are in conflict, the Parties agree to resolve such conflict in accordance with Section 27, Dispute Resolution, of Part A of this Agreement.*

3.2.1 *U S WEST shall provide to McLeod, upon request, engineering, design, performance and other network data sufficient for McLeod to determine that the requirements of this Section 3 are being met. In the event that such data indicates that the requirements set forth herein are not being met, U S WEST shall, within ten (10) days, cure any design, performance or other deficiency and provide new data sufficient for McLeod to determine that such deficiencies have been cured.*

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[3] Pursuant to the Eighth Circuit Decision, the Parties agree to this addition.
[4] Pursuant to the Eighth Circuit Decision, the Parties have agreed to this modification.

3.2.2 *U S WEST agrees to work cooperatively with McLeod to provide Network Elements that will meet McLeod's needs in providing Telecommunications Services to its subscribers.*

Description of Unbundled Elements

4. Tandem Switching

U S WEST will provide a tandem switching element ("Tandem Switching") on an unbundled basis. The tandem switch element includes the facilities connecting the trunk to the distribution frames to the switch, and all the functions of the switch itself, including those facilities that establish a temporary transmission path between two other switches. The definition of the tandem switching element also includes the functions centralized in tandems rather than in separate end office switches, such as call recording, the routing of calls to Operator Services, and signaling conversion functions.

4.1 Definition:

Tandem Switching is the function that establishes a communications path between two switching offices through a third switching office (the tandem switch) including, but not limited to, those of McLeod, U S WEST, independent telephone companies (ICOs), IXCs and wireless carriers.

4.2 Technical Requirements

4.2.1 Tandem Switching provided by U S WEST to McLeod shall have the same capabilities or equivalent capabilities as those described in Bell Communications Research TR-TSY-000540 Issue 2R2, Tandem Supplement, June 1, 1990. The requirements for Tandem Switching include, but are not limited to, the following:

4.2.1.1 Tandem Switching shall provide signaling to establish a tandem connection;

4.2.1.2 When provided with Custom Routing, Tandem Switching shall provide screening (digit analysis) and routing as designated by McLeod.

4.2.1.3 Where technically feasible, U S WEST shall modify tandem switching for the recording of billable events to the extent necessary to accommodate interconnection and access to unbundled network elements.

4.2.1.4 [Intentionally left blank for numbering consistency.]

4.2.1.5 Tandem Switching shall provide connectivity to Operator Systems as designated by McLeod;

4.2.1.6 Tandem Switching shall provide access to toll free number portability database where McLeod sends such traffic to a tandem;

4.2.1.7 Tandem Switching shall allow the passing of all functions associated with traffic for all trunk interconnection discussed under the "Network Interconnection" section of this Agreement (e.g., SS7, MF, DTMF, Dial Pulse, PRI-ISDN, DID, and CAMA-ANI (if appropriate for 911));

4.2.1.8 Tandem Switching shall provide connectivity to PSAPs where 911 solutions are deployed and the tandem is used for 911; and

4.2.1.9 Tandem Switching shall provide connectivity to Transit Traffic to and from other carriers.

4.2.2 Tandem Switching shall accept connections (including the necessary signaling and trunking interconnections) between end offices, other tandems, IXCs, ICOs, CAPs and CLEC switches.

4.2.3 Tandem Switching shall provide local tandeming functionality between two (2) end offices including two (2) offices belonging to different CLECs (e.g., between an McLeod end office and the end office of another CLEC).

4.2.4 Tandem Switching shall preserve CLASS/LASS features and Caller ID as traffic is processed. Additional signaling information and requirements are provided in Section 15 of this Attachment.

4.2.5 Tandem Switching shall record billable events and send them to the area billing centers designated by McLeod. Billing requirements are specified in Attachment 5 of this Agreement.

4.2.6 U S WEST shall perform routine testing and fault isolation on the underlying switch providing Tandem Switching and all its interconnections. When requested by McLeod, the results and reports of the testing shall be made immediately available to McLeod.

4.2.7 When requested by McLeod, U S WEST shall provide to McLeod for review performance data regarding traffic characteristics or other measurable elements with respect to McLeod traffic.

4.2.8 Tandem Switching shall control congestion using capabilities such as Automatic Congestion Control and Network Routing Overflow. Congestion control provided or imposed on McLeod traffic shall be at parity with controls being provided or imposed on U S WEST traffic (e.g., U S WEST shall not block McLeod traffic and leave its own traffic unaffected or less affected).

4.2.9 Tandem Switching shall route calls to U S WEST or McLeod endpoints or platforms (e.g., Operator Services and PSAPs) on a per call basis as designated by McLeod. Detailed primary and overflow routing plans for all interfaces available within the U S WEST switching network shall be mutually agreed to by McLeod and U S WEST. Such plans shall meet McLeod requirements for routing calls through the local network.

4.2.10 Tandem Switching shall process originating toll free traffic received from an McLeod local switch.

4.2.11 In support of AIN triggers and features, Tandem Switching shall provide SSP capabilities when these capabilities are not available from the Local Switching Network Element.

4.2.12 The Local Switching and Tandem Switching functions may be combined in an office. If this is done, both Local Switching and Tandem Switching shall provide all of the functionality required of each of those Network Elements in this Agreement.

4.3 Interface Requirements

4.3.1 Tandem Switching shall provide interconnection to the E911 PSAP where the underlying Tandem is acting as the E911 Tandem.

4.3.2 Tandem Switching shall interconnect, with direct trunks, to all carriers with which U S WEST interconnects.

4.3.3 U S WEST shall provide all signaling necessary to provide Tandem Switching with no loss of feature functionality.

4.3.4 For applicable call types, Tandem Switching shall interconnect with McLeod's switch, using two-way trunks, for traffic that is transiting via the U S WEST network to interLATA or intraLATA carriers. At McLeod's request, Tandem Switching shall record and keep records of traffic for billing.

4.3.5 At McLeod's request, Tandem Switching shall provide overflow routing of traffic from a given trunk group or groups onto another trunk group or groups according to the methodology employed by U S WEST as designated by McLeod.

4.4 Tandem Switching shall meet or be at the performance level that U S WEST provides itself as to[5] each of the requirements for Tandem Switching set forth in the following technical references:

4.4.1 Bell Communications Research TR-TSY-000540 Issue 2R2, Tandem Supplement, June 1, 1990;

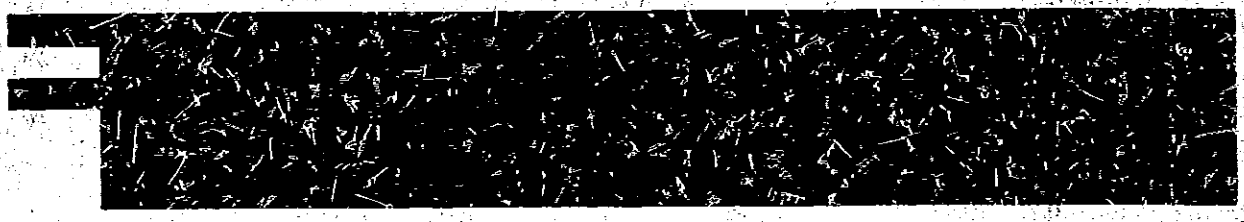
4.4.2 GR-905-CORE covering CCSNIS;

4.4.3 GR-1429-CORE for call management features; and

4.4.4 GR-2863-CORE and GR-2902-CORE for CCS AIN interconnection.

5. Shared Transport

5.1 U S WEST will provide unbundled access to U S WEST transmission facilities between end offices, end offices and the tandem switch, and the tandem switch and end offices for completing local calls. Such transmission facilities would be shared with U S WEST and as applicable with other CLECS. Transport routing shall be on an identical basis as routing is performed by U S WEST, providing the same efficiencies that U S WEST employs for itself. Shared transport shall meet the technical specifications as itemized below for Common Transport.



[5] Pursuant to the Eighth Circuit Decision, the Parties agree to this modification.

5.2 *Technical Requirements*

5.2.1 *U S WEST shall be responsible for the engineering, provisioning, and maintenance of the underlying equipment and facilities used to provide Shared Transport.*

5.2.2 *In accordance with Part A, Sections 52.5.1 and 52.5.2, of this Agreement, at a minimum, Shared Transport shall meet all of the requirements set forth in the following technical references (as applicable for the transport technology being used):*

5.2.3 *ANSI T1.101-1994, American National Standard for Telecommunications-Synchronization Interface Standard Performance and Availability;*

5.2.3.1 *ANSI T1.102-1993, American National Standard for Telecommunications - Digital Hierarchy - Electrical Interfaces;*

5.2.3.2 *ANSI T1.102.01-199x, American National Standard for Telecommunications - Digital Hierarchy - VT1.5;*

5.2.3.3 *ANSI T1.105-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Basic Description including Multiplex Structure, Rates and Formats;*

5.2.3.4 *ANSI T1.105.01-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) Automatic Protection Switching;*

5.2.3.5 *ANSI T1.105.02-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Payload Mappings;*

5.2.3.6 *ANSI T1.105.03-1994, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Jitter at Network Interfaces;*

5.2.3.7 *ANSI T1.105.03a-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET)-Jitter at Network Interfaces - DS-1 Supplement;*

5.2.3.8 *ANSI T1.105.05-1994, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Tandem Connection;*

5.2.3.9 *ANSI T1.105.06-199x, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Physical Layer Specifications;*

5.2.3.10 *ANSI T1.105.07-199x, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Sub STS-1 Interface Rates and Formats;*

5.2.3.11 *ANSI T1.105.09-199x, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Network Element Timing and Synchronization;*

5.2.3.12 *ANSI T1.106-1988, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (Single Mode);*

5.2.3.13 *ANSI T1.107-1988, American National Standard for Telecommunications - Digital Hierarchy - Formats Specifications;*

5.2.3.14 *ANSI T1.107a-1990, American National Standard for Telecommunications - Digital Hierarchy - Supplement to Formats Specifications (DS3 Format Applications);*

5.2.3.15 *ANSI T1.107b-1991, American National Standard for Telecommunications - Digital Hierarchy - Supplement to Formats Specifications;*

5.2.3.16 *ANSI T1.117-1991, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (SONET) (Single Mode - Short Reach);*

5.2.3.17 *ANSI T1.403-1989, Carrier to Subscriber Installation, DS-1 Metallic Interface Specification;*

5.2.3.18 *ANSI T1.404-1994, Network-to-Subscriber Installation - DS-3 Metallic Interface Specification;*

5.2.3.19 *ITU Recommendation G.707, Network node interface for the synchronous digital hierarchy (SDH);*

5.2.3.20 *ITU Recommendation G.704, Synchronous frame structures used at 1544, 6312, 2048, 8488 and 44736 kbit/s hierarchical levels;*

5.2.3.21 *Bellcore FR-440 and TR-NWT-000499, Transport Systems Generic Requirements (TSGR): Common Requirements;*

5.2.3.22 *Bellcore GR-820-CORE, Generic Transmission Surveillance: DS-1 & DS-3 Performance;*

5.2.3.23 *Bellcore GR-253-CORE, Synchronous Optical Network Systems (SONET); Common Generic Criteria;*

5.2.3.24 *Bellcore TR-NWT 000507, Transmission, Section 7, Issue 5 (Bellcore, December 1993) (A module of LSSGR, FR-NWT-000064.);*

5.2.3.25 *Bellcore TR-NWT-000776, Network Interface Description for ISDN Subscriber Access;*

5.2.3.26 *Bellcore TR-INS-000342, High-Capacity Digital Special Access Service-Transmission Parameter Limits and Interface Combinations, Issue 1, February 1991;*

5.2.3.27 *Bellcore ST-TEC-000052, Telecommunications Transmission Engineering Textbook, Volume 2: Facilities, Third Edition, Issue 1, May 1989;and*

5.2.3.28 *Bellcore ST-TEC-000051, Telecommunications Transmission Engineering Textbook Volume 1: Principles, Third Edition, Issue 1, August 198.*

6. *[Intentionally left blank for numbering consistency.]*

7. **Dedicated Transport**

7.1 Definition:

7.1.1 Dedicated Transport is a transmission path between any of the following: U S WEST's end offices, US WEST Serving Wire Centers, U S WEST tandem switches, McLeod meet points, McLeod switches or wire centers and interexchange carrier POPs.

7.1.2 U S WEST shall offer Dedicated Transport in each of the following manners:

7.1.2.1 as capacity on a shared facility;

7.1.2.2 as a circuit (e.g., DS-1, DS-3, STS-1) dedicated to McLeod;

7.1.2.3 provisioned on a system (i.e., the equipment and facilities used to provide Dedicated Transport such as SONET ring).

7.1.3 When Dedicated Transport is provided as a circuit or as capacity on a shared facility, it shall include, as appropriate:

7.1.3.1 multiplexing functionality;

7.1.3.2 grooming functionality; and,

7.1.3.3 redundant equipment and facilities necessary to support protection and restoration.

7.1.4 When Dedicated Transport is provided it shall include:

7.1.4.1 transmission equipment such as multiplexers, line terminating equipment, amplifiers, and regenerators;

7.1.4.2 inter-office transmission facilities such as optical fiber, copper twisted pair, and coaxial cable;

7.1.4.3 redundant equipment and facilities necessary to support protection and restoration; and

7.1.4.4 access to the Digital Cross-Connect System (DCS) functionality as an option in the same manner provided to IXCs that purchase transport services. DCS is described below in Section 7.5 of this Attachment.

7.2 Technical Requirements

This Section sets forth technical requirements for all Dedicated Transport.

7.2.1 When U S WEST provides Dedicated Transport (e.g., DS-1, DS-3, STS-N) such transport shall be McLeod designated traffic.

7.2.2 U S WEST shall offer Dedicated Transport using currently available technologies including, but not limited to, DS-1 and DS-3 transport systems, SONET Bi-directional Line Switched Rings, SONET Unidirectional Path Switched Rings, and SONET point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates.

7.2.3 When requested by McLeod, Dedicated Transport shall provide physical diversity. Physical diversity means that two (2) circuits are provisioned in such a way that no single failure of facilities or equipment will cause a failure on both circuits.

7.2.4 When physical diversity is requested by McLeod, U S WEST shall provide the maximum feasible physical separation between transmission paths for all facilities and equipment (unless otherwise agreed to by McLeod).

7.2.5 Upon McLeod's written request and where technically feasible and available in the U S WEST network, U S WEST shall provide real time and continuous remote access to performance monitoring and alarm data affecting, or potentially affecting, McLeod's traffic.

7.2.6 U S WEST shall offer the following interface transmission rates for Dedicated Transport:

7.2.6.1 DS-1 (Extended SuperFrame - ESF/B8ZS, D4, and unframed applications shall be provided, except for those local/EAS tandems as designated by U S WEST);

7.2.6.2 DS-3 (C-bit Parity, M13, and unframed applications shall be provided);

7.2.6.3 SONET standard interface rates in accordance with ANSI T1.105 and ANSI T1.105.07 and physical interfaces per ANSI T1.106.06 (including referenced interfaces). In particular, VT1.5 based STS-1s will be the interface at an McLeod service node; and

7.2.6.4 where available, SONET standard interface rates in accordance with International Telecommunications Union ("ITU") Recommendation G.707 and Plesiochronous Digital Hierarchy ("PDH") rates per ITU Recommendation G.704.

7.2.7.1 DSX1 or DCS for DS-1s or VT1.5s;

7.2.7.2 DSX3 or DCS for DS-3s or STS-1s; and

7.2.7.3 Light guide cross-connect for optical signals (e.g., OC-3 and OC-12).

7.2.8 For Dedicated Transport U S WEST shall design such transport (including, but not limited to, facility routing and termination points) according to McLeod specifications.

7.2.9 Upon McLeod's request and where available, U S WEST shall provide McLeod with electronic provisioning control, of McLeod specified Dedicated Transport via Command-A-Link or equivalent interface in the same manner as is provided to interexchange carriers.

7.2.10 U S WEST shall offer Dedicated Transport together with and separately from DCS.

7.3 Technical Requirements for Dedicated Transport Using SONET Technology.

This Section sets forth additional technical requirements for Dedicated Transport using SONET technology including rings, point-to-point systems, and linear add-drop systems.

7.3.1 All SONET Dedicated Transport provided as a system shall:

7.3.1.1 be synchronized with a primary Stratum 1 level timing source;

7.3.1.2 where technically feasible, provide SONET standard interfaces as available in the U S WEST network and consistent with generally accepted industry standards which properly interwork with SONET standard equipment from other vendors, including, but not limited to, SONET standard section, line and path performance monitoring, maintenance signals, alarms, and data channels;

7.3.1.3 provide Data Communications Channel ("DCC") or equivalent connectivity through the SONET transport system. Dedicated Transport provided over a SONET transport system shall be capable of routing DCC messages between McLeod and SONET network components connected to the Dedicated Transport. For example, if McLeod leases a SONET ring from U S WEST, that ring shall support DCC message routing between McLeod and SONET network components connected to the ring; and

7.3.1.4 support the following performance requirements for each circuit (STS-1, DS-1, DS-3, etc.):

7.3.1.4.1 no more than ten (10) Errored Seconds Per Day (Errored Seconds are defined in the technical reference at Section 7.4.5); and

7.3.1.4.2 no more than one (1) Severely Errored Second Per Day (Severely Errored Seconds are defined in the technical reference at Section 7.4.5).

7.3.2 SONET rings shall:

7.3.2.1 be provisioned on physically diverse fiber optic cables (including separate building entrances where available). "Diversely routed" shall be interpreted

as the maximum feasible physical separation between transmission paths, unless otherwise agreed to by McLeod;

7.3.2.2 support dual ring interworking per SONET Standards where available in the U S WEST network;

7.3.2.3 provide the necessary redundancy in optics, electronics, and transmission paths such that no single failure will cause a service interruption;

7.3.2.4 where available, provide the ability to disable ring protection switching at McLeod's direction (selective protection lock-out). This requirement applies to line switched rings only;

7.3.2.5 where available, provide the ability to use the protection channels to carry extra traffic. This requirement applies to line switched rings only;

7.3.2.6 provide 50 millisecond restoration as defined in SONET standards;

7.3.2.7 where available, have settable ring protection switching thresholds that shall be set in accordance with McLeod's specifications;

7.3.2.8 where available, provide revertive protection switching with a settable wait to restore delay with a default setting of five (5) minutes. This requirement applies to line switched rings only;

7.3.2.9 provide non-revertive protection switching. This requirement applies to path switched rings only; and

7.3.2.10 adhere to the following availability requirements, where availability is defined in the technical reference set forth in Section 7.4.5:

7.3.2.10.1 no more than 0.25 minutes of unavailability per month; and

7.3.2.10.2 no more than 0.5 minutes of unavailability per year.

7.4 In accordance with Sections 52.5.1 and 52.5.2 of Part A of this Agreement, at a minimum, Dedicated Transport shall meet each of the requirements set forth in Section 7.2.3 of this Attachment and in the following technical references:

7.4.1 ANSI T1.105.04-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Data Communication Channel Protocols and Architectures;

7.4.2 ANSI T1.119-1994, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Operations, Administration, Maintenance, and Provisioning (OAM&P) Communications;

7.4.3 ANSI T1.119.01-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) Operations, Administration, Maintenance, and Provisioning (OAM&P) Communications Protection Switching Fragment;

7.4.4 ANSI T1.119.02-1998, American National Standard for Telecommunications - Synchronous Optical Network (SONET) Operations, Administration, Maintenance,

and Provisioning (OAM&P) Communications Performance Monitoring Fragment; and

7.4.5 ANSI T1.231-1993 -American National Standard for Telecommunications - Digital Hierarchy - Layer 1 In-Service Digital Transmission Performance Monitoring.

7.5 Digital Cross-Connect System (DCS)

7.5.1 Definition

7.5.1.1 Digital Cross-Connect System ("DCS") is a function which provides automated cross connection of Digital Signal level 0 (DS-0) or higher transmission bit rate digital channels within physical interface facilities. Types of DCSs include but are not limited to DCS 1/0s, DCS 3/1s, and DCS 3/3s, where the nomenclature 1/0 denotes interfaces typically at the DS-1 rate or greater with cross-connection typically at the DS-0 rate. This same nomenclature, at the appropriate rate substitution, extends to the other types of DCSs specifically cited as 3/1 and 3/3. Types of DCSs that cross-connect Synchronous Transport Signal level 1 (STS-1) or other Synchronous Optical Network ("SONET") signals (e.g., STS-3) are also DCSs, although not denoted by this same type of nomenclature. DCS may provide the functionality of more than one of the aforementioned DCS types (e.g., DCS 3/3/1 which combines functionality of DCS 3/3 and DCS 3/1). For such DCSs, the requirements will be, at least, the aggregation of requirements on the "component" DCSs.

7.5.1.2 In locations where automated cross connection capability does not exist, a Digital Signal Cross-Connect ("DSX") or light guide cross-connect patch panels and D4 channel banks or other DS-0 and above multiplexing equipment used to provide the function of a manual cross connection will be made available.

7.5.1.3 Interconnection between a DSX or light guide cross-connect, to a switch, another cross-connect, or other service platform device, is included as part of DCS.

7.6 DCS Technical Requirements

7.6.1 DCS shall provide completed end-to-end cross connection of the channels designated by McLeod.

7.6.2 DCS shall perform facility grooming, multipoint bridging, one-way broadcast, two-way broadcast, and facility test functions, where such technology is available.[6]

7.6.3 DCS shall provide multiplexing, format conversion, signaling conversion, or other functions, where such technology is available.[7]

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[6] Pursuant to the Eighth Circuit Decision, the Parties agree to the deletion of the following: "technically feasible"

[7] Pursuant to the Eighth Circuit Decision, the Parties agree to the deletion of the following: "technically feasible".

7.6.4 *The end-to-end cross connection shall be input to the underlying device used to provide DCS from an operator at a terminal or via an intermediate system. The cross connection assignment shall remain in effect whether or not the circuit is in use.*

7.6.5 *U S WEST shall administer and maintain DCS.*

7.6.6 *Where available, U S WEST shall provide various types of DCS, including:*

7.6.6.1 *DS-0 cross-connects (typically termed DCS 1/0);*

7.6.6.2 *DS1/VT1.5 (Virtual Tributaries at the 1.5Mbps rate) cross-connects (typically termed DCS 3/1);*

7.6.6.3 *DS-3 cross-connects (typically termed DCS 3/3);*

7.6.6.4 *STS-1 cross-connects; and*

7.6.6.5 *other technically feasible cross-connects designated by McLeod.*

7.6.7 *U S WEST shall provide immediate and continuous configuration and reconfiguration of the channels between the phyuical interfaces (i.e., U S WEST shall establish the processes to implement cross connects on demand) where available based on engineering forecasts.*

7.6.8 *U S WEST shall provide scheduled configuration and reconfiguration of the McLeod channels between the physical interfaces (i.e., U S WEST shall establish the processes to implement McLeod cross connects on the schedule designated by McLeod) or, at McLeod's option, permit McLeod to control such configurations and reconfigurations where available based on engineering forecasts.*

7.6.9 *DCS shall continuously monitor protected circuit packs and redundant common equipment.*

7.6.10 *DCS shall automatically switch to a protection circuit pack on detection of a failure or degradation of normal operation.*

7.6.11 *DCS equipment shall be equipped with a redundant power supply or a battery back-up.*

7.6.12 *U S WEST shall have available and utilize spare maintenance facilities and equipment necessary for provisioning repairs.*

7.6.13 *At McLeod's option, U S WEST shall provide, where available, McLeod with real time performance monitoring and alarm data on the signals and the components of the underlying equipment used to provide DCS that actually impact or might impact McLeod's services. For example, this may include hardware alarm data and facility alarm data on a DS-3 in which an McLeod DS-1 is traversing.*

7.6.14 *At McLeod's option, U S WEST shall provide McLeod with real time ability to initiate tests on integrated equipment used to test the signals and the underlying equipment used to provide DCS, as well as other integrated functionality for routine testing and fault isolation where available.*

7.6.15 *Where available, DCS shall provide SONET to asynchronous gateway functionality (e.g., STS-1 to DS-1 or STS-1 to DS-3).*

7.6.16 *Where available, DCS shall perform optical to electrical conversion where the underlying equipment used to provide DCS contains optical interfaces or terminations (e.g., Optical Carrier level 3, i.e., OC-3, interfaces on a DCS 3/1).*

7.6.17 *Where available, DCS shall have SONET ring terminal functionality where the underlying equipment used to provide DCS acts as a terminal on a SONET ring.*

7.6.18 *DCS shall provide multipoint bridging of multiple channels to other DCSs. McLeod may designate multipoint bridging to be one-way broadcast from a single master to multiple tributaries, or two-way broadcast between a single master and multiple tributaries.*

7.6.19 *DCS shall multiplex lower speed channels onto a higher speed interface and demultiplex higher speed channels onto lower speed interfaces as designated by McLeod.*

7.7 *DCS Interface Requirements*

7.7.1 *U S WEST shall provide physical interfaces on DS-0, DS-1, and VT1.5 channel cross-connect devices at the DS-1 rate or higher. In all such cases, these interfaces shall be in compliance with applicable Bellcore, ANSI, and ITU[8] standards.*

7.7.2 *U S WEST shall provide physical interfaces on DS-3 channel cross-connect devices at the DS-3 rate or higher. In all such cases, these interfaces shall be in compliance with applicable Bellcore, ANSI, and ITU[9] standards.*

7.7.3 *U S WEST shall provide physical interfaces on STS-1 cross-connect devices at the OC-3 rate or higher. In all such cases, these interfaces shall in compliance with applicable Bellcore, ANSI, ITU[10] standards.*

7.7.4 *Interfaces on all other cross-connect devices shall be in compliance with applicable Bellcore, ANSI, and ITU[11] standards.*

7.8 *In accordance with Sections 52.5.1 and 52.5.2 of Part A of this Agreement, DCS shall, at a minimum, meet all the requirements set forth in the following technical references:*

7.8.1 *ANSI T1.102-1993, American National Standard for Telecommunications - Digital Hierarchy - Electrical Interfaces;*

7.8.2 *ANSI T1.102.01-199x, American National Standard for Telecommunications - Digital Hierarchy - VT1.5;*

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[8] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "and AT&T".
[9] Pursuant to the Eighth Circuit decision, the Parties agree to delete the following: "and AT&T".
[10] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "and AT&T".
[11] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "and AT&T".

7.8.3 ANSI T1.105-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Basic Description including Multiplex Structure, Rates and Formats;

7.8.4 ANSI T1.105.03-1994, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Jitter at Network Interfaces;

7.8.5 ANSI T1.105.03a-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET): Jitter at Network Interfaces - DS-1 Supplement;

7.8.6 ANSI T1.105.06-199x, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Physical Layer Specifications;

7.8.7 ANSI T1.106-1988, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (Single Mode);

7.8.8 ANSI T1.107-1988, American National Standard for Telecommunications - Digital Hierarchy - Formats Specifications;

7.8.9 ANSI T1.107a-1990, American National Standard for Telecommunications - Digital Hierarchy - Supplement to Formats Specifications (DS-3 Format Applications);

7.8.10 ANSI T1.107b-1991, American National Standard for Telecommunications - Digital Hierarchy - Supplement to Formats Specifications;

7.8.11 ANSI T1.117-1991, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (SONET) (Single Mode - Short Reach);

7.8.12 ANSI T1.403-1989, Carrier to Subscriber Installation, DS-1 Metallic Interface Specification;

7.8.13 ANSI T1.404-1994, Network-to-Subscriber Installation - DS-3 Metallic Interface Specification;

7.8.14 ITU Recommendation G.707, Network node interface for the synchronous digital hierarchy (SDH);

7.8.15 ITU Recommendation G.704, Synchronous frame structures used at 1544, 6312, 2048, 8488 and 44736 kbit/s hierarchical levels;

7.8.16 FR-440 and TR-NWT-000499, Transport Systems Generic Requirements (TSGR): Common Requirements;

7.8.17 GR-820-CORE, Generic Transmission Surveillance: DS1 & DS3 Performance;

7.8.18 GR-253-CORE, Synchronous Optical Network Systems (SONET); Common Generic Criteria; and

7.8.19 TR-NWT-000776, Network Interface Description for ISDN Subscriber Access.

8. Loop

8.1 Definition

8.1.1 A Loop is a transmission facility between a distribution frame, or its equivalent, in a U S WEST central office or wire center, and the Network Interface Device (as defined herein) or network interface at a subscriber's premises, to which McLeod is granted exclusive use. This includes, but is not limited to, two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide ISDN, ADSL, HDSL, and DS-1 level signals.. A Loop may be composed of the following components:

Loop Concentrator / Multiplexer
Loop Feeder
Network Interface Device (NID)
Distribution

8.1.1.1 McLeod may purchase Loop and NID on an unbundled basis. McLeod shall use the Bona Fide Request Process set forth in Part A of this Agreement to request unbundling of Loop Concentrator/Multiplexer, Loop Feeder and Distribution.

8.1.2 If U S WEST uses Integrated Digital Loop Carrier ("IDLCs") systems to provide the local Loop, U S WEST will make alternate arrangements, equal in quality, to permit McLeod to order a contiguous unbundled local loop. These arrangements may, at U S WEST's option, include the following: providing McLeod with copper facilities or universal IDLC that meet established technical parameters, deploying Virtual Remote Terminals, allowing McLeod to purchase the entire Integrated DLC, or converting Integrated IDLCs to non-integrated systems.

8.1.3 U S WEST shall provide the BRI U interface using 2-wire copper loops in accordance with TR-NWT-000393, January 1991, Generic Requirements for ISDN Basic Access Digital Subscriber Lines.

8.2 Technical Requirements

Subdivided to each component as detailed below.

8.3 Interface Requirements

Subdivided to each component as detailed below.

8.4 Loop Components

8.4.1 Loop Concentrator/Multiplexer

8.4.1.1 Definition:

8.4.1.1.1 The Loop Concentrator/Multiplexer is the Network Element that: (a) aggregates lower bit rate or bandwidth signals to higher bit rate or bandwidth signals (multiplexing); (b) disaggregates higher bit rate or bandwidth signals to lower bit rate or bandwidth signals (demultiplexing); (c) aggregates a specified number of signals or channels to fewer channels (concentrating); (d) performs signal conversion, including encoding of signals (e.g.,

analog to digital and digital to analog signal conversion); and (e) in some instances performs electrical to optical (E/O) conversion.

8.4.1.1.2 The Loop Concentrator/Multiplexer function may be provided through a Digital Loop Carrier (DLC) system, channel bank, multiplexer or other equipment at which traffic is encoded and decoded, multiplexed and demultiplexed, or concentrated.

8.4.1.2 Technical Requirements

8.4.1.2.1 The Loop Concentrator/Multiplexer shall be capable of performing its functions on the signals for the following services, as needed by McLeod to provide end-to-end service capability to its subscriber, including, but not limited to:

8.4.1.2.1.1 two-wire & four-wire analog voice grade loops;

8.4.1.2.1.2 two-wire & four-wire loops conditioned to transmit the digital signals needed to provide digital services;

8.4.1.2.1.3 4-wire digital data (2.4Kbps through 64Kbps and "n" times 64Kbps (where n < 24);

8.4.1.2.1.4 DS 3 rate private lines where available; and

8.4.1.2.1.5 Optical SONET rate private lines where available.

8.4.1.2.2 The Loop Concentrator/Multiplexer shall perform the following functions as appropriate:

8.4.1.2.2.1 analog to digital signal conversion of both incoming and outgoing (upstream and downstream) analog signals;

8.4.1.2.2.2 multiplexing of the individual digital signals up to higher transmission bit rate signals (e.g., DS-0, DS-1, DS-3, or optical SONET rates) for transport to the U S WEST central office through the Loop Feeder; and

8.4.1.2.2.3 concentration of end-user subscriber signals onto fewer channels of a Loop Feeder (when available the concentration ratio shall be as specified from time to time by McLeod.)

8.4.1.2.2.4 Concentration ratios shall not impair analog or digital performance.

8.4.1.2.3 McLeod may request U S WEST to provide power for the Loop Concentrator /Multiplexer through a non-interruptible source, if the function is performed in a central office, or from a commercial AC power source with battery backup, if the equipment is located outside a central office. Such power shall also adhere to the requirements stated herein.

8.4.1.2.4 In accordance with Sections 52.5.1 and 52.5.2 of Part A of this Agreement, the Loop Concentrator/Multiplexer shall be provided to McLeod in accordance with the following Technical References:

8.4.1.2.4.1 Bellcore TR-NWT-000057, Functional Criteria for Digital Loop Carrier Systems, Issue 2, January 1993;

8.4.1.2.4.2 Bellcore TR-NWT-000393, Generic Requirements for ISDN Basic Access Digital Subscriber Lines;

8.4.1.2.4.3 T1.106 - 1988, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (Single Mode);

8.4.1.2.4.4 ANSI T1.105-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Basic Description including Multiplex Structure, Rates and Formats;

8.4.1.2.4.5 ANSI T1.102-1993, American National Standard for Telecommunications - Digital Hierarchy - Electrical Interfaces;

8.4.1.2.4.6 ANSI T1.403-1989, American National Standard for Telecommunications - Carrier to Subscriber Installation, DS-1 Metallic Interface Specification;

8.4.1.2.4.7 Bellcore GR-253-CORE, Synchronous Optical Network Systems (SONET), Common Generic Criteria;

8.4.1.2.4.8 Bellcore TR-TSY-000008, Digital Interface Between the SLC 96 Digital Loop Carrier System and a Local Digital Switch, Issue 2, August 1987;

8.4.1.2.4.9 Bellcore TR-NWT-000303, Integrated Digital Loop Carrier System Generic Requirements, Objectives and Interface, Issue 2, December 1992; Rev. 1, December 1993; Supplement 1, December 1993;

8.4.1.2.4.10 Bellcore TR-TSY-000673, Operations Systems Interface for an IDLC System, (LSSGR) FSD 20-02-2100, Issue 1, September 1989; and

8.4.1.2.4.11 Bellcore Integrated Digital Loop Carrier System Generic Requirements, Objectives and Interface, GR-303-CORE, Issue 1, September 1995.

8.4.1.3 Requirements for an Intelligent Loop Concentrator/ Multiplexer:

8.4.1.3.1 In addition to the basic functions described above for the Loop Concentrator/Multiplexer, the Intelligent Loop Concentrator/Multiplexer ("IC/M") shall provide facility grooming, facility test functions, format conversion and signaling conversion, as appropriate.

8.4.1.3.2 The underlying equipment that provides such IC/M function shall continuously monitor protected circuit packs and redundant common equipment.

8.4.1.3.3 The underlying equipment that provides such IC/M function shall automatically switch to a protection circuit pack on detection of a failure or degradation of normal operation.

8.4.1.3.4 The underlying equipment that provides such IC/M function shall be equipped with a redundant power supply or a battery back-up.

8.4.1.3.5 McLeod may request U S WEST to provide McLeod with real time performance monitoring and alarm data on IC/M elements that may affect McLeod's traffic. This includes IC/M hardware alarm data and facility alarm data on the underlying device that provides such IC/M function.

8.4.1.3.6 McLeod may request U S WEST to provide McLeod with real time ability to initiate tests on the underlying device that provides such IC/M function integrated test equipment as well as other integrated functionality for routine testing and fault isolation.

8.4.1.4 Interface Requirements

8.4.1.4.1 The Loop Concentrator/Multiplexer shall meet the following interface requirements, as appropriate for the configuration that McLeod designates:

8.4.1.4.2 The Loop Concentrator/Multiplexer shall provide an analog voice frequency copper twisted pair interface at the serving wire center.

8.4.1.4.3 The Loop Concentrator/Multiplexer shall provide digital 4-wire electrical interfaces at the serving wire center.

8.4.1.4.4 The Loop Concentrator/Multiplexer shall provide optical SONET interfaces at rates of O1.C-3, OC-12, OC-48, and OC-N.

8.4.1.4.5 The Loop Concentrator/Multiplexer shall provide the Bellcore TR-303 DS 1 level interface at the serving wire center. Loop Concentrator/ Multiplexer shall provide Bellcore TR-08 modes 1&2 DS1 interfaces when designated by McLeod.

8.4.1.4.6 The Intelligent Loop Concentrator/Multiplexer shall be provided to McLeod in accordance with the Technical References set forth in Sections 8.4.1.2.4.8 through 8.4.1.2.4.11 above.

8.4.2 Loop Feeder

8.4.2.1 Definition:

8.4.2.1.1 The Loop Feeder is the Network Element that provides connectivity between (a) a Feeder Distribution Interface (FDI) associated with Loop Distribution and a termination point appropriate for the media in a central office, or (b) a Loop Concentrator/Multiplexer provided in a remote terminal and a termination point appropriate for the media in a central office.

8.4.2.1.2 Pursuant to a Bona Fide Request for unbundled feeder or distribution, U S WEST shall provide McLeod physical access to the FDI and the right to connect the Loop Feeder to the FDI.

8.4.2.1.3 Upon request from McLeod regarding a specific area, U S WEST shall provide information on Feeder Distribution Interface (FDI) within a reasonable time. If such information is available as part of U S WEST's operations support system, it must be made available to McLeod on the same terms and conditions as it is available to U S WEST.

8.4.2.1.4 The physical medium of the Loop Feeder may be copper twisted pair, or single or multi-mode fiber or other existing technologies To the extent U S WEST agrees to provide facilities that differ from the existing, the imposition of special construction charges shall be applied as specified in Attachment 1.[12]

8.4.2.2 Requirements for Loop Feeder

8.4.2.2.1 The Loop Feeder shall be capable of transmitting analog voice frequency, basic rate ISDN, digital data, or, where available in the network, analog radio frequency signals, as appropriate.

8.4.2.2.2 U S WEST shall provide appropriate power for all active elements in the Loop Feeder. U S WEST will provide appropriate power from a central office source, or from a commercial AC source with rectifiers for AC to DC conversion and 8-hour battery back-up when the equipment is located in an outside plant Remote Terminal ("RT").

8.4.2.3 Additional Requirements for Special Copper Loop Feeder Medium

In addition to requirements set forth in the above, McLeod may require U S WEST to provide copper twisted pair Loop Feeder unfettered by any intervening equipment (e.g., filters, load coils, and range extenders), so that McLeod can use these Loop Feeders for a variety of services by attaching appropriate terminal equipment at the ends.

8.4.2.4 Additional Technical Requirements for DS-1 Conditioned Loop Feeder

In addition to the requirements set forth in the above, McLeod may designate that the Loop Feeder be conditioned to transport a DS-1 signal. The

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[12] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

requirements for such transport are defined in the references below in Section 8.4.2.6.

8.4.2.5 Additional Technical Requirements for Optical Loop Feeder

In addition to the requirements set forth in the above, McLeod may designate that Loop Feeder will transport DS-3 and OC-n (where "n" is defined in the technical reference in Section 8.4.1.2.4.4). The requirements for such transport are defined in the references below in Section 8.4.2.6.

8.4.2.6 In accordance with Sections 52.5.1 and 52.5.2 of Part A of this Agreement, U S WEST shall offer Loop Feeder in compliance with the requirements set forth in the following Technical References:

8.4.2.6.1 Bellcore Technical Requirement TR-NWT-000499, Issue 5, December 1993, section 7 for DS-1 interfaces;

8.4.2.6.2 Bellcore TR-NWT-000057, Functional Criteria for Digital Loop Carrier Systems, Issue 2, January 1993;

8.4.2.6.3 Bellcore TR-NWT-000393, Generic Requirements for ISDN Basic Access Digital Subscriber Lines;

8.4.2.6.4 ANSI T1.106-1988, American National Standard for Telecommunications - Digital Hierarchy - Optical Interface Specifications (Single Mode);

8.4.2.6.5 ANSI T1.105-1995, American National Standard for Telecommunications - Synchronous Optical Network (SONET) - Basic Description including Multiplex Structure, Rates and Formats;

8.4.2.6.6 ANSI T1.102-1993, American National Standard for Telecommunications - Digital Hierarchy - Electrical Interfaces;

8.4.2.6.7 ANSI T1.403-1989, American National Standard for Telecommunications - Carrier to Subscriber Installation, DS-1 Metallic Interface Specification; and

8.4.2.6.8 Bellcore GR-253-CORE, Synchronous Optical Network Systems (SONET), Common Generic Criteria.

8.4.2.7 Interface Requirements

8.4.2.7.1 The Loop Feeder point of termination ("POT") within a U S WEST central office will be as follows:

8.4.2.7.1.1 Copper twisted pairs shall terminate on the MDF;

8.4.2.7.1.2 DS-1 Loop Feeder shall terminate on a DSX1, DCS1/0 or DCS3/1; and

8.4.2.7.1.3 Fiber Optic cable shall terminate on a light guide termination panel or equivalent.

8.4.2.7.2 In accordance with Sections 52.5.1 and 52.5.2 of Part A of this Agreement, Loop Feeder shall be equal to or at the same level as U S WEST provides to itself[13] for each of the applicable interface requirements set forth in the following technical references:

8.4.2.7.2.1 Bellcore TR-TSY-000008, Digital Interface Between the SLC 96 Digital Loop Carrier System and a Local Digital Switch, Issue 2, August 1987;

8.4.2.7.2.2 Bellcore TR-NWT-000303, Integrated Digital Loop Carrier System Generic Requirements, Objectives and Interface, Issue 2, December 1992; Rev. 1, December 1993; Supplement 1, December 1993; and

8.4.2.7.2.3 Bellcore Integrated Digital Loop Carrier System Generic Requirements, Objectives and Interface, GR-303-CORE, Issue 1, September 1995.

9. Distribution

9.1 Definition:

9.1.1 Distribution provides connectivity between the NID component of Loop Distribution and the terminal block on the subscriber-side of an FDI. The FDI is a device that terminates the Distribution Media and the Loop Feeder, and cross-connects them in order to provide a continuous transmission path between the NID and a telephone company central office. There are three (3) basic types of feeder-distribution connections: (a) multiple (splicing of multiple distribution pairs onto one (1) feeder pair); (b) dedicated ("home run"); and (c) interfaced ("cross-connected"). While older plant uses multiple and dedicated methods, newer plant and all plant that uses DLC or other pair-gain technology necessarily uses the interfaced connection method. The feeder-distribution interface ("FDI") in the interfaced design makes use of a manual cross-connection, typically housed inside an outside plant device ("green box") or in a vault or manhole.

9.1.2 The Distribution may be copper twisted pair, coax cable, single or multi-mode fiber optic cable or other technologies. A combination that includes two (2) or more of these media is also possible. In certain cases, McLeod may request a copper twisted pair Distribution even in instances where the Distribution for services that U S WEST offers is other than a copper facility. To the extent U S WEST agrees to provide additional facilities, special construction charges and development costs will apply in accordance with the Construction section of Attachment 1.

9.2 Requirements for All Distribution

9.2.1 Distribution shall be capable of transmitting signals for the following services, as requested by McLeod:

9.2.1.1 two-wire & four-wire analog voice grade loops; and

[13] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

9.2.1.2 *two-wire & four-wire loops conditioned to transmit the digital signals needed to provide digital services.*

9.2.2 *Distribution shall transmit all signaling messages or tones. Where the Distribution includes any active elements that terminate any of the signaling messages or tones, these messages or tones shall be reproduced by the Distribution at the interfaces to an adjacent Network Element in a format that maintains the integrity of the signaling messages or tones. U S WEST shall not interfere with McLeod's ability to support functions associated with provisioning, maintenance, performance monitoring and testing of unbundled distribution.*

9.2.3 *U S WEST shall not interfere with McLeod's ability to support functions associated with provisioning, maintenance, performance monitoring and testing of the unbundled Distribution.*

9.2.4 *Distribution shall be equal to or at the same level as U S WEST provides to itself[14] for all of the applicable requirements set forth in the following technical references:*

9.2.4.1 *Bellcore TR-TSY-000057, "Functional Criteria for Digital Loop Carrier Systems"; and*

9.2.4.2 *Bellcore TR-NWT-000393, "Generic Requirements for ISDN Basic Access Digital Subscriber Lines."*

9.3 *Additional Requirements for Special Copper Distribution*

In addition to Distribution that supports the requirements set forth in Section 9.2. above, McLeod may designate Distribution to be copper twisted pair unfettered by any intervening equipment (e.g., filters, load coils, range extenders) so that McLeod can use these loops for a variety of services by attaching appropriate terminal equipment at the ends.

9.4 *Additional Requirements for Fiber Distribution*

Fiber optic cable Distribution shall be capable of transmitting signals for the following services in addition to the those set forth in Section 9.2.1 above:

9.4.1 *DS-3 rate private line service;*

9.4.2 *Optical SONET OC-n rate private lines (where "n" is defined in the technical reference in Section 9.4.1.2.4.4); and*

9.4.3 *Where available in the U S WEST network, Analog Radio Frequency based services (e.g., Cable Television (CATV)).*

9.5 *Additional Requirements for Coaxial Cable Distribution*

Where available in the U S WEST network, Coaxial Cable (coax) Distribution shall be capable of transmitting signals for the following services in addition to those set forth in Section 9.2.1 above:

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[14] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

9.5.1 Broadband data, either one way or bi-directional, symmetric or asymmetric, at rates between 1.5 Mb/s and 45 Mb/s; and

9.5.2 Analog Radio Frequency based services (e.g., CATV).

9.6 Interface Requirements

9.6.1 Signal transfers between the Distribution and the NID and an adjacent Network Element shall have levels of degradation that are within the performance requirements set forth in Section 18.2 of this Attachment.

9.6.2 Distribution shall be equal to or at the same level as U S WEST provides to itself[15] as to each of the applicable interface requirements set forth in the following technical references:

9.6.2.1 Bellcore TR-NWT-000049, "Generic Requirements for Outdoor Telephone Network Interface Devices" issued December 1, 1994;

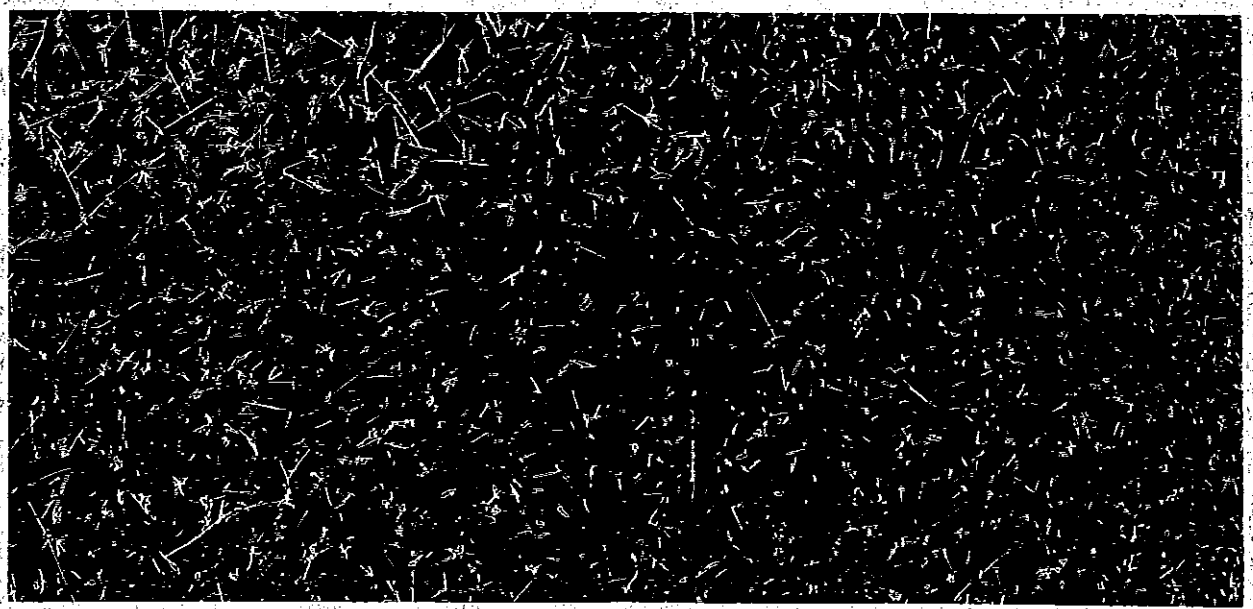
9.6.2.2 Bellcore TR-NWT-000057, "Functional Criteria for Digital Loop Carrier Systems", issued January 2, 1993;

9.6.2.3 Bellcore TR-NWT-000393, "Generic Requirements for ISDN Basic Access Digital Subscriber Lines"; and

9.6.2.4 Bellcore TR-NWT-000253, SONET Transport Systems: Common Criteria (A module of TSGR, FR-NWT-000440), Issue 2, December 1991.

10. Local Switching

10.1 Definition:



[15] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.
[16] Per First Order at page 11, Paragraph 78.

10.1.2 Local Switching, including the ability to route to McLeod's transport facilities shall be unbundled from all other unbundled Network Elements.

10.2 Technical Requirements

10.2.1 Local Switching shall be equal to or at the same level as U S WEST provides to itself as to[17] the requirements for Local Switching set forth in Bellcore's Local Switching Systems General Requirements FR-NWT-000064.

10.2.1.1 U S WEST shall route calls to the appropriate trunk or lines for call origination or termination.

10.2.1.2 U S WEST shall route calls on a per line or per screening class basis to (a) U S WEST platforms providing Network Elements or additional requirements, (b) McLeod designated platforms, or (c) third-party platforms.

10.2.1.3 U S WEST shall provide to McLeod recorded announcements as furnished by McLeod and call progress tones to alert callers of call progress and disposition. The installation cost shall be borne by McLeod for such announcements and call progress tones to the extent they are different than those standardly used by U S WEST.

10.2.1.4 U S WEST shall change a subscriber from U S WEST's services to McLeod's services without loss of feature functionality, unless designated otherwise by McLeod.

10.2.1.5 U S WEST shall perform routine testing (e.g., Mechanized Loop Tests ("MLT") and test calls such as 105, 107 and 108 type calls) and fault isolation on McLeod's unbundled Network Elements as designated by McLeod.

10.2.1.6 U S WEST shall repair and restore any equipment or any other maintainable component that may adversely impact McLeod's use of unbundled Local Switching.

10.2.1.7 U S WEST shall control congestion points such as mass calling events and network routing abnormalities using capabilities such as Automatic Call Gapping, Automatic Congestion Control, and Network Routing Overflow. Application of such control shall be competitively neutral and not favor any user of unbundled switching or U S WEST.

10.2.1.8 U S WEST shall perform manual call trace as designated by McLeod and shall permit subscriber originated call trace.

10.2.1.9 U S WEST shall record all billable events, involving usage of the Network Element, and send the appropriate recording data to McLeod as further described in Attachment 5.

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[17] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

10.2.1.10 For Local Switching used as E911 tandems, U S WEST shall allow interconnection with McLeod switches in that same local switch used as a E911 tandem and shall route calls to the appropriate Public Safety Access Point ("PSAP"). In the event the Local Switching element and the E911 tandem are contained within the same U S WEST switch, such trunking shall be provided on an intra-switch basis.

10.2.1.11 Where U S WEST provides the following special services, it shall provide to McLeod:

10.2.1.11.1 essential Service Lines;

10.2.1.11.2 Telephone Service Prioritization ("TSP");

10.2.1.11.3 related services for handicapped;

10.2.1.11.4 Where U S WEST provides soft dial tone, it shall do so on a competitively neutral basis; and

10.2.1.11.5 any other service required by law or regulation.

10.2.1.12 U S WEST shall provide Switching Service Point ("SSP") capabilities and signaling software to interconnect the signaling links destined to the Signaling Transfer Point Switch ("STPs"). In the event Local Switching is provided out of a switch without SS7 capability, the Tandem shall provide this capability as further described in Section 4 of this Attachment on Tandem Switching. These capabilities shall adhere to Bellcore specifications TCAP (GR-1432-CORE), ISUP (GR-905-CORE), Call Management (GR-1429-CORE), Switched Fractional DS1 (GR-1357-CORE), Toll Free Service (GR-1428-CORE), Calling Name (GR-1597-CORE), Line Information Database (GR-954-CORE), and Advanced Intelligent Network (GR-2863-CORE).

10.2.1.13 U S WEST shall provide interfaces to adjuncts through industry standard and Bellcore interfaces. These adjuncts may include, but are not limited to, Service Node, Service Circuit Node, Voice Mail and Automatic Call Distributors. Examples of existing interfaces are ANSI ISDN standards Q.931 and Q.932.

10.2.1.14 Upon McLeod's request, U S WEST shall provide performance data regarding a subscriber line, traffic characteristics or other measurable elements to McLeod.

10.2.1.15 U S WEST shall offer all Local Switching features resident in a particular switch, and, in providing such features, do so at parity with those provided by U S WEST to itself or any other Person.

10.2.1.15.1 Such feature offerings shall include, but are not limited to:

Basic and primary rate ISDN;
Residential features;
Custom Local Area Signaling Services (CLASS/LASS);
Custom Calling Features; and
Centrex (including equivalent administrative capabilities, such as subscriber accessible reconfiguration and detailed message recording).

10.2.1.15.2 McLeod may use the BFR Process set forth in Part A of this Agreement to request unbundling of Advanced Intelligent Network ("AIN") triggers supporting McLeod and U S WEST service applications in U S WEST's SCPs. U S WEST shall offer AIN-based services in accordance with applicable technical references. Such services may include, but are not limited to:

10.2.1.15.2.1 Off-Hook Immediate;

10.2.1.15.2.2 Off-Hook Delay;

10.2.1.15.2.3 Private EAMF Trunk;

10.2.1.15.2.4 Shared Interoffice Trunk (EAMF, SS7);

10.2.1.15.2.5 Termination Attempt;

10.2.1.15.2.6 3/6/10;

10.2.1.15.2.7 N11;

10.2.1.15.2.8 Feature Code Dialing;

10.2.1.15.2.9 Custom Dialing Plan(s), including 555 services; and

10.2.1.15.2.10 Automatic Route Selection.

10.2.1.16 U S WEST shall assign each McLeod subscriber line the class of service designated by McLeod (e.g., using line class codes or other switch specific provisioning methods), and at McLeod's option shall route Directory Assistance calls from McLeod subscribers as directed by McLeod. This includes each of the following call types:

10.2.1.16.1 0+/0- calls;

10.2.1.16.2 911 calls;

10.2.1.16.3 411/DA calls;

10.2.1.16.4 InterLATA calls specific to PIC

10.2.1.16.5 IntraLATA calls specific to PIC

10.2.1.16.6 Toll Free calls, prior to database query;

10.2.1.16.7 Call forwarding of any type supported on the switch, to a line or a trunk; and

10.2.1.16.8 Any other customized routing that may be supported by the U S WEST switch.

10.2.1.17 U S WEST shall assign each McLeod subscriber line the class of service designated by McLeod (e.g., using line class codes or other switch specific provisioning methods) and shall route operator calls from McLeod

subscribers as directed by McLeod at McLeod's option. For example, U S WEST may translate 0- and 0+ intraLATA traffic, and route the call through appropriate trunks to an McLeod Operator Services Position System ("OSPS"). Calls from Local Switching must pass the ANI-II digits unchanged.

10.2.1.18 If an McLeod customer subscribes to McLeod provided voice mail and messaging services, U S WEST shall redirect incoming calls to the McLeod system based upon designated service arrangements (e.g., busy, don't answer, number of rings). In addition, U S WEST shall provide a Standard Message Desk Interface-Enhanced (SMDI-E) interface to the McLeod system. U S WEST shall support the Inter-switch Voice Messaging Service (IVMS) capability.

10.2.1.19 Local Switching shall be offered in accordance with the requirements of the following technical references and their future releases:

10.2.1.19.1 GR-1298-CORE, AIN Switching System Generic Requirements;

10.2.1.19.2 GR-1299-CORE, AIN Switch-Service Control Point (SCP)/Adjunct Interface Generic Requirements;

10.2.1.19.3 TR-NWT-001284, AIN 0.1 Switching System Generic Requirements; and

10.2.1.19.4 SR-NWT-002247, AIN Release 1 Update.

10.2.2 Interface Requirements:

10.2.2.1 U S WEST shall provide the following interfaces to Loops:

10.2.2.1.1 Standard Tip/Ring interface ,including loopstart or groundstart, on-hook signaling (e.g., for calling number, calling name and message waiting lamp);

10.2.2.1.2 Coin phone signaling provided through a U S WEST coin phone port;

10.2.2.1.3 Basic Rate Interface ISDN adhering to ANSI standards Q.931, Q.932 and appropriate Bellcore Technical Requirements;

10.2.2.1.4 Two-wire analog interface to PBX to include reverse battery, E&M, wink start and DID;

10.2.2.1.5 Four-wire analog interface to PBX to include reverse battery, E&M, wink start and DID;

10.2.2.1.6 Four-wire DS-1 interface to PBX or subscriber provided equipment (e.g., computers and voice response systems);

10.2.2.1.7 Primary Rate ISDN to PBX adhering to ANSI standards Q.931, Q.932 and appropriate Bellcore Technical Requirements;

10.2.2.1.8 Switched Fractional DS-1 with capabilities to configure Nx64 channels (where "n" = 1 to 24); and

10.2.2.1.9 Loops adhering to Bellcore TR-NWT-08 and TR-NWT-303 specifications to interconnect Digital Loop Carriers.

10.2.2.2 U S WEST shall provide access to the following, but not limited to:

10.2.2.2.1 SS7 Signaling Network or Multi-Frequency trunking, if requested by McLeod;

10.2.2.2.2 Interface to McLeod operator services systems or Operator Services through appropriate trunk interconnections for the system; and

10.2.2.2.3 Interface to McLeod Directory Assistance Services through the McLeod switched network or to Directory Services through the appropriate trunk interconnections for the system; and 950 access or other McLeod required access to interexchange carriers as requested through appropriate trunk interfaces.

10.3 Customized Routing

10.3.1 Description

Customized routing will enable McLeod to direct particular classes of calls to particular outgoing trunks based upon line class codes. McLeod may use customized routing to direct its customers' calls to 411, 555-1212, 0+ or 0-, to its own Operator Services platform Directory Assistance platform.

10.3.2 Limitations

Because there is a limitation in the technical feasibility of offering custom routing beyond the capacity of the 1A ESS switch, custom routing will be offered to CLECs on a first-come, first-served basis.

10.4 Integrated Services Digital Network (ISDN)

10.4.1 Integrated Services Digital Network ("ISDN") is defined in two (2) variations. The first variation is Basic Rate ISDN ("BRI"). BRI consists of 2 Bearer (B) Channels and one Data (D) Channel. The second variation is Primary Rate ISDN ("PRI"). PRI consists of 23 B Channels and one D Channel. Both BRI and PRI B Channels may be used for voice, Circuit Switched Data ("CSD") or Packet Switched Data ("PSD"). The BRI D Channel may be used for call related signaling, non-call related signaling or packet switched data. The PRI D Channel may be used for call related signaling.

10.4.2 Technical Requirements — ISDN

10.4.2.1 U S WEST shall offer ISDN that:

10.4.2.2 provides integrated Packet handling capabilities;

10.4.2.3 allows for full 2B+D Channel functionality for BRI; and

10.4.2.4 allows for full 23B+D Channel functionality for PRI.

10.4.2.5 Each B Channel shall allow for voice, 64 Kbps CSD, and PSD of 128 logical channels at minimum speeds of 19 Kbps throughput of each logical channel up to the total capacity of the B Channel.

10.4.2.6 Each B Channel shall provide capabilities for alternate voice and data on a per call basis.

10.4.2.7 The BRI D Channel shall allow for call associated signaling, non-call associated signaling and PSD of 16 logical channels at minimum speeds of 9.6 Kbps throughput of each logical channel up to the total capacity of the D channel.

10.4.2.8 The PRI D Channel shall allow for call associated signaling.

10.4.3 Interface Requirements — ISDN

10.4.3.1 U S WEST shall provide the BRI interface using Digital Subscriber Loops adhering to Bellcore TR-NWT-303 Specifications to Interconnect Digital Loop Carriers.

10.4.3.2 U S WEST shall offer PSD interfaces adhering to the X.25, X.75 and X.75' ANSI and Bellcore requirements.

10.4.3.3 U S WEST shall offer PSD trunk interfaces operating at 56 Kbps.

11. Network Interface Device

11.1 Definition:

11.1.1 The Network Interface Device ("NID") is a single-line termination device or that portion of a multiple-line termination device required to terminate a single line or circuit . One of the functions of the NID is to establish the network demarcation point between a carrier and its subscriber. The NID features two (2) independent chambers or divisions which separate the service provider's network from the subscriber's inside wiring. Each chamber or division contains the appropriate connection points or posts to which the service provider and the subscriber each make their connections.

11.1.2 McLeod may connect its NID to U S WEST's NID.

11.1.3 U S WEST will allow McLeod to locate dropwires, other than U S WEST's drop wires, inside an existing U S WEST combination NID used in the provisioning of telephone service for single tenant end users subject to the following conditions:

11.1.3.1 Sufficient space exists inside the combination NID to allow proper installation of equipment in accordance with the NID manufacturers specifications and per the National Electric Code;

11.1.3.2 In order to maintain maintenance integrity for the NID, McLeod will install their own overvoltage protection and customer bridging

equipment, terminate the dropwires to that equipment, and assume all operational responsibilities and liabilities for that equipment;

In the event that sufficient space is not available in the existing U S WEST NID, to accommodate additional drops, McLeod will be allowed to install and additional NID, at its own expense and the McLeod's NID can be connected to the existing U S WEST NID;

If the existing NID is not the new generation modular type, McLeod may install a new NID. U S WEST will be allowed to move its drop wire to the new NID and remove the old NID;

Upon request by McLeod, the Parties agree to jointly develop a satisfactory process to address the issues with access to single and multi party NIDs.

11.1.4 With respect to multiple-line termination devices, McLeod shall specify the quantity of NIDs it requires within such device.

11.2 Technical Requirements

11.2.1 The NID shall provide a clean, accessible point of connection for the inside wiring and for the Distribution Media and/or cross connect to McLeod's NID and shall maintain a connection to ground meeting the requirements as set forth below.

11.2.2 The NID shall be capable of transferring electrical analog or digital signals between the subscriber's inside wiring and the Distribution Media and/or cross connect to McLeod's NID.

11.2.3 All NID posts or connecting points shall be in place, secure, usable and free of any rust or corrosion. The protective ground connection shall exist and be properly installed. The ground wire shall be free of rust and corrosion and have continuity to ground.

11.2.4 The NID shall be capable of withstanding all normal local environmental variations.

11.2.5 Where the NID is not located in a larger, secure cabinet or closet, the NID shall be reasonably protected from vandalism. The NID shall be accessible to McLeod designated personnel. In cases where entrance to the subscriber premises is required to give access to the NID, McLeod shall obtain entrance permission directly from the subscriber.

11.2.6 U S WEST shall offer the NID together with, and separately from, the Distribution Media component of Loop Distribution.

11.3 Interface Requirements

11.3.1 The NID shall be the interface to subscribers' premises wiring for all loops.

11.3.2 The NID shall be at least equal to all the industry standards for NIDs set forth in the following technical references:

11.3.2.1 Bellcore Technical Advisory TA-TSY-000120 "Subscriber Premises or Network Ground Wire";

11.3.2.2 Bellcore Generic Requirement GR-49-CORE "Generic Requirements for Outdoor Telephone Network Interface Devices";

11.3.2.3 Bellcore Technical Requirement TR-NWT-00239 "Indoor Telephone Network Interfaces";

11.3.2.4 Bellcore Technical Requirement TR-NWT-000937 "Generic Requirements for Outdoor and Indoor Building Entrance"; and

11.3.2.5 Bellcore Technical Requirement TR-NWT-0001 33 "Generic Requirements for Network Inside Wiring."

12. Operator Systems

See Part A.

13. E911

See Part A.

14. Directory Assistance Data

See Part A.

15. Signaling Link Transport

15.1 Definition:

Signaling Link Transport is a set of two (2) or four (4) dedicated 56 Kbps transmission paths between McLeod-designated Signaling Points of Interconnection ("SPOI") that provides appropriate physical diversity and a cross connect at a U S WEST STP site.

15.2 Technical Requirements

15.2.1 Signaling Link Transport shall consist of full duplex mode 56 Kbps transmission paths.

15.2.2 Of the various options available, Signaling Link Transport shall perform in the following two ways:

15.2.1.1 as an "A-link" which is a connection between a switch or SCP and a home Signaling Transfer Point Switch ("STPs") pair; and

15.2.1.2 as a "D-link" which is a connection between two (2) STP pairs in different company networks (e.g., between two (2) STP pairs for two (2) (CLECs)).

15.2.3 Signaling Link Transport shall consist of two (2) or more signaling link layers as follows:

15.2.3.1 An A-link layer shall consist of two (2) links.

15.2.3.2 A D-link layer shall consist of four (4) links.

15.2.4 A signaling link layer shall satisfy a performance objective such that:

15.2.4.1 there shall be no more than two (2) minutes down time per year for an A-link layer transport only, and

15.2.4.2 there shall be negligible (less than 2 seconds) down time per year for a D-link layer transport only.

15.2.5 Where available, a signaling link layer shall satisfy interoffice and intraoffice diversity of facilities and equipment, such that:

15.2.5.1 no single failure of facilities or equipment causes the failure of both links in an A-link layer (i.e., the links should be provided on a minimum of two (2) separate physical paths end-to-end); and

15.2.5.2 no two concurrent failures of facilities or equipment shall cause the failure of all four (4) links in a D-link layer (i.e., the links should be provided on a minimum of three (3) separate physical paths end-to-end).

15.2.6 For requested link layers, U S WEST will provide McLeod with the level of diversity available.

15.3 Interface Requirements

15.3.1 There shall be a DS-1 (1.544 Mbps) interface at the McLeod-designated SPOIs. Each 56 Kbps transmission path shall appear as a DS-0 channel within the DS-1 interface.

16. **Signaling Transfer Points (STPs)**

16.1 Definition:

Signaling Transfer Points ("STPs") provide functionality that enable the exchange of SS7 messages among and between switching elements, database elements and signaling transfer points.

16.2 Technical Requirements

16.2.1 STPs shall provide signaling access to all other Network Elements connected to the U S WEST SS7 network. These include:

16.2.1.1 U S WEST Local Switching or Tandem Switching;

16.2.1.2 U S WEST Service Control Points/DataBases connected to or resident on service control points;

16.2.1.3 Third-party local or tandem switching systems connected to the U S WEST signaling network; and

16.2.1.4 Third-party-provided STPs connected to the U S WEST signaling network.

16.2.2 *The connectivity provided by STPs shall fully support the functions of all other Network Elements connected to U S WEST's SS7 network. This includes the use of U S WEST's SS7 network to convey messages which neither originate nor terminate at a signaling end point directly connected to the U S WEST SS7 network (i.e., transit messages). When the U S WEST SS7 network is used to convey transit messages, there shall be no alteration of the Integrated Services Digital Network User Part ("ISDNUP") or Transaction Capabilities Application Part ("TCAP") user data that constitutes the content of the message.*

16.2.3 *If a U S WEST tandem switch routes traffic, based on dialed or translated digits, on SS7 trunks between an McLeod local switch and third party local switch, U S WEST's SS7 network shall convey the TCAP messages necessary to provide Call Management features (automatic callback, automatic recall, and screening list editing) between the McLeod local STPs and the STPs that provide connectivity with the third party local switch, even if the third party local switch is not directly connected to U S WEST's STPs.*

16.2.4 *STPs shall provide all functions of the MTP as specified in ANSI T1.111 (Reference 12.5.2). This includes:*

16.2.4.1 *Signaling Data Link functions, as specified in ANSI T1.111.2;*

16.2.4.2 *Signaling Link functions, as specified in ANSI T1.111.3; and*

16.2.4.3 *Signaling Network Management functions, as specified in ANSI T1.111.4.*

16.2.5 *STPs shall provide all functions of the SCCP necessary for Class 0 (basic connectionless) service, as specified in ANSI T1.112. In particular, this includes Global Title Translation ("GTT") and SCCP Management procedures, as specified in ANSI T1.112.4.*

16.2.6 *In cases where the destination signaling point is either a U S WEST local or tandem switching system or data base, or is an McLeod or third party local or tandem switching system directly connected to U S WEST's SS7 network, U S WEST STPs shall perform final GTT of messages to the destination and SCCP Subsystem Management of the destination. In all other cases, STPs shall perform intermediate GTT of messages to a gateway pair of STPs in an SS7 network connected with the U S WEST SS7 network, and shall not perform SCCP Subsystem Management of the destination.*

16.2.7 *STPs shall also provide the capability to route SCCP messages based on ISNI, as specified in ANSI T1.118, when this capability becomes available on U S WEST STPs.*

16.2.8 *STPs shall provide all functions of the OMAP commonly provided by STPs, as specified in the reference in Section 16.5.6. This includes:*

16.2.8.1 *MTP Routing Verification Test ("MRVT"); and,*

16.2.8.2 *SCCP Routing Verification Test ("SRVT").*

16.2.9 *In cases where the destination signaling point is either a U S WEST local or tandem switching system or database, or is an McLeod or third party local or tandem*

switching system directly connected to the U S WEST SS7 network, STPs shall perform MRVT and SRVT to the destination signaling point. In all other cases, STPs shall perform MRVT and SRVT to a gateway pair of STPs in an SS7 network connected with the U S WEST SS7 network. This requirement shall be superseded by the specifications for inter-network MRVT and SRVT if and when these become approved ANSI standards and available capabilities of U S WEST STPs.

16.2.10 STPs shall be equal to or at the same level as U S WEST provides to itself[18] as to the following performance requirements:

16.2.10.1 MTP Performance, as specified in ANSI T1.111.6; and

16.2.10.2 SCCP Performance, as specified in ANSI T1.112.5.

16.3 Interface Requirements

16.3.1 U S WEST shall provide the following STPs options to connect McLeod or McLeod-designated local switching systems or STPs to the U S WEST SS7 network:

16.3.1.1 An A-link interface from McLeod local switching systems.

16.3.2 Each type of interface shall be provided by one or more sets (layers) of signaling links, as follows:

16.3.2.1 An A-link layer shall consist of two (2) links.

16.3.3 The Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, such as a DSX-1, in the Central Office where the U S WEST STPs are located. There shall be a DS-1 or higher rate transport interface at each of the SPOIs. Each signaling link shall appear as a DS-0 channel within the DS-1 or higher rate interface.

16.3.3.1 U S WEST shall offer higher rate DS-1 signaling for interconnecting McLeod local switching systems or STPs with U S WEST STPs as soon as these become approved ANSI standards and available capabilities in U S WEST's network.

16.3.4 U S WEST shall provide MTP and SCCP protocol interfaces that shall conform to all relevant sections in the following specifications:

16.3.4.1 Bellcore GR-905-CORE, Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Network Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network User Part (ISDNUP); and

16.3.4.2 Bellcore GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP).

16.4 Message Screening

[18] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

16.4.1 U S WEST shall set message screening parameters in order to accept messages from McLeod local or tandem switching systems destined to any signaling point in the U S WEST SS7 network with which the McLeod switching system has a signaling relation.

16.4.2 U S WEST shall set message screening parameters in order to accept messages from McLeod local or tandem switching systems destined to any signaling point or network interconnected to the U S WEST SS7 network with which the McLeod switching system has a signaling relation.

16.4.3 U S WEST shall set message screening parameters in order to accept messages destined to an McLeod local or tandem switching system from any signaling point or network interconnected to the U S WEST SS7 network with which the McLeod switching system has a signaling relation.

16.4.4 U S WEST shall set message screening parameters in order to accept and send messages destined to an McLeod SCP from any signaling point or network interconnected to the U S WEST SS7 network with which the McLeod SCP has a signaling relation.

16.5 STP Requirements

16.5.1 Subject to the provisions of Section 52.5.1 and 52.5.2 of Part A of this Agreement, STPs shall be equal to or at the same level as U S WEST provides to itself as to[19] all of the requirements for STPs set forth in the following technical references:

16.5.2 ANSI T1.111-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Message Transfer Part (MTP);

16.5.3 ANSI T1.111A-1994 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Message Transfer Part (MTP) Supplement;

16.5.4 ANSI T1.112-1992 American National, Standard for Telecommunications - Signaling System Number 7 (SS7) - Signaling Connection Control Part (SCCP);

16.5.5 ANSI T1.115-1990 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Monitoring and Measurements for Networks;

16.5.6 ANSI T1.116-1990 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Operations, Maintenance and Administration Part (OMAP);

16.5.7 ANSI T1.118-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Intermediate Signaling Network Identification (ISNI);

16.5.8 Bellcore GR-905-CORE, Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Network Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network User Part (ISDNUP); and

[19] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

16.5.9 *Bellcore GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP).*

17. Service Control Points/Databases

17.1 Definition:

17.1.1 Databases are the Network Elements that provide the functionality for storage of, access to, and manipulation of information required to offer a particular service and/or capability. Databases include, but are not limited to: Number Portability, LIDB, Toll Free Number Database, Automatic Location Identification/Data Management System and AIN.

17.1.2 A Service Control Point ("SCP") is a specific type of Database Network Element functionality deployed in a Signaling System 7 ("SS7") network that executes service application logic in response to SS7 queries sent to it by a switching system also connected to the SS7 network. SCPs also provide operational interfaces to allow for provisioning, administration and maintenance of subscriber data and service application data. (e.g., a toll free database stores subscriber record data that provides information necessary to route toll free calls).

17.2 Technical Requirements for SCPs/Databases

Requirements for SCPs/Databases within this section address storage of information, access to information (e.g., signaling protocols and response times), and administration of information (e.g., provisioning, administration, and maintenance). All SCPs/Databases shall be provided to McLeod in accordance with the following requirements, except where such a requirement is superseded by specific requirements set forth in Subparagraphs 17.3 through 17.7 of this Attachment:

17.2.1 U S WEST shall provide interconnection to SCPs through the U S WEST designated STPs using SS7 network and protocols, as specified in Section 16 of this Attachment, with TCAP as the application layer protocol.

17.2.2 Regional SCP pairs shall be available pursuant to applicable technical reference documents.

17.2.3 U S WEST shall provide to McLeod database provisioning consistent with the provisioning requirements of this Agreement (e.g., data required, edits, acknowledgments, data format and transmission medium and notification of order completion).

17.2.4 The operational interface provided by U S WEST shall complete Database transactions (i.e., add, modify, delete) for McLeod subscriber records stored in U S WEST databases at parity with which U S WEST provisions its own subscriber records.

17.2.5 U S WEST shall provide Database maintenance consistent with the maintenance requirements as specified in this Agreement (e.g., notification of U S WEST network affecting events, testing, dispatch schedule and measurement and exception reports).

17.2.6 When and where available, U S WEST shall provide billing and recording information to track Database usage consistent with Connectivity Billing and recording requirements as specified in this Agreement (e.g., recorded message format and content, timeliness of feed, data format and transmission medium).

17.2.7 U S WEST shall provide SCPs/Databases in accordance with the physical security requirements specified in this Agreement.

17.2.8 U S WEST shall provide SCPs/Databases in accordance with the logical security requirements specified in this Agreement.

17.3 Number Portability Database

17.3.1 Definition:

The Number Portability ("NP") database supplies routing numbers for calls involving numbers that have been ported from one local service provider to another. NP database functionality shall also include Global Title Translations ("GTT") for calls involving ported numbers even if U S WEST provides GTT functionality in another Network Element. This Section 17.3 supplements the requirements of Sections 18.2 and 18.7. U S WEST shall provide the NP database in accordance with industry standards which shall supersede the following as needed.

17.3.2 Requirements

17.3.2.1 U S WEST shall make U S WEST NP Database available for McLeod switches to query to obtain the appropriate routing number on calls to ported numbers or the industry specified indication that the number is not ported for non-ported numbers in NPA-NXXs that are opened to portability. The specified indication will also be provided when the NPA-NXX is not open to portability.

17.3.2.2 Query responses shall provide such additional information (e.g., Service Provider identification) as may be specified in the NP implementation in the relevant regulatory jurisdiction.

17.3.2.3 U S WEST shall complete CLASS or LIDB queries routed to the U S WEST network by McLeod switches and return the appropriate response to the querying source.

17.3.2.4 The NP database shall provide such other functionality as has been specified in the regulatory jurisdiction in which portability has been implemented.

17.3.2.5 Unavailability of the NP database query and GTT applications shall not exceed four (4) minutes per year.

17.3.2.6 The U S WEST NP database shall respond to a round trip query within 500 milliseconds or as amended by industry standards.

17.3.3 Interface Requirements

U S WEST shall interconnect the signaling interface between the McLeod or other local switch and the NP database using the TCAP protocol as specified in the

technical references in this Agreement, together with the signaling network interface as specified in the technical references in this Agreement, and such further requirements (e.g., AIN or IN protocols) as may be specified by regulatory or other bodies responsible for implementation of number portability.

17.4 Line Information Database (LIDB)

This Section 17.4 defines and sets forth additional requirements for the Line Information Database.

17.4.1 Definition:

The Line Information Database ("LIDB") is a transaction-oriented database accessible through Common Channel Signaling ("CCS") networks. It contains records associated with subscriber Line Numbers and Special Billing Numbers (in accordance with the requirements in the technical reference in Section 17.6.5). LIDB accepts queries from other Network Elements, or McLeod's network, and provides appropriate responses. The query originator need not be the owner of LIDB data. LIDB queries include functions, such as screening billed numbers, that provide the ability to accept Collect or Third Number Billing calls and validation of Telephone Line Number based non-proprietary calling cards. The interface for the LIDB functionality is the interface between the U S WEST CCS network and other CCS networks. LIDB also interfaces to administrative systems. The administrative system interface provides work centers with an interface to LIDB for functions such as provisioning, auditing of data, access to LIDB measurements and reports.

17.4.2 Technical Requirements

17.4.2.1 U S WEST shall enable McLeod to store in U S WEST's LIDB any line number or special billing number. McLeod will provide U S WEST a non-binding LIDB forecast. Prior to the availability of permanent NP, U S WEST shall enable McLeod to store in U S WEST's LIDB any subscriber Line Number or Special Billing Number record for McLeod resale, unbundled Network Elements and facility based customers, in accordance with the technical reference in Section 17.6.5, whether ported or not, for which the NPA-NXX or NXX-0/XX Group is supported by that LIDB.

17.4.2.2 Prior to the availability of permanent NP, U S WEST shall enable McLeod to store in U S WEST's LIDB any subscriber Line Number or Special Billing Number record for McLeod resale, unbundled Network Elements and facility based customers, in accordance with the technical reference in Section 17.6.5, whether ported or not, and NPA-NXX and NXX-0/XX Group Records, belonging to an NPA-NXX or NXX-0/1 XX owned by McLeod.

17.4.2.3 Subsequent to the availability of permanent NP, U S WEST shall enable McLeod to store in U S WEST's LIDB any subscriber Line Number or Special Billing Number record for McLeod resale, unbundled Network Elements and facility based customers, in accordance with the technical reference in Section 17.6.5, whether ported or not, regardless of the number's NPA-NXX or NXX-0/XX.

17.4.2.4 *U S WEST shall perform the following LIDB functions (i.e., processing of the following query types as defined in the technical reference in Section 17.6.5) for McLeod's subscriber records in LIDB:*

17.4.2.4.1 Billed Number Screening (provides information such as whether the Billed Number may accept Collect or Third Number Billing calls);

17.4.2.4.2 Calling Card Validation; and

17.4.2.4.3 Originating Line Number Screening (OLNS), when available.

17.4.2.5 *U S WEST shall process McLeod's subscriber records in LIDB at least at parity with U S WEST subscriber records, with respect to other LIDB functions (as defined in the technical reference in Section 17.6). U S WEST shall indicate to McLeod what additional functions, if any are performed by LIDB in its network. Upon request by McLeod, the Parties shall develop an interim procedure to process McLeod subscriber records.*

17.4.2.6 *Within two (2) weeks after a request by McLeod, U S WEST shall provide McLeod with a list of the subscriber data items which McLeod would have to provide in order to support each required LIDB function. The list shall indicate which data items are essential to LIDB function, and which are required only to support certain services. For each data item, the list shall show the data formats, the acceptable values of the data item and the meaning of those values.*

17.4.2.7 *U S WEST shall provide LIDB performance in accordance with section 17.6.5.*

17.4.2.8 *U S WEST shall provide McLeod with the capability to provision (e.g., to add, update, and delete) NPA-NXX and NXX-0/1XX Group Records, and Line Number and Special Billing Number Records, associated with McLeod subscribers, directly into U S WEST's LIDB provisioning process. Upon request by McLeod, the Parties shall establish an interim process to meet the requirements of this Section.*

17.4.2.9 *Unless directed otherwise by McLeod, in the event end user subscribers change their local service provider to McLeod, U S WEST shall maintain subscriber data (for line numbers, card numbers, and for any other types of data maintained in LIDB) so that such subscribers shall not experience any interruption of service due to the lack of such maintenance of subscriber data.*

17.4.2.10 *All additions, updates and deletions of McLeod data to the LIDB shall be made solely at the direction of McLeod.*

17.4.2.11 *U S WEST shall provide priority updates to LIDB for McLeod data upon McLeod's request (e.g., to support fraud protection).*

17.4.2.12 *When available, U S WEST shall provide McLeod the capability to directly obtain, through an electronic interface, reports of all McLeod data in LIDB. Upon request by McLeod, the Parties shall establish an interim process to meet the requirements of this Section.*

17.4.2.13 [Intentionally left blank for numbering consistency]

17.4.2.14 U S WEST shall perform backup and recovery of all of McLeod's data in LIDB as frequently as U S WEST performs backup and recovery for itself and any other Person, including sending to LIDB all changes made since the date of the most recent backup copy. Backup will be performed weekly. When needed, recovery will take place within twenty-four (24) hours.

17.4.2.15 U S WEST shall provide to McLeod access to LIDB measurements and reports at least at parity with the capability U S WEST has for its own subscriber records and that U S WEST provides to any other party. Such access shall be electronic. Upon request by McLeod, the Parties shall establish an interim process to meet the requirements of this Section.

17.4.2.16 U S WEST shall provide McLeod with LIDB reports of data which are missing or contain errors, as well as any misroute errors, within the same time period as U S WEST provides such reports to itself. Upon request by McLeod, the Parties shall establish a process to meet the requirements of this Section.

17.4.2.17 U S WEST shall prevent any access to or use of McLeod data in LIDB by U S WEST personnel or by any other party not authorized in writing by McLeod.

17.4.2.18 If and when available[20], U S WEST shall provide McLeod performance of the LIDB Data Screening function, which allows a LIDB to completely or partially deny specific query originators access to LIDB data owned by specific data owners, (in accordance with the technical reference in Section 17.6.5) for subscriber data that is part of an NPA-NXX or NXX-0/1XX wholly or partially owned by McLeod at least at parity with U S WEST subscriber data. U S WEST shall obtain from McLeod the screening information associated with LIDB Data Screening of McLeod data in accordance with this requirement.

17.4.2.18.1 The Parties agree to investigate technical feasibility of variable LIDB database screening to accomplish 17.4.2.18 above.

17.4.2.19 U S WEST shall accept queries to LIDB associated with McLeod subscriber records, and shall return responses in accordance with the requirements of this Section 17.

17.4.3 Interface Requirements

U S WEST shall offer LIDB in accordance with the requirements of this Section 17.4.3.

17.4.3.1 The interface to LIDB shall be in accordance with the technical reference in Section 17.6.3.

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[20] Pursuant to the Eighth Circuit Decision, the Parties agree to the deletion of the following: "technically feasible".

17.4.3.2 The CCS interface to LIDB shall be the standard interface described in Section 17.6.3.

17.4.3.3 The LIDB Data Base interpretation of the ANSI-TCAP messages shall comply with the technical reference in Section 17.6.4. Global Title Translation shall be maintained in the signaling network in order to support signaling network routing to the LIDB.

17.5 Toll Free Number Database

The Toll Free Number Database is an SCP that provides functionality necessary for toll free (e.g., 800 and 888) number services by providing routing information and additional vertical features during call set-up in response to queries from SSPs. This Section 17.5 supplements the requirements of Section 17.2 and 17.7. U S WEST shall provide the Toll Free Number Database in accordance with the following subsections.:

17.5.1 Technical Requirements

17.5.1.1 U S WEST shall make the U S WEST Toll Free Number Database available, through its STPs, for McLeod to query from McLeod's designated switch including U S WEST unbundled Local Switching.

17.5.1.2 The Toll Free Number Database shall return carrier identification and, where applicable, the queried toll free number, translated numbers and instructions as it would in response to a query from a U S WEST switch.

17.5.2 Interface Requirements

The signaling interface between the McLeod or other local switch and the Toll-Free Number Database shall use the TCAP protocol as specified in the technical reference in Section 17.6.1, together with the signaling network interface as specified in the technical references in Sections 17.6.2 and 17.6.6.

17.6 SCPs/Databases shall be at least equal to all of the requirements for SCPs/Databases set forth in the following technical references:

17.6.1 GR-246-CORE, Bell Communications Research Specification of Signaling System Number 7, Issue 1 (Bellcore, December 199X);

17.6.2 GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP) (Bellcore, March 1994);

17.6.3 GR-954-CORE, CCS Network Interface Specification (CCSNIS) Supporting Line Information Database (LIDB) Service 6, Issue 1, Rev. 1 (Bellcore, October 1995);

17.6.4 GR-1149-CORE, OSSGR Section 10: System Interfaces, Issue 1 (Bellcore, October 1995) (Replaces TR-NWT-001149);

17.6.5 GR-1158-CORE, OSSGR Section 22.3: Line Information Database 6, Issue (Bellcore, October 1995); and

17.6.6 GR-1428-CORE, CCS Network Interface Specification (CCSNIS) Supporting Toll Free Service (Bellcore, May 1995).

17.7 *Advanced Intelligent Network ("AIN") Access, Service Creation Environment and Service Management System ("SCE/SMS") Advanced Intelligent Network Access*

17.7.1 U S WEST shall provide mediated access to all U S WEST service applications, *(if available)*[21], resident in U S WEST's SCP through U S WEST's STPs. Such access may be from McLeod's switch or U S WEST's unbundled local switch.

17.7.2 *SCE/SMS AIN Access shall provide McLeod the ability to create service applications in the U S WEST SCE and deploy those applications via the U S WEST SMS to the U S WEST SCP. This interconnection arrangement shall provide McLeod access to the U S WEST development environment and administrative system in a manner at least at parity with U S WEST's ability to deliver its own AIN-based services. SCE AIN Access is the development of service applications within the U S WEST Service Creation Environment capability. SMS AIN Access is the provisioning of service applications via the U S WEST Service Management System capability. AIN trigger provisioning will be accomplished through the U S WEST local unbundled switching.*

17.7.3 *Services Available. U S WEST shall make SCE hardware, software, testing and technical support (e.g., technical contacts, system administrator) resources available to McLeod. Scheduling of SCE resources shall allow McLeod at least equal priority to U S WEST.*

17.7.4 *Multi-user Access. The U S WEST SCE/SMS shall allow for multi-user access with proper source code management and other logical security functions.*

17.7.5 *Partitioning. When available, the U S WEST SCP shall partition and protect McLeod service logic and data from unauthorized SMS capability and SCE capability access, execution or other types of compromise.*

17.7.6 *Training and Documentation. U S WEST shall provide training and documentation for McLeod development staff only in cases in which such training or documentation is not reasonably available from another source. If training or documentation is required in accordance with this Section, it will be provided in a manner at least at parity with that provided by U S WEST to its development staff. Training will be conducted at a mutually agreed upon location.*

17.7.7 *Access Environment. When McLeod selects SCE/SMS AIN Access, U S WEST shall provide for a secure, controlled access environment on-site. When available McLeod may request mutually agreed upon remote data connections (e.g., dial up, LAN, WAN).*

17.7.8 *Data Exchange. When McLeod selects SMS AIN Access, U S WEST shall allow McLeod to download data forms and/or tables to the U S WEST SCP, via the U S WEST SMS capability, in the same fashion as U S WEST downloads such forms and/or tables for itself.*

17.7.9 *Certification Testing. Certification testing is typically a two step process that includes an off-line unit test followed by an on-line controlled introduction testing into*

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[21] Pursuant to the Eighth Circuit Decision, the Parties agree to the following deletion: "current or future (if technically feasible)".

one of each of the U S WEST switch types capable of supporting the service. Services created by McLeod will require certification testing by U S WEST before the services can be provisioned in the network. The scheduling of U S WEST certification testing resources for new McLeod services will be jointly coordinated and prioritized between U S WEST and McLeod. McLeod testing requirements will be given equal priority with both U S WEST and other provider's requirements. In most circumstances, such testing will be completed within sixty (60) days from the date the application is submitted by McLeod to U S WEST for certification. In circumstances involving complex applications requiring additional time for testing, U S WEST may request additional time and McLeod will not unreasonably withhold approval of such request. The certification testing procedures described in this Section may be augmented as mutually agreed to by the Parties.

17.7.10 Access Standard. SCPs/Databases shall offer SCE/SMS AIN Access in accordance with the requirements of GR-1280-CORE, AIN Service Control Point (SCP) Generic Requirements.

17.8 [Intentionally left blank for numbering consistency]

17.9 McLeod will provide to U S WEST timely non-binding forecasts of SS7 call transactions, link requirements, database query volumes, etc., as needed for sizing the individual network capabilities that McLeod will utilize under the terms of this Agreement.

17.10 CCS Service includes:

17.10.1 Entrance Facility - The entrance facility connects McLeod's signaling point of interface with the U S WEST serving wire center ("SWC").

17.10.2 Direct Link Transport ("DLT") - The DLT connects the McLeod SWC to the U S WEST STP.

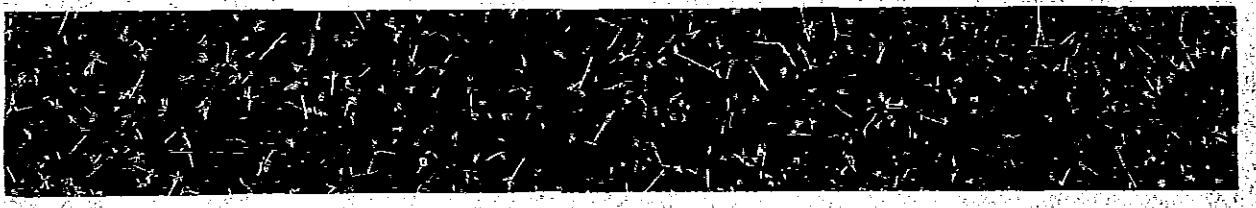
17.10.3 STP Port - The STP port provides the switching function at the STP. One (1) STP Port is required for each DLT Link. The Port provides access to the Service Control Point (SCP).

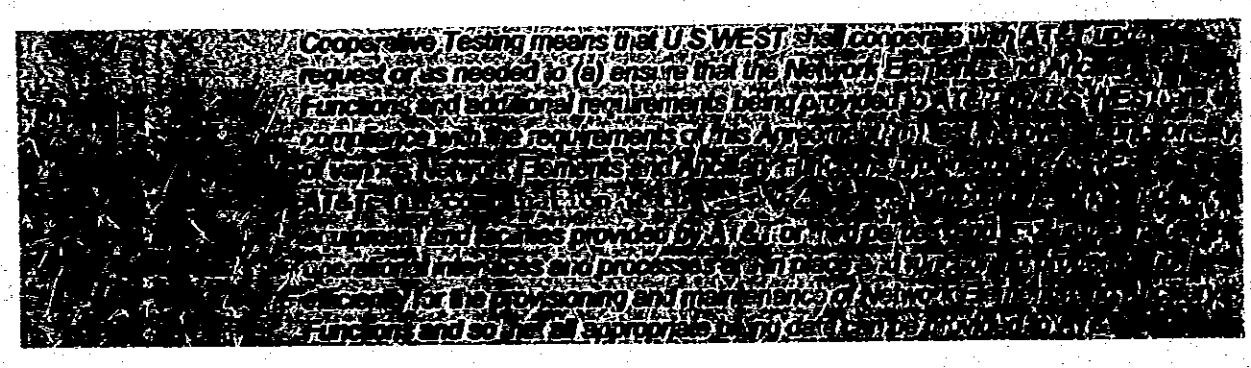
17.11 Advanced Intelligent Network ("AIN") triggers will be provided only to access U S WEST databases. Access to Advanced Intelligent Network (AIN) functions is available only through the Signaling Transfer Point (STP). If McLeod requires other access, it will submit a Bona Fide Request.

18. Additional Requirements

This Section 18 of Attachment 3 sets forth the additional requirements for unbundled Network Elements which U S WEST agrees to offer to McLeod under this Agreement.

18.1 Cooperative Testing





18.1.2 *Requirements*

Upon request by McLeod, the Parties will agree upon a process to resolve technical issues relating to interconnection of McLeod's network to U S WEST's network and Network Elements and Ancillary Functions. The agreed upon process shall include procedures for escalating disputes and unresolved issues up through higher levels of each Party's management. If McLeod and U S WEST do not reach agreement on such a process within the 45-day time period, any issues that have not been resolved by the Parties with respect to such process shall be submitted to the dispute resolution procedures set forth in Part A of this Agreement unless both Parties agree to extend the time to reach agreement on such issues.

18.1.2.2 *McLeod may test any interfaces, Network Elements or Ancillary Functions and additional requirements provided by U S WEST to McLeod pursuant to this Agreement.*

18.1.2.3 *U S WEST shall provide engineering data as requested by McLeod for the loop components as set forth in Sections 2, 3 and 4 of this Attachment which McLeod may desire to test. Such data shall include equipment engineering and cable specifications, signaling and transmission path data.*

18.1.2.4 *The Parties shall establish a process to provide engineering/office support information on unbundled Network Elements (e.g., central office layout and design records and drawings, system engineering and other applicable documentation) pertaining to a Network Element or Ancillary Function or the underlying equipment that is then providing a Network Element or Ancillary Function to McLeod.*

18.1.2.5 *Upon request from McLeod, U S WEST shall provide to McLeod all applicable test results from U S WEST testing activities on a Network Element or Ancillary Function or additional requirement or the underlying*

equipment providing a Network Element or Ancillary Function or additional requirements. McLeod may review such test results and may notify U S WEST of any detected deficiencies.

18.1.2.6 U S WEST shall temporarily provision McLeod designated Local Switching features for testing. Upon request by McLeod, the Parties shall mutually agree on the procedures to be established between U S WEST and McLeod to expedite such provisioning processes for feature testing.

18.1.2.7 Upon McLeod's request, U S WEST shall make available technical support to meet with McLeod representatives to provide required support for Cooperative Testing. U S WEST shall define the process to gain access to such technical support.

18.1.2.8 Dedicated Transport and Loop Feeder may experience alarm conditions due to in-progress tests. U S WEST shall notify McLeod upon removal of such facilities from service.

18.1.2.9 U S WEST shall exercise its best efforts to notify McLeod prior to conducting tests or maintenance procedures on Network Elements or Ancillary Functions or on the underlying equipment that is then providing a Network Element or Ancillary Function, that will likely cause a service interruption or degradation of service.

18.1.2.10 U S WEST shall provide a single point of contact to McLeod that is available seven (7) days per week, twenty-four (24) hours per day for trouble status, sectionalization, resolution, escalation, and closure. Such staff shall be adequately skilled to allow expeditious problem resolution.

18.1.2.11 U S WEST shall make available to McLeod access to 105 responders, 100-type test lines, or 102-type test lines associated with any circuits under test.

18.1.2.12 McLeod and U S WEST shall complete Cooperative Testing in accordance with the procedures set forth in Attachment 5.

18.1.2.13 U S WEST shall participate in Cooperative Testing requested by McLeod whenever it is deemed necessary by McLeod to insure service performance, reliability and subscriber serviceability.

18.1.2.14 McLeod may accept or reject the Network Element ordered by McLeod if, upon completion of cooperative acceptance testing, the tested Network Element does not meet the requirements stated herein.

18.2 Performance

18.2.1 Scope

The issue of performance measurements and standards is to be addressed pursuant to the terms of Section 52 of Part A of this Agreement.

18.3 [Intentionally left blank for numbering consistency]

18.4 Synchronization

18.4.1 Definition:

Synchronization is the function which keeps all digital equipment in a communications network operating at the same average frequency. With respect to digital transmission, information is coded into discrete pulses. When these pulses are transmitted through a digital communications network, all synchronous Network Elements are traceable to a stable and accurate timing source. Network synchronization is accomplished by timing all synchronous Network Elements in the network to a stratum 1 traceable source so that transmission from these network points have the same average line rate.

18.4.2 Technical Requirements

The following requirements are applicable to the case where U S WEST provides synchronization to equipment that McLeod owns and operates within a U S WEST location. In addition, these requirements apply to synchronous equipment that is owned by U S WEST and is used to provide a Network Element to McLeod.

18.4.2.1 The synchronization of clocks within digital networks is divided into two parts: intra-building and inter-building. Within a building, a single clock is designated as the Building Integrated Timing Supply ("BITS"), which provides all of the DS-1 and DS-0 synchronization references required by other clocks in such building. This is referred to as intra-building synchronization. The BITS receives synchronization references from remotely located BITS such as a primary reference source. Synchronization of BITS between buildings is referred to as inter-building synchronization.

18.4.2.2 To implement a network synchronization plan, clocks within digital networks are divided into four stratum levels. All clocks in strata 2, 3, and 4 are synchronized to a stratum 1 clock, that is, they are traceable to a stratum 1 clock. A traceable reference is a reference that can be traced back through some number of clocks to a stratum 1 source. Clocks in different strata are distinguished by their free running accuracy or by their stability during trouble conditions such as the loss of all synchronization references.

18.4.2.2.1 Intra-Building

Within a building, there may be different kinds of equipment that require synchronization at the DS-1 and DS-0 rates. Synchronization at the DS-1 rate is accomplished by the frequency synchronizing presence of buffer stores at various DS-1 transmission interfaces. Synchronization at the DS-0 rate is accomplished by using a composite clock signal that phase synchronizes the clocks. Equipment requiring DS-0 synchronization frequently does not have adequate buffer storage to accommodate the phase variations among different equipment. Control of phase variations to an acceptable level is accomplished by externally timing all interconnecting DS-0 circuits to a single clock source and by limiting the interconnection of DS-0 equipment to less than 1,500 cable feet. Therefore, a BITS shall provide DS-1 and composite clock signals when the appropriate composite signal is a 64-

kHz 5/8th duty cycle, return to zero with a bipolar violation every eighth pulse (B8RZ).

18.4.2.2.2 Inter-Building

U S WEST shall provide inter-building synchronization at the DS-1 rate, and the BITS shall accept the primary and/or secondary synchronization links from BITS in other buildings where necessary. From hierarchical considerations, the BITS shall be the highest stratum clock within the building and U S WEST shall provide operations capabilities. When available such capability includes, but is not limited to: synchronization reference provisioning; synchronization reference status inquiries; timing mode status inquiries; and alarm conditions.

18.4.3 Synchronization Distribution Requirements

18.4.3.1 Central office BITS shall contain redundant clocks meeting or exceeding the requirements for a stratum 3 clock as specified in ANSI T1.101-1994 and ANSI TI.105.09 and Bellcore GR-NWT-001244 Clocks for the Synchronized Network: Common Genetic Criteria.

18.4.3.2 Central office BITS shall be powered by primary and backup power sources.

18.4.3.3 If both reference inputs to the BITS are interrupted or in a degraded mode (meaning off frequency greater than twice the minimum accuracy of the BITS, loss of frame, excessive bit errors, or in Alarm Indication Signal), then the stratum clock in the BITS shall provide the necessary bridge in timing to allow the network to operate without a frame repetition or deletion (slip free) with better performance than specified in these technical references specified in 18.4.3.1.

18.4.3.4 DS-1s multiplexed into a SONET synchronous payload envelope within an STS-n (where "n" is defined in ANSI T1.105-1995) signal shall not be used as reference facilities for network synchronization.

18.4.3.5 The total number of Network Elements cascaded from the stratum 1 source shall be minimized.

18.4.3.6 A Network Element shall receive the synchronization reference signal only from another Network Element that contains a clock of equivalent or superior quality (stratum level).

18.4.3.7 U S WEST shall select for synchronization those facilities shown to have the greatest degree of availability (absence of outages).

18.4.3.8 Where possible, all primary and secondary synchronization facilities shall be physically diverse (this means the maximum feasible physical separation of synchronization equipment and cabling).

18.4.3.9 No timing loops shall be formed in any combination of primary and secondary facilities.

18.4.3.10 U S WEST shall continuously monitor the BITS for synchronization related failures.

18.4.3.11 U S WEST shall continuously monitor all equipment transporting synchronization facilities for synchronization related failures.

18.4.3.12 For non-SONET equipment, U S WEST shall provide synchronization facilities which, at a minimum, comply with the standards set forth in ANSI T1.101-1994.

18.4.3.13 For SONET equipment, U S WEST shall provide synchronization facilities that have time deviation ("TDEV") for integration times greater than 0.05 seconds and less than or equal to ten (10) seconds, that is less than or equal to 100 nanoseconds. TDEV, in nanoseconds, for integration times greater than ten (10) seconds and less than 1000 seconds, shall be less than 31.623 times the square-root of the integration time.

18.5 SS7 Network Interconnection

18.5.1 Definition:

SS7 Network Interconnection is the interconnection of McLeod local Signaling Transfer Point (STPs) with U S WEST STPs. This interconnection provides connectivity that enables the exchange of SS7 messages among U S WEST switching systems and databases, McLeod local or tandem switching systems, and other third-party switching systems directly connected to the U S WEST SS7 network.

18.5.2 Technical Requirements

18.5.2.1 SS7 Network Interconnection shall provide signaling connectivity to all components of the U S WEST SS7 network through U S WEST STPs. These include:

18.5.2.1.1 U S WEST local or tandem switching systems;

18.5.2.1.2 U S WEST databases; and

18.5.2.1.3 other third-party local or tandem switching systems.

18.5.2.2 The connectivity provided by SS7 Network Interconnection shall support the functions of U S WEST switching systems and databases and McLeod or other third-party switching systems with A-link access to the U S WEST SS7 network.

18.5.2.3 SS7 Network Interconnection shall provide transport for certain types of Transaction Capabilities Application Part ("TCAP") messages. If traffic is routed based on dialed or translated digits between an McLeod local switching system and a U S WEST or other third-party local switching system, either directly or via a U S WEST tandem switching system, then it is a requirement that the U S WEST SS7 network convey via SS7 Network Interconnection the TCAP messages necessary to provide Call Management services (Automatic Callback, Automatic Recall, and

Screening List Editing) between the McLeod local STPs and the U S WEST or other third-party STPs.

18.5.2.4 When the capability to route messages based on Intermediate Signaling Network Identifier (ISNI) is generally available on U S WEST STPs, the U S WEST SS7 Network shall also convey TCAP messages using SS7 Network Interconnection in similar circumstances where the U S WEST switch routes traffic based on a Carrier Identification Code ("CIC").

18.5.2.5 SS7 Network Interconnection shall provide all functions of the MTP as specified in ANSI T1. 111. This includes:

18.5.2.5.1 Signaling Data Link functions, as specified in ANSI T1.111.2;

18.5.2.5.2 Signaling Link functions, as specified in ANSI T1.111.3; and

18.5.2.5.3 Signaling Network Management functions, as specified in ANSI T1.111.4.

18.5.2.6 SS7 Network Interconnection shall provide all functions of the SCCP necessary for Class 0 (basic connectionless) service, as specified in ANSI T1.112.

18.5.2.7 Where the destination signaling point is a U S WEST switching system or database, or is another third-party local or tandem switching system directly connected to the U S WEST STPs (SS7 network), SS7 Network Interconnection shall include final GTT of messages to the destination and SCCP Subsystem Management of the destination.

18.5.2.8 Where the destination signaling point is an McLeod local or tandem switching system, SS7 Network Interconnection shall include intermediate GTT of messages to a gateway pair of McLeod local STPs, and shall not include SCCP Subsystem Management of the destination.

18.5.2.9 SS7 Network Interconnection shall provide all functions of the Integrated Services Digital Network User Part (ISDNUP), as specified in ANSI T1.113.

18.5.2.10 SS7 Network Interconnection shall provide all functions of the TCAP, as specified in ANSI T1.114.

18.5.2.11 If and when Inter-network MTP Routing Verification Test (MRVT) and SCCP Routing Verification Test (SRVT) become approved ANSI standards and available capabilities of both U S WEST and McLeod STPs, SS7 Network Interconnection shall provide these functions of the OMAP.

18.5.2.11.1 The Parties shall develop a mutually agreed upon interim process for MRVT and SRVT upon request by McLeod. Either Party shall be allowed to shut off MRVT/SRVT for preservation of network integrity.

18.5.2.12 SS7 Network Interconnection shall be equal to or at the same level as U S WEST provides to itself as to [22] the following performance requirements:

18.5.2.12.1 MTP Performance, as specified in ANSI T1.111.6;

18.5.2.12.2 SCCP Performance, as specified in ANSI T1.112.5; and

18.5.2.12.3 ISDNUP Performance, as specified in ANSI T1.113.5.

18.5.3 Interface Requirements

18.5.3.1 U S WEST shall offer the following SS7 Network Interconnection options to connect McLeod or McLeod-designated STPs to the U S WEST STPs (SS7 network):

18.5.3.1.1 D-link interface from McLeod STPs.

18.5.3.2 Each interface shall be provided by one or more sets (layers) of signaling links, as follows:

18.5.3.2.1 A D-link layer shall consist of four links.

18.5.3.3 The Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, (e.g., DSX-1) in the central office where the U S WEST STPs is located. There shall be a DS-1 or higher rate transport interface at each of the SPOIs. Each signaling link shall appear as a DS-0 channel within the DS-1 or higher rate interface. U S WEST shall offer higher rate DS-1 signaling links for interconnection to McLeod local switching systems or STPs with U S WEST STPs as soon as these become approved ANSI standards and available capabilities of U S WEST STPs.

18.5.3.3.1 In each LATA, there will be two (2) signaling points of interconnection (SPOIs). The requirement for two SPOIs is driven by the critical importance attached by the Parties to signaling link diversity.

18.5.3.3.2 Each Party will designate one of the two SPOIs in a reasonable and efficient location in the LATA. A SPOI can be any existing cross connect point in the LATA.

18.5.3.3.3 Each signaling link requires a port on each Party's STP.

18.5.3.4 Where available, the U S WEST Central Office shall provide intraoffice diversity between the SPOIs and the U S WEST STPs, so that no single failure of intraoffice facilities or equipment shall cause the failure of both D-links in a layer connecting to U S WEST's STPs.

18.5.3.5 The protocol interface requirements for SS7 Network Interconnection include the MTP, ISDNUP, SCCP and TCAP. These protocol interfaces shall conform to the following specifications:

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[22] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

18.5.3.5.1 Bellcore GR-905-CORE, Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Network Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network User Part (ISDNUP);

18.5.3.5.2 Bellcore GR-1428-CORE, CCS Network Interface Specification (CCSNIS) Supporting Toll Free Service;

18.5.3.5.3 Bellcore GR-1429-CORE, CCS Network Interface Specification (CCSNIS) Supporting Call Management Services; and

18.5.3.5.4 Bellcore GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP).

18.5.3.6 To the extent available[23], U S WEST shall set message screening parameters to block accept messages from McLeod local or tandem switching systems destined to any signaling point in the U S WEST SS7 network with which the McLeod switching system has a legitimate signaling relation.

18.5.4 SS7 Network Interconnection shall be equal to or at the same level as U S WEST provides to itself as to[24] all of the requirements for SS7 Network Interconnection set forth in the following technical references:

18.5.4.1 ANSI T1.110-1992 American National Standard Telecommunications Signaling System Number 7 (SS7) - General Information;

18.5.4.2 ANSI T1.111-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Message Transfer Part (MTP);

18.5.4.3 ANSI T1.111A-1994 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Message Transfer Part (MTP) Supplement;

18.5.4.4 ANSI T1.112-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Signaling Connection Control Part (SCCP);

18.5.4.5 ANSI T1.113-1995 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Integrated Services Digital Network (ISDN) User Part;

18.5.4.6 ANSI T1.114-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Transaction Capabilities Application Part (TCAP);

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[23] Pursuant to the Eighth Circuit Decision, the Parties agree to the following deletion: "technically feasible".

[24] Pursuant to the Eighth Circuit Decision, the Parties agree to the addition of this language.

18.5.4.7 *ANSI T1.115-1990 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Monitoring and Measurements for Networks;*

18.5.4.8 *ANSI T1.116-1990 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Operations, Maintenance and Administration Part (OMAP);*

18.5.4.9 *ANSI T1.118-1992 American National Standard for Telecommunications - Signaling System Number 7 (SS7) - Intermediate Signaling Network Identification (ISNI);*

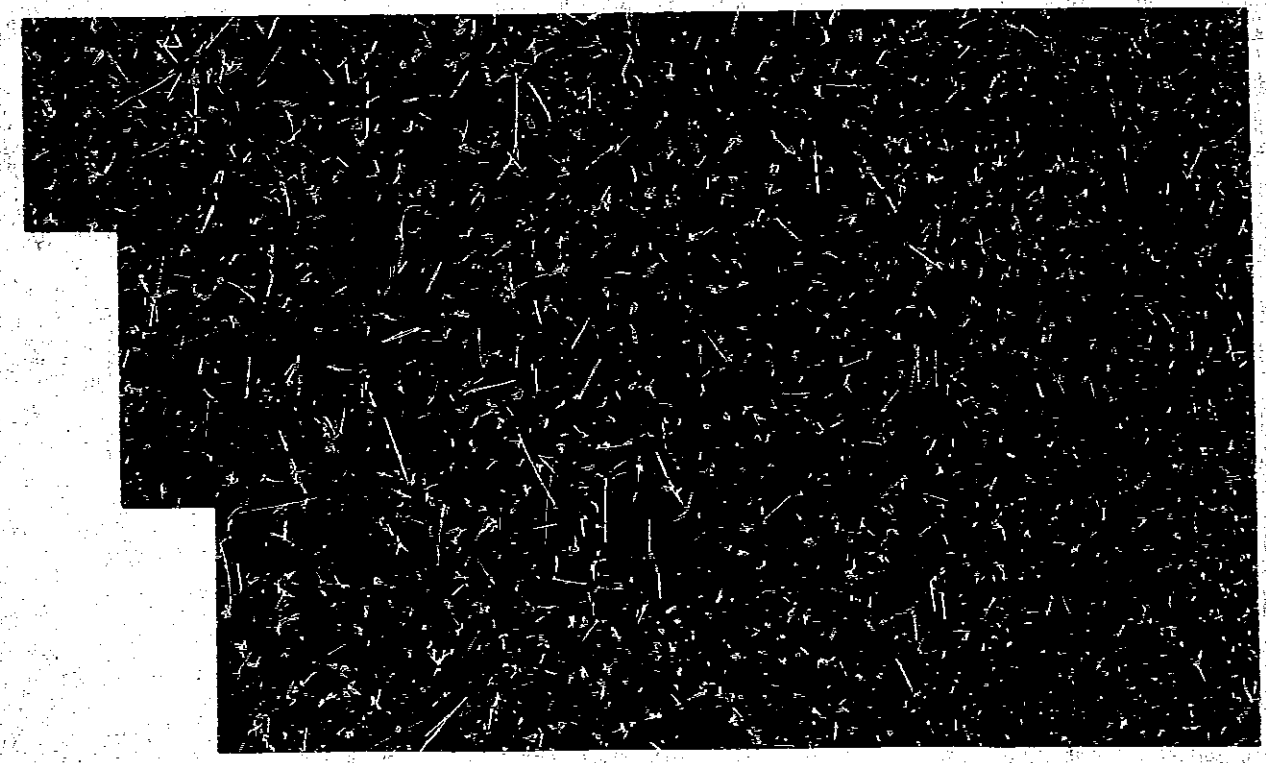
18.5.4.10 *Bellcore GR-905-CORE, Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Network Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network User Part (ISDNUP);*

18.5.4.11 *Bellcore GR-954-CORE, CCS Network Interface Specification (CCSNIS) Supporting Line Information Database (LIDB) Service;*

18.5.4.12 *Bellcore GR-1428-CORE, CCS Network Interface Specification (CCSNIS) Supporting Toll Free Service;*

18.5.4.13 *Bellcore GR-1429-CORE, CCS Network Interface Specification (CCSNIS) Supporting Call Management Services; and*

18.5.4.14 *Bellcore GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP).*



requested and installed, U S WEST and AT&T shall have sole access to the dedicated portions of the SPOT frame.

19.1.6.4 AT&T shall be responsible for tie cable administration.

19.1.7 **Shared SPOT Frame**

U S WEST shall make available to any requesting CLEC that is a "shared" SPOT frame that may be used by multiple CLECs.

19.1.7.1 AT&T shall order the shared SPOT frame through procedures outlined in Section 10 of Part A of this Agreement. Application for ordering records. Costs of the shared SPOT frame shall be based on [illegible] in Appendix A to Attachment 2 of this Agreement.

19.2 All U S WEST termination of SPOT frame [illegible] address, U S WEST shall [illegible] record for AT&T [illegible] U S WEST [illegible] of Interface for [illegible] address [illegible] unbundled Network Element [illegible] assignment records of such [illegible] (loop, local switching, etc.) [illegible] SPOT frame.

AT&T will maintain assignment records for the [illegible] AT&T's equipment on the SPOT frame. AT&T will maintain assignment records for cross-connects between AT&T equipment on the SPOT and unbundled Network Elements and the U S WEST unbundled Network Elements connected to the U S WEST unbundled Network Element.

19.3 Charges

The two categories of charges for a SPOT frame are [illegible] the SPOT frame and [illegible] Additional charges associated with the preparation of space may also apply.

19.4 [illegible] Charges

[illegible] Each interconnection requiring use of a dedicated or shared SPOT frame shall be developed on an individual case basis. In response to the specific [illegible] requested by AT&T, such as dedicated SPOT, secured room, [illegible]

19.4.1 [illegible]

AT&T shall pay both non-recurring and recurring charges associated with the tie cable arrangement ordered.

19.4.2 SPOT Frame Termination

This element includes the [illegible] cable racking and termination [illegible] AT&T's co-located equipment and the terminations of the SPOT frame.

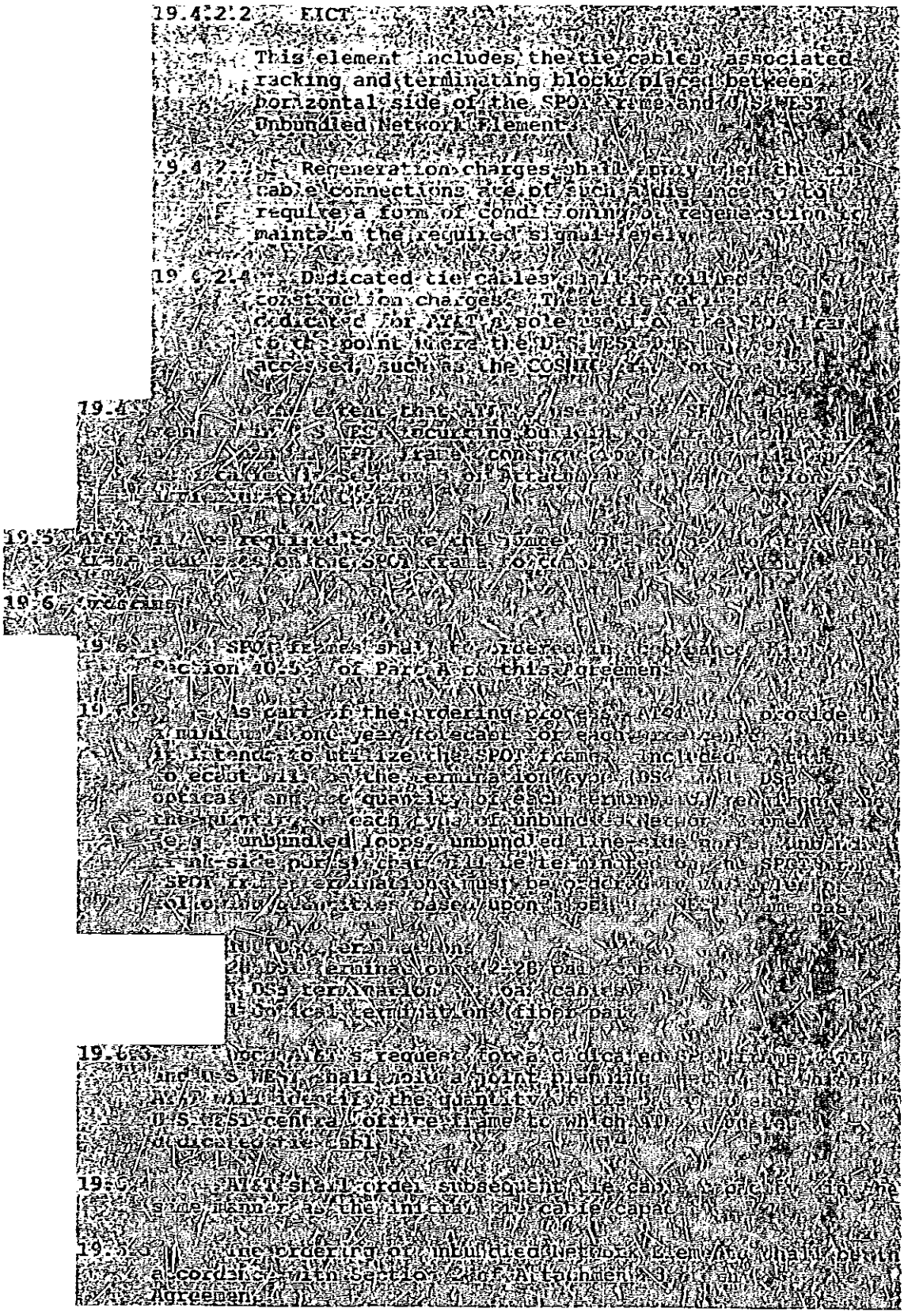


TABLE OF CONTENTS

1. Definitions 1

2. General Description 1

3. Location of Interconnection 1

4. Collocation 2

5. Entrance Facility 2

6. Quality of Interconnection 2

7. Points of Interconnection 2

8. Trunking Requirements 2

9. Service Interruptions 5

10. Forecasting 6

11. Signaling 10

12. Ordering 11

13. Network Management 11

14. Usage Measurement 11

15. Audiotext and Mass Announcement Services 12

16. Interconnection to Network Elements 12

17. Reciprocal Traffic Exchange 14

INTERCONNECTION

1. Definitions

1.1 *For purposes of this Attachment 4, "Interconnection" is the linking of the U S WEST and McLeod networks for the mutual exchange of traffic. Interconnection does not include the transport and termination of traffic. Interconnection is provided by virtual or physical collocation, entrance facilities or meet point arrangements.*

2. General Description

2.1 **U S WEST will provide interconnection at any technically feasible point, subject to negotiations between the Parties; such points may include, but not be limited to, a Meet Point, the line side distribution frame of the local switch, the trunk side distribution frame of the local switch, trunk interconnection points of the tandem switch, central office cross-connect points, and Signaling Transfer Points necessary to exchange traffic and access call related databases.[1]**

2.2 **McLeod may select for itself those technically feasible points in U S WEST's network to which McLeod wishes to interconnect. U S WEST may not require McLeod to have one point of interconnection for exchange of local traffic within calling area.[2]** *McLeod will be responsible for engineering and maintaining its network on its side of the POI. If and when the Parties choose to interconnect at a mid-span meet, McLeod and U S WEST will jointly provision the fiber optic facilities that connect the two (2) networks and shall share the financial and other responsibilities for that facility.*

2.3 *Within ten (10) Business Days of McLeod's request for any POI, U S WEST shall provide any information in its possession or available to it regarding the environmental conditions of the interconnection route or location including, but not limited to, the existence and condition of asbestos, lead paint, hazardous substance contamination, or radon. Information is considered "available" under this Agreement if it is in U S WEST's possession, or in the possession of a current or former agent, contractor, employee, lessor, or tenant of U S WEST's.*

2.4 *U S WEST shall allow McLeod to perform any environmental site investigations, including, but not limited to, asbestos surveys, McLeod deems to be necessary in support of its collocation needs. McLeod shall advise U S WEST in writing of its intent to conduct any such investigations, and shall receive written approval from U S WEST to proceed with the investigation which approval shall not be unreasonably withheld. McLeod shall indemnify U S WEST in accordance with the provisions of Section 18 of Part A of this Agreement for any loss or claim for damage suffered by U S WEST as a result of McLeod's actions during any site inspection.*

2.5 *Notwithstanding any performance standard set forth in this Attachment, U S WEST will provide the services set forth in this Attachment to McLeod with the level of service quality set forth in Section 52, Part A of this Agreement.*

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[1] Per First Order at pages 6-7, Paragraph 37.

[2] Per First Order at page 7, Paragraph 38.

3. Location of Interconnection

3.1 McLeod will be responsible for implementing and maintaining its network on its side of the POI. U S WEST will be responsible for implementing and maintaining its network on its side of the POI. If and when the Parties choose to interconnect at a Meet Point, McLeod and U S WEST will jointly provision the fiber optic facilities that connect the two networks and shall proportionately share the financial and other responsibilities for that facility based on the reasonably negotiated Meet Point percentage.

3.2 If interconnection is complicated by the presence of environmental contamination or hazardous materials, and an alternative route is available, U S WEST shall make such alternative route available for McLeod's consideration.

4. Collocation

4.1 Interconnection may be accomplished through either virtual or physical Collocation. The terms and conditions under which Collocation will be available are described in Part A of this Agreement.

5. Entrance Facility

5.1 Interconnection may be accomplished using an entrance facility without the need for collocation. An entrance facility extends from the Point of Interface to a point within a U S WEST central office.

6. Quality of Interconnection

6.1 U S WEST will not, for the purpose of interconnection, provide to McLeod less favorable terms and conditions than it provides itself or any other Person or in a manner less efficient than it would impose on itself or any other party. Interconnection will be at least equal in quality to that which U S WEST provides to itself.

7. Points of Interconnection

7.1 Upon a request for specific point to point routing, U S WEST will make available to McLeod information indicating the location and technical characteristics of U S WEST's network facilities. The following alternatives include (a) a DS-1, DS-3 or SONET rates, and other negotiated alternatives that are available (where facilities are not available and U S WEST builds in accordance with the Construction section of Attachment 1, Section 3, special construction and development costs may apply, if any); (b) virtual collocation; (c) physical collocation; and (d) negotiated Meet Point facilities. Each Party is responsible for providing its own facilities up to the Meet Point. The Parties will negotiate the facilities arrangement between their networks.

8. Trunking Requirements

8.1 U S WEST agrees to provide designated interconnection facilities that meet the same industry standards for technical criteria and service standards, such as the probability of blocking in peak hours and transmission standards.

8.2 The Parties shall initially reciprocally terminate local exchange traffic and intraLATA/interLATA toll calls originating on each other's networks as follows:

8.2.1 There shall be no restrictions on traffic types carried.

8.2.1.1 Until the access structure is revised, to accommodate non-segregated traffic, pursuant to rules promulgated by the FCC or the Commission, separate trunk groups will be established wherever practical. Exceptions to this provision will not be based on technical infeasibility, but will be based on billing, signaling, and network requirements. For example, exceptions include: (a) billing requirements - switched access vs. local traffic, (b) signaling requirements - MF vs. SS7, (c) network requirements - Directory Assistance traffic to TOPS tandems, and (d) one-way trunks for 911/E911. The following is the current list of traffic types that require separate trunk groups, unless otherwise specifically stated in this Agreement:

(a) intraLATA toll and interLATA switched access trunks
(b) EAS/local trunks
(c) Directory Assistance trunks
(d) 911/E911 trunks
(e) Operator Services trunks
(i) Non-U S WEST toll (transit toll to other providers)
(g) Non-U S WEST local (transit local to other providers)
(h) Commercial Mobile Radio Service/Wireless Traffic

8.2.2 If McLeod desires to combine Local Traffic and Toll Traffic on the same trunk group, U S WEST and McLeod shall submit such issue to arbitration pursuant to the dispute resolutions provisions of Section 27 of Part A of this Agreement.

8.3 Separate trunk groups will be established connecting McLeod's switch or McLeod's Operator Service Center to U S WEST's Operator Service Center for operator-assisted busy line interrupt/verify. For traffic from the U S WEST network to McLeod for Operator Services, U S WEST will provide one trunk group per LATA served by the local U S WEST switch.

8.4 Trunk Servicing

8.4.1 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an Access Service Request ("ASR") or another industry standard for local service ordering.

8.4.2 As further described in this Agreement, both Parties will jointly manage the capacity of Local Interconnection trunk groups. U S WEST's trunk servicing group will send a Trunk Group Service Request ("TGSR"), or another industry standard eventually adopted to replace the TGSR, to McLeod to trigger changes U S WEST desires to the Local Interconnection trunk groups based on U S WEST's capacity assessment. McLeod will issue an ASR or other industry ordering standard to U S WEST:

(a) within ten (10) Business Days after receipt of the TGSR, upon review of and in response to U S WEST's TGSR, or

(b) at any time, as a result of McLeod's own capacity management assessment, to begin the provisioning process. The interval used for the provisioning of Local Interconnection trunk groups shall be no longer than the standard interval for the provisioning of U S WEST's Switched Access service

and shall be consistent with U S WEST's actual provisioning intervals for its own Switched Access customers.

8.4.3 U S WEST will attempt to meet McLeod requested due dates for the provision of Local Interconnect trunk groups. Where the installation of Local Interconnection trunk groups is required within a time that is shorter than the standard interval, the Parties will make all reasonable efforts and cooperate in good faith to ensure that the mutually agreed upon due date is met.

8.4.4 Orders that comprise a major project may be submitted at the same time, in which case their implementation shall be jointly planned and coordinated. Major projects are those that require the coordination and execution of multiple orders or related activities between and among U S WEST and McLeod work groups, including, but not limited to, the initial establishment of Local Interconnection or Meet Point trunk groups and service in an area, NXX code moves, re-homes, facility grooming, or network rearrangements.

8.5 Trunking Requirements

8.5.1 Trunk group connections will be made at a DS-1 or multiple DS-1 level for exchange of EAS/local, intraLATA toll, wireless/Commercial Mobile Radio Service, and Switched Access Traffic. Ancillary Service trunk groups will be made below a DS-1 level, as agreed to by the Parties.

8.5.2 Where CCS is not available, in-band multi-frequency (MF) wink start signaling will be provided. This MF arrangement will require a separate local trunk circuit between McLeod's switch and U S WEST's tandems. Reference Technical Pub. TR-314 and TR394.

9. Service Interruptions

9.1 Upon request by either Party, standards and procedures for notification of trunk disconnects will be jointly developed by the Parties. . Neither Party shall be expected to maintain active status for a trunk disconnected by the other Party for an extended or indefinite period of time.

9.2 The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: (a) interfere with or impair service over any facilities of the other Party, its Affiliates, or its connecting and concurring carriers involved in its services; (b) cause damage to their plant; (c) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or (d) create hazards to the employees of either Party or to the public.

9.3 Each Party shall be solely responsible, and bear the expense, for the overall design of its services. Each Party shall also be responsible for any redesign or rearrangement of its services that may be required because of changes in facilities, operations or procedures, minimum network protection criteria, and operating or maintenance characteristics of the facilities. If one Party creates a circumstance causing additional costs to the other Party, the other Party may collect construction charges from the first Party.

9.4 To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate and define a trouble

reporting control office ("TRCO") for such service. Each Party shall furnish a trouble reporting telephone number for the designated TRCO. This number shall have access to the location where facility records are normally located and where current status reports on any trouble reports are readily available. Current and historical trouble reports will be made available, if necessary. Alternative out-of-hours procedures shall be established to ensure access to a location that is staffed and has the authority to initiate corrective action.

9.5 Where new facilities, services and arrangements are installed to rectify the service interruption, the TRCO shall ensure that continuity exists and take appropriate transmission measurements before advising the other Party that the new circuit is ready for service.

9.6 The Parties shall cooperate in isolating trouble conditions. Before either Party reports a trouble condition, it shall use reasonable efforts to isolate the trouble.

9.7 In cases where a trouble condition affects a significant portion of the other Party's service, the Parties shall assign the same priority provided to other interconnecting carriers.

10. Forecasting

10.1 The Parties agree that during the first year of Interconnection, joint forecasting and planning meetings will take place no less frequently than once per quarter.

10.2 The Parties shall establish joint forecasting responsibilities for traffic utilization over trunk groups. Intercompany forecast information must be provided by the Parties to each other four (4) times a year. The quarterly forecasts shall include forecasted requirements for each trunk group identified in Paragraph 6.2.1 of this Attachment. In addition, for tandem-switched traffic, the forecast shall include the quantity of tandem-switched traffic forecasted for each subtending end office. The Parties recognize that, to the extent historical traffic data can be shared between the Parties, the accuracy of the forecasts will improve. Forecasts shall be for a minimum of three (3) (current and plus-1 and plus-2) years and shall include:

10.2.1 the use of Common Language Location Identifier (CLLI-MSG), which is described in Bellcore documents BR 795-100-100 and BR 795-400-100; and

10.2.2 a description of major network projects anticipated for the following six (6) months that could affect the other Party. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecasting period. This planning will include the issues of network capacity, forecasting and compensation calculation, where appropriate.

10.2.3 If forecasts vary significantly, the Parties shall meet to review and reconcile such forecasts.

10.2.3.1 If the Parties are unable to reach such a reconciliation, the Local Interconnection trunk groups shall be provisioned to the higher forecast. At the end of three (3) months, the utilization of the Local Interconnection trunk groups will be reviewed and if the average CCS utilization for the third month is under seventy five percent (75%) of

capacity, either Party may issue an order to resize the trunk group, which shall be left with not less than twenty five percent (25%) excess capacity.

10.2.3.2 If the Parties agree on the original forecast and then it is determined that a trunk group is under seventy five percent (75%) of CCS capacity on a monthly-average basis for each month of any three-month period, either Party may issue an order to resize the trunk group, which shall be left with not less than twenty five percent (25%) excess capacity. In all cases, grade of service objectives identified in this Agreement shall be maintained.

10.3 Each Party shall provide a specified point of contact for planning, forecasting and trunk servicing purposes.

10.4 Trunking can be established to tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS-0 level, DS-1 level, DS-3 level, or any other technically feasible level, subject to network disclosure requirements of the FCC. Initial trunking will be established between McLeod's switching centers and U S WEST's access tandem(s). The Parties will utilize direct end office trunking under the following conditions:

10.4.1 Tandem exhaust - If a tandem through which the Parties are interconnected is unable to, or is forecasted to be unable to, support additional traffic loads for any period of time, the Parties will mutually agree on an end office trunking plan that will alleviate the tandem capacity shortage and ensure completion of traffic between McLeod and U S WEST subscribers.

10.4.2 Traffic volume - The Parties shall install and retain direct end office trunking sufficient to handle actual or reasonably forecasted traffic volumes, whichever is greater, between an McLeod switching center and a U S WEST end office where the local traffic exceeds or is forecasted to exceed 512 CCS at the busy hour.

10.4.3 Mutual agreement - The Parties may install direct end office trunking upon mutual agreement in the absence of conditions (1) or (2) above and such agreement will not unreasonably be withheld.

11. Signaling

11.1 Signaling protocol. The Parties will interconnect their networks using SS7 signaling as defined in GR-317 and GR-394, including ISDN User Part ("ISUP") for trunk signaling and Transaction Capabilities Application Part ("TCAP") for CCS-based features in the interconnection of their networks. All appropriate industry standards for signaling interoperability will be followed.

11.2 The Parties will provide CCS to each other in conjunction with all trunk groups supporting Local, Transit, and Toll Traffic. The Parties will cooperate on the exchange of TCAP messages to facilitate full interoperability of CCS-based features between their respective networks, including all CLASS features and functions. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI), calling party category, charge number, etc. For terminating Feature Group D, the Parties will pass CPN if it receives CPN from Feature Group D carriers. All privacy

indicators will be honored. Where available, network signaling information such as Transit Network Selection ("TNS") parameter (CCS platform) and CIC/OZZ information (non-CCS environment) will be provided by the Parties wherever such information is needed for call routing or billing. The Parties will follow all appropriate industry standards pertaining to TNS and CIC/OZZ codes.

11.3 Standard Interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, McLeod will agree to using other Interconnection protocols on an interim basis until the standard ESF/B8ZS is available. U S WEST will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.

11.4 Where McLeod is unwilling to utilize an alternate Interconnection protocol, McLeod will provide U S WEST an initial forecast of 64 Kbps Clear Channel Capability ("64K CCC") trunk quantities consistent with the forecasting agreements between the Parties. Upon receipt of this forecast, the Parties will begin joint planning for the engineering, procurement, and installation of the designated 64K CCC Local Interconnection trunk groups and the associated B8ZS Extended Super Frame facilities, for the purpose of transmitting 64K CCC data calls between McLeod and U S WEST. Where additional equipment is required, such equipment will be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for an IXC, McLeod or U S WEST internal customer demand for 64K CCC trunks. Where technically feasible, these trunks will be established as two-way.

12. Ordering

12.1 McLeod shall, on each order for Local Interconnection trunks, specify the McLeod NXXs that are assigned to the trunks.

13. Network Management

13.1 Protective Protocols

Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each others network when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload.

13.2 Rerouting Protocols

Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Rerouting controls will only be used when mutually agreed to by the Parties.

13.3 Mass Calling

McLeod and U S WEST shall cooperate and share pre-planning information, where available and in compliance with federal and state regulations, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network. Furthermore, INP numbers may only be used consistent with network efficiency and integrity, i.e., inhibitions on mass calling events.

14. Usage Measurement

14.1 When applicable, each Party shall provide to the other:

14.1.1 Bellcore AMA formatted records to generate bills to the other Party;

14.1.2 measurement of minutes of use over Local Interconnection trunk groups in actual conversation seconds. The total conversation seconds over each individual Local Interconnection trunk group will be totaled for the entire monthly bill-round and then rounded to the next whole minute; and

14.1.3 Within twenty (20) calendar days after the end of each quarter (commencing with the first full quarter after the Effective Date of this Agreement), a usage report with the total traffic volume described in terms of minutes and messages and by call type local, toll, and other terminated to each other over SS7 Local Interconnection trunk groups.

15. Audiotext and Mass Announcement Services

The Parties agree that access to the audiotext, mass announcement and information services of each Party may be made available to the other Party upon execution of a separate agreement or an amendment to this Agreement.

16. Interconnection to Network Elements

16.1 Technical Requirements

16.1.1 When requested by McLeod, U S WEST shall provide interconnection between U S WEST Network Elements provided to McLeod and McLeod's network at available transmission rates designated by McLeod. If additional equipment beyond that which U S WEST currently has in place, or that U S WEST is planning to put in place, or is otherwise required to have in place is required to meet such transmission rates, the installation and/or acquisition of such equipment shall be accomplished pursuant to the ordering process set forth in this Agreement. The construction of additional equipment shall be subject to the provisions of Attachment 1, Section 3 of this Agreement.[3]

16.1.2 Traffic shall be combined and routed as follows:

16.1.2.1 At McLeod's request, U S WEST shall receive McLeod traffic destined to the U S WEST Operator Systems Network Element, on trunks from an McLeod end-office or an McLeod tandem.

16.1.2.2 At McLeod's request, U S WEST shall receive McLeod CAMA-AN (Centralized Automatic Message Accounting - Automatic Number Identification) traffic destined to the 911 PSAPs or U S WEST E911 tandems, on trunks from an McLeod end-office.

16.1.2.3 At McLeod's request, U S WEST shall receive McLeod SS7 traffic

[3] The Parties agree to this last sentence pursuant to the Eighth Circuit decision.

destined to any U S WEST E911 tandem on trunks from an McLeod end-office, when SS7 E911 signaling is available in U S WEST's network.

16.1.3 When requested by McLeod and a third party carrier, U S WEST shall provide interconnections between McLeod's network, and the other carrier's network through the U S WEST network at transmission rates designated by McLeod, including, but not limited to, DS-1, DS-3, and STS-1, where available. U S WEST shall combine and route traffic to and from other local carriers and interLATA carriers through the U S WEST tandem network. Under separate contract, U S WEST may record and keep records of such traffic for McLeod billing purposes to the extent possible.

16.1.4 U S WEST shall provide two-way trunk groups for interconnection. At McLeod's request, and consistent with an efficient network architecture, U S WEST shall provide unidirectional traffic on such trunks, in either direction, effectively operating them as if they were one-way trunk groups.

16.1.5 All trunking provided by U S WEST shall adhere to the applicable performance requirements set forth in the "General Performance Requirements" section of this Agreement, pursuant to Sections 52.5.1 and 52.5.2 of Part A of this Agreement.

16.1.6 Intentionally left blank for numbering consistency.]

16.1.7 U S WEST and McLeod shall agree on the establishment of two-way trunk groups for the exchange of traffic for other IXCs. These trunk groups can be provided in a "meet point" arrangement.

16.1.8 Interconnection shall be made available upon McLeod's request at any technically feasible Point of Interface. All trunk interconnections shall be provided, including, SS7, MF, DTMF, Dial Pulse, PRI-ISDN (where available), DID (Direct Inward Dialing), CAMA-ANI, and trunking necessary so that INP can be provided.

16.2 Trunk Interface Requirements

16.2.1 911/E911 Trunks

16.2.1.1 U S WEST shall allow McLeod to provide direct trunking to each U S WEST E911 end office or tandem, as is appropriate for the applicable serving area. These trunks are to be provided as one-way trunks from a given McLeod end office to the U S WEST E911 end office or tandem.

16.2.1.2 U S WEST shall provide for overflow E911 traffic in the same manner that U S WEST provides E911 overflow for itself.

16.2.2 S911 Trunks

If and when S911 tandems become available in the U S WEST network, U S WEST shall allow McLeod to provide direct trunking to each U S WEST S911 tandem. Such SS7 trunks are to be provided as one-way trunks from a given McLeod end-office to the U S WEST S911 tandem.

16.2.3 Local Switch and Access Tandem Trunks

16.2.3.1 U S WEST shall provide trunks groups provisioned exclusively to carry IntraLATA Toll Traffic, as designated by McLeod.

16.2.3.2 U S WEST shall provide trunk groups provisioned exclusively to carry interLATA traffic, as designated by McLeod.

16.2.3.3 U S WEST shall provide SS7 trunks which provide SS7 Interconnection. At the Parties' agreement, MF trunks may be substituted for SS7 trunks where applicable.

16.2.3.4 U S WEST shall simultaneously route calls based on dialed digits (in accordance with the standard GR-317-CORE), and Carrier Identification Code (in accordance with the standard GR-394-CORE) over a single SS7 trunk group.

16.2.4 U S WEST Operator Services Trunk

U S WEST shall provide Operator Services trunks as one-way trunks from the U S WEST network to the McLeod network.

16.3 Network Interconnection between U S WEST and McLeod shall meet or exceed all of the requirements for network Interconnection set forth in the following technical references:

16.3.1 GR-317-CORE, Switching System Generic Requirements for Call Control Using the Integrated Services Digital Network User Part (ISDNUP), Bellcore, February 1994;

16.3.2 GR-394-CORE, Switching System Generic Requirements for Interexchange Carrier Interconnection Using the Integrated Services Digital Network User Part (ISDNUP), Bellcore, February 1994;

16.3.3 FR-NWT-000271, OSSGR Operator Services Systems Generic Requirements, Bellcore, 1994 Edition; and

16.3.4 FR-NWT-000064, LATA Switching Systems Generic Requirements (LSSGR), Bellcore, 1994 Edition.

17. Reciprocal Traffic Exchange

17.1 Scope

Reciprocal traffic exchange addresses the exchange of traffic between McLeod end users and U S WEST end users. If such traffic is local, the provisions of this Agreement shall apply. Where either Party acts as an intraLATA toll provider or interLATA IXC or where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective tariffs or

contractual offerings for such third party terminations. Absent a separately negotiated agreement to the contrary, compensation for reciprocal traffic exchange solely applies to traffic exchanged directly between the Parties without the use of third party transit providers.

17.2 Responsibilities of The Parties

17.2.1 U S WEST and McLeod agree to treat each other fairly, nondiscriminatorily, and equally for all items included in this Agreement, or related to the support of items included in this Agreement.

17.2.2 McLeod and U S WEST agree to exchange such reports and/or data as provided in this Agreement to facilitate the proper billing of traffic.

17.2.3 [Intentionally left blank for numbering consistency]

17.2.4 McLeod and U S WEST shall share responsibility for all Control Office functions for Local Interconnection trunks and trunk groups, and both Parties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

17.2.5 The Party that performs the End Office function is responsible for all Control Office functions for the meet point trunking arrangement trunks and trunk groups, and shall be responsible for the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

17.2.6 McLeod and U S WEST shall:

17.2.6.1 Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.

17.2.6.2 Notify each other when there is any change affecting the service requested, including the due date.

17.2.6.3 Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its Interconnection trunks/trunk groups are installed per the Interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.

17.2.6.4 Perform sectionalization to determine if a trouble is located in its facility or its portion of the Interconnection trunks prior to referring the trouble to each other.

17.2.6.5 Advise each other's Control Office if there is an equipment failure which may affect the interconnection trunks.

17.2.6.6 Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours per day, seven (7) days per week. Any changes to this contact arrangement must be immediately provided to the other Party.

17.2.6.7 Provide to each other test-line numbers and access to test lines.

17.2.6.8 *Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection Trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.*

17.3 Types of Traffic

17.3.1 *The types of traffic to be exchanged or provided under this Agreement include, but are not limited to the following:*

17.3.1.1 *EAS/Local Traffic,*

17.3.1.2 *Transit Traffic,*

17.3.1.3 *Switched Access Traffic,*

17.3.1.4 *Ancillary traffic includes all traffic destined for ancillary services, or that may have special billing requirements, including, but not limited to the following:*

(a) Directory Assistance
(b) 911/E911
(c) Operator call termination (busy line interrupt and verify)
(d) 800/888 database dip
(e) LIDB
(i) Information services requiring special billing.

17.3.1.5 *Unless otherwise stated in this Agreement, ancillary traffic will be exchanged in accordance with whether the traffic is Local/EAS, intraLATA toll, or Switched Access.*

17.4 Transport and Termination of Exchanged Traffic.

17.4.1 Termination of Local Traffic

Local Traffic will be terminated pursuant to the Reciprocal Compensation described in Attachment 1.

17.4.2 EAS/Local Traffic

As negotiated between the Parties, the exchange of local traffic between the Parties may occur in several ways:

17.4.2.1 *While the Parties anticipate the use of two way trunks for the delivery of Local Traffic, either Party may elect to provision its own one-way trunks for delivery of Local Traffic to be terminated on the other Party's network at the "initial" point of Interconnection.*

17.4.2.2 *The Parties may elect to purchase transport services from each other or from a third party. Such transport delivers the originating Party's Local Traffic to the terminating Party's end office or tandem for call*

termination. Transport may be purchased as either tandem switched transport (which is included in the tandem call termination rate) or direct trunk transport.

17.4.2.3 To the extent that McLeod has established a Collocation arrangement at a U S WEST end office location, and has available capacity, the Parties agree that McLeod shall provide two-way direct trunk facilities, when required, from that end office to the McLeod switch. In all other cases, the direct facility may be provisioned by U S WEST or McLeod or a third party. If both McLeod and U S WEST desire to provision the facility and cannot otherwise agree, the Parties may agree to resolve the dispute through the submission of competitive bids.

17.4.3 Transit Traffic

17.4.3.1 U S WEST will accept traffic originated by McLeod and will terminate it at a point of interconnection with another CLEC, Exchange Carrier, IXC or Wireless Carrier. U S WEST will provide this transit service through Tandem Office Switches. McLeod may also provide U S WEST with Transit Service.

17.4.3.2 The Parties expect that all networks involved in transporting Transit Traffic will deliver calls to each involved network with CCS/SS7 protocol and the appropriate ISUP/TCAP message to facilitate full interoperability and billing functions. In all cases, the originating company is responsible to follow the EMR standard and to exchange records with both the transiting company and the terminating company, to facilitate the billing process to the originating network.

17.4.3.3 The Parties will use industry standards developed to handle the provision and billing of Switched Access by multiple providers (MECAB, MECOD and the Parties' FCC tariffs).

17.4.4 Toll Traffic

Toll Traffic routed to an access tandem, or directly routed to an end office, will be terminated as Switched Access Service.

17.5 Interface Code Availability And Optional Features

17.5.1 Interface Code Availability

Supervisory Signaling specifications, and the applicable network channel interface codes for Local Interconnection trunks, are the same as those used for Feature Group D Switched Access Service, as described in the Parties' applicable Switched Access tariffs.

17.5.2 Optional Features

17.5.2.1 Inband MF or SS7 Out of Band Signaling

Inband MF signaling and SS7 Out of Band Signaling are available for local trunks. MF signaling or SS7 out-of-band signaling must be requested on the order for the new local trunks. Provisioning of the local trunks equipped with MF signaling or SS7 Out of Band Signaling is the same as that used for Feature Group D Switched Access. Common Channel Signaling Service, as described in this Agreement, must be ordered by McLeod when SS7 Out of Band signaling is requested on local trunks.

17.5.2.2 Clear Channel Capability

Clear channel capability permits 24 DS-0-64 kbit/s services or 1.536 Mbit/s of information on the 1.544 Mbit/s line rate. Clear channel capability is available for local trunks equipped with SS7 Out of Band signaling. Clear channel capability is only available on trunks to U S WEST's access tandem switch or U S WEST's end office switches (where available). Clear channel capability must be requested on the order for the new local trunks. The provisioning of the local trunks equipped with clear channel capability is the same as that used for Feature Group D Switched Access Service. U S WEST will provide McLeod with a listing of U S WEST end offices, local tandems and access tandems equipped with clear channel capability. (Clear channel capability is not available on trunks to U S WEST's local tandem switches or end offices where it is currently not deployed. McLeod agrees to use the Bona Fide Request process to request clear channel capability for such additional switches. In the event additional clear channel capability is required, costs and charges shall be assessed in accordance with Attachment 1, Section 3.

17.6 Measuring Local Interconnection Minutes

17.6.1 Measurement of terminating Local Interconnection minutes, as calculated per Attachment 5, begins when the terminating local entry switch receives answer supervision from the called end user's end office indicating the called end user has answered. The measurement of terminating call usage over local trunks ends when the terminating local entry switch receives disconnect supervision from either the called end user's end office, indicating the called end user has disconnected, or McLeod's Point of Interconnection, whichever is recognized first by the entry switch.

17.6.2 U S WEST and McLeod are required to provide each other the proper call information (e.g., originated call party number and destination call party number, etc.) to enable each Party to issue bills in a complete and timely fashion.

17.7 Testing

17.7.1 Acceptance Testing

At the time of installation of a local trunk group, and at no additional charge, the Parties will cooperatively test the same parameters tested for terminating Feature Group D Switched Access Service.

17.7.2 Testing Capabilities

17.7.2.1 Terminating Local Interconnection trunk testing is provided where equipment is available, with the following test lines: seven-digit access to

balance (100 type), milliwatt (102 type), nonsynchronous or synchronous, automatic transmission measuring (105 type), data transmission (107 type), loop-around, short circuit, open circuit, and non-inverting digital loopback (108 type).

17.7.2.2 In addition to Local Interconnection trunk acceptance testing, other tests are available (e.g., additional cooperative acceptance testing, automatic scheduled testing, cooperative scheduled testing, manual scheduled testing, and non-scheduled testing) at the applicable tariff rates.

17.8 Mileage Measurement

Where required, the mileage measurement for Local Interconnection facilities and trunks is determined in the same manner as the mileage measurement for Feature Group D Switched Access Service.

TABLE OF CONTENTS

ATTACHMENT 6

BUSINESS PROCESS REQUIREMENTS

1. General Business Requirements 2

2. Pre-Ordering 4

3. Ordering and Provisioning 10

4. Connectivity Billing and Recording 23

5. Provision Of Customer Usage Data 31

6. Maintenance 42

7. Miscellaneous Services and Functions 48

1. General Business Requirements

Notwithstanding any performance standard set forth in this Attachment, U S WEST will provide the services set forth in this Attachment to McLeod with the level of service quality set forth in Section 52, Part A of this Agreement.

1.1 Procedures

1.1.1 U S WEST Contact with Subscribers

1.1.1.1 McLeod at all times shall be the primary contact and account control for all interactions with its subscribers, except as specified by McLeod. McLeod subscribers include active Customers as well as those for whom service orders are pending.

1.1.1.2 U S WEST shall ensure that any U S WEST personnel who may receive customer inquiries, or otherwise have opportunity for subscriber contact: (i) provide appropriate referrals and telephone numbers to subscribers who inquire about McLeod services or products; (ii) do not in any way disparage McLeod or its products or services during such inquiry or subscriber contact; and (iii) do not provide information about U S WEST products or services during that same inquiry or subscriber contact.

1.1.1.3 McLeod shall ensure that any McLeod personnel who may receive customer inquiries, or otherwise have opportunity for subscriber contact: (i) provide appropriate referrals and telephone numbers to subscribers who inquire about U S WEST services or products; (ii) do not in any way disparage U S WEST, or its products or services during such inquiry or subscriber contact; and (iii) do not provide information about McLeod products or services during that same inquiry or subscriber contact.

1.1.1.4 U S WEST shall not use McLeod's request for subscriber information, order submission or any other aspect of McLeod's processes or services to aid U S WEST's marketing or sales efforts.

1.1.2 Expedite, Escalation and Disaster Procedures

1.1.2.1 Upon request by McLeod, the Parties shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. Within the said sixty (60) day period, U S WEST and McLeod will establish intercompany contact lists for purposes of handling subscriber and other matters which require attention/resolution outside of normal business procedures. To the extent possible, U S WEST shall notify McLeod of any changes to its escalation contact list at least one (1) week before such changes are effective.

1.1.2.2 Upon request by McLeod, the Parties shall jointly establish contingency and disaster recovery plans for those cases in which normal

Service Ordering, Provisioning, Maintenance, Billing and other procedures for U S WEST's unbundled Network Elements, features, functions and Resale Services are inoperable.

1.1.3 Operational and Technological Changes

1.1.3.1 U S WEST shall notify McLeod of any material operational or technological (e.g., network, systems interfaces) changes related to any services, Interconnection methods, or Network Elements purchased by McLeod. At the time U S WEST decides to make such a change, U S WEST will notify McLeod in sufficient time to allow McLeod to make necessary adjustments to accommodate the change, but in no case with less than thirty (30) days' notice, unless otherwise agreed to by the Parties. Objections to the proposed change must be given in writing to U S WEST in a reasonable time. For the purposes of this Section, material changes shall be defined as those changes which will likely impact current interactions between McLeod (or its customers) and U S WEST.

1.1.3.2 U S WEST agrees to notify McLeod whenever an McLeod subscriber who is provided local service through services for resale, INP/NP, or unbundled Network Elements changes McLeod PIC status.

1.1.4 Customer of Record

1.1.4.1 Providing McLeod has obtained proper Customer Authorization, U S WEST shall recognize McLeod as the Customer of Record for all Network Elements or services for resale ordered by McLeod and shall send all notices, invoices, and information which pertain to such ordered services directly to McLeod. McLeod will provide U S WEST with addresses to which U S WEST shall send all such notices, invoices, and information.

1.1.5 Work Center Interface Procedures

1.1.5.1 Upon request by McLeod, the Parties shall develop and implement work center interface procedures for each function/ business process necessary for fulfilling the terms of this Agreement.

1.2 Service Offerings

1.2.1 Changes in Retail Service Offerings

1.2.1.1 Pursuant to Section 23.2 of this Agreement, U S WEST shall provide summaries to McLeod describing the proposed change(s) of services which are available for resale pursuant to this Agreement.

1.2.1.2 [Intentionally left blank for numbering consistency.]

1.2.1.3 U S WEST shall provide McLeod with access to new services, features, and functions concurrent with U S WEST's notice to McLeod of such changes, so that McLeod may evaluate these services.

1.2.2 Essential Services

1.2.2.1 U S WEST shall designate trunks or lines as an Essential Service Line ("ESL") or Telecommunications Service Priority ("TSP"), whichever is applicable, upon McLeod's request, based on industry standards.

1.2.3 Blocking Services

1.2.3.1 Upon request from McLeod, U S WEST shall provide blocking in accordance with U S WEST standard intervals for 700, 900, and 976 services, or other services of similar type as may now exist or may be developed in the future according to industry standards, and shall provide Billed Number Screening ("BNS"), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, trunk, or individual service basis.

1.2.4 Training Support

1.2.4.1 U S WEST will train its employees who may communicate with McLeod subscribers to treat McLeod in a nondiscriminatory manner. U S WEST will solicit and may take into account input from McLeod in the development of such training and will permit McLeod to review, but not approve, such training. Such training will comply with the branding requirements of this Agreement.

1.2.4.2 U S WEST or its agent shall train McLeod employees on U S WEST's systems and processes necessary to assure the accuracy of required information exchange between McLeod. Information/materials provided to McLeod should include, at a minimum, operational and procedural information, and U S WEST-specific system access/interface instruction for performing similar functions.

1.2.5 Carrier Identification Codes

U S WEST shall provide to McLeod the active Carrier Identification Codes (CIC) for both Dial 1 and toll free (e.g., 800, 888) services for each of its access tandems pursuant to industry guidelines.

2. Pre-Ordering

2.1 General Business Requirements

2.1.1 Street Address Guide (SAG)

Upon request by McLeod, U S WEST shall provide to McLeod the SAG data, or its equivalent, in a mutually agreed to format. All changes to the SAG shall be provided to McLeod on a weekly basis.

2.1.2 CLASS and Custom Features

2.1.2.1 McLeod may order the entire set of CLASS and Custom features and functions, or a subset of any one or any combination of such features. In addition, U S WEST shall provide McLeod with a list of features and functions available on an end office by end office basis.

2.1.3 Customer Payment History

2.1.3.1 McLeod and U S WEST agree to make available to a mutually agreed upon third-party credit reporting agency, on a timely basis, such of the following Customer payment history information available for each person or entity that applies for local service or intraLATA toll Telecommunications Service(s) from either Party:

2.1.3.1.1 Applicant's name;
2.1.3.1.2 Applicant's address;
2.1.3.1.3 Applicant's previous phone number, if any;
2.1.3.1.4 Amount, if any, of unpaid balance in applicant's name;
2.1.3.1.5 Whether applicant is delinquent on payments;
2.1.3.1.6 Length of service with prior local or intraLATA toll provider;

2.1.3.1.7 Whether applicant had local or intraLATA toll service terminated or suspended within the last six (6) months with an explanation of the reason therefore; and,

2.1.3.1.8 Whether applicant was required by prior local or intraLATA toll provider to pay a deposit or provide another form of security including the amount of each.

2.1.3.2 Such information shall be provided on the condition that the credit reporting agency only make such information available to the carrier to which the person or entity in question has applied for Telecommunication Service.

2.1.4 Number Administration/Number Reservations

2.1.4.1 Until Number Administration functions are assumed by a neutral third party in accordance with FCC rules and regulations, U S WEST shall assign NXXs to McLeod on a non-discriminatory and equivalent basis following NANP guidelines. In addition, U S WEST shall provide testing and loading of McLeod's NXX on the same basis as U S WEST provides itself or its Affiliates. Further, in U S WEST's role as number administrator, it shall provide McLeod with access to abbreviated dialing codes, access arrangements for 555 line numbers, and the ability to obtain telephone numbers, including vanity numbers, while a customer is on the phone with McLeod. U S WEST shall provide the same range of number choices to McLeod, including choice of exchange number, as U S WEST provides its own customers. Reservation and aging of numbers shall remain U S WEST's responsibility.

2.1.4.2 McLeod may reserve blocks of U S WEST telephone numbers in accordance with U S WEST's tariffs, or in the same manner U S WEST reserves telephone numbers for its own use.

2.1.4.3 Where McLeod has obtained its own NXX, but has purchased U S WEST services for resale or Network Elements, U S WEST agrees to recognize the McLeod NXX in U S WEST's switch according to the local calling area defined by McLeod and approved by the Commission.

2.1.4.4 For resale and the unbundled switching element, U S WEST shall accept McLeod orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID, CENTREX, and hunting arrangements, as requested by McLeod on a non-discriminatory, equivalent basis following NANP guidelines.

2.1.4.5 For simple services, U S WEST shall provide real-time electronic interfaces to McLeod to obtain telephone number confirmation while the customer is on the line. When real time electronic interfaces are not available for simple services number reservations, U S WEST shall provide alternative means for confirmation of the number reservation while the customer is on the line. For number reservations associated with complex services, U S WEST shall provide confirmation of the number reservation within forty-eight (48) hours of McLeod's request or within such time as U S WEST may provide to itself or Affiliates, whichever is less.

2.1.4.6 Number Resources Arrangements

2.1.4.6.1 Nothing in this Agreement shall be construed in any manner to limit or otherwise adversely impact either Party's right to the request and assignment of any NANP number resources including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines (last published by the Industry Numbering Committee ("INC") as INC 95-0407-008, Revision 4/19/96, formerly ICCF 93-0729-010).

2.1.4.6.2 To the extent U S WEST serves as Central Office Code Administrator for a given region, U S WEST will support all McLeod requests related to central office code (NXX) administration and assignments in the manner required and consistent with the Central Office Code Assignment Guidelines.

2.1.4.6.3 [Intentionally left blank for numbering consistency]

2.1.4.6.4 The Parties will comply with (NXX) administration requirements as prescribed by the FCC, the Commission, and accepted industry guidelines.

2.1.4.6.5 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the Local Exchange Routing Guide ("LERG") guidelines to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.

2.1.4.6.6 Each Party shall be responsible for notifying its customers of any changes in numbering or dialing arrangements to include changes such as the introduction of new NPAs or new NXX codes.

2.1.4.6.7 Until an impartial entity is appointed to administer

telecommunications numbering, U S WEST will assign NXX codes to McLeod in accordance with national guidelines at no charge and on a nondiscriminatory basis.

2.1.4.6.8 Each Party is responsible for administering NXX codes assigned to it. Each Party is responsible for obtaining Local Exchange Routing Guide (LERG) listings of CLLI codes assigned to its switches. Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore for maintaining the LERG in a timely manner.

2.1.4.7 U S WEST shall provide provisioning support outside of scheduled work hours at the same level that U S WEST provides itself and as requested by McLeod. Such support may be subject to a minimum labor charge.

2.1.4.8 Service Assurance Warranties and Incentives: U S WEST shall provide to McLeod service assurance warranties and incentives as U S WEST provides such service warranties and incentives to its own end users or any other Person or as otherwise provided by the Commission.

2.1.4.9 Availability of Network Capacity: Consistent with McLeod's forecasts, U S WEST shall deploy and keep deployed network facilities for McLeod services in a non-discriminatory manner and in the same manner as U S WEST makes such facilities available to itself for its services.

2.1.4.10 Workcenter Interface Methods and Procedures: U S WEST and McLeod shall finalize interface methods and procedures between their respective work centers detailing systems and processes for ordering and provisioning. Such methods and procedures shall be completed within one hundred twenty (120) days after a written request of either Party. The lack of workcenter interface methods and procedures shall not inhibit the provision of services under this Agreement.

2.2 Service Order Process Requirements

2.2.1 [Intentionally left blank for numbering consistency.]

2.2.2 Specific Unbundling Requirements

2.2.2.1 When ordering Network Elements, McLeod shall have the option of ordering all features, functions and capabilities of such Network Elements.

2.2.2.2 When McLeod orders Network Elements, U S WEST shall provision all features, functions, and capabilities appropriate to the Network Elements which may include, but are not limited to:

2.2.2.2.1 the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to U S WEST's Customers, such as telephone number, white page listing, and dial tone; and

2.2.2.2.2 all other features the switch has activated, including, but not limited to, custom calling, custom local area signaling service features and Centrex, as well as any technically feasible[1] customized routing functions provided by the switch.

2.3 Systems Interfaces and Information Exchanges

2.3.1 General Requirements

[Intentionally left blank for numbering consistency.]

2.3.2 Pre-Ordering and Provisioning for Resale Services and Unbundled Network Elements

2.3.2.1 U S WEST shall provide to McLeod a list of all intraLATA and interLATA carriers available for Customer selection on a central office level.

2.3.2.2 [Intentionally left blank for numbering consistency]

2.3.2.3 U S WEST shall provide McLeod with access to Customer Profile Information ("CPI") without requiring McLeod to produce a signed Letter of Authorization ("LOA") subject to proof of authorization requirements described elsewhere in this Agreement, based on McLeod's blanket representation that the Customer has authorized McLeod to obtain such CPI.

2.3.2.3.1 CPI shall be in the standard U S WEST format at the line and/or trunk level. U S WEST shall provide to McLeod a real-time, electronic interface to U S WEST Customer information systems which will allow McLeod to obtain the Customer profile, which may include, but not be limited to, Customer name, service addresses, billed telephone number(s), and identification of features and services provided by U S WEST on the Customer accounts, and to obtain information on all features and services available in the end office where Customer's services are currently provisioned. The preceding information may not include services deemed not to be Telecommunications Services by the Commission.

2.3.2.3.1.1 Until access is available via a real-time, electronic interface for CPI, U S WEST agrees that McLeod can obtain CPI in an interim mutually agreed to manner and in accordance with Section 3.2 of this Attachment to facilitate the service order process.

2.3.2.5 U S WEST shall provide to McLeod, via the ICON database or other mutually agreed upon means, a list of all current features and functions technically available from each switch by switch CLLI. Planned services

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[1] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "technically feasible".

shall be provided to McLeod through network disclosure process and/or Commission Notification as appropriate.

2.3.2.6 [Intentionally left blank for numerical consistency]

2.3.2.7 Pending or Held Orders: U S WEST shall provide, when available, the McLeod information regarding a subscriber's previous pending or held orders. If the subscriber has a pending or held order, the status of the order shall not be negatively impacted as a result of the subscriber changing local service providers (i.e. due date for pending service changed to later date).

2.3.2.8 Special Construction: When U S WEST determines that special construction is required, U S WEST shall notify McLeod on a timely basis of special construction requirements and charges, and obtain McLeod authorization before beginning such construction.

2.3.3 Pre-Ordering and Provisioning for Unbundling

2.3.3. U S WEST shall provide to McLeod, upon reasonable request, sufficient engineering design and layout information for Network Elements for specific applications.

2.3.3.2 U S WEST shall provide to McLeod, upon request, advance information of the details and requirements for planning and implementing NPA splits in accordance with NANP Guidelines.

2.3.3.3 U S WEST shall make engineering support available to McLeod as is normal and customary in the provision of Telecommunications Services, Network Elements, Combinations or Ancillary Functions as described in this Agreement. McLeod may request additional engineering support.

2.4 Pre-ordering Functions

For internal purposes, the term "Service Order" as used in this Attachment 5 will be internally referred to as a Local Service Request.

"Pre-Ordering" and "Ordering" encompasses the preliminary set of activities whereby a service representative dialogues with the customer in order to obtain the information required to write a service order and consists of the following functions: verify an address, check service availability, reserve a telephone number, check for appointment availability, reserve an appointment and return customer service information. These functions are described as follows:

2.4.1 Address Verification - Provides McLeod with the ability to query for and receive the customer service location, serving central office, and facility indicators. The facilities indicator will indicate the availability of facilities for one access line at the address, if the cable pair is available or working. If the cable pair is working, an indication of a pending disconnect order and the due date will be provided. This function does not reserve cable pairs.

2.4.2 Telephone Number Reservation - Provides McLeod with the capability to identify if one or more telephone numbers are available and reserve them if available.

This includes the ability to reserve one or more specific numbers (vanity numbers), a block of sequential or random block of numbers by serving central office and/or NXX. If a work order is not received within a negotiated amount of time, the reservation will automatically expire.

2.4.3 Appointment Availability and Reservation - Provides McLeod with the capability to determine the next available due date, the availability of a specific date, an indication if the date is available or a selection of the next available date any closed dates beyond that date, and reservation of an available appointment.

2.4.4 Service Availability - Allows McLeod to determine the availability of services and facilities to a specific end-users' location(s). This capability indicates is the service is available, that tariff rates apply, the amounts of any additional recurring and non-recurring costs, and the interval to be used when ordering the service.

2.4.5 Customer Service Information Request - Gives McLeod the ability to request a listing of existing services, features, directory listing and equipment for a customer account.

2.4.6 Circuit Identification Request - Provides McLeod with the capability to identify and obtain circuit identifications. If a work order for a Circuit Identification Request is not received within a negotiated amount of time, the request will automatically expire.

3. Ordering and Provisioning

3.1 General Business Requirements

3.1.1 Ordering and Provisioning Parity

U S WEST shall provide McLeod with the same level of ordering and provisioning support as U S WEST provides itself in accordance with standards and performance measurements that U S WEST uses and/or which are required by law, regulatory agency, or by U S WEST's own internal procedures, whichever are the most rigorous. These standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as U S WEST may deploy) that U S WEST provides to McLeod under this Agreement.

3.1.2 Interconnection Service Center (ISC)/Single Point of Contact (SPOC)

3.1.2.1 U S WEST shall provide a Systems Interface Help Desk or equivalent which shall serve for all activities involved in the electronic interface for ordering and provisioning of U S WEST's unbundled Network Elements, features, functions, and Resale Services. The Systems Interface Help Desk or equivalent shall be available twenty-four (24) hours a day, seven (7) days a week.

3.1.2.2 U S WEST shall provide a Single Point of Contact ("SPOC") and shall provide to McLeod toll-free nationwide telephone numbers (available during U S WEST's scheduled work hours) answered by competent, knowledgeable personnel, trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled

Network Elements, features, functions, capabilities, and Resale Services. U S WEST will provide sufficient resources to provide equivalent, or as otherwise agreed to by the Parties, service to McLeod.

3.1.2.3 In addition to the electronic interfaces provided for elsewhere in this Agreement, U S WEST shall provide, as requested by McLeod through the SPOC, provisioning and dispatch in the form of coordinated scheduling, status, and dispatch capabilities equivalent to that which U S WEST provides itself or as otherwise agreed to by the Parties.

3.1.3 Carrier Selection

3.1.3.1 For Services for Resale or unbundled Network Elements, U S WEST shall provide to McLeod, no later than January 1, 1997, the capability to order local service, intraLATA, and interLATA, toll services by entering McLeod subscriber's choice of carrier on a single order. U S WEST will offer other carrier selection choices as they become available. U S WEST shall provide McLeod with the capability to order separate interLATA and intraLATA carriers on a line or trunk basis where 1+ presubscription is available.

3.1.3.2 Where intraLATA 1+ presubscription is not available, or if the subscriber does not select an intraLATA toll carrier, U S WEST agrees to provide intraLATA toll services for resale to McLeod and to recognize the end user as the customer of McLeod for intraLATA toll. McLeod shall designate the default carrier for all other toll calls if the subscriber does not select a carrier. In all cases, U S WEST will route toll calls to the appropriate carrier as designated by McLeod.

3.1.4 Notification to Long Distance Carrier

3.1.4.1 U S WEST will not accept PIC change requests through the CARE process for McLeod local service customers. McLeod's long distance operations may obtain such CARE transactions for McLeod long distance customers from the customer's local service provider. U S WEST agrees to notify IXCs using OBF approved CARE transactions, whenever an IXC Customer who is provided local service through Services for Resale, INP/NP, or unbundled Network Elements changes PIC status.

3.1.4.2 U S WEST shall implement new Transaction Code Status Indicators ("TCSIs") 2033, 2233, 3147, and 3148. The new local service provider identification ("LSPID") will be included on these transactions if the new local resale provider agrees U S WEST should provide the information to a long distance provider as defined by the OBF in support of Local Resale. U S WEST shall implement TCSIs used in conjunction with the new local service provider ("LSP") identification code for handling account maintenance, customer service, and trouble administration issues. These TCSIs include 4001/02/05, 4201-4205, 4301, 2033, 2233, 3147, 3148, 3149, and others as the OBF may define.

3.1.4.2.1 In addition, U S WEST shall implement TCSIs, when available, used in conjunction with the new Ported Telephone Number field to link "shadow" and ported telephone numbers in support of Interim Number Portability. These TCSIs include

2231, 3150, 3151, and others as the OBF may define.

3.1.5 Ordering Interconnection

The Parties agree to utilize the OBF-ASR process for ordering interconnection trunks, which is the same process used to order Access Services. When the ordering Party requests facilities, routing, or optional features different than those determined to be available, the Parties will work cooperatively in determining an acceptable configuration based on available facilities, equipment and routing plans.

3.2 Service Order Process Requirements

3.2.1 OBF Compliance

3.2.1.1 U S WEST and McLeod shall generally follow the OBF-developed ordering and provisioning process guidelines. These processes include, but are not limited to, pre-order service inquiry, pre-order service inquiry response, firm order, acknowledgment/rejection, firm order confirmation, delay notification, and completion notification. U S WEST agrees to work cooperatively to generally comply with future OBF developed guidelines.

3.2.2 Service Migrations and New Customer Additions

3.2.2.1 For Resale Services, U S WEST shall not require a disconnect order from a Customer, another local service provider, or any other entity, to process an McLeod order to establish McLeod Local Service and/or migrate a Customer to McLeod Local Service.

3.2.2.2 For Resale Services, U S WEST shall not disconnect any Customer service or existing features available under this Agreement at any time during the migration of that Customer to McLeod service without McLeod prior agreement.

3.2.2.3 For services provided through unbundled Network Elements, U S WEST shall recognize McLeod as an agent for the Customer in coordinating the disconnection of services provided by another CLEC or U S WEST.

3.2.2.4 Unless otherwise directed by McLeod, when McLeod orders Resale Services or Network Elements. All trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability for those services or features which U S WEST controls and which are available under this Agreement.

3.2.2.5 For Customer conversions requiring coordinated cut-over activities, U S WEST and McLeod will agree on a scheduled conversion time(s), which will be a designated two-hour time period within a designated date. Unless expedited, U S WEST and McLeod shall schedule the cut-over window at least forty-eight (48) hours in advance, and as part of the scheduling, U S WEST shall estimate for McLeod the duration of any service interruption that the cut-over might cause. The cut-over time will

be defined as a thirty (30) minute window within which both the McLeod and U S WEST personnel will make telephone contact to complete the cut-over.

3.2.2.5.1 U S WEST will coordinate activities of all U S WEST work groups involved with the conversion. This coordination will include, but not be limited to, work centers charged with manual cross-connects, electronic cross-connect mapping, and switch translations (including, but not limited to, implementation of Interim Number Portability translations).

3.2.2.5.2 As soon as possible, but in no event later than one (1) hour after completion, U S WEST will notify McLeod when coordinated cut-over is complete.

3.2.2.5.3 End user service interruption shall not exceed twenty (20) minutes during any cut-over. The average interruption caused by the cut-over of McLeod Customers shall not exceed ten (10) minutes. However, if any service interruption is to exceed twenty (20) minutes, U S WEST will immediately notify McLeod of such delay

3.2.2.5.4 Within the appointed thirty (30) minute cut-over time, the U S WEST personnel will call the McLeod personnel designated to perform cross-connection work and when the U S WEST personnel is reached in that interval such work will be promptly performed. If the McLeod personnel is not ready within the appointed interval, and if McLeod had not called to reschedule the work at least two (2) hours prior to the start of the interval, U S WEST and McLeod will reschedule the work order and McLeod will pay the non-recurring installation charge for the unbundled loops scheduled for the missed appointment. In addition, non-recurring installation charges for the rescheduled appointment will apply. If the U S WEST personnel is not available or not ready at any time during the thirty (30) minute interval, McLeod and U S WEST will reschedule and U S WEST will waive the non-recurring charge for the unbundled loops scheduled for that interval. If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of McLeod. In addition, if McLeod has ordered INP as a part of the unbundled loop installation, U S WEST will coordinate implementation of INP with the unbundled loop installation.

[redacted]

3.2.2.7 *U S WEST shall provide McLeod the capability to transfer a customer with no feature changes to McLeod through a streamlined process.*

3.2.2.8 *Status: U S WEST shall provide the McLeod status on a service order when the status of the order changes.*

3.2.2.9 *Modifies: U S WEST shall provide McLeod the capability to modify the service order any time after it has been issued, however, U S WEST may require the issuance of a supplemental or change order.*

3.2.2.10 *Cancel: U S WEST shall provide McLeod the capability to cancel the service order any time after it has been issued.*

3.2.2.11 *Coordinated Service Request: U S WEST shall provide McLeod the capability to relate coordinated services requests, and identify those service requests that require coordination with McLeod, or subscriber, or subscriber's vendor. When so identified, U S WEST will follow any specific instructions indicated on the service request so that the subscriber's service is not negatively affected by the service turn-up activity.*

3.2.2.12 *Expedite Process: U S WEST and McLeod shall mutually develop expedite procedures to be followed when McLeod determines an expedite is required to meet subscriber service needs.*

3.2.2.13 *Expedites: U S WEST shall provide McLeod the capability to expedite a service request. Within two (2) business hours after a request from McLeod for an expedited request, U S WEST shall notify McLeod of U S WEST's confirmation to complete, or not complete, the order within the expedited interval.*

3.2.3 Intercept Treatment and Transfer of Service Announcements

3.2.3.1 *U S WEST shall provide unbranded intercept treatment and transfer of service announcements to McLeod Customers. U S WEST shall provide such treatment and transfer of service announcement for all service disconnects, suspensions, or transfers, in the same manner as that which U S WEST provides its own end users. U S WEST's current standard time periods for providing such announcements is three (3) months for residential service and twelve (12) months for business service. McLeod may request extensions at parity with that which U S WEST provides its end-users.*

3.2.3.2 *Pursuant to this Agreement, McLeod shall provide unbranded intercept treatment and transfer of service announcements to U S WEST Customers. McLeod shall provide such treatment and transfer of service announcement for all service disconnects, suspensions, or transfers, at parity with what McLeod provides its own end users. McLeod standard time periods for providing such announcements is three (3) months for residential service and twelve (12) months for business service.*

U S WEST may request extensions at parity with that which McLeod provides its end-users.

3.2.4 Due Date

3.2.4.1 U S WEST and McLeod shall mutually agree on what services and circumstances are subject to the standard interval process to determine the due date or the requested/committed due date process.

3.2.4.2 For those services and circumstances that U S WEST and McLeod agree shall be handled by the standard interval process, U S WEST shall supply McLeod with standard due date intervals on a nondiscriminatory basis to be used by McLeod personnel to determine service installation dates. Under those circumstances U S WEST shall complete the provisioning within the standard interval.

3.2.4.2.1 If McLeod requests a due date earlier than the standard due date interval, then expedite charges may apply.

3.2.4.3 For those services and circumstances that U S WEST and McLeod agree shall be handled by the requested/committed due date process, McLeod may request a due date on each service request. U S WEST will provide an offered due date on a nondiscriminatory basis. If McLeod accepts the offered due date then such date shall become the committed due date. U S WEST will complete the order on the committed due date unless otherwise authorized by McLeod.

3.2.4.3.1 If McLeod requires a due date earlier than the U S WEST offered due date and U S WEST agrees to meet the McLeod required due date then that required due date becomes the committed due date and expedite charges may apply.

3.2.4.4 Subsequent to an initial order submission, McLeod may request a new/revised due date that is earlier than the committed due date. If U S WEST agrees to meet that new/revised due date, then that new/revised due date becomes the committed due date and expedite charges may apply.

3.2.4.5 Any special or preferred scheduling options available, internally or externally, to U S WEST for ordering and provisioning services shall also be available to McLeod.

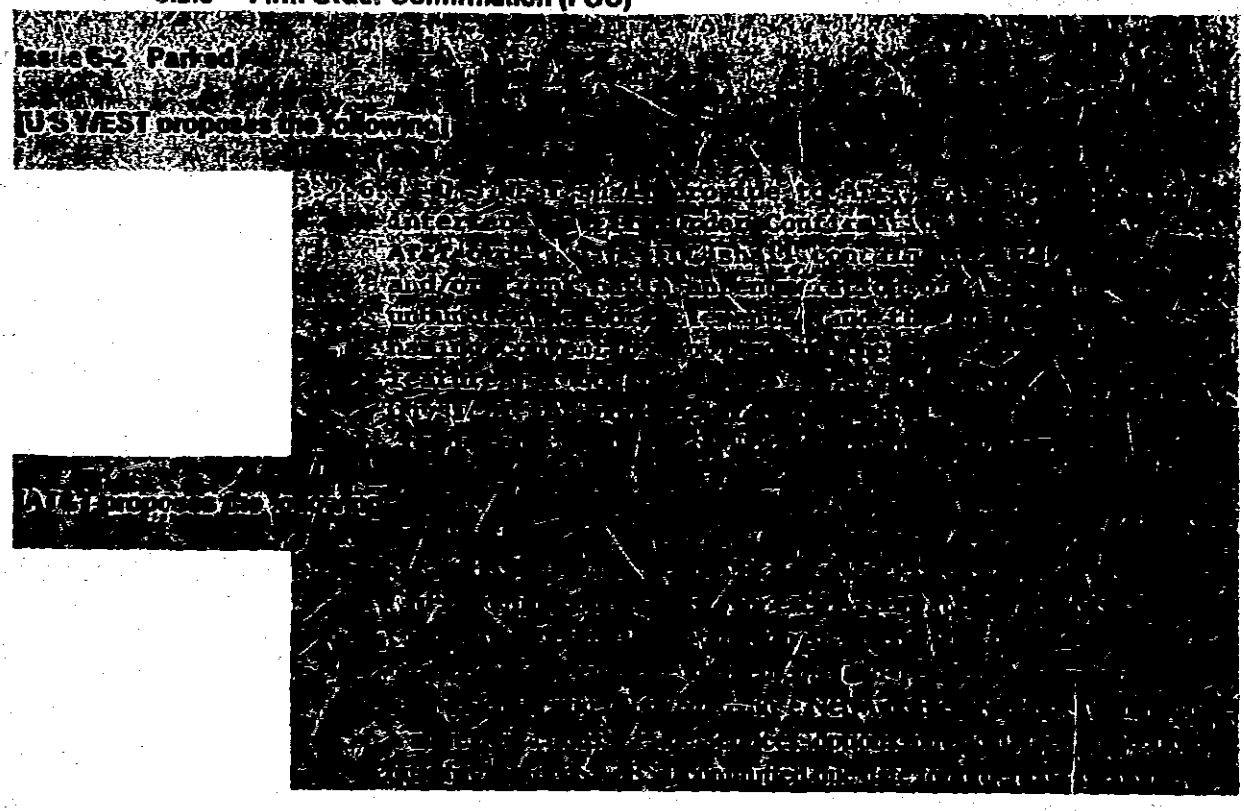
3.2.5 Customer Premises Inspections and Installations

3.2.5.1 McLeod shall perform or contract for all needs assessments, including equipment and installation requirements, at the Customer premises.

3.2.5.2 U S WEST shall provide McLeod with the ability to schedule dispatches for work under this Agreement.

3.2.5.3 U S WEST shall provide, at McLeod's request, extended demarcation beyond the NID using intrabuilding riser and lateral beyond the NID. This provision shall not require U S WEST to provide inside wire.

3.2.6 Firm Order Confirmation (FOC)



3.2.6.2 For a revised FOC, U S WEST shall provide order detail on a per line or per trunk level as well as the order detail from the prior FOC.

3.2.7 Order Rejections

3.2.7.1 U S WEST shall reject and return to McLeod any order that U S WEST cannot provision, due to technical reasons, missing information, or jeopardy conditions in accordance with performance measurements as defined herein. When an order is rejected, U S WEST shall, in its rejection notification, specifically describe all of the reasons for which the order was rejected. U S WEST shall not reject any orders on account of the requested due date.

3.2.7.2 On an exception basis, to the extent that errors cannot be corrected pursuant to electronic interface processes, U S WEST agrees to accept verbal order corrections from McLeod. U S WEST shall timely inform McLeod by telephone of any minor issues which can be handled over the phone. As required McLeod will provide a supplemental service request reflecting changes to the original service request.

3.2.8 Service Order Changes

3.2.8.1 If an installation or other McLeod-ordered work request requires a change from the original McLeod service request in any manner, U S WEST shall call McLeod in advance of performing the installation or other work to obtain authorization. U S WEST shall then provide McLeod an estimate of additional labor hours and/or materials. After all

installation or other work is completed, U S WEST shall notify McLeod of actual labor hours and/or materials used in accordance with regular service order completion schedules.

3.2.8.1.1 If additional work is completed on a service order, as approved by McLeod, the cost of the additional work must be reported to McLeod in accordance with regular service order completion schedules.

3.2.8.1.2 If a service order is partially completed, notification must identify the work that was done and the work remaining to be completed.

3.2.8.2 If an McLeod Customer requests a service change at the time of installation or other work being performed by U S WEST on behalf of McLeod, U S WEST, while at the Customer premises, shall direct the McLeod Customer to contact McLeod so as to avoid unnecessary delays in service activation should the U S WEST representative leave Customer premises prior to completing the installation.

3.2.9 Jeopardy Situations

To the extent jeopardy information is available, U S WEST shall provide to McLeod notification of any jeopardy situations prior to the committed due date, missed appointments and any other delay or problem in completing work specified on McLeod service order as detailed on the FOC, in accordance with the Performance Measurements as defined herein.

3.2.10 Cooperative Testing

3.2.10.1 Network Testing

3.2.10.1.1 To the extent that U S WEST provides testing for services offered to its end users and to the extent U S WEST provides testing for itself, U S WEST shall perform all pre-service testing prior to the completion of the McLeod order, including testing on local service facilities and switch translations, including, but not limited to, verification of features, functions, and services ordered by McLeod.

3.2.10.1.2 The Parties agree to cooperate in testing that is required to complete service orders.

3.2.10.2 Systems and Process Testing

3.2.10.2.1 Upon McLeod's request, U S WEST shall cooperate with McLeod to ensure that all operational interfaces and processes are in place and functioning properly and efficiently. Testing shall simulate actual operational procedures and systems interfaces to the greatest extent possible. McLeod may request cooperative testing to ensure service performance, reliability, and Customer service ability.

3.2.11 Service Suspensions/Restorations

3.2.11.1 *For services other than non-switched, upon McLeod's request through a Suspend/Restore Request, U S WEST shall suspend or restore the functionality of any Network Element, feature, function, or Resale Service. U S WEST shall provide restoration priority on a per Network Element basis in a manner that conforms with McLeod requested priorities and any applicable regulatory rules and regulations or government requirements.*

3.2.12 Disconnects

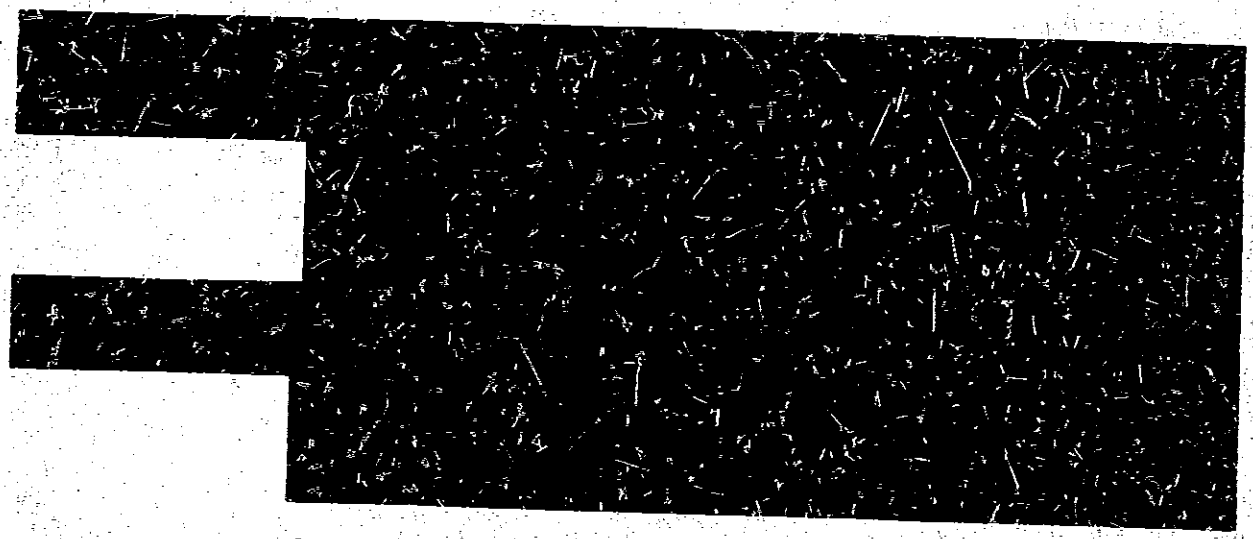
3.2.12.1 *U S WEST shall provide to McLeod daily information, in a mutually agreed upon format, notifying McLeod of any services disconnected from McLeod. This report will itemize a change in local service provider or outward line movement on service order activity.*

3.2.13 Order Completion Notification

3.2.13.1 *Upon completion of a service order by U S WEST in its system(s), U S WEST shall submit to McLeod an order completion which details the work performed (including a list of features and functions installed), the date completed, charges associated with the order, and verification of accurate service completion. Notification shall be provided in accordance with mutually agreed upon intervals.*

3.2.14 *[Intentionally left blank for numbering consistency]*

3.2.15 Specific Unbundling Requirements



3.2.15.2 *Prior to providing service in a specific geographic area or when McLeod requires a change of network configuration, McLeod may elect to place an order with U S WEST requiring U S WEST to prepare Network Elements and switch translations in advance of orders for additional Network Elements from McLeod.*

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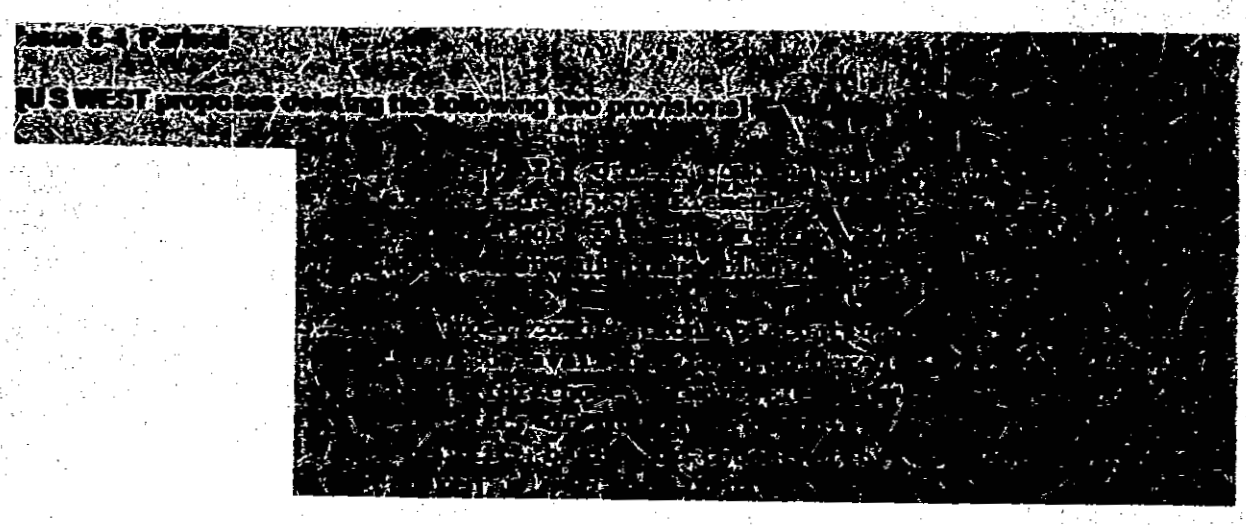
2 Per First Order at page 12, Paragraph 83.



3.2.15.5 Individual Network Elements shall be identified and ordered by McLeod so that they can be provisioned together in accordance with the rebundling provisions of Attachment 3, Section 19..

3.2.15.6 U S WEST shall provide technical assistance to McLeod with respect to unbundled Network Elements pursuant to Section 2.3.3.3 of this Attachment.

3.2.15.7 Each order for Network Elements will contain administration, bill, contact, and Customer information, as defined by the OBF.

3.2.15.8 When ordering unbundled switch ports, McLeod is requested to specify the desired signaling (e.g. loop start, ground start or loop reverse battery options.

3.2.15.8.1 To the extent McLeod requires an Unbundled Loop to provide ISDN, HDSL, ADSL, DS1 service or other channel performance options, such requirements will be identified on the order for unbundled loop service.

3.2.15.8.2 The actual loop facilities provided may utilize various technologies or combinations of technologies. Basic unbundled loops provide an analog facility to McLeod.

3.2.16 Interim Interfaces

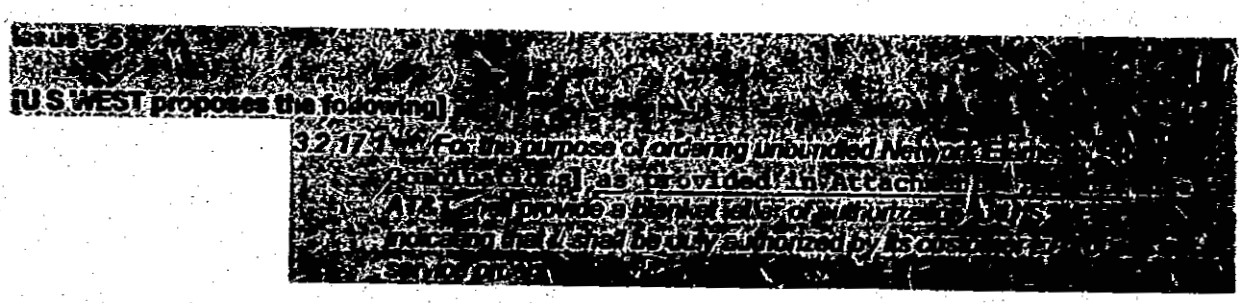
3.2.16.1 U S WEST will offer interim interfaces via Interconnect Mediated Access as documented in Document Number T-12-99-116472-00-02, current as of the Effective Date of this Agreement, or as mutually agreed to by the Parties.

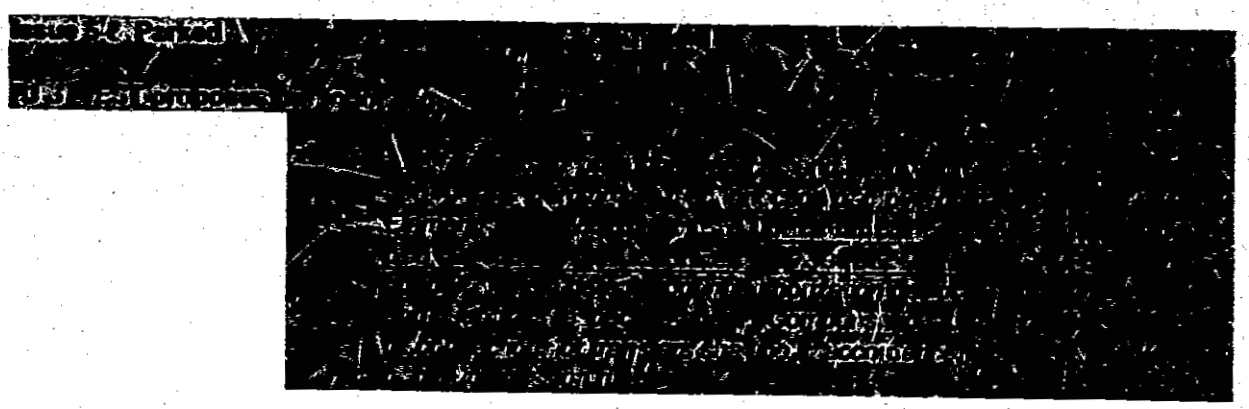
3.2.16.2 Until the electronic interface described in Section 3.2.16.1 is available for the required services, U S WEST agrees that the Interconnect Service Center (ISC) or similar function will accept McLeod orders. Orders will be transmitted to the ISC via mutually agreed procedures.

3.2.16.3 Until industry standards are completed and implemented pursuant to Section 3.3.2 of this Attachment, U S WEST and McLeod agree to use

interim interfaces as described in Section 3.2.16.1 above.

3.2.17 Ordering and Maintenance





3.2.17.3 McLeod has primary responsibility for its own end user base and will have the responsibility for resolution of any service trouble report(s) from its customers. U S WEST will work cooperatively with McLeod to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of U S WEST's network. Where available, McLeod must provide to U S WEST switch-based test results when testing its customer's trouble prior to U S WEST performing any repair functions. The Parties will cooperate in developing mutually acceptable test reports.

3.2.17.5 [Intentionally left blank for numbering consistency.]

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[3] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "or combinations".

3.2.17.6 When ordering Unbundled Loops, McLeod is responsible for obtaining or providing facilities and equipment that are compatible with the loop.

3.2.17.7 To the extent a U S WEST provided unbundled loop is provisioned without U S WEST provided unbundled switching, McLeod will have responsibility for testing the unbundled loop. If, at McLeod's request, U S WEST must dispatch to perform tests on an Unbundled Loop, and the fault is not in U S WEST facilities, a charge may apply.

3.2.17.8 To the extent a U S WEST provided unbundled loop is provisioned without unbundled U S WEST provided unbundled switching, McLeod will be responsible for providing the McLeod switch interface, if applicable, on the U S WEST MDF interface to facilitate plant test.

3.3 Systems Interfaces and Information Exchanges

3.3.1 Operational Systems Interfaces - Interface Implementation Timetable

3.3.1.1 U S WEST's initial operational systems interfaces deployment in January 1997 will support Pre-ordering, Ordering, Provisioning and Repair capabilities for POTS (non-design) services and billing capabilities for most U S WEST product offerings. Subsequent phases of the plan incorporate the capabilities to support designed services for Pre-ordering, Ordering, Provisioning, and Maintenance and Repair. Time frames for delivery of the operational support systems for designed services are estimated to be in November 1997.

3.3.1.2 U S WEST will develop long term mediated access.

3.3.2 Permanent Access to Systems Interfaces

3.3.2.1 U S WEST shall provide to McLeod a real-time electronic interface(s) for transferring and receiving information and executing Service Pre-Ordering, Ordering, Provisioning, Maintenance and Repair transactions for unbundled Network Elements and Resale Services, and any other database access required by FCC rules and regulations. In addition U S WEST shall also provide the electronic interfaces specified in this Agreement which support business processes or database access. The interface(s) shall be capable of supporting all of the steps in the OBF developed ordering and provisioning process. These steps include pre-order service inquiry, pre-order service inquiry response, firm order acknowledgment/rejection, firm order confirmation, and completion notification.

3.3.2.1.1 The Parties will jointly review each OBF standard upon completion. The review shall be completed within thirty (30) days, unless otherwise agreed to by the Parties. The review shall result in a mutual agreement on whether the new standard will be deployed. Within thirty (30) days of agreement to deploy the new standard, the Parties shall agree on a schedule for such deployment.

3.3.2.2 U S WEST shall provide McLeod a common electronic interface that will permit the transmittal of business and residential transactions.

3.3.3 Ordering and Provisioning for Resale Services

U S WEST shall provide a real time electronic interface with at least the following specifications:

3.3.3.1 U S WEST shall provide to McLeod an electronic interface to U S WEST information systems to allow McLeod to assign telephone number(s) (if the Customer does not already have a telephone number or requests a change of telephone number).

3.3.3.2 For Resale Services not subject to standard intervals, U S WEST shall provide to McLeod a real-time, electronic interface to schedule dispatch and installation appointments.

3.3.3.3 U S WEST shall inform McLeod whether a service call is required and shall provide McLeod the ability to schedule a service call.

3.3.3.4 [Intentionally left blank for numbering consistency.]

3.3.3.5 U S WEST shall provide to McLeod a real-time, electronic interface which transmits status information on service orders.

3.3.4 Ordering and Provisioning for Unbundling

3.3.4.1 For unbundled Network Elements not subject to standard intervals, U S WEST shall provide to McLeod, when available, a real-time, electronic interface which will allow McLeod to schedule appointments, and adjust pending order due dates in real-time.

3.3.4.2 U S WEST shall provide McLeod with results from mechanized loop tests.

3.3.4.3 U S WEST shall provide McLeod with confirmation of circuit assignments.

3.4 Standards

3.4.1 General Requirements

4. Connectivity Billing and Recording

This Section 4 describes the requirements for U S WEST to bill and record all charges McLeod incurs for purchasing services under this Agreement.

4.1 Procedures

4.1.1 The Parties recognize that deviations and discrepancies may occur from the various industry standards and other standards referenced in this Agreement. Subject to such discrepancies and deviations, U S WEST shall comply with these various standards. Discrepancies and deviations will be documented and reviewed.

4.1.1.1 Upon request by McLeod, the Parties will develop processes by which U S WEST will inform McLeod of deviations from standards for billing. The Parties agree that they will negotiate discrepancies and deviations in good faith. Further, the Parties agree that those documented deviations from such standards documented by U S WEST to McLeod shall supersede sections of technical standards applicable to such deviations referenced in this Agreement.

4.1.2 U S WEST shall record and bill in accordance with this Agreement those charges McLeod incurs as a result of McLeod purchasing from U S WEST services, as set forth in this Agreement (hereinafter "Connectivity Charges").

4.1.3 U S WEST shall format each bill for Connectivity Charges (hereinafter "Connectivity Bill") in accordance with the EDI, CABS or SECAB standard as appropriate to the services billed.

4.1.4 Each service purchased by McLeod shall be assigned a separate and unique billing code or identifier in the form agreed to by the Parties and such code or identifier shall be provided to McLeod on each Connectivity Bill in which charges for such services appear. Each such billing code or identifier shall enable McLeod to identify the service as purchased by McLeod.

4.1.5 Each Connectivity Bill shall set forth the quantity and description of each such service provided and billed to McLeod. All Connectivity Charges billed to McLeod shall indicate the state from which such charges were incurred.

4.1.6 U S WEST shall bill McLeod for each service supplied by U S WEST to McLeod pursuant to this Agreement at the rates set forth in Attachment 1 to this Agreement.

4.1.7 U S WEST shall bill McLeod for the Connectivity Charges incurred; provided however, that, for those usage based Connectivity Charges where actual charge information is not determinable by U S WEST because the jurisdiction (i.e., interstate, interstate/interLATA, intrastate, intrastate/ intraLATA, local) of the traffic is unidentifiable, or for any other reason, the Parties shall jointly develop a process to determine the appropriate charges.

4.1.8 Measurement of usage-based Connectivity Charges shall be in actual conversation seconds. For local interconnection traffic provided under Attachments 3 and 4 of this Agreement, the total conversation time per

chargeable traffic types shall be totaled for the entire monthly bill cycle, rounded to the next whole minute and then billed at the contract rate. For Resale Services provided under Attachment 2 of this Agreement the total conversation time shall be measured in accordance with U S WEST's retail tariff and billed at the contract rate.

4.1.9 U S WEST shall provide to McLeod at no additional charge a Single Point of Contact for handling any Connectivity Billing questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.

4.1.10 U S WEST shall provide Single Point of Contact for handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.

4.1.11 Upon request by either Party, each Party shall provide the other Party written notice of which form of the monthly Connectivity Bill is to be deemed the official bill to assist the Parties in resolving any conflicts that may arise between the official bill and another form of bill received via a different media which purportedly contains the same charges as are on the official bill.

4.1.12 If either Party requests an additional copy(ies) of a bill, such Party shall pay the other Party a reasonable fee per additional bill copy, unless such copy was requested due to errors, omissions, or corrections or the failure of the transmission to comply with the specifications set forth in this Agreement.

4.1.13 When sending Connectivity Bills via electronic transmission, to avoid transmission failures or the receipt of Connectivity Billing information that cannot be processed, McLeod shall provide U S WEST process specifications. U S WEST shall comply with mutually agreed upon processing specifications when U S WEST transmits Connectivity Billing data to McLeod. McLeod shall provide to U S WEST notice if a Connectivity Billing transmission is not received that does not meet mutually agreed upon McLeod specifications. Faulty or failed transmissions shall be corrected and resubmitted to McLeod, at U S WEST's sole expense.

4.1.14 U S WEST shall deliver to a location specified by McLeod, billing information via Connect Direct, magnetic tape or paper, as agreed to by McLeod and U S WEST. In the event of an emergency, system failure or other such condition which prevents U S WEST from transmitting via Connect Direct, U S WEST shall notify McLeod of such difficulties within two (2) hours of detection. U S WEST shall deliver to a location specified by McLeod billing information via magnetic tape or paper, as agreed to by McLeod and U S WEST. The Parties acknowledge that all tapes transmitted to the other Party via U.S. Mail or overnight delivery service and which contain Connectivity Billing data shall not be returned to the sending party.

4.1.15 [Intentionally left blank for numbering consistency.]

4.1.16 Billed amounts which are being reasonably disputed or reasonably queried, or for which reasonable claims have been filed are not due for payment until such disputes, claims or queries have been fully resolved by both McLeod and U S WEST.

4.1.17 [Intentionally left blank for numbering consistency]

4.1.18 Bill Reconciliation

4.1.18.1 Each Party agrees to notify the other Party upon the discovery of a billing discrepancy ("Notice of Discrepancy").

4.1.18.2 In the event of such Notice of Discrepancy, the Parties shall endeavor to resolve the discrepancy within sixty (60) calendar days after the Notice of Discrepancy is issued using normal business procedures. If the discrepancy is disputed, resolution of such dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period.

4.1.18.3 Closure of a specific billing period shall occur by joint agreement of the Parties whereby the Parties agree that such billing period is closed to any further analysis and financial transactions, except those resulting from an Audit. Closure shall take place within nine (9) months of the Bill Date. The month being closed represents those Connectivity Charges that were billed or should have been billed by the applicable bill date.

4.1.18.4 If the dispute is not resolved within the allotted time frame, the following resolution procedure shall begin:

4.1.18.4.1 If the dispute is not resolved within sixty (60) days of the Notice of Discrepancy, the dispute shall be escalated to the second level of management for resolution.

4.1.18.4.2 If the dispute is not resolved within ninety (90) days of Notice of Discrepancy, the dispute shall be escalated to the third level of management for resolution.

4.1.18.4.3 If the dispute is not resolved within one hundred and twenty (120) days of the Notice of Discrepancy, upon the written request of either Party within such one hundred and twenty (120) day period, the dispute may be resolved pursuant to the dispute resolution provision set forth in Part A of this Agreement.

4.1.19 U S WEST shall reimburse McLeod for incorrect Connectivity Billing charges, including, without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems, if such problems are caused by U S WEST. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to appropriate standards.

4.1.20 The Parties agree to record call information in accordance with this Section 4.1. To the extent technically feasible, each Party shall record all call detail information associated with every call that one Party bills to the other Party. McLeod may request, through the BFR process the recording of call records and/or call detail information that is not currently recorded by U S WEST. These records shall be provided and retained pursuant to Section 5 of this Attachment.

4.1.21 When McLeod collocates with U S WEST in U S WEST's facility as described in this Agreement, capital expenditures (e.g., costs associated with building the "cage"), shall not be included in the Connectivity Bill provided to McLeod pursuant to this Attachment 5. All such capital expenses shall be given a unique BAN and

invoice number. All invoices for capital expenses shall be sent to the location specified by McLeod for payment. All other non-capital recurring collocation expenses shall be billed to McLeod in accordance with this Agreement. (The CABS/SECABS Billing Output Specifications (BOS) documents provide the guidelines on how to bill the Connectivity Charges associated with collocation.)

4.1.22 Local Number Portability

4.1.22.1 In accordance with the terms and conditions set forth in this Agreement, U S WEST shall record and provide to McLeod all detail information associated with an alternately billed call to an McLeod local exchange customer whose telephone number has been ported from U S WEST under INP as further described in this Agreement.

4.1.23 Meet Point Billing

4.1.23.1 McLeod and U S WEST will establish meet-point billing ("MPB") arrangements in accordance with the Meet Point Billing guidelines adopted by and contained in the OBF's MECAB and MECOD documents, except as otherwise mutually agreed to by the Parties. Both Parties will use their best reasonable efforts, individually and collectively, to maintain provisions in their respective federal and state access tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff to reflect the MPB arrangements identified in this Agreement, in MECAB and in MECOD.

4.1.23.2 The Parties will agree on a meet point percentage to enable the joint provisioning and billing of Switched Access Services to third parties in conformance with the Meet Point Billing guidelines adopted by and contained in the OBF's MECAB and MECOD documents and referenced in U S WEST's Switched Access Tariffs. The Parties understand and agree that MPB arrangements are available and functional only to/from IXCs who directly connect with the tandem(s) that McLeod sub-tends in each LATA.

4.1.23.3 The Parties will use reasonable efforts, individually and collectively, to maintain provisions in their respective federal and state access tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.

4.1.23.4 McLeod and U S WEST will implement the "Multiple Bill/Single Tariff" option in order to bill any interexchange carrier (IXC) for that portion of the network elements provided by McLeod and U S WEST. For all traffic carried over the MPB arrangement, McLeod and U S WEST shall bill IXCs all applicable elements at the rates specified in their respective tariffs.

4.1.23.5 U S WEST shall provide to McLeod the billing name, billing address, and carrier identification code (CIC) of the IXCs that may utilize any portion of McLeod network in an McLeod/U S WEST MPB arrangement in order to comply with the MPB notification process as outlined in the MECAB document. Such information shall be provided to McLeod in the format and via the medium that the Parties agree. If U S WEST does not have a CIC for any IXC that will utilize a portion of McLeod network in an McLeod/U S WEST MPB arrangement, and for whom U S WEST must

supply to McLeod MPB billing information, then until such carrier has obtained a CIC, U S WEST will submit the LEC's CIC on those MPB records provided to McLeod for MPB. U S WEST understands and agrees that it will be solely responsible for obtaining any reimbursements from such carriers who have utilized the jointly provided networks of U S WEST and McLeod.

4.1.23.6 *U S WEST and McLeod agree that in an MPB arrangement where one Party provides local transport and the other Party provides the end office switching, the party who provides the end office switching is entitled to bill any residual interconnection charges (RIC) and common carrier line (CCL) charges associated with the traffic. The Parties further agree that in those MPB situations where one Party sub-tends the other Party's access tandem, the Party providing the access tandem in only entitled to bill the access tandem fee and any associated local transport charges. The Parties also agree that the Party who provides the end office switching is entitled to bill end office switching fees, local transport charges, RIC and CCL charges, as appropriate, and such other applicable charges.*

4.1.23.7 *U S WEST and McLeod will record and transmit MPB information in accordance with the standards and in the format set forth in this Attachment. U S WEST and McLeod will coordinate and exchange the billing account reference ("BAR") and billing account cross reference (BACR) numbers for the MPB arrangements described in this Agreement. Each Party will notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.*

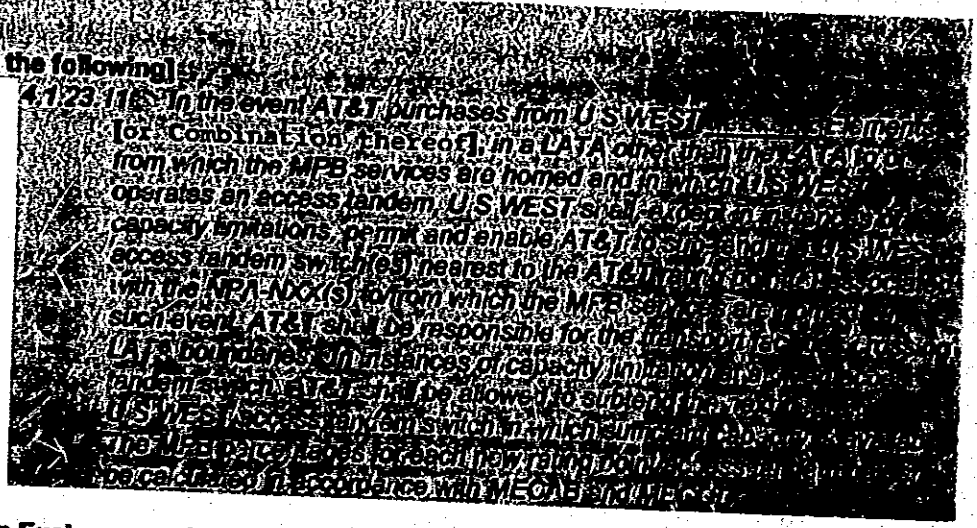
4.1.23.8 *If MPB data is not processed and delivered by either U S WEST or McLeod and sent to the other Party within ten (10) calendar days of the relevant recording period and in turn such Party is unable to bill the IXC for the appropriate charges, the Party who failed to deliver the data will be held liable for the amount of the unbillable charges.*

4.1.23.9 *If MPB data is not submitted within ten (10) calendar days of the relevant recording period or is not in the proper format as set forth in this Agreement, and, if, as a result, the other Party is delayed in billing the IXC for the appropriate charges it incurs, the delaying Party shall pay the other Party a late MPB data delivery charge which will be the total amount of the delayed charges times a monthly rate that shall not exceed 1.5% which may be levied by law for commercial transactions, compounded daily for the number of days from the date the MPB charges should have been received to and including the date the MPB charge information is actually received.*

4.1.23.10 *Errors in MPB data exchange by the Parties may be discovered by McLeod, U S WEST or the billable IXC. Both McLeod and U S WEST agree to provide the other Party with notification of any discovered errors within two (2) Business Days of the discovery. The other party shall correct the error within eight (8) Business Days of notification and resubmit the data. In the event the errors cannot be corrected within the time period specified above, the erroneous data shall be considered lost. If MPB data is lost due to uncorrectable errors or otherwise, the Parties shall follow the procedures set forth in Section 5 of this Attachment of this Agreement and compensate the other for the lost MPB billing data.*

Issue 5-9 : Parked

[U S WEST proposes the following]



4.1.23.1[5] In the event AT&T purchases from U S WEST [redacted] [or "Combination" thereof], in a LATA other than the LATA [redacted] from which the MPB services are homed and in which U S WEST operates an access tandem, U S WEST shall [redacted] capacity limitations, permit and enable AT&T to [redacted] access tandem switch(es) nearest to the AT&T [redacted] with the NPA-NXX(S) to/from which the MPB [redacted] such event, AT&T shall be responsible for the [redacted] LATA boundaries. In instances of capacity limitation [redacted] tandem switch, AT&T shall be allowed to [redacted] U S WEST's access tandems which [redacted] the MPB-originated calls to [redacted] be calculated in accordance with MECAB [redacted]

4.2 Information Exchange and Interfaces

4.2.1 U S WEST shall provide McLeod a monthly Connectivity Bill that includes all Connectivity Charges incurred by and credits and/or adjustments due to McLeod for those services ordered, established, utilized, discontinued or performed pursuant to this Agreement. For each account, U S WEST shall issue one bill per month and the billing cycle shall be on a calendar basis. Each Connectivity Bill provided by U S WEST to McLeod shall include:

4.2.1.1 all non-usage sensitive charges incurred for the current bill period.

4.2.1.2 any known unbilled non-usage sensitive charges for prior periods;

4.2.1.3 usage sensitive charges for the current relevant bill period, (from the last bill date and extending up to, and including, the current bill date);

4.2.1.4 any known unbilled usage sensitive charges for prior periods;

4.2.1.5 any known unbilled adjustments.

4.2.2 [Intentionally left blank for numbering consistency.]

4.2.3 The bill date must be present on each bill transmitted by U S WEST to McLeod, must be a valid calendar date, and not more than ninety (90) days old. Connectivity Bills shall not be rendered for any Connectivity Charges which are incurred under this Agreement on or before two hundred and seventy (270) days preceding the bill date, except as otherwise permitted by law.

4.2.4 On each bill where "Jurisdiction" is identified, local and local toll charges shall be identified as "Local" and not as interstate, interstate/interLATA, intrastate, or intrastate/intraLATA. U S WEST shall provide from and through dates for charges rendered on all Connectivity Bills.

4.2.5 U S WEST shall separately identify business charges from residence charges, as

appropriate.

4.2.6 U S WEST and McLeod shall issue all Connectivity Bills in accordance with the terms and conditions set forth in this Section 4. On Connectivity Bills U S WEST renders to McLeod, Billing Account Numbers (BANs) shall be thirteen (13) character alpha/numeric and there shall only be one (1) BAN per State unless otherwise agreed to by the Parties. The Bill Date shall be the same day month to month. Each Party shall provide the other Party at least thirty (30) calendar days written notice prior to changing, adding or deleting a BAN. The Parties shall provide one (1) Connectivity Billing invoice associated with each BAN. Each invoice must contain an invoice number (which will vary from month to month). On each bill associated with a BAN, the appropriate invoice number and the charges contained on such invoice must be reflected. All Connectivity Bills must be received by the other Party no later than ten (10) calendar days from bill date and at least twenty (20) calendar days prior to the payment due date (as described in Part A of this Agreement), whichever is earlier. Any Connectivity Bill received on a Saturday, Sunday or a day designated as a bank holiday will be deemed received the next business day. If either Party fails to receive Connectivity Billing data and information within the time period specified above, then the payment due date will be extended by the number of days receipt has been delayed.

4.2.7 U S WEST shall issue all Connectivity Bills containing such billing data and information in accordance with the most current version of EDI or CABS /SECABS published by Bellcore, or its successor, or such later versions as are adopted by Bellcore, or its successor as appropriate to the services being billed. To the extent that there are no CRIS, CABS, or SECAB standards governing the formatting of certain data, such data shall be issued in the format mutually agreed to by U S WEST and McLeod, and in accordance with Attachment 6 to this Agreement.

4.2.8 As detailed in the MECAB document, McLeod and U S WEST will exchange all information necessary to bill third parties for Switched Access Services traffic jointly handled by McLeod and U S WEST via the meet point arrangement in a timely fashion. Information shall be exchanged in Exchange Message Record ("EMR") format (Bellcore Standard BR 010-200-010, as amended) on magnetic tape or via a mutually acceptable electronic file transfer protocol. The Parties will exchange records pursuant to this paragraph without additional compensation.

4.2.9 U S WEST and McLeod agree that each Party shall transmit Connectivity Billing information and data in the appropriate format as provided herein, electronically via Connect Direct to the other Party at the location specified by such Party. McLeod data centers will be responsible for originating the calls for data transmission. U S WEST shall transmit in accordance to the technical specifications mutually agreed upon by the Parties. McLeod will supply to U S WEST its RACF ID and password before the first transmission of data via Connect Direct. Any changes to either Party's Connect Direct Node ID must be sent to the other Party no later than thirty (30) calendar days before the changes take effect.

4.2.10 In emergency situations when tape transmittal has been used U S WEST shall adhere to the tape packaging requirements set forth in this Agreement. Where magnetic tape shipping containers are transported in freight compartments, adequate magnetic field protection shall be provided by keeping a 6-inch distance from any magnetic field generating device (except a magnetron-tape device).

U S WEST shall only use those shipping containers that contain internal insulation to prevent damage. U S WEST shall clearly mark on the outside of each shipping container its name, contact and return address. U S WEST shall not ship any Connectivity Billing tapes in unprotected tape canisters.

4.2.11 *All emergency billing data transmitted via tape must be provided on a cartridge (cassette) tape and must be of high quality, conform to the Parties' record and label standards, 9-track, odd parity, 6250 BPI group coded recording mode and extended binary-coded decimal interchange code (EBCDIC). Each reel of tape must be 100% tested at 20% or better "clipping" level with full width certification and permanent error free at final inspection. McLeod reserves the right to destroy a tape that has been determined to have unrecoverable errors. McLeod also reserves the right to replace a tape with one of equal or better quality.*

4.2.12 *The header record will be formatted in accordance with the appropriate IBM, CABS or EDI standards as mutually agreed upon by the Parties.*

4.2.13 *A single 6-digit serial number must appear on the external (flat) surface of the tape for visual identification. This number shall also appear in the "dataset serial number field" of the first header record of the IBM standard tape label. This serial number shall consist of the character "V" followed by the reporting location's four digit Originating Company Code and a numeric character chosen by the sending Party. The external and internal label shall be the same. The dataset name shall appear on the flat side of the reel and also in the "data set name field" on the first header record of the IBM standard tape label. U S WEST's name, address, and contact shall appear on the flat side of the cartridge or reel.*

4.2.14 *Tape labels shall conform to IBM OSVS Operating System Standards contained in the IBM Standard Labels Manual. IBM standard labels are 80-character records recorded in EBCDIC, odd parity.*

4.2.15 *U S WEST shall conform to the Standard Volume Label Format which will be mutually agreed upon by the Parties.*

4.2.16 *U S WEST shall use the IBM Standard Dataset Label Format which will be mutually agreed upon by the Parties.*

4.2.17 *U S WEST shall use test and production dataset format which will be mutually agreed upon for all Connectivity Bills.*

4.3 Standards

4.3.1 *At least thirty (30) calendar days prior to U S WEST sending McLeod a mechanized bill for the first time via electronic transmission, U S WEST shall send to McLeod Connectivity Bill data in the appropriate mechanized format (e.g., EDI, CABS or SECAB) for testing to ensure that bills can be processed and that bills comply with the requirements of this Attachment. After receipt of the test data from U S WEST McLeod will notify U S WEST if the connectivity billing transmission meets McLeod testing specifications. If the transmission fails to meet the mutually agreed upon test and production dataset format, then, U S WEST shall make the necessary corrections within a mutually agreeable time frame. At least three (3) sets of testing data must meet McLeod testing specifications prior to U S WEST sending McLeod a mechanized production connectivity bill for the first time via electronic transmission or tape. Thereafter,*

U S WEST may begin sending McLeod production connectivity bills via electronic transfer on the next bill date, or within ten (10) calendar days, whichever is later.

4.3.2 U S WEST shall also provide to McLeod designated point of contact, U S WEST's applicable operating company number ("OCN") at least thirty (30) days prior to testing and at least thirty (30) days prior to a change of OCN.

4.3.3 At least ninety (90) days prior to any change in existing formats or change to a different format, U S WEST shall send to McLeod Connectivity Bill data in the appropriate mechanized format for testing to ensure that the bills can be processed and that the bills comply with the requirements of this Attachment. U S WEST agrees that it shall not send to McLeod bill data in the new mechanized format until such bill data has met the testing specifications as set forth in this Subsection.

4.3.4 During the testing period, in addition to CONNECT DIRECT, U S WEST shall also transmit to McLeod Connectivity Billing data and information via paper or tape as specified by McLeod. Test tapes shall be sent to an McLeod specified location.

4.3.5 For Connectivity Bills issued in CABS or SECAB format, U S WEST agrees that if it transmits data to McLeod in a mechanized format, U S WEST shall also comply with the following specifications which are not contained in CABS or SECAB guidelines but which are necessary for McLeod to process Connectivity Billing information and data:

4.3.5.1 The bill date shall not contain spaces or non-numeric values.

4.3.5.2 Each Connectivity Bill must contain at least one (1) detail record.

4.3.5.3 Any "from" date should be less than or equal to the associated "thru" date and neither date can contain spaces.

4.3.5.4 The invoice number must not have embedded spaces or low values.

4.3.6 U S WEST agrees that in order to ensure the proper performance and integrity of the entire Connectivity Billing process, U S WEST shall be responsible and accountable for transmitting to McLeod an accurate and current bill. U S WEST agrees to implement control mechanisms and procedures to render a bill that accurately reflects the services ordered and used by McLeod.

5. Provision Of Customer Usage Data

This Section 5 sets forth the terms and conditions for U S WEST's provision of Recorded Usage Data (as defined in this Attachment 5) to McLeod and for information exchange regarding long distance billing.

5.1 Procedures

5.1.1 General

5.1.1.1 U S WEST shall comply with various industry, OBF, and other standards referred to throughout this Agreement. To satisfy these requirements, the Parties agree to a mutual interpretation of all standards referred to in this

Section.

5.1.1.2 The Parties shall mutually agree to OBF standards and the additional standards outlined in this Agreement when recording and transmitting Usage Data.

5.1.1.3 As new standards are developed and adopted by industry, U S WEST and McLeod will negotiate mutually agreeable implementation of those standards.

5.1.1.4 U S WEST shall record all usage to be billed to McLeod originating from, terminating to or billed to McLeod Customers using U S WEST services ordered by McLeod. Recorded Usage Data includes, but is not limited to, the following categories of information:

Call Attempts
Completed Calls
Use of CLASS/LASS/Custom Features
Calls To Information Providers Reached Via U S WEST Facilities And Contracted By U S WEST
Calls To Directory Assistance Where U S WEST Provides Such Service To An McLeod Customer
Calls Completed Via U S WEST-Provided Operator Services Where U S WEST Provides Such Service To McLeod Local Resale Customer
For U S WEST-Provided Centrex Service, Station Level Detail Records Shall Include Complete Call Detail And Complete Timing Information

5.1.1.5 Retention of Records: U S WEST shall maintain a machine readable back-up copy of the message detail provided to McLeod for a minimum of forty-five (45) calendar days. U S WEST shall provide any data back-up to McLeod upon the request of McLeod.

5.1.1.6 U S WEST shall provide to McLeod Recorded Usage Data for McLeod Customers only. U S WEST shall not submit other carrier local usage data as part of the McLeod recorded usage data.

5.1.1.7 U S WEST shall not bill to McLeod Customers any recurring or non-recurring charges for service provided by U S WEST to McLeod except where explicitly permitted to do so within a written agreement between U S WEST and McLeod.

5.1.1.8 The Parties shall record and rate all calls to information service providers (e.g., 976 service calls) and shall bill such calls directly to the calling party's local service provider. In the event a Party's end-user disputes such a call, that Party may recourse consistent with the recourse arrangement the billing Party has with its information service provider.

5.1.1.9 U S WEST shall provide Recorded Usage Data to McLeod billing locations as designated by McLeod.

5.1.1.10 U S WEST shall establish an Interconnect Service Center (ISC) or similar function to serve as McLeod single point of contact to respond to McLeod call usage, data error, and record transmission inquiries.

5.1.1.10.1 U S WEST shall provide McLeod with a single point of contact and Remote Identifiers for each sending location.

5.1.1.11 McLeod shall provide a single point of contact responsible for receiving usage transmitted by U S WEST and receiving usage tapes from a courier service in the event of a facility outage.

5.1.1.12 U S WEST shall bill and McLeod shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth in Connectivity Billing and Recording Section of this Attachment 5.

5.1.1.13 Without waiver of, and in addition to the Audit and Examination rights set forth in Part A of this Agreement, upon reasonable notice and at reasonable times, a Party or its authorized representatives may examine the recording Party's AMA records which relate to perceived problems with the recordings of the usage data relating to the billed Party under this Attachment.

5.1.2 Charges

5.1.2.1 The Parties may charge fees for recording, rating or transmitting usage data. For the six (6) months following the initial recording, rating or transmitting of non-test usage data, the Parties shall not charge each other.

5.1.2.2 No charges shall be assessed for incomplete call attempts.

5.1.3 Central Clearinghouse & Settlement

5.1.3.1 U S WEST shall support and participate with McLeod to develop an in and out-collect process developed for intra-region alternately billed messages.

5.1.3.2 U S WEST shall settle with McLeod for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls, including settlement through the CMDS CATS system for inter-region billing.

5.1.4 Lost Data

5.1.4.1 Loss of Recorded Usage Data - McLeod recorded usage data determined to have been lost, damaged or destroyed as a result of an error or omission by U S WEST in its performance of the recording function shall, upon McLeod request, be recovered by U S WEST at no charge to McLeod. In the event the data cannot be recovered by U S WEST, U S WEST shall estimate the messages and associated revenue, with assistance from McLeod, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by U S WEST and McLeod. This estimate shall be used to adjust amounts McLeod owes U S WEST for services U S WEST provides in conjunction with the provision of recorded usage data.

5.1.4.2 *Partial Loss - U S WEST shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.*

5.1.4.3 *Complete Loss - Estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, loss after receipt, degaussed before processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.*

5.1.4.4 *Estimated Volumes - From message and minute volume reports for the entity experiencing the loss, U S WEST shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. U S WEST shall apply the appropriate average revenue per message ("ARPM") mutually agreed upon to the estimated message volume to arrive at the estimated lost revenue.*

5.1.4.5 *If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, U S WEST shall use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss*

5.1.4.6 *If the loss occurs on a weekday that is a holiday (except Christmas and Mother's Day), U S WEST shall use volumes from the two (2) preceding Sundays.*

5.1.4.7 *If the loss occurs on Mother's Day or Christmas, U S WEST shall use volumes from that day in the preceding year multiplied by a growth rate mutually agreed upon by the Parties.*

5.1.4.8 *McLeod may also request data be provided that has previously been successfully provided by U S WEST to McLeod. U S WEST shall re-provide such data, if available, at a charge mutually agreed to by the Parties.*

5.1.5 Testing, Changes and Controls

5.1.5.1 *The Recorded Usage Data, EMR format, content, and transmission process shall be tested as mutually agreed to by the Parties.*

5.1.5.2 *Interface Testing: The purpose of this test is to ensure that the usage records can be sent by U S WEST to McLeod and can be accepted and processed by McLeod. U S WEST shall provide a test file to McLeod designated Regional Processing Center (RPC) in the format that shall be used for live day-to-day processing. The file's test content and volume shall be mutually agreed to by the Parties. McLeod shall review the file and verify that it conforms to its data center requirements. McLeod shall*

notify U S WEST in writing whether the format is acceptable. McLeod shall also provide U S WEST with the agreed-upon control reports as part of this test.

5.1.5.3 Operational Test: The purpose of this test is to ensure that volumes of usage in consecutive sequence can be extracted, distributed, and processed by U S WEST and McLeod.

5.1.5.4 For testing purposes U S WEST shall provide McLeod with U S WEST recorded usage for a minimum of five (5) consecutive days. McLeod shall provide U S WEST with the message validation reports associated with test usage.

5.1.5.5 Test File: Test data should be transported via CONNECT DIRECT whenever possible. In the event that courier service must be used to transport test media, the physical tape characteristics to be used are described in this Attachment.

5.1.5.6 Periodic Review: Control procedures for all usage transferred between U S WEST and McLeod shall require periodic review. This review may be included as part of an annual audit of U S WEST by McLeod or as part of the normal production interface management function. Breakdowns which impact the flow of usage between U S WEST and McLeod must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, as similar problems would be avoided in the future. Any changes to control procedures shall be mutually agreed upon by McLeod and U S WEST.

5.1.5.7 U S WEST Software Changes:

5.1.5.7.1 When U S WEST plans to introduce any software changes which impact the format or content structure of the usage data feed to McLeod, designated U S WEST personnel shall notify McLeod no less than one hundred twenty (120) calendar days before such changes are implemented.

5.1.5.7.2 U S WEST shall communicate the projected changes to the appropriate groups in McLeod so that potential impacts on McLeod processing can be determined.

5.1.5.7.3 McLeod personnel shall review the impact of the change on the entire control structure and the post conversion test plan, herein. McLeod shall negotiate any perceived problems with U S WEST and shall arrange to have the data tested utilizing the modified software.

5.1.5.7.4 If it is necessary for U S WEST to request changes in the schedule, content or format of usage data transmitted to McLeod, U S WEST shall notify McLeod.

5.1.5.8 McLeod Requested Changes:

5.1.5.8.1 McLeod may request changes in the schedule, content, format of the usage data transmitted from U S WEST, as deemed

necessary by McLeod.

5.1.5.8.2 When the negotiated changes are to be implemented, McLeod and/or U S WEST shall arrange for testing of the modified data in a Post Conversion Test Plan designed to encompass all types of changes to the usage data transferred by U S WEST to McLeod and the methods of transmission for that data.

5.1.5.9 U S WEST System Change Description:

5.1.5.9.1 For a U S WEST system change, U S WEST shall provide McLeod with an overall description of the change, stating the objective and a brief explanation of the reasons for the change.

5.1.5.9.2 During the initial negotiations regarding the change, U S WEST shall provide a list of the specific records and/or systems impacted by the change to designated McLeod personnel.

5.1.5.9.3 U S WEST shall also provide McLeod a detailed description of the changes to be implemented. It shall include sufficient detail for designated McLeod personnel to analyze and estimate the effects of the changes and to design tests to verify the accuracy of the implementation.

5.1.5.10 Change Negotiations:

5.1.5.10.1 McLeod shall be notified in writing of all proposed change negotiations initiated by U S WEST in writing. In turn, McLeod shall notify U S WEST in writing of proposed change negotiations initiated by McLeod.

5.1.5.10.2 After formal notification of planned changes, whether originated by U S WEST or McLeod, designated McLeod personnel shall schedule negotiation meetings as required with designated U S WEST personnel. The first meeting should produce the overall change description (if not previously furnished) and the list of records and/or systems affected.

5.1.5.10.3 In subsequent meetings, U S WEST shall provide the detailed description of changes to be implemented. After reviewing the described changes, designated McLeod personnel shall negotiate a detailed test procedure with U S WEST.

5.1.5.11 Changes to controls: McLeod may request changes to the control structure. The Parties shall mutually agree on the requested changes.

5.1.5.12 Verification Of Changes:

5.1.5.12.1 Based on the detailed description of changes furnished by U S WEST, McLeod and U S WEST personnel shall:

Determine the type of change(s) to be implemented;
Develop a comprehensive test plan;

Negotiate scheduling and transfer of modified data with U S WEST;
Negotiate testing of modified data with the appropriate McLeod RPC;
Negotiate processing of verified data through the McLeod billing system with the RPC;
Arrange for review and verification of testing with appropriate McLeod groups;
Arrange for review of modified controls, if applicable.

5.1.5.13 Introduction of Changes:

5.1.5.13.1 When all the testing requirements have been met and the results reviewed and accepted, designated McLeod and U S WEST personnel shall:

Negotiate an implementation schedule; and

Verify the existence of a contingency plan with the appropriate McLeod personnel; and

Arrange for the follow-up review of changes with appropriate McLeod personnel; and

Arrange for appropriate changes in control program, if applicable; and

Arrange for long-term functional review of impact of changes on the McLeod billing system, i.e., accuracy, timeliness, and completeness.

5.2 Information Exchange and Interfaces

5.2.1 Core Billing Information

5.2.1.1 Recorded Usage Data includes all intraLATA toll and local usage. U S WEST shall provide McLeod with unrated EMR records associated with all intraLATA toll and local usage which it records on McLeod's behalf. Any category, group and/or record types approved in the future for U S WEST shall be included if they fall within the definition of Local Resale. McLeod shall be given notification thirty (30) days prior to implementation of a new type, category and/or record.

5.2.1.2 U S WEST shall provide rated EMR records only when explicit consent for sending such records has been obtained from McLeod.

5.2.1.3 All messages recorded by a Party and billed to the other Party are to be transmitted to the billed Party. Recorded usage includes all usage billable to the other Party.

5.2.1.4 Data Delivery Schedules: Data shall be delivered to McLeod by U S WEST daily (Monday through Friday except holidays) unless otherwise negotiated. McLeod and/or U S WEST Data Center holidays are excluded. U S WEST and McLeod shall exchange schedules of designated Data Center holidays.

5.2.2 Local Account Maintenance

5.2.2.1 When McLeod purchases local service from U S WEST, and, as appropriate, when McLeod purchases certain unbundled Network Elements, U S WEST shall provide McLeod with local account maintenance as described herein.

5.2.2.2 When notified by a CLEC that an McLeod customer has switched to CLEC's service, U S WEST shall provision the change and notify McLeod via Connect:Direct within twenty-four (24) hours of the provisioning that the customer has changed to another service provider ("OutPLOC").

5.2.2.3 When notified by McLeod that a customer has changed its PIC only from one interexchange carrier to another U S WEST shall provision the PIC only change.

5.2.2.4 If notified by an IXC using a '01' PIC order record that an McLeod customer has changed its PIC only, U S WEST shall reject the order and notify that IXC using industry standard record formats, that a '01' CARE PIC record should be sent to McLeod for processing.

5.2.3 Product/Service Specific

5.2.3.1 Subject to conditions specified in Section 5.1.1(c) of this Attachment, U S WEST shall provide a Specialized Service/Service Provider Charge record to support the Special Features Star Services if these features are part of U S WEST's offering. Such record shall be an EMR 10-01-18 record or industry standard record as may subsequently be mutually agreed to by the Parties. Such record shall be a 10-01-18 record or Bellcore assigned record as may be subsequently agreed to by the Parties.

5.2.4 Emergency Information

5.2.4.1 U S WEST shall provide the transport facility for transmitting usage and billing data between U S WEST location and the McLeod location. U S WEST shall transmit via CONNECT DIRECT whenever possible. In the event usage transfer cannot be accommodated by CONNECT DIRECT because of extended (one (1) Business Day or longer) facility outages, U S WEST shall contract for a courier service to transport the data via tape

5.2.4.2 The Parties shall mutually agree to the following standards when emergency data is transported to McLeod on tape or cartridge via a courier. The data shall be in fixed or variable block format as mutually agreed to by the Parties.

Tape: 9-track, 6250 (or 1600) BPI (Bytes per inch)
Cartridge: 38,000 BPI (Bytes per inch)
LRECL: 2,472 Bytes
Parity: Odd

Character Set: *Extended Binary Coded Decimal Interchange Code (EBCDIC)*

External labels: *Exchange Carrier Name, Dataset Name (DSN) and volume serial number*

Internal labels: *IBM Industry OS labels shall be used. They consist of a single volume label and two sets of header and trailer labels.*

5.2.4.3 To the extent the above standards are changed or revised, the Parties may agree to negotiate the incorporation of such new standards.

5.2.5 Rejected Recorded Usage Data

5.2.5.1 At the discretion of McLeod, consistent with industry practice, any messages that cannot be rated and/or billed by McLeod may be returned to U S WEST via CONNECT DIRECT. Returned messages shall be sent directly to U S WEST in EMR format. Standard EMR return codes shall be utilized.

5.2.6 Interfaces

5.2.6.1 The Parties shall transmit formatted Recorded Usage Data via Connect Direct.

5.2.6.2 McLeod shall notify U S WEST of resend requirements if a pack or entire dataset must be replaced due to pack rejection, damage in transit, dataset name failure, etc.

5.2.6.3 Critical edit failure on the pack header or pack trailer records shall result in pack rejection (e.g., detail record count not equal to grand total included in the pack trailer). Notification of pack rejection shall be made by McLeod within one (1) Business Day of processing. Rejected packs shall be corrected by U S WEST and retransmitted to McLeod within twenty-four (24) hours or within an alternate time frame negotiated on a case by case basis.

5.2.6.4 A pack shall contain a minimum of one message record or a maximum of 9,999 message records plus a pack header record and a pack trailer record. A file transmission contains a maximum of 99 packs. A dataset shall contain a minimum of one pack. U S WEST shall provide McLeod one dataset per sending location, with the agreed upon RAO/OCN populated in the header and trailer records.

5.2.7 Formats & Characteristics

5.2.7.1 Rated in collect messages should be transmitted via the CONNECT DIRECT and can be intermingled with the unrated messages. No special packing is needed.

5.2.7.2 EMR: U S WEST shall provide Recorded Usage Data in the EMR format and by category, group and record type, and shall be transmitted, via a direct feed, to McLeod. The types of EMR records that McLeod can expect to receive from U S WEST, includes, but is not limited to the

following:

Header Record	20-21-01, 20-20-01 or 20-24-01
Trailer Record	20-21-02, 20-20-02 or 20-24-02
Detail Records *	01-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82, 10-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37
Credit Records	03-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Rated Credits	41-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Cancel Records	51-01-01, 06, 08, 09, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Correction Records	71-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,

* Category 01 is utilized for rated messages; Category 10 is utilized for unrated messages. Category 10 records are to have indicator 13 populated with a value of 5

5.2.7.2.1 To the extent the above standards are changed or revised, the Parties may agree to incorporate such new standards.

5.2.7.3 U S WEST shall comply with the most current version of Bellcore standard practice guidelines for formatting EMR records.

5.2.7.4 The Interfacing Bell RAO, OCN, and remote identifiers shall be used by McLeod to control invoice sequencing and each shall have its own invoice controls. The OCN shall also be used to determine where the message returns file, containing any misdirected and unguidable usage, shall be sent.

5.2.7.5 The file's Record Format (RECFM) shall be Variable Block or fixed as negotiated, Size and the Logical Record Length (LRECL) shall be as mutually agreed to by the Parties.

5.2.7.6 [Intentionally left blank for numbering consistency]

5.2.7.7 U S WEST shall transmit the usage to McLeod using dataset naming conventions mutually agreed upon.

5.2.8 Controls

5.2.8.1 McLeod shall test and certify the CONNECT DIRECT interface to ensure the accurate receipt of Recorded Usage Data.

5.2.8.2 Header and trailer records shall be populated in positions 13-27 with the following information:

Position	
13-14	Invoice numbers (1-99)
15-16	Bell Co. ID number
17-19	Interfacing Bell RAO Code
20-23	McLeod OCN - value 7229
24-27	Reseller OCN

The trailer grand total record count shall be populated with total records in pack (excluding header & trailer)

5.2.8.3 Control Reports: McLeod accepts input data provided by U S WEST in EMR format in accordance with the requirements and specifications detailed in this Attachment 5. In order to ensure the overall integrity of the usage being transmitted from U S WEST to McLeod, data transfer control reports shall be required. These reports shall be provided by McLeod to U S WEST on a daily or otherwise negotiated basis and reflect the results of the processing for each pack transmitted by U S WEST.

5.2.8.4 Control Reports - Distribution: Since U S WEST is not receiving control reports, dataset names shall be established during detailed negotiations.

5.2.8.5 Message Validation Reports: McLeod shall provide the following once(1) per day (or as otherwise negotiated) Message Validation reports to the designated U S WEST System Control Coordinator once a day (or as otherwise agreed to by the Parties). These reports shall be provided for all data received within U S WEST Local Resale feed and shall be transmitted Monday through Friday.

5.2.8.6 Incollect Pack Processing: This report provides vital statistics and control totals for packs rejected and accepted and dropped messages. The information is provided in the following report formats and control levels:

U S WEST name; and
Reseller total messages processed in a pack; and
Packs processed shall reflect the number of messages initially erred and accepted within a pack; and
Reseller total packs processed.

5.3 Standards

5.3.1 When requested for security purposes and on an exception basis when a reasonable need is demonstrated, a Party shall provide the other Party with Recorded Usage Data within two (2) hours of the call completion or within the same period that the recording Party would have that data for itself under similar circumstances. If not available in EMR format, the Recorded Usage Data may be provided in AMA format.

5.3.2 U S WEST shall include the Working Telephone Number (WTN) of the call originator on each EMR call record.

5.3.3 End user Customer usage records and station level detail records shall be in packs in accordance with EMR standards or applicable industry standards as defined in Section 5.3.1 of this Attachment.

5.3.4 U S WEST shall provide Recorded Usage Data once a day to McLeod on a schedule to be determined by the Parties, Monday through Friday excluding holidays. The Parties shall work together to reach agreement on an acceptable holiday schedule. U S WEST shall provide to McLeod the Recorded Usage Data not more than one business day after termination of the call for which usage data is to be provided.

5.3.5 *U S WEST shall segregate and organize the Recorded Usage Data in accordance with 5.2.7 of this Section.*

5.4 Standards for Transmitting and Recording Usage Data

To be developed pursuant to Section 52 of Part A of this Agreement..

5.5 Reporting

5.5.1 *Upon request by McLeod, the Parties shall jointly develop reporting procedures for the standards for transmitting and recording usage data described in Section 5.4 above.*

6. Maintenance

6.1 [Intentionally left blank for numbering consistency]

6.2 General Requirements

6.2.1.1 *U S WEST shall provide McLeod with the same level of maintenance support as U S WEST provides itself in accordance with standards and performance measurements that U S WEST uses and/or which are required by law, regulatory agency, or by U S WEST's own internal procedures, whichever are the most rigorous. These standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as U S WEST may deploy) that U S WEST provides to McLeod under this Agreement.*

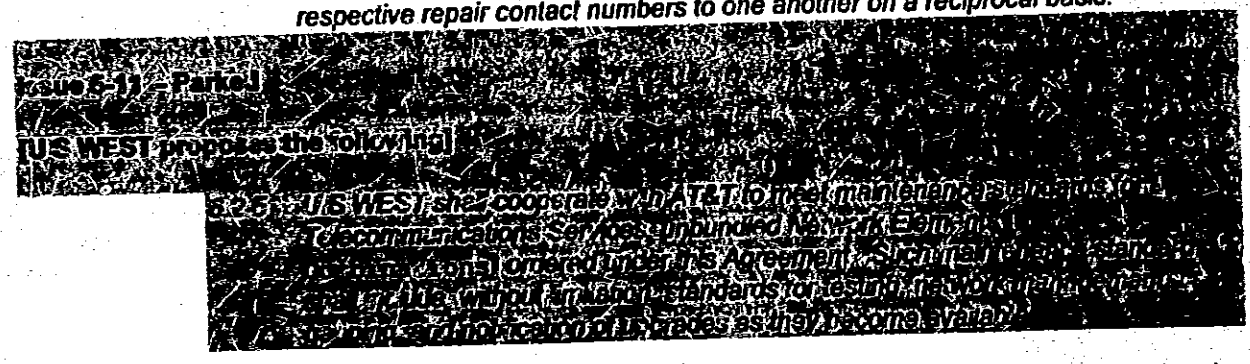
6.2.1.2 *U S WEST shall provide a SPOC (Single Point of Contact) for Residence, and a SPOC for Business for McLeod to report via toll free telephone numbers maintenance issues and trouble reports twenty four (24) hours a day and seven (7) days a week. The SPOC Residence 800 number, and SPOC Business 800 number, will be the numbers for all of U S WEST's 14 states.*

6.2.1.3 *U S WEST shall provide McLeod maintenance dispatch personnel on the same schedule that it provides its own Customers.*

6.2.2 McLeod shall handle all interaction with McLeod Customers including all calls regarding service problems, scheduling of technician visits, and notifying the Customer of trouble status and resolution. When a U S WEST technician is on site, the customer will be statused in accordance with standard U S WEST procedures.

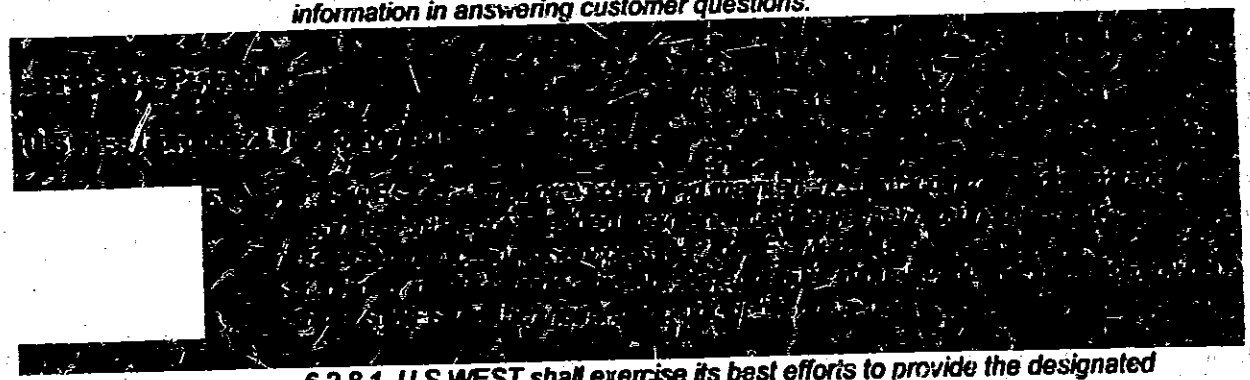
6.2.3 McLeod and U S WEST will provide their respective customers with the correct telephone numbers to call for access to their respective repair bureaus.

6.2.4 *Customers of McLeod shall be instructed to report all cases of trouble to McLeod as appropriate. Customers of U S WEST shall be instructed to report all cases of trouble to U S WEST as appropriate. McLeod and U S WEST will provide their respective repair contact numbers to one another on a reciprocal basis.*



6.2.6 *All U S WEST employees or contractors who perform repair service for McLeod Customers shall follow* mutually agreed to *procedures in all their communications with McLeod Customers. At a minimum, these procedures and protocols shall ensure that: (1) U S WEST employees or contractors shall perform repair service that is at least equal in quality to that provided to U S WEST Customers; (2) trouble calls from McLeod Customers shall receive response time priority that is at least equal to that of U S WEST Customers, regardless of whether the Customer is an McLeod Customer or a U S WEST Customer.*

6.2.7 *In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use repair calls as the basis for internal referrals or to solicit customers to market services. Either Party may respond with accurate information in answering customer questions.*



6.2.8.1 *U S WEST shall exercise its best efforts to provide the designated McLeod SPOC at least sixty (60) days' advance notice of any scheduled activity which will likely impact McLeod customers.*

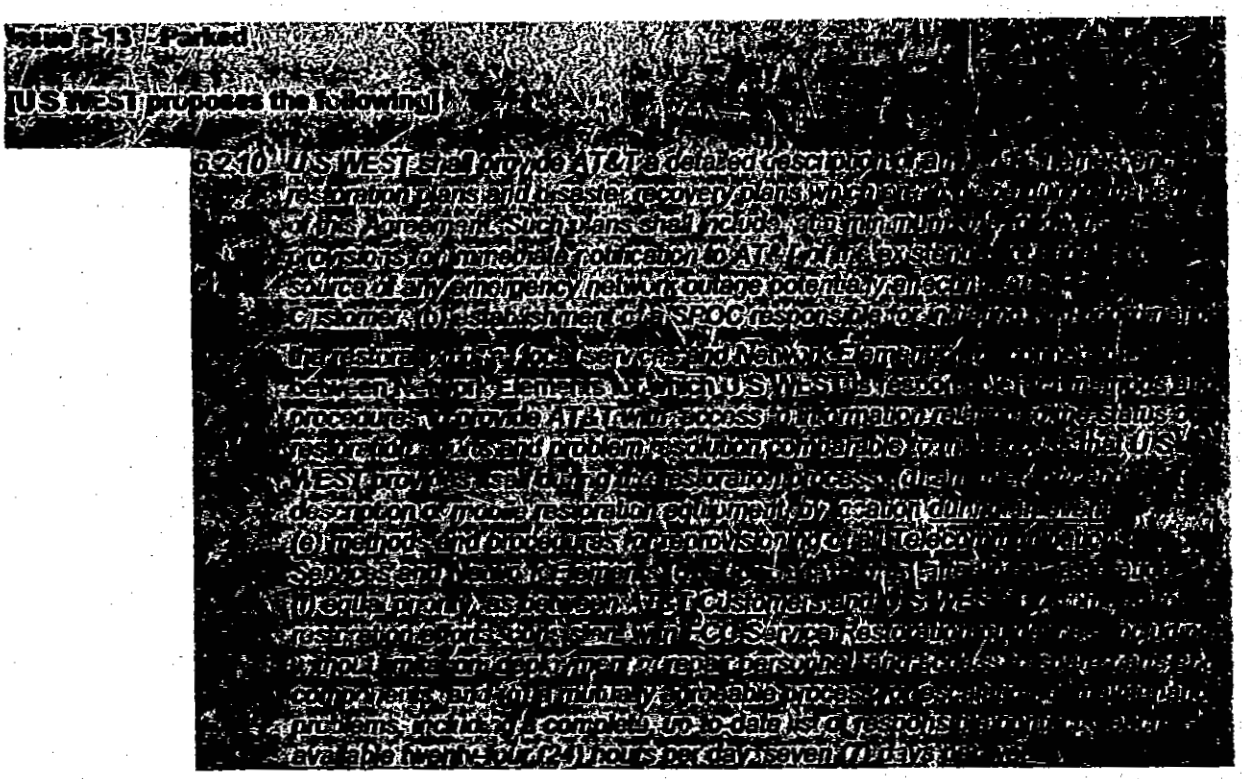
6.2.8.2 *Plans for significant service affecting activities shall include, at a minimum, the following information: location and type of facilities, specific work to be performed, date and time work is scheduled to commence, work schedule to be followed, date and time work is scheduled to be completed, and estimated number of work hours for completion. Examples of such activities include, but are not limited to: office conversions, cable facility rolls, and tandem re-homes.*

6.2.9 *U S WEST shall exercise its best efforts to notify McLeod of all non-scheduled activities to be performed by U S WEST on any Network Element, including,*

without limitation, any hardware, equipment, software, or system, providing service functionality which will likely impact McLeod Customers.

6.2.9.1 U S WEST shall provide to the designated SPOC maximum advance notice of such non-scheduled activities in the same time and manner that it provides to its operation service centers.

6.2.9.2 U S WEST shall perform emergency maintenance as promptly as possible to maintain or restore service and shall promptly advise the McLeod designated SPOC of any such actions it takes.



6.2.10.1 For purposes of this Subsection 6.1, an emergency network outage is defined as 5,000 or more blocked call attempts in a ten (10) minute period for all Customers in a single exchange.

6.2.10.2 McLeod and U S WEST will work cooperatively to assess up chain (end office to tandem calls), down chain (tandem to end office calls), and overall customer impact. U S WEST categorizes, reports and reacts to network outages using FCC reporting criteria and U S WEST Abnormal Condition Report Criteria.

6.2.11 U S WEST and McLeod shall establish mutually acceptable methods and procedures for the immediate handling of misdirected calls from McLeod customers to U S WEST requesting repair. The Customer shall be informed that McLeod is its local service provider (LSP), and the U S WEST representative will provide the McLeod customer with the appropriate telephone number of the

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[4] Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "and Combinations".

McLeod repair center. If the LSP screen indicator is not available, the U S WEST representative will ask the McLeod customer it knows the name of its LSP. The U S WEST representative will provide the McLeod customer with the appropriate number of the McLeod repair center. These calls are limited to repair information only, and are not to be used for marketing purposes.

6.2.12 When electronic interface is available, U S WEST shall inform McLeod of repair completion and trouble reason within ten (10) minutes upon completion. If no electronic interface is available, McLeod will provide a SPOC for U S WEST to call as soon as possible after repair completion. U S WEST shall notify McLeod that the trouble has been cleared. This is done on a real-time basis. Therefore the technician will notify McLeod in a similar manner, for both dispatched-in and dispatched-out troubles. The report shall not be considered closed until such notification is made. McLeod will contact its Customer to determine if repairs were completed and confirm the trouble no longer exists.

6.2.13 U S WEST and McLeod shall mutually develop escalation procedures to be followed if, in McLeod judgment, any performance standard defined in this Agreement is not met for any individual trouble report. The escalation procedures to be provided shall include names and telephone numbers of U S WEST management personnel who are responsible for maintenance issues and who will be contacted when a trouble condition is escalated.

6.2.14 In the event U S WEST shall fail to materially conform to any specified performance and service quality standards, identified elsewhere in this Agreement), U S WEST shall perform and deliver to McLeod, a standard root cause analysis of the reasons for U S WEST's failure to conform, and, where the failure to conform is due to U S WEST, U S WEST shall correct said cause as soon as possible, at its own expense.

6.2.15 Dispatching of U S WEST technicians to McLeod Customer premises shall be accomplished by U S WEST pursuant to a request received from McLeod. McLeod shall be able to schedule maintenance appointments in intervals at parity with U S WEST upon opening of trouble report.

6.2.16 [Intentionally left blank for numbering consistency]

6.2.17 U S WEST shall supply McLeod with a unique number to identify each McLeod initial trouble report opened.

6.2.17.1 U S WEST and McLeod agree to a trouble priority and severity coding format for all trouble reports handled between the two companies. Troubles are prioritized according to appointment schedules:

6.2.17.1.1 Priority 1 = Out of Service
6.2.17.1.2 Priority 2 = Affecting Service
6.2.17.1.3 Priority 3 = Feature Trouble

6.2.17.2 Customer has the ability to escalate.

6.2.18 U S WEST shall provide for resale any maintenance/protection plans for services offered under this Agreement to McLeod that it offers U S WEST's own Customers.

6.2.19 U S WEST's current trouble reporting system does not provide the capability to reopen a closed trouble report. Therefore, U S WEST shall allow McLeod to designate that a trouble report is associated with the initial trouble report which was closed in the past twenty-four (24) hours without repairs being performed to the Customer's satisfaction. U S WEST shall measure the frequency of these types of repeated reports and will demonstrate non-discriminatory treatment to McLeod.

6.2.20 Additional Unbundling Requirements

6.2.20.1 When trouble is reported by a Customer served through unbundled Network Elements, McLeod will test its network to identify any problems. If no problems are identified with the McLeod network, McLeod will open a trouble report with U S WEST and provide switch-based test results to the U S WEST technician. U S WEST shall then test its portion of the network and perform repairs as required in the time frames set forth below in this Attachment.

6.2.20.1.1 If U S WEST tests the unbundled loop and no trouble found ("NTF"), the same shall be reported back to McLeod. If, upon testing the unbundled loop, the trouble is isolated to the Customer side of the NID (inside wire, CPE, etc.), McLeod shall be billed a trouble isolation charge ("TIC"). If, after McLeod has opened a trouble ticket, it cancels the trouble ticket before a U S WEST technician has been dispatched on the trouble, no charges will apply. If the U S WEST technician has been dispatched on the reported trouble before the trouble ticket is canceled by McLeod, a TIC will be applied.

6.2.20.1.2 McLeod will coordinate combined testing or repair activities until trouble is resolved. U S WEST shall provide repair updates to McLeod. For trouble isolation both Parties will cooperatively test to isolate the trouble as required.

6.3 Systems Interfaces and Information Exchanges

6.3.1 The Parties will cooperate to provide, as appropriate, a real-time, electronic interface to U S WEST's maintenance systems and databases equal in quality to that which U S WEST provides to itself.

6.3.1.1 An electronic bond will be a system to system connection with immediate update capability. In no way shall this interface cause McLeod personnel to use U S WEST systems via remote hook up or any other means of access.

6.3.1.2 This interface shall allow McLeod personnel to perform the following functions for McLeod Customers: (a) enter trouble reports in the U S WEST maintenance systems for an McLeod Customer, (b) retrieve and track current status on all McLeod Customer trouble report; (c) receive "estimated time to repair" (ETTR) on a real-time basis; (d) receive immediate notification in the event a repair person is unable to be present for, or anticipates missing, a scheduled repair appointment;

(e) retrieve all time and material charges that apply to McLeod at the time of ticket closure (itemized by time spent, price of materials used, procedures employed, amounts incurred in each such category, and total by Customer, per event and (f) receive automated notification of case closure.

6.3.1.3 Automated interfaces must be provided into a centralized operations support systems data base for real time network monitoring to proactively identify potential service degradation. Such systems must monitor and report on the integrity of the U S WEST network, isolate trouble and where applicable (e.g., when an unbundled loop is connected to an unbundled port or when an unbundled loop includes such equipment as DCS, D4, etc.), initiate repair operations, test individual unbundled loops and generate maintenance and repair notices that impact any end user's ability to complete calls. Ongoing maintenance practices on such unbundled loops must be equal to or exceed the practices employed by U S WEST for facilities used to provide Services for Resale.

6.3.1.4 U S WEST agrees to develop and implement, as soon as possible, with a target date of November 1, 1997 the electronic interfaces described above.

6.3.2 U S WEST agrees that McLeod may report troubles directly to a single U S WEST Repair/Maintenance Center for both residential and business Customers. The Repair Center will have two separate numbers, one for residence and one for business. CLEC's will be treated in the same manner as U S WEST Customers.

6.3.3 U S WEST shall perform all testing for Resale Services. U S WEST shall provide the capability for McLeod to receive MLT test results while McLeod customer is on line during the initial trouble report when available[5] in the U S WEST network.

6.3.3.1 U S WEST shall provide test results to McLeod, if appropriate, for trouble clearance. In all instances, U S WEST will provide McLeod with the disposition of the trouble.

6.3.4 U S WEST shall provide to McLeod the ability to obtain the status on open maintenance trouble reports via telephone or by another interface as agreed to by the Parties. U S WEST agrees to provide the status of residence and small business trouble reports upon McLeod request.

6.3.5 U S WEST agrees to provide to McLeod the status for open maintenance trouble reports for large business Customers anytime the status of the trouble report changes or at McLeod request.

6.3.6 U S WEST agrees that McLeod may call U S WEST to verify central office features and functions as they relate to an open trouble report. U S WEST agrees to work with McLeod on the initial trouble report to isolate the cause of the trouble and, where possible, resolve the feature/function related trouble at that time.

6.3.7 U S WEST agrees to proactively advise McLeod of any central office failure that

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5 Pursuant to the Eighth Circuit Decision, the Parties agree to delete the following: "~~technically feasible~~".

is known at the time of any inquiry or trouble report. U S WEST agrees to continue to work with McLeod toward implementing a process to meet McLeod requirements for notification of switch failures as soon as possible.

6.3.8 U S WEST agrees to provide an Estimated Time To Repair (ETTR) on all residence and small business trouble reports.

6.3.9 U S WEST agrees to develop, with McLeod's cooperation, mutually acceptable workcenter interface agreements to document methods and procedures for interim and final interfaces for each service upon a request by McLeod.

6.3.9.1 After the initial deployment of the workcenter processes, U S WEST agrees to continue working with the McLeod to further develop, improve and refine the operational process described in this Agreement.

6.3.10 U S WEST agrees to provide McLeod repair history of previous trouble reports on customer service of open trouble report.

6.3.11 U S WEST shall provide McLeod the capability to cancel a trouble report.

6.3.12 U S WEST shall provide McLeod with the capability to modify a trouble report.

6.4 Standards

6.4.1 Maintenance charges for premises visits by U S WEST employees or contractors shall be billed by McLeod to its Customer.

6.4.1.1 U S WEST employees or contractors shall present the Customer with an McLeod provided, McLeod-branded form detailing the time spent, the materials used and an indication that the trouble has either been resolved, or that additional work will be necessary in accordance with the provisions of this Agreement.

6.4.1.2 If additional work is required, U S WEST employees or contractors shall call McLeod from Customer premises so that McLeod can schedule a new appointment with U S WEST and Customer at the same time.

6.4.2 U S WEST agrees to work with McLeod to support expeditious development of an industry standard trouble report entry format and agrees to implement such standard within sixty (60) days after final resolution by the Network Operation Forum (NOF).

6.5 Performance Measurements and Reporting

This subject to be addressed according to the procedures set forth in Section 52 of Part A of this Agreement.

7. Miscellaneous Services and Functions

This subject to be addressed according to the procedures set forth in Section 52 of Part A of this Agreement.

INTERFACE REQUIREMENTS FOR PRE-ORDERING, ORDERING, PROVISIONING, MAINTENANCE AND REPAIR, AND BILLING

1. Purpose

1.1 *This Attachment 6 sets forth the interface requirements for pre-ordering, ordering and provisioning, maintenance and repair, and billing, where McLeod provides service to its customers through its resale of U S WEST Local Services or through its use of Unbundled Network Elements or Combinations that McLeod combines.*

2. Use of Standards

2.1 *As described below, McLeod and U S WEST agree to implement each interface described below based upon existing and evolving industry standards or as mutually agreed upon. The Parties shall transition the electronic interfaces to industry standards within a timeframe mutually agreed to.*

3. Reimbursement

3.1 *Reimbursement for operational interfaces shall be as determined by the appropriate regulatory agency as set forth in this Interconnection Agreement.*

4. Scope

4.1 *This Attachment addresses the real-time transaction based protocols and transport networks that will be used to exchange information for:*

- *Preorder/Ordering/Provisioning for Service Resale (SR) and Customer Specific Unbundled Network Elements (UNEs)*
- *Maintenance/Repair for SR and UNEs*

It also addresses the batch protocols and transport networks that will be used to exchange information for:

- *Recorded Customer Usage for SR and UNE*
- *Wholesale Billing for SR and UNE*
- *Recorded Usage Receivables for UNE*
- *Local Account Maintenance for SR and UNE*
- *Directory Assistance Database*

The preceding list of information to be exchanged is intended to be exemplary and does not represent a comprehensive list of such information to be exchanged between the parties.

4.2 *McLeod and U S WEST will use at least one method of exchanging preorder information which will be real-time transaction based. McLeod and U S WEST may also assess and determine the arrangements and conditions to support Batch file transmittal for certain types of preorder information related to the Street Address Guide and Switch/Feature/Facility availability.*

5. System Interfaces

5.1 *For Pre-order, Order and Provisioning, an exchange protocol, such as that based upon a subset of Common Management Interface Protocol (CMIP) transactions referred to as Electronic Communications-Lite (EC-Lite), will be used to transport Electronic Data Interchange (EDI) formatted content. McLeod and U S WEST will use a TCP/IP based transport network for the exchange of EDI transactions. McLeod and U S WEST will translate ordering and provisioning requests from the Ordering and Billing Forum (OBF) forms into EDI transactions using mutually agreed to mappings. The Service Order SubCommittee (SOSC) of the Telecommunications Industry Forum/Electronic Data Interchange (TCIF/EDI) committee interpretations of the 850, 855, 860, 864, 865, 870, and 977 transactions, in accordance with the OBF forms, will be used to convey all the necessary data to connect, modify or disconnect local exchange services.*

5.2 *For Maintenance and Repair, the CMIP transactions referred to as Electronic Bonding - Trouble Administration (EB-TA) will be used. McLeod and U S WEST will use an X.25 transport network which is the currently defined standard.*

5.3 *For Billing, McLeod and U S WEST will use EDI 811 and* OBF Billing Output Specification (BOS) *formats via CONNECT:Direct. Section 13 further defines the conditions when one or the other format will be used.*

5.4 *For Local Account Maintenance (LAM), McLeod and U S WEST agree to use CONNECT:Direct.*

5.5 *For Directory Assistance Database Information, McLeod and U S WEST agree to use a batch protocol and transport network that is yet to be determined and will be addressed in the Joint Implementation Agreement (JIA) described in Section 18 of this Attachment.*

5.6 *Modifications to OBF forms that are required due to the absence of, or existence of unnecessary data fields, contents, or formats will be addressed in the Joint Implementation Agreement described in Section 18 of this Attachment ("JIA") .*

6. Real Time Performance

6.1 *The pre-order real time interface will support the McLeod customer contact as executed within McLeod's Sales and Service Centers. Gateway-to-gateway query-response cycle time performance requirements will be specified as part of the Joint Implementation Agreement described in Section 18 of this Attachment.*

6.2 *The transaction response time U S WEST provides to McLeod Sales and Service Center will be equal in quality with that which U S WEST provides to itself or other telecommunications carriers. For purposes of this Attachment, U S WEST agrees to provide McLeod benchmarking information for end-user performance based on transaction volumes (nominal - light volume, standard - typical volume, and worst case - heavy volume). McLeod may request an improvement in the transaction response time U S WEST provides to McLeod's Sales and Service Center above that which U S WEST provides to itself or other telecommunications carriers. through the Bona Fide Request Process, which is defined in Part A of this Agreement should cycle times not meet McLeod's business requirements.*

7. Compliance with Industry Standards

7.1 *McLeod and U S WEST agree to discuss the modification of these interfaces based upon evolving standards (e.g., data elements, protocols, transport networks, etc.) and guidelines issued by or referenced by relevant Alliance for Telecommunication Industry*

Solution (ATIS) committees. Upon request by either Party, establishment of new, or changes to industry standards and guidelines will be reviewed on no less than an annual basis. This review will consider standards and guidelines that have reached final closure as well as those published in final form. Both parties agree to evaluate evolving standards and mutually determine the relevant modification to be implemented based upon the latest approved version adopted or the latest version reflecting final closure by the relevant (ATIS) committee or subcommittee. The parties will use reasonable effort to reach closure upon the necessary changes within no more than three months of initiating each review and to implement the changes within nine months or earlier, if reasonably possible, unless there is mutual agreement to a different implementation schedule.

7.2 *In the course of establishing operational ready system interfaces between U S WEST and McLeod to support Local Services delivery, McLeod and U S WEST may need to define and implement system interface specifications that are supplemental to existing standards. Where mutually agreed to, McLeod and U S WEST will submit such specifications to the appropriate standards committee and will work towards its acceptance as a standard.*

8. Scheduled Availability

8.1 *McLeod and U S WEST agree to an operational/production readiness as soon as possible with a target date of November 1, 1997 for the delivery of all systems interfaces described within this document, with the mutual understanding that (1) product delivery content is dependent on requirements definition and the time required to develop to these requirements and (2) operational readiness is dependent upon satisfactory test results for the transaction volumes projected by McLeod. McLeod and U S WEST agree to work to mutually identify, prioritize and track those functions which may need to be positioned in a subsequent systems interface delivery. These functions will be jointly reviewed to define the time frame for development of subsequent releases of the system interfaces and establish mutually agreeable delivery dates.*

8.2 *McLeod and U S WEST agree that project schedules, timelines, milestone deliverables, reporting processes, among others, will be specified in the Joint Implementation Agreement (Section 18). These schedules and deliverables will be reviewed and revised as needed as part of regularly scheduled meetings conducted throughout the development/implementation cycle.*

9. Pre-Order

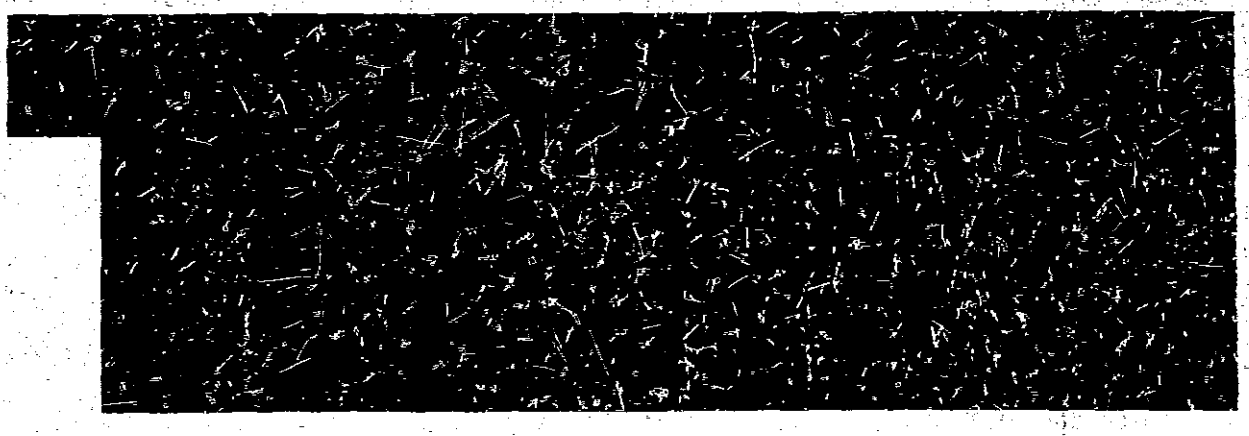
9.1 *The Parties agree that the exchange of preordering information for resale services and for services provided using UNEs will be transmitted over the same interface.*

9.2 *McLeod and U S WEST will establish a transaction-based electronic communications interface based upon the most current (as of the Effective Date of this Interconnection Agreement) version of the Service Order Subcommittee (SOSC) implementation guideline for Electronic Data Interchange (EDI). An exchange protocol, such as Electronic Communications-Lite (EC-Lite) will be used to transport EDI formatted content necessary to perform inquiries including but not limited to: switch/feature/facility availability, address verification, telephone number assignment, appointment scheduling, and customer service record requests. Without limiting other restrictions which may apply, Customer service records are provided for the limited purpose of supporting the resale of U S WEST local exchange services by McLeod or the sale of unbundled elements on behalf of that Customer. The use of records in a manner not associated with the ordering process, is*

expressly forbidden, and is a violation of the terms of this Agreement.

10. Order and Provisioning

10.1 When McLeod is the customer of record for the resold local exchange service(s), the exchange of information relating to the ordering and provisioning of local exchange service will be based upon the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 Standards as documented by the SOSC of the Telecommunications Industry Forum/Electronic Data Interchange (TCIF/EDI) committee. The Implementation Guidelines for Electronic Data Interchange EDI Guidelines Customer Services Issue 7 will be used as a baseline for implementation despite the fact that this document may not have reached final approval stage by the Effective Date of this Interconnection Agreement. An exchange protocol, such as EC-Lite will be used to transport EDI formatted content. The information exchange will be forms-based, using Local Service Request (LSR) Form, End User Information Form, and the Resale Service Form developed by the OBF as specified in the August 1996 version of the OBF forms in Bellcore SR STS-4710XX, and for Directory Listings, included with a local service request, as specified in SR STS-471102.



10.3 Subject to regulatory direction or mutual agreement relative to the requirement of providing combinations of UNE components, McLeod and U S WEST will establish a method to relate, track and process as a single entity the individual U S WEST provided End-user specific UNE components specified at the time of the initial order.

10.4 McLeod and U S WEST will use the same transaction based protocol, such as EC-Lite, and transport network specified for service resale for End-user specific UNE orders.

10.5 The ordering of common use (non-end user specific) UNEs, as may be permitted under this Agreement for unbundled elements and subject to FCC and state regulatory requirements, will be supported by a process separate from that described in the preceding paragraphs for end-user-specific UNEs, such system to be the same or similar to the mechanized process used for trunk service requests or another process or system as appropriate and determined by mutual agreement. Unless U S WEST is otherwise required by McLeod, this process will not employ the electronic interfaces specified in this Attachment, unless modified by separate agreement. U S WEST will support, if and to the extent required by law, this Interconnection Agreement or mutually agreed to, interconnection and operation of End-user specific UNEs used in combination with common use UNEs. The systems and ordering process as outlined herein is separate and apart from the Bona Fide Request Process agreed to by the parties. The Joint Implementation Agreement (Section 18 of this Attachment 6) will address the details

related to defining a mechanism to correlate End-user-specific UNE orders placed via system interfaces with Common Use UNEs that may have been previously ordered.

10.6 *U S WEST will accept an 860 transaction that contains the complete refresh of the previously provided order information (under the original 850 transaction) simultaneously with the delivery of supplemental (new/revised) information from McLeod, subject to mutually agreed upon business rules. This treatment with respect to the 860 transaction will be accepted by both parties until the SOSC explicitly clarifies the information exchanges associated with supplementing orders, or McLeod and U S WEST mutually agree to change the treatment.*

11. Maintenance and Repair

11.2 *For the purpose of exchanging fault management information, McLeod and U S WEST will establish an electronic bonding interface, based upon ANSI standards T1.227-1995 and T1.228-1995, and Electronic Communication Implementation Committee (ECIC) Trouble Report Format Definition (TRFD) Number 1 as defined in ECIC document ECIC/TRA/95-003, and all standards referenced within those documents. The parties will use the functions currently implemented for reporting access circuit troubles. These functions include, but are not limited to: Enter Trouble, Request Trouble Report Status, Add Trouble Information, Modify Trouble Report Attributes, Trouble Report Attribute Value Change (AVC) Notification and Cancel Trouble Report, all of which are fully explained in ANSI T1.227/T1.228-1995. Additional functions not currently implemented by the parties or defined by the standards may be supported by mutual agreement (e.g. Test Access and Trouble History).*

11.3 *Modifications that are required due to the absence of, or existence of unnecessary data fields, contents, or formats will be addressed in the Joint Implementation Agreement (JIA) described in Section 18 of this Attachment.*

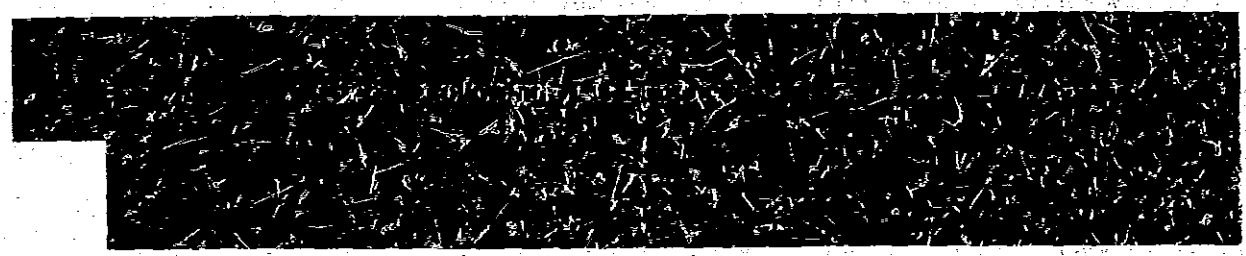
12. Recorded Customer Usage

12.1 *U S WEST will record the mutually agreed upon Customer usage data that McLeod requires for its retail local service Customers. The content of such data will be based upon a mutually agreeable interpretation of the BellCore Exchange Message Record (EMR) format to be documented within the JIA. U S WEST will provide electronic transmission of the recorded data using CONNECT:Direct daily on Monday through Friday on a schedule to be determined in the Joint Implementation Agreement (excluding holidays). This interface and format will be used to deliver recorded usage when McLeod is reselling retail local exchange services of U S WEST and when usage is associated with Customers served by McLeod through one or more UNEs provided by U S WEST. McLeod and U S WEST will mutually agree upon the conditions when customer usage data recording will be provided on behalf of McLeod.*

13. Billing Format for Service Resale (SR) and Unbundled Network Elements (UNE) Payables

13.1 Billing information for unbundled loop and port elements that are flat rated will be provided in a single EDI 811 format across all U S WEST regions via Connect:Direct. Billing information for unbundled trunks/interoffice transport elements that are flat rated will be provided in a BOS format via Connect:Direct and will appear in the Customer Service Record of the facility bill. Billing information for SR products and services that are flat rated will be provided in a single EDI 811 format across all U S WEST regions via Connect:Direct. Exceptions include, but are not limited to, frame relay which will be provided in a BOS format via Connect:Direct. The display of rating codes and the associated charge will be mutually agreed upon in both formats. Charges associated with a specific loop will reflect the circuit ID format.

13.2 For usage-rated billing, U S WEST will issue bills to McLeod for SR/UNE in the formats described under the flat-rated SR/UNE billing section. Usage rated billing for SR/UNE will be uniquely identified and displayed in the Usage Sections of the bill. For products using BOS format, jurisdiction will be specified per BOS guidelines. Conversation time, by chargeable traffic type, will be displayed and billed per applicable tariffs. Delivery of usage rated SR/UNE bills will be provided as described under the flat-rated SR/UNE billing section.



14. Recorded UNE Local or Access Usage Receivables

14.1 U S WEST will record all agreed upon originating and terminating usage billed to and associated with a UNE provided by U S WEST to McLeod. The usage recorded will be in the same BellCore Exchange Message Record format discussed within Section 12 and will be subject to the same terms and conditions for modification and/or replacement of the format as discussed in Section IX.

14.2 McLeod and U S WEST will mutually agree upon the Local and Long Distance access customer usage data recording that U S WEST will provide to McLeod consistent with FCC and State regulatory guidelines and requirements, so that McLeod may bill other carriers for the local and exchange access usage charges to which McLeod is entitled, if any. McLeod and U S WEST will perform mutually agreeable systems testing, as documented in the Joint Implementation Agreement (Section 18), as soon as possible.

14.3 U S WEST will provide electronic transmission of the recorded usage using CONNECT:Direct daily on Monday through Friday on a schedule to be determined in the Joint Implementation Agreement (excluding holidays). The same or similar interface used for delivery of recorded customer usage, discussed in Section 12 of this Attachment 6, will be used for delivery of the recorded usage discussed in this section.

15. Local Account Maintenance

15.1 When acting as the switch provider for McLeod, where McLeod either is reselling retail

services of U S WEST or employing UNEs to provide local service, U S WEST will notify McLeod whenever the local service Customer transfers service from McLeod to another local service provider. U S WEST will provide this notification via CONNECT:Direct using a mutually agreeable 4 digit Local Use Transaction Code Status Indicator (TCSI) that will be used to indicate that the retail customer is terminating local service with McLeod. This notice will be provided on the next processing day after implementing the transfer, where processing days are Monday through Friday (excluding holidays). The TCSI, sent by U S WEST, will be in the 960 byte industry standard CARE record format.

15.2 *McLeod and U S WEST will process account changes that affect only the pre-subscribed intraLATA and/or interLATA toll provider (PIC) via a Change service order form using the same EC-Lite transaction based protocol and transport network employed for ordering resale service as specified in Section 10.*

15.3 *When appropriate regulatory guidelines exist, U S WEST will use the industry standard CARE message TCSI 3148 to reject an IXC initiated change of the Primary Interexchange Carrier (PIC), where U S WEST is the switch provider either for the retail local services of U S WEST that McLeod resells or UNEs of U S WEST that McLeod employs in providing service.*

15.4 *Agreement by U S WEST and McLeod to the Local Account Maintenance described above does not, in any way, set a precedence or remove any obligation for U S WEST and McLeod to work towards an industry solution for supporting customer movement between and among other ILECs and CLECs.*

16. Directory Assistance Database

16.1 *McLeod and U S WEST will use a batch protocol and transport network to exchange Directory Assistance Database information similar to existing U S WEST listings products (i.e., DA EUSL, DA EUSL Updates). The specific protocol and transport network to be used has not been determined or mutually agreed to and will be specified in the JIA.*

16.2 *Without limiting other restrictions which may apply, directory service listing products are provided for the limited purpose of supporting provision of services as outlined in this Interconnection Agreement. The use of listings in a manner not associated with this use, is expressly forbidden, and is a violation of the terms of this Agreement.*

17. Testing and Acceptance

17.1 *The Parties will test the interfaces developed under this Attachment. The intent of the end-to-end integrity testing is to establish, through the submission and processing of test cases, that transactions agreed to by McLeod and U S WEST will successfully process, in a timely and accurate manner, through both parties' supporting OSS as well as the interfaces. Irreconcilable differences regarding the interpretation of operational status of the interfaces will be handled through the Dispute Resolution Process as defined in Section 27 of Part A of this approved by the Commission.*

17.2 *An interoperability testing suite shall ensure the implementation of functions, capabilities, and acceptance criteria enumerated in the JIA, with both parties agreeing to resolve any material defects in the software.*

17.3 *The test process shall include a series of tests in which the transactions, representative of the predominant business transactions associated with local customer servicing, are performed side-by-side using the mediated access gateway interface to U S WEST*

Legacy systems and the Legacy system interface utilized by U S WEST service representatives and repair attendants. The purpose of this series of tests will be to verify that the performance and response times visible to a user of the mediated access gateway for nominal and worst case scenarios with the same level of quality in accordance with the Act.

17.4 U S WEST does not warrant that its systems and access to those systems will be error-free.

17.5 Products and services already billed via the Integrated Access Billing System (IABS) will be included in the existing pre-bill certification process for general availability and a re-certification process conducted in accordance with current practices. For products and services billed outside of IABS, the parties will work towards establishing a mutually agreed upon pre-bill certification process.

17.6 McLeod and U S WEST agree that metrics are required in order to monitor the performance and assure the on-going delivery of non-discriminatory access to U S WEST systems for pre-order/ordering/provisioning, maintenance/repair, billing, and directory assistance databases. A performance measurement plan that addresses the definition, measurement, and review of quality, timeliness, accuracy and availability of each interface and associated transactions or files will be jointly developed and documented within the JIA for each interface.

17.7 McLeod and U S WEST agree to periodic status meetings to review the overall progress toward introducing fully operational interfaces capabilities as soon as possible, with a target date of November 1, 1997.

17.8 Results of testing shall be considered Confidential Information, except that such results may be provided pursuant to this Agreement and law.

18. Joint Implementation Agreement Development

18.1 McLeod and U S WEST recognize that the preceding provisions are not sufficient to resolve all, technical and operational details related to the interfaces described. Therefore, McLeod and U S WEST agree to document the additional, technical and operational details in the form of a Joint Implementation Agreement (JIA). The purpose of the JIA is to establish the working details of the systems interfaces between the two parties, and as such, they will not be submitted to the Commission for approval as amendments to this Agreement. These JIA may be modified, by mutual agreement, over the life of the Interconnection Agreement without subjecting the balance of this Agreement to renegotiation or modification.

18.2 Both parties further agree that any technical, operational or implementation issues directly associated with the systems interfaces, once identified at the working team level, may be escalated by the initiative of either party thirty (30) days after an issue is identified. The escalation will proceed first to the senior management of both companies who will seek to resolve the issue. Within fourteen (14) days of acceptance of this Agreement, McLeod and U S WEST will document the agreed upon escalation process including the names and contact information of responsible senior management. If an issue is not resolved within thirty (30) days following receipt of the issue by senior management, either party may submit the issue to the Alternative Dispute resolution process contained in Section 27 of Part A of this Agreement.

18.3 Upon request by either Party, McLeod and U S WEST will document an overall project

implementation schedule. This schedule will be mutually binding and can be modified by mutual consent.

18.4 *In addition, McLeod and U S WEST agree to document both a topical outline for the JIA, and establish a schedule for identifying, discussing, resolving and documenting resolution of issues related to each aspect of the JIA topical outline for each interface discussed in this document. In no case will either end to end integrity testing or load testing begin without both parties mutually agreeing that each interface JIA documents the intended operation of the interface scheduled for testing. In the event the parties can not agree prior to one hundred and twenty (120) days of the operational/production readiness date for delivery of all system interfaces described within this Attachment, disputes over the sufficiency of documentation will be submitted to arbitration pursuant to the Alternative Dispute Resolution process contained in Section 27 of Part A of this Agreement.*

18.5 *By mutual agreement, specific paragraphs or entire sections of this Agreement may be identified and documented to serve the purpose described for the Joint Implementation Agreement for specific interfaces. Any issues identified and subsequently resolved through either the end-to-end integrity or load testing processes will be incorporated into the impacted interface section of the JIA within thirty (30) days of issue resolution.*

18.6 *An illustrative outline for a JIA follows:*

- *Introduction*
- *Purpose of Joint Implementation Agreement*
- *Terms of Agreement*
- *"System" Interface*
  - *Business Process and Data Requirements*
  - *Overall Responsibilities*
  - *Identification & Definitions of Activities*
  - *Information To Be Provided Per Transaction*
  - *Process Information for Each Activity & Transaction*
- *Delivery Criteria*
  - *Data Standard*
  - *Message Protocol*
  - *Transmission Protocol*
  - *Destination*
  - *Frequency Of Data*
  - *Deviations to Generic Specification*
  - *Error Processing*
  - *Process for Notification of Late Transmittals*
  - *Escalation & Expedite Procedures*
  - *Transaction Response Times*
  - *File Format Specifications*
  - *Rules for the Physical Interface*
  - *File Structure*
  - *Data Format*
  - *Error Controls*
  - *Physical Tape Specifications*
  - *Site Information*
  - *Contact Person*
  - *Transmission Hours*

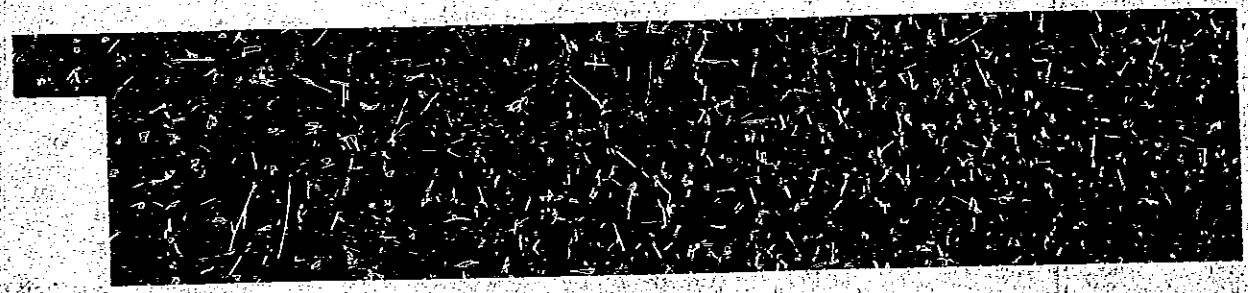
- *Testing*
  - *Cooperative Testing*
  - *Pairwise Testing*
  - *ETE Testing*
  - *Test Order ETE (Employees)*
  - *Future Testing Requirements*
- *Interface Metrics*
  - *Data Timeliness*
  - *Data Completeness*
  - *Data Accuracy*
- *Contact Information*
  - *Contacts/Escalation Contacts*
  - *Schedules for Center Operations (days/hours of Operation)*
- *Data Requirements*
  - *Retention of Data*
  - *Back-up and Recovery Procedures*
  - *Disaster Recovery*
  - *System Change Notification*
  - *Guarding of Proprietary Data*
- *Reporting Information*
  - *Reports to be Generated*
  - *Frequency*
  - *Data Requirements*
  - *Transmission*
- *Change Control Process*
- *Issue Resolution Process*
- *Termination of Interface Notification*

IMPLEMENTATION SCHEDULE

1. Local Service Resale

1.1 Within ninety (90) days, after a request by McLeod, U S WEST shall provide for resale all services designated in this Agreement. Once service is initiated in an area, the ordering and provisioning intervals will be as specified in this Agreement and/or adopted by the Commission.

2. Unbundled Network Platform (All Network Elements in Combination)



3. Interconnection Trunking for Local Service

3.1 Within thirty (30) days of the Effective Date of this Agreement or such other time period as the Parties may mutually agree, the McLeod shall provide U S WEST with its initial forecast of the quantity of interconnection trunks it requires, by location and type. The forecast shall address McLeod's requirements as set forth in the trunk forecasting provisions of Attachment 4. U S WEST shall cooperate with McLeod in the development of its forecast, as required.

3.2 Upon completion of the forecast, U S WEST and McLeod shall meet to review the forecast, and to determine the availability of trunks and interoffice facilities necessary to accommodate McLeod's forecast. Where the facilities are in place, U S WEST shall provide the initial installation of interconnection trunk groups upon request by McLeod. In the event that facilities are not available, U S WEST shall so advise McLeod within five (5) Business Days, and jointly plan and develop an implementation schedule within the next thirty (30) day period. Subsequent to the thirty (30) days, interconnection trunk orders shall be processed as specified in this Agreement and/or adopted by the Commission. .

4. Ancillary Trunking

4.1 Within ninety (90) days after a request by McLeod, *U S WEST shall provide:*

4.1.1 E-911 Trunking in cooperation with McLeod;
4.1.2 SS7 Interconnection and Certification in cooperation with McLeod; and
4.1.3 Directory Listings Arrangements and Directory Assistance Interconnection.

5. Unbundled Loops

5.1 Within sixty (60) days after Collocation has been provided pursuant to the terms of this Agreement, U S WEST shall provide unbundled loops at designated end offices. Subsequent unbundled loops should be made available pursuant to ordering intervals as specified in this Agreement and/or adopted by the Commission.

6. **Collocation**

6.1 Collocation will be provided upon request pursuant to the terms and conditions of this Agreement.

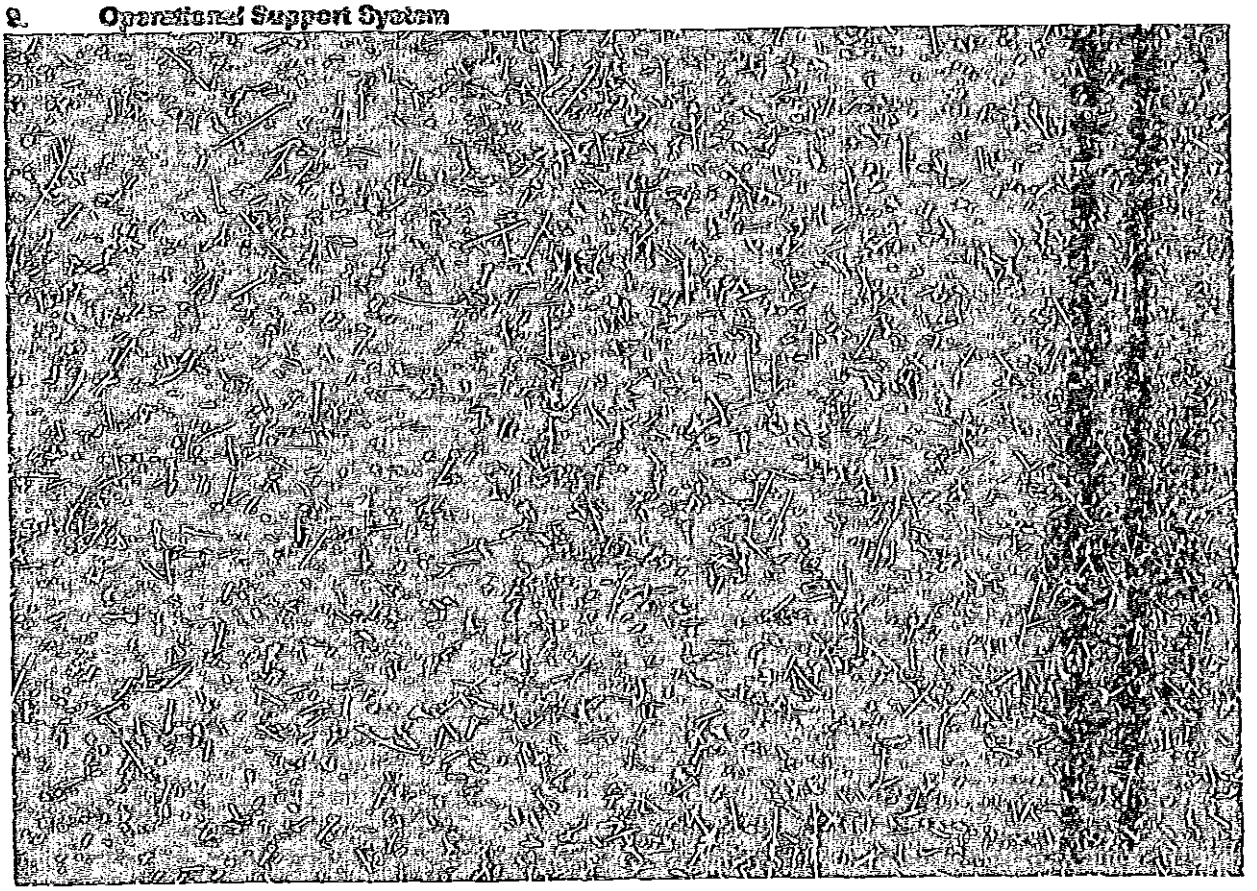
7. **Access To Poles, Ducts and Rights of Way**

7.1 Access to Poles, Ducts and Rights of Way shall be provided upon request, pursuant to the terms and conditions of this Agreement.

8. **Interim Number Portability**

8.1 Interim Number Portability capabilities, as specified in this Agreement, shall be made available in specified locations, upon request by McLeod, and within appropriate service order windows thereafter. Interim Number Portability shall be capable of being ordered electronically as of the Effective Date of this Agreement.

9. **Operational Support System**



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APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

[redacted]

	Recurring	Nonrecurring
Entrance Facility		
DS1, Electrical	$82.59	$515.80
DS3, Electrical	$336.99	$611.86

	Price
Call Termination	
Average Per Minute of Use	$0.003469

	Fixed	Per Mile
Call Transport		
Direct Trunked Transport		
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	$17.14	$0.09
DS0 - Over 8 to 25	$17.12	$0.12
DS0 - Over 25 to 50	$17.13	$0.11
DS0 - Over 50	$17.14	$0.07
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	$34.75	$0.95
DS1 - Over 8 to 25	$34.78	$1.82
DS1 - Over 25 to 50	$34.76	$1.77
DS1 - Over 50	$34.75	$1.23
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	$236.22	$10.43
DS3 - Over 8 to 25	$236.53	$10.83
DS3 - Over 25 to 50	$236.71	$9.91
DS3 - Over 50	$243.94	$24.44

	Price
Tandem-Switched Transport	
Tandem Switching, Per Minute Of Use	$0.001748

	Fixed	Per Mile
Tandem Transmission		
0 Mile	None	None
Over 0 - 8 Miles	$0.000412	$0.000012
Over 8 - 25 Miles	$0.000406	$0.000014
Over 25 - 50 Miles	$0.000408	$0.000013
Over 50 Miles	$0.000410	$0.000009

	Recurring	Nonrecurring
Multiplexing, per arrangement		
DS3 to DS1	$181.32	$287.45
DS1 to DS0	$181.28	$280.77

APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

	Recurring	Nonrecurring
Entrance Facility		
DS1, Electrical	$82.59	$515.80
DS3, Electrical	$336.99	$611.86

	Fixed	Per Mile
Direct Link Transport		
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	$17.14	$0.09
DS0 - Over 8 to 25	$17.12	$0.12
DS0 - Over 25 to 50	$17.13	$0.11
DS0 - Over 50	$17.14	$0.07
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	$34.75	$0.95
DS1 - Over 8 to 25	$34.76	$1.82
DS1 - Over 25 to 50	$34.76	$1.77
DS1 - Over 50	$34.75	$1.23
Direct Link Transport		
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	$236.22	$10.43
DS3 - Over 8 to 25	$236.53	$10.63
DS3 - Over 25 to 50	$236.71	$9.91
DS3 - Over 50	$243.94	$24.44

	Recurring	Nonrecurring
CCS Link – First Link	To Be Negotiated	To Be Negotiated
CCS Link – Each additional Link	To Be Negotiated	To Be Negotiated
STP Port – Per Port	To Be Negotiated	To Be Negotiated
Multiplexing		
DS3 to DS1	$191.32	$287.48
DS1 to DS0	$181.28	$280.77

APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

	Recurring	Nonrecurring
Common Elements		
Quote Preparation Fee	To Be Negotiated	$1,000.00
Entrance Facility - 2 fibers (Note 1)	$107.83	$1,000.00
EICT Channel Terminations		
2-wire DS0 EICT	$1.14	$274.65
4-wire DS0 EICT	$1.45	$274.65
DS1 EICT	$12.57	$311.69
DS3 EICT	$36.56	$313.28
EICT Regeneration		
DS1, Regeneration	$12.21	$311.69
DS3, Regeneration	$75.61	$313.28
Cable Splicing		
Per setup	None	$474.70
Per Fiber Spliced	None	$37.95
48 Volt Power, per ampere, per month	$15.24	None
48 Volt Power Cable, per foot (Note 7)		
20 Ampere Capacity - Recurring	$0.11	$70.21
40 Ampere Capacity - Recurring	$0.15	$95.20
60 Ampere Capacity - Recurring	$0.17	$107.22

	Regular Hours	After Hours
Inspector per 1/2 Hour	$27.70	$35.99

	Recurring	Nonrecurring
Virtual Collocation		
Equipment Bay, Per Shelf	$3.08	None

	Regular Hours	After Hours
Training per 1/2 Hour	$24.54	None
Engineering per 1/2 Hour	$23.93	$32.01
Installation per 1/2 Hour	$27.70	$35.99
Maintenance per 1/2 Hour	$24.54	$32.64

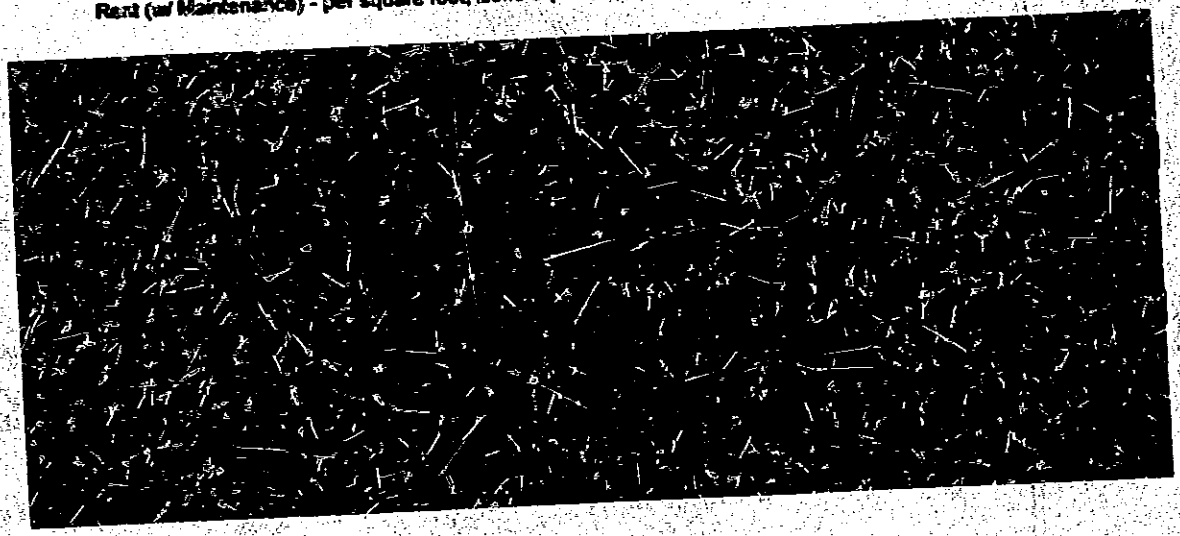
	Recurring	Nonrecurring
Physical Collocation		
Cage/Hard Wall Enclosure	ICB	ICB
Rent (w/ Maintenance) - per square foot, Zone 1 (Note 2)	$2.75	None
Rent (w/ Maintenance) - per square foot, Zone 2 (Note 2)	$2.26	None

APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

Rent (w/ Maintenance) - per square foot, Zone 3 (Note 2)	$2.06	None



APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

	Price
Directory Assistance	
Price per Call – Facilities-Based Providers	$0.31
Listings	
Primary Listings, Directory Assistance, White & Yellow Pages	No Charge
E911	
LEC and AECs recover costs from PSAP	No Charge

	Price
Interim Number Portability	New York Method

	Price
Assignment of Numbers	
Assignments per industry guidelines	No Charge
Busy Line Verification	
Per Call	$0.75
Busy Line Interrupt	
Per Call	$0.92
Operator Assistance	
Per activity	$0.36

APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

Unbundled Loops	Recurring	Nonrecurring
2-Wire LIS-Link, Statewide	$21.09	
4-Wire LIS-Link, Statewide	$39.34	
ISDN Extension Increment, Per Loop (Note 3)	$21.49	
Basic Installation, First LIS-Link		$106.29
Basic Installation, Each Additional LIS-Link		$59.44
Installation with Conformance Testing, First LIS-Link		$170.79
Installation with Conformance Testing, Each Additional LIS-Link		$86.61
Coordinated Installation with Testing, First LIS-Link		$216.00
Coordinated Installation with Testing, Each Additional LIS-Link		$133.81
Network Interface Device (Note 4)		$58.58
Cable Unloading and Bridge Tap Removal (Note 5)		$58.50

Unbundled Ports	Recurring	Nonrecurring
End Office Port, Per First Port	$1.84	$101.15
End Office Port, Per Each Additional Port	$1.84	$54.43
Average Per Minute of Use, Per Port	$0.003469	

Vertical Features	Recurring	Nonrecurring
Vertical Features - Analog		
Call Hold	$0.0566	
Call Transfer	$0.2166	
Three Way Calling	$0.0963	
Call Pickup	$0.0577	
Call Waiting/Cancel Call Waiting	$0.1330	
Distinctive Ringing	$0.0797	
Speed Call Long -- Customer Changeable	$0.0654	
Station Dial Conferencing (6-way)	$1.0508	
Call Forwarding Busy Line	$0.1386	
Call Forwarding Don't Answer	$0.1695	
Call Forwarding Variable	$0.1414	
Call Forwarding Variable Remote	$0.1128	
CLASS - Call Waiting ID	$0.0519	
CLASS - Calling Name & Number	$0.1915	
CLASS - Calling Number Delivery	$0.0808	
CLASS - Calling Number Delivery - Block	$0.3822	
CLASS - Continuous Redial	$0.5008	
CLASS - Last Call Return	$0.4258	
CLASS - Priority Calling	$1.0829	

APPENDIX A

U S WEST INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES, RESALE PRICE LIST

SOUTH DAKOTA

	Recurring	Nonrecurring
CLASS - Selective Call Forwarding	$0.9206	
CLASS - Selective Call Rejection	$1.7651	
CLASS - Anonymous Call Rejection	$0.3937	
Call Park (Store & Retrieve)	$0.1289	
Message Waiting Indication Audible/Visual	$0.0662	
Subsequent Order Charge		$12.75

Note: Any other vertical features requested by McLeod will be priced on an individual case basis.

Vertical Features - BRI ISDN	
2 B + D	under development
2 Primary Directory Numbers (PDNs)	under development
D - Channel Packet	under development
Call Appearance - Two per terminal	under development
Normal Ringing	under development
Caller ID Blocking - per call	under development
Subsequent Order Charge	under development

Note: Any other vertical features requested by McLeod will be priced on an individual case basis.

	Nonrecurring
Customer Transfer Charge	$5.00

	Wholesale Discount Rate
USWC Resold Services (Note 6)	
Includes billing and collections, operator services, and directory assistance	15.55%
If CLEC provides its own billing and collections	15.61%
If CLEC provides its own operator services and directory assistance	16.23%
If CLEC provides its own operator services, directory assistance, and billing and collections	16.29%

Notes

1 Pursuant to Order TC 96-184 the recurring rate is applicable for the first two years of the agreement. After that period, the Entrance Enclosure recurring rate is $2.83.
2 Zones per NECA 4 Tariff
3 This charge applies when a CLEC requests ISDN capability on an unbundled loop greater than 18 kft.
4 This charge applies when USW must install a Network Interface Device for a CLEC or when USW must connect a CLEC's loop to the USW Network Interface Device.
5 This charge applies only when loop unloading is necessary.
6 Pursuant to Order TC 96-184 U S WEST is not required to make its enhanced services available for resale.
7 Price subject retroactive upon final resolution to Cost docket.

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of May 13, 1999 through May 26, 1999

There were no filings during the period of May 13, 1999 through May 19, 1999

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing.
Phone: 605-773-3705 Fax: 605-773-3809

ELECTRIC

EL99-008 **In the Matter of the Filing by the City of Watertown, South Dakota, for Approval to Modify Assigned Service Area between Codington Clark Electric Cooperative and the City of Watertown, South Dakota.**

As a result of a recent annexation to the City of Watertown, the Commission received a filing from the City of Watertown, South Dakota for approval to modify the assigned service area between Codington Clark Electric Cooperative and the City of Watertown. The service territory boundary change includes Lot 2 and 28th Avenue South, within the South 2,000 feet of the East ½ of Section 7 of the plat entitled "Benedictine Sisters Subdivision to the Municipality of Watertown in Section 7, T116N, R52W, of the 5th P.M. Codington County, South Dakota.

Staff Analyst: Michele Farris
Staff Attorney: Camron Hoseck
Date Filed: 05/21/99
Intervention Deadline: 06/11/99

EL99-009 **In the Matter of the Filing by Northern States Power Company for Approval of its 1998 Economic Development Report and 1999 Economic Development Plan.**

On May 24, 1999, the Commission received a filing from Northern States Power Company in accordance with South Dakota Public Utilities Commission docket EL91-004: (1) a report of its 1998 economic development and (2) a proposed economic development investment budget for 1999.

Staff Analyst: Michele Farris
Staff Attorney: Camron Hoseck
Date Filed: 05/24/99
Intervention Deadline: 06/11/99

EL99-010 **In the Matter of the Petition for Declaratory Ruling by the Mayor of the City of Flandreau on Whether a Proposed Transmission Line Meets the Definition of SDCL 49-41B-2.1.**

The City of Flandreau is proposing to construct a transmission line from the existing Western Area Power Administration substation located west of Flandreau and a new substation. They are seeking a declaratory ruling from the Commission as to whether or not the proposed project falls within the SDCL 49-41B-2.1 definition of a transmission line and associated facility, thereby requiring a SDPUC permit.

Staff Analyst: Michele Farris
Staff Attorney: Karen Cremer
Date Filed: 05/26/99
Intervention deadline: 06/11/99

GAS AND ELECTRIC

GE99-003 **In the Matter of the Filing by MidAmerican Energy Company for Approval of Revised Residential and Commercial Informational Pamphlets.**

MidAmerican Energy Company is filing for Commission approval of revised residential and commercial informational pamphlets.

Staff Analyst: Keith Senger
Staff Attorney: Jeff Koerselman
Date Filed: 05/21/99
Intervention Deadline: n/a

TELECOMMUNICATIONS

TC99-056 **In the Matter of the Application of Black Hills FiberCom, L.L.C. for Approval to Offer a Different Local Calling Area.**

Black Hills FiberCom, L.L.C. submitted an application to provide a different local calling area than that which is provided by U S West.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 05/21/99
Intervention Deadline: 06/11/99

TC99-057 **In the Matter of the Filing by U S WEST Communications, Inc. for Approval of Agreement for Local Wireline Network Interconnection and Service Resale between McLeodUSA Communications Services, Inc. and U S WEST Communications, Inc.**

U S WEST Communications, Inc. and McLeodUSA Communications Services, Inc. filed a negotiated Agreement For Local Wireline Network Interconnection And Service Resale on May 26, 1999. "The Agreement ... sets forth the terms, conditions and prices under which the parties agree to interconnect and pay reciprocal compensation for the exchange of local traffic.... However a dispute remains between the parties regarding Reciprocal Compensation provisions. It is U S WEST's position that those provisions apply only to local traffic. U S WEST requests that the Commission resolve this issue in dispute." Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than June 17, 1999. Parties to the agreement may file written responses to the comments within twenty days of service of the comments.

Staff Analyst: Harlan Best
Staff Attorney: Camron Hoseck
Date Filed: 05/26/99
Comments Due: 06/17/99

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South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

June 16, 1999

Todd Lundy
U S WEST, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Bill Haas
McLeodUSA Communications Services, Inc.
6400 C Street, S.W.
Cedar Rapids, IA 52406

Re: South Dakota PUC Docket TC99-057 - U S WEST/McLeod interconnection agreement

Gentlemen:

We have received and docketed the above-referenced filing. In looking at it for purposes of filing a staff recommendation, I am somewhat confused about what this really is. The reasons for my concerns are as follow.

Mr. Lundy's letter of transmittal dated May 24, 1999 asks for a "expeditious approval of this Agreement" and then goes on to say that there is a dispute regarding reciprocal compensation. The Commission is asked to resolve this dispute.

When one goes to the cover page of the agreement, in the note, first it makes reference to AT&T proposed language thus leading one to suspect that the agreement adopts the U S WEST/ AT&T arbitrated agreement. Then, there is reference to "parked" issues which are supposedly pending before the U. S. Supreme Court.

Then when one goes to the Recitals on page 1, the language becomes even more confusing in that it states the agreement is a product of agreed terms and those imposed by arbitration and doesn't necessarily represent the position of either party on any issue. Parked issues appear on pages 1, 31; page 3 of Attachment 1; table of contents and pages 1, 2, 3, 6, 25, 26, 45, 46, 54, 55, 56, 57 of Attachment 3; pages 13, 14, 16, 18, 19, 20, 22, 28, 42, 43, 44 of Attachment 5; pages 4, 5, 6 of Attachment 6 and all of Attachment 7.

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FAX (605)773-3809

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Warehouse Division
Telephone (605)773-5280
FAX (605)773-3225

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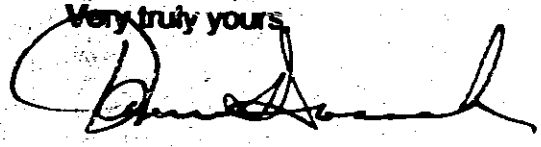
Gregory A. Risiov
Keith Senger
Rebecca Ann West

On page 81, the signature page, there are certain footnoted recitations about the Iowa Utilities Board case still pending in the U S Supreme Court. We all know that decision has been rendered.

The question is: is this a petition for arbitration or is this a petition for approval of an interconnection contract? If it is the former, then I would suggest that the issues be formulated in light of the U. S. Supreme Court's decision. The Commission should not be put in a position of guessing the nature of this filing given U S WEST's proclivity to sue Commissioners and habitually allege regulatory takings. If it is the latter, then I would suggest that the agreement should be redrawn to reflect the effect of the court decision. I cannot recommend positive consideration of the present document to the Commission, assuming it wishes to consider the filing, given its half-baked character.

Please advise what this filing is supposed to be and whether you might want to consider withdrawing it until such time as a coherent document can be presented to the Commssion.

Very truly yours,



Camron Hoseck
Staff Attorney

cc: Best

BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

RECEIVED
JUN 18 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

In the Matter of the Filing by US WEST Communications, Inc. for Approval of Agreement for Local Wireline Network Interconnection and Service Resale between McLeodUSA Communications Services and US WEST Communications, Inc.	)	No. TC99-057

FAX Received JUN 17 1999

U S WEST'S OPENING COMMENTS REGARDING WHETHER ISP TRAFFIC IS SUBJECT TO RECIPROCAL COMPENSATION

Alex M. Duarte
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202
(303) 672-5871

June 16, 1999

INTRODUCTION

On May 26, 1999, U S WEST Communications, Inc. ("U S WEST") and McLeodUSA Communications Services, Inc. ("McLeod") filed a negotiated Agreement for Local Wireline Network Interconnection and Service Resale ("the interconnection agreement"). This Agreement sets forth the terms, conditions and prices under which U S WEST and McLeod agree to interconnect and pay "reciprocal compensation" for the exchange of *local* traffic.

However, a dispute remains between U S WEST and McLeod regarding the "reciprocal compensation" provisions of the agreement. Specifically, the issue is whether Internet Service Provider ("ISP") traffic is "local" traffic, for which reciprocal compensation must be paid, or whether it is non-local traffic, for which reciprocal compensation is not due. It is U S WEST's position that the reciprocal compensation provisions apply only to local traffic, and that ISP traffic is *not* local traffic. McLeod, on the other hand, argues that ISP traffic is local traffic subject to reciprocal compensation. Thus, U S WEST has requested that the Commission resolve this disputed issue.

This issue, however, has already been resolved by the FCC. In its recent Declaratory Ruling, the FCC stated that ISP-bound traffic is not local traffic; it is *interstate* in nature. ***In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic***, CC Docket Nos. 96-98 and 96-68 (FCC February 26, 1999) (the "*ISP Decision*"). The FCC reasoned that the jurisdictional nature of ISP traffic is determined by the locations of the originating end user and the ultimate recipient of the communication, which is the website location. The FCC's *ISP Decision* also included a Notice of Proposed Rulemaking ("NPRM") to adopt rules as to whether there should be compensation for delivery of ISP traffic, who pays it, and under what terms.

U S WEST suggests that the FCC ruling that ISP traffic is not local in nature should end this dispute between U S WEST and McLeod, and that the Commission should rule that McLeod is not entitled to reciprocal compensation for ISP traffic, or that it await the FCC ruling on compensation, if any, for delivery of ISP traffic. However, should this Commission decide to consider interim treatment of the delivery of ISP-bound traffic pending final rulemaking from the FCC, U S WEST will show in these comments that ILEC payment of reciprocal compensation for CLEC delivery of ISP traffic (whether by U S WEST or by any of South Dakota's Independent Company local exchange carriers) is inconsistent with sound public policy, economic policies premised upon the proper allocation of resources, and efficient operation of the telecommunications network.

U S WEST's Comments contain three parts. First, U S WEST will describe the characteristics of ISP traffic, and the conclusions under federal law that ISP-bound traffic is not local in nature. Second, U S WEST will address the public policy and economic reasons why reciprocal compensation is inappropriate for CLEC-delivery of ISP traffic. Finally, U S WEST will show that reciprocal compensation for ISP traffic significantly contributes to operating inefficiencies and blockage on the telecommunications network.

SUBSTANTIVE COMMENTS

I. ISP TRAFFIC IS NON-LOCAL AND INTERSTATE IN NATURE UNDER FEDERAL LAW

A. The Characteristics Of Internet Calling

The Internet is a national and international network of interconnected computers enabling millions from around the world to communicate and exchange information with one another.

ISP Decision at para. 3. The Internet uses packet technology to route the communications and information to their destination. *Id.*

An ISP offers services to its customers that provide them with the ability to communicate on-line and obtain information from others through the Internet. *Id.* at para. 4. To reach others connected to the Internet, a customer dials a local number to reach the ISP server located in the same calling area. *Id.* The customer then inputs an Internet address to reach the intended website recipient. The ISP server uses computer processing, information storage, protocol conversion, and routing with transmission to allow end user customers access to the Internet. *Id.*

For example, when a customer enters an Internet address, or a Universal Resource Locator (URL) like (http://www.yahoo.com), the ISP server looks up the Internet Protocol (IP) address with the name (www.yahoo.com). An IP address is a numeric representation of the URL. Once the computer program receives this information, it transforms this IP address into a numerical address. In this example, the numerical IP address is 204.71.177.70. The computer uses this information to connect to that web server at that address and waits for the packets of information (the page image and text) that it has requested. The communication does not terminate at the ISP's modem pool or server, but is routed to the final destination (the IP address) that the end-user's computer has requested.

A customer does not use an ISP to communicate or obtain information from the ISP. Rather, the intended recipient of the communication is the *web-site* or *Internet address* of the person, entity, or computer with whom the end user actually exchanges information. In contrast, an ISP simply serves as the conduit for the customer's communication with another entity or person on the Internet located anywhere in the nation or the world.

B. Reciprocal Compensation And Its Application To Termination Of Local Traffic Only

U S WEST filed this docket with a request that the Commission determine that "reciprocal compensation" does not apply to ISP traffic, and thus that that U S WEST is not required to pay reciprocal compensation to McLeod under the interconnection agreement at issue. "Reciprocal compensation" is a term of art as defined in the Telecommunications Act of 1996, Section 251(b)(5), and 47 C.F.R. Section 51.701-17. Section 251(b)(5) creates the duty to pay reciprocal compensation by requiring all local exchange carriers (LECs) "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." 47 U.S.C. § 251(b)(5). The FCC rules define a "reciprocal compensation" arrangement as one "in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier." 47 C.F.R. 51.701(e).

Of vital importance to this docket, the Telecommunications Act of 1996 limits the requirement to pay reciprocal compensation under Section 251(b)(5) only to the termination of *local* traffic. In the *ISP Decision*, the FCC stated that "section 251(b)(5) of the Act and [FCC] rules promulgated pursuant to that provision concern inter-carrier compensation for interconnected *local* telecommunications traffic." *ISP Decision*, para. 28, note 87 (emphasis in original). Further, in its First Report and Order, the FCC had previously ruled that "reciprocal compensation obligations should apply only to traffic that originates and terminates within a local area." *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, No. 96-98, 11 FCC Rcd 21905, 1996 FCC LEXIS 4312, ¶ 1034 (released Aug. 8, 1996). Stated another way, "the reciprocal compensation provisions of

section 251(b)(5) for transport and termination of traffic do not apply to the transport or termination of interstate or intrastate interexchange traffic." *First Report and Order*, ¶ 1034.

C. ISP-Bound Traffic Is A Non-Local, Interstate Communication

The debate over whether reciprocal compensation should be paid for ISP-bound traffic is dependent upon the point at which the call terminates. CLECs like McLeod who contend that ILECs like U S WEST or the Independent Companies should pay reciprocal compensation for ISP traffic argue that the call terminates at the local ISP server, and that a "second call" is then made from the ISP server to the intended recipient of the Internet communication. ILECs, on the other hand, assert that reciprocal compensation is not due for ISP traffic, and they correctly point out that such a call does *not* terminate at the ISP; rather, the ISP connects the call to the *Internet website*. Thus, ILECs correctly conclude that an Internet communication is but *one call* made to the intended recipient (the Internet website or Internet address).

1. The ISP Decision and Prior FCC and Judicial Precedent

With the issuance of the FCC's *ISP Decision* last February, this point is no longer subject to debate. An Internet communication constitutes but *one call* from the originating end user to the Internet website, and termination of the call does *not* occur at the site of the local ISP server. The FCC's *ISP Decision* defined the proper test to determine whether telecommunications traffic is local or interstate as follows: "[T]his Commission traditionally has determined the jurisdictional nature of communications by the end points of the communication and consistently has rejected attempts to divide communications at any intermediate points of switching or exchanges between carriers." *ISP Decision*, para. 10.

A long line of FCC and judicial precedent supports this test. For example, in *BellSouth Memory Call*, 7 FCC Rcd 1619 (1992), customers of BellSouth's voice mail service could access

the service from out-of-state. The customer would make an interstate call to the telephone company's switch, which would then route the call to the recipient's location. If there was no answer, the call would be forwarded, on a purely intrastate basis, to the voice mail apparatus. The state of Georgia contended that a separate call occurred when the call was forwarded from the local switch to the voice mail apparatus. The FCC ruled in *BellSouth Memory Call* that there was no separation of the call into distinct interstate and intrastate components. The FCC said:

> [W]hen a caller is connected to BellSouth's voice mail service, receives instructions and/or a message, and records a message, there is a continuous two-way transmission path from the caller location to the voice mail service. When the caller is out-of-state, there is a continuous path of communications across state lines between the caller and the voice mail service, just as there is when a traditional out-of-state long distance voice telephone call is forwarded by the local switch to another location in the state and answered by a person, a message service bureau or customer premises answering device.
>
> * * *
>
> The language of the Act also contradicts the narrow reading of our jurisdiction urged by the states that would artificially terminate our jurisdiction at the local switch and ignore the "forwarding and delivery of [the] communications" to the "instrumentalities, facilities, apparatus and services" that comprise BellSouth's voice mail service.

BellSouth Memory Call, paras. 9, 11, 12. See also *ISP Decision*, para. 10.

The FCC also reviewed an 800 service that connected end users to a nationwide travel service network in *Teleconnect Co. v. Bell Telephone Co. of Pennsylvania*, E-88-83, 10 FCC Rcd 1626 (1995), *aff'd sub nom., Southwestern Bell Tel. Co. v. FCC*, 116 F.3d 593 (D.C. Cir. 1997). In *Teleconnect*, an end user would dial an 800 number. The call traveled through the LEC's network to AT&T's 800 line, which was then routed to Teleconnect's switch. When the call reached Teleconnect's intermediate switch, the originating end user had to dial a second number to reach the intended recipient of the call. Teleconnect then delivered the call over a dedicated

line to the recipient's local exchange area and through a LEC to the end user. Simply stated, the issue before the FCC was whether charges applicable to a single, end-to-end call should apply, as compared to charges applicable to separate, distinct calls.

The FCC in *Teleconnect* therefore had to resolve whether the call to the 800 number was separate from the switching and delivery of the call through Teleconnect's network to the recipient's local calling area. The FCC determined that the call did *not* terminate at the switching facilities but, rather, included the intended recipient of the call. The FCC stated:

> [B]oth court and Commission decisions have considered the end-to-end nature of the communications more significant than the facilities used to complete such communications. According to these precedents, we regulate an interstate wire communication under the Communications Act from its inception to its completion. Such an interstate communication does not end at an intermediate switch. As the Bureau correctly noted, this view of our jurisdiction under the Act gives rise to an assumption that the interstate communication itself extends from the inception of a call to its completion, regardless of any intermediate facilities.
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> * * *
>
> [The 800] service conveys a single communication from the caller to the called party. Indeed, from the caller's point of view, any intermediate switching during the call is, as Teleconnect claims, "transparent." The record reflects that the user of [the] service intends to make a single call terminating not at the Teleconnect intermediate switch, where the Megacom link ends, but at the telephone line of the called party.

Teleconnect, paras. 12, 14.

The Teleconnect 800 call constituted one call without regard to the fact that the originating end user dials two separate numbers to complete the call. *Id.* at paras. 11, 14. Further, the 800 call was one call even though the first part of the call was governed by a contract between AT&T and Teleconnect, and the second part of the call was governed by a different contract between Teleconnect and its customer. *Id.* at paras. 11, 12.

As another example, credit card calls typically require intermediate steps to complete the communication. The end user first dials the interexchange carrier's switch, then dials the number of the intended recipient of the communication, and provides billing information. The call is then switched to the ultimate recipient. The intermediate switching does not separate the calls; rather, "switching at the credit card switch is an intermediate step in a single end-to-end communication." *ISP Decision*, para. 11 (quoting *In the Matter of Southwestern Bell Tel. Co.*, 3 FCC Rcd 2339, 2341 (1988)).

Federal courts also have ruled consistently that intermediate switching does not separate or terminate a call for the purposes of determining its jurisdictional boundaries. For example, in *NARUC v. FCC*, 746 F.2d 1492, 1498 (D.C. Cir. 1984), the Court of Appeals addressed the jurisdictional nature of intrastate in-WATS facilities used to connect interstate calls. The court stated: "The dividing line between the regulatory jurisdiction of the FCC and states depends on 'the nature of the communications which pass through the facilities [and not on] the physical location of the lines'....Every court that has considered the matter has emphasized that the nature of the communications is determinative rather than the physical location of the facilities used." 746 F.2d at 1498 (quoting *California v. FCC*, 567 F.2d 84, 86 (D.C. Cir. 1977)).

These precedents served as the basis for the FCC's ruling in the *ISP Decision* this past February that ISP-bound traffic is *interstate* in nature, *not* "local." The FCC stated that "the communications at issue here do not terminate at the ISP's local server, as CLECs and ISPs contend, but continue to the ultimate destination or destinations, specifically at a Internet website that is often located in another state." *ISP Decision* at para. 12. The FCC concluded that, although some intended recipients of ISP traffic may be located within the same local exchange

area of the originating caller, a substantial portion of Internet traffic involves accessing interstate or international websites. *Id.* at para. 18.

The *ISP Decision* also rejected the various theories asserted by CLECs and ISPs that ISP traffic is local. For example, ISP-bound traffic is *not* separated into two components – one intrastate telecommunication service provided by one or more LECs, and a second interstate component provided by the ISP. *Id.* at para. 13. Instead, the *totality* of the communication determines its jurisdictional nature. *Id.* at para. 12.

The FCC also explained the special exemption that ISPs currently have from paying interstate access charges. The FCC observed that ISPs use the network in the same manner as other customers who pay access charges for interstate calls. That is, ISPs "obtain local exchange services or facilities which are used, in part or in whole, for the purpose of completing interstate calls which transit its location and commonly, another location in the exchange area." *ISP Decision*, para. 16. The fact that ISPs currently are exempt from paying access charges only demonstrates that ISP traffic is indeed interstate in nature; otherwise, there would be no need for the exemption. *Id.*

2. The MCI WorldCom Decision in Massachusetts

Finally, the Massachusetts Department of Telecommunications and Energy ("MDTE") recently determined emphatically that, based on the FCC order, ISP traffic is but one call, and is interstate in nature, and thus is not subject to reciprocal compensation. *Complaint of MCI WorldCom, Inc. Against New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for Breach of Interconnection Terms Entered into Under Sections 251 and 252 of the Telecommunications Act of 1996*, Massachusetts Department of Telecommunications and Energy, No. 97-116-C (May 19, 1999) ("*MCI Order*"). Said the MDTE:

> On February 26, 1999, the FCC declared that the 1996 Act, 47 U.S.C. sec. 251(b)(5), mandated reciprocal compensation for the transport and termination of local traffic only. The FCC further held that this mandate does not extend to ISP-bound traffic, because ISP-bound traffic is not local but is interstate for purposes of the 1996 Act's reciprocal compensation provisions. ISP-bound traffic is thus not subject to state enforcement under the 1996 on the grounds that it is local traffic. Internet Traffic Order at ¶¶ 12 and 26 n. 87.
>
> In ruling in favor of Federal versus state regulatory jurisdiction over ISP-bound traffic and in construing 47 U.S.C. sec. 251(b)(5), the FCC focused on the "end-to-end" nature of the Internet communication. The initiating caller or customer is one "end" of the communication, and the terminating "end" is the web or other Internet site called by the customer. The FCC rejected arguments that would segment such traffic into intra- and inter-state portions and thereby also rejected a consequent, artificial segmentation of jurisdiction. *Id.* at ¶ 11. The FCC noted that it "analyzes the totality of the communication when determining the jurisdictional nature of a communication . . . [and] recognizes the inseparability, for purposes of jurisdictional analysis, of the information service and the underlying telecommunications." Id. at ¶ 13. The FCC considers each such commercial transaction as "one call" "from its inception to its completion" and accordingly rejects the jurisdictional limitation implied by arbitrarily isolating the initial part of the call from the rest of the stream of interstate commerce. *Id.* at ¶ 11. [Footnote omitted.]
>
> Accordingly, reciprocal compensation payments under 47 U.S.C. Section 251(b)(5) and 47 C.F.R. Section 51.701 et seq., do not apply to ISP-bound traffic because such traffic is non-local interstate traffic. *ISP Decision* at para. 26, note 87.

MCI Order, at pp. 8-9.[1]

Thus, the MDTE in *MCI* reversed and vacated its previous October 1998 order (which had granted MCI's petition to direct Bell Atlantic to continue reciprocal compensation payments for the termination of ISP traffic) on grounds of mistake of law. This mistake of law was the MDTE's previous erroneous characterization of ISP-bound traffic (as local), and was based on a

[1] The copy of the *MCI Order* available from the MDTE website (http://www.magnet.state.ma.us/dpu/) is not numbered despite that the order apparently encompasses at least 40 pages. Thus, the page numbers cited here are the handwritten page numbers of the copy of the order that U S WEST has submitted with its comments.

consequently false predicate for concluding that jurisdiction (of the MDTE to order such payments) was intrastate.

The MDTE went on to note:

> The unqualified payment of reciprocal compensation for ISP-bound traffic, implicit in our October Order's construing of the 1996 Act, does not promote real competition in telecommunications. Rather, it enriches competitive local exchange carriers, Internet service providers, and Internet users at the expense of telephone customers or shareholders. This is done under the guise of what purports to be competition, but is really just an unintended arbitrage opportunity derived from regulations that were designed to promote real competition. [Footnote omitted.] A loophole, in a word.
>
> * * *
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> Real competition is more than just shifting dollars from one person's pocket to another's.
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> * * *
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> Clearly, continuing to require payments of reciprocal compensation along the lines of our October Order is not an opportunity to promote the general welfare. It is an opportunity only to promote the welfare of certain CLECs, ICPs, and their customers, at the expense of Bell Atlantic's telephone customers and shareholders.

MCI Order, at p. 12.

The MDTE then discussed the adverse economic, policy and social considerations in permitting reciprocal compensation under these circumstances. The MDTE concluded:

> As the FCC has noted, reciprocal compensation payments for ISP-bound traffic are probably not cost-based. Internet Traffic Order at ¶ 29. The revenues generated by reciprocal compensation for that incoming traffic are most likely in excess of the cost of sending such traffic to ISPs. [Footnote omitted.] ISP-bound traffic is almost entirely incoming, so it generates significant reciprocal compensation payments from Bell Atlantic to CLECs, an imbalance which enables CLECs to increase their profits or to offer attractive rates and services to Internet service providers-or to do both. Not surprisingly, ISPs view themselves as beneficiaries of this "competition" and argue fervently in favor of maintaining reciprocal compensation for ISP-bound traffic. However, the benefits gained,

> through this regulatory distortion, by CLECs, ISPs, and their customers do not make society as a whole better off, because they come artificially at the expense of others.
>
> Where an increase in income results from regulatory anomaly, rather than from greater competitive efficiency in the marketplace, a regulator is well advised to take his thumb off the scale. We do so today. Arguing that we should not correct the distortions created by reciprocal compensation payments because they benefit ISPs and their customers is much like saying that one should not encourage people to quit smoking, and so avoid adverse personal and public health consequences, merely because some members of society make a living growing tobacco. Decisions like this should be driven by concerns for overall societal welfare-and not by concern for preserving the hothouse environment of an artificial market niche. [Footnote omitted.]

MCI Order, at p. 13.

Accordingly, reciprocal compensation payments under 47 U.S.C. Section 251(b)(5) and 47 C.F.R. Section 51.701 et seq. do not apply to ISP-bound traffic because such traffic is non-local interstate traffic. *ISP Decision* at para. 26, note 87. As such, U S WEST respectfully submits that this Commission should rule that McLeod is not entitled to reciprocal compensation payments from U S WEST for ISP traffic.

D. <u>Treatment Of ISP Traffic On An Interim Basis</u>

Finally, the FCC's *ISP Decision* also includes a Notice of Proposed Rulemaking ("NPRM") to adopt rules regarding inter-carrier compensation of ISP-bound traffic. The *ISP Decision* outlines that state commissions could enforce *existing* reciprocal compensation agreements between telecommunications providers, or refrain from requiring such payments pending the issuance of the final, federal rules. U S WEST respectfully suggests that the South Dakota Commission should adhere to the principles as stated in the *ISP Decision* and thus rule that, because ISP traffic is largely interstate in nature, it is not local, and therefore, that U S WEST is not obligated to pay to McLeod reciprocal compensation for such traffic.

However, even if the Commission does not agree with U S WEST on this issue at this time, or determines to await further FCC guidance on this issue, U S WEST suggests that the Commission should refrain from imposing on an interim basis, any reciprocal compensation for ISP traffic by U S WEST to McLeod (or by any of the Independent Companies to any CLEC). Rather, U S WEST submits that the Commission should *not* require any such compensation *unless* and *until* the FCC decides such compensation is appropriate.

Moreover, some states have required reciprocal compensation for ISP traffic on a per-minute usage basis. The FCC's proposed rules, however, reject this pricing structure as being inconsistent with an accurate measure of how costs are incurred for delivery of ISP-bound traffic. *ISP Decision* at p. 29. Thus, while U S WEST suggests that the South Dakota Commission should refrain from any imposition of reciprocal compensation by U S WEST or the Independent Companies on an interim basis, it is clear that a per-minute of usage structure should not be applied under any circumstance.

Further, ILECs like U S WEST and the Independent Companies receive no compensation for their delivery of ISP traffic to CLECs (like McLeod) who eventually deliver such traffic to the ISPs. That is, because ISP traffic is not a "telecommunications service provided within a local calling area in accordance with the exchange carrier's tariffs," it is not within the classification of noncompetitive services as defined in Section 49-31-1.1 of South Dakota Codified Laws. As such, the customer is not paying an ILEC like U S WEST or the Independent Companies for delivery of ISP-bound traffic to the CLEC (like McLeod) under any tariff. Accordingly, it would be manifestly unfair for ILECs like U S WEST or South Dakota's Independent Companies, who receive no compensation for their delivery of ISP traffic, to pay reciprocal compensation to CLECs like McLeod. As such, U S WEST respectfully requests that

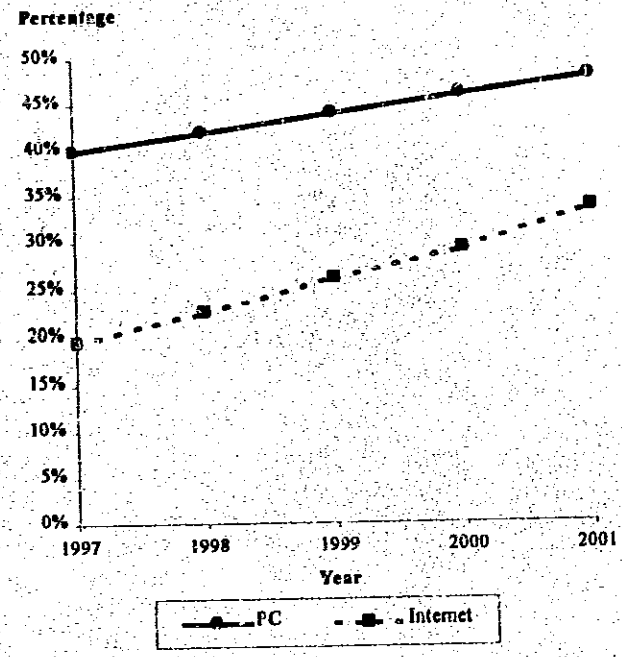
the Commission approve the interconnection agreement with McLeod, and that it rule that McLeod is not entitled to reciprocal compensation from U S WEST for ISP traffic.

II. RECIPROCAL COMPENSATION FOR ISP TRAFFIC IS INCONSISTENT WITH SOUND PUBLIC POLICY AND EFFICIENT ECONOMIC ALLOCATIONS

A. Increasing Internet Growth

The severity of the problems caused by reciprocal compensation on ISP traffic continues to increase with the tremendous growth of the Internet. Goods and services complementing the ISP market, such as data transport, communications and computing applications, have grown rapidly in recent years. Based on an ICONOCAST analysis, there are a minimum of *32 million business users* of the Internet worldwide, who account for at least 46% of total traffic volume. *See* "Business Use – Business Users Account for 46% of Traffic," *ICONOCAST*, July 8, 1998. Additionally, an increasing number of households now have personal computers with modems and use them to access Internet and online services for telecommuting, educational, informational, transactional and entertainment purposes. Today, the most common method for accessing the Internet from home is via a local telephone dial-up connection to an ISP/online service. Figure 1 below shows current and projected penetration rates for home PCs and Internet access. However, as new high-speed technologies are adopted and computer prices continue to drop, these projected numbers may even prove too conservative.

Figure 1
Projected Penetration of PCs and Internet Services in US Households



Source: *"ADSL Coalition UAWG Unveiled; List of UAWG Promoters: Cable Modem 1997-2006," in Cable TV Technology (CTT), February 28, 1998, Paul Kagan Associates, Inc.*

The exponential growth of the Internet is truly astounding. According to Matrix Information and Directory Services, there were 102 million people accessing the Internet worldwide in June 1998. This number is expected to grow to 707 million by 2001. The current valuations of Internet-related stocks reveal how much the capital markets are betting that this medium will continue to grow and grow. Given the burgeoning number of statistics pointing to this ever-increasing growth in the Internet, it is necessary to carefully examine adverse economic consequences of issues such as reciprocal compensation for ISP traffic, and the problems arising with the current environment of incredible technological advance, growth and speed.

B. Reciprocal Compensation Is Incompatible With Current Rate Structures

Local exchange carriers like U S WEST and the Independent Companies inherited a rate structure where, on balance, the rates recovered the costs of service. The combination of residential and business flat rates were therefore predicated on the average expected usage, which did not vary significantly over time. The current residential flat rate structure is predicated on a monthly usage of around 600 minutes per month. *ICONOCAST*, July 8, 1998.

Reciprocal compensation for ISP traffic between two local carriers, however, is not compatible with flat rate service. This is especially so because consumers' Internet usage is not in line with the historical telephone usage assumptions implicit in the ratemaking process. With the Internet's growing popularity, Internet usage has soared to over 1300 minutes per month.[2] Internet usage will continue to increase, thereby exacerbating the incompatibility of reciprocal compensation for ISP traffic.

C. Public Policy Goals And Objectives

Public policy seeks to align incentives that promote vigorous competition with the public interest. Competitive markets achieve this result when companies follow incentives to make efficient investment decisions.

With the proper regulatory incentives, competitors will make *technically efficient* investments because the incentives they receive through market signals (prices) will be based upon cost and demand. Customers will consume a mix of services which better satisfies their preferences, promoting *allocative efficiency* as subsidies from usage sensitive services are removed and prices better reflect costs. Competition will act as a catalyst to promote *dynamic*

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[2] AOL's 1998 Annual Report shows that the average dial-up user spends 22.1 hours per month on-line. See (http://www.aol.com/corp/inv/reports/1998/high.html). In addition, this figure only includes the user's minutes

efficiency by furthering innovation, lowering costs and increasing value to end-users, the citizens of South Dakota.

However, when economically unsound and bad policy measures such as reciprocal compensation payments for ISP-bound traffic exist, speculators are able to arbitrage prices and create huge windfall profits for themselves. In doing so, these agents also thwart the objectives mentioned above. Investment decisions are not properly made because prices do not accurately reflect costs and market conditions, but rather, reflect the manipulation of a regulatory loophole. In this way, *technical efficiency* is reduced. In addition, because consumers do not face unfettered market prices, their consumption decisions are skewed, and *allocative efficiency* is not obtained. Finally, and most importantly, the current environment disrupts *dynamic efficiency.* This is so because it offers large profits and windfalls to companies that do not have to invest nor add value—these companies simply sell a service and receive an entirely unrelated income stream from that sale. *See, e.g., MCI Order*, at pp. 12-13.

In the Telecommunications Act of 1996, Congress established an important efficiency-oriented policy of moving from the implicit subsidies in the existing rate structure to explicit subsidies, making the underlying costs transparent and providing the right investment signals. However, if reciprocal compensation is paid for ISP traffic, a subsidy flows from the ILECs like U S WEST and the Independent Companies to CLECs and ISPs through the CLEC-ISP arbitrage of the reciprocal compensation system.

D. Economic Distortions: Imbalance Of Payments

Despite the interstate nature of Internet traffic outlined above in Part I, ILECs in some states have nevertheless been required to pay reciprocal compensation to CLECs for Internet

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connected to the ISP, not other minutes spent making regular telephone calls.

traffic. Telephone users who dial up their ISP to access the Internet generate this traffic. This Internet traffic, therefore, makes ISPs a very attractive target for CLECs because, in addition to winning the ISP's local phone business, CLECs like McLeod can collect large windfalls from ILECs (like U S WEST and South Dakota's Independent Companies) in the form of reciprocal compensation. Figure 2, for example, illustrates the economic distortion resulting from payment of reciprocal compensation under the following three scenarios:

Figure 2 Effect of Reciprocal Compensation - "ISP-Type" Customers

	Typical Home User (ISP calls from network A to network B)	**Telecommuter** (8 hr/day ISP calls from network A to network B)	**Consultant** (Leaves computer connected to ISP 24-7)
Monthly Usage	1,326 MOUs	9,600 MOUs	43,200 MOUs
Reciprocal Compensation Rate	0.3 ¢ / MOU	0.3 ¢ / MOU	0.3 ¢ / MOU
Monthly Charge	$16.35	$16.35	$16.35
Payment to Network B	$3.98	$28.80	$129.60
Net Revenue to Network A	$12.37	-$12.45	-$113.25

As can be seen from Figure 2, in the case of the average online user, Network A ends up turning over one-fourth of the revenue from the monthly flat rate to Network B. In the case of the telecommuter, however, Network A is forced to pay Network B more than it receives from its own end-user, thus suffering a loss before considering the costs of the provisioning of that customer's line. Finally, in the extreme case of a heavy-using consultant, Network A is required to pay about *eight times* the revenue generated from its subscriber to Network B. Although this last scenario may be an extreme example, it shows that, since Internet usage is growing

exponentially, subscribers can quickly switch from being assets to being liabilities. Within this rate structure, no ISP/CLEC is likely to migrate work-at-home customers to DSL lines or other technology and thereby forego reciprocal compensation payments.

Thus, Figure 2 is an illustrative example of the following fact: ISP traffic does not fit within the premise of flat-rate local service (that customers' local exchange usage will be relatively uniform and remain within a relatively narrow band). Historically, stable demand allowed local exchange companies and regulators to recover usage-sensitive costs through fixed charges. ISP traffic, however, is not compatible with the flat rate scheme. This is so because ISP traffic has fundamentally different characteristics from local voice traffic, and is therefore incompatible with reciprocal compensation arrangements predicated upon flat rate local service. According to Robert Pepper, Chief of the FCC's Office of Plans and Policy, there have been only a few examples of ISPs moving to metered pricing (such as Netcom) and, by and large, ISPs use flat-rate pricing and charge about $20 per month for unlimited access to the Internet.[3] There is also evidence in some states that certain CLECs are providing high-speed network services to ISPs below cost in order to generate reciprocal compensation revenues.

Thus, because many ISPs either purchase their local exchange service from CLECs, or are themselves CLECs, when an incumbent's customer calls an ISP the incumbent will be charged by the CLEC for terminating the call to the ISP on behalf of the incumbent's customer. Because calls to ISPs are typically very long, this imbalance will cause large revenue flows from incumbents to CLECs and CLEC-ISP combinations (all other factors being equal). Moreover, when Internet Protocol telephony becomes more widely adopted, consumers will direct a higher

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[3] Pepper, Robert. *The Internet and the Complexity of Success*, presentation at ISPCON, San Francisco, CA, August 21, 1997. Available on-line at (http://www.fcc.gov/Bureaus/OPP/Speeches/ispcon.pdf).

percentage of their communications time to ISPs via dial-up connections in order to make long distance voice calls. Additionally, when dial-up end users connect to ISPs via the publicly-switched local exchange network, such calls tie up capacity on one or more switches and, in some cases, on the interoffice transport network as well. To the extent such increased usage requires expansion of local exchange network capacity, the financial condition of the LEC like U S WEST or the Independent Companies will be adversely impacted if it is not fairly compensated. The sum effect of all of these items will be to substantially increase the costs which incumbent LECs like U S WEST or the Independent Companies will incur in order to provide telecommunications services, without corresponding and compensating increases in revenues.

In short, the magnitude of reciprocal compensation payments for ISP traffic is substantial. The RBOCs and GTE paid approximately *$600 million* in ISP-related reciprocal compensation in 1998, a figure some analysts project will rise to $1 billion in 1999,[4] and $2 billion in 2000. "The Mysterious World of ISP-Related Reciprocal Compensation," Merrill Lynch Indepth Report on Telecom Services – Local, October 17, 1998. While it is unknown how much of this $600 million amount was due to Internet traffic, given that the originating/terminating traffic flow ratio is about 10:1,[5] it is safe to conclude that at least a *sizable* portion of this increase is Internet traffic. For these reasons, reciprocal compensation for ISP traffic is drastically distorting communications in ways that frustrate – and do not support – the parameters of a competitive market. Moreover, given the seemingly unlimited growth potential of the Internet, there is a risk

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4 "U.S. FCC to close Internet call fee loophole", Reuters , Monday, February 22, 1999. (http://biz.yahoo.com/rf/990222/bini.html)

5 Erik R. Olbeter "Internet Reciprocal Compensation: Counter to the Public Interest" Advanced Telecom and Information Technology Program. October 1998. (www.econstrat.org/recipcomp.htm).

that these already sizable arbitrage payments could grow exponentially, thereby creating huge windfalls for speculators, and jeopardizing the well-being of all ILECs and their ratepayers.

E. Current CLEC-ISP Business Models And Distortions

In addition, as a result of reciprocal compensation schemes, many CLECs are taking advantage of such reciprocal compensation arbitrage opportunities with minimal facilities-based investment. For example, FOCAL Communications in the Chicago area readily admits that three-quarters of its revenue comes from reciprocal compensation payments. Rough calculations indicate that FOCAL lost $54 per line in 1998, before other expenses like depreciation and amortization, if one does not include the windfall from reciprocal compensation. Moreover, FOCAL's 10-Q filed with the SEC for the second quarter of 1998 confirms (at page 11) that there is a CLEC disincentive to invest in infrastructure:

> The Company's strategy of leasing rather than building its own fiber transport facilities results in the Company's cost of service being a significant component of total costs. The Company has to date been successful in negotiating lease agreements which match the duration of its customer contracts, thereby allowing the Company to avoid the risk of continuing expenses associated with transmission facilities that are not being used by revenue generating customers.

Whether this behavior is occurring in South Dakota is unknown. However, it is easy to see the similarity of incentive structures that all CLECs across the country have as a result of reciprocal compensation. There can be no doubt that reciprocal compensation is an easy source of revenue for many CLEC-ISP companies, but is a serious threat to the regulatory goals of promoting competition and innovation in the telecommunications marketplace.

F. Public Policy Distortions

Finally, requiring reciprocal compensation for ISP traffic runs contrary to the stated goals of lawmakers, regulators and consumer advocates alike in promoting affordable, high-quality

local service, promoting local exchange competition, ensuring the stability of universal service, and increasing the transparency of the support schemes required to maintain universal service. Moreover, by exempting ISP traffic from access charges, current regulatory policy undermines the distributive goals of universal service, and further provides an opportunity for carriers to arbitrage the difference between below-cost local services and above-cost access services.

Accordingly, reciprocal compensation for ISP traffic threatens to raise the costs of doing business to the ILECs, like U S WEST and South Dakota's Independent Companies, and subsequently increases monthly rates for all subscribers of a network. This effect would create a subsidy from such ILECs and their ratepayers to CLECs-ISPs. It is sound economic and public policy to encourage competition and infrastructure investment. Reciprocal compensation for ISP traffic, however, achieves neither of these policies, and actually jeopardizes the realization of these goals. As such, U S WEST respectfully requests that the Commission approve the interconnection agreement with McLeod, and that it rule that U S WEST is not obligated to pay reciprocal compensation to McLeod for ISP traffic.

III. RECIPROCAL COMPENSATION INCREASES TECHNICAL INEFFICIENCIES AND NETWORK BLOCKAGE

As discussed above, reciprocal compensation arrangements provide CLECs and ISPs with an economic incentive to encourage customers to place ISP calls for long periods of time, even if the customers are not continuously exchanging information with the website. As shown below, the placement of ISP calls of long duration, which is a result of the payment of reciprocal compensation for ISP traffic, causes tremendous inefficiencies and harm to the telecommunications network.

A. The Burdens Upon The Network To Originate And Terminate ISP Traffic

Voice networks are designed to support an average holding time for a voice call of about five minutes. In contrast, Internet calls are typically characterized by a long "holding time," which is the time that the circuit is open during a communication. For example, U S WEST's study showed that holding times for ISP calls average between *14 and 23 minutes*. When such long holding times are imposed upon a network designed to aggregate and deliver calls of much shorter duration, additional switching equipment and interoffice trunking is required to handle this increased load. This increase imposes much higher costs on U S WEST, as it attempts to compensate for the load generated by the originators of such traffic. Adding additional infrastructure is an option which U S WEST has and is utilizing to protect the network from these problems; however, the interconnection environment constrains U S WEST's ability to protect the network.

For ISPs served by U S WEST, manual intervention suffices to handle the extraordinary loads generated by such customers. In many cases, the ISP can be isolated to certain trunking and switch groups so that Internet traffic does not degrade the voice network to the detriment of U S WEST's voice customers. However, where ISPs are served by other CLECs, like McLeod, such compensatory methods are not possible, since such traffic is constrained by the interconnection facilities to such CLECs. Thus, Internet traffic delivered by the CLEC to the ISP, with the much longer holding times, must be forecasted and closely coordinated with U S WEST and the involved CLEC in order to avoid adverse effects on the local network.

Importantly, ISPs will often change CLEC providers frequently depending upon the competitive prices and services offered by different telecommunications companies. However, an ISP's decision to change from one CLEC to another, coupled with the economic incentive for

CLECs to encourage their end users to maintain long holding times, has a highly detrimental effect upon the network. That is, a change to a different CLEC will result in the handling of a large amount of traffic by a different trunking group. Absent advance warning and accurate forecasting, an ISP change from one CLEC to another imposes a dramatically increased traffic load on a new trunking group, thereby resulting in blockage, delays, and busy signals.

B. Different Treatment Of ISP-Bound Calls

U S WEST has addressed this reciprocal compensation issue in Parts I and II from legal, public policy, and economic perspectives. However, this issue also should be considered from the technical viewpoint of the public telecommunications network. As noted, ISP traffic is characterized by a disproportionate use of network resources. Such use degrades the service experienced by the customers of ISPs, and by subscribers in general, as blockages develop. Conversion from circuit-switched to packet-switched networks could alleviate such blockages. However, given the current environment, in which unlimited flat rate service encourages over-use of the network, there is little incentive to either ISPs or their customers to move to more efficient technologies.

C. Basis Of Contentions That Internet Services Result In Network Congestion

Finally, as stated, U S WEST performed an Internet Traffic Overview in October 1998. This overview provided evidence of the longer ISP call holding times, which holding times contribute to blockage and other adverse impacts on the local network. The study showed that the average usage of a traditional voice call lasts *3.7 minutes*, while the average ISP call lasts *14 to 23 minutes*. In addition, Internet consumers averaged between 30 and 40 hours of Internet calls per month. The upper five percent of the heaviest of Internet consumers connect for about *200 hours* per month.

These burdensome holding times initiate network blockage. Terminating end office congestion occurs first, as ISP modem lines block other users in the switch. Thereafter, trunk congestion occurs, resulting in the blocking of other users from other call destinations that use the shared network resource. Finally, increased Internet usage causes originating switch congestion, thereby resulting in other users receiving delayed dial-tone. The net effect of such usage is gradual degradation of the telecommunications network.

Accordingly, it is clear that a Commission ruling obligating U S WEST (or any other ILEC such as the Independent Companies) to pay reciprocal compensation to McLeod (or any other CLEC) for ISP traffic will simply increase the technical inefficiencies and network blockage that are beginning to occur as a result of increased Internet traffic. Thus, U S WEST respectfully submits that the Commission should not encourage these inefficiencies, and therefore, that it should rule that U S WEST is *not* obligated to pay reciprocal compensation to McLeod for ISP traffic.

CONCLUSION

In short, reciprocal compensation for ISP-bound traffic conflicts with the FCC's legal conclusion that such traffic is non-local interstate traffic. Further, imposition of reciprocal compensation for ISP traffic is also inconsistent with South Dakota public policy and economic goals. Further still, reciprocal compensation for ISP traffic places enormous strains upon the telecommunications network. For all of these reasons, U S WEST respectfully requests the Commission rule that reciprocal compensation does *not apply* to ISP traffic, and thereafter, that it approve the interconnection and resale agreement between U S WEST and McLeod. Alternatively, if the Commission does not decide to rule that reciprocal compensation does not

apply to ISP traffic at the present time, U S WEST respectfully requests that the Commission await further FCC guidance on this issue after it has decided these issues in the NPRM.

Dated this 16th day of June, 1999.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the above was filed via facsimile and overnight delivery on this 17th day of June, 1999, to the following:

William Bullard, Jr., Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501

a true and correct copy was served via facsimile and U S mail, postage prepaid, on the following:

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D.T.E. 97-116-C

Complaint of MCI WorldCom, Inc. against New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for breach of interconnection terms entered into under Sections 251 and 252 of the Telecommunications Act of 1996.

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SUMMARY

In February 1999, the Federal Communications Commission ("FCC") declared that telephone traffic bound for Internet service providers ("ISP-bound traffic") and thence onward to Internet websites is a single *interstate* call ("one call") and is therefore subject to FCC jurisdiction under the 1996 Telecommunications Act ("1996 Act"). The FCC's "one call" ruling effectively undercut the jurisdictional claim of any state utility regulatory agency over ISP-bound traffic, insofar as an agency asserted that calls to Internet websites were severable into two components: (1) one call terminating at the ISP and (2) a subsequent call connecting the ISP and the target Internet website. The FCC did not judge state regulators' decision that rested on other bases, apart from noting that decisions resting on state contract law or other legal or equitable considerations "might" still be valid until the FCC issued a final rule on the matter.

In MCI WorldCom Technologies, Inc., D.T.E. 97-116 (1998) ("Order"), relying on prior FCC's decisions that seemed to give greater scope for state jurisdiction over ISP-bound traffic, the Department of Telecommunications and Energy ("Department") had earlier ruled in favor of MCI WorldCom (a competitive local exchange carrier or "CLEC") upon its complaint that the interconnection agreement with Bell Atlantic-Massachusetts, under Section 251 of the 1996 Act, required the payment of reciprocal compensation for handling one another's ISP-bound traffic. The Order held that this interconnection agreement required reciprocal compensation for terminating ISP-bound traffic. The *express and exclusive* basis for the holding was (a) that the link between caller and ISP in ISP-bound traffic was jurisdictionally severable from the continuing link onward from the ISP to the target Internet site, (b) that ISP-bound traffic was thus "local" under the 1996 Act and the interconnection agreement, and (c) that ISP-bound traffic was, therefore, subject to Department jurisdiction as an *intrastate* rather than an *interstate* call. The Department noted that other CLECs' interconnection agreements with Bell Atlantic contained identical provisions and directed Bell Atlantic to treat them accordingly. The Department's Order claimed no other basis for its assertion of state jurisdiction over ISP-bound traffic (i.e., it asserted no jurisdictional claim based on state contract law or other legal or equitable considerations, such as the FCC had noted might underpin some state decisions).

In March, Bell Atlantic moved the Department to modify its Order in light of the FCC's ruling. After considering the motion and responsive comments, the Department today concludes that the FCC ruling has superseded its own 1998 Order and has struck down the sole and express basis for its assertion of state jurisdiction over ISP-bound traffic. The net effect of the FCC's ruling is to nullify MCI WorldCom Technologies, Inc., D.T.E. 97-116. Relying, then, on Section 252 of the 1996 Act, the Department has directed Bell Atlantic and the CLECs to negotiate their renewed dispute over payment for handling each other's ISP-bound traffic. The Department has offered to mediate the dispute, if necessary, and to arbitrate the matter, if required to.

To guide the parties in their negotiations, the Department has set forth certain views on competition in telecommunications and on its need to avoid regulatory distortions that falsely mimic competition but, in fact, simply lead to inefficient, market-entry advantage for certain CLEC/ISP entities through regulator-imposed income transfers.

TABLE OF CONTENTS

I. INTRODUCTION: THE DEPARTMENT'S ORDER OF OCTOBER 21, 1998 Page 1

II . EVENTS SINCE OCTOBER 21, 1998 Page 2

III. POSITIONS OF THE PARTIES AND COMMENTERS Page 8

A. Bell Atlantic Page 8

B. CLECs Page 10

IV. ANALYSIS AND FINDINGS Page 19

A. Effect of the Federal Communications Commission's

Internet Traffic Order on the Continued Validity of

the Department's Order in MCI WorldCom ..... Page 19

B. Competition and Efficient Entry ..... Page 31

C. A Further Word about the Department's October Order ..... Page 37

V. ORDER Page 40

I. INTRODUCTION: THE DEPARTMENT'S ORDER OF OCTOBER 21, 1998

On October 21, 1998, the Department of Telecommunications and Energy ("Department") issued an Order granting the petition of MCI WorldCom, Inc.(1) ("MCI WorldCom") and directing New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts ("Bell Atlantic") to continue reciprocal compensation payments(2) for the termination of local exchange traffic to Internet Service Providers ("ISPs") in accordance with its interconnection agreements. MCI WorldCom Technologies, Inc., D.T.E. 97-116, at 12 (1998) ("MCI WorldCom" or "October Order" or "Order"). The Department stated that it expected Bell Atlantic to apply its definition of local exchange traffic to all interconnection agreements between the ILEC Bell Atlantic and other Competitive Local Exchange Carriers ("CLECs"). Id. at 14.

In MCI WorldCom, the Department determined that a call to an ISP ("ISP-bound traffic"(3)) is functionally two separate services: (1) a local call to the ISP, and (2) an information service provided by the ISP when the ISP connects the caller to the Internet. Id. at 11. Because the Department decided that a call from a Bell Atlantic customer to an ISP that is terminated by MCI WorldCom-and by extension, other CLECs--is a "local call," for purposes of the subject interconnection agreements, CLECs transporting and terminating calls to ISPs were deemed eligible for reciprocal compensation. Id. at 12-13. However, in its Order, the Department explicitly recognized that proceedings pending before the Federal Communications Commission ("FCC") could require it to modify its holding. Id. at 5 n.11. Finally, concerns that ISPs in Massachusetts may be establishing themselves as CLECs solely (or predominantly) to receive reciprocal compensation from Bell Atlantic prompted the Department to request information that would enable it to determine whether to open an investigation into the regulatory status of particular CLECs. Id. at 13.

II. EVENTS SINCE OCTOBER 21, 1998

On November 6, 1998, Bell Atlantic filed a Motion for Extension of the Judicial Appeal Period for all parties until 20 days after the FCC issues a ruling on reciprocal compensation for ISP-bound traffic. On November 10, 1998, the Department granted Bell Atlantic's motion.

Also on November 10, 1998, MCI WorldCom filed a Motion for Reconsideration arguing that a Department decision to open an investigation into the regulatory status of certain CLECs would be inconsistent with the Act.(4) On February 25, 1999, the Department issued an Order denying MCI's Motion for Reconsideration, finding that the Department's general supervisory and regulatory jurisdiction permits it to request information from telecommunications carriers and to use that information in determining whether to open an investigation.(5) MCI WorldCom, D.T.E. 97-116-A at 4.

On February 26, 1999, the FCC issued a Declaratory Ruling and Notice of Proposed Rulemaking in which it decided that jurisdiction over ISP-bound traffic is interstate. In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Declaratory

Ruling (rel. Feb. 26, 1999) ("Internet Traffic Order"); Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68, Notice of Proposed Rulemaking (rel. Feb. 26, 1999) ("NPRM"). The FCC concluded that ISP-bound traffic does "not terminate at the ISP's local server . . . but continue[s] to the ultimate destination or destinations, specifically at a[n] Internet website that is often located in another state." Internet Traffic Order at ¶ 12. Having decided that jurisdiction over ISP-bound traffic is determined by the nature of the end-to-end transmission between a caller and an Internet site, id. at ¶¶ 12 and 18, the FCC determined that because ISP-bound traffic is interstate, that jurisdiction over the question of reciprocal compensation for such traffic, on the claim that it is local, lies with the FCC. Id. at ¶ 12. However, the FCC reserved for future rulemaking the question of payment for ISP-bound traffic among LECs. Id. at ¶ 21. Until that rulemaking is final, state commissions retain some, undefined measure of authority over ISP-bound traffic-consistent, of course, with the FCC's declaratory ruling on jurisdiction. Id. at ¶ 22. In the interim, state commissions either may continue, where appropriate, to enforce existing reciprocal compensation obligations between carriers under interconnection agreements or may, as needed, modify those obligations based on its findings in the Internet Traffic Order. Id. at ¶¶ 25-27. And, citing this Department's concern over "gaming" of reciprocal compensation in its October Order, the FCC "note[d] that issues regarding whether an entity is properly certified as a LEC if it serves only or predominantly ISPs are matters of state jurisdiction." Id., at ¶ 24 and n. 78.

On March 2, 1999, Bell Atlantic filed a Motion for Modification of the Department's MCI WorldCom Order ("Motion for Modification") asking the Department to determine that its interconnection agreements do not require reciprocal compensation payments for ISP-bound traffic. Bell Atlantic argues that because the FCC determined that ISP-bound traffic is interstate and not local traffic, the reciprocal compensation requirements of the 1996 Act and the FCC's rules do not govern inter-carrier compensation for this traffic (Motion for Modification at 2). Therefore, Bell Atlantic contends that it is no longer required to make such payments. Bell Atlantic further states that it will escrow reciprocal compensation payments for ISP-bound traffic until the Department determines whether to modify MCI WorldCom (id.).(6) The Department originally established deadlines of March 19, 1999 for opponents' responses to the Motion for Modification and March 26, 1999 for Bell Atlantic's reply to those responses.

On March 10, 1999, Bell Atlantic responded to objections to its unilateral decision to escrow payments. Bell Atlantic filed a Motion for Stay Pending Decision on Motion for Modification ("Motion for Stay"). The Motion for Stay sought permission to escrow reciprocal compensation, pending a Department ruling on its Motion for Modification.(7)

The following entities(8) filed comments in response to the Motion for Modification: Teleport Communications-Boston, Inc., and Teleport Communications Group, as AT&T companies, and AT&T Communications of New England, Inc. (collectively "AT&T"); Cablevision Lightpath-MA, Inc. ("Cablevision"); Choice One Communications, Inc. ("Choice One"); a coalition of Massachusetts CLECs and ISPs (the "Coalition"); CoreComm Limited and CoreComm Massachusetts, Inc. (jointly "CoreComm"); Focal Communications Corporation ("Focal"); Global NAPs, Inc. ("GNAPS");(9) Intermedia Communications, Inc. ("Intermedia"); Level 3 Communications, Inc. ("Level 3");(10) MCI WorldCom; NEVD of Massachusetts, LLC ("NEVD"); PaeTec Communications, Inc.; Prism Operations, LLC ("Prism");(11) RCN-BecoCom, LLC ("RCN"); and RNK, Inc. ("RNK").(12) Bell Atlantic filed reply comments on March 15, 1999.(13)

On March 23, 1999, the Department issued MCI WorldCom, D.T.E. 97-116-B (1999) ("Escrow Order") granting Bell Atlantic interim relief from our prior Order and authorizing Bell Atlantic to place disputed reciprocal compensation payments in escrow, pending a final decision on its Motion for Modification. That Order scheduled oral argument on the contending claims, but argument was later postponed.(14)

On March 31, 1999, RNK filed a Motion for Clarification, Suspension of Escrow Order, and Reconsideration of Escrow Order ("RNK Motion for Clarification"). RNK seeks clarification on five points: (1) the relationship of the Escrow Order and specific terms contained in RNK's interconnection agreement with Bell Atlantic concerning the identity of the escrow agent, the rate of interest on the escrow account, and the responsibility for escrow costs; (2) whether escrow authority applies to

reciprocal compensation accrued only after March 23, 1999, the date of the Escrow Order; (3) whether escrow applies to reciprocal compensation due and payable for traffic only in excess of the 2:1 ratio; (4) whether the Escrow Order uses differing meanings for the terms "Internet-bound traffic" and "ISP-bound" traffic; and (5) whether the authority to escrow granted to Bell Atlantic should even apply to CLECs, like RNK, which provide multiple telecommunications services besides simply serving ISPs (RNK Motion for Clarification at 4-8). Until the Department rules on these issues, RNK argues, the Escrow Order should be suspended (id. at 8-10). RNK also argues that "extraordinary circumstances," particularly the escrow's adverse financial effect on small start-up CLECs, dictate that the Department reconsider the Escrow Order (id. at 10-11). Responses to RNK's Motion for Clarification were filed on April 5, 1999 by Bell Atlantic, GNAPS, and the Coalition.

Finally, on April 16, 1999, GNAPS filed a complaint against Bell Atlantic. The complaint seeks adjudication of GNAPS's claimed right to receive reciprocal compensation payments for calls that Bell Atlantic customers make to ISPs, where such customers receive their dial-in connections to the public switched network from GNAPS.

Comments have been extensive. After reviewing them, the Department sees no need for the oral argument originally scheduled in its Escrow Order of March 23. Therefore, Bell Atlantic's Appeal of the Hearing Officer's Ground Rules is dismissed as moot. RNK's Motion for Clarification is addressed in the context of our ruling on Bell Atlantic's Motion for Modification.(15)

III. POSITIONS OF THE PARTIES AND COMMENTERS

A. Bell Atlantic

Bell Atlantic claims that the Department's Order in MCI WorldCom must be modified because its conclusion that ISP-bound traffic was local was based on mistakes of both fact and law regarding jurisdiction over ISP-bound traffic (Motion for Modification at 8). According to Bell Atlantic, the FCC in its Internet Traffic Order determined, contrary to the Department's finding in MCI WorldCom, that an ISP-bound call cannot be separated into two components but is a single, uninterrupted transmission from a caller to a remote website (id.). Bell Atlantic contends that because ISP-bound traffic is not local, such traffic is not subject to reciprocal compensation under the Act, the FCC's rules, or any of Bell Atlantic's interconnection agreements(16) (id. at 9). Moreover, Bell Atlantic argues, the FCC, contrary to the Department's October Order and the CLECs' present claim, rejected the argument that because ISPs have local telephone numbers, calls placed to those numbers are local calls (id.). Bell Atlantic indicates the fact that the FCC exempted enhanced service providers ("ESPs") from access charges indicates its understanding that ESPs in fact use interstate access service; otherwise, the exemption would not be necessary (id.). Furthermore, Bell Atlantic argues, the FCC's recent GTE and Internet Traffic Orders have made it clear that Internet-bound traffic is interstate and therefore has no severable local component (id. at 10).

Concerning its contracting intent, Bell Atlantic states that it has not agreed to pay reciprocal compensation for ISP-bound traffic (Bell Atlantic Reply Comments at 8). Bell Atlantic argues that as a threshold legal matter and as a matter of contract law, the factual issues raised in the pleadings filed in opposition to the Motion for Modification may not constitute grounds for a determination that reciprocal compensation should be imposed for ISP-bound traffic under the interconnection agreements (id.). Bell Atlantic contends that when the wording of a contract is unambiguous, the contract must be enforced according to its terms (id. at 8-9). Because the Department has previously determined the agreements at issue to be unambiguous, Bell Atlantic argues that the Department should not now admit parole or extrinsic evidence relating to the parties' intent regarding the agreements (id.). Bell Atlantic argues that public policy and the impact on CLECs and ISPs have nothing to do with what the contracts actually say (id.). Accordingly, Bell Atlantic contends that ISP-bound traffic is not eligible for reciprocal compensation under Bell Atlantic's interconnection agreements and, further, that the CLECs have already received substantial compensation to which they are not entitled under those agreements (Bell Atlantic Motion at 10).

With respect to continued reciprocal compensation for ISP-bound traffic, Bell Atlantic states that it does

not dispute that the FCC has not precluded the payment of reciprocal compensation for ISP-bound traffic in all circumstances, but that the Department's conclusion in MCI WorldCom was not based on any of the grounds permitted by the FCC (Bell Atlantic Reply Comments at 5). According to Bell Atlantic, the FCC stated that state commissions that have ordered the payment of reciprocal compensation for Internet-bound traffic might conclude, depending on the basis of those decisions, that it is not necessary to revisit those determinations (id. at 6). Bell Atlantic notes, however, that MCI WorldCom did not rely on any of the other bases that the FCC recognized (id.). Bell Atlantic contends, in the alternative, that if the Department wishes to consider whether reciprocal compensation should continue to be imposed for Internet-bound traffic, the Department must resolve the disputed factual assertions raised by the parties in an adjudicatory proceeding that permits the parties to present evidence (id.).

B. CLECS

First, the CLECs point out that the FCC explicitly stated that "nothing in this [Internet Traffic Order] precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of the [FCC's] rulemaking" (see e.g., Intermedia Comments at 5; Prism Comments at 3; Focal Comments at 11; NEVD Comments at 8, citing Internet Traffic Order at ¶ 27).

Next, the CLECs argue that the FCC's ruling on the jurisdictional analysis of calls to ISPs in its Internet Traffic Order in no way requires the Department to revisit MCI WorldCom; rather, in their view, it reaffirms the Department's Order (see e.g., AT&T Comments at 3; Coalition Comments at 3; MCI WorldCom Comments at 7-8; CoreComm Comments at 1; RNK Comments at 2). Level 3, for instance, argues that "the Department was quite clear that the determination it was making was for the purpose of classifying the traffic in the Agreement. It was not making a jurisdictional decision." Level 3 also argues that the FCC made it clear that its jurisdictional decision on ISP-bound traffic should not interfere with the decision made by a state commission (Level 3 Comments at 5; see also Choice One Comments at 3-5). According to the CLECs, the Department did not declare that ISP-bound traffic is "local" in the sense of "jurisdictionally intrastate," but only that those calls are more appropriately viewed as local traffic instead of long distance calls. The CLECs contend, therefore, that there is no conflict between MCI WorldCom and the FCC's Internet Traffic Order (see e.g., GNAPS Comments at 6; RCN Comments at 2, citing MCI WorldCom, D.T.E. 97-116, at 11-13; PaeTec Comments at 3). The CLECs maintain that Bell Atlantic chooses to focus only on the FCC's decision concerning jurisdiction, whereas the FCC specifically recognized the limit of that analysis (MCI WorldCom Comments at 10; CoreComm Comments at 3, citing Internet Traffic Order at ¶ 20) by stating that "the Commission continues to discharge its interstate regulatory obligations by treating ISP-bound traffic as though it were local" (MCI WorldCom Comments at 11; RCN Comments at 4, citing Internet Traffic Order at ¶ 5).

CoreComm asserts that the FCC divided the analysis in its Internet Traffic Order into two parts, "one focusing on the nature of ISP-bound traffic for the purpose of resolving jurisdictional issues and the other focusing on the separate issue of what sort of regulatory treatment should be accorded such calls" (CoreComm Comments at 3). CoreComm supports this argument by quoting the first sentence of the FCC's Internet Traffic Order: "Identifying the jurisdictional and regulatory treatment of ISP-bound communications requires us to determine how Internet traffic fits within our existing regulatory framework" (CoreComm Comments at 4, citing Internet Traffic Order at ¶ 1 (emphasis added by CoreComm)). CoreComm argues that the FCC recognizes the difference between "jurisdictional analysis" and "regulatory treatment" (CoreComm Comments at 4; see also Focal Comments at 10-11).

The CLECs also contend that § 252(e)(1) of the Act gives the states the authority to interpret the interconnection agreements that they approved (see, e.g., RNK Comments at 3; NEVD Comments at 3). The CLECs base their arguments on the FCC's statement that "[n]othing in this [Internet Traffic Order], therefore, necessarily should be construed to question any determination a state commission has made, or may make in the future, that parties have agreed to treat ISP-bound traffic as local traffic under existing interconnection agreements" (see e.g., Coalition Comments at 4; PaeTec Comments at 6 n.16; Level 3 Comments at 5; RCN Comments at 3-4; NEVD Comments at 4, each citing Internet Traffic Order at ¶ 24). MCI WorldCom contends that "under well-established principles of contract

construction, parties' intent is determined with respect to the time of contracting, not at some subsequent date" and at the time when it entered into its interconnection agreement with Bell Atlantic, both it and Bell Atlantic intended to treat calls to ISPs as local traffic subject to reciprocal compensation (MCI WorldCom Comments at 14; see also AT&T Comments at 4). In addition, the CLECs argue that the FCC identified "illustrative" factors[17] a state commission could consider when determining whether the parties to an interconnection agreement intended to subject ISP-bound traffic to reciprocal compensation. Furthermore, the CLECs argue, the Department previously considered these factors and correctly concluded that ISP-bound traffic is subject to reciprocal compensation under existing interconnection agreements (see e.g., MCI WorldCom Comments at 12-14; RCN Comments at 5-7; Intermedia Comments at 4-5; Focal Comments at 5; PaeTec Comment at 5). MCI WorldCom, for instance, contends that the Department, in MCI WorldCom, considered the factors the FCC identified in the Internet Traffic Order at ¶ 24, and reached a conclusion that Bell Atlantic and MCI WorldCom agreed to compensate each other for termination of all local calls by finding that (1) the characteristics of ISP-bound traffic are identical to any other local calls, (2) Bell Atlantic and all other carriers charge their customers local rates for ISP-bound traffic, (3) the ISPs' premises are located within the LATA, thus meeting the definition of local traffic in its Agreement,[18] and (4) that ISP-bound traffic is subject to reciprocal compensation obligation for the same reasons that other kind of calls -- such as calls to private networks -- are subject to reciprocal compensation (MCI Comments at 3-4, 12-13, citing MCI WorldCom at 10). Accordingly, while the FCC and the Department may consider other compensation mechanisms in the future, reciprocal compensation under the existing interconnection agreement should not be modified (Level 3 Comments at 7; Prism Comments at 6-7).

AT&T argues that existing interconnection agreements should remain in full force, pending renegotiation by the parties and the FCC's completion of its rulemaking on inter-carrier compensation for ISP-bound traffic (AT&T comments at 6, citing the AT&T-Bell Atlantic Interconnection Agreement § 7.3 (providing "Parties shall negotiate in good faith such affected provisions with a view toward agreeing to acceptable new terms as may be required or permitted as a result of such legislative, regulatory, judicial or other legal action")).

The CLECs bolster their argument concerning intent by noting that the telecommunication industry's custom and usage regarding ISP-bound traffic at the time the interconnection agreements were executed support their assertion that calls to ISPs are considered local and, therefore, subject to reciprocal compensation.[19] Even Bell Atlantic, the CLECs contend, recognized that calls to ISPs were local as it aptly demonstrated in its formal "Reply Comments" submitted in the FCC's proceeding to develop rules to implement §§ 251 and 252 of the Act (see e.g., Level 3 Comments at 5-6; GNAPS Comments at 3-4, citing In Re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC docket no. 96-98, Reply Comments of Bell Atlantic at 21 (submitted May 30, 1996)). Arguing in favor of an actual compensation mechanism as opposed to a bill and keep arrangement supported by the CLECs, Bell Atlantic declared that (1) calls to ISPs are local, (2) subject to reciprocal compensation, and (3) the rates Bell Atlantic proposed for such reciprocal compensation were reasonable (see e.g., GNAPS Comments at 3-4; Focal Comments at 8; NEVD Comments at 12, citing In Re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC docket no. 96-98, Reply Comments of Bell Atlantic at 21 (submitted May 30, 1996)). The CLECs argue that the fact that Bell Atlantic did not accurately predict the impact of its proposal (which eventually prevailed) should not provide a valid basis for Bell Atlantic to repudiate its agreements (Level 3 Comments at 6). While Bell Atlantic may not have foreseen the traffic imbalance caused by many ISPs opting to take service from a CLEC, Bell Atlantic should, as the party with the much more substantial sales, marketing, and technical experience, be assigned any risks associated with its poor foresight (NEVD Comments at 13).

GNAPS further supports the CLECs argument that Bell Atlantic considered dial-up ISP calls as local by citing to Bell Atlantic's "comparably efficient interconnection" ("CEI") plans for its own Internet access service (see e.g., GNAPS Comments at 9; Focal Comments at 8-9). In its CEI plans, Bell Atlantic stated that "[f]or dial-up access, the end-user will place a local call to the Bell Atlantic Internet hub site from either a local residence or business line or from an Integrated Services Digital Network ("ISDN") service" (see e.g., GNAPS Comments at 9, citing Amendment to Bell Atlantic CEI Plan to Expand Service Following Merger with NYNEX at 2, CCB Pol 96-09 (filed May 5, 1997); Focal Comments

8-9). Accordingly, GNAPS asserts that it is obvious that Bell Atlantic understood fully the general industry practice on treating ISP-bound calls as local (GNAPS Comments at 9-10)

PaeTec argues that Bell Atlantic, in its interconnection agreements, could have specifically carved out ISP-bound traffic as non-local in the same manner as other traffic with all the characteristics of local calls was excluded from reciprocal compensation obligations (PaeTec Comments at 6 (claiming that the Bell Atlantic-MCI WorldCom interconnection agreement specifically identifies Feature Group A traffic as not subject to reciprocal compensation)). Because ISP-bound traffic was not excluded, PaeTec argues, Bell Atlantic's attempt to exclude such traffic now from its reciprocal compensation obligations is entirely a post hoc rationale now that the balance of this traffic goes against it (id. at 6-7). Moreover, PaeTec states, Bell Atlantic has a serious credibility problem with respect to this issue: if Bell Atlantic now is to be believed that it never intended to include ISP-bound traffic within the reciprocal compensation provisions of its interconnection agreement with MCI WorldCom, then one must also believe that Bell Atlantic intended to transport and terminate all traffic originated by a MCI WorldCom customer to a Bell Atlantic customer that happened to be an ISP, without any compensation at all from MCI WorldCom (id. at 8). RNK argues that another indication that Bell Atlantic intended ISP-bound traffic to be "local" for reciprocal compensation purposes is the fact that Bell Atlantic has paid for and accepted credit for local traffic that included ISP-bound calls (RNK Comments at 2). RNK thus makes a "course of conduct under the contract" argument to supplement the "usage of the trade" argument raised by GNAPS (GNAPS Comments at 9-10).

With respect to state law grounds, the CLECs argue the Department has authority to require reciprocal compensation for Internet-bound traffic as acknowledged in MCI WorldCom (Prism Comments at 3-4; RNK Comments at 3; NEVD Comments at 4). Prism argues that there is no federal law that prohibits applying reciprocal compensation to non-local calls, and points to the FCC's statement that "[i]n so construing the statutory obligation, we did not preclude parties from agreeing to include interstate traffic (or non-local intrastate traffic) within the scope of their interconnection agreements, so long as no Commission rules were otherwise violated" for support (Prism Comments at 7, citing Internet Traffic Order at ¶ 24); see also, NEVD Comments at 7). In addition, the CLECs also argue that applying the fact that ISP-bound traffic has been exempt from interstate access charges establishes that such traffic is subject to reciprocal compensation (see e.g., Prism Comments at 6; PaeTec Comments at 5; NEVD Comments at 6). The CLECs argue that, pursuant to the FCC's Internet Traffic Order, "state commissions, not this Commission, are the arbiters of what factors are relevant in ascertaining the parties' [contracting] intentions" (PaeTec Comments at 9, citing Internet Traffic Order at ¶ 24). Referring to G.L. c. 106, § 1-205(5), PaeTec asserts that because there are no express or implied terms in the interconnection agreement excluding the usage of trade that a telephone call to the telephone number of an ISP terminates when the call is answered, that usage of trade must be considered part of the definition of reciprocal compensation in the interconnection agreement" (PaeTec Comments at 10-11).

The Coalition asserts that if calls to ISPs are interstate as explained in FCC's ruling, then one may need to question how Bell Atlantic can carry such traffic because it currently lacks the authority to do so until it meets the requirements § 271 (Coalition Comment at 6). In addition, the Coalition contends that if the Department were now to adopt the single transmission analysis used in the FCC's ruling, then serious questions would arise concerning the consistency of this new analysis with the segmented transmission analysis used in Voice Mail, D.P.U. 97-101 (1998) (id. at 7). Lastly, the Coalition points out that there is "a significant question of estoppel and reliance on such practice by the CLECs that have expended very significant financial and human resources based upon the established practice that traffic to ISPs requires ILEC payment of reciprocal compensation" (id. at 7).

Regarding public policy concerns, RNK asserts that growth of the Internet is in the public interest and that the absence of reciprocal compensation will result in irreparable harm to CLECs and Massachusetts' consumers (RNK Comments at 5-6). The CLECs also contend that sound economic policy and regulatory fairness require full compensation for their significant network costs related to delivering calls to ISPs (Cablevision Letter at 2; GNAPS Comment at 4; Focal Comments at 7; RNK Comments at 6; NEVD Comment at 14).

Concerning the due process issues, MCI WorldCom contends that if the Department were to reconsider

any issue, the proper procedure would be for the Department to hold an evidentiary hearing in order to investigate the parties' intent regarding calls to ISPs at the time they entered into the interconnection agreements (MCI WorldCom Comments at 17-18). RCN argues that the Department should leave MCI WorldCom in full force pending the completion of evidentiary hearings on whether the Order continues to be valid (RCN Comments at 7). GNAPS asserts that if the Department wishes to make a re-determination on the intentions of the parties in the affected agreement, the Department should conduct an evidentiary hearing to explore how the factors identified in the FCC's Internet Traffic Order apply (GNAPS Comments at 8).

IV. ANALYSIS AND FINDINGS

- Effect of the Federal Communications Commission's Internet Traffic Order

on the Continued Validity of the Department's Order in MCI WorldCom

On February 26, 1999, the FCC declared that the 1996 Act, 47 U.S.C. sec. 251(b)(5), mandated reciprocal compensation for the transport and termination of *local* traffic *only*. The FCC further held that this mandate does not extend to ISP-bound traffic, because ISP-bound traffic is not local but is interstate *for purposes of the 1996 Act's reciprocal compensation provisions*. ISP-bound traffic is thus not subject to state enforcement under the 1996 on the grounds that it is local traffic. Internet Traffic Order at ¶¶ 12 and 26 n. 87.

In ruling in favor of Federal versus state regulatory jurisdiction over ISP-bound traffic and in construing 47 U.S.C. sec. 251(b)(5), the FCC focused on the"end-to-end" nature of the Internet communication. The initiating caller or customer is one "end" of the communication, and the terminating "end" is the web or other Internet site called by the customer. The FCC rejected arguments that would segment such traffic into intra- and inter-state portions and thereby also rejected a consequent, artificial segmentation of jurisdiction. Id. at ¶ 11. The FCC noted that it "analyzes the totality of the communication when determining the jurisdictional nature of a communication . . . [and] recognizes the inseparability, for purposes of jurisdictional analysis, of the information service and the underlying telecommunications." Id. at ¶ 13. The FCC considers each such commercial transaction as "one call" "from its inception to its completion" and accordingly rejects the jurisdictional limitation implied by arbitrarily isolating the initial part of the call from the rest of the stream of interstate commerce. Id. at ¶ 11.(20)

This line of analysis is certainly not surprising or even novel. For decades, decisional law has expansively analyzed questions of Federal versus state jurisdiction under the Commerce Clause, U.S. Const. Art. I, sec. 8, cl. 3, in this way. See, e.g., *Katzenbach* v. *McClung*, 379 U.S. 294 (1964) (practically unlimited view of the reach of Congress to local activity under the Commerce Clause if effect on interstate commerce can be posited). Unless and until modified by the FCC itself or overturned by a court of competent jurisdiction,(21) the FCC's view of the 1996 Act must govern this Department's exercise of its authority over reciprocal compensation; and the FCC so advises us. Internet Traffic Order at ¶ 27.

In October 1998, the Department had ruled on this very same, jurisdictional question in MCI WorldCom, D.T.E. 97-116.(22) On March 2, 1999, Bell Atlantic moved the Department to modify its Order in MCI WorldCom in light of the FCC's Internet Traffic Order. Bell Atlantic's Motion for Modification, at 10, states that ISP-bound traffic "is now, and always has been, interstate traffic . . . , and CLECs have received substantial compensation to which they are not entitled under those [i.e., their respective interconnection] agreements."

In MCI WorldCom, the Department construed the 1996 Act as conferring jurisdiction upon it to hear MCI WorldCom's complaint about interpretation of its interconnection agreement with Bell Atlantic. MCI WorldCom, D.T.E. 97-116, at 5. In exercising this

jurisdiction, the Department found "that a call from a Bell Atlantic[-Massachusetts] customer that is terminated by MCI WorldCom to an ISP is a 'local call,' for purposes of the definition of local traffic in

the Agreement [between Bell Atlantic and MCI WorldCom], and, as such, is eligible for reciprocal compensation." Id., at 5, 12-13. The Department noted that although the parties to the matter had "raised numerous issues," the Department's Order "*need only address* the question of *whether a call terminated* by MCI WorldCom *to an ISP is local*, thus qualifying it for reciprocal compensation under MCI WorldCom's interconnection agreement with Bell Atlantic." Id., at 6 (emphasis added). The Department's October Order thus confined its enquiry in this matter solely and exclusively to whether the ISP-bound traffic in question was "local" (i.e., intrastate) or interstate calling. This limitation of the basis for the Department's holding was express; and no other basis may be reasonably inferred from the Order. The October Order's effectiveness was thus ransom to the validity of its legal or jurisdictional conclusion.

To repeat, lest it be misunderstood: there was no other basis for the Department's holding in MCI WorldCom, D.T.E. 97-116. If that express legal basis were to prove untenable (as, in the event, it has), the effectiveness of the Order could not hold. And the Department recognized and acknowledged as much. Id., at 5 n. 11 and 6 n. 12.

As it happens, the Department's "two-call" theory cannot be squared with the FCC's "one-call" analysis. In rendering its "two-call" decision on reciprocal compensation for ISP-bound traffic, the Department twice acknowledged that FCC authority over the question may trump or supersede the Department's. Noting that the FCC might exercise its superior jurisdiction in a manner inconsistent with the Department's view of the law, the Department twice observed that, in that event, its own Order might require modification or change. Id. That twice-repeated caution(23) of the risk attendant on proceeding with reciprocal compensation for ISP-bound traffic before the FCC spoke appears to have been discounted or to have gone unheeded, if one is to judge from the numerous filings in response to Bell Atlantic's Motion for Modification. The substance of these filings is rehearsed above and need not be repeated here.

MCI WorldCom also expressed reservation that an enterprise "established solely (or predominately) for the purpose of funneling traffic to an ISP (particularly if that ISP is an affiliate) . . . may jeopardize its regulatory status and entitlements as a local exchange carrier." Id., at 13. The reservation was over the potential for "gaming" the regulatory scheme--with the consequence of siphoning off revenues but achieving no advance in true, efficient competitive entry.(24) This reservation was the subject of a motion for reconsideration by MCI Telecommunications Corporation, addressed by the Department in MCI WorldCom Technologies, Inc., D.T.E. 97-116-A (1999). The significance of the reservation was recognized in Internet Traffic Order, at ¶ 24 n.78.

In its October Order, the Department exercised its authority to resolve the MCI WorldCom complaint. The Department based its Order on the express *and exclusive* premise that "[a] call to an ISP is functionally two separate services: (1) a local call to the ISP, and (2) an information service provided by the ISP when the ISP connects the caller to the Internet." MCI WorldCom, D.T.E. 97-116, at 11, 12-13. To be sure, the FCC evidenced discomfort in trumping states' authority under Section 251(b)(5) and spoke equivocally about the effects of its declaratory order on decisions already taken by state commissions such as the Department. Internet Traffic Order at ¶¶ 27 and 28.(25) Even so, the message for the Department's MCI WorldCom Order cannot be mistaken.

The Department based its October Order on a mistake of law, i.e., on an erroneous characterization of ISP-bound traffic and on a consequently false predicate for concluding that jurisdiction was intrastate. By basing its jurisdictional analysis and finding on a mischaracterization of the nature of ISP-bound traffic, the Department exceeded its grant of state regulatory authority under the 1996 Act. Although the vague and equivocal terms of Paragraph 27 of the FCC's Internet Traffic Order may suggest that *some* state commissions "might conclude" that their reciprocal compensation orders remain viable, the FCC has, to put the matter baldly, rendered the DTE's October Order in MCI WorldCom-as a practical matter-a nullity. *Pace* the FCC's consoling notion that some states' orders might stand on state "contractual principles or other legal or equitable(26) considerations," Internet Traffic Order at ¶ 27, our Order stood *squarely, expressly, and exclusively* on a "two call" premise. That foundation has crumbled.(27) There is no alternative or supplemental finding in our October 1998 Order to rely on in

mandating continued reciprocal compensation for ISP-bound traffic. In view of the FCC's practical negation of the legal and analytic basis of our October Order, we see no logical alternative to vacating that Order in response to the Motion for Modification. We hereby vacate MCI WorldCom, D.T.E. 97-116.

Unless *and until* some future investigation of a complaint, if one is filed, concerning the instant interconnection agreement determines a different basis for such payments, there presently is no Department order of continuing effect or validity in support of the proposition that such an obligation arises between MCI WorldCom and Bell Atlantic. Although MCI WorldCom and Bell Atlantic may still disagree about reciprocal compensation obligations under their interconnection agreement, there is-*post* February 26, 1999-no valid and effective D.T.E. order still in place to resolve their dispute. Unsatisfying as it may be to say so, all that remains is a now-unresolved dispute.

The consequences may be adverse for enterprises that acted aggressively in reliance on the nullified and now-vacated Department decision in MCI WorldCom's favor (ignoring the Department's express warnings that its decision could be changed by FCC findings). But no amount of wishful thinking can our justify clinging to a vitiated decision; nor can it empower the Department to countermand what the FCC has determined. The attempt of some parties and commenters to base their arguments on the vague terms of Paragraph 27 of Internet Traffic Order is futile. If that paragraph has any effective meaning (a matter open to doubt, given the FCC's reference to its pending rulemaking), then surely it is that only those pre-26 February decisions by state commissions founded, not on a "two call" jurisdictional theory, but rather on state contract law or some "other legal or equitable considerations" *might yet* remain viable-at any rate, "depending on the bases of those decisions" and, of course, "pending the completion of the rulemaking" the FCC initiated. Internet Traffic Order at ¶ 27. It seems patent that the FCC had in mind state decisions already, or yet to be, taken(28)--and that only to the extent such decisions might fit this vague criterion. The Department's October Order was not so based-with the result that, were that Order not vacated, it would float, untethered, in a jurisdictional void. MCI WorldCom may choose to renew its complaint upon some claim that Massachusetts contract law "or other legal or equitable considerations" give rise to mutual obligation on its and Bell Atlantic's parts to pay reciprocal compensation for ISP-bound traffic, even despite the FCC's jurisdictional pronouncement.(29)

How useful such a renewal might be is not predictable. We suggest a perhaps more promising course below.

Pending, however, such a renewal of the complaint and ultimate resolution of the matter, Bell Atlantic's Motion for Modification of March 2, 1999 is granted, in that the Department's Order in MCI WorldCom, D.T.E. 97-116, is vacated. Although that Order adjudicated only the Bell Atlantic-MCI WorldCom dispute, it professed to have broader implication (see Section IV of the October Order); and so, the suggested, broader applicability of that Order must, since the issuance of Internet Traffic Order, be doubted. MCI WorldCom, D.T.E. 97-116 at 14. However, Bell Atlantic has acted, since the October Order, on the understanding that our findings in MCI WorldCom applied to all interconnection agreements; and now a corresponding but converse understanding based on the instant Order appears warranted. In fact, as far as reciprocal compensation payments not made to MCI WorldCom or other CLECs as of February 26, 1999 are concerned,(30) no currently effective Department order categorically requires Bell Atlantic to pay, in some way, for handling CLECs' ISP-bound traffic. Bell Atlantic has proposed making payments under its interconnection agreements at a ratio not in excess of 2:1(terminating-to-originating traffic).(31) This arrangement is reasonable for the nonce, i.e., until the dispute is settled.

Reciprocal compensation need not be paid for terminating ISP-bound traffic (on the grounds that it is local traffic), beginning with (and including payments that were not disbursed as of) February 26, 1999. Yet it still appears there were and may still be costs incurred by local exchange carriers in terminating such traffic. These transactions are not, however, "local" within the meaning of Section 5.8 of the Bell Atlantic-MCI WorldCom interconnection agreement. During negotiations, the parties to this agreement may determine that adequate pricing and other terms for these transactions are already governed by other contract provisions (and, certainly, arguments along these lines have been advanced in the CLECs'

comments; see Section III.B. *supra*). Or else, accepting or at least acquiescing in our view of Section 5.8 of the interconnection agreement, they may jointly conclude that the present agreement is silent on the point and needs to be supplemented to provide new terms for these mutual services. They are free to arrive at either judgment in coming to terms over the present dispute.(32) The best outcome is for Bell Atlantic and MCI WorldCom (or other CLECs where other interconnection agreements are concerned) to arrive at a resolution themselves. A far less satisfactory outcome is for the Department to have to interpret, or even to supply, terms, because the parties cannot agree. If the parties act wisely, it need not come to that, however. "Section 252 sets up a preference for negotiated interconnection agreements." *AT&T Corp.* v. *Iowa Utilities Board*, __ U.S. at __, 119 S.Ct. at 742 (Thomas, J., dissenting). Accordingly, we strongly advise potential complainants to follow this more promising and, in fact, statutorily preferred route *before* initiating any complaint based on "contractual principles or other legal or equitable considerations" with the Department. Moreover, it would be inefficient to have parallel complaint adjudications going on while mediation or arbitration is under way.

The FCC has tentatively concluded that "the inter-carrier compensation for this telecommunications traffic should be governed prospectively by interconnection agreements negotiated and arbitrated under sections 251 and 252 of the 1996 Act. Resolution of failures to reach agreement on inter-carrier compensation for interstate ISP-bound traffic then would occur through arbitrations conducted by state commissions, which are appealable to federal district courts." Internet Traffic Order at ¶ 30. Although the FCC has not formally adopted this tentative conclusion, in the currently unresolved of inter-carrier compensation for ISP-bound traffic in Massachusetts (i.e., apart from 2:1 payments for the nonce), we expect carriers to begin the voluntary negotiation process provided in section 252 of the 1996 Act, in order to establish, insofar as may be warranted, an inter-carrier compensation mechanism that would apply to compensation for all ISP-bound traffic that was not disbursed as of February 26, 1999, as well as all later-occurring ISP-bound traffic. If need be, we would be willing to provide a Department mediator to facilitate agreement, pursuant to the mediation provision of section 252(a)(2). If these negotiations do not resolve the present interconnection agreement dispute, the Department can arbitrate the matter under section 252(b). At that time, consistent with the discretion we have been given by the FCC (at least until the NPRM is settled), the Department would resolve whatever issues are put before it. But such formal process implies time, and time's value in business suggests that the parties would be better off themselves resolving the matters that divide them.

We note also that termination of the obligation for reciprocal compensation payments for ISP-bound traffic (because that traffic is no longer deemed local) removes the incentive for CLECs to use their regulatory status "solely (or predominately)" to funnel traffic to ISPs. This development also removes the need for any further Department inquiry into the regulatory status of certain CLECs, the question raised by the October Order. B. Competition and Efficient Entry

Having, then, assessed the effect of the FCC's declaratory ruling on our October Order, we turn to larger policy questions about the role of the Department in promoting *efficient* entry by new providers. The many comments filed in this case, asserting the importance of requiring reciprocal compensation for ISP-bound traffic to advance toward the policy goal of promoting competition in the local exchange, make clear that it is necessary for this Department to express to the negotiators its views on what competition really means.

Much futile debate in public utility regulation, especially in the current environment of developing markets, revolves around unexamined or sometimes distorted use of the terms 'competition' and its derivative 'competitive'. Loose, misleading, or self-serving meaning often underlies disputes and sows confusion.(33)

It underlies this dispute as well.

In so saying, we do not prejudge any formal renewal or prosecution of the dispute before us last October, where such a renewal might rest "on contractual principles or other legal or equitable considerations," as distinct from general policy arguments. But, as the parties and commenters in this docket will be negotiating, we believe it would be useful to highlight, in general terms, how the Department views

underlying policy and economic issues. Otherwise, the parties must negotiate in a vacuum. In addition, certain of the interconnection agreements are coming due for renewal, e.g., MediaOne's agreement.

The unqualified payment of reciprocal compensation for ISP-bound traffic, implicit in our October Order's construing of the 1996 Act, does not promote real competition in telecommunications. Rather, it enriches competitive local exchange carriers, Internet service providers, and Internet users at the expense of telephone customers or shareholders. This is done under the guise of what purports to be competition, but is really just an unintended arbitrage opportunity derived from regulations that were designed to promote real competition.(34) A loophole, in a word. There is, however-and we emphasize this point-nothing sinister or even improper about taking advantage of an opportunity such as the one presented by our October Order. One would not expect profit-maximizing enterprises like CLECs and ISPs, rationally pursuing their own ends, to leave it unexploited. Create an opportunity and inventive enterprise will seize upon it. It was ever thus. But regulatory policy, while it may applaud such displays of commercial energy, ought not create such loopholes or, once having recognized their effects, ought not leave them open.

Real competition is more than just shifting dollars from one person's pocket to another's. And it is even more than the mere act of some customers' choosing between contending carriers. Real competition is not an outcome in itself--it is a means to an end.(35) The "end" in this case is economic efficiency, which Baumol and Sidak have defined as "that state of affairs in which, as the specialized literature of welfare economics recognizes, no opportunity to promote the general welfare has been neglected. Such an opportunity is defined as the availability of a course of action that will benefit at least some individuals, in their own estimation, *in a way not achieved at the expense of others.*" Toward Competition in Local Telephony, at 24 (emphasis added).(36)(37) Failure by an economic regulatory agency to insist on true competition and economic efficiency in the use of society's resources is tantamount to countenancing and, to some degree, encouraging waste of those resources. Clearly, continuing to *require* payment of reciprocal compensation along the lines of our October Order is not an opportunity to promote the general welfare. It is an opportunity only to promote the welfare of certain CLECs, ISPs, and their customers, at the expense of Bell Atlantic's telephone customers and shareholders.

The Department has consistently rejected attempts over the years to make some customers and competitors better off at the expense of others, all in the name of promoting competition. For example, when the propriety of stranded cost recovery was being debated for the electric industry, the Department (with the sanction of the Supreme Judicial Court and of the General Court(38)) found that electric companies should have an opportunity to recover all of their prudently-incurred, non-mitigable stranded costs. This decision was (and still is) opposed by some on the claim that it purportedly reduces the benefits of competition; but the Department has rejected the notion that the mere shifting of costs to other customers or shareholders can be considered a "benefit" of competition. Similarly, in its recent decision in the natural gas unbundling docket, the Department stated:

Our role is not to guarantee the success of entrants. Rather, our role is to put in place the structural conditions necessary for an efficient competitive process -- one where marketplace decisions of both producers and consumers are made on the basis of incremental costs. An efficient, unbundled gas industry framework would allow customers to compare the LDCs'[local distribution companies] incremental costs to marketers' incremental costs. However, this comparison cannot be made if historic cost commitments are imposed asymmetrically on the LDCs. In other words, if LDCs must include the inefficient costs of past commitments in their prices, while marketers are not required to include those costs for customers who choose to migrate, then marketplace decisions, at least in the near term, are being made on the basis of an asymmetric allocation of historic cost responsibility, not on the basis of incremental costs. This does not lead to efficient competition.

Gas Unbundling, D.T.E. 98-32-B, at 30 (1999) (footnote omitted).

As the FCC has noted, reciprocal compensation payments for ISP-bound traffic are probably not

cost-based. Internet Traffic Order at ¶ 29. The revenues generated by reciprocal compensation for that incoming traffic are most likely in excess of the cost of sending such traffic to ISPs.(39) ISP-bound traffic is almost entirely incoming, so it generates significant reciprocal compensation payments from Bell Atlantic to CLECs, an imbalance which enables CLECs to increase their profits or to offer attractive rates and services to Internet service providers-or to do both. Not surprisingly, ISPs view themselves as beneficiaries of this "competition" and argue fervently in favor of maintaining reciprocal compensation for ISP-bound traffic. However, the benefits gained, through this regulatory distortion, by CLECs, ISPs, and their customers do not make society as a whole better off, because they come artificially at the expense of others.

Where an increase in income results from regulatory anomaly, rather than from greater competitive efficiency in the marketplace, a regulator is well advise to take his thumb off the scale. We do so today. Arguing that we should not correct the distortions created by reciprocal compensation payments because they benefit ISPs and their customers is much like saying that one should not encourage people to quit smoking, and so avoid adverse personal and public health consequences, merely because some members of society make a living growing tobacco. Decisions like this should be driven by concerns for overall societal welfare-and not by concern for preserving the hothouse environment of an artificial market niche.(40)

C. A Further Word about the Department's October Order

The foregoing analysis makes clear how the FCC's Internet Traffic Order affected MCI WorldCom, D.T.E. 97-116, but may raise the question of why, in the first place, we required Bell Atlantic last October to pay reciprocal compensation for ISP-bound traffic. We did so *not* because we felt that it was a good policy or that it promoted competition, *but* because we felt bound by the then-current state of decisional law, relying to a large degree on the FCC's own previous pronouncements to the effect that Internet calls represented two distinct services (particularly, the FCC's prior treatment of ESPs as discussed in Internet Traffic Order, at ¶ 5(41)). However, unease with the result did prompt the question of whether certain enterprises had nominally established themselves as CLECs "solely (or predominately)" to benefit from reciprocal compensation. That unease underlay the caution that the October Order would have to be reconsidered, were the FCC later to undercut its legal footing. In October, it appeared that the FCC's previous "two call" analysis was determinative of the issue. Then Internet Traffic Order clarified the FCC's earlier two-service analysis and fatally undercut our conclusion that ISP-bound traffic had to be deemed local under the interconnection agreement.

Some commenters have argued that Internet Traffic Order does not require us to modify our October decision. We disagree for the reasons already stated, but that it not the point. The real question for us is *not* whether the FCC's February decision *requires* us merely to modify our October decision, *but* whether we should cast about for some reason, any reason, to sustain that questionable result.(42) On the contrary, we view the FCC's decision as "liberating," in that it gives us the discretion to do what we would have liked to have been able to do back in October-namely, to get the parties to the interconnection agreement to set rationally based, economic bounds on reciprocal compensation payments for ISP-bound traffic. The negotiations we have directed should be able to accomplish just that.

In conclusion, we observe that there have been calls for regulators to apply a battery of telecommunications regulatory requirements, including access charges, universal service levies, and service-territory obligations, to the Internet and ISPs. We do not agree with this approach. As noted by the FCC, the Internet has been successful beyond the wildest imagining--in large part because it has generally operated outside of a confining regulatory framework. Internet Traffic Order at ¶ 6.

However, the Internet should not benefit from CLECs' and ISPs' "gaming" regulation, either. Certain CLECs and ISPs have figured out a way to use reciprocal compensation--a regulatory requirement originally designed to promote local telephone exchange competition for all customers--as a revenue source for increased profits, lower Internet access costs, and maybe even improved Internet access. But someone else is "picking up the tab." In the near-term, that "someone else" appears to be Bell Atlantic.

But *perhaps*(43), over the longer term, it could be Bell Atlantic's telephone customers under the price-cap regime, NYNEX Price-Cap Order, D.P.U. 94-50, at 181-83 (1995), if the Department were on its own to insist on imposing some other basis ISP-bound reciprocal compensation on the agreement and if that insistence amounted to an exogenous regulatory variable, imposed despite the FCC's jurisdictional declaration in Internet Traffic Order.

Perpetuating this regulatory distortion would not be rational: the Internet is powerful enough to stand on its own, without such effective subsidies. Ending this regulatory distortion would encourage *efficient* investment in Internet and other telecommunications technology. Efficient investment promotes real competition that benefits all customers. Few, if any, may have foreseen this potential for distortion when the 1996 Act became law. But the FCC's negation of the legal basis for MCI WorldCom, D.T.E. 98-116, requires that we review and correct, not willfully cling to, demonstrated error. It would be regrettable to forego an opportunity to bring about a rational economic result. As the parties to the instant and other interconnection agreements attempt to sort out their disputes, they need to consider the Department's policy disposition if it is ultimately called upon to supply the solution.

V. ORDER

After due consideration, it is hereby

ORDERED: That the Motion for Modification, filed by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts on March 2, 1999, is ALLOWED in that the Order of October 21, 1998 in MCI WorldCom Technologies, Inc., D.T.E. 97-116, is hereby VACATED; and it is

FURTHER ORDERED: That the Motion for Clarification, Reconsideration and Suspension of Escrow Order, filed by RNK, Inc. on March 31, 1999 (which incorporates by reference the Letter for Specific and Expeditious Relief, filed by RNK, Inc. on March 31, 1999) is DENIED; and it is

FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall not be required, until further notice from the Department or until negotiations result in different payment terms, to escrow any reciprocal compensation payments for Internet-bound traffic or be required to maintain the present escrow arrangement; and it is

FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall not be required to make reciprocal compensation payments, in excess of a 2:1 terminating-to-originating traffic ratio, beginning with any payments made or to be made after (and including payments undisbursed as of) February 26, 1999.

By Order of the Department,

_____

James Connelly, Commissioner

_____

W. Robert Keating, Commissioner

_____

Paul B. Vasington, Commissioner

Pursuant to § 252(e)(6) of the Telecommunications Act of 1996, appeal of this final Order may be taken to the federal District Court or the Federal Communications Commission. Timing of the filing of such appeal is governed by the applicable rules of the appellate body to which the appeal is made, or in the absence of such, within 20 days of the date of this Order.

CONCURRING AND DISSENTING OPINION OF JANET GAIL BESSER, CHAIR AND EUGENE J. SULLIVAN, JR., COMMISSIONER

I. INTRODUCTION

Although we agree that the FCC's Internet Traffic Order invalidated the factual two-call premise of the Department's October Order, we disagree with the majority's conclusion that this invalidation automatically serves to relieve Bell Atlantic from any and all obligations to pay compensation for ISP-bound traffic terminated by CLECs. D.T.E. 97-116-C at 25, 40. For the reasons stated below, we believe that the Department should determine whether existing interconnection agreements require the parties to pay reciprocal compensation for this traffic. In addition, we would have required Bell Atlantic to continue to escrow the disputed payments while this matter is determined. Finally, we would strongly encourage the disputants to negotiate new commercial arrangements regarding this traffic. Accordingly, we concur in part, and dissent in part from the majority's decision.

II. DISCUSSION

A. The Department's October Order

The Department's October Order explicitly and clearly limited the basis for its conclusion that calls terminated by CLECs to ISPs qualified for reciprocal compensation by determining only that such calls were "local." MCI WorldCom at 6. Although the parties in that proceeding raised numerous issues, including various substantive policy and economic reasons for paying reciprocal compensation, the Department never explored these issues through hearings and discovery. Id. The October Order made no findings with respect to any other bases for reciprocal compensation nor did that Order specifically claim that other bases did not exist. Id. Rather, the October Order clearly determined, relying solely on a two-call analysis,(44) that ISP-bound traffic constitutes "local" traffic thus "qualifying it for reciprocal compensation." Id. at 12-13.

B. The Effect of the Internet Traffic Order on the Department's October Order

On February 26, 1999, the FCC determined that ISP-bound traffic was considered interstate based on a one-call analysis. Internet Traffic Order at ¶¶ 1,3. We agree with the majority that this decision removes the basis we used to support our conclusions in the October Order. However, we disagree with the majority's view of the immediate consequences of the Internet Traffic Order for our October Order. Without the local call basis, and without deciding the validity of any other potential bases, the majority concludes that Bell Atlantic is no longer obligated to pay reciprocal compensation for ISP-bound traffic. D.T.E. 97-116-C at 25, 40.

The conclusion that Bell Atlantic is no longer obligated to pay reciprocal compensation ignores the fact that Bell Atlantic had been paying reciprocal compensation well before issuance of the October Order. MCI WorldCom at 1-2, n.6. Thus, if our October Order is in fact a "nullity"(45) as the majority states, D.T.E. 97-116-C at 24, then the logical conclusion would be that Bell Atlantic should revert back to paying full reciprocal compensation pursuant to its interconnection agreement until such time as the Department determines whether other legitimate sources of support for this obligation exist.(46) Internet Traffic Order at ¶ 24.

Moreover, we do not find anything in the Internet Traffic Order that supports the conclusion that MCI WorldCom should be vacated. D.T.E. 97-116-C at 40. We do not agree that the MCI WorldCom Order no longer gives rise to any rights or obligations; rather, we believe that the MCI WorldCom Order was

valid at the very least until issuance of the Internet Traffic Order.(47) We therefore disagree with the majority's decision that Bell Atlantic is not required to pay funds due before issuance of the Internet Traffic Order. D.T.E. 97-116-C at 28 n. 30.

Finally, we also strongly disagree with the majority's suggestion that the Internet Traffic Order may have eliminated any and all obligations for Bell Atlantic ever to have paid any reciprocal compensation for ISP-bound traffic. While we may agree that Bell Atlantic's obligation to pay reciprocal compensation for this traffic was called into question on February 26, 1999, that ruling merely changed the state of the law from that date forward. Reciprocal compensation paid from Bell Atlantic to the CLECs before that date was made pursuant to valid, legal obligations, consistent with state policy, and we disagree with any intimations to the contrary by the majority.

The Internet Traffic Order requires the Department to resume the investigation we thought we had concluded in October 1998. The FCC recognized that this might be the case for a number of state commissions, stating that it

recognize[s] that our conclusion that ISP-bound traffic is largely interstate might cause some state commissions to *re-examine their conclusion* that reciprocal compensation is due to the extent that those conclusions are based on a finding that this traffic terminates at an ISP server, but nothing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of the rulemaking . . . . (emphasis added).

Internet Traffic Order at ¶ 27.

The majority views the authority granted to state commissions in ¶ 27 as "vague" and "equivocal." D.T.E. 97-116-C at 24. However, we believe that this interpretation is not warranted. First, we have statutory obligations to fully investigate and adjudicate disputes subject to our jurisdiction. G.L. c. 30A; see also G.L. c. 159, §§ 12(d), 16, 19, 20. We should not prejudge whether arguments yet to be put forth by litigants have or lack merit without the benefit of a complete record developed with the fundamental due process rights of cross-examination and rebuttal. Second, the majority chooses to read ¶ 27 in light of Commissioner Michael K. Powell's concurrence. However, a concurring opinion (or, we acknowledge, a dissenting one for that matter) does not make the law. Consequently, we would accept the FCC's majority view and the authority it grants to state commissions as controlling until lawfully set aside, either by a reviewing court or a subsequent FCC decision. We note the difference between a suggestion that we "might" want to or need to "re-examine" our earlier conclusion, and an order from the FCC or other appellate body vacating, nullifying, remanding, or overruling our MCI WorldCom decision. Furthermore, we are buttressed in our view that ¶ 27 contains more than "a consoling notion," D.T.E. 97-116-C at 24, by the fact that, of the eleven state commissions that have considered the reciprocal compensation issue since the Internet Traffic Order, none have found that it is dispositive of this issue nor have any determined that LECs' existing obligations to pay reciprocal compensation should be changed.(48)

C. The Effect of the Internet Traffic Order on the Escrow Order

Our reasoning with respect to Bell Atlantic's reciprocal compensation obligations in the wake of the Internet Traffic Order does not lead us to conclude that we ought to require Bell Atlantic to pay reciprocal compensation for ISP-bound traffic to the CLECs during the completion of this proceeding or for the pendency of a new one. Although we agree that the FCC now has final jurisdiction to regulate and establish a compensation mechanism for this traffic, the FCC recognized that it has no regulations currently in place concerning these issues and issued an NPRM to rectify the situation. Internet Traffic Order at ¶¶ 1, 9, 21; NPRM at ¶¶ 28-36. However, for the interim period, the FCC made it clear that states could continue to determine how compensation for this traffic should be structured. While the Internet Traffic Order grants broad discretion over this compensation issue to the states for this interim period, this discretion is not unlimited. Thus, while it may be appropriate for a state to continue

reciprocal compensation for contractual, policy or equitable considerations, or to develop and implement some other inter-carrier compensation mechanism, we have difficulty interpreting the FCC's order as authorizing a rate of "zero"(49) for this traffic, for the following two reasons. First, the Act requires local exchange carriers to compensate each other for the transport and termination of traffic that originates on one carrier's network and terminates on another carrier's network. 47 U.S.C. § 251(b)(5). Second, a carrier's transport and termination of this traffic has some non-zero associated costs, as the majority acknowledges.(50) D.T.E. 97-116-C at 28-29. Thus, we believe that inter-carrier compensation is due but recognize that the ultimate level of this compensation remains to be determined. Accordingly, we would have continued escrow in recognition of the legitimate dispute regarding these funds and to preserve them for immediate payment upon final decision or settlement. Accord D.T.E. 97-116-B (authorizing Bell Atlantic to escrow certain reciprocal compensation payments because escrow constitutes an accepted method to preserve disputed payments during a commercial dispute, and because various interconnection agreements require escrow of funds in the event of a dispute).

D. Discussion Concerning Negotiation and Settlement of this Dispute

While we agree with the majority that a negotiated settlement is the ideal outcome, we have concerns about the process that it would use to reach such a resolution. The process the majority articulates lacks any meaningful incentives for the parties to reach a settlement for two reasons. First, the elimination of Bell Atlantic's obligation to pay reciprocal compensation into escrow for ISP-bound traffic provides a sure recipe for delay and non-settlement because Bell Atlantic now has little incentive to negotiate(51) and the CLECs have reduced leverage. Second, without an active adjudication proceeding concurrent with the negotiation/mediation/arbitration process established by § 252 of the 1996 Act, no route exists for the Department to end the dispute by issuing a final order.

E. Competition and Efficient Entry

Finally, we respond to the majority's colloquy on competition and efficient entry. In our view, this discussion is not directly related to the dispute before the Department in the instant proceeding. The substance of the discussion was not addressed directly by the parties or by the Commission as a whole in our deliberations. Therefore, we do not consider it to be a useful or appropriate addition to the Order.(52)

The majority does attempt to make a connection between the discussion in Section IV.B. and the issue of payment of reciprocal compensation for ISP-bound traffic, for example on page 32 where it states, "we do not prejudge any potential renewal of the dispute before us last October, where such a renewal might rest 'on contractual principles or other legal or equitable considerations' and not on substantive policy or economic issues." The majority appears to make this statement because it has reached a conclusion on the substantive policy and economic issues, to borrow its words, "in a vacuum."(53) In fact, one can infer from this conclusion that the majority has determined that there is no other basis for paying reciprocal compensation without consideration of evidence or argument.

Not only did the Department's October Order not reach the question whether there were bases for payment of reciprocal compensation other than the "local call" basis on which we relied then, but we also did not address any of the substantive policy or economic issues that, as a public utilities commission charged with protecting the public interest, it is our job to address. Doing our job - that is, taking evidence and hearing argument before reaching a reasoned decision - is not "cast[ing] about for . . . any reason to sustain [a] questionable result." Id. at 38. Rather, it is doing the work necessary to determine whether a result is, in fact, questionable or not questionable. As we have already indicated, continuing the current proceeding or opening a new one to address whether there are other bases - including consideration of substantive policy or economic issues - for payment of reciprocal compensation for ISP-bound traffic should be the Department's next step in resolving the current dispute.

Janet Gail Besser, Chair

Eugene J. Sullivan, Jr., Commissioner

SEPARATE STATEMENT OF JANET GAIL BESSER, CHAIR

In addition, while I question the value of including general pronouncements in an order such as this, I cannot let what I see as the majority's incomplete or inaccurate characterization of the Department's policy on competition go unaddressed. When the majority quotes from a previous Department order on the subject, I obviously take no issue with its restatement of Department policy. The Department's deliberations in Gas Unbundling, D.T.E. 98-32-B (1999), centered on the prerequisites and regulatory framework for promoting competition in the gas industry. The passage quoted by the majority on the role of entrants was part of a larger discussion of what constitutes full and fair competition -- an oft-stated goal of the Department in the context of both electric industry restructuring, Electric Restructuring, D.P.U. 95-30 (1995) and Electric Industry Restructuring, D.P.U. 96-100 (1997) and gas unbundling, D.T.E. 98-32-B at 4. There are also other individual statements in this section with which I agree.

However, I am concerned that the overall tone of the discussion does not capture the Department's policy on competition and efficient entry. In the current context, the passage from Gas Unbundling appears to be used to bolster criticism of new entrants for pursuing their own self-interest, despite the majority's assertions to the contrary.(54) The majority's narrow focus on the actions of new entrants here does not do justice to the Department's policy on competition, a broad and comprehensive policy that we have spent much of our time developing over the last several years to enable the utility industries to make the transition from traditional regulation to competitive markets and to open these markets to new entrants who will bring with them innovation and pressures for efficient operation. In my view, the Department's policy on competition is best and most succinctly captured in the principles we articulated in 1995 to guide the restructuring of the electric industry, D.P.U. 95-30, and used again in 1997 to lead off the Department's gas unbundling initiative. Department Letter to Gas Local Distribution Companies, D.T.E. 98-32 (July 18, 1997). In this Order, I fear that the majority has fallen into the trap it identified of the "[l]oose, misleading, or self-serving usage [that] often underlies disputes and sows confusion." D.T.E. 97-116-C at 31. Therefore, I must respectfully disagree with its overall characterization of Department policy on competition and efficient entry.

Janet Gail Besser, Chair

1. [1] MCI WorldCom, Inc. is the successor-in-interest to WorldCom Technologies, Inc. which is the successor-in-interest to MFS Intelenet Service of Massachusetts, Inc. ("MFS"). MFS is the entity that filed the original complaint in this docket.

2. [2] The Telecommunications Act of 1996 ("1996 Act") requires each incumbent local exchange carrier ("ILEC") (Bell Atlantic is the ILEC in Massachusetts) to open its monopoly networks to effective competition before that ILEC will be authorized to provide long-distance telecommunications services. Section 251(b)(5) of the Act requires all local exchange carriers to compensate each other for the transport and termination of local traffic that originates on one carrier's network and terminates on another carrier's network. 47 U.S.C. § 251(b)(5). The Federal Communications Commission has interpreted this provision as limiting reciprocal compensation payments to the transport and termination of *local* traffic. See 47 C.F.R. § 51.701.

3. There are several ways to describe dial-up, Internet calling. For consistency, we adopt the FCC's term 'ISP-bound traffic'.

4. [4] MCI also requested an extension of the judicial appeal period. The Department determined that this request was moot because the Department had previously granted Bell Atlantic's motion to extend the

judicial appeal period for all parties. MCI WorldCom, D.T.E. 97-116-A at 5 (February 25, 1999).

5. [5] Before the issuance of D.T.E. 97-116-A, the Department's Telecommunications Division issued data requests to ten CLECs to determine whether their customer bases were predominantly or solely ISPs, and whether any affiliate relationship exists between the CLECs and their ISP customers. Responses were received on or before January 20, 1999.

6. [6] Bell Atlantic does not indicate how it will differentiate ISP-bound traffic from local traffic carried on its network. Instead, Bell Atlantic sets up a 2:1 proxy by stating (1) that it will escrow amounts in excess of the 2:1 ratio, billed to any CLEC that terminates at least twice as much traffic as it sends to Bell Atlantic, but (2) that if a CLEC demonstrates that the imbalance is associated with "local" traffic, Bell Atlantic will pay reciprocal compensation charges for those calls (Motion for Modification at 2 n.3).

7. [7] Bell Atlantic notes that it filed the Motion for Stay to ensure that there would be "no ambiguity regarding [Bell Atlantic's] ability to withhold payments while the Department considers the Motion for Modification" (Motion for Stay at 3 n.2).

8. [8] In addition to parties to D.T.E. 97-116, the Department allowed comments from all facilities-based CLECs with interconnection agreements with Bell Atlantic.

9. [9] On March 4, 1999, GNAPS filed a petition for intervention. The Department has yet to rule on that petition.

10. [10] Level 3 is the successor-by-merger of XCOM Technologies, Inc., which is an intervenor.

11. Prism formerly was known as Transwire Operations, LLC.

12. [12] RCN, Choice One, the Coalition, Focal, GNAPS, NEVD, Norfolk, Prism, and RNK are not parties in D.T.E. 97-116.

13. [13] With the Department's permission, MCI WorldCom filed its response on March 15, 1999, and Bell Atlantic filed its reply to MCI WorldCom's response on March 18, 1999.

14. Bell Atlantic's appeal of the hearing officer ruling on oral argument need not be ruled upon, for today's Order renders it moot.

15. ''

16. Bell Atlantic indicates that its interconnection agreements only require reciprocal compensation for local traffic and that, to be "local," the call must originate and terminate within a given local access transport area ("LATA") in the Commonwealth of Massachusetts (id. at 9).

17. These "illustrative" factors are:

whether incumbent LECs serving ESPs [Enhanced Service Providers] (including ISPs) have done so out of intrastate or interstate tariffs; whether revenues associated with those services were counted as intrastate or interstate revenues; whether there is evidence that incumbent LECs or CLECs made any effort to meter this traffic or otherwise segregate it from local traffic, particularly for the purpose of billing one another for reciprocal compensation; whether, in jurisdictions where incumbent LECs bill their end users by message units, incumbent LECs have included calls to ISPs in local telephone charges; and whether, if ISP traffic is not treated as local and subject to reciprocal compensation, incumbent LECs and CLECs would be compensated for this traffic.

Internet Traffic Order at ¶ 24.

18. But see Internet Traffic Order, at ¶ 12 ("The fact that the facilities and apparatus used to deliver traffic to the ISP's local servers may be located within a single state does not affect our [FCC's] jurisdiction").

19. [19] The CLECs cite the Alabama Public Service Commission's recent conclusion "that the industry custom and usage at that time [the interconnection agreements under review herein were entered] dictated that ISP traffic be treated as local and, therefore, subject to reciprocal compensation." (AT&T Comments at 5; MCI Comments at 14-16, citing In Re: Emergency Petitions of ICG Telecom Group Inc. and ITC Deltacom Communications Inc., Alabama PSC docket 26619 at 25 (Mar. 4, 1999)).

20. The FCC characterizes the Internet as "a powerful instrumentality of interstate commerce." Internet Traffic Order at ¶ 6. Although the FCC admits its treatment of enhanced service providers ("ESPs") has something of an *intrastate* flavor, id. at ¶ 5, describing the Internet in this way virtually dictated the FCC's "one call" analysis. See also *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd at 15983, 1631-33 (1997). The FCC has evidently determined to close this avenue of caselaw by distinguishing it, somewhat artificially, from its holding in Internet Traffic Order.

21. The recent "transferring [of] the States' regulatory authority wholesale to the Federal Communications Commission" for which Justice Thomas recently faulted the Court's majority in *AT&T Corp.* v. *Iowa Utilities Board* suggests that judicial reversal is unlikely. *AT&T Corp.* v. *Iowa Utilities Board*, __ U.S. __, at __, 119 S.Ct. 721, 741 (1999) (Thomas, J., dissenting).

22. Although numerous CLECs intervened in the proceeding, the Department had before it only the complaint of MCI WorldCom for alleged breach of contract by Bell Atlantic. The Department did, however, note the implications of its Order for other interconnection agreements. MCI WorldCom, D.T.E. 97-116, at 14. The contract in question was the "Interconnection Agreement between New England Telephone and Telegraph Company and MFS Intelenet of Massachusetts, Inc." dated 26 June 1996, and filed with the Department on 10 July 1996. Of particular note, are §1.38, the definition of 'Local Traffic', and §5.8, Reciprocal Compensation Arrangements - Section 251(b)(5).

23. The point was noted for a third time in MCI WorldCom Technologies, Inc., D.T.E. 97-116-A, at 2 (1999)

24. The matter of efficient entry by providers versus inefficient entry evidently weighs heavily upon the FCC as well. Internet Traffic Order at ¶ 6.

25. The equivocation is subtle but evident in the word "necessarily" as used in the penultimate sentence of ¶ 27. It did not escape the notice of one FCC commissioner. As he so often politely but cogently does, FCC Commissioner Michael K. Powell points out the essential incoherence of the majority's dicta about state decisions affected by the Internet Traffic Order: "Such reasonableness does little to preserve those state decisions most likely to be disturbed by our 'one call' jurisdictional analysis, namely, decisions based primarily or exclusively on a 'two-call' theory. In short, I think touching on the issue of shared jurisdiction muddles our conclusion that there is federal jurisdiction with respect to these questions." Internet Traffic Order, Concurrence of Commissioner Powell, text at n. 1. There is evident division among the FCC commissioners over the implications of this "shared jurisdiction theory" (to use Commissioner Powell's term). See Separate Statement of Commissioner Susan Ness, fourth paragraph (it "remains reasonable for the states . . . to treat this [ISP-bound] traffic as local"). It may be that the FCC's temporized ("muddled" in Commissioner Powell's terms) jurisdictional analysis is a reaction to the sizeable minority of the Supreme Court, who joined Justice Thomas in expressing dismay at the FCC's earlier incursion into a traditional state province in *AT&T Corp.* v. *Iowa Utilities Board* (see note 21 *supra*).

26. The FCC's use of the word "equitable" is ambiguous. It is not clear what equitable powers a regulatory agency could, in any event, claim to exercise, as it acts under a statutory grant. The FCC's

observation was evidently intended to cushion the jurisdictional blow, but all it does is muddle the message, as Commissioner Powell has observed. Internet Traffic Order, Concurrence of Commissioner Powell, text at n. 1.

27. The parties to this docket have diligently provided the Department with other states' decisions on reciprocal compensation rendered since Internet Traffic Order was issued. We have reviewed those filings. Other state commissions considered the effects of the FCC's ruling on *their* situations, on the interconnection agreements before them, and on prior decisions rendered. We have before us only *our own* October Order and the interconnection agreement construed by that Order. Useful as it has been to know what other states have made of the FCC's ruling, it is equally useful to recall Commissioner Powell's observation about the effects of that ruling: "Furthermore, having reviewed a number of the state decisions in this area, I am persuaded that the underlying facts, analytical underpinnings and applicable law vary enormously from state to state." Internet Traffic Order, Concurrence of Commissioner Powell, page 2.

28. The FCC's wording ("any determination a state commission has made, or may make in the future"), Internet Traffic Order at ¶ 24, must be read in light of the only plausible, saving grounds for such state determinations set out by the FCC in ¶ 27 (state decisions taken, before or after February 26, that rest on "contractual principles or other legal or equitable considerations"). State decisions whose conclusions "are based on a finding that this [ISP-bound] traffic terminates at an ISP server," id., are in another category, however. And our October Order falls into this latter group.

29. We do not, at this point, hazard a judgment whether such an alternative basis exists in the Bell Atlantic-MCI WorldCom interconnection agreement before us. If such a basis can be convincingly shown, then it would not be the Department's role to save contracting parties from later-regretted commercial judgments. See Complaint of A-R Cable Services, Inc., D.T.E. 98-52, at 5 n. 7 (1998).

30. This finding partly addresses RNK's Motion for Clarification. Bell Atlantic's Motion for Modification of our October Order intimates that reciprocal compensation payments made for ISP-bound traffic before February 26, 1999 were never truly due and owing under the interconnection agreement. Bell Atlantic notes that "there is no severable 'local' component of an Internet call but such traffic is now, and *always has been*, interstate traffic. . . . Internet-bound calls are not eligible for 'local' reciprocal compensation under BA-MA's interconnection agreements, and CLECs have received substantial compensation to which they are not entitled under those agreements." Bell Atlantic's Motion for Modification, at 10. Despite Bell Atlantic's intimation, the question of refund is not before us, and so we take no position on the status of payments made by Bell Atlantic for reciprocal compensation for ISP-bound traffic prior to February 26, 1999. To do so now would be premature-assuming that D.T.E. even has jurisdiction over the question of refunds and considering the instructions below as to negotiations, mediation, and, if it must come to that, arbitration. But we shall not require Bell Atlantic to make (i.e., to disburse) any payments that were not made as of that date. See text immediately *infra*.

31. In the current absence of a precise means to separate ISP-bound traffic from other traffic, we believe that Bell Atlantic's 2:1 ratio as a proxy is generous to the point of likely including some ISP-bound traffic. However, this 2:1 proxy is rather like a rebuttable presumption, allowing any carrier to demonstrate adduce evidence in negotiations, or ultimately arbitration, that its terminating traffic is not ISP-bound, even if it is in excess of the 2:1 proxy. Where disputes arise, however, the disputants are well advised to work the matters out between themselves, rather than bringing them to this forum after less-than-thorough negotiations.

32. See Internet Traffic Order, at ¶ 24 n. 77.

33. The frequent misuse and abuse of 'competition' and allied terms calls to mind the colloquy between Humpty Dumpty and Alice, when she objects to his arbitrary and idiosyncratic meanings for words:

"When *I* use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean--neither more nor less."

"The question is," said Alice, "whether you *can* make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master--that's all."

Lewis Carroll, *Through the Looking-Glass, and What Alice Found There* (Boston: Lee and Shepard, 1st U.S. edition, 1872) chapter VI , p. 124.

34. See, e.g., the career accomplishment cited in Bell Atlantic Reply Comments on Motion for Modification, March 15, 1999, Attachment A, Resume of David F. Callan: "Identified niche opportunity related to asymmetrical traffic patterns under Federally mandated interconnection architecture." The premise of a mandate, of course, no longer holds *post* Internet Traffic Order.

35. As noted by Justice Breyer in *AT&T Corp.* v. *Iowa Utilities Board*, "[t]he competition that the [1996] Act seeks is a process, not an end result." *AT&T Corp.* v. *Iowa Utilities Board*, Opinion of Breyer, J., ___ U.S. at __, 119 S.Ct. at 751. When the exercise of regulatory authority artificially brings into play additional providers but some one else in the market is "picking up the tab" for those new players' entry, that is not competition. It is, rather, handicapping one horse so the others in the field may as likely cross the finish first, despite their otherwise slower speed. There is no real gain in the efficient deployment of society's resources and thus no net social gain. While some may make the case for incubating infant industries, the purportedly temporary "life-support" measures entailed in doing so often become necessities (even entitlements) that cannot, practically speaking, later be withdrawn.

In the case of reciprocal compensation for ISP-bound traffic, "shifting dollars from one person's pocket to another's" occurs when Bell Atlantic's reciprocal compensation payments are in excess of a CLEC's costs to terminate ISP-bound traffic. (The discussion in the text *infra* makes clear that we believe this result likely obtains. See also note 34 *supra* and note 39 *infra*.) In addition, Bell Atlantic contends that the reciprocal compensation payments it has made are in excess of the costs that Bell Atlantic avoids by no longer terminating this traffic. Therefore, Bell Atlantic is making payments to CLECs for recovery of costs that are not being incurred and is paying more than its own avoided-cost savings. As a result, Bell Atlantic's shareholders or telephone customers are losing money, and CLECs are either earning additional profits or passing through these "savings" to their own customers as *putative* benefits of competition. Such benefits are not related to any efficiencies achieved or value added by CLECs. They are simply the result of regulatory distortion.

36. See, also, Thomas J. Duesterberg and Kenneth Gordon, Competition and Deregulation in Telecommunications, p. 26 (1997), "Pricing policies and investment incentives for all parties, including the incumbents, must simultaneously be developed so as to create an efficient telecommunications system. Ideally, this means that prices of final goods and services, as well as of intermediate goods purchased by competitors, should reflect real economic costs."

37. It is perhaps not fashionable to quote him in a regulated industry, but Adam Smith put the matter justly in 1776:

No regulation of commerce can increase the quantity of industry in any society beyond what its capital can maintain. It can only divert a part of it into a direction into which it might not otherwise have gone; and it is by no means certain that this artificial direction is likely to be more advantageous to the society than that into which it would have gone of its own accord.

Every individual is continually exerting himself to find out the most advantageous employment for whatever capital he can command. It is his own advantage, indeed, and not that of the society, which he has in view. But the study of his own advantage naturally, or rather necessarily, leads him to prefer that employment which is most advantageous to the society.

Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Oxford: University of Oxford, 1869), vol. I, bk. 4, ch. 2 (the chapter concerns restraints on imports, but the point is broadly suggestive in assessing proposed government actions).

38. The Supreme Judicial Court in *Massachusetts Institute of Technology* v. *Department of Public Utilities*, 425 Mass. 856, 866-67 (1997); and the General Court in St. 1997, c. 164.

39. Similarly, ISG-Telecom Consultants, Int'l., a Florida industry consultant that specializes in helping ISPs turn into CLECs, has characterized the income derived from reciprocal compensation as "gravy" income. See Bell Atlantic Reply Comments, March 15, 1999, Attachment F (Affidavit of Paula L. Brown), Subattachment C to Attachment F (tenth unnumbered page), copy of Internet communication of ISG-Telecom, entitled "Taking the Plunge from ISP to ISP/CLEC. Is it Right for You???", copyright 1996, 1997, 1998, 1999:

Although reciprocal compensation could be a new revenue source for the ISP/CLEC, we at ISG-Telecom NEVER recommend creating a business plan or business case model around reciprocal compensation. ISP/CLECs that choose to become CLECs to participate in reciprocal compensation should be aware of the current regulatory climate. Reciprocal compensation, in light of recent FCC considerations, should be considered "gravy" income ONLY [emphasis in original].

See also Internet Traffic Order, at ¶ 24 n. 78, wherein the FCC recognizes the question of consistency with the statutory scheme ("*e.g.*, definition of a carrier") of such "anomalous practices" as "free [I]nternet access while getting paid for it." In a word, "gravy."

40. See notes 34 and 39 *supra*.

41. See note 20 *supra*.

42. The situation is not without earlier parallel. The Department faced a similar choice and like counsel in 1994-95. The Department's policy regarding "environmental externalities" in electric regulation was overturned on purely legal grounds by the Supreme Judicial Court in *Massachusetts Electric Company* v. *Department of Public Utilities*, 419 Mass. 239, 243-50, 252 (1994) (imposing such externalities was "beyond the range of its statutory authority to do so"), the Department-barely a month after the Court had corrected it-flatly rejected counsel that it somehow cling to judicially discredited precedent. Boston Edison Company, D.P.U. 95-1-CC, at 12-14 (1995). We can be no less forthright here. A clean break with error is salutary.

43. We employ emphasis advisedly. Only where "regulatory, judicial, or legislative changes uniquely affecting the telecommunications industry" (and other stated cost changes) impose resultant additional cost can Bell Atlantic qualify for recovery under the exogenous cost adjustment provisions of its price cap mechanism. NYNEX Price-Cap Order, D.P.U. 94-50, at 181-83. Extra-statutory, voluntary contractual undertakings are another matter-and Bell Atlantic was and is free to choose such undertakings for its own business reasons, Internet Traffic Order at ¶ 24 n. 77. See, also, Complaint of A-R Cable Services, Inc., D.T.E. 98-52, at 5 n. 7; and see note 28 *supra*. Yet, negotiation or mediation may settle the question, and so it may not be presented for Department decision for arbitration.

44. We note this was not, contrary to the majority's assertion, a "mistake of law." D.T.E. 97-116-C at 24. In fact, the FCC had, on May 7, 1997, noted that "[w]hen a subscriber obtains a connection to an [ISP] via voice grade access to the public switched network, that connection is a telecommunications service and is distinguishable from the [ISP's] service offering." In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, at ¶ 789, Report and Order (rel. May 7, 1997); see also Internet Traffic Order at ¶¶ 13-16. Accordingly, our October Order was consistent with existing law, subsequently changed, and was not a mistake of law.

45. Black's Law Dictionary (6th ed. 1991) defines the phrase "null and void" as meaning "that which binds no one or is incapable of giving rise to any rights or obligations under any circumstances . . . ."

46. We view this dispute as remaining active; in our view, MCI WorldCom need not re-file its complaint in order to re-invigorate this suit. Cf. D.T.E. 97-116-C at 25. However, we believe it would be a more efficient use of resources for the Department to re-notice these issues for resolution in the context of a generic adjudication applicable to all relevant interconnection agreements.

47. This has implications, for example, for RNK, which sought funds owing before issuance of the Internet Traffic Order (RNK Letter for Specific and Expeditious Relief dated March 31, 1999).

48. WorldCom, Inc. v. GTE Northwest Inc., "Third Supplemental Order Granting WorldCom's Complaint, Granting Staff's Penalty Proposal; and Denying GTE's Counterclaim," Washington Utilities and Transportation Commission, Docket No. UT-980338 (May 12, 1999) (Commission found no reason to alter prior decision in MFS/US West Arbitration, and that prior finding that calls to ISPs are local calls subject to reciprocal compensation should apply to MFS/GTE agreement as well); In the Matter of the Application of Global NAPs South, Inc. for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Bell Atlantic-Delaware, Inc., Delaware Public Service Commission, Docket No. 98-540, Order No. 5092 (May 11, 1999) (Commission affirmed arbitrator's award that found interconnection agreement adopted by Global NAPS *did* anticipate treating ISP-bound traffic as local for purposes of reciprocal compensation, because agreement did not contain provisions for segregation of ISP-bound traffic or other special procedures for such traffic; arbitrator also found that FCC Order not dispositive of issue and that GNAPS entitled to receive reciprocal compensation for ISP-bound calls unless and until FCC issues ruling to contrary); In the Matter of the Petition of GTE Hawaiian Telephone Company, Inc. for a Declaratory Order that Traffic to Internet Service Providers is Interstate and Not Subject to Transport and Termination Compensation, Hawaii Public Utilities Commission, Docket No. 99-0067, Decision and Order No. 16975 (May 6, 1999) (Commission found that previous finding that reciprocal compensation should be paid for Internet traffic not in conflict with FCC Order); In the Matter of the Complaints of ICG Telecom Group, Inc., MCImetro Access Transmission Services, Inc., and Time Warner Telecom v. Ameritech Ohio, Ohio Public Utilities Commission, Case No. 97-1557-TP-CSS et al (May 5, 1999) (Commission found that FCC Order does not affect earlier decision and that pending new FCC rule, state commissions have authority to establish inter-carrier mechanism and to decide whether and under what circumstances reciprocal compensation is due); Electric Lightwave, Inc. v. U S WEST Communications, Inc., Oregon Public Utility Commission, Order No. 99-285 (April 26, 1999) (Commission ruled that ISP traffic is local under terms of existing interconnection agreements, agreeing with the Alabama PSC that parties were required to specifically exclude ISP traffic from the definition of local traffic or applicability of reciprocal compensation, if that was parties' intent); Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation, "Order Instituting Proceeding to Reexamine Reciprocal Compensation," New York Public Service Commission, Case No. 99-C-0529 (April 15, 1999) (Commission opened new docket to reexamine reciprocal compensation policy, particularly costs and rate structures applicable to large-volume call termination to single customers, and to set permanent rates for such by August, 1999; Commission noted that FCC order allows states to continue requiring payment of reciprocal compensation for Internet-bound traffic); In Re Petition of Pac-West Telecomm, Inc. for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Nevada Bell, "Order Adopting Revised Arbitration Decision," Nevada Public Utilities Commission, Docket Nos. 98-10015 and 99-1007 (April 12, 1999) (Commission found FCC Order does not alter fact that ISP-bound traffic is treated as local for rate-making purposes and that ISPs are no different than other local business customers; Commission noted there is no practical way of distinguishing ISP-bound traffic and fact that there is substantial imbalance between calls terminating to CLEC does not support conclusion that subsidy flow exists); In Re: Request for Arbitration concerning complaint of American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, Inc. and ACSI Local Switched Services, Inc. d/b/a e.spire Communications, Inc. v. BellSouth Telecommunications, Inc. regarding Traffic Terminated to Internet Service Providers, Florida Public Service Commission, Docket No. 981008-TP, Order No. PSC-99-0658-FOF-TP (April 6, 1999) (Commission required continued payment of reciprocal compensation for Internet-bound traffic; Commission found it did not need to address jurisdictional nature of calls but only needed to examine parties' intent, which clearly showed intention that Internet-bound traffic be rated and billed as local calls); In the Matter of the Petition of Pacific Bell for Arbitration of an Interconnection Agreement with Pac-West Telecomm, Inc. pursuant to

Section 256(b) of the Telecommunications Act of 1996, "Order on Draft Arbitrator's Report," California Public Utilities Commission, Application 98-11-024 (March 30, 1999) (in context of arbitration of new interconnection agreement, Arbitrator found that Pacific Bell is required to pay reciprocal compensation for ISP-bound traffic, concluding that such compensation was not eliminated by FCC Order); In Re: Emergency Petitions of ICG Telecom Group, Inc. and ITC Deltacom Communications, Inc. for a Declaratory Ruling, Alabama Public Service Commission, Docket No. 26619 (March 4, 1999) ("Commission found ILECs should pay reciprocal compensation for ISP traffic under terms of interconnection agreements; Commission also found that parties intended those calls to be local because they did not exclude ISP traffic from local traffic at time agreements entered into); In the Matter of Enforcement of Interconnection Agreement between Intermedia Communications, Inc. and BellSouth Telecommunications, Inc., "Order Denying Motion for Stay," North Carolina Utilities Commission, Docket No. P-55, SUB 1096 (March 1, 1999) (Commission denies further stay for BellSouth of its November 4, 1999 order requiring payment of reciprocal compensation for ISP traffic; Commission found that any further stay must be obtained from court on appeal; in comments to district court, Commission argues that FCC Order does not disturb Commission's earlier order).

49. We note that Bell Atlantic has voluntarily offered, and the majority has accepted, to continue paying reciprocal compensation for traffic up to an imbalance of 2:1. The majority notes that because there is no technological means to segregate legitimate local traffic from illegitimate ISP-bound traffic, this ratio "is generous to the point of likely including some ISP-bound traffic." D.T.E. 97-116-C at 28 n.31. However, according to the majority, there is no legal requirement that Bell Atlantic pay any reciprocal compensation to one another for this traffic; accordingly, the effective legal "rate" is zero. Id. at 25.

50. The majority's reference to a possible impact on Bell Atlantic's ratepayers (via a price cap exogenous cost) if Bell Atlantic was ordered to continue paying reciprocal compensation is premature and speculative at best. Whether Bell Atlantic would be eligible for such exogenous cost recovery is dependent on a number of complex factors which we would not presume to prejudge.

51. Given its conclusion that Bell Atlantic has no obligation to pay reciprocal compensation for ISP-bound traffic, it is not clear to us why the majority thinks Bell Atlantic would engage in negotiation, as it encourages Bell Atlantic to do, because if such discussions were to lead to an agreement for compensation, then Bell Atlantic would begin to pay its local competitors for traffic that, according to the majority, it has no obligation to pay.

52. We note that the Department occasionally provides general guidance at the close of an order on a specific adjudication, but the guidance is directly related to the substance of the order. For example, in Essex County Gas Company, D.T.E. 98-27 (1998), the Department included direction on the showing proponents of a merger should make to ensure expeditious consideration of their petitions. This type of guidance, directly related to the specific case at hand and flowing from the evidence presented, is, of course, appropriate.

53. The majority concludes, "Clearly, continuing to require payment of reciprocal compensation along the lines of our October Order is not an opportunity to promote the general welfare" without the Department having examined this question. D.T.E. 97-116-C at 34.

54. See, e.g., D.T.E. 97-116-C at 32-33 ("There is, however - and we emphasize this point - nothing illegal or improper in taking advantage of an opportunity such as the one presented by our October Order. One would not expect profit-maximizing enterprise[s] like CLECs and ISPs, rationally pursuing their own ends, to leave it unexploited.").

Sprint

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June 16, 1999

VIA FEDERAL EXPRESS

RECEIVED
JUN 18 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Mr. William Bullard, Jr.
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Avenue, State Capitol
Pierre, SD 57501

Re: In the Matter of the Filing by U S WEST Communications, Inc. for Approval of Agreement for Local Wireline Network Interconnection and Service Resale between McLeod USA Communications Services, Inc. and U S WEST Communications, Inc.
Docket No. TC99-057

Dear Mr. Bullard:

Enclosed for filing, are the original and ten copies of Sprint's Comments in the referenced docket. Please return one file-stamped copy in the enclosed envelope.

Thank you for your assistance. Please call me if you have any questions.

Very truly yours,

Donald A. Low

DAL:kmm
Enclosures

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
JUN 18 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

In the Matter of the Filing by U S WEST Communications, Inc. for Approval of Agreement for Local Wireline Network Interconnection and Service Resale between McLeod USA Communications Services, Inc. and U S WEST Communications, Inc.	)	Dkt. No. TC99-057
	)	COMMENTS OF SPRINT

Sprint Communications Company L.P. ("Sprint"), in response to the Commission's Notice in this matter, submits the following comments:

1. Sprint understands that the only disputed issue regarding the interconnection agreement between U S WEST and McLeod USA Communications Services, Inc. is the interpretation of the provisions regarding reciprocal compensation as applied to traffic terminating to Internet service providers ("ISP traffic"). Since a Commission decision could potentially affect the interpretation of Sprint interconnection agreement, Sprint is interested in the outcome of this matter.

2. As the Commission is aware, the FCC is currently addressing the issue of treatment of inter-carrier compensation for ISP traffic. Sprint has submitted comments and reply comments in that proceeding, *In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68. Those Sprint filings are attached for the Commission's information and adopted as Sprint's comments in this proceeding.

3. Briefly, Sprint believes that ISP-bound calls should be treated as though they were local calls for purposes of intercarrier compensation arrangements. Thus, whatever compensation arrangements apply to purely local calls, be they bill and keep, negotiated reciprocal compensation or state-mandated reciprocal compensation, would apply to these calls as well. Such a policy would be fully consistent with the FCC's determinations that interstate

access charges should not apply to such calls, that ISPs (and other ESPs) should be able to purchase their interstate access by buying business lines out of local service tariffs, and that both the costs and revenues associated with this traffic should be treated as intrastate for those LECs subject to jurisdictional separations. Indeed, in view of the fact that the FCC treats ISP-bound calls as if they were local for all these other purposes, it would be anomalous to use a different intercarrier compensation regime for these calls than the one that applies to local calls.

4. Sprint consequently encourages the Commission to find that the ISP traffic should be treated the same as local traffic for purposes of reciprocal compensation under interconnection agreements. Sprint would note, however, that the decisions of the South Dakota PUC and other state commissions on this issue would appear to be applicable only until the FCC establishes a rule regarding such traffic. See, *Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, (FCC 99038), ¶¶ 25-27.*

Dated: June 17, 1999

Respectfully submitted,
Sprint Communications Company L.P.

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Inter-Carrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	

COMMENTS OF SPRINT CORPORATION

In its Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68 (FCC 99-38, released February 26, 1999), the Commission determined that calls from end users to Internet service providers (ISPs) are jurisdictionally mixed and appear to be largely interstate, but concluded that there are no existing federal rules regarding appropriate compensation for this traffic when two local carriers are involved in handling the call from the consumer to the ISP. Accordingly, the Commission initiated this new rulemaking proceeding to consider what rules should apply, and Sprint hereby submits its comments on the issues raised in the Commission in the NPRM. As discussed below, Sprint believes either the Commission should adopt a rule that whatever compensation arrangements apply to local traffic should also apply to ISP-bound traffic, or the Commission should determine for itself what compensation is appropriate. However, the Commission should not rely on standalone negotiations or attempt to create new jurisdiction in state commissions and federal district courts over rates for interstate traffic.

In the Declaratory Ruling, the Commission held (¶13) that calls from a consumer to an ISP not only consist of the communications path between the consumer and the ISP's local

premises, but also include the communications paths to the various Internet web sites that the consumer accesses during the call. The Commission concluded (¶18) that "although some Internet traffic is intrastate, a substantial portion of Internet traffic involves accessing interstate or foreign web sites" and accordingly is jurisdictionally interstate. The Commission reiterated (¶20) that notwithstanding the jurisdictionally interstate nature of this traffic, ISPs and other ESPs continue to be entitled to purchase their links to the public switched network through intrastate local tariffs, rather than through interstate access tariffs. The Commission noted (¶23) that it "has treated ISP-bound traffic as though it were local" and that LECs have generally characterized expenses and revenues associated with these calls as intrastate for purposes of separations. The Commission further observed (¶25) that this policy of treating ISP-bound traffic as local for purposes of interstate access charges "would, if applied in the separate context of reciprocal compensation, suggest that such compensation is due for that traffic." Nonetheless, the Commission determined (¶22) that it currently has no rule governing intercarrier compensation for ISP-bound traffic. It was in order to fill this void that the Commission instituted this new rulemaking proceeding.

In the NPRM, the Commission tentatively concluded (¶29) that a negotiation process driven by market forces is more likely to lead to an efficient intercarrier arrangement than rates set by regulation and proposed that compensation rates for ISP-bound traffic be based on "commercial negotiations undertaken as a part of the broader interconnection negotiations between incumbent LECs and CLECs." The Commission offered two alternative proposals to govern these negotiations. First, it tentatively concluded (¶30) that intercarrier compensation for this traffic should be governed by interconnection agreements negotiated and arbitrated under §§251 and 252 of the Act, with the full panoply of procedures set forth in §252 (including state

arbitration in the event the parties reach an impasse), appeal of state commission arbitrations to federal district courts, and FCC action in instances where the states fail to act in a timely fashion. Alternatively, the Commission proposed (¶31) the adoption of a set of federal rules governing negotiations, including dispute resolution by the Common Carrier Bureau. In this regard, the Commission sought comment on the costing standards that it should use under this approach, whether interstate and intrastate ISP-bound traffic can be segregated (and in this regard whether federal rules should apply to all intrastate and interstate-bound traffic), and whether the Commission has the authority to establish a binding and non-appealable arbitration process (¶¶31-32). In addition to these two proposals, the Commission invited parties to submit alternative proposals for intercarrier compensation that would advance the Commission's goals of encouraging broad entry of efficient new competitors, eliminating incentives for inefficient entry and irrational pricing schemes, and providing the benefits of competition to consumers (¶33).

Sprint urges the Commission simply to adopt a rule that the ISP-bound calls here in question should be treated as though they were local calls for purposes of intercarrier compensation arrangements. Thus, whatever compensation arrangements apply to purely local calls, be they bill and keep, negotiated reciprocal compensation or state-mandated reciprocal compensation, would apply to these calls as well. Such a policy would be fully consistent with the Commission's determination that interstate access charges should not apply to such calls, that ISPs (and other ESPs) should be able to purchase their interstate access by buying business lines out of local service tariffs, and that both the costs and revenues associated with this traffic should be treated as intrastate for those LECs subject to jurisdictional separations (¶36). Indeed, in view of the fact that the Commission treats ISP-bound calls as if they were local for all these other

purposes, it would be anomalous to use a different intercarrier compensation regime for these calls than the one that applies to local calls. In this regard, if intercarrier compensation for ISP-bound traffic is subject to different rates, terms and charges than purely local traffic, the underpinning for the Commission's desire that ISPs should continue to be able to order their interstate access service using local business-line rates may be weakened. For example, if a LEC receives less revenue for terminating a call to an ISP than to any other local business customer, it may wish to charge ISPs more than the local business rates in order to cover the reasonable costs of providing service to that customer; conversely, if the LEC receives more for terminating traffic to the ISP than the rates applicable to terminating local calls, it may be unjustly enriched by charging the normal business line rates to the ISPs.

Treating ISP-bound calls as local calls for purposes of inter-LEC compensation would also further the Commission's policy goals in this proceeding. Interconnecting LECs must necessarily negotiate or arbitrate the reciprocal compensation rates for jurisdictionally local traffic, and treating ISP-bound traffic as local would avoid imposing separate or additional regulatory hurdles on CLECs that might make entry more difficult, expensive, and time-consuming. Furthermore, having the traffic in question, which tends to be one-way, considered together with other local traffic may avoid the incentives for one party or the other to seek compensation rates that are unduly high or unduly low, depending on which carrier tends to have the largest base of ISP customers. Instead, by combining this traffic with other traffic streams, carriers are likely to adopt more reasonable negotiating positions.[1] Thus, Sprint believes that

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[1] Cf. Bell Atlantic's May 30, 1996 Reply Comments in CC Docket No. 96-98, at 21:

> Moreover, the notion that bill and keep is necessary to prevent LECs from demanding too high a rate[for reciprocal compensation] reflects

efficient entry and rational pricing schemes are most likely to be encouraged if ISP-bound traffic is treated by the Commission for purposes of inter-carrier compensation the same way it is treated by the Commission for all other regulatory purposes – i.e., as if it were purely local traffic.

If the Commission does not adopt Sprint's "treat it as local" proposal, then the Commission should develop a record and prescribe the amount of such compensation directly. Sprint does not believe that either the proposal tentatively adopted by the Commission in ¶30 of the NPRM, nor the alternative proposal set forth in ¶31, are likely to fulfill the Commission's policy goals, because they both rely on the premise that a negotiation process is more likely lead to efficient outcomes than rates set by regulation. In the context of local competition, there is an overwhelming imbalance of market power at the present time. The ILEC is the incumbent dominant carrier and has little, if any, self-interest in encouraging the development of local competition that can only serve to erode its market dominance. It has no need to come to reasonable terms with a CLEC for handling terminated ISP-bound traffic; if the parties fail to reach an agreement and the customer do not disconnect for such traffic, then the ISP will necessarily turn to the ILEC for its local service, and the ILEC can keep all the traffic within its own network, instead of having to share the traffic and the revenues with a competitor. Only if and when local competition has developed to the point that ILECs no longer have significantly greater market power than CLECs would the reliance on intercarrier negotiations be likely to

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a fundamental misunderstanding of the market. If these rates are set too high, the result will be that new entrants, who are in a much better position to selectively market their services, will sign up customers whose calls are predominantly inbound, such as credit card authorization centers and internet access providers. The LEC would find itself writing large months checks to the new entrant.

produce an efficient result that comports with the Commission's policy goals. Thus, even if the negotiations were conducted pursuant to Commission-prescribed rules and Commission oversight, as is proposed in ¶31, the likelihood is that the Commission would have to intervene ultimately to determine the reasonable rate to be charged. It would be far more efficient for the Commission to set such rates ab initio rather than subject the parties to the delay and administrative process that would inevitably ensue if negotiations were required in the first instance.

In that regard, Sprint is unaware of any statutory basis for the Commission to establish a binding arbitration process that would not be subject to judicial review. Indeed, the Administrative Dispute Resolution Act (5 U.S.C. §571 et seq.), mentioned by the Commission in ¶32 of the NPRM, allows agencies to use dispute resolution proceedings only if the parties agree to do so. See 5 U.S.C. §572(a). Moreover, even if that were not the case, §572(b) directs agencies to consider not using dispute resolution mechanisms in instances where those processes "would not likely reach consistent results among individual decisions" or the "matter significantly affects entities who are not parties to the proceeding…." Here there is no guarantee that individually-arbitrated negotiations between an ILEC and each of several CLECs would produce identical rates, and any difference in rates could be commercially harmful to one CLEC, vis-à-vis another CLEC whose arbitrated rate is more favorable.

Sprint also has serious misgivings about the Commission's authority to apply §§ 251 and 252 to the traffic in question, separate and apart from other purely local traffic. It is one thing for the Commission to decide, as a matter of policy, that local reciprocal compensation rates should apply to ISP-bound traffic, just as it has decided that local business rates should apply to the ESPs' purchase of access to the public switched network. However, it is quite another thing for

the Commission to require that intercarrier compensation for ISP-bound traffic be considered separately from reciprocal compensation for local calls, yet be subject to the procedures of §§251 and 252 of the Act. As the Commission held in its Local Competition Order, the reciprocal compensation provisions of §251(b)(5) only apply to local traffic, and not to access for long distance traffic.[2] Although Congress may confer, under appropriate circumstances, jurisdiction on state regulatory commissions, and can expand the jurisdiction of federal district courts to hear appeals from state commission decisions, there is nothing in the Communications Act that vests this Commission with the authority to grant jurisdiction over interstate communications to the states or to expand the jurisdiction of the federal courts. Any effort by the Commission to proceed down that legally infirm path would be harmful to competition, as well as the business interests of ILECs and CLECs alike, since it would simply spawn a new round of litigation and create additional business uncertainty until these issues are ultimately resolved.

Finally, regardless of how the Commission determines to treat inter-LEC compensation of ISP-bound traffic that is jurisdictionally interstate, neither it nor the states can rationally attempt to adopt different economic arrangements for jurisdictionally interstate and jurisdictionally intrastate ISP-bound traffic; nor, for that matter, could there be different arrangements for ISP-bound calls that are purely local and those that reach web sites, servers and the like that are within the state from which the call originated but outside the local calling area. A single connection from a consumer to an ISP can involve a number of separate queries and responses, some of which may be satisfied entirely within the local calling area, and some of which may involve queries to remote data bases in other parts of the state or another state or even

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[2] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 16012-13 (¶¶1033-34) (1996), subsequent history omitted.

another foreign country. There is no way for any LEC to know which portion of any particular ISP-bound call is local, intrastate toll or interstate. Thus, if the Commission believes that the interstate content of calls to ISPs is sufficient to warrant the exercise of interstate jurisdiction at all, the Commission should exercise plenary jurisdiction over such calls. However, for the reasons discussed above, the most responsible way of exercising any such plenary jurisdiction would be to treat the calls as if they were local for purposes of intercarrier compensation.

Respectfully submitted,

SPRINT CORPORATION

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April 12, 1999

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
Inter-Carrier Compensation for	)	CC Docket No. 99-68
ISP-Bound Traffic	)	

REPLY COMMENTS OF SPRINT CORPORATION

In its initial comments, Sprint urged the Commission to treat ISP-bound traffic as if it were local for purposes of intercarrier compensation. Sprint argued that this approach is the only one that is consistent with the Commission's access charge exemption for ESPs and the Commission's stated intent to continue to treat revenues and expenses relating to ISP-bound traffic as intrastate for purposes of jurisdictional separations. Because of the imbalance of bargaining power as between ILECs and CLECs, Sprint objected to the notion that compensation for this traffic is best left to negotiations (separate from those involved in determining reciprocal compensation for purely local traffic). Sprint also argued that the Commission's tentative solution to treat this traffic separately from local traffic, but in conjunction with negotiations for other aspects of local interconnection, and to create a Section 251/252-like mechanism for states and federal district courts to resolve negotiation impasses regarding ISP-bound traffic was beyond the Commission's jurisdiction.

Sprint's bottom line position – that the Commission should adopt a rule applying local reciprocal compensation rates to ISP-bound traffic, thereby treating this traffic as if it were local – is shared by a large number of competitive carriers.[1] Many of these carriers join in Sprint's concerns about the imbalance in bargaining power that exists between ILECs and CLECs, and about the

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[1] See e.g., AT&T at 3, MCI/WorldCom at 19, Time Warner at 1, ALTS at 12, Focal Communications at 14-15, CompTel at 3-5.

opportunity for delay that would ensue if intercarrier compensation for ISP-bound traffic were treated separately from purely local traffic.[2] The RBOCs share Sprint's view that the Commission cannot create Section 251/252-like jurisdiction in the state commissions and federal district courts. However, their proposals for intercarrier compensation are so extreme that they demonstrate the infirmity of treating ISP-bound traffic separately from purely local traffic and relying, in the first instance, on negotiations between ILECs and CLECs to determine such compensation. These reply comments will respond to the RBOCs' arguments and will discuss briefly separations issues and whether Section 252(i) applies to reciprocal compensation.

I. INTERCARRIER COMPENSATION

In general, the RBOCs argue either that there should be no intercarrier compensation for ISP-bound traffic, or that such compensation should flow to the originating carrier instead of the terminating carrier. More specifically, Ameritech argues (at 8) that no intercarrier compensation is appropriate. Bell Atlantic (at 1-2) similarly argues that the Commission should rely on negotiations to determine "whether, and if so, what form or amount of intercarrier compensation should apply" and urges (at 6), as a default position if no voluntary agreement is reached, that there should be no intercarrier compensation. BellSouth (at 9) would obligate the LEC serving the ISP to compensate the originating LEC, rather than vice-versa. SBC (at 22) would allow the originating LEC to be compensated through a meet-point billing arrangement in which that LEC could either bill the ISP a surcharge, bill the terminating LEC for access compensation or bill the ISP subscriber for access compensation. U S West (at 7) similarly draws on the meet-point billing/revenue-sharing mechanisms used for access and argues that the local business line revenues that the terminating LEC receives from the ISP should be shared with the originating LEC.

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[2] See e.g., AT&T at 4-5, TRA at 2-3, Time Warner at 14.

Despite the undeniable fact that a LEC performs the same functions in originating and terminating an ISP-bound call as it does in handling an ordinary voice local call, the RBOCs seize on the happenstance that the Commission has deemed ISP-bound calls to be "interstate" for jurisdictional purposes and proceed to advocate a "heads we win, tails you lose" approach to ILEC/CLEC interconnection. When (based again on the happenstance that some CLECs have focused their efforts on gaining ISPs as customers) traffic tends to flow from the ILEC to the CLEC, it is the ILEC, not the CLEC, that should receive compensation. Yet when traffic tends to flow to the ILEC from the CLEC, the terminating carrier is the one deserving of compensation.

The RBOCs' attempts to employ access-type meet point billing or revenue sharing arrangements to ISP-bound traffic cannot be reconciled with the Commission's ESP access charge exemption. It makes no sense to allow, as the Commission does, ESPs to order access facilities from the local business tariffs and, at the same time, require LECs serving ISPs to engage in access-like revenue sharing of local business revenues with other LECs. Applying the access revenue sharing mechanisms, which were designed to work in conjunction with the quite different scheme of interstate access charges, to the use of local business line rates for ESP traffic would be like trying to fit a square peg in a round hole.

The RBOCs' arguments as to why local reciprocal compensation arrangements should not apply to this traffic do not withstand scrutiny. Ameritech argues (at 6-10) that the revenues it receives from residential customers who are heavy users of the Internet do not even cover Ameritech's own costs before any payments to another LEC for terminating a call to the ISP, while GTE argues (at 7) that payouts related to the ISP calls from a particular end user customer can be more than double its average revenue from that end user. However, these concerns are in very large part issues of local service rate levels and structure that are within the purview of the state

calls any differently than calls to these similar businesses. The RBOCs also fail to address the practical difficulties involved in determining which traffic is ISP-bound and which is not. Obviously, the larger ISPs and their local access numbers may be well publicized, but there are also many small, less visible ISPs, and a LEC may have no way of knowing whether a particular business customer is an ISP. Unless the Commission were to impose registration requirements on ISPs and also to take enforcement action to shut down the operations of unregistered ISPs, there would be no effective way to enforce distinctions in intercarrier compensation arrangements as between calls to ISPs and calls to other local business customers.

Another common complaint of the RBOCs and GTE is that reciprocal compensation results in windfalls to CLECs, especially those who serve only ISPs.[4] They claim that there are instances where CLECs offer free service to ISPs or even give the ISPs "kickbacks" of a portion of the CLEC-reciprocal compensation revenues. In Sprint's view, this is more a fault of the level of reciprocal compensation than of applying the concept, as such, to ISP-bound traffic. It may well be that any windfalls that are accruing to CLECs serving ISPs today may in part be due to the RBOCs' greed. For example, Intermedia asserts (at 2-3) that before ISP traffic became a hot-button issue, ILECs often sought reciprocal compensation rates in excess of one cent per minute, but that after the ISP traffic issue gained more visibility, in 1998 several ILECs championed reciprocal compensation rates closer to 0.3 cents per minute.

Sprint believes that the Commission's rules governing reciprocal compensation should yield sound economic results when applied to ISP-bound traffic: Carriers can agree on bill and keep, and where traffic is reasonably balanced, state commissions can impose bill and keep (Section 51.713).

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[4] See e.g., Bell Atlantic at 3, GTE at 8-9, and SBC at 21.

commissions. Sprint does not deny that the substantial recent growth in Internet traffic imposes cost burdens on local exchange carriers that may not be adequately covered by existing rates. However, these cost burdens result from the nature of the traffic itself, rather than from the fact that some ISP-bound calls involve connections between two LECs. If a LEC serves both the end user and the ISP, it will incur the very same costs – and potential revenue shortfalls – that it incurs if the call only originates on its network and it must pay another local carrier to terminate the call to the ISP (assuming that the intercarrier compensation is set at cost-based levels). In other words, the sum of a LEC's local charges to a residential customer that makes heavy use of the Internet and the business line charges to the ISP may well be insufficient to cover the LEC's total cost of serving these two customers. But so long as the local rates govern end users, it makes no sense to apply non-local intercarrier compensation schemes to this traffic when more than one LEC is involved. Rather, the underlying problem is with the level and structure of the local rates, and can be addressed by rationalizing rate levels (e.g., eliminating implicit cross-subsidy of residential service by business service) and employing rate structures, such as measured local service, that better account for differences in usage patterns. This problem also may be ameliorated as xDSL services are deployed to remove data traffic from the circuit-switched network. Such services would be most appealing to the heaviest users of the Internet.

Moreover, although ISP-bound traffic may be atypical both in holding times and directionality, it is not unique. As other commentors have pointed out, there are several types of local businesses that have one-way patterns and typically long holding times, such as customer service centers, ticket agencies and box offices, and the like.[3] It makes no sense to treat ISP-bound

[3] See e.g., KMC Telecom at 4.

Where reciprocal compensation is necessary, the rates should be based on efficient forward-looking costs of the ILEC (Section 51.705). In general, the rates should be applied symmetrically, except where the CLEC can show that its TELRIC costs for an efficiently configured network are higher than those of the ILEC (Section 51.711).[5] If reciprocal compensation rates are in fact based on efficient TELRIC costs, there is no reason to believe that windfalls will accrue even to CLECs who concentrate their efforts on the ISP market. Indeed, as Sprint pointed out in its initial comments, a major policy reason for treating ISP-bound traffic as if it were local is that it tends to moderate the negotiating positions of ILECs and CLECs alike. By contrast, the RBOC position that they should receive reciprocal compensation for ordinary voice traffic and not be forced to pay any monies to CLECs who terminate ISP traffic would simply resurrect their incentive to seek unreasonably high reciprocal compensation rates.

GTE (at 7) claims that CLECs serving ISPs may be able to avoid circuit switching altogether, using "SS7 bypass devices" instead, and that reciprocal compensation would over-compensate such CLECs. However, one of the benefits of competition is that new entrants induce incumbents to become more efficient and to employ new technologies more rapidly. Nonetheless, GTE does not claim that any CLEC in fact is using such equipment and only cites "media descriptions" for its assertion that such equipment could reduce a carrier's cost by a factor of ten.

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[5] In the latter regard, Sprint disagrees with the assertion of GST Telecom (at 16-17) that if such studies of CLEC costs were conducted, the resulting costs would likely be higher than the costs of the ILEC because of "amortization, the CLEC's start-up costs and the risks inherent with entry in a capital intensive market." Start-up costs, by their nature, are not reflective of efficient long run incremental costs, and inasmuch as the Commission's TELRIC methodology allows for risk-adjusted costs of capital for ILECs, there is no reason to believe that the CLECs' capital costs should be greater than those of the ILEC. If a CLEC does not expect its long run incremental costs to be equal to or less than those of the ILEC, it makes no business sense for the CLEC to enter the market to begin with.

Thus, GTE has not proven that the use of such equipment warrants a different approach to intercarrier compensation.

SBC, on the other hand, argues (at 21-22) that the possibility that CLECs would share their windfall reciprocal compensation payments with ISPs would make the ISPs reluctant to move away from voice-grade circuit-switched technologies and to employ more efficient access arrangements. But, the clamor of the ISP industry for access to xDSL services of ILECs and to broadband cable services belies the contention that ISPs are technology-averse and content to use analog voice access in perpetuity. In any event, as discussed above, setting reciprocal compensation rates at proper forward-looking cost levels should eliminate any realistic possibility of LEC kickbacks to ISPs and thus eliminate any such economic incentives that may exist.

II. SEPARATIONS ISSUES

Ameritech (at 28) argues that intercarrier payments for ISP-bound traffic should be booked to the interstate jurisdiction, even though it supports treating other ISP costs and revenues as intrastate. SBC argues (at 29-31) that traffic-sensitive costs of originating ISP traffic should be allocated to the interstate jurisdiction. Both of these carriers take a one-sided approach to the issue. It makes no sense to treat one aspect of ISP-bound traffic as interstate while treating other aspects – including revenues from business lines sold to ESPs and revenues from end users who call ESPs – as intrastate. Given the Commission's determination (in ¶36) that "both the costs and revenues associated with [ESP] connections will continue to be accounted for as intrastate," the only logical course of action is to treat all costs and revenue streams related to ESP traffic as intrastate.

III. APPLICATION OF §252(i)

Ameritech (at 21-27) and Bell Atlantic (at 8) claim that most favored nation rights under Section 252(i) do not apply to intercarrier compensation for ISP-bound traffic. Ameritech, noting

that Section 252(i) limits the MFN requirement to "any interconnection, service, or network element... ," argues that reciprocal compensation is neither interconnection, a service provided by a LEC nor a network element. Although "reciprocal compensation" may not be a "service," the transport and termination of interconnected traffic is quite clearly a service that one LEC performs for another, and §252(i) requires such service to be made available to others "on the same terms and conditions." The reciprocal compensation rates that an ILEC charges to a CLEC are the terms and conditions for the service of transporting and terminating interconnected traffic. Thus, reciprocal compensation falls squarely within the provisions of Section 252(i).

Ameritech's attempt to buttress its weak statutory argument with a policy argument is equally unavailing. Ameritech argues (at 24-25) that if a particular requesting carrier has higher costs than the rest of the industry, and thus is entitled to higher reciprocal compensation payments, then allowing other, more efficient CLECs to opt into that agreement through Section 252(i) would allow all LECs to enjoy the benefits of the cost structure of the least efficient competitor. However, nothing in the Commission's MFN rules (Section 51.809) contemplates that that would be the case. The case where a CLEC can show that it is entitled to a higher reciprocal compensation rate would be an instance where asymmetric interconnection rates apply – a lower rate, based on the ILEC's costs, to be received by the ILEC, with the higher rate to be received only by the CLEC. In this instance, other CLECs seeking to interconnect with the ILEC would be entitled only to the ILEC's transport and termination rate. Indeed, the policy implications of Ameritech's position are quite anticompetitive: if Section 251(i) did not apply, an ILEC would be free to discriminate at will among CLECs by charging different transport and termination rates, when in fact the ILEC is performing the identical service for all CLECs.

Ameritech (at 25) and Bell Atlantic (at 8) further argue that since ISP-bound calls are not "local," intercarrier compensation for such calls is not within the ambit of reciprocal compensation, and thus the MFN provisions would not extend to such traffic. If, however, the Commission simply adopts a rule treating ISP-bound traffic as if it were local for purposes of intercarrier compensation, then any MFN elections of reciprocal compensation terms would automatically extend to ISP-bound traffic as well.

The other MFN issue on which other parties commented was whether the MFN election of an agreement can extend the term beyond the expiration date of the initial agreement. The overwhelming consensus in the record is that such election cannot serve to extend the terms of the agreement beyond its initial term, and Sprint shares that view.

IV. CONCLUSION

The Commission should promptly end the uncertainty that now surrounds intercarrier compensation for ISP traffic by adopting a rule that such traffic is to be treated as if it were purely local traffic.

Respectfully submitted,

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July 7, 1999

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UTILITIES COMMISSION

RE: McLeodUSA
Our File: #1924

Dear Bill:

Enclosed please find the original and 10 copies of McLeodUSA Telecommunications Services, Inc.'s Comments Regarding the Eligibility of ISP Traffic for Reciprocal Compensation. Please file the enclosure.

I am enclosing an additional face page of the brief. Please date stamp it and return it to me in the enclosed self-addressed stamped envelope.

With a copy of this letter, I am forwarding a copy of the attachment to the service list.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

DAVID A. GERDES

encl.
cc: Richard Rindler
Michael Shor
Alex M. Duarte

RECEIVED
JUL 07 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Filing by US WEST Communications, Inc. for Approval of Agreement for Local Wireline Network Interconnection and Service Resale between McLeodUSA Communications Services and US WEST Communications, Inc.	)	No. TC99-057

McLEODUSA TELECOMMUNICATIONS SERVICES, INC.'S COMMENTS REGARDING THE ELIGIBILITY OF ISP TRAFFIC FOR RECIPROCAL COMPENSATION

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Dated: July 7, 1999

INTRODUCTION

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), by its undersigned counsel, hereby submits its Opening Comments in this proceeding ("Notice"). US WEST's request for a declaratory ruling that would relieve it of its contractual obligation to McLeodUSA should be denied. Nothing in the recent *Declaratory Ruling* of the Federal Communications

Commission ("FCC")[1], and certainly none of the alleged policy or economic considerations fabricated by US WEST, provides grounds for the relief requested by US WEST. Indeed, the FCC's *Declaratory Ruling*, combined with the decision of some 30 other state commissions and federal court to consider the issue, mandates that the Commission conclude that US WEST's contractual obligations include the obligation to pay reciprocal compensation for calls to Internet service providers ("ISPs").

BACKGROUND

On May 26, 1999, US WEST filed with the Commission for approval the interconnection agreement (the "Agreement") it had entered into with McLeodUSA. McLeodUSA had exercised its rights under section 252(i) of the Telecommunications Act of 1996 (the "Act") and had opted in to the previously approved interconnection agreement between US WEST and AT&T.[2] Amongst a myriad of other rights, responsibilities and obligations, the Agreement set forth the obligation of each party to pay the other reciprocal compensation for the transport and termination of Local Traffic. Local Traffic was defined in the Agreement to mean "*intraLATA traffic within an exchange that is treated as toll free traffic* as established by the Commission and as reflected in the effective tariffs of US WEST."[3]

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP-Bound Traffic*, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in Docket No. 99-68, FCC 99-38 (rel. Feb. 26, 1999) ("*Declaratory Ruling*").

[2] To date, McLeodUSA has not interconnected with US WEST in South Dakota; instead, McLeodUSA currently offers only resale services to its customers. As such, there are no disputed invoices and no outstanding amounts due and owing to McLeodUSA for reciprocal compensation. However, McLeodUSA expects to begin developing facilities-based customers and will, in the future, seek the payment of reciprocal compensation from US WEST for transporting and terminating local traffic including, presumably, calls bound for ISPs.

[3] Agreement at Part A, p. 7 (emphasis added).

This clear-cut definition, which is never disclosed in US WEST's comments, only requires that traffic be treated as toll free. It does not rely on either the jurisdictional status of the traffic at issue, or on the identity of the end-user customer where a call is terminated. Despite this, US WEST has taken the position that it need not pay McLeodUSA reciprocal compensation for traffic originated by a US WEST customer, then handed off by US WEST to McLeodUSA and then terminated by McLeodUSA to one of its customers, because that customer happens to be an ISP. In support of its position, US WEST relies primarily on a myopic reading of the FCC's *Declaratory Ruling* and several unsupported policy and economic arguments. In the process, US WEST fails entirely to advise the Commission that the five state commissions in its service territory to have considered and decided the issue rejected the very same arguments and ruled that US WEST was obligated to pay reciprocal compensation for all local traffic – including calls bound for ISPs.

US WEST's request for relief is based on the grounds that the FCC has resolved that traffic to ISPs is not jurisdictionally local traffic and therefore not subject to the parties' reciprocal compensation obligations. In US WEST's view, the FCC's determination that ISP traffic is "largely interstate" is dispositive. US West is wrong. Indeed, the *Declaratory Ruling* provides overwhelming support for this Commission to conclude that ISP traffic should be subject to reciprocal compensation obligations that attach to the exchange of local traffic between local exchange carriers. The *Declaratory Ruling* clearly distinguishes between the analysis applied to determine the jurisdictional nature of ISP traffic – on which US WEST places singular reliance – and the regulatory treatment afforded that traffic – which US WEST pointedly ignores. The *Declaratory Ruling* affirms that the prior rulings of five other state commissions in US WEST's territory – that traffic to ISPs is subject to reciprocal compensation obligations– were appropriate

and it further affirms that, pending the completion of the FCC's own rulemaking on the subject, a similar finding by this Commission would be equally appropriate.

In its filing, US WEST draws the Commission's attention to narrowly selected aspects of the *Declaratory Ruling* while completely ignoring others. When the *Declaratory Ruling* is read in its entirety, rather than solely the excerpts US WEST prefers, it clearly supports the conclusion that US WEST must pay reciprocal compensation to McLeodUSA for traffic originated by a US WEST end user that McLeodUSA delivers to ISPs.

ARGUMENT

I. THE FCC SPECIFICALLY ABSTAINED FROM INTERFERING WITH STATE DECISIONS REGARDING RECIPROCAL COMPENSATION FOR ISP TRAFFIC

The FCC anticipated the very sort of attack that is being waged here in South Dakota by US WEST. Accordingly, the FCC expressly recognized that its jurisdictional determinations did *not* resolve the question whether reciprocal compensation is owed:

- [W]e conclude that ISP-bound traffic is jurisdictionally mixed and appears to be largely interstate. *This conclusion, however, does not in itself determine whether reciprocal compensation is due in any particular instance.*[4]

- Our determination that at least a substantial portion of dial-up ISP-bound traffic is interstate does not, however, alter the current ESP exemption. ESPs, including ISPs, continue to be entitled to purchase their PSTN links through intrastate (local) tariffs rather than through interstate access tariffs. Nor, as we discuss below, is it dispositive of interconnection disputes currently before state commissions.[5]

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[4] *Declaratory Ruling* at ¶ 1 (emphasis added).

[5] *Id.* at ¶ 20.

- We find no reason to interfere with state commission findings as to whether reciprocal compensation provisions of interconnection agreements apply to ISP-bound traffic.[6]

- [N]othing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of the rulemaking we initiate [in this Declaratory Ruling.][7]

- Until adoption of a final rule, state commissions will continue to determine whether reciprocal compensation is due for this traffic.[8]

These admonitions are grounded in the fact that the FCC's jurisdictional analysis is separate from the regulatory treatment of ISP-bound traffic. Moreover, that treatment is consistent with FCC precedent that has long recognized the distinction. In this case, the admonitions also are grounded in the requirements imposed upon the FCC and the states to administer the terms of the Act.

The Act created a structure in which state commissions are provided with the authority to approve interconnection agreements negotiated or arbitrated under federal law. As the FCC observed, it "has no rule governing inter-carrier compensation for ISP-bound traffic."[9] In the absence of such a federal rule, the FCC stated that:

> state commissions that have had to fulfill their statutory obligation under section 252 to resolve interconnection disputes between incumbent LECs and CLECs have had no choice but to establish an inter-carrier compensation mechanism and to decide whether and under what circumstances to require the payment of reciprocal compensation. Although reciprocal compensation is mandated

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[6] *Id.* at ¶ 21.

[7] *Id.* at ¶ 27.

[8] *Id.* at ¶ 28.

[9] *Id.* at ¶ 22.

> under section 251(b)(5) only for the transport and termination of local traffic, neither the statute nor our rules prohibit a state commission from concluding in an arbitration that reciprocal compensation is appropriate in certain instances not addressed by section 251(b)(5), so long as there is no conflict with governing federal law.[10]

The FCC expressly recognized that its existing rules, on their own, could not resolve the issue, and that applying reciprocal compensation to this traffic did not violate federal law.[11] Until there is a federal rule in place states had, and continue to have, the authority to resolve this issue.[12] This view has been reinforced significantly by the recent decision of the United States Court of Appeals for the Seventh Circuit which affirmed the underlying decisions of United States District Court for the Northern District of Illinois and the Illinois Commerce Commission in a case nearly identical to that before this Commission.[13] The Seventh Circuit approached its analysis by stating that the proper standard of review on appeal was whether the decision of a state commission requiring the payment of reciprocal compensation violated federal law. Noting the FCC's own determination that there was no conflicting federal law, the Seventh Circuit held that such a decision did not violate either the Act or the FCC's interpretations of that Act.

In this case, this Commission had not previously been asked to resolve this issue. As it approaches this task, the teaching of the *Declaratory Ruling* is that the FCC's jurisdictional determination provides no reason to disturb the well-reasoned conclusions of the five commissions in US WEST's territory that have addressed this issue and, equally important,

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[10] *Id.* at ¶ 26 (footnotes omitted).

[11] *Id.*

[12] *Id.* at ¶ 28.

[13] *Illinois Bell Telephone Co. d/b/a Ameritech Illinois v. WorldCom Technologies, Inc., et al.*, Case No. 98-3150, 1999 WL 436474, (7th Cir., June 18, 1999).

provides no basis for this Commission to reach any different conclusion. Quite to the contrary, the FCC explicitly stated that, if it were now standing in the shoes of this Commission when faced with this dispute, it probably would resolve it the same way:

> While to date the Commission has not adopted a specific rule governing the matter, we note that our policy of treating ISP-bound traffic as local for purposes of interstate access charges would, if applied in the separate context of reciprocal compensation, suggest that such compensation is due for that traffic.[14]

This Commission should do likewise and reject US WEST's oft-stated and oft-rejected effort to avoid its contractual obligations.

II. THE *DECLARATORY RULING* CLEARLY RECOGNIZES A CRITICAL DISTINCTION BETWEEN JURISDICTION AND REGULATORY TREATMENT

Although the FCC decided in its *Declaratory Ruling* that traffic to ISPs is jurisdictionally mixed but largely interstate, it also stated that its resolution of the jurisdictional nature of ISP-bound traffic did not resolve the issue of whether reciprocal compensation is owed for this traffic.[15] Rather, the FCC expressly divided its analysis into two major components – one focusing on the nature of ISP-bound traffic for the purpose of resolving jurisdictional issues, and the other on the separate issue of what regulatory treatment should apply to such calls. Thus, the determination that ISP-bound traffic is largely interstate in nature was made in the context of its jurisdictional analysis – not its assessment of the appropriate form of regulatory treatment. Indeed, the FCC repeatedly emphasized that its examination was intended to resolve only the jurisdictional issues. To illustrate, in the FCC's examination of the "severability theory," the FCC clearly addressed only the jurisdictional implications of the argument:

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[14] *Id.* at ¶ 25 (emphasis added).

[15] *Id.* at ¶ 1.

> We disagree with those commenters that argue that, **for jurisdictional purposes,** ISP-bound traffic must be separated into two components: an intrastate telecommunications service, provided in this instance by one or more LECs, and an interstate information service, provided by the ISP. As discussed above, the Commission analyzes the totality of the communication when determining **the jurisdictional nature** of a communication.
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> * * *
>
> The 1996 Act is consistent with this approach. For example, as amended by the 1996 Act, Section 3(20) of the Communications Act defines "information services" as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information *via telecommunications*." This definition recognizes the inseparability, **for purposes of jurisdictional analysis,** of the information service and the underlying telecommunications.
>
> * * *
>
> Thus, we analyze ISP traffic **for jurisdictional purposes** as a continuous transmission from the end user to a distant Internet site.[16]

Thus, the FCC most assuredly did not analyze ISP traffic for the purpose of resolving the reciprocal compensation debate. To the contrary, the FCC carefully crafted its analysis to address only the jurisdictional issues and, in the absence of a federal rule, expressly left the door open for state consideration of the regulatory treatment of ISP traffic with respect to the propriety of reciprocal compensation.

The *Declaratory Ruling* makes clear in other places that there is a distinct difference between "jurisdictional analysis" and "regulatory treatment." The first sentence of the *Declaratory Ruling* after the Introduction says, "[i]dentifying **the jurisdictional nature and regulatory treatment** of ISP-bound communications requires us to determine how Internet

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[16] *Declaratory Ruling* at ¶ 13 (emphasis added).

traffic fits within our existing regulatory framework."[17] At the same time that the FCC concluded that Internet traffic was "jurisdictionally mixed and appears to be largely interstate,"[18] it also noted that "the Commission [FCC] has treated ISP-bound traffic as though it were local."[19] This alone undermines US WEST's effort to avoid the payment of reciprocal compensation based primarily upon the FCC's jurisdictional analysis since the language of the agreement itself merely requires that calls be "*treated* as toll free" in order to fit the definition of local traffic. US WEST has simply chosen to ignore this clear distinction by pretending that it does not exist.

The decoupling of the FCC's "jurisdictional analysis" from its "regulatory treatment" is nothing new. The very existence of an exemption for ESPs from interstate access charges is proof of the difference between jurisdictional analysis and regulatory treatment. As the FCC stated, "although recognizing that it was interstate access, the Commission has treated ISP-bound traffic as though it were local."[20] The entire arrangement under which ISPs obtain local exchange service for the provision of interstate information service demonstrates that the distinction exists.

Moreover, the ability of the FCC to make this distinction and to create such a regulatory regime has been affirmed by the Eighth Circuit Court of Appeals.[21] In its appeal of the FCC's

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[17] *Id.* at ¶ 2 (emphasis added). This two-part analytical approach is reflected in the structure of the Discussion section, Part III, which is divided into Section A, "Jurisdictional Nature of Incumbent LEC and CLEC Delivery of ISP-Bound Traffic," (jurisdictional analysis) and Section B, "Inter-Carrier Compensation for Delivery of ISP-Bound Traffic" (regulatory treatment)..

[18] *Id.* at ¶ 2.

[19] *Id.* at ¶ 23. *See also, id.* at ¶ 5 ("In the *Access Charge Reform Order*, the Commission decided to maintain the existing pricing structure pursuant to which [enhanced service providers] are treated as end users for the purposes of applying access charges. Thus, the Commission continues to discharge its interstate regulatory obligations by treating ISP-bound traffic as though it were local."); *id.* at ¶ 16 ("We emphasize that the Commission's decision to treat ISPs as end users for access charge purposes and, hence, to treat ISP-bound traffic as local, does not affect the Commission's ability to exercise jurisdiction over such traffic.")

[20] *Id.* at ¶ 23.

[21] *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1997).

Access Charge Reform Order, US WEST, among other appealing ILECs[22], challenged the FCC's authority to exempt ESPs from certain aspects of interstate regulation and to vest with state commissions the authority to regulate the telecommunications services they use. As summarized by the Eighth Circuit,

> The BellSouth petitioners [including US WEST] and the Bell Atlantic parties next allege that the interstate access charge exemption for ISPs [here, information service providers] impermissibly requires state regulatory commissions to recover interstate costs. They argue that "[t]hat there is no question" that ISPs, like IXCs, use the local network to provide interstate services. . . . The petitioners contend that the FCC's suggestion that LECs "address their concerns to state regulators," amounts to a dereliction of the Commission's obligation to retain exclusive jurisdiction over interstate communications and forces state regulatory commissions to overstep their authority by recovering interstate costs.[23]

The Eighth Circuit rejected US WEST's argument. By permitting jurisdictionally interstate information services to be regulated as local services, "the Commission has appropriately exercised its discretion[.]"[24] Moreover, "[i]n these circumstances, we cannot say that the FCC has shirked its responsibility to regulate interstate telecommunications."[25]

The *Declaratory Ruling* recognizes and continues this regulatory regime in which services the FCC deems jurisdictionally interstate are regulated by states as local services. The FCC's position was confirmed when, after the *Declaratory Ruling*, the Chief of the Common Carrier Bureau of the FCC instructed Southwestern Bell to continue to report the cost and revenues

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22 *Id.* at 535 n.2.

23 *Id.* at 542, *citing Access Charge Reform Order* ¶346.

24 *Id.* at 543.

25 *Id.*

related to ISP-bound traffic in the intrastate jurisdiction.[25] Requiring reciprocal compensation for this traffic is totally consistent with this regulatory regime.

III. A DECISION THAT RECIPROCAL COMPENSATION IS OWED WOULD NOT CONFLICT WITH THE ACT

US WEST also asserts that it does not owe reciprocal compensation because the FCC has decided that ISP-bound traffic falls outside the scope of Section 251(b)(5). US WEST Filing at 4 - 5. That argument misses the point and has been rejected by the Seventh Circuit, as well as the FCC. First, that statement by the FCC in the *Declaratory Ruling* was made in the context of observing that there are no federal rules addressing inter-carrier compensation for ISP-bound traffic and, therefore, the states were obligated under Section 252 to resolve reciprocal compensation disputes. Second, that statement is merely an adjunct to the principle thrust of the FCC's discussion, which is that state commissions had – and still have – the authority to order reciprocal compensation for ISP traffic, regardless of any limits allegedly imposed by section 251(b)(5), because that determination did not conflict with any federal law. The FCC stated this view as follows:

> Although reciprocal compensation is mandated under Section 251(b)(5) only for the transport and termination of local traffic, neither the statute nor our rules prohibit a state commission from concluding in an arbitration that reciprocal compensation is appropriate in certain instances not addressed by section 251(b)(5), so long as there is no conflict with governing federal law. A state commission's decision to impose reciprocal compensation obligations in an arbitration proceeding – or a subsequent state commission decision that those obligations encompass ISP-bound traffic – does not conflict with any Commission rule regarding ISP-bound traffic.[27]

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[26] Public Notice, *Common Carrier Bureau Releases Letter to SBC Regarding Its Jurisdictional Separations Treatment of Internet Traffic*, 1999 WL 313950 (May 19, 1999).

[27] *Declaratory Ruling* at ¶ 26.

This statement makes clear that those state commissions that resolved this issue prior to the issuance of the *Declaratory Ruling*, and those that address the issue and resolve it for the first time after that ruling – such as this Commission – would not be acting inconsistently with the terms of the Act. A determination that reciprocal compensation obligations would apply to ISP-bound traffic would not conflict with federal law or FCC rules because no rule existed with which it could conflict.

The Seventh Circuit, in *WorldCom*, agreed. The Court rejected the very same argument, raised there by Ameritech, concluding that just because "the Act does not require reciprocal compensation for calls to ISPs is not to say that it prohibits it. . . . The Act clearly does not set out specific conditions which one party could enforce against the other. The details are left to the parties, or the commissions, to work out."[28]

Moreover, the FCC specifically addressed the argument that "our rules preclude the imposition of reciprocal compensation obligations to interstate traffic and that, pursuant to the ESP exemption, LECs carrying ISP-bound traffic are compensated by their end user customers -- the originating end user or the ISP."[29] While acknowledging this argument as "a reasonable extension of our rules," the FCC rejected the idea that it was dispositive of the question of reciprocal compensation for ISP-bound traffic.[30] The FCC's position on the matter is clear, and the deficiencies in the identical argument asserted here by US WEST could not be more obvious. There is no reason for this Commission to accept an argument made by US WEST that has already been declared inapplicable by the FCC and the Seventh Circuit.

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[28] 1994 WL 436474 at 5, slip. op. at 7.

[29] *Id.* at ¶ 26.

[30] *Id.* at ¶ 26.

V. US WEST'S ARGUMENT THAT THE *DECLARATORY RULING* RELIEVES IT OF ITS OBLIGATION TO PAY RECIPROCAL COMPENSATION HAS BEEN REJECTED BY EVERY STATE COMMISSION TO HAVE CONSIDERED THE ISSUE

Since the *Declaratory Ruling* was issued on February 26, 1999, incumbent carriers, including US WEST, have stampeded to state commissions and federal courts to present the same argument US WEST submits here: that the *Declaratory Ruling* relieves them of the obligation to pay reciprocal compensation for local traffic to ISPs. The argument has been rejected by nearly every regulatory body that has considered the issue – fourteen to date.[31] Notable among these

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[31] *In Re: Emergency Petitions of ICG Telecom Group, Inc. and ITC Deltacom Communications, Inc. for a Declaratory Ruling*, Docket No. 26619 (Ala. P.S.C., March 4, 1999); *Request for Arbitration concerning complaint of American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, Inc. and ACSI Local Switched Services, Inc. d/b/a e.spire Communications, Inc. v. BellSouth Telecommunications, Inc. regarding Traffic Terminated to Internet Service Providers*, Docket No. 981008-TP, Order No. PSC-99-0658-FOF-TP (Fla. P.S.C., April 6, 1999); *In the Matter of the Petition of Birch Telecom of Missouri, Inc. For Arbitration of the Rates, Terms, Conditions, and Related Arrangements for Interconnection with Southwestern Bell Telephone Company*, Order Clarifying Arbitration Order, Case No. TO-98-278 (Mo. P.S.C. Apr. 6, 1999) (effectively suspending SBC's payment obligation pending the FCC NPRM without altering its conclusion that some reciprocal compensation is owed); *In Re Petition of Pac-West Telecomm, Inc. for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Nevada Bell*, Order Adopting Revised Arbitration Decision, Docket Nos. 98-10015 and 99-1007 (Nev. P.U.C., April 12, 1999); *Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation*, Order Instituting Proceeding to Reexamine Reciprocal Compensation, Case No. 99-C-0529 (N.Y.P.S.C., April 15, 1999); *Electric Lightwave, Inc. v. US WEST Communications, Inc.*, Order No. 99-285 (Or. P.U.C., April 26, 1999); In the Matter of the Complaints of ICG Telecom Group, Inc., MCImetro Access Transmission Services, Inc., and Time Warner Telecom v. Ameritech Ohio, Case No. 97-1557-TP-CSS et al (Ohio P.U.C., May 5, 1999); Petition of GTE Hawaiian Telephone Company, Inc. for a Declaratory Order that Traffic to Internet Service Providers is Interstate and Not Subject to Transport and Termination Compensation, Docket No. 99-0067, Decision and Order No. 16975 (Ha. P.U.C., May 6, 1999); *Application of Global NAPs South, Inc. for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Bell Atlantic-Delaware, Inc.*, Docket No. 98-540, Order No. 5092 (De. P.U.C., May 11, 1999); *WorldCom, Inc. v. GTE Northwest Inc.*, Third Supplemental Order Granting WorldCom's Complaint, Granting Staff's Penalty Proposal; and Denying GTE's Counterclaim, Docket No. UT-980338 (Wa. U.T.C., May 12, 1999); *Complaint of MCI WorldCom, Inc. against New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for breach of interconnection terms entered into under Sections 251 and 252 of the Telecommunications Act of 1996*, Order, D.T.E. 97-116-C (Mass. D.T.E., May 19, 1999); *Complaint of Time Warner Communications of Indiana, L.P., Against Indiana Bell Telephone Company, Inc., d/b/a Ameritech Indiana, for Violation of the Terms of the Interconnection Agreement*, Order on Reconsideration, Cause No. 41097 (Ind. U.R.C. June 9, 1999); *In the Matter of the Complaint of MFS Intelenet of Maryland, Inc. Against Bell Atlantic-Maryland, Inc. For Breach of Interconnection Terms and Request For Immediate Relief*, Order, Case No. 8731 (Md.

reaffirmations of reciprocal compensation for ISP traffic are decisions from the Oregon Public Utilities Commission and the Washington Utilities and Transportation Commission. Both have rejected the same US WEST arguments asserted here. In its ruling, the Oregon Public Utility Commission explained that the *Declaratory Ruling* supports its conclusion that reciprocal compensation is owed for ISP-bound traffic. The Oregon Commission said:

> The ISP Decision, in which the FCC interpreted its policy on the nature of ISP traffic, does not support US WEST's position. In the ISP Decision, the FCC held that ISP traffic is jurisdictionally mixed but is largely interstate in nature. However, the FCC also stated that this determination is not dispositive of interconnection disputes currently before state commissions. The ISP Decision also acknowledges – contrary to US WEST's assertion that the FCC has historically treated ISP traffic as interstate – that the opposite is in fact true. "When construing the parties' agreements to determine whether the parties so agreed [to treat ISP traffic as local], state commissions have the opportunity to consider all relevant facts, *including the negotiation of the agreements in the context of this Commission's longstanding policy of treating the traffic as local*, . . ."
>
> The FCC specifically noted that it treats ISPs as end users for purposes of assessing access charges and exempts ISPs from payment of these charges. The FCC also noted that it permits ISPs to purchase their links to the public switched telephone network through intrastate business tariffs rather than interstate access tariffs, which allows ISPs to pay local business rates and interstate subscriber line charges for their switched connections to local exchange company central offices. In addition, the FCC also pointed out that incumbent local exchange company (ILEC) expenses and revenues associated with ISP traffic have traditionally been characterized as intrastate for separation purposes.[32]

P.S.C., June 11, 1999); *In the matter of the petition by Pacific Bell (U 1001 C) for arbitration of an interconnection agreement with Pac-West Telecomm, Inc. (U 5266 C) pursuant to Section 256(b) of the Telecommunications Act of 1996)*, Application 98-11-024, Opinion, Decision 99-06-088, (Ca. P.U.C., June 24, 1999).

[32] *Electric Lightwave, Inc. v. US WEST Communications, Inc.*, Order No. 99-285 (Or. P.U.C., April 26, 1999) at 6 (citations omitted, emphasis in original).

An arbitrator's decision in Washington also provides valuable insight to the issue presented here of whether reciprocal compensation should be paid for ISP-bound traffic given that enhanced service providers are exempt from interstate access charges. After first concluding that ISP-bound traffic is "local-interstate traffic," the arbitrator stated that

> LECs incur a cost when delivering traffic to an ISP that originates on another LEC's network and the terminating LEC does not directly receive any revenue from the customer who originates the call. Even though local-interstate traffic is not addressed by section 251(b)(5) of the Telecom Act, the FCC's policy of treating ISP-bound traffic as local for purposes of interstate access charges *leads to the equitable conclusion that it also should be treated as local for purposes of reciprocal compensation charges.* The only other alternative would be to apply interstate terminating access charges.[33]

In other words, if reciprocal compensation were not paid to the terminating LEC for transporting and terminating ISP-bound traffic, the carriers' costs would be uncompensated for the services it provides for the originating carrier's customer.

The Washington Commission also has addressed and resolved the issue in a contract enforcement proceeding. Adopting the same reasoning as the arbitrator quoted above, the Commission stated:

> We agree with WorldCom's analysis that, taking into consideration the compensation framework established in the Act, the termination of traffic carried by two carriers not otherwise subject to access charges is subject to reciprocal compensation.[34]

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[33] *Petition for Arbitration of an Interconnection Agreement between Electric Lightwave, Inc. and GTE Northwest Incorporated Pursuant to 47 USC Section 252*, Arbitrator's Report and Decision, Docket No. UT-980370 at 11 (Wa. U.T.C., Mar. 22, 1999)(emphasis added).

[34] *WorldCom, Inc. f/k/a MFS Intelenet of Washington, Inc. v. GTE Northwest Inc.*, Third Supplemental Order Granting WorldCom's Complaint, Granting Staff's Penalty Proposal; and Denying GTE's Counterclaim, Docket No. UT-980338 at 23 (Wa. U.T.C., May 12, 1999).

Some compensation mechanism must apply, and under the Act and in the absence of access charges, that mechanism would be reciprocal compensation. This sort of equitable resolution was identified by the FCC in the *Declaratory Ruling* as one basis, among many, on which state commissions could conclude that reciprocal compensation was owed for ISP-bound traffic.[35]

In addition, as stated above, other states have concluded that the *Declaratory Ruling* provides no reason to conclude that terminating LECs should not be compensated by originating LECs for transporting and terminating traffic to ISPs. In fact, the same argument asserted here – that the *Declaratory Ruling* acknowledged the distinction between jurisdictional analysis and regulatory treatment for ISP-bound traffic was specifically accepted by the Public Utilities Commission of Ohio.[36]

US WEST also places singular reliance on the decision of the Massachusetts Department of Telecommunications and Energy, which vacated its earlier decision that reciprocal compensation is owed for ISP traffic, as providing support for the argument it makes here.[37] That reliance is completely misplaced. Like the FCC's *Declaratory Ruling*, the *Massachusetts Order* must be read for what it says, rather than what US WEST wants it to say. The *Massachusetts Order* ruled only that the "sole and exclusive" basis for its earlier decision, the so-called "two call theory," had been invalidated by the *Declaratory Ruling*. It did not say reciprocal compensation was not owed for ISP-bound traffic; indeed, it stated unambiguously that "MCI WorldCom may

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[35] *Declaratory Ruling* at ¶ 27.

[36] *In the Matter of the Complaints of ICG Telecom Group, Inc., MCImetro Access Transmission Services, Inc., and Time Warner Telecom v. Ameritech Ohio,* Case No. 97-1557-TP-CSS et al (Ohio P.U.C., May 5, 1999).

[37] *Complaint of MCI WorldCom, Inc. against New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for breach of interconnection terms entered into under Sections 251 and 252 of the Telecommunications Act of 1996,* Order, D.T.E. 97-116-C (Mass. D.T.E., May 19, 1999) ("*Massachusetts Order*").

choose to renew its complaint upon some claim that Massachusetts contract law 'or other legal or equitable considerations' give rise to mutual obligations on its and Bell Atlantic's parts to pay reciprocal compensation for ISP-bound traffic, even despite the FCC's jurisdictional pronouncement."[38] The Department asserted that it was not prejudging the issue, but noted that "[i]f such a basis can be convincingly shown, then it would not be the Department's role to save contracting parties from later-regretted commercial judgments."[39] The *Massachusetts Order* simply restored the *status quo* before its earlier decision. In the words of the Massachusetts Department, "all that remains is a now-unresolved dispute."[40] To argue that the *Massachusetts Order* supports its position – particularly when McLeodUSA does not articulate the so-called "two call theory" as a basis for this Commission to decide the issue – is meritless.

McLeodUSA submits that this Commission should follow the example of those states that have reaffirmed their prior decisions, or made initial decisions, that reciprocal compensation is owed for ISP-bound traffic in light of the *Declaratory Ruling*.

VI. US WEST'S "POLICY" AND "ECONOMIC" ARGUMENTS ENTIRELY LACK MERIT

Perhaps recognizing the weakness of its legal arguments, US WEST peppers its request for relief with several "policy"and "economic" arguments, most of which seem simply fabricated out of whole cloth, at best, and utterly preposterous, at worst. McLeodUSA will address only the most egregious.

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[38] *Massachusetts Order* at 27, *quoting Declaratory Ruling* at ¶ 27.

[39] *Id.* at n.29.

[40] *Id.* at 26.

First, US WEST argues that reciprocal compensation is the scourge that will result in technical inefficiencies and network blockage.[41] Aside from the fact that this absurd position is rebutted earlier in US WEST's own filing[42], it is pure fanciful conjecture. Plainly, the Internet has grown for many complex economic and social reasons, none having anything to do with whether carriers pay each other reciprocal compensation for calls to ISPs. Moreover, US WEST reveals its true intent when it infers that it could easily handle the demands of Internet traffic if all the ISPs were served by US WEST, where it could just intervene manually to handle the loads.[43] US WEST forgets that one of the many benefits of competition – certainly one benefit envisioned by Congress when it passed the Act – is that the interplay of competitors will result in more efficient, cost-effective ways of dealing with present traffic and future demands. That is inherent in a market-based economy: it rewards those entities which provide cutting-edge technology at reasonable prices and punishes those entities which simply cannot or prefer not to compete. Indeed, competition already has had an impact in the way that services are provided to those seeking access to the Internet. US WEST is aggressively marketing its ADSL service, which not only provides consumers with faster, direct access to the Internet, but also relieves the very congestion that US WEST complains of in its filing. In its request for relief, US WEST is asking the Commission to protect it from new entrants who seek to compete in every sector of the local exchange market. Unquestionably, the Commission should decline US WEST's invitation.

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[41] *See, US WEST* filing at 22 - 25.

[42] *See, US WEST* filing at 14 - 15, where US WEST attributes the growth of the Internet to the growth of homes with PC's and notes that reciprocal compensation issues are only one of a set of issues to be addressed, along with issues arising from "the current environment of incredible technological advance, growth and speed." *Id.* at 15.

[43] *Id.* at 23.

Second, US WEST speculates – without offering any facts or empirical evidence to support its doomsday scenario – that "reciprocal compensation arrangements provide CLECs and ISPs with an economic incentive to encourage customers to place ISP calls for long periods of time, even if the customers are not continuously exchanging information with the website."[44] Here, too, US WEST's argument assumes that the only reason ordinary end-users connect to the Internet is to generate reciprocal compensation for some carrier somewhere. That argument is contradicted by its own earlier statement that people connect for "telecommuting, educational, informational, transactional and entertainment purposes."[45]

US WEST also seems to forget that, even if McLeodUSA were encouraging its customers to place more long-duration calls to ISPs, then either there would be no reciprocal compensation owed because McLeodUSA customers would be calling McLeodUSA-served ISPs or, alternatively, McLeodUSA would owe reciprocal compensation to US WEST.

Finally, US WEST suggests that reciprocal compensation payments for ISP traffic always will result in losses for the incumbent. This position is not supported by the facts or common sense. In the first place, US WEST's own chart suggests that, in the majority of situations, involving "Typical Home Users", there would be no losses because, its reciprocal compensation payments would be less than $4 per month.

At the same time, US WEST's assumptions fail to take into account the additional revenue that it collects from its customers for their second and third lines, the costs that US WEST "avoids" by using McLeodUSA's network to complete calls, and the substantial revenue that is generated by many other enhanced services US WEST provides – such as voice-mail, call

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[44] *Id.* at 22.

[45] *Id.* at 14.

waiting, call forwarding, fax machines and caller ID – that are such ubiquitous aspects of communications life today and are extremely profitable services for US WEST.

Similarly, US WEST's assumptions give the impression that the reciprocal compensation payments are completely one-way. This assumption ignores the fact that US WEST also will collect reciprocal compensation payments from McLeodUSA for calls McLeodUSA's customers make that US WEST terminates to its customers. These payments are in addition to the revenues discussed above that US WEST collects from its own customers, and, combined with those revenues, offset any reciprocal compensation payments US WEST must pay to McLeodUSA.

In sum, these arguments utterly lack merit and fail to support the extraordinary request that US WEST makes here. The Commission should see through the ruse perpetrated by US WEST and recognize that it is just but one part of a master plan that seeks to squelch competition in the local market.

VII. CONCLUSION

The FCC's *Declaratory Ruling*, and the decisions of every other state in US WEST's service territory clearly supports the view that the Commission should resolve this dispute by concluding that US WEST owes reciprocal compensation for traffic to ISPs. Such a decision would be entirely consistent with federal law and would facilitate the development of true competition in the local market. McLeodUSA respectfully requests that the Commission deny US WEST's request for relief and direct US WEST to pay reciprocal compensation to McLeodUSA for all local calls, including calls to ISPs.

Respectfully submitted,

Michael L. Shor (DAG)

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Counsel for McLeodUSA
Telecommunications Services, Inc.

Dated: July 7, 1999

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of July, 1999, an original and ten (10) copies of the foregoing document was filed by hand delivery to:

William Bullard, Jr., Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

and that a copy was delivered by hand to:

Cameron Hoseck, Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

and a true and correct copy was served by facsimile and United States mail, postage pre-paid, on:

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Alex M. Duarte
Senior Attorney

RECEIVED
JUL 14 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

July 7, 1999

Mr. Cameron Hoseck
Staff Attorney
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

FAX Received JUL 07 1999

Via Facsimile 605-773-3809 and U S Mail

Re: PUC Docket TC99-057 U S WEST/McLeod interconnection agreement

Dear Mr. Hoseck:

I apologize for the delay in responding to your June 16, 1999 letter to Todd Lundy regarding the above-referenced docket. Mr. Lundy was recently reassigned to another U S WEST state, and I have recently taken over his responsibilities regarding this docket and all other South Dakota PUC dockets.

I have reviewed your June 16th letter, and your suggestion that U S WEST consider withdrawing its filing at this time. Under the circumstances, U S WEST has determined to withdraw its filing at this time; however, its position on this issue has not changed. U S WEST will address this issue if and when it becomes ripe, and it reserves all of its rights regarding this issue in the meantime.

Accordingly, this is to advise the Commission, Staff and McLeod that U S WEST hereby withdraws its May 24, 1999 filing in PUC Docket TC99-057.

If you have any questions regarding this matter, please feel free to contact me at your convenience.

Very truly yours,

Alex M. Duarte

Cc Mr. Bill Haas, McLeod

McLeodUSA

FAX Received JUL 08 1999

July 8, 1999

RECEIVED

JUL 12 1999

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Cameron Hoseck, Esq.
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

Re: South Dakota PUC Docket TC99-057 - U S West/McLeodUSA Interconnection Agreement

Dear Mr. Hosack:

This letter responds to your letter dated June 16, 1999. Pursuant to its right granted by 47 U.S.C. § 252(i), McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") informed U S West Communications, Inc. ("U S West") in February 1999 that McLeodUSA sought to adopt the approved interconnection agreement between U S West and AT&T. This docket should simply involve approval by the South Dakota Public Utilities Commission ("Commission") of an existing interconnection agreement. McLeodUSA submits that neither arbitration nor any other type of investigation is needed before the Commission approves the agreement between McLeodUSA and U S West.

U S West's letter dated July 7, 1999 states that it was withdrawing its May 24, 1999 filing but reserving its rights regarding "this issue." In a subsequent telephone conversation, counsel clarified that U S West was not attempting to withdraw the interconnection agreement filed for approval, but was withdrawing its attempt to litigate the reciprocal compensation issue in this matter. Presumably, this matter can be clarified by U S West during the agenda meeting scheduled for July 13, 1999.

McLeodUSA acknowledges the agreement has some "parked" issues that can now be finally resolved in light of the U.S. Supreme Court's ruling. However, McLeodUSA believes the Commission does not need to resolve any "parked" issues prior to approval of the agreement. Indeed, the relevant part of the agreement for McLeodUSA's current South Dakota operations is the wholesale discount on Centrex Plus service. McLeodUSA has been awaiting approval of the U S West-AT&T agreement to secure the wholesale discount to which it is entitled in South Dakota. McLeodUSA would continue to suffer financial hardship if the Commission were to broaden this proceeding to resolve issues that can be adequately addressed after approval of the agreement.

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McLeodUSA would further note that it has already suffered financially by the unreasonable delay in the filing of the agreement for approval by U S West. Though McLeodUSA executed the agreement on March 30, 1999, U S West did not execute the agreement until April 27, and then delayed the actual filing until May 25, 1999. In light of the delay McLeodUSA has already endured, McLeodUSA requests the Commission approve the agreement at its earliest opportunity.

Respectfully submitted,

William A. Haas
Associate General Counsel

cc: Alex M. Duarte, Esq.
Neil Fulton, Esq.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING FOR APPROVAL OF AN AGREEMENT FOR LOCAL WIRELINE NETWORK INTERCONNECTION AND SERVICE RESALE BETWEEN MCLEODUSA COMMUNICATIONS SERVICES, INC. AND U S WEST COMMUNICATIONS, INC.	)	ORDER APPROVING ADOPTION OF AGREEMENT TC99-057

On May 26, 1999, U S WEST Communications, Inc.(U S WEST) and McLeodUSA Communications Services, Inc.(McLeod) filed a negotiated agreement for local wireline network interconnection and service resale with the South Dakota Public Utilities Commission (Commission).

On May 27, 1999, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the agreement had until June 17, 1999, to do so. Commission staff filed a letter of inquiry to the parties asking for clarification of whether this was a petition for arbitration or a petition for approval of an interconnection agreement. U S WEST on July 7, 1999, through its attorney Alex M. Duarte indicated that U S WEST was withdrawing its filing. McLeod in correspondence from its attorney William A. Haas on July 8, 1999, indicated that this was an adoption of the approved interconnection agreement between U S WEST and AT&T pursuant to 47 U.S.C. Section 252(i). The agreement contained several "parked" issues which are yet to be resolved. Additional Comments were received from McLeod, U S WEST and Sprint Communications.

At its duly noticed July 13, 1999, meeting, the Commission considered what action to take in this matter. U S WEST and McLeod appeared through their respective attorneys. McLeod acknowledged that the "parked" issues are yet to be resolved, but that the remainder of the agreement was still desired by it. At this meeting, it was represented to the Commission that after McLeod had signed the agreement, U S WEST had added language on page 82 which was not contained in the agreement between U S WEST and AT&T which was proposed to be adopted in this docket.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996, more specifically 47 U.S.C. Section 252(i). In accordance with 47 U.S.C. § 252(i), the Commission found that the agreement reached between U S WEST and AT&T is available to other telecommunications carriers and that McLeod may adopt the agreement and that certain "parked" issues are yet to be resolved. U S WEST would not be jeopardizing its position as to those parked issues by reason of McLeod's adoption of the U S WEST/AT&T agreement. The Commission voted to approve adoption of the agreement; Commissioner Schoenfelder dissented. It is therefore

ORDERED, that the Commission approves the adoption by McLeod of the agreement as negotiated between U S WEST and AT&T without any unilateral modification by U S WEST; and it is further

ORDERED, that U S WEST's positions on the "parked" issues contained in the adopted U S WEST/AT&T agreement shall not be altered by reason of the Commission's approval of the adoption of this agreement by McLeod; and it is further

ORDERED, that the docket be closed.

Dated at Pierre, South Dakota, this 23rd day of July, 1999.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Delaine Kolbo

Date: 7/23/99

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner dissenting