legality of physical collocation is in question[11], and suggested that the rules continue to mandate virtual collocation, while permitting providers to negotiate for physical collocation. We reject this suggestion.

2. Undoubtedly, Congress was aware of the holdings of the federal courts with respect to the authority of the FCC to order physical collocation at the time of passage of the Act. Comment in this proceeding (*e.g.*, by AT&T) asserted that prior case law regarding physical collocation simply held that the FCC lacked authority to order the service under then existing statutes. Of course, it is not our prerogative to decide upon the constitutionality of § 251(c)(6). Based upon the Act, most of the parties recommended that we compel the offering of physical collocation, in addition to virtual collocation. We agree with this comment.

3. Rule 3.4 requires providers to offer physical collocation, except where the Commission determines that the service is not practical for technical reasons or due to space limitations. We find that this requirement will promote competition in the local exchange market, consistent with the intent of HB 1335 while affording a mechanism for an alternative in circumstances where the specific facts compel a different result.

4. USWC also suggested that collocation requirements be limited to equipment needed to terminate calls (*e.g.*, circuit terminating equipment). Notably, USWC interprets the Act's

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[11] Bell Atlantic Telephone Co., et. al. v. FCC et. al., 24 F.3d 1441 (D.C. Cir. 1994) was cited for this argument.

reference to "equipment necessary for interconnection or access to unbundled network elements" as restrictive provisions. We clarify that the rule is not intended to limit collocation in the manner suggested by USWC.[13] We agree with the comments by the new entrants that USWC's proposed limitation upon the type of equipment which may be collocated may substantially impair the ability of new providers to compete. This result would contrary to HB 1335 and the Act.

V. INTERCONNECTION RATES, TERMS, AND CONDITIONS

The rates, terms, and conditions to be established for interconnection were among the most controversial issues discussed in this docket; little consensus was reached. In part, the parties disagreed regarding issues such as: (1) what pricing methodologies should be used in setting rates; (2) what rates should be established for new entrants; and (3) may rates be set by agreement between providers, or should the tariff process apply? Our disposition of these issues is set forth in Rules 3.3 and 7.1.

A. Pricing For Interconnection

With respect to the issue relating to the rates for interconnection, the primary dispute between the parties concerned the methodology to be employed in setting such rates. Specifically, the new entrants argued that prices be set at Total Service Long Run Incremental Costs ("TSLRIC"). USWC and CITA strongly opposed the use of TSLRIC in this manner, maintaining that rates

[13] Neither do we interpret the Act in the same manner as USWC.

must be designed to recover some portion of shared and common costs. Staff and the OCC suggested that these rules not specify the ratemaking methodology for interconnection. Instead, Staff and the OCC asserted, the principles set forth in the Commission's Rules Prescribing Principles for Costing and Pricing of Regulated Services of Telecommunications Service Providers, 4 CCR 723-30, ("Costing and Pricing Rules") should control the pricing of these services.

B. Position of New Entrants

1. The new entrants generally recommended that pricing for interconnection should be set at TSLRIC.[13] According to their arguments: The Commission should set rates at levels which would occur in fully competitive markets. In such a market, prices would naturally move toward incremental cost. The Commission should attempt to replicate the results of a competitive market by setting rates at their economically efficient levels (*i.e.*, their incremental cost). Notably, such prices would be compensatory to incumbent LECs.

2. The new entrants further argued that economic-based pricing is essential if competition in the local exchange market is to succeed. In order to promote an environment which will present consumers with the greatest diversity of pricing plans, calling options, and service features, the new entrants suggested, it is

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[13] TSLRIC, as defined by some of the parties, is equal to the firm's total cost of producing all of its services assuming the service in question is offered, minus the firm's total cost of producing all of its services excluding the service in question. This definition was taken from the Commission's Costing and Pricing Rules.

important that the underlying exchange network be available to all retail providers on the same terms, conditions and prices. Since economic (*i.e.*, incremental) cost is the effective price faced by the LEC itself, other providers should also be charged for network components based upon such costs. In short, the new entrants argued that rates for interconnection must be set at TSLRIC in order to promote competition.

3. Finally, the new entrants maintained that the Act mandates rates based upon TSLRIC. According to this argument, § 252(d)(1) directs that the charge for interconnection and network elements shall be based on cost, and "may include a reasonable profit." TSLRIC pricing already includes a reasonable profit. That is, these parties claimed that a properly performed TSLRIC study is based upon costs and includes a reasonable profit. The new entrants concluded that profits in excess of those included in TSLRIC (*e.g.*, the recovery of contribution for shared or common costs) would result in excessive rates such that competition in the local exchange market would be impractical, and, therefore, would constitute a barrier to entry. As such, these parties claimed that prices in excess of TSLRIC contravene the Act.

C. USWC/CITA Position

1. USWC and CITA emphatically disputed the positions of the new entrants.[34] According to these parties, "cost-based"

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[34] USWC's proposed pricing rules stated that the prices for interconnection and unbundled elements shall be set to cover TSLRIC, plus a reasonable portion of shared and overhead costs.

pricing[11] does not mean that prices should equal costs. In response to the argument that prices in a competitive market would move to TSLRIC, USWC stated that this assertion is based upon "the textbook model of *perfect competition*, where the prices of a *single-product firm* will in the long-run equal 'marginal costs'. . . ." USWC January 17, 1996 comments, page 28. However, USWC pointed out, multi-product firms such as USWC itself have significant shared and common costs. These costs, which are economic costs of the firm, must be recovered from all services in the aggregate, if it is to remain in business. Thus, while competition may drive prices towards TSLRIC, a multi-product firm can never price its services at TSLRIC, or it would not recover total cost.

2. USWC claimed that prices for all services, including interconnection, must include a markup above incremental costs in order to provide a contribution to shared and overhead costs, and in the case of a rate-of-return regulated firm, to embedded costs as well. If prices for some services do not include a contribution to shared, overhead and embedded costs, these costs would be borne by customers of other services. Interconnection rates set at TSLRIC, according to this contention, will mean that USWC's prices for retail end-user offerings would have to be increased to enable recovery of shared, overhead and embedded costs. Thus, pricing interconnection at TSLRIC would result in a subsidy from USWC's retail customers to new entrants. USWC concluded that this would

[11] Subsection 40-15-503(2)(b)(I), C.R.S. directs that the Commission adopt rules for "cost-based, non-discriminatory carrier interconnection to essential facilities or functions, which shall be unbundled."

result in a significant competitive advantage for new entrants, since it would be required to raise retail rates to make-up for the lost contribution.

3. As for the contention that the Act mandates TSLRIC pricing, USWC responded: Section 252(d) requires rates to be based on costs and "may include a reasonable profit." Although TSLRIC studies include a return component, that component is based on the forward-looking anticipated cost of capital. In addition, those studies include the "return" on investment directly attributable to a particular service only. A TSLRIC study for network elements would not include any of the joint or shared costs of the network, and thus would not include any return on these elements. For these reasons, USWC claimed, the Act does not require TSLRIC pricing. Furthermore, pricing to recover shared and common costs is consistent with the provisions of the Act.

D. Staff/OCC Position

Staff and the OCC essentially recommended that the pricing methodology for interconnection not be specified in the rules. These parties pointed out that the Commission's Costing and Pricing Rules provide sufficient guidance regarding the pricing of regulated services. Given the existence of those rules, Staff/OCC suggested that it would be inappropriate for the Commission to bind itself to any one particular methodology in this docket. We agree with this recommendation.

E. Adopted Rule

1. Staff/OCC are correct in observing that the Costing and Pricing Rules address the issue regarding the pricing for interconnection. For example, Rules 4 and 5, 4 CCR 723-30, mandate that TSLRIC as well as fully distributed cost studies be presented at the time of any service rate proposal for either a fully regulated telecommunications service or an emerging competitive service which has been granted relaxed regulatory treatment by the Commission. Rules 4 and 5 also provide that TSLRIC studies will be used to establish price floors. Fully distributed cost studies will be used as one component of the pricing decision.

2. We further note that Rules 4 and 5 contain other guidance regarding the principles and methods by which the rates for interconnection should be set. Given the guidance set forth in the Costing and Pricing Rules we find it unnecessary to accept any of the pricing theories advocated by the parties in this docket. Rule 3.3 in Attachment A reflects our decision. The rule, in part, provides that interconnection rates shall be just, reasonable, and non-discriminatory, and consistent with the Costing and Pricing Rules.

F. Interconnection Rates For New Entrants

1. The new entrants also suggested that new providers should be permitted to adopt the interconnection rates of the

incumbent LEC. The reasons offered for this proposal were: First, this proposal would streamline the tariff process and establish rates for interconnection more quickly, thus promoting competition in the local exchange market. Second, such a rule would produce uniform rates for all LECs.

2. USWC, Staff, and the OCC resisted the suggestion by the new entrants. In part, these parties pointed out that adoption of the new entrants' proposal amounts to a universal grant of relaxed regulation. That is, under the new entrants' rule, individual providers would be exempted from requirements that they justify their rates to the Commission by submission of appropriate studies. We agree with the statements of USWC, Staff, and the OCC that there is insufficient information in the present docket to grant relaxed regulation to all new entrants. Therefore, Rules 3.3 and 7.1.2 require new entrants to establish interconnection rates through the tariff process.

G. Interconnection Tariffs

1. Adopted Rule 7.1 requires providers to file tariffs to establish the rates, terms, and conditions for interconnection.[16] Based upon certain provisions in the Act, USWC argued that any rule which mandates the filing of tariffs for interconnection or

[16] Rule 7 also requires that the rates, terms, and conditions for termination of local traffic, unbundled network elements, and white pages be established through the tariff process.

unbundled network elements has been preempted. Specifically, USWC noted, § 252(a)(1) states:

> Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers . . . The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement . . .

Section 252 also establishes a process in which State Commissions may mediate or arbitrate providers' negotiations concerning interconnection or unbundled network elements.

2. USWC argued that tariff requirements directly conflict with the negotiation process established in the Act. Such requirements, USWC claimed, would circumvent and undermine the Act's negotiation process and render "meaningless the provisions of the Act which assign mediator and arbitrator roles to the Commission." USWC February 21, 1996 Comments, page 35. In light of these provisions of the Act, USWC concluded that we are prohibited from adopting a tariff process for interconnection or unbundled services.

3. Other parties, especially Staff and the OCC, disagreed with USWC's assertions. Notably, Staff and the OCC explained that a tariff requirement may be consistent with the negotiation process specified in the Act. According to those comments, certain matters may best be treated in privately-negotiated agreements. These may include requests for construction of special facilities for inter-

connection; requests for unique, non-standard network interconnections; arrangements involving carrier-specific interfaces or protocols; and arrangements involving unique, non-standard operational support systems. On the other hand, Staff and the OCC also suggested that some matters are appropriate for tariffing. Generally, these include rates and charges for interconnection and unbundled network elements, and standard terms and conditions for such services. We agree with those parties who advised us that the Act does not preclude a tariff process.

4. As discussed in the comments of Staff and the OCC, a tariff and a negotiation process may coexist where generally available terms and conditions are set forth in tariffs, and other items are left for private negotiations. We note that one of the purposes of a tariff is to ensure that listed terms and conditions (*e.g.*, rates) are publicly known and generally available to all customers on a uniform, nondiscriminatory basis. We believe that the Act, in its negotiations procedure, also intends this result.

5. Significantly, § 252(e)(1) states that any interconnection agreement adopted by negotiation or arbitration must be submitted to the State commission for approval. Section 252(h) provides that any agreement approved by a State commission shall be made available for public inspection and copying. Pursuant to § 252(i), an LEC is required to make available any interconnection, service, or network element provided under an approved

agreement to which it is a party to any other requesting provider upon the same terms and conditions as those provided in the agreement. Similarly, Bell Operating Companies, such as USWC, may file with a State commission a statement of the terms and conditions it generally offers within that State to comply with § 251.

6. It is apparent to us that the negotiations process specified in the Act is consistent with the basic intent of a tariff requirement: both are designed to ensure the availability of services on a uniform, non-discriminatory basis to all customers. For this reason, we disagree with USWC's contention that any tariff requirement contravenes the Act. The adopted rules, specifically Rule 7, reflect our determination.

7. Additionally, we point out that Rule 8 permits providers to negotiate agreements regarding interconnection, the termination of local traffic, the purchase of any unbundled network element, or publication of a White Pages directory. The rule does direct that such agreements shall not be inconsistent with specific provisions contained in a provider's currently effective tariff. We find that the Rules' tariff requirements and the provisions regarding negotiated agreements are consistent with the Act. In addition, as noted in the discussion above (paragraph E.3), the Act specifically provides that State requirements regarding interconnection and unbundling are permissible. For these reasons,

we conclude that the adopted rules relating to the tariff process are appropriate.

VI. COMPENSATION FOR TERMINATING LOCAL TRAFFIC

Rule 4 sets forth the requirements relating to compensation for terminating local traffic. The parties disagreed on a number of provisions contained in this rule, including: (1) how providers should compensate each other for the termination of calls on each other's networks, by bill and keep[17] or reciprocal compensation[18]; (2) should the rules incorporate a business-residence support charge; (3) what other rate principles should be incorporated in the rule (*e.g.*, setting termination charges equal to access rates, allowance of flat rates)?

A. Bill and Keep

1. Substantial disagreement existed between the parties regarding the propriety of adopting a bill and keep method. Staff and the OCC recommended use of bill and keep on an interim basis. USWC flatly opposed adoption of the method even on a temporary basis as suggested by Staff and the OCC. Generally, the new

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[17] Under a bill and keep arrangement (or mutual traffic exchange), each LEC provider "bills" its respective end-user and "keeps" the associated revenue. No compensation changes hands between LECs.

[18] Under reciprocal compensation, LECs would compensate each other for the termination of traffic on their networks. Rates and charges would reflect each provider's cost.

entrants recommended use of bill and keep until certain market tests are met. They also opposed the proposal by Staff and the OCC as incorporating an arbitrary time period.

2. USWC, as just noted, was the primary opponent of bill and keep even as an interim measure.[19] According to USWC: The primary reason for its opposition to the method is that bill and keep does not reflect cost causation, and, therefore, is inconsistent with economically rational pricing. Bill and keep will likely not accurately reflect cost for two reasons. First, traffic between providers is unlikely to be in balance. Second, it is also unlikely that various providers' cost of terminating traffic will be the same (*e.g.*, the networks of various providers may be different in character depending upon factors such as regions served). If either circumstance occurs, bill and keep would not accurately reflect cost.

3. USWC also argues that, if access rates are different than terminating charges for local traffic, bill and keep would lead to rate arbitrage. That is, there would be an incentive for

[19] CITA does object to bill and keep as a permanent compensation plan. Apparently, for reasons of costs associated with implementation of reciprocal compensation, CITA recommended that the independent telephone companies be permitted to remain under the existing bill and keep arrangement until "decisions could be made regarding cost recovery methods and compensation arrangements." CITA February 29, 1996 comments, page 4.

providers to seek classification of toll traffic as local, in order to avoid access rates.[30]

4. Finally, USWC argued that the Act prohibits adoption of bill and keep. This argument was based upon the provisions of § 252(d)(2)(A), which require that each provider recover its transport and termination costs. Since, according to USWC, bill and keep is not reflective of cost causation, it would contravene the Act. USWC, for all these reasons, opposes bill and keep even on an interim basis.

5. In response to argument that LECs are now unable to measure terminating local traffic, USWC represented that it is in the process of developing a mechanism for measuring such calls. USWC stated that this system has already been deployed, or will soon be deployed in areas where it is facing local exchange competition. According to this comment, the cost of the system "is a small part of the overall cost to provide local interconnection services and would be provided as support for the pricing of local interconnection service in Colorado." USWC February 21, 1996 Comments, page 18.

6. The new entrants primarily argued that bill and keep is appropriate, at least as an interim arrangement, because it will promote competition in the local exchange market. In particular,

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[30] USWC also suggested that we adopt a rule which would set terminating local traffic rates equal to access charges.

the method would avoid the measurement and billing costs entailed in a reciprocal compensation scheme, and, as such, would encourage entry into the market. The new entrants also pointed out that the measurement system being implemented by USWC is apparently a work-in-progress. Moreover, since only USWC possesses the system, new entrants would be required to purchase it from USWC at some as-yet-unknown costs. This result, it was suggested, is inconsistent with the intent of HB 1335 to foster competition.

7. The new entrants also argued that, contrary to the contention of USWC, the Act specifically authorizes the use of bill and keep. *See* § 252(d)(2)(B)(i) (specified pricing standards shall not be construed to preclude the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery).

8. The new entrants finally disputed the Staff and OCC proposal which, according to the argument, sets an arbitrary date for transition to a reciprocal compensation method. AT&T and MCI proposed a "market-based" analysis for such a transition. Under their proposed rule, a permanent local call termination compensation scheme would be established only after an incumbent LEC, has filed TSLRIC studies for the switching, transport and other components used in terminating local calls, has unbundled the facilities or functions identified in the unbundling rule, and has provided true number portability.

9. Generally, Staff and the OCC proposed that bill and keep be utilized until three years after the effective date of the rules, or six months after the implementation of a number portability database, whichever occurs first. This proposal, Staff and the OCC asserted, will provide incentives for providers to obtain approval of appropriate rates and will expedite implementation of local number portability. According to Staff and the OCC, this interim measure would also serve the goal of promoting competition.

10. We accept the Staff/OCC recommendation for the suggested reasons. In addition, some of the arguments made by USWC and the new entrants persuade us to adopt the Staff and OCC proposal. It is apparent that there is presently no proven mechanism readily available to new entrants for measuring terminating local traffic. Thus, the cost of measurement and billing under a reciprocal compensation arrangement are unknown at the present time. Therefore, we will not accept USWC's position that bill and keep is inappropriate even as an interim measure. As for the arguments relating to the Act, we agree with the new entrants that bill and keep is not prohibited.

11. We also reject the position of the new entrants that bill and keep be approved for some unknown period of time. USWC appears to be correct that bill and keep may not ultimately be reflective of cost causation. As such, we should adopt a rule

which will encourage the development and deployment of effective measures to move to reciprocal compensation. We find that the Staff/OCC suggestion is appropriate in view of all these considerations.

B. Business/Residence Support Charge

1. USWC, with the support of CITA, has consistently maintained that the rules should allow for the establishment of a Business/Residence Support Charge. According to USWC, this charge is intended to replace the implicit subsidy from high contribution business customers which will be lost when these customers choose an alternative provider. We note that this proposal is based upon a number of assertions regarding present rates and the future business activities of new entrants. Specifically, the proposal assumes--USWC claimed as much--that current rates for business basic exchange are set at a level far above costs. Next, the USWC contention posits that the high contribution from business subscribers (*i.e.*, the mark-up above cost-of-service for basic business service and optional services purchased by business customers) is used to subsidize residential basic exchange specifically. To the extent new competitors enter the local exchange market, USWC then anticipates, they are likely to serve business exchange customers almost exclusively. USWC concluded that, as it loses business customers and the large contribution

from the services these customers purchase, it will lose the subsidy provided to services purchased by residential subscribers.

2. USWC ultimately argued that if it is to be required to maintain the differential between business and residential local exchange service, it must be permitted to charge a Business/Residence Support Charge to interconnecting local exchange providers. That charge would be assessed either as a flat charge per alternative exchange provider access line, or as a per minute-of-use charge for local calls that another provider delivers to USWC for termination on the USWC network. Additionally, USWC contemplates that the charge would be assessed upon competitors whose ratio of business/residence customers is less than USWC's comparable ratio.

3. This proposal was opposed by all other parties (except for CITA) for various reasons.[21] For example, a number of commenters maintained that a Business/Residence Support Charge would be anti-competitive, inasmuch as it would preserve implicit subsidies in the rates of incumbent LECs. The charge would, in effect, cause new entrants to subsidize incumbent providers. As an anti-competitive measure, the new entrants also claimed, it is prohibited by the Act.

[21] In fact, some of the parties (e.g. AT&T) suggested that we adopt a rule which would expressly prohibit collection of a charge like a Business/Residence Support Charge in the permanent local call termination rate.

4. Staff and the OCC recommended that we reject both the USWC proposal as well as any proposal which would explicitly proscribe a charge like a Business/Residence Support Charge. We agree with their reasoning. The above discussion points out that the justification for the proposal depends upon a finding that residential basic exchange service is being subsidized by business basic exchange. The present record does not support such a finding. In our view, the USWC proposal is essentially a rate-making matter. That is, the necessity for such a charge must be investigated in a ratesetting case, applying appropriate ratemaking principles (e.g., whether considerations regarding universal service justify a Business/Residence Support Charge). It would be inappropriate to approve (or disapprove) such a charge in this rulemaking proceeding. We will decline to do so.

C. Termination Rates

1. Rule 4.6 provides that the rates for terminating local traffic may be usage-based; flat charges based upon, for example, capacity port charges; or some alternative mechanism. The Commission will examine the rates of individual providers pursuant to the provisions of Rule 7.2 (i.e., through the tariff process).

2. We specifically decline to adopt the proposal by USWC that rates for terminating local traffic be the same as switched access rates. USWC proposed this rate structure, apparently, to

preclude rate arbitrage. *See discussion supra*. Depending upon the level of access rates, such a rate design could be substantially anti-competitive. Moreover, as with other instances in which the parties have urged us to adopt specific ratemaking principles, we conclude that this type of proposal should be investigated in a ratesetting case.

VII. OTHER INTERCOMPANY ARRANGEMENTS

1. Rule 5 sets forth requirements relating to a number of necessary arrangements between competing telecommunications providers. Most of these items were, for the most part, agreed to by the parties. In part, the rule: requires providers to deal with each other in good faith (Rule 5.1); directs providers to offer service in accordance with applicable Commission rules (Rule 5.2); requires all providers to afford reasonable access to poles, ducts, conducts, and rights-of-way (Rule 5.3); compels competitors to offer interconnecting providers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing (Rule 5.4); requires providers to enter into mutual billing and collection agreements (Rule 5.5); directs that providers offer the interoperability of non-optional operator services between networks (Rule 5.6); commands that providers develop mutually agreeable and reciprocal arrangements for the protection of customer proprietary network

information (Rule 5.7); requires that providers cooperate in development and implementation of procedures for service repair referrals (Rule 5.8); directs that providers offer necessary operational support to enable other providers to offer service consistent with Commission rules (Rule 5.9); and requires providers to make available access to technically-reasonable, non-proprietary signaling protocols used in the routing of traffic.

2. Rule 5.12 sets forth certain directives regarding the provision of a "White pages" directory. Since there was some controversy regarding this issue, we discuss the rationale for the adopted rule here.

White Pages

1. USWC and CTTA contended that each local exchange provider should be responsible for assuring that their customers' listings are included in a directory. These parties suggested that directory publishing is a fully competitive activity. As such, they maintained, no provider (*e.g.*, the incumbent LEC) should be responsible for assuring that the listings of customers of other providers appear in a White Pages directory.

2. The new entrants argued that provision of a White Pages directory is necessary in order to promote competition. That is, these parties claimed that requiring each new entrant to publish a directory would be a significant barrier to entry. Moreover, the

parties suggested, adopting a rule which might result in the proliferation of multiple White Pages directories would not be in the public interest. Rather, the parties argued that publication of a single comprehensive directory by the incumbent LECs, the circumstance which exists at the present time, is most appropriate.

3. The new entrants requested that the White Pages directory rule require: (1) that listings for the customers of new providers appear in the incumbent LECs' White Pages directory and in the yellow pages directory for business customers; (2) that new providers have comparably easy-to-find information included in the customer guide pages of the White Pages directory; and (3) that all customers be provided a directory by the incumbent LEC. Finally, the new entrants asserted that incumbent LECs should provide a White Pages directory at no charge to new providers. The new entrants specifically requested that they be provided equal space in the customer call guide pages for free, and that their customers be provided a White Pages directory (by the incumbent LEC) also for free. Apparently, the new entrants believe that publication of a comprehensive White Pages directory (*i.e.*, a directory which includes the listings of all customers, including those of other providers) has intrinsic value. That value would inure to the incumbent LECs as publishers of the directory and should be considered as in-kind compensation for any costs associated with publication of the directory.

4. Staff and the OCC followed a more moderate approach than the new entrants, USWC and CITA. Staff and the OCC agreed with the new entrants that incumbent LECs should be compelled to provide a comprehensive White Pages directory. In the Staff's and OCC's view, provision of a single White Pages directory to telephone customers is in the public interest. These parties also agreed that imposition of a directory publication requirement upon new entrants would constitute an unreasonable barrier to entry. Consequently, Staff and the OCC supported the principle that, in the absence of Commission action placing responsibility upon another provider, the incumbent LECs should serve as the "provider of last resort" for publication of a White Pages directory. Staff and the OCC, however, would place responsibility for actual delivery of the published directory to end-users upon new entrants (*i.e.*, new providers would be required to deliver the published directory to their own customers). Finally, Staff and the OCC would permit the incumbent LECs to charge other providers for publication of the White Pages directory.

5. We accept the Staff and OCC position for the reasons stated in their arguments. That position reasonably balances the interests of incumbents and new entrants. Rule 5.12 sets forth the requirements for the White Pages directory. In part, the rule:

(1) requires incumbents to "cause"[22] a comprehensive White Pages directory to be published and delivered to new entrants; (2) places responsibility for delivery of the published directory to their own customers upon each provider; (3) places responsibility upon each provider for provision of accurate subscriber listing information (*i.e.*, name, address, and telephone number) to the White Pages provider; (4) requires the White Pages provider to offer premium listings to the customers of competing providers; and (5) requires the White Pages provider to offer space in the customer guide pages of the directory. In addition, the rates, terms, and conditions associated with the transfer of customer listing information, the publication of the White Pages directory, the publication of customer guide information, and the publication of premium listings for the customers of competing carriers, shall be established in filed tariffs. See Rule 7.4.

VIII. UNBUNDLING REQUIREMENTS--RULE 6

There was substantial disagreement among the parties concerning unbundling provisions to be included in the rules. Items of controversy included: (1) what network elements should be unbundled; (2) should unbundling mandates apply to all providers or to incumbent LECs only; (3) what rates, terms, and conditions

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[22] The rule does not mandate incumbent LECs to actually publish the directory themselves. This provision recognizes that, presently, many incumbents contract with third parties for actual publication of the directory.

should apply to unbundled services; and (4) what process should apply with respect to implementation of unbundling (*e.g.*, a tariff process)?

A. **Elements to be Unbundled**

1. Rule 6.1 and 6.2 require incumbent telecommunications providers to offer access to a number of network elements designated as "essential facilities or functions". These include: loop, local switching; common transport links, dedicated transport links, local and toll tandem switching, operator systems, signaling links, signal transfer points, and access to each service control point via signal transfer points. This list of "essential" network elements which incumbents will be compelled to unbundle was suggested by Staff and the OCC.

2. In recommending the list of services to be unbundled, Staff and the OCC considered technical feasibility, economic feasibility, and the necessity of the elements to the provision of local exchange service by new entrants. We find these considerations to be appropriate, and, as stated above, agree with the recommendations by Staff and the OCC. Based upon the extensive comment provided in this case, we conclude that the listed elements are reasonably necessary (*i.e.*, essential) to the promotion of competition in the local exchange market, as directed in HB 1335.