MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

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November 9, 1995

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: 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

Dear Mr. Caton:

Enclosed herewith for filing are the original and seven (7) copies of MCI Telecommunications Corporation's Opposition to Direct Cases regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Opposition to Direct Cases furnished for such purpose and remit same to the bearer.

Sincerely yours,

Don Sussman
Regulatory Analyst

Enclosure
DHS

No. of Copies rec'd 0+9
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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
Expanded Interconnection Through	)	Phase II
Virtual Collocation for Special	)	
Access and Switched Transport	)	

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MCI OPPOSITION TO DIRECT CASES

Don Sussman
Regulatory Analyst
1801 Pennsylvania Avenue, NW
Washington, DC 20006
(202)-887-2779

November 9, 1995

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Summary

In the Phase II Designation Order, released September 19, 1995, the Commission directed local exchange carriers offering virtual collocation services to provide cost information in a uniform manner so that the Bureau could further compare the proposed virtual collocation rates to rates charged by these LECs for comparable service.[1] In the Phase II Designation Order, these LECs were also ordered to respond to specific questions regarding the direct cost components of the virtual collocation rates, as well as the LECs' rate structures and terms and conditions for virtual collocation service.

In their Direct Cases, the LECs have, once again, failed to justify the excessive and unreasonable rates that they propose to charge interconnectors for essential bottleneck facilities. Furthermore, they have not provided cost information to support their assertions regarding DS1 and DS3 "comparable services," disregarded the format in which they were ordered to provide information, and padded their rates with costs already recovered. In some instances, the LECs also unlawfully filed information off-the-record without justification, and completely ignored questions asked by the Bureau.

MCI urges the Bureau to require LECs offering virtual collocation services to reduce the LECs' rates by amounts already recovered through other access

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[1] 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, (released September 19, 1995) ("Phase II Designation Order").

rates, and to require all LECs to file all information in support of their Direct Cases on the public record. Additionally, MCI requests that the Bureau subject the LECs offering virtual collocation services to more stringent reporting requirements which will allow the Commission to more readily assess the development of competition in local telecommunications markets. Finally, any LEC that failed to comply with the Commission's Phase II Designation Order completely and in its entirety, should be ordered either to do so immediately or to show cause why it should not be required to do so.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

MCI OPPOSITION TO DIRECT CASES

I. Introduction

MCI Telecommunications Corporation ("MCI") respectfully submits its Opposition to the Direct Cases filed by the Tier 1 local exchange carriers ("LECs") on October 19, 1995, in the above-captioned proceeding.[2] In the Phase II Designation Order, released September 19, 1995, the Commission directed the above-referenced LECs to provide cost information in a uniform manner so that the Bureau could further compare the proposed virtual

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[2]Ameritech Operating Companies ("Ameritech"), Bell Atlantic Telephone Companies ("Bell Atlantic"), BellSouth Telecommunications, Inc ("BellSouth"), Cincinnati Bell Telephone Companies ("CBT"), GTE System Telephone Companies ("GSTC"), GTE Telephone Operating Companies ("GTOC"), Southwestern Bell Telephone Company ("SWBT"), United and Central Telephone Companies ("United"), US West Communications, Inc. ("US West"). GTOC and GSTC are referred to collectively as GTE.

collocation rates to rates charged by these LECs for comparable service.[3] In the Phase II Designation Order, these LECs were also ordered to respond to specific questions regarding the direct cost components of the virtual collocation rates, as well as the LECs' rate structures and terms and conditions for virtual collocation service.

In their Direct Cases, the LECs have, once again, failed to justify the excessive and unreasonable rates that they propose to charge interconnectors for essential bottleneck facilities. Furthermore, they have not provided cost information to support their assertions regarding DS1 and DS3 "comparable services," disregarded the format in which they were ordered to provide information, and padded their rates with costs already recovered. In some instances, the LECs also unlawfully filed information off-the-record without justification, and completely ignored questions asked by the Bureau.[4] The Commission should not tolerate this non-compliance which the LECs continually employ to obstruct competition from emerging in local telecommunications markets.

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[3] 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, (released September 19, 1995) ("Phase II Designation Order").

[4] For example, US West has taken it upon itself to redirect the Commission's questions, answering only the questions that it feels are "ripe for review and analysis." See US West Direct Case, p 2 of Summary.

MCI urges the Bureau to require LECs offering virtual collocation services to reduce their rates by amounts already recovered through other access rates as discussed infra, and to require all LECs to file all information in support of their Direct Cases on the public record. Additionally, MCI requests that the Bureau subject the LECs offering virtual collocation services to more stringent reporting requirements which will allow the Commission to more readily assess the development of competition in local telecommunications markets. Finally, any LEC that failed to comply with the Commission's Phase II Designation Order completely and in its entirety, should be ordered to do so immediately or to show cause why it should not be required to do so.

II. Background

On December 9, 1994, the Bureau released the Virtual Collocation Tariff Suspension Order, which suspended for one day the permanent virtual collocation tariffs filed by the Tier 1, non-NECA, LECs, initiated an investigation into the lawfulness of these tariffs, and imposed an accounting order. The Bureau partially suspended for a five-month period those rates that appeared unreasonable, rejected certain patently unlawful terms and conditions imposed by several LECs, and ordered certain LECs to make other tariff revisions.[5] On

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[5] 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 I, Order Designating Issues for Investigation, 10 FCC Rcd 3927 (1995) ("Phase I Designation Order").

February 28, 1995, the Bureau released its Phase I Designation Order designating two rate level issues for the first phase of this investigation: (1) whether the overhead loadings established in the LECs' interim and permanent virtual collocation tariffs are justified; and (2) whether the maintenance-related charges in Bell Atlantic's interim and permanent virtual collocation tariffs are justified.

On March 21, 1995, the above-referenced LECs filed their Direct Cases in response to the Bureau's Phase I Designation Order. After reviewing the Direct Cases and the accompanying cost support data filed in response to the Phase I Designation Order, the Bureau concluded that the LECs had failed to meet their Section 204(a) burden of demonstrating that their overhead loading levels and, consequently, their virtual collocation rates, were just and reasonable.[6] In that Report and Order, in order to advance the competitive goals of the Commission, the Bureau prescribed the maximum permissible overhead loading levels for these LECs' virtual collocation rates.

On September 19, 1995, the Bureau released its Phase II Designation Order, investigating the direct cost components of the virtual collocation rates, as well as the LECs' rate structures and terms and conditions for virtual collocation

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[6] 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 I, Report and Order, FCC 95-200, 10 FCC Rcd 6375 (1995).

service.[7] LECs were required to file Direct Cases addressing issues raised in the Phase II Designation Order no later than October 19, 1995.

III. Confidential Treatment of Cost Support Is Not in the Public Interest

In developing tariffs for virtual collocation services, the LECs are tariffing many rate elements that enable other providers to compete with the LECs' retail offerings. For this reason, the potential for price discrimination is apparent.[8] The LECs have every incentive to use their control over the local switching arena to thwart the ability of the interconnector to compete effectively. Therefore, it is essential that the LECs provide thorough and complete cost support, on the public record, as evidence that their rates are just, reasonable, and nondiscriminatory. The Bureau should reject SWBT's, Ameritech's, and CBT's request that essential components of their respective cost support, which is filed in their Direct Cases, be treated as confidential.

The Communications Act and the Commission's rules require a determination that the rates offered by the LECs are neither predatory nor

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[7] 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, (released September 19, 1995) ("Phase II Designation Order").

[8]The Commission has already correctly determined that "the great disparity in loadings primarily reflected market conditions; most LECs tended to assign low overheads in markets where they faced actual or potential competition from interconnection, and high overheads where they did not (Designation Order at ¶8).

unreasonably high.[9] The Commission requires that the cost support material necessary to make this determination be filed on the record. In their Direct Cases, SWBT, Ameritech, and CBT offer no justification as to why their respective cost support should be treated as confidential. SWBT and Ameritech simply request confidential treatment of their cost support. CBT asserts that its cost information typically is maintained in "locked files and access to the information is strictly limited." None of the carriers requesting confidential treatment provide any evidence that demonstrates that public scrutiny of its cost support for virtual collocation services will lead to competitive harm. In fact, none of these carriers have provided any information that demonstrates that actual, effective competition in local telecommunications access markets even exists. Without such a demonstration, it would be contrary to Commission precedent and the Commission's own threshold requirements for determining whether to treat data as confidential to grant SWBT's, Ameritech's, and CBT's requests for confidential treatment of cost information filed in support of their respective Direct Cases.[10]

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[9] See 47 U.S.C. Section 201(b). See also and 47 C.F.R. Section 61.49(g)(2) and Section 61.49(h)(1).

[10] See In the Matter of Southwestern Bell Telephone Company Tariff F.C.C. No. 73, Transmittal Nos. 2470, 2489, CC Docket No. 95-158 Order Initiating Investigation (Com. Car. Bur., released October 13, 1995) (DA 95-2156) ("Investigation Order"). The Bureau pointed out that, commercial or financial information filed pursuant to mandatory requirements may be deemed confidential under Exemption 4 of the Freedom of Information Act only if disclosure of the information is likely to cause substantial harm to the competitive position of the

The public interest will best be served by continuing to allow all interested parties to participate fully, without restriction, in the ongoing expanded interconnection proceedings. Many potential entrants have specific expertise that can be extended to the Commission in their effort to assess the lawfulness of the LECs' virtual interconnection rates. These potential entrants are willing to offer their insight, in a timely manner, because it is in their interest to have the interconnection rates reflect just and reasonable costs. Without such rates, alternative providers will not be able to compete with the entrenched monopolies, and the public will not be extended the benefits of competition in the local telecommunications markets.

Restricting input into the analysis of rates, by allowing essential information to be withheld from interested parties, would jeopardize much of what the Commission has already accomplished in the expanded interconnection proceeding, as these rates are fundamental to the development of competition. The LECs have already shown that they intend to charge excessive prices for essential bottleneck facilities. For example, SWBT continues to propose virtual

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person from whom the information was obtained. Investigation Order at ¶6. National Parks and Conservation Ass'n v. Morton, 498 F. 2d 765, 770 (D.C.) Cir. 1974); Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992) (en banc), cert. denied, 113 S. Ct. 1579 (1993). Parties requesting such confidentiality are required to show, "by a preponderance of evidence," 47 C.F.R. §0.459(d), actual competition and a likelihood of substantial competitive injury. CNA Fin. Corp. v Donovan, 830 F.2d 1132, 1152(D.C. Cir. 1987), cert. denied sub nom., CNA Fin. Corp v McLaughlin, 485 U.S. 977 (1988). In this Order, the Bureau confirmed its policy that vague references and generalized concerns fail to meet the threshold requirements for withholding the cost data filed in support of a Transmittal.

collocation rates which are double that of Ameritech, CBT, Sprint, and US West, combined. The Commission should not permit SWBT, Ameritech, CBT -- or any other LEC -- to evade public scrutiny of its cost support.

Moreover, tariff cost support data, because it is so crucial to the review of a tariff, is precisely the type of material that the Commission has ordered to be disclosed in the past, even when it is confidential. As the Commission explained in the SCIS Disclosure Order:[11]

> Cost support materials filed with tariffs are routinely available for public inspection under the Commission's Rules, and the Commission has departed from this practice only with great reluctance. The few departures from routine disclosure have tended more toward effecting disclosure, under safeguards for proprietary material, than toward the categorical denial of public access. This practice comports with both the Administrative Procedure Act's fundamental interest in administrative decisions reached upon a public record, and the strong statutory preference for disclosure established by the FOIA.[12]

In one of the orders cited as authority for the quoted language, the 1989 TRP Confidentiality Order,[13] the Bureau observed that "suppression of these [TRP] data would prevent other parties from commenting on the proposed rates, thus

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[11]Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, 7 FCC Rcd 1526 (Common Carrier Bureau 1992), review denied, 9 FCC Rcd 180 (1993) (SCIS Disclosure Review Order), pet. for recon. pending (filed January 14, 1994).

[12]Id. at 1532, ¶ 30.

[13]Annual 1989 Access Tariff Filings: Petitions for Waiver Regarding Proprietary Treatment of Information Contained in the 1989 Tariff Review Plan, 3 FCC Rcd 7200 (Common Carrier Bureau 1988).

depriving the Bureau of a valuable resource in our review of the annual filings."[14] Accordingly, even confidential TRP data should not be "withheld from persons who may wish to file petitions to reject, investigate, or suspend a tariff. Persons who pay tariff rates have a compelling interest in obtaining access to data that are relevant to the rate computations."[15]

The "legal authority" for discretionary disclosure of trade secrets is found in Sections 0.457(d) and 0.461(f) of the Commission's Rules. Section 0.457(d)(2)(i), for example, states, in part, that "a persuasive showing as to the reasons for inspection will be required" in requests under Section 0.461 for disclosure of "trade secrets or commercial, financial or technical data which would customarily be guarded from competitors," and Section 0.461(f)(4) states that such requests may be "granted." (Emphasis added). The Commission has accordingly held that disclosure of material covered by the Trade Secrets Act, 18 U.S.C. § 1905, is therefore "'authorized by law.'"[16]

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[14] Id. at 7202, ¶ 18.

[15] Id. at 7202, ¶ 22. Compare, PanAmerican Satellite, FOIA Control No. 88-174, 4 FCC Rcd 4586, 4587 at ¶ 11 (1989) (contrasting document as to which discretionary release was denied with the "type of cost support data that would be required to be submitted in tariff proceedings").

[16] MTS & WATS Market Structure, CC Docket No. 78-72, Phase I, 4 FCC Rcd 6527, 6529 n.14 (1989) (citing Northern Television, Inc. v. FCC, C.A. No. 79-3468 (D.D.C. April 18, 1980)); American Satellite Co., FOIA Control No. 84-117, FCC 85-311 (released June 19, 1985), at ¶ 23.

SWBT, Ameritech, and CBT, have not demonstrated, nor even attempted to demonstrate, that the pricing data involved warrants confidential treatment. MCI requests that the cost support be made public immediately, to permit interested parties to participate fully in this investigation, as well as to evaluate the need for reconsideration of any Commission order resulting from the five-month suspension.

IV. The LECs' Proposed Virtual Collocation Rates Are Excessive and Anticompetitive

The LECs have failed to demonstrate in their Direct Cases that the rates that they have proposed for virtual collocation are just and reasonable, or that they are even similar to those charged for comparable DS1 and DS3 services. The Direct Cases are void of cost support, and rely solely on unsupported contentions. However, while it is not possible, based on the information provided on the public record in the Direct Cases, to completely analyze the costs upon which the rates are purported to be based, it is clear from the enormous disparity between the proposed rates that the proposed rates are excessive, anticompetitive, and are in no way cost based.

MCI does not contend that all carriers cost are identical. However, for a relatively simple service, which consists of only a few uniform components, the rates charged by carriers, absent anticompetitve motives, should be similar. This is not the case with the rates proposed by the LECs for virtual collocation. As

the table below illustrates, the rates proposed by SWBT, per DS1, are more than double that of CBT, Sprint, Ameritech, and US West, combined. Since Ameritech, CBT, Sprint, and US West have no incentive to price virtual collocation services too low, SWBT 's, BellSouth's and Bell Atlantic's proposed rates are clearly excessive. The Commission should, consequently, reduce the rates of BellSouth, Bell Atlantic, and SWBT so that their rates are more in line with those proposed by other LECs for similar services.

Price outs (in dollars)[17]

	AMT	BA	BS	CBT	SWBT	Sprint	USW
Per DS1	14.97	84.49	106.17	20.58	118.34	5.57	17.43
Rec.	12.90	66.78	18.81	12.00	13.63	5.25	17.22
NRC	2.06	17.70	87.34	8.58	104.70	0.32	0.20

The rates in the above table also illustrate that BellSouth and SWBT charge excessive Nonrecurring charges ("NRCs"). BellSouth's NRC's are 43,570 percent higher than those proposed by US West. SWBT's NRC's are 52,250 percent greater than those proposed by USW. These NRCs, or up-front costs, can act as significant barriers to entry for new entrants. These excessive NRCs clearly are not cost based, and serve to highlight the need for the Commission to prescribe the rates charged by LECs for virtual collocation services.

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[17] Price Out data taken from Line 115 of Chart 2, submitted in the LECs' Direct Cases.

V. BellSouth's Cost of Money is Unlawfully High

In the Tariff Review Plan Order, the Commission clearly stated that 11.25 percent was the discount rate that all LECs should use to determine their virtual collocation rates.[18] BellSouth, nevertheless, continues to utilize a rate of 13.34 percent to determine the rate elements of its virtual expanded interconnection services. BellSouth should not be permitted to arbitrarily inflate its costs and to selectively ignore Commission rules.

There is no question that BellSouth should be utilizing a cost of money of 11.25 percent, or lower, to compute its virtual collocation rates. First, this is the rate that was prescribed by the Commission. Second, there is no reason to believe that any LEC would need to borrow money as a result of virtual expanded interconnection services, since interconnectors are required to pay for any costs that result from the offering of these services. Third, even if costs were incurred by a LEC for which an interconnector was not obligated to pay up front, the added cost of providing these services is minimal, relative to daily operating expenses of the LECs. Fourth, even if a LEC felt obligated to borrow from the financial markets to help finance virtual collocation, it would most likely be able to borrow at a rate considerably lower than market rate (which, itself is

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[18]The Bureau required LECs to assume that nonrecurring costs will be amortized over a 5-year period at an 11.25 percent discount rate. (Commission Requirements for Cost Support Material To Be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport, 9 FCC Rcd 5679 (Com. Car. Bur. 1994) ("Tariff Review Plan Order") at ¶16.

below 13%) given the monopoly control that they continue to maintain over the central office facilities.

The Commission has ordered LECs to use a cost of money equal to 11.25 percent. BellSouth should not be permitted to use a rate which exceeds the rate ordered by the Commission.

VI. LECs Should Not Be Permitted to Pad Their Rates By Recovering Phantom Costs

All of the LECs which offer virtual collocation stated in their Direct Cases that they recover a portion of their building and land costs through direct assignment of these costs to certain virtual collocation rate elements.[19] LECs are already recovering these costs through overhead assigned to both the interconnection elements themselves and other rate elements (e.g., access rates). These LECs should not be permitted to double recover.

The Commission's expanded interconnection policies have not required the LECs to incur any new building and land costs. Collocation arrangements rely on equipment that is continually becoming smaller and more efficient. A typical virtual collocation arrangement takes up no more space than a VCR, on its side, supported by a small metal rack. The LECs' building and land expenses are no different after or because of the Commission's expanded interconnection

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[19] SWBT claims to rely on a "building factor," but gives no information as to what this factor is.

policies than they were before the policies were adopted. Yet the LECs are charging collocators as if the virtual collocation arrangements have caused new land and building costs.

The LECs' land and biulding costs are recovered in overheads on all services, including the interconnection rates under investigation here. They should not be double-charging interconnectors for costs they have already recovered. Thus, the Commission should require the LECs to remove all land and building direct costs that are embedded in the LECs virtual collocation rates. As a result, the following rates would be reduced as follows:

Rate Element For **Ameritech**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS1 Entrance Facilities-rec		57.09	57.88	98.64%
DS1-Entrance Facilities-NRC		100.12	100.12	100%
DS1 Termination-rec		176.29	176.29	100%
Equip. Installation-rec		285.08	675.99	42.17%
Equip. Installation-NRC		24.88	24.88	100%
DS1 X-Conn - rec		96.95	1658.02	5.84%

Rate Element For **SWBT**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS1 Provision-NRC		477.88	7441.13	6.42%
DS1 Entrance Fac.-rec		300.76	3125.98	7.81%
DS1 Entrance Fac.-NRC		48.86	760.87	9.81%
DS1 Term-rec		7,596.71	118,287.43	6.42%
DS1 Term-NRC		5860.71	91,256.39	6.42%
DS1 Equip. Instal-NRC		1,434.84	22,341.86	6.42%
DS1 Maint & Repair		7797.47	121413.41	6.42%

Rate Element For **Bell Atlantic**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS1 Entrance Fac.-rec		1225	10966.98	11.17%
DS1 Term.-rec	1.20	16.40	181.02	9.72%
DS1 X-Conn. -rec	0.08	1.12	12.40	9.68%
DS1 Maint. & Repair- rec	36.14	435.76	5576.57	8.46%

Rate Element For **CBT**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS 1 Summary-rec	14.59	588.55	764.14	7.89%
DS 1 Term.-rec	14.05	566.86	4736.10	12.27%
DS1 X-Conn -rec	0.54	21.69	136.54	16.28%

Rate Element For **BellSouth**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS1 Entrance Fac.-rec	3.64	145.83	754.10	19.82%
DS1 X-Conn-rec	0.36	4.78	247.60	2.07%

Rate Element For **US West**	Investment attributed to Land	Investment Attributed to Building	Total Investment	Appropriate Rate Reduction
DS1 Term. rec	1.12	71.53	1711.67	4.24%

VII. Equipment Paid for by Interconnectors should be Returned to Interconnectors

All of the LECs, with the exception of CBT and SWBT, agree to purchase virtual collocation equipment from the interconnector for $1, with the condition that it be re-sold to the interconnector for $1 when the equipment is no longer required.[20] Such a policy is widely recognized to be the most efficient and economical way to do business. It also ensures that interconnectors can purchase the type of equipment that they require, at the lowest available rates. SWBT and CBT are the only two LECs that require interconnectors to purchase equipment through the LEC. Both carriers require the interconnectors to place

[20] US West has adopted a similar policy, which allows an interconnector to purchase the equipment and then transfer it to US West, with the promise that it will be returned when no longer utilized by the interconnector. MCI urges the Commission to require US West to modify its tariff to require interconnectors to sell the equipment for a nominal amount (perhaps $1). Such a modification will clarify that title to the equipment has actually been transferred to US West.

an order for the equipment with the LEC, then the LEC turns around and purchases the equipment from one of its vendors (for an undisclosed "confidential" price).

SWBT and CBT require interconnectors to pay for the required collocation equipment before the collocation arrangement will be constructed. At a later point, if a collocator decides to replace its original collocation equipment with different equipment (i.e, one with greater capacity) neither SWBT nor CBT will return the original equipment to the interconnector -- even though the interconnector has paid for the equipment, in its entirety. SWBT claims that it will dispose of the equipment as it disposes of its own equipment. However, it is more than likely that these LECs will use this equipment in their own networks, possibly to compete against the interconnectors which paid for the equipment.

If the Commission permits these LECs to require interconnectors to pay for equipment up-front, then it should require that the LECs return the equipment to the interconnector when its use is terminated. The Commission should not allow the LECs to confiscate expensive equipment which was paid for by the interconnector. At a minimum, such a policy discourages the emergence of competition because interconnectors will have a disincentive to replace existing, possibly obsolete, equipment with newer more efficient equipment. It might also be perceived as a barrier to market entry. Interconnectors might perceive it necessary to purchase more expensive equipment with unnecessary capacity

because they know that if they want to expand at a later date, they will lose their initial investment.

VIII. Commission Rules Permit Interconnectors to Designate Interconnection Equipment for Virtual Collocation

The Commission should not permit SWBT, nor any other LEC, to dictate what type of equipment is utilized by the interconnector in its virtual collocation arrangement. The Virtual Collocation Order clearly states that "LECs will be required to dedicate to interconnectors' use in terminating the interconnectors' circuits any kind of central office basic transmission equipment reasonably specified by the interconnector."[21] It does not state that LECs have the right to substitute equipment with similar functionality, if so desired by the LEC, as is argued by SWBT.[22]

The Commission should not permit SWBT to manipulate the Commission's clearly articulated rules governing expanded interconnection. LECs should not be permitted to determine what type of equipment is utilized by the interconnector -- its competitor. SWBT's anticompetitive tariff language, which permits SWBT to substitute interconnector designated equipment with a

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[21] Expanded Interconnection with Local Telephone Facilities, CC Docket No. 91-141, Memorandum Opinion and Order, 9 FCC Rcd 5154(1994)("Virtual Collocation Order") at ¶44.

[22] SWBT Direct Case at p 30.

type of equipment preferred by SWBT, is unlawful, and should not be allowed in its tariff.

IX. The Commission Should Prescribe Limitations on Training

While seemingly a minor issue, several of the LECs have utilized the terms and conditions for training to delay the emergence of competition, and in some cases, to add tens of thousands of dollars in additional up-front costs to interconnectors.

Examination of the Direct Cases which were filed by the LECs illustrates the need for the Commission to prescribe limitations on the number of employees that a LEC can require an interconnector to train. Currently, in situations in which the interconnector designates collocation equipment that is different from the type of equipment presently used by the LEC in that central office, the number of LEC employees which interconnectors must pay to train per central office ranges from an unspecified number to 36 .[23]

Training: Minimum Number Required by LEC to be Trained per Central Office

	AMT	BA	BS	CBT	SWBT	Sprint	USW	GTE
Number of Persons:	>1	3	4	36*	Unspecified	2	3	4-6

[23] CBT requires that an interconnector must pay to train 36 CBT employees regardless of the amount of central offices an interconnector designates for collocation.

MCI sees no valid reason why a LEC should be permitted to impose excessive costs on interconnectors and to add significant delays to the implementation of collocation by requiring the interconnector to train an inordinate number of employees. Recently, SWBT required that MCI (Metro) fly 18 SWBT employees (12 from one CO and 6 from another) from Houston, TX to Raleigh, NC for five days of training. The expense of this mandatory boondoggle exceeded $60,000. There is no valid reason why nearly every SWBT employee that works in the central office where an interconnector is collocating needs to be trained by the interconnector. Similarly, interconnectors should not be required to train 36 CBT employees before their collocation arrangement in one CO becomes operational. If CBT wants all of their employees to know how to operate all equipment in every CBT central office, then they should pay for the necessary training. It should not be the burden of the interconnector.

In addition to the monetary costs associated with training large numbers of LEC employees, permitting the LEC to require that many LEC employees be trained before a virtual collocation arrangement becomes operation can significantly delay the emergence of competition. Typically, a LEC will not allow an interconnector to train more than a few of its employees at one time, because it cannot afford to have the central office under-staffed. Consequently, it can