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Federal Communications Commission

DA-96-1302

DISP

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Investigation of Puerto Rico Telephone	)	CC Docket No. 96-160
Company's New Expanded Interconnection	)	
Offerings	)	
	)	
Puerto Rico Telephone Company	)	Transmittal No. 2
Revisions to Tariff F.C.C. No. 1	)	

**ORDER**

Adopted: August 14, 1996

Released: August 14, 1996

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

**I. INTRODUCTION**

1. In the *Special Access Expanded Interconnection Order*, the Commission required all Tier 1 local exchange carriers (LECs) that are not members of the National Exchange Carrier Association (NECA) to offer expanded interconnection to all interested parties by permitting competitors and high volume users to terminate their own special access transmission facilities at LEC central offices.<sup>1</sup> The Commission exempted NECA pool members from this requirement because it was concerned that the requirement "might cause that member's contribution to decrease, put upward pressure on the pool's access rates, reward less efficient CAPs, and cause the pool carriers' ratepayers' to bear the burden of stranded plant."<sup>2</sup> The Commission also noted that the Puerto Rico Telephone Company (PRTC) was the only Tier 1 LEC that was a NECA pool member.<sup>3</sup>

2. In its 1996 annual access tariff filing, PRTC notified the Commission that it

<sup>1</sup> Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369, 7398, para. 57 (1992) ("*Special Access Expanded Interconnection Order*").

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

was withdrawing from the NECA pool, effective July 1, 1996.<sup>4</sup> Upon its withdrawal from the NECA pool, PRTC became subject to the requirement that every Tier 1 LEC not a member of NECA file an expanded interconnection tariff.<sup>5</sup> In order to comply with this requirement, PRTC filed Transmittal No. 2 on May 6, 1996, which introduced initial rates and terms and conditions for expanded interconnection through virtual collocation for special access and switched transport services.<sup>6</sup> Transmittal No. 2, which modifies PRTC's Tariff F.C.C. No. 1, proposes recurring rates for special and switched access DS1 and DS3 cross-connects, cable support structure, and floor space and non-recurring rates for design and planning, and cable installation. PRTC also proposes rates on what it calls an individual case basis (ICB) for certain nonrecurring rate elements: switched and special access DS1 and DS3 cross-connects, cable maintenance, equipment installation, equipment maintenance, and training.<sup>7</sup>

## II. SUMMARY OF PLEADINGS

### A. Petition

3. On May 21, 1996, Centennial Cellular Corp. ("Centennial") filed a petition to suspend and investigate Transmittal No. 2. Centennial argues that PRTC's proposed virtual collocation rate levels are unreasonably high in comparison to the rates of the Regional Bell Operating Companies (RBOCs).<sup>8</sup> Noting that PRTC failed to submit a standardized priceout of 100 DS1 circuits in its tariff review plan (TRP) as required by the Commission's *Tariff Review Plan Order*,<sup>9</sup> Centennial submitted sample priceouts using PRTC's proposed rates and substituting "conservative assumptions" for what PRTC characterizes as ICB rate elements. Centennial claims that these sample priceouts demonstrate that PRTC's rate levels are

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<sup>4</sup> See Letter from Gladys Batista Torres, PRTC to Office of the Secretary, Federal Communications Commission, (dated April 2, 1996).

<sup>5</sup> *Special Access Expanded Interconnection Order*, 7 FCC Rcd at 7489-90, para. 259.

<sup>6</sup> On April 26, 1996, PRTC filed Application No. 2, *as amended* on May 2, 1996, requesting special permission to file its interstate expanded interconnection tariff on May 6, 1996, to be effective July 1, 1996. In its request, PRTC sought a waiver of 47 C.F.R. § 69.3 and the 90 day notice requirement set forth in the *Special Access Expanded Interconnection Order*, 7 FCC Rcd at 7490, para. 259. On May 3, 1996, the Common Carrier Bureau assigned Special Permission No. 96-447, granting PRTC's request. Letter from James D. Schlichting, Chief, Competitive Pricing Division, FCC to Joe D. Edge, Attorney, Drinker, Biddle & Reath (dated May 3, 1996).

<sup>7</sup> PRTC Description and Justification at 4.

<sup>8</sup> Centennial Petition to Suspend and Investigate (Petition) at 4-6.

<sup>9</sup> See Commission Requirements for Cost Support Material to be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport, Tariff Review Plan Order, 9 FCC Rcd 5679, 5683, para 16. (Com. Car. Bur. 1994) ("*Tariff Review Plan Order*").

excessive.<sup>10</sup>

4. Centennial also objects to PRTC's ICB rates for DS1 and DS3 cross-connects, stating that PRTC should be required to tariff specific non-recurring charges for cross-connects, and provide complete cost support for the specific rate levels that PRTC proposes.<sup>11</sup> According to Centennial, PRTC has not demonstrated why cost variations would prevent it from developing an average installation cost. Centennial argues that using ICB rates for nonrecurring cross-connects enables PRTC to circumvent the Commission's rate review process and creates opportunities for discriminatory, anticompetitive treatment of interconnectors.<sup>12</sup>

5. In addition, Centennial claims that PRTC's proposed overhead loading factors for its recurring rate elements are unreasonably high and in excess of the levels that the Commission prescribed for other LECs in its virtual collocation tariff investigation.<sup>13</sup> Specifically, Centennial argues that PRTC's overhead loading factors are excessive because they were calculated using incorrect "allocation ratios."<sup>14</sup> Centennial further claims that PRTC's proposed charge for floor space results in double recovery of land and building costs because land and building costs are included in the calculation of the overhead loadings that are applied to direct costs of floor space and, should not, therefore, be charged as an additional rate element.<sup>15</sup>

6. Finally, Centennial asserts that PRTC's proposed charge for a floor space element is improper and should be eliminated, that PRTC's overhead loadings are excessive, and that PRTC's 12-month minimum service period for DS3 interconnection is too restrictive.<sup>16</sup> Centennial urges the Commission to suspend and investigate the Transmittal No. 2, pursuant to Section 204(a) of the Communications Act.<sup>17</sup>

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<sup>10</sup> Centennial Petition at 5-6.

<sup>11</sup> *Id.* at 7.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 9.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 7-8.

<sup>16</sup> *Id.* at 13-14.

<sup>17</sup> *Id.* at 15.

**B. Reply**

7. PRTC responds that what it calls ICB rate elements, offered in Transmittal No. 2, are appropriate and conform to the Commission's criteria for ICB pricing.<sup>18</sup> Specifically, PRTC asserts that expanded interconnection is a service not previously offered by PRTC; that the ICB rates will be used only as an interim transitional measure; that PRTC will develop averaged rates for expanded interconnection as soon as they become available; and that PRTC will provide cost support in accordance with the standards set forth in Section 61.38 of the Commission's rules.<sup>19</sup>

8. PRTC also argues that its rates should not be compared to the RBOCs' rates because PRTC's costs are higher than those of the RBOCs.<sup>20</sup> In addition, PRTC argues that Centennial's estimation of PRTC's rates is based on a fictitious priceout using assumed prices that do not represent true costs of service.<sup>21</sup>

9. In addition, PRTC asserts that its overhead loadings for floor space do not exceed the overhead loadings applied to PRTC's special access service.<sup>22</sup> PRTC contends that its overhead loadings have been calculated in accordance with the Commission's rules and that any impact on interconnectors from double recovery would be *de minimis*.<sup>23</sup> Finally, PRTC states that the other "deficiencies" alleged by Centennial are not accompanied by sufficient support and reasoning to establish their validity and do not implicate any Commission rule, order, or policy.<sup>24</sup>

**IV. DISCUSSION**

10. Based on our review of the record, we find that the provisions in PRTC's Transmittal No. 2 raise significant questions of lawfulness regarding cost allocations, rate levels, rate structures, and terms and conditions of service. We therefore suspend Transmittal No. 2 for one day and initiate an investigation into the lawfulness of its provisions. In addition, we will issue a separate order designating the issues to be investigated and establish a pleading cycle for discussion of those issues. The rates in Transmittal No. 2 will be subject

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<sup>18</sup> PRTC Reply at 1-2.

<sup>19</sup> *Id.* at 4-5.

<sup>20</sup> *Id.* at 6-7.

<sup>21</sup> *Id.* at 5.

<sup>22</sup> *Id.* at 7-8.

<sup>23</sup> *Id.* at 8-10.

<sup>24</sup> *Id.* at 11-13.

to an accounting order to facilitate any refunds that may later prove necessary.

#### V. ORDERING CLAUSES

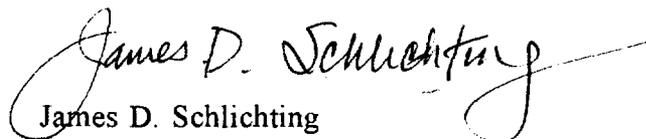
11. Accordingly, **IT IS ORDERED**, that pursuant to Sections 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the virtual collocation provisions of the Puerto Rico Telephone Company's Transmittal No. 2 **ARE SUSPENDED** for one day and an investigation of these provisions in the referenced tariff transmittal **IS INSTITUTED**.

12. **IT IS FURTHER ORDERED** that the Puerto Rico Telephone Company **SHALL FILE** tariff revisions within five business days of the release date of this Order to reflect this suspension.

13. **IT IS FURTHER ORDERED**, that pursuant to Section 204(a) of the Communications Act, as amended, 47 U.S.C. § 204(a), the Puerto Rico Telephone Company **SHALL KEEP ACCURATE ACCOUNT** of all earnings, costs, and returns associated with the rates that are subject to this investigation and of all amounts paid thereunder and by whom such amounts are paid.

14. **IT IS FURTHER ORDERED** that the petition filed by Centennial Cellular Corporation to suspend and investigate Transmittal No. 2 **IS GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

  
James D. Schlichting  
Chief, Competitive Pricing Division  
Common Carrier Bureau