

REGULATIONS, RATES AND CHARGES

Applying to the provision of Access Services
within a Local Access and Transport Area (LATA)
or equivalent market areas for
Connection to Interstate Communications Facilities
for Customers within the operating territory of

U S WEST Communications, Inc.

in the State(s) of

Arizona (AZ) (Company Code [CC] 5101)

Colorado (CO) (CC 5102)

Idaho (ID - Boise LATA) (CC 5103)

Idaho (ID - Spokane LATA) (CC 5162)

Iowa (IA) (CC 5141)

Minnesota (MN) (CC 5142)

Montana (MT) (CC 5104)

Nebraska (NE) (CC 5143)

New Mexico (NM) (CC 5105)

North Dakota (ND) (CC 5144)

Oregon (OR) (CC 5163)

South Dakota (SD) (CC 5145)

Utah (UT) (CC 5107)

Washington (WA) (CC 5161)

Wyoming (WY) (CC 5108)

(C)

as provided herein

d/b/a

U S WEST Communications[1]

(T)

Original tariff effective July 27, 1994

Access Services are provided by means of wire, fiber optics, radio or
any other suitable technology or a combination thereof.

(D)

[1] All subsequent tariff references will be referred to as U S WEST Communications.

(T)

(Filed under Transmittal No. 703.)

Issued: January 19, 1996

Effective: March 4, 1996

By: Director - Federal Regulatory Operations
Room 4610
1801 California Street
Denver, Colorado 80202

8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES (Cont'd)

8.4.3 MEGABIT SERVICE

A. MegaBit Subscriber Service

1. MegaBit Subscriber Service Charge,
per termination

	USOC	NONRECURRING CHARGE	MONTHLY RATE
a. 256 kbps, bi-directional, dedicated connection			
• Monthly	HRLAM	\$69.00	\$29.95
• 12 Months	HRLA1	69.00	29.95
• 36 Months	HRLA3	69.00	29.95
• 60 Months	HRLA5	69.00	29.95
b. 512 kbps, bi-directional, dedicated connection			
• Monthly	HRLBM	69.00	65.00
• 12 Months	HRLB1	69.00	62.40
• 36 Months	HRLB3	69.00	59.80
• 60 Months	HRLB5	69.00	57.20
c. 768 kbps, bi-directional, dedicated connection			
• Monthly	HRLCM	69.00	80.00
• 12 Months	HRLC1	69.00	76.80
• 36 Months	HRLC3	69.00	73.60
• 60 Months	HRLC5	69.00	70.40

(C)

(N)

(N)

Certain material previously found on this page can now be found on page 8-116.

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Effective: May 11, 1999

1801 California Street, Denver, Colorado 80202

8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES

8.4.3 MEGABIT SERVICE

A.1. (Cont'd)

	USOC	NONRECURRING CHARGE	MONTHLY RATE	(C)
d. 1 Mbps, bi-directional, dedicated connection				
• Monthly	HRLDM	\$69.00	\$125.00	
• 12 Months	HRLD1	69.00	120.00	
• 36 Months	HRLD3	69.00	115.00	
• 60 Months	HRLD5	69.00	110.00	
e. 4 Mbps receive, 1 Mbps send, dedicated connection				
• Monthly	HRLEM	69.00	500.00	
• 12 Months	HRLE1	69.00	480.00	
• 36 Months	HRLE3	69.00	460.00	
• 60 Months	HRLE5	69.00	440.00	
f. 7 Mbps receive, 1 Mbps send, dedicated connection				
• Monthly	HRLFM	69.00	875.00	
• 12 Months	HRLF1	69.00	840.00	
• 36 Months	HRLF3	69.00	805.00	
• 60 Months	HRLF5	69.00	770.00	(N)

Certain material previously found on this page can now be found on page 8-117.

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1801 California Street, Denver, Colorado 80202

8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES

8.4.3 MEGABIT SERVICE

A. MegaBit Subscriber Services (Cont'd)

	USOC	NONRECURRING CHARGE	(C) (T) (N)
2. MegaBit Subscriber Change Charge, per order	REAKM	\$30.00	(N) | (N)

Certain material previously found on this page can now be found on page 8-118.

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8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES (Cont'd)

B. MegaCentral Access Link				(T)
	USOC	NONRECURRING CHARGE	MONTHLY RATE	(M)
• 1.544 Mbps[1]		[1]	[1]	|
• 45 Mbps[2]		[2]	[2]	(M)
C. MegaCentral Port (BSE)				(T)
	USOC	NONRECURRING CHARGE	MONTHLY RATE	(M)
I. 1.5 Mbps, per Port				(M)
• Monthly	HPRGM	\$500.00	\$910.00	(T)
• 12 Months	HPRG1	500.00	455.00	(M)
• 36 Months	HPRG3	500.00	409.50	|
• 60 Months	HPRG5	500.00	364.00	(M)

[1] See 7.5.9 for DS1 Service Channel Termination rates and charges.

[2] See 8.4.4 for ATM CRS Optical Access Link rates and charges or see 7.5.10 for DS3 Service Channel Termination rates and charges.

Certain material found on this page formerly appeared on Page 8-113.

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8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES (Cont'd)

C. MegaCentral Port (Cont'd) (T)

2. 45 Mbps, per Port[1] (M)

	USOC	NONRECURRING CHARGE	MONTHLY RATE	
				(M)
• Monthly	HPRKM	\$500.00	\$1,456.00	(T)
• 12 Months	HPRK1	500.00	728.00	(M)
• 36 Months	HPRK3	500.00	706.00	(M)
• 60 Months	HPRK5	500.00	692.00	(M)
	USOC		MONTHLY RATE	(M)
				(M)

D. Bandwidth[2] (T)

1. Each 3 Mbps Increment, up to 45 Mbps, per increment (M)

• Monthly	HB1HM	-	478.00	(T)
• 12 Months	HB1H1	-	239.00	(M)
• 36 Months	HB1H3	-	232.00	(M)
• 60 Months	HB1H5	-	227.00	(M)

[1] A minimum of one 3 Mbps Bandwidth increment applies for each 45 Mbps MegaCentral Port. The nonrecurring charge includes the installation of the Bandwidth increment(s) installed at the same time as the MegaCentral Port.

[2] Applicable only to the 45 Mbps MegaCentral Port. A minimum of one increment applies for each 45 Mbps MegaCentral Port.

Certain material found on this page formerly appeared on Page 8-114.

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8. ADVANCED COMMUNICATIONS NETWORKS

8.4 RATES AND CHARGES (Cont'd)

8.4.3 MEGABIT SERVICE

D. Bandwidth (Cont'd)

	USOC	NONRECURRING CHARGE	(C) (T) (M)
2. MegaCentral Port Change Charge			
• 3 to 45 Mbps port speed bandwidth change, per speed change	REAKN	\$100.00	
	USOC	NONRECURRING CHARGE	MONTHLY RATE
E. Central Office Connecting Channel[1]			(M) (T)
• Per connection	[1]	[1]	(M)

[1] See 7.5.9 or 7.5.10 for COCC rates and charges.

Certain material found on this page formerly appeared on Page 8-115.

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

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SEP 25 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)	
)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
)	
Petitions of Bell Atlantic Corporation And U S West Communications Inc. For Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Dockets No. 98-11, 98-26
)	
Petition of Ameritech Corporation to Remove Barriers to Investment in Advanced Telecommunications Technology	)	CC Docket No. 98-32
)	
Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-78
)	
Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell Petition for Relief from Regulation Pursuant to Section 706 of the Telecommunications Act of 1996 and 47 U.S.C. § 160 for ADSL Infrastructure and Service)	CC Docket No. 98-91
)	

COMMENTS OF NORTHPOINT COMMUNICATIONS INC.

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A. Incumbent LECs Providing Advanced Services on an Integrated Basis Should Impute the Costs of the Monopoly Inputs Necessary to Provide Such Service

Imputation is the most pressing issue currently facing the Commission. Unless ILECs that refuse to adopt a separate subsidiary arrangement are required to reflect the true costs of providing their ADSL service in their rates for that service, they will – and in fact already do – exert a price squeeze that makes entry by other carriers economically infeasible.

A price squeeze exists whenever a competitor that is equally efficient at providing the competitive portions of a service cannot, without losing money, meet the incumbent's retail price given the price(s) that it must pay to the incumbent for any bottleneck input(s) available only from the incumbent. A price squeeze can be the result of the markup over direct economic cost that the incumbent imposes for bottleneck inputs that both it and the competitor use or the incumbent's imposition of costs on the competitor that the incumbent does not bear at all. To avoid a price squeeze, the incumbent's retail price must equal or exceed the sum of the price that it charges to competitors for the bottleneck input(s) plus the total service long-run incremental cost of the competitively provided portions of the service.

Today, the ILECs proposed ADSL tariffs – which are being investigated by this Commission -- would exert just such a price squeeze. GTE, for instance, provides its ADSL service for as little as \$29 per month. By contrast, in California, CLECs must pay GTE almost \$19 for an unbundled digital loop necessary to compete, as well as an average of almost \$50,000 for collocation in each central office. Similarly, BellSouth is providing

FCC 96-325

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
)	
)	
Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185
)	
)	

FIRST REPORT AND ORDER

Adopted: August 1, 1996

Released: August 8, 1996

By the Commission: Chairman Hundt and Commissioners Quello, Ness, and Chong issuing separate statements.

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operator services for resale.²⁰⁸⁶

2. Discussion

871. Section 251(c)(4)(A) imposes on all incumbent LECs the duty to offer for resale "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."²⁰⁸⁷ We conclude that an incumbent LEC must establish a wholesale rate for each retail service that: (1) meets the statutory definition of a "telecommunications service;" and (2) is provided at retail to subscribers who are not "telecommunications carriers."²⁰⁸⁸ We thus find no statutory basis for limiting the resale duty to basic telephone services, as some suggest.

872. We need not prescribe a minimum list of services that are subject to the resale requirement. State commissions, incumbent LECs, and resellers can determine the services that an incumbent LEC must provide at wholesale rates by examining that LEC's retail tariffs. The 1996 Act does not require an incumbent LEC to make a wholesale offering of any service that the incumbent LEC does not offer to retail customers. State commissions, however, may have the power to require incumbent LECs to offer specific intrastate services.²⁰⁸⁹

873. Exchange access services are not subject to the resale requirements of section 251(c)(4). The vast majority of purchasers of interstate access services are telecommunications carriers, not end users. It is true that incumbent LEC interstate access tariffs do not contain any limitation that prevents end users from buying these services, and that end users do occasionally purchase some access services, including special access,²⁰⁹⁰ Feature Group A,²⁰⁹¹ and certain

²⁰⁸⁶ Bell Atlantic reply at 25.

²⁰⁸⁷ 47 U.S.C. § 251(c)(4)(A).

²⁰⁸⁸ "Telecommunications service" is defined in section 3(46) to mean "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(46) "Telecommunications" is, in turn, defined in section 3(43) as "the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received." 47 U.S.C. § 153(43). "Telecommunications carrier" is defined in section 3(44) to mean "any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226)." 47 U.S.C. § 153(44).

²⁰⁸⁹ See, e.g., Illinois Public Utilities Act, Section 13-505.5.

²⁰⁹⁰ End users may purchase special access from incumbent LECs in order to use high volume services offered by IXCs, such as AT&T's Megacom service.

Feature Group D elements for large private networks.²⁰⁹² Despite this fact, we conclude that the language and intent of section 251 clearly demonstrates that exchange access services should not be considered services an incumbent LEC "provides at retail to subscribers who are not telecommunications carriers" under section 251(c)(4). We note that virtually all commenters in this proceeding agree, or assume without stating, that exchange access services are not subject to the resale requirements of section 251(c)(4).²⁰⁹³

874. We find several compelling reasons to conclude that exchange access services should not be subject to resale requirements. First, these services are predominantly offered to, and taken by, IXC's, not end users. Part 69 of our rules defines these charges as "carrier's carrier charges,"²⁰⁹⁴ and the specific part 69 rules that describe each interstate switched access element refer to charges assessed on "interexchange carriers" rather than end users.²⁰⁹⁵ The mere fact that fundamentally non-retail services are offered pursuant to tariffs that do not restrict their availability, and that a small number of end users do purchase some of these services, does not alter the essential nature of the services. Moreover, because access services are designed for, and sold to, IXC's as an input component to the IXC's own retail services, LEC's would not avoid any "retail" costs when offering these services at "wholesale" to those same IXC's. Congress clearly intended section 251(c)(4) to apply to services targeted to end user subscribers, because only those services would involve an appreciable level of avoided costs that could be used to generate a wholesale rate. Furthermore, as explained in the following paragraph, section 251(c)(4) does not entitle subscribers to obtain services at wholesale rates for their own use. Permitting IXC's to purchase access services at wholesale rates for their own use would be inconsistent with this requirement.

875. We conclude that section 251(c)(4) does not require incumbent LEC's to make

²⁰⁹¹ Feature Group A is similar to a local exchange service, but is used for interstate access. In such circumstances, the end user dials a seven-digit number to reach the LEC's "dial tone office" serving an IXC, where the LEC switches the call to the IXC's POP via a dedicated line-side connection. Feature Group A represents approximately one percent of incumbent LEC transport revenues.

²⁰⁹² Feature Group D is the set of elements through which IXC's today almost universally purchase switched access services from incumbent LEC's.

²⁰⁹³ See, e.g., Cincinnati Bell comments at 34; Citizens Utilities comments at 25; NYNEX comments at 35 n.70; Rural Tel. Coalition comments at 20; J. Staurulakis comments at 6; SBC reply at 13; USTA reply at 31; Wisconsin Commission comments at Attachment, pp. 7-8.

²⁰⁹⁴ 47 U.S.C. § 69.5(b).

²⁰⁹⁵ The one exception, as discussed below, is the SLC, which is assessed on end users regardless of who purchases the access services from the incumbent LEC.



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

In the Matters of)	
)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
)	
Petition of Bell Atlantic Corporation For Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Docket No. 98-11
)	
Petition of U S WEST Communications, Inc. For Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Docket No. 98-26
)	
Petition of Ameritech Corporation to Remove Barriers to Investment in Advanced Telecommunications Technology	)	CC Docket No. 98-32
)	
Petition of the Alliance for Public Technology Requesting Issuance of Notice of Inquiry and Notice of Proposed Rulemaking to Implement Section 706 of the 1996 Telecommunications Act	)	CCB/CPD No. 98-15 RM 9244
)	
Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-78
)	
Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell Petition for Relief from Regulation Pursuant to Section 706 of the Telecommunications Act of 1996 and 47 U.S.C. § 160 for ADSL Infrastructure and Service	)	CC Docket No. 98-91
)	

**MEMORANDUM OPINION AND ORDER, AND
NOTICE OF PROPOSED RULEMAKING**

Adopted: August 6, 1998

Released: August 7, 1998

Comment Date: September 21, 1998

Reply Comment Date: October 13, 1998

By the Commission: Commissioners Ness, Powell and Tristani issuing separate statements.

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telecommunications carriers.³⁴⁹ We further conclude above that, to the extent advanced services are telephone exchange services, incumbent LECs must offer such services for resale.

188. We now seek comment on the applicability of section 251(c)(4) to advanced services to the extent that such services are exchange access services. We tentatively conclude that such advanced services are fundamentally different from the exchange access services that the Commission referenced in the *Local Competition Order* and concluded were not subject to section 251(c)(4). We expect that advanced services will be offered predominantly to ordinary residential or business users or to Internet service providers. None of these purchasers are telecommunications carriers.³⁵⁰

189. By its terms, section 251(c)(4) applies to "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Advanced services generally offered by incumbent LECs to subscribers who are not telecommunications carriers meet this statutory test.³⁵¹ We thus tentatively conclude that these services fall within the core category of retail services that both Congress and the Commission deemed subject to the resale obligation, and the reasoning that led the Commission in the *Local Competition Order* to exclude exchange access from the section 251(c)(4) resale obligation does not apply. We tentatively conclude, therefore, that advanced services marketed by incumbent LECs generally to residential or business users or to Internet service providers should be deemed subject to the section 251(c)(4) resale obligation, without regard to their classification as telephone exchange service or exchange access.³⁵² We seek comment on these tentative conclusions.

³⁴⁹ See *supra* ¶ 30.

³⁵⁰ See *Report to Congress on Universal Service* at ¶¶ 73-82 (Internet service providers are not telecommunications carriers).

³⁵¹ As noted above, advanced services are telecommunications services. See *supra* ¶¶ 35-36.

³⁵² 47 U.S.C. § 251(c)(4). To the extent that specific advanced services are marketed primarily to telecommunications carriers, however, they would remain outside the scope of the resale obligation.



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Intermedia Communications Inc.
CC Docket No. 98-147
September 25, 1998

Before the
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Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)

CC Docket No. 98-147

INITIAL COMMENTS OF
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September 25, 1998

**VI. THE COMMISSION IS CORRECT IN CONCLUDING THAT
ADVANCED SERVICES SOLD TO END USERS MUST BE MADE
AVAILABLE FOR RESALE PURSUANT TO § 251(c)(4)**

Intermedia strongly supports the Commission's tentative conclusion that advanced services provided to end users are subject to resale just like any other telecommunications service.⁹⁹ The plain language of the Act states that the ILECs' § 251(c)(4) resale obligation extends to "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Thus, the Commission's tentative conclusion clearly comports with the Act.

The Commission should similarly extend ILEC resale obligations to access services that are purchased by end users. Intermedia understands that the Commission up to this point has not required ILECs to resell exchange access services because the "vast majority" of purchasers of interstate access service are telecommunications providers, who are not permitted to purchase for their own use ILEC wholesale services.¹⁰⁰ However, the Commission did note that "end users do occasionally purchase some access services,"¹⁰¹ and for these end users, the Commission should permit competitive carriers to resell exchange access services at the wholesale rates prescribed by state regulators. Any other result would violate the plain terms of the Act, which requires ILECs to resell all telecommunications services offered to end users.

⁹⁹ *NPRM* at ¶¶ 188-89.

¹⁰⁰ *Local Competition Order*, 11 FCC Rcd at 15934, ¶ 873.

¹⁰¹ *Local Competition Order*, 11 FCC Rcd at 15934, ¶ 873.

CODE OF FEDERAL REGULATIONS
TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS
COMMISSION
SUBCHAPTER B--COMMON CARRIER
SERVICES
PART 51--INTERCONNECTION
SUBPART G--RESALE
Current through June 15, 1999; 64 FR 32106

§ 51.613 Restrictions on resale.

(a) Notwithstanding § 51.605(b), the following types of restrictions on resale may be imposed:

(1) Cross-class selling. A state commission may permit an incumbent LEC to prohibit a requesting telecommunications carrier that purchases at wholesale rates for resale, telecommunications services that the incumbent LEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the incumbent LEC.

(2) Short term promotions. An incumbent LEC shall apply the wholesale discount to the ordinary rate for a retail service rather than a special promotional rate only if:

(i) Such promotions involve rates that will be in effect for no more than 90 days; and

(ii) The incumbent LEC does not use such promotional offerings to evade the wholesale rate obligation, for example by making available a sequential series of 90-day promotional rates.

(b) With respect to any restrictions on resale not

permitted under paragraph (a), an incumbent LEC may impose a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory.

(c) Branding. Where operator, call completion, or directory assistance service is part of the service or service package an incumbent LEC offers for resale, failure by an incumbent LEC to comply with reseller unbranding or rebranding requests shall constitute a restriction on resale.

(1) An incumbent LEC may impose such a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory, such as by proving to a state commission that the incumbent LEC lacks the capability to comply with unbranding or rebranding requests.

(2) For purposes of this subpart, unbranding or rebranding shall mean that operator, call completion, or directory assistance services are offered in such a manner that an incumbent LEC's brand name or other identifying information is not identified to subscribers, or that such services are offered in such a manner that identifies to subscribers the requesting carrier's brand name or other identifying information.

< General Materials (GM) - References,
Annotations, or Tables >

47 C. F. R. § 51.613

47 CFR § 51.613

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