

Must direct and indirect costs be specifically identified?

59. Finally, we ask parties to address whether the subscriber line charge should be subject to the resale discount.

60. *Interconnection Pricing and Reciprocal Compensation.* Under section 252(d)(1), interconnection is subject to the same cost-based pricing standard as UNEs. We ask parties to comment on whether there is any reason that changes to the current pricing rules for UNEs should not also apply to interconnection provided pursuant to section 251(c)(2). We note that the Commission is considering issues related to the costs associated with interconnecting networks in the pending *Intercarrier Compensation NPRM*, 66 FR 28410, May 23, 2001. Parties are invited to comment on the relationship between the section 251(d)(1) pricing standard and the proposals for recovery of interconnection costs that are now under consideration in that proceeding. We also invite parties to comment on issues related to the pricing of collocation, which is also subject to the section 252(d)(1) pricing standard. For example, we solicit comment on whether charges for direct current (DC) power should be based on the number of amps consumed or the number of amps fused. Finally, we ask parties to address whether the Commission should continue to apply the same pricing rules to UNEs and to reciprocal compensation. What would be the consequences of having different pricing regimes for these two different functions?

61. *Implementation Issues.* We ask parties to comment on how any changes to the Commission's UNE pricing rules should be implemented by the states. We ask parties to explain how state commissions have proceeded in establishing prices under section 252(d)(1).

62. We seek comment on whether we should establish a national timetable pursuant to which states will conduct new UNE cost proceedings to reset all rates in accordance with any new rules. If we establish a timetable for initiating new UNE rate proceedings, should we require that such proceedings be resolved within a certain time period, consistent with our direction to the states to perform the granular inquiries set forth in the *Triennial Review* proceeding? If so, is a nine-month time period sufficient to establish new UNE prices? What recourse should carriers have if a state fails to act in the allotted time?

63. We also seek comment on whether to establish a true-up mechanism for the

difference between what a competitor pays for network elements under rates established pursuant to the current TELRIC rules and what that competitor would pay for the same facilities or services under rates established pursuant to any new rules we may adopt in this proceeding. If a true-up mechanism is appropriate, to what period should any true-up be applicable? Should the beginning of the true-up period be the effective date of the final Commission order in this proceeding? Or is some other true-up period more appropriate?

#### Procedural Matters

##### *Paperwork Reduction Act*

64. This Notice of Proposed Rulemaking (NPRM) does not contain proposed or modified information collection requirements.

##### *Initial Regulatory Flexibility Act Analysis*

65. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided below. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) are being published in the **Federal Register**.

##### *Need for, and Objectives of, the Proposed Rules*

66. In this NPRM, the Commission initiates the first comprehensive review of TELRIC pricing rules since they were adopted. Section 252(d)(1) of the Act sets forth the pricing standard for UNEs. Section 252(d)(3) of the Act requires that state commissions establish wholesale rates for resold services based on the incumbent LEC's retail rates. Seven years ago, the Commission adopted its current rules that base UNE prices on the Total Element Long Run Incremental Cost (TELRIC) of a UNE. *Local Competition First Report and*

*Order*, 61 FR 52706, October 8, 1996. The Commission stated at that time that it would continue to review its pricing rules based on the results of state arbitration proceedings and provide additional guidance as necessary.

67. Based on the wealth of experience that has been developed over the last seven years, the Commission initiates this proceeding to consider whether the TELRIC methodology for pricing UNEs under the Act is working as intended and whether it is conducive to efficient facilities investment. The Commission also requests comment in this proceeding on its resale pricing rules. Incumbent LECs are required to resell retail services pursuant to section 251(c)(4) of the Act. This NPRM seeks to preserve the forward-looking emphasis and pro-competitive purposes of TELRIC, while simplifying this methodology. The Commission's objective is to help state commissions more easily develop UNE prices and resale discounts that meet the statutory standards established by Congress in section 252(d) and to provide more certainty and consistency in the results of these state proceedings.

68. Although the Commission has addressed some specific TELRIC cost input disputes as they have arisen in section 271 proceedings, the Commission's disposition has provided no systematic guidance on pricing issues. This proceeding will provide states and interested parties comprehensive guidance lacking in our consideration of section 271 applications. In the *Triennial Review Order*, the Commission clarified the existing rules regarding two key components of TELRIC—cost of capital and depreciation.

69. Because of the general nature of the Commission's rules and the hypothetical and complex nature of the TELRIC inquiry, it is often difficult to understand how actual UNE rates are derived. Uncertainty or inconsistency in how to apply TELRIC rules may also result in rates that significantly vary from state to state without regard to genuine cost differences. This lack of predictability in UNE rates is difficult to reconcile with the Commission's desire that UNE prices send correct economic signals for competitive and investment purposes. This NPRM seeks to simplify TELRIC pricing, provide more specific guidance to make the TELRIC rate-setting process less speculative and improve the accuracy of its pricing signals.

##### *Legal Basis*

70. This NPRM is adopted pursuant to sections 1, 4(i), (4j), 201-205, 251, 252,