Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
	)	
Local Exchange Carriers' Rates,	)	
Terms, and Conditions for	)	CC Docket No. 94-97, Phase II
Expanded Interconnection Through	)	
Virtual Collocation for Special	)	
Access and Switched Transport	)	

U S WEST COMMUNICATIONS, INC. DIRECT CASE

Kathryn Marie Krause
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2859

Attorney for
U S WEST COMMUNICATIONS, INC.

Of Counsel,
Dan L. Poole

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U S WEST COMMUNICATIONS, INC. DIRECT CASE

I. INTRODUCTION AND SUMMARY

U S WEST Communications, Inc. ("U S WEST") herein responds to the Common Carrier Bureau's ("Bureau") recently-promulgated VEIC Tariff Investigation Order,[1] and the questions proposed therein.

U S WEST is, frankly, perplexed by the Bureau's request that we respond (and defend) our original Virtual Expanded Interconnection ("VEIC") Interconnector-Designated Equipment ("IDE") tariffs.[2] As the Bureau is well aware, and indeed acknowledges in the VEIC Tariff Investigation Order itself, those tariffs have been superseded by U S WEST's Transmittal No. 614,[3] which provides an

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[1] In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase II, Order Designating Issues for Investigation, DA 95-2001, rel. Sep. 19, 1995 ("VEIC Tariff Investigation Order").

[2] Id. ¶ 21, n.54.

[3] Id. ¶ 17 and note 7, infra.

Interconnector ("IC") with a no-cost lease option with respect to the provisioning of IDE.

As a result, most of the inquiry that the Bureau lodges with respect to this issue, at least with respect to U S WEST, is no longer ripe for review or analysis. While certain of the Bureau's questions can be responded to factually (or as a matter of clear implication from the facts already known), much of that inquiry would require U S WEST to engage in speculation and hypothetical responses. Neither is a sound basis on which to craft a business statement of position or a regulatory analysis of reasonableness.

Since, as a matter of fact, many of the issues the Bureau inquires about with respect to the costing and pricing of VEIC IDE under since-superseded tariffs are moot, U S WEST requests that the Bureau declare them so, and proceed to resolve questions about the reasonableness of U S WEST's currently-effective tariff without resolving those outstanding issues. U S WEST discusses this matter in greater detail, below.

With respect to those issues that are ripe for review, U S WEST is confident that the information we provide herein demonstrates the reasonableness of our cost and rate methodologies, as they have been incorporated into our currently-effective tariff for VEIC service. And, we believe, that we have made a compelling case that certain of the comparisons and analogies that the Bureau seeks to make between U S WEST's DS1/DS3 services and our VEIC service are simply misdirected. These two services vary substantially in material ways, not the least of which is their product history and management; their product design, terms and conditions; and their cost-recovery assurances. Given these differences, the Bureau can only go so far in using traditional DS1/DS3 services as some sort of "template" for VEIC service.

Overall, U S WEST's responses should entirely satisfy the concerns of the Bureau about the reasonableness of U S WEST's currently-effective VEIC tariff. And, the Bureau should permit that tariff to remain in effect, entirely as promulgated by U S WEST.

II. ISSUES DESIGNATED FOR INVESTIGATION

A. "Issue A: Are the direct-cost components of the LECs' [VEIC] rates justified?"[4]

1. Charges for Provision of Interconnector-Designated Equipment ("IDE")

In the VEIC Tariff Investigation Order, the Bureau requires certain companies to provide information about "the direct cost components of their virtual collocation rates"[5] and to justify those rates through certain information submissions. In U S WEST's case, the Bureau has requested that U S WEST provide information about Transmittals which were in effect for a relatively short

[4] Id. ¶ 12. The arguments made in this Section also pertain to the information requests found at "Issue B: Are the rate structures established in the [VEIC] tariffs justified?," Point 1 ("Nonrecurring Charges for [IDE]"), addressed below at Section II.B.

[5] VEIC Tariff Investigation Order ¶ 14.

time and have since been superseded;[6] had but two customers who never actually received service pursuant to those Transmittals and were never billed for a finished service under them; and who were converted to a more IC-friendly VEIC IDE tariff in May of this year.[7]

Curiously, although our Transmittal No. 614, with its no-cost lease option, has been rolled into this current investigation,[8] the Bureau makes no inquiry with respect to that Transmittal. Even more significantly, however, is the fact that the Bureau makes no inquiry whatsoever into the reasonableness of those local exchange company ("LEC") tariffs that were originally filed utilizing what the Bureau calls a "$1 sale and repurchase agreement."[9] Clearly, tariff structures accommodating the provision of VEIC IDE under such a model raise different reasonableness issues in the Bureau's mind.

U S WEST should be exempted from responding to portions of the current investigation with respect to our earlier-filed Transmittals. Portions of the

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[6] See id. n.54. The no-longer effective tariff provisions were contained in Transmittal Nos. 531, 537, 539 and 549.

[7] See id. ¶ 17, n.39. As therein acknowledged, on Apr. 11, 1995, U S WEST filed Transmittal No. 614 (or "U S WEST Transmittal No. 614"), in which we proposed, "*inter alia*, to permit [ICs] to purchase [IDE] and lease the equipment to US WEST [sic] via a 'no cost lease.'" That Transmittal became effective on May 27, 1995, and was made subject to the instant investigation. See In the Matter of U S West Communications, Inc. Revisions to Tariff FCC No. 5, CC Docket No. 94-97, Transmittal No. 614, Order, DA 95-1153, rel. May 25, 1995.

[8] VEIC Tariff Investigation Order ¶17, n.39.

[9] Id. ¶¶ 17, 21(f).

investigation are no longer "ripe" with respect to them; and our Transmittal No. 614 has rendered moot the need for decision regarding them.

While our earlier pleadings (including Descriptions and Justifications, Reply filings, Direct Cases and Rebuttals) with respect to the superseded Transmittals may not have addressed each item about which the Bureau currently inquires, they did address many of them. Furthermore, they addressed those matters at a point in time in which the debate was meaningful and the responses based on current business practice or intentions. Neither can be said for portions of the current investigation.

It is true that some of the Bureau's recent inquiries can be responded to based on facts or clear implications from those facts.[10] However, most of what the

[10] For example, with respect to the Bureau's inquiry (id. ¶ 21(b)(1)), the basic explanation of how U S WEST computed our VEIC IDE rates has already been provided. See Appendix B for a list of the citations to where we have provided such explanations. Those IDE rates included IDE material prices received from vendors which included only the cost to "furnish" the IDE. The vendor quotes did not include engineering or installation costs. U S WEST added investment factors to the vendor-quoted list prices to recover operating company costs for engineering and installation. Reply of U S WEST Communications, Inc., to Petitions to Reject, Suspend and/or Investigate, filed Oct. 31, 1994 at 17 ("U S WEST Original VEIC Tariff Reply").

Similarly, since U S WEST's earlier Transmittals were based on vendor list prices for IDE, if and when that IDE was requested by an IC, the implication was clear that the fact that U S WEST might have used the same equipment (either currently or in the future) was, at least for equipment-purchase purposes, immaterial and irrelevant (responding to inquiry in the VEIC Tariff Investigation Order ¶ 21(b)(2)). See Transmittal Nos. 530-531, Description and Justification, filed Sep. 1, 1994 at 1-5 ("Original VEIC D&J"). Petition for a Temporary Waiver or in the Alternative for an Extension of Time of Tariff Effective Date, filed Sep. 1, 1994 ("U S WEST VEIC IDE Waiver"), generally.

With respect to the inquiry into Annual Cost Factors ("ACF") (VEIC Tariff Investigation Order ¶ 21(d)), U S WEST used the same ACFs that are applied to all 357C circuit equipment. We did not apply all the ACFs to the IDE investment, because the IDE was expensed rather than capitalized. The only ACFs that we applied to the IDE were administrative expenses and business fees.

With respect to the "price outs" referred to by the Bureau (id. ¶ 21(e)), U S WEST's price out model, filed as Attachment C to Transmittal Nos. 530 and 531, reflected an estimated price for an OC12, since vendor-specific prices had not been received by U S WEST by the original Sep. 1, 1994 filing

Bureau is inquiring about would require U S WEST to base a response on speculation and hypotheticals,[11] neither of which is a sound basis on which to defend -- or find substantively unreasonable -- a carrier practice.

When U S WEST filed our earlier Transmittals, we included in our relevant filings all the timely, relevant and pertinent information available to us regarding the costs and prices of the IDE and our practices.[12] Subsequently, and while those Transmittals were still in effect, we responded to various Petitions to Reject or Suspend those Transmittals. There, we again provided information as to the bases for the cost and rate figures used in those filings,[13] as well as the motivations behind and the specifics of certain of our challenged practices. Indeed, the Bureau's VEIC Tariff Investigation Order is replete with references to that information.

However, since the day that U S WEST's Transmittal No. 614 was allowed to go into effect, U S WEST has not dedicated resources to the specifics of the earlier-

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date. Once actual equipment prices were received from the vendors, U S WEST filed the additional prices for equipment in Transmittal Nos. 538 and 539. In that filing, U S WEST modified the price-out model to include the rate of an Alcatel 1612SM Lightwave Terminal and four DS3 Interface Cards, and attached that modified price out model as Appendix A, Attachment C. The equipment selected for the price-out model was selected because it could accommodate 100 DS1s.

[11] For example, U S WEST's current, effective tariff renders absolutely moot any need to figure out what we might have done in the event of facts such as those described in portions of the VEIC Tariff Investigation Order (id. ¶ 21(b) and (c)). What is clear is that, under our old Transmittals, we would not have had a "procedure[ ] for recomputing an equipment rate when an [IC] offer[ed] to sell [U S WEST] the desired equipment at a price lower than that upon which the tariffed rate [was] based" (id. ¶ 21(b)(3)); nor a "procedure[ ] . . . for computing equipment rates for this equipment based on the price at which an [IC] may offer to sell [the] equipment" (id. ¶ 21(c)), because U S WEST had not encountered either situation. Were U S WEST to still have the Transmittals in effect that the Bureau inquires about, perhaps we would have developed such procedures. But we did not, and there would be no reason to develop them (or speculate about what they might have contained) now.

[12] See generally Original VEIC D&J.

[13] U S WEST Original VEIC Tariff Reply at 10-17 and Exhibit A.

filed, since-superseded Transmittals. Indeed, for us, a major motivating factor in replacing the terms of our earlier-filed Transmittals with Transmittal No. 614 was to get out from under the administrative burdens of attempting to design and convert a service offering into a "common carriage" one when it inherently was not one, and to minimize regulatory intervention and insinuation into our ongoing business operations.[14]

As a result of the above-outlined situation, U S WEST has little additional to say on the matter of rate-setting for the VEIC IDE beyond that which we have said previously. We have little additional information that would further a Bureau inquiry into whether "the direct cost components of the LECs' virtual collocation rates [are] justified,"[15] for the simple reason that we no longer have VEIC IDE "rates" and have not had any since May of this year.

We can, however, point the Bureau to those instances in which we have already provided information that the Bureau seeks here. For example, we have described how we calculated our IDE rates.[16] For the initially-requested equipment,

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[14] See Transmittal No. 614 Description & Justification, filed Apr. 11, 1995 at 1-2 ("Transmittal No. 614 D&J"). And see Reply of U S WEST Communications, Inc. to Various Petitions to Reject or Suspend, filed May 3, 1995 at 5, n.9 ("U S WEST Transmittal No. 614 Reply"). We very much wanted to avoid the kind of contention and regulatory black hole that continues to be visited upon companies such as Southwestern Bell Telephone Company ("SWBT"), for example.

[15] VEIC Tariff Investigation Order ¶ 12, Issue A.

[16] Those rates were derived from requests to vendors to provide us with list-price information for those pieces of VEIC IDE with respect to which we had received IC requests as of Aug. 1, 1994. From those list prices, VEIC IDE rates were calculated. See Appendix B.

U S WEST calculated the rate and filed the same.[17] After that, as we have stated, "[a]s each individual [IC] request[s] a piece of equipment, [U S WEST] [would] purchase that piece of equipment."[18]

For ongoing IDE requests, U S WEST would "file to modify its tariff to add any new additional equipment rate elements that may be necessary within 30 days of receipt of the request from an interconnector."[19] Obviously, there would have been discussions between U S WEST and ICs as the information came in from vendors about the IDE and the tariff process was initiated. There would not, however, have been a "posted" tariff price for equipment in advance of an [IC] request for the equipment.[20]

However, no IC was harmed by the absence of a "posted" tariff price. U S WEST had only two prospective purchasers of VEIC service under our earlier-filed Transmittals, and both of those requests involved VEIC IDE rates that were on file with the Federal Communications Commission ("Commission"). Furthermore, neither of those two customers consummated a purchase under the earlier-filed Transmittals, and both were converted to the tariffed no-cost lease option at the earliest opportunity.

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[17] For the initial IDE rates, U S WEST required a short waiver of the tariff effective date in order to populate the IDE rate fields, as vendor information was not easily secured. See U S WEST VEIC IDE Waiver, generally. By Oct. 3, 1994, all of the VEIC IDE rates for VEIC IDE requested as of Sep. 1, 1994 were filed with the Commission.

[18] Transmittal No. 614 D&J at 2-4.

[19] Id. at 1-5.

[20] See VEIC Tariff Investigation Order ¶ 21(a).

The facts that U S WEST did not have a single consummated VEIC purchase under our earlier-filed Transmittals, and that we no longer have the provisions in place, argue strongly that U S WEST should not be expected to defend a since-superseded VEIC offering. The issues that the Bureau is investigating in this current proceeding are simply no longer ripe for decision with respect to U S WEST.[21] The reasonableness of our earlier-filed tariffs is, for all intents and purposes, moot.[22]

In an effort to conserve and target scarce resources, those of both the Commission and U S WEST, we urge the Bureau to rule that those portions of the VEIC Tariff Investigation Order that focus on VEIC IDE rates are no longer ripe with respect to U S WEST.[23] The fact that no LEC with whom U S WEST is currently similarly situated was required to respond to these portions of the current

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[21] Other than with respect to our no-cost lease option VEIC IDE offering. See note 7 and pages 4-5, supra.

[22] Compare In the Matter of Communications Satellite Corporation, Tariff F.C.C. No. 103, Order, 2 FCC Rcd. 5108 (1987) (Noting that Comsat's withdrawal of its proposed tariff appropriately led to a termination of "the investigation of the proposed rates and rate structure issues . . . as moot[;]" and that "those issues remain unresolved."); In the Matter of Communications Satellite Corporation, Revisions to Tariff F.C.C. No. 103, Memorandum Opinion and Order, 4 FCC Rcd. 7865 ¶ 3, 7867 n.5, 7867-68 n.6 (1989) (noting that the Comsat tariff issues became moot before the investigation was completed). While the Comsat situation involved a tariff that was under a five-month investigation (and apparently never effective) and which was later withdrawn, the principles articulated in the Comsat Orders are equally applicable to U S WEST's situation where our "effective" tariff never realized a consummated purchase, no refund liability could attach, and the tariff has since been superseded. For all material purposes, then, we are similarly-situated to Comsat.

[23] Clearly, the Bureau is not compelled to make such a ruling. However, the fact that businesses press on with current matters, and that the Commission staff clearly has enough ripe material on its plate to fully employ its resources, suggests that this matter should not proceed to a formal "ruling." Such a ruling, if adverse to U S WEST, for example, could entail an appeal -- a further stretch of resources and energies regarding a tariff structure that never had a consummated purchase and which is no longer in effect. Prudence dictates a reservation of judgment until such issues are ripe for decision and review.

Investigation[24] is a clear indication that these issues are not relevant to such offerings.

Finally, no public interest would be served by requiring U S WEST to defend, beyond what defense we have already proffered, our earlier-filed Transmittals. Those Transmittals have been superseded by our tariffed no-cost lease option. And, no consummated purchase was ever made under the earlier-filed Transmittals. It is clear that the provisions of the Transmittals filed prior to Transmittal No. 614 (including both the form and substance of those provisions) are no longer ripe for a vigorous defense, a meaningful Commission response, or timely appellate review.

2. Charges for Installation of IDE[25]

While the Bureau does not specifically subject U S WEST to any "information requirement" with respect to the matter, since -- with our Transmittal No. 614 -- we are now more "similarly-situated" with those LECs offering the $1 sale and repurchase agreements for VEIC IDE than we were previously, we deem it appropriate to respond to the Bureau's inquiry on this matter.

U S WEST's VEIC Equipment and VEIC Engineering - Labor nonrecurring charges[26] are incurred at the point the IC provides U S WEST with the VEIC IDE.

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[24] See VEIC Tariff Investigation Order ¶¶ 17, 21.

[25] Id. ¶¶ 22-26.

[26] These charges were added in Transmittal No. 614, where U S WEST introduced the no-cost lease option. At this point, U S WEST had to recover these costs separate from the bundled VEIC IDE rate element that was associated with the VEIC IDE rate under Transmittals 530, 531 et al.

Direct investment was not a consideration in developing these charges. Rather, U S WEST sought to recover these charges by means of a direct labor rate, based on the work groups that are involved with performing installation and engineering work activities associated with the IDE.

Initially a loaded labor rate (consisting of wages and salaries, direct supervision and support, benefits and other miscellaneous expenses) was identified to which certain ACFs (i.e., administrative expense and business fees) were added. The labor rate was then applied on a per-one-half-hour increment.[27]

In contrast, U S WEST recovers the cost of equipment installation and engineering for DS1 and DS3 services[28] by developing a total installed investment to

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[27] This responds to the Bureau's inquiry at ¶ 30(a) and (c).

[28] Throughout its VEIC Tariff Investigation Order, the Bureau refers to LECs' DS1 and DS3 high-capacity services as "comparable" to VEIC services. See, e.g., id. ¶¶ 26(b), 30(b), 34(a), 42(a), 52(b), 56. U S WEST does not agree with the Bureau that these services are "comparable," a disagreement that we have publicly stated on more than one occasion. U S WEST Communications, Inc. Direct Case, filed Mar. 21, 1995, at 2, CC Docket No. 94-97, Phase I (with respect to the Overhead Loadings Investigation) ("Original Direct Case"); Rebuttal to Oppositions to U S WEST Communications, Inc. Direct Case, filed Apr. 11, 1995, CC Docket No. 94-97, Phase I; at 1-7 ("Rebuttal to Oppositions to Original Direct Case"). We remain of this position. Thus, while we respond to the Bureau's inquiries herein and below, our response should not be deemed as acceptance of the proposition that the Bureau, in fact, is comparing comparable services in its inquiry or analyses.

Furthermore, this lack of "comparability" is apparent throughout this Direct Case. In some cases, U S WEST might recover certain costs through nonrecurring charges in a VEIC environment, and through recurring charges in a DS1/DS3 environment. In other cases the reverse might be true. Critical factors in making these kinds of decisions include the undeniable facts that DS1/DS3 services are mature services with substantial market and pricing history; VEIC services are not and lack both. For example, U S WEST knows approximately how long customers keep DS1/DS3 services, what their turnovers are, whether we can secure full recovery of nonrecurring costs through recurring charges (with a reasonable contribution) over time, whether the level of the recurring charges will impede such a cost-recovery structure, and so on. We have no such information or history with respect to VEIC service. Indeed, as many of the ICs who purchase this service from U S WEST are our competitors, it is not unreasonable to assume that VEIC service is in the nature of a "resale service," that will be replaced (sooner or later, and we, unfortunately, do not know which) with facilities-based competition. In such a situation, it makes little sense to design a rate structure that will allow for recovery of our nonrecurring costs through recurring charges.

which ACFs are applied. The installation and engineering factors are a part of the investment loadings that are applied to the material investment to derive the total installed investment.

3. Charges for Maintenance and Repair of IDE[29]

While the Bureau mentions U S WEST in the course of its discussion of this issue,[30] it does not specifically subject U S WEST to any "information requirement" with respect to the matter. Perhaps this was due to the Bureau's apparent concern with the absence of direct LEC investment in the VEIC IDE under a $1 sale and repurchase agreement and the recovery of maintenance and repair charges.

Since, with our Transmittal No. 614, U S WEST is now more "similarly-situated" with those LECs offering the $1 sale and repurchase agreements for VEIC IDE than we were previously, we deem it appropriate to respond to the Bureau's inquiry on this matter.

Normally, this would not be much more than a service differentiation discussion. Yet, the Bureau's continued penchant to compare VEIC apples with DS1/DS3 oranges subjects the LECs' VEIC service to potential mandates to which it is not well-suited based on inappropriate analogies that defy market and economic validators. The Bureau should exercise extreme caution in this area. Right now, for example, U S WEST's nonrecurring charges for standard DS1 and DS1 EICT are the same. Standard DS3 is slightly below DS3 EICT ($313.25 vs. $329.00). However, the recurring charges for standard DS1/DS3 Services are substantially higher. Changing the VEIC nonrecurring cost recovery and rate structure could well drive U S WEST to a rate structure in which we seek to recover what are logically nonrecurring costs through a recurring rate structure, where the demand does not support the ultimate recovery (or at least the corporation is put at risk with regard to such recovery). The Bureau should refrain from such action, leaving to sound business management the particulars of the VEIC service rate design.

[29] Id. ¶¶ 27-30.

[30] Id. ¶¶ 27, 30.

U S WEST's VEIC Equipment Maintenance - Labor nonrecurring charge is incurred only when the interconnector requests maintenance or repair on the VEIC IDE and is not charged when such services are not performed.[31] Direct investment was not a consideration in developing this charge. Rather, U S WEST seeks to recover these maintenance costs by means of a direct labor rate, based on the work groups that are involved with performing maintenance and repair activities associated with the IDE.

Initially a loaded labor rate (consisting of wages and salaries, direct supervision and support, benefits and other miscellaneous expenses) was identified to which certain ACFs (i.e., administrative expense and business fees) were added. The labor rate was then applied on a per one-half hour increment.[32]

In contrast, U S WEST recovers the cost of maintenance for DS1 and DS3 service by developing a total installed investment to which ACFs are applied. These ACFs recover the cost for maintenance. The maintenance factor is based upon an average maintenance cost for all types of equipment in a particular equipment account. Refer to U S WEST Tariff FCC No. 5, Section 7.5.9.A for DS1 service; and Section 7.5.10.A for DS3 service.[33]

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[31] Compare what appears to be Ameritech's position. See id. ¶ 29 ("Ameritech responds that its specific charges for maintenance 'requested by the [IC]' apply only to the maintenance and repair of the [IDE][.]").

[32] This responds to the Bureau's inquiry at id. ¶ 30(a) and (c).

[33] This responds to the Bureau's inquiry at id. ¶ 30(b).

4. Charges for Cable Installation and Cable Support[34]

As the Bureau notes, U S WEST's tariffs (like those of most LECs) include "specific rate elements designed to recover the costs associated with installation of cabling and cable support structures."[35] And, as acknowledged, U S WEST has already defended the existence and amount of such constituent rate components against arguments that they are excessive.[36] Despite this defense, U S WEST has been required to provide certain additional information about our cable rate structure and the charges reflected by that structure.[37]

U S WEST has no separate rate "element" for "installation of cabling and cable support structures." Rather, we have a VEIC Entrance Facility rate element that recovers costs associated with labor, cabling support structures, testing equipment, and engineering of the VEIC cable. The same types of costs are recovered in our DS1 and DS3 services.

With respect to VEIC service, the VEIC cable is expensed and recovered *via* a one-time nonrecurring charge. The similar costs in DS1/DS3 services are capitalized and recovered in monthly recurring charges.

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[34] Id. ¶¶ 31-34.

[35] Id. ¶ 31.

[36] Id. ¶ 33.

[37] Id. ¶ 34(a). U S WEST was not required to respond to the inquiries in ¶ 34(b).

The difference in cost recovery is correlated to the differences in the product offerings, to U S WEST's understanding of the ultimate demand characteristics of the VEIC service,[38] and to our currently-established terms and conditions associated with the two offerings.[39]

5. Charges for Cross-Connection Service[40]

U S WEST was not required to provide any information with respect to this matter of inquiry.[41]

6. Provisioning Charges[42]

The Bureau notes that all of the LECs' tariffs contain rates to recover VEIC provisioning costs, which are "the costs associated with service order processing and design engineering for equipment dedicated to the [IC]."[43] All LECs were required to provide information with respect to such rates and cost recovery.[44]

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[38] See note 31, supra.

[39] For example, VEIC is offered only on a month-to-month basis. Thus, the nonrecurring costs of the offering are prudently recovered in the same time period.

[40] VEIC Tariff Investigation Order ¶¶ 35-37.

[41] Id. ¶ 37.

[42] Id. ¶¶ 38-42.

[43] Id. ¶ 38.

[44] Id. ¶ 42.

First, LECs are required to compare their VEIC provisioning charges with any such charges imposed on customers with DS1 and DS3 services. If the charges are greater for VEIC service than for DS1/DS3 services, they are required to justify the difference.

In U S WEST's case, the provisioning rates generally charged for VEIC DS1 and DS3 EICTs were originally based upon costs, increased by U S WEST's Part 69 Expense Ratio Factors of 1.18 and 1.72, respectively. These were changed by order of the Commission requiring allowed overhead factors of 1.18 and 1.2, respectively, resulting in Rate Adjustment Factors ("RAF") of 1.0 and .7, respectively.[45]

Provisioning rates charged for DS1 and DS3 services are either the same or lower than the rates for VEIC service than the rates for VEIC service; and are recovered, in part, through recurring charges. This cost-recovery mechanism has been modified over time to reflect changing market conditions and is in accord with the pricing flexibility afforded price cap LECs. U S WEST has a good understanding of the "average life" of DS1/DS3 services and has determined that our total service costs can be recovered over the average life of such services via recurring rates.

In essence, then, the differences in cost recovery are not the result of something "strange" about the VEIC provisioning charges,[46] but rather the result of

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[45] See In the Matter of U S West Communications, Inc. Revisions to Tariff F.C.C. No. 5, Order, 10 FCC Rcd. 1960, 1974-75 ¶ 25, 1994 ¶ 77, 2053-57 (App. C) (1994).

[46] Here, according to sound costing/pricing principles, the nonrecurring costs are being recovered in nonrecurring rates.

the market associated with DS1 and DS3 services, including the average life of the services in place and the ultimate confidence in complete cost recovery including adequate contribution to joint and common costs.

Second, LECs were required to "specify whether they recover provisioning costs associated with their . . . DS1 and DS3 services through overhead loadings[47] or through direct assignment to particular rate elements."[48] U S WEST recovers provisioning costs for DS1 and DS3 services through direct assignment to Channel Termination ("CT") rate elements. These rates are located in U S WEST Tariff F.C.C. No. 5 as follows: DS1, Section 7.5.9.A; DS3, Section 7.5.10.A.

7. <u>Charges for Power to IDE</u>[49]

LECs that recover costs of providing power to IDE in their VEIC rates are required to identify and describe the particular power costs recovered *via* the rate elements; specify whether the costs are recovered through overhead loadings and/or direct assignment; explain whether power costs are recovered in a similar fashion

[47] Throughout the Bureau's <u>VEIC Tariff Investigation Order</u>, the Bureau makes reference to "overhead loadings." <u>See</u>, <u>e.g.</u>, <u>id.</u> ¶¶ 42(b), 46(b), 52(b), 55. This term is not one that U S WEST uses with respect to our service offerings. Overhead loadings are those expenses that are considered to be common to the operation of the company. These expenses are not included in the development of the direct costs associated with our services.

[48] <u>Id.</u> ¶ 42(b).

[49] <u>Id.</u> ¶¶ 43-46.

with respect to DS1/DS3 services; and if there is a different recovery mechanism, explain why the difference is reasonable.[50]

Three cost components attributable to power are identified in U S WEST's VEIC tariff.[51] They are:

- -48 Volt DC Power, per amp, recurring
- VEIC -48 Volt DC Power Cable[52] (depending on amperage size), recurring
- VEIC -48 Volt DC Power Cable (depending on amperage size), nonrecurring

The -48 Volt DC Power, per amp, recurring costs include commercial AC power, emergency diesel motor/generator, rectifier panels, -48 VDC batteries, Main Distribution Panel, breaker/fuse, cabling to existing power panel(s) on respective floors in U S WEST buildings, and the power panel(s) located on those floors.

The VEIC -48 Volt DC Power Cable (depending on amperage size), recurring costs recover the monthly expense of maintenance for the power cable installed for the IC. These costs are obtained by applying a maintenance factor to the total installed investment of the Power Cable and then dividing by twelve to develop a monthly maintenance cost.

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[50] Id. ¶ 46. Subparagraphs (a), (b) and (c) are applicable, generally, to all LECs, and U S WEST provides the appropriate information herein. Subparagraph (d) is applicable only to GTE, and U S WEST provides no response to that item.

[51] U S WEST Tariff F.C.C. No. 5, Section 21.8.2.

[52] These charges were added in Transmittal No. 614, where U S WEST introduced the no-cost lease option. At this point, U S WEST had to recover these costs separate from the bundled VEIC IDE rate element that was associated with the VEIC IDE rate under Transmittal Nos. 530, 531 et al.

The VEIC -48 Volt DC Power Cable (depending on amperage size, 20, 40, 60 amp) nonrecurring costs include A&B leads from existing power panels to space where the IDE will be located in U S WEST-maintained spaces. Included in the costs are engineering, material, installation of -48 Volt DC feeders and cable rack for cable. In each instance the length of this power cable was assumed to be an averaged 50-foot length, based on information provided by U S WEST engineers.

For standard services, such as DS1 and DS3 services, investment loadings are applied to the material investment of the equipment in order to recover the costs of installation and powering of the equipment. VEIC service is handled differently because under a no-cost lease option the VEIC IDE is purchased and provided by the IC, and there is no material investment to which investment loadings can be applied. Therefore, separate power rate elements are needed.

Additionally, with VEIC service, the installation labor rate charge does not include investment loadings that recover the charges for power. The installation labor charge applied per one-half-hour increments recovers only the hourly labor rate to install the IDE. It is, therefore, reasonable for U S WEST to recover our power costs through a separate charge, as such costs are not being recovered under any other rate element. To recover the power costs for VEIC, then, actual costs for amperage, additional power cable to where the IDE is located, and the maintenance of that additional power cable must, after calculation, be set forth in rate elements in the VEIC tariff. This is simply a totally different product/rate configuration than that associated with DS1/DS3 service.[53]

8. Charges for Floor Space[54]

The Bureau requires that certain identified LECs "and any other LEC that recovers the costs of floor space in its rates for [VEIC] service," provide certain information about cost recovery and rate structure, including whether the costs are recovered *via* recurring or nonrecurring charges; through overhead loadings or direct assignments; and how such cost recovery and rate structure compare to that offered with respect to DS1/DS3 services. To the extent that there are differences between the cost recovery and rate structure of VEIC service and DS1/DS3 service, a LEC is required to justify why the differences are reasonable.[55]

U S WEST does not have a specific charge for floor space in a VEIC service environment. Rather, we seek to recover the cost for floor space based upon the land and buildings investment loadings that are applied to the material price of the VEIC Equipment Bay.[56] From that we derive a total installed investment, which is

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[53] The differences demonstrate the extent to which the Commission's attempt to design a VEIC IDE offering veers far afield from traditional common carriage offerings. A common carriage offering with no LEC investment makes it exceedingly tricky to recover appropriate and prudent costs associated with the service offering.

[54] VEIC Tariff Investigation Order ¶¶ 47-52.

[55] Id. ¶ 52(a)-(c).

[56] These charges were added in Transmittal No. 614, where U S WEST introduced the no-cost lease option. At this point, U S WEST had to recover these costs separate from the bundled VEIC IDE rate element that was associated with the VEIC IDE rate under Transmittal Nos. 530, 531 et al.

then divided by six to derive a per-shelf cost.[57] Annual Cost Factors were then applied to derive an annual direct cost. This amount was then divided by 12 to produce a monthly unit cost per shelf.

We recover DS1/DS3 floor space costs in the same manner as they are recovered for VEIC services. Rates for U S WEST's DS1 and DS3 CT services are located in U S WEST Tariff F.C.C. No. 5 as follows: DS1, Section 7.5.9.A; DS3, Section 7.5.10.A.[58]

9. Cost of Money Factors[59]

The Bureau requires that "LECs subject to this investigation . . . provide the cost of money factor used for their [VEIC] services and for the . . . DS1 and DS3 services with the lowest overhead loadings."[60] If the information for the two types of services is different, LECs are required to provide some additional information.[61]

The cost of money/interest rate used for computing rates for VEIC services and DS1/DS3 services was 11.3%. Because the cost of money figure used with

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[57] Transmittal No. 614 D&J at 2-2, 2-3, 2-4.

[58] Since there are no differences between how U S WEST handles floor space cost-recovery for VEIC services and DS1/DS3 services, U S WEST is not obligated to provide any additional information. See VEIC Tariff Investigation Order ¶ 52(c).

[59] Id. ¶¶ 53-55.

[60] Id. ¶ 55.

[61] Id.

respect to both services is the same, U S WEST is not required to provide any additional information in justification of the information.

10. Completion of Direct Cost Information Charts[62]

The Bureau has required that all LECs complete certain Direct Cost Information Charts. Those Charts are attached as Appendix A.[63]

B. "Issue B: Are the rate structures established in the [VEIC] tariffs justified?"[64]

1. Nonrecurring Charges for IDE[65]

The Bureau has required those LECs that did not adopt "a $1 sale and repurchase financial arrangement"[66] with respect to IDE provisioning and charging to defend certain of the rate structure components associated with their tariffing structure.

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[62] Id. ¶ 56.

[63] Note that on Appendix A, U S WEST clarifies certain of the terms used by the Commission to better suit the way in which U S WEST accounts for its costs and assigns those costs to rates.

[64] VEIC Tariff Investigation Order ¶ 57.

[65] Id. ¶¶ 59-63.

[66] Id. ¶ 59.