BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the matter of the Petition of WWC Holding Co, Inc. for Arbitration of an Interconnection Agreement	)))	**DOCKET NO. 03-2403-02**

REBUTTAL TESTIMONY OF

RON WILLIAMS ON

BEHALF OF WESTERN WIRELESS

CONTAINS CONFIDENTIAL INFORMATION

I. QUALIFICATIONS AND PURPOSE OF TESTIMONY

Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A: My name is Ron Williams. My business address is 3650 131st Ave., SE, Bellevue, Washington 98006.

Q: HAVE YOU PREVIOUSLY FILED DIRECT TESTIMONY IN THIS DOCKET?

A: I filed Direct Testimony on behalf of WWC License L.L.C. ("Western Wireless") dated September 5, 2003.

Q: WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?

A: I wish to respond to the direct testimony of the Utah ILEC witnesses Raymond Hendershot and Chad Duval.

Q: WHO ELSE WILL PROVIDE REBUTTAL TESTIMONY ON BEHALF OF WESTERN WIRELESS?

A: Brian Pitkin is also filing rebuttal testimony on behalf of Western Wireless. Mr. Pitkin has been retained by Western Wireless to provide expert cost testimony in this proceeding. In addition to reviewing the rates proposed by the Utah ILECs', Mr Pitkin has been requested to produce two different rates relevant to each Utah ILEC for transport and termination: One rate applicable to traffic terminated via a third party transit provider and a separate rate for traffic terminated directly at the ILEC end office.

II. SCOPE OF RECIPROCAL COMPENSATION OBLIGATIONS (ISSUE 2)

Q: EXPLAIN THE PRIMARY DIFFERENCES OF THE PARTIES CONCERNING THE NATURE OF TRAFFIC EXCHANGED BETWEEN THE PARTIES.

A: The ILECs want to narrow the scope of traffic covered under a reciprocal interconnection agreement by classifying LEC originated traffic as interexchange and therefore subject to 'toll' treatment. Western believes the FCC purposefully created a broader calling scope for calls from or to a cellular phone using a Commercial Mobile Radio Service ("CMRS"). Through specific rule making, the FCC has provided a clear distinction for the treatment of CMRS traffic, compared to the traditional rules of landline to landline calling, to promote competition

Q: MR. HENDERSHOT ARGUES THAT RECIPROCAL COMPENSATION APPLIES ONLY TO COMMERCIAL MOBILE RADIO SERVICE ("CMRS") CALLS NOT CARRIED BY INTEREXCHANGE CARRIERS ("IXCS"). (HENDERSHOT DIRECT, P. 4-5, L. 86-94) IS HE CORRECT?

A: No. The FCC's Rules and Orders make no such distinction. To the contrary, the FCC stated that "traffic to or from a CMRS network that originates and terminates within the same MTA is subject to transport and termination rates under section 251(b)(5), rather than interstate and intrastate access charges." *First Report and Order*, ¶ 1036.[1] Contrary to this FCC determination, Mr. Hendershot claims that land-to-mobile calls (even those where the callers may be in the same neighborhood) are interexchange calls that must be sent to an IXC, requiring the customer to pay a long distance fee and allowing the Utah ILEC to collect an access charge. His analysis relies on descriptions of the access charge regime that existed before the 1996 Act, as if the Act, the FCC's *First Report and Order*, and the FCC's Part 51 rules did not change the law. The FCC was clear, however, that it created a new wireless local calling area to implement the Act:

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[1] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325, 11 FCC 15499 (1996) ("*First Report and Order*").

> [I]n light of this Commission's exclusive authority to define the authorized license areas of wireless carriers, we will define the local service area for calls to or from a CMRS network for the purposes of applying reciprocal compensation obligations under Section 251(b)(5).

First Report and Order, ¶ 1036. Consistent with this determination, FCC Rule 51.701(b) defines the area for reciprocal compensation between landline carriers with reference to state-defined local calling areas, and the area for reciprocal compensation on CMRS traffic without reference to state-defined local calling areas. *Compare* 47 C.F.R. § 51.701(b)(1) *with* 47 C.F.R. § 51.701(b)(2). This highlights one of the errors in Mr. Hendershot's analysis – he takes FCC language that applies to landline calls and applies it to wireless calls. The Utah ILECs' position that they can subvert the FCC's establishment of a wireless local calling area by handing a call off to an IXC based on landline local calling scopes should be rejected.

Q: HAS THE FCC DISCUSSED WHETHER INTRAMTA CMRS CALLS ARE "INTEREXCHANGE" CALLS?

A: Yes. The FCC clearly held that CMRS calls within an MTA are not considered "interexchange traffic."[2] The FCC explained that, although in many cases the MTA will not correspond to a telephone company exchange area or to state boundaries:

> treating intra-MTA calls as local and, therefore, not interexchange and not subject to IXC rate integration, is consistent with the definition of "telephone exchange service," which is defined by the Act as 'service within a telephone exchange or within a connected system of telephone exchanges within the same exchange area . . . .

[2] *Policy and Rules Concerning the Interstate Interexchange Marketplace*, CC Docket 96-61, Memorandum Opinion and Order, 14 FCC Rcd 391, 1998 LEXIS 6665, ¶ 2 (rel. Dec. 28, 1998) (*"IXC Marketplace Order"*).

> [T]he MTA, rather than a smaller area, such as . . . a wireline exchange area, reflects the minimum area in which customers may be expected to travel and within which they would expect not to pay toll charges.[3]

The FCC has been quite clear – an intraMTA call is not an "interexchange call."

Q: MR. HENDERSHOT MAKES AN ISSUE OF THE FCC'S STATEMENT THAT TRAFFIC SUBJECT TO SECTION 251(g) IS EXCLUDED FROM SECTION 251(b)(5). (HENDERSHOT DIRECT, P. 18). HOW DO YOU RESPOND?

A: Mr. Hendershot notes that in 2001 the FCC stated that traffic within Section 251(g) was excluded from Section 251(b)(5). In that same Order, however, the FCC made clear that all wireless traffic within an MTA is subject to Section 251(b)(5) rather than Section 251(g):

> Pursuant to the analysis we adopt here, section 251(b)(5) applies to telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that is not interstate or intrastate access traffic delivered to an IXC or an information service provider, and to telecommunications traffic between a LEC and a CMRS provider that originates and terminates within the same MTA.[4]

Mr. Hendershot's entire argument is that traffic "delivered to an IXC" is not within Section 251(b)(5) – yet the FCC clearly applies this exception only to the landline-landline traffic.

Q: MR. HENDERSHOT CLAIMS THERE WILL BE SIGNIFICANT ADVERSE IMPACTS TO THE UTAH ILECS IF ALL INTRAMTA CMRS CALLS ARE SUBJECT TO RECIPROCAL COMPENSATION. (HENDERSHOT, P. 19). HOW DO YOU RESPOND?

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[3] *IXC Marketplace Order*, 14 FCC Rcd. 402, ¶ 23.

[4] *In the Matter of Implementation of the Local Competition Provisions in the Telecomms. Act of 1996*, Order on Remand and Report and Order, FCC 01-131, ¶ 89 n. 177 (rel. April 27, 2001) ("*ISP Remand Order*").

A: He is referring to lost profits received in the form of access charges paid by IXCs, which are built into per-minute toll charges billed to consumers. In Utah, where each of the ILECs also operate an affiliated long distance reseller, retail 'long distance' profits will also be lost. From the consumer's perspective, local calls are obviously better than long distance calls. We do not consider this consumer benefit to be an adverse impact.

III. DELIVERY OF TRAFFIC SUBJECT TO RECIPROCAL COMPENSATION (ISSUE 3)

Q: DO THE UTAH ILECS DENY ROUTING INTRAMTA TRAFFIC TO IXCS AND COLLECTING ACCESS CHARGES ON THOSE CALLS?

A: No, not at all. The Utah ILECs point out that 51.703(b) was adopted to eliminate the practice of ILECs charging CMRS carriers access on landline originated traffic. That is certainly the case. What they fail to convey is the FCC's rationale also included elimination of the incentive for the ILEC to collect access by routing traffic to an IXC instead of delivering traffic under the terms of reciprocal compensation.

Q: HOW SHOULD THE UTAH ILECS DELIVER INTRAMTA TRAFFIC TO WESTERN WIRELESS?

A: The same way Western Wireless delivers it to the Utah ILECs – by using Qwest as the intermediary carrier or through direct interconnection.

Q: MR. HENDERSHOT CLAIMS THAT THE UTAH ILECS ARE PROHIBITED FROM ROUTING LAND-TO-MOBILE CALLS AS LOCAL. (HENDERSHOT DIRECT, P. 22, LL. 519-522.) HOW DO YOU RESPOND?

A: ILECs in Oklahoma and Iowa arbitration cases tried unsuccessfully to make this claim. The fact is that such dialing and routing arrangements are not unusual, and are not unlawful. Dialing parity is designed to protect consumers and enhance competition. Mr.

Hendershot's position would allow dialing parity to penalize consumers and inhibit competition. In fact, it would foster dialing **dis**parity in the local market.

Q: WHAT SHOULD THE COMMISSION ORDER WITH REGARD TO ROUTING?

A: The Commission should recognize that intraMTA land-to-mobile calls should not be carried by IXCs, and should be dialed and billed as local calls from the Utah ILECs' customers.

IV. RATES FOR TRANSPORT AND TERMINATION OF TRAFFIC (ISSUE 4)

A. Overview of the Utah ILECs' Rates

Q: WHO BEARS THE BURDEN OF PROVING RATES IN THIS PROCEEDING?

A: The incumbent LEC has control of crucial information and bears the burden of proof in demonstrating rates that comply with the Act. In addition, because Rule 51.705 requires that rates be set at either the "additional costs" or bill and keep, if the Utah ILECs do not meet the burden of establishing appropriate rates the Commission should order bill and keep between the parties.

Q: IS THERE SUPPORT FOR ADOPTING BILL-AND-KEEP AS A MECHANISM FOR RECIPROCAL COMPENSATION?

A: Yes there is. The Oklahoma Commission under similar circumstances ordered bill-and-keep between rural LECs and wireless carriers. *See* Ex. RW-1. The rural LECs failed to sponsor a cost study that met the FCC's requirements. *See id.*

Q: WHAT IS YOUR REACTION TO THE RATES PROPOSED BY THE UTAH ILECS?

A: Mr. Duval proposes reciprocal compensation rates between $0.01441 and $0.02831 per minute for end office interconnection and $0.02912 and $0.0585 per minute for tandem interconnection. These rates are outside the bounds of reality. The Commission set transport and termination rates for Qwest, and that rate structure remains in effect today.[5] Qwest's Seventh Revised SGAT of October 31, 2002, which distinguishes ‘rural’ rates from ‘urban’ and ‘suburban’ contain the following ‘rural’ service area rates:

End Office Call Termination	$0.001798 per minute of use
Tandem Switching	$0.000693 per minute of use
Transmission – 5 miles*	$0.000799 per minute of use
Transmission – 10 miles*	$0.000651 per minute of use
Transmission – 30 miles*	$0.000745 per minute of use
Transmission – 60 miles*	$0.000621 per minute of use

* Calculated using Qwest SGAT fixed and recurring tandem transmission rates for this mileage

A: Applying these rates, the TELRIC cost of a call terminating to a rural serving area to be tandem switched at Qwest's tandem and transported 30 miles to the terminating end office would be $0.003236 per minute. This calculation includes tandem switching which is not a function the Utah ILEC provide for the termination of CMRS traffic. The Qwest cost excluding tandem switching would be $0.002543. Under Mr. Duval's proposal, the rate for delivering a call to SCUTA for termination via Qwest transit (which is paid by Western to Qwest) would be 5.85 cents per minute; more than 23 times the Qwest rate for rural service areas. Similarly, a call delivered directly to a rural Qwest end office would be assessed a termination rate (end office switching) of $0.001798. Mr. Duval is proposing that a call delivered directly to a Manti end office would be assessed a

[5] These rates are within Qwest's SGAT, but Western Wireless, like most carriers, exchange traffic with Qwest at the FCC's ISP rates which are even lower than the arbitrated rates.

termination rate of $0.02321 per minute; almost 13 times the Qwest rate for rural end office call termination. In addition, Western Wireless has negotiated an agreement in Utah with Frontier/Citizens with a terminating rate of one cent ($0.01) per MOU.

Q: WHY ARE THESE RATES IMPORTANT?

A: These other rates represent a good "reality check" for the Commission – a reality check Mr. Duval's rates simply do not pass.

B. The Utah ILECs' Termination Rates

Q: DO THE UTAH ILECS' PROPOSED RATES INCLUDE A REASONABLE APPROXIMATION OF THE "ADDITIONAL COSTS" OF TERMINATING TRAFFIC SUBJECT TO RECIPROCAL COMPENSATION?

A: No. Mr. Duval's most significant error is calculating usage-sensitive charges to recover costs that are not usage-sensitive at all, contrary to FCC Rule 51.701(e).

Q: ARE THE UTAH ILECS' PROPOSING TO RECOVER PORT-SENSITIVE SWITCHING COSTS WITHIN THEIR PROPOSED TERMINATION RATES?

A: Yes. Mr. Duval allocates switch costs as usage-sensitive. These costs are in no way driven by usage, so they do not qualify as usage-sensitive costs to be recovered in reciprocal compensation rates.

Q: HAVE YOU REVIEWED OTHER EVIDENCE WHICH SUPPORTS A POSITION THAT SWITCH COSTS ARE NOT USAGE SENSITIVE?

A: Yes. I have reviewed the limited backup data provided by the Utah ILECs and find no evidence that <u>any</u> switch costs are usage sensitive. I have reviewed data from more than eighty different independent telephone companies and I have found no evidence that switch costs are usage sensitive. I have reviewed vendor data, including publicly available data from Nortel, the Utah ILECs primary switch vendor, and have found no evidence that switch costs are usage sensitive. I am also quite sure, that if we were able to obtain a copy of the detailed invoices for switching equipment purchased by the Utah ILECs, there would be no evidence of usage sensitive switch costs applicable to the determination of transport and termination costs.

Q: WHAT SHOULD THE COMMISSION ORDER WITH REGARD TO THE UTAH ILECS' COSTS OF SWITCHING TRAFFIC SUBJECT TO RECIPROCAL COMPENSATION?

A: The Commission should find in this arbitration, as they have in the Qwest Unbundled Loop cost proceeding (Doc No. 01-049-85), that switching costs are not traffic-sensitive costs incurred in terminating traffic subject to reciprocal compensation, and therefore cannot be recovered in reciprocal compensation rates.

C. The Utah ILECs' Universal Service Subsidies Must Be Considered

Q: DOES MR. DUVAL'S COST STUDY ACCOUNT FOR THE IMPACT OF THE UTAH ILECS UNIVERSAL SERVICE SUBSIDIES; SUBSIDIES THAT MUST BE CONSIDERED IN SETTING RECIPROCAL COMPENSATION RATES?

A: No he did not. His study essentially assumed that every minute be allocated the same cost, whether it is local, access, or ISP, and did not calculate reciprocal compensation rates in a way that acknowledges the federal subsidies designed to reduce the cost of local service.

Q: CAN YOU PROVIDE ANY EXAMPLES OF THE SIGNIFICANCE OF THIS SUPPORT?

A: I can. The chart below shows Mr. Duval's proposed annual local switching cost as compared to the Utah ILEC's local switching subsidy. As you can see, for companies that receive local switching support, between 17% and 47% of those switching costs are paid for by the federal government. Apparently, the Utah ILECs want to use those subsidies to reduce their costs of providing local service but to require competitive local service providers to pay the full, unsubsidized amount.

CONFIDENTIAL BEGINS

	USF Switching Support		ILEC Proposed Switching	% ILEC Proposed Switch Cost Covered by Switch Support
Study Area Name	Monthly	Annually	Annual	
GUNNISON TELEPHONE CO.	$ 12,616	$ 151,392	$ 321,814	47.0%
MANTI TELEPHONE CO.	$ 12,814	$ 153,768	$ 905,287	17.0%
SOUTH CENTRAL UTAH	$ 110,555	$ 1,326,660	$ 3,681,627	36.0%
UINTAH BASIN DBA UBTA	$ 57,609	$ 691,308	$ 1,515,330	45.6%
	$ 193,594	$ 2,323,128		

CONFIDENTIAL ENDS

Q: WHAT IS THE LEGAL AUTHORITY FOR CONSIDERING THE UNIVERSAL SERVICE SUPPORT USED BY THE UTAH ILECS TO OFFSET THEIR NETWORK COSTS?

A: First, reciprocal compensation rates must recover additional costs within rates that are "structured consistently with the manner that carriers incur those costs." 47 C.F.R. § 51.709. Here, because of policy decisions made by federal government, a substantial portion of the Utah ILECs' switch costs are incurred by the universal service funds, not the Utah ILECs. Under the FCC's Rules, the ILECs cannot recover nonexistent network costs. Yet, this is what they propose.

In addition, a forward looking cost methodology is designed to prevent ILECs from achieving a double-recovery or obtaining a competitive advantage in the provision of local service.

CONFIDENTIAL BEGINS

Q: HOW WOULD THE UTAH ILECS' PROPOSED PRICING GIVE THEM A DOUBLE RECOVERY?

A: The following example demonstrates this. Mr. Duval reports Gunnison has forward-looking annual switching costs of $321,814 and annual switched minutes of 22,291,000. Under Mr. Duval's proposal, each minute would be allocated $0.01243 to recover those costs. If such an allocation were made, Gunnison would recover the following amounts annually to offset switch costs:

22,291,000 minutes x $0.01243 per minute	=	$ 277,077
Federal Local Switching Support	=	$ 161,392
		$ 438,469

This number, which is 136% of the Company's forward-looking annual cost, assumes there is no cost recovery from implicit access rate subsidies.

CONFIDENTIAL ENDS

Q: HOW HAS THE FCC PROHIBITED THIS KIND OF DOUBLE RECOVERY?

A: The FCC defined TELRIC to ensure that the sum of prices do not exceed costs for just this reason. 47 C.F.R. § 51.505(e). *See also First Report and Order*, ¶¶ 30, 304, 772.

Q: IF TRANSPORT AND TERMINATION RATES DO NOT TAKE INTO CONSIDERATION UNIVERSAL SERVICE SUBSIDIES, WILL THIS BE ANTICOMPETITIVE?

A: Yes it will. Assume Mr. Duval's rates are adopted, and Western Wireless and Gunnison were competing for customer John Jones. As a customer of Western Wireless, John Jones would have to pay terminating switch costs of $0.01243 per minute every time he called a landline customer. If John Jones were a customer of Gunnison, on the other hand, that same call would cost substantially less because terminating switch costs are already being recovered from other sources. This provides the incumbent with a clear advantage, and is the kind of market distortion that Congress was trying to eliminate from the telecommunications industry.[6]

Q: HOW DO UNIVERSAL SERVICE POLICIES FACTOR IN?

A: Federal universal service subsidies are designed to lower the costs of making and receiving local calls. 47 C.F.R. § 54.101(a). The Utah ILECs propose these subsides should lower the costs of receiving calls from their own customers but not other carriers' customers.

Q: IS THE LOCAL SWITCHING SUPPORT YOU DISCUSSED ABOVE THE ONLY UNIVERSAL SUPPORT THAT SUBSIDIZES UTAH ILEC NETWORKS?

A: No. At the federal level, the Utah ILECs receive loop support and other subsidies. In addition to this federal support, the Utah ILECs' network costs are substantially subsidized by intrastate and interstate access rates. The Act envisioned (and required) that implicit subsidies be removed from access rates and replaced with explicit subsidies. While this has happened to some extent on the federal level, it has not happened at all in Utah.

Q: HOW DO YOU KNOW THAT THE UTAH ILECS ARE RECOVERING SUBSTANTIAL NETWORK COSTS THROUGH INTRASTATE ACCESS RATES?

A: Mr. Hendershot states that a decrease in access minutes "would lead to adverse financial impacts and consequent negative impacts on infrastructure investments and upgrades."

[6] Obviously, reciprocal compensation rates are not passed through to customers on a per-minute basis. However, if a carrier incurs a cost in sending traffic, that cost must be recovered in consumer rates.

(Schoonmaker, p. 19, ll. 437-439.) If access were priced at cost, there would not be such alleged impacts.

Q: IS WESTERN WIRELESS PROPOSING TO QUANTIFY THESE ADDITIONAL UNIVERSAL SERVICE SUBSIDIES AND REDUCE TRANSPORT AND TERMINATION RATES ACCORDINGLY?

A: No we are not. As discussed above, we propose taking into consideration federal local switching support because it is abundantly clear that those amounts directly subsidize switch costs the Utah ILECs include in their reciprocal compensation rates. To be conservative, Western Wireless has not quantified the additional universal service support received by the Utah ILECs – high cost loop support, long term support, and intrastate access support – and is not proposing to reduce rates by that additional support. We do want the Commission to understand, however, that the Utah ILECs receive these additional subsides, which are used to reduce some costs reflected in Mr. Duval's cost study, and that Western Wireless' request to consider only local switching support is quite conservative.

Q: WHAT SHOULD THE COMMISSION ORDER WITH REGARD TO UNIVERSAL SERVICE SUBSIDIES?

A: As discussed above, we believe that the appropriate additional cost of switching is $0.00 per minute of use. Mr. Pitkin’s rebuttal testimony provides substantive evidence as to why local switching should not be treated as a usage-sensitive cost applicable to this proceeding. Notwithstanding these positions, if the Commission does attribute a portion of switch costs to be recovered on a usage sensitive basis, it should do so only after reducing forward-looking switching costs by amounts recovered through local switching support subsidies.

V. WESTERN WIRELESS IS ENTITLED TO CHARGE THE TANDEM INTERCONNECTION RATE (ISSUE 5)

Q: HOW DO YOU RESPOND TO MR. HENDERSHOT'S TESTIMONY RELATED TO THE TANDEM COMPENSATION ISSUE RAISED BY WESTERN WIRELESS? (HENDERSHOT DIRECT, EXHIBIT RAH-1, P. 2.)

A: Mr. Hendershot misdirects the issue. His testimony says the Utah "ILECs do not have tandem switches and therefore this issue does not apply for direct interconnection". However, the rule is not based on direct or indirect interconnection nor is it based on the structure of the ILEC network.

From a fact standpoint, there is no dispute that Western Wireless' MSC is equivalent to tandem functionality provided in the LEC network, so that Western Wireless is entitled to a "tandem" rate on all calls switched by its MSC, and that Western Wireless' MSC switches every call terminated on Western's network.

Q: WHAT DO YOU RECOMMEND?

A: I recommend that for direct or indirect interconnection with the Utah ILECs, Western Wireless pay the end office switching rate plus a transmission rate (as appropriate) on calls bound for a remote switch. As required by the FCC's Rules, Western Wireless would be compensated at the 'tandem' rate on all calls terminated through its MSC.

VI. PRICING OF INTERCONNECTION FACILITIES (ISSUE 6)

Q: WHAT IS WESTERN WIRELESS SEEKING WITH RESPECT TO THE PRICING OF INTERCONNECTION FACILITIES?

A: Western Wireless seeks a known price which best approximates a rate consistent with the Telecom Act. Typically, Western negotiates with local exchange providers to identify the lowest published price (tariff or price sheet) as the best approximation of a forward-looking cost for interconnection facilities.

Q: WHY IS MR. HENDERSHOT WRONG WHEN HE SAYS WESTERN WIRELESS SHOULD PAY 100% OF INTERCONNECTION FACILITIES (HENDERSHOT DIRECT, EXHIBIT RAH-1, P.3)?

A: Western Wireless should only be required to pay 100% of the cost of interconnection facilities if those facilities are used exclusively for the termination of Western traffic to a Utah ILEC. Under the principle that the originating carrier is responsible for transporting calls to the terminating carrier, the originating carrier should pay their share of any direct interconnection facilities. In practice, most interconnection facilities are 'shared'. Shared Facilities would be those direct connections between Western Wireless and a Utah ILEC upon which traffic is exchanged on a two-way or bi-directional basis.

Q: HOW ARE THE COSTS OF "SHARED FACILITIES" USUALLY DEALT WITH?

A: In every case that Western has direct interconnection with a rural ILEC, anywhere in its network, interconnection facilities are established as two-way or one-way in the land-to-mobile direction. The costs of these facilities are allocated based on the ratio of traffic sent by Western to the ILEC compared to the traffic sent by the ILEC to Western Wireless. In other words, a 'Shared Facility Factor' is developed that allocates costs according to the amount of traffic using the facilities that was originated by each party. Further, it is Western Wireless' experience that when locally dialed cellular numbers are available in lieu of numbers that have to be dialed as long distance, the traffic exchanged between a wireline carrier and a wireless carrier becomes balanced.

Q: WHAT DO YOU RECOMMEND TO RESOLVE THIS ISSUE?

A: At this time, Western only has a direct interconnection (Type 1 facility) with SCUTA in Panguitch and UBTA in Roosevelt. However, Western is considering installation of several other interconnection facilities pending the outcome of this proceeding. To accommodate the existing interconnection and anticipated establishment of additional direct interconnection with each of the Utah ILECs, Western proposes that a 'Shared Facility Factor' be incorporated in the final agreement, that the default factor be set at 50%, and that a provision be included for adjusting the factor based on actual proportions of traffic exchanged over a given interconnection facility.

VII. TANDEM ROUTED LOCAL CALLING (ISSUE 7)

Q: IS MR. HENDERSHOT CORRECT IN HIS CLAIMS REGARDING THE RULES AND INTENTION OF TANDEM ROUTED CALLING (HENDERSHOT DIRECT, EXHIBIT RAH-1, P.3)?

A: Absolutely not. Mr. Hendershot makes three statements concerning tandem routed local calling, one statement is misleading and two statements are simply incorrect.

Q: IS A PHYSICAL PRESENCE REQUIRED WITHIN A RATE CENTER REQUIRED TO ESTABLISH A NPA/NXX IN THAT RATE CENTER?

A: There is no such obligation for a carrier. However, Western would never seek to establish an NPA/NXX in an area in which it was not licensed to provide service and for which it did not have 'coverage' to serve its customers.

Q: MUST WESTERN WIRELESS HAVE DIRECT INTERCONNECTION WITHIN THE LEC LOCAL CALLING AREA FOR THE NPA/NXX TO BE DEEMED LOCAL?

A: No. In fact, Western Wireless, has active NPA-NXXs in rate centers where it has no direct interconnection. Telephone company customers in those rate centers can call a Western number as a local call. Today, Western Wireless could implement this in Utah through an 'SPOP' arrangement with Qwest or under the terms of its interconnection agreement with Citizens (Section 2.3.1).

Q: IS TANDEM ROUTED LOCAL CALLING A "SCHEME TO AVOID PAYING TOLL CHARGES AND TO SHIFT THE COST OF TRANSPORT TO THE ILECS" (HENDERSHOT DIRECT, EXHIBIT RAH-1, P.3)?

A: This inflammatory accusation is bogus. Western views tandem routed local calling as a means for both parties to reduce the cost for interconnection when traffic volumes are low. Tandem routed local calling allows the use of existing shared network facilities in lieu of building dedicated facilities. Western obtains local numbers so that our customers can obtain the best match for calling from or to their mobile phones. Customers don't want telephone numbers that are not associated with where they live, work, or recreate. We don't have customers that live in Salt Lake and want a cellular phone number rated out of Panguitch or vice versa.

Q: IN YOUR REVIEW OF THE ILEC TESTIMONY, IS THERE ANY DISPUTE ABOUT WHETHER TANDEM ROUTED LOCAL CALLING IS TECHNICALLY FEASBLE?

A: No. The approach to Tandem Routed Local Calling described in my direct testimony has been implemented by Western Wireless with local exchange carriers. Qwest offers the approach as alternative interconnection service. There should be no dispute on the ability of a Utah ILEC to implement this efficient method of interconnection.

VIII. DIALING PARITY (ISSUE 8)

Q: MR. HENDERSHOT CLAIMS THAT WESTERN WIRELESS MUST PAY ADDITIONAL FEES TO BE ENTITLED TO DIALING PARITY (HENDERSHOT DIRECT, EXHIBIT RAH-1, P. 3.) WHAT IS HIS POSITION BASED ON?

A: Mr. Hendershot claims that Western Wireless or its customers should pay an EAS fee to receive calls from Utah ILEC customers. This is absurd. Utah ILEC customers already pay a monthly incremental 'EAS' fee to place calls to certain rate centers. When Western has numbers that are in these rate centers, the Utah ILEC should send calls to Western numbers just like they do to ILEC numbers because the caller has already paid an EAS fee to reach that rate center.

Q: CAN YOU PROVIDE AN EXAMPLE?

A: Yes. Manti Telephone has EAS between the Ephraim exchange and the Manti exchange. Assume Manti Telephone's customer is being charged a monthly EAS fee. Assume Western Wireless has a customer with a number local to Manti Telephone's Ephraim Exchange. On a call from the Manti exchange customer to a Manti Telephone customer in Ephraim, Manti Telephone routes that call as local. Western is seeking that same treatment for a call to one of its wireless customers assigned a number from the Ephraim rate center.

Q: DO THE UTAH ILECS HAVE THE ABILITY TO IMPLEMENT THIS PROVISION AS PROPOSED BY WESTERN WIRELESS?

A: Yes. Again, the presence of common trunks and facilities between the Utah ILEC exchanges and between Utah ILEC exchanges and the Qwest LATA tandems means that the Utah ILECs have two existing options to deliver this traffic to Western Wireless, at minimal cost, without constructing any additional facilities.

IX. EFFECTIVE DATE OF THE INTERCONNECTION AGREEMENTS (ISSUE 1)

Q: THE UTAH ILECS HAVE PROPOSED AT LEAST TWO DIFFERENT EFFECTIVE DATES FOR THIS ARBITRATED INTERCONNECTION AGREEMENT. CAN YOU CLARIFY THEIR RATIONALE?

A: This is my interpretation of what the ILECs' are seeking for effective dates of these arbitrated agreements:

- Gunnison and UBTA (identified as 'other ILECs' Hendershot Direct, p. 3, l. 63) are seeking an effective date of April 25, 2003; the date Western Wireless submitted its Petition for Arbitration.
- South Central Utah seeks an effective date as the date a "new interconnection agreement is signed and accepted by the PSCU" (Hendershot Direct, p.3, l. 64-66). This date was selected on the basis that an existing interconnection arrangement exists between Western and SCUTA.
- Manti and UBET suggest that there is an existing agreement in effect (though Western disputes this) and, presumably would concur in an effective date similar to that proposed for SCUTA, i.e. when a "new interconnection agreement is signed and accepted by the PSCU."

Q: WHAT IS WESTERN WIRELESS' POSITION RELATIVE TO THE PROPOSED EFFECTIVE DATE OF APRIL 25, 2003 FOR AN AGREEMENT WITH GUNNISON AND UBTA.

A: Establishing an effective date prior to a decision by the Arbitrator would result in retroactive application of rates. Such an application would only be appropriate when there is a valid interim arrangement between the Parties under FCC rule 51.715. No such interim arrangement exists between the Parties. If an interim arrangement was in place, rates could be 'trued up or down' to the final arbitrated rates. If no interim arrangement exists, there is simply no authority under which the Commission can determine retroactive compensation obligations for this federally-regulated traffic. Western supports an effective date that is either the date of the Arbitrator's decision or the date of Commission approval of the Arbitrator's decision in this matter.

Q: EXPLAIN HOW THIS IS CONSISTENT WITH FCC RULES.

A: The Commission established deliberate conditions to encourage a balanced and fair negotiation process that would provide incentive for both sides to reach an agreement. Allowing compensation to be 'claimed' unilaterally by a LEC at the onset of interconnection negotiations does not provide incentive to reach agreement and does not facilitate balanced negotiations. For many months the option existed for either party to bring this interconnection agreement to conclusion. The Utah ILECs chose not to pursue that option and should not be able to seek retroactive compensation for that decision.

Q: WHAT IS WESTERN WIRELESS' POSITION RELATIVE TO THE PROPOSED EFFECTIVE DATE FOR THE SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION AGREEMENT?

A: Western prefers the date of the Arbitrator's ruling, however, Western is willing to accept the date of Commission approval of the Arbitrator's decision in this matter.

Q: WHAT IS WESTERN WIRELESS' POSITION RELATIVE TO THE PROPOSED EFFECTIVE DATE FOR AGREEMENTS WITH MANTI AND UBET?

A: Western is willing to accept the date of Commission approval of the Arbitrator's decision in this matter. In the case of UBET, Western expects that UBET will be combined with UBTA under a single interconnection agreement due to the integrated network and corresponding integrated rate proposal (Duval Direct, P.25, LL.587-589).

X. ASSIGNMENT OF QWEST AGREEMENT (ISSUE 11)

Q: WHAT ARE THE TERMS OF ASSIGNMENT INCLUDED IN THE INTERCONNECTION AGREEMENT WESTERN WIRELESS HAS WITH QWEST?

A: In Section (A) 3.12.1 of the interconnection agreement between Qwest and Western Wireless, it explicitly states that:

> Neither party may assign or transfer (whether by operation of law or otherwise) this agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other party.

Q: DID WESTERN WIRELESS EVER PROVIDE CONSENT FOR ASSIGNMENT OF THE QWEST INTERCONNECTION AGREEMENT?

A: No. Consent was never provided by Western for the assignment of the agreement with Qwest.

Q: WHAT OPPORTUNITIES DID THE ILECS HAVE TO DEAL WITH INTERCONNECTION WITH WESTERN WIRELESS WHEN THEY ACQUIRED QWEST EXCHANGES?

A: The ILECs had access to the interconnection agreement prior to, during, and anytime after their acquisition of Qwest exchanges. Prudent due diligence would have identified this issue and the proper steps necessary to resolve it.

Q: HAVE THE ILECS MISCHARACTERIZED THE TERMS OF THE QWEST INTERCONNECTION AGREEMENT IN THIS PROCEEDING?

A: Yes. In addition to mis-representing the assignment of the Qwest agreement, the ILECs have cited a rate of more than three ($.03) cents for termination under the agreement. The rate cited is an order of magnitude higher than the actual rate in the Agreement. The actual rate specified in the Agreement is $.003349; about three tenths of a cent. UBTA and Manti have used the wrong rate for the claims they have made relative the interconnection agreement between Western Wireless and Qwest.

XI. RETROACTIVE ASSESSMENT ON TRAFFIC EXCHANGED UNDER BILL & KEEP PRINCIPLES. (ISSUE 12)

Q: WHAT IS WESTERN WIRELESS' POSITION WITH REGARD TO THE COMMISSION'S ABILITY TO REQUIRE COMPENSATION PRIOR TO THE EFFECTIVE DATE?

A: The Commission can only require compensation prior to the effective date of this agreement if an Interim Interconnection arrangement is in place. As explained relative to Issue 1, no interim agreement is in place between Western Wireless and Gunnison, Manti, or UBTA/UBET.

Q: DO THE UTAH ILECS OFFER TO PAY PAST COMPENSATION ON A RECIPROCAL BASIS?

A: No. The Utah ILECs seek compensation for traffic they claim to have terminated, but do not acknowledge any obligation to pay Western Wireless for intraMTA traffic originated by a Utah ILEC customer and terminated by Western Wireless.

Q: WHAT IS WESTERN WIRELESS' POSITION WHERE CARRIERS DO NOT HAVE FORMAL AGREEMENTS?

A: Western Wireless responds to all requests for formal negotiations, and in almost all cases reaches voluntary agreements with requesting carriers for payment of reciprocal compensation. Absent a formal request for negotiations, Western Wireless must presume that any terminating carrier is satisfied with the status quo – Western Wireless is terminating land-to-mobile traffic without billing the originating LEC, and the LEC is terminating mobile-to-land traffic without billing Western Wireless. This kind of de facto bill-and-keep arrangement is an efficient arrangement of choice for hundreds of carriers throughout the nation.

XII. IDENTIFICATION OF INTER-MTA TRAFFIC (ISSUE 13)

Q: WHAT IS THE STATUS OF ISSUE 13 RAISED BY THE UTAH ILECS?

A: Company-wide, almost all interMTA calls Western Wireless sends to landline companies are sent to IXCs, which terminate the calls to ILECs and pay terminating access charges. The Utah ILECs want to collect access charges on the few interMTA calls that might be sent to an ILEC via Qwest transit facilities or over direct trunks. Western believes the quantity of such traffic to be de minimus and no information has been provided that would indicate otherwise.

Q: HOW CAN INTERMTA TRAFFIC DELIVERED VIA QWEST BE MEASURED?

A: There is no standard industry process for monitoring or measuring interMTA traffic. The messaging standards in effect in the industry do not account for originating mobile call location and therefore don't permit either party to determine whether a particular call is intra or inter MTA. It is Western Wireless' experience that parties agree that this small amount of traffic cannot be measured.

Q: WHAT DO YOU RECOMMEND?

A: Because Western Wireless considers this interMTA traffic to be de minimus, and because there is no way to measure such traffic, we recommend that the parties accept the FCC's recommendation to use the parties' point of interconnection to determine whether a call is interMTA or intraMTA.[7] If new measurement capabilities are in place when these agreements are set to expire, this issue can be revisited.

XIII. ALLOCATION OF BILLING COSTS (ISSUE 14)

Q: DO THE UTAH ILECS SUPPORT THEIR CLAIM THAT WESTERN WIRELESS SHOULD PAY THEIR BILLING COSTS?

A: No. Mr. Hendershot claims the "ILECs should be allowed to bill and collect from Western Wireless costs incurred in tracking, recording and billing traffic." It is contrary to FCC pricing principles to suggest Western Wireless should pay a share of a forward-looking network but also pay for the Utah ILECs' administrative costs to support its reliance on a third party to record terminating traffic.

Q: DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A: Yes, it does.

[7] *First Report and Order*, ¶ 1044.