

best qualified to make. They can most efficiently determine whether or not it is feasible to provide the particular network functionality separately and whether or not the function is being provided at retail (and whether facilities are therefore available).

The FCC will note the virtual identity of the WPSC's proposed list of network elements, developed well before the issuance of the NPRM, with those elements discussed in the NPRM at paragraph 92. This is, as we have said, a technically feasible list; and therefore we have structured our TSLRIC rules, under the Wyoming Act, to provide costing information on each of the unbundled elements listed above.

Taking the above into consideration, the WPSC does not believe that its rules should be preempted by federal action. To strengthen the federal/state partnership under the Act, the FCC should identify in its rules a "minimum set of network elements that incumbent LECs must unbundle for any requesting telecommunications carrier." NPRM at paragraph 77. The WPSC believes that the minimum set should be no larger than that included in the WPSC's draft rules noted above. Thereafter, it would be most efficient for the states to tackle the facts and to "require additional unbundling of LEC networks." NPRM at paragraph 78. Our draft rules clearly contemplate further unbundling which could be required based upon circumstances of the case, including consideration of reasonable proven need or demand.

At paragraph 115 of the NPRM, the FCC seeks comment whether unbundling should be allowed to provide competing carriers with access to potentially competitively sensitive data. The FCC cites state regulations prohibiting access to

customer proprietary network information (CPNI). We agree that CPNI concerns should be addressed; and our draft rules on interconnection do so at Section 556 (copy attached). Our rules act to protect the confidentiality of CPNI and prohibit exclusive, preferential, discriminatory or unauthorized sharing or use of CPNI.

**8d. Pricing and measuring the cost of network elements.** The relative vigor of competitive development in the local exchange market will be most directly driven by the realistic pricing of network elements -- pricing that does not turn those elements into "lumpy objects" which a competitive market cannot digest. Nowhere else is the new market more open to "defensive" maneuvering and anticompetitive behavior than in the attaching of unrealistic prices to the tools with which competition will be constructed. Leaving aside for now a consideration of the economic challenges that would be presented by the building of parallel networks, the WPSC has addressed these issues in its draft rules. Network Interconnection and Unbundled Access, at Subsections 549b (ix) through (xi) and Section 550; and our rule on TSLRIC costing (Section 517), copies of which are attached. They, in general, require the following:

- The price for any unbundled element shall be set at or above TSLRIC levels.
- Prices shall be no greater than needed to provide the maximum Commission-approved contribution to shared, joint and common costs.
- The sum of prices charged by the incumbent LEC for unbundled elements shall not be greater than that price it charges to retail consumers for the bundled service.

- Incumbent LECs shall impute the prices of unbundled elements into the price floors of each of its own services that utilize the network elements.

We believe that our actions have adequately and properly addressed the FCC's concerns about the evils of implicit and anticompetitive subsidies. Like our rules, the Wyoming Act strongly disfavors implicit subsidies and requires prices of companies offering noncompetitive services to recover their TSLRIC costs. The transition to this pricing level must be done over a three year period. In light of this, FCC concerns about anticompetitive subsidy flows should be obviated and concerns regarding "imputing" the prices of unbundled elements into the retail price of local exchange service should be substantially relieved. NPRM at paragraph 187.

We believe that the FCC has rightly concluded that the states do have a major role in setting prices under the Act and that the FCC should "establish pricing principles interpreting and further explaining the provisions of section 252(d) for the states to apply . . . ," noting that the "states have the critical role under Section 252 of establishing rates pursuant to arbitration and of reviewing rates under BOC statements of generally available terms." NPRM at paragraph 118.

We do not believe that this conclusion requires the FCC to set extremely detailed costing (or pricing) parameters. We believe that it would be sufficient for the FCC to require in its rules the uniform use of TSLRIC costing methods (with perhaps, the ability to use proxy models if the need should arise). However, the system still ought to rely on the expertise of the states for the details -- the actual review and measurement of costs, the assessment of actual TSLRIC cost studies and

applied methodologies, and the setting of TSLRIC-based rates. If the FCC's rules establish workable, general TSLRIC guidelines, they will help the states to discharge their obligations under Sections 251 and 252 and insure the necessary level of uniformity in the process.

The "necessary level of uniformity" must be carefully thought out and not overdone. The proper approach is to plan for uniformity of *method* at a relatively general level and not to mandate uniformity of *results* at the line item level by overspecifying every detail of the analysis. The FCC should not promulgate rules which have a nationwide, levelizing, and, therefore, averaging effect on costs. Where there are real differences in the *cost* of providing local network interconnection, those differences are rightly reflected in the *price* of local interconnection. A system so rigidly national in its focus that it could not be employed by the states to recognize legitimate local differences in cost would create implicit winners and losers by virtue of the very rules which are intended by the Act to prevent that unjust and anticompetitive result. It is a case in which one size very pointedly does not fit all.

That a wisely general federal rule could be capable of producing different results when applied to different circumstances is an indication of its strength and sophistication and not of its weakness because there are actual differences in the cost of providing local exchange service from place to place throughout the nation. Many of these differences are driven by actual demographic and geographic differences which effect the cost of providing service. It is not logical to force the market, in the pricing of retail services, to ignore the cost of providing those services in that market.

Consistent with this concept, the WPSC does not believe that rates for wholesale and resale services should be set by applying an arbitrary discount to the retail price of a service which the FCC would presumably set. In avoiding such an overly regulatory solution (and others), we believe that prices for retail and wholesale services should [i] reasonably reflect the real costs of providing the services [ii] in the actual market in which those service are offered. These real costs should be determined with respect to a uniform method of cost measurement, such as that which we advocate above, to insure that local cost variances are neither artificial windfalls nor penalties. Such results must be avoided if actual competition is to develop. Local exchange competition, for example, will only develop among competitors who are informed of the costs that could be avoided by supplying their own facilities. Local exchange competition will not develop where imposed costing does not significantly reflect economic reality.

This necessary economic reality also requires that costing methodologies be the same for retail and wholesale services just as retail costs grow out of their wholesale underpinnings (except when unwise regulation or true monopoly intervenes).

If a competitor can avoid the cost of using a LEC's facilities and enhance its competitive position while maintaining the same level of functionality and quality provided by the LEC simply by deploying different technology, then competition will drive prices down. The FCC must let the states determine costing and pricing issues and should do so without focusing on the technologies which drive the costs. In a truly competitive local exchange market, local exchange capacity will be valued as a commodity principally on the basis of price with little regard for the nuances of how that capacity is provided.

Although all of this will create a burden for the states, there is no practical alternative. Besides having the resources to devote to the needed determinations, the states have important expertise which the FCC does not have in reviewing incremental cost studies at the level of detail which will have to be submitted. The states have for many years received and reviewed incremental cost studies for state rate making purposes.

Regardless of how explicit or detailed a federal incremental costing "rule" might be, it would not put an end to the disputes which will invariably arise about whether or not the rule was followed, and those disputes will invariably echo the interests of the challenging parties. It would not be realistic to hope that a sweeping and comprehensive federal rule would put costing issues "to bed" once and for all. Because "one-size-fits-all" really doesn't, such a rule would continue to invite and create further challenges because of its poor fit with the circumstances of local market realities. The states are best situated to grapple with the studies and their details and to resolve any related disputes

In sum, the WPSC agrees with the idea that the pricing principles applied to Subsections 252 (c)(2) and (c)(3) should use the same standard. NPRM, paragraph 121. The WPSC also agrees with the FCC's observation that "there appear to be considerable differences of opinion as to the precise form of the LRIC methodology that should be used." NPRM, paragraph 124. When "TSLRIC" costs are presented by LECs, the underlying methodology often more closely resembles their own preferred LRIC practices. The WPSC has addressed the proper calculation of TSLRIC costs in the attached draft rules.

Because the costing world in which we live is not perfect, the FCC should not prevent states from using reasonable proxy cost methods for determining rates. Since the Act requires “immediate” determinations, such an option would be beneficial if the offered costing data were too unreliable to yield a useful result. The use of proxies would also be beneficial to the extent that allegedly “incremental” studies relied too heavily on the embedded costs incurred in a monopoly environment. We are aware of the main proxy cost models currently being advocated (such as the Benchmark Cost Model and the Hatfield study); but we have not yet conducted a detailed examination of those models and their several advocated variants. However, proxy models should not be used to set federal limits on the rates for unbundled elements and services. Costs vary throughout the nation, and a limiting model would produce imperfect results. See, NPRM, paragraph 134.

However valuable the availability of proxy cost models might be to state commissions under certain circumstances, the FCC should explicitly not mandate the use of interstate access charges as a proxy for cost-based rates. NPRM, paragraph 139. Those rates serve their purpose while in effect, but they are derived from an admixture of separations processes and embedded accounting data supplied by the LECs. The resulting rates are not based on incremental costs, are not forward-looking, and are altogether not compatible with the competitive environment the Act seeks to support.

In a related matter, the FCC seeks comment on “the empirical magnitude of the differences between the historical costs incurred by incumbent LECs (or historical revenue streams) and the forward-looking LRIC of the services and facilities they will be providing pursuant to section 251.” NPRM, paragraph 144.

Whether the differences are large or small, it is the local ratepayers in each state who will be asked to pay for them in one way or another. Accordingly, unless the FCC intends to adopt a rule requiring LECs to write-off such differences to shareholders, any treatment of this difference should be left to the states. Please note that we read “forward-looking LRIC” to be the equivalent of TSLRIC -- Wyoming’s mandated basic cost standard.

We agree with the FCC’s observation, NPRM, paragraph 146, that:

“even though . . . the provision of interconnection and unbundled elements pursuant to Sections 251 and 252 may not legally displace [the FCC’s] interstate access charge regime, the two types of services have clear similarities. Radically different pricing rules for interconnection and unbundled elements, on the one hand, and levels of interstate access charges, on the other, may create economic inefficiencies and other anomalies. Indeed, under a long term competitive paradigm, it is not clear that there can be a sustainable distinction between access for the provision of local service and access for the provision of long distance service.”

In our draft interconnection rules at Section 550(b)(iv), the WPSC has stated that, to the extent access charges of an incumbent local exchange carrier for origination and termination of long distance traffic are substantially above TSLRIC costs, such charges may not be applied to competing local exchange carriers.

The FCC also asks commenters “to address whether it would be sound policy for the Commission to distinguish between telecommunications carriers on the basis of the technology they use.” NPRM, paragraph 169. The WPSC has taken a

first step in preventing or eliminating discriminatory application of rates, the following provisions of its draft interconnection rules:

- To avoid unreasonable price discrimination, interconnection arrangements and rates must be independent of the technology employed by the connecting carrier (e.g., PCS, cellular, CATV/coax) to serve customers, except only as necessitated by cost differences related to the actual technical interfaces.
- Incumbent LECs shall file tariffs or price schedules to remove distinctions in interconnection arrangements and rates based on type of carrier and/or type of technology employed by a carrier
- Contracts employing such distinctions shall have the distinctions removed as soon as practical under the terms of the contracts.
- To the extent necessary, the Commission will approve transitional plans to implement these provisions, if such plans would mitigate undue revenue dislocations.

The WPSC has made solid progress in this area and urges the FCC not to adopt rules in this area which would preclude our rules.

**9. How should rate structure issues be viewed?** The FCC seeks comment on rate structure issues beginning at NPRM, paragraph 149. In summary, we believe that mutual traffic exchange is the only way to insure that cost-effective, competitive entry into local exchange markets can be successfully made. Adoption of an access

charge structure would only throw up a barrier to local exchange competition. To illustrate, Subsection 550 (b)(iv) of our draft rules require the following:

“Charging on a per minute of use basis by one local exchange carrier for the termination of local traffic originated by another local exchange carrier shall not be permissible without a showing, and Commission order accepting that showing, that the costs of measuring, recording, billing and collecting such minutes of use-based terminating charges are exceeded by the benefits of such a mechanism, including the promotion of fair and effective competition. In no instance shall an interim or permanent local call termination rate include a carrier common line charge (CCLC), residual interconnection charge (RIC), universal service charge or other non-cost-based charge.”

The WPSC is also concerned about potential uneconomic expenditures which would be wasted in developing terminating measurement capabilities. Such “investments” would appear to serve no useful purpose beyond charging competitors, presuming the rate structure would be on a per minute basis. There are other basic unserved technological needs in Wyoming, such as SS7, AIN, digital upgrades, and the resolution of held orders, where scarce capital dollars would be better placed. Under the Act, the WPSC should be able to address this matter of priorities in Wyoming infrastructure development directly, and our rules should not be precluded by any rules adopted by the FCC.

**10. The resale obligations of Incumbent LECs.** The Act itself clearly provides that any telecommunications service which a LEC provides at retail to subscribers who are not telecommunications carriers must be offered for resale at wholesale rates. The Act, at Section 251(c)(4)(B), contains an explicit exception under

which a state commission may, “. . . consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.” The draft WPSC rules incorporate both of these principles. The draft interconnection rules also provide that:

- No tariff, price schedule or other arrangement of an incumbent LEC shall restrict resale. LECs have 90 days from the effective date of the rules to remove such existing restrictions, subject to the provisions of the Act.
- Wholesale rates are to be based on avoided costs.
- Requests for resale services are to be filled promptly and in good faith.
- Incumbent LECs shall provide electronic interfaces to resellers of local exchange service (relative to the reseller’s customer base) to provide information pertinent to service provisioning and customer inquiry.

The Act is exclusive and explicit. Enforcement should be left to the states. The WPSC therefore urges that the FCC’s rules adopted in this area not preclude our rules. (Review of “avoided cost” studies, and setting of wholesale discount, should be left to the states as discussed above in our consideration of pricing issues.)

**11. What relationship should exist between rates for unbundled network elements and rates for wholesale or retail offerings?** The FCC expresses some concern over the difficulty of imputation (requiring the sum of rates for unbundled

elements to be no more than the retail service rate) “if rates for retail services are below cost, due to implicit, non-competitively neutral, intrastate subsidy flows.” NPRM, paragraph 185. It also asks if the goals of the Act would be advanced if all states had to follow an imputation rule. NPRM, paragraph 186. If this were to be a narrowly prescribed national standard, we think not.

The FCC should be wary both [i] of identifying “problems” that may not exist, and [ii] which, if they did exist, it does not possess the jurisdiction to solve. *See, e.g.,* Sections 252(c) and (d) and the pricing obligations which the Act places with the states. Under Wyoming law, the WPSC is now engaged in rebalancing intrastate rates (solving the “problem”) to bring them to levels above TSLRIC.

Furthermore, claims of subsidy flows should be evaluated only through a review of costs. If wholesale and retail rates are based on different costing standards and methodologies, verification and elimination of subsidies will be impossible. The elimination of cross subsidies is required under Wyoming law. As we have said before, TSLRIC is the standard that should be used to determine the cost of all elements and network functions regardless of whether or not they are being examined in a wholesale or retail context.

**12. Miscellaneous obligations imposed on LECs by Section 251 (b) of the Act.**

**a. Number Portability.** In the NPRM, the FCC does not request comment on number portability, given the pendency of its Docket No. 95-116. However, we believe that we should take this opportunity to indicate that our draft interconnection rules also address the topic. The draft rules are intended to lead to the implementation of permanent number portability, under both the Wyoming and federal Acts, when technically feasible. It appears that the early efforts of states

have triggered the necessary technical developments to upgrade switches and other facilities for permanent number portability.

The draft rules of the WPSC require the industry to plan for implementation of a permanent number portability solution, and to begin deploying such solution in the network by the third quarter of 1997. The permanent number portability solution is to be generally transparent to the consumer, which has been a key objective in the selection of a solution in other states. Prior to implementation of permanent number portability, interim solutions are to be made available at rates not exceeding incremental unit costs plus investment carrying costs. The WPSC requests that any FCC rules adopted in this area not preclude valid WPSC rules.

Number portability is one of those subject areas which, like the administration of the North American Numbering Plan, legitimately calls for a national standard. However, if there are any differences in costs among the various local exchanges caused by providing access to a "national number data base," those costs should be prudently reflected in the prices charged for number portability and remain within the jurisdiction of the state commissions.

**b. Reciprocal compensation for transport and termination of traffic.** As mentioned above, the draft rules of the WPSC preclude the use of interexchange carrier access charges for termination of local competitors' traffic, if such access charges are substantially above TSLRIC costs. Also, charging on a per minute of use basis is precluded by the draft rules without a showing to the Commission that "the costs of measuring, recording, billing and collecting such minutes of use based charges are exceeded by the benefits of such a mechanism, including the promotion of fair and effective competition." Finally:

“Notwithstanding (these) provisions, . . . a ‘bill and keep’ approach to compensation for termination of traffic to another carriers’ network shall be employed, until permanent number portability is established pursuant to the requirements of Section 551, which follows, and unbundling of network functions has been accomplished pursuant to the requirements of Section 549, previously. This provision shall apply unless carriers negotiate a different agreement, subject to Commission action and approval under Section 252 of the Telecommunications Act of 1996.”

This approach is taken in the draft rules since as the FCC notes that “bill and keep” is more quickly established and easily administered, and that adding the ability to measure terminating traffic is likely to be a costly adder proposed to be assessed only to competitors. Furthermore, without the availability of permanent number portability and unbundled network elements, competition is unlikely to be effective. Accordingly, competitors under those conditions are precluded from having the opportunity to develop a customer base in which the traffic exchanged has a reasonable prospect of being “in balance.” It would be unproductive to have a policy allowing “bill and keep” when traffic is reasonably in balance if the lagging implementation of other policies (e.g., number portability and unbundling) were to prevent the prospect of traffic actually being brought into balance by the development of effective competition. As we said above in this Comment, the WPSC believes, in the long run, that mutual traffic exchange is the only way to insure that cost-effective, competitive entry into local exchange markets can be successfully made. We again express the hope that FCC rules in this area not be allowed to preclude valid WPSC rules.

**c. Exemptions, suspensions and modifications.** The FCC rightly recognizes that Section 251(f) of the Act gives to the states the authority to make

determinations regarding exemptions, suspensions and modifications of the obligations imposed on LECs by Section 251(c) with regard to rural telephone companies. This is an appropriate provision of the Act, since the states are familiar with individual rural area characteristics and needs, as well as with the individual rural telephone companies. It is fully consonant with similar provisions of the Wyoming Act which recognize that rural telephone companies face special challenges.

**13. The comments of the National Association of Regulatory Utility Commissioners.** As this comment is being finalized, the WPSC has had an opportunity to review a final draft of the comment which will be offered by the NARUC. In general, the WPSC concurs with this comment and lends its support to it.

**14. Working together for the future.** Our comments above are intended to illustrate the depth of our commitment to realizing the common vision articulated by the Wyoming and federal Acts. In making our comments, we have drawn on our experiences in confronting challenges similar to those which now confront the FCC. We believe that we have shown good faith, intellectual rigor and a strongly pragmatic commitment to achieving tangible competitive progress in our actions both before and after the passage of the federal Act. We know that the remaining task is a difficult one, and we understand that it is best accomplished through a partnership which draws on the strengths of the federal and state participants. We must go forward together and seek a proper balance. An insular and provincial vision (the "states-only" solution) is as unworkable as a stiflingly uniform and monolithic vision (the "federal-only" solution). Together we must see to it that neither of these visions is allowed to do disservice to the public which we both exist to serve.

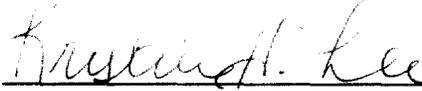
Respectfully submitted this 15th day of May, 1996.

PUBLIC SERVICE COMMISSION



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STEVE ELLENBECKER, Chairman

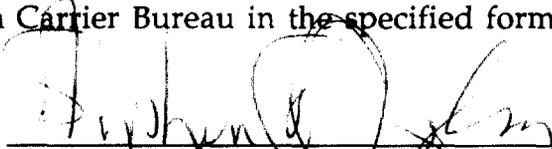


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KRISTIN H. LEE, Commissioner

## CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on May 15, 1996, I served true and complete copies of the within and foregoing Initial Comments of the Wyoming Public Service Commission in the above-captioned matter by [a] transmitting the original and sixteen copies of the Initial Comments to the Acting Secretary of the Federal Communications Commission by Federal Express, [b] transmitting an additional copy thereof to the International Transcription Service by Federal Express, and [c] by transmitting by Federal Express the Initial comments on computer diskette to the Commission's Common Carrier Bureau in the specified format.



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Attachment I to the Initial Comments of the Wyoming Public Service Commission  
CC Docket No. 96-98  
Draft rules on *Interconnection and Compensation Among Local Exchange Competitors*

Section 547. General Statement - Efficient interconnection among local exchange carriers is an essential and necessary prerequisite to the development of effective competition in the local exchange telecommunications marketplace. The Commission will enforce interconnection rules and procedures that foster and enhance effective local exchange competition on a non-discriminatory basis, such that no telecommunications provider is unduly advantaged or disadvantaged. All carriers have equal status and responsibility to contribute to the continuation of a ubiquitous, seamless and interoperable telecommunications "Network of networks" in Wyoming. A seamless, fully integrated and ubiquitous network is a necessary requirement for effective and efficient local competition. Any and all relevant disputes between carriers regarding provisions of these rules shall be brought on a timely basis to the attention of the Commission for its action, pursuant to Sections 251, 252 and other applicable provisions of the Telecommunications Act of 1996, and to the complaint provisions contained in Commission Rule Section 114. These rules are promulgated after full review of the Telecommunications Act of 1996, and are meant to be consistent with that Act.

Section 548. Interconnection and Access Definitions

(a) "The Act" means the "Wyoming Telecommunications Act of 1995", as set forth in W.S. 37-15-101 through 37-15-501.

(b) "Bill and Keep" means the exchange of terminating local traffic between or among local exchange providers, whereby each local exchange provider 'bills' its respective end user for originating usage, and 'keeps' the associated revenue, without the local exchange providers explicitly charging each other for such traffic exchange.

(c) "Commission" means the Wyoming Public Service Commission.

(d) "Competing local exchange carrier" means any local exchange carrier in Wyoming who obtains certification from the Commission after March 1, 1995.

(e) "Customer proprietary information" means:

(i) all information which relates to the quantity, technical configuration, type, destination, and amount of usage of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

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(ii) information contained in the bills pertaining to telecommunications services received by, a customer of a carrier, except this does not include subscriber list information.

(f) "Effective date" means the date on which these rules are adopted.

(g) "Equal access" means the Full 2-PIC option by which the local exchange carrier (which may also be an interexchange carrier) shall provide to its customers the ability to designate any interexchange telecommunications companies operating in an equal access office and to reach such designated companies without special dialing arrangements and other special service characteristics.

(h) "Essential telecommunications service" means those services defined in 37-15-103 (iv) of the Act, as follows:

(i) access to interexchange services provided by interexchange telecommunications companies;

(ii) single-line service for residence and business customers, with flat-rate or measured service calling within an exchange available at the option of the customer;

(iii) transmission service and facilities necessary for the connection between the end user's or customer's premises or location and the local network switching facilities including the necessary signaling service used by customers to access essential telecommunications services;

(iv) services necessary to connect 9-1-1 emergency services to the local network; and

(v) switched access, which means the switching and transport necessary to connect an interexchange telecommunications company with the local exchange central office for the purpose of originating or terminating any switched telecommunications service of an interexchange telecommunications company.

(i) "Federal Communications Commission" or "FCC" means the federal regulatory agency empowered under the Communications Act of 1934, as amended, to regulate the provision of interstate telecommunications services.

(j) "Full 2-PIC" means the equal access option that affords customers the opportunity to select one telecommunications company for all interLATA 1+/0+

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toll calls, and at the customer's option, to select another telecommunications company for all intraLATA 1+/0+ toll calls. For purposes of these rules, any reference to intraLATA equal access means intraLATA 1+/0+ equal access, on a Full 2-PIC basis.

(k) "Incumbent local exchange carrier" means with respect to an area, the local exchange carrier that:

(i) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

(ii) (A) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601 (b) of the Federal Communications Commission's regulations (47 C.F.R. 69.601(b)); or,

(B) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (A).

An incumbent local exchange carrier has the obligations and duties provided for in the Telecommunications Act of 1996.

(l) "Interconnection" is the means by which exchange of traffic between networks is accomplished, via a point of interface between the competing local exchange carriers' networks or facilities.

(m) "Interconnection service" means the provision of access to a local exchange carrier's network to allow the exchange (origination and termination) of telecommunications traffic with another local exchange carrier. Such access is composed of separate features, functions, capabilities and services as approved by the Commission, pursuant to the Telecommunications Act of 1996.

(n) "Interim number portability" means the ability of customers to retain their local telephone numbers upon switching to a competing local exchange carrier, within the local exchange area. Interim number portability is not based upon a network "database" solution. Examples of means by which interim portability may be provided include Remote Call Forwarding (RCF) and Direct Inward Dialing (DID).

(o) "Local calling area" means the geographic area approved by the Commission as a community of interest in which customers may make calls

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without payment of a toll charge. The local calling area may include other exchange areas in addition to the serving exchange area.

(p) "Local exchange area" means a geographic territorial unit established by the Commission for providing telecommunications service.

(q) "Local exchange carrier" or "LEC" means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332 (c) of the Federal Communications Commission's rules, except to the extent that the Federal Communications Commission finds that such service should be included in the definition of this term.

(r) "Local exchange service" means, at a minimum, the provision of essential telecommunications service within a local exchange area.

(s) "Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

(t) "Number portability" means:

(i) Service provider portability, which is the ability of a customer to retain the same telephone numbers (that is, the same NPA and NXX codes and the same line numbers) when changing from one to another;

(ii) Service portability, which is the ability of customers to retain the same telephone number as they change from one service to another; and,

(iii) Location portability, which is the ability of customers to retain the same telephone number when moving from one location to another, either within the local exchange area served by the same central office between areas served by different central offices.

(u) "Permanent number portability" means, as distinguished from interim number portability, the use of a network 'database' architecture, to provide service provider, service and/or location number portability.

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(v) "Primary interexchange carrier" or "PIC" means the telecommunications company to which a customer may presubscribe for the provision of 1+/0+ toll service, without the use of access codes.

(w) "Protected local exchange carrier" means a carrier that:

(i) had a valid certificate of convenience and necessity on January 1, 1995;

(ii) serves no more than 30,000 access lines in Wyoming;

(iii) has not applied for and received a concurrent certificate to provide competitive local exchange service in any area of Wyoming;

(iv) did not begin, after March 1, 1995, to provide one-way transmission of radio or video signals through terrestrial, nonsatellite local distribution facilities in an area with existing service; and

(v) this definition shall be effective until January 1, 2005, except for potential extension of this protection as set forth at W.S. 37-15-201 (d) of the Act.

(x) "Regional Bell Operating Company" or "RBOC" means US WEST or any of the other six entities created at Divestiture to provide local exchange and exchange access services.

(y) "Rural local exchange carrier" means a local exchange carrier operating entity which meets the definition and criteria specified in the Telecommunications Act of 1996.

(z) "Switched access service" means interconnection service which utilizes the local exchange carrier's switching facilities to provide line side or trunk side access or both to the local exchange carrier's end office switch or tandem switch.

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

(bb) "Telecommunications equipment" means equipment other than customer premises equipment used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

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

(dd) "the Telecommunications Act of 1996" is the comprehensive Congressional amendment of the 1934 Communications Act, as signed into law on February 8, 1996.

(ee) "TSLRIC" or "total service long-run incremental cost" means the total forward-looking cost, using least cost technology, for a telecommunications network element, or telecommunications service, that the incumbent local exchange carrier would incur if it were to initially offer such telecommunications network element or service, as determined by a methodology specified in Section 517 of the Commission's rules.

(ff) "Unbundled access" means the provision by an incumbent local exchange carrier of nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory, in accordance with the requirements of Sections 251, 252 and other applicable provisions of the Telecommunications Act of 1996.

(gg) "Universal service" means the general availability of essential telecommunications service at an affordable and reasonable price.

Section 549. Network Interconnection and Unbundled Access.

(a) Network Interconnection.

(i) Proposed interconnection agreements, or a statement of generally available terms (including a detailed schedule of itemized charges for interconnection and each service or network element) shall be filed for approval with the Commission, under the timetables and procedures of the Telecommunications Act of 1996. Such agreements or statements shall comply with the requirements of these rules (Sections 547-556).

(ii) Competing local exchange carriers may adopt the interconnection rates and rate structures of incumbent local exchange carriers.

(iii) Incumbent local exchange carriers shall provide services as co-carriers, not as customers for each other's services. The unbundled elements of the

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local exchange network must be available on a carrier-to-carrier basis at terms, conditions and prices consistent with this rule.

(iv) Any discrimination between or among competitors regarding the terms and arrangements for interconnection is strictly prohibited. Discrimination may include, but not be limited to, the following:

- (A) delays in new arrangements or functions;
- (B) inferior provisioning, installation, quality of service, or maintenance;
- (C) limitations regarding access to poles, ducts, conduits and rights-of-way owned or controlled by the carrier;
- (D) exclusive or preferential sharing of tariff, price schedules, contract, customer and network information, or other customer information with affiliates and subsidiaries;
- (E) uneconomic pricing, or
- (F) the incumbent's defining a relationship with competing LECs as end user customers, rather than as network peers.

Discrimination among or between types of communications service providers (e.g. cellular versus interexchange carriers) is to be addressed pursuant to the provisions of Section 550 (b)(vi) and (vii), as follows.

(v) Incumbent local exchange carriers shall fulfill bona fide individual orders for interconnection of facilities, in a prompt and timely manner, pursuant to the requirements of these rules. A request is to be considered bona fide when it is in writing, in good faith, and contains necessary standard information (e.g., specific network location, network functions to be provided, circuit capacities and quantities). The incumbent carrier shall promptly, in writing, and in good faith, acknowledge receipt of the request and shall immediately identify for correction any and all apparent errors or omissions in the request.

(vi) Individual orders for connection of facilities shall be presumed to have been fulfilled in a prompt and timely manner if services and facilities are provided to and accepted by the connecting carrier within 30 days, or after a longer period of time if the 30 day time limit is extended by mutual agreement of the

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parties. In the event that a competing local exchange carrier's interconnection request is unfulfilled within 30 days, and a mutual agreement of the parties cannot be reached, the competing local exchange carrier may petition the Commission for resolution. The Commission shall hold a complaint proceeding within 45 days of the petition and issue a final order within an additional 60 days.

(vii) All telecommunications carriers, in making network interconnections, shall meet defined nationwide interface standards (e.g., ANSI, CCITT). Incumbent LECs have the duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks. As new interface specifications are developed, they must be made readily available to all vendors, service providers, and users. Revised specifications must be disclosed with timely notice and/or public disclosure processes. Interfaces critical to the interoperability of an unbundled network must be open in order to allow manufacturers and vendors to provide, in compliance with reasonable licensing terms and conditions, equipment and software to meet the interface specifications.

(viii) Physical collocation of equipment necessary for interconnection or access to unbundled network elements shall be provided at the premises of the incumbent local exchange carrier, except that the carrier may provide for virtual collocation if it is demonstrated to the Commission that physical collocation is not practical for technical reasons or because of space limitations. The functionality of equipment to be collocated, along with the vendor decision for any required equipment purchases, should be negotiable among the parties. Virtual and physical collocation have the meanings ascribed to those terms in the Federal Communications Commission CC Docket 91-141, Expanded Interconnection with Local Telephone Company Facilities.

(ix) The most current Customer Account Record Exchange (CARE) records, in its then existing form, shall be provided immediately by a local exchange carrier to another local exchange carrier, upon notification that a specific customer desires to change carrier.

(x) All local exchange carriers shall manage their repair service and reporting so that trouble reports, repair commitments, appointments for customer site visits and notification of service-affecting network conditions, and other relevant information, affecting end users are provided in a timely and mutually agreeable manner to the entity which can affect network corrections. Companies with customers served through dual facilities or service arrangements should