SUMMARY

PROCEEDINGS: On November 14, 1994, in Docket No. UT-941464, U S WEST Communications, Inc. ("USWC"), filed certain tariff revisions described as integrated carrier access and interconnection designed to accommodate alternative local exchange companies, as well as those carriers that limit their service only to interexchange service. The revisions include a complete reissue and restructure of the access services tariff; the introduction of local interconnection service; the restructure of local transport service for switched access transport service, directory assistance transport service, and switched access common channel signaling access capability transport service; the introduction of expanded interconnection - collocation service in the private line transport services tariff, for all carriers; the introduction of switched access expanded interconnection service for all carriers; and the removal of intraLATA Feature Group A foreign exchange service from the Access Service tariff. The tariff revisions involve a complete restructure and replacement of the existing Access Service Tariff, WN U-25 (to be entirely replaced by a new tariff, WN U-30), and revisions to the Private Line Transport Services Tariff, WN U-22. The filing letter indicated that the total effect of the tariff revisions is revenue neutral. The stated effective date of the tariff revisions is January 1, 1995. On December 15, 1994, the Commission entered a complaint and order suspending the tariff revisions and instituting investigation.

On November 15, 1994, in Docket No. UT-941465, TCG Seattle ("TCG") and Digital Direct of Seattle, Inc. (since acquired by TCG Seattle), filed a complaint against USWC alleging undue prejudice, discrimination, and unjust rates and practices in the provision of interconnection and mutual compensation. USWC answered and counterclaimed. On February 13, 1995, the Commission consolidated Docket Nos. UT-941464 and UT-941465 for discovery and hearing.

On February 7, 1995, in Docket No. UT-950146, TCG filed a complaint against GTE Northwest Incorporated ("GTE") alleging undue prejudice, discrimination, and unjust rates and practices in the provision of interconnection and mutual compensation. GTE answered, counterclaimed against TCG, and filed a third party complaint against USWC.

On March 1, 1995, in Docket No. UT-950265, Electric Lightwave, Inc. ("ELI"), filed a complaint against GTE for undue prejudice, discrimination, and unjust rates and practices in the provision of interconnection and mutual compensation.

On March 8, 1995, the Commission consolidated Docket Nos. UT-950146 and UT-950265 with Docket Nos. UT-941464 and UT-941465.

HEARINGS: The Commission held hearings before Chairman Sharon L. Nelson, Commissioner Richard Hemstad, Commissioner William R. Gillis, and Administrative Law Judge Lisa A. Anderl of the Office of Administrative Hearings.

APPEARANCES: Respondent U S WEST Communications, Inc. ("USWC"), is represented by Edward T. Shaw, Molly K. Hastings, William O'Jile, and Douglas N. Owens, attorneys, Seattle. The Staff of the Washington Utilities and Transportation Commission ("Commission Staff") is represented by Steven W. Smith and Gregory Trautman, assistant attorneys general, Olympia. The public is represented by Donald T. Trotter, assistant attorney general, Public Counsel Section, Seattle ("Public Counsel"). Complainant/intervenor TCG Seattle ("TCG") is represented by Daniel Waggoner and Gregory J. Kopta, attorneys, Seattle. Complainant/intervenor Electric Lightwave, Inc. ("ELI"), is represented by Arthur A. Butler, attorney, Seattle, and by Ellen Deutsch, attorney, Vancouver. The following intervenors appeared: Washington Independent Telephone Association ("WITA"), represented by Richard A. Finnegan, attorney, Tacoma; AT&T, represented by Susan D. Proctor and Rick D. Bailey, attorneys, Denver, Colorado; Interexchange Access Coalition ("IAC"), represented by Brad Mutschelknaus and Edward A. Yorkgitis, Jr., attorneys, Washington, D.C.; GTE Northwest, Inc. ("GTE"), represented by Richard Potter, attorney, Everett; MCI, represented by Sue E. Weiske, attorney, Denver, and MCI/MCI Metro by Clyde H. MacIver, attorney, Seattle; Sprint, represented by Lesla Lehtonen, attorney, San Mateo, California; Tenino Telephone Company and Kalama Telephone Company, represented by Richard Snyder, attorney, Seattle; United Telephone, represented by Seth Lubin, attorney, Hood River, Oregon; MFS Intelenet of Washington, Inc., ("MFS") represented by Andrew D. Lipman, Richard M. Rindler, and Charles H.N. Kallenbach, attorneys, Washington, D.C.; TRACER, represented by Stephen J. Kennedy, attorney, Seattle; and the Department of Defense/Federal Executive Agencies ("DOD/FEA"), represented by Robert A. Ganton, attorney, Arlington, Virginia.

COMMISSION: USWC did not establish its proposed tariff revisions to be fair, just, reasonable, and sufficient. The Commission rejects the cost studies and tariff revisions submitted by USWC in support of its reissue and restructure of the Access Service Tariff, WN-25, and its revisions to the Private Line Transport Services Tariff, WN U-22. The Commission orders USWC to refile tariff revisions. The Commission's decisions on the tariff filing appear to resolve all issues raised in TCG's complaint. The Commission grants the complaints of TCG and ELI against GTE, in part. The local interconnection terms that GTE has offered the complainants, based on a minutes of use structure, are not fair, just, and reasonable, are anticompetitive, subject the complainants to unreasonable prejudice or disadvantage, and are discriminatory. The Commission orders GTE to interconnect with TCG and ELI on the same terms and conditions as it interconnects with USWC and other incumbent LECs, including, on a transitional basis, terminating the local traffic (including EAS) of TCG and ELI on a bill and keep basis. The Commission orders GTE to file a local interconnection tariff pursuant to the terms of this order. The Commission dismisses the counterclaims of USWC and GTE, and dismisses the third party complaint of GTE.

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MEMORANDUM

I. SCOPE OF PROCEEDINGS

The Commission faces many difficult issues as it attempts to facilitate the transition of the telecommunications industry from a monopoly market structure to a competitive market structure. One set of issues, before us in this proceeding, relates to the terms and conditions under which competitors for local exchange service will interconnect their networks so that they can exchange traffic between their customers.

Before discussing the issues in this proceeding, we will review some of the basic terminology involved in telecommunications, and provide a brief background on the development of local service competition.

A. TERMINOLOGY

Exchange. The local telephone exchange is the basic unit in the structure of telephone service in Washington. The Commission defines an exchange as "a unit established by a utility for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area." WAC 480-120-021. The exchange originated in the early development of telephone service, when it constituted the area served by a single telephone company central office, where the manual switchboard, attended by an operator, was housed.

Local Exchange Company ("LEC"). Each exchange historically has been served by a single local exchange company (LEC). USWC and GTE are the largest LECs in Washington. A LEC provides local calling service (calls that originate and terminate within a local service area) and a range of other telecommunications services.

Flat-rated Local Service. The rates for basic local exchange service in this state are set on a flat-rate pricing system; extended area service rate additives may include both a flat-rate and a measured rate component option. The Washington Legislature has declared that "[t]he implementation of mandatory local measured telecommunications service is a major policy change in available telecommunications service." RCW 80.04.130 The Commission is prohibited from accepting or approving a tariff filing which imposes mandatory local measured service on any customer or class of customers prior to June 1, 1998, except for EAS or foreign exchange service.

Interexchange Carriers ("IXCs"); Access Charges. Service between exchanges ("interexchange service") is provided by LECs (to a limited extent)[1], and by companies that exclusively provide interexchange service, such as AT&T, MCI, and Sprint.[2] Any company providing interexchange service is an "interexchange carrier" or "IXC", although that term generally has been used to refer only to long distance companies that have been exclusively interexchange service providers. An interexchange call generally is a "toll" call, for which the customer originating the call may be charged a distance and/or time sensitive rate.

When a call between two exchanges (an "interexchange call") involves more than one telecommunications company, the IXC that carries the call generally compensates the LEC for providing the local link(s) to the end user(s). LECs provide a tariffed "access service" for the local link. For example, if AT&T is carrying a call that originates in a GTE-NW exchange and terminates in a USWC exchange, AT&T will be assessed access charges for both the originating and the terminating local links. Access charges historically have been a very large portion of an IXC's total cost of doing business.

Extended Area Service ("EAS"). Some interexchange calls are not toll calls for the originating customer. The Commission, pursuant to procedures set out in RCW 80.36.855 and WAC 480-120-400, has designated certain clusters of adjoining exchanges for which there is a high volume of interexchange traffic as extended area service (EAS) territories for which interexchange calling is toll-free to the caller. EAS thus is an enlarged local calling area. For most customers with EAS, an "EAS additive" is rolled into their monthly rate for basic local service, to compensate the LEC for the toll revenue it lost when the Commission ordered EAS for the territory

Some EAS territories involve more than one LEC. For most EAS areas, incumbent LECs have agreed not to charge one another access charges for completing EAS traffic. Instead, they have exchanged EAS traffic on a bill and keep basis. Each LEC bills its own

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[1] When the American Telephone and Telegraph Company (AT&T) was broken up in the early 1980s, the provision of cross-country long distance service was separated from the provision of local service. By the terms of the court order, the "Baby Bells" that were assigned local service were restricted to providing intraexchange service and interexchange service within a Local Access and Transport Area (LATA), which is a geographic area consisting of many exchanges. This Commission authorized USWC to provide interexchange, intraLATA service statewide, and more recently authorized GTE to provide such service in most of western Washington. Exclusively interexchange companies ("IXCs"), such as AT&T, MCI, and Sprint, provide service between LATAs, and also are allowed to compete in providing intraLATA interexchange service.

[2] Even this distinction is now blurring as AT&T has undertaken provision of local service as a cellular provider; MCI has formed "MCI Metro," which has been authorized to provide basic local exchange service in this state; and Sprint has entered into partnership arrangements to pursue local telephony with cable television providers.

customers the EAS additive and keeps the revenue rather than sharing it with the other companies involved. Commission rules now require that intercompany EAS be on a bill and keep basis.

Central Office; End Office; Customer Loop; Tandem Switch. See "Exchange," above. Telephone company switching offices continue to be referred to as "central offices" (or as "wire centers"). A single exchange may have numerous central offices, depending on the number of customers served. A central office also is referred to by other terms that reflect its various functions. A central office that is the first switching point in the network from the end user's perspective commonly is referred to as an "end office." Usually, each customer is connected to the end office switch by means of a twisted pair of copper wires, called the "customer loop".

End offices are connected to one another by trunk lines and/or via a tandem switch. A tandem switch is the largest aggregation point in the network, a switching facility that interconnects trunk lines from the LEC's end offices and lines from other telecommunications companies. A tandem thus is an intermediate switch between the originating call location and the final location. Utilizing a tandem eliminates the need to directly connect all end offices to one another.

Point of Presence; Meet Points. IXCs and incumbent LECs that share EAS territories have interconnected with one another for years. IXCs generally interconnect with the LEC's network at a "point of presence", usually the IXC's central office location.

Incumbent LECs generally interconnect with one another at mutually agreed upon "meet points," such as a manhole on the boundary between their service territories, using relatively simple methods such as the splicing together of trunks.

Alternative Local Exchange Companies ("ALECs"). New competitors of historical LECs in the local exchange service market, as described in the background below, are called by various names. In addition to "ALECs," they are referred to as "alternative exchange carriers" ("AECs"), "competitive local exchange companies" ("CLECs"), and "new LECs."

B. BACKGROUND

In 1985, the Washington Legislature declared it the policy of the state to "promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state." RCW 80.36.300. However, until 1993, a divided Commission interpreted its statutes as providing for quasi-exclusive local service territories. A Superior Court decision in November 1992[3] caused the Commission majority to change its

[3] On November 13, 1992, the Superior Court of the State of Washington for King County entered a decision which reversed a Commission decision that LECs had quasi-exclusive rights to provide service in an exchange area under RCW 80.36.230.

interpretation of the statutes, and to begin authorizing competition in the local exchanges. The Supreme Court of Washington affirmed the Superior Court's judgment, in In re Electric Lightwave, Inc., 123 Wn.2d 530, 869 P.2d 1045 (1994), as amended on denial of reconsideration. In that decision, the Supreme Court stated:

> RCW 80.36.300(5) notes it is the state's policy to "[p]romote diversity in the supply of telecommunications services and products in telecommunications markets through out the state." Recognizing an implicit authority to grant monopolies would frustrate the express legislative goal of assuring diversity. 123 Wn.2d at 538-539

Several telecommunications companies, including ELI and TCG, have begun to construct local networks and to provide local exchange service, on a limited basis, in competition with incumbent LECs. Three other companies also have been granted authority to provide competitive local exchange service. In this order, these new local service competitors will be referred to as "alternative local exchange companies" or "ALECs."

In order to provide complete local exchange service, the ALECs must be able to interconnect their networks with those of the incumbent LECs. Establishing the terms of interconnection of competing local switched networks is the principal focus of this proceeding. This proceeding involves several complex issues, including the physical terms of interconnection; compensation for terminating traffic that originates on a competitor's network; the possible "unbundling" of services; number portability; use of existing directory assistance databases; unified white pages directory listings; the pricing of services and unbundled network components; and other issues.

USWC, in its tariff filing, and GTE have proposed local interconnection mechanisms that are modeled on mechanisms established during the 1980s for interconnecting with IXCs. Whether these mechanisms are appropriate for local interconnection, whether the incumbent LECs' specific proposals adequately address the state's policy goals, and whether there are alternatives that are more appropriate in terms of meeting the state's telecommunications policies, are matters to be determined in this proceeding.

C. OVERVIEW OF USWC'S TARIFF FILING

USWC proposes that both the physical and compensation terms of local interconnection be modeled on its access tariff for IXCs. The tariff filing proposes a restructure of access service for IXCs by bringing that service into conformity with an FCC-ordered restructure of the local transport component of interstate switched access service.[4] At the same time, it would bring the ALECs into the access charge structure, creating a unified access structure for both groups of carriers.

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[4] See, CC Docket No. 91-213.

USWC currently assesses IXCs time and distance-sensitive charges for providing the originating or terminating leg of a long distance call. The access charge has several rate elements, including charges for local switching (switching at the end office); local transport (a charge for use of trunk lines that connect USWC's central offices, including transport via its tandem switch); a carrier common line charge as a contribution to the cost of the wire loop that connects to the customer's premises; and a universal service fund charge.

USWC refers to its proposed restructure of IXC switched access service as the "local transport restructure" ("LTR"). In the tariff revisions, the current charge for "transport" would be "unbundled" from the access charge, and transport would be split into several elements which would be individually priced and offered. The unbundling of transport would make use of USWC's transport service optional: an IXC could bypass USWC's transport facilities by providing its own transport to USWC switches or obtaining transport trunks from third parties. USWC would make available alternative transport options either through direct trunked transport or tandem switched transport. The remaining access charges would be modified to increase the switching charge from $0.0065/minute to $0.01/minute, and, in order to make the filing revenue neutral, add a temporary rate element that USWC calls a "residual interconnection charge ("RIC"). The new LTR access charges would apply to all toll traffic, including long distance traffic delivered by ALECs.

For local interconnection, USWC's tariff filing creates a new "local interconnection service ("LIS") section of its Access Services tariff. The LIS incorporates the transport options and switching charge from the restructured switched access tariff,[5] and creates a new access rate element for local interconnection called an "interim universal service charge" ("I-USC"). The I-USC is applicable to LIS customers that market mostly to business customers and high density service areas. The I-USC would be in the same amount as the carrier common line charge, $0.0228/local switching minute. Thus, for local traffic that it delivers to USWC for termination, an ALEC would be assessed a local switching charge of $0.01/minute, an interim universal service charge (I-USC) of $0.0228/minute, and transport charges for transport services used.

USWC contends that the I-USC is necessary as a *contribution* to USWC for bearing the burden of providing "universal service" (ubiquitous service with affordable residential rates).

The LIS would require the establishment of a formal tracking, measurement, and billing mechanism for local call termination.

As part of its tariff filing, USWC proposes an expanded interconnection service for companies that wish to avoid USWC transport charges by providing their own transport to USWC end office or tandem switches. The FCC has ordered expanded interconnection for

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[5] The LIS does not incorporate the common carrier line charge or the RIC from the LTR.

IXCs. Expanded interconnection would allow interconnection at USWC tandem and local switches. It would use a co-location ("collocation") arrangement whereby companies interconnect with USWC's network on USWC's premises, with USWC providing space for the interconnector to locate its terminating equipment. USWC's tariff specifies facilities that the interconnector must use, and specifies a number of charges for the service. Expanded interconnection would be offered to ALECs as well as IXCs.

USWC has rejected the ALECs' requests to interconnect with USWC's network at any convenient "meet point," or in the same manner it interconnects with incumbent LECs for the exchange of EAS traffic. USWC would permit an ALEC to interconnect only inside or just outside the ALEC's central office, using a USWC entrance facility, or just outside a USWC central office, via virtual collocation.

USWC proposes to offer several services that would make it easier for USWC's customers and the ALECs' customers to reach one another. These other services include white pages directory listing; directory assistance services; use of USWC's line identification data base (LIDB) which facilitates billing for third-party, collect, and calling card calls; a channel to the customer's premises; and interim solutions to number portability while permanent solutions are being developed. For the most part, these services would be provided through USWC's existing tariffs at already established rates.

D. THE COMPLAINTS

The complaints by ELI and TCG allege generally that USWC and GTE refuse to enter into interconnection and mutual compensation arrangements with complainants that are equivalent to the arrangements the incumbents have made with other LECs for the exchange of local/EAS traffic. Further, the incumbents propose to charge the complainants for interconnection at rates well in excess of rates they charge their own customers for comparable local exchange services, thereby subjecting the complainants to unreasonable prejudice, discrimination, and disadvantage. The complaints also allege that the incumbents' proposed charges for network interconnection are unfair, unjust, unreasonable, and anticompetitive. They ask the Commission for orders pursuant to RCW 80.36.140 and 80.36.160 requiring the incumbents to interconnect their networks with the complainants' networks, establishing a fair, just, reasonable, and nondiscriminatory reciprocal compensation arrangement for that interconnection, and requiring the incumbents to provide 9-1-1, directory listings and assistance, and other vital customer services upon interconnection at fair, just, and reasonable rates. The complaints are described in greater detail in section II.G. of this order.

GTE also has brought a third party complaint against USWC, claiming that USWC is handing off to GTE, for termination, traffic that originated on TCG's network that GTE is entitled to be compensated for terminating, without identifying the traffic so that GTE can bill for it. The reference is to traffic that would be EAS traffic if it originated on USWC's network.

E. OVERVIEW OF POSITIONS OF PARTIES

With respect to local interconnection, the parties generally split into two groups. All parties except the incumbent LECs generally oppose USWC's tariff proposals and GTE's proposed rates as requiring unnecessary and inefficient architecture, as unproven, as unfair and unreasonable, as discriminatory, and as anticompetitive.

With regard to compensation for terminating an ALEC's traffic, the opponents of USWC's proposal are particularly critical of the proposed I-USC. All urge the Commission to defer consideration of universal service to another proceeding.

All of these parties, except one (AT&T), oppose the compensation mechanism the incumbents propose for the mutual termination of local traffic -- measured usage rates. They, as well as AT&T, argue that the appropriate compensation arrangement for the mutual termination of local traffic between competing LECs, at least until barriers to competition are removed, is "mutual traffic exchange" known as "bill and keep," the compensation arrangement that the incumbent LECs presently utilize for the exchange of EAS traffic. The complaints, in fact, allege that it is discriminatory for the incumbents to adopt any other compensation mechanism while they have a bill and keep arrangement among themselves.

The ALECs argue that USWC's proposal to restrict physical interconnection to three points and via specified facilities is unreasonable and anticompetitive, and urge the Commission to order USWC to allow them to physically interconnect with USWC's network at meet points similar to those established between incumbent LECs.

They also argue that competition will develop more quickly if they are able to purchase and resell unbundled parts of the incumbents' networks, although they differ over the degree of unbundling that is necessary. These parties agree that at a minimum they should be able to lease the customer loop (the link between a customer's residence or place of business and the end office switch) from an incumbent LEC for resale to end users, so that the competitors can provide service without the need to duplicate the loop to every end user's premises. They contend that the Commission must establish other terms of interconnection that are necessary to effective competition.

Allied on the other side are the incumbent LECs -- USWC, GTE, and the Washington Independent Telephone Association (WITA). They generally take the position that the Commission's authority with respect to interconnection is limited to ordering the incumbents to interconnect, and regulating the fairness and sufficiency of the rates for the interconnection services the incumbents choose to offer. They contend that bill and keep, additional physical interconnection options, greater unbundling than the LECs are willing to offer, and other solutions proposed by the other parties are beyond the Commission's authority to order and that ordering them would constitute confiscation of the incumbent LECs' property. They contend that very few of the services and facilities their opponents request are necessary for effective competition, and that their competitors are asking the Commission for competitive assistance and advantage. USWC opposes deferral of the universal service question on

policy and legal grounds, and the other incumbents support its contention that it is entitled to an I-USC element in its access charge. WITA contends that unbundling may not be cost effective for small LECs.

Responding to the complaints, USWC contends that the complaints raise no issues not also raised in USWC's direct case and presented by USWC for resolution, and should be dismissed as moot. GTE contends that the complaints against it must be dismissed because the complainants have not stated actionable claims or proven their case, and contends that because the complaints must be dismissed, the Commission cannot enter an order regarding GTE's rates in this proceeding.

GTE contends that several issues in USWC's tariff proceeding, including unbundling, universal service, and collocation, were not raised in the complaints against GTE, and that the Commission cannot enter any order with respect to GTE on such issues.

With respect to the LTR, the IXCs, which are particularly dependent on incumbent LEC transport and switching for the local leg of long distance calls, support the LTR's separation of transport from other elements of access service, and support the component elements of transport that USWC has identified, but strongly oppose the LTR's proposed pricing of the transport elements, the proposed increase in local switching charge, and proposed residual interconnection charge (RIC).

The IXCs that are parties -- AT&T, MCI, Sprint, and IAC -- take the common position, via a stipulation, that revisions to the switched access tariff (i.e., the LTR) should be resolved in another proceeding that currently is pending before the Commission: the USWC general rate case (Docket No. UT-950200).

In addition to the ALEC objections to USWC's requirement that interconnection at USWC end offices may be only via USWC's virtual collocation service, several parties raise concerns about the charges USWC proposes to impose for virtual expanded interconnection services, and USWC's proposal to price other elements of ALECs' charges on an Individual Cases Basis ("ICB").

A number of parties analyze the cost studies on which USWC bases its rate proposals, and are highly critical of them. They contend that the studies use improper measures of economic cost, are unnecessarily cryptic, contain strategically differentiated markups over cost, and are accompanied by insufficient documentation to enable them to conduct a fair review of the company's costs. All parties except the incumbent LECs are critical of USWC's proposed prices for both competitive and monopoly services.

F. COMMISSION'S JURISDICTION

USWC takes an extremely legalistic approach in support of its tariff proposals and in opposition to the proposals of the ALECs and IXCs. Essentially, it contends that the Commission's authority is limited to ordering interconnection between incumbent LECs and other wireline carriers,[6] and reviewing for fairness and sufficiency the rates for the interconnection services it offers.

USWC makes a detailed analysis of the Commission's statutes. It argues, based on its analysis, that:

(1) The Commission must approve access or interconnection charges (as in the current interexchange model) for local interconnection. Commission statutes do not allow the prescription of no rates, or bill and keep. Commission statutes all contemplate that remunerative rates will be charged.

(2) Although incumbent LECs exchange EAS traffic on a bill and keep basis, the Commission has no authority to require companies to provide intercompany EAS on a bill and keep basis.

(3) Given the state's telecommunications policies, the Commission has no choice but to approve an access charge structure for local interconnection with a universal service charge element. Failure to approve USWC's proposed I-USC would either undermine affordable universal service, which is the state's paramount public policy under RCW 80.36.300, or would illegally deprive USWC of the ability to cover its authorized revenue requirement.

(4) The Commission only has authority to order a company to provide telecommunications services to another. It has no authority to order a company to provide bare facilities, such as loops or subparts of loops. It cannot order unbundling.

(5) The Commission's jurisdiction to regulate in terms of competitive fairness applies only to rates for telecommunications services. It does not provide authority to order charges for or access to bare facilities, real estate, or non-telecommunications products or services such as telephone directories.

The other incumbent LECs (GTE and WITA) make many of the same arguments.

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[6] None of the LECs deny that they must interconnect with local exchange service competitors for the exchange of traffic. USWC notes that Const. art. 12, § 19 requires it to interconnect. WITA notes that 80.36.350 empowers the Commission to authorize the entry of new companies, and that once operating, 80.36.200 provides that a new company's messages must be received, transmitted, and delivered by other telecommunications companies without discrimination or delay

The Commission is mindful that it is a creature of the Legislature without inherent or common-law powers, and that it may exercise only those powers conferred on it either expressly or by necessary implication. Cole v. Wn. Util. & Transp. Comm'n, 79 Wn. 2d 302, 306, 485 P.2d 71 (1971).

The Commission believes that the telecommunications industry itself should assume primary responsibility for reaching consensus on reasonable solutions to many of the local interconnection issues. However, we realize that the industry necessarily and appropriately looks to the Commission to provide some leadership and direction during the transition to a competitive industry structure. If members of the industry fail to reach agreement necessary to resolve these critical issues, the Commission is prepared to take a more directive role as needed to establish terms for fair interconnection among competing providers of local exchange services.

The Commission has carefully and thoroughly considered the incumbent LECs' arguments that we lack authority to order any interconnection terms or conditions other than those they are offering. We believe that the incumbent LECs' interpretation of the Commission's authority, and USWC's interpretation in particular, are unreasonably restrictive. The Commission has broad authority to regulate the rates, services, facilities, and practices of telecommunications companies in the public interest. See, POWER v. Utilities & Transp. Comm'n, 104 Wn.2d 798, 808, 711 P.2d 319 (1985); State ex rel. American Telechronometer Co. v. Baker, 164 Wash. 483, 491-96, 2 P.2d 1099 (1931); State ex rel. Public Service Commission v. Skagit River Telephone & Telegraph Co., 85 Wash. 29, 36, 147 P. 885 (1915).

Under RCW 80.01.040(3), the Commission is authorized to regulate in the public interest the rates, services, facilities, and practices of public utilities, including telecommunications companies.

RCW 80.36.080 gives the Commission broad power to regulate the rates, tolls, contracts and charges, rules, and regulations of telecommunications companies for services rendered and equipment and facilities supplied, as to fairness, justness, reasonableness, and sufficiency.

RCW 80.36.140 gives the Commission broad authority over rates and over rules and practices affecting rates, and broad authority over practices, facilities, and services:

> Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telecommunications company for the transmission of messages by telecommunications, or for the rental or use of any telecommunications line, instrument, wire, appliance, apparatus or device or any telecommunications receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device, or any telecommunications extension or extension system, or that the rules, regulations or practices of any

> telecommunications company affecting such rates, charges, tolls, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of law, or that such rates, charges, tolls or rentals are insufficient to yield reasonable compensation for the service rendered, the commission shall determine the just and reasonable rates, charges, tolls or rentals to be thereafter observed and in force, and fix the same by order as provided in this title.
>
> Whenever the commission shall find, after such hearing that the rules, regulations or practices of any telecommunications company are unjust or unreasonable, or that the equipment, facilities or service of any telecommunications company is inadequate, inefficient, improper or insufficient, the commission shall determine the just, reasonable, proper, adequate and efficient rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order or rule as provided in this title.

Under RCW 80.04.110, the Commission may consider complaints by one competitor against another alleging that the rates, charges, rules, regulations, or practices of the other are unreasonable, unremunerative, discriminatory, illegal, unfair, or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and to correct abuses complained of by establishing uniform rates, charges, rules, regulations, or practices in lieu of those complained of.

RCW 80.36.160 gives the Commission authority to order physical connections, prescribe routing, and establish joint rates for toll telephone service.

Finally, the Commission has broad powers to protect consumers and competitors from unreasonable preference, advantage, or discrimination under RCW 80.36.170, .180, and .186.

Our analyses of the incumbent LECs' specific legal arguments concerning bill and keep, EAS, unbundling, and making available other services and facilities, are set out later, in appropriate sections of this decision. We have concluded that the Commission's authority is sufficiently broad for it to order compensation arrangements (including "bill and keep") and other terms and conditions for local interconnection that differ from those the incumbents propose. In deciding which arrangements, terms, and conditions to approve and order, the Commission will endeavor to identify solutions that are consistent with the state's telecommunications policies and otherwise in the public interest.

II. LOCAL INTERCONNECTION

A. POLICY

The Commission requested that the parties address policy considerations in their testimony and in their briefs. We appreciate the considerable thought and effort the parties put into their discussions.

USWC's policy discussion is largely restricted to its various legal challenges to the Commission's authority to do anything more than review the fairness and remunerativeness of the rates it proposes, summarized in the previous section. USWC's view would permit the Commission virtually no policy role.

The incumbent LECs suggest that the Commission take care not to promote competition solely for the sake of competition. Competition already is developing rapidly on its own, they argue, and many of the measures that the new entrant ALECs seek in this proceeding are unnecessary and would distort competition. The incumbent LECs argue that the ALECs should not be allowed to use the Commission's regulatory authority to gain an unfair advantage in their competition with them.

USWC argues that the Legislature has declared preservation of affordable universal telecommunications service to be the paramount public policy. Other objectives, such as promoting diversity of supply in telecommunications services, are subservient to universal service. USWC maintains that the Commission cannot promote local exchange competition at the expense of affordable universal service and the right of regulated companies to reasonable and sufficient rates for services rendered.

GTE argues that the Commission's overall policy should be to allow the fair and natural development of competition under symmetrical regulatory rules. It should not attempt to create "pseudo-competition," and it should not mandate that some firms aid and provide an advantage to their competitors GTE argues for interconnection rates that are consistent with sound economic principles and facilitate movement toward an integrated, unified rate structure for all traffic between carriers, be they incumbent LECs, ALECs, or interexchange carriers

WITA's position stresses the need to avoid delay in defining standards for local exchange competition, because the development of competition in this market is already explosive. According to WITA, the Commission should recognize the conditions claimed by ALECs as requirements for competition as mere illusion, designed to gain a competitive advantage. WITA argues that each new entrant could, if it so chooses, completely duplicate the existing network of the incumbents or use existing wireless or cable infrastructure.

Other parties in this proceeding generally argue that the paramount policy of the Commission should be to permit and encourage the development of effective competition in the local exchange market. Commission policy should support arrangements that are consistent with competitive markets and that promote the development of efficient, low-cost services for consumers. Competition, they argue, promotes the public policies declared by the Legislature in RCW 80.36.300, such as universal service and diversity of supply.

The other parties offer recommended sets of policies that differ in scope and detail but generally resemble each other in comparison to the incumbent LEC positions. For example, Commission Staff offers a series of principles and objectives intended to move toward a long term goal of establishing the marketplace as the regulator of local rates and services. These include policies to promote effective competition, treat all market participants as "co-carriers," require that dominant incumbents make available to ALECs non-competitive services at non-discriminatory, cost-based, unbundled rates, recognize the lack of "effective competition" in defining "essential services," require that prices for basic network functions be cost-based without contribution to the profits of the incumbent, and use total service long run incremental costs (TSLRIC) as the cost basis for pricing decisions.

The Commission concludes that the decisions in this case must be guided primarily by the specific public policies declared by the Legislature in RCW 80.36.300:

(1) Preserve affordable universal telecommunications service;
(2) Maintain and advance the efficiency and supply of telecommunications service;
(3) Ensure that customers pay only reasonable charges for telecommunications service;
(4) Ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of regulated telecommunications companies;
(5) Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and
(6) Permit flexible regulation of competitive telecommunications companies and services

These legislative policies are, in turn, guided by provisions of the state constitution that protect the rights of all companies to provide telecommunications services (Const. art. 12, § 19) and declare the state's abhorrence of monopolies (Const. art. 12, § 22). See, In re Electric Lightwave, Inc., supra, 123 Wn.2d at 538-39.

The policy goals of preserving universal service and promoting competitive markets are not at odds. Competition can make telecommunications services more affordable by encouraging firms to be more efficient and more innovative. It also can promote affordable service by imposing "market discipline" on the prices of incumbent LECs in other words, the prospect of competition can encourage incumbents to hold down rates.

As the Commission moves forward in establishing the conditions for competition (as presented to us in this docket), we must be vigilant in regards to consumer protection and universal service goals. To this end, the Commission concurs with the principles advocated by Public Counsel, at pages 3-4 of its brief:

> The first policy is that the Commission should guarantee that the benefits of competition -- including lower rates, more and better service options, and more rapid deployment of technological advances -- flow to all customers, not just large business customers.
>
> The second, and corollary policy is that the Commission assure that residential and small business customers do not become the "guarantors" of US WEST's revenue stream at a time when competitive pressures would otherwise force the Company to become more efficient to maintain its levels of profitability.
>
> The third policy is that new entrants be recognized as co-carriers and treated accordingly. The Commission should dismantle any remaining barriers to entry and avoid constructing (or authorizing incumbents to construct) any new barriers through decisions on interconnection issues.

The Commission adds the additional principle that rates and conditions should reflect costs. The Commission continues to be mindful of the statutory requirement that rates be fair, just, reasonable and sufficient. It would not be in the public interest to allow rates which do not meet this test.

B. COMPENSATION

1. Introduction

The crux of this case deals with inter-company compensation for the termination of local calls. Little would be gained from granting new firms the opportunity to interconnect with the existing network but allowing the incumbents to charge excessive rates for that access. Yet it also would not be in the public interest to establish a compensation mechanism that failed to compensate companies for the use of their facilities, that allowed new entrants to impose excessive costs on incumbents' networks, or that created incentives for uneconomic investment.

In evaluating alternative compensation mechanisms we have sought to maintain a balance between the objective of promoting diversity in the supply of telecommunications services and the responsibility to ensure that companies are fairly compensated for their services. It is not the Commission's responsibility to protect incumbents from competition; indeed, it is our responsibility to ensure that new entrants have a reasonable opportunity to compete. We emphasize our agreement with the incumbent LECs that we should not encourage competition merely for the sake of competition. We seek to ensure the

development of effectively competitive markets in order to satisfy consumer demand and promote economic efficiency.

2. Options Presented

The parties have put forward three different approaches for compensating local service providers for terminating a competitor's local calls: (1) a variable charge based on minutes of use of the terminating company's transport and switching network; (2) compensation in the form of mutual traffic exchange, or "bill and keep"; and (3) a port charge based on peak use of interconnection capacity.

USWC in its tariff filing and GTE in the rates it has offered to the complainants, take a common approach of a per-minute charge mechanism. This proposed compensation mechanism is an access charge structure modeled on the one adopted in the 1980s for interconnection with IXCs.

Mutual traffic exchange, or bill and keep, is the preferred alternative of nearly all the other parties, at least as an interim approach until barriers to competition are removed. Bill and keep is a compensation mechanism in which each local exchange company would pay for the calls it terminates on other companies' networks by, in return, terminating those other companies' calls on its own network.[7]

The flat-rated port charge was proposed by several parties as an alternative to per-minute charges, should the Commission reject a bill and keep mechanism.

a. Per-minute charge

In the tariff revisions filed in this proceeding, USWC proposes to charge essentially the same unbundled rates for transporting and terminating calls from local competitors as it would charge IXCs for switched access (long-distance) transport and call termination. The local interconnection service (LIS) section of USWC's Access Services tariff would incorporate transport rates and a switching rate element from the company's restructured switched access tariff for IXCs, and would add an interim universal service charge (I-USC) rate element.

For local traffic that an ALEC delivers to USWC for termination, USWC would assess the ALEC transport charges for USWC transport services the termination requires, a local switching charge of $0.01/minute for use of the end office switch, and an I-USC of $0.0228/minute applicable to ALECs that do not meet a set of requirements that includes serving the same ratio of residence to business customers as USWC. USWC proposes the I-USC as a contribution to the support of USWC's statewide averaged residential rates.

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[7] TCG favors bill and keep for end office interconnection only; it proposes that interconnection at tandem switches be compensated with port charges.

USWC's LIS would require that local traffic be measured. USWC presently is not capable of measuring terminating local traffic, but is developing new technology that can generate the necessary call records for such measurement. It proposes interim measurement arrangements whereby each local exchange company would measure the traffic it delivers to another, and the receiving company would rely on those measurements to bill its terminating access charges. USWC presently bases IXC access charges on a delivered-traffic reporting system similar to the interim system it proposes for ALECs.

USWC proposes that local interconnection access charges be reciprocal. The ALECs could charge USWC access charges for traffic that USWC delivers to them for termination to ALEC customers based on the ALECs' access tariffs or price lists. An exception to this position is USWC's proposed I-USC. It would be strictly a one-way charge.

GTE has proposed usage-based mutual compensation for terminating ALECs' "local-like" and "EAS-like" traffic based upon GTE's switched access tariff rates, except for the common carrier line charge and the information surcharge elements.[8] Its proposed contract rate for local termination is $0.0295291 per minute, which is derived from its switched access tariff. In cross-examination, GTE witness Beauvais recommended that the Commission should direct GTE to impose rates for inter-company compensation at a level similar to what is paid currently for local measured service, approximately $0.01 to $0.015/minute. [Beauvais, TR., pp. 1789 and 1802] GTE has not proposed to unbundle transportation from its access charge.

There were several basic issues cited by parties in their support for or opposition to a measured use structure. The major issues were whether: (1) the local access rate structure should be consistent with the existing toll access rate structure; (2) a per-minute charge would send correct economic signals to actual and potential participants in the market; and (3) measured use rates would impose unnecessary costs on market participants.[9]

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[8] GTE does not have a tariff for local interconnection service, either existing or proposed. GTE is a party in this proceeding because of complaints filed against it by TCG and ELI. In negotiations with GTE, TCG and ELI requested that GTE interconnect with them on the same basis it interconnects with incumbent LECs for the exchange of EAS traffic, including employing a bill and keep method of mutual compensation for the exchange of local traffic. GTE refused that request.

[9] The parties also disagree about the amount that would be charged per minute for call termination. USWC contends that interconnection rates should be set above incremental cost to provide a contribution to the common costs of the existing network. Several other parties argue that rates should be set at incremental cost to promote competition. Markups on services provided to competitors would allow the incumbent to block meaningful competition, they argue.

(1) Consistency of local and toll access rate structures.

USWC argues that there is no basis for having a different compensation mechanism for local traffic than the one already in place for interexchange traffic. Local interconnection is no different technically and conceptually from any other kind of interconnection. GTE concurs in this argument, contending that differentiation of traffic "types" will succumb to the proliferation of technologies, service providers, and service packages. A common rate structure would obviate the need to use separate trunking or specialized measuring and billing systems, provide equal treatment to all originating companies, and eliminate the incentive to arbitrage any difference between different rates. In addition, WITA argues that measured use rates for local interconnection build on existing models and are easy and efficient to administer.

In opposition, Public Counsel argues that the historical existence of such a structure for toll access does not make it an appropriate model for local access. DOD/FEA notes that the idea of consistency is superficially attractive but contends that the relationship between an incumbent LEC and a toll carrier is altogether different than the relationship between two incumbent LECs or between an incumbent LEC and a new entrant ALEC.

(2) Economic signals to market participants.

GTE argues that measured use rates for local and EAS traffic send appropriate economic signals to the market. Local exchange companies incur costs to terminate each other's traffic, and this cost should be reflected in rates. The per-minute rate is superior to bill and keep, GTE argues, because bill and keep sends an incorrect economic signal that traffic termination has no cost. USWC also argues that per-minute measured use rates are warranted by the need to send accurate price signals. WITA contends that access-like charges will ensure entry on an economically sound basis and allow rural LECs an opportunity to recover network costs for serving all of the rural service area.

ELI argues that interconnection costs are not sensitive to the number of minutes used but rather are a function of the potential demand for peak network capacity. (Montgomery, Ex. T-84, pp. 47-48)

Public Counsel contends that a measured rate structure has the potential to place irresistible pressure toward provision of retail service on a measured basis. It cites the testimony of GTE witness Beauvais, that "if compensation costs are on a minute of use or per call basis, it is desirable that the end user see a rate structure reflecting those cost characteristics..." (Ex. T-130, p. 12) MCI argues that adopting a per-minute charge, even at cost, would result in a cost floor for local exchange services much higher than the floor that would apply under mutual traffic exchange.

GTE does not accept that usage based charges would result in mandatory local measured service. GTE does not have the goal of imposing mandatory measured service, and its proposed integrated rate structure would accommodate flat rate service offerings.

GTE argues that such concerns should not distract from the real issues of sound economic, forward-looking prices. [Beauvais, TR., p. 1786]

(3) Imposition of unnecessary costs with a per-minute structure.

Finally, the parties disagree on whether the proposed rate structure would unnecessarily raise costs for various firms, either by creating measurement and billing costs or by distorting choices in network architecture and technology. USWC contends that the investment necessary to measure terminating traffic is necessary for companies to manage their networks in a competitive manner and that the additional cost of local measurement capability for companies who already must measure toll traffic is modest and incremental. GTE argues that any factual basis for the claim that measuring costs are high are based only on USWC's costs, citing evidence that it can and is measuring and billing for terminating traffic using existing capabilities at a low cost. WITA suggests that costs could be very low if companies used the Data Distribution Center to exchange billing system records.

Many opponents of USWC's proposed rate structure cite measurement costs as a disadvantage of that proposal. TRACER presented testimony that USWC's assumed costs for measuring, billing, and collecting would account for almost half the costs for terminating local calls. (Zepp, Ex. T-151, 22-23) The technology used to measure local traffic is three times as costly as that used to measure IXC traffic. (Wilson, Ex. T-154, p. 32) Measurement costs will be wasted if traffic is in balance, TCG argues, and even if the traffic is out of balance, the total cost of measurement must be justified by the amount of the imbalance. Sprint, ELI, MCI, and Public Counsel argue that requiring new entrants to adopt technologies that permit measurement of terminating minutes would distort technology and architecture choices and raise entry costs.

b. Mutual traffic exchange

Mutual traffic exchange, also known as "bill and keep," is the compensation mechanism supported by most parties other than the incumbent local exchange companies. Under this mechanism, traffic is exchanged among companies on a reciprocal basis. Each company terminates the traffic originating from other companies in exchange for the right to terminate its traffic on that company's network.

Proponents focus primarily on the reciprocal nature of mutual traffic exchange and the "co-carrier" treatment it affords incumbent LECs and new entrant ALECs. Commission Staff argues that it is appropriate to treat ALECs as co-carriers of local traffic, along with USWC and other LEC incumbents. The new entrants will provide the same local exchange services to their customers as does USWC to its customers. Staff cites as an example the independent LECs, which have used a bill and keep arrangement with USWC for several years. This relationship is in contrast to the IXCs, which are customers of USWC and have historically provided profits to USWC through access charges. ELI, MCI, Public Counsel, AT&T, and TRACER also argue that the reciprocal nature of bill and keep is appropriate because it treats incumbents and entrants as equals in the local exchange market. These

parties contend that the reciprocal nature of bill and keep means that companies do not use the networks of another for free. Consideration takes the form of a payment in kind.

A second argument made by proponents of bill and keep is that it is efficient and simple to administer. Commission Staff, TCG, ELI, Public Counsel, and MFS argue that under this mechanism, neither party incurs measurement and billing expenses, and each company has a strong incentive to minimize its costs and improve the efficiency of its network. AT&T notes that cost studies are avoided. MCI cites the use of mutual traffic exchange among non-competing LECs for terminating EAS traffic as evidence of the efficiency of this compensation structure. It argues that in these situations, where competitive advantage is not sought, adjacent incumbent LECs have chosen bill and keep as the most efficient mechanism.

A third argument made by proponents of bill and keep, including MFS, TRACER, and DOD/FEA, is that it eliminates incentives to perpetuate traffic imbalances. This argument holds that an incumbent LEC would have an incentive under a measured use scheme to delay implementation of local number portability since without number portability, customers are less likely to switch their incoming lines to a new service provider. A bill and keep arrangement would give incumbents an incentive to negotiate better long-term solutions and to develop a workable system of number portability.

The incumbent local exchange companies oppose a bill and keep compensation structure, arguing that it would fail to compensate them for use of their networks by competitors. GTE refers to this arrangement as "forced barter" and argues that it does not satisfy the obligation to make just compensation. USWC similarly argues that "every carrier is absolutely entitled to reasonable and sufficient rates for services rendered" and that the bill and keep arrangement does not provide that compensation.

GTE further argues that full and just compensation would not result under bill and keep unless there were an exchange of equal value and that this is unlikely under bill and keep. Exchange of equal value would require that traffic between two companies be perfectly in balance, and there is no evidence that this would be the case, according to GTE.

Another argument raised by opponents is that the bill and keep structure would invite arbitrage of the differences in rate structure between toll and local access. WITA argues that bill and keep would give even small customers an incentive to establish their own local exchange company. Rather than pay the incumbent LEC for PBX trunks, the customer could obtain bill and keep interconnection service.

The bill and keep structure also is criticized for sending price signals that are inconsistent with the development of an efficient competitive telecommunications market. GTE argues that prices should reflect costs. Bill and keep sets a zero price for terminating local traffic, when that service has a cost (Beauvais, Ex. T-133, p. 10) WITA makes a similar argument, quoting USWC witness Harris that "the central tenet of economics is that

prices pay a critically important role in the allocation and distribution of goods and services in a market economy. Bill and keep violates that principle." (Ex. T-31, p. 9)

c. Flat-rated port charge

Besides mutual traffic exchange, the other alternative to the per-minute regime proposed by USWC and GTE is a "flat-rated port charge" for interconnection.[10] As described by TRACER witness Zepp, companies would pay a charge for each port interconnecting the other. In effect, the total cost of each port would be allocated based upon use of that port during the period of peak demand. The company with the greater number of terminating minutes during the busy hour would pay an amount based on the difference in minutes and the cost of the interconnection.[11] (Ex. T-151, pp. 19-20) Commission Staff witness Wilson also supported this formulation of a port charge as an alternative to "bill and keep." (Ex. T-155, p. 31)

Commission Staff, TRACER, and ELI support mutual traffic exchange as the preferred compensation mechanism but argue for a port charge as the second-best alternative. TCG advocates a hybrid approach using bill and keep for end office interconnections and a port charge for tandem interconnections. However, no party offers a port charge as its preferred method of structuring compensation.

The record in this proceeding is, to put it euphemistically, rich with argument and evidence on the advantages and disadvantages of the per-minute charge and bill and keep alternatives. Very little information has been provided by the parties on the merits and demerits of a port charge. In support of a port charge over a per-minute charge, Commission Staff and ELI contend that a port charge would result in cost-based rates that are more competitively neutral than per-minute charges. Another suggested advantage of

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[10] While this option is styled a "flat-rated charge," it would be more accurate to describe it as a peak use charge. If the charge were truly "flat-rated," it would not vary with a carrier's use of peak capacity. For instance, flat-rated local telephone service in this state means that a customer pays a flat monthly rate whether or not they make local calls. The port charge proposed in this case is a charge based upon use, but only use during the period of peak demand.

[11] The proposed port charge formula is

$$\text{Price/Port} = 9{,}000 \times (F_{ALEC} - F_{USWC}) \times (\text{TSLRIC-X})$$

where:

F_{ALEC} = the fraction of traffic a typical ALEC terminates on USWC during the busy hour, plus or minus 5%,

F_{USWC} = the fraction of traffic that USWC typically terminates on a ALEC during the busy hour, plus or minus 5%, and

(TSLRIC-X) = the TSLRIC (minus an adjustment factor), expressed in dollars per minute. The per-minute rate is multiplied by 9,000 minutes per month to arrive at a monthly rate.

port charges, compared to per-minute charges, is that this mechanism would avoid many of the expenses of metering, billing, and auditing every minute of use. Charges would be based on peak traffic instead.

In addition, contend Commission Staff and ELI, a port charge is economically efficient, in that it recognizes that interconnection costs are determined primarily by demand for peak network capacity and that off-peak use has very little cost. TRACER and ELI argue that port charges also allow new entrant ALECs more flexibility (relative to measured use rates) to experiment with their own pricing plans. Finally, TCG argues that port charges allow each company to obtain compensation for the costs of interconnection on a basis that parallels flat-rated retail pricing.

3. Commission Discussion and Decision -- Compensation

The structure of a compensation mechanism, as well as the level of interconnection rates, has been argued and examined in great detail in this proceeding. The Commission finds itself impressed with the weaknesses of both USWC's proposed per-minute charge and the mutual traffic exchange mechanism offered by other parties. The record demonstrates that neither mechanism would provide a long-term compensation structure that meets the policies and objectives discussed earlier in this order. This discussion will explain that conclusion, provide for an interim compensation mechanism, and provide the parties with direction on how a long-term compensation structure should be developed.

a. The proposed minutes-of-use structure

The Commission rejects USWC's proposal to impose toll-type access charges on each minute of local interconnection. Neither the structure of the proposed mechanism nor the specific rates proposed can be considered to be fair, just, and reasonable. Adoption of a minutes-of-use scheme would either impose extremely high barriers to entry or substantially increase the retail price of local service. Either result would conflict with state policy goals. Our rejection of the proposed minutes-of-use structure and rate is based on three basic factors:

(1) Attempting to unify rate structures in the toll and local access markets by imposing toll-type charges on local access is misguided and unnecessary.

The incumbent LECs look to their existing relationships with the interexchange carriers as a model for their future relationships with competitive alternative local exchange companies. USWC argues that one of two fundamental principles supporting its usage-based pricing structure is that "local interconnection is no different technically and conceptually from any other kind of interconnection" (USWC brief, p. 29). Since local and toll access are technically similar, it is argued that rates structures should be the same. With the IXC rate structure already in place, the incumbent LECs appear to believe the best strategy is to apply that structure to the new entrant ALECs.