Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Dkt. 96-98
	)	
Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	DOCKET FILE COPY ORIGINAL

REPLY OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES TO OPPOSITIONS TO ITS PETITION FOR CLARIFICATION AND RECONSIDERATION

The Association for Local Telecommunications Services ("ALTS") hereby files its reply to the various oppositions to its petition for clarification and reconsideration. In its initial petition ALTS raised a number of issues that it believes need clarification or reconsideration in this proceeding. ALTS continues to believe that each of these areas of concern should be addressed by the Commission. Because many of these issues have been thoroughly briefed by the parties, ALTS limits its response to three areas: the costing principles to be used in determining NRCs, the provision of a fresh look period so that customers can have access to alternative providers of service, and the clarification of bad faith negotiation.

I. SPECIFIC RULES ARE NEEDED FOR NRCs.

As indicated in ALTS' Petition for Clarification and Reconsideration, the Commission in its Interconnection Order discussed the theoretical difference between nonrecurring costs

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and charges and recurring costs and charges. The Commission did not, however, adopt specific rules relating to what costs could be included by the ILECs in computing nonrecurring charges relating to the ordering and provisioning of unbundled elements and interconnection.

It has now become clear that some ILECs see the Commission's lack of guidance as an opportunity to charge exorbitant fees for the provisioning of unbundled elements. Setting nonrecurring charges at unreasonable levels could well preclude competitors from ordering unbundled elements, and thus prevent the robust competitive environment envisioned by the Telecommunications Act of 1996. Indeed, absent Commission action, high NRC charges could prove the ultimate barrier to entry. Accordingly, in its petition for clarification and reconsideration, ALTS asks the Commission to issue a few, relatively general, rules relating to the ILECs' calculation of nonrecurring charges.[1]

The oppositions to ALTS' petition argue that cost-causers should bear all up-front costs, even if those costs are significant. These oppositions simply assume that early new entrants are solely accountable for such costs because they request actions never been taken before by the incumbents. With respect to ALTS' request that nonrecurring charges should be equal to or less than the lowest nonrecurring charge for the most

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[1] In its Response filed October 31st, ALTS also supported AT&T's requested rules relating to the calculation of NRCs.

analogous ILEC services, the incumbents argue this makes no sense as tariffed non-recurring charges are often not fully compensatory.[2]

First, as a factual matter, it is important the Commission recognize this issue is not just theoretical. The NRCs proposed by some ILECs are so much greater than those agreed to by other ILECs that it is inconceivable any differences in network design or labor or any other cost could justify such a difference. For example, the non-recurring charge for the provisioning of an unbundled loop as proposed by U S West in its negotiations with Electric Lightwave are nearly **10 times higher** than the charges agreed to by Ameritech in its interconnection agreement signed with ICG. See Attachments 1 and 2.[3] The inevitable conclusion is that US West is either claiming costs that do not exist, or is intending to provision loops in an incredibly inefficient manner.

Because there are such significant differences between the NRCs that are being quoted to the new entrants for provisioning

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[2] See Opposition of USTA at 8.

[3] U S West quoted a nonrecurring charge of $435 for a single voice grade unbundled loop ($339 for the cross connect and $96 for the actual loop), whereas Ameritech has agreed to provide ICG with an unbundled loop (including cross connect) for $50 initially, and $35 after June 1, 1997.

The Ameritech agreement includes a service order charge of thirty dollars. However, since service orders in general will request more than one unbundled loop, the additional cost related to the service order charge presumably is relatively insignificant. Even if each unbundled loop required a different service order, the NRC from Ameritech would still be less than one quarter the charge proposed by U S West.

of the same unbundled elements, it is imperative the Commission make clear what costs incurred by the incumbent LECs may properly be included in NRCs. The Commission needs to clarify that the only forward-looking transactional costs of an incumbent using efficient technology and efficient processes may be included. The CLECs should not have to pay exorbitant NRCs to obtain the unbundled elements promised them by the Act simply because a particular ILEC declines to adopt efficient procedures to provision unbundled elements.

Because proper cost studies relating to NRCs cannot be completed in the near future, it is also logical, as an interim measure, to adopt ALTS' proposal to limit NRCs to the lowest nonrecurring charge for the most analogous ILEC service. It simply makes no sense to argue, as USTA does, that because tariffed non-recurring charges are not always fully compensatory, CLECs should not have access to the most analogous tariffed price. ILECs are perfectly free to request compensatory rates. Only upon a state's refusal to grant such compensatory levels should the Commission be willing to consider a claim that an NRC should not also be available to CLECs because it is assertedly non-compensatory.

II. THE COMMISSION SHOULD CREATE A "FRESH LOOK" PERIOD.

In its petition for clarification and reconsideration, ALTS also asks the Commission to provide a "fresh look" period so that customers of incumbent LECs can consider competitive carriers

without excessive penalties. ALTS noted there is evidence some incumbent LECs have been aggressively pursuing long term contracts with their customers in anticipation of the competitive provision of services,[4] and that customers enticed into long term contracts will have executed those contracts at a time when there was no option to obtain service from a different carrier. If these customers are effectively unable to consider obtaining new service from a different provider, competitive services will not develop as envisioned by the Telecommunications Act. ALTS noted this situation is similar to that in the Expanded Interconnection proceedings, where, for similar reasons, the Commission allowed customers a "fresh look" period.

A number of incumbent LECs argue there is no need for a fresh look period provided there is no evidence that incumbent LECs have been doing anything other than competing aggressively in the marketplace, or that the customers involved are unsophisticated or are being misled. Furthermore, the incumbent LECs argue that the situation in Expanded Interconnection is quite different than that faced by consumers today.[5] Ameritech contends that "unlike special access prior to the Expanded Interconnection proceeding, the retail services involved here --

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[4] See ALTS Petition for Clarification and Reconsideration at 12, n.3.

[5] See, e.g., Opposition of Ameritech at 34. In addition, Ameritech argues that ALTS proposal is untimely. However, the issue of whether customers should have a "fresh look" period was raised in the initial comments in this rulemaking by Intermedia Communications, Inc. See Comments of ICI at 15.

which are predominantly Centrex, private line and toll -- are already competitive," and that because its Centrex contracts are assignable, a customer may switch to a reseller without incurring a termination charge by having the reseller assume the outstanding contract. The critical point, of course, is whatever the extent of existing competition between PBXs and Centrex, or between ILEC Centrex and resold Centrex, that competition is entirely irrelevant to the success of facilities-based competition from wireline competitors.

In addition, as a factual matter, Ameritech is incorrect as to the competitive nature of the markets in which ALTS requested a fresh look. ALTS requested a fresh look period for all retail local exchange customers with long term contracts, including many services beyond the Centrex, private line and toll services discussed by Ameritech. Thus, for those customers which have had no wireline market choices in the past, it is important to allow them to decide among competitive alternatives without being forced to pay extraordinary penalties.

That there may be no "proof" of anticompetitive intent by the incumbents in obtaining these long term contracts is irrelevant to the issue of whether customers should be given a fresh look. The reason for the "fresh look" period is not to "punish" incumbents, but to ensure that all customers have the ability to take advantage of the benefits that competition would bring.

III. THE COMMISSION SHOULD CLARIFY THE DEFINITION OF BAD FAITH NEGOTIATIONS.

Several parties have cited with approval ALTS' request that the Commission further clarify types of behavior by ILECs that constitute bad faith in negotiating interconnection agreements.[6] The record in the instant proceeding identifies instances of ILEC conduct that has the effect of obstructing the interconnection negotiation process, and fully supports ALTS' request for additional guidelines to define ILEC conduct that constitutes bad faith. Moreover, recent experience of ALTS' members makes it clear that the Commission should expand these guidelines to address not only the negotiation process, but also the implementation of interconnection agreements once they have been established through negotiation or arbitration. ALTS members have confronted several instances in which ILECs have delayed unreasonably the implementation of interconnection agreements established through voluntary negotiation by as much as five months. ALTS therefor urges the Commission to find that unreasonable delay in the implementation of interconnection agreements constitutes bad faith, and to use its good offices to expedite the full implementation of interconnection agreements in a timely manner.

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[6] See, e.g., Comments of Air Touch Communications, Inc. at 2-3.

CONCLUSION

For the foregoing reasons, ALTS respectfully requests that its petition for clarification and reconsideration be granted.

Respectfully submitted,

Richard J, Metzger
Emily M. Williams
Association for Local
Telecommunications Services
1200 19th Street, N.W.,
Suite 560
Washington, D.C. 20036
(202)466-3046

November 14, 1996

EXHIBIT 1

Portland, Oregon (503) 242-2242 • Seattle, Washington (206) 812-2000 • Sacramento, California (916) 444-1744 • Phoenix, Arizona (602) 277-1122 • Salt Lake City, Utah (801) 521-3000

U S WEST Communications, Inc.
1600 7th Avenue, Room 3001
Seattle, WA 98101
206-345-1568

Mark Reynolds
Director-Interconnection

USWEST COMMUNICATIONS

September 25, 1996

EXCERPT

Electric Lightwave Inc.
Ms. Ellen Deutsch
Attorney
8100 Northeast Parkway Drive, Suite 150
Vancouver, WA 98662

Dear Ms. Deutsch:

Enclosed for your review is an updated discussion draft of the U S WEST Communications proposal for interconnection and resale arrangements. This document incorporates the August 8th FCC rules for the Telecommunications Act of 1996.

Please feel free to contact Colleen Rugh on (503) 242-5849 with any questions or scheduling requirements.

Mark Reynolds

Mark Reynolds

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AGREEMENT
FOR LOCAL WIRELINE NETWORK INTERCONNECTION
AND
SERVICE RESALE
Between

_____

and

U S WEST Communications, Inc.

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EXHIBIT A

U S WEST INTERCONNECTION PRICE LIST

WASHINGTON

INTERCONNECTION - LOCAL EXCHANGE

Call Termination		Price
Per Minute of Use	Large Metro Area	$0.003183
Per Minute of Use	Medium Metro Are	$0.003023
Per Minute of Use	Other Areas	$0.003549
Weighted Area Average, Per Miunte of Use		$0.003141

Call Transport

Direct Trunked Transport	Fixed	Per Mile
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	$41.72	$0.67
DS1 - Over 8 to 25	$41.72	$0.84
DS1 - Over 25 to 50	$41.73	$2.97
DS1 - Over 50	$41.73	$3.49
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	$283.30	$13.83
DS3 - Over 8 to 25	$284.17	$15.03
DS3 - Over 25 to 50	$291.31	$39.19
DS3 - Over 50	$293.91	$44.74

Tandem-Switched Transport	Price
Tandem Switching, per MOU	$0.001794

Tandem Transmission	Fixed	Per Mile
0 Mile	None	None
Over 0 - 8 Miles	$0.001644	$0.000036
Over 8 - 25 Miles	$0.001643	$0.000029
Over 25 - 50 Miles	$0.001634	$0.000030
Over 50 Miles	$0.001637	$0.000049

Multiplexing, per arrangement	Recurring	Nonrecurring
DS3 to DS1	$218.58	$418.45

INTERCONNECTION - EXCHANGE ACCESS

Call Termination	Per Switched Access Tariff
Call Transport	Per Switched Access Tariff
Call Transit	Per Switched Access Tariff

EXHIBIT A

U S WEST INTERCONNECTION PRICE LIST

WASHINGTON

COMMON CHANNEL SIGNALING ACCESS SERVICE

Entrance Facility	Recurring	Nonrecurring
DS1	$99.78	
DS3	$404.24	

Direct Link Transport	Fixed	Per Mile
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	$20.89	$0.13
DS0 - Over 8 to 25	$20.88	$0.10
DS0 - Over 25 to 50	$20.88	$0.10
DS0 - Over 50	$20.89	$0.17
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	$41.72	$0.67
DS1 - Over 8 to 25	$41.72	$0.84
DS1 - Over 25 to 50	$41.73	$2.97
DS1 - Over 50	$41.73	$3.49

Direct Link Transport	Fixed	Per Mile
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	$283.30	$13.83
DS3 - Over 8 to 25	$284.17	$15.03
DS3 - Over 25 to 50	$291.31	$39.19
DS3 - Over 50	$293.91	$44.74

	Recurring	Nonrecurring
CCS Link – First Link	None	$504.68
CCS Link – Each additional Link	None	$72.42
STP Port – Per Port	$208.57	None
Multiplexing		
DS1 to DS0	$221.08	None
DS3 to DS1	$218.58	None

PHYSICAL AND VIRTUAL COLLOCATION

Common Elements	Recurring	Nonrecurring
Quote Preparation Fee	None	$2,437.30
Entrance Facility - 2 fibers	$1,307.45	$2.07
2-wire DS0 EICT	$1.41	$339.61
4-wire DS0 EICT	$1.79	$339.61
DS1 EICT	$15.52	$405.02

EXHIBIT A

U S WEST INTERCONNECTION PRICE LIST

WASHINGTON

DS3 EICT	$45.00	$433.23

Cable Splicing	Recurring	Nonrecurring
Per setup	None	$103.59
Per Fiber Spliced	None	$12.96
48 Volt Power, per ampere, per month	$13.45	None
48 Volt Power Cable		
20 Ampere Capacity - Recurring	$0.15	$58.37
40 Ampere Capacity - Recurring	$0.20	$92.71
60 Ampere Capacity - Recurring	$0.22	$104.42
Equipment Bay, Per Shelf	$8.58	None

	Regular Hours	After Hours
Inspector per 1/2 Hour	$28.62	$37.20
Training per 1/2 Hour	$25.36	None
Engineering per 1/2 Hour	$24.73	$33.09
Installation per 1/2 Hour	$28.62	$37.20
Maintenance per 1/2 Hour	$25.36	$33.73

Physical Collocation	Recurring	Nonrecurring
Cage/Hard Wall Enclosure	ICB	ICB
Rent (w/ Maintenance) - per square foot	ICB	None

ANCILLARY SERVICES

	Price
Directory Assistance	
Price per Call -- Facilities-Based Providers	$0.34
Listings	
Primary Listings, Directory Assistance, White & Yellow Pages	No Charge
E911	
LEC and AECs recover costs from PSAP	No Charge

Interim Number Portability	Recurring
Without Transport	
Per Number Ported - First Path	$4.25
Per Number Ported - Additional Path	$3.02
With Transport	

EXHIBIT A

U S WEST INTERCONNECTION PRICE LIST

WASHINGTON

Per Number Ported - First Path	$8.73
Per Number Ported - Additional Path	$7.50

Additional Charges	Nonrecurring
Service Establishment, per switch, per route - nonrecurring	$43.80

	Nonrecurring
Service Establishment - additional number ported or changes to existing numbers, per number ported -- nonrecurring	$9.49
Additional and Consecutive Numbers -- additional number ported on same account name and consecutive numbers, per number ported -- nonrecurring	$7.05

Assignment of Numbers	Price
Assignments per industry guidelines	No Charge

Busy Line Verification	
Per Call	$0.72

Busy Line Interrupt	
Per Call	$0.87

		Recurring	Nonrecurring
Unbundled Loops			
Large Metro Area		$33.16	
Medioum Metro Area		$38.24	
Other Areas		$52.40	
Weighted Area Average		$38.22	
Without testing			$96.30
With Basic Testing			$153.86
With Basic Testing at Designated Time			$206.02
Unbundled Ports			
End Office Port, Per First port		$1.43	$118.88
End Office Port, Per Each Additional Port		$1.43	$30.33
Per Port, Per MOU	Large Metro Area	$0.003163	
Per Port, Per MOU	Medium Metro Ar	$0.003023	
Per Port, Per MOU	Other Areas	$0.003549	
Weighted Area Average, Per MOU		$0.003141	
Feature Group 1, per port		$1.03	$2.99
Feature Group 2, per port		$5.31	$2.99
Weighted Average Feature Group, per port		$5.09	

EXHIBIT 2

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996

Dated as of June 14, 1996

by and between

AMERITECH INFORMATION INDUSTRY SERVICES,
a division of Ameritech Services, Inc.
on behalf of Ameritech Ohio

and

ICG ACCESS SERVICES, INC.

6164088

RBSES

PRICING SCHEDULE — OHIO

I. Reciprocal Compensation

Rate = $0.009 per minute

II. Information Services Billing & Collection

Fee = $0.03 per message

III. BLV/BLVI Traffic

Rate = $0.90 per Busy Line Verification
$1.10 per Busy Line Verification Interrupt
(in addition to $0.90 for Busy Line Verification)

IV. Transiting

Rate = $0.002 per minute

V. Unbundled Network Elements

A. Unbundled Loop Rates[1]

Loop Type	Monthly Rates Access Area[2] B	C	D
Analog 2W	$ 9.10	$14.10	$16.10
Analog 4W	$18.20	$28.20	$32.20
ADSL 2W/HDSL 2W	$ 9.10	$14.10	$16.10
ADSL 4W/HDSL 4W	$18.20	$28.20	$32.20
BRI ISDN	$ 9.10	$14.10	$16.10
PBX Ground Start Coin	$ 9.50	$14.60	$16.60
Coin	$ 9.50	$14.60	$16.60
Electronic Key Line	$ 9.50	$14.60	$16.60

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[1] Common Line Charges and cross-connection charges are included in the referenced Loop rates.

[2] "Access Area" is as defined in Ameritech's applicable tariffs for business and residential Exchange Line Services.

6164088

Unbundled Loops

Date of Acceptance of Service Order	Service Order Charge[3]	Line Connection Charge[4]
Prior to 6/1/97	$30	$50
On or after 6/1/97	$30	$35

2. Number Portability

Date of Acceptance of Service Order	Service Order Charge[5]	Initial Line Connection Charge[6]	Charge for Subsequent Additional Call Path Connections[7]
Prior to 6/1/97	$30	$50	$20
On or after 6/1/97	$30	$35	$20

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[3] The Service Order Charge is a per occasion charge applicable to any number of Loops ordered for the same location and same Customer account.

[4] The Line Connection Charge applies to each Loop purchase.

[5] The Service Order charge is a per occasion charge applicable per ported account per Customer location.

[6] The Line Connection Charge applies to each ported number. If Number Portability is purchased with the Loop, the Initial Line Connection Charge shall be waived. The Initial Line Connection Charge includes porting the initial number with up to ninety (90) call paths.

[7] The Charge for Subsequent Additional Call Path Connections is applied when purchasing up to an additional ninety (90) paths for an individual ported number. This charge also applies to any changes to the number of call paths on a ported number.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Rely by the Association for Local Telecommunications Services was served November 14, 1996, on the following persons by First-Class Mail or by hand service, as indicated.

M. Louise Banzon

Regina Keeney*
Chief,Common Carrier Bureau
FCC, Room 500
1919 M Street, N.W.
Washington, D.C. 20554

A. Richard Metzger*
Deputy Bureau Chief
Common Carrier Bureau
FCC, Room 500
1919 M Street, N.W.
Washington, D.C. 20554

Larry Atlas*
Associate Bureau Chief
Common Carrier Bureau
FCC, Room 500
1919 M Street, N.W.
Washington, D.C. 20554

ITS*
2100 M Street, N.W.
Washington, D.C. 20554

Wayne V. Black
C. Douglas Jarrett
Susan M. Hafeli
KELLER AND HECKMAN
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

Rachel J. Rothstein
Danny E. Adams
CABLE & WIRELESS, INC.
KELLEY DRYE & WARREN LLP
8219 Leesburg Pike
Vienna, Virginia 22182

Richard Rubin
Steven N. Teplitz
Fleischman and Walsh, L.L.P.
1400 Sixteenth Street, N.W.
Suite 600
Washington, DC 20036

Daniel Mitchell
Asst. Atty. Gen.
Reg. Industries Division
Public Protection Bureau
200 Portland Str.,4th Floor
Boston, MA 02114

Thomas E. Taylor
Atty. for Cincinnati Bell
Telephone Co.
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Vincent Majkowski,
Commissioner
Colorado Public Utilities
Commission
1580 Logan Street
Office Level 2
Denver, CO 80203

Andy Lipman
SWIDLER & BERLIN, CHTD.
3000 K Street, N.W.
Suite 300
Washington, D. C. 20007

Joseph M. Sandri, Jr.
WINSTAR COMMUNICATIONS, INC.
1146 19th Street, N.W.
Washington, D.C. 20036

Kyle Dixon
HOGAN & HARTSON L.L.P.
Attorney for LDDS WorldCom
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Charles H. Kennedy
MORRISON & FOERSTER, LLP
2000 Pennsylvania Ave., N.W.
Suite 5500
Washington, D.C. 20006

Colleen A. Sechrest
Philip L. Malet
STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, DC 20036

WILLKIE FARR & GALLAGHER
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

MARGARET E. GARBER
Atty for Pactel
1275 Pennsylvania Ave.,N.W.
Washington, D.C. 20004

Antoinette Cook Bush
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

Mike Pabian
Ameritech
30 South Wacker Drive
Chicago, IL 60606

Saul Fisher
William J. Balcerski
NYNEX
1111 Westchester Avenue
White Plains, NY 10604

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
SPRINT
1850 M Street, N.W.
Washington, D.C. 20036

Maureen O. Helmer
General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223

Jonathan Chambers
Vice Pres.of Public Affairs
Sprint Spectrum
1801 K Street, N.W.
Suite M-112
Washington, D.C. 20036

Anne P. Schelle
VP- External Affairs
American PCS, L.P.
6901 Rockledge Dr.
Suite 600
Bethesda, Maryland 20817

Lydia Pulley
James G. Pachulski
Attorneys for Bell Atlantic
1320 North Court House Road
8th Floor
Arlington, VA 22201

Robert B. McKenna
Kathryn Marie Krause
Attorneys for US WEST, Inc.
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

Donald J. Russell
Chief
Telecom. Task Force
Department of Justice
Antitrust Division
555 4th Street, Room 8104
Washington, D.C. 20001

Andrew S. Joskow
Chief
Economic Regulatory Section
U.S.Deparment of Justice
Antitrust Division
555 4th Street, Room 8104
Washington, D.C. 20001

BELL ATLANTIC NYNEX MOBILE, INC.
John T. Scott, III
CROWELL & MORING
1001 Pennsylvania Ave.,N.W.
Washington, D.C. 20004

Mitchell F. Brecher
Steven N. Teplitz
Fleischman and Walsh, L.L.P.
1400 Sixteenth Street, N.W.
Washington, DC 20036