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Federal Communications Commission
Office of Secretary

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

In the Matter of	)	
	)	
PUERTO RICO TELEPHONE COMPANY'S	)	CC Docket No. 96-160
New Expanded Interconnection Tariff	)	

COMMENTS ON DIRECT CASE

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SUMMARY

Puerto Rico Telephone Company's ("PRTC's") Direct Case leaves unanswered a significant number of the Bureau's information requirements. As to the directives addressed by PRTC, many of the responses are self-indicting, conclusory or uninformative. In addition, all of PRTC's responses are subject to a general and repeated excuse that it has no prior experience with the development of an expanded interconnection tariff and currently does not have any Virtual Expanded Interconnection Service ("VEIS"). PRTC presents this excuse many times (even where the Bureau specifically asks PRTC to provide only estimates) to make its unwillingness to develop the responsive data appear as if it is an inability to develop that data. However, PRTC is in no different a position than any other dominant Tier 1 LEC when it introduces a new tariffed service. In fact, due to its delay in allowing competition in Puerto Rico, PRTC has the benefit of the collective experiences of other LECs developing virtual collocation tariffs.

Taken as a whole, PRTC's responses are unacceptable and provide neither the Bureau nor potential interconnectors with VEIS information necessary to evaluate the rates, terms and conditions of the service. For example, in response to the Bureau's Rate Structure information requirements, PRTC's statement that rates will be developed on a "time and materials" basis is completely unacceptable. The Commission clearly requires study-area-wide averaged rates and uniform charges that all Tier 1 LECs have been subject to since the Commission expanded interconnection rules were

imposed. However, rather than researching and estimating what it would need to provide by way of labor and materials in order in accommodate a virtual collection request from an interconnector, PRTC merely thrusts its inexperience at the Bureau in an attempted justification of its unresponsiveness. Similar problems exist with PRTC's responses to the Bureau's direct costs queries where PRTC states that it will determine such costs on an individual cost basis. Moreover, based on PRTC's "explanations," the development of its depreciation rates remains questionable and should be examined further. Problems also exist with PRTC's use of 11.25 percent as its cost of money, its inclusion of a federal income tax factor and the amount of equity it claims. All of these factors result in a tremendous windfall to PRTC due to its unique status as a government-owned entity.

PRTC also fails to justify the inclusion of a floor space rate where the equipment it purchases or leases can only be installed, maintained and repaired by its personnel, and to which interconnectors have no physical access. Even assuming such costs should be factored in, PRTC has not justified the inclusion of floor space costs as a direct cost, rather than as part of its overhead loading factor. Further, PRTC has only offered its VEIS at seven of its twenty-nine central offices, and not all seven central offices are included in the eighteen central offices used in its survey. Moreover, PRTC's attempts to explain its widely varying figures for building investments associated with its 18 central offices that form part of its study reveal the use of

highly subjective and unquantifiable methodology. In addition, PRTC's efforts to directly attribute costs associated with an interconnector's use of common areas such as hallways, stairwells and restroom through the use of a common area percentage is plainly absurd, particularly since the interconnector does not even have access to the space. The use of such areas simply cannot be deemed "dedicated" to the interconnector.

PRTC's response to the Bureau's Overhead Loading inquiries is to refer the Bureau to certain cost support materials included with its original Interstate Access tariff filing. PRTC provides nothing more than the Bureau already had in its possession when it issued the Designation Order. As a result, PRTC leaves the Bureau's directives unaddressed and merely highlights the arguments made by Centennial in its Petition to Suspend and Investigate.

Finally, PRTC's responses to the Bureau's information requirements concerning Terms and Conditions are inadequate to justify, for example, its non-uniform liability provisions, its provision of VEIS only if space is available, and the requirement of an equipment frame layout.

The Bureau should find the subject PRTC tariff revisions unlawful and direct PRTC to refile its VEIS tariff in a manner consistent with the Bureau's findings in this proceeding.

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COMMENTS ON DIRECT CASE

Centennial Cellular Corp. ("Centennial"), by its attorneys and pursuant to the filing schedule established in the Order Designating Issues For Investigation (the "Designation Order"),[1] hereby comments on Puerto Rico Telephone Company's ("PRTC") Direct Case, submitted on April 10, 1997 in the above-captioned investigation.

I. INTRODUCTION AND BACKGROUND

Centennial, a publicly traded Delaware corporation, is the indirect parent of Centennial Wireless PCS License Corp., the licensee of a 30 MHz block of Personal Communications Service ("PCS") spectrum in the Puerto Rico-U.S. Virgin Islands Major Trading Area.[2] In addition, Centennial, through another wholly-owned subsidiary, Lambda Communications, Inc. ("Lambda"), has

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[1]CC Docket No. 960160, DA 97-523 (Common Carrier Bureau, released March 11, 1997).

[2]Call sign KNLF250 (Market No. M025, Frequency Block B). Centennial is primarily engaged in the provision of Commercial Mobile Radio Services ("CMRS"). Centennial, through subsidiaries and affiliates, also provides cellular and Specialized Mobile Radio Service in numerous markets.

authority from the Puerto Rico Public Service Commission to provide certain intra-island telecommunications services in Puerto Rico. Lambda intends to provide a full array of interstate and intra-island telecommunications services, including access and transport services, in Puerto Rico and construction of its fiber optic network is well underway. It was only after two years of attempting to obtain interconnection arrangements with PRTC, the filing of arbitration petitions by Centennial and Lambda with the Telecommunications Regulatory Board of Puerto Rico and the commencement of arbitration proceedings that PRTC decided to negotiate interconnection agreements with Centennial and Lambda.[3]

PRTC, a non-price cap Tier 1 local exchange carrier ("LEC") owned by the Commonwealth of Puerto Rico, is the monopoly provider of local exchange and exchange access service in Puerto Rico. Until July, 1996, PRTC, as a participant in the National Exchange Carrier Association ("NECA") interstate access charge pool, was the only

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[3]The efforts of Centennial and Lambda to get interconnection arrangements with PRTC began early in 1995 and were frustrated for two years by PRTC's anticompetitive negotiating tactics, PRTC's avoidance of expanded interconnection obligations as the only Tier 1 LEC participant in the NECA traffic sensitive pools, and the lack of a regulatory forum in Puerto Rico with jurisdiction over PRTC. See Lambda's "Emergency Petition For Rulemaking to Apply Expanded Interconnection Obligations to the Puerto Rico Telephone Company," (RM 8708, filed September 29, 1995) and Centennial Cellular Corp., Complainant v. Puerto Rico Telephone Company, Defendant, *Formal Complaint*, File No. E-96-13 (filed by Centennial December 1, 1995); see also In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, *Comments of Centennial Cellular Corp.* (March 4, 1996) at Exhibit 1 ("The Puerto Rico Case Study").

Tier 1 LEC not required to comply with the Commission's expanded interconnection policies.

On April 2, 1996, PRTC filed with the Commission FCC Tariff No. 1, Transmittal No. 1 ("Transmittal No. 1"). In this filing, PRTC proposed a new switched traffic-sensitive Interstate Access tariff scheduled to become effective on 90 days' notice. On April 29, 1996, Centennial timely filed a "Petition To Suspend and Investigate Or, In The Alternative, Reject" Transmittal No. 1 arguing, *inter alia*, that the rates proposed revealed strategic competitive positioning, and not a cost-based alignment of rates, in violation of Section 201(b) of the Communications Act. In its 1996 Annual Access Tariff Filings Memorandum Opinion and Order, the Commission denied Centennial's petition and allowed PRTC's tariff to go into effect.[4]

In a Transmittal No. 2, filed May 6, 1996, PRTC sought to revise its then not-yet-effective Interstate Access Tariff in an effort to comply with the Commission's expanded interconnection obligations that had applied to all other Tier 1 LECs since 1992.[5] Transmittal No. 2 set forth PRTC's proposed initial rates and terms

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[4]1996 Annual Access Tariff Filings; National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates; NYNEX Telephone Company Petition to Advance the Effective Date of the 5.3 X-Factor to January 1, 1995. 11 FCC Rcd 7564, (¶ 93) (1996).

[5]As a result of its withdrawal from the National Exchange Carrier Association traffic sensitive pool, PRTC is now subject to the Commission's expanded interconnection obligations applicable to all other Tier 1 LECS. See Designation Order at n. 12.

for a Virtual Expanded Interconnection Service ("VEIS") which is intended to provide expanded interconnection for interstate switched access and special access services.

On May 16, 1996, Centennial timely filed a "Petition To Suspend and Investigate Or, In The Alternative, Reject" Transmittal No. 2 arguing, *inter alia*, that a priceout of 100 DS-1 circuits demonstrates that PRTC's proposed VEIS rate levels are unreasonably high; that PRTC should be required to tariff specific nonrecurring charges for cross-connects; that PRTC's proposed charge for a floor space element is improper and should be eliminated; and that the overhead loadings applied by PRTC are unreasonably high and should be revised downward. By an Order dated August 14, 1996, the Bureau granted Centennial's petition, suspended PRTC's tariff revisions for one day, imposed an accounting order and instituted the instant investigation.[6] Specifically, the Bureau stated that "[b]ased on a preliminary review of the record, we found that the provision's in PRTC's Transmittal No. 2 raised significant questions of lawfulness regarding cost allocations, rate levels, rate structures, and terms and conditions of service."[7] Subsequently, on its own motion, the Bureau included the tariff revisions proposed by PRTC in its Transmittal No. 12. On March 11, 1997, the Bureau adopted and released the Designation Order.

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[6]Investigation of Puerto Rico Telephone Company's New Expanded Interconnection Offerings, CC Docket No. 96-160, Order, 11 FCC Rcd 9407 (CCB 1994).

[7]Designation Order at ¶ 5; PRTC Tariff Suspension Order, 11 FCC Rcd at 9410.

II. DISCUSSION

In the Designation Order, the Bureau requires PRTC to respond to numerous queries and to provide specified information. As will be discussed below, certain of the Bureau's queries are left unanswered and of the answers that are provided, some are self-indicting, many are conclusory and uninformative and all are subject to a general and repeated excuse that PRTC has no prior experience with the development of an expanded interconnection tariff and currently does not have any VEIS customers. PRTC presents this excuse many times to make its unwillingness to develop the responsive data appear as if it is an inability to develop that data. The truth of the matter is that PRTC is in no different position than any other dominant Tier 1 LEC when it introduces a new tariffed service. Most of the requirements that PRTC seeks to evade on the basis of its inexperience with VEIS were present when the Commission first imposed expanded interconnection requirements. The inexperience of all the other Tier 1 LECs at that time with collocation did not prevent them from developing and proposing specific tariffs for the required collocation services. PRTC also portrays itself as not having the benefit of or access to the experience of other incumbent LECs in providing VEIS. This is a naive and false portrayal. PRTC does not operate in a vacuum. It has the benefit of the virtual collocation tariffs filed by other LECs and it has consultancy arrangements with BOCs and participates fully in inter-LEC activities.

A. RATE STRUCTURE

In paragraphs 17-18 of the Designation Order, the Bureau notes that PRTC assesses nonrecurring rates for equipment and cross-connect installation, training, and equipment maintenance on a time and materials basis, using hourly rates contained in its tariff. The Bureau directs PRTC to reconcile its use of a time and materials method of determining the rates with the Commission's requirements that (a) cross-connect elements and any future contribution charge must appear in generally available tariffs at study-area-wide averaged rates; (b) charges for certain other connection elements should be uniform for all interconnectors in each individual office; and (c) unit charges should be uniform in each central office.

PRTC's professed ignorance as to what materials and labor would be required for provision of its virtual collocation service leaves prospective interconnectors completely in the dark for purposes of formulating a VEIS request. It also creates an unnecessary opportunity for provisioning delays since PRTC would wait until it received a "bona fide" request before computing the charges for labor and materials.

At its essence, PRTC's response is that it should be excused from the study-area-wide averaged rates requirement and the uniform charges requirement because it has no VEIS customers and has not provided VEIS before.[8] PRTC thrusts its inexperience at the

[8]PRTC Direct Case at 1-2.

Commission as its justification for not researching what it would need to provide by way of labor and materials in order to accommodate a virtual collocation request from an interconnector. PRTC knows what labor and materials are involved with respect to its own equipment or that of its affiliates. Moreover, PRTC does not operate in a vacuum. It is an active participant in inter-LEC activities and Commission proceedings. Surely it is aware of what is required to satisfy a virtual collocation request. The study-area-wide averaged rates requirement was implemented in 1992 at the same time that the Commission first imposed its expanded interconnection requirements. PRTC is in no different position than all other Tier 1 LECs were when the requirement was first imposed and it should be treated no differently.

B. DIRECT COSTS

In paragraph 33, the Bureau directed PRTC to provide in its Tariff Review Plan ("TRP") charts, "all investments, annual cost factors, direct capital costs, direct operating expenses, and prices" for seven specific virtual collocation functions. PRTC provided incomplete or no information for five of the seven functions.[9] In the case of the provisioning and termination functions, PRTC provided no information at all. In the case of the maintenance and repair and the technician training functions, PRTC simply lists "ICB" (Individual Case Basis). In the case of the

[9]PRTC Direct Case at Exhibit 1.

equipment installation function, PRTC provides a number for cable installation but lists ICB for equipment installation. PRTC's use of ICB is particularly inappropriate since the Commission has determined that the DS1 and DS3 virtual collocation services are comparable to all point-to-point DS1 and DS3 services and that all these services "engage the same basic types of equipment in the LECs central offices."[10] Given this failure to provide all or complete information that it was required to provide, PRTC necessarily fails to provide a chart reflecting the overall cost for virtual collocation DS1 or DS3 service even assuming the provision of 100 DS1s or four DS3s.

PRTC was also required to "use reasonable assumptions for the quantity of other inputs (e.g., cable lengths) needed to provision 100 DS1s and four DS3s and identify and explain the basis for these assumptions in [its] filing[]."[11] PRTC neither identifies nor provides the basis for the assumptions it used.

In its Reply to Centennial's Petition to Suspend and Investigate PRTC's Transmittal No. 2, PRTC defended its ICB pricing elements, arguing that its rates should not be compared to the RBOCs' rates because PRTC's costs are higher than those of the

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[10]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, 5689 (CCB 1994); Ameritech Operating Companies, et. al, Order, 10 FCC Rcd 1960, 1971 (CCB 1994).

[11]Designation Order at ¶ 34.

RBOCs.[12] PRTC is materially incorrect. It is certainly true that in some aspects of its operations, PRTC has incurred much higher costs than the RBOCs. But when one examines the PRTC costs that are most relevant to this proceeding, it turns out that -- far from being **more** expensive than average -- PRTC is either near or below the average investment levels of the RBOCs.[13]

In paragraph 38, the Bureau directs PRTC to "fully document and completely explain the data, assumptions, and the methodologies on which all physical and virtual collocation investments, direct capital costs, and direct operating expenses are based and to submit worksheets showing the data and calculations that underlie these costs." PRTC submits the required worksheets but does little else. Its "complete" explanation of the data, assumptions and methodologies is anything but complete, merely cross-referencing the worksheets. Even these references raise more questions than they answer. As explained infra, (a) the development of PRTC's depreciation rates is questionable and should be explored more closely; (b) to allow PRTC to use 11.25 percent as its percentage cost of money and to include a federal income tax factor is also to award it a tremendous windfall.

In paragraph 39, the Bureau directs PRTC to indicate the percentage cost of money used in developing PRTC's direct costs. Centennial respectfully submits that the public interest might be better served by asking PRTC to indicate its percentage cost of

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[12]PRTC Reply at 6-7.

[13]See Table 1 attached hereto.

money. The difference in the questions is not semantic. PRTC uses 11.25 percent as its percentage cost of money because rate of return LECs are permitted to do so. However, PRTC is in a very different position than a traditional rate of return LEC. As a government-owned entity, PRTC does not have to go to the financial markets to raise capital and thus does not have to incur the market cost of capital. Instead, it floats tax-free municipal bonds at rates well below the cost of capital faced by all other LECs as well as PRTC's competitors. As a result, allowing PRTC to use 11.25 percent as its percentage cost of capital is to allow PRTC to pad its costs and charge its competitors higher, unjustified rates for its facilities and services, including VEIS. Centennial urges the Bureau to direct PRTC to present information concerning its true percentage cost of capital.

Also in paragraph 39, the Bureau directs PRTC to justify the depreciable lives for plant and equipment listed on its TRP charts. PRTC claims that the depreciable lives for plant is justified by an exchange of correspondence on the subject with Bureau staff in 1993.[14] A review of the correspondence, which was attached to PRTC's Direct Case as Exhibit 3, clearly indicates that PRTC's reliance on this correspondence is misplaced. First, the November 29, 1993 correspondence is at the Branch level, from the then Depreciation Rates Branch, a former branch of the Bureau's Accounting and Audits Division. Second, the November 29, 1993

[14]PRTC Direct Case at 6.

correspondence states that FCC staff will raise no objection to the adoption of the depreciation rates. The Branch goes on to state that "[t]his letter does not constitute prescription or approval by the FCC, nor does it preclude the FCC from reviewing any of the depreciation rates in use by PRTC at some future date."

Third, in its November 16, 1993 letter, PRTC represents that "[t]he attached statements and the cited Depreciation Rates Study have been prepared based on December 31, 1992 investment and reserve balances." Thus, the information upon which the depreciable life of plant is based is almost four and one-half years old. Fourth, PRTC also represents that "[t]he submissions and Depreciation Study have been prepared in accordance with PRTC's internal policy to review its depreciation rates at three year intervals." Presumably, PRTC conducted a review of its depreciation rates in 1996, based on December 31, 1995 investment and reserve balances. The flawed depreciation information also affects PRTC's calculation of direct costs.[15] The Bureau should direct PRTC to provide updated information and depreciation rates and to redo those calculations affected by the use of the outdated information.

In paragraph 40, PRTC is directed to provide considerable estimated cost and time information for each labor function for which costs are recovered in the virtual collocation rate. PRTC's response is solely that any charges for labor would be assessed on

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[15]See e.g., PRTC Direct Case at 5 (n. 7), 6 and Workpaper 4.

a time basis and that it issued the rate on an ICB basis because it has no experience with what labor functions would be required and how long such labor functions would take.[16] This is unacceptable. The Bureau made it clear to PRTC that it was to provide the **estimated** number of hours required to perform the functions and the **estimated** costs. The Bureau directed PRTC to provide full explanation and documentation of the data, assumptions, and the methodologies by which the labor hours and costs are **estimated**. PRTC has made no effort to estimate anything. PRTC apparently believes that if the information required is not at its immediate disposal, it need not do anything to develop it. As mentioned earlier, PRTC is in no different position than all the other Tier 1 LECs were when the expanded interconnection requirements were first imposed except that it has the benefit of their experience with virtual collocation. The Bureau should once again direct PRTC to estimate the required information and to provide full explanation and documentation of the data, assumptions, and the methodologies by which the labor hours and costs are estimated.

In paragraph 60, the Bureau requires PRTC to "state whether it applies the federal income tax gross-up factor only to the cost of money requirement attributable to equity capital." PRTC responds that the factor is applied to the entire return because it makes no allowance for interest expenses before its federal income tax

[16]PRTC Direct Case at 7.

liability is calculated.[17] However, PRTC does not pay any federal income taxes so the calculation of its federal income tax liability is an exercise in fiction. Moreover, PRTC has no equity. It is 100 percent owned by the Puerto Rico Telephone Authority, an instrumentality of the government of the Commonwealth of Puerto Rico. PRTC is funded through the issuance of tax-free bonds and operating revenues.

In paragraphs 61-62, the Bureau requires PRTC to provide considerable information concerning its floor space rates and their development. As a preliminary note, it is unclear why PRTC should be permitted to charge an interconnector floor space rates for the space occupied by equipment which, although designated by the interconnector, is purchased or leased by the LEC, can only be installed, maintained and repaired by the LEC and to which interconnectors have no physical access.[18] As the Commission has recognized, the fact that the equipment in a virtual collocation situation is dedicated to the use of a particular interconnector is no different than many other dedicated use situations in the telecommunications industry, particularly where, as here, the interconnector does not exert ownership or physical control over the equipment.[19]

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[17]PRTC Direct Case at 8.

[18]See Expanded Interconnection With Local Telephone Facilities, CC Docket No. 91-141, Memorandum Opinion and Order, 9 FCC Rcd 5154, 5163-5164.

[19]Id. at 5164.

Moreover, even assuming the appropriateness of a floor space rate, it is unclear what PRTC includes in its wildly disparate figures (ranging from $217,607 and $6,373,459) for building investment in the 18 central offices that form part of its study. It bears noting that, assuming a relatively standard 100 square feet of equipment space, PRTC's investment per square foot figure of $188.66 would yield $188,660 even in four central offices where the total building investment is less than $300,000.

PRTC attempts to address the variance in building investment by explaining that the ratio of common space to total space is a function of the design and age of the central office structure and that the age of the building will affect the nominal cost to construct the building as shown in its plant records.[20] This explanation is useless as a justification of the specific figures PRTC has used for building investment. It certainly falls far short of satisfying the Bureau's directive in paragraph 62 that PRTC "**[e]xplain and justify in detail** the variance in the amount of floor space required and the investment value of that space for virtual collocation among its central offices." (emphasis added).

In paragraph 63, the Bureau directs PRTC to define the phrase "common area percentage" and to justify its use as a factor in calculating floor space investment. PRTC defines "common area percentage" as "portions of the central office that may not be used for any specific function, such as hallways, stairwells, and

[20]PRTC Direct Case at 10-11.

restrooms."[21] This is clearly an item that belongs in overhead costs. PRTC's efforts to directly attribute the additional costs associated with an interconnector's use of common areas such as hallways, stairwells and restrooms is plainly absurd. Contrary to PRTC's statement, an interconnector's use of the common areas of the central office is not "the dedicated use of a portion of the floor space."[22] There is nothing dedicated about such use and its inclusion in the development of a virtual collocation rate is improper.[23]

In paragraph 64, the Bureau requires PRTC to explain and justify (a) the use of the particular 18 central offices for calculating floor space direct costs, rather than using the seven central offices that are tariffed for virtual collocation; and (b) why some of the central offices at which virtual collocation is offered are omitted from the sample of 18 central offices on which its floor space direct costs are developed. PRTC's entire answer is that it used all of the offices in its floor space analysis for

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[21]PRTC Direct Case at 11.

[22]Id. at 12.

[23]The effect of PRTC's use of a "common area percentage" is reflected in PRTC's development of its figure for usable investment per square foot where PRTC first divided total building investment by total square footage to yield an investment per square foot figure and then multiplied the cost per total square feet by a factor equal to 1 plus the percentage of common space in the building to obtain the cost of usable space per square foot. See PRTC Direct Case at 10.

which it has relevant data.[24] In other words, PRTC has tariffed VEIS at certain central offices for which it has no relevant data which can be used in the development of floor space direct costs. This is truly amazing for a carrier that uses its ignorance of the labor and materials required to provide VEIS as an excuse for not tariffing on a study-area-wide-average basis or using ICB.

PRTC's lack of effort in responding to the Bureau's query is staggering. The filing date for its Tariff FCC No. 1 did not sneak up on PRTC. It was PRTC's own decision to withdraw from the NECA pools and make itself subject to the expanded interconnection requirements. How difficult could it have been for PRTC to have developed the "relevant data" for each of the selected 18 central offices, or at least all of the seven tariffed central offices before filing its tariff?

PRTC's statement that it will offer the same service at any other office subject to a bona fide request and availability of space is no cure. It is the equivalent of offering the service on an untariffed basis. PRTC is merely asking the Bureau to excuse it from offering VEIS on a tariffed basis at the other 11 central offices in its survey because it has not yet received a bona fide request for the service.[25] There is nothing in the Commission's rules, policies or caselaw that states that allows a LEC to defer

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[24]PRTC Direct Case at 12.

[25]PRTC has only offered its VEIS at seven of its 29 central offices and not all seven are included in the 18 central offices used in PRTC's survey. See Designation Order at para. 64.

tariffing a service it is required to provide on a tariffed basis until after it receives a bona fide request for service. PRTC turns the concept of a tariff on its head. The tariffing of a service announces to the public its availability and the terms, rates and conditions pursuant to which it is being offered. PRTC would rather not even know itself if VEIS may be available at 11 of its 18 central offices until somebody asks for the service.

C. OVERHEAD LOADING FACTORS

In paragraphs 71-74 and 77-78, the Bureau requires PRTC to submit a variety of information and data relating to its development of its overhead loading factors. In paragraphs 72 and 73, the Bureau focuses on PRTC's DS1 and DS3 offerings and asks PRTC to "[f]ully explain and completely document all data, assumptions, and methodologies used to develop the unit investments, the direct capital costs, and the direct operating costs for a detailed listing of DS1 and DS3 services." It also directs PRTC to provide copies of all cost studies on which the aforementioned costs and overhead loading factors for the referenced DS1 and DS3 services. In paragraph 78, the Bureau also asks for "a detailed explanation and justification for the use of any allocation ratios used in developing the direct costs for the DS1 and Ds3 services for which it is required to submit overhead loading factors."

PRTC's response is to refer the Bureau to certain cost support materials included with its original Interstate Access tariff

filing. In short, PRTC provides nothing more than the Bureau already had in its possession when it issued the Designation Order. In view of PRTC's uninformative response and the alleged significant relationship between PRTC's DS1/DS3 services and the expanded interconnection offerings, Centennial formally incorporates herein by reference pages 9-13 and Tables 3 and 4 of its Petition to Suspend and Investigate the captioned PRTC tariff revisions. Therein Centennial argued that PRTC's overhead loadings are unreasonably high and that the DS1 unit cost results that PRTC relied upon to develop its overhead loading for the DS1 Cross Connect element were improperly calculated using a faulty allocation ratio. These arguments are equally applicable here.

D. TERMS AND CONDITIONS

In paragraph 86, the Bureau directs PRTC to explain why it is reasonable to impose on interconnectors a more stringent standard of care than PRTC establishes for itself. PRTC disagrees, stating that it "incurs any losses that are the result of the installation, maintenance, or repair of its own facilities" and that "[i]t is proper for PRTC to be indemnified from bearing any additional liabilities as a result of providing virtual collocation for an interconnector."[26] There are two fatal flaws in PRTC's reasoning. First, under a virtual collocation arrangement, the interconnector

[26]PRTC Direct Case at 18.

selects the equipment but PRTC owns it.[27] Second, under a virtual collocation arrangement, PRTC installs, maintains and repairs the equipment.[28] Indeed, even according to PRTC's tariff, neither interconnector personnel nor its outside contractors are allowed to perform those tasks. The notion that an interconnector should be responsible for damage caused by PRTC employees performing tasks that only they are allowed to perform on equipment that is owned by PRTC is absurd.

In paragraph 87, PRTC is required to demonstrate the reasonableness of extending interconnectors' liability for an indeterminate period, with a minimum but not maximum time limitation, and to explain why the minimum time periods it chose are reasonable. PRTC fails to explain why the minimum three year time period it chose is reasonable.[29] Given PRTC's statement that it included no maximum term because the statute of limitations would apply by law, it is unclear why PRTC felt it necessary to provide for a minimum term. After all, if PRTC said nothing at all, the statute of limitations would nonetheless govern the period within which PRTC could assert any such claims.

If PRTC deems it necessary to advise the public that it will pursue claims for a minimum period of three years, assuming that this period is consistent with the applicable statute of

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[27] Expanded Interconnection With Local Telephone Facilities, 9 FCC Rcd at 5163-5164.

[28] Id.

[29] PRTC Direct Case at 19.

limitations, it should also advise the public that the maximum period is dictated by the applicable statute of limitations. Otherwise, PRTC should say nothing at all. Similarly, consistent with the fact that a tariff is, in effect, a contract, any statement concerning the survival of claims beyond the termination of the relationship should be reciprocal. A unilateral statement such as the one contained in PRTC's tariff leaves the impression, by omission, that the interconnector's right to pursue claims does not survive the termination of the relationship.

In paragraph 87, the Bureau directs PRTC to explain why it does not accept letters of agency from interconnector-customers. PRTC does not provide any explanation.[30]

In paragraph 97, the Bureau directs PRTC to explain why the Commission should not find unlawful the provisions in PRTC's tariff making its VEIS offering subject to the availability of space. PRTC's effort to make its virtual collocation offering subject to the availability of space is flatly inconsistent with the Commission's position on this matter.[31] Lack of space to accommodate physical collocation is the primary reason for denying a request for **physical** collocation.[32] However, in the case of virtual collocation, the requirement that a LEC honor such a

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[30]PRTC Direct Case at 20-21.

[31]Designation Order at ¶ 95-96.

[32]Expanded Interconnection With Local Telephone Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369,7390-7391 (1992).