on MCImetro Exhibits 3 and 5.[36] If these building blocks are available on an unbundled basis, the new entrants will be able to provide a variety of services they cannot otherwise economically afford to offer. Unbundled loops, for example, are necessary to permit entrants to offer local residential or business dial tone to customers not located on the entrant's fiber optic ring. Removing restrictions on resale is equally important to the provision of meaningful local exchange service. Prices for unbundled functions should be based on TSLRIC at a level which allows an LEC's comparable bundled tariff rates to pass an imputation test, so that entrants are not placed in a price squeeze. Resellers should be permitted to bundle these services with auxiliary services of their own choosing to bring the benefits of competition to Oregon consumers.

MCImetro states that USWC's offer to sell retail private line service to entrants in lieu of providing unbundled loops effectively places the entrants in a price squeeze. MCImetro also contends that USWC's definition of "essential facilities" is contrary to the approach recently adopted by the Commission in Order Nos. 94-1851 and 95-313.

AT&T contends that the LECs are refusing to unbundle the local network in order to impede competition. This refusal will force the new entrants to use inappropriate, overpriced substitutes. It will also prevent new entrants from developing their networks in the most efficient manner, by preventing interconnection at all feasible points. Third, it will prohibit innovation by preventing the new entrants from developing creative, useful services using unbundled monopoly elements. Finally, by refusing to permit commercially viable resale of their services, the LECs will preclude consumers, especially residential and rural customers, from enjoying the benefits of competition as soon as possible.

AT&T acknowledges that unbundling will be addressed comprehensively in docket UM 351. As indicated in Order No. 94-1851, however, the Commission should unbundle the local network in a limited fashion in these proceedings by ordering USWC and GTE to provide unbundled loops and ports immediately. The availability of unbundled loops will allow new entrants to expand their service areas more rapidly. Also, as Dr. Cornell notes, by selling loops to new entrants the LECs will continue to receive revenues, offsetting the loss of a customer. Finally, consumers will benefit from having more choice.

TCG states that the Commission should order USWC and GTE to unbundle and make available for resale subscriber loops and line side interconnection as described in the joint recommendations. The availability of these facilities at imputable rates, terms, and conditions will enhance the AECs' ability to expand their networks more rapidly,

[36] MCImetro's building blocks include network access (various levels of network access distribution and feeder channels, switched and dedicated); switching and switch functions (intraoffice, interoffice, and tandem switching; message generation functions; route selection; operator service center connection; operator, directory assistance, and 911 services; call data management); transport (switched and dedicated termination and facility; clear channel capability).

facilitating more end office interconnection and provision of service to residential and small business customers. AECs cannot construct overnight the same network that LECs' have taken decades to build.

USWC opposes the unbundling proposals submitted in this proceeding. It maintains that the Commission lacks jurisdiction to require a utility to make "bits and pieces" of its facilities available to competitors under any circumstances. USWC argues that none of its services are truly essential to competitors as long as network interconnection is offered on reasonable terms and conditions. It maintains that no facts have been introduced to support the claim that loops and loop components such as drops and feeder and distribution are essential facilities.

USWC proposes to unbundle its switched access service by implementing its LTR and expanded interconnection channel termination proposals. This will allow interconnecting carriers to use only the switching and transport services of USWC that they desire. USWC expects the Commission will resolve unbundling issues in the context of UM 351.

USWC states that resale would not be an issue if its rates were set to cover cost and make a reasonable contribution, and there were no artificial distinctions between classes of service. But this is not the case. All services permitted to be resold should be priced above ADSRC. Residential service should not be resold as business service if it is priced differently in the interests of universal service. Other carriers should not be able to resell USWC exchange services bundled with their interLATA long distance services until USWC is permitted to do the same. Finally, other carriers should not be allowed to avoid the payment of access charges by delivering traffic to USWC through the resale of its exchange services.

Commission Findings and Decision: Issue IV(h) Unbundling and Resale

In Order No. 93-852, we adopted Open Network Architecture rules in order to obtain efficient delivery of enhanced telecommunications services to the public and achieve greater competitive equity between providers of telecommunications service. The rules require unbundling of telecommunications services "to encourage the development of enhanced services and provide for a more competitive enhanced services market." OAR 860-35-030(1). Without unbundling and the eventual removal of resale restrictions, competition will proceed to rural and residential customers slowly, if at all. New local exchange providers face substantial economic barriers to expanding their networks to serve certain geographical locations and providing advanced services to residential customers. Constructing new facilities is a capital intensive, time consuming process. In the near future, the new entrants cannot be expected to duplicate the extensive networks maintained by the LECs. Unbundling and resale of telecommunications services will hasten the arrival of effective competition in Oregon.

As noted elsewhere in this order, the Commission is in the final stages of docket UM 351, a comprehensive investigation of unbundling and pricing issues. Evidentiary hearings have concluded in that proceeding and an order is expected shortly. In that proceeding, the Commission will specify the level and extent of unbundling that must occur to accommodate competition in telecommunications markets. In addition, we will address issues relating to existing use and user restrictions and the resale of telecommunications services. In view of these facts, we have elected not to unbundle any telecommunications services or remove any resale restrictions in these dockets.

Issue IV(i): What arrangements are necessary for the assignment of telephone numbers to the applicants?

The assignment of telephone numbers is administered by the North American Numbering Plan Administrator, who assigns Numbering Plan Area (NPA) codes and Service Area Codes (SAC). The NPAs are assigned to Area Code Administrators, who assign the prefixes (NXX codes) to carriers. The combination of the NPA and the NXX identifies a specific carrier's central office, which serves a specific geographical area. The last four digits identify a specific line appearance on a switch to which the end user is connected (e.g., 503-223-9999). SACs are assigned to carriers to provide services such as 800, 700, etc. These numbers are aliases for geographic numbers and must be translated into geographic numbers before a call can be completed.

Geographic numbers are assigned only to carriers who provide wireline or cellular telephone service in the Public Switched Telephone Network. They are assigned according to the Central Office Code Assignment Guidelines (ICCF 93-00729-010) developed by the Industry Numbering Committee. Before a carrier can obtain prefixes, it must prove that it is authorized to provide service.

Positions of the Parties

USWC, as numbering plan administrator for Oregon, is responsible for assigning central office codes to AECs. USWC assigns codes in accordance with the industry's Central Office Code Assignment Guidelines, which assures that AECs will have equitable access to central office code assignments. ELI has already been assigned the central office code 972 for Portland.

GTE agrees that procedures are already in place for assigning telephone numbers, and that, once authorized, the applicants need only request numbering resources from USWC, the plan administrator.

Staff, MCImetro, MFS, Sprint, and **TCG** recommend that USWC assign numbering resources to the applicants according to normal guidelines in a nondiscriminatory manner.

AT&T expresses concern that the LECs may give themselves preference in providing and administering numbers because the incumbents currently control number assignment and administration. It recommends that the Commission order USWC to administer numbers on a competitively neutral basis. Eventually, the only way to ensure evenhanded allocation of numbering resources among competing vendors is to vest control of numbering resources and administration in an impartial third party.

Commission Findings and Decision: Issue IV(i)

AECs cannot compete in the local exchange market unless they have nondiscriminatory access to numbering resources. As cocarriers, AECs are entitled to receive central office code assignments according to the same rates, terms, and conditions as any RBOC or LEC. Guidelines for the assignment of numbers are in place, and ELI has already received the 972 prefix for the Portland area. USWC shall apply existing guidelines for assigning numbers to the AECs in a nondiscriminatory manner.

Issue IV(j): What arrangements are necessary to ensure adequate number portability?

Under the North American Numbering Plan, LECs receive blocks of telephone numbers, which are assigned to a given switch or serving wire center served by a switch. Traditionally, customers moving outside the area served by a switch must relinquish their telephone numbers and receive new numbers from the new serving switch. This is the case regardless of whether the new switch is operated by the incumbent LEC or an AEC.

Number portability allows customers to retain their telephone numbers even when served by a different switch or local service provider. There are two general types of number portability. Service provider number portability permits customers to keep their telephone numbers if they change local service providers. Geographic number portability, on the other hand, allows customers to move from one location to another without changing telephone numbers. As the geographic area associated with number portability expands, implementation issues become significantly more complex.

Positions of the Parties

Applicants and several **intervenors** argue that number portability is essential to local exchange competition. Market studies conducted by MFS indicate that most customers are reluctant to change telephone carriers if they are also required to change telephone numbers at the same time. Customers consider changing telephone numbers both an inconvenience and an expense. Telephone numbers are given out to a wide variety of individuals, and are stored in computer databases, fax machines, modems and personal files. Businesses are generally required to print new stationery and business cards and send mailings to customers and vendors notifying them of the new number.

Smaller businesses often invest substantial amounts of money in advertising their telephone number. Some rely on incoming calls as the primary source of sales.

TCG points out that number portability is necessary to achieve traffic balance between LECs and AECs. Without number portability, customers with predominantly inbound usage are likely to remain with the LEC rather than change telephone numbers. Customers with predominantly outbound usage, on the other hand, are not similarly handicapped by the lack of portability. AECs will thus be relegated to serving customers with primarily outbound usage and will terminate the vast majority of that traffic on LEC networks.

USWC takes the position that number portability is not essential for AECs to compete for local exchange traffic. According to USWC witness Purkey, the new prefixes assigned to AECs will allow them to offer hundreds of "good numbers" to their customers. So while it may be desirable for a customer to retain an existing telephone number, it is not essential to local exchange competition.

Database Number Portability. A long term solution to service provider and geographic number portability will require use of a centralized database and Advanced Intelligent Network (AIN) capabilities incorporated in modern switching technology. Although such a solution is not yet ready for implementation, efforts are underway to resolve outstanding technical, operational and administrative issues.[37] Several of the parties to this proceeding are participating in the Number Portability Workshop convened by the Industry Numbering Committee. Technical trials of three proposed database solutions are also underway in other states.

GTE argues that database portability will be costly to implement and may not generate sufficient customer demand to warrant the expense. In the alternative, GTE suggests that customers and AECs be assigned nongeographic "virtual" numbers that operate similar to an "800" number and can direct calls to a customer's current geographic number no matter which local service provider originally assigned the number. GTE witness Beauvais maintains that this approach is technologically feasible, relatively cheap compared to other portability schemes, and will function as an interim or permanent solution depending on customer demand.

The parties also disagree over the timetable for implementing database number portability. **ELI** and **MCImetro** state that a solution is possible within 12-18 months, but assert that incumbent LECs have no incentive to proceed with the development of a

[37] According to USWC, these issues include development of a new addressing scheme to replace telephone numbers so that network providers can route calls directily to each end user's AEC, LEC or RCC; new routing schemes to ensure all network providers can access the number database at the appropriate point in the call setup sequence; new schemes for notifying customers which calls are local and which calls are toll; and new billing systems that will rely on the customers network address rather than the customers telephone number to determine the distance of toll calls.

database solution. They recommend that the Commission order an investigation of different number portability approaches, and require the LECs to submit a report within six months. **USWC** and **GTE**, on the other hand, contend that a database solution will not be available in the near term. USWC points out that the FCC has initiated a new rulemaking docket to investigate number portability, and suggests that it is premature to mandate deployment of a specific database solution until other methods can be fully evaluated.

Staff recommends against adopting a permanent number portability solution in this docket. Staff witness Harris asserts that requiring special number portability procedures would effectively impose an obligation on LECs to assist competitors. Staff states that the number portability solution ultimately adopted by the Commission should (a) include both service provider and geographic portability, (b) be reciprocal among telecommunications providers; and (c) not degrade access to emergency services. Staff further recommends that the cost to develop, deploy and use number portability should be born by those who use it.

As noted above, Item 4 of the Partial Stipulation submitted by **MFS, ELI, AT&T, Sprint, OCTA, TCG, OECA**, and **GTE** requested that the Commission open a docket by January 31, 1996, to consider and resolve issues relating to database number portability. The stipulation also requests that a work group be created to monitor the progress and results of number portability trials in other states.

Interim Portability. The parties generally agree that, until a database solution is developed, interim arrangements using existing technology can be employed to provide service provider number portability.

USWC proposes to offer service provider portability using Remote Call Forwarding (RCF) and Directory Number Route Indexing (DNRI) at a price of approximately $4.00 per month. A nonrecurring charge would apply to an AEC's initial establishment of DNRI or RCF in each central office. A second nonrecurring charge would apply to activation of each portable number.

GTE acknowledges that neither database portability or its proposed virtual nongeographic method are currently available. It is willing to consider alternative methods, such as remote call forwarding, to provide interim portability. GTE argues that the cost of portability arrangements should be borne by those customers that demand the service.

Staff recommends that the Commission require USWC and GTE to file tariffs offering RCF or DNRI to AECs as an interim solution to number portability. Staff notes that existing tariff rates may need to be changed in order to allow those services to be resold by the applicants. USWC's version of remote call forwarding, known as Market Expansion Line, is currently offered at $16.00 per month. GTE offers a RCF service for

$15.00 per month. Staff proposes that USWC and GTE file cost support for interim number portability tariffs within 60 days after an order is issued in these proceedings.

ELI, MFS and **TCG** recommend that interim number portability be implemented using remote call forwarding methods. These methods–also referred to as cocarrier call forwarding (CCF) –can be deployed quickly and have fewer technical limitations than other interim approaches. According to MFS witness Schulz, CCF eliminates inefficient trunking arrangements by allowing forwarded calls to be routed through the tandem switch over common trunk groups. It also permits use of SS7 signaling capabilities. Technical concerns associated with CCF and other interim number portability solutions include: (a) the fact that all calls must be routed to the LEC switch before being forwarded to AEC facilities, resulting in additional transmission and switching expense, and call setup time; and (b) most CLASS services cannot be provided. ELI recommends that CCF interim number portability be included in LEC local interconnection tariffs and offered to AECs at rates no greater than TSLRIC. Pricing at this level reflects the technical limitations inherent in interim portability arrangements and mitigates the economic penalty imposed on AECs by the absence of database number portability.[38]

AT&T and **MCImetro** argue that all of the proposed interim portability arrangements are seriously flawed and no meaningful effort should be spent on improving them if industry resources would otherwise be diverted from work on a database solution. Aside from the problems mentioned above, technical limitations associated with interim portability include difficulty determining the source of service problems and the proper attribution of access charges from interexchange carriers. AT&T also states that interim arrangements should enable AECs to interconnect at an access tandem rather than at every LEC end office in which the AEC has customers. Interim arrangements should also allow AECs to receive signaling information (*e.g.*, calling party number) so that the AEC may offer its "ported" customers the same complement of service features that would otherwise be available from its switch.

MCImetro argues that number portability is fundamentally a method of routing traffic and should be treated as an interconnection service rather than an end user service. As a result, interim portability should be priced below retail rates. MCImetro proposes that the Commission follow the pricing approach taken in New York or Michigan. The New York Public Service Commission decision pools the cost of interim portability arrangements and requires both LECs and AECs to pay a surcharge on each telephone number.[39] The underlying rationale is that all consumers benefit from number

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[38] ELI also recommends eliminating restrictions in USWC's end user tariffs that require: (1) customers to maintain a USWC access line; (2) application of measured usage charges; and (3) restrictions on the number of calls that can be forwarded simultaneously.

[39] *Re Rochester Telephone Corporation*, Cases 93-C-0103 and 93-C-0033, Opinion No. 94-25, 160 PUR 4th 554, 588 (1994).

portability because consumers benefit from competition generally. In Michigan, the Public Service Commission concluded that interim portability is an essential service and should be offered to AECs at a price no greater than economic cost.[40]

ELI, MFS, AT&T, TCG and **OCTA** filed joint recommendations requesting that the Commission require USWC and GTE to file tariffs providing interim portability, including RCF and DNRI, at a price equal to TSLRIC. Interim portability arrangements should be offered on a bill and keep basis until USWC and GTE file tariffs with appropriate cost support.

Commission Findings and Decision: Issue IV(j)

Based on the evidence presented, the Commission is persuaded that number portability is an interconnection service that is essential to the development of effective local exchange competition. We agree with applicants that business and residential customers have a substantial interest in retaining their existing telephone numbers and are unlikely to change service providers if forced to change those numbers.

Because number portability is necessary for competitive local exchange markets to develop, it is important for the telecommunications industry to produce a database solution as soon as possible. At the same time, the Commission does not want to take steps that duplicate or are inconsistent with efforts now underway to arrive at a national solution to portability issues. We therefore agree with the recommendation to establish a work group to monitor developments in this area, including the results of number portability trials in other states. The number portability work group shall include the applicants, USWC, GTE, Staff, and other interested parties, including consumer groups, ILECs, and competitive providers. The work group shall submit periodic reports evaluating the progress of database portability trials and including recommendations regarding the timing and implementation of a database number portability solution. The first report shall be filed with the Commission no later than July 1, 1996.

For the present, interim number portability should be offered by allowing AECs to use RCF or DNRI technology. The evidence indicates that these methods have a number of technical limitations, but there appears to be general agreement that they will function reasonably well as an interim solution.

From a pricing standpoint, we find that USWC and GTE should file interim number portability tariffs offering both the RCF and DNRI functions at a price equal to TSLRIC. Tariffs for RCF and DNRI should be filed with the Commission no later than 30 days from the date of this order. The tariffs filed by GTE and USWC may include a nonrecurring service provisioning charge, which should also be set at cost. The interim number portability rates prescribed in this order should remain in effect until such time

[40] *In the Matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan,* Case No. U-10647, 159 PUR 4th 532 (1995).

as the Commission concludes its most recent cost investigation in docket UM 773. Based on the results of that investigation, we may modify the rate adopted in these proceedings. The rate for interim number portability may also be adjusted as a result of the unbundling and pricing investigation in docket UM 351 and/or subsequent rate proceedings for USWC and GTE.

USWC and GTE will not be adversely affected if interim number portability is offered to the applicants at TSLRIC. As noted above, we expect that it will take several months for AECs to begin operations, and an even longer period of time before they are able to penetrate local exchange markets to any significant extent. Demand for interim number portability should therefore not be substantial in the near term. Also, because DNRI and RCF are technically inferior methods of providing number portability, it is reasonable to establish the initial price at economic cost. The current tariff rates for remote call forwarding services, on the other hand, would impose very high costs on the AECs and effectively foreclose competitive entry. USWC did not file any cost justification for its proposed $4.00 interim portability rate.

Issue IV(k): If the applications are granted, should there be any limits on the LEC pricing flexibility in ORS 759.050(5)(a)?

Subsection (5)(a) of ORS 759.050 provides:

> unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations, and modifications of competitive zone services offered by a telecommunications utility in the zone shall not be subject to [the notice, hearing and tariff suspension procedures in] ORS 759.180 to ORS 759.190, and at the telecommunications utility's discretion, such changes may be made effective upon filing with the commission.

Subsection (5)(b) of ORS 759.050 further provides:

> [t]he price and terms of service offered by a telecommunications utility for a competitive zone service within a competitive zone may differ from that outside of the zone. However, the price for a competitive zone service within the zone may not be lower than the total service long run incremental cost, for nonessential functions, of providing the service within the zone and the charges for essential functions used in providing the service but the commission may establish rates for residential local exchange telecommunications service at any level necessary to achieve the commission's universal service objectives. Within the zone, the price of a competitive zone service or any essential function used in providing the competitive zone service may not be higher than those prices in effect when the competitive zone was established unless authorized by the commission.

Subsection (5)(a) allows telecommunications utilities to respond to competition within a competitive zone by authorizing rate adjustments and implementation of new services without regulatory intervention. Subsection (5)(b) discourages anticompetitive pricing by imposing an imputation price floor on all competitive zone services. It also prevents price gouging by prescribing existing rates as the price cap for all essential functions and competitive zone services.

Positions of the Parties

ELI argues that LEC pricing flexibility should be limited until: (a) a certificate is issued to an AEC; (b) the AEC begins providing telecommunications service within its authorized geographic area; and (c) the incumbent LEC has provided the AEC with all necessary forms of interconnection, including interconnection to unbundled loops. ELI maintains that customers within the competitive zone will not have a reasonable alternative for local exchange service until such time as interconnection arrangements are in place and there is a mutual exchange of traffic. ELI asserts that granting LECs premature pricing flexibility within the competitive zone will allow them to lock in customers with special discounts and contractual arrangements before the AECs have entered the market, thereby retarding competition in a manner contrary to the public interest.

ELI also argues that AECs must have access to unbundled loops in order to compete for customers located within the competitive zone but outside the scope of existing AEC facilities. Because these loops are essential functions, LECs cannot satisfy statutory imputation requirements if LECs have pricing flexibility prior to the availability of unbundled loops. According to ELI witness Robert McMillin, incumbent LECs will not be materially disadvantaged by lack of pricing flexibility, because AECs are foreclosed from effective market entry until full interconnection and unbundled loops are available. Further, LECs will still be able to enter into special contract arrangements with those customers who do have a competitive alternative.

MCImetro argues that the preconditions proposed by ELI are necessary but not sufficient. It maintains that pricing flexibility should be granted to LECs only when there is effective competition in competitive zones or when pricing flexibility in the competitive zones is not paid for by price increases outside of the competitive zones. Dr. Cornell emphasizes that incumbent LECs should not have the ability to lower prices within the competitive zone and implement offsetting increases to customers located outside the competitive zone.

MFS recommends that consideration of LEC pricing flexibility should begin with the acknowledgment that the incumbent provider commands virtually 100 percent market share, has the potential to cross subsidize because of its captive customer base, and, as a result, wields enormous market power within its service territory. This situation is not changed by the appearance of AECs, nor does it signal the presence of

effective competition. It also recommends that LECs not receive pricing flexibility within the competitive zone until effective competition exists.

TCG emphasizes that the substantial market power of incumbent LECs requires that they be regulated with greater scrutiny than AECs. LECs should be required to file cost justified tariffs for all competitive services and adhere to the imputation requirements in ORS 759.050(5)(b) for all competitive service offerings.

GTE, Staff, AT&T, and **Sprint** do not advocate placing limits on LEC pricing flexibility beyond those imposed by statute. Sprint emphasizes that regulation of incumbent LECs should be a function of market power and the extent to which the LECs are able to leverage control of essential facilities. As long as incumbent LECs possess substantially more market power than new entrants, greater regulatory oversight is appropriate. Sprint further argues that traditional rate base regulation should eventually be replaced with price and service regulation designed to provide appropriate incentives as local telephone competition emerges.

USWC points out that it already possesses both upward and downward pricing flexibility for nonessential services under its AFOR plan. It urges that the upward pricing flexibility permitted by the AFOR should not be restricted and disputes the suggestion that it might use such flexibility to shift costs to noncompetitive services. USWC witness Carl Inouye emphasizes that if USWC decides to lower essential service prices within the competitive zone, the only way to recover those revenues under the AFOR is by raising rates for nonessential services. To date, USWC has made little use of its limited upward pricing flexibility and is more likely absorb a revenue shortfall than increase prices. Moreover, to the extent that shifts in revenue requirement responsibility occur in a competitive market, it is incorrect to assume that such changes will result in a cross subsidy or other inappropriate policy result.

USWC maintains that LECs should also receive the downward pricing flexibility contemplated by ORS 759.050(5). Since essential service rates are effectively frozen under the AFOR, downward flexibility within the competitive zone will benefit USWC's essential service customers. USWC emphasizes that the imputation requirement in the statute effectively precludes any possibility that LECs will cross subsidize services. In addition, USWC challenges the argument that LEC pricing flexibility should be withheld until effective competition exists. Mr. Inouye notes that such a requirement is not imposed by ORS 759.050 and is illogical in any event, since there is no possibility of effective competition if LECs cannot respond to AEC market initiatives. USWC points out that the Commission rejected the notion that effective competition must be present when it approved the existing AFOR plan.

With respect to the incentives created by traditional regulatory processes, USWC intends to propose price regulation as an alternative regulatory framework when the AFOR expires in 1996. USWC contemplates that rate rebalancing, including rate

deaveraging and the elimination of internal subsidies, will be an issue in the rate trueup process in that docket.

Commission Findings and Decision: Issue IV(k)

The Commission finds that USWC and GTE should receive pricing flexibility under ORS 759.050(5) once: (a) applicants have received certificates of authority to provide local exchange service consistent with the terms of this order; (b) the Commission approves the tariffs filed by USWC and GTE in compliance with this order; *and* (c) Staff notifies the Commission that interconnection arrangements are in place and a mutual exchange of traffic exists between GTE and USWC and an authorized AEC. These conditions will ensure that there is a competitive alternative in the local market at the time USWC and GTE receive the pricing flexibility contemplated by ORS 759.050.

We also find that the pricing flexibility authorized in USWC's AFOR should not be restricted. No evidence has been presented to show that USWC has engaged in anticompetitive pricing or otherwise abused its authority to price list nonessential services during the four years the AFOR has been in effect. ORS 759.195(7) and ORS 756.500 provide adequate procedural remedies for any customer who alleges that USWC's pricing decisions are unreasonable.

We do not agree with MCImetro and MFS that LEC pricing flexibility should be withheld until effective competition exists. ORS 759.050(2)(b) provides that "price and service competition . . .shall not be deemed to exist by virtue of the establishment of a competitive zone." While the Commission could impose such a requirement as a condition to creating competitive zones, we do not believe that it is necessary to protect customers or foster competition in local exchange markets. In our opinion, the imputation price floor prescribed in the competitive zone statute effectively precludes the potential for cross subsidy and other forms of anticompetitive pricing. Moreover, USWC already exercises pricing flexibility under its AFOR plan without any discernible adverse effects. As an additional safeguard, ORS 759.050(7) provides that any telecommunications provider or customer aggrieved by the prices, terms of service or practices of another provider may file a complaint with the Commission under ORS 756.500.

The Commission is also not persuaded by ELI's argument that LEC loops must be unbundled prior to granting LECs the pricing flexibility contemplated by the competitive zone statute. As we have emphasized, access to unbundled LEC loops is being examined as part of the comprehensive unbundling and repricing investigation in docket UM 351, Phase II. The order issued in that docket will specify the level and extent of unbundling of LEC services necessary to permit effective competition in Oregon telecommunications markets.

ORS 759.050(5)(d) provides that the Commission may order a telecommunications utility to disaggregate and offer essential functions of the utility's

local exchange network. Our decision to authorize pricing flexibility for USWC and GTE in the competitive zones is predicated on the assumption that those LECs will comply with the unbundling decisions that we make in docket UM 351. Failure to comply with our unbundling determinations will require us to reconsider the decision that pricing flexibility is in the public interest.

CONCLUSION

The Commission has reviewed the record in these dockets in light of the factors required by ORS 759.050(2)(a). On consideration of those factors, the Commission concludes that it is in the public interest to grant the applications of Electric Lightwave, Inc., MFS Intelenet of Oregon, Inc., and MCI Metro Access Transmission Services, Inc., for authority to provide local telecommunications services in Oregon. The following USWC exchanges should be designated as competitive zones under the statute: Burlington, Lake Oswego, Milwaukie, North Plains, Oak Grove, Oregon City, and Portland. In addition, the following GTE exchanges shall be designated as competitive zones: Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard.

ORDER

IT IS ORDERED that:

1. The applications of Electric Lightwave, Inc., MFS Intelenet of Oregon, Inc., and MCI Metro Access Transmission Services, Inc., to provide local exchange telecommunications services in the service areas of USWC and GTE are in the public interest and are granted.

2. The following USWC exchanges are designated as competitive zones: Burlington, Lake Oswego, Milwaukie, North Plains, Oak Grove, Oregon City, and Portland.

3. The following GTE exchanges are designated as competitive zones: Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard.

4. GTE and USWC shall offer ancillary services to the applicants as agreed in the Stipulation and set forth in this order. The applicants shall fulfill the conditions for 911 service stated in the Stipulation.

5. The applicants shall offer Enhanced 911 service as described in this order.

6. Compensation for the exchange of local and EAS traffic between the applicants and the LECs in the competitive zones shall be based on bill and keep arrangements for a period of not more than 24 months.

7. An industry work group shall be created to address interconnection compensation issues as described in this order.

   a. The task of the work group shall be to formulate proposals for implementing a reciprocal interconnection rate structure applicable to all switched telecommunications traffic.

   b. The interconnection compensation work group shall evaluate the need for reciprocal payments in a competitive environment that includes facilities based carriers as well as other types of telecommunication service providers.

   c. The interconnection compensation work group shall examine the continued viability of existing EAS arrangements. The work group should consider the impact on rates and policy from the transition from bill and keep to interconnection compensation based on reciprocal payments.

   d. Staff shall submit reports to the Commission every six months detailing the progress of the interconnection compensation work group.

   e. The applicants, USWC and GTE shall conduct and submit periodic traffic studies of local and EAS traffic exchanged with other carriers. The first study shall be submitted within six months of the date of this order. Additional studies shall be submitted every six months thereafter.

8. Existing local exchange boundaries and EAS routes established by the Commission shall apply to AECs as well as incumbents for the purpose of distinguishing between local and toll calling and for intercompany compensation, until otherwise ordered. AECs shall limit each of their NXX codes to a given exchange and establish rate centers in those exchanges that are proximate to existing LEC rate centers.

9. The applicants shall be permitted to interconnect with incumbent providers on the same terms and conditions that LECs have used to interconnect their telecommunications networks. Applicants shall not take any action that impairs the ability of the incumbent LECs to meet the service standards specified by the Commission.

10. USWC shall apply existing guidelines for assigning numbers to the AECs in a nondiscriminatory manner.

11. A work group shall be established to monitor database number portability issues, including the results of number portability trials in other states.

    a. The work group shall include the applicants, USWC, GTE, Staff, and other interested parties, including consumer groups, ILECs and competitive providers.

    b. The work group shall submit periodic reports evaluating the progress of database portability trials and including recommendations regarding the timing and implementation of a database number portability solution. The first report shall be filed with the Commission no later than July 1, 1996.

12. Interim number portability shall be offered by allowing AECs to use RCF or DNRI technology. USWC and GTE shall file tariffs within 30 days from the date of this order offering both the RCF and DNRI functions at a price equal to TSLRIC. The tariffs may include a nonrecurring service provisioning charge, which should also be set at cost.

13. USWC and GTE shall receive pricing flexibility under ORS 759.050(5) once (a) applicants have received certificates of authority to provide local exchange service consistent with the terms of this order; (b) the Commission approves the tariffs filed by USWC and GTE in compliance with this order; *and* (c) Staff notifies the Commission that interconnection arrangements are in place and a mutual exchange of traffic exists between GTE and USWC and an authorized AEC.

14. Pursuant to ORS 759.050(2)(c), the applicants shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

Made, entered, and effective JAN 12 1996.

Roger Hamilton
Chairman

Ron Eachus
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-14-095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-13-070(2). A party may appeal this order to a court pursuant to ORS 756.580.

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APPENDIX A

THE APPLICATIONS

CP 1: ELECTRIC LIGHTWAVE, INC..

On November 14, 1994, Electric Lightwave, Inc. (ELI) filed an application with the Commission for certification to provide telecommunications service in Oregon as a competitive provider. ELI's application seeks authority to provide intraexchange switched services. Initially, ELI intends to offer services targeted to the business customer market within the ELI service territory as defined below. These services will include, but not be limited to, Centrex-type services, circuit-switched data services, standard business line services, private branch exchange (PBX) trunks, digital switched services, and ISDN services. Other intraexchange switched services, including residential service offerings, may be provided in the future. ELI also seeks authority to provide all intrastate intraexchange services incidental, supplementary, or related to any of the foregoing.

ELI seeks authority to provide intraexchange switched service in areas coextensive with the following local exchange areas: Lake Oswego, Milwaukie-Oak Grove, Oregon City, and Portland (USWC exchanges); and Beaverton, Gresham, Hillsboro, Sherwood, Stafford, and Tigard (GTE exchanges).

Functionally equivalent or substitute intraexchange switched services are readily available in the ELI service territory from incumbent carriers including USWC and GTE. In addition, substitute or alternative services are also available from centrex resellers such as Enhanced Telemanagement Inc. (ETI) and shared tenant service providers.

ELI currently owns, controls, and operates a digital fiber optic Metropolitan Area Network (MAN) in the Portland, Oregon metropolitan area. The network is comprised of 134 miles of 96-strand, single mode fiber optic cable in place or under construction, with an additional 200 miles in various stages of engineering. ELI also has a primary network hub located in downtown Portland. That hub contains a Northern Telecom DMS 100-200 switch with a DMS Supernode SE 60 processor. ELI seeks to establish meet points and interconnect with incumbent LECs' networks at various points, including end office switches, EAS tandems, intraLATA toll tandems, interexchange carrier access tandems, and operator services tandems. It will also request transport facilities from LECs to transport ELI services to remote locations. Transport facilities will include both analog and digital transmission media. The traffic will be handed to LECs at respective meet points and will be terminated at either the customer premise, other carrier locations, or other ELI/LEC meet points. ELI also will request ancillary

services from LECs, including 911 routing, directory assistance, number portability, CLASS services, and operator services.

ELI is prepared to meet LECs in a timely fashion with a circuit interface that accommodates the LECs' ability to complete the meet point interconnections as soon as possible, with either electrical or fiber transmission media. Moreover, ELI has the ability to support all types of signaling commonly used between LECs. This includes traditional inband signaling (analog or digital) and digital out-of-band signaling with SS7 signaling protocol.

To ensure network reliability and system compatibility with LEC embedded facilities and equipment, ELI has provisioned its network with equipment documented by the RBOCs as acceptable for purchase and installation within RBOC central offices and/or facilities.

ELI continues to adhere to and review standards and interconnection issues. In addition, ELI has established the same physical, electrical, and protocol levels with USWC and other independent LECs that will be required for intraexchange switched telecommunications products and services the company proposes to provide in Oregon. ELI's existing and proposed plant of system in Oregon will not conflict with or adversely affect the operations of any existing certified utility in the state that supplies the same products or services to the public.

ELI seeks to provide universal access to its network, whether by other service providers, subscribers, or competitors. In order to accomplish this goal, ELI's fiber optic transmission network and switching systems are designed to provide an open network platform, allowing for maximum present flexibility and the ability to grow as technology changes. ELI currently makes physical collocation and interconnection available at its network hubs to carriers, customers, and competitors.

ELI agrees to participate in all existing Commission approved programs and can satisfy statutory requirements relating to the provision of 911/E-911 services and the Telecommunications Devices Access Program.

ELI will not provide operator services under contract with a call aggregator as defined in ORS 759.690. ELI will not directly provide operator services in Oregon but will contractually arrange to have such services provided by an incumbent LEC or by another company that is in compliance with all Commission rules.

CP 14: MFS INTELENET OF OREGON, INC.

On December 14, 1995, MFS Intelenet of Oregon, Inc. (MFS), filed an application with the Commission for certification to provide telecommunications service in Oregon as a competitive provider. MFS's application seeks authority to provide intraexchange switched services. MFS has been authorized to provide interexchange telecommunications services on a resale and a facilities basis. Docket UM 668, Order No. 94-1322.

MFS intends initially to offer services targeted to the business customer market, especially small and mid-sized businesses within its service territory. MFS will offer intraexchange access services (basic business lines, key system lines, analog private branch exchange [PBX] trunks, analog direct inward dial [DID] trunks, digital PBX and DID trunks, Centrex-type system lines); intraexchange usage services (direct dial calling, toll-free calling [i.e., local 800, 950, or comparable services), operator assisted calling, directory assistance service, emergency 911 service at no charge to the caller, and switched carrier access services, including terminating access (to enable other common carriers to terminate traffic via end user access services provided by MFS) and originating access (to enable customers of MFS' intraexchange access service to employ those services to access the intrastate, interstate, and international calling service of other interexchange carriers on an equal access (1+ or 10XXX) basis.

MFS may provide other intraexchange services in the future. MFS also seeks authority to provide all intrastate intraexchange services incidental, supplementary, or related to any of the foregoing services.

MFS has applied for authority to provide telecommunications service areas coextensive with the following local exchange areas: Burlington, Lake Oswego, North Plains, Oak Grove-Milwaukie, Oregon City, and Portland (USWC exchanges); and Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard (GTE exchanges).

MFS intends to provide its services through an Ericcson AXE-10 switch. MFS's sister company, Metropolitan Fiber Systems of Oregon, Inc. (MFS), is currently constructing a digital fiber optic ring network in the Portland metropolitan area, pursuant to authority granted in Order No. 94-1322. MFS will provide its intraexchange services primarily using its own switch and facilities leased from its sister company.

MFS Intelenet, Inc., the parent company of MFS, establishes operating subsidiaries on a state-by-state basis. The switching and network systems of the MFS Intelenet, Inc. corporate family feature advanced common channel signaling (called CCS or SS7) and database capabilities. It has established a matched pair

of service transfer point/service control point (STP/SCP) facilities to enable CCS signaling between MFS affiliates and other carriers for advanced call setup and CLASS features interoperability.

MFS Intelenet has also set up a Network Operations Control Center (NOCC) in New Jersey, which is staffed 24 hours a day, 365 days per year. The NOCC monitors the operations of the switch, all peripherals, and all network facilities on a continuous basis. The NOCC is designed to allow MFS Intelenet technicians, working in cooperation with MFS technicians, to detect troubles as they occur and to implement corrective measure before customers experience outages or service degradation.

MFS seeks to establish meet points and interconnect with ILEC networks at various points, including ILEC end office switches, EAS tandems, intraLATA toll tandems, IXC access tandems, and operator services tandems. It will also request transport facilities from ILECs to transport MFS services to remote locations. Transport facilities will include both analog and digital transmission media. The traffic will be handed to ILECs at respective meet points and will be terminated at either the customer premises, other carrier locations, or other MFS-ILEC meet points. MFS will also requuest certain ancillary services from ILECs, including 911 routing, directory assistance, number portability, CLASS services, and operator services.

MFS will need to make cocarrier arrangements with the ILECs covering number assignments; meet-point billing; reciprocal traffic exchange and compensation; shared platforms for 911, telecom relay, directory assistance, etc.; unbundled local loops; and cocarrier number forwarding.

Functionally equivalent or substitute intraexchange switched services are readily available in the MFS service territory from incumbent carriers including USWC and GTE. In addition, substitute or alternative services are also available from Centrex resellers such as Enhanced Telemanagement, Inc., and shared tenant service providers. Finally, if ELI's application is granted, ELI will also provide functionally equivalent or substitute intraexchange switched services.

CP 15: MCI METRO ACCESS TRANSMISSION SERVICES, INC.

On December 20, 1994, MCI Metro Access Transmission Services, Inc. (MCImetro) applied for authority to provide telecommunications service in Oregon as a competitive provider. MCImetro is a wholly owned subsidiary of MCI Telecommunications Corporation (MCIT). MCIT is certified in Oregon as a competitive telecommunications provider. It provides interLATA and intraLATA toll services, 800 services, and WAT services.

MCImetro intends to provide local exchange service and carrier access services to business customers. These services will include, but are not limited to, two-way local lines or trunks, direct inward or outward dialing options, local calling operator assistance services, directory assistance, dual party relay service, and 911 emergency services via the established 911 network.

MCImetro seeks to provide services in the Portland metropolitan area, including portions of Multnomah, Clackamas, and Washington counties. Service will be provided in areas coextensive with the following local exchange areas: Lake Oswego, Milwaukie, Oak Grove, Oregon City, Portland (USWC exchanges); Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, and Stafford (GTE exchanges).

MCImetro intends to own and deploy its own digital switches with stored program control software. MCImetro has not yet selected the switches it will deploy in Oregon.

If MCImetro can purchase transmission service from the incumbent LECs in a cost effective manner, MCImetro will try to do so. MCImetro anticipates that transmission service elements such as loops and network access facilities will be available from the LECs on an unbundled basis and at cost based rates in the near future, as a result of UM 351.

If MCImetro cannot purchase cost-effective transmission service from the incumbent LECs, MCImetro will construct its own transmission facilities. In other jurisdictions where MCImetro has constructed a redundant network, MCImetro has used high reliability fiber rings with SONET technology for most of its facilities. Attachment D to MCImetro's application describes its network plan for Washington state, which has been approved by the Washington Utility & Transportation Commission. If MCImetro receives authority to operate in Oregon, it anticipates that its network plan for Oregon would be similar.

APPENDIX B

APPEARANCES AT HEARING

The following parties entered appearances at the hearing in these cases:

Party	Representative
Electric Lightwave, Inc. (ELI)	Ellen Deutsch
MFS Intelenet of Oregon, Inc. (MFS)	Robert Berger and Leslie Bottomly
MCI Metro Access Transmission Services, Inc. (MCImetro)	Beth Kaye and Susan Weiske
GTE Northwest, Inc. (GTE)	Richard Potter
US West Communications, Inc. (USWC)	Molly Hastings and Douglas Owens
AT&T Communications of the Pacific Northwest, Inc. (AT&T)	Susan Proctor
Oregon Cable Telecommunications Association (OCTA)	Sara Siegler Miller
Oregon Exchange Carriers Association (OECA)	Robert Hollis
Oregon Independent Telephone Association (OITA)	Michael Morgan and Gary Bauer
Sprint Communications Company L.P. (Sprint)	Lesla Lehtonen
Teleport Communications Group Inc. (TCG)	Teresa Marrero and Mark Trinchero
Commission Staff (Staff)	W. Benny Won

APPENDIX C

CP 1, 14, 15

STIPULATION

CARRIER	PARTY SIGNATURE	COMMENTS
AT&T	Susan Proctor	
Electric Lightwave, Inc.	Ellen S Deutsch	
GTE-Northwest	Richard Potter	
MCImetro Access Transmission Services		**Declines to Sign (Beth Kaye)**
MFS Intelenet of Oregon Inc	Robert Berger	
OCTA	Sara Siegler-Miller	
Oregon Exchange Carriers	Robert R Hollis	
Oregon Independent Telephone Association		**Letter/No opposition (Michael Morgan)**
Sprint Communications	Lisa Lehtonen	
Teleport Communications Group, Inc.	Mark Trinchero	
U S WEST Communications	Molly Hastings	

1 BEFORE THE PUBLIC UTILITY COMMISSION

2

3 OF OREGON

4

5 CP 1, CP 14, CP 15

6

7 In the Matter of the Application)
8 of Electric Lightwave, Inc., for)
9 a Certificate of Authority to)
10 provide Local Exchange)
11 Telecommunications Services in)
12 Oregon. (CP 1)) STIPULATION

13

14 In the Matter of the Application)
15 of MFS Intelenet of Oregon,)
16 Inc., for a Certificate of)
17 Authority to provide Local)
18 Exchange Telecommunications)
19 Services in Oregon. (CP 14))

20

21 In the Matter of the Application)
22 of MCI Metro Access Transmission)
23 Services, Inc., for a)
24 Certificate of Authority to)
25 provide Local Exchange)
26 Telecommunications Services in)

1 Oregon. (CP 15))

2

3 WHEREAS, on November 14, 1994, Electric Lightwave, Inc.
4 ("ELI"), filed an application (copy attached hereto as
5 "Attachment A") with the Public Utility Commission of Oregon
6 ("PUC" or "Commission") under ORS 759.020 for authority to
7 provide local exchange telecommunications services within several
8 Portland metropolitan area exchanges currently served by U S WEST
9 Communications, Inc. ("USWC"), and GTE Northwest, Inc. ("GTE"),
10 which application was docketed by the Commission as PUC Docket
11 CP 1; and

12

13 WHEREAS, on December 14, 1994, MFS Intelenet of Oregon,
14 Inc. ("MFS"), filed an application (copy attached hereto as
15 "Attachment B") with the PUC under ORS 759.020 for authority to
16 provide local exchange telecommunications services within several
17 Portland metropolitan area exchanges currently served by USWC and
18 GTE, which application was docketed by the Commission as PUC
19 Docket CP 14; and

20

21 WHEREAS, on December 20, 1994, MCI Metro Access
22 Transmission Services, Inc. ("MCI Metro"), filed an application
23 (copy attached hereto as "Attachment C") with the PUC under
24 ORS 759.020 for authority to provide local exchange
25 telecommunications services within several Portland metropolitan
26 area exchanges currently served by USWC and GTE, which