

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

In the Matter of

THE MOUNTAIN STATES                      Transmittal No. 194  
TELEPHONE AND TELEGRAPH  
COMPANY, NORTHWESTERN BELL  
TELEPHONE COMPANY, AND PACIFIC  
NORTHWEST BELL TELEPHONE COMPANY

Revisions to Tariff F.C.C. No. 1

Petition for Waiver of Section  
65.702(c) of the Commission's Rules

ORDER

Adopted: January 13, 1989;      Released: January 13, 1989

By the Chief, Common Carrier Bureau:

1. On September 27, 1988, Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company (US West) filed Transmittal 194, proposing revisions to its special access provisions in Tariff F.C.C. No. 1. In addition, US West filed an associated petition for waiver of certain Commission requirements, in order to facilitate the revisions it proposes in Transmittal 194: The revisions are now scheduled to become effective on January 15, 1989.

2. Under the proposed revisions, US West's special access rates, which are currently aggregated at the level of each of its three operating companies, would henceforth be aggregated at the level of the entire regional company. This would result in unified, averaged rates for special access throughout US West's regional service territory. Description and Justification (D&J) at 1-1. In addition, US West seeks to utilize an updated unit cost study in establishing the internal relationship among rate elements in the proposed unified tariff, to reflect what it describes as significant changes in provisioning and technology since its last filed unit cost study. *Id.*

3. US West states that the direction and magnitude of the changes in various rate elements resulting from the proposed regional unification and the updated cost study will vary from operating company to operating company, but that the overall, region-wide effect will be "revenue neutral." In order to cushion anticipated rate shock for the various customer groups who will experience increases, US West proposes to phase in the revised rates in four approximately equal steps over a two year period, beginning on the effective date of the revisions. *Id.* 1-6 to 1-10.

4. US West asserts that its rate unification proposal will achieve rate consistency, rate stability, and administrative efficiency. Moreover, US West notes that the Commission recently permitted it to effect two similar sets of revisions through previous transmittals. *Id.* at 1-1 to 1-5. In the first

of these, US West unified both switched and special access rates at the operating company level;<sup>1</sup> in the second, it further unified switched access alone at the regional level.<sup>2</sup>

5. US West's Transmittal 194 also proposes to complete the process begun in the Annual 1988 Access Tariff Filings of moving its special access nonrecurring charges (NRCs) to full cost levels. D&J at 4-6.

6. US West's associated petition for waiver, filed September 27, 1988, addresses two different Commission requirements. First, it seeks waiver of Section 65.702(c) of the Commission's Rules, 47 C.F.R. § 65.702(c), which governs aggregation of study areas for monitoring rate of return.<sup>3</sup> Specifically, US West requests that the four step transition to regionally aggregated special access rates be deemed complete as of the effective date of the first step, for purposes of monitoring rate of return. US West argues that the logic of the transition plan requires this because the phased-in rates are ultimately targeted to recover its revenue requirement on an aggregated basis. Petition for Waiver at 2-5.

7. Second, US West's petition seeks continuation of a conditional waiver, originally granted in connection with the Annual 1988 Access Tariff Filings, of the Commission's prescribed ratio of two-wire to four-wire channel terminations for rate development purposes.<sup>4</sup> US West states that, pursuant to the original waiver, it has developed an alternative ratio based on its own cost studies and it now must phase in that ratio as part of the transition to regional rates. *Id.* at 5-6.

8. Tele-Communications Association (TCA)<sup>5</sup> filed a petition to reject or to suspend and investigate US West's proposed revisions, and MCI Telecommunications Corporation (MCI) filed a petition to suspend and investigate them. No party has filed any pleading addressed to US West's petition for waiver of Section 65.702(c) and the channel terminations ratio.

9. TCA maintains that US West's proposed unification would constitute a serious departure from cost-causative pricing, particularly in view of the wide geographical variation within US West's territory. TCA Petition at 2-4. TCA also claims that rate averaging would unreasonably discriminate against those customers in low cost areas whose operations are not region-wide and who therefore could not benefit from the overall revenue neutrality which US West claims will result from its unification plan. *Id.* at 5-6. TCA further argues that the unification already accomplished through previous transmittals is sufficient to achieve the goals of rate consistency, rate stability, and administrative efficiency and that if the Commission does allow unification, the phase-in period should be five years rather than two. *Id.* at 6-7 and n.16.

10. MCI states that it does not oppose US West's proposals for region-wide unification or full cost NRCs *per se*, but seeks correction of certain errors and inconsistencies in US West's tariff development. First, MCI claims that US West's reported earnings for the first six months of 1988 exceed its allowable rate of return but that US West has not revised the faulty demand and revenue requirement projections which underlie those excess earnings, before using those projections in the instant filing. MCI Petition at 3-4. Second, MCI claims that the full cost NRCs which US West proposes to recover through its revised tariff are based on excessive labor wage rates and task time estimates for installation of special access facilities, compared with the wage rates and time

estimates it used in the Annual 1988 Access Tariff Filing. *Id.* at 2-3. Finally, MCI maintains that US West's demand response analysis is inadequate in several respects. *Id.* at 4-11.

11. US West replies to TCA that its unification proposal is clearly cost based since, as part of a revenue neutral revision, the proposed rates will recover no more than the cost of service as determined in previous proceedings. Further, US West maintains that cost differentials do not necessarily follow state lines or operating company lines and that region-wide aggregation is as reasonable as any other basis of aggregation. US West Opposition at 3-4. Moreover, US West argues that the Commission has sanctioned aggregation of this magnitude or larger in several other contexts, including the Docket 84-800 rate of return proceeding and US West's own recent proposal to unify its switched access rates. *Id.* at 6. US West also challenges TCA's discrimination argument, noting that the unified rates will be charged alike to all interexchange carriers and end users throughout the region. *Id.* at 6-7. Finally, US West responds that a five year phase-in constitutes a reasonable period, and that three other regional holding companies have been allowed to unify their special access rates on an immediate basis. *Id.* 8-10.<sup>6</sup>

12. In reply to MCI's assertion that US West based the instant filing on flawed projections that have already resulted in excessive returns for the first half of 1988, US West points to several instances in which it claims that MCI has either used incorrect data or invalid methodologies. *Id.* at 16-19. US West responds at length to MCI's contention that US West used excessive labor rates and task time periods to determine NRCs, generally arguing that either the various increases in these factors are normal or that there were legitimate reasons for larger than normal increases. *Id.* at 10-16.

13. Finally, US West responds to each of MCI's arguments against its demand response analysis. *Id.* at 19-25. US West contends that it has not double-counted demand response from the Annual 1988 Access Tariff Filings because it used the same baseline for the present filing as it did for the annual 1988 filing. *Id.* at 19-23. Next, US West argues that it would be computationally cumbersome to recognize the increased probability of intra-regional channel terminations in its demand response analysis, and that the effect from this increased probability would largely be offset by other factors. *Id.* at 23-24. Finally, US West states that it did not include demand response for services other than voice grade special access in its proposed rates because it does not currently maintain elasticity estimates for such services. *Id.* at 24-45.

14. The Common Carrier Bureau has reviewed US West's tariff filing, the petitions, and US West's reply. We find that no compelling argument has been presented that the proposed tariff is patently unlawful so as to require rejection and that an investigation of the tariff is not warranted at this time.

15. We have also reviewed US West's petition for waiver of Section 65.702(c) and for continued waiver of the prescribed channel termination ratio, and conclude that they should be granted. We recently granted US West's request for waiver of Section 65.702(c) with respect to its proposal for region-wide aggregation of its switched access rates, and we find that such a waiver is equally appropriate here.<sup>7</sup> For similar reasons, we also find that US West's request for waiver of the channel termination ratio is appropriate.

16. Accordingly, IT IS ORDERED that the petitions to reject or to suspend and investigate filed by Telecommunications Association and by MCI Telecommunications Corporation against Transmittal No. 194 of Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company ARE DENIED.

17. IT IS FURTHER ORDERED that the petition for waiver of Section 65.702(c) of the Commission's Rules, 47 C.F.R. § 65.702(c), and for waiver of the prescribed two-wire to four-wire ratio for channel terminations as described herein, IS GRANTED.

#### FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock  
Chief, Common Carrier Bureau

#### FOOTNOTES

<sup>1</sup> See Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company, Order, Mimeo No. 5037 released Sept. 30, 1987.

<sup>2</sup> See US West Transmittal No. 165, filed June 3, 1988, which became effective without opposition on July 18, 1988.

<sup>3</sup> Section 65.702(c) provides that if the carrier has not used the same level of study area aggregation during the entire two-year earnings review period, then the carrier's earnings must be measured for the two-year period on the basis of the tariffs in effect at the end of the second year of the review period. It further provides that if tariffs representing a higher level of aggregation were not in effect for at least eight months in the second year, then the carrier's earnings must be measured on the basis of the level of aggregation in effect the majority of the two-year period.

<sup>4</sup> See Annual 1988 Access Tariff Filings, Petitions for Waiver, Memorandum Opinion and Order, 2 FCC Rcd 5659, 5661 (1987).

<sup>5</sup> TCA is an association of telecommunications managers for a variety of institutions.

<sup>6</sup> US West cites various transmittals of Bell Atlantic, BellSouth, and Southwestern Bell.

<sup>7</sup> See Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company, Petition for Waiver of Section 65.702(c), 3 FCC Rcd 5043 (1988).