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February 10, 2000

VIA FEDERAL EXPRESS

Ms. Diane Davis
Administrative Hearings
Oregon Public Utilities Commission
550 Capitol Street, N.E.
Salem, Oregon 97310

Subject: Dockets UT 125 and UT 80

Dear Ms. Davis:

Enclosed, for filing, are an original and five copies of the Brief Of Northwest Payphone Association Re Stipulation to Resolve Matters On Appeal in the above-referenced matter.

Very truly yours,

David C. Rice for Brooks Harlow

Brooks E. Harlow

cc w/enc: All Parties of Record

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UT 125/UT 80

RECEIVED

FEB 11 2000

Public Utility Commission of Orego
Administrative Hearings Division

In the Matter of the Application of U S WEST Communications, Inc., for an Increase in Revenues	BRIEF OF NORTHWEST PAYPHONE ASSOCIATION RE STIPULATION TO RESOLVE MATTERS ON APPEAL

REVENUE REQUIREMENTS

The Northwest Payphone Association ("NWPA") takes no position on the stipulation's proposed resolution regarding U S WEST's revenue requirement nor the total of the refunds that would be made pursuant to the stipulation. The NWPA urges, however, that whatever decision is made on the stipulation, it should be made and implemented promptly so as to minimize, to the extent possible, substantial uncertainty that affects the industry and consumers while the stipulation is pending.

REFUND METHODOLOGY

The NWPA strongly supports the positions of those parties that urge the Commission to condition approval of the stipulation on U S WEST agreeing to a refund methodology that provides for refunds to former customers of U S WEST. Refunding to former customers is in the public interest not just to avoid stifling competition, but also to ensure that former customers are treated fairly. Indeed, even if the Commission should reject the stipulation for reasons related to revenue requirements, the NWPA urges the Commission to make clear in its order that at such time as refunds may to be made in future proceedings customers who have switched to competitors will be entitled to receive refunds to avoid almost certain anti-competitive distortion of the market.

DOCKETED

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I. Limiting Refunds to Current U S WEST Customers is Anti-competitive.

Although the incentive that prospective refunds creates to delay or curtail a change in providers can vary depending on the type of customer, the passage of time has made the potential refunds so large as to outweigh the price benefits that CLECs can offer most customers. The Staff's reliance on refund procedures entered three years ago fails to take into account the substantial passage of time. First, the potential refund amounts are substantially greater than they were in 1997. Moreover, had the refunds been implemented promptly in 1997--as the Commission probably anticipated when it entered Order No. 97-171--there would not have been so substantial a period of time (three years) during which customers that paid excessive rates would have had to remain with U S WEST, rather than switch to a CLEC, in order to obtain a refund of those excessive rates. Finally, there are more customers of U S WEST today that have competitive options than there were in early 1997. This means that more customers are faced with the dilemma of whether to switch or not than would have been the case three years ago.

The most important factor from a competitive standpoint is the significant size of the refund in relation to a customer's overall bill. In the case of business customers, the refund approaches ten times a monthly bill. Thus, there is a strong incentive to defer any decision to switch to a competitor while this case is pending. While this may not be a large factor if the issue is resolved in the next couple of months, if this case should have to conclude its appeals because the stipulation is rejected the impact on the competitive market will likely be substantial.

II. Fairness Dictates that Former Customers Receive Refunds of their Overpayments to U S WEST.

Apart from the competitive distortions to the market that limiting refunds to current customers would cause, the Commission must consider the fundamental issue of whether it is fair for customers who may have accrued refunds amounting to several hundred dollars per

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line over the course of several years to forfeit their refunds because they may have recently chosen to do exactly what public policy now promotes, i.e.--switch to a competitive provider.

Several options for making refunds to former customers may be proposed to the Commission, ranging from merely permitting former customers to file claims all the way to requiring U S WEST to undertake best efforts to locate and individually notify former customers. While the NWPA generally supports reasonable efforts to notify former customers, at a minimum the Commission should require U S WEST to publish notice and permit former customers to file claims for refunds. The expense and burden of such a procedure is fairly minimal.[1] A claim procedure is most likely to be used by customers that are due significant refunds, such as large telecommunications users. Thus a claim procedure provides the most "bang for the buck."

U S WEST asserts that providing refunds to former customers would be costly, though it has little specific cost data (see, e.g. U S WEST Response to NWPA Request 01-006) (attached). If the Commission were convinced that the negative impact of such additional costs on U S WEST were material in light of the huge refunds that are to be made, it could certainly reduce the overall refund amount slightly to offset the additional refund costs. Thus, the overall settlement cost to U S WEST would remain the same but customers that overpaid would receive refunds that could be quite sizeable on an individual customer basis. This would have a negligible impact on the current customers' refunds because relatively small costs would be spread over a huge refund base.

III. <u>Even if No Other Class of Former Customers Receives Refunds, Former PAL Customers Should be Provided Refunds.</u>

The NWPA believes that all customers who overpaid U S WEST should be provided refunds, and discrimination among customer classes should be avoided as much as

[1] For example, in Docket UT 85, U S WEST incurred $37,000 in newspaper advertisements and $101,765 in programming charges plus additional untracked costs. Assuming the costs went as high as $200,000, the cost of refunding would, in this case, be approximately 0.0008% of the amount to be refunded.

possible. If the Commission finds, however, that such broad refunds are not possible, there are reasons to treat PAL customers the same way as the stipulation proposes to treat interexchange carriers ("IXCs"). The NWPA's members, who consist of non-LEC payphone service providers ("PSPs"), bear the impact of the refund methodology decision in a substantially greater portion than average business line customers. Like IXCs, the PSPs are large consumers of service from U S WEST. Like IXCs, the PSP's U S WEST bills are a very large percentage of their costs.

PSPs are much more likely than residence and other business line customers to be "former" customers of U S WEST at least as to some of their lines. When U S WEST made refunds recently in Arizona, out of a total of 7,788 public access line ("PAL") customers that received refunds, 563 of the customers were former customers. U S WEST Response to NWPA Request 01-004 (attached). Thus, over 7% of PAL customers had left U S WEST for one reason or another. This undoubtedly reflects that PSPs are large consumers of access lines, some subscribing to hundreds, and they have strong incentives to reduce their line costs by seeking out competitive alternatives. Additionally, PSPs may be forced to remove phones on occasion if another PSP wins the account from a site or the pay phone is unprofitable, which results in disconnection of the PAL line.

Because PAL costs are a substantial percentage of a PSP's cost of doing business, the impact of receiving or not receiving refunds is disproportionately greater on PSPs. For example, a hypothetical PSP with just 100 pay phones would receive refunds on 100 lines, totaling almost $30,000. Again, fundamental fairness dictates that if that hypothetical PSP left U S WEST's network in December 1999 after overpaying for three years, it should not lose out on the lion's share of its refund entitlement because it chose to take advantage of a competitive option or had to remove a phone.

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Apart from the disproportionate impact that getting or not getting refunds has on PSPs, federal law arguably requires U S WEST to provide refunds to PSPs. The FCC in its "Payphone Orders"[2] required LECs, including U S WEST, to file cost-based PAL rates. U S WEST and other LECs were given waivers that excused them from having the new rates in effect by April 15, 1997, *provided* that they issue refunds to PSPs if the state Commission ultimately approves a rate that is lower than the LEC filed or had in effect on file at April 15, 1997.[3] While it is unclear from this record whether U S WEST would contend that its 1997 PAL rate is appropriately cost-based in light of its stipulation to substantially reduce its revenue requirement, what is clear is that federal policies promoting widespread deployment of payphones is another good reason to order U S WEST to provide refunds to PAL customers.

CONCLUSION

For the foregoing reasons, if the Commission approves the stipulation, it should do so on the condition that U S WEST provide refunds to former customers upon reasonable notice.

DATED this 10th day of February, 2000.

MILLER, NASH, WIENER, HAGER & CARLSEN LLP

David C. Rice for Brooks E. Harlow

Brooks E. Harlow
WSB No. 11843

Attorneys for Respondents
Northwest Payphone Association

[2] See, e.g., Order on Reconsideration, Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, FCC 96-439 (1996); Order, CC Docket No. 96-128, DA 97-678 (1997) ("Waiver Order").

[3] See Waiver Order at ¶20.

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U S WEST COMMUNICATIONS

DOCKET: UT 125 (Stipulation)

INTERVENOR: Northwest Payphone Association

REQUEST NO: NWPA 01-006

REQUEST:

Has U S WEST estimated the costs to issue refunds to former customers in this proceeding? If so, please provide all such estimates including all documents, drafts, and workpapers related to or leading up to such estimates.

RESPONSE:

No.

U S WEST COMMUNICATIONS
DOCKET: UT 125 (Stipulation)
INTERVENOR: Northwest Payphone Association
REQUEST NO: NWPA 01-004

REQUEST:

Please identify all state or federal proceedings since 1993 in which U S WEST provided refunds to former customers. For each proceeding, please state the total amount refunded, the total amount refunded to former customers, the total number of customers issued refunds, the number of former customers provided refunds, the total cost of implementing the refund, and the total cost of implementing the portion of the refund made to former customers.

RESPONSE:

Although there have been refunds, no former customers have received refunds in these states since 1993: Colorado, New Mexico, Idaho, Montana, North Dakota, Nebraska, Minnesota, Wyoming, and Utah.

Arizona - Docket T-01051-97-0024 refunded $1.36M in March and April of 1999 for Public Access Line refund with $36,948 going to former customers. 7,788 total accounts were issued refunds (Please note that customers could have more than one account). 563 of these accounts belonged to former customers. The costs of implementing refund were not tracked in total, but the system design work alone cost $37,000.

Oregon - Docket UT 85 refunded $7.2M in April of 1993 to current customers which was the remaining balance of a refund paid in 1992 to both current and former customers totalling $60.2M. The total amount refunded to former customers through the claims process was $1,085,000. Records don't indicate the number of current customers involved in the refund, however, the company mailed 114,000 claim forms to disconnected customers' last known address and 23,400 claim forms were returned. The total cost of the refund is not available, however, USW incurred over $37,000 in newspaper advertisements and an estimated $101,765 in programming charges from independent companies. Additional costs for bill inserts (for USW and all independent companies), information packets and posters, direct mail letters/postage,labor costs associated with establishing a claims bureau, and software changes to prorate the amount of the refund based on in-service dates were incurred but not tracked.

Docket UT 43 refunded $15.55M to current customers in 1993 which was the remaining balance of a refund conducted in March 1987. The money was the amount remaining after all claims received from customers were paid. The company is unable to find data relating to the number of current and former customers in the 1987 refund or the amounts refunded to any former customers. Data has also not been found concerning the costs of implementation of the refund.

South Dakota - Docket TC99-107 refunded $506,512 in February and July 1999, to Switched Access customers with an unknown amount going to 1 former customer. 38 customers received the refund with 1 of them being a former customer. The costs of implementing the refund were not tracked.

Washington - Case 96-2-09623-7 SEA refunded $229.6M beginning October 1998 to all Business exchange customers and residential customers with intraLATA Toll usage, with an untracked amount going to 1,094 former customers. The costs of implementing the refund were not tracked.

Docket UT-950200 will refund approximately $2.5M to ISDN customers in December of 1999. It is not known now exactly how many customers will receive the refund (over 300) or how many are former customers. The costs of implementing the refund have not been tracked.

Docket UT-960832 ordered a refund to customers unnecessarily paying for trenching or conduit repair work. It was found that no current or former customers submitting claims were eligible for the refund. Costs of implementing this refund were not tracked, however the cost of the direct mail and newspaper ads were over $200,000.

Iowa - Docket RPU 93-9 ordered a refund to Business Basic Local Exchange customers and Switched Access customers in December of 1994 and March of 1995. The total refunded amount was $36.8M of which $1.8M was given to customers whose accounts were final either formerly or upon issuance of refund. It is not known how many total customers or former customers were given refunds. The costs of implementing the refund were not tracked, however the system design work was extensive.

CERTIFICATE OF SERVICE
Docket UT-125

I certify that I served a copy of the foregoing on the parties listed below by first-class mail, in sealed envelopes, postage fully prepaid and deposited in the U.S. Mail at Seattle, Washington, on this 10th day of February, 2000.

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TELAD
INTERNATIONAL
INC.

March 13, 2000

The Honorable Ruth Crowly
Administrative Law Judge
Oregon P.U.C.
550 Capital Street NE
Salem, OR 97310-1380

RE: P.U.C. Request for extension of deadline date for commission's order relative to U.T. 125

Dear Judge Crowly:

After review of Mr. Phil Nyegaard's letter of March 8th to Don Mason of U.S. West Communications, I must write in protest of any further delay of implementing this order for refund to rate payers. This matter has dragged on for years beyond any reasonable conclusion of this gross tariff violation by U.S. West.

Our company owns hundreds of payphones in Oregon of which over 700 are in U.S.West areas. U.S. West not only is our industry's greatest competition (payphone provider), but has been the only source of dial tone for our public access lines in their areas.

We now have other options for dial tone at much lower monthly rates. We cannot, however, move our phones to these alternative dial tone providers without risk of losing our refund from U.S. West under U.T. 125. Since the escalation of cellular phones and the massive loss of revenue to 1-800, 1-888, etc., "free call" access by pre-paid calling cards, business lines, home 1-800, etc., etc, our industry is in financial chaos, to say the least. This decision relative to U.S. West, and any more delays relative to it's implementation, may prove to be the final straw that will break our industry's back. We have held off moving our traffic to alternate, much lower rates, and have left lines connected where we have no pay phone installed for the past 30-60-90 days. We cannot wait any longer.

If this does not move forward in a timely, positive, and fair manner many in our industry will not last to see the end. In addition to this we need a substantially reduced P.A.L. rate with no "extended area" service charges which should be now pending U.S. West tariff negotiations. We cannot recover costs from the public at $.25 to $.35 per call when over 40% of our usages are free 1-800 calls and our P.A.L. rates w/extended area service add-ons now average over $54.00 per phone, per month. Competitors charge $25.00 to $30.00.

14250 N.W. Science Park Drive • Portland, Oregon 97229 • (503) 644-7678 • Fax (503) 641-8136

Please, your Honor, do not allow any further future delays which may bankrupt our industry. Please feel free to call me at 1-888-608-3523 if I can assist in this matter on behalf of members of the Northwest Payphone Association and Telad International, Inc.

Sincerely,

Charles W. Jones

Charles W. Jones
President

Secretary/Treasurer of N.W.P.A., representing 13,000 payphones in Oregon, Washington, Idaho, and Montana

cc: Jeanie
N.W.P.A. - (Adams & Assoc.)

USAC
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RECEIVED MAR 0 6 2000

Lori S. Terraciano
Associate Manager-Universal Service
Revenue Administration

March 1, 2000

Telad International, Inc.
14250 NW Science Park Dr.
Portland, OR 97229

RECEIVED
MAR 16 2000
Public Utility Commission of Oregon
Administrative Hearings Division

Filer 499 ID:811408

Attn.: Charles W. Jones

RE: September 1, 1999, FCC Form 499-S

A recent review of the 6 month revenues (January - June 1999) reported on your September 1, 1999 FCC Form 499-S for the Federal Communication Commission's Universal Service Fund (USF) reflects a significant decrease in Interstate/International revenues from the average six month revenues reported for the period January – December 1998.

The FCC's Rules[175] provide authorization for the USF fund administrator to request supporting documentation for data submitted to the administrator. Please consider this letter USAC's request for documentation to support the revenues reported on your September 1, 1999 FCC Form 499-S. Please be aware that the FCC and Arthur Andersen, L.L.P., USAC's external auditor, have the authority and the responsibility to also conduct service provider reviews.

Acceptable forms of documentation include audited financial statements, General Ledger Trial Balance data for all revenue accounts, General Ledger subsidiary revenue reports, summary reports of billing runs to subscribers, etc. Please provide written explanations for differences or changes to the previously submitted revenue reports. All documentation forwarded to USAC will be treated as confidential information pursuant to the FCC's rules[176] and will be used to verify FCC Form 499-S reported revenues. Please forward this supporting documentation by April 1, 2000 to:

Universal Service Administrative Company
Attn: Lori S. Terraciano
80 So. Jefferson Road
Whippany, New Jersey 07981

Sincerely,

Lori S. Terraciano

Lori S. Terraciano

175 FCC Rules § 54.707 "The Administrator shall have the authority to audit contributors and carriers reporting data to the administrator."
176 See 47 C.F.R. § 0.457(d).

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UT 125

PUBLIC UTILITY COMMISSION OF OREGON

UT 125, Phase II

RECEIVED

APR 09 2001

Public Utility Commission of Oregon
Administrative Hearings Division

STAFF TESTIMONY

OF

LANCE L. BALL
CYNTHIA VANLANDUYT
THOMAS A. TURNER
DAVID L. SLOAN
JAMES R. STANAGE

Rate Design

DOCKETED

April 10, 2001

CASE: UT 125, Phase II
WITNESS: Lance L. Ball

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 1

Direct Testimony

Rate Spread

April 10, 2001

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Lance L. Ball. The Public Utility Commission of Oregon (Commission) employs me. I am the Program Manager of Telecommunications Rates and Technical Analysis. My address is: Telecommunications Division, Utility Program. My business address is 550 Capitol Street NE, Suite 215, Salem, Oregon 97301-2551.

Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. Please refer to my qualification statement in Exhibit Staff/2, Ball/1(RD).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I present a summary of staff's rate spread proposal in UT 125, the Qwest Corporation (Qwest) rate case.

Q. BEFORE YOU SUMMARIZE STAFF'S RATE SPREAD PROPOSAL, ARE THERE ANY PRELIMINARY MATTERS YOU WISH TO DISCUSS?

A. Yes. In Order No. 00-481, the Commission established geographic boundaries in connection with the deaveraging of unbundled network elements. In its order, the Commission created three deaveraged "rate zones." Since the order was issued, Qwest has made rate filings in UM 731 and in UT 125. In both filings, the company proposes the retail rate deaveraging of certain services, at least in part because of the wholesale deaveraging accomplished through Order No. 00-481. In its two retail filings and supporting testimonies, Qwest appears to use the term "rate group" in a way that is synonymous with the Commission's use of the term rate zone in

Order No. 00-481, although it uses the term rate zone on occasion. For the sake of consistency, staff will also use the term rate group with the understanding that it has the same meaning as "rate zone."

Q. WHAT IS STAFF'S OVERALL PROPOSAL?

A. I propose net revenue reductions amounting to $64,232,454. I propose these reductions for thirteen service categories. I also propose increasing revenues in three service categories. Please see Exhibit Staff/2, Ball/1(RD). Exhibit Staff/2, Ball/2(RD) shows the staff-proposed rate spread breakdown between residential and business classes of service.

Q. WHAT IS THE COMPANY'S OVERALL PROPOSAL?

A. The Qwest rate spread proposal is shown in Exhibit Staff/2, Ball/3(RD). This exhibit also highlights the gross revenue differences between the company proposal and the staff proposal. The company proposes reductions of approximately $64,203,000.[1] Like staff, Qwest's proposed reductions are divided among thirteen service categories. The company proposes increasing revenues in two service categories as well. Staff and company agree on increasing revenues in one service category (Residential Line Installation Nonrecurring Charges), but differ on the amount of proposed

[1] Qwest filed Advice No. 1849 on November 15, 2000. This filing represents Qwest's rate design proposal to reduce revenues by $64.2 million. Advice No. 1849 withdrew and replaced Advice No. 1806 and Transmittal No. 99-014-PL in their entirety. Replacement sheets for Advice No. 1849 were filed on November 17, 2000. On March 19, 2001, Qwest filed a modified portion of Attachment B to Advice No. 1849 entitled "Revised UT 125 Rate Spread." Staff views this "filing" as a revision to Advice No. 1849.

revenue increases to Residential Local Exchange Service category.[2] With respect to Private Line Service, staff is proposing a revenue increase. Qwest is proposing a private line increase as well.[3] In Exhibit Staff/2, Ball/3(RD), the difference between the staff proposal and company proposal may also be seen. Negative numbers in the third column of this exhibit may be interpreted as a proposed increase in the magnitude of the company-proposed adjustment. Positive numbers may be interpreted as a proposed reduction in the magnitude of the company-proposed adjustment.

Q. WHICH STAFF MEMBERS ARE TESTIFYING TO THE VARIOUS RATE DESIGN ELEMENTS?

A. Cynthia Van Landuyt is testifying to Issues 1 and 2, Switched Access Service and Private Line Service rate design. See Exhibits Staff/3, Staff/4, Staff/5, Staff/6, and Staff/7. Tom Turner is testifying to Issue 3, Message Toll Services rate design. See Exhibits Staff/8, Staff/9, Staff/10, Staff/11, and Staff/12. David Sloan is testifying to Issues 4, 5, 6, 7, and 8, which are, respectively, Features, Features—Nonrecurring Charges, CENTREX Services, and Listing Services rate design. See Exhibits Staff/13, Staff/14, and Staff/15. Last, Jim Stanage is testifying to Issues 9, 10, 11, 12, and 13, which are, respectively, Extended Area Service (EAS), Advanced Services, Business Local Exchange service, Residential Local Exchange service, and

---

[2] Staff proposes an increase in Residential Exchange Access amounting to $969,000. Qwest proposes a revenue increase of approximately $11,492,000. As stated above, staff and company agree on an equal revenue increase in Residential Line Installation Nonrecurring Charges of $1,393,000.

[3] Staff proposes a revenue increase of $305,000. Qwest proposes a revenue increase of $2,570,000.

Residential Nonrecurring Charges, rate design. See Exhibits Staff/16, Staff/17, Staff/18, and Staff/19. Please note the following table for reference.

Rate Design Issue	Staff Analyst	Staff Exhibit Number
Issue 1: Switched Access	Cynthia Van Landuyt	Staff/3, Staff/4, and Staff/5
Issue 2: Private Line	Cynthia Van Landuyt	Staff/3, Staff/6, and Staff/7
Issue 3: Message Toll	Thomas A. Turner	Staff/8, Staff/9, Staff/10, Staff/11, and Staff/12
Issue 4: Features	David Sloan	Staff/13, Staff/14, and Staff/15
Issue 5: Features—Nonrecurring Charges	David Sloan	Staff/13, Staff/14, and Staff/15
Issue 6: Listings	David Sloan	Staff/13, Staff/14, and Staff/15
Issue 7: CENTREX Plus	David Sloan	Staff/13, Staff/14, and Staff/15
Issue 8: CENTREX 21	David Sloan	Staff/13, Staff/14, and Staff/15
Issue 9: EAS	Jim Stanage	Staff/16. Staff/17, Staff/18, and Staff/19
Issue 10: Advanced Services	Jim Stanage	Staff/16, Staff/17, Staff/18, and Staff/19
Issue 11: Business local Exchange	Jim Stanage	Staff/16, Staff/17, Staff/18, and Staff/19
Issue 12: Residential local Exchange	Jim Stanage	Staff/16, Staff/17, Staff/18, and Staff/19
Issue 13: Residential Nonrecurring Charges	Jim Stanage	Staff/16, Staff/17, Staff/18, and Staff/19

As indicated above, staff's testimony is organized according to the thirteen issues in the UT 125 Issues List, dated March 12, 2001, proposed by staff to the Administrative Law Judge. After introductory comments, each staff witness will begin discussion of their respective issue(s) on a separate page for ease of organization and reading.

Q. PLEASE PROVIDE THE HIGHLIGHTS OF STAFF'S CASE.

A. Staff believes its proposal conforms to Oregon statutes, Oregon Administrative Rules, and Commission guidelines and policies prescribing pricing standards for cost-based rates.[4] Basically, staff's rate structure makes eight key recommendations.

First, the staff switched access rate design removes implicit subsidies in current access rates and moves rates closer to Qwest's interstate rates.[5]

Second, the staff proposal aligns private line rates by using the deaveraged 2-wire and 4-wire NAC prices from UT 148.[6] The rates are set at a level 15 percent higher over the proposed NAC rates in UT 148.[7]

Third, the staff proposes a state wide postalized rate for message toll service (MTS) of 11 cents per minute during the peak period and 7 cents per minute off-peak.[8]

Fourth, with respect to CENTREX PLUS service, staff proposes to reduce network access facilities (NAFs) by 2.4 percent, reduce usage charges 10

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[4] PUC Orders from the following dockets may be helpful in understanding staff's case: UT 47 (Order No. 88-665), UM 189 (Order No. 89-815), UT 85 (Order No. 90-920), UM 261 (Order No. 91-1140), UM 351 (Order Nos. 94-1056, 96-188, and 96-283), UM 731 (Order No. 00-312 and 00-760), UM 773 (Order Nos. 96-284 and 97-145), UM 806 et al (Order No. 00-234), UM 844 (Order No. 97-239), and UT 148 (Order No. 00-481).

[5] Like the Qwest proposal, it eliminates the present Carrier Common Line (CCL) rate.

[6] See Order No. 00-481 in dockets UT 148 and UM 963.

[7] Other decreases in Digicom 1 Service, Digital Data Services, and DS1 Service net out to an $183,000 decrease in annual revenues. DS3 is not included as it is a deregulated service. See Order No. 00-003 in docket UX 21.

percent, and reduce line charges an average 3.1 percent. Staff proposes to deaverage CENTREX 21 rates pursuant to Order No. 00-481 in docket UT 148.[9]

Fifth, staff proposes rate reductions for Integrated Services Digital Network (ISDN) Basic Rate Service and Primary Rate Service. Staff also proposes rate decreases for Direct Inward Dialing and Digital Switched Services.[10]

Sixth, rates for business local exchange service is reduced approximately 1 percent.[11]

Seventh, in staff's proposal EAS flat rates are reduced by $0.78 for residential and $1.16 for business service, which is a 28 percent reduction to the average EAS flat rate.

Eighth, the staff proposal revises the Qwest residential rate proposal substantially.

Q. ARE THERE OTHER NOTEWORTHY COMPONENTS TO STAFF'S RATE DESIGN PROPOSAL?

A. Yes. Miscellaneous provisions of the staff's proposal include a reduction in business Call Waiting from $3.55 to $2.00 per line per month.[12] A reduction

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[8] In the Qwest proposal, it proposed price distinctions between residential, business, and miscellaneous MTS service. Staff does not make this distinction. Also, the staff proposal includes approximately $6.4 million in traffic stimulation effects.
[9] This represents an overall reduction of approximately 1.2 percent in CENTREX 21 revenues.
[10] With respect to Digital Switched Services, rates are not deaveraged.
[11] In its Oregon Universal Fund (OUSF) revenue neutral filing made under Advice No. 1844, Qwest has proposed reductions of 16.3 percent for business local exchange service. The Commission in the March 6, 2001 public meeting approved this proposal.
[12] Residential Call Waiting is reduced from $3.85 to $3.00 per month.

in residential CALLER ID (name and number) from $6.50 to $5.00 per line per month per month is also recommended. Residential Non Published Listings are reduced from $0.75 to $0.65 per month. Residential Non Listed Service is reduced from $0.50 to $0.35 per month. Staff proposes to reduce measured EAS rates, for residential and business customers, by 40 percent, producing a measured EAS rate of 3 cents per minute.

Staff's local rates differ from Qwest's proposed local rates even though the deaveraging plan is similar.[13] Thirty exchanges are in Rate Group 1, which represents 92 percent of subscriber lines. Staff proposes to leave the current residential local access rate of $12.80 for Rate Group 1 unchanged. However, staff proposes to increase Rate Group 2 and 3 local access rates $1.00 and $2.00 respectively to $13.80 and $14.80. In the case of business local access, staff proposes Rate Group 1 rate decrease to $26.00 from a current level of $26.40.[14] Staff reduces the Rate Group 2 and 3 business local access rates of $28.90 and $30.85 respectively to $28.50.

Pursuant to Order No. 00-312 in UM 731 (Oregon Universal Service Fund investigation), Qwest made a revenue-neutral filing, i.e., a rate reduction under Advice No. 1844, which offset its Oregon Universal Service Fund distribution.[15] Staff's local exchange access rate design proposal in this

[13] See Order No. 00-481 in dockets UT 148 and UM 963. Deaveraged local rates do not extend to ISDN-PRS or DSS services. They do apply, however, to ISDN-BRS, CENTREX, and private line service.
[14] The $26.40 business rate results from Qwest's Advice No. 1844, which is the OUSF revenue neutral filing. In that filing, Qwest reduced Rate Group 1 business rates from $30.87 to $26.40.
[15] See Order No. 00-312, in docket UM 731, dated June 19, 2000, page 29.

docket assumes that Qwest Advice No. 1844 is in effect and represents the starting point of staff's UT 125 rate design.

Although the staff proposal does not reduce rates for residence exchange service, the staff proposal makes significant rate reductions to many services that residential customers use. Services such as EAS, toll and features are examples of additional services in which residential customers would experience rate reductions. See Exhibits Staff/9, Staff/14, and Staff/17 for further details.

Q. WHAT BASIC CONSIDERATIONS DID STAFF ASSUME IN PREPARING ITS CASE?

A. In devising the rate design, staff had three considerations foremost in its mind. The first is Senate Bill 622, now codified in relevant part as ORS 759.400 through 759.455. The second is docket UM 731, which deals with the Oregon Universal Service Fund. The third is docket UT 148, which geographically deaveraged Qwest's unbundled loop prices.

ORS 759.405 allows a telecommunications utility to elect price cap regulation in exchange for committing to specific infrastructure investments.[16] ORS 759.410 and ORS 759.425 deal with price cap regulation and the establishment of a competitively neutral Oregon Universal Service Fund that ensures basic telephone service is available to all Oregonians at reasonable and affordable rates.

[16] Qwest elected price cap regulation on November 30, 1999, effective December 30, 1999.

Under the law's price cap regulation regime, services are divided into "basic" and "non-basic" services. ORS 759.400 requires the Commission to define by rule basic telephone service. The Commission adopted OAR 860-032-0260 defining basic telephone service on May 19, 2000. ORS 759.410 grants the Commission wide latitude to determine basic service prices for utilities opting for price cap regulation.

ORS 759.410 also establishes a permanent maximum price, or "price cap," for non-basic services. In brief, price caps are the existing prevailing rates services at the time the company elected price cap regulation. There are also price floors for non-basic services. Finally, the law allows price caps for non-basic services to be adjusted, only once, by the results of this proceeding, UT 125.[17] With respect to Qwest, that makes this proceeding very important because there will be no more opportunities for the Commission to revise non-basic service rates.

ORS 759.425 required the Commission to implement the OUS by September 1, 2000. In Order No. 00-312, the Commission adopted a cost model, determined inputs to the model, estimated average economic costs for Qwest, Verizon, and the other ILECs, determined OUS fund benchmarks, the formula to compute OUS fund support, the size of the OUS fund, recovery of payments to the fund, rate rebalancing based on OUS fund distributions, and other miscellaneous provisions.

Q. WHAT WERE YOUR RATE SPREAD CONSIDERATIONS?

A. Rate spread was determined in a traditional way.[18] We started with switched access and private line services because of the need to move Qwest's access rates closer to its interstate rates and removed implicit subsidies. Staff witness Van Landuyt discusses this further in her testimony. See Exhibit Staff/3. The same is true with respect to private line service, ensuring that private line rates cover the imputed price floor and moving other private line rates closer to UM 844 prices.[19] After switched access and private line rate adjustment needs were identified, the next logical step was to evaluate toll services based on market considerations and revised switched access charges. Staff witness Turner discusses this further in his testimony. See Exhibit Staff/8. Next, for discretionary services, staff identified areas of rate revision based partly on the company's filing and based partly on staff's view of required rate realignments to reflect underlying costs and competition. Staff witness Sloan discusses this in his testimony. See Exhibit Staff/13. Last, based on remaining "residual" monies, staff revised rates for local access rates and Extended Area Service (EAS). Staff witness Stanage discusses this in his testimony. See Exhibit Staff/16.

Q. HOW DOES UM 731 AFFECT STAFF'S PROPOSED RATE DESIGN?

A. Order No. 00-312 in UM 731 required Qwest and Verizon to make revenue neutral filings by September 1, 2000 to offset the distributions from the

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[17] See ORS 759.415.

[18] Traditionally, staff would start rate spread evaluation with message toll services. After a determination was made that either a re-price was or was not necessary, rate spread considerations would proceed through discretionary services and local exchange services as residual rate design categories.

OUSF.[20] Staff, took this directive into account in the current UT 125 staff proposal. With respect to Qwest, having determined the amount of the OUSF distribution, Qwest prepared a revenue-neutral rate filing and submitted the proposal under Advice No. 1844 and Transmittal No. 2000-06-PL.[21] The Qwest revenue neutral filing reduces company revenues by $26.75 million. Through the filing, rates for basic business access lines are reduced by $15.388 million.[22] The filing reduces various miscellaneous business rates by $11.365 million.[23] The revenue neutral filing of Qwest, therefore, was the starting point for staff's UT 125 rate reduction proposal. The Qwest and Verizon revenue neutral filings take effect on April 30, 2001.

Q. WHAT IS THE LAST CONSIDERATION THAT LED TO STAFF'S PROPOSED RATE DESIGN?

A. The last consideration leading to staff's proposal is the result of the Commission decision in docket UT 148, which deals with the deaveraging of wholesale "unbundled network elements" or UNEs. In its case, staff has incorporated deaveraged network access channels, or NACs, consistent with

[19] This is done to mitigate significant increases to the loop component of private line service.

[20] Due to changes in estimated OUSF distributions, new surcharge rates took effect on January 1, 2001 with disbursements to begin on April 30, 2001. See Order No. 00-760 in docket UM 731.

[21] Qwest filed this advice and transmittal on October 9, 2000. Verizon made a revenue neutral filing as well pursuant to the UM 731 final order under Advice No. 719. The Qwest filings were docketed as UT 152 and the Verizon filing was docketed as UT 153. A workshop was held on February 21, 2001 for each of the respective company filings. The Qwest and Verizon filings were taken to the March 6, 2001 public meeting by staff. At that public meeting, the Commission approved Qwest and Verizon's revenue neutral filings.

[22] Reductions were applied to one-party flat rate business access lines, complex business access lines, PBX trunks, and basic public access lines.

[23] Reductions were applied to Direct Inward Dialing (DID) terminations, blocked and unblocked CENTREX PLUS service, CENTREX 21 service, ISDN-PRS, Digital Switched Services (DSS), 800 Service Line and OUTWATS service, Business Custom Choice service, and Uniform Access Solution Connection.

the final order in UT 148.[24] Staff incorporates deaveraged NACs for private line service, CENTREX services, and residential and business local exchange services. Staff witnesses Van Landuyt, Turner, Sloan, and Stanage discuss how they incorporate NAC deaveraging in their respective proposals. See Exhibits Staff/3, Staff/13, and Staff/16.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

[24] See Order No. 00-481 in docket UT 148.

CASE: UT 125, Phase II
WITNESS: Lance L. Ball

PUBLIC UTILITY COMMISSION
OF
OREGON

STAFF EXHIBIT 2

Exhibits in Support of Direct Testimony

Rate Spread

April 10, 2001

Qualification Statement of Lance L. Ball

Manager of Rates and Technical Analysis, PUC of Oregon

Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I received Bachelor of Science and Master of Science degrees in economics from the University of Utah in 1974 and 1976, respectively. From 1976 to 1977, I engaged in postgraduate studies at the University of Edinburgh in Scotland. I received a Bachelor of Science degree in finance from the University of Utah in 1979. Since 1979, when I joined the PUC, I have received training in revenue requirements analysis, cost separation analysis; toll/access charge analysis, and econometric forecasting from schools such as Michigan State University and the University of Washington.

Q. HAVE YOU PARTICIPATED IN OTHER TELECOMMUNICATIONS DOCKETS?

A. Yes. I have participated in many PUC telecommunications dockets since 1979. Most recently, I presented testimony in Docket UM 936 *et al*, a consolidated investigation of Extended Area Service (EAS) dealing with seven separate EAS petitions, involving six connecting local exchange carriers in eleven local exchanges in Oregon which affect local exchange and EAS rates of approximately 143,550 Oregonians. With respect to UT 125, I presented testimony during Phase I on annualization adjustments to test year revenues.

Docket UT 125
Staff-Recommended Rate Spread
By Major Service Category

Service Category	Revenue Reductions
Switched Access Service	($21,786,187)
Private Line Service	$304,781
Message Toll Service	($23,374,000)
Features	($6,868,874)
Features-nonrecurring charges	($729,744)
Listing Services	($237,196)
CENTREX PLUS	($726,124)
CENTREX 21	($12,411)
Extended Area Service	($11,320,726)
Advanced Services	($712,697)
Business Local Exchange Access	($1,283,050)
Residential Local Exchange Access	$1,120,844
Residential-nonrecurring charges	$1,392,930
Total Reductions	($64,232,454)[1]

LB/Af001996-testimony

[1] The spread is ($36,429,395), or 56.71 percent of reductions, to business services. The residential share is ($27,803,679), or 43.29 percent of reductions.

Docket UT 125
Staff-Recommended Rate Spread
By Customer Class
(in millions of $)

Service Category	Residential	Business
Switched Access		($21.786)
Private Line		$.305
Message Toll	($16.362)	($7.012)
Features	($5.587)	($1.282)
Features-nonrecurring charges	($.730)	
Listings	($.232)	($.005)
CENTREX PLUS		($.726)
CENTREX 21		($.012)
Extended Area Service	($7.319)	($4.000)
Advanced Services		($.713)
Business Local Exchange Access		($1.283)
Residential Local Exchange Acc	$1.121	
Residential-nonrecurring charges	$1.393	
Rate Class Reductions	($27.716)	($36.514)
Total Reductions		($64.230)

Lb/AF001997-testimony

Docket UT 125
Comparison of Rate Spread
Between Qwest Communications and Staff
By Major Service Category
(in millions of $)

Service Category	(A) Staff Proposed Reductions	(B) Company Proposed Reductions	(A)-(B) Difference
Switched Access	($21.786)	($15.999)	($5.787)
Private Line	$.305	$2.570	($2.265)
Message Toll	($23.374)	($31.975)	$8.601
Features	($6.869)	($6.864)	($.005)
Features-NRCs	($.730)	($.729)	($.001)
Listings	($.237)	($.237)	0
CENTREX PLUS	($.726)	($.114)	($.612)
CENTREX 21	($.012)	($.015)	$.003
Extended Area Service	($11.321)	($21.763)	$10.442
Advanced Services	($.713)	($.873)	.160
Bus Local Exchange	($1.283)	($1.089)	($.194)
Res Local Exchange	$1.121	$11.492	($10.371)
Residential-NRCs	$1.393	$1.393	0
Total Reductions	($64.232)	($64.203)	($.029)

CASE: UT 125, Phase II
WITNESS: Cynthia VanLanduyt

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 3

Direct Testimony on

Issue 1. Switched Access Rate Design
Issue 2. Private Line Rate Design

April 10, 2001

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Cynthia Van Landuyt. The Public Utility Commission of Oregon (PUC) employs me as the Program Manager of the Cost Analysis Section of the Telecommunications Division. My business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. My Witness Qualification Statement is found in Exhibit Staff/4, Van Landuyt/1 (RD).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony presents staff's rate design proposals for Switched Access and Private Line services.

Q. DID YOU PREPARE EXHIBITS FOR THIS DOCKET?

A. Yes. I prepared four exhibits. Exhibit Staff/4 contains staff's and Qwest's proposed Switched Access rates. Confidential Exhibit Staff/5 shows the revenue impact of staff's and Qwest's proposed Switched Access rates. Exhibit Staff/6 contains staff's and Qwest's proposed Private Line rates. Confidential Exhibit Staff/7 shows the revenue impact of staff's and Qwest's proposed Private Line rates.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. My testimony is organized as follows:

Issue 1: Switched Access Rate Design 2
Issue 2: Private Line Rate Design 8

ISSUE 1: SWITCHED ACCESS RATE DESIGN

Q. PLEASE SUMMARIZE YOUR SWITCHED ACCESS SERVICE RATE DESIGN PROPOSAL.

A. I propose rate changes to Qwest's Carrier Common Line (CCL), Local Switching and Local Transport access charges. See Exhibit Staff/4, Van Landuyt/2-7 (RD) for the specific rates. My proposal decreases Qwest's intrastate switched access revenues by 71.32 percent or $21.8 million annually. See Confidential Exhibit Staff/5 Van Landuyt/1 (RD), Column D, line 8 and Column C, line 8 respectively. The average access charge rate decreases from 2.8 cents per minute to 0.8 cents. See Confidential Exhibit Staff/5, Van Landuyt/1 (RD), Column A, line 10 and Column B, line 10 respectively.

Q. PLEASE EXPLAIN YOUR CARRIER COMMON LINE RATE DESIGN PROPOSAL.

A. I propose to eliminate the CCL rate. The intrastate CCL rate recovers the portion of the local loop assigned to the intrastate toll/access jurisdiction through the separations process. The CCL is recognized as an implicit subsidy. Congress directed the Federal Communications Commission (FCC) and the states to eliminate implicit subsidies in rates and make them explicit. My CCL rate design proposal decreases Qwest's annual intrastate switched access revenues as shown in Confidential Exhibit Staff/5, Van Landuyt/1 (RD), Column C, line 7.

Q. DO STAFF AND QWEST AGREE ON A CCL RATE DESIGN?

A. Yes. Qwest also proposes to eliminate the CCL rate.

Q. PLEASE DISCUSS YOUR LOCAL TRANSPORT AND LOCAL SWITCHING RATE DESIGN PROPOSAL.

A. For the majority of the Local Transport rates, I propose setting rates approximately equal to Qwest's current approved interstate access rates where those rates are above UM 844 and UT 148 prices. I propose decreasing the Local Switching rate from \$0.005999 per minute to \$0.00438. See Exhibit Staff/4, Van Landuyt/7 (RD), Column D, lines 87 and 88 and Column C, lines 87 and 88 respectively. I also include new access charge elements adopted by the FCC in its access charge reform docket 96-262, FCC Order 97-158[1]. The new elements are End Office Shared Port, Common Transport Multiplexing, Tandem Trunk Port and End Office Dedicated Trunk Port. I propose mirroring Qwest's interstate rates for these elements. My Local Switching rate design decreases Qwest's annual intrastate access revenues as shown in Confidential Exhibit Staff/5, Van Landuyt/1 (RD), Column B, line 6. My Local Transport rate design increases Qwest's annual intrastate access revenues as shown in Confidential Exhibit Staff/5, Van Landuyt/1 (RD), Column B, line 5. The increase is due to the introduction of the new access charge elements.

Q. PLEASE EXPLAIN THE REASONS FOR YOUR PROPOSED LOCAL SWITCHING AND LOCAL TRANSPORT RATE DESIGN.

A. First, this rate design docket is the final opportunity for the Commission to set the price caps for Qwest's intrastate switched access rates. ORS 759.410(d)(3) states

> "...the regular tariff rate of intrastate switched access and retail telecommunications services regulated by the commission, other than basic telephone service in effect on the date the carrier elects to be subject to this section and ORS 759.405 shall be the maximum price the telecommunications carrier may charge for that service."

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[1] *Access Charge Reform*, CC Docket No. 96-262, *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *Transport Rate Structure and Pricing*, CC Docket 91-213 and *End User Common Line Charges*, CC Docket 95-72 , FCC 97-158 (May 16, 1997).

Qwest's election was effective December 30, 1999, however the permanent price caps will be set in this docket. Second, I propose aligning the rates for Switched Access Direct Trunked Transport and Private Line Transport. These services use the same facilities and should charge the same rate whether the facilities are used to provide switched or private line transport. Finally, moving Qwest's intrastate access rates closer to interstate rates will decrease arbitrage opportunities between the interstate and intrastate jurisdictions.

Q. PLEASE EXPLAIN THE ARBITRAGE PROBLEM.

A. Interexchange carriers (IXCs) purchase access services from Qwest to originate and terminate toll calls to Qwest end users. The IXCs self-report to Qwest the jurisdiction of the traffic through the Percent Interstate Usage (PIU). Qwest uses the PIU when billing its access charges and recording the revenues. The actual usage, however, is captured through Qwest's traffic studies. These studies identify the originating and terminating number so that the jurisdictional determination can be made, i.e., interstate or intrastate. There is incentive for the IXC to report usage, through the PIU, in the jurisdiction with the most favorable rates. The result is a mismatch between usage and revenues, e.g., actual usage is intrastate but the revenues will be recorded as interstate.

Q. QWEST WITNESS MCINTYRE, BEGINNING AT QWEST/209, MCINTYRE/32, LINE 2, STATES THE COMPANY IS NOT CONCERNED ABOUT ARBITRAGE ISSUES BECAUSE OF ITS AUDITING ABILITY. DO YOU AGREE?

A. No. With Qwest under a Price Cap Plan in the interstate jurisdiction and intrastate regulation under ORS 759.410, there is little incentive for Qwest to vigorously pursue misreporting problems. The reason is that Qwest's intrastate regulation is not based on earnings or rate of return. Other obligations, however, such as the Oregon Universal Service fund, the federal Universal Service Fund and various regulatory fees rely on accurate reporting by jurisdiction. For these reasons, decreasing arbitrage incentives is important.

Q. QWEST WITNESS MCINTYRE, AT QWEST/209, MCINTYRE/26, LINES 1-3, ALSO DISCUSSES BRINGING INTRASTATE LOCAL TRANSPORT RATES MORE IN LINE WITH INTERSTATE RATES GENERALLY. HOW DOES QWEST'S LOCAL TRANSPORT RATE DESIGN COMPARE TO YOURS?

A. Although we state the same goal, Qwest's proposed rates would generate 50.5 percent more revenue than Qwest's approved interstate rates would using test period demand. The majority of the increase is attributed to Qwest's proposed increase in the Tandem Switching rate from $0.00333 per minute to $0.005. Qwest witness McIntyre discusses adopting new price elements introduced in the interstate jurisdiction. Specifically beginning at Qwest/209, McIntyre/26, line 20, McIntyre discusses the Tandem Trunk Port rate element. He explains that this element was previously included in the Tandem Switching rate element. Therefore, if the new element will recover a portion of the costs previously recovered in the Tandem Switching rate, it would follow that the Tandem Switching rate should decrease to avoid double recovery. My Local Transport rate design adds the new rate elements, lowers the Tandem Switching rate and generates only 1.4 percent more revenue than Qwest's current interstate rates would using test period demand. Clearly my Local Transport rate design better achieves the stated goal.

Q. PLEASE COMPARE YOUR LOCAL SWITCHING RATE DESIGN TO QWEST'S.

A. I propose decreasing the Local Switching rate 26.99 percent while Qwest proposes increasing the rate 31.66 percent. See Confidential Exhibit Staff/5, Van Landuyt/1 (RD), Column D, line 6 and Column H, line 6 respectively. As discussed above, Qwest witness McIntyre proposes adopting new price elements introduced in the interstate jurisdiction. Specifically at Qwest/209, McIntyre/27, lines 9-20, McIntyre discusses the End Office Shared Port and End Office Dedicated Trunk Port rate elements. He explains that both elements were previously included in the Local Switching rate element. Again, if new elements will recover a portion of the costs previously recovered in the Local Switching rate, then the Local Switching rate should decrease to avoid double recovery.

Q. WHY ARE YOU NOT PROPOSING TO SET THE LOCAL SWITCHING RATE APPROXIMATELY EQUAL TO QWEST'S INTERSTATE RATE?

A. In this docket, Qwest's final rate design docket, the staff witnesses reviewed many rates for various classes of customers. Staff's intrastate Switched Access rate design lowers Qwest's intrastate access revenues by $21.8 million or 71 percent. This represents 34 percent of the total $64.2 million revenue reduction. Staff determined this was an equitable share of the total revenue reduction to assign to intrastate access revenues.

Q. WILL THERE BE OTHER OPPORTUNITIES FOR IXCS TO PAY LOWER RATES FOR INTRASTATE ACCESS?

A. There could be. The FCC is seeking comments on the use of Unbundled Network Elements (UNEs) to provide exchange access service.[2] If IXCs are able to purchase UNEs, they will forego the purchase of switched access for the lower UNE rates.

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[2] *Implementation of the Local Competition Provisions Of the Telecommunications Act of 1996,* CC Docket No. 96-98, Public Notice, DA 01-169 (January 24, 2001).

Q. WHAT IS YOUR RECOMMENDATION REGARDING QWEST'S SWITCHED ACCESS RATES IN THIS DOCKET?

A. The Commission should adopt my proposed switched access rate design. The rate design removes implicit subsidies from intrastate access charges, aligns the switching and private line transport rates and sets rates closer to Qwest's interstate rates and rate structure to decrease arbitrage.

ISSUE 2: PRIVATE LINE RATE DESIGN

Q. PLEASE SUMMARIZE YOUR PRIVATE LINE RATE DESIGN.

A. I propose rate changes to various Private Line services. See Exhibit Staff/6, Van Landuyt/1-14 (RD) for the specific rates. My proposal increases Qwest's intrastate private line revenues by 1.63 percent or $0.305 million. See Confidential Exhibit Staff/7, Van Landuyt/1 (RD), Column D, line 14 and Column C, line 14 respectively.

Q. PLEASE EXPLAIN YOUR PRIVATE LINE RATE DESIGN.

A. First, I propose setting Qwest's rates, other than the Network Access Channel (NAC) rates, at approximately 25 percent over the UM 844 UNE prices. A Competitive Local Exchange Carrier (CLEC) can purchase either UNEs or a bundled service such as private line for resale. When purchased for resale, a wholesale discount applies to the retail price. The Commission is investigating wholesale discounts in PUC docket UM 962. The investigation is ongoing. My markup over UM 844 prices assures that when a CLEC orders private line services for resale, the discounted rate will not be lower than the sum of the UNE rates required for the equivalent bundled service. Second, I propose deaveraged 2-wire and 4-wire NAC termination rates. These rates reflect the final deaveraged 2-wire and 4-wire NAC prices adopted by the Commission in UT 148, with a 13 to 18 percent markup. I applied a lower markup for these rates because of the significant rate increases proposed, especially in Rate Groups 2 and 3. The rates also reflect Qwest's geographic zones adopted in UT 148. Third, as stated in my discussion under switched access rate design, I propose aligning the private line and switched access transport rates.

Q. PLEASE DISCUSS YOUR ANALOG PRIVATE LINE RATE DESIGN.

A. Qwest's Analog Private Line offerings include Low Speed Data Service, Voice Grade Service, Local Area Data Service, Audio Service, Remote Central Office Service, Simultaneous Voice Data Service, Exchange Service Extensions and Telephone Answering Service. My rate design proposal increases the 2-wire and 4-wire NACs used by all these services to cover the UT 148 price floors, deaverages the NAC rates into three rate groups, aligns the transport rates for all Analog services and lowers the majority of the Channel Performance and Optional Features and Functions rates.

Q. AT QWEST/209, MCINTYRE/11, LINES 14-17, MCINTYRE PROPOSES TO TRANSITION THE NAC RATES IN RATE GROUPS 2 AND 3 OVER TWO-YEAR AND FIVE-YEAR PERIODS RESPECTIVELY. DO YOU ALSO PROPOSE A TRANSITION?

A. No. Based on ORS 759.410, retail rates must cover the price floor. The current 2-wire and 4-wire NAC rates are below the price floor. Qwest's proposed transition would have these rates below the price floor during the transition period and, therefore, should not be adopted.

Q. BEGINNING AT EXHIBIT QWEST/209, MCINTYRE/12, LINE 20, MCINTYRE DISCUSSES APPLYING THE PRICE FLOOR TEST TO THE COMBINED RATES FOR A NAC AND CHANNEL PERFORMANCE. DO YOU AGREE WITH HIS TESTIMONY?

A. No. First, for many analog services, there are numerous channel performance options, so unless all channel performance rates are priced well above cost, there could be combinations which would not meet the price floor test. Second, I interpreted the price floor test to apply to each rate contained in Qwest's private line tariff. There are no tariff rates for a combination of NAC and Channel Performance. To ensure that all combinations of NACs, Channel Performance and Features and Functions meet the test, my rate design sets all tariff rates above the UM 844 or UT 148 price floor.

Q. HOW DOES THE IMPACT OF YOUR ANALOG PRIVATE LINE RATE DESIGN COMPARE TO QWEST'S PROPOSAL?

A. My proposal increases intrastate analog private line revenues by 12.52 percent. Qwest's proposal increases revenues by 23.47 percent. See Confidential Exhibit Staff/7, Van Landuyt/1 (RD), Column D, line 9 and Column H, line 9 respectively.

Q. PLEASE DISCUSS YOUR DIGITAL PRIVATE LINE RATE DESIGN.

A. Qwest's regulated digital private line offerings include Digicom 1, Digital Data and DS1 Service. My rate design proposal increases the Digicom 1 and Digital Data Service 2-wire and 4-wire NAC rates to cover the UT 148 price floors, deaverages the NAC rates into three rate groups, decreases the Channel Performance and Features and Functions rates for all digital private line services and aligns the DS1 monthly transport rates with the Switched Access DS1 transport rates.

Q. HOW DOES YOUR DIGITAL PRIVATE LINE RATE DESIGN IMPACT COMPARE TO QWEST'S?

A. My proposal decreases digital private line revenues by 25.46 percent. Qwest's proposal decreases revenues by 13.14 percent. See Confidential Exhibit Staff/7, Van Landuyt/1 (RD), Column D, line 13 and Column H, line 13 respectively. Beginning at Qwest/209, McIntyre/20, line 17, McIntyre discusses offsetting analog private line rate increases with DS1 decreases. He states many customers have many types of private lines and reducing DS1 may help reduce the impact of analog increases. Accepting this as a true statement, I propose a 24.78 percent decrease in DS1 revenues. See Confidential Exhibit Staff/7, Van Landuyt/1 (RD), Column H, line 12 and Column D, line

12 respectively. Qwest, however, proposes only a 15.23 percent decrease in DS1 revenues.

Q. WHAT IS YOUR RECOMMENDATION REGARDING PRIVATE LINE RATE DESIGN?

A. The Commission should adopt my proposed private line rate design. My rate design sets rates to cover the UM 844 and UT 148 price floors, reduces Channel Performance and Features and Function rates to help offset the 2-wire and 4-wire NAC increases and aligns the private line and switched access transport rates. My rate design proposal clearly offsets analog private line increases with digital decreases because my proposal increases total private line revenues by only 1.63 percent as compared to Qwest's proposal which increases total private line revenues by 12.98 percent.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

CASE: UT 125, Phase II
WITNESS: Cynthia VanLanduyt

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 4

Exhibit in Support of Direct Testimony

Issue 1. Switched Access Rate Design

April 10, 2001

NAME: CYNTHIA A. VAN LANDUYT

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: PROGRAM MANAGER, COST ANALYSIS SECTION
TELECOMMUNICATIONS DIVISION

ADDRESS: 550 Capitol Street NE
Salem, Oregon 97310-1380

EDUCATION AND TRAINING: Graduated from Viterbo College in Wisconsin in 1979 with a Bachelor of Science degree. Graduated from the University of Oregon in 1983 with a Master of Science degree in accounting. Passed the Uniform Certified Public Accounting exam in November 1982. Attended the USTA Separations Course at Michigan State University. Appointed to FCC 80-286 Federal-State Joint Board on Separations in April 1996 as a state staff person.

WORK EXPERIENCE: Joined the PUC's Utility Program in October 1983. Worked in the Fiscal Audit division until September 1984. Worked in the Telecommunications Division since 1984 as an Economic Analyst and Senior Revenue Requirements Analyst. Assumed current Program Manager position in October 1994. Testified before the Commission as the expert witness on separations and access charges in numerous rate case proceedings, annual OECA access charge filings and EAS cases.

UT 125 Rate Design Switched Access Service	A	B	C	D
Service	UM 844 Price Floor	Qwest Proposed Rates	Staff Proposed Rates	Current Rates
1 **DIRECT TRUNKED TRANSPORT (DTT)**				
2 DTT VG FIXED - 0 MILES				
3 DTT VG FIXED - OVER 0 TO 8 MILES	$20.32	$25.96	$25.50	$26.33
4 DTT VG FIXED - OVER 8 TO 25 MILES	$20.32	$25.96	$25.50	$26.33
5 DTT VG FIXED - OVER 25 TO 50 MILES	$20.32	$25.96	$25.50	$26.33
6 DTT VG FIXED - OVER 50 MILES	$20.32	$32.45	$25.50	$26.33
7 DTT VG FIXED - SUBTOTAL				
8 DTT VG VAR - 0 MILES				
9 DTT VG VAR - OVER 0 TO 8 MILES	$0.09	$0.17	$0.12	$0.17
10 DTT VG VAR - OVER 8 TO 25 MILES	$0.08	$0.17	$0.12	$0.17
11 DTT VG VAR - OVER 25 TO 50 MILES	$0.11	$0.17	$0.14	$0.17
12 DTT VG VAR - OVER 50 MILES	$0.08	$0.52	$0.14	$0.20
13 DTT VG VAR - SUBTOTAL				
14 TOTAL VG - DIRECT TRUNKED				
15 FIXED				
16 VARIABLE				
17 TOTAL				

Staff/4
Van Landuyt/2 (RD)

UT 125 Rate Design
Switched Access Service

Service	A UM 844 Price Floor	B Qwest Proposed Rates	C Staff Proposed Rates	D Current Rates
18 DTT DS1 FIXED - 0 MILES				
19 DTT DS1 FIXED - OVER 0 TO 8 MILES	$39.05	$86.50	$65.00	$86.50
20 DTT DS1 FIXED - OVER 8 TO 25 MILES	$39.05	$109.85	$75.00	$111.21
21 DTT DS1 FIXED - 0VER 25 TO 50 MILES	$39.05	$116.35	$90.00	$116.35
22 DTT DS1 FIXED - OVER 50 MILES	$39.05	$127.99	$98.00	$130.00
23 DTT DS1 FIXED - SUBTOTAL				
24 DTT DS1 VAR - 0 MILES				
25 DTT DS1 VAR - OVER 0 TO 8 MILES	$0.50	$13.55	$8.00	$13.55
26 DTT DS1 VAR - OVER 8 TO 25 MILES	$0.87	$14.19	$8.60	$14.38
27 DTT DS1 VAR - OVER 25 TO 50 MILES	$1.19	$14.63	$9.00	$14.51
28 DTT DS1 VAR - OVER 50 MILES	$1.20	$15.11	$9.50	$15.05
29 DTT DS1 VAR - SUBTOTAL				
30 TOTAL DS1 - DIRECT TRUNKED				
31 FIXED				
32 VARIABLE				
33 TOTAL				

Staff/4
Van Landuyt/3 (RD)

UT 125 Rate Design
Switched Access Service

	A	B	C	D
Service	**UM 844 Price Floor**	**Qwest Proposed Rates**	**Staff Proposed Rates**	**Current Rates**
34 DTT DS3 FIXED - 0 MILES				
35 DTT DS3 FIXED - OVER 0 TO 8 MILES	$260.53	$714.84	$480.00	$724.84
36 DTT DS3 FIXED - OVER 8 TO 25 MILES	$260.53	$714.84	$480.00	$724.84
37 DTT DS3 FIXED - OVER 25 TO 50 MILES	$260.53	$714.84	$480.00	$724.84
38 DTT DS3 FIXED - OVER 50 MILES	$260.53	$805.44	$500.00	$815.44
39 DTT DS3 FIXED - SUBTOTAL				
40 DTT DS3 VAR - 0 MILES				
41 DTT DS3 VAR - OVER 0 TO 8 MILES	$10.24	$78.90	$50.00	$78.90
42 DTT DS3 VAR - OVER 8 TO 25 MILES	$10.49	$78.90	$50.00	$78.90
43 DTT DS3 VAR - OVER 25 TO 50 MILES	$14.69	$80.73	$55.00	$80.73
44 DTT DS3 VAR - OVER 50 MILES	$21.73	$91.74	$60.00	$91.74
45 DTT DS3 VAR - SUBTOTAL				
46 TOTAL DS3 - DIRECT TRUNKED				
47 FIXED				
48 VARIABLE				
49 TOTAL				
50 END OFFICE DEDICATED TRUNK PORT		$9.01	$6.50 Avg./Min.	
51 **TOTAL DIRECT TRUNKED TRANSPORT**				

Staff/4
Van Landuyt/4 (RD)

UT 125 Rate Design
Switched Access Service

Service	A UM 844 Price Floor	B Qwest Proposed Rates	C Staff Proposed Rates	D Current Rates
52 **TANDEM SWITCHED TRANSPORT**				
53 TANDEM TRANSMISSION (TT)				
54 TT FIXED - 0 MILES				
55 TT FIXED - OVER 0 TO 8 MILES	$0.000372	$0.000199	$0.000410	$0.000182
56 TT FIXED - OVER 8 TO 25 MILES	$0.000372	$0.000255	$0.000410	$0.000191
57 TT FIXED - OVER 25 TO 50 MILES	$0.000372	$0.000263	$0.000410	$0.000193
58 TT FIXED - OVER 50 MILES	$0.000372	$0.000265	$0.000410	$0.000212
59 TT FIXED - SUBTOTAL				
60 TT VARIABLE - 0 MILES				
61 TT VARIABLE - OVER 0 TO 8 MILES	$0.000005	$0.000020	$0.000010	$0.000017
62 TT VARIABLE - OVER 8 TO 25 MILES	$0.000007	$0.000023	$0.000012	$0.000017
63 TT VARIABLE - OVER 25 TO 50 MILES	$0.000006	$0.000023	$0.000015	$0.000018
64 TT VARIABLE - OVER 50 MILES	$0.000012	$0.000023	$0.000018	$0.000020
65 TT VARIABLE - SUBTOTAL				
66 TOTAL TANDEM TRANSMISSION				
67 FIXED				
68 VARIABLE				
69 TOTAL				
70 TANDEM SWITCHING	$0.001596	$0.005000	0.003000	$0.003333
71 END OFFICE SHARED PORT		$0.001300	0.000902	$0.000000
72 COMMON TRANSPORT MULTIPLEXING		$0.000419	0.000030	$0.000000
73 TANDEM TRUNK PORT		$6.59	$5.24	$0.00
74 **TOTAL TANDEM SWITCHED TRANSPORT**				

Staff/4
Van Landuyt/5 (RD)

UT 125 Rate Design
Switched Access Service

Service	A UM 844 Price Floor	B Qwest Proposed Rates	C Staff Proposed Rates	D Current Rates
75 ENTRANCE FACILITY				
76 VG ENTRANCE FACILITY - Zone 1	$32.69	$64.67	$45.00	$29.94
VG ENTRANCE FACILITY - Zone 2	$55.19			$29.94
VG ENTRANCE FACILITY - Zone 3	$117.21			$29.94
77 DS1 ENTRANCE FACILITY	$90.64	$125.00	$112.00	$117.00
78 DS3 ENTRANCE FACILITY (Electrical)	$374.77	$1,500.00	$500.00	$1,350.00
79 DS3 ENTRANCE (Optical)	$374.77	$943.50	$500.00	
80 **TOTAL ENTRANCE FACILITY**				
81 **MULTIPLEXER**				
82 DS1/VG MULTIPLEXER	$218.98	$250.00	$250.00	$218.40
83 DS3/DS1 MULTIPLEXER	$209.49	$300.00	$275.00	$255.00
84 **TOTAL MULTIPLEXER**				
85 **TOTAL LOCAL TRANSPORT**				

Staff/4
Van Landuyt/6 (RD)

UT 125 Rate Design
Switched Access Service

	Service	A UM 844 Price Floor	B Qwest Proposed Rates	C Staff Proposed Rates	D Current Rates
86	**LOCAL SWITCHING**				
87	ORIGINATING	$0.002423	$0.007898	$0.004380	$0.005999
88	TERMINATING	$0.002276	$0.007898	$0.004380	$0.005999
89	**TOTAL LOCAL SWITCHING**				
90	**CARRIER COMMON LINE**				
91	ORIGINATING		$0.000000	$0.000000	$0.011803
92	TERMINATING		$0.000000	$0.000000	$0.023606
93	**TOTAL CCL**				

Staff/4
Van Landuyt/7 (RD)

CASE: UT 125, Phase II
WITNESS: Cynthia VanLanduyt

PUBLIC UTILITY COMMISSION OF OREGON

CONFIDENTIAL
STAFF EXHIBIT 5

Exhibit in Support of Direct Testimony

Issue 1. Switched Access Rate Design

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 5 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: Cynthia VanLanduyt

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 6

Exhibit in Support of Direct Testimony

Issue 2. Private Line Rate Design

April 10, 2001

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Low Speed Data NAC				
1	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
2	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
3	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
4	4W per termination - Zone 1	$29.50	$34.00	$35.00	$19.60
5	4W per termination - Zone 2	$52.00	$48.00	$60.00	$19.60
6	4W per termination - Zone 3	$114.02	$112.00	$130.00	$19.60
7	**Total Low Speed Data NAC**				
	Low Speed Data Channel Performance				
8	LS1		$8.50	$6.80	$18.70
9	LS2	$5.39	$2.64	$6.80	$2.64
10	MT3		$12.00	$6.80	$1.10
11	TG1 - 0-75 Baud	$10.57	$17.60	$13.00	$17.60
12	TG2 - 0-150 Baud	$11.53	$18.70	$14.50	$18.70
13	LS31 Control Status Channel	$6.36	$9.00	$7.95	$11.77
14	LS31 McCulloh Alarm-type	$3.26	$7.00	$4.00	$3.08
15	LS31 DC Channel	$0.00	$7.00	$1.26	$1.26
16	LS31 Telegraph 0-75 baud	$10.57	$12.50	$12.50	$10.06
17	LS31 Telegraph 0-150 baud	$11.53	$13.50	$13.50	$12.32
18	**Total Low Speed Data Channel Performance**				
	Low Speed Data Private Line Transport				
19	Fixed (analog) Over 0 to 8	$20.32	$20.00	$25.50	$14.20
20	Fixed (analog) Over 8 to 25	$20.32	$20.00	$25.50	$16.60
21	Fixed (analog) Over 25 to 50	$20.32	$20.00	$25.50	$23.60
22	Fixed (analog) Over 50	$20.32	$20.00	$25.50	$40.35
23	Per Mile (analog) Over 0 to 8	$0.09	$1.30	$0.12	$2.70
24	Per Mile (analog) Over 8 to 25	$0.08	$1.40	$0.12	$2.25
25	Per Mile (analog) Over 25 to 50	$0.11	$1.50	$0.14	$1.90
26	Per Mile (analog) Over 50	$0.08	$1.60	$0.14	$1.55
27	**Total Low Speed Data Transport**				
	Optional Features and functions - Low Speed				
28	Direct bridging per port	$1.36	$5.00	$1.75	$1.15
29	McCulloh bridging per port	$0.16	$3.00	$1.00	$5.00
30	Telegraph bridging 0 -75 baud per port	$14.38	$14.50	$16.15	$10.75
31	Telegraph bridging 0 -150 baud per port	$43.56	$35.00	$55.00	$11.20
32	**Total Low Speed Optional Features and Funtions**				
33	**TOTAL LOW SPEED DATA SERVICE**				
	Low speed Data Service - Residential				
34	MT3 Channel Performance		$12.00	$6.80	$1.10
35	DC Channel Performance		$7.00	$1.26	$1.26
36	**TOTAL RESIDENTIAL LOW SPEED DATA SERVICE**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Voice Grade NAC				
39	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
40	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
41	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
42	4W per termination - Zone 1	$29.50	$34.00	$35.00	$19.60
43	4W per termination - Zone 2	$52.00	$48.00	$60.00	$19.60
44	4W per termination - Zone 3	$114.02	$112.00	$130.00	$19.60
45	4W CO termination		$8.00	$1.00	$1.00
46	**Total Voice Grade NAC**				
	Voice Grade Channel Performance				
47	Voice Grade 1 no signalling	$4.85	$7.00	$6.25	$10.45
48	Voice Grade 1 Loop Start Signalling	$5.93	$10.00	$7.50	$12.10
49	Voice Grade 1 Ground Start Signalling	$7.14	$10.00	$9.00	$12.10
50	Voice Grade 2 no signalling	$7.13	$8.85	$9.00	$6.82
51	Voice Grade 2 Loop Start Sig -LA	$9.68	$10.00	$12.00	$11.60
52	Voice Grade 2 Loop Start Sig -LB	$6.72	$9.00	$8.50	$10.94
53	Voice Grade 2 Loop Start Sig -LC	$7.00	$8.85	$8.75	$8.52
54	Voice Grade 2 Loop Start Sig -LO	$4.61	$8.85	$5.75	$8.80
55	Voice Grade 2 Loop Start Sig -LS	$10.96	$11.00	$13.75	$8.80
56	Voice Grade 2 SF Sig	$8.76	$10.00	$11.00	$65.99
57	Voice Grade 2 Manual Ringdown	$21.19	$21.50	$26.50	$11.77
58	Voice Grade 2 Auto Ringdown	$12.07	$21.50	$15.00	$11.66
59	Voice Grade 2 Code Select Ringdown	$18.05	$21.50	$22.50	$31.90
60	Voice Grade 3 no signalling	$3.97	$8.85	$5.00	$8.91
61	Voice Grade 3 Loop Start Sig	$14.25	$14.00	$18.00	$12.10
62	Voice Grade 3 Ground Start Sig	$13.69	$14.00	$17.00	$9.57
63	Voice Grade 3 E & M Sig	$16.50	$18.00	$20.50	$10.34
64	Voice Grade 3 SF Sig	$11.72	$16.00	$14.50	$44.00
65	Voice Grade 3 Reverse Battery Sig	$3.96	$8.85	$5.00	$8.91
66	Voice Grade 3 Duplex Sig DX	$10.51	$10.00	$13.00	$20.02
67	Voice Grade 3 Duplex Sig DY	$10.51	$10.00	$13.00	$19.47
68	Voice Grade 5 no signalling	$7.41	$9.00	$9.25	$16.50
69	Voice Grade 5 Data Stream	$9.05	$12.00	$11.25	$16.66
70	Voice Grade 6 no signalling	$7.26	$9.00	$9.00	$16.50
71	Voice Grade 6 Data Stream	$9.82	$12.00	$12.25	$16.66
72	Voice Grade 7 no signalling	$7.10	$9.00	$9.00	$13.20
73	Voice Grade 7 Loop Start Sig -LA	$11.91	$12.00	$15.00	$26.40
74	Voice Grade 7 Loop Start Sig -LB	$11.76	$11.00	$14.75	$22.00
75	Voice Grade 7 Loop Start Sig -LC	$8.79	$11.00	$11.00	$19.80
76	Voice Grade 7 Loop Start Sig -LO	$6.83	$8.75	$8.50	$11.00
77	Voice Grade 7 Loop Start Sig -LS	$5.80	$9.00	$7.25	$11.00
78	Voice Grade 7 Ground Start Sig	$5.51	$10.00	$7.00	$12.10
79	Voice Grade 7 E & M Sig	$16.96	$16.00	$21.25	$29.70
80	Voice Grade 7 SF Sig	$10.20	$12.00	$12.75	$73.69
81	Voice Grade 7 Duplex Sig DX	$10.40	$17.00	$13.00	$20.02
82	Voice Grade 7 Duplex Sig DY	$10.40	$17.00	$13.00	$19.47

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
83	Voice Grade 8 Loop Start Sig	$18.21	$15.00	$22.75	$72.59
84	Voice Grade 8 E & M Sig	$16.40	$15.00	$20.50	$29.70
85	Voice Grade 8 SF Sig	$12.90	$11.00	$16.25	$11.00
86	Voice Grade 9 No Sig	$7.01	$8.85	$8.75	$15.40
87	Voice Grade 9 E & M Sig	$15.92	$15.00	$20.00	$20.90
88	Voice Grade 9 SF Sig	$12.90	$12.00	$16.25	$25.30
89	Voice Grade 10 No Sig	$4.97	$8.85	$6.25	$4.78
90	Voice Grade 10 Data Stream	$12.18	$11.50	$15.25	$16.66
91	Voice Grade 12 No Sig	$3.98	$8.85	$5.00	$16.50
92	Voice Grade 12 Data Stream	$13.03	$11.50	$16.25	$16.66
93	Voice Grade Basic - No Sig	$2.58	$9.50	$3.25	$1.10
94	Voice Grade 32 no signalling	$5.93	$8.40	$7.50	$6.82
95	Voice Grade 32 Loop Start Sig -LA	$7.12	$8.40	$9.00	$11.60
96	Voice Grade 32 Loop Start Sig -LB	$6.20	$8.40	$7.75	$10.94
97	Voice Grade 32 Loop Start Sig -LC	$5.46	$8.40	$7.00	$8.52
98	Voice Grade 32 Loop Start Sig -LG	$10.05	$8.40	$12.50	$21.23
99	Voice Grade 32 Loop Start Sig -LO	$4.59	$8.40	$5.75	$8.80
100	Voice Grade 32 Loop Start Sig -LS	$5.85	$8.40	$7.25	$8.80
101	Voice Grade 32 Manual Ringdown	$4.67	$14.25	$6.00	$11.77
102	Voice Grade 32 Code Select Ringdown	$4.67	$14.25	$6.00	$14.90
103	Voice Grade 32 Auto Ringdown	$3.60	$14.25	$4.50	$11.66
104	Voice Grade 33 no signalling	$6.34	$9.50	$8.00	$8.91
105	Voice Grade 33 Ground Start Sig	$4.59	$9.75	$5.75	$9.57
106	Voice Grade 33 E & M Sig	$12.87	$12.00	$16.00	$10.34
107	Voice Grade 33 Reverse Battery	$3.71	$9.00	$4.75	$7.81
108	Voice Grade 36 no signalling	$2.58	$9.50	$3.25	$6.71
109	Voice Grade 36 Data Stream	$9.86	$9.60	$12.50	$16.66
110	Voice Grade Basic no signalling	$2.58	$9.50	$3.25	$1.10
111	**Total Voice Grade Channel Performance**				
	Voice Grade Transport				
112	Fixed 0 to 8	$20.32	$20.00	$25.50	$14.20
113	Fixed 8 to 25	$20.32	$20.00	$25.50	$16.60
114	Fixed 25 to 50	$20.32	$20.00	$25.50	$23.60
115	Fixed over 50	$20.32	$20.00	$25.50	$40.35
116	Per Mile 0 to 8	$0.09	$1.30	$0.12	$2.70
117	Per Mile 8 to 25	$0.08	$1.40	$0.12	$2.25
118	Per Mile 25 to 50	$0.11	$1.50	$0.14	$1.90
119	Per Mile over 50	$0.08	$1.60	$0.14	$1.55
120	**Total Voice Grade Transport**				
	Voice Grade Optional Features & Functions				
121	Bridging per port, resistive, 2w	$4.14	$10.00	$5.25	$17.45
122	Bridging per port, resistive, 4w	$4.56	$10.00	$5.75	$12.95
123	Bridge llifter per port	$0.32	$8.00	$1.00	$5.15
124	Split freq bridging per port, 2w	$2.05	$8.00	$2.50	$0.00
125	Split freq bridging per port, 4w	$5.90	$8.00	$7.50	$5.15
126	Passive Bridging per port	$5.23	$8.00	$6.50	$1.00
127	Summation bridging per port		$8.00	$15.55	$15.55

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
128	Transfer arrangement per port 2w		$3.00	$5.50	$5.50
129	Transfer arrangement per port 4w		$4.00	$8.80	$8.80
130	C Conditioning - end/mid link		$2.00	$2.00	$2.00
131	C Conditioning - end/mid link - Improved Envelope Delay		$14.00	$14.60	$14.60
132	Effective 4-wire transmission per NAC	$7.47	$8.00	$9.50	$10.20
133	Equal level echo path loss per NAC		$4.75	$4.75	$4.75
134	Improved return loss per NAC	$3.81	$4.50	$4.75	$3.70
135	Improved termination per NAC		$5.00	$11.90	$11.90
136	Data Channel termination CO powered	$1.93	$3.00	$2.60	$2.60
137	Data Chan termination cust powered		$3.00	$3.55	$3.55
138	**Total Voice Grade Optional Features & Functions**				
139	**TOTAL VOICE GRADE SERVICE**				
	Local Area Data Service				
142	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
143	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
144	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
145	4W per termination - Zone 1	$29.50	$34.00	$35.00	$19.60
146	4W per termination - Zone 2	$52.00	$48.00	$60.00	$19.60
147	4W per termination - Zone 3	$114.02	$112.00	$130.00	$19.60
158	Channel Performance - per Term		$18.00	$1.76	$1.76
149	**TOTAL LOCAL AREA DATA SERVICE**				
	Audio Service NAC				
151	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
152	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
153	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
154	**Total Audio Service NAC**				
	Audio AP1 or AP 31 Transport				
155	Fixed 0 to 8	$20.32	$20.00	$25.50	$14.20
156	Fixed 8 to 25	$20.32	$20.00	$25.50	$16.60
157	Fixed 25 to 50	$20.32	$20.00	$25.50	$23.60
158	Fixed over 50	$20.32	$20.00	$25.50	$40.35
159	Per Mile 0 to 8	$0.09	$1.30	$0.12	$2.70
160	Per Mile 8 to 25	$0.08	$1.40	$0.12	$2.25
161	Per Mile 25 to 50	$0.11	$1.50	$0.14	$1.90
162	Per Mile over 50	$0.08	$1.60	$0.14	$1.55
163	**Total Audio AP1 or AP31 Transport**				
	Audio AP2 or AP 32 Transport				
164	Fixed 0 to 8	$20.32	$35.00	$25.50	$28.40
165	Fixed 8 to 25	$20.32	$35.00	$25.50	$33.20
166	Fixed 25 to 50	$20.32	$35.00	$25.50	$47.20
167	Fixed over 50	$20.32	$35.00	$25.50	$80.70
168	Per Mile 0 to 8	$0.09	$2.30	$0.12	$5.40
169	Per Mile 8 to 25	$0.08	$2.40	$0.12	$4.50
170	Per Mile 25 to 50	$0.11	$2.50	$0.14	$3.80
171	Per Mile over 50	$0.08	$2.60	$0.14	$3.10
172	**Total Audio AP2 or AP32 Transport**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Audio AP3 or AP 33 Transport				
173	Fixed 0 to 8	$20.32	$52.00	$25.50	$42.60
174	Fixed 8 to 25	$20.32	$52.00	$25.50	$49.80
175	Fixed 25 to 50	$20.32	$52.00	$25.50	$70.80
176	Fixed over 50	$20.32	$52.00	$25.50	$121.05
177	Per Mile 0 to 8	$0.09	$3.30	$0.12	$8.10
178	Per Mile 8 to 25	$0.08	$3.40	$0.12	$6.75
179	Per Mile 25 to 50	$0.11	$3.50	$0.14	$5.70
180	Per Mile over 50	$0.08	$3.60	$0.14	$4.65
181	**Total Audio AP3 or AP33 Transport**				
	Audio AP4 or AP 34 Transport				
182	Fixed 0 to 8	$20.32	$100.00	$25.50	$85.20
183	Fixed 8 to 25	$20.32	$100.00	$25.50	$99.60
184	Fixed 25 to 50	$20.32	$100.00	$25.50	$141.60
185	Fixed over 50	$20.32	$100.00	$25.50	$242.10
186	Per Mile 0 to 8	$0.09	$4.30	$0.12	$16.20
187	Per Mile 8 to 25	$0.08	$4.40	$0.12	$13.50
188	Per Mile 25 to 50	$0.11	$4.50	$0.14	$11.40
189	Per Mile over 50	$0.08	$4.60	$0.14	$9.30
190	**Total Audio AP4 or AP34 Transport**				
	Audio Service Channel Performance				
191	Audio AP1 End/Mid link per term	$4.15	$9.00	$5.25	$0.38
192	Audio AP2 End/Mid link per term	$9.90	$13.00	$12.50	$18.70
193	Audio AP3 End/Mid link per term	$11.53	$16.00	$14.50	$19.80
194	Audio AP4 End/Mid link per term	$14.50	$19.00	$18.00	$37.40
195	Audio AP31 End to end per term	$4.07	$9.00	$5.25	$0.38
196	Audio AP32 End to end per term	$8.84	$13.00	$11.25	$14.08
197	Audio AP33 End to end per term	$10.32	$16.00	$13.00	$15.07
198	Audio AP34 End to end per term	$14.50	$19.00	$18.00	$37.40
199	**Total Audio Service Channel Performance**				
	Audio Service Optional Features & functions				
200	AP1/AP31 Bridging	$4.42	$4.50	$5.50	$4.50
201	AP2/AP32 Bridging	$3.78	$4.50	$4.75	$0.85
202	AP3/AP33 Bridging	$2.11	$5.50	$2.75	$1.15
203	AP4/AP34 Bridging	$5.33	$5.50	$6.65	$15.00
204	**Total Audio Service Optional Features & Functions**				
205	**TOTAL AUDIO SERVICE**				
	Qwest Digicom 1 Service NAC				
209	4W per termination - Zone 1	$29.50	$34.00	$35.00	$22.50
210	4W per termination - Zone 2	$52.00	$48.00	$60.00	$22.50
211	4W per termination - Zone 3	$114.02	$112.00	$130.00	$22.50
212	**Total Qwest Digicom 1 Service NAC**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Qwest Digicom 1 Service Transport				
213	Fixed 0 to 8	$20.32	$35.00	$25.50	$14.20
214	Fixed 8 to 25	$20.32	$35.00	$25.50	$16.60
215	Fixed 25 to 50	$20.32	$35.00	$25.50	$23.60
216	Fixed over 50	$20.32	$35.00	$25.50	$40.35
217	Per Mile 0 to 8	$0.09	$0.45	$0.12	$2.70
218	Per Mile 8 to 25	$0.08	$0.45	$0.12	$2.25
219	Per Mile 25 to 50	$0.11	$0.45	$0.14	$1.90
220	Per Mile over 50	$0.08	$0.45	$0.14	$1.55
221	**Total Qwest Digicom 1 Service Transport**				
	Qwest Digicom 1 Service Channel Performance				
222	End to End per term, 2.4 kbps	$13.70	$20.00	$17.00	$36.00
223	End to End per term, 4.8 kbps	$11.24	$20.00	$17.00	$37.50
224	End to End per term, 9.6 kbps	$11.24	$25.00	$17.00	$39.15
225	End to End per term, 56 kbps	$11.24	$30.00	$21.00	$40.50
226	**Total Qwest Digicom 1 Service Channel Performance**				
	Qwest Digicom 1 Service Optional Features & Functions				
227	Bridging per port	$2.38	$10.00	$3.00	$15.00
228	**TOTAL Qwest DIGICOM 1 SERVICE**				
	Qwest Digital Data Service NAC				
230	4W per termination - Zone 1	$29.50	$34.00	$35.00	$22.50
231	4W per termination - Zone 2	$52.00	$48.00	$60.00	$22.50
232	4W per termination - Zone 3	$114.02	$112.00	$130.00	$22.50
233	**Total Qwest Digital Data Service NAC**				
	Qwest Digital Data Service Transport				
234	NonMetro Service Area		$44.90	$31.50	$40.00
	Qwest Digital Data Service Channel Performance				
235	End/mid link per term 2.4 kbps	$13.70	$20.00	$17.00	$50.00
236	End/mid link per term 4.8 kbps	$11.24	$20.00	$17.00	$55.00
237	End/mid link per term 9.6 kbps	$11.24	$25.00	$17.00	$65.00
238	End/mid link per term 19.2 kbps	$11.24	$25.00	$21.00	$70.00
239	End/mid link per term 56 kbps	$11.24	$30.00	$21.00	$75.00
240	End/mid link per term 64 kbps	$13.16	$30.00	$21.00	$80.00
241	End/end link per term 2.4 kbps	$13.70	$20.00	$17.00	$50.00
242	End/end link per term 4.8 kbps	$11.24	$20.00	$17.00	$55.00
243	End/end link per term 9.6 kbps	$11.24	$25.00	$17.00	$65.00
244	End/end link per term 19.2 kbps	$11.24	$25.00	$21.00	$70.00
245	End/end link per term 56 kbps	$11.24	$30.00	$21.00	$75.00
246	End/end link per term 64 kbps	$13.16	$30.00	$21.00	$80.00
247	**Total Qwest Digital Data Service Channel Performance**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Qwest Digital Data Service Optional Features & Functions				
248	Bridging per port	$2.38	$10.00	$3.00	$15.00
249	Secondary channel per pt of termination		$15.00	$15.00	$15.00
250	CO Multiplx per arrgmt up to 20 - 2.4 kbps		$90.00	$90.00	$90.00
251	CO Multiplx per arrgmt up to 10 - 4.8 kbps		$80.00	$80.00	$80.00
252	CO Multiplx per arrgmt up to 5 - 9.6 kbps		$70.00	$70.00	$70.00
253	CO Mux to Mux per arrgmt subr - subr		$8.00	$8.00	$8.00
254	CO Mux to Mux per arrgmt subr - sub/secr		$8.00	$8.00	$8.00
255	CO Mux to Mux per arrgmt DS0 - DS0		$8.00	$8.00	$8.00
256	CO Mux to Mux per arrgmt DS0 - DS0/sec		$8.00	$8.00	$8.00
257	**Total Qwest Digital Data Service Optional Features & Functions**				
258	**TOTAL DIGITAL DATA SERVICE**				
	DS1 Month to Month Service Channel Termination				
260	1 - 5 ckt	$90.64	$137.00	$140.00	$150.00
261	6 + ckt	$90.64	$130.15	$135.00	$142.50
262	**Total DS1 Month to Month Channel Termination**				
	DS1 Month to Month Service Transport				
	1 - 5 ckt:				
263	Fixed 0 to 8	$39.05	$105.00	$65.00	$150.00
264	Fixed 8 to 25	$39.05	$140.00	$75.00	$200.00
265	Fixed 25 to 50	$39.05	$175.00	$90.00	$250.00
266	Fixed over 50	$39.05	$175.00	$98.00	$250.00
267	Per Mile 0 to 8	$0.50	$7.70	$8.00	$11.00
268	Per Mile 8 to 25	$0.87	$10.50	$8.60	$15.00
269	Per Mile 25 to 50	$1.19	$11.90	$9.00	$17.00
270	Per Mile over 50	$1.20	$11.90	$9.50	$17.00
	6 + ckt:				
271	Fixed 0 to 8	$39.05	$105.00	$60.00	$142.50
272	Fixed 8 to 25	$39.05	$140.00	$70.00	$190.00
273	Fixed 25 to 50	$39.05	$175.00	$85.00	$237.50
274	Fixed over 50	$39.05	$175.00	$93.00	$237.50
275	Per Mile 0 to 8	$0.50	$7.70	$7.75	$10.45
276	Per Mile 8 to 25	$0.87	$10.50	$8.25	$14.25
277	Per Mile 25 to 50	$1.19	$11.90	$8.75	$16.15
278	Per Mile over 50	$1.20	$11.90	$9.25	$16.15
279	**Total DS1 Month to Month Transport**				
	DS1 Month to Month Optional Features & Functions				
280	CO Mux DS1 - voice/data	$218.98	$300.00	$280.00	$300.00
281	CO Mux DS1 - DS0	$218.98	$300.00	$280.00	$300.00
282	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
283	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
284	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
285	**Total DS1 Month to Month Optional Features & Functions**				
	DS1 One Year Service Channel Termination				
286	1 - 5 ckt	$90.64	$137.00	$135.00	$141.00
287	6 + ckt	$90.64	$130.15	$130.00	$133.95
288	**Total DS1 One Year Channel Termination**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	DS1 One Year Service Transport				
	1 - 5 ckt:				
289	Fixed 0 to 8	$39.05	$105.00	$62.00	$141.00
290	Fixed 8 to 25	$39.05	$140.00	$72.00	$179.50
291	Fixed 25 to 50	$39.05	$175.00	$86.00	$218.00
292	Fixed over 50	$39.05	$175.00	$94.00	$218.00
293	Per Mile 0 to 8	$0.50	$7.70	$7.60	$10.25
294	Per Mile 8 to 25	$0.87	$10.50	$8.20	$14.10
295	Per Mile 25 to 50	$1.19	$11.90	$8.60	$16.65
296	Per Mile over 50	$1.20	$11.90	$9.10	$16.65
	6 + ckt:				
297	Fixed 0 to 8	$39.05	$105.00	$57.00	$133.90
298	Fixed 8 to 25	$39.05	$140.00	$67.00	$170.53
299	Fixed 25 to 50	$39.05	$175.00	$81.00	$207.10
300	Fixed over 50	$39.05	$175.00	$89.00	$207.10
301	Per Mile 0 to 8	$0.50	$7.70	$7.35	$9.75
302	Per Mile 8 to 25	$0.87	$10.50	$7.85	$13.40
303	Per Mile 25 to 50	$1.19	$11.90	$8.35	$15.82
304	Per Mile over 50	$1.20	$11.90	$8.85	$15.82
305	**Total DS1 One Year Transport**				
	DS1 One Year Optional Features & Functions				
306	CO Mux DS1 - voice/data	$218.98	$300.00	$270.00	$300.00
307	CO Mux DS1 - DS0	$218.98	$300.00	$270.00	$300.00
308	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
309	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
310	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
311	**Total DS1 One Year Optional Features & Functions**				
	DS1 Two Year Service Channel Termination				
312	1 - 5 ckt	$90.64	$133.95	$130.00	$133.95
313	6 + ckt	$90.64	$126.25	$125.00	$127.25
314	**Total DS1 Two Year Channel Termination**				
	DS1 Two Year Service Transport				
	1 - 5 ckt:				
315	Fixed 0 to 8	$39.05	$105.00	$59.00	$133.95
316	Fixed 8 to 25	$39.05	$140.00	$69.00	$170.53
317	Fixed 25 to 50	$39.05	$175.00	$82.50	$207.10
318	Fixed over 50	$39.05	$175.00	$90.50	$207.10
319	Per Mile 0 to 8	$0.50	$7.70	$7.20	$9.74
320	Per Mile 8 to 25	$0.87	$10.50	$7.80	$13.40
321	Per Mile 25 to 50	$1.19	$11.90	$8.20	$15.82
322	Per Mile over 50	$1.20	$11.90	$8.70	$15.82
	6 + ckt:				
323	Fixed 0 to 8	$39.05	$105.00	$54.00	$127.25
324	Fixed 8 to 25	$39.05	$140.00	$64.00	$162.00
325	Fixed 25 to 50	$39.05	$175.00	$77.50	$196.75
326	Fixed over 50	$39.05	$175.00	$85.50	$196.75
327	Per Mile 0 to 8	$0.50	$7.70	$6.95	$9.25
328	Per Mile 8 to 25	$0.87	$10.50	$7.45	$12.73
329	Per Mile 25 to 50	$1.19	$11.90	$7.95	$15.03
330	Per Mile over 50	$1.20	$11.90	$8.45	$15.03
331	**Total DS1 Two Year Transport**				

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LINE NO.	BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	DS1 Two Year Optional Features & Functions				
332	CO Mux DS1 - voice/data	$218.98	$285.00	$260.00	$285.00
333	CO Mux DS1 - DS0	$218.98	$285.00	$260.00	$285.00
334	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
335	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
336	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
337	**Total DS1 Two Year Optional Features & Functions**				
	DS1 Three Year Service Channel Termination				
338	1 - 5 ckt	$90.64	$123.30	$125.00	$126.90
339	6 + ckt	$90.64	$120.56	$120.00	$120.56
340	**Total DS1 Three Year Channel Termination**				
	DS1 Three Year Service Transport				
	1 - 5 ckt:				
341	Fixed 0 to 8	$39.05	$94.50	$56.00	$126.90
342	Fixed 8 to 25	$39.05	$126.00	$66.00	$161.55
343	Fixed 25 to 50	$39.05	$157.50	$79.00	$196.20
344	Fixed over 50	$39.05	$157.50	$87.00	$196.20
345	Per Mile 0 to 8	$0.50	$6.93	$6.80	$9.23
346	Per Mile 8 to 25	$0.87	$9.45	$7.40	$12.69
347	Per Mile 25 to 50	$1.19	$10.71	$7.80	$14.99
348	Per Mile over 50	$1.20	$10.71	$8.30	$14.99
	6 + ckt:				
349	Fixed 0 to 8	$39.05	$94.50	$51.00	$120.56
350	Fixed 8 to 25	$39.05	$126.00	$61.00	$153.47
351	Fixed 25 to 50	$39.05	$157.50	$74.00	$186.39
352	Fixed over 50	$39.05	$157.50	$82.00	$186.39
353	Per Mile 0 to 8	$0.50	$6.93	$6.55	$8.76
354	Per Mile 8 to 25	$0.87	$9.45	$7.05	$12.06
355	Per Mile 25 to 50	$1.19	$10.71	$7.55	$14.24
356	Per Mile over 50	$1.20	$10.71	$8.05	$14.24
357	**Total DS1 Three Year Transport**				
	DS1 Three Year Optional Features & Functions				
358	CO Mux DS1 - voice/data	$218.98	$270.00	$250.00	$270.00
359	CO Mux DS1 - DS0	$218.98	$270.00	$250.00	$270.00
360	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
361	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
362	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
363	**Total DS1 Three Year Optional Features & Functions**				
	DS1 Four Year Service Channel Termination				
364	1 - 5 ckt	$90.64	$116.45	$120.00	$119.85
365	6 + ckt	$90.64	$113.86	$115.00	$113.86
366	**Total DS1 Four Year Channel Termination**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	DS1 Four Year Service Transport				
	1 - 5 ckt:				
367	Fixed 0 to 8	$39.05	$94.50	$53.00	$119.85
368	Fixed 8 to 25	$39.05	$126.00	$63.00	$152.58
369	Fixed 25 to 50	$39.05	$157.50	$75.50	$185.30
370	Fixed over 50	$39.05	$157.50	$83.50	$185.30
371	Per Mile 0 to 8	$0.50	$6.93	$6.40	$8.71
372	Per Mile 8 to 25	$0.87	$9.45	$7.00	$11.99
373	Per Mile 25 to 50	$1.19	$10.71	$7.40	$14.15
374	Per Mile over 50	$1.20	$10.71	$7.90	$14.15
	6 + ckt:				
375	Fixed 0 to 8	$39.05	$94.50	$48.00	$113.86
376	Fixed 8 to 25	$39.05	$126.00	$58.00	$144.95
377	Fixed 25 to 50	$39.05	$157.50	$70.50	$176.04
378	Fixed over 50	$39.05	$157.50	$78.50	$176.04
379	Per Mile 0 to 8	$0.50	$6.93	$6.15	$8.28
380	Per Mile 8 to 25	$0.87	$9.45	$6.65	$11.39
381	Per Mile 25 to 50	$1.19	$10.71	$7.15	$13.44
382	Per Mile over 50	$1.20	$10.71	$7.65	$13.44
383	**Total DS1 Four Year Transport**				
	DS1 Four Year Optional Features & Functions				
384	CO Mux DS1 - voice/data	$218.98	$255.00	$240.00	$255.00
385	CO Mux DS1 - DS0	$218.98	$255.00	$240.00	$255.00
386	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
387	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
388	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
389	**Total DS1 Four Year Optional Features & Functions**				
	DS1 Five Year Service Channel Termination				
390	1 - 5 ckt	$90.64	$109.98	$110.00	$109.98
391	6 + ckt	$90.64	$104.48	$100.00	$104.48
392	**Total DS1 Five Year Channel Termination**				
	DS1 Five Year Service Transport				
	1 - 5 ckt:				
393	Fixed 0 to 8	$39.05	$84.00	$50.00	$109.98
394	Fixed 8 to 25	$39.05	$112.00	$60.00	$140.01
395	Fixed 25 to 50	$39.05	$140.00	$72.00	$170.04
396	Fixed over 50	$39.05	$140.00	$80.00	$170.04
397	Per Mile 0 to 8	$0.50	$6.16	$6.00	$8.00
398	Per Mile 8 to 25	$0.87	$8.40	$6.60	$11.00
399	Per Mile 25 to 50	$1.19	$9.52	$7.00	$12.99
400	Per Mile over 50	$1.20	$9.52	$7.50	$12.99
	6 + ckt:				
401	Fixed 0 to 8	$39.05	$84.00	$45.00	$104.48
402	Fixed 8 to 25	$39.05	$112.00	$55.00	$133.01
403	Fixed 25 to 50	$39.05	$140.00	$67.00	$161.54
404	Fixed over 50	$39.05	$140.00	$75.00	$161.54
405	Per Mile 0 to 8	$0.50	$6.16	$5.75	$7.60
406	Per Mile 8 to 25	$0.87	$8.40	$6.25	$10.45
407	Per Mile 25 to 50	$1.19	$9.52	$6.75	$12.34
408	Per Mile over 50	$1.20	$9.52	$7.25	$12.34
409	**Total DS1 Five Year Transport**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	DS1 Five Year Optional Features & Functions				
410	CO Mux DS1 - voice/data	$218.98	$234.00	$230.00	$234.00
411	CO Mux DS1 - DS0	$218.98	$234.00	$230.00	$234.00
412	CO Mux to Mux - DS1		$5.00	$5.00	$5.00
413	CO Mux to Mux - DS1 w/B8ZS clr chan		$5.00	$5.00	$5.00
414	CO 1.544 mpbs conn chan		$3.00	$3.00	$3.00
415	**Total DS1 Five Year Optional Features & Functions**				
416	**TOTAL DS1 SERVICE**				
	Remote Central Office Service NAC				
417	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
418	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
419	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
420	**Total Remote Central Office Service NAC**				
	Remote Central Office Service Transport				
421	Fixed 0 to 8	$20.32	$20.00	$25.50	$14.20
422	Fixed 8 to 25	$20.32	$20.00	$25.50	$16.60
423	Fixed 25 to 50	$20.32	$20.00	$25.50	$23.60
424	Fixed over 50	$20.32	$20.00	$25.50	$40.35
425	Per Mile 0 to 8	$0.09	$1.30	$0.12	$2.70
426	Per Mile 8 to 25	$0.08	$1.40	$0.12	$2.25
427	Per Mile 25 to 50	$0.11	$1.50	$0.14	$1.90
428	Per Mile over 50	$0.08	$1.60	$0.14	$1.55
429	**Total Remote Central Office Service Transport**				
	Remote Central Office Service Channel Performance				
430	Loop Start Signaling	$5.93	$13.00	$7.50	$11.27
431	Ground Start Signaling	$7.14	$13.00	$9.00	$11.27
432	Reverse Battery Signaling	$3.96	$12.00	$4.75	
433	**Total Remote Central Office Service Channel Performance**				
434	**TOTAL REMOTE CENTRAL OFFICE SERVICE**				
	Remote Central Office Service - Residential				
435	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
436	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
437	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
438	Channel Performance - Loop Start Signaling	$5.93	$13.00	$7.50	$11.27
439	**TOTAL REMOTE CENTRAL OFFICE SERVICE - RESIDENTIAL**				
	Simultaneous Voice Data Service Transport				
	Month to Month:				
440	Fixed 0 to 8	$20.32	$30.00	$25.50	$30.00
441	Fixed 8 to 25	$20.32	$30.00	$25.50	$30.00
442	Fixed 25 to 50	$20.32	$30.00	$25.50	$30.00
443	Fixed over 50	$20.32	$35.00	$25.50	$35.00
444	Per Mile 0 to 8	$0.09	$0.95	$0.12	$0.95
445	Per Mile 8 to 25	$0.08	$0.90	$0.12	$0.90
446	Per Mile 25 to 50	$0.11	$0.85	$0.14	$0.85
447	Per Mile over 50	$0.08	$0.80	$0.14	$0.80

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	36 to 59 Months:				
448	Fixed 0 to 8	$20.32	$28.50	$25.50	$28.50
449	Fixed 8 to 25	$20.32	$28.50	$25.50	$28.50
450	Fixed 25 to 50	$20.32	$28.50	$25.50	$28.50
451	Fixed over 50	$20.32	$33.25	$25.50	$33.25
452	Per Mile 0 to 8	$0.09	$0.85	$0.12	$0.85
453	Per Mile 8 to 25	$0.08	$0.80	$0.12	$0.80
454	Per Mile 25 to 50	$0.11	$0.76	$0.14	$0.76
455	Per Mile over 50	$0.08	$0.72	$0.14	$0.72
	60 Months:				
456	Fixed 0 to 8	$20.32	$27.00	$25.50	$27.00
457	Fixed 8 to 25	$20.32	$27.00	$25.50	$27.00
458	Fixed 25 to 50	$20.32	$27.00	$25.50	$27.00
459	Fixed over 50	$20.32	$31.50	$25.50	$31.50
460	Per Mile 0 to 8	$0.09	$0.80	$0.12	$0.80
461	Per Mile 8 to 25	$0.08	$0.77	$0.12	$0.77
462	Per Mile 25 to 50	$0.11	$0.72	$0.14	$0.72
463	Per Mile over 50	$0.08	$0.68	$0.14	$0.68
464	**Total Simultaneous Voice Data Service Transport**				
	Simultaneous Voice Data Service Channel Performance				
465	End/mid link per term 2.4 kbps mo to mo	$13.70	$20.00	$17.00	$20.00
466	End/mid link per term 2.4 kbps 36-59 mos	$13.70	$19.00	$17.00	$19.00
467	End/mid link per term 2.4 kbps 60 mo	$13.70	$18.00	$17.00	$18.00
468	End/mid link per term 4.8 kbps mo to mo	$11.24	$23.00	$14.25	$23.00
469	End/mid link per term 4.8 kbps 36-59 mos	$11.24	$21.00	$14.25	$21.00
470	End/mid link per term 4.8 kbps 60 mo	$11.24	$19.00	$14.25	$19.00
471	End/mid link per term 9.6 kbps mo to mo	$11.24	$26.00	$14.25	$26.00
472	End/mid link per term 9.6 kbps 36-59 mos	$11.24	$23.00	$14.25	$23.00
473	End/mid link per term 9.6 kbps 60 mo	$11.24	$20.00	$14.25	$20.00
474	End/mid link per term 19.2 kbps mo to mo	$11.24	$32.00	$14.25	$32.00
475	End/mid link per term 19.2 kbps 36-59 mos	$11.24	$28.00	$14.25	$28.00
476	End/mid link per term 19.2 kbps 60 mo	$11.24	$24.00	$14.25	$24.00
477	End/end link per term 2.4 kbps mo to mo	$13.70	$20.00	$17.00	$20.00
478	End/end link per term 2.4 kbps 36-59 mos	$13.70	$19.00	$17.00	$19.00
479	End/end link per term 2.4 kbps 60 mos	$13.70	$18.00	$17.00	$18.00
480	End/end link per term 4.8 kbps mo to mo	$11.24	$23.00	$14.25	$23.00
481	End/end link per term 4.8 kbps 36-59 mos	$11.24	$21.00	$14.25	$21.00
482	End/end link per term 4.8 kbps 60 mos	$11.24	$19.00	$14.25	$19.00
483	End/end link per term 9.6 kbps mo to mo	$11.24	$26.00	$14.25	$26.00
484	End/end link per term 9.6 kbps 36-59 mos	$11.24	$23.00	$14.25	$23.00
485	End/end link per term 9.6 kbps 60 mos	$11.24	$20.00	$14.25	$20.00
486	End/end link per term 19.2 kbps mo to mo	$11.24	$32.00	$14.25	$32.00
487	End/end link per term 19.2 kbps 36-59 mos	$11.24	$28.00	$14.25	$28.00
488	End/end link per term 19.2 kbps 60 mos	$11.24	$24.00	$14.25	$24.00
489	**Total Simultaneous Voice Data Service Channel Performance**				

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Simultaneous Voice Data Service Opt Features & Functions				
490	Bridging per port mo to mo	$2.38	$6.00	$3.00	$6.00
491	Bridging per port 36-59 mo	$2.38	$5.50	$3.00	$5.50
492	Bridging per port 60 mo	$2.38	$5.00	$3.00	$5.00
493	CO mux DS0-Subr mo to mo 20 - 2.4 kbps		$90.00	$90.00	$90.00
494	CO mux DS0-Subr mo to mo 10 - 4.8 kbps		$80.00	$80.00	$80.00
495	CO mux DS0-Subr mo to mo 5 - 9.6 kbps		$70.00	$70.00	$70.00
496	CO mux DS0-Subr 36 - 59 mo 20 - 2.4 kbps		$85.00	$85.00	$85.00
497	CO mux DS0-Subr 36 - 50 mo 10 - 4.8 kbps		$75.00	$75.00	$75.00
498	CO mux DS0-Subr 36 - 59 mo 5 - 9.6 kbps		$65.00	$65.00	$65.00
499	CO mux DS0-Subr 60 mo 20 - 2.4 kbps		$80.00	$80.00	$80.00
500	CO mux DS0-Subr 60 mo 10 - 4.8 kbps		$70.00	$70.00	$70.00
501	CO mux DS0-Subr 60 mo 5 - 9.6 kbps		$60.00	$60.00	$60.00
502	CO mux-mux per arrgt DS0 - DS0		$8.00	$5.00	$8.00
503	CO mux-mux per arrgt Subr - Subr		$8.00	$5.00	$8.00
504	**Total Simultaneous Voice Data Service Opt Features & Functions**				
505	TOTAL SIMULTANEOUS VOICE DATA SERVICE				
	Exchange Service Extensions (Non PBX)				
506	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
507	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
508	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
509	Channel Performance per term	$4.85	$9.10	$5.50	$5.50
	Transport:				
510	Fixed 0 to 8	$20.32	$25.75	$25.50	$14.20
511	Fixed 8 to 25	$20.32	$25.75	$25.50	$16.60
512	Fixed 25 to 50	$20.32	$25.75	$25.50	$23.60
513	Fixed over 50	$20.32	$25.75	$25.50	$40.35
514	Per Mile 0 to 8	$0.09	$0.12	$0.12	$2.70
515	Per Mile 8 to 25	$0.08	$0.12	$0.12	$2.25
516	Per Mile 25 to 50	$0.11	$0.16	$0.14	$1.90
517	Per Mile over 50	$0.08	$0.20	$0.14	$1.55
518	TOTAL EXCHANGE SERVICE EXTENSIONS				
	Exchange Service Extensions (Non PBX) Residential				
519	Channel Performance per term	$4.85	$9.10	$5.50	$5.50
	Telephone Answering Service				
520	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
521	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
522	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
523	Channel Performance per term	$4.85	$9.10	$5.50	$5.50

LINE NO.	UT 125 Rate Design Private Line Service BUILDING BLOCK DESCRIPTION	A Imputed Price Floor	B Qwest Proposed Rate	C Staff Proposed Rate	D Current Rates
	Transport:				
524	Fixed 0 to 8	$20.32	$25.75	$25.50	$14.20
525	Fixed 8 to 25	$20.32	$25.75	$25.50	$16.60
526	Fixed 25 to 50	$20.32	$25.75	$25.50	$23.60
527	Fixed over 50	$20.32	$25.75	$25.50	$40.35
528	Per Mile 0 to 8	$0.09	$0.12	$0.12	$2.70
529	Per Mile 8 to 25	$0.08	$0.12	$0.12	$2.25
530	Per Mile 25 to 50	$0.11	$0.16	$0.14	$1.90
531	Per Mile over 50	$0.08	$0.20	$0.14	$1.55
532	TAS w/privacy CO relay		$1.50	$1.50	$1.50
533	TOTAL TELEPHONE ANSWERING SERVICE				
	Telephone Answering Service - Residential				
534	2W per termination - Zone 1	$15.11	$17.00	$17.50	$9.80
535	2W per termination - Zone 2	$26.36	$24.00	$30.00	$9.80
536	2W per termination - Zone 3	$57.37	$56.00	$65.00	$9.80
537	Channel Performance per term	$4.85	$9.10	$5.50	$5.50
	Transport:				
538	Fixed 0 to 8	$20.32	$20.00	$25.50	$14.20
539	Per Mile 0 to 8	$0.09	$1.30	$0.12	$2.70
540	TOTAL TELEPHONE ANSWERING SERVICE - RESIDENTIAL				

CASE: UT 125, Phase II
WITNESS: Cynthia VanLanduyt

PUBLIC UTILITY COMMISSION
OF
OREGON

CONFIDENTIAL
STAFF EXHIBIT 7

Exhibit in Support of
Direct Testimony

Issue 2. Private Line Rate Design

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 7 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: Thomas A. Turner

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 8

Direct Testimony on

Issue 3. Message Toll Service

April 10, 2001

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is Thomas A. Turner. I am employed by the Public Utility Commission of Oregon (PUC) as a senior analyst in the Telecommunications Division of the Utility Program. My business address is 550 Capitol St. NE, Suite 215, Salem, Oregon 97301-2551.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. My educational background and work experience are summarized in Exhibit Staff/9, Turner/1 (RD).

Q. DO YOU USE ABBREVIATIONS IN YOUR TESTIMONY?

A. Yes. Abbreviations used in this testimony are listed in Exhibit Staff/9, Turner/2 (RD).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address Issue 3: Message Toll Service (MTS) rate design and associated issues.

Q. PLEASE IDENTIFY YOUR SUPPORTING EXHIBITS.

A. Exhibit Staff/9: Witness Qualification Statement
List of Abbreviations
Current and Proposed Message Toll Rates
Confidential Exhibit Staff/10: Toll Revenue and Demand Analysis
Confidential Exhibit Staff/11: Access Imputation Analysis
Confidential Exhibit Staff/12: Price Elasticity Study

Q. WERE THE ABOVE EXHIBITS PREPARED BY YOU OR UNDER YOUR SUPERVISION?

A. I prepared Exhibits Staff/9, Staff/10, and Staff/11. Confidential Exhibit Staff/12 is a price elasticity study prepared by Qwest in response to a staff request in a prior Qwest rate case, UT 102.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. My testimony is organized into four parts as follows:

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Part 1: Summary of Proposed MTS Rate Reductions 3
Part 2. Proposed MTS Rate Design 6
Part 3: MTS Revenue and Demand Analysis 20
Part 4: MTS Access Imputation Analysis... 28

ISSUE 3: MESSAGE TOLL

Part 1: Summary of Proposed MTS Rate Reductions

Q. PLEASE SUMMARIZE THE DIFFERENCES BETWEEN STAFF AND QWEST REGARDING MTS RATE DESIGN AND REVENUES.

A. Of the $64.2 million in available rate reductions in this case, Qwest proposed that $32.0 million go toward MTS rate reductions. Staff recommends a lower amount of $23.4 million for MTS rate reductions. The difference of $8.6 million is attributed to both MTS rate design differences ($2.3 million) and to assumptions regarding MTS price elasticity ($6.3 million). A summary of company and staff revenue differences by service is provided in Confidential Exhibit Staff/10, Turner/1 (RD). Overall differences are summarized in Table A below:

TABLE A: Summary of MTS Revenue Reduction Differences

		Qwest Proposal	Staff Proposal	Difference*
1.	Revenue Reduction	-$31,976,481	-$23,373,638	$8,602,843
2.	Price Elasticity Factor	0.0	-0.3632	
3.	Staff's Proposal @ 0.0 Elasticity		-$29,630,031	$2,346,450
4.	Stimulation Effects of Elasticity		-$6,256,393	$6,256,393

* Staff minus Qwest

Issues regarding MTS rate design fall into three categories: MTS rates, price elasticity, and access imputation. These issues are addressed in Parts 2, 3, and 4 of this testimony and summarized below.

Q. PLEASE SUMMARIZE THE RATE DESIGN DIFFERENCES BETWEEN QWEST AND STAFF.

A. As mentioned, MTS rate design differences between Qwest and staff account for about $2.3 million. The largest MTS revenue reduction is for standard MTS. The current MTS rate schedule is both distance sensitive and time-of-day sensitive with different rates for the initial minute and subsequent minutes.

For standard MTS, the company proposed a "postalized" rate schedule that eliminates rate differences by distance band and by initial and subsequent conversation minute. However, the company proposed separate postalized rate schedules for residential, business, and miscellaneous calls. For residential customers, the company proposed postalized rates of 10 cents per minute for daytime calls and 6 cents per minute for evening, night, and weekend calls (hereafter referred to as peak and off-peak rates). For business customers, the company proposed postalized rates of 12 cents and 10 cents per minute for peak and off-peak calls; and for all other miscellaneous calls, the company proposed postalized rates of 12 cents and 6 cents per minute for peak and off-peak calls. Miscellaneous MTS calls refer to calls requiring operator assistance, credit card billing, or where billing capabilities cannot determine the customer's identification as residential or business.

I agree with a postalized standard MTS rate structure but disagree with the residential, business, and miscellaneous rate distinctions. I propose a standard postalized rate structure of 11 cents per minute for calls made during the peak daytime periods and 7 cents per minute for off-peak periods with no residential, business, or miscellaneous rate distinction.

In regard to other MTS services, Qwest proposed to:

1. Eliminate Toll-PAC,
2. Consolidate its discounted Calling Connection Plans from ten to six,
3. Grandfather OutWATS and 800 Service,
4. Eliminate WATSaver,
5. Retain and reduce 800 ServiceLine,
6. Retain Prime Saver, and
7. Extend the 50 percent discount for speech and hearing-impaired customers to calling card and operator-assisted calls.

I am in agreement with many of the company's proposals for these other services, but disagree in regard to the pricing of certain discounted Calling Connection Plans, OutWATS, and 800 Services. These differences are discussed in Part 2 of my testimony. My proposed toll rate design is summarized in Exhibit Staff/9, Turner/3-8 (RD). Qwest's proposed toll rate design is discussed in testimony at Exhibit Qwest/201, Teitzel/31-36 and contained in confidential Exhibits Qwest/208, Teitzel/1 and Qwest/203, Teitzel/6.

Q. PLEASE SUMMARIZE THE DIFFERENCES IN PRICE ELASTICITY ASSUMPTIONS BETWEEN QWEST AND STAFF.

A. For a variety of reasons, Qwest argues that its intraLATA toll market is essentially inelastic (i.e., price changes do not affect usage) and assumed no calling stimulation as a result of its proposed price reductions. I disagree and propose a negative elasticity factor of .3632 which, when multiplied by the percentage change in toll rates (in this case, an average rate reduction of about 40 percent), produces an overall stimulation in toll minutes of 14.5 percent. I address elasticity and demand stimulation in Part 3 of my testimony. Qwest's discussion of elasticity can be found in Exhibit Qwest/201, Teitzel/37-39.

Q. PLEASE SUMMARIZE YOUR DIFFERENCES WITH QWEST CONCERNING ACCESS IMPUTATION.

A. To determine whether a price squeeze exists between my proposed toll rates and the carrier access charges that Qwest would assess interexchange toll carriers (IXCs), I completed an access charge imputation analysis. With staff's proposed access charge rate reduction, the imputation rate dropped from 7.41 cents per toll minute to 4.94 cents per toll minute. Qwest estimated an imputation rate of 2.89 cents per minute based on unbundled network element (UNE) prices set in UM 844. Imputation is addressed in Part 4 of my testimony. Qwest's imputation analysis can be found in Exhibit Qwest/219, Brigham/82.

Part 2. Proposed MTS Rate Design

Q, WHAT MTS RATES WILL YOU BE DISCUSSING?

A. For purposes of organizing and discussing my toll rate design proposal, I will classify Qwest's toll services as follows: standard MTS, Toll PAC, MTS discount calling plans, WATS, and toll operator services.

STANDARD MTS

Q. WHAT ARE THE CURRENT STANDARD MTS RATES?

A. Exhibit Staff/9, Turner/3 (RD) shows the current MTS rate structure. Current MTS rates are differentiated by distance band, by initial and additional minute, and by peak and off-peak periods. For example, peak-period day rates for the initial minute range from 13 cents per minute to 26 cents per minute depending on distance. Off-peak periods are discounted by 25 percent for evening calls and 50 percent for nighttime calls. For each additional minute of a call, the rate per minute is reduced by between 2 and 4 cents. Qwest states that the current average revenue per minute (ARPM) for current standard MTS for all rate bands is 15.09 cents per minute. My calculations based on relative traffic volumes by time-of-day and by distance band confirm that ARPM.

Q. WHAT DID QWEST PROPOSE?

A. Qwest proposed a postalized MTS rate structure. Under the postalized rate structure, rate distinctions by distance band as well as by initial and additional minute would be eliminated. As mentioned in Part 1 of this testimony, Qwest proposed separate rate structures for residential, business, and miscellaneous calls. *See* Exhibit Qwest/201, Teitzel/31-32. The proposed residential rate is 10 cents and 6 cents per minute for calls during peak and off-peak periods. The proposed business rate is 12 cents and 10 cents per minute for calls during peak and off-peak periods. Miscellaneous calls are priced at 12 cents and 6 cents, respectively. Qwest states that the ARPM for the three rate structures in aggregate is 8.04 cents per minute. My calculations show the proposed

ARPM for residential, business and miscellaneous calls to be 7.15 cents, 11.49 cents, and 8.24 cents per minute, respectively. Qwest's proposed rates are shown in Exhibit Staff/9, Turner/3a (RD).

Q. DO YOU AGREE WITH QWEST'S PROPOSED RATE STRUCTURE?

A. I agree with the postalized rate structure concept, but disagree that standard MTS rates should discriminate by customer class. There is no cost justification for this distinction. The underlying cost for switching and transport of a toll minute does not depend on whether the local service classification of the caller is residential or business. While there may be some general usage distinctions between classes of users (i.e., business calling is more daytime and residential calling is more evening) these distinctions can be recognized through standard off-peak discounts, as provided for in my proposal. Individual customers that have high-volume toll calling or have a particular pattern of usage can be better treated through the available discount plans. In regard to miscellaneous calls that involve credit card billing or operator assistance, there is a separate surcharge rate schedule per operator contact that covers the additional costs. *See* Exhibits Staff/9, Turner/9 (RD) and Staff/11, Turner/6 (RD). There is no further need to adjust the per-minute toll rate.

Q. WHAT DO YOU PROPOSE?

A. Exhibit Staff/9, Turner/3 (RD) shows the current and my proposed MTS rate structure. I propose a postalized rate of 11 cents per minute for peak periods and 7 cents per minute for off-peak periods. Under my proposal, the resultant ARPM will be reduced from 15.09 cents per minute to 8.53 cents per minute. This is an average rate reduction of 43.5 percent. Nearly all distance and time-of-day bands will be reduced with the exception of the nighttime, 0-10 mile band. Based on the 1997 calling pattern, less than one percent of the calling is in this band. Both my peak and off-peak rates are within the range proposed by Qwest but without the user class distinction.

TOLL PAC

Q. WHAT IS TOLL PAC?

A. Toll PAC stands for Toll Personalized Area Calling. The service is route specific. A customer may order Toll PAC for a maximum of three destination exchanges within 40 miles of the customer's exchange. A $5.00 nonrecurring charge and a minimum monthly charge, ranging from $1.65 to $6.00 depending on distance, apply. In return, the customer receives a 30 percent discount from the standard MTS rates.

Q. WHAT DID QWEST PROPOSE?

A. Qwest proposed to eliminate Toll PAC and convert the customers to standard MTS. *See* Exhibit Qwest/201, Teitzel/33.

Q. HAS THE COMMISSION ADDRESSED QWEST'S TOLL PAC SERVICE BEFORE?

A. Yes. The Commission addressed Toll PAC in Order 91-100, in UT 94. In that order, the Commission denied Qwest's petition to discontinue Toll PAC. However, the Commission has since approved the discontinuance of Toll PAC for both Verizon (*See* Order 98-288 in UT 141), and Sprint/United of the Northwest (*See* UTNW Advice 490, Public Meeting on January 5, 1999).

Q. WHAT IS YOUR PROPOSAL FOR TOLL PAC?

A. I agree with Qwest that Toll PAC should be discontinued. This recommendation is based on the fact that standard MTS rates will be significantly reduced in this case. Under my proposal, the ARPM for Toll PAC will be reduced from 12.58 cents per minute to 8.45 cents per minute under the proposed standard MTS rate schedule. This is an average reduction of 32.8 percent.[1] *See* Exhibit Staff/9, Turner/4 (RD).

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[1] The average reduction includes the elimination of minimum monthly charges imposed under the current Toll PAC schedule. These minimum charges range for $1.65 to $6.00 per month depending on the calling distance to the destination exchange.

In making this recommendation, I note that since the 1991 Toll PAC case, the number of EAS routes has grown and consequently the number of Toll PAC users has declined. Data from the 1991 Toll PAC case shows that Toll PAC minutes were about 6 percent of the total MTS minutes. As of the 1997 test period, Toll PAC minutes declined to less than 2 percent of the total MTS minutes. Also, as noted above, the Commission previously approved the discontinuance of Toll PAC for Verizon and Sprint/United. Finally, I note that for the higher-volume Toll PAC users, Qwest has other attractive toll discount service offerings such as City Connection.

MTS DISCOUNT CALLING PLANS

Q. WHAT MTS DISCOUNT CALLING PLANS DOES QWEST OFFER AND WHAT CHANGES DO YOU PROPOSE?

A. Qwest offers a large selection of discount toll calling plans. In general, the plans are structured to attract customers with different calling patterns. The structure may involve term and volume discounts, minimum calling volumes, destination specific discounts, and/or monthly recurring flat charges. Competitive forces created a certain amount of churn as Qwest discontinued some plans and created others. Staff expects this churn to continue. During the test year these plans accounted for about 23 percent of the MTS usage volume.

Qwest's proposal for these plans is summarized in Exhibit Qwest/201, Teitzel/33-34. Qwest offers ten calling connection plans. It proposes rate reductions and consolidation of the calling connection plans from ten to six. Besides the calling connection plans, Qwest also offers another discounted plan referred to as Prime Saver. No rate changes are proposed for Prime Saver. Qwest's discount calling plans are discussed below.

1. Business Daytime Connection: *See* Exhibit Staff/9, Turner/5 (RD), Line C. Customers subscribing to this plan pay a monthly rate of $15.00 for the first 100 minutes per month (equivalent to 15 cents per minute). After that, the rates drop to 14 cents per minute. Qwest proposed to transfer its Daytime Connection customers to its Daytime Connection Plus plan.[2] I agree. The Daytime Connection Plus plan, with its lower minimum rate, eliminates the need for the Daytime Connection plan. I note that Qwest already discontinued this plan as of January 6, 1999.

2. Business Daytime Connection Plus: *See* Exhibit Staff/9, Turner/5 (RD), Line D. This plan is nearly identical to Daytime Connection plan except for a different minimum monthly rate. Customers subscribing to this plan currently pay a minimum monthly rate of $9.00 for the first 60 minutes (15 cents per minute). After that, the rate drops to 14 cents per minute. Qwest proposed that the minimum monthly rate be reduced to $6.00 for the first 60 minutes (equivalent to 10 cents per minute). After that, the rates would continue at 10 cents per minute. *See* Exhibit Qwest/201, Teitzel/34. I agree with the Qwest proposal. The new 10-cent per minute rate provides the Connection Plus customers with a 33 percent reduction and a lower minimum monthly rate.

3. City Connection: *See* Exhibit Staff/9, Turner/5 (RD), Line E. Customers subscribing to this plan are charged a monthly rate of $1.00, for which they may select an exchange most frequently called. Calls to that exchange receive a 20 percent discount from the standard MTS rates, and calls to other exchanges receive a 5 percent discount. I agree with the company's proposal to retain the discount structure. The discount rate, as applied to staff's proposed standard MTS rate design, causes a reduction in the ARPM from 13.1 cents per minute to 7.4 cents per minute. This is an average rate reduction of 43 percent.

4 & 5. Volume and Tenant Calling Connection: *See* Exhibit Staff/9, Turner/5 (RD), Line F. The rate structures for these two plans are nearly identical ex-

[2] This plan was discontinued after the 1997 test period and the customers moved to Business Daytime Connection Plus.

cept that the Volume Calling Connection plan has a monthly charge of $5.00 for call detail reporting. Customers subscribing to these plans pay a postalized rate of 10 cents per minute plus a volume discount. The volume discount is 10 percent after $50.00 per month and 20 percent after $100 per month. Qwest proposed that the per-minute rate be reduced to 7 cents per minute, with no change in the monthly charge or the discount rates. *See* Exhibit Qwest/201, Teitzel/34. I do not disagree with Qwest's proposal because it appropriately targets high-volume toll customers with progressive discount levels. I do, however, question the need to have two nearly identical plans. I believe that combining the Volume and Tenant Calling Connection plans with retention of the monthly charge for call detail reporting would reduce and simplify customer options.

6. Simple Value: *See* Exhibit Staff/9, Turner/6 (RD), Line G. Simple Value was introduced on June 24, 1998, after the test period in this case. Customers subscribing to this plan are charged postalized rates for peak and off-peak periods. For residential customers, the current peak and off-peak rates are 24 cents and 9 cents per minute, respectively. For business customers, the current peak and off-peak rates are 11 cents and 8 cents, respectively.

Qwest proposed that Simple Value be eliminated for residential customers. Residential customers would be transferred to standard MTS. Business customers would continue to subscribe to this plan with rate reductions to 9 cents and 6 cents per minute for peak and off-peak periods, respectively. *See* Exhibit Qwest/201, Teitzel/33.

I recommend that the entire plan be discontinued and that customers be transferred to standard MTS. My proposed rates for standard MTS of 11 cents and 7 cents peak and off-peak will provide a substantial reduction for residential customers in this plan that are currently paying 24 cents for peak calling and 9 cents for off-peak calling. While business customers would receive only a slight reduction in the off-peak period from 8 cents per minute to 7 cents per minute, they have already enjoyed substantial prior rate reductions. On July 1, 1999, business customers received a rate reduction from 15 cents per minute all-day to the current rate of 11 cents and 8 cents per minute peak and off-peak. Both business and residential customers may, of course, take advantage of lower rates for other plans such as Volume Calling Connection, Super Savings, or Prime Saver. Finally, I note that this plan is nearly identical to the postalized rate structure proposed for standard MTS and, therefore, is redundant.

Under my proposal, the ARPM for Simple Value is reduced from 15.6 cents per minute to 8.5 cents per minute under the standard MTS rate structure. This is an average rate reduction of 45 percent.

7. Super Savings: *See* Exhibit Staff/9, Turner/6 (RD), Line H. Super Savings was introduced on April 1, 1998, after the test period in this case. Like Simple Value, customers subscribing to this plan are charged a postalized rate but without a peak/off-peak differential. For residential customers, the rate is 10 cents per minute for all distance bands and all times of day. For business customers, the rate is 8 cents per minute all day.

For Super Savings residential customers Qwest proposed to reduce the rate from 10 cents to 8 cents per minute. For business customers Qwest proposed to reduce the rate from 8 cents to 6 cents per minute. *See* Exhibit Qwest/201, Teitzel/34.

I agree with the proposed residential rate, but disagree with the proposed 6-cent business rate. I recommend the 8-cent rate for both residential and business customers. The 6-cent business rate, with no other conditions on it such as monthly charges or minimum usage, undermines Qwest's entire proposed rate structure. This includes, for example, Qwest's proposed standard MTS rates at 12 and 10 cents per minute peak and off-peak, Volume Calling

Connection at 7 cents per minute all-day, Simple Value at 9 and 6 cents per minute peak and off-peak, and Prime Saver at its lowest rate of 7 cents per minute under a three-year contract and 600 hour minimum. While my proposed 8-cent rate does not give business customers a reduction in this case, the Super Savings business rate has been declining over the years since April 1998. On January 6, 1999, it was reduced from 12 cents per minute to 9 cents per minute. On July 1, 1999, it was again reduced from 9 cents per minute to its current 8 cents per minute. Business customers may take advantage of lower all-day postalized rates in other plans such as Volume Calling Connection or Prime Saver.

Under my proposal, the ARPM for Super Savings is reduced from 9.76 cents per minute to 8.0 cents per minute. This is an average reduction of 18 percent.

8. <u>Oregon Value Calling Plan I</u>: *See* Exhibit Staff/9, Turner/6 (RD), Line I. Customers subscribing to Oregon Value Calling Plan I pay $6.00 per month minimum for the first 60 minutes and then 10 cents per minute after that. The rates apply only to off-peak calling. For daytime calls, a 5 percent discount from standard MTS rates would apply.

Qwest proposed that the Value Calling Plan I be discontinued. Business customers would be transferred to Business Daytime Connection Plus. Residential customers would be transferred to standard MTS. *See* Exhibit Qwest/201, Teitzel/33.

I agree that the plan should be discontinued. While customers may select other plans, I moved them to standard MTS. The off-peak calling rate under my proposed standard MTS rate schedule is only 7 cents per minute with no required minimum usage. The Business Daytime Connection Plus rate has a $6.00 minimum and a 10-cent per minute off-peak rate.

9. **Oregon Value Calling Plan II**: *See* Exhibit Staff/9, Turner/6 (RD), Line J. Customers subscribing to Oregon Value Plan II pay $14.40 per month minimum for the first 120 minutes (equivalent to 12 cents per minute) and then a peak rate of 16 cents per minute and an off-peak rate of 10 cents per minute.

Qwest proposed that the Oregon Value Calling Plan II be discontinued and both residential and business customers moved to standard MTS. *See* Exhibit Qwest/201, Teitzel/33.

I agree with the company's proposal. The standard MTS rate schedule will offer reduced rates without any minimum usage. Under my proposed standard MTS rate schedule, the ARPM for Oregon Value Plan II would be reduced from 13.5 cents per minute to 8.5 cents per minute. This is an average rate reduction of 37 percent.

10. **Better Deal**: *See* Exhibit Staff/9, Turner/6 (RD), Line K. Better Deal was a trial service offering during the test period. The service was discontinued on February 17, 1999. It offered customers a flat monthly rate for unlimited intrastate intraLATA toll calling. The business rate was $149.00 per month and the residential rate was $49.00 per month. The ARPM was 14.5 cents per minute.

Qwest proposed that the service be discontinued. I agree.

11. **Prime Saver:** *See* Exhibit Staff/9, Turner/8 (RD), Line P. Prime Saver is not part of the Calling Connection Plan series, but it is a discounted MTS service. Prime Saver allows customers to contract with Qwest for discounted rates. The rates are postalized and based on contract duration and minimum monthly usage requirements that allow the company to target high-volume customers through progressive discounts. The rates vary from 9.5 cents per minute to 7.0 cents per minute. Neither the company nor staff proposes any changes to this rate schedule. I note that the targeting aspects of this service serve to minimize the detrimental effects of Prime Saver on other MTS services.

Q. DO YOU HAVE ANY CONCLUSIONS REGARDING QWEST'S DISCOUNT CALLING PLANS?

A. Yes. Qwest offers a confusing variety of discount plans. Many of the plans do not appear to lend themselves to a coherent pattern of targeting customers. I expect the discount offerings will continue to churn in response to market conditions. Under ORS 759.405-410, Qwest has elected price cap regulation. Pursuant to this statute, the company may discontinue, commence, or re-price MTS discount packages within a range bounded by a price ceiling and a price floor. Furthermore, Qwest has filed and subsequently withdrawn a petition to deregulate MTS. *See* Order No. 99-585 in UX 22. If the company re-files its petition and receives Commission approval for MTS deregulation, the MTS price ceiling and price floor would be eliminated.

In this case, my proposal is primarily centered on a standard MTS rate structure that will provide all customers, without contracts, minimum usage, or other rate or customer class conditions, a reasonably priced toll rate structure that will serve as a price ceiling.

<u>WATS</u>

Q. WHAT WATS SERVICES DOES QWEST OFFER AND WHAT CHANGES DO YOU PROPOSE?

A. WATS stands for Wide Area Telecommunications Service. The service is a bulk toll service priced by the hour. There are two basic types of WATS: OutWATS and InWATS (i.e., 800 Service). WATS can be provisioned with either dedicated access lines or common lines. Dedicated WATS lines can only access the long distance network. They are not classified as basic telephone service, and therefore will be deaveraged based on the requirements of UT 148. In contrast, common lines are local exchange access lines on which WATS is simply an overlay service. My proposal for WATS is shown in Exhibit Staff/9, Turner/7 (RD).

1. <u>WATSaver</u>: WATSaver is an OutWATS service that uses a common line. The rate per hour declines with higher usage and ranges from $10.50 per hour to $8.25 per hour. The ARPM is 17.5 cents per minute.

Qwest recommended that WATSaver be discontinued. Residential customers would be transferred to the Super Savings plan and business customers would be transferred to standard MTS. *See* Exhibit Qwest/201, Teitzel/33.

I agree that the Commission should discontinue this service and recommend that customers be moved to standard MTS. My proposal for standard MTS would provide a substantial reduction in all WATSaver usage bands. Customers may, of course, select other discount calling plans as described above.

2. <u>OutWATS</u>: This service uses a dedicated access line and a declining hourly rate based on usage. Prior to the UM 731[3] revenue neutral filing, the access line rate was $25.00 per month. With the UM 731 filing, the access line charge was deaveraged into three rate groups of $23.50, $26.00, and $28.50 per month, respectively. The hourly rate ranges from $7.50 per hour to $6.00 per hour (equivalent to 12.5 cents per minute to 10 cents per minute).

Qwest proposed in this case to reduce the Rate Group 3 access line rate from $28.50 to $28.00 per month. It proposed no changes to the hourly toll rates, and recommended that the OutWATS be grandfathered. *See* Exhibit Qwest/201, Teitzel/35.

I agree with Qwest's proposal to grandfather the service. However, unless the company has a specific reason to retain the service for current customers, I recommend that it be discontinued as of a date certain—say within 12 months of the effective date of the order in this docket. As of the test period, there were only about 200 dedicated OutWATS lines. With the proposed reductions, other more competitively priced toll packages are available for customers to select from.

In regard to the WATS access line rates, I disagree with the company. The company's proposed Rate Group 2 and 3 rates are priced below the UNE prices set in UT 148, and thus fail to meet the imputation requirements of ORS 759.410(4). I recommend that the access line rates for Rate Group 2 and 3 be set at $27.50, and $58.50, respectively. *See* imputation analysis, Confidential Exhibit Staff/11, Turner/5 (RD).

3. <u>800 Service</u>: 800 Service is an InWATS service that uses a dedicated access line and a declining hourly rate based on usage volume. The called party pays for all incoming toll calls. Prior to the UM 731 revenue neutral filing, the access line rate was $35.00 per month. With the UM 731 filing, the access line rate was deaveraged into three rate groups at $33.50, $36.00, and 38.50 per month, respectively. The hourly rate ranges from $10.35 per hour to $7.00 per hour (equivalent to 17.25 cents per minute to 11.67 cents per minute).

Qwest proposed in this case to reduce access line rates in the three rate groups to $33.10, $35.60, and $37.60 per month, respectively. It proposed no changes to the hourly toll rates and recommended that the service be grandfathered. *See* Exhibit Qwest/201, Teitzel/35.

I agree with Qwest's proposal to grandfather the service. However, unless the company has a specific reason to retain the service for current customers, I recommend that it be discontinued as of a date certain—say within 12 months of the effective date of the order in this docket. As of the test period, there were only about 260 dedicated 800 Service lines. The 800 ServiceLine offering discussed below provides a competitively priced alternative.

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[3] UM 731 refers to the Universal Service Docket. Qwest, in Advice No. 1844, filed for rate reduction effective April 30, 2001. The rate reductions were to offset support received from the Oregon Universal Service Fund.

In regard to the 800 Service access line rates, I disagree with the company. The company's proposed Rate Group 1 and 2 rates are priced well above the UNE prices set in UT 148, while the Rate Group 3 rate is well below the UNE price. I recommend that the access line rates for Rate Group 1, 2, and 3 rates be set at $26.00, $30.00, and $61.00 per month, respectively, in order to meet imputation requirements. *See* imputation analysis, Confidential Exhibit Staff/11, Turner/5 (RD).

4. <u>800 ServiceLine</u>: 800 ServiceLine is an InWATS service that uses a common line. The 800 telephone number overlays the regular telephone number. The service requires a flat monthly charge of $3.00 and an hourly usage rate of $7.20 (equivalent to12 cents per minute).

Qwest recommends that the flat monthly charge be increased to $5.00 and the hourly usage rate be reduced to $6.00 (equivalent to 10 cents per minute). *See* Qwest/201, Teitzel/35.

I agree with the Qwest proposal to reduce the hourly rate but disagree with the proposed increase of the monthly charge. Qwest offers no explanation for the increase. I recommend no change in the monthly charge of $3.00.

<u>TOLL OPERATOR SERVICES</u>

Q. WHAT TOLL OPERATOR SERVICES DOES QWEST OFFER AND WHAT CHANGES DO YOU PROPOSE?

A. Qwest provides operator services to assist in customer calling and to arrange special billing. For customer-dialed calling card calls, operator assisted station-to-station calls, and operator assisted person-to-person calls, the charges are $0.50, $1.30, and $3.00, respectively. Qwest proposes no change to the current rates. I agree. The current rates are above the imputed price floor. *See* Confidential Exhibit Staff/11, Turner/6 (RD).

Qwest also recommends that a 50 percent discount for persons having a speech or hearing impairment be applied to operator service charges. I agree with the speech and hearing impairment discount proposal. *See* Exhibit Staff/9, Turner/8 (RD).

Part 3: MTS Revenue and Demand Analysis

Q. PLEASE SUMMARIZE THE DIFFERENCES BETWEEN STAFF AND QWEST REGARDING MTS REVENUE.

A. The difference in revenue proposals between company and staff is summarized by service in Confidential Exhibit Staff/10, Turner/1 (RD). Qwest proposes a $32.0 million reduction and staff proposes a $23.4 million reduction. The percentage reduction of current toll revenue under Qwest's proposal is 42 percent, and under staff's proposal it is 30.7 percent. As discussed in Part 1 of this testimony, the difference between the company and staff proposals is due primarily to different price elasticity assumptions and resulting toll usage stimulation. Of the $8.6 million difference between the company and staff proposals, about $2.3 million is due to rate design differences and $6.3 million is due to usage stimulation differences. The rate design differences were discussed in Part 2 of this testimony.

Q. PLEASE ADDRESS THE TOLL USAGE DIFFERENCES.

A. MTS revenue and demand (usage) is provided in Confidential Exhibit Staff/10, Turner/2-5 (RD). The exhibit is organized as follows:

1. Turner/2 (RD) shows current toll revenue and demand by service.
2. Turner/3 (RD) shows my proposed $23.4 million revenue reduction with a proposed negative elasticity factor of .3632. On average, usage would be stimulated by 14.5 percent as a result of my proposed price reductions.
3. Turner/4 (RD) shows staff's revenue reduction using Qwest's zero elasticity assumption. With zero elasticity, no additional usage would be stimulated as a result of price reductions. Without usage stimulation, staff's proposed rate reductions would produce a $29.6 million revenue reduction.
4. Turner/5 (RD) shows Qwest's proposed $32 million reduction. The exhibit shows a slight usage gain of 4.6 million minutes, due apparently to usage be-

ing transferred between services where, for billing purposes, a toll call is rounded up to the nearest full minute. *See* also Exhibit Qwest/208, Teitzel/1-2.

Q. WHAT IS PRICE ELASTICITY?

A. Price elasticity is a measure of the responsiveness of consumer demand to changes in price. Elasticity is defined as the ratio of the percent change in quantity over the percent change in price. Based on this definition, the estimated percent demand stimulation or repression equals elasticity times the percent change in price.

Demand is said to be inelastic if consumers view the product or service offered as essential and simply pay the price asked with little or no change in service usage. For example, the demand for primary line residential telephone service is generally considered to be inelastic. Based on studies submitted to the FCC, elasticity factors for basic residential service run in the range of a negative .03 to .08.[4][5] This means that if the price of residential service were to increase by 10 percent, we could expect that only 0.3 to 0.8 percent of residential customers would discontinue service after the first year, all else being equal.

Toll service is generally considered to be more elastic, that is, consumers are more apt to change consumption in response to changes in toll prices than they are for price changes in basic telephone services. For example, for interstate toll, long-run price elasticity may be as high as a negative .68 to .72, with an average first-year elasticity of .47.[6] A negative elasticity factor of .47 means that if interstate toll rates increase by 10 percent, toll usage would decline by 4.7 percent, other things being equal. Because of the higher elasticity associ-

[4] *See* FCC Order 83-567, page 27. Staff used the first-year elasticity factor. A copy that page is provided in Exhibit Staff/9, Turner/12 (RD).
[5] A negative elasticity factor indicates an inverse relationship between price and demand. That is, higher prices will lower demand, and vice versa.
[6] Estimates made by USTA and AT&T. *See* FCC Order 90-314, Appendix C, Paragraphs 29 and 30. A copy of those paragraphs is provided in Exhibit Staff/9, Turner/15,16 (RD).

ated with toll service, toll revenue studies traditionally employ an estimated elasticity factor to determine the revenue consequences of price changes.

Q. WHY DO YOU BELIEVE THAT IT IS APPROPRIATE TO APPLY PRICE ELASTICITY TO MTS PRICES?

A. Recognizing the existence of price elasticity allows us to better estimate the revenue consequence of price changes. This recognition is required if we are to reasonably match the result of the rate design phase of this docket with the $64.2 million revenue reduction ordered in the revenue requirement phase. For example, let's suppose we were recommending an increase in toll prices rather than a decrease. In that case, I believe, that most economists would agree that simply raising toll prices by 10 percent would not generate 10 percent more revenue. Absent other changing conditions, consumers would respond by suppressing demand. In a competitive environment, they might simply change carriers. The same is true in the case of a price reduction. Qwest's customers can reasonably be expected to increase demand, and the company might attract new customers from its competitors.

Q. HOW DID YOU ARRIVE AT YOUR ESTIMATED NEGATIVE .3632 ELASTICITY FACTOR?

A. Qwest developed the factor in a 1990 econometric study. The study was submitted to staff in response to a PUC investigation in UT 102. The study indicated a long-run price elasticity of a negative .5811 and an average first-year elasticity of a negative .3632. The study defined long-run elasticity as the elasticity in the fourth quarter after the price change. I used the more conservative average factor for the four quarters. Qwest's entire study is provided in Confidential Exhibit Staff/12. The last page of that exhibit summarizes the price elasticity factors.

Q. DO YOU HAVE A MORE RECENT STUDY?

A. No. I attempted to get an updated study from Qwest in Staff Request No. 106-002. Qwest's response to that request is provided in Exhibit Staff/9, Turner/9 (RD). The company objected to staff's interrogatory as irrelevant because of the historical test year. It argued that (1) stimulation no longer applies to Qwest's toll business because it is subject to greater competitive pressure and (2) competitors react to Qwest's price reduction with their own price reductions.

In testimony, at Exhibit Qwest/201, Teitzel/37, Qwest states that the long-distance toll market no longer behaves as a normal market for various reasons. It asserts that (1) customers have been conditioned to expect low toll rates, (2) lower switched access charges allow carriers to reduce prices and still maintain profitability, (3) dialing parity makes it easier for customers to "rate shop" among carriers, and (4) internet and wireless services provide new toll calling alternatives.

Q. DO YOU AGREE WITH QWEST'S ARGUMENTS?

A. Partially. I agree with the general proposition there are many factors besides price that could affect toll demand, including competitive pressures, market size, general economic factors,[7] local communities of interest as reflected in calling patterns, EAS conversions, holidays, and even inclement weather. I disagree, however, that these factors eliminate price elasticity. Factors, other than price, are simply different variables used in analyzing demand. Econometric models are used to separate out these other influences and isolate price as a factor of demand. Qwest stated in its 1990 MTS study:

> "The demand for any product or service is affected by a variety of factors such as market size, the state of the economy, competitive pressures, price, etc. Given the plethora of factors affecting demand, it is usually difficult to separate out and quantify individual impacts. This problem is compounded by the likelihood that influential factors are changing and impacting demand

over the same time horizon. An econometric model is often very effective in separating out these simultaneous effects." (Confidential Exhibit Staff/12, Turner/2 (RD))

Qwest goes on to indicate in regard to its examination of its model:

"An examination of the actuals versus predicted plots indicates a strong degree of model predictability. In conjunction with a high R-Squared = 0.998,[8] such exactitude suggests that the model accurately represents the MTS market in the USWC [Qwest] region." (Confidential Exhibit Staff/12, Turner/2 (RD))

I do not accept Qwest's assertion in this case that consumers no longer respond to bargains or to reductions in toll prices.

Q. HOW DO YOU RESPOND TO QWEST'S ARGUMENTS REGARDING TEST YEAR AND MARKET CONDITIONS?

A. In regard to each specific argument, I respond as follows:

1. <u>The use of a historical test year makes price elasticity irrelevant</u>. I agree that the company has experienced a significant erosion of toll revenues in the intervening years since the 1997 test period.[9] This has been due to competitive losses, EAS conversions, customer migration to discounted toll packages, and toll promotions offered by the company to entice customers to return to Qwest. However, the company has already agreed to the test period in this case and it has been used to determine the company's revenue requirement. If, for the sake of argument, we were to move the test period into the current year, the entire base upon which the proposed toll revenue reduction is calculated would be dramatically diminished. Of

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[7] For example, Qwest includes real income per capita as an economic factor in its study.
[8] R-Squared is a statistic that measures how well the variation in the dependent variable (e.g., toll demand) is explained by the variation in the dependent variables (price, per capita income, etc.). R-Squared may vary between zero and one. Higher R-Squared values indicate a higher level of explanation.
[9] The test period for toll demand extends from March 1997 through February 1998.

course, there are other Qwest services for which the demand has grown since the test year. Also, new services have been added. Given the pluses and minuses of changing the test year, I recommend that the 1997 test period be retained. Indeed, to change the test year would be to begin a new rate case, which cannot be done. It is the UT 125 test year customer demand that is being evaluated in this phase of the docket. It is my opinion that the test year's toll customers would have responded to the significant price reductions that I am proposing here.

2. Competitors would react to Qwest's price reduction with their own price reductions, thus eliminating any stimulation. I agree that this might be a situation in which both toll minutes *and* carrier access minutes would be stimulated. However, I do not agree with Qwest that such a scenario would eliminate price elasticity. Econometric studies may incorporate competitive variables. The purpose of such studies is to separate and quantify the simultaneous influence of these variables on demand and to isolate the consumer response to price change, other things being equal. While Qwest may lose or gain customers in response to how its competitors respond to its price reduction, my focus is on the 1997 test year and Qwest's customers in that year.

3. Customers have been conditioned to expect low toll rates. I do not find this point to be relevant. Moreover, I do not think Qwest supports this point with evidence. Finally, I am not convinced that customer expectations eliminate price elasticity.

4. Lowering switched access charges would allow other carriers to reduce prices and still maintain profitability. This argument goes more toward access imputation than price elasticity. Imputation is discussed in Part 4 of this testimony.

5. Dialing parity makes it easier for customers to rate shop among carriers. Qwest converted to intraLATA dialing parity on February 8, 1999, one year after the test period. As noted above, the test period cannot be changed. If customers can, and do, rate shop, this observation seems to suggest that consumers still respond to changes in toll prices.
6. Internet and wireless service provide new toll calling alternatives. I agree that these alternatives exist. It is not apparent that these alternatives create a price-inelastic toll market.

Q. HAS THE COMMISSION TYPICALLY USED PRICE ELASTICITY FACTORS FOR MAJOR TOLL PRICE CHANGES?

A. Yes. In prior cases that I recall, however, the price elasticity factor was settled. Thus, it was not an issue addressed by recent orders. However, as already noted, the rate design for UT 85 and UT 102 relied on the study provided by Qwest in Confidential Exhibit Staff/12. With the apparent exception of the last ten years, Qwest has been doing price elasticity studies since the mid 1970's.

A negative elasticity factor of .364 was applied in the Sprint/United toll filing that became effective in July 1997. This rate filing was associated with Sprint/United's petition to become a primary toll carrier.

Verizon, in response to a staff interrogatory in UT 141, submitted a 1995 price elasticity study. The results differentiated the price elasticity for residential toll and business toll. The overall price elasticity for the various states where Verizon (formally GTE) operates was a negative .38 and .14 for residential and business toll, respectively.[10]

Finally, in numerous EAS conversion cases over the past ten years, staff and the industry have typically agreed that toll minutes converted to EAS minutes would double due to lower EAS prices. This stimulation was used to measure the cost shift and the associated revenue requirement for EAS conversions. While the stimulation did not represent a specific elasticity factor, it did reflect the fact that consumers still respond to effective price reductions when toll rates are replaced by lower EAS rates.

A number of relatively recent articles published in economic journals indicate price elasticity for intraLATA toll in the range of a negative .3 to .4.

Q. WHAT JOURNAL ARTICLES DID YOU REVIEW?

A. I reviewed the following list of articles where the focus was primarily on intrastate, intraLATA toll.

Authors	Study	Factor
1. Michael Weingarten, Bart Stuck[11]	National, 1983-92	-.40
2. Gregory Duncan, Donald Perry[12]	California, 1986-90	-.38
3. Kenneth Train[13]	Delaware, Residential, 1985	-.39
4. Paul Rappoport, Lester Taylor[14]	National, Residential, 1994	-.44

In the last article the authors note, in support of their results, the conventional view that the intraLATA price elasticity factor is in the order of -.3 to -.4.

Q. WHY DOESN'T STAFF DO ITS OWN ELASTICITY STUDY?

A. Elasticity studies are difficult, time consuming, and require a large amount of data which staff does not possess. It is not practical for staff to expend scarce resources doing this type of study.

Q. WHAT DO YOU CONCLUDE REGARDING PRICE ELASTICITY?

A. Based on all of the above, I believe that a negative .3632 price elasticity is within the range of reasonability, and I recommend that it be adopted in this case. Qwest had an opportunity in respond to my interrogatory to provide a more current study. However, the company chose not to do so.

[10] The composite residential and business elasticity was in the range of -.3.
[11] Publication: Business Communications Review, pp. 32-34, January 2001.
[12] Publication: Information Economics and Policy, Vol. 6, pp. 163-178, 1994.
[13] Publication: Telecommunications Policy, pp. 708-713, December 1993.
[14] Publication: Information Economics and Policy, Vol. 9, pp. 51-70, 1997.

Part 4: MTS Access Imputation Analysis

Q. WHY IS ACCESS IMPUTATION ANALYSIS NECESSARY?

A. Access imputation arises out of PUC Order 89-221 in UT 47. The imputation is designed to prevent a "price squeeze" on Qwest's long distance competitors. A price squeeze results when a toll service competitor must pay access charges that approach the toll prices offered by Qwest so that it can no longer reasonably compete in the market. My imputation analysis includes originating and terminating access charges as well as billing and collection charges associated with Qwest's provision of intraLATA toll service. I also included an allowance for uncollectible toll revenue.

Q. WHAT IS THE RESULT OF YOUR ACCESS IMPUTATION ANALYSIS?

A. The result for MTS imputation is shown in Confidential Exhibit Staff/11, Turner/1 (RD). The imputation amount with current Qwest access charges is 7.41 cents per minute (Line D). This imputation, compared to the current ARPM for MTS, leaves a margin of 6.88 cents per billed toll minute. The margin relates to the price squeeze concern mentioned above.

With staff's proposed switched access charge and toll rate reductions, the imputation drops to 4.94 cents and the margin drops to 3.54 cents per billed toll minute. Even though the margin drops from 6.88 cents per minute prior to rate reductions to 3.54 cents per minute after rate reductions, I believe the 41.5 percent margin[15] is still sufficient to support toll competition without price squeeze.

If I apply the same imputation technique to Qwest's proposed switched access charge and toll rate reductions, the imputation increases to 5.65 cents and the margin decreases to 2.28 cents per billed toll minute.

Q. DOES QWEST AGREE WITH YOUR MTS IMPUTATION ANALYSIS?

15 The 41.5 percent margin is computed by dividing the imputation margin of 3.54 cents per minute by the ARPM of 8.54 cents per minute.

A. No. Qwest shows an imputed cost of 2.89 cents per minute based on network element prices set in UM 844. *See* Qwest/219, Brigham/82. I believe that carrier access charges are the more appropriate imputation standard in this case because toll carriers pay access charges for originating and terminating toll calls on the local exchange network.

Q. I NOTICE IN SOME OF THE DISCOUNTED TOLL PLANS THAT QWEST OFFERS SIX-SECOND INCREMENTAL BILLING RATHER THAN FULL MINUTE BILLING. DOES THIS AFFECT YOUR IMPUTATION ANALYSIS?

A. Yes. The full minute versus six-second incremental billing refers to the way in which Qwest measures the duration of a toll call for billing purposes. For example, for standard MTS, the company measures the duration of the call so that a fraction of a minute is measured to the next full minute. For several of the discount calling plans, the company measure the duration of the call, after the first 30 seconds, in six-second increments. The six-second incremental billing changes the ratio of the actual conversation time to the total time shown on the customer's bill. This slightly increases the imputation amount as shown in Confidential Exhibit Staff/11, Turner/2 (RD). Under staff's proposal, the imputation amount increases from 4.94 cents to 5.28 cents per billed toll minute.

Q. DOES THIS STILL LEAVE AN IMPUTATION MARGIN?

A. Yes. Under staff's proposed ARPM for MTS, the margin is 3.20 cents per billed minute. This leaves a 37.5 percent margin. The margin also remains positive relative to each of the Calling Connection Plans.

Q. WHAT IS THE SIGNIFICANCE OF THE PERCENTAGES OF ORIGINATING AND TERMINATING MINUTES SHOWN AT THE BOTTOM OF CONFIDENTIAL EXHIBIT STAFF/11, TURNER/1 AND 2 (RD)?

A. The percentages represent weighting factors applied to access charges. For example, traffic analysis indicates that Qwest currently originates about 83 percent of the minutes and the independent LECs, excluding Verizon and

Sprint/United, who handle their own originating toll, originate 17 percent. The originating access charge per minute of the various LECs that originate Qwest toll traffic is then blended by this percentage.

Q. WHAT ACCESS CHARGE ELEMENTS DID YOU USE IN YOUR IMPUTATION?

A. The access charge elements are shown in the left-hand column in Confidential Exhibit Staff/11, Turner/3 (RD). The originating elements are identified in lines 1-18. The terminating elements are in lines 19-32. The billing and collection (B&C) element is in Line 34. Marketing and sales, in line 33, is included with the originating access elements.

Q. PLEASE EXPLAIN CONFIDENTIAL EXHIBIT STAFF/11, TURNER/3 (RD).

A. Briefly:

1. Columns A and B show the ratios between a billed toll minute and an originating and terminating access minute. Both full minute and incremental six-second rounding are identified.
2. Columns C and D show the current and staff proposed rates per access minute.
3. Columns E through H compute the effective access imputation by multiplying the conversion ratios in Columns A and B by the rates shown in Columns C and D.

Lines 36 through 38 show the total for originating access, terminating access, and B&C charges. Multiplying these totals by traffic weighting factors gives the weighted imputed access charges shown in lines 40-42. These, in turn, are shown in the summary Confidential Exhibit Staff/11, Turner/1 and 2 (RD).

Q. WOULD A SIMILAR EXPLANATION APPLY TO CONFIDENTIAL EXHIBIT STAFF/11, TURNER/4 (RD)?

A. Yes, except the exhibit shows the other independent LECs' access elements. Lines 36 through 42 at the bottom of the exhibit show the traffic weighting factors and access totals that are incorporated into the summary imputation shown in Confidential Exhibit Staff/11, Turner/1 and 2 (RD).

Q. WHAT IS THE RESULT OF YOUR DEDICATED WATS ACCESS LINE IMPTATION ANALYSIS?

A. The result is shown in Confidential Exhibit Staff/11, Turner/5 (RD). The result is based on the results of UT 148 and UM 844. The imputation results show that staff's proposed dedicated WATS access rates exceed the UNE prices in each rate group, whereas Qwest's proposed rates fail imputation in the high-cost rate groups.

The Qwest imputation analysis is shown in Exhibit Qwest/219, Brigham/130-132. The staff and company analyses are the same.

Q. WHAT IS THE RESULT OF YOUR OPERATOR SURCHARGE IMPUTATION ANALYSIS?

A. My imputation analysis is in Confidential Exhibit Staff/11, Turner/6 (RD). The analysis shows that current operator and credit card surcharges exceed the imputed UNE price floor.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

CASE: UT 125, Phase II
WITNESS: Thomas A. Turner

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 9

Exhibit in Support of Direct Testimony

Witness Qualification Statement
Issue 3. Message Toll Service Rates

April 10, 2001

WITNESS QUALIFICATION STATEMENT

NAME:	THOMAS A. TURNER
EMPLOYER:	Public Utility Commission of Oregon
TITLE:	Sr. Revenue Requirement Analyst-Telecommunications Division
ADDRESS:	550 Capitol Street NE, Suite 215 Salem, Oregon 97301-2551
EDUCATION:	Bachelor of Science Degrees in Physics and Mathematics from Oregon State University, 1965
WORK EXPERIENCE:	I have been employed with the PUC since March 1982 as a senior telecommunications analyst. My primary responsibilities have included revenue requirement analysis, toll and access charge design, special cost studies, and policy analysis. Prior to joining the PUC, I was employed by GTE-Hawaii from 1967 to 1981. I worked in various positions including Transmission Engineer, Senior Systems Planner, engineering consultant for GTE Data Service Corporation, Construction Program Manager, and Valuation and Cost Manager.

LIST OF ABBREVIATIONS

1. ARPM	Average Revenue per Minute
2. B&C	Billing and Collection
3. CFR	Code of Federal Regulations
4. EAS	Extended Area Service
5. FCC	Federal Communications Commission
6. InWATS	Inward Wide Area Telecommunications Service
7. IXC	Interexchange Carrier
8. LEC	Local Exchange Carrier
9. MTS	Message Toll Service
10. OutWATS	Outward Wide Area Telecommunications Service
11. ORS	Oregon Revised Statutes
12. Toll PAC	Toll Personalized Area Calling
13. UNE	Unbundled Network Element
14. WATS	Wide Area Telecommunications Service

QWEST
UT 125 Rate Design-Toll Services

Toll Rates

MTS Peak>	$0.1100
Off-Peak>	$0.0700

A.	Msg. Toll Service (MTS)	Current Rates Initial Min.	Current Rates Additional Min.	Avg. 4.92 Min.	Staff Proposed Rates All Min.	Staff Proposed Rates % Reduction
1	**Day Rates (8am to 5pm)**		Avg. Day>	$0.1909	$0.1100	-42.37%
2	0-10 Miles	$0.1300	$0.1000	$0.1061	$0.1100	3.68%
3	11-22 Miles	$0.1700	$0.1500	$0.1541	$0.1100	-28.60%
4	23-55 Miles	$0.2100	$0.1700	$0.1781	$0.1100	-38.25%
5	56-124 Miles	$0.2400	$0.2100	$0.2161	$0.1100	-49.10%
6	125 + Miles	$0.2600	$0.2200	$0.2281	$0.1100	-51.78%
7	**Evening Rates (5pm to 11pm)**	**(25% Discount)**	Avg. Evening>	$0.1432	$0.0700	-51.10%
8	0-10 Miles	$0.0975	$0.0750	$0.0796	$0.0700	-12.03%
9	11-22 Miles	$0.1275	$0.1125	$0.1155	$0.0700	-39.42%
10	23-55 Miles	$0.1575	$0.1275	$0.1336	$0.0700	-47.60%
11	56-124 Miles	$0.1800	$0.1575	$0.1621	$0.0700	-56.81%
12	125 + Miles	$0.1950	$0.1650	$0.1711	$0.0700	-59.09%
13	**Night Rates (11pm to 8am)**	**(50% Discount)**	Avg. Night>	$0.0954	$0.0700	-26.65%
14	0-10 Miles	$0.0650	$0.0500	$0.0530	$0.0700	31.95%
15	11-22 Miles	$0.0850	$0.0750	$0.0770	$0.0700	-9.13%
16	23-55 Miles	$0.1050	$0.0850	$0.0891	$0.0700	-21.41%
17	56-124 Miles	$0.1200	$0.1050	$0.1080	$0.0700	-35.21%
18	125 + Miles	$0.1300	$0.1100	$0.1141	$0.0700	-38.63%
19	**Calculated Avg. Rate**		Calc. Avg.>	$0.1504	$0.0850	-43.49%
20	**Calculated Avg. Rate-Res.**			$0.1450	$0.0815	-43.77%
21	**Calculated Avg. Rate-Bus.**			$0.1736	$0.0999	-42.49%
22	Stated or Adjusted Avg.		Stated Avg.>	$0.1509	$0.0853	-43.49%

Turner/3 (RD)

QWEST
UT 125 Rate Design-Toll Services

	Toll Rates	MTS Peak>	$0.1000		$0.1200		$0.1200
		Off-Peak>	$0.0600		$0.1000		$0.0600
		QWEST Proposed Rates					
		Residence		Business		Miscellaneous*	
A.	Msg. Toll Service (MTS)	All Min.	% Reduction	All Min.	% Reduction	All Min.	% Reduction
1	**Day Rates (8am to 5pm)**	$0.1000	-47.61%	$0.1200	-37.13%	$0.1200	-37.13%
2	0-10 Miles	$0.1000	-5.75%	$0.1200	13.10%	$0.1200	13.10%
3	11-22 Miles	$0.1000	-35.09%	$0.1200	-22.11%	$0.1200	-22.11%
4	23-55 Miles	$0.1000	-43.86%	$0.1200	-32.63%	$0.1200	-32.63%
5	56-124 Miles	$0.1000	-53.72%	$0.1200	-44.47%	$0.1200	-44.47%
6	125 + Miles	$0.1000	-56.17%	$0.1200	-47.40%	$0.1200	-47.40%
7	**Evening Rates (5pm to 11pm)**	$0.0600	-58.09%	$0.1000	-30.14%	$0.0600	-58.09%
8	0-10 Miles	$0.0600	-24.60%	$0.1000	25.67%	$0.0600	-24.60%
9	11-22 Miles	$0.0600	-48.07%	$0.1000	-13.46%	$0.0600	-48.07%
10	23-55 Miles	$0.0600	-55.09%	$0.1000	-25.15%	$0.0600	-55.09%
11	56-124 Miles	$0.0600	-62.98%	$0.1000	-38.30%	$0.0600	-62.98%
12	125 + Miles	$0.0600	-64.93%	$0.1000	-41.55%	$0.0600	-64.93%
13	**Night Rates (11pm to 8am)**	$0.0600	-37.13%	$0.1000	4.78%	$0.0600	-37.13%
14	0-10 Miles	$0.0600	13.10%	$0.1000	88.51%	$0.0600	13.10%
15	11-22 Miles	$0.0600	-22.11%	$0.1000	29.82%	$0.0600	-22.11%
16	23-55 Miles	$0.0600	-32.63%	$0.1000	12.28%	$0.0600	-32.63%
17	56-124 Miles	$0.0600	-44.47%	$0.1000	-7.45%	$0.0600	-44.47%
18	125 + Miles	$0.0600	-47.40%	$0.1000	-12.33%	$0.0600	-47.40%
19	**Calculated Avg. Rate**	$0.0797	-47.01%	$0.0797	-47.01%	$0.0824	-45.17%
20	**Calculated Avg. Rate-Res.**	$0.0715	-50.67%				
21	**Calculated Avg. Rate-Bus.**			$0.1149	-33.81%		
22	Stated or Adjusted Avg.	$0.0804	-46.69%	$0.0804	-46.69%	$0.0804	-46.69%

** Miscellaneous includes all operator assisted calls and bus/res calls where the customer cannot be identified.*

Staff/9
Turner/3a (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

(Eliminate Toll-Pac and convert to Standard MTS)

B.

		Current Rates			Staff Proposed Rates	
	Toll-PAC (30% Discount MTS)	Initial Min.	Additional Min.	Avg. 4.92 Min.	All Min.	% Reduction
1	**Day Rates (8am to 5pm)**		Avg. Day>	$0.1149	$0.1100	-4.27%
2	0-10 Miles	$0.0910	$0.0700	$0.0743	$0.1100	48.11%
3	11-22 Miles	$0.1190	$0.1050	$0.1078	$0.1100	2.00%
4	23-55 Miles	$0.1470	$0.1190	$0.1247	$0.1100	-11.78%
5	56-124 Miles	$0.1680	$0.1470	$0.1513	$0.1100	-27.28%
6	125 + Miles	$0.1820	$0.1540	$0.1597	$0.1100	-31.12%
7	**Evening Rates (5pm to 11pm)**	**(25% Discount)**	Avg. Evening>	$0.0862	$0.0700	-18.77%
8	0-10 Miles	$0.0683	$0.0525	$0.0557	$0.0700	25.67%
9	11-22 Miles	$0.0893	$0.0788	$0.0809	$0.0700	-13.46%
10	23-55 Miles	$0.1103	$0.0893	$0.0935	$0.0700	-25.15%
11	56-124 Miles	$0.1260	$0.1103	$0.1135	$0.0700	-38.30%
12	125 + Miles	$0.1365	$0.1155	$0.1198	$0.0700	-41.55%
13	**Night Rates (11pm to 8am)**	**(50% Discount)**	Avg. Night>	$0.0575	$0.0700	21.84%
14	0-10 Miles	$0.0455	$0.0350	$0.0371	$0.0700	88.51%
15	11-22 Miles	$0.0595	$0.0525	$0.0539	$0.0700	29.82%
16	23-55 Miles	$0.0735	$0.0595	$0.0623	$0.0700	12.28%
17	56-124 Miles	$0.0840	$0.0735	$0.0756	$0.0700	-7.45%
18	125 + Miles	$0.0910	$0.0770	$0.0798	$0.0700	-12.33%
19	**Calculated Avg. Rate**	*(Min. Billing: 0-10 Mi. is $1.65)*		$0.0895	$0.0845	-5.55%
20	**Calculated Avg. Rate-Res.**		*11-22 Mi. is $2.70)*	$0.0876	$0.0826	-5.73%
21	**Calculated Avg. Rate-Bus.**		*23-55 Mi. is $4.05)*	$0.1043	$0.0998	-4.31%
22	Stated or Adjusted Avg.		*(Due to min. billing>*	$0.1258	$0.0845	-32.81%

Staff/9
Turner/4 (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

(Eliminate Toll-Pac and convert to Standard MTS)

		QWEST Proposed Rates					
		Residence		Business		Miscellaneous	
B.	Toll-PAC (30% Discount MTS)	All Min.	% Reduction	All Min.	% Reduction		
1	**Day Rates (8am to 5pm)**	$0.1000	-12.97%	$0.1200	4.43%	$0.1200	4.43%
2	0-10 Miles	$0.1000	34.65%	$0.1200	61.58%	$0.1200	61.58%
3	11-22 Miles	$0.1000	-7.27%	$0.1200	11.27%	$0.1200	11.27%
4	23-55 Miles	$0.1000	-19.80%	$0.1200	-3.76%	$0.1200	-3.76%
5	56-124 Miles	$0.1000	-33.89%	$0.1200	-20.67%	$0.1200	-20.67%
6	125 + Miles	$0.1000	-37.38%	$0.1200	-24.85%	$0.1200	-24.85%
7	**Evening Rates (5pm to 11pm)**	$0.0600	-30.38%	$0.1000	16.04%	$0.0600	-30.38%
8	0-10 Miles	$0.0600	7.72%	$0.1000	79.53%	$0.0600	7.72%
9	11-22 Miles	$0.0600	-25.82%	$0.1000	23.63%	$0.0600	-25.82%
10	23-55 Miles	$0.0600	-35.84%	$0.1000	6.93%	$0.0600	-35.84%
11	56-124 Miles	$0.0600	-47.11%	$0.1000	-11.86%	$0.0600	-47.11%
12	125 + Miles	$0.0600	-49.90%	$0.1000	-16.51%	$0.0600	-49.90%
13	**Night Rates (11pm to 8am)**	$0.0600	4.43%	$0.1000	74.06%	$0.0600	4.43%
14	0-10 Miles	$0.0600	61.58%	$0.1000	169.29%	$0.0600	61.58%
15	11-22 Miles	$0.0600	11.27%	$0.1000	85.45%	$0.0600	11.27%
16	23-55 Miles	$0.0600	-3.76%	$0.1000	60.40%	$0.0600	-3.76%
17	56-124 Miles	$0.0600	-20.67%	$0.1000	32.22%	$0.0600	-20.67%
18	125 + Miles	$0.0600	-24.85%	$0.1000	25.24%	$0.0600	-24.85%
19	**Calculated Avg. Rate**	$0.0773	-13.63%	$0.0773	-13.63%	$0.0818	-8.62%
20	**Calculated Avg. Rate-Res.**	$0.0726	-17.14%				
21	**Calculated Avg. Rate-Bus.**			$0.1149	10.15%		
22	Stated or Adjusted Avg.	$0.0763	-39.29%	$0.0763	-39.29%	$0.0804	-36.05%

** Miscellaneous includes all operator assisted calls and bus/res calls where the customer cannot be identified.*

Staff/9
Turner/4a (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

		Calling Connection Plans	Current Rates Rate	Current Rates Avg. Rate/Min.	Staff Proposed Rates Rate	Staff Proposed Rates % Reduction	QWEST Proposed Rates Rate	QWEST Proposed Rates % Reduction
C.		**Bus. Daytime Connection***	***(No longer offered @ 1-6-99)***		***(Combine w Connection Plus)***		***(Combine w Connection Plus)***	
	1	Monthly Rate for 100 Mins (Minimum)	$15.00	$0.1500	$6.00	*<For 1st hr.)*	$6.00	*<For 1st hr.)*
	2	Next 100 Minutes	$0.1400	$0.1400	$0.1000		$0.1000	
	3	Over 200 Minutes (MTS rate)	$0.1509	$0.1509				
	4	Avg. Rate	*(QWEST Stated>*	$0.1500	$0.1000	-33.33%	$0.1000	-33.33%
D.		**Bus. Daytime Connection Plus***			***(Propose rate reduction)***		***(Propose rate reduction)***	
	1	Monthly Rate for 60 Mins (Minimum)	$9.00	$0.1500	$6.00	*<For 1st hr.)*	$6.00	*<For 1st hr.)*
	2	61 Minutes and over	$0.1400	$0.1400	$0.1000		$0.1000	
	3	Avg. Rate	*(QWEST Stated>*	$0.1500	$0.1000	-33.33%	$0.1000	-33.33%
		(Plus 30% Discount on Calling Card)						
E.		**City Connection**			***(Retain QWESTdiscounts)***		***(Retain same discounts)***	
	1	Monthly Rate	$1.00		$1.00		$1.00	
	2	MTS Discount--Preselect Exchange	20.00%	$0.1207	$0.0682		$0.0643	
	3	MTS Discount--All Other	5.00%	$0.1433	$0.0810		$0.0764	
	4	Avg. Rate	*(QWEST Stated>*	$0.1311	$0.0741	-43.49%	$0.0683	-47.95%
F.		**Volume Calling Connection***	**(Incl. Tenant Calling Connection)**		***(Propose rate reduction)***		***(Propose rate reduction)***	
	1	Monthly Rate for "Main Account"	$5.00		$5.00		$5.00	
	2	Rate/Min.	$0.1000	$0.1000	$0.0700		$0.0700	
	3	Rate/Min. (Multi-location 2% Disc.)	$0.0980	$0.0980	$0.0686		$0.0686	
	4	Volume Discount: >$50/Mo. = 10%	$0.0900	$0.0900	$0.0630		$0.0630	
		>$100/Mo. = 20%	$0.0800	$0.0800	$0.0560		$0.0560	
	5	Avg. Rate	*(QWEST Stated>*	$0.1045	$0.0731	-30.00%	$0.0703	-32.75%
		(Plus 30% Discount on Calling Card)						

** Meas: 30 sec initial + 6 sec increment*

Staff/9
Turner/5 (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

		Current Rates		Staff Proposed Rates		QWEST Proposed Rates	
	Calling Connection Plans	Rate	Avg. Rate/Min.	Rate	% Reduction	Rate	% Reduction
G.	**Simple Value**	***(New as of 12-16-98)***		***(Eliminate & move to Std. MTS)***		***(Eliminate residential only)***	
1	Residence (Peak)	$0.2400	$0.2400	$0.1100		Deleted	
2	(Off-Peak)	$0.0900	$0.0900	$0.0700		Deleted	
3	Business* (Peak)	$0.1100	$0.1100	$0.1100		$0.0900	
4	(Off-Peak)	$0.0800	$0.0800	$0.0700		$0.0600	
5	Avg. Rate	*(QWEST Stated>*	$0.1562	$0.0853	-45.41%	$0.0763	-51.11%
H.	**Super Savings**	***(New as of 12-16-98)***		***(Propose rate reduction)***		***(Propose rate reduction)***	
1	Residence	$0.1000	$0.1000	$0.0800		$0.0800	
2	Business*	$0.0800	$0.0800	$0.0800		$0.0600	
3	Avg. Rate	*(QWEST Stated>*	$0.1026	$0.0841	-18.03%	$0.0776	-24.38%
		(Should be>	$0.0976	$0.0800	-18.03%		
I.	**Oregon Value Plan ***			***(Eliminate & move to Std. MTS)***		***(Eliminate, move bus to Bus. Daytime Connection Plus, & move res. to Std. MTS)***	
1	Mo. Rate for 60 Mins (Min.-Off Peak)	$6.00	$0.1000				
2	Over 60 Min. Off Peak	$0.1000	$0.1000				
3	Day (Peak) (5% Discount)	$0.1813	$0.1813				
4	Avg. Rate	*(QWEST Stated>*	$0.1351	$0.0853	-36.91%	$0.0627	-53.61%
J.	**Oregon Value Plan II**			***(Eliminate & move to Std. MTS)***		***(Eliminate & move to Std. MTS)***	
1	Mo. Rate for 120 Mins (Minimum)	$14.40	$0.1200				
2	Over 120 Mins. Day	$0.1600	$0.1600				
3	Over 120 Mins. Evening & Night	$0.1000	$0.1000				
4	Avg. Rate	*(QWEST Stated>*	$0.1355	$0.0853	-37.10%	$0.0613	-54.75%
K.	**Better Deal**	***(New on 12-16-98***		***(Eliminate & move to Std. MTS)***		***(No longer offered)***	
1	Unlimited Toll for Flat Monthly Rate	***& canclled on 2-17-99)***					
2	Business	$149.00					
3	Residence	$49.00					
4	Avg. Rate	*(QWEST Stated>*	$0.1450	$0.0853	-41.21%	$0.0795	-45.16%

** Meas: 30 sec initial + 6 sec increm ent*

Staff/9
Turner/6 (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

		WATS		Current Rates Hourly Rate	Per Min Rate	Per Min Rate*	Staff Proposed Rates Rate	% Reduction	QWEST Proposed Rates Monthly Rate	Per Min Rate	% Reduction
L.		**WATSaver**					*(Eliminate & move to Std. MTS)*		*(Elininate & transfer res to Super Saving and bus to Std. MTS)*		
	1	First 10 hours		$10.50	$0.1750	$0.1591					
	2	10 - 30 hours		$9.75	$0.1625	$0.1477					
	3	30 - 60 hours		$9.00	$0.1500	$0.1364					
	4	Over 60 hours		$8.25	$0.1375	$0.1250					
	5	Avg. Rate		**Plus Bonus: 1/2 hr for each 5 hrs.*		$0.1750	$0.0853	-51.28%		$0.11969	-31.61%
M.		**OutWATs**		Lines	/Line Charge	Effective	Lines	/Line Charge	Lines	/Line Charge	
	1a	Access Line Charge	Rate Group 1	183	$23.50	$24.00	183	$23.50	183	$23.50	0.00%
	1b	Access Line Charge	Rate Group 2	14	$26.00		14	$27.50	14	$26.00	0.00%
	1c	Access Line Charge	Rate Group 3	14	$28.50		14	$58.50	14	$28.00	-1.75%
	2	First 10 hours		$7.50	$0.1250	$0.1250	211	$26.09	211	$23.96	
	3	10 - 30 hours		$7.00	$0.1167	$0.1167					
	4	30 - 60 hours		$6.25	$0.1042	$0.1042	*(Propose rate change & grandfather)*		*(Propose Zone 3 reduction & grandfather)*		
	5	Over 60 hours		$6.00	$0.1000	$0.1000					
	6	Avg. Mo. Revenue/Line				$24.00	$26.09	8.71%		$23.96	-0.14%
N.		**800 Service**		Lines	/Line Charge	Effective	Lines	/Line Charge	Lines	/Line Charge	
	1a	Access Line Charge	Rate Group 1	255	$33.50	$33.58	255	$26.00	255	$33.10	-1.19%
	1b	Access Line Charge	Rate Group 2	4	$36.00		4	$30.00	4	$35.60	-1.11%
	1c	Access Line Charge	Rate Group 3	2	$38.50		2	$61.00	2	$37.60	-2.34%
	2	First 10 hours		$10.35	$0.1725	$0.1725	261	$26.33	261	$33.17	
	3	10 - 30 hours		$9.35	$0.1558	$0.1558					
	4	30 - 60 hours		$8.50	$0.1417	$0.1417	*(Propose rate change & grandfather)*		*(Propose rate reduction & grandfather)*		
	5	Over 60 hours		$7.00	$0.1167	$0.1167					
	6	Avg. Mo. Revenue/Line				$33.58	$26.33	-21.58%		$33.17	-1.20%
O.		**800 ServiceLine**					*(Propose rate reduction)*		*(Propose rate change)*		
	1	Monthly		$3.00			$3.00		$5.00		
	2	Usage		$7.20	$0.1200	$0.1200	$6.00	$0.1000	$6.00	$0.1000	$0.1000
	3	Volume Discount > $60 (10 to 20%)									
	4	Avg. Rate			*(QWEST Stated>*	$0.2291	$0.1655	-27.76%		$0.2091	-8.73%

Turner/7 (RD)

QWEST
UT 125 Rate Design-Toll Services

Toll Rates (Cont'd)

		Current Rates		Staff Proposed Rates		QWEST Proposed Rates	
P.	Prime Saver	Per Min Rate	Avg. Rate	Rate	% Reduction	Rate	% Reduction
1	One-Year Contract						
	75 Hour Minimum	$0.0950		*(Propose no change)*		*(Propose no change)*	
	150 Hour Minimum	$0.0900					
	300 Hour Minimum	$0.0850					
	600 Hour Minimum	$0.0800					
2	Two-Year Contract						
	75 Hour Minimum	$0.0900					
	150 Hour Minimum	$0.0850					
	300 Hour Minimum	$0.0800					
	600 Hour Minimum	$0.0750					
3	Three-Year Contract						
	75 Hour Minimum	$0.0850					
	150 Hour Minimum	$0.0800					
	300 Hour Minimum	$0.0750					
	600 Hour Minimum	$0.0700					
4	USWC Stated Avg.		(NA)				
Q.	Operator Services	Per Contact		Per Contact		Per Contact	
				(Propose no change)		*(Propose no change)*	
1	Mechanized Credit Card	$0.50		$0.50		$0.50	
2	Operator Station-to-Station	$1.30		$1.30		$1.30	
3	Operator Person-to-Person	$3.00		$3.00		$3.00	
				(Propose increase discount)		*(Propose increase discount)*	
4	Hearing/Speech Impaired	Discount:	0%	50%	50.0%	50%	

Staff/9
Turner/8 (RD)

U S WEST COMMUNICATIONS
DOCKET: UT 125, Phase II
INTERVENOR: Oregon Public Utility Commission
REQUEST NO: PUC 106-002

REQUEST:

The following questions all relate to message toll products.

Demand elasticity: Summary page "OR95.XLS shows that USWC assumed a zero stimulation factor. Traditionally the factor has less than this-that is, a price reduction causes demand stimulation. In UT 102, for example, the company used a negative .3640 for a one-year average elasticity and a negative .5824 for long-run price elasticity. Please justify why the company assumed zero elasticity or indicate what it believes to be the current elasticity factors for its Oregon toll products.

RESPONSE:

U S WEST objects to this interrogatory because it seeks irrelevant data. The Commission has stated that it used an historic test year with adjustments and that current data are irrelevant to this docket. Under these circumstances the Commission may only analyze the effect of the proposed rate design on the quantities in the test year or on the projected quantities used by the Commission in setting the revenue requirement. Without waiving that objection, U S WEST answers as follows:

Traditional stimulation factors no longer apply because the Toll business is subject to greater and greater competitive pressures; through direct connections to Carriers, dial-around, etc. Our proposed toll reductions are aimed at stemming on-going revenue losses and is an attempt to retain as much market share as possible so that these revenue losses are minimized. Said another way, we are trying to play catch-up to the lower prices offered by competitors. Additionally, competitors can and do react to the price changes, which in turn can mitigate the intended impacts of the toll reductions proposed by U S WEST.

Staff/9
Turner/10 (RD)

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

FCC 83-567
34095

In the Matter of	)	
	)	
Petition of the State of Michigan	)	CC Docket No. 83-788
Concerning the Effects of Certain	)	
Federal Decisions on Local	)	
Telephone Service	)	

Order

Adopted December 1, 1983; Released December 21, 1983

By the Commission:

1. On July 27, 1983, we adopted a Notice of Inquiry in this proceeding in response to a petition by the State of Michigan. Michigan asks us to review the cumulative effects of certain federal decisions on local rates and the availability of local service. The Report presented to us today by the Common Carrier Bureau staff is the culmination of their investigation of the issues raised by Michigan. The staff's analysis and conclusion that our policies do not threaten universal service reinforces our findings that our actions are in the public interest and, indeed, serve to ensure universal service in the long run.

2. The staff findings are important contributions to the debate surrounding changes in the industry. Further, they relate directly to our monitoring proposal in CC Docket 78-72, Phase IV. 48 Fed. Reg. 30153, June 30, 1983. By our action here, we officially accept this document from the staff. The conclusions reached in the Report will be used in further developing our monitoring plan and assessing future actions.

3. Accordingly, IT IS HEREBY ORDERED that the staff Report be published as a Commission Report.

4. IT IS FURTHER ORDERED that the Secretary shall send copies of the Report to the regulatory commissions of the various states, districts, territories and possessions affected by the policies examined in the report.

5. IT IS FURTHER ORDERED that Docket 83-788 is hereby TERMINATED. The record of this proceeding will be incorporated into CC Docket 78-72, Phase IV. Any correspondence or comments related to this Report shall be captioned for inclusion in CC Docket 78-72 Phase IV.

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico
Secretary

Staff/9
Turner/11 (RD)

ANALYSIS OF THE EFFECTS OF FEDERAL DECISIONS ON LOCAL TELEPHONE SERVICE

A Report after Inquiry
in CC Docket 83-788

Common Carrier Bureau
December 9, 1983

Table 2. Access Demand Elasticities

Study	State (Co.)	Customers	Elasticity Estimates Short Run	1 Year	Long Run
Egan	AR,KS,MO,OK,TX (Bell)	Business	-.01	-.03	-.07
Egan	AR,KS,MO,OK,TX (Bell)	Residence	-.01	-.03	-.04
Doherty	NY (Bell)	All	-.04	-.09	-.11
Carr	NY (Rochester)	Business	NA	-.05	NA
Carr	NY (Rochester)	Residence	NA	-.04	NA
DRI	CT (Bell)	Business	-.04	-.13	-.15
DRI	CT (Bell)	Residence	-.03	-.08	-.08
Gearity	TN (United)	All	-.24	-.24	-.24
Gearity	VA (United)	All	-.22	-.22	-.22
Perl	National Survey (1970 data)	Residence	NA	NA	-.09
Perl	National Survey (1980 data)	Residence	NA	NA	-.01
Reinking	UT (Bell)	All	-.04	-.04	-.04
Miller	MI (Bell)	All	-.08	-.08	-.08
Alleman	National, Cities	Residence,FR	NA	NA	-.17
Alleman	National, Cities	Residence,FR&MS	NA	NA	-.02
Feldman	National, States	Residence	NA	NA	-.05
Davis et al	Bell System	All	NA	-.02	-.08
Mahan	NC (United)	Residence	NA	NA	0
Heidt	NE Tel. (Bell)	Residence	-.04	NA	-.20

Staff/9
Turner/13 (RD)

FCC 90-314
38006

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

In the Matter of	)	
	)	
Policy and Rules Concerning Rates for Dominant Carriers	)	CC Docket No. 87-313
	)	

SECOND REPORT AND ORDER

Adopted: September 19, 1990 ; Released: October 4, 1990

By the Commission: Commissioner Duggan concurring in part and dissenting in part and issuing a separate statement.

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APPENDIX C

A STUDY OF LOCAL EXCHANGE CARRIER POST-DIVESTITURE SWITCHED ACCESS PRODUCTIVITY

by J. Christopher Frentrup and Mark I. Uretsky[1]

1. This study, using data submitted by the United States Telephone Association (USTA), examines switched access revenue, cost, and demand data from June 1984 through June 1991 in order to determine the productivity offset, or "X factor" which would have been necessary to give the same prices in 1991 under the Commission's Balanced 50/50 price cap plan as should have occurred under rate of return regulation in that period.[2] We find that this X factor is approximately 3.5 percent on a historical basis. Depending on the assumptions made regarding future growth in demand and the percent of common line revenues which come from Subscriber Line Charges (SLCs), the X factor on a prospective basis ranges between approximately 3.3 and 3.6 percent. As in our original study,[3] the value of X is very sensitive both to the time period chosen for the starting point of the analysis and to changes in the formula used for the price cap index (PCI).

2. The original version of this study used data submitted by USTA and by the American Telephone and Telegraph Company (AT&T)[4] to examine switched access revenue, cost, and demand data from June 1984 through December 1989 in order to determine the X factor which would have been necessary to give the

---

1 Mr. Frentrup is Senior Economist, and Mr. Uretsky is Senior Supervisory Economist, for the Tariff Division, Common Carrier Bureau, Federal Communications Commission.

2 The Balanced 50/50 cap approach is presented in Appendix E.

3 See Policy and Rules Concerning Rules for Dominant Carriers, CC Docket No. 87-313, Supplemental Notice of Proposed Rulemaking, 5 FCC Rcd 2176 (1990) Supplemental Notice.

4 See Public Notice DA 90-114 (Action in CC Docket 87-313; Common Carrier Bureau Seeks Post-Divestiture Productivity Data for Local Exchange Carriers), released Jan. 29, 1990. See also Letter from Associate General Counsel, USTA to Chief, Common Carrier Bureau, Feb. 9, 1990; Letter from Director, Federal Regulation Division, AT&T, to Chief, Common Carrier Bureau, Feb. 9, 1990; and Letter from Associate General Counsel, USTA, to Chief, Common Carrier Bureau, Feb. 20, 1990 (post-divestiture data).

seems to argue that the 1985/1986 data point should be adusted downward, rather than that the 1984/1985 point should be adjusted upward. This change is not reflected in the current study, because there is not sufficient information on which to make a reasonable adjustment.

27. AT&T also argues that 1984/1985 demand was higher than the trend of later data because of problems with the provisioning of special access. These problems caused minutes to remain on the switched network which would otherwise have migrated to special access. Thus, demand should be lower, giving a higher adjusted traffic sensitive per minute rate. This adjustment seems speculative and not accurately quantifiable. We have not reflected this in the current study.

28. We continue to believe that the best way to estimate the overall growth between 1984/1985 and 1990/1991 is to use a trend regression over the entire time period. While we grant that this gives a model with a low R-squared value and a trend variable with a low t-statistic, we still believe that an averaging technique using all post-divestiture data gives a more complete picture of LEC post-divestiture productivity than would result from excluding one year. The statistical tests which show that the 1984/1985 data point is an outlier are merely indications that the data point needs to be examined closely. That examination has been given and the data point has been adjusted to reflect the changes identified.

29. The final point we have to consider is the amount of demand stimulation. We have reflected in our study the amount of demand stimulation reported by USTA in its ex parte submission of August 6, 1990. This estimate assumes that the demand function for interstate minutes is

q = A*p^e

where q is quantity demanded, p is price, e is the elasticity of demand and A contains all variables that affect demand other than price. Demand stimulation is then given by the formula

Stimulation = q * [1 - (R1 / RO)^(e/1+e)]

where q is observed demand, RO is observed CCL plus TS revenue, R1 is RO plus SLC revenue plus the exogenous changes, and e is the elasticity of demand, multiplied by the proportion of interexchange carrier revenues which are access. USTA assumed a constant long run elasticity of -0.723 and a constant access fraction of 0.45 in computing its estimate of stimulation. AT&T notes that the elasticity number used should reflect the intertemporal nature of stimulation, and thus that a first year elasticity of -0.47 and long run elasticity of -0.68 should be used. Also, AT&T notes that the access fraction for it has been declining over time, and is currently below 0.45. Making these two changes, AT&T states, would result in a lower estimate of stimulated demand.

30. We believe USTA's estimate of stimulated demand is reasonable. The elasticity factors that both AT&T and USTA use are estimated from time series data, and thus have associated variances. There is also some uncertainty about the correct access fraction to use. Presumably, the other interexchane carriers access fractions differ from AT&T's and have been rising over time as they have begun paying premium access rates as equal access is implemented. As these carriers market share has increased, the proportion of their expenses which are access becomes more important in determining the industry access fraction. Also, the access fraction that both USTA and AT&T propose is the access fraction that actually existed in each year. A reasonable argument can be made that the correct fraction to be used in the fraction that would result if the SLC revenue and exogenous changes were added back on to access costs in each year. This would result in a higher access fraction. The access fraction and demand elasticity that USTA used thus appear to be reasonable estimates which adequately balance these offsetting factors.

CASE: UT 125, Phase II
WITNESS: Thomas A. Turner

PUBLIC UTILITY COMMISSION OF OREGON

CONFIDENTIAL
STAFF EXHIBIT 10

Exhibit in Support of Direct Testimony

Toll Revenue and Demand Analysis

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 10 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: Thomas A. Turner

PUBLIC UTILITY COMMISSION OF OREGON

CONFIDENTIAL
STAFF EXHIBIT 11

Exhibit in Support of Direct Testimony

Access Imputation Analysis

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 11 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: Thomas A. Turner

PUBLIC UTILITY COMMISSION OF OREGON

CONFIDENTIAL
STAFF EXHIBIT 12

Exhibit in Support of Direct Testimony

Price Elasticity Study

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 12 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: David L. Sloan

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 13

Direct Testimony on

Issue 4. Features
Issue 5. Features – Non Recurring Charges
Issue 6. Listings
Issue 7. Centrex Plus
Issue 8. Centrex 21

April 10, 2001

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is David L. Sloan. I am employed by the Public Utility Commission of Oregon as a Financial Analyst in the Utility Program. My business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. My Witness Qualification Statement is found in Exhibit Staff/14, Sloan/1 and 2 (RD).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present my proposed retail rate design relative to Issue 4: Features; Issue 5: Features – Non-recurring Charges; Issue 6: Listings; Issue 7: Centrex Plus; and Issue 8: Centrex 21.

Q. DID YOU PREPARE AN EXHIBIT FOR THIS DOCKET?

A. Yes. I prepared nonconfidential Exhibit Staff/14 consisting of 15 pages and confidential Exhibit Staff/15 consisting of 21 pages.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. After having conducted extensive discovery, exchange of information and analyses, I have generally adopted the company's proposed price adjustments and annual revenue adjustments for Features, Features – Non-recurring Charges, Listings, Centrex Plus, and Centrex 21.

I am proposing an overall decrease in the company's annual revenues of $8.6 million resulting from price changes in Features, Features – Non-recurring Charges, Listings, Centrex Plus, and Centrex 21. I have summarized my proposed annual revenue adjustments in Exhibit Staff/14, Sloan/3 (RD).

My proposal includes a $5.6 million annual revenue decrease for residential features and a $1.3 million decrease for business features. The residential reduction results primarily from a decrease in the monthly recurring charges for features such as Caller ID, Call Waiting and Call Forwarding. The business reduction results primarily from a decrease in the monthly recurring charges for features such as Call Forwarding, Call Waiting, Call Transfer, Call Rejection and Speed Calling.

My proposal includes a $0.7 million decrease from the elimination of non-recurring charges (NRCs) for residential features.

I am also proposing a $0.2 million annual revenue decrease for Non-Listed and Non-Published Listing Services.

For Centrex Plus I am proposing a $0.7 million annual revenue decrease, resulting from price reductions in the line charge, the usage charge and the network access facility (NAF) charge. The NAF is also sometimes referred to as a Network Access Register, or NAR.

For Centrex 21 I am proposing a $12,441 annual revenue decrease, resulting primarily from increased discounts for rate stabilization contracts.

Q. HOW DOES YOUR PROPOSAL DIFFER FROM THE COMPANY'S PROPOSAL?

A. My proposal for Issues 4 through 8 differs only slightly from the company's proposal. For Issue 7 – Centrex Plus, I am in agreement with the company's proposal for price changes to the Centrex Plus line charge as memorialized in Lawrence Reichman's letter dated March 19, 2001, reference "Revised UT 125 Rate Spread". However, in Mr. Reichman's letter the company proposed to offset its reduced revenue from the Centrex Plus line charge by increasing the rates that it proposed in its Advice No. 1849 for certain other services, including the Centrex Plus usage charge and the NAF charge. While staff is in agreement with the reduced Centrex Plus line charges proposed in Mr. Reichman's letter, staff's proposal offsets the associated reduction in annual revenues by adjusting other services. Therefore, staff does not agree with any of the company's revenue offsets proposed in Mr. Reichman's letter.

The company did not include in its Advice No. 1849 a proposal for the pricing of the line identification data base (LIDB) charge or the chip-in charge. I am proposing that there be no tariffed LIDB charge associated with an initial installation, but that a $3.50 non-recurring charge be allowed for subsequent changes. Also, I am proposing that no chip-in charge be allowed.

For Issue 8 – Centrex 21, the company did not propose a rate group 3, and in its filing did not account for the revenues derived from the February 1997 to March 1998 customers that would be classified in rate group 3 per Commission Order No. 00-481 in UT 148/UM 963. In order to account for these revenues, I am proposing a rate group 3 for Centrex 21. However, I agree with the company that the prices for rate group 3 that are necessary to meet the price floor requirement are significantly higher than customers are paying today. The few customers that are classified in the proposed rate group 3 will likely convert to a package of flat business service and features that are priced more attractively.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. I have organized my testimony into six sections as follows:

Issue 4: Features -

Residential....................Sloan/5 (RD)

Business....................Sloan/7 (RD)

Issue 5: Features – Non-recurring Charges....................Sloan/9 (RD)

Issue 6: Listings ....Sloan/10 (RD)

Issue 7: Centrex Plus -

Pricing Summary....................Sloan/11 (RD)

Line Charge...Sloan/13 (RD)

Usage Charge... ....Sloan/21 (RD)

NAF...Sloan/22 (RD)

Non-recurring Charge...Sloan/25 (RD)

Issue 8: Centrex 21...Sloan/27 (RD)

ISSUE 4: FEATURES

FEATURES - RESIDENTIAL

Q. WHAT PRICE CHANGES ARE YOU PROPOSING FOR RESIDENTIAL FEATURES?

A. I am adopting the company's proposal to significantly reduce prices for certain primary features such as Caller ID, Call Waiting and various Call Forwarding features. My proposal results in an annual revenue reduction of $5,587,158, or 8.7% of the total stipulated annual revenue reduction of $64.2 million.

I have included Exhibit Staff/14, Sloan/4 (RD), listing all residential features. I have highlighted those features for which I am proposing to reduce the tariff price and have highlighted the total annual revenue effect.

One of staff's goals is to move prices for telecommunications services toward their price floors. If my proposed rate reductions are adopted, most residential features will still be priced significantly above their price floors. However, staff is limited in the amount of price reductions it can allocate to residential features because total reductions in this docket cannot exceed $64.2 million. Due to customer demands for privacy and the popularity of Caller ID, Call Waiting and Call Forwarding, I am satisfied that it is reasonable to target these residential features for price reductions.

Q. DO YOU HAVE A RESPONSE TO THE COMPANY'S PROPOSAL TO REDUCE THE PRICE OF ITS RESIDENTIAL CUSTOMCHOICE AND VALUECHOICE SERVICES FOR CUSTOMERS IN RATE GROUPS 2 AND 3?

A. If staff witness Jim Stanage's proposed monthly flat rates for residential lines are adopted, I recommend that the company's proposed price reductions for its residential CustomChoice and ValueChoice customers in rate groups 2 and 3 be allowed.

CustomChoice is a features package sold to residential customers in conjunction with an initial or additional flat rate access line. It includes such features as Caller ID, Call Waiting, Call Forwarding, Speed Calling and Three-Way Calling. The subject CustomChoice service is currently an obsolete service in the company's Price List. It was grandfathered by the company's Transmittal No. 2000-005-PL, effective October 1, 2000, to customers in service at September 30, 2000.

The company's current monthly price for CustomChoice is $17.15 when sold in conjunction with an initial line and $14.15 when sold in conjunction with an additional line at the same residence. The currently tariffed monthly flat rate for a residential line is $12.80. This results in a total monthly price of $29.95 for CustomChoice with an initial line and $26.95 with an additional line.

ValueChoice is a features package sold to residential customers in conjunction with an initial or additional flat rate access line. It includes such features as Call Waiting, Call Forwarding, Call Rejection and Three-Way Calling. The subject ValueChoice service is an obsolete service in the company's current Price List. It was grandfathered by the company's Transmittal No. 2000-005-PL, effective October 1, 2000, to customers in service at September 30, 2000.

The company's currently tariffed monthly price for ValueChoice is $11.15. This results in a total monthly price of $23.95 when sold in conjunction with a flat rate residential service at the currently tariffed price of $12.80.

Staff witness Jim Stanage is proposing monthly flat rates for residential lines of $12.80, $13.80 and $14.80 for rate groups 1, 2 and 3, respectively. This is an increase of $1.00 for customers in rate group 2 and an increase of $2.00 for customers in rate group 3.

The company is proposing to reduce the monthly price for the now obsolete residential CustomChoice and ValueChoice services by $1.00 for customers in rate group 2 and by $2.00 for customers in rate group 3. If staff witness Jim Stanage's proposed monthly flat rates for residential lines are adopted, the result of the company's proposal would be to leave the monthly price for the grandfathered customers of these now obsolete services at total package prices of $29.95 for CustomChoice with an initial line and $26.95 with an additional line, and to leave the total package price for ValueChoice at $23.95.

FEATURES - BUSINESS

Q. WHAT PRICE CHANGES ARE YOU PROPOSING FOR BUSINESS FEATURES?

A. I am adopting the company's proposal to reduce prices for such business features as Call Waiting, Speed Calling, Call Transfer, Call Rejection and certain Call Forwarding features. I am also adopting the company's proposal to reduce the prices of associated feature packages and services that include these business features. My proposal results in an annual revenue reduction of $1,276,230, or 2.0% of the total stipulated annual revenue reduction of $64.2 million.

I have included Exhibit Staff/14, Sloan/5 (RD), listing all business features. I have highlighted those features for which I am proposing to reduce the tariff price and have highlighted the total annual revenue effect. Also, on Exhibit Staff/14, Sloan/6 (RD) I have listed the feature packages that include business features for which I am proposing rate reductions.

As mentioned earlier, one of staff's goals is to move all telecommunications service prices toward their price floors. However, staff is limited in the amount of price reductions it can allocate to residential features because total reductions in this docket cannot exceed $64.2 million. If my proposed rate reductions are adopted, most business features will still be priced significantly above their price floors. However, since Call Waiting, Speed Calling, Call Transfer, Call Rejection and Call Forwarding are the most popular business features, I am satisfied that it is reasonable to target these features for price reductions.

Q. DO YOU HAVE A RESPONSE TO THE COMPANY'S PROPOSAL TO DISCONTINUE SOME BUSINESS CUSTOM CALLING SERVICES IN THIS FILING?

A. Yes, in his testimony (Qwest/201, Teitzel/29), Mr. Teitzel proposes to eliminate Call Manager Connection, Smart Set, Smart Set Plus and nine additional business Feature Packages identified by the following uniform service order codes (USOCs) ESA, ESR, ET8, ETC, ESG, ESB, ET3 ES3 and ES5. Call Manager Connection, Smart Set and Smart Set Plus are identified by USOCs NLUB+, NLUY1 and NLUY2, respectively.

As an alternative to the elimination of these business Feature Packages, the company, in Attachment B to its Advice No. 1849, proposes to increase the price of Call Manager Connection and Smart Set by $0.50 per month, and to decrease the monthly price for the remainder of the business Feature Packages listed above.

I have compared the proposed prices for packages listed above with the sums of my proposed prices for the individual features included in each package. Please see Exhibit Staff/14, Sloan/6a (RD). I believe that no customer should be economically disadvantaged by the elimination of these Feature Packages. Therefore, I recommend that the company be allowed to eliminate the Feature Packages listed above. The company should be required to contact each affected customer to assist them in migrating to the a la carte purchase of the individual features in their packages or an alternate Feature Package. In either case, customers should not be required to pay NRCs because of the migration.

ISSUE 5: FEATURES – NON-RECURRING CHARGES

Q. ARE YOU RECOMMENDING CHANGES TO THE NON-RECURRING CHARGE FOR FEATURES?

A. Yes, I am adopting the company's proposal to eliminate the NRC for all residential features. This would allow residential customers to add features without incurring any up-front, or non-recurring, charges and should enhance the attractiveness of these features.

The margin (spread between the price floor and the tariffed monthly recurring charge) for individual residential features is significant and their average product service life is sufficient to insure that even if the company does not recover its costs of initiating the service through an NRC, it will still not be selling these non- basic services below the price floor in violation of ORS 759.410. The company will recover its non-recurring costs in its monthly recurring charge for the individual feature over the average product life.

The proposed elimination of NRCs for residential features results in an annual revenue reduction of $729,744, or 1.14% of the total stipulated annual revenue reduction of $64.2 million.

I have included an exhibit (Staff/14, Sloan/7 (RD)) listing all residential features, the current NRC and the proposed NRC of zero. I have highlighted the total annual revenue effect.

ISSUE 6: LISTINGS

Q. PLEASE DISCUSS YOUR RETAIL PRICING PROPOSAL FOR NON-LISTED AND NON-PUBLISHED LISTING SERVICES.

A. I am adopting the company's proposal to decrease the monthly recurring rates for Non-Listed and Non-Published Listing Services. My proposal would decrease the company's annual revenue from Non-Listed and Non-Published Listing Services by $237,196, as illustrated in Exhibit Staff/14, Sloan/8 (RD).

Non-Listed Telephone Service is an arrangement whereby a customer's telephone number appears on Directory Assistance records but is omitted from the published telephone directory.

Non-Published Telephone Service is an arrangement whereby a customer's telephone number does not appear in either the telephone directory or in the Directory Assistance records.

The current tariff price for Non-Listed Telephone Service is $0.50 per month and the price for Non-Published Telephone Service is $0.75 per month. I am proposing a retail price of $0.35 per month for Non-Listed Telephone Service and a retail price of $0.65 for Non-Published Telephone Service.

ISSUE 7: CENTREX PLUS

CENTREX PLUS PRICING SUMMARY

Q. WHAT RETAIL PRICING CHANGES ARE YOU PROPOSING FOR CENTREX PLUS SERVICE?

A. I am adopting the company's proposal for price decreases in the Centrex Plus usage charge and the NAF as presented in its original Advice No. 1849, filed on November 15, 2000. I am adopting the company's proposal for price changes to the Centrex Plus line charge as memorialized in Lawrence Reichman's letter dated March 19, 2001.

I am proposing a composite decrease in the company's annual revenues of $459,024 from the Centrex Plus line charge, $209,323 from the Centrex Plus usage charge and $57,937 from the Centrex Plus NAF charge. The total composite annual revenue reduction for Centrex Plus service is $726,284, or 1.13% of the total stipulated annual revenue reduction of $64.2 million. I say composite decrease because the Centrex Plus line charge pricing matrix contains 72 different elements. For example, an unblocked Centrex Plus system with 80 lines at one location, in rate group 1, with a customer-elected 30 month contract would be referred to as one element of the pricing matrix and could have a different price from all other elements of the pricing matrix. My proposal includes price increases for some elements of the Centrex Plus pricing matrix and decreases for other elements. However, the composite change proposed is a rate reduction for the Centrex Plus line charge, and a related reduction in annual revenues.

There are numerous charges that can apply to a Centrex Plus system. Many of the charges are applicable to a particular customer's unique circumstances. However, at the risk of oversimplifying, I will limit my discussion to the charges for a basic Centrex Plus system as outlined above.

In the remainder of this section, I will describe Centrex Plus service and the basic retail pricing structure. Then, in subsequent sections, I will discuss in detail the retail pricing changes I am proposing. I am proposing changes to the monthly recurring line charges, usage charges and NAF charges. I am also proposing to adopt the current line identification data base (LIDB) NRC and to eliminate the chip-in NRC. I am not recommending any changes to the Common Equipment Charge. Also, I am not recommending any changes to the retail price of any Centrex Plus optional feature or miscellaneous charge.

Q. WHAT IS CENTREX PLUS SERVICE?

A. Centrex Plus service is a business multi-line communications system that consists of a group of station lines provided for an individual customer group. The station lines provide common access to a predetermined group of standard system features. Centrex Plus is software based and is offered only from a stored program controlled central office. Customers may choose that 100% of the lines on their system have simultaneous access to the public network (unblocked service) or that less than 100% of the lines on their system have simultaneous access to the public network (blocked service). The service is offered with a list of over 30 standard features. Also, over 40 optional features are available with the service, at the tariffed price for each individual feature.

Q. WHAT ARE THE PRICED ELEMENTS OF BASIC CENTREX PLUS SERVICE?

A. Retail pricing of basic Centrex Plus service consists primarily of:

- Common Equipment Charge
- Line Charge
- Usage Charge (for unblocked service)
- Network Access Facility, or NAF (for blocked service)

- Non-recurring Charges
- Optional Features and Miscellaneous Charges

CENTREX PLUS LINE CHARGE

Q. PLEASE SUMMARIZE YOUR RETAIL PRICING PROPOSAL FOR THE CENTREX PLUS LINE CHARGE.

A. All Centrex Plus lines, blocked or unblocked, are subject to a line charge. A price matrix delineated on three basic criteria determines a customer's Centrex Plus line charge. The first criterion is the size of the customer's Centrex Plus system – that is, the number of lines at one location. The pricing matrix has six line-size categories – 1-20 lines, 21-50 lines, 51-100 lines, 101-300 lines, 301-500 lines and over 500 lines. These line-size categories are referred to as "cohorts". Also, the pricing by cohort is "stepped". In other words, a customer would not necessarily pay the same line charge for each station line in its Centrex Plus system. For example, a customer with 106 Centrex Plus lines at one location would pay one line charge for the first 20 lines (1-20 line cohort price), a second price for the next 30 lines (21-50 line cohort price), a third price for the next 50 lines (51-100 line cohort price) and a fourth price for the next six lines (101-300 line cohort price).

The second criterion for the Centrex Plus price matrix is the geographically deaveraged rate group (also referred to as a deaveraged loop zone) where the customer's Centrex Plus system is located. In developing the price matrix for this criterion I have utilized the three rate groups from Commission Order No. 00-481 in UT 148/UM 963.

The third criterion for the Centrex Plus price matrix is the length of time that the customer is contracting for the service. Customers are able to stabilize their Centrex Plus line charge over periods of up to 60 months at discounted prices. Pricing discounts are given for contracts of 12-35 months, 36-59 months and 60 months. These periods are referred to as rate stabilization periods, and the related contracts are referred to as rate stabilization contracts.

The line charges for "blocked" service and "unblocked" service are currently the same and I do not propose to change that.

Because of the interrelated criteria, there are 72 separate line charges on the rate matrix applicable to Centrex Plus. I will not attempt to discuss every retail price; rather, I will highlight the proposed retail price changes illustrated on my proposed pricing matrix for the Centrex Plus line charge in Exhibit Staff/14, Sloan/10 through 13 (RD).

I support Qwest's proposed changes to the Centrex Plus line charge and have adopted its proposed changes to the pricing matrix. Current customers will be converted to the proposed new prices with the expiration of their current contract or 6 months after the effective date of the tariff reflecting the new prices, whichever is longer.

I have assured myself that the company's proposal meets the price floor requirements of ORS 759.410. I did this by utilizing the rate groups and the network access channel (NAC) price floor approved in Commission Order No. 00-481, and the company's current unbundled network element (UNE) prices for the switching, transport and other non-NAC elements of Centrex Plus Service.

I have adopted the company's proposal to geographically deaverage the retail prices of the 1-20 and 21-50 line cohorts (assumed to be provisioned by NAC) and its proposal to eliminate the currently tariffed mileage charges and roll those charges into the flat monthly recurring charge.

I have adopted the company's proposed dollar discounts between rate stabilization periods, its proposed rate spreads between geographic rate zones and its dollar discounts for size of system (deaveraged pricing by size of system).

Q. PLEASE EXPLAIN YOUR PROPOSAL TO FURTHER DEAVERAGE THE RETAIL PRICES FOR THE CENTREX PLUS LINE CHARGE?

A. I have adopted the general principles of further deaveraging Centrex Plus service proposed by the company.

The company proposes to further deaverage retail prices for the 1-20 line and 21-50 line cohorts of Centrex Plus, utilizing a methodology that mirrors the methodology utilized to deaverage wholesale prices for UNEs associated with Centrex Plus service. The company also proposes to develop its pricing matrix for the Centrex Plus line charge based on the assumption that the 1-20 line and the 21-50 line cohorts are provisioned with a NAC and that cohorts with more than 50 lines at one location are provisioned with a DS-1.

Q. ARE YOU PROPOSING TO FURTHER DEAVERAGE ALL COHORTS OF CENTREX PLUS SERVICE?

A. No, I am proposing to further deaverage only the 1-20 line and the 21-50 line cohorts. This adopts the company's proposed assumption that these cohorts are provisioned with a NAC. My proposal utilizes the rate groups and the geographically deaveraged NAC price floors approved in Commission Order No. 00-481 in UT 148/UM 963.

The other cohorts, 51-100 lines, 101-300 lines, 301-500 lines and over 500 lines at one location, are assumed to be provisioned by DS-1. Wholesale deaveraging for a DS-1 was not addressed in UT 148/UM 963. Prices for these cohorts, over 50 lines, are already deaveraged by size of the customer's Centrex system. I agree with the company's position that since Centrex Plus systems of 50 lines and larger are priced on the assumption that Digital Loop Carrier technology is normally used to deliver service to the customer's location, no further deaveraging is necessary in this system size category.

Q. ARE YOU PROPOSING TO ELIMINATE MILEAGE CHARGES FOR CENTREX PLUS SERVICE?

A. Yes. In the current tariff the mileage charge applies for Centrex Plus systems with over 50 lines at one location. I have adopted the company's proposal to grandfather, through the end of the current customers' Centrex Plus contract, the mileage charges associated with Centrex Plus Service. For new customers, the mileage charge would be rolled into the associated flat rate monthly recurring charges within the proposed Centrex Plus pricing matrix.

Q. PLEASE EXPLAIN EXHIBITS STAFF/14, SLOAN/10 THROUGH 13 (RD) AND YOUR PROPOSAL FOR PRICING THE CENTREX PLUS LINE CHARGE.

A. Certainly. Due to the complexity of the matrix, I would like to divide my explanation into two parts. In the first part I will explain my development of the retail pricing matrix for the 1-20 line and the 21-50 line cohorts. These cohorts are geographically deaveraged consistent with Commission Order No. 00-481. In the second part I will explain my development of the retail pricing matrix for the 51-100 line, the 101-300 line and the over 300 line cohorts. The development of the matrix for these cohorts differs somewhat from the development of the 50 and under line cohorts.

Q. PLEASE EXPLAIN YOUR PROPOSAL FOR RETAIL PRICING OF THE 1-20 LINE AND THE 21-50 LINE COHORTS OF CENTREX PLUS SERVICE.

A. After conducting extensive discovery, exchange of information and analyses, I support Qwest's geographically deaveraged pricing for the 1-20 and the 21-50 line cohorts of Centrex Plus service as proposed in Mr. Reichman's letter dated March 19, 2001. As a part of my analysis, I developed a Centrex Plus pricing matrix and tested the pricing of each cohort/element for compliance with applicable statutes.

As a first step in developing my pricing matrix, I developed an imputed price floor for each deaveraged rate group. These imputed price floors were developed utilizing the deaveraged NAC wholesale prices and rate groups from Commission Order No. 00-481. For the wholesale price of the line card, DS multiplexing, switching and transport, intercept, operator assist, hunting and Centrex standard features I utilized the current UNE prices. For Billing and Marketing costs I utilized the company's proposed deaveraged costs.

The next step in developing the pricing matrix for 50 and under line cohorts was to compare the imputed price floors that I had developed to my proposed retail prices. ORS 759.410 requires that a non-basic telecommunications service not be priced below a price floor "equal to the sum of the total service long run incremental cost [TSLRIC] of providing the service for the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions."

As shown in my exhibit, the highest imputed price floor is for "blocked" Centrex Plus service, in rate group 3. This was my starting point for price to price floor comparison, and I needed to insure that my lowest proposed rate group 3 retail price exceeded the imputed price floor that I had developed.

The lowest rate group 3 retail price for the 50 and under line cohorts is the price for rate group 3, 21-50 lines, 60-month contract (all system size cohort discounts and rate stabilization period discounts accounted for). For this service group I have proposed a retail price of $49.00 per month, which results in a proposed composite per line rate based on price steps that is higher than my imputed price floor.

Q. FROM THIS STARTING POINT, EXPLAIN HOW YOU DEVELOPED THE REMAINDER OF YOUR PROPOSED RETAIL PRICE MATRIX FOR THE 1-20 LINE AND THE 21-50 LINE COHORTS OF CENTREX PLUS SERVICE.

A. For rate group 3, I developed the remainder of the retail price matrix by applying the dollar discounts proposed by the company for increased length of contract (rate stabilization period) and for system size (cohort). I also adopted the company's proposed price spread relationships between rate group 3 prices and the prices for rate groups 1 and 2. See Exhibit Staff/14, Sloan/14(RD). I tested all proposed retail prices to insure that they exceed the relative imputed price floor.

Q. PLEASE EXPLAIN YOUR PROPOSAL FOR RETAIL PRICING OF THE OVER 50 LINE COHORTS OF CENTREX PLUS SERVICE.

A. After conducting extensive discovery, exchange of information and analyses, I support Qwest's pricing for the over 50 line cohorts of Centrex Plus service as proposed in Mr Reichman's letter. I have assured myself that, using the company's proposed retail prices, the composite pre-line rate exceeds the imputed price floor as required by ORS 759.400. As a part of my analysis, I developed a Centrex Plus pricing matrix and tested the pricing of each cohort/element for compliance ORS 759.400.

My development of the retail pricing matrix for the over 50 line cohorts differs from my development of the 50 and under line cohorts primarily in three ways. First, I do not propose further deaveraging (geographic) for the over 50 line cohorts. Second, for the purpose of developing the rate structure, I adopted the company's assumption that Centrex Plus systems with an excess of 50 lines at one location are provisioned by DS-1 rather than by NAC. Third, I am adopting the company's proposal that systems in excess of 300 lines be priced on an individual case basis (ICB).

As a first step in developing my pricing matrix, I developed an imputed price floor utilizing current UNE prices for the channel, switching, transport and other miscellaneous elements of the service. Since the DS-1 is a 24-channel service, for the price floor for one line (channel) I used a price floor calculated at 1/24th of the UNE price for a DS-1. For billing and marketing costs I utilized the costs proposed by the company.

The next step in developing the pricing matrix for the over 50 line cohorts was to compare the imputed price floors that I had developed to my proposed retail prices for each cohort. ORS 759.410 requires that a non-basic telecommunications service not be priced below a price floor as I discussed earlier at Staff/13, Sloan/17 (RD), line 13.

The lowest proposed retail price for the over 50 line cohorts is the proposed price for the 100-300 line cohort, 60-month contract (all system size cohort discounts and rate stabilization period discounts accounted for). For this service group I have proposed a retail price of $5.95 per month, which results in a proposed composite per line rate based on price steps that is higher than my imputed price floor. Also, although I am adopting the company's proposed ICB pricing for the 300-500 line and the 500+ line cohorts, I tested the company's proposed pricing for current customers in these cohorts to insure that my proposed composite per line rate based on price steps exceeds my imputed price floor.

I developed the remainder of the retail price matrix by applying the dollar discounts proposed by the company for increased length of contract (rate stabilization period) and for system size (cohort). See Exhibit Staff/14, Sloan/14 (RD).

Q. IN YOUR PRICE TO PRICE FLOOR COMPARISON, DID YOU CONSIDER OTHER SOURCES OF REVENUE THAT THE COMPANY HAS FOR RECOVERING ITS COSTS OF PROVIDING THE SERVICE?

A. Yes, I added the customer access line charge (CALC) revenue and the associated Centrex Plus usage revenue (at my proposed monthly recurring rate of $4.04) to my proposed monthly line charge for the Centrex Plus Service to arrive at a total proposed price. I utilized the company provided composite-average per line CALC amount.

I then accumulated the line charges to reflect a proposed composite per line rate based on price steps, for comparison with my imputed price floor. I did not have information available concerning the primary interexchange carrier charge (PICC) for Centrex Plus service; therefore I did not consider any related costs that may be recovered by the company through the PICC. However, for all cohorts my proposed composite per line rate based on price steps exceeds my imputed price floor without considering the PICC. Therefore, any related PICC received by the company would only increase the spread between proposed price and the price floor.

Q. PLEASE EXPLAIN YOUR PROPOSED CENTREX PLUS SERVICE PRICE MATRIX AND THE ANNUAL REVENUE EFFECT OF YOUR PORPOSAL.

A. The annual revenue decrease resulting from my proposed changes in the recurring line charge for Centrex Plus is $459,024, as illustrated in Exhibit Staff/14, Sloan/13 (RD). This represents the difference between the annual revenue derived by applying the average number of Centrex Plus customers, by cohort, between March 1997 and February 1998 to: (1) my proposed retail line charges and (2) the currently tariffed line charges.

In developing my Centrex Plus price matrix shown as Exhibit Staff/14, Sloan/10 through 13 (RD), I utilized the Centrex Plus customer count for March 1997 to February 1998, by cohort, by rate stabilization period, by rate group, as provided by the company.

Q. PLEASE SUMMARIZE HOW YOUR PROPOSAL COMPARES TO THE COMPANY'S PROPOSAL FOR RETAIL PRICING OF THE CENTREX PLUS LINE CHARGE?

A. My proposal for retail pricing of the Centrex Plus line charge is the same as the company's proposal memorialized in Mr. Reichman's letter dated March 19, 2001. Both my proposal and the company's proposal: (1) include six system-size cohorts; 1-20 lines, 21-50 lines, 51-100 lines, 101-300 lines, 301-500 lines and over 500 lines; (2) include a month-to-month rate plus three rate stabilization contract periods; 12 to 35 months, 36 to 59 months, and 60 month; (3) assume that 1-50 line systems are provisioned with a NAC and systems with over 50 lines at one location are provisioned with a DS-1; (4) include geographic deaveraging for NAC provisioned cohorts; (5) roll the currently tariffed mileage rates for rate stabilization contracts into the monthly flat rate for the service; (6) include ICB pricing for systems with an excess of 300 lines at one location; and (7) include the same dollar discounts for increased length of contract (rate stabilization period) and for system size (cohort).

<u>**CENTREX PLUS USAGE CHARGE**</u>

Q. PLEASE DISCUSS YOUR RETAIL PRICING PROPOSAL FOR THE CENTREX PLUS USAGE CHARGE.

A. The Centrex Plus usage charge is a monthly recurring charge, per station, for non-blocked Centrex Plus systems (systems with 100% of station lines having simultaneous access to the public switched network). The currently tariffed Centrex Plus usage charge is $14.90 per line for the 1-20 line cohort, $14.90 per line for the 21-50 line cohort and $3 per line for all cohorts with an excess of 50 lines. I am proposing to replace this matrix with a standard flat rate Centrex Plus usage charge of $4.04 per line, regardless of the size of the Centrex system.

My proposal is identical to the company's proposal in its original Advice No. 1849. The resulting decrease in the company's annual revenue from the Centrex Plus usage charge is $209,323, as illustrated in Exhibit Staff/14, Sloan/6 (RD).

In the company's proposal memorialized in Mr. Reichman's letter dated March 19, 2001, the company proposed to increase the Centrex Plus usage charge from its original proposal in Advice No. 1849. This adjustment was proposed by the company as one of the price adjustments to offset its proposal to further decrease the Centrex Plus line charge. As outlined at Staff/13, Sloan/2 (RD), line 16, staff has adopted the company proposed additional decrease in the Centrex Plus line charge as memorialized in Mr. Reichman's letter. However, in staff's proposal the related revenue decrease is offset with adjustments to prices of other non-Centrex services. Therefore, I have not adopted the company's adjustments to the Centrex Plus usage charge as presented in Mr. Reichman's letter.

In testing the proposed usage charge for compliance with the price floor provisions of ORS 759.410, the price floor (UNE prices) of the "usage" elements of the Centrex Plus service (such as switching and transport) were included in the development of the price floor for the line charge. Correspondingly, the proposed usage charge was included in my proposed composite per line rate based on price steps. In other words, the revenue stream for the total Centrex Plus service was compared with the corresponding price floor for the total Centrex Plus service, including the line charge as well as the usage charge, to insure that the price floor provisions of ORS 759.410 were met.

CENTREX PLUS NAF CHARGE

Q. WHAT IS THE CENTREX PLUS NETWORK ACCESS FACILITY CHARGE?

A. The NAF charge is the charge applied by the company for a blocked Centrex Plus station's ability to access the public switched network. A Centrex Plus customer may choose between blocked and unblocked service. If a customer chooses unblocked service, a monthly recurring Centrex Plus usage charge is applied to each line (100% of unblocked service lines have simultaneous access to the public switched network). However, If a customer chooses blocked service, no monthly recurring Centrex Plus usage charge is applied, but instead a NAF charge is applied, depending upon the number of Centrex Plus lines in a system that the customer wants to have simultaneous access to the public switched network. For example, if a customer orders an 80 line Centrex Plus system and wants a maximum of 16 (20%) of those lines to have simultaneous access to the public switched network, that company would incur 16 monthly NAF charges for that system.

Q. PLEASE DISCUSS YOUR RETAIL PRICING PROPOSAL FOR THE CENTREX PLUS NAF CHARGE.

A. I have adopted the company's proposal in its original Advice No. 1849 to decrease the monthly Two Way, In Only and Out Only NAF charge to $18.36, $18.36 and $17.00, respectively. The currently tariffed Centrex Plus NAF charges are $18.81, $18.81, and $17.45 for Two Way, In Only, and Out Only service, respectively. The resulting decrease in the company's annual revenue is $57,937, as illustrated on Exhibit Staff/14, Sloan/6 (RD). This represents an approximate 2.4% composite decrease.

In Mr. Reichman's letter dated March 19, 2001, the company proposed to increase the NAF charge from its original proposal in Advice No. 1849. This adjustment was made as one of the company's proposed pricing elements to offset its proposed additional decrease in the Centrex Plus line charge. As outlined at Staff/13, Sloan/2, line 16, staff has adopted the additional decrease in the Centrex Plus line charge as memorialized in Mr. Reichman's letter. However, staff's proposal offsets the related Centrex Plus revenue decrease with adjustments to prices of other non-Centrex services. Therefore, I have not adopted the company's adjustments to the NAF charge that were presented in the Reichman letter. I have adopted the company's proposal in its Advice No. 1849.

My proposed NAF charge is set at staff witness Jim Stanage's proposed price for a Digital Switched Service trunk ($17.00). For Two-Way and In Only service, a price element of $1.36 is added for the Hunting feature that is inherent in those services.

The proposed NAF price of $18.36 is approximately 4.5 times the proposed Centrex Plus usage charge of $4.04. This should theoretically result in economic indifference between blocked service and unblocked service for a customer desiring that 22% ($4.04/$18.36) of the lines in their Centrex Plus system have simultaneous access to the public switched network. Also, this means that the customer desiring that over 22% of the lines in their Centrex Plus system have simultaneous access to the public switched network would economically choose unblocked service, and the customer desiring that less than 22% of the lines in their Centrex Plus system have simultaneous access to the public switched network would economically choose blocked service. The choice between blocked and unblocked Centrex Plus service is the customer's choice.

In other words, the 80-line customer in my example above, desiring that only 20% of the lines in their blocked Centrex Plus system have simultaneous access to the public network, would pay NAF charges of $293.76 per month (16 NAFs @ $18.36 per month). However, if the customer would choose unblocked Centrex Plus service they would pay $323.20 per month (80 lines @ $4.04 usage charge per line). Therefore, this example customer, desiring that less than 22% of the Centrex Plus lines have simultaneous access to the public network, would logically and economically choose blocked service.

CENTREX PLUS NON-RECURRING CHARGES

Q. PLEASE DISCUSS YOUR PROPOSAL FOR RETAIL PRICING OF THE NON-RECURRING LINE IDENTIFICATION DATA BASE (LIDB) CHARGE.

A. LIDB service is intended for end users of resale Centrex Plus who want their name and telephone number, rather than the name and telephone number of the primary Centrex Plus customer (reseller), to appear on the Caller ID display devices of called parties.

In Order No. 97-441, the Commission ordered "The proposed LIDB rate from Transmittal No. 97-037-PL supplemental will go into effect, effective December 5, 1997, subject to refund." The proposed rate from Transmittal No. 97-037-PL supplemental is a NRC of $3.50 per line for subsequent changes only.

I am proposing that the current NRC for LIDB service become permanent. This NRC currently applies only to subsequent changes. There is no tariffed LIDB charge associated with initial installation. The $3.50 non-recurring charge should continue to apply to subsequent changes only.

Q. PLEASE DISCUSS YOUR PROPOSAL FOR RETAIL PRICING OF THE NON-RECURRING CHIP-IN CHARGE.

A. The Chip-in charge allows end users of resale Centrex Plus not wishing to change their telephone number to the existing Centrex Plus system telephone number range to keep their existing telephone number(s) within the normal serving central office.

In Order No. 97-480, the Commission ordered that the chip-in charge be an issue in the rate design phase of UT 125. Order No. 98-079, at page 3 states "The Commission agrees with the joint petitioners and staff that the proposed chip-in charge contravenes the existing stipulation adopted by Order No. 93-746 and that the stipulation should remain in effect pending a complete investigation of the costs associated with the chip-in service. We shall therefore reject USWC's proposed chip-in charge at this time."

In Advice No. 1849, the company did not propose removing the chip-in charge from its tariff, nor did it provide any additional information concerning its tariffed chip-in charge.

I am proposing that no chip-in charge be allowed for Centrex Plus resellers. The $4.25 non-recurring chip-in charge per line that is currently listed in the company's tariff, but is not currently being applied, should be changed to reflect a non-recurring charge of zero for Centrex Plus resellers.

Q. ARE YOU PROPOSING CHANGES TO ANY OTHER CENTREX RELATED NON-RECURRING CHARGE?

A. No.

ISSUE 8: CENTREX 21

Q. WHAT IS CENTREX 21 SERVICE?

A. Centrex 21 is a flat rate service designed for business customers with 3 to 50 station lines. Centrex 21 service includes standard line features, which are available to all station lines in the customers Centrex 21 system. Centrex 21 is offered only from a stored program controlled central office. Customers have a choice of having features delivered via analog lines and/or digital ISDN lines.

Q. PLEASE DISCUSS YOUR RETAIL PRICING PROPOSAL FOR CENTREX 21 SERVICE.

A. My proposal for pricing geographically deaveraged rate groups 1 and 2 are the same as the company's proposal. However, my proposal for rate group 3 differs from the company's proposal.

I am proposing to decrease the company's annual revenue from Centrex 21 service by $12,411, as illustrated in Exhibit Staff/14, Sloan/9 (RD). I am proposing to geographically deaverage the retail rates for Centrex 21 service and have utilized the three rate groups and the NAC price floor from Commission Order No. 00-481 in UT 148/UM 963.

For rate groups 1 and 2, I am proposing to increase the rate for month-to-month Centrex 21 service and to slightly reduce the rate for the 12 to 36-month and the 37 to 60-month rate stabilization contracts. I propose that the month-to-month price for rate groups 1 and 2 be set at $46.95 to maintain a pricing relationship with the company's Business CustomChoice service, which is priced at $49.95. Business CustomChoice includes a range of standard features that is slightly more robust than Centrex 21 and I am satisfied that a $3.00 per line price differential is reasonable.

Q. HOW DID YOU DEVELOP YOUR CENTREX 21 RETAIL PRICES?

A. In developing the Centrex 21 retail prices, I first established a price for the rate group 3, 37 to 60 month rate stabilization contract (the lowest discounted price for Centrex 21 service) that exceeds the price floor, as required by ORS 759.410. I then applied the exact dollar discounts for rate stabilization periods as proposed by the company for rate groups 1 and 2 to arrive at a rate for the 12 to 36 month and the month-to-month prices for rate group 3.

However, the company did not propose a rate group 3 for Centrex 21 service. In his testimony (Exhibit Qwest/201, Teitzel/24), Mr. Teitzel states "Since a very small number of customers in proposed rate group 3 currently subscribe to this service on a contracted basis, and the magnitude of the rate change required to ensure this service exceeds the price floor requirement would be over 100%, these customers will be contacted individually and converted to a package of flat business service and features that will be priced more attractively."

Q. DO YOU AGREE WITH THE COMPANY'S DECISION TO NOT MAKE A RATE GROUP 3 PROPOSAL?

A. Not entirely. I am in agreement with the principle and the anticipated end result proposed by the company. However, in its filing the company eliminated the average March 1997 to February 1998 customers for Centrex 21, rate group 3 and did not account for these customers within any "package of flat business service and features that will be priced more attractively." To account for these annual revenues, I am proposing to establish rates for Centrex 21 service in rate group 3 consistent with ORS 759.410 and Commission Order No. 00-481. However, I would encourage the company to continue its proposed plan to contact each of these customers individually and insure that the company is providing the service required by the customer, at the lowest tariff price.

Q. WHAT IS YOUR RECOMMENDATION FOR THE RETAIL PRICING OF FEATURES, FEATURES – NON-RECURRING CHARGES, LISTINGS, CENTREX PLUS AND CENTREX 21?

A. I recommend that the Commission approve the rates I propose for Features, Features – Non-recurring Charges, Listings, Centrex Plus and Centrex 21 as outlined in this testimony and the associated exhibits.

I also recommend that the company be allowed to eliminate Call Manager Connection, Smart Set, Smart Set Plus and nine additional business Feature Packages identified by USOCs ESA, ESR, ET8, ETC, ESG, ESB, ET3 and ES5, with the understanding that the company will contact each customer to assist them in migrating to an a la carte feature basis or alternate Feature Package at the same, or lower, price and that no customer will incur a non-recurring charge associated with such migration.

I recommend that the Commission approve a non-recurring charge of $3.50 per line for LIDB service, to be applied to subsequent changes only.

I recommend that the non-recurring chip-in charge of $4.25 per line be removed from the company's tariff.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

CASE: UT 125, Phase II
WITNESS: David L. Sloan

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 14

Exhibit in Support of Direct Testimony

Issue 4. Features
Issue 5. Features – Non Recurring Charges
Issue 6. Listings
Issue 7. Centrex Plus
Issue 8. Centrex 21

April 10, 2001

EDUCATIONAL BACKGROUND AND WORK EXPERIENCE

I graduated from Kansas University in 1968 with a Bachelor of Science degree in Business Administration, with concentration in the areas of finance and accounting. I began my career in the telecommunications industry in 1968 as a corporate auditor for GTE's Midwest Region. I spent the next 13 years in the telecommunications industry, with GTE and with United Telephone Company of Ohio. During that period I worked in, or directed the activities of, every major function of telephony accounting. I have worked in the development of general rate filings with state utility commissions as special studies manager; maintenance of the accounting books and records as general accounting manager; direction of the internal audit function as director of internal audits; and finally had overall responsibility for the accounting function as company comptroller of General Telephone Company of Ohio in 1981.

In 1982, I entered the electric industry, with Nevada Power Company in Las Vegas, Nevada. I spent 6 years with Nevada Power Company, serving most of that time as Vice President and Chief Financial Officer of the Corporation.

In 1988 I entered the natural gas industry as Senior Vice President and Chief Financial Officer of Southwest Gas Corporation in Las Vegas, Nevada.

As Chief Financial Officer, at both Nevada Power Company and Southwest Gas Corporation, I had primary responsibility for the direction and supervision of the utility accounting function, information systems, company budgeting, and the treasury function.

I joined the OPUC Telecommunications Division in June 1997 as a financial analyst in the rates and technical analysis section. Since joining the OPUC my responsibilities have included the design of telecommunications utility rate structures in general rate filings and Extended Area Service filings. My responsibilities also include the review and analysis of telecommunications utility tariff filings for compliance with Oregon law and Commission policy - presenting the results of my review and my recommendation for disposition of the filing to the Commission at public meetings.

I have presented financial testimony in telephone utility general rate proceedings in Ohio and Pennsylvania and in electric utility general rate proceedings and electric utility financing applications in Nevada. I have also presented testimony in numerous purchased power deferred accounting proceedings in Nevada.

I presented testimony before this Commission in UM 909/UT 147, related to Staff's investigation into Centrex-related issues.

UT 125, PHASE II, Advice No. 1849
REVENUE CHANGE SUMMARY
STAFF PROPOSAL

SERVICE	ANNUAL REVENUE CHANGES Company Proposal	Staff Proposal Residential	Staff Proposal Business		Reference
ISSUE 4: FEATURES					
Business	$ (1,276,230)		$ (1,276,230)	(a)	Staff/14, Sloan /5 (RD)
Residential	$ (5,587,158)	$ (5,587,158)			Staff/14, Sloan /4(RD)
	$ (6,863,388)	$ (5,587,158)	$ (1,276,230)		
ISSUE 5: FEATURES - NON-RECURRING CHARGE					
Nonrecurring Charges	$ (729,744)	$ (729,744)			Staff/14, Sloan/7 (RD)
ISSUE 6: LISTING SERVICES					
Non-Published	$ (222,652)	$ (218,164)	$ (4,488)		Staff/14, Sloan/8 (RD)
Non-Listed	$ (14,544)	$ (13,981)	$ (563)		Staff/14, Sloan/8 (RD)
TOTAL	$ (237,196)	$ (232,145)	$ (5,051)		
ISSUE 7: CENTREX PLUS					
Line Charge	$ (459,024)		$ (459,024)	(c)	Staff/14, Sloan/13 (RD)
Usage	Note (b)		$ (209,323)	(b)	Staff/14, Sloan/6 (RD)
Network Access Facility (NAF)	Note (b)		$ (57,937)	(b)	Staff/14, Sloan/6 (RD)
TOTAL			$ (726,284)		
ISSUE 8: CENTREX 21	Note (b)		$ (12,411)		Staff/14, Sloan/9 (RD)
					TOTAL - STAFF
TOTAL ANNUAL REVENUE EFFECT	Note (b)	**$ (6,549,047)**	**$ (2,019,976)**		**$ (8,569,023)**

Note (a) - Includes Business Features ($1,254,788), price reductions included in Centraflex System 1 - Business ($20,428), and Custom Mgmt. Svcs. ($1,014). See Exhibit Staff/15, Sloan/5 (RD).

Note (b) - In Advice No. 1849, the Company reflects a "current rate" equal to the proposed rate in its original Advice No. 1844 (OUS Filing). However, the Company filed Supplements 1 and 2 to Advice No. 1844 changing the proposed rates for Centrex Plus Usage and NAF as well as for Centrex 21. The rates ordered by the Commission in Advice No. 1844 were memoralized in Lawrence Reichman's letter dated March 19, 2001. The "current rate" used in my proposal are the rates ordered in Advice No. 1844.

Note (c) - Reflects changes presented by the Company in Lawrence Reichman letter dated March 19, 2001.

UT 125, PHASE II, Advice No. 1849								
FEATURES - PRICE AND PRICE FLOOR								
STAFF PROPOSAL								
			Current		**Company Proposed**		**Staff Proposed**	
SERVICE		USOC	Rate	Revenue	Rate	Revenue	Rates	Revenues
Custom Calling Services - Residential								
C5.4.3	Abbrev. Access, One-digit	EV4	$ 0.50		$ 0.50		$ 0.50	
	Abbrev. Access, two-digit	EV8	$ 0.50		$ 0.50		$ 0.50	
PL105.4	Call Fwd, Variable-Discounted	NLRXZ	$ 1.50		$ 1.50		$ 1.50	
	Call Curfew	RCU	$ 3.95		$ 3.95		$ 3.95	
	Call Fwd-Don't Answer	EVD	$ 0.80		$ 0.80		$ 0.80	
	Call Fwd-Don't Answer, Expanded	**FDJ**	**$ 2.00**		**$ 0.80**		**$ 0.80**	
	Call Fwd-Variable	ESM	$ 2.50		$ 2.50		$ 2.50	
	Call Forward-Don't Answer	ERD	$ 2.60		$ 2.60		$ 2.60	
	Call Fwd-BusyLine, Expanded	**FBJ**	**$ 1.25**		**$ 0.35**		**$ 0.35**	
	Call Fwd-BusyLine, Overflow	EVO	$ 0.35		$ 0.35		$ 0.35	
	Call Fwd-BusyLine, Programmable	ERB	$ 1.85		$ 1.85		$ 1.85	
	Call Fwd--BusyLine/Don't Answer	**FVJ**	**$ 2.60**		**$ 1.05**		**$ 1.05**	
	Call Fwd-BusyLine/Don't Answer	EV2	$ 1.05		$ 1.05		$ 1.05	
	Call Rejection	NSY	$ 4.00		$ 4.00		$ 4.00	
PL105.4	Call Rejection-Discounted	NLRXO	$ 2.25		$ 2.25		$ 2.25	
	Call Transfer	EO3	$ 5.00		$ 5.00		$ 5.00	
	Call Waiting	**ESX**	**$ 3.85**		**$ 3.00**		**$ 3.00**	
	Call Waiting Identification	N2W	$ 5.00		$ 5.00		$ 5.00	
	Caller ID with Privacy+	N6S	$ 9.95		$ 9.95		$ 9.95	
	Caller ID, Name & Number	**NNK**	**$ 6.50**		**$ 5.00**		**$ 5.00**	
	Caller ID, Number	**NSD**	**$ 5.95**		**$ 5.00**		**$ 5.00**	
	Continuous Redial	NSS	$ 2.00		$ 2.00		$ 2.00	
PL105.4	Continuous Redial-Discounted	NLRXL	$ 1.75		$ 1.75		$ 1.75	
	Dial Call Waiting	WDD	$ 2.15		$ 2.15		$ 2.15	
	Dial Lock	OC4	$ 3.95		$ 3.95		$ 3.95	
	Directed Call Pick Up	PUN	$ 1.00		$ 1.00		$ 1.00	
	Directed Call Pick Up w/Barge In	PUQ	$ 1.00		$ 1.00		$ 1.00	
	Distinctive Alert	DHA	$ 1.00		$ 1.00		$ 1.00	
	Do Not Disturb	D7T	$ 3.95		$ 3.95		$ 3.95	
	Hot Line	HLA	$ 2.00		$ 2.00		$ 2.00	
	Last Call Return	NSQ	$ 2.95		$ 2.95		$ 2.95	
	No Solicitation	SB5	$ 6.95		$ 6.95		$ 6.95	
	Priority Call	NSK	$ 2.00		$ 2.00		$ 2.00	
PL105.4	Priority Call-Discounted	NLRXB	$ 1.75		$ 1.75		$ 1.75	
PL105.4	Real Deal	ESYBQ	$ 14.95		$ 14.95		$ 14.95	
	Remote Access Fwding	AFM	$ 5.00		$ 5.00		$ 5.00	
PL105.4	Remote Access Fwd-Discounted	NLUAA	$ 2.50		$ 2.50		$ 2.50	
	Rem Acc Fwd	**AFD**	**$ 6.45**		**$ 5.40**		**$ 5.40**	
	Scheduled Fwding	ATF	$ 6.00		$ 6.00		$ 6.00	
PL105.4	Scheduled Fwding-Discounted	NLUAB	$ 3.00		$ 3.00		$ 3.00	
	Selective Call Forwarding	NCE	$ 2.00		$ 2.00		$ 2.00	
PL105.4	Selective Call Fwding-Discounted	NLRXN	$ 1.75		$ 1.75		$ 1.75	
	Speed Call, 8 code capacity	ESL	$ 2.00		$ 2.00		$ 2.00	
PL105.4	Speed Call 8, Discounted	NLRXW	$ 1.00		$ 1.00		$ 1.00	
	Speed Call, 30 code capacity	ESF	$ 3.00		$ 3.00		$ 3.00	
	Three-way calling	ESC	$ 2.50		$ 2.50		$ 2.50	
PL105.4	Three-way calling-Discounted	NLRXR	$ 1.75		$ 1.75		$ 1.75	
	USWC Receptionist, Name & #	**EWY2X**	**$ 11.50**		**$ 10.00**		**$ 10.00**	
	USWC receptionist, Number only	**EWY2O**	**$ 10.95**		**$ 10.00**		**$ 10.00**	
	USWC Recept,Caller ID w/Privacy+	EWY29	$ 14.95		$ 14.95		$ 14.95	
	Warm Line	WLS	$ 2.50		$ 2.50		$ 2.50	
	Wireless Extension	HME	$ 4.95		$ 4.95		$ 4.95	
TOTAL				$ 28,983,405		$ 23,396,247		$ 23,396,247
Custom Calling Services (revenue) - Res.								
C5.4.3R	Call Trace - per activation	CALLTRAC	$ 1.00		$ 1.00		$ 1.00	
	Last Call Return - per activation	LASTCR	$ 0.75		$ 0.75		$ 0.75	
	Continuous Redial - per activation	CONTRED	$ 0.75		$ 0.75		$ 0.75	
	3-Way Calling - per activation	3WAYCAL	$ 0.75		$ 0.75		$ 0.75	
TOTAL				$ 4,696,100		$ 4,696,100		$ 4,696,100
GRAND TOTAL FOR RESIDENTIAL CUSTOMERS				$ 33,679,505		$ 28,092,347		$ 28,092,347
	Revenue Reduction - Residential (Proposed less Current)					**$ (5,587,158)**		**$ (5,587,158)**

UT 125, PHASE II, Advice No. 1849								
FEATURES - PRICE AND PRICE FLOOR								
STAFF PROPOSAL								
			Current		**Company Proposed**		**Staff Proposed**	
SERVICE		USOC	Rate	Revenue	Rate	Revenue	Rates	Revenues
Custom Calling Services - Business								
C5.4.3	Abbrev. Access 1, share speed call	EV5	$ 20.00		$ 20.00		$ 20.00	
	Abbrev. Access, one-digit	EV4	$ 0.50		$ 0.50		$ 0.50	
	Abbrev. Access2, share speed call	EV9	$ 30.00		$ 30.00		$ 30.00	
	Abbrev. Access, two-digit	EV8	$ 0.50		$ 0.50		$ 0.50	
	Call Fwd Variable	**ESM**	**$ 3.60**		**$ 2.50**		**$ 2.50**	
	Call Fwd, Don't Answer	**EVD**	**$ 2.00**		**$ 1.50**		**$ 1.50**	
	Call Fwd-Don't Answer, Expanded	**FDJ**	**$ 4.00**		**$ 1.50**		**$ 1.50**	
	Call Fwd-Don't Ans., Programmable	**ERD**	**$ 4.50**		**$ 2.60**		**$ 2.60**	
	Call Fwd-BusyLine, Expanded	**FBJ**	**$ 5.00**		**$ 1.00**		**$ 1.00**	
	Call Fwd-BusyLine, External	EVB	$ 1.00		$ 1.00		$ 1.00	
	Call Fwd-BusyLine, Overflow	EVO	$ 1.36		$ 1.36		$ 1.36	
	Call Fwd-BusyLine, Programmable	**ERB**	**$ 5.50**		**$ 2.00**		**$ 2.00**	
	Call Fwd-BusyLine/DA, Expanded	**FVJ**	**$ 7.00**		**$ 1.50**		**$ 1.50**	
	Call Fwd-BusyLine/DA, External	**EVF**	**$ 2.50**		**$ 1.50**		**$ 1.50**	
	Call Fwd-BusyLine/DA, Overflow	EV2	$ 3.50		$ 3.50		$ 3.50	
PL5.4.3	**Call Manager Connection**	**NLUB+**	**$ 19.95**		**$ 20.45**		**$ 20.45**	
	Call Rejection	**NSY**	**$ 4.50**		**$ 1.60**		**$ 1.60**	
	Call Transfer	**EO3**	**$ 6.00**		**$ 2.00**		**$ 2.00**	
	Call Waiting	**ESX**	**$ 3.55**		**$ 2.00**		**$ 2.00**	
	Caller ID w/Privacy+	N6S	$ 10.95		$ 10.95		$ 10.95	
	Caller ID, Name & Number	NNK	$ 7.95		$ 7.95		$ 7.95	
	Caller ID Number	NSD	$ 7.50		$ 7.50		$ 7.50	
	Continuous Redial	**NSS**	**$ 3.50**		**$ 1.50**		**$ 1.50**	
	Dial Call Waiting	WDD	$ 2.15		$ 2.15		$ 2.15	
	Dail Lock	OC4	$ 3.95		$ 3.95		$ 3.95	
	Directed Call Pick Up	PUN	$ 1.00		$ 1.00		$ 1.00	
	Directed Call PU with Barge In	PUQ	$ 1.00		$ 1.00		$ 1.00	
	Distinctive Alert	DHA	$ 1.00		$ 1.00		$ 1.00	
	Do Not Disturb	D7T	$ 3.95		$ 3.95		$ 3.95	
	Hot Line	HLA	$ 2.00		$ 2.00		$ 2.00	
	Last Call Return	**NSQ**	**$ 3.00**		**$ 1.50**		**$ 1.50**	
	No Solicitation	SB5	$ 6.95		$ 6.95		$ 6.95	
	Priority Call	**NSK**	**$ 3.50**		**$ 1.50**		**$ 1.50**	
	Remote Access Fwding	**AFD**	**$ 6.45**		**$ 5.45**		**$ 5.45**	
	Scheduled Fwding	**ATF**	**$ 7.45**		**$ 6.45**		**$ 6.45**	
	Selective Call Fwding	**NCE**	**$ 3.50**		**$ 1.50**		**$ 1.50**	
	Spd Call 8	**ESL**	**$ 3.00**		**$ 1.50**		**$ 1.50**	
	Spd Call 30	**ESF**	**$ 3.50**		**$ 1.50**		**$ 1.50**	
	Three-way Calling	ESC	$ 3.45		$ 3.45		$ 3.45	
	Recptionist w/ Name & Number	EWY2X	$ 12.95		$ 12.95		$ 12.95	
	Recptionist w/ Number Only	EWY20	$ 12.50		$ 12.50		$ 12.50	
	Recptionist w/Caller ID w/Privacy+	EWY29	$ 18.45		$ 18.45		$ 18.45	
	Warm Line	WLS	$ 2.50		$ 2.50		$ 2.50	
	Wireless Extension	HME	$ 4.95		$ 4.95		$ 4.95	
	Wireless Extension, discounted	HME	$ 3.95		$ 3.95		$ 3.95	
PL5.4.3	**Three Feature Package**	**ESA**	**$ 8.20**		**$ 6.00**		**$ 6.00**	
PL5.4.3	**Three Feature Package**	**ESR**	**$ 8.30**		**$ 7.45**		**$ 7.45**	
PL5.4.3	**Three Feature Package**	**ET8**	**$ 8.30**		**$ 6.95**		**$ 6.95**	
PL5.4.3	**Three Feature Package**	**ETC**	**$ 8.90**		**$ 7.95**		**$ 7.95**	
PL5.4.3	**Three Feature Package**	**ESG**	**$ 8.45**		**$ 6.00**		**$ 6.00**	
PL5.4.3	**Three Feature Package**	**ESB**	**$ 9.30**		**$ 7.45**		**$ 7.45**	
PL5.4.3	**Three Feature Package**	**ET3**	**$ 9.30**		**$ 6.95**		**$ 6.95**	
PL5.4.3	**Three Feature Package**	**ES3**	**$ 11.10**		**$ 9.45**		**$ 9.45**	
PL5.4.3	**Three Feature Package**	**ES5**	**$ 11.90**		**$ 9.45**		**$ 9.45**	
TOTAL				$ 4,562,191		$ 3,307,403		$ 3,307,403
Custom Calling Services (contract) - Bus.								
C5.4.3C	Call Waiting	ESX	ICB					
	Spd Call 30, shared, first line	ESF1L	ICB					
TOTAL				$ 114		$ 114		$ 114
Custom Calling Services (revenue) - Bus.								
C5.4.3R	Call Trace - per activation	CALLTRAC	$ 1.00		$ 1.00		$ 1.00	
	Last Call Return - per activation	LASTCR	$ 0.75		$ 0.75		$ 0.75	
	Continuous Redial - per activation	CONTRED	$ 0.75		$ 0.75		$ 0.75	
	3-Way Calling - per activation	3WAYCAL	$ 0.75		$ 0.75		$ 0.75	
TOTAL				$ 593,954		$ 593,954		$ 593,954
GRAND TOTAL FOR BUSINESS CUSTOMERS				$ 5,156,259		$ 3,901,471		$ 3,901,471
	Revenue Reduction - Business (Proposed less Current)					$ (1,254,788)		**$ (1,254,788)**

UT 125, PHASE II, Advice No. 1849
MISCELLANEOUS BUSINESS MRC REDUCTIONS
STAFF PROPOSAL

	USOC	Current (1) Price	Current Annual Revenue	Staff Proposed Price	Staff Proposed Annual Revenue	Proposed Revenue Change
Centrex Plus - Usage Charge						
1-20 Lines	CUD	$ 14.90		$ 4.04		
21-50 Lines	CUD	$ 14.90		$ 4.04		
50+ Lines	CUD	$ 3.00		$ 4.04		
Total			**$ 2,096,020**		**$ 1,886,697**	**$ (209,323)**
Network Access Facility (NAF)						
Two Way	EQA	$ 18.81		$ 18.36		
In Only	EQB	$ 18.81		$ 18.36		
Out Only	EQC	$ 17.45		$ 17.00		
Total			**$ 2,415,418**		**$ 2,357,481**	**$ (57,937)**
Miscellaneous Features						
Centraflex System 1 (features)						
Speed Call 30	MVPCD	$ 5.00		$ 1.50		
Call Waiting	MVPCW	$ 3.55		$ 2.00		
CS1 Speed Call 6	MBWCD	$ 2.75		$ 1.50		
Call Waiting	MBWCW	$ 3.55		$ 2.00		
Speed Call 6	ESTC1	$ 2.75		$ 1.50		
Speed Call 30	ESFC3	$ 3.50		$ 1.50		
Total			**$ 43,666**		**$ 23,238**	**$ (20,428)**
Custom Mgmt. Svcs. (features)						
Call Rejection	MVPSR	$ 3.50		$ 1.55		
Continuous Redial	MVPAC	$ 2.50		$ 1.50		
Last Call Return	MVPAR	$ 2.50		$ 1.50		
Priority Call	MVPDW	$ 2.50		$ 1.50		
Call Fwd.- Programmable	MVPCB	$ 4.00		$ 2.00		
Call Fwd./DA-Programmable	MVPCA	$ 3.50		$ 2.60		
Call Fwd. Select	MVPSF	$ 2.50		$ 1.50		
Total			**$ 2,268**		**$ 1,254**	**$ (1,014)**

(1) Centrex Plus -Usage Charge and NAF - the "Current Price" is the price Ordered by the Commission in Advice No. 1844.

UT 125, Advice No. 1849
Company Proposed Elimination of Business Feature Packages
Staff Analysis

	USOC	Current Package Price	Proposed Package Price	Proposed Price Change	Call Waiting*	Caller ID Name & Number	Call Forward Variable	Call Fwd. BL/DA Expanded	Message Waiting Indication Audible	Speed Calling Eight	Three-Way Calling	Speed Call Thirty	Call Rejection	Continuous Redial	Priority Call	Total $ for Features Bought Individually	Individual Feature Price vs. Proposed Package Price
		Package Prices			**Individual Feature Prices Current and Proposed**												
Current Tariff Feature Price					$ 3.55	$ 7.95	$ 3.60	$ 7.00	$ 1.00	$ 3.00	$ 3.45	$ 3.50	$ 4.50	$ 3.50	$ 3.50		
USOC for Individual Feature					ESX	NNK	ESM	FVJ	DHA	ESL	ESC	ESF	NSY	NSS	NSK		
Call Manager Connection	NLUB+	$ 19.95	$ 20.45	$ 0.50 a		$ 7.95	$ 2.50				$ 3.45		$ 1.60	$ 1.50	$ 1.50	$ 18.50	$ (1.95)
Smart Set	NLUY1	$ 11.95	$ 12.45	$ 0.50 b	$ 2.00	$ 7.95	$ 2.50									$ 12.45	$ -
Smart Set Plus	NLUY2	$ 11.95	$ 11.70	$ (0.25) b	$ 2.00	$ 7.95		$ 1.50	$ 1.00							$ 12.45	$ 0.75
Feature Packages	ESA	$ 8.20	$ 6.00	$ (2.20) c	$ 2.00		$ 2.50			$ 1.50						$ 6.00	$ -
	ESR	$ 8.30	$ 7.45	$ (0.85) c			$ 2.50			$ 1.50	$ 3.45					$ 7.45	$ -
	ET8	$ 8.30	$ 6.95	$ (1.35) c	$ 2.00					$ 1.50	$ 3.45					$ 6.95	$ -
	ETC	$ 8.90	$ 7.95	$ (0.95) c	$ 2.00		$ 2.50				$ 3.45					$ 7.95	$ -
	ESG	$ 8.45	$ 6.00	$ (2.45) c	$ 2.00		$ 2.50					$ 1.50				$ 6.00	$ -
	ESB	$ 9.30	$ 7.45	$ (1.85) c			$ 2.50				$ 3.45	$ 1.50				$ 7.45	$ -
	ET3	$ 9.30	$ 6.95	$ (2.35) c	$ 2.00						$ 3.45	$ 1.50				$ 6.95	$ -
	ES3	$ 11.10	$ 9.45	$ (1.65) c	$ 2.00		$ 2.50			$ 1.50	$ 3.45					$ 9.45	$ -
	ES5	$ 11.90	$ 9.45	$ (2.45) c	$ 2.00		$ 2.50				$ 3.45	$ 1.50				$ 9.45	$ -

* = Includes Call Waiting ID
Note a: Price List, Sect. 5, Sheet 1
Note b: Price List, Sect. 5, Sheet 19
Note c: Price List, Sect. 5, Sheet 2 & 3

UT 125, PHASE II, Advice No. 1849
NON-RECURRING CHARGES - FEATURES, LISTINGS AND MISC.
STAFF PROPOSAL

	Service	USOC	Current Price	Current Annual Revenue	Proposed Price	Proposed Annual Revenue	Proposed Revenue Change
Custom Calling Services - Residential							
C5.4.3	Call Fwd - Variable	ESM	$ 4.00		$ -	$ -	
	Call Fwd - Variable, discounted	NLRXZ	$ 4.00		$ -	$ -	
	Call Fwd DA	EVD	$ 4.00		$ -	$ -	
	Call Fwd DA, expanded	FDJ	$ 4.00		$ -	$ -	
	Call Fwd BL	ERD	$ 4.00		$ -	$ -	
	Call Fwd BL, expanded	FBJ	$ 4.00		$ -	$ -	
	Call Fwd BL, Overflow	EVO	$ 4.00		$ -	$ -	
	Call Fwd BL, Programmable	ERB	$ 4.00		$ -	$ -	
	Call Fwd BL/DA	FVJ	$ 4.00		$ -	$ -	
	Call Fwd BL/DA,	EV2	$ 4.00		$ -	$ -	
	Call Rejection	NSY	$ 4.00		$ -	$ -	
	Call Rejection, discounted	NLRXO	$ 4.00		$ -	$ -	
	Call Transfer	EO3	$ 4.00		$ -	$ -	
	Call Waiting	ESX	$ 4.00		$ -	$ -	
	Call Waiting Identification	N2W	$ 4.00		$ -	$ -	
	Caller ID - Name & Number	NNK	$ 4.00		$ -	$ -	
	Caller ID - Number	NSD	$ 4.00		$ -	$ -	
	Continuous Redial	NSS	$ 4.00		$ -	$ -	
	Continuous Redial, discounted	NLRXL	$ 4.00		$ -	$ -	
	Last Call Return	NSQ	$ 4.00		$ -	$ -	
	Priority Call	NSK	$ 4.00		$ -	$ -	
	Remote Access Forwarding	AFD	$ 4.00		$ -	$ -	
	Real Deal	ESYBQ	$ 4.00		$ -	$ -	
	Remote Access Forwarding	AFM	$ 4.00		$ -	$ -	
	Scheduled Forwarding	ATF	$ 4.00		$ -	$ -	
	Selective Call Forwarding	NCE	$ 4.00		$ -	$ -	
	Selective Call Fwd, discounted	NLRXN	$ 4.00		$ -	$ -	
	Speed Call 8	ESL	$ 4.00		$ -	$ -	
	Three-Way Calling, discounted	NLRXR	$ 4.00		$ -	$ -	
	Speed Call 8, discounted	NLRXW	$ 4.00		$ -	$ -	
	Priority Call, discounted	NLRXB	$ 4.00		$ -	$ -	
	Speed Call 30	ESF	$ 4.00		$ -	$ -	
	Three-Way Calling	ESC	$ 4.00		$ -	$ -	
	Receptionist, Name & Number	EWY2X	$ 4.00		$ -	$ -	
	Receptionist, Number Only	EWY2O	$ 4.00		$ -	$ -	
	Wireless Extension	HME	$ 4.00		$ -	$ -	
TOTAL				$ 711,168		$ -	$ (711,168)
Intracall Services - Residential							
5.4.7	Intracall	E1N	$ 4.00		$ -	$ -	
						$ -	
US WEST Custom Ringing Service - Residential							
C5.4.10	First Add'l Number	RGG1+	$ 4.00		$ -	$ -	
	Second Add'l Number	RGG2+	$ 4.00		$ -		
	Third Add'l Number	RGG3+	$ 4.00		$ -		
	Custom Ringing, discounted	NLQ1+	$ 4.00		$ -	$ -	
						$ -	
Listing Services							
C5.7.1	Res. Add'l Listing	NLYXA	$ 4.00		$ -	$ -	
TOTAL Intracall, Custom Ringing and Listing Svcs.				$ 18,576		$ -	$ (18,576)
TOTAL - NON-RECURRING CHARGES (Features, Listings and Mi				**$ 729,744**		**$ -**	**$ (729,744)**

UT 125, PHASE II, Advice No. 1849
LISTING SERVICES - NON-PUBLISHED AND NON-LISTED
STAFF PROPOSAL

		NON-PUBLISHED SERVICE	NON-LISTED SERVICE	Total
Current Price				
Business		$ 0.75	$ 0.50	
Residence		$ 0.75	$ 0.50	
Current Annual Revenue				
Business				$ 35,538
Residence				$ 1,682,829
	Total	$ 1,669,887	$ 48,480	$ 1,718,367
Company Proposed Price				
Business		**$ 0.65**	**$ 0.35**	
Residence		**$ 0.65**	**$ 0.35**	
Staff Proposed Price				
Business		**$ 0.65**	**$ 0.35**	
Residence		**$ 0.65**	**$ 0.35**	
Staff Proposed Annual Revenue				
Business				$ 30,487
Residence				$ 1,450,684
	Total	$ 1,447,235	$ 33,936	$ 1,481,171
Proposed Annual Revenue Change				
Business				$ (5,051)
Residence				$ (232,145)
	Total	$ (222,652)	$ (14,544)	**$ (237,196)**

UT 125, PHASE II, Advice No. 1849
CENTREX 21- PRICE MATRIX
STAFF PROPOSAL

		Rate Group 1	Rate Group 2	Rate Group 3	Total
Staff Proposed Price					
	Mo. to Mo.	**$ 46.95**	**$ 46.95**	**$ 65.13**	
	12 - 36 Mo.	**$ 24.70**	**$ 31.35**	**$ 56.44**	
	37 - 60 Mo.	**$ 23.40**	**$ 29.93**	**$ 54.70**	
Company Proposed Price					
	Mo. to Mo.	$ 46.95	$ 46.95	*	
	12 - 36 Mo.	$ 24.70	$ 31.35	*	
	37 - 60 Mo.	$ 23.40	$ 29.93	*	
Current Tariff Price (Advice No. 1844, Supplement 2/OUS)					
	Mo. to Mo.	$ 41.72	$ 41.72	$ 41.72	
	12 - 36 Mo.	$ 25.08	$ 31.79	$ 33.03	
	37 - 60 Mo.	$ 23.76	$ 30.35	$ 31.29	
Staff Proposed Revenue					
	Mo. to Mo.				
	12 - 36 Mo.				
	37 - 60 Mo.				
	Total	$ 962,377.80	$ 76,804.20	$ 3,282.00	$ 1,042,464
Revenue at Current Rates					$ 1,054,875
Staff Proposed Revenue Change					**$ (12,411)**
Company Proposed Revenue					
	Mo. to Mo.				
	12 - 36 Mo.				
	37 - 60 Mo.				
	Total	$ 962,377.80	$ 76,804.20	*	$ 1,039,182
Revenue at Current Rates					$ 1,054,875
Company Proposed Revenue Change					**$ (15,693)**

* = Company did not propose rates for rate group 3. Because the rates are extremely high, the Company plans to contact each customer and "convert them to a package of flat business service and features that will be priced more attractively." The Company's proposed revenue does not reflect the annual revenue it would receive from the Mar. 97 to Feb. 98 Centrex 21customers in rate group 3, nor does the Company's proposal include revenue from any "converted" customer.

Note: ORS 759.410 requires that the lowest price charged for a service exceed the imputed price floor (UNE price.) The imputed price floor used for the NAC is pursuant to Order No. 00-481/ UT 148. Staff analysis excludes EAS from the price floor as well as from revenue for price/cost comparison. Once the price is established for the lowest price in zone 3 (37-60 Mo.) at $54.70 to exceed the price floor, staff's proposal uses the Company's proposed dollar spread between contract term prices to establish the 12 - 36 month and the month to month price.

UT 125, PHASE II, Advice No. 1849, Supplemental Proposal per Reichman letter dated March 19, 2001
CENTREX PLUS - PRICE MATRIX
STAFF PROPOSAL

	CURRENT PRICE	RA GRO	COMPANY PROPOSED PRICE STATEWIDE AVERAGE	STAFF PROPOSED PRICE RATE GROUP 1	STAFF PROPOSED PRICE RATE GROUP 2	STAFF PROPOSED PRICE RATE GROUP 3	PRICE CHANGE	PRICE CHANGE	PROPOSED ANNUAL REVENUE RATE GROUP 1	PROPOSED ANNUAL REVENUE RATE GROUP 2	PROPOSED ANNUAL REVENUE RATE GROUP 3	TOTAL
MONTH TO MONTH												
• 1-20	$25.52	• 1-20	$25.78	$25.50	$28.00	$62.00						$519,114
• 21-50	$22.00	• 21-50	$25.74	$25.50	$28.00	$62.00						$103,476
• 51+	$22.00	• 51-100	$10.00	$10.00	$10.00	$10.00						$29,760
		• 101-300	$8.50	$8.50	$8.50	$8.50						$38,148
		• 301-500	ICB	ICB	ICB	ICB						$11,136
		• 500+	ICB	ICB	ICB	ICB						$63,840
									$747,438	$6,498	$11,538	$765,474
12-35 MONTH CONTRACT												
• 1-20	$25.52	• 1-20	N/A	$23.00	$28.00	$56.00						$0
• 21-50	$18.67	• 21-50	N/A	$18.00	$28.00	$53.00						$0
• 51+		• 51-100	$9.00	$9.00	$9.00	$9.00						$0
1 QTR MILE	$9.16	• 101-300	$7.20	$7.20	$7.20	$7.20						$0
2 QTR MILE	$9.55	• 301-500	ICB	ICB	ICB	ICB						$0
3 QTR MILE	$9.95	• 500+	ICB	ICB	ICB	ICB			$0.00	$0.00	$0.00	$0
4 QTR MILE	$10.52											
5 QTR MILE	$10.95											
6 QTR MILE	$11.40											
7 QTR MILE	$12.17											
8 QTR MILE	$12.63											
9 QTR MILE	$13.28											
10 QTR MILE	$14.56											
11 QTR MILE	$15.09											
12 QTR MILE	$16.99											
13 QTR MILE	$18.49											
14 QTR MILE	$19.07											
15 QTR MILE	$19.91											
16 QTR MILE	$21.64											
17 QTR MILE	$22.36											
18 QTR MILE	$22.96											
19 QTR MILE	$23.47											
20 QTR MILE	$25.45											

UT 125, PHASE II, Advice No. 1849, Supplemental Proposal per Reichman letter dated March 19, 2001
CENTREX PLUS - PRICE MATRIX
STAFF PROPOSAL

	CURRENT PRICE	RA GRO	COMPANY PROPOSED PRICE STATEWIDE AVERAGE	STAFF PROPOSED PRICE RATE GROUP 1	RATE GROUP 2	RATE GROUP 3	PRICE CHANGE	PRICE CHANGE	PROPOSED ANNUAL REVENUE RATE GROUP 1	RATE GROUP 2	RATE GROUP 3	TOTAL
36-59 MONTH CONTRACT												
• 1-20	$21.85	• 1-20	$22.27	$22.00	$28.00	$53.50						$380,244
• 21-50	$15.56	• 21-50	$15.58	$15.25	$27.00	$51.00						$53,112
• 51+		• 51-100	$8.25	$8.25	$8.25	$8.25						$20,889
1 QTR MILE	$7.63	• 101-300	$6.55	$6.55	$6.55	$6.55						$24,916
2 QTR MILE	$7.96	• 301-500	ICB	ICB	ICB	ICB						$7,260
3 QTR MILE	$8.29	• 500+	ICB	ICB	ICB	ICB						$40,946
4 QTR MILE	$8.77								$513,964	$5,062	$8,342	$527,368
5 QTR MILE	$9.12											
6 QTR MILE	$9.50											
7 QTR MILE	$10.14											
8 QTR MILE	$10.52											
9 QTR MILE	$11.07											
10 QTR MILE	$12.13											
11 QTR MILE	$12.58											
12 QTR MILE	$14.16											
13 QTR MILE	$15.41											
14 QTR MILE	$15.89											
15 QTR MILE	$16.59											
16 QTR MILE	$18.03											
17 QTR MILE	$18.63											
18 QTR MILE	$19.13											
19 QTR MILE	$19.56											
20 QTR MILE	$21.21											

UT 125, PHASE II, Advice No. 1849, Supplemental Proposal per Reichman letter dated March 19, 2001
CENTREX PLUS - PRICE MATRIX
STAFF PROPOSAL

	CURRENT PRICE	RA GRO	COMPANY PROPOSED PRICE STATEWIDE AVERAGE	STAFF PROPOSED PRICE RATE GROUP 1	STAFF PROPOSED PRICE RATE GROUP 2	STAFF PROPOSED PRICE RATE GROUP 3	PRICE CHANGE	PRICE CHANGE	PROPOSED ANNUAL REVENUE RATE GROUP 1	PROPOSED ANNUAL REVENUE RATE GROUP 2	PROPOSED ANNUAL REVENUE RATE GROUP 3	TOTAL
60 MONTH CONTRACT												
• 1-20	$20.02	• 1-20	$21.29	$21.00	$28.00	$53.00						$8,528,448
• 21-50	$14.00	• 21-50	$14.35	$14.00	$26.00	$49.00						$1,146,468
• 51+		• 51-100	$7.50	$7.50	$7.50	$7.50						$445,140
1 QTR MILE	$6.87	• 101-300	$5.95	$5.95	$5.95	$5.95						$531,430
2 QTR MILE	$7.16	• 301-500	ICB	ICB	ICB	ICB						$150,224
3 QTR MILE	$7.46	• 500+	ICB	ICB	ICB	ICB						$865,242
4 QTR MILE	$7.89								$11,349,807	$116,463	$200,682	$11,666,952
5 QTR MILE	$8.21											
6 QTR MILE	$8.55											
7 QTR MILE	$9.13											
8 QTR MILE	$9.47											
9 QTR MILE	$9.96											
10 QTR MILE	$10.92											
11 QTR MILE	$11.32											
12 QTR MILE	$12.74											
13 QTR MILE	$13.87											
14 QTR MILE	$14.30											
15 QTR MILE	$14.93											
16 QTR MILE	$16.23											
17 QTR MILE	$16.77											
18 QTR MILE	$17.22											
19 QTR MILE	$17.60											
20 QTR MILE	$19.09											

UT 125, PHASE II, Advice No. 1849, Supplemental Proposal per Reichman letter dated March 19, 2001
CENTREX PLUS - PRICE MATRIX
STAFF PROPOSAL

	Current Price Statewide Average	Current Annual Revenue	Company Proposed Price Statewide Average	Staff Proposed Price Statewide Average			Staff Proposed Annual Revenue				Proposed Annual Revenue Change
				Rate Group 1	Rate Group 2	Rate Group 3	Rate Group 1	Rate Group 2	Rate Group 3	Total	
TOTAL ALL LINES	$16.67	$14,856,576	$14.54	$14.37	$18.82	$33.48	$12,611,209	$128,023	$220,562	$12,959,794	($1,896,782)
• Month To Month											
• 3 Year											
• 5 Year											
ANNUAL IMPACT											
• Month To Month	$16.67	$683,337	$14.54	$14.37	$18.82	$33.48				$596,093	($87,244)
• 3 Year	$16.67	$193,239	$14.54	$14.37	$18.82	$33.48				$168,567	($24,671)
• 5 Year	$16.67	$2,718,744	$14.54	$14.37	$18.82	$33.48				$2,371,635	($347,109)
TOTAL 1 YEAR REVENUE IMPACT		$3,595,319								$3,136,295	**($459,024)**
• Month To Month	$16.67	$0	$14.54	$14.37	$18.82	$33.48				$0	$0
• 3 Year	$16.67	$386,477	$14.54	$14.37	$18.82	$33.48				$337,135	($49,343)
• 5 Year	$16.67	$10,874,775	$14.54	$14.37	$18.82	$33.48				$9,486,364	($1,388,411)
TOTAL 2-5 YEAR REVENUE IMPACT		$11,261,252								$9,823,498	($1,437,753)

UT 125, PHASE II, Advice No. 1849, Supplemental Proposal per Reichman letter dated March 19, 2001
CENTREX PLUS - Rate Stabilization and System Size Discounts
STAFF PROPOSAL

	Rate Group One	Rate Group Two	Rate Group Three	Rate Stabilization Discount – Discount by Period: Rate Group One	Rate Group Two	Rate Group Three	Rate Stabilization Discount – TOTAL DISCOUNT FROM MO. TO MO. As a Percent: Rate Group One	Rate Group Two	Rate Group Three
Month - Month									
1-20 line	$ 25.50	$ 28.00	$ 62.00						
21-50 line	$ 25.50	$ 28.00	$ 62.00						
System Size Discount $	$ -	$ -	$ -						
%	0.00%	0.00%	0.00%						
51-100 line *	$ 10.00	$ 10.00	$ 10.00						
101-300 line *	$ 8.50	$ 8.50	$ 8.50						
301-500 line *	ICB	ICB	ICB						
Over 500 line *	ICB	ICB	ICB						
12 to 35 Mo. Contract									
1-20 line	$ 23.00	$ 28.00	$ 56.00	$ 2.50	$ -	$ 6.00	9.80%	0.00%	9.68%
21-50 line	$ 18.00	$ 28.00	$ 53.00	$ 7.50	$ -	$ 9.00	29.41%	0.00%	14.52%
System Size Discount $	$ 5.00	$ -	$ 3.00						
%	21.74%	0.00%	5.36%						
51-100 line *	$ 9.00	$ 9.00	$ 9.00	$ 1.00	$ 1.00	$ 1.00	10.00%	10.00%	10.00%
101-300 line *	$ 7.20	$ 7.20	$ 7.20	$ 1.30	$ 1.30	$ 1.30	15.29%	15.29%	15.29%
301-500 line *	ICB	ICB	ICB						
Over 500 line *	ICB	ICB	ICB						
36 to 59 Mo. Contract									
1-20 line	$ 22.00	$ 28.00	$ 53.50	$ 1.00	$ -	$ 2.50	13.73%	0.00%	13.71%
21-50 line	$ 15.25	$ 27.00	$ 51.00	$ 2.75	$ 1.00	$ 2.00	40.20%	3.57%	17.74%
System Size Discount $	$ 6.75	$ 1.00	$ 2.50						
%	30.68%	3.57%	4.67%						
51-100 line *	$ 8.25	$ 8.25	$ 8.25	$ 0.75	$ 0.75	$ 0.75	17.50%	17.50%	17.50%
101-300 line *	$ 6.55	$ 6.55	$ 6.55	$ 0.65	$ 0.65	$ 0.65	22.94%	22.94%	22.94%
301-500 line *	ICB	ICB	ICB						
Over 500 line *	ICB	ICB	ICB						
60 Month Contract									
1-20 line	$ 21.00	$ 28.00	$ 53.00	$ 1.00	$ -	$ 0.50	17.65%	0.00%	14.52%
21-50 line	$ 14.00	$ 26.00	$ 49.00	$ 1.25	$ 1.00	$ 2.00	45.10%	7.14%	20.97%
System Size Discount $	$ 7.00	$ 2.00	$ 4.00						
%	33.33%	7.14%	7.55%						
51-100 line *	$ 7.50	$ 7.50	$ 7.50	$ 0.75	$ 0.75	$ 0.75	25.00%	25.00%	25.00%
101-300 line *	$ 5.95	$ 5.95	$ 5.95	$ 0.60	$ 0.60	$ 0.60	30.00%	30.00%	30.00%
301-500 line *	ICB	ICB	ICB						
Over 500 line *	ICB	ICB	ICB						

* - Pricing for Centrex Plus systems with 50+ lines at one location are not geographically deaveraged, but are shown on this chart to allow calculation of the rate stabilization discount.

INFORMATION CONTAINED IN STAFF EXHIBIT 15 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

CASE: UT 125, Phase II
WITNESS: James R. Stanage

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 16

Direct Testimony

Issue 9. Extended Area Service
Issue 10. Advanced Services
Issue 11. Business Local Exchange Access
Issue 12. Residential Local Exchange Access
Issue 13. Residential Non-Recurring Charges

April 10, 2001

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is James R. Stanage. I am employed by the Public Utility Commission of Oregon (OPUC) as a Senior Telecommunications Analyst in the Utility Program. My business address is 550 Capitol Street NE, Suite 215, Salem, Oregon 97301-2511.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. A description of my educational background and experience is located in Exhibit Staff/17, Stanage/1 (RD).

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. I have organized my testimony into five sections as follows:

Issue 9: Extended Area Service	Stanage/11 (RD)
Issue 10: Advanced Services	Stanage/14 (RD)
Issue 11: Local Business Access Line Services	Stanage/17 (RD)
Issue 12: Local Residential Access Line Services	Stanage/19 (RD)
Issue 13: Residential Nonrecurring Charge	Stanage/23 (RD)

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present the local access line services, Extended Area Service, and advanced services rate designs below. My testimony is presented in (Exhibit Staff/16 through 19).

Q. WHERE IS YOUR PROPOSED LOCAL SERVICES RATE DESIGN EXHIBIT PRESENTED?

A. It is presented in Exhibit Staff/18 and Confidential Exhibit Staff/19.

Exhibit Staff/18, Stanage/1-7 (RD) is a nonconfidential rate design exhibit and Exhibit Staff/19, Stanage/1-7 (RD) is a confidential rate design exhibit. The page numbers (e.g., Stanage/1) and line numbers on both in Exhibit Staff/18 and Confidential Exhibit Staff/19 are identical, and therefore, whenever I state a page number it will refer to the same page on both exhibits. For example, "Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/1-3 (RD)" means the same pages in both exhibits.

Exhibit Staff/18, Stanage/8 (RD) is a copy of a Federal Communications Commission (FCC) rate schedule from FCC 00-193, Appendix C, p. C-4. It consists of one page and provides information regarding federal subscriber line charges and future caps on subscriber line charges.

As shown in Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/3 (RD), Line 187, my proposed rates will decrease Qwest's revenues from local services by $10,802,699. My proposed rates for local services are in Column D (Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/1-7 (RD)).

Q. PLEASE SUMMARIZE YOUR PROPOSED LOCAL SERVICES RATE DESIGN.

A. The net effect of my proposal is an annual revenue reduction of $10.8 million. My rate design decreases Qwest's revenues by $13.3 million through reducing local business access line rates (including Advanced Services) and Extended Area Service (EAS) rates, while increasing revenues $2.5 million through increasing residential access line rates in Rate Groups 2 and 3 and the nonrecurring charge for residential line installations.

My rate design also "deaverages" local rates into the three rate groups adopted in Order No. 00-481, docket UT 148. The groupings are by wire center. It is important to note that the deaveraged rate design does not extend to Integrated Services Digital Network Primary Rate Interface Service (ISDN-PRS), Digital Switched Services (DSS), or Direct Inward Dialing (DID) Services. These services could not be deaveraged into the three rate groups because they were not included in the Network Access Channel (NAC) cost analysis conducted in UT 148.

My rate design makes the following changes in Qwest's current rates:

1. Reduces EAS monthly flat rates for Residential and Business service customers by an average (statewide) of 28 percent. The total annual revenue effect of these rate reductions is $11 million. My proposal is similar to Qwest's proposal, Advice No. 1849, but the company decreases EAS flat rates by twice as much on average---i.e., 56 percent ($22 million).
2. Reduces EAS measured usage rates for Residential and Business service customers by 40 percent---i.e., the peak period per minute rate is reduced from $0.05 to $0.03, or by a total of $0.3 million. This matches Qwest's proposal.
3. Reduces Single Line ISDN-Basic Rate Service (BRS) rates by 6 percent in Rate Group 1---i.e., by a total of $0.1 million. This proposal slightly exceeds Qwest's proposed reductions.
4. Reduces certain Primary Rate ISDN Service (PRS) rates by 3 percent or $30,000. This matches Qwest's proposal.
5. Reduces certain Digital Switched Service (DSS) rates by 3 percent or $0.2 million. This matches the company's proposal.

6. Reduces the rate for certain Direct Inward Dialing (DID) services by 3 percent or $0.3 million. This matches Qwest's proposal.
7. Reduces rates overall for local business access line services (simple, complex, and trunk) by approximately 1 percent. The total annual revenue effect of these rate reductions is $1.3 million. This partially matches Qwest's proposal for flat rate business access line services.
8. Reduces flat rate Public Access Line (PAL) service rates in all three rate groups by 8 to 20 percent, as part of the business access line rate reductions. In my rate design, flat PAL rates are reduced and made equal to the proposed one-party flat business rates for all three rate groups. The total annual revenue effect of these rate reductions is approximately $13,000. This matches Qwest's proposal for flat rate PAL service.
9. Increases residential one-party, flat rate (1FR) service customers' monthly rate in Rate Groups 2 and 3 by $1.00 and $2.00 (8 percent and 16 percent) per line, respectively. The customers in these two rate groups represent about 9 percent of the total of residential customers. The total annual revenue effect of these rate changes is a net increase of $1.2 million. Qwest also proposes increases for flat rate residential access lines, but increases the 1FR rate in Rate Groups 2 and 3 by $2.00 and $3.00 (16 percent and 23 percent) per line, respectively, as well as increase the 1FR rate in Rate Group 1 by $1.00. The company's proposal increases annual revenues by $10 million.
10. Leaves residential measured rates unchanged. This contrasts with

Qwest's proposal to increase residential measured rates by 50 to 80 percent and revenues from this service by $2.2 million.

11. Increases the residential line installation, nonrecurring charge (NRC) from the present $12.00 per line installed to $16.50. This change will increase annual revenues $1.4 million. This matches Qwest's proposal.

My proposed local rates improve the relationship between local service rates and the economic costs of providing them by moving them closer to their price floors, if they are currently below their price floors, and, at the same time, limit the difference between the rates for basic service and the universal services benchmark.

Q. HOW DOES YOUR PROPOSAL DIFFER FROM THE COMPANY'S PROPOSAL?

A. My proposed rate design differs from Qwest's in three important places: (1) the residential one-party, flat rates; (2) the residential measured rates; and (3) EAS flat rates. As indicated by the rate design summary above, Qwest's proposal increases 1FR revenue by about $8.8 million ($10 million minus $1.2 million) more than mine, increases residential measured service revenue by about $2.2 million while mine leaves revenue unchanged, and reduces flat rate EAS by $11 million more than mine---i.e., by the same amount as the company's surplus (additional) revenue from its increases in the two residential services. In fact, it is precisely because of the first two differences (increases to residential rates) that the third difference has the opportunity to appear.

Otherwise, Qwest would have had to develop the $11 million revenue surplus from increasing other rates, or it would have had the same amount of revenue reductions to allocate to revenue reductions (including EAS) as I did. The details of these major differences, along with some minor differences, are described under the respective Issues, Nos. 9 through 13, that follow.

Q. PLEASE EXPLAIN THE COMMISSION POLICY CONCERNING THE RELATIONSHIP BETWEEN RATES AND ECONOMIC COSTS.

A. The Commission has recognized that the rate charged for a telecommunications service should reflect the economic cost of providing the service and has used this underlying principle in establishing its pricing policy in Orders 90-920, 94-1851, 95-313, and 96-188. Cost based pricing is an underlying principle that has been applied in my proposed rate design. Also, in order to comply with Oregon law as revised by Senate Bill 622 (Oregon Revised Statutes 759.400 through 759.425), the rates for non-basic services may be adjusted "for a regulated retail telecommunications service between the maximum price established…" through this docket (UT 125) "and a price floor equal to the sum of the total service long run incremental cost (TSLRIC) of providing the service for the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions." In addition, Senate Bill 622 states that "Basic telephone service shall not be subject to a price floor."

Senate Bill 622 (specifically ORS 759.425) affects the Commission's use of economic cost information in setting rates, by requiring that it establish and implement a competitively neutral universal service fund to ensure that "basic telephone service is available at a reasonable and affordable rate." However, the new law further requires that "the Commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service" and a "benchmark for basic telephone service" to be used for administration and distribution of the universal service fund. The Commission established a universal service benchmark of $21.00 for all basic services in UM 731 through Order No. 00-312 (issued June 16, 2000).

Q. WHAT COST INFORMATION HAVE YOU CONSIDERED IN YOUR PROPOSED LOCAL SERVICES RATE DESIGN?

A. In this docket, I have considered cost related information from various sources, including OPUC docket UM 844 as well as other cost studies that Qwest has submitted to the Commission. Thus, I have taken available cost information into consideration in evaluating current and proposed Qwest rates. I also considered the universal service benchmark.

Q. HOW HAVE YOU APPLIED THAT COST INFORMATION IN DEVELOPING YOUR PROPOSED LOCAL SERVICES RATE DESIGN?

A. My primary rationales for making the proposed changes are as follows. First, rates in general should be established while taking into account the underlying costs of service as represented by the "price floors" established in UM 844. Second, rates for basic services, which are currently above the universal service benchmark, should be moved closer to the benchmark. Third, rates for basic services, which are currently below the benchmark but above their respective price floors, should be left unchanged or moved closer to the benchmark. Fourth, rates for any basic services, which are currently below the benchmark and below their respective price floors, should be moved closer to the price floors but no higher than the benchmark.

Q. DOES QWEST USE THE BENCHMARK AS A RATE DESIGN PREMISE AS YOU HAVE IN YOUR RATE DESIGN?

A. Yes, Qwest's witness Teitzel states that "...it is important to move Residential Basic Exchange prices toward the benchmark, while mitigating rate shock to the extent practicable." See Qwest/201, Teitzel/11.

Q. PLEASE EXPLAIN HOW TO READ THE CONFIDENTIAL EXHIBIT STAFF/19, STANAGE/1-7 (RD)).

A. The confidential Exhibit Staff/19, Stanage/1-7 (RD), shows the total revenue effect from present and proposed rates and provides details on the amount of change for each type of local service. Columns A-1 and A-2 show the number of present and proposed service (sales) units, respectively. The set of columns entitled "CHANGE" (Columns F, G, H, and I) shows the differences between "PRESENT" rates and revenue (Columns B and C) and "PROPOSED" rates and revenue (Columns D and E)---i.e., the columns represent the changes in rates and revenue that would result from my proposed changes in the present rate schedule. The revenue effects are presented as dollar amounts in Column G and as percents in Column I. Column I provides information for evaluating the revenue effects of the rate schedule changes. It answers the question, "To what degree is revenue affected by staff's proposed changes in each respective rate?" As an example, the one-party, flat rate business line revenue for Rate Group 1 shown in Exhibit Staff/19, Stanage/1 (RD), Line 2, will decrease by 2 percent.

Column H provides information for evaluating the rate effects of the rate schedule changes. It answers the question, "To what degree is rate affected by staff's proposed changes in each respective rate?" As an example, the one-party, flat rate business line rate for Rate Group 1 shown in Exhibit Staff/19, Stanage/1 (RD), Line 2, will decrease by 2 percent.

Q. PLEASE EXPLAIN HOW TO READ THE NONCONFIDENTIAL EXHIBIT STAFF/18, STANAGE/1-7 (RD)).

A. The nonconfidential Exhibit Staff/18, Stanage/1-7 (RD), shows the total revenue effect from present and proposed rates for services sub-categories but excludes the details on the present and proposed as well as excluding the changes in revenue for each type of local service. The nonconfidential Exhibit Staff/18, Stanage/1-7 (RD) also excludes data for the number of present and proposed service (sales) units (Columns A-1 and A-2). The set of columns entitled "CHANGE" (Columns F and H) shows the differences between "PRESENT" rates (Column B) and "PROPOSED" rates (Column D)---i.e., the columns represent the changes in rates and revenue for services sub-categories that would result from staff's proposed changes in the present rate schedule. The revenue effects are presented as dollar amounts in Column G and as percents in Column I for services sub-categories. Column I provides information for evaluating the revenue effects of the rate schedule changes. It answers the question, "To what degree is revenue affected by my proposed changes in each respective rate?" As an example, the access line business revenue shown in Exhibit Staff/18, Stanage/2 (RD), Line 108, will decrease by one percent.

Column H provides information for evaluating the rate effects of the rate schedule changes. It answers the question, "To what degree is rate affected by staff's proposed changes in each respective rate?" As an example, the one-party, flat rate business line rate shown for Rate Group 1 Exhibit Staff/18, Stanage/1 (RD), Line 2, will decrease by 2 percent.

ISSUE 9, EXTENDED AREA SERVICE.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN EXTENDED AREA SERVICE RATES.

A. My proposed rate design reduces monthly EAS flat rates for Residential and Business service customers by an average (statewide) of 28 percent. In effect, this is an average monthly rate decrease of $0.78 per line for residential customers[1] and $1.19 per line for business customers[2]. The total annual revenue effect of these rate reductions is $11 million. This partially matches Qwest's proposal, which would decrease EAS flat rates by twice as much on average---i.e., 56 percent ($22 million). <u>See</u> Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/2-3.

My EAS proposal is also similar to Qwest's in that both combine the five current rate bands (Bands A through E) into three rate bands for each type of service: Residential, Business, Residential and Business Usage Packages, and Centrex. However, my proposal is different from Qwest's in that my proposed grouping of the current five bands is different. That is, staff proposes that Bands A and B have one set of identical rates and that Bands C and D have a second set of the identical rates, while Band E has its own unique set of rates.

I have combined the current rate bands, as described above, because the current rates in Bands A and B are very similar---i.e., only a few cents apart. The same is true of Bands C and D. By combining the two pairs of rate bands

[1] Approximately 88 percent of residential lines are subscribed to flat EAS.
[2] Approximately 92 percent of business lines are subscribed to flat EAS.

that had nearly the same rates already, I was able to propose reductions in EAS flat rates that are similar in proportion for all five of the current bands. Underlying my approach is the assumption that current EAS rates are at least partially reflective of costs. Therefore, when I observe that the current rates in Band C are approximately twice those of Band A, it does not seem reasonable to equalize their rates as Qwest proposes. If current EAS rates reflect costs, then it would be more reasonable to combine the rate bands that currently have similar rates, as I propose. See Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/2-3.

It should be noted that Qwest's Advice No. 1849, Attachment B (Qwest's UT 125 rate design), includes a series of errors in presenting the current EAS flat rates. The errors result in an understatement of the company's revenue reduction for EAS of $954,731. In turn, this error in the revenue reduction for EAS means that Qwest's overall revenue reduction for all services from Advice No. 1849 is approximately $65.0 million (i.e., not $64.2 million), after the total reduction is reduced by approximately $0.2 million to recognize the company's overstatement of its ISDN-BRS revenue reduction. The error in ISDN-BRS is described below under Issue 10, Advanced Services. The correct current rates are presented in Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/2-3 (RD). The rates stated by the company for ISDN-BRS had been in effect until November 8, 2000, when they were replaced with the current rates through Qwest Advice No. 1851.

Q. PLEASE EXPLAIN YOUR REDUCTIONS IN THE EAS MEASURED USAGE RATES.

A. My proposed rate design reduces EAS measured usage rates for Residential and Business service customers by 40 percent ---i.e., the peak period per minute rate is reduced from $0.05 to $0.03. Off-peak period discounts of 50 percent would still apply. See the notes on Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/3. I propose to reduce EAS measured usage rates because they are too far above their price floors.

ISSUE 10, ADVANCED SERVICES.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN SINGLE LINE ISDN-BRS RATES.

A. My proposed rate design reduces Single Line ISDN-BRS rates by 6 percent in Rate Group 1. For example, the rate for month-to-month service is reduced from $62.00 per line to $58.00. The service is offered month-to-month and under one, two, three, and five-year contracts. I propose leaving the current rates for the various terms of service (month-to-month, one, two, three, or five-year agreements) unchanged in Rate Groups 2. I also propose increasing Rate Groups 3 rates by approximately $17.00. Since there are no ISDN-BRS lines in service in Rate Group 3, however, increasing the rates has no revenue effect. This proposal slightly exceeds Qwest's proposed reductions. <u>See</u> Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/4 (RD), Table 1.3. These rates are being adjusted to more closely reflect their respective price floors.

The difference between my proposal and Qwest's is primarily in Rate Groups 2 where, for each term period, I leave the rate unchanged while the company proposes raising it by approximately $2.00. I do not propose increasing it from the current rate for two reasons. First, it is already well above the established price floor. Second, as described above, Qwest just reduced the prices for ISDN-BRS by approximately $7.00 per line for Rate Groups 2 effective November 8, 2000. Yet, in this filing, the company proposes increasing the Rate Groups 2 rates by approximately $6.00 per line, or 10 percent. Such large rate swings in close succession is too burdensome for customers. I believe that Qwest had ISDN-BRS appropriately priced for Rate Groups 2 with its filing of November, 2000. Therefore, I propose leaving the rate unchanged.

It should be noted that Qwest's Advice No. 1849, Attachment B (Qwest's UT 125 rate design), includes a series of errors in presenting the current rates for ISDN-BRS. The errors result in an overstatement of the company's revenue reduction for ISDN-BRS of $176,646. In turn, this error in the revenue reduction for ISDN-BRS means that Qwest's overall revenue reduction for all services from Advice No. 1849 is approximately $64.0 million (i.e., not $64.2 million). The correct current rates are presented in Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/4 (RD), Table 1.3. The rates stated by the company for ISDN-BRS had been in effect until November 8, 2000, when they were replaced with the current rates through Qwest Advice No. 1851.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN ISDN PRIMARY RATE SERVICE RATES.

A. My proposed rate design reduces certain ISDN Primary Rate Service (PRS) rates by 3 percent or $30,000. These rates are not deaveraged. The relationships between the price floors and the proposed ISDN-PRS rates are similar to those for local business access lines after the rate reductions ordered by the Commission in the UM 731 universal services docket are implemented. [3] This matches Qwest's proposal.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN DIGITAL

SWITCHED SERVICE RATES.

A. My proposed rate design reduces certain Digital Switched Service (DSS) rates by 3 percent or $0.2 million. These rates are not deaveraged for the reasons stated above. The relationships between the price floors and the proposed ISDN-PRS rates are similar to those for local business access lines after the rate reductions ordered by the Commission in the UM 731 universal services docket. Qwest's Advice No. 1844, which will be allowed to go into effect on April 30, 2001, will implement the Commission's rate rebalancing directives from Order No. 00-312. [4] This matches the company's proposal.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN DIRECT INWARD DIALING SERVICE RATES.

A. My proposed rate design reduces the rate for certain Direct Inward Dialing services by 3 percent or $0.3 million. The rates remain well above their respective price floors. This matches Qwest's proposal.[5]

[3] Qwest's Advice No. 1844 will reduce ISDN-PRS rates by $0.9 million.
[4] Qwest's Advice No. 1844 will reduce DSS rates by $2.6 million.
[5] Qwest's Advice No. 1844 will reduce DID rates by $2.4 million.

ISSUE 11, LOCAL BUSINESS ACCESS SERVICES.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN LOCAL BUSINESS ACCESS LINE SERVICE RATES.

A. My proposed rate design reduces monthly rates for local business access service customers by approximately 2 percent. Business one-party flat (1FB) rates for both Rate Group 1 and 2 exchanges are reduced by $0.40 and Rate Group 3 exchanges are reduced by $2.35 (8 percent) to the same level as those in Rate Group 2. The total annual revenue effect of these rate reductions is $1.4 million. It should be noted here that much more substantial rate reductions in Business rates ($15.4 million) have been filed by Qwest pursuant the Commission Order No. 00-312 in the UM 731 universal services docket. Qwest's Advice No. 1844, which will be allowed to go into effect on April 30, 2001, will implement the Commission's rate rebalancing directives from that order.[6] My proposed local business access service rate reductions matches the company's proposal for flat rate business access line services, except that they would reduce the same business services in Rate Group 3 by only $0.35. This would make the 1FB rate $2.00 higher in Rate Group 3 than in Rate Group 2. I proposes reducing business access line rates because they

[6] The combined effect of Qwest's proposed business access line rate changes is an annual revenue decrease of $15.4 million. In its filing, the company proposes a one-party flat simple business (1FB) access line rate of $26.40 per month in Rate Group 1. In effect, Qwest proposes to reduce the simple business access line rate by an average of $4.47 (14 percent) from the current $30.87 rate.

Qwest proposes to remove the current dichotomy between "simple" and "complex" business lines by treating them all as 1FB lines. Qwest also proposes to continue to charge a higher rate for PBX lines than for 1FB lines. Thus, the complex line rate is reduced to the same level proposed for simple lines, $26.40, or a reduction of $8.37 (24 percent) from the current $34.77 rate. Most PBX trunk rates are reduced to $28.40, effectively reducing the rate $6.37 (18 percent) from the current rate of $34.77.

are too far above the universal service benchmark.

Q. PLEASE EXPLAIN YOUR PROPOSED REDUCTIONS IN PUBLIC ACCESS LINE SERVICE RATES.

A. My proposed rate design reduces monthly recurring rates for flat rate Public Access Line (PAL) service in all three rate groups by 8 to 20 percent. In my rate design, flat PAL rates are reduced and made equal to the proposed one-party flat business rates for all three rate groups. The total annual revenue effect of these rate reductions is approximately $13,000.[7] This matches Qwest's proposal for flat rate PAL service. If implemented, this proposal would make the principal form of PAL service that was provided by Qwest in August, 1997, (PAL Flat Rate with Measured Usage after 300 Calls) obsolete. Therefore, PAL customers will switch their service to the proposed Flat Rate PAL service at $26.00 per month with no additional usage charges---i.e., the same rate as One-Party Flat Rate Business (1FB) service.

[7] Qwest's Advice No. 1844 will reduce PAL rates by $0.3 million, or 14 percent overall. However, the Flat PAL rate is reduced to the same level as 1FB lines, $26.40, i.e., a reduction of $8.37 (24 percent) from the current $34.77 rate. It is this service to which PAL subscribers are likely to migrate.

ISSUE 12, LOCAL RESIDENTIAL ACCESS SERVICES.

Q. PLEASE EXPLAIN YOUR PROPOSAL FOR MONTHLY RESIDENTIAL ACCESS LINE SERVICE FLAT RATES.

A. My proposed rate design leaves monthly recurring flat rates for residential access line service in Rate Group 1 unchanged at $12.80. One-party, flat rate residential (1FR) service customers' monthly rates in Rate Groups 2 and 3 are increased by $1.00 and $2.00 (8 percent and 16 percent) per line, respectively.[8] That is, the monthly 1FR rates in Rate Groups 2 and 3 are increased by $1.00, to $13.80, and by $2.00, to $14.80, respectively. The total revenue effect of these rate changes is a net increase of $1.0 million. My proposal is similar to Qwest's proposed rates for its Rate Groups 2 and 3, although they would increase the rates more. That is, Qwest proposes increasing the 1FR rate in Rate Groups 2 and 3 by $2.00 and $3.00 (16 percent and 23 percent) per line, respectively. Qwest also proposes increasing the 1FR rate in Rate Group 1 by $1.00 to $13.80.

The 1FR rate in Rate Group 1, at its current rates, is above its respective price floor, $17.23,[9] as estimated by Qwest. The price floor includes the costs covered by the federal subscriber line charge (SLC), called CALC in

[8] The customers in these two rate groups represent about 9 percent of the total of residential customers.

[9] Qwest/ 219, Brigham/9 states Qwest's estimate of the price floor for Rate Group 1 as $17.33, in the column titled "Imputed Price Floors." However, this estimate should be adjusted to reflect the EAS costs that are included in Qwest's estimate. Staff calculates those costs to be about $0.10, by allocating 20 percent of the "Imputed Price Floor" to EAS usage for the following "Building Block" categories: (1) Terminal End Office Switching ("Term EO Switching") Interoffice, (2) "Facility Over 0-8 per mile/minute," (3) "Intercept," (4) Operator Assistance ("Operator Assist"). Therefore, the adjusted price floor for 1FR is $17.23 ($17.33 - $0.10).

Qwest/ 219, Brigham/5-83. Therefore, the matching revenues need to be added to residential base rate before the price floor is used to evaluate the appropriateness of residential access line rates. That is, the residential base rates should be added to the SLC prior to making comparisons to the estimated price floor, $17.23. I estimate that the weighted average monthly SLC for 1FR lines is $4.64 per line[10]. In turn, when the SLC is added to the Rate Group 1 monthly rate of $12.80, it totals $17.44 currently. I further estimate that the new weighted average monthly SLC could increase to as much $5.24 per line[11] beginning July 1, 2001. [The FCC's scheduled increases for subscriber line charges will go into effect July 1, 2001. See Exhibit Staff/18, Stanage/8 (RD).] If the prospective new SLC is used, that increases the combined 1FR monthly rate to $18.04 by the time that the final rates in UT 125 go into effect (after October 12, 2001). Therefore, the current one-party, flat residential rate of $12.80 in Rate Group 1 is already above, and will continue to be above, its price floor and should be left unchanged.

By raising the residential rates as I have proposed in Rate Groups 2 and 3 by $1.00 and $2.00, respectively, those rates are brought closer to the universal service benchmark. Although the proposed rates for Rate Groups 2

[10] The rate authorized by the Federal Communications Commission (FCC) in FCC 00-193, Appendix C, p. C-4. (Please note that the FCC calls the SLC or CALC an "End User Common Line" [EUCL] Rate.) This amount ($4.64) is a weighted mean calculated as follows: 88.23 percent at $4.35 (residential primary line monthly rate) plus 11.77 percent at $6.59 (the residential non-primary line monthly rate). The 88.23 percent is the proportion that residential primary lines (741,837) are of total residential flat rate lines (840,826). The 11.77 percent is the proportion that residential non-primary line (98,989) are of total flat rate residential lines.

[11] The "SLC [rate] Cap" authorized by the FCC in FCC 00-193, Appendix C, p. C-4 for July 1, 2001. This amount ($5.24) is a weighted mean calculated as follows: 88.23 percent at $5.00 (residential primary line monthly rate Cap) plus 11.77 percent at $7.00 (the residential non-primary line monthly rate Cap). See previous footnote for percentage calculation details.

and 3 are still below the $21.00 benchmark, the difference is smaller. These rates are being increased to more closely reflect their respective price floors, given that they are currently priced below the benchmark.

It is my view that these proposed rates for 1FR services move current rates such that they comport with the requirement of SB 622 to "seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark."

Q. DOES QWEST ADD THE SUBSCRIBER LINE CHARGE TO THE MONTHLY RECURRING RATE FOR PURPOSES OF PRICE FLOOR COMPARISONS?

A. Yes, Qwest adds the subscriber line charge to the monthly recurring rate for purposes of price floor comparisons. Qwest cost witness Brigham includes it in his comparisons of "Proposed Prices" to "Imputed Price Floors" that appear in Qwest/ 219, Brigham/1-5, and in the support documents from which both the prices and price floors were derived, Qwest/ 219, Brigham/9-83.

Q. WHEN QWEST WITNESS BRIGHAM CALCULATES HIS "PROPOSED PRICES" DOES HE COMBINE THE MONTHLY RECURRING RATE WITH THE SUBSCRIBER LINE CHARGE AS YOU DID ABOVE FOR ONE-PARTY FLAT RESIDENTIAL SERVICE?

A. Yes, he does. However, witness Brigham also adds the flat monthly EAS rate to his total to arrive at what he calls the "Proposed Prices." Because EAS is not part of local access service, it should not be included as part of the proposed price or rate. It is important to note that witness Brigham's having included the EAS rate in his proposed prices does not cause a single proposed rate to cover its respective floor that would not have also done so without the EAS rate. In other words, witness Brigham's inclusion of EAS rates in Qwest's proposed prices does not make a significant difference when comparing his proposed prices to imputed price floors (Qwest/ 219, Brigham/1-5) and asking the question, "Do the prices cover the price floors?" In all cases, the answer would not be affected by whether or not the EAS rate was removed from the proposed rate.

ISSUE 13, RESIDENTIAL NONRECURRING CHARGES.

Q. PLEASE EXPLAIN YOUR PROPOSED INCREASE IN RESIDENTIAL NONRECURRING CHARGES.

A. The residential line installation, nonrecurring charge (NRC) is increased by $4.50 from the present $12.00 per line installed to $16.50. Although this represents a 38 percent increase, it leaves the residential line installation rate as one of the lowest charges for this service applied by any former Bell operating company in the United States. Moreover, this proposal will move the rate closer to its established total service long run incremental cost (TSLRIC)---i.e., no price floor has been established for this service. See Exhibit Staff/18 and Confidential Exhibit Staff/19, Stanage/3.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

CASE: UT 125, Phase II
WITNESS: James R. Stanage

PUBLIC UTILITY COMMISSION
OF
OREGON

STAFF EXHIBIT 17

Exhibit in Support of
Direct Testimony

Witness Qualification Statement

April 10, 2001

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I hold a Master of Science degree in Public Affairs from the University of Oregon. Since August 1975, I have been employed by various state and local government and nonprofit agencies in Oregon. Since joining the OPUC Telecommunications Division in January 1987, I have served as a witness on behalf of OPUC staff in numerous dockets including several that concerned local exchange rates, Extended Area Service (EAS), deregulation of services, and the resale of local services (especially pay telephone services). I have presented staff's local services rate design testimony in dockets UT 51, UT 67, UT 71, UT 83, UT 101, UT 127, UT 141, and UT 152.

CASE: UT 125, Phase II
WITNESS: James R. Stanage

PUBLIC UTILITY COMMISSION
OF
OREGON

STAFF EXHIBIT 18

Exhibit in Support of
Direct Testimony

Issue 9. Extended Area Service
Issue 10. Advanced Services
Issue 11. Business Local Exchange Access
Issue 12. Residential Local Exchange Access
Issue 13. Residential Non-Recurring Charges

April 10, 2001

Table 1. STAFF'S PROPOSED RATE DESIGN AND ANALYSIS OF EFFECTS

	SERVICE	Lines/Units Present	Lines/Units Proposed	PRESENT Rate	PRESENT Revenue	PROPOSED Rate	PROPOSED Revenue	CHANGE Amount Rate	CHANGE Amount Revenue	CHANGE Percent Rate	CHANGE Percent Rev
		A-1	A-2	B	C	D	E	F	G	H	I
	EXCHANGE ACCESS										
	BUSINESS:										
1	E5.2.4 1FB/JBG One-party Simple Flat										
2	Rate Group No. 1			$26.40		$26.00		($0.40)		-2%	
3	Rate Group No. 2			28.90		28.50		(0.40)		-1%	
4	Rate Group No. 3			30.85		28.50		(2.35)		-8%	
5	*Subtotal One-party Simple Flat*										
6	E5.2.4 1FL/JBH One-party Complex Flat										
7	Rate Group No. 1			26.40		26.00		(0.40)		-2%	
8	Rate Group No. 2			28.90		28.50		(0.40)		-1%	
9	Rate Group No. 3			30.85		28.50		(2.35)		-8%	
10	*Subtotal One-party Complex Flat*										
11	E5.2.1 LMB/LML One-party Meas										
12	Rate Group No. 1			18.00		18.00		0.00		0%	
13	Rate Group No. 2			18.00		18.00		0.00		0%	
14	Rate Group No. 3			18.00		18.00		0.00		0%	
15	*Subtotal One-party Meas*										
16	E5.1.6 BHS Home Business Line										
17	Rate Group No. 1			29.65		29.25		(0.40)		-1%	
18	Rate Group No. 2			32.15		31.75		(0.40)		-1%	
19	Rate Group No. 3			34.10		31.75		(2.35)		-7%	
20	*Subtotal Home Business Line*										
21	E5.2.4 TFU/ PBX Trunk Flat, Out/In										
22	TFB1N Rate Group No. 1			28.40		28.00		(0.40)		-1%	
23	Rate Group No. 2			30.90		30.50		(0.40)		-1%	
24	Rate Group No. 3			32.85		30.50		(2.35)		-7%	
25	*Subtotal PBX Trunk Flat, Out/In*										
26	E5.2.4 TFB PBX Trunk Flat, 2-Way										
27	Rate Group No. 1			28.40		28.00		(0.40)		-1%	
28	Rate Group No. 2			30.90		30.50		(0.40)		-1%	
29	Rate Group No. 3			32.85		30.50		(2.35)		-7%	
30	*Subtotal PBX Trunk Flat, 2-Way*										
31	E5.2.4 THHCX/ PBX Trunk Flat, 4-Wire										
32	TRH1) Rate Group No. 1			47.76		47.36		(0.40)		-1%	
33	Rate Group No. 2			52.76		52.36		(0.40)		-1%	
34	Rate Group No. 3			56.71		52.36		(4.35)		-8%	
35	*Subtotal PBX Trunk Flat, 4-Wire*										
36	E5.2.4 TDD PBX Trunk Flat, Complex										
37	Rate Group No. 1			29.76		29.36		(0.40)		-1%	
38	Rate Group No. 2			32.26		31.86		(0.40)		-1%	
39	Rate Group No. 3			34.21		31.86		(2.35)		-7%	
40	*Subtotal PBX Trunk Flat, Complex*										
41	E5.2.4 TBP:CX, PBX Trunk Flat, Simple										
42	OX,1X Rate Group No. 1			28.40		28.00		(0.40)		-1%	
43	Rate Group No. 2			30.90		30.50		(0.40)		-1%	
44	Rate Group No. 3			32.85		30.50		(2.35)		-7%	
45	*Subtotal PBX Trunk Flat, Simple*										
46	E5.2.4 T7K1X PBX Trunk Flat, DID										
47	Rate Group No. 1			29.76		29.36		(0.40)		-1%	
48	Rate Group No. 2			32.26		31.86		(0.40)		-1%	
49	Rate Group No. 3			34.21		31.86		(2.35)		-7%	
50	*Subtotal PBX Trunk Flat, DID*										
51	C10.4.1 SRG/TRU Select Clss ScreenTrunk										
52	Rate Group No. 1			28.40		28.00		(0.40)		-1%	
53	Rate Group No. 2			30.90		30.50		(0.40)		-1%	
54	Rate Group No. 3			32.85		30.50		(2.35)		-7%	
55	*Subtotal Select Clss ScreenTrunk*										
56	E5.3.1 TTT PBX Trunk Meas										
57	Rate Group No. 1			18.00		18.00		0.00		0%	
58	Rate Group No. 2			18.00		18.00		0.00		0%	
59	Rate Group No. 3			18.00		18.00		0.00		0%	
60	*Subtotal PBX Trunk Meas*										
61	E5.2.5 LSE Farmer Lines										
62	Rate Group No. 1			13.92		13.92		0.00		NA	
63	Rate Group No. 2			15.24		15.24		0.00		NA	
64	Rate Group No. 3			16.27		15.24		(1.03)		NA	
65	*Subtotal Farmer Lines*										

Table 1. STAFF'S PROPOSED RATE DESIGN AND ANALYSIS OF EFFECTS

			SERVICE	Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	Percent Rate H	Percent Rev I
66	E5.5.7	15W/1MA	PAL Meas<300Calls										
67			Rate Group No. 1			$26.40		$26.00		(0.40)		-2%	
68			Rate Group No. 2			28.90		28.50		(0.40)		-1%	
69			Rate Group No. 3			30.85		28.50		(2.35)		-8%	
70			*Subtotal PAL Meas<300Calls*										
71	E5.5.7	1KY	PAL Flat										
72			Rate Group No. 1			28.40		26.00		(2.40)		-8%	
73			Rate Group No. 2			30.90		28.50		(2.40)		-8%	
74			Rate Group No. 3			32.85		28.50		(4.35)		-13%	
75			*Subtotal PAL Flat*										
76	E5.5.7	5FO/5FP	PAL, Smart Flat										
77			Rate Group No. 1			34.35		27.62		(6.73)		-20%	
78			Rate Group No. 2			36.15		29.57		(6.58)		-18%	
79			Rate Group No. 3			37.00		29.57		(7.43)		-20%	
80			*Subtotal PAL, Smart Flat*										
81	E5.5.7	17Q/1MA	PAL Measured										
82			Rate Group No. 1			18.00		18.00		0.00		0%	
83			Rate Group No. 2			18.00		18.00		0.00		0%	
84			Rate Group No. 3			18.00		18.00		0.00		0%	
85			*Subtotal PAL Measured*										
86	E5.5.7	14C/1NH	PAL Smart Measured										
87			Rate Group No. 1			20.74		19.24		(1.50)		-7%	
88			Rate Group No. 2			20.74		19.24		(1.50)		-7%	
89			Rate Group No. 3			20.74		19.24		(1.50)		-7%	
90			*Subtotal PAL Smart Measured*										
91	E5.5.7	1N8	PAL Carrier Line, Flat										
92			Rate Group No. 1			25.00		28.00		3.00		12%	
93			Rate Group No. 2			25.00		30.50		5.50		22%	
94			Rate Group No. 3			25.00		30.50		5.50		22%	
95			*Subtotal PAL Carrier Line, Flat*										
96	C5.2.1	A2Y/A2W	STAND-BY Line										
97			Rate Group No. 1			18.00		18.00		0.00		0%	
98			Rate Group No. 2			18.00		18.00		0.00		0%	
99			Rate Group No. 3			18.00		18.00		0.00		0%	
100			*Subtotal STAND-BY Line*										
101	E5.2.4	2FB	*Two-party Flat*			*0.00*		*Obsolete*		*Obsolete*		*NA*	
102	?	RCA	*Suburban*			*0.00*		*Obsolete*		*Obsolete*		*NA*	
103	E5.2.1		*Measured Local Use***			*0.03*		*0.03*		*0.00*		*0%*	
104	E5.2.1		*Meas Use Pack-6Hrs*			*5.30*		*5.30*		*0.00*		*0%*	
105	E5.2.1		*Meas Use Pack-9Hrs*			*7.05*		*7.05*		*0.00*		*0%*	
106	E5.2.1		*Meas Use Pack-12Hrs*			*9.35*		*9.35*		*0.00*		*0%*	
107													
108			Subtotal, Bus Access##				*$91,528,556*		*$90,245,506*		*($1,283,050)*		*-1%*
109			**BUSINESS EAS:**										
110	C5.1.1	TBX	EAS Band A			2.58		1.95		(0.63)		-24%	
111	C5.1.1	TBX	EAS Band B			2.99		1.95		(1.04)		-35%	
112	C5.1.1	TBX	EAS Band C			4.00		3.03		(0.97)		-24%	
113	C5.1.1	TBX	EAS Band D			4.30		3.03		(1.27)		-30%	
114	C5.1.1	TBX	EAS Band E			9.45		7.49		(1.96)		-21%	
115	C5.1.1	SC8/SC9	EAS, other schedules #1			Various	949	Various	716	NM	(225)	NA	
116	C5.1.1	TBX	EAS, Centrex #2			Various	338,310	Various	239,529	NM	(97,479)	NA	
117													
118			Subtotal, Bus Flat EAS (L110 to 114)				$13,648,795		$9,825,894		($3,739,573)		-27%
119	C5.2.4		EAS Business Usage***			0.05	448,116	0.03	268,870	(0.02)	(179,246)	-40%	
120													
121			*Subtotal, Bus EAS*				*$14,096,911*		*$10,094,764*		*($3,918,819)*		*-28%*
122			ADVANCED & MISC. BUSINESS SERVICES:										
123	E15.3		UNIFORM ACCESS SOLUTION CONNECTION										
124	E15.3	NWOxx	UAS Network Connection			850.00		748.00		(102.00)		-12%	
125	E15.3	D10XM	Advanced, Mon-to-Mon			150.00		137.00		(13.00)		-9%	
126	E15.3	D10X3	3 Year RSP			126.90		123.30		(3.60)		-3%	
127	E15.3	D10X5	5 Year RSP			109.98		109.98		0.00		0%	
128			*Subtotal UAS Connection*										

Table 1. STAFF'S PROPOSED RATE DESIGN AND ANALYSIS OF EFFECTS

			SERVICE	Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	CHANGE Percent Rate H	CHANGE Percent Rev I
129	C15.2	SM6	SwitchNet 56 Service										
130			Rate Group No. 1			$75.00		$44.00		($31.00)		-41%	
131			Rate Group No. 2			75.00		54.00		(21.00)		-28%	
132			Rate Group No. 3			75.00		75.00		0.00		0%	
133			*Subtotal SwitchNet 56 Service*										
134	C14.2.1		Single Line ISDN Service (BRS) #3			Various	1,590,092	Various	1,489,425	Various	(102,587)	NM	
135	C14.3.1		Primary Rate Service (PRS) #4			Various	2,468,786	Various	2,427,378	Various	(41,408)	NM	
136	C15.1		Digital Switched Services (DSS) #5			Various	5,953,629	Various	5,803,030	Various	(150,598)	NM	
137	E5.3.4		Direct Inward Dialing #6			Various	5,903,334	Various	5,574,294	Various	(329,040)	NM	
138													
139			*Subtotal Advanced Services*				*16,187,519*		*15,474,822*		*($714,617)*		-4%
140													
141			**SUBTOTAL, BUSINESS**				**$121,812,986**		**$115,815,092**		**($5,910,487)**		-5%
142													
143			**RESIDENTIAL:**										
144	E5.2.4		One-party Flat										
145			Rate Group No. 1			$12.80		$12.80		$0.00		0%	
146			Rate Group No. 2			12.80		13.80		1.00		8%	
147			Rate Group No. 3			12.80		14.80		2.00		16%	
148			*Subtotal One-party Flat*										
149	E5.2.1	LW1	One-party Measured										
150			Rate Group No. 1			6.37		6.37		0.00		0%	
151			Rate Group No. 2			6.37		6.37		0.00		0%	
152			Rate Group No. 3			6.37		6.37		0.00		0%	
153			*Subtotal One-party Measured*										
154	E5.2.4		*Two-party Flat*			11.11		Obsolete		Obsolete		NA	
155	E5.2.1	2MR	*Two-party Measured*			5.81		Obsolete		Obsolete		NA	
156	E5.2.4	8FR	Suburban										
157			Rate Group No. 1			12.80		12.80		0.00		0%	
158			Rate Group No. 2			12.80		13.80		1.00		8%	
159			Rate Group No. 3			12.80		14.80		2.00		16%	
160			*Subtotal Suburban*										
161	E5.2.5	LSF	Farmer Lines										
162			Rate Group No. 1			7.38		12.80		5.42		73%	
163			Rate Group No. 2			7.38		13.80		6.42		87%	
164			Rate Group No. 3			7.38		14.80		7.42		101%	
165			*Subtotal Farmer Lines*										
166	E5.2.1		*Measurd Local Usage***			*0.03*		*0.03*		*0.00*		*0%*	
167	E5.2.1	UPPOA	*Meas Use Pack-3Hrs*			*2.40*		*2.40*		*0.00*		*0%*	
168	E5.2.1	UPPOB	*Meas Use Pack-6Hrs*			*4.60*		*4.60*		*0.00*		*0%*	
169													
170			Subtotal, Res Access##				$134,732,466		$135,853,311		$1,120,844		
171													
172	C5.1.1	OC1	EAS Band A			1.72		1.28		(0.44)		-26%	
173	C5.1.1	OC1	EAS Band B			1.99		1.28		(0.71)		-36%	
174	C5.1.1	OC1	EAS Band C			2.66		2.02		(0.64)		-24%	
175	C5.1.1	OC1	EAS Band D			2.85		2.02		(0.83)		-29%	
176	C5.1.1	OC1	EAS Band E			6.30		4.97		(1.33)		-21%	
177	C5.1.1	OC8	EAS, other schedules #6			Various	214,554	Various	154,349	NM	(60,205)	NA	-28%
178													
179			Subtotal, Res Flat EAS (L172 to 176)				$25,946,691		$18,713,936		($7,232,755)		-28%
180			EAS Residential Usage***			0.05	214,560	0.03	128,736	(0.02)	(85,824)	-40%	
181													
182			*Subtotal, Res EAS*				*$26,161,251*		*$18,842,672*		*($7,318,579)*		*-28%*
183			*Nonrecurring: Line Installation*			*12.00*				*4.50*	*1,392,930*	*38%*	*38%*
184													
185			**SUBTOTAL, RESIDENTIAL**				**$160,893,718**		**$154,695,982**		**($4,804,805)**		-3%
186													
187			**TOTAL**				**$282,706,704**		**$270,511,075**		**($10,802,699)**		-4%

NOTES: * Service is obsolete; **Local measured per minute "peak" rate is $0.03 and the "off-peak" rate is $0.015;
***Measured EAS Usage per minute "peak" rate is reduced from $0.05 ($0.025 "off-peak") to $0.03 ($0.015 "off-peak"); ## Local Meas. Use Packages not included in access line subtotal; #1 thru #7 = See Table 1.1 thru 1.7 for detailed data; NM = Not Meaningful; NA = Not Applicable.

Table 1.1. EAS Rate Schedules for Business Packages.

		SERVICE	Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	CHANGE Percent Rate H	CHANGE Percent Rev I
1	E5.1.1	Business- 6,9 Hr PKG (SC8)			$0.65		$0.49		($0.16)		-25%	
2	E5.1.1	Business- 6,9 Hr PKG (SC8)			0.75		0.49		(0.26)		-35%	
3	E5.1.1	Business- 6,9 Hr PKG (SC8)			1.00		0.76		(0.24)		-24%	
4	E5.1.1	Business- 6,9 Hr PKG (SC8)			1.08		0.76		(0.32)		-30%	
5	E5.1.1	Business- 6,9 Hr PKG (SC8)			2.36		1.87		(0.49)		-21%	
6	E5.1.1	Business- 12,18 Hr PKG (SC9)			1.29		0.98		(0.32)		-24%	
7	E5.1.1	Business- 12,18 Hr PKG (SC9)			1.50		0.98		(0.53)		-35%	
8	E5.1.1	Business- 12,18 Hr PKG (SC9)			2.00		1.52		(0.49)		-24%	
9	E5.1.1	Business- 12,18 Hr PKG (SC9)			2.15		1.52		(0.64)		-30%	
10	E5.1.1	Business- 12,18 Hr PKG (SC9)			4.72		3.75		(0.98)		-21%	
11												
12		**TOTAL**				**$949**		**$716**		**($233)**		**-25%**

Table 1.2. EAS Rate Schedule for Centrex Serv ices.

		SERVICE	Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	CHANGE Percent Rate H	CHANGE Percent Rev I
1	C5.1.1	TBX EAS Band A			$0.52		$0.39		($0.13)		-24%	
2	C5.1.1	TBX EAS Band B			0.60		0.39		(0.21)		-35%	
3	C5.1.1	TBX EAS Band C			0.80		0.61		(0.19)		-24%	
4	C5.1.1	TBX EAS Band D			0.86		0.61		(0.25)		-29%	
5	C5.1.1	TBX EAS Band E			1.89		1.50		(0.39)		-21%	
		TOTAL				**$338,310**		**$239,529**		**($98,780)**		**-29%**

Table 1.3. Single Line ISDN (BRS) Serv ice.

	SERVICE	Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	CHANGE Percent Rate H	CHANGE Percent Rev I
	SINGLE LINE ISDN SERVICE (BRS)										
1	C14.2.1 BMEHB/B. Month-to-Month										
2	Rate Group No. 1			$62.00		$58.00		($4.00)		-6%	
3	Rate Group No. 2			62.00		62.00		0.00		0%	
4	Rate Group No. 3			62.00		85.00		23.00		37%	
5	*Subtotal Month-to-Month*										
6	C14.2.1 BAFTB Rate Stabilized Plan-1Y r										
7	Rate Group No. 1			60.76		56.84		(3.92)		-6%	
8	Rate Group No. 2			60.76		60.76		0.00		0%	
9	Rate Group No. 3			60.76		83.76		23.00		38%	
10	*Subtotal Rate Stabiliz ed Plan-1Yr*										
11	C14.2.1 BAFTB Rate Stabilized Plan-2Y r										
12	Rate Group No. 1			59.52		55.68		(3.84)		-6%	
13	Rate Group No. 2			59.52		59.52		0.00		0%	
14	Rate Group No. 3			59.52		82.52		23.00		39%	
15	*Subtotal Rate Stabiliz ed Plan-2Yr*										
16	C14.2.1 BAFTB Rate Stabilized Plan-3Y r										
17	Rate Group No. 1			58.28		54.52		(3.76)		-6%	
18	Rate Group No. 2			58.28		58.28		0.00		0%	
19	Rate Group No. 3			58.28		81.28		23.00		39%	
20	*Subtotal Rate Stabiliz ed Plan-3Yr*										
21	C14.2.1 BAFTB Rate Stabilized Plan-5Y r										
22	Rate Group No. 1			55.80		52.20		(3.60)		-6%	
23	Rate Group No. 2			55.80		55.80		0.00		0%	
24	Rate Group No. 3			55.80		81.10		25.30		45%	
25	*Subtotal Rate Stabiliz ed Plan-5Yr*										
26											
27	**TOTAL, SINGLE LINE ISDN**				**$1,590,092**		**$1,489,425**		**($100,667)**		**-6%**

Table 1.4 . ISDN Primary Rate Service (PRS).

	SERVICE		Lines/Units Present A-1	Lines/Units Proposed A-2	PRESENT Rate B	PRESENT Revenue C	PROPOSED Rate D	PROPOSED Revenue E	CHANGE Amount Rate F	CHANGE Amount Revenue G	CHANGE Percent Rate H	CHANGE Percent Rev I
	PRIMARY RATE SERVICE (PRS)											
1	C14.3.1 ZPAZA	Service configuration 23B+D Bac kup			$400.00		$400.00		$0.00		0%	
2	C14.3.1 ZPT1X	T-1 Facility			150.00		137.00		(13.00)		-9%	
3	C14.3.1 ZPAZD	Service configuration 23B+D			400.00		400.00		0.00		0%	
4	C14.3.1 ZPA1X	Service configuration 24B			400.00		400.00		0.00		0%	
	Trunk Connections										0%	
5	C14.3.1 PT31C	Call-by-Call			17.45		17.00		(0.45)		-3%	
6	C14.3.1 PT311	Inward			17.45		17.00		(0.45)		-3%	
7	C14.3.1 PT31O	Outward			17.45		17.00		(0.45)		-3%	
8	C14.3.1 PT312	2-WAY			17.45		17.00		(0.45)		-3%	
9	C14.3.1 PT3TA	Data 23 Channel			583.00		583.00		0.00		0%	
10	C14.3.1 PT3TB	Data 24 Channel			608.00		608.00		0.00		0%	
	T-1 Facility Rate Stabilized										0%	
11	C14.3.1 ZPT13	RSP 3 Year RSP			126.90		123.30		(3.60)		-3%	
12	C14.3.1 ZPT15	5 Year RSP			109.98		109.98		0.00		0%	
13	C14.3.1 ZPTG3	Discounted 3 Year RSP			126.90		123.30		(3.60)		-3%	
14	C14.3.1 ZPTG5	5 Year RSP			109.98		109.98		0.00		0%	
	Service Configuration										0%	
15	C14.3.1 ZPXB3	23B+D 3 Year RSP			340.00		340.00		0.00		0%	
16	C14.3.1 ZPXB5	5 Year RSP			292.00		292.00		0.00		0%	
17	C14.3.1 ZPXC3	24B 3 Year RSP			340.00		340.00		0.00		0%	
18	C14.3.1 ZPXC5	5 Year RSP			292.00		292.00		0.00		0%	
19	C14.3.1 ZPXD3	23B+D Back 3 Year RSP			340.00		340.00		0.00		0%	
20	C14.3.1 ZPXD5	5 Year RSP			292.00		292.00		0.00		0%	
	Trunk Connections with DID Rate Stabilized										0%	
21	C14.3.1 PT331	In Only 3 Year RSP			35.10		31.83		(3.27)		-9%	
22	C14.3.1 PT33O	Out Only 3 Year RSP			17.45		16.15		(1.30)		-7%	
23	C14.3.1 PT332	Two-Way 3 Year RSP			32.25		31.83		(0.42)		-1%	
24	C14.3.1 PT351	In Only 5 Year RSP			33.26		30.15		(3.11)		-9%	
25	C14.3.1 PT35O	Out Only 5 Year RSP			17.45		15.30		(2.15)		-12%	
26	C14.3.1 PT352	Two-Way 5 Year RSP			30.56		30.15		(0.41)		-1%	
	TOTAL, PRIMARY RATE ISDN					**$2,468,786**		**$2,427,378**		**($41,408)**		**-2%**

Table 1.5. Digital Switched Services (DSS).

			Lines/Units		-----PRESENT-----		----PROPOSED----		-----CHANGE----- Amount		Percent	
	SERVICE		Present	Proposed	Rate	Revenue	Rate	Revenue	Rate	Revenue	Rate	Rev
			A-1	A-2	B	C	D	E	F	G	H	I
	DIGITAL SWITCHED SERVICE (DSS)											
1	C15.1	D7W			$270.00		$270.00		$0.00		0%	
2	C15.1	D7Z			150.00		137.00		(13.00)		-9%	
3	C15.1	T2D1X			17.45		17.00		(0.45)		-3%	
4	C15.1	T2DOX			17.45		17.00		(0.45)		-3%	
5	C15.1	T2DCX			17.45		17.00		(0.45)		-3%	
6	C15.1	T2J1X			17.45		17.00		(0.45)		-3%	
7	C15.1	T2JOX			17.45		17.00		(0.45)		-3%	
8	C15.1	T2JCX			17.45		17.00		(0.45)		-3%	
9	C15.1	T2JCD			17.45		17.00		(0.45)		-3%	
10	C15.1	T2K1X			17.45		17.00		(0.45)		-3%	
11	C15.1	T2KOX			17.45		17.00		(0.45)		-3%	
12	C15.1	T2KCX			17.45		17.00		(0.45)		-3%	
13	C15.1	T2Z1X			17.45		17.00		(0.45)		-3%	
14	C15.1	T2ZOX			17.45		17.00		(0.45)		-3%	
15	C15.1	T2ZCX			17.45		17.00		(0.45)		-3%	
16	C15.1	T2ZCD			17.45		17.00		(0.45)		-3%	
17	C15.1	D7W2X			255.00		255.00		0.00		0%	
18	C15.1	D7Z2X			126.90		123.30		(3.60)		-3%	
19	C15.1	D7ZD3			126.90		123.30		(3.60)		-3%	
20	C15.1	D7W3X			240.00		240.00		0.00		0%	
21	C15.1	D7Z3X			109.98		109.98		0.00		0%	
22	C15.1	D7ZD5			109.98		109.98		0.00		0%	
23	C15.1	TY413			35.10		31.83		(3.27)		-9%	
24	C15.1	TY4O3			17.45		16.15		(1.30)		-7%	
25	C15.1	TY4C3			32.25		31.83		(0.42)		-1%	
26	C15.1	TY513			35.10		31.83		(3.27)		-9%	
27	C15.1	TY5O3			17.45		16.15		(1.30)		-7%	
28	C15.1	TY5C3			32.25		31.83		(0.42)		-1%	
29	C15.1	TY415			33.26		30.15		(3.11)		-9%	
30	C15.1	TY4O5			17.45		15.30		(2.15)		-12%	
31	C15.1	TY4C5			30.56		30.15		(0.41)		-1%	
32	C15.1	TY515			33.26		30.15		(3.11)		-9%	
33	C15.1	TY5O5			17.45		15.30		(2.15)		-12%	
34	C15.1	TY5C5			30.56		30.15		(0.41)		-1%	
35	C15.1	2LM1X			17.45		17.00		(0.45)		-3%	
36	C15.1	2LMOX			17.45		17.00		(0.45)		-3%	
37	C15.1	2LMCX			17.45		17.00		(0.45)		-3%	
38	C15.1	2LJ1X			17.45		17.00		(0.45)		-3%	
39	C15.1	2LJOX			17.45		17.00		(0.45)		-3%	
40	C15.1	2LJCX			17.45		17.00		(0.45)		-3%	
41	C15.1	2LJCD			17.45		17.00		(0.45)		-3%	
42	C15.1	2LZ1X			17.45		17.00		(0.45)		-3%	
43	C15.1	2LZOX			17.45		17.00		(0.45)		-3%	
44	C15.1	2LZCX			17.45		17.00		(0.45)		-3%	
45	C15.1	2LN1X			17.45		17.00		(0.45)		-3%	
46	C15.1	2LNOX			17.45		17.00		(0.45)		-3%	
47	C15.1	2LNCX			17.45		17.00		(0.45)		-3%	
48	C15.1	2LNCD			17.45		17.00		(0.45)		-3%	
49												
50	**TOTAL, DSS**					**$5,953,629**		**$5,803,030**		**($150,598)**		-3%

Table 1.6 Direct Inward Dialing (DID).

		Lines/Units		PRESENT		PROPOSED		CHANGE Amount		Percent	
	SERVICE	Present	Proposed	Rate	Revenue	Rate	Revenue	Rate	Revenue	Rate	Rev
		A-1	A-2	B	C	D	E	F	G	H	I
	Direct Inward Dialing:										
1	E5.3.4 Business (NDT)			$16.50		$16.50		$0.00		0%	
2	E5.3.4 Business (NAR)			16.50		16.50		0.00		0%	
3	E5.3.4 Two-way digital trunk (ND2)			19.50		16.50		(3.00)		-15%	
4	E5.3.4 Business (NAY)			16.50		16.50		0.00		0%	
	TOTAL, Direct Inward Dialing				**$5,903,334**		**$5,574,294**		**($329,040)**		**-6%**

Table 1.7. EAS Rate Schedules for Residential Usage Packages.

		Lines/Units		PRESENT		PROPOSED		CHANGE Amount		Percent	
	SERVICE	Present	Proposed	Rate	Revenue	Rate	Revenue	Rate	Revenue	Rate	Rev
		A-1	A-2	B	C	D	E	F	G	H	I
1	E5.1.1 Residential- 3,6 Hr PKG (OC8)			$0.43		$0.32		($0.11)		-26%	
2	E5.1.1 Residential- 3,6 Hr PKG (OC8)			0.50		0.32		(0.18)		-36%	
3	E5.1.1 Residential- 3,6 Hr PKG (OC8)			0.67		0.51		(0.16)		-24%	
4	E5.1.1 Residential- 3,6 Hr PKG (OC8)			0.71		0.51		(0.20)		-28%	
5	E5.1.1 Residential- 3,6 Hr PKG (OC8)			1.58		1.24		(0.34)		-22%	
	TOTAL				**$214,554**		**$154,349**		**($60,205)**		**-28%**

APPENDIX C
CHART 1

SLC and PICC Caps under current access rules (assumes 2% inflation)

	Current	7/2000	7/2001	7/2002	7/2003	7/2004
Primary Residential						
SLC	$3.50	$3.50	$3.50	$3.50	$3.50	$3.50
PICC	$1.04	$1.56	$2.09	$2.63	$3.18	$3.74
Non-Primary Residential						
SLC	$6.07	$7.19	$8.33	$9.51	$9.96	$10.16
PICC	$2.53	$3.58	$4.65	$5.74	$6.86	$8.00
Multi-line Business						
SLC	$9.20	$9.38	$9.57	$9.76	$9.96	$10.16
PICC	$4.31	$5.90	$7.52	$9.17	$10.85	$11.57

SLC and PICC Caps under CALLS (assumes 2% inflation)

Primary Residential						
SLC	$3.50	$4.35	$5.00	$6.00	$6.50	$6.50
PICC	$1.04	0	0	0	0	0
Non-Primary Residential						
SLC	$6.07	$7.00	$7.00	$7.00	$7.00	$7.00
PICC	$2.53	0	0	0	0	0
Multi-line Business						
SLC	$9.20	$9.20	$9.20	$9.20	$9.20	$9.20
PICC	$4.31	$4.31	$4.31	$4.31	$4.31	$4.31

CASE: UT 125, Phase II
WITNESS: James R. Stanage

PUBLIC UTILITY COMMISSION OF OREGON

CONFIDENTIAL
STAFF EXHIBIT 19

Exhibit in Support of Direct Testimony

Issue 9. Extended Area Service
Issue 10. Advanced Services
Issue 11. Business Local Exchange Access
Issue 12. Residential Local Exchange Access
Issue 13. Residential Non-Recurring Charges

April 10, 2001

INFORMATION CONTAINED IN STAFF EXHIBIT 19 IS CONFIDENTIAL AND SUBJECT TO PROTECTIVE ORDER. YOU MUST HAVE SIGNED THE PROTECTIVE ORDER IN DOCKET UT 125, PHASE II TO RECEIVE THIS EXHIBIT.

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Labels: 27

CERTIFICATE OF SERVICE

UT 125, Phase II

I certify that I have, this day, served the foregoing document upon all parties of record in this proceeding by mailing a copy properly addressed with first class postage or first class equivalent prepaid to all parties or attorneys of parties.

Dated at Salem, Oregon, this 10th day of April, 2001.

Mike Weirich
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f:word/testimony/AAG/MW

UT 125

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April 10, 2001

VIA FEDERAL EXPRESS

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Administrative Law Judge
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RECEIVED
APR 11 2001
Public Utility Commission of Oregon
Administrative Hearings Division

Subject: UT-125 Testimony

Dear Ms. Crowely:

Enclosed is an original and 5 copies of the non-confidential version of Don Wood's Testimony on behalf of The Northwest Payphone Association, including an amended service list showing that all parties were served today via U.S. Mail and electronic mail. Also enclosed is an extra copy. Please conform it and return it to us in the self addressed stamped envelope.

Very truly yours,

David L. Rice

David L. Rice

cc: Service List

DOCKETED

UT 125

NWPA/1
Wood/i

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

In the Matter of the Request for Increases in Rates and Charges	**Docket No. UT 125**

DIRECT TESTIMONY OF

DON J. WOOD

FOR

NORTHWEST PAYPHONE ASSOCIATION

(Non-Confidential Version)

April 10, 2000

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II: Shortcomings in the cost information provided by Qwest in this proceeding. 27

III: Summary of testimony and recommendations. 40

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Don J. Wood. I am a principal in the firm of Wood &Wood, an economic and financial consulting firm. My business address is 4625 Alexander Drive, Suite 125, Alpharetta, Georgia 30022. I provide economic and regulatory analysis of the telecommunications, cable, and related convergence industries, with an emphasis on economic policy, development of competitive markets, and cost-of-service issues.

Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.

A. I received a BBA in Finance with distinction from Emory University and an MBA with concentrations in Finance and Microeconomics from the College of William and Mary. My telecommunications experience includes employment at both a Regional Bell Operating Company ("RBOC") and an Interexchange Carrier ("IXC").

Specifically, I was employed in the local exchange industry by BellSouth Services, Inc. in its Pricing and Economics, Service Cost Division. My responsibilities included performing cost analyses of new and existing services, preparing documentation for filings with state regulatory commissions and the Federal Communications Commission ("FCC"), developing methodology and computer models for use by other analysts, and performing special assembly cost studies.

I was employed in the interexchange industry by MCI Telecommunications Corporation, as Manager of Regulatory Analysis for the Southern Division. In this capacity I was responsible for the development and implementation of regulatory policy for operations in the southern U. S. I then served as a Manager in MCI's Economic Analysis and Regulatory Affairs Organization, where I participated in the development of regulatory policy for national issues.

Q. HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE STATE REGULATORS?

A. Yes. I have testified on telecommunications issues before the regulatory commissions of thirty states, Puerto Rico, and the District of Columbia. I have also presented testimony regarding interconnection and cost of service issues in state, federal, and overseas courts and have presented comments to the FCC. A listing of my previous testimony is attached as Exhibit DJW-1.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?

A. Yes. I presented testimony in Docket Nos. UT 119, ARB 3, ARB 6, and ARB 9. I also participated in a number of the workshop meetings associated with UM 351.

Q. PLEASE DESCRIBE YOUR EXPERIENCE REVIEWING COST STUDIES, MODELS, AND METHODOLOGIES.

A. While employed in the BellSouth Service Cost Division, I had the opportunity to work with a number of cost models, and to analyze and review the manner in which these models were used in the cost development process. Since that time, I have reviewed cost studies performed by each of the seven (now four) RBOCs, and a number of other incumbent local exchange carriers ("ILECs"). In each case, my review of these cost studies has included an extensive evaluation of the methodologies, computer models and spreadsheets, and inputs/assumptions employed by the particular ILEC.

I have also been asked by regulators to develop detailed rules for ILECs' performance of cost studies. My proposed costing rules have been adopted and implemented in both Delaware and Wyoming.

Q. PLEASE DESCRIBE YOUR EXPERIENCE WITH THE EVALUATION OF PROPOSED RATES FOR PAYPHONE ACCESS SERVICES.

A. I have been asked to evaluate the appropriateness of payphone access line ("PAL") services rates, in light of the FCC rules implementing Section 276 of the Telecommunications Act of 1996 ("Act"), in Colorado, Florida, Louisiana, North

Carolina, Ohio, Puerto Rico, South Carolina, Massachusetts, Tennessee, and here in Oregon.

Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

A. I have been asked by the Northwest Payphone Association ("NWPA") to review and evaluate the rates for the various payphone access services offered by Qwest. In doing so, I have attempted to determine if these rates conform to the requirements of Section 276 of the Act and the subsequent FCC Orders implementing that section of the Act[1].

My testimony is divided into three sections. Section 1 describes the standard to be applied by this Commission when evaluating the appropriateness of Qwest's existing rates for payphone access services, including the FCC's four part test. Section 2 describes the information provided by Qwest in this proceeding and explains why Qwest has failed to meet its burden of demonstrating that its rates for payphone access services comply with the requirements of the Act and subsequent FCC Orders. Section 3 summarizes my testimony and recommendations to the Commission.

Section 1: The standard to be applied by the Commission when evaluating Qwest's rates for payphone access line services.

Q. PLEASE DESCRIBE HOW YOU HAVE APPROACHED YOUR ANALYSIS OF QWEST'S EXISTING RATES.

A. My analysis of the rates and related cost information seeks to answer four questions:

(1) Are Qwest's rates cost based?

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[1] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 20,541 (1996) (*"Report and Order"*); Order on Reconsideration, 11 FCC Rcd 21,233 (1996) (*"Order on Reconsideration"*); Order, 12 FCC Rcd 20,997 (Comm. Car. Bur. 1997) (*"Bureau Waiver Order"*); Order, 12 FCC Rcd 21,370 (Comm. Car. Bur. 1997) (*"Second Bureau Waiver Order"*). (Collectively, the "*Payphone Orders*.")

(2) Are Qwest's rates consistent with the requirements of section 276 of the Act?

(3) Are Qwest's rates *nondiscriminatory*?

(4) Are Qwest's rates consistent with the FCC's Computer III tariffing guidelines (i.e., in compliance with the so-called "new services test"?)

I want to be clear that these are four distinct and independent areas of inquiry. While the first question is perhaps the most critical (rates that are properly cost based are likely to be consistent with the Act, be nondiscriminatory, and meet the FCC's Computer III guidelines), these are four distinct criteria that Qwest's payphone access services rates must meet. The FCC's "new services test" is one, but only one, of these four independent criteria.

Q. WHY HAVE YOU FOCUSED YOUR ANALYSIS ON THESE FOUR SPECIFIC QUESTIONS?

A. I have focused my analysis in this manner because these are the four criteria expressly adopted by the FCC in its *Payphone Orders* that were issued pursuant to its responsibilities as defined in Section 276 of the Act. This is the standard that state regulators are to apply when determining if existing or proposed intrastate rates for the elements of payphone access services (access lines, usage, and features) are in compliance with the FCC requirements. It is the standard that has in fact been applied by other state regulators.

Q. WHY HAS THE FCC ESTABLISHED A SET OF STANDARDS TO BE APPLIED BY STATE REGULATORS WHEN DETERMINING INTRASTATE RATES FOR PAYPHONE ACCESS SERVICES?

A. The Act mandates that the FCC take this role. Specifically, section 276(b)(1)(C) requires that the FCC establish a set of nonstructural safeguards to implement the provisions of the Act. The Act states that these safeguards are to include -- at a minimum -- the "new services test", established previously by the FCC in the *Computer III* inquiry. As I will explain in more detail below, the FCC, in response to this legislative mandate, established the four part test to be applied to interstate payphone access services (features) and intrastate payphone access services (access lines, usage, and features).

Q. HOW DID THE FCC RESPOND TO THIS LEGISLATIVE MANDATE?

A. The FCC has issued the series of *Payphone Orders* that set forth the requirements for rates for payphone access services in CC Docket 96-128 and related dockets. The basic requirements are most recently set forth in the *Bureau Waiver Order* (at ¶35): "LECs must have effective state tariffs that comply with the requirements" set forth for these rates and "these requirements are: that payphone services state tariffs must be cost based, consistent with section 276, nondiscriminatory, and consistent with Computer III tariffing guidelines."

The *Second Bureau Waiver Order* reiterated the mandate that payphone access services tariffed at the state level must comply with these requirements. In that *Order* the FCC's Common Carrier Bureau ("CCB") granted a limited extension of time for LECs to file tariffs that contained rates in compliance with the four part test described above. The CCB noted (at ¶18) that in requesting this limited waiver, the "RBOC coalition concedes that the Commission's payphone orders, as clarified by the *Bureau Waiver Order*" will determine the basis for how new and existing payphone access service rates will be evaluated by state regulators.

To summarize, the FCC has required all ILECs to have on file intrastate tariffs that include rates for payphone access services in full compliance with the four part test. In addition, ILECs must provide the cost data necessary for the state regulator to determine whether the existing or proposed rates comply with the FCC standard.

Q. WHEN WERE THESE INTRASTATE TARIFFS SUPPOSED TO BE IN PLACE?

A. According to the *Second Bureau Waiver Order* (pp. 1-2, 25), the ILECs (including Qwest's predecessor US West) were to have compliant intrastate tariffs in place by April 15, 1997 in order to begin receiving dial-around compensation. Intrastate rates established subsequent to that date are to be made retroactive, and refunds should be required so that NWPA members are restored to the position that they would have been in if US West had complied with the FCC *Payphone Orders* in a timely manner.[2]

Q. HAVE OTHER STATE REGULATORS APPLIED THE FCC'S FOUR PART TEST TO DETERMINE WHETHER INTRASTATE PAYPHONE ACCESS SERVICES RATES ARE APPROPRIATE AND LAWFUL?

A. Yes. The Delaware Public Service Commission, in Docket No. 97-031T Consolidated, applied the FCC's four part test in order to determine whether the intrastate rates for Bell Atlantic payphone access lines were appropriate, and concluded that the rates as proposed did not meet these requirements.[3] Similarly, the West Virginia Public Service Commission applied the FCC requirements in its Order in Case No. 97-0643-T-T and likewise concluded that existing intrastate rates for Bell Atlantic payphone access lines did not comply with the FCC's four part test.[4] The South Carolina Public Service Commission concluded in Docket No. 97-124-C that the requirements of the FCC's four part test should be applied in order to determine appropriate levels for intrastate payphone access services rates.[5]

Earlier this year, two additional states have issued orders in payphone rate proceedings that specifically reference the FCC's four-part test. The Public Service

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[2] It is my understanding that NWPA is requesting that the Commission establish compliant rates for PAL services in this proceeding, and will be seeking any applicable refunds in a subsequent proceeding.

[3] In the Matter of the Tariff Filing by Bell Atlantic-Delaware, Inc. To Make Revisions to P.S.C.-DEL.-No. 1, PSC Docket No. 97-013T Consolidated, Order No. 4637, November 4, 1997 (¶¶ 3, 18) (*"Delaware Order"*)

[4] Bell Atlantic-West Virginia, Inc., Case No. 97-0643-T-T, Commission Order, May 22, 1997 (pages 4-5, 8, 13-15) ("*West Virginia Order*").

[5] Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff, Docket No. 97-124-C, Order No. 1999-285, April 19, 1999 (¶ 4) ("*South Carolina Order*").

Commission of Maryland used the FCC requirements as the basis of its analysis,[6] and the Tennessee Regulatory Authority rejected an argument by BellSouth that only the New Services Test be applied, and instead stated that "the Directors voted unanimously to set rates that are: 1) compliant with the new services test; 2) consistent with section 276 of the Act; 3) nondiscriminatory; and 4) cost-based."[7]

Q. DOES THE COMMISSION FACE THE SAME TASK IN THIS PROCEEDING THAT THE DELAWARE, WEST VIRGINIA, SOUTH CAROLINA, MARYLAND, AND TENNESSEE COMMISSIONS FACED IN THE PROCEEDINGS THAT YOU CITED?

A. Yes. In each case, the state regulator sought to determine whether a LEC's existing or proposed rates for payphone access line services complied with the requirements of both Section 276 of the Act and the subsequent FCC *Payphone Orders* implementing Section 276.

Q. WHY IS IT IMPORTANT THAT THE COMMISSION ACT NOW TO ENSURE THAT THE OBJECTIVES OF SECTION 276 OF THE ACT ARE MET?

A. The explicit objectives of section 276 to (1) increase competition for payphone services and (2) ensure the widespread deployment of payphones require this action. The ability of competing payphone providers to continue to operate and compete with Qwest's payphone operation depends on the ability of these providers to obtain PAL service at the appropriate cost based rates. Equally importantly, the widespread deployment of payphones in Oregon depends on the implementation of such rates. In those geographic areas of the state where cellular coverage is unavailable, and for certain groups of

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[6] In the Matter of the Inquiry into the Payphone Tariffs of Bell Atlantic – Maryland, Inc., Public Service Commission of Maryland, Case No. 8763, February 27, 2001 (page 2) (*"Maryland Order"*).

[7] In Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Commission Docket 96-128, Tennessee Regulatory Authority, Docket No. 97-00409, February 1, 2001 (page 17) ("*Tennessee Order*").

customers in all areas of the state, payphones represent an important (and often vital) "last resort" means of communication.

Q. ISN'T THE DIMINISHING BASE OF PAYPHONES, AND THE CURRENTLY STRUGGLE OF PAYPHONE PROVIDERS, SIMPLY AN INEVITABLE REFLECTION OF THE POPULARITY OF CELLULAR TELEPHONES?

A. Not at all. The base of cellular subscribers has certainly grown over the past four years, while the number of payphones has decreased. It is incorrect to conclude that the current mix of cellular telephones and payphones represents the action of a freely operating marketplace, however. Pursuant to the Act, cellular providers have the right to interconnect with Qwest and other ILECs at cost based rates. Pursuant to the Act and subsequent FCC *Payphone Orders*, independent payphone providers also have the right to obtain the network interconnection elements that they use at cost based rates. An important distinction exists, however: while cellular providers currently pay cost based rates to Qwest, payphone providers are paying much higher rates (even though Qwest has been under the obligation to make cost based intrastate PAL rates available since prior to April 15, 1997). Rather than a situation in which competitive market forces are picking the "winners" and "losers" based on the merits of the service being offered to end users, the current environment represents one in which payphone providers are being hamstrung by a 4+ year delay in the implementation of the rates to which they are entitled by law. The adoption of cost based PAL rates, coupled with refunds of the excessive charges back to April 15, 1997, is necessary to permit NWPA members to begin to compete with both Qwest's payphone operations and cellular providers on a reasonably equal footing.

Q. HOW SHOULD THE COMMISSION PROCEED IN THIS CASE?

A. In order to determine if Qwest's PTAS rates meet each of the FCC requirements, the Commission must have the information necessary to gain a clear and complete understanding of the costs related to the provisioning of payphone access services.

Obviously, this cost data must be specific to the elements of payphone access services (including access lines, usage, and features) and must be fully documented.[8]

Q. WHAT TYPES OF COSTS WILL NEED TO BE CONSIDERED?

A. The Commission will need to examine three categories of costs: direct, shared, and common. Direct costs are those costs that are specific to the service or individual rate element being studied; in other words, it is the decision or requirement to offer the specific service or rate element that *causes* the cost to be incurred. For example, the local loop facilities used by Qwest to provide a payphone access line to a NWPA member is a direct cost. Shared costs are caused by the decision or requirement to offer a group of services. For example, ILECs incur marketing costs when offering competitive services. These services, as a group, cause these costs to be incurred. Finally, common costs are caused simply by the fact that the company is in business; they are not specific to (i.e., are not caused by) any rate element, service, or group of services.

In order to apply the FCC's requirements that PTAS rates be cost based and compliant with the new services test, the Commission must consider each of these categories of costs. Specifically, the rates for PTAS service should equal -- and should under no circumstances be greater than -- the total of the direct, shared, and common costs that Qwest *demonstrates* are reasonable and appropriate.

Q. ANOTHER TERM OFTEN USED TO DESCRIBE A CATEGORY OF COSTS IS "OVERHEAD." WHAT ARE "OVERHEAD" COSTS?

A. Depending on the context, the term "overhead" sometimes refers only to common costs, but sometimes is intended to mean both shared and common costs. When analyzing cost studies or the orders of a regulator mandating a particular form of costing, it is important

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[8] The FCC has set forth specific minimum requirements for ILEC cost submissions in support of rates that are compliant with the New Services Test. The Commission should apply both the FCC standards and its own requirements for cost documentation.

to review the supporting documentation carefully in order to determine how the term "overhead" has been applied.

When applying the FCC's new services test, the term "overhead" is defined to include both shared and common costs. The "overhead loading" that is to be evaluated pursuant to the new services test is the amount in excess of the calculated direct cost.[9]

In its evaluation of the rates for payphone access services, therefore, the Commission has two categories of costs to consider. First, it must review the reported direct cost of providing the rate element to determine if Qwest has met its burden of demonstrating that the reported cost is reasonable. Second, it must review the level of overhead loading (Qwest's calculation of shared and common costs), again in order to determine if Qwest has met its burden of demonstrating that the reported cost is reasonable. Clearly, a rate that exceeds the level of direct cost plus overhead (i.e., direct + shared + common costs) that an ILEC has demonstrated to be reasonable *cannot* meet the FCC requirements that such a rate be both cost based and compliant with the new services test.

Q. DOES THE COMMISSION HAVE EXPERIENCE DEALING WITH THESE DISTINCT CATEGORIES OF COSTS?

A. Yes. In arbitrations conducted pursuant to section 251 of the Act (I participated in ARBs 3, 6, and 9) the Commission faced the task of establishing rates for unbundled network elements that are based on cost, pursuant to the requirements of section 252(d)(1) of the Act. The cost based rates adopted in those proceedings were required to include the appropriate amount of direct, shared, and common costs of the unbundled network elements at issue.

[9] The direct cost contemplated by the FCC is conceptually equivalent to TSLRIC or TELRIC.

In this proceeding, the Commission faces the same fundamental task: to determine cost based rates (this time for payphone access services) that include the appropriate amount of direct, shared, and common costs. As I will describe later in my testimony -- in the absence of adequate cost documentation provided by Qwest -- the Commission can and should rely on its experience in these earlier proceedings when determining cost based rates for payphone access services.

Q. IS IT YOUR POSITION THAT THE REQUIREMENTS OF SECTION 252 OF THE ACT APPLY TO PAYPHONE ACCESS SERVICES?

A. No. I am not suggesting that Section 252 sets forth requirements that the Commission must apply to intrastate payphone access services. I am suggesting, however, that the task before the Commission in this proceeding is a familiar one: the Commission must now determine the level of "cost based" rates (including appropriate and justified levels of direct, shared, and common costs).[10] In the arbitrations and UNE cost proceeding, the Commission was faced with the task of determining the level of rates which were "based on cost" (including appropriate and justified levels of direct, shared, and common costs) for the same network facilities. Qwest cannot seriously argue that a meaningful distinction can be drawn between the phrases "cost based" and "based on cost," and, therefore, they must acknowledge that the UNE costs and rates are an appropriate benchmark for evaluating the level of payphone access services rates. The use of such a benchmark is required if Qwest fails to provide the Commission with the necessary cost information to support the level of shared and common costs included in its proposed rates. As I will describe in Section 2 of my testimony, such is the case in this proceeding.

[10] As I will describe later in my testimony, the FCC's *Wisconsin Order* indicates that the FCC's Common Carrier Bureau sees the task before the Commission in exactly this way.

Q. WHAT IS THE FIRST STEP THAT MUST BE TAKEN IN ORDER TO DETERMINE THE RELEVANT COSTS OF PAYPHONE ACCESS SERVICE?

A. The first step in any costing process is to determine the cost methodology to be followed. Are the costs to be a measure of embedded costs or should they instead reflect the costs of an efficient provider on a forward-looking basis?

The forward-looking economic cost methodology should -- and must -- be used here for several reasons. First, this methodology is the conceptually correct one. If rates for payphone access services are set at a level that recovers these costs, Qwest will be fully compensated while the stated objectives of the Act -- to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public -- can be met. 47 U.S.C. 276(b)(1) sets forth this explicit objective.

Second, this methodology is consistent with previous orders of the FCC describing a proper application of the new services test. For example, the FCC has stated that "we recognize that competition depends on the ability of competitors to purchase LEC facilities at rates that reflect economic costs, and not rates that are calculated to deter entry by efficient providers".[11]

Last but certainly not least, the application of this costing methodology is consistent with this Commission's previous Orders. Fortunately, there appears to be little dispute in this regard. Qwest has presented a calculation of the direct costs of some components of the various PAL services, and represents that these costs were developed in a manner consistent with the requirements set forth in UM 351 and UM 773.

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[11] Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase I, Report and Order, 10 FCC Rcd 6375, 6404 (1995) (*"Virtual Collocation Overhead Prescription Order"*).

Q. ONCE THE COST METHODOLOGY TO BE FOLLOWED IS DETERMINED, WHAT IS THE NEXT STEP THAT MUST BE TAKEN IN ORDER TO DETERMINE THE RELEVANT COSTS OF PAYPHONE ACCESS SERVICES?

A. The next step is to calculate the direct cost (TSLRIC) of each rate element. Qwest has presented the results of such a calculation for some, but not all, of the relevant PAL rate elements. Specifically, Qwest has presented cost results for the local loop and usage components of the service, but has failed to provide direct cost support for related features that are tariff at the intrastate level. I will describe the specific shortcomings of Qwest's cost documentation in Section 2 of my testimony.

Once the direct cost for PAL rate elements is developed, it is necessary to consider other rates that the purchaser of the PAL service must pay in order to ensure that no double recovery of costs takes place. If the direct costs have not been subjected to jurisdictional separations, for example, it will be necessary to consider any interstate rates designed to recover the same network costs when setting the intrastate rate.

Q. IS THERE A SPECIFIC EXAMPLE OF A PAL RATE ELEMENT THAT MUST BE ADJUSTED IN ORDER TO AVOID A DOUBLE RECOVERY OF THE SAME NETWORK COSTS?

A. Yes. It is essential that the total (unseparated) cost[12] of the local loop be reduced by the amount of the SLC/CALC and PICC (and any applicable CCLC) charges in order to calculate the cost based rate for a payphone access line, or, alternatively, that a payphone access line rate be established that is inclusive of these federal charges (so that they are not also charged separately to the competing payphone provider). This adjustment is necessary in order to prevent the ILEC from (1) receiving a double recovery of its costs and (2) gaining an artificial and significant competitive advantage.

[12] The TSLRIC results presented by Qwest in this proceeding represent unseparated costs.

The danger of a double recovery of costs can easily be seen by example using only the local loop costs and the SLC/CALC. If, for example, the ILEC incurs a cost of $20.00 (statewide average) when providing an unbundled local loop, a rate of $20.00 paid by a CLEC will permit it to fully recover those costs, but to only recover them once:

Total Cost (including direct, shared, and common):	$20.00
Intrastate Rate:	$20.00
Percentage of Total Cost Recovered	**100%**

Conversely, if a payphone access line is set at the level of the total cost reported by the ILEC, the cost recovery for the ILEC changes significantly:

Total Cost (including direct, shared, and common):	$20.00
Intrastate Rate	$20.00
Subscriber Line Charge	$ 7.00
Total Revenue:	$27.00
Percentage of Total Cost Recovered	**135%**

If the payphone access line rate is properly adjusted by the amount of the additional charges, however, the ILEC's cost recovery is appropriate:

Total Cost (including direct, shared, and common):	$20.00
Intrastate Rate	$13.00
Subscriber Line Charge	$ 7.00
Total Revenue:	$20.00
Percentage of Total Cost Recovered	100%

Alternatively, establishing an intrastate rate that is inclusive of the Subscriber Line Charge will accomplish the same objective:

Total Cost (including direct, shared, and common): $20.00

Intrastate Rate (inclusive of SLC/CALC)	$20.00
Subscriber Line Charge	$ N/A
Total Revenue:	$20.00
Percentage of Total Cost Recovered	100%

Q. HAVE OTHER STATE REGULATORS EXPLICITLY CONSIDERED ADDITIONAL APPLICABLE CHARGES WHEN ESTABLISHING COST BASED RATES FOR PAYPHONE ACCESS SERVICES?

A. Yes. The West Virginia Public Service Commission recently addressed this issue in the Order referred to previously in my testimony. In that proceeding, Bell Atlantic-West Virginia, like Qwest in this proceeding, used an unseparated cost of the local loop as the starting point for determining a cost based rate for payphone access lines. The West Virginia PSC correctly noted that the cost numbers used by Bell Atlantic-West Virginia were total costs (not separated into intrastate and interstate components). Since total costs were being used, the West Virginia PSC correctly reasoned, it is necessary to consider both intrastate and interstate sources of revenue (such as the SLC/CALC and PICC) when determining how much of this total cost should be recovered by the intrastate rate: "to allow BA-WV to include interstate costs into its payphone line rates while the Company recovers an SLC would result in BA-WV double-recovering its interstate costs associated with payphone lines" *West Virginia Order*, at p. 16.

After reaching this conclusion, the West Virginia PSC indicated that it agreed with a proposal that "BA-WV's payphone rates should be further reduced by the SLC which BA-WV currently recovers." Id. In order to implement this decision, the West Virginia PSC ordered that the total of the intrastate payphone access line rate and the SLC could not exceed the Commission's determination of Bell Atlantic's total cost of that line.

In February of this year, the Tennessee Regulatory Authority reached a consistent conclusion. Specifically, the TRA found that

> [P]ayphone rates that are based on jurisdictionally unseparated costs are designed to recover a portion of the same costs that the SLC, EUCL, and PICC are intended to recover. The TRA further found that LECs are authorized to collect the SLC, EUCL, and PICC revenues from PSPs. Therefore, setting rates based on jurisdictionally unseparated costs and allowing the LECs to assess the federal charges on PSPs in addition to collecting the rate would result in double recovery.[13]

The Maryland Commission also required that Bell Atlantic-Maryland provide the necessary data so that the intrastate PAL rates could be adjusted to reflect the federal charges.[14]

Q. WHY IS IT CORRECT TO TREAT THE PICC AND ANY APPLICABLE CCLC CHARGES IN THE SAME WAY THAT THE SLC/CALC IS TREATED?

A. Each of these charges was created for the same purpose: to assist in the recovery of the NTS costs of the local network (i.e., the local loop). Each of these charges represents revenues that the ILEC receives that are earmarked for local loop cost recovery; if these rates are not explicitly recognized when establishing cost based rates for payphone access lines, Qwest will double recover these costs.

A brief review of the history of these charges makes their purpose clear. In the original *Access Charge Order*[15], the FCC established a mechanism for the LECs to recover the costs of providing IXCs with access to the LEC's network for the completion of interstate and international calls. Access service includes rates specifically established to recover traffic sensitive costs and NTS costs. NTS costs do not vary with the amount

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[13] *Tennessee Order*, pp. 17-18.

[14] *Maryland Order*, p. 23.

[15] MTS and WATS Market Structure, CC Docket No. 78-72, Third Report and Order, 93 F.C.C. 2d 241 (1983) ("*Access Charge Order*"), modified, 97 F.C.C. 2d 682 (1983) *("Reconsideration Order")*, further modified, 92 F.C.C. 2d 834 (1984) ("*Second Reconsideration Order"),* aff'd in principal part and remanded in part sub nom. NARUC v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985).

of usage and are caused by the provisioning of that portion of the network whose cost does not vary with usage: the local loop (the facility which connects the end user to a LEC central office).

In order to minimize the impact on retail local rates, the FCC decided to apportion the recovery of the interstate portion of local loop costs between a monthly, flat-rated SLC/CALC paid by end users directly to the LEC, and a per-minute CCL charge paid to the LEC by IXCs. That way, although all of these charges would be passed through eventually to end users, not all of the assessed amount would increase the cost of basic local exchange service.

The SLC/CALC is a flat, end-user charge designed to recover part or all of the local loop costs allocated to the interstate jurisdiction.[16] This dollar amount is intended to approximate a portion of local loop cost attributed to the end user's interstate calling.[17] Until 1997, if the interstate portion of the local loop cost exceeded the SLC/CALC ceiling set by the FCC, IXCs were assessed a per-minute CCLC to recover the difference.[18]

The 1996 changes to the Act sought to reform certain aspects of the access charge system. Because costs for the local loop are fixed and do not increase with the amount of usage, recovering these costs by means of a per-minute CCLC is economically inefficient and creates a situation where usage rates significantly exceed the incremental cost of using the loop. In the *Access Charge Reform Order* implementing the access charge reform changes to the Act, the FCC raised the SLC/CALC ceilings, so that more common line costs could be recovered directly from end users by means of a flat rate.[19]

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[16] In the Matter of Access Charge Reform, et al., Notice of Proposed Rulemaking, 11 FCC Rcd. 21,354 (1996) (*"Access Charge Reform NPRM"*), at ¶ 27.
[17] Id., at ¶ 57
[18] Id.

[19] Access Charge Reform, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd. 15,982 (1996) (*"Access Charge Reform Order"*), at ¶ 38.

The remaining common line costs above the SLC/CALC ceiling are recovered through the newly created Primary Interexchange Carrier Charge ("PICC"), a flat, per-line charge assessed to each customer's presubscribed IXC, or assessed individually on each end user who does not choose a PIC. If the SLC/CALC and the PICC together still don't recover the interstate-allocated common line costs, LECs can continue to assess IXCs a per-minute CCLC.[20]

As the history of these charges makes clear, each rate (1) was established for the purpose of creating a revenue source for the recovery of NTS (local loop) costs, and (2) has been treated as interchangeable with other rates (a higher SLC/CALC reduced the level of the CCLC, the introduction of the PICC eliminated the need for some CCLCs). Clearly, these rates have been used collectively by the FCC to generate revenue for a specifically stated purpose – the recovery of NTS (i.e., local loop) costs for ILECs. To consider one, but not all, of these charges is simply an incomplete analysis that leads to an incomplete adjustment.

Q. YOU STATED THAT AN ADJUSTMENT TO REFLECT THESE ADDITIONAL CHARGES IS ALSO NECESSARY TO AVOID GIVING QWEST AN ARTIFICIAL AND SIGNIFICANT COMPETITIVE ADVANTAGE. PLEASE EXPLAIN.

A. This possibility is also best understood using a simple illustrative example. Assume that the total cost for a payphone line (including the local loop and line termination into the end office switch) incurred by an ILEC (including direct, shared, and common costs) is $15.00, and that a SLC/CALC of $7.00 also applies. If the rate for a payphone access line is set to recover the full $15.00 cost, the ILEC will receive a total of $22.00 in revenue to recover a $15.00 cost. A NWPA member attempting to compete with an ILEC must pay $22.00 (which to the NWPA member is an unavoidable cost of doing

[20] Id., at ¶ 71.

business). In this scenario, the ILEC goes forth to compete with an extra $7.00 in its pocket (available potentially to fund a reduction in rates to its payphone end user customers or pay a higher commission to the owner of a desirable location). The equity objective of the "cost based" rate requirement will have been lost: the ILEC will have been successful in artificially inflating the costs of its competitors. This outcome does not create an equal competitive footing, and is inconsistent with the stated objectives of Section 276 of the Act.

In contrast, if the rate for the payphone access line is established with the correct consideration of the additional revenues, a level playing field will be created. In this example, an intrastate payphone access line rate of $8.00 will mean that the ILEC will receive $15.00 ($8.00 intrastate rate plus $7.00 SLC/CALC) to recover a $15.00 cost. The competing NWPA member will incur a cost of $15.000 (as it is responsible for payment of the intrastate rate and the SLC/CALC), and the ILEC will incur a cost of $15.00 for the local loop that it uses for its own competing payphone. In this scenario, the ability of either competitor to offer lower retail prices or higher commission payments will be the result of its efficiency and sound management, rather than being artificially created by an inflated access line rate.

Q. IN ADDITION TO THE RATES FOR PAYPHONE ACCESS LINES, ARE USAGE AND FEATURES CHARGES THAT ARE APPLIED TO PAYPHONE ACCESS LINES SUBJECT TO THE FCC REQUIREMENTS?

A. Absolutely. The FCC's *Payphone Orders* set forth the standards to be applied for the pricing of payphone services tariffed at the state level. These *Orders* in no way limit the application of the requirements to any subset of the rate elements that competing providers of payphone services must purchase from Qwest. In response to a request by Bell Atlantic-Maryland that certain usage and features-related rate elements be excluded from the rate-setting process for PAL services, the Maryland Commission concluded that:

> As an initial point, we recognize that the primary goal of § 276 is to encourage and promote competition within the payphone industry. To permit BA-MD to price a necessary payphone element contrary to the mandates of the FCC's Payphone Reclassification Proceeding would be contrary to the purposes of the Act. Our finding is supported by the formal interpretation of § 276 provided by the Common Carrier Bureau of the FCC to the Office of the New Jersey Attorney General.[21]

Q. THE SECOND PRONG OF THE FCC'S FOUR PART TEST REQUIRES THAT RATES FOR PAL SERVICES BE NONDISCRIMINATORY. PLEASE EXPLAIN WHY THIS IS IMPORTANT.

A. There are two readily apparent ways in which a discriminatory rate structure can be established that will impede the development of competition and the widespread deployment of telephones. First, as described above, a failure to adjust intrastate PAL rates for the amount of the SLC/CALC will give Qwest's payphone operation a significant and artificial competitive advantage. Second, because Qwest's payphone operations utilize Smart PAL service while its competitors utilize other forms of PAL service, it is possible for Qwest to create a competitive advantage for its own payphone operation by strategically setting the rates for each form of PAL service. In order to avoid such an overt from of discrimination, it is necessary to carefully examine both the direct cost and overhead loadings for each type of PAL service, and to examine the rate treatment of the capabilities that are included only in a Smart PAL line.

Q. THE FOURTH REQUIREMENT OF THE FCC IS THE APPLICATION OF THE SO-CALLED "NEW SERVICES TEST". WHAT IS THE NEW SERVICES TEST?

A. The definition and application of the new services test has proven to be a source of discussion in a number of recent state proceedings, including those cases in which intrastate rates for payphone access services were at issue. It may be useful, therefore, to

[21] *Maryland Order*, pp. 17-18.

review the elements of the new services test before embarking on a discussion of its application.

The new services test has been described in a number of FCC orders related to different ILEC-provided services. This test has been used to evaluate proposed rates for the elements of Open Network Architecture ("ONA"), interconnection, virtual and physical collocation, and, most recently, payphone access services. Because both the definition and the application of the new services test have evolved over time, it is important to consider all relevant FCC orders when attempting to understand both the definition and application of the test.

The new services test has two fundamental parts. In order to justify a proposed rate, the ILEC must fully demonstrate that the proposed rate is above the direct costs of the service and at or below a total of the direct costs plus a reasonable markup for overhead (in this context, overhead refers to the total of shared and common costs). It is important to note that the application of the new services test is a "bottom up" process: direct costs must be calculated and fully justified, and any markup for overhead[22] above this measure of direct costs must be fully justified. Both the calculation of direct costs and the calculation of an appropriate level of overhead can be considered key factors in the application of the test.

Q. HAS THE FCC BEEN CLEAR IN ITS ORDERS THAT THE NEW SERVICES TEST REQUIRES LECS TO FULLY JUSTIFY BOTH THE LEVEL OF DIRECT COSTS AND THE LEVEL OF ANY OVERHEAD LOADINGS IN A PROPOSED RATE?

A. Yes. When examining the level of proposed virtual collocation rates, for example, the FCC made it clear that both fundamental components of the new services test are important:

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[22] This markup above direct cost is sometimes referred to as an "overhead loading."

The *Phase I Designation Order* designated for investigation the issue of whether the LECs had justified the level of their overhead loadings, a key factor affecting the rates for virtual collocation arrangements. We now continue our analysis of the LECs' virtual collocation rates by reviewing the LECs' direct costs of providing virtual collocation service -- another key factor affecting virtual collocation rates.[23]

More recently, the FCC has applied the new services test to evaluate the proposed rates for certain payphone features tariffed at the interstate level. Here again, the FCC has reiterated the importance of examining both direct costs and the level of any markup for overhead.

The FCC found, for example, that GTE's proposed direct cost for a payphone feature (selective class of call screening) was excessive, and GTE subsequently reduced the reported direct investment for this feature from $50 to $6 before the resulting rate was approved by the FCC.[24]

In the same order, again applying the new services test requirements, the FCC found that Bell Atlantic had not justified the overhead loadings that it had included in certain payphone features. Bell Atlantic subsequently made substantial reductions in the level of the overhead loadings before the rates were approved. In describing its requirement that the LECs must fully justify all proposed overhead loadings, the FCC noted that "In Open Network Architecture Tariffs for Bell Operating Companies, the Commission concluded that US West's overhead rates for ONA features were

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[23] Order Designating Issues For Investigation, CC Docket No. 94-97 Phase II, 10 FCC Rcd 11,116 (Com. Car. Bur. 1995) , at ¶ 12.

[24] In the Matter of Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Memorandum Opinion and Order 12 FCC Rcd 17,996 (1997), at ¶¶ 15-16 (*"Payphone Features Order"*).

unsupported because it failed to provide a reasonable explanation for its overhead loadings for those rates" (emphasis added).[25]

It is clear, therefore, that the FCC has required the LECs to fully justify both the level of direct costs and the level of any overhead loadings.

Q. HAS THE FCC PROVIDED A DETAILED EXPLANATION OF HOW ITS STANDARDS SHOULD BE IMPLEMENTED WHEN ESTABLISHING INTRASTATE RATES?

A. Yes. On March 2, 2000, the Competitive Pricing Division of the FCC's Common Carrier Bureau issued Order CCB/CPD No. 00-1 ("Wisconsin Order"). This order sets forth the details of the process that certain ILECs must follow when providing information to the FCC in order to demonstrate compliance with the four part test.[26] While the order is specific to four Wisconsin ILECs, it does serve provide clarification in this case by answering the following question: What would the FCC require the LECs to demonstrate (and what information would be specifically required to be provided) if the FCC were to apply its own standards to the rates for payphone access service?

In other words, the *Wisconsin Order* provides the Commission with an opportunity to resolve a difference of opinion that has arisen in similar proceedings in other states. I have argued in my testimony that the FCC has intended to require a four part test, and that application of the FCC's standard requires the LECs to make an affirmative demonstration of both the direct and a reasonable level of overhead costs associated with providing payphone access services. Such an affirmative demonstration

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[25] Id., at ¶ 13.

[26] The Wisconsin Public Service Commission had previously determined that it could not undertake the investigation necessary to determine if the existing rates for payphone access services in Wisconsin meet the requirements of the Act and the subsequent *Payphone Orders*. Pursuant to the Order in the Payphone Reclassification Proceeding, ILECs must then submit the necessary information to the FCC so that it can conduct the necessary investigation.

must be supported by a cost study of each of the categories of cost to be included in the rate. In contrast, the ILECs have consistently taken the position that they can fully comply with the FCC's requirements by merely calculating a cost/price ratio for PTAS and comparing that ratio to the ratio of other services, such as a local business line.

Q. IS IT YOUR TESTIMONY THAT THIS COMMISSION SHOULD APPLY THE FCC'S STANDARDS IN THE MANNER SET FORTH IN YOUR TESTIMONY BECAUSE OF THE *WISCONSIN ORDER*?

A. No. I urge the Commission to require Qwest to fully justify their rates for payphone access services in the manner that I have described because doing so will permit the objectives of the Act – increased competition for payphones and the widespread deployment of payphones – to be met in Oregon, while the Qwest proposal will not do so. Payphones are an important means of communication for a large number of people, and the public interest will be served by ensuring that those phones continue to be available. The *Wisconsin Order* simply verifies that, when faced with the same task faced by the Commission in this proceeding, the FCC would apply its own standard in a certain way.

Q, PLEASE DESCRIBE THE REQUIREMENTS SET FORTH IN THE *WISCONSIN ORDER*.

A. The order makes a number of statements that clarify the FCC's intent.[27] First, the CCB reiterates the FCC's four part test: "The Commission required that all incumbent LEC payphone tariffs filed at the state level be cost-based, nondiscriminatory, and consistent with both section 276 and the Commission's Computer III tariffing guidelines" (para. 2)

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[27] The applicability of the detailed requirements of the *Wisconsin Order* to similar investigations in other states (such as this one) is also supported by conversations with the FCC's Common Carrier Bureau Staff. I have met with these staff members on a number of occasions regarding this issue over the past two years. They have expressed a clear belief that the *Wisconsin Order* would provide the clarification necessary to assist with the resolution of this issue in pending and future state proceedings.

and makes it clear that the ILECs must "provide cost support for each rate element in accordance with the cost support requirements described below...For each rate element, the incumbent LEC must submit complete cost studies will full documentation" (para. 7).

The order then goes on to describe in detail how compliance with the FCC standards can be achieved: "In order to avoid unnecessary confusion and delay in the implementation of Payphone Order-compliant tariff filings, we set forth briefly below some of the methodological principles applied under Computer III and other relevant FCC proceedings addressing the application of the new services test and cost-based ratemaking principles to services and facilities offered by incumbent LECs to providers of services that compete with incumbent LEC services" (para. 8).

The methodological principles set forth in the order are as follows:

1. "Costs must be determined by the use of an appropriate forward-looking, economic cost methodology that is consistent with the principles the Commission set forth in the Local Competition First report and Order" (para. 9).

2. "With respect to the calculation of direct costs, our longstanding new services test policy is to require the use of consistent methodologies in computing direct costs for related services. Cost study inputs and assumptions used to justify payphone line rates should, therefore, be consistent with the cost inputs used in computing rates for other services offered to competitors" (para. 10).

3, "In determining a just and reasonable portion of overhead costs to be attributed to services offered to competitors, the LECs must justify the methodology used to determine such overhead costs" (para. 11).

4. Absent justification, LECs may not recover a greater share of overheads in rates for the service under review than they recover from comparable services...For the purpose of justifying overhead allocations, UNEs appear to be 'comparable services' to payphone line services, because both provide critical network functions to an incumbent LEC's competitors and both are subject to a 'cost based' pricing requirement. Thus, we expect incumbent LECs to explain any overhead allocations for their payphone line services that represent a significant departure from overhead allocations approved for UNE services" (para. 11).

5. "Given that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services" (para. 11).

6. In order to avoid double recovery of costs, therefore, the LEC must demonstrate that in setting its payphone rates it has taken into account other sources of revenue (e.g., SLC/EUCL, PICC, and CCL charges) that are used to recover the costs of the facilities involved" (para. 12).

7. Clearly, it is the FCC's view that ILECs must provide a comprehensive and specific cost demonstration in order to meet their burden of demonstrating that rates for PAL services comply with the four part test.

Q. WHEN SHOULD ANY NEW RATES DEVELOPED BY THE COMMISSION BE PUT INTO EFFECT?

A. As described earlier in my testimony, they should be made effective retroactively to April 15, 1997, with refunds ordered for the difference between the rates actually paid and the rate that the Commission determines to be compliant with the FCC's requirements. The *Payphone Orders* required the Tier 1 LECs to have rates filed in compliance with the four part test set out therein by April 15, 1997.[28] While the existing rates continued in effect beyond that date because of the waiver, there was no finding that those rates complied with the FCC requirements.

Q. HAVE ANY OTHER STATE REGULATORS REQUIRED THAT RATES BE ADJUSTED EFFECTIVE BACK TO APRIL 15, 1997?

A. Yes. The *South Carolina Order* includes such a requirement.[29] The Kentucky Public Service Commission also ruled that because the "cost based rates are lower than existing tariffed rates… therefore, BellSouth, CBT, and GTE shall provide credits or refunds back to April 15, 1997."[30] The South Carolina Commission later clarified that refunds, not credits, should be given.

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[28] *Second Bureau Waiver Order*, at ¶¶ 1-2, 25.
[29] *South Carolina Order*, p. 29.
[30] In the Matter of Deregulation of Local Exchange Companies' Payphone Service, Administrative Case No. 361, Order, January 5, 1999, at pp. 7-8.

More recently, the Tennessee Regulatory Authority has required refunds "in recognition of the FCC's requirement that the LECs reimburse payphone owners the amount overpaid since April 15, 1997."[31]

Section 2: Shortcomings in the cost information provided by Qwest in this proceeding

Q. WHAT INFORMATION HAS QWEST PRODUCED IN THIS PROCEEDING IN SUPPORT OF ITS PROPOSED PAL RATES.

A. The only testimony that Qwest has produced in defense of these rates is that of David Teitzel. Mr. Teitzel devotes less than three pages of his testimony to this subject. He makes no reference to the requirements of the Act, no reference to the FCC's requirements for these rates as set forth in the *Payphone Orders*, and presents none of the cost data necessary to demonstrate compliance with the requirements of the Act and FCC.

Q. IS MR. TEITZEL'S TESTIMONY IN THIS PROCEEDING CONSISTENT WITH THE LEVEL OF ATTENTION THAT QWEST HAS GIVEN TO PAL RATES IN RECENT YEARS?

A. Unfortunately, yes. Even though Qwest (and its predecessor, US West) has been subject to a requirement by the FCC to tariff compliant intrastate rates for PAL services, it has made no effort to do so. US West/Qwest has clearly benefited from the *Bureau Waiver Order* by receiving dial-around compensation from IXCs (the quid in the *Bureau Waiver Order*) but has ignored its obligation to establish and tariff compliant intrastate rates (the quo in the *Bureau Waiver Order*). In its filing in this proceeding, Qwest ignores that obligation, as it has done in the past.[32]

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[31] *Tennessee Order*, p. 14.

[32] A review of Mr. Teitzel's 1999 testimony reveals the same abbreviated and largely non-substantive treatment of this topic.

Q. HAS QWEST PRODUCED ADDITIONAL INFORMATION IN RESPONSE TO NWPA's DATA REQUESTS?

A. Yes, although this information falls far short of the demonstration of appropriate levels of direct and overhead costs that Qwest must make in order to establish compliant rates. Remarkably, in several cases Qwest has explicitly refused to provide information necessary for such a demonstration, and has stated that it need not demonstrate the compliance of its proposed PAL rates with the Act and FCC's *Payphone Orders*.

Q. HAS QWEST DEMONSTRATED THAT ITS PROPOSED RATES FOR PAL SERVICES ARE COST BASED?

A. No. In order to make such a demonstration, Qwest must demonstrate, for each PAL rate element, that the proposed rate consists of (1) a reasonable and accurate calculation of direct cost, and (2) a reasonable and accurate calculation of shared and common (i.e. "overhead") costs. In order to comply with the FCC's requirements (and ultimately to be consistent with the objectives of the Act) the rates for PAL services cannot be higher than the sum of the direct and overhead costs that Qwest has demonstrated to be reasonable and accurate.

In this proceeding, Qwest has provided a calculation of direct costs for some, but not all, PAL rate elements (it has refused to provide cost data for others) and has provided no calculation whatsoever of shared and common (overhead) costs. In fact, Qwest has made no effort at all to demonstrate that the overhead loadings in the proposed rates are reasonable and reflective of the level of actually incurred costs.

Q. PLEASE DESCRIBE THE DIRECT COST DATA THAT QWEST HAS PROVIDED.

A. In response to NWPA 3-008, Qwest responded that the direct cost for Basic and Smart PAL was presented in Exhibit US West / 223. This exhibit does appear to include the direct costs associated with the local loop and local usage components of these lines.

Qwest did not include the direct cost of line-side answer supervision or selective class of call screening (also tariffed by Qwest as CustomNet service) in this analysis, however.

The importance of this omission is underscored in Qwest's responses to NWPA 3-021 and 3-031. The Qwest information shows that the purchasers of {**REDACTED**} of the Basic PAL lines in Oregon rely on this selective class of call screening feature in order to provide a competing payphone service.

Q. QWEST ARGUES (IN RESPONSE TO NWPA DATA REQUESTS 3-008 AND 3-010) THAT IT NEED NOT PROVIDE COST SUPPORT FOR THOSE PAL RATE ELEMENTS FOR WHICH IT IS NOT PROPOSING A RATE CHANGE IN THIS PROCEEDING. DO YOU AGREE?

A. No. Simply because Qwest is not proposing a rate change in this proceeding for a given PAL rate element in no way excuses it from compliance with the requirements of the *Payphone Orders*. The fact that Qwest has ignored its obligation to tariff compliant intrastate rates (and to demonstrate the compliance of those rates) for the past four years provides no basis for continuing to do so. Whether or not it wishes to change the rate for a given rate element, Qwest owes this Commission the cost information necessary to establish compliant rates.

Q. PLEASE DESCRIBE THE SHARED AND COMMON (OVERHEAD) COST DATA THAT QWEST HAS PROVIDED.

A. Qwest has provided no such cost data in this proceeding. In response to NWPA 3-010, Qwest replied that the level of overhead implicitly included in each proposed rate could be derived from the cost data presented in Exhibit US West / 223. There are two significant shortcomings of the Qwest cost data in this exhibit, however. First, for those rate elements for which no direct cost has been provided, it is impossible to make such a calculation. Second, the ability to calculate a cost-to-price ratio or to determine the dollar amount of overhead implicit in a given rate is not a substitute for the required *demonstration* that such a ratio or overhead amount is reasonable.

NWPA requested (NWPA 3-010 and 3-020, 4-036 and 4-038) that Qwest provide the percent markup over direct cost and/or the cost-to-price ratio for all PAL rate elements, whether or not rate changes were being proposed. Qwest refused to do so for those rate elements not included in Exhibit US West / 223.

Q. HAS QWEST PROVIDED ANY INDICATION OF WHAT IT CONSIDERS A "REASONABLE OVERHEAD" TO BE?

A. Yes. Qwest has put forth two definitions, neither of which complies with the requirements of the FCC *Payphone Orders*.

First, Qwest argues that it has determined a "reasonable markup" and "reasonable portion of US West's overhead costs" by pricing PAL services "in alignment with business rates" (response to NWPA 4-039). Mr. Teitzel also suggests (though does not explicitly state) this conclusion in his testimony. There are several fundamental problems with the premise. First, business lines may have been initially set through any one of a number of ratemaking mechanisms that are unrelated to the development of cost based rates. Second, the rate for business lines may provide a subsidy to other services, which is *per se* inconsistent with a requirement for cost-based rates. Third, payphone providers obtain PAL service from Qwest in order to compete with Qwest's payphone operations. The impacted of inflated rates is different for PAL lines and business lines: inflated PAL rates can jeopardize the widespread deployment of payphones and limit competition for payphones. Ultimately, however, the only relevant fact is the following: the Act and FCC *Payphone Orders* contain specific pricing requirements that apply to payphone lines that do not apply to business lines. As a result, the intrastate rates for PAL services are constrained in a way that the rates for business lines are not. Put simply, the level of

Qwest's business line rates have no bearing whatsoever on the level of compliant rates for PAL services.

Q. HOW DOES THE INFORMATION PROVIDED BY QWEST IN THIS PROCEEDING COMPARE TO THE INFORMATION THAT THE FCC REQUIRED IN ITS *WISCONSIN ORDER*?

A. The information provided by Qwest in this proceeding falls short of what the Common Carrier Bureau required when applying the *Payphone Orders* in two specific areas. First, the *Wisconsin Order* states that

> In determining a just and reasonable portion of overhead costs to be attributed to services offered to competitors, the LECs must justify the methodology used to determine such overhead costs ... Absent justification, LECs may not recover a greater share of overheads in rates for the service under review than they recover from comparable services…For the purpose of justifying overhead allocations, UNEs appear to be 'comparable services' to payphone line services, because both provide critical network functions to an incumbent LEC's competitors and both are subject to a 'cost based' pricing requirement. Thus, we expect incumbent LECs to explain any overhead allocations for their payphone line services that represent a significant departure from overhead allocations approved for UNE services ... Given that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services (para. 11).

Qwest has not begun to meet this burden in this proceeding. It has provided no calculation at all of overhead costs, and has made no effort to justify a methodology. While Qwest is recommending an overhead loading that far exceeds the overhead loading in UNE rates (what the FCC considers to be the relevant "comparable service"), it has made no effort to justify this "significant departure" (over {**REDACTED**} for several PAL rates versus 33% for UNEs).

Second, the Wisconsin Order states that

> In order to avoid double recovery of costs, therefore, the LEC must demonstrate that in setting its payphone rates it has taken into account other sources of revenue (e.g., SLC/EUCL, PICC, and CCL charges) that are used to recover the costs of the facilities involved" (para. 12).

Qwest has also failed to make this required adjustment to its rates.

Q. HAS QWEST DEMONSTRATED THAT THE PROPOSED PAL RATES ARE NON DISCRIMINATORY?

A. No. Without an adjustment to reflect the fact that a portion of the non traffic sensitive costs of PAL service are already being recovered through federal charges (SLC/CALC and PICC), Qwest's rates are discriminatory per se because they permit Qwest to over-recover the cost of providing PAL services, thereby giving it a financial advantage and the ability to offer lower rates and/or higher commission payments than NWPA members.

Q. HAS QWEST DEMONSTRATED THAT THE PROPOSED PAL RATES COMPLY WITH THE NEW SERVICES TEST?

A. No. Mr. Teitzel's testimony does not address the FCC requirements at all, and Qwest's response to NWPA 3-033 simply makes the broad, but unsubstantiated, claim that "as proposed in this docket, Basic and Smart Public Access Lines do comply with the FCC's new services test." The FCC has been clear, however, that it is not enough for an ILEC to *state* that its rates are in compliance; it must instead *demonstrate* that both the direct and overhead components of each rate are appropriate and reasonable. The problem in this proceeding is not that Qwest has failed to make an effective demonstration of the level of overhead loadings in the existing or proposed PAL rates, but rather that Qwest has made no demonstration at all.

In NWPA 3-012, NWPA asked specifically for the supporting materials necessary for Qwest to demonstrate compliance with the new services test. In response, Qwest directed NWPA's attention to its response to NWPA 3-008, which described the source of the direct costs for some rate elements but which made no reference whatsoever to an appropriate level of overhead costs. In justification of its failure to provide the necessary information to demonstrate compliance, Qwest stated in its response to NWPA 4-040 that "there is no requirement in Oregon for Qwest to file cost information that utilizes the FCC new services test."

Q. HAS QWEST REFERRED TO ANY FCC ORDER IN AN ATTEMPT TO JUSTIFY THE LEVEL OF ITS EXISTING AND PROPOSED OVERHEAD LOADINGS FOR PAL SERVICES?

A. Yes. Although Mr. Teitzel's testimony is completely silent on this matter, Qwest did respond to NWPA 3-032 that "for purposes of the FCC's new services test, US West interprets 'a reasonable contribution to overhead' as the percentage markup over direct costs allowed by the FCC in pricing new services in the federal jurisdiction. The FCC has allowed a range of ratio [sic] of rates to direct costs for payphone services up to 4.8 times greater than the direct costs."

Q. IS QWEST'S ASSERTION REGARDING THE FCC ORDER CORRECT?

A. No. Qwest's out-of-context statement is both incorrect and overtly misleading. When making this claim, Qwest relies on the FCC's October 1997 *Memorandum Opinion and Order*,[33] in which the FCC found that the rates for certain features offered by Bell Atlantic were reasonable at 3.4 to 4.8 times cost. Qwest completely fails to mention, however, that the FCC stated clearly at paragraph 13 that the basis for its conclusion that those overhead loadings did not "produce unreasonable rates" was that "*these services are provided either at very low rates or at no charge*," and noted in a footnote that "the revised rates range from no charge for two of the services to a monthly rate of $.015 for two other proposed services." Qwest also fails to mention the concluding sentence in the paragraph that it cites: "We do not find that our determination here concerning overhead

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[33] *Memorandum Opinion and Order*, Local Exchange Carrier's Payphone Functions and Features, 12 FCC Rcd 17996, 18002 paragraph 13 (1997).

loadings for Bell Atlantic's provision of payphone features and functions will necessarily be determinative in evaluating overhead loadings for other services."

The FCC was quite clear that the language relied on by Qwest applies only to the rates for features with a direct cost that is extremely low or zero, and was equally clear that the overhead loading approved for these features would not necessarily be found reasonable for any other rates. Since this 1997 Order was issued, the FCC has made it clear in the *Wisconsin Order* that ILECs must provide a demonstration of both direct and overhead costs, and in no way has suggested that an overhead loading of 3.4 to 4.8 times cost would be considered presumptively reasonable.

Q. HAS QWEST DEMONSTRATED THAT THE PROPOSED PAL RATES ARE CONSISTENT WITH THE REQUIREMENTS AND OBJECTIVES OF § 276 OF THE ACT?

A. No. Qwest has made no effort to demonstrate (or even to assert) that its existing or proposed rates for PAL services will permit the stated objectives of section 276 – increased competition and widespread deployment of payphones -- to be met. In fact, it is almost a certainty that the opposite is true: PAL rates that are not cost based, are discriminatory, and which do not comply with the new services test are inconsistent with these objectives.

Q. HOW SHOULD THE COMMISSION DEAL WITH THE LACK OF SHARED AND COMMON (OVERHEAD) COST DATA IN QWEST'S FILING?

A. As described above, Qwest has the burden of showing that its existing rates for payphone access services meet each part of the FCC's four part test, including the requirements that the rates be cost based and compliant with the new services test. Qwest has opted, for whatever reason, to provide offer no demonstration of reasonable direct costs for certain PAL rate elements, and no cost data whatsoever regarding what it considers to be a reasonable level of overhead (shared and common) costs to be included in these rates.

When applying the FCC standard, I believe that the Commission should take Qwest's cost information at face value and establish rates that include the total of the direct, shared, and common costs demonstrated by Qwest to be reasonable. With no direct costs in the record for certain rate elements, and with no shared and common (overhead) costs in the record, the rates should be no higher than the level of direct cost demonstrated by Qwest to be reasonable. If such an approach is applied, the rate for selective class of call screening (CustomNet) would be $0.00/month, and the rates for other PAL rate elements would be equal to their TSLRIC.

Q. IS THERE ANY ALTERNATIVE METHODOLOGY AVAILABLE TO THE COMMISSION FOR ESTABLISHING PAL RATES IN THIS PROCEEDING?

A. Yes. The Commission may take the direct cost for the PAL rate elements provided by Qwest and apply an overhead loading equal to the amount last demonstrated. Such a demonstration last occurred when cost-based rates for UNEs were established. For those rate elements for which Qwest has provided no direct cost, the Commission should...

Q. HAVE OTHER STATE REGULATORS UTILIZED THIS ALTERNATIVE APPROACH?

A. Yes. In the absence of the necessary cost information from Bell Atlantic, the West Virginia PSC followed this course of action. Specifically, the West Virginia PSC relied on its recent investigation of Bell Atlantic's joint and common costs in order to establish a reasonable overhead loading for payphone services: "[t]here simply was insufficient evidence presented by BA-WV to justify such large overhead allocations. As Staff pointed out, the SGAT order(s) relied upon in calculating rates for payphone lines included a reasonable allocation for overhead. . In fact, the Commission's orders in those proceedings established a 10.2% overhead factor to be used in establishing rates for interconnection and unbundled network elements. . .In this proceeding, BA-WV seeks an overhead contribution for payphone access lines -- not features -- ranging from 23% to

92% over and above the Commission-authorized 10.2% allocation Nowhere does BA-WV attempt to justify these overhead ranges."[34]

By electing to provide no demonstration whatsoever of the magnitude of its shared and common costs, Qwest has placed the Commission is a comparable position in this proceeding. Absent even an attempt to justify a given level of overhead loading by Qwest, the Commission must – if it decides to permit Qwest to recover an reasonable amount of overhead costs in its rates for payphone access services -- utilize the best information available to reach a decision.

Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?

A. With regard to direct costs, I recommend that the Commission utilize the cost data presented in Exhibit US West / 223 with one exception. Qwest has not included a direct cost for selective class of call screening (a/k/a CustomNet) in Exhibit US West / 223, and refused to provide this cost to NWPA when asked for in data requests. The Commission should either consider the demonstrated cost for this PAL feature to be $0, or it should require Qwest to provide the direct cost so that a rate can be developed.

With regard to overhead costs, two options are available to the Commission. First, the Commission can take Qwest at its word, and grant them the level of overhead costs for PAL services that they have demonstrated to be reasonable in this proceeding. This amount is $0, since Qwest has refused to even offer such a demonstration for NWPA's review. Using this approach, PAL rates would be set equal to direct costs (TSLRIC). The second option is to permit Qwest to include the level of overhead costs that it most recently demonstrated to the Commission to be reasonable. This would be the level demonstrated and adopted for UNEs (what the FCC described as the presumptive comparable service in the *Wisconsin Order*). Using this approach, PAL

[34] *West Virginia Order*, page 15.

rates would be set equal to the "Imputed Price Floor" values for each from of PAL service as presented in Exhibit US West / 223.

Whichever approach the Commission elects to utilize, it is essential that the PAL rates developed be adjusted to reflect applicable federal charges (SLC/CALC and PICC). This adjustment is necessary to avoid a double-recovery of certain non traffic sensitive network costs. The appropriate rate can be developed by subtracting the amount of the SLC/CALC from the cost adopted from Exhibit US West / 223, or a rate can be established for PAL services that is inclusive of these federal charges (the intrastate PAL rate would be paid to Qwest, but it would not assess a SLC/CALC or PICC for those lines).

Q. THE DIRECT COSTS PRESENTED IN EXHIBIT US WEST / 223 ARE GEOGRAPHICALLY DEAVERAGED BY RATE GROUP. IS SUCH A RATE STRUCTURE NECESSARY FOR THE RATES TO COMPLY WITH THE FCC *PAYPHONE ORDERS*?

A. No. When evaluating any existing or proposed PAL rates for compliance with the stated objectives of the Act and the FCC'S four part test, the Commission should consider both the rates (and rate structure) and the application of the universal service fund ("USF"). Without the application of the USF to PAL lines, it is clear that a deaveraged rate structure – with high rates for the least dense areas of the state – are at odds with the objectives of section 276 of the Act. The widespread deployment of payphones will be threatened in those geographic areas where it may be needed the most. With the application of the USF to these lines, a deaveraged rate structure can be adopted without threatening widespread deployment.

Other state regulators have specifically addressed this issue when evaluating PAL rates pursuant to the Act and *Payphone Orders*. Most recently, the Tennessee Regulatory Authority observed that

> It is important to note that the current payphone rates contained in the LECs' tariffs are deaveraged; that is, the rates vary according to rate group or local exchange. In certain circumstances, such as the setting of UNE rates, the goal of promoting efficient competition supports the establishment of deaveraged rates. Such may not be the case, however, with payphone rates. The intent of § 276 of the Act is to 'promote competition among payphone service providers and promote the widespread deployment of payphone services...' [T]he goal of widespread deployment of payphone services, as alluded to by the Consumer Advocate's oral arguments, may best be served by average rates. It could be argued that average rates would better ensure the placement of payphones in high-cost regions.

In each of the proceeding in which I have participated, the state regulators either explicitly stated that PAL lines would be subject to USF application, or determined that a statewide average rate would best serve the public interest.

Q. PURCHASERS OF QWEST PAL LINES ARE CURRENTLY REQUIRED TO PAY AN ADDITIONAL RATE FOR EXTENDED AREA SERVICE. IS THIS ADDITIVE APPROPRIATE?

A. Any additive for extended areas service ("EAS") should be included only to the extent that it is necessary to permit Qwest to recover the cost (direct plus overhead) that is has demonstrated to exist for the functionality associated with this rate. The costs associated with EAS are the switching and transport costs associated with the traffic to the expanded portion of the local calling area.

It is my understanding that the existing EAS rates represent a revenue recovery mechanism for the EAS traffic that otherwise would have been intraLATA toll traffic. If this is the case, then the existing EAS rates exceed the level that would be permitted by the FCC *Payphone Orders*. Before permitting Qwest to charge an EAS additive to PAL lines going forward, the Commission should require Qwest to demonstrate a reasonable level of costs for this traffic, and establish a compliant rate accordingly.

Q. WHAT PAL RATES ARE YOU ASKING THE COMMISSION TO ADOPT IN THIS PROCEEDING?

A. I have developed proposed rates for PAL services using each of the alternative approaches described previously in my testimony. The results of this process are presented in Exhibits DJW-2 and DJW-3. Exhibit DJW-2 includes NWPA's proposed rates on a statewide average basis. Exhibit DJW-3 includes NWPA's alternative proposal, with rates segregated by rate group.

Q. THE RATES THAT YOU ARE PROPOSING ARE LOWER THAN THE EXISTING TARIFFED RATES. SHOULD THIS BE A CONCERN TO THE COMMISSION?

A. No. Comparing the existing rates for payphone access services with these new rates is purely an apples to oranges comparison. Since these rates were initially established, the *Payphone Orders* implementing Section 276 of the Act created a specific --and fundamentally different -- pricing standard to be applied. Because of this change in the regulatory paradigm, it is reasonable to expect the new rates for payphone access services to be both significantly different and lower than the existing rates.

Factors other than cost have been considered when establishing the existing PAL rates. The FCC has now concluded, in response to its Congressional mandate, that a different standard should now be applied:

> [O]ur ultimate goal in this proceeding is to ensure the wide deployment of payphones through the development of a competitive, deregulatory payphone industry. To achieve this goal, we found that it would be necessary to eliminate certain vestiges of a long-standing approach to payphones. To this end, the *Report and Order* directs the removal of subsidies to payphones, provides for nondiscriminatory access to bottleneck facilities, ensures compensation for all calls from payphones, and allows all competitors an equal opportunity to compete for essential aspects of the payphone business.[35]

The FCC has been clear that this new standard must be applied when evaluating rates for payphone access services. In CC Docket 97-140, the Common Carrier Bureau

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[35] *Payphone Reconsideration Order*, at ¶ 139.

of the FCC evaluated rates proposed by Bell Atlantic and found that the proposed overhead loadings had not been adequately justified. In addition to the lack of necessary justification, the FCC noted that "the Bureau found that Bell Atlantic had set rates based on considerations not relevant under the new services test, such as the current prices for these services in their intrastate tariffs."[36] The existing PAL rates in Oregon likewise have no bearing on the level of rates that comply with the Act and FCC's *Payphone Orders*.

Q. MR. TEITZEL AND QWEST ARE NOW ARGUING THAT PAL RATES SHOULD BE SET IN A MANNER THAT IS EQUAL TO OR "CONSISTENT WITH" BUSINESS LINE RATES. WHAT IS YOUR RESPONSE TO THIS ARGUMENT?

A. Given a set pricing of requirements for PAL services that will certainly result in PAL rates that are lower than the existing business line rates, Qwest is now making an argument (albeit an unexplained one) that some *a priori* reason exists for PAL rates to bear a direct relationship to business line rates. It is interesting to note that Qwest has developed this belief only recently, and apparently did not have such a conviction during the extended period of time in which PAL rates significantly exceeded business line rates in Oregon.

Section 3: Summary of testimony and recommendations.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Section 276 of the Act and the FCC's *Payphone Orders* set forth specific requirements for payphone access services that are tariffed at the intrastate level. The *Payphone Orders* specifically require that all such rates be (1) cost based, (2) nondiscriminatory, (3) consistent with the requirements of the FCC's new services test, and (4) consistent with the requirements set forth in section 276. The FCC has been both clear and

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[36] *Payphone Features Order*, at ¶ 6.

consistent in its statements that ILECs must provide the cost information necessary to *demonstrate* that any proposed rates are compliant with this four part test. Specifically, ILECs such as Qwest must demonstrate that proposed rates for PAL services are based on a reasonable calculation of both direct (TSLRIC) and overhead (shared plus common) costs.

The testimony of Qwest witness Teitzel addresses none of these requirements. In responses to NWPA data requests, Qwest has incorrectly argued that the requirements set forth in the FCC's *Payphone Orders* do not apply. While Qwest has presented limited cost data (direct costs only, and only for certain rate elements), it has failed to make the required demonstration.

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS TO THE COMMISSION.

A. It is my recommendation that the Commission utilize the direct cost data set forth in Exhibit US West / 223 as a starting point for the development of compliant rates for the various PAL services. Since Qwest has offered no cost data whatsoever regarding a reasonable level of overhead costs to be included in these rates, the Commission should either (1) accept the level of overhead costs presented in this proceeding ($0), and set rates equal to direct costs, or (2) include overhead costs at the level last demonstrated by Qwest to be reasonable for establishing cost based rates (the FCC has indicated its position that UNEs represent comparable services for purposes of this analysis). Whichever method is chosen, the final cost should be adjusted to reflect other rates designed to recover the same costs in order to avoid a double-recovery (the FCC has also stated that such an adjustment is necessary and appropriate). Proposed rates developed in a manner consistent with these recommendations are presented in Exhibits DJW-2 and DJW-3.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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CURRENT EMPLOYMENT

Don J. Wood is a principal in the firm of Wood & Wood. He provides economic and regulatory analysis services in telecommunications and related convergence industries, specializing in economic policy related to the development of competitive markets and cost of service issues. In addition, Mr. Wood advises industry associations on regulatory and economic policy, and assists investors in their evaluation of investment opportunities in the telecommunications industry. The scope of his work has included both landline and wireless voice communications, data services, and emerging technologies.

As a consultant, Mr. Wood has assisted his clients in responding to the challenges and business opportunities of the industry both before and subsequent to the Telecommunications Act of 1996. Prior to his work as a consultant, Mr. Wood was employed in a management capacity at a major Local Exchange Company and an Interexchange Carrier. In each capacity he has been directly involved in both the development and implementation of regulatory policy and business strategy.

As a part of his regulatory practice, Mr. Wood has presented testimony before the administrative regulatory bodies of thirty states, the District of Columbia, and Puerto Rico, and has prepared comments for filing with the Federal Communications Commission. The subject matter of his testimony has ranged from broad policy issues to detailed cost analysis.

Mr. Wood has also presented testimony in state, federal, and overseas courts regarding business plans and strategies, competition policy, and cost of service issues, and has presented studies of the damages incurred by plaintiffs in a number of these proceedings. Mr. Wood has also testified in American Arbitration Association alternative dispute resolution proceedings.

PREVIOUS INDUSTRY EMPLOYMENT

Klick, Kent & Allen/FTI Consulting, Inc.
Regional Director.

GDS Associates, Inc.
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MCI Telecommunications Corporation
Manager of Regulatory Analysis, Southeast Division.
Manager, Corporate Economic Analysis and Regulatory Affairs.

BellSouth Services, Inc.
Staff Manager.

EDUCATION

Emory University, Atlanta, Ga.
BBA in Finance, with Distinction.

College of William and Mary, Williamsburg, Va.
MBA, with concentrations in Finance and Microeconomics.

TESTIMONY - STATE REGULATORY COMMISSIONS:

Alabama Public Service Commission

Docket No. 19356, Phase III: Alabama Public Service Commission vs. All Telephone Companies Operating in Alabama, and Docket 21455: AT&T Communications of the South Central States, Inc., Applicant, Application for a Certificate of Public Convenience and Necessity to Provide Limited IntraLATA Telecommunications Service in the State of Alabama.

Docket No. 20895: In Re: Petition for Approval to Introduce Business Line Termination for MCI's 800 Service.

Docket No. 21071: In Re: Petition by South Central Bell for Introduction of Bidirectional Measured Service.

Docket No. 21067: In Re: Petition by South Central Bell to Offer Dial Back-Up Service and 2400 BPS Central Office Data Set for Use with PulseLink Public Packet Switching Network Service.

Docket No. 21378: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. 21865: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Introduce Network Services to be Offered as a Part of Open Network Architecture.

Docket No. 25703: In Re: In the Matter of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 25704: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated and CONTEL of the South, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996.

Docket No. 25835: In Re: Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to §252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a §271 Petition for In-Region InterLATA Authority with the Federal Communications Commission Pursuant to the Telecommunications Act of 1996.

Docket No. 26029: In Re: Generic Proceeding - Consideration of TELRIC Studies.

Docket No. 25980: Implementation of the Universal Support Requirements of Section 254 of the Telecommunications Act of 1996.

Docket No. 27091: Petition for Arbitration by ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Arkansas Public Service Commission

Docket No. 92-337-R: In the Matter of the Application for a Rule Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Public Utilities Commission of the State of California

Rulemaking 00-02-005: Order Instituting Rulemaking on the Commission's Own Motion into Reciprocal Compensation for Telephone Traffic Transmitted to Internet Service Provider Modems.

Public Utilities Commission of the State of Colorado

Docket No. 96A-345T: In the Matter of the Interconnection Contract Negotiations Between AT&T Communications of the Mountain States, Inc., and US West Communications, Inc., Pursuant to 47 U.S.C. Section 252. Docket No. 96A-366T: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with US West Communications, Inc. (consolidated).

Docket No. 96S-257T: In Re: The Investigation and Suspension of Tariff Sheets Filed by US West Communications, Inc., with Advice Letter No. 2608 Regarding Proposed Rate Changes.

Docket No. 98F-146T: Colorado Payphone Association, Complainant, v. US West Communications, Inc., Respondent.

State of Connecticut, Department of Utility Control

Docket 91-12-19: DPUC Review of Intrastate Telecommunications Services Open to Competition (Comments).

Docket No. 94-07-02: Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the Eight Criteria Set Forth in Section 6 of Public Act 94-83 (Comments).

Delaware Public Service Commission

Docket No. 93-31T: In the Matter of the Application of The Diamond State Telephone Company for Establishment of Rules and Rates for the Provision of IntelliLinQ-PRI and IntelliLinQ-BRI.

Docket No. 41: In the Matter of the Development of Regulations for the Implementation of the Telecommunications Technology Investment Act.

Florida Public Service Commission

Docket No. 881257-TL: In Re: Proposed Tariff by Southern Bell to Introduce New Features for Digital ESSX Service, and to Provide Structural Changes for both ESSX Service and Digital ESSX Service.

Docket No. 880812-TP: In Re: Investigation into Equal Access Exchange Areas (EAEAs), Toll Monopoly Areas (TMAs), 1+ Restriction to the Local Exchange Companies (LECs), and Elimination of the Access Discount.

Docket No. 890183-TL: In Re: Generic Investigation into the Operations of Alternate Access Vendors.

Docket No. 870347-TI: In Re: Petition of AT&T Communications of the Southern States for Commission Forbearance from Earnings Regulation and Waiver of Rule 25-4.495(1) and 25-24.480 (1) (b), F.A.C., for a trial period.

Docket No. 900708-TL: In Re: Investigation of Methodology to Account for Access Charges in Local Exchange Company (LEC) Toll Pricing.

Docket No. 900633-TL: In Re: Development of Local Exchange Company Cost of Service Study Methodology.

Docket No. 910757-TP: In Re: Investigation into the Regulatory Safeguards Required to Prevent Cross-Subsidization by Telephone Companies.

Docket No. 920260-TL: In Re: Petition of Southern Bell Telephone and Telegraph Company for Rate Stabilization, Implementation Orders, and Other Relief.

Docket No. 950985-TP: In Re: Resolution of Petitions to establish 1995 rates, terms, and conditions for interconnection involving local exchange companies and alternative local exchange companies pursuant to Section 364.162, Florida Statutes.

Docket No. 960846-TP: In Re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for Arbitration of Certain Terms and Conditions of a proposed agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 and Docket No. 960833-TP: In Re: Petition by AT&T Communications of the Southern States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 960847-TP and 960980-TP: In Re: Petition by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation, MCI Metro Access Transmission Service, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 961230-TP: In Re: Petition by MCI Telecommunications Corporation for Arbitration with United Telephone Company of Florida and Central Telephone Company of Florida Concerning Interconnection Rates, Terms, and Conditions, Pursuant to the Federal Telecommunications Act of 1996.

Docket No. 960786-TL: In Re: Consideration of BellSouth Telecommunications, Inc.'s Entry Into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996.

Docket Nos. 960833-TP, 960846-TP, 960757-TP, and 971140-TP: Investigation to develop permanent rates for certain unbundled network elements.

Docket No. 980696-TP: In Re: Determination of the cost of basic local telecommunications service, pursuant to Section 364.025 Florida Statutes.

Docket No. 990750-TP: Petition by ITC^DeltaCom Communications, Inc., d/b/a/ ITC^DeltaCom, for arbitration of certain unresolved issues in interconnection negotiations between ITC^DeltaCom and BellSouth Telecommunications, Inc.

Docket No. 991605-TP: Petition of BellSouth Telecommunications, Inc. for Arbitration of the Interconnection Agreement Between Time Warner Telecom of Florida, L.P., pursuant to Section 252 (b) of the Telecommunications Act of 1996.

Georgia Public Service Commission

Docket No. 3882-U: In Re: Investigation into Incentive Telephone Regulation in Georgia.

Docket No. 3883-U: In Re: Investigation into the Level and Structure of Intrastate Access Charges.

Docket No. 3921-U: In Re: Compliance and Implementation of Senate Bill 524.

Docket No. 3905-U: In Re: Southern Bell Rule Nisi.

Docket No. 3995-U: In Re: IntraLATA Toll Competition.

Docket No. 4018-U: In Re: Review of Open Network Architecture (ONA) (Comments).

Docket No. 5258-U: In Re: Petition of BellSouth Telecommunications for Consideration and Approval of its "Georgians FIRST" (Price Caps) Proposal.

Docket No. 5825-U: In Re: The Creation of a Universal Access Fund as Required by the Telecommunications Competition and Development Act of 1995.

Docket No. 6801-U: In Re: Interconnection Negotiations Between BellSouth Telecommunications, Inc. and AT&T Communications of the Southern States, Inc., Pursuant to Sections 251-252 and 271 of the Telecommunications Act of 1996.

Docket No. 6865-U: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Docket No. 7253-U: In Re: BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252 (f) of the Telecommunications Act of 1996.

Docket No. 7061-U: In Re: Review of Cost Studies and Methodologies for Interconnection and Unbundling of BellSouth Telecommunications Services.

Docket No. 10692-U: In Re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements.

Docket No. 10854-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Public Utilities Commission of Hawaii

Docket No. 7702: In the Matter of Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii.

Iowa Utilities Board

Docket No. RPU-95-10.

Docket No. RPU-95-11.

State Corporation Commission of the State of Kansas

Docket No. 00-GIMT-1054-GIT: In the Matter of a General Investigation to Determine Whether Reciprocal Compensation Should Be Paid for Traffic to an Internet Service Provider.

Kentucky Public Service Commission

Administrative Case No. 10321: In the Matter of the Tariff Filing of South Central Bell Telephone Company to Establish and Offer Pulselink Service.

Administrative Case No. 323: In the Matter of An Inquiry into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

- Phase IA: Determination of whether intraLATA toll competition is in the public interest.
- Phase IB: Determination of a method of implementing intraLATA competition.
- Rehearing on issue of Imputation.

Administrative Case No. 90-256, Phase II: In the Matter of A Review of the Rates and Charges and Incentive Regulation Plan of South Central Bell Telephone Company.

Administrative Case No. 336: In the Matter of an Investigation into the Elimination of Switched Access Service Discounts and Adoption of Time of Day Switch Access Service Rates.

Administrative Case No. 91-250: In the Matter of South Central Bell Telephone Company's Proposed Area Calling Service Tariff.

Administrative Case No. 96-431: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-478: In Re: The Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-482: In Re: The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Administrative Case No. 360: In the Matter of: An Inquiry Into Universal Service and Funding Issues.

Administrative Case No. 96-608: In the Matter of: Investigation Concerning the Provision of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Louisiana Public Service Commission

Docket No. 17970: In Re: Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of AT&T Communications of the South Central States, Inc., in its Louisiana Operations.

Docket No. U-17949: In the Matter of an Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company, Its Louisiana Intrastate Operations, The Appropriate Level of Access Charges, and All Matters Relevant to the Rates and Service Rendered by the Company.

- Subdocket A (SCB Earnings Phase)

- Subdocket B (Generic Competition Phase)

Docket No. 18913-U: In Re: South Central Bell's Request for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. U-18851: In Re: Petition for Elimination of Disparity in Access Tariff Rates.

Docket No. U-22022: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s TSLRIC and LRIC Cost Studies Submitted Pursuant to Sections 901(C) and 1001(E) of the Regulations for Competition in the Local Telecommunications Market as Adopted by General Order Dated March 15, 1996 in Order to Determine the Cost of Interconnection Services and Unbundled Network Components to Establish Reasonable, Non-Discriminatory, Cost Based Tariffed Rates and Docket No. U-22093: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s Tariff Filing of April 1, 1996, Filed Pursuant to Section 901 and 1001 of the Regulations for Competition in the Local Telecommunications Market Which Tariff Introduces Interconnection and Unbundled Services and Establishes the Rates, Terms and Conditions for Such Service Offerings (consolidated).

Docket No. U-22145: In the Matter of Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. U-22252: In Re: Consideration and Review of BST's Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, including but not limited to the fourteen requirements set forth in Section 271 (c) (2) (b) in order to verify compliance with section 271 and provide a recommendation to the FCC regarding BST's application to provide interLATA services originating in-region.

Docket No. U-20883 Subdocket A: In Re: Submission of the Louisiana Public Service Commission's Forward Looking Cost Study to the FCC for Purposes of Calculating Federal Universal Service Support.

Docket No. U-24206: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Public Service Commission of Maryland

Case 8584, Phase II: In the Matter of the Application of MFS Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Intrastate Telecommunications Services in Areas Served by C&P Telephone Company of Maryland.

Case 8715: In the Matter of the Inquiry into Alternative Forms of Regulating Telephone Companies.

Case 8731: In the Matter of the Petitions for Approval of Agreements and Arbitration of Unresolved Issues Arising Under Section 252 of the Telecommunications Act of 1996.

Massachusetts Department of Telecommunications and Energy

D.P.U./D.T.E. 97088/97-18 (Phase II): Investigation by the Department of Telecommunications & Energy on its own motion regarding (1) implementation of section 276 of the Telecommunications Act of 1996 relative to public interest payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Compnay d/b/a NYNEX's Public Access Smart-Pay Service, and (4) the rate policy for operator service providers.

Mississippi Public Service Commission

Docket No. U-5086: In Re: MCI Telecommunications Corporation's Metered Use Service Option D (Prism I) and Option E (Prism II).

Docket No. U-5112: In Re: MCI Telecommunications Corporation's Metered Use Option H (800 Service).

Docket No. U-5318: In Re: Petition of MCI for Approval of MCI's Provision of Service to a Specific Commercial Banking Customers for Intrastate Interexchange Telecommunications Service.

Docket 89-UN-5453: In Re: Notice and Application of South Central Bell Telephone Company for Adoption and Implementation of a Rate Stabilization Plan for its Mississippi Operations.

Docket No. 90-UA-0280: In Re: Order of the Mississippi Public Service Commission Initiating Hearings Concerning (1) IntraLATA Competition in the Telecommunications Industry and (2) Payment of Compensation by Interexchange Carriers and Resellers to Local Exchange Companies in Addition to Access Charges.

Docket No. 92-UA-0227: In Re: Order Implementing IntraLATA Competition.

Docket No. 96-AD-0559: In Re: In the Matter of the Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 98-AD-035: Universal Service.

Docket No. 97-AD-544: In Re: Generic Proceeding to Establish Permanent Prices for BellSouth Interconnection and Unbundled Network Elements.

Public Service Commission of the State of Montana

Docket No. D2000.8.124: In the Matter of Touch America, Inc.'s Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 of the Terms and Conditions of Interconnection with Qwest Corporation, f/k/a US West Communications, Inc.

Docket No. D2000.6.89: In the Matter of Qwest Corporation's Application to Establish Rates for Interconnection, Unbundled Network Elements, Transport and Termination, and Resale Services.

Nebraska Public Service Commission

Docket No. C-1385: In the Matter of a Petition for Arbitration of an Interconnection Agreement Between

AT&T Communications of the Midwest, Inc., and US West Communications, Inc.

New York Public Service Commission

Case No. 28425: Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgement and the Federal Communications Commission's Docket 78-72 on the Provision of Toll Service in New York State.

North Carolina Public Utilities Commission

Docket No. P-100, Sub 72: In the Matter of the Petition of AT&T to Amend Commission Rules Governing Regulation of Interexchange Carriers (Comments).

Docket No. P-141, Sub 19: In the Matter of the Application of MCI Telecommunications Corporation to Provide InterLATA Facilities-Based Telecommunications Services (Comments).

Docket No. P-55, Sub 1013: In the Matter of Application of BellSouth Telecommunications, Inc. for, and Election of, Price Regulation.

Docket Nos. P-7, Sub 825 and P-10, Sub 479: In the Matter of Petition of Carolina Telephone and Telegraph and Central Telephone Company for Approval of a Price Regulation Plan Pursuant to G.S. 62-133.5.

Docket No. P-19, Sub 277: In the Matter of Application of GTE South Incorporated for and Election of, Price Regulation.

Docket No. P-141, Sub 29: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with BellSouth Telecommunications, Inc. (consolidated).

Docket No. P-141, Sub 30: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc. (consolidated).

Docket No. P-100, Sub 133b: Re: In the Matter of Establishment of Universal Support Mechanisms Pursuant to Section 254 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133d: Re: Proceeding to Determine Permanent Pricing for Unbundled Network Elements.

Docket No. P-100, Sub 84b: Re: In the Matter of Petition of North Carolina Payphone Association for Review of Local Exchange Company Tariffs for Basic Payphone Services (Comments).

Docket No. P-561, Sub 10: BellSouth Telecommunications, Inc., Complainant, v. US LEC of North Carolina, LLC, and Metacomm, LLC, Respondents.

Docket No. P-472, Sub 15: In the Matter of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Time Warner Telecom of North Carolina, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996.

Public Utilities Commission of Ohio

Case No. 93-487-TP-ALT: In the Matter of the Application of The Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation.

Oklahoma Corporation Commission

Cause No. PUD 01448: In the Matter of the Application for an Order Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Public Utility Commission of Oregon

Docket No. UT 119: In the Matter of an Investigation into Tariffs Filed by US West Communications, Inc., United Telephone of the Northwest, Pacific Telecom, Inc., and GTE Northwest, Inc. in Accordance with ORS 759.185(4).

Docket No. ARB 3: In the Matter of the Petition of AT&T Communications of the Pacific Northwest, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996. Docket No. ARB 6: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 (consolidated).

Docket No. ARB 9: In the Matter of the Petition of an Interconnection Agreement Between MCIMetro Access Transportation Services, Inc. and GTE Northwest Incorporated, Pursuant to 47 U.S.C. Section 252

Pennsylvania Public Utilities Commission

Docket No. I-00910010: In Re: Generic Investigation into the Current Provision of InterLATA Toll Service.

Docket No. P-00930715: In Re: The Bell Telephone Company of Pennsylvania's Petition and Plan for Alternative Form of Regulation under Chapter 30.

Docket No. R-00943008: In Re: Pennsylvania Public Utility Commission v. Bell Atlantic-Pennsylvania, Inc. (Investigation of Proposed Promotional Offerings Tariff).

Docket No. M-00940587: In Re: Investigation pursuant to Section 3005 of the Public Utility Code, 66 Pa. C. S. §3005, and the Commission's Opinion and Order at Docket No. P-930715, to establish standards and safeguards for competitive services, with particular emphasis in the areas of cost allocations, cost studies, unbundling, and imputation, and to consider generic issues for future rulemaking.

South Carolina Public Service Commission

Docket No. 90-626-C: In Re: Generic Proceeding to Consider Intrastate Incentive Regulation.

Docket No. 90-321-C: In Re: Petition of Southern Bell Telephone and Telegraph Company for Revisions to its Access Service Tariff Nos. E2 and E16.

Docket No. 88-472-C: In Re: Petition of AT&T of the Southern States, Inc., Requesting the Commission to Initiate an Investigation Concerning the Level and Structure of Intrastate Carrier Common Line (CCL) Access Charges.

Docket No. 92-163-C: In Re: Position of Certain Participating South Carolina Local Exchange Companies for Approval of an Expanded Area Calling (EAC) Plan.

Docket No. 92-182-C: In Re: Application of MCI Telecommunications Corporation, AT&T Communications of the Southern States, Inc., and Sprint Communications Company, L.P., to Provide IntraLATA Telecommunications Services.

Docket No. 95-720-C: In Re: Application of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company for Approval of an Alternative Regulation Plan.

Docket No. 96-358-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 96-375-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and GTE South Incorporated Pursuant to 47 U.S.C. § 252.

Docket No. 97-101-C: In Re: Entry of BellSouth Telecommunications, Inc. into the InterLATA Toll Market.

Docket No. 97-374-C: In Re: Proceeding to Review BellSouth Telecommunications, Inc. Cost for Unbundled Network Elements.

Docket No. 97-239-C: Intrastate Universal Service Fund.

Docket No. 97-124-C: BellSouth Telecommunications, Inc. Revisions to its General Subscriber Services Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.

Docket No. 1999-268-C: Petition of Myrtle Beach Telephone, LLC, for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Horry Telephone Cooperative, Inc.

Docket No. 1999-259-C: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Tennessee Public Service Commission

Docket No. 90-05953: In Re: Earnings Investigation of South Central Bell Telephone Company.

Docket Nos. 89-11065, 89-11735, 89-12677: AT&T Communications of the South Central States, MCI Telecommunications Corporation, US Sprint Communications Company -- Application for Limited IntraLATA Telecommunications Certificate of Public Convenience and Necessity.

Docket No. 91-07501: South Central Bell Telephone Company's Application to Reflect Changes in its Switched Access Service Tariff to Limit Use of the 700 Access Code.

Tennessee Regulatory Authority

Docket No. 96-01152: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration under the Telecommunications Act of 1996 and Docket No. 96-01271: In Re: Petition by MCI Telecommunications Corporation for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 96-01262: In Re: Interconnection Agreement Negotiations Between AT&T of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. § 252.

Docket No. 97-01262: Proceeding to Establish Permanent Prices for Interconnection and Unbundled Network Elements.

Docket No. 97-00888: Universal Service Generic Contested Case.

Docket No. 99-00430: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.

Public Utility Commission of Texas

Docket No. 12879: Application of Southwestern Bell Telephone Company for Expanded Interconnection for Special Access Services and Switched Transport Services and Unbundling of Special Access DS1 and DS3 Services Pursuant to P. U. C. Subst. R. 23.26.

Docket No. 18082: Complaint of Time Warner Communications against Southwestern Bell Telephone Company.

Docket No. 21982: Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996.

Virginia State Corporation Commission

Case No. PUC920043: Application of Virginia Metrotel, Inc. for a Certificate of Public Convenience and Necessity to Provide InterLATA Interexchange Telecommunications Services.

Case No. PUC920029: Ex Parte: In the Matter of Evaluating the Experimental Plan for Alternative Regulation of Virginia Telephone Companies.

Case No. PUC930035: Application of Contel of Virginia, Inc. d/b/a GTE Virginia to implement community calling plans in various GTE Virginia exchanges within the Richmond and Lynchburg LATAs.

Case No. PUC930036: Ex Parte: In the Matter of Investigating Telephone Regulatory Methods Pursuant to Virginia Code § 56-235.5, & Etc.

Washington Utilities and Transportation Commission

Docket Nos. UT-941464, UT-941465, UT-950146, and UT-950265 (Consolidated): Washington Utilities and Transportation Commission, Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle and Digital Direct of Seattle, Inc., Complainant, vs. US West Communications, Inc., Respondent;

TCG Seattle, Complainant, vs. GTE Northwest Inc., Respondent; Electric Lightwave, Inc., vs. GTE Northwest, Inc., Respondent.

Docket No. UT-950200: In the Matter of the Request of US West Communications, Inc. for an Increase in its Rates and Charges.

Docket No. UT-000883: In the Matter of the Petition of U S West Communications, Inc. for Competitive Classification.

Public Service Commission of Wyoming

Docket No. 70000-TR-95-238: In the Matter of the General Rate/Price Case Application of US West Communications, Inc. (Phase I).

Docket No. PSC-96-32: In the Matter of Proposed Rule Regarding Total Service Long Run Incremental Cost (TSLRIC) Studies.

Docket No. 70000-TR-98-420: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase III).

Docket No. 70000-TR-99-480: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase IV).

Docket No. 70000-TR-00-556: In the Matter of the Filing by US West Communications, Inc. for Authority to File its TSLRIC 2000 Annual Input Filing and Docket No. 70000-TR-00-570: In the Matter of the Application of US West Communications, Inc. for Authority to File its 2000 Annual TSLRIC Study Filing.

Public Service Commission of the District of Columbia

Formal Case No. 814, Phase IV: In the Matter of the Investigation into the Impact of the AT&T Divestiture and Decisions of the Federal Communications Commission on Bell Atlantic - Washington, D. C. Inc.'s Jurisdictional Rates.

Puerto Rico Telecommunications Regulatory Board

Case No. 98-Q-0001: In Re: Payphone Tariffs.

COMMENTS/DECLARATIONS - FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-91: In the Matter of Open Network Architecture Tariffs of Bell Operating Companies.

CC Docket No. 93-162: Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access.

CC Docket No. 91-141: Common Carrier Bureau Inquiry into Local Exchange Company Term and Volume Discount Plans for Special Access.

CC Docket No. 94-97: Review of Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 94-128: Open Network Architecture Tariffs of US West Communications, Inc.

CC Docket No. 94-97, Phase II: Investigation of Cost Issues, Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 96-98: In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996

CC Docket No. 97-231: Application by BellSouth to Provide In-Region InterLATA Services

CC Docket No. 98-121: Application by BellSouth to Provide In-Region InterLATA Services

CCB/CPD No. 99-27: In the Matter of Petition of North Carolina Payphone Association for Expedited Review of, and/or Declaratory Ruling Concerning, Local Exchange Company Tariffs for Basic Payphone Services.

CC Docket No. 96-128: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CCB/CPD No. 99-31: Oklahoma Independent Telephone Companies Petition for Declaratory Ruling (consolidated).

CCB/CPD No. 00-1: In the Matter of the Wisconsin Public Service Commission Order Directing Filings.

CC Docket No. 99-68: In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic

REPRESENTATIVE TESTIMONY – STATE, FEDERAL, AND OVERSEAS COURTS

Court of Common Pleas, Philadelphia County, Pennsylvania

Shared Communications Services of 1800-80 JFK Boulevard, Inc., Plaintiff, v. Bell Atlantic Properties, Inc., Defendant.

United States District Court for the District of South Carolina, Columbia Division

Brian Wesley Jeffcoat, on behalf of himself and others similarly situated, Plaintiffs, v. Time Warner Entertainment - Advance/Newhouse Partnership, Defendant.

High Court of the Hong Kong Special Administrative Region, Court of First Instance

Commercial List No. 229 of 1999: Cable and Wireless HKT International Limited, Plaintiff v. New World Telephone Limited, Defendant.

REPRESENTATIVE TESTIMONY – AMERICAN ARBITRATION ASSOCIATION

Southwestern Bell Telephone Company, Claimant vs. Time Warner Telecom, Respondent.

I hereby certify that I served the foregoing non-confidential version of TESTIMONY OF DON WOOD ON BEHALF OF THE NORTHWEST PAYPHONE ASSOCIATION on:

Don Mason & Sheila Haris EST Corporation 421 SW Oak Street, Room 810 Portland, Oregon 97204	Deb Harwood & Karen Johnson Integra Telecom of Oregon, Inc. 19545 NW Von Neumann Drive, Suite 200 Beaverton, Oregon 97006
Jason Jones & Michael Weirich Department of Justice 1162 Court Street NE, 4th Floor Salem, Oregon 97310	Kath L. Thomas Advanced Telecom Inc. 110 Stony Point Road, 2nd Floor Santa Rosa, California 95401
Mark P. Trinchero Davis Wright Tremaine LLP 1300 SW Fifth Avenue, Suite 2300 Portland, Oregon 97201-5682	Chuck Truman Northwest Payphone Association 701 Industry Drive, Bldg. 18-B Tukwila, Washington 98188

by the following indicated method or methods:

☒ by **mailing** full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Seattle, Washington, on the date set forth below.

☒ by **electronic mail**.

DATED this 10th day of April, 2001.

Tuddy Denby

Tuddy Denby

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May 3, 2001

ORIGINAL

Via Hand Delivery

Ms. Cherie Powers
Administrative Specialist
Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

RECEIVED
MAY 0 3 2001
Public Utility Commission of Oregon
Administrative Hearings Division

Re: UT 125 (Phase II)

Dear Ms. Powers:

Enclosed for filing are the original and 20 copies of the Rebuttal Testimony and Exhibits of David L. Teitzel, Aniruddha Banerjee, Kenneth C. Bailey, Scott A. McIntyre and Robert H. Brigham for Qwest in the above-referenced docket. Thank you for your attention to this matter.

Sincerely yours,

Lawrence Reichman

LR:hmr
Enclosures

cc: Service List
Randy Kim

DOCKETED

[13141-0126/PA011230.003]

UT 125

ORIGINAL

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MAY 0 3 2001

Public Utility Commission of Oregon
Administrative Hearings Division

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Application of	)	
QWEST CORPORATION	)	**Docket No. UT 125**
for an Increase in Revenues	)	

REBUTTAL TESTIMONY OF

DAVID L. TEITZEL

FOR

QWEST CORPORATION

MAY 3, 2001

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TABLE OF EXHIBITS

Exhibit Qwest/223	**Verizon response to Qwest data request Set 1, Number 2(a)**
Exhibit Qwest/224	**Staff response to Qwest data request Set 3, Number 11**
Exhibit Qwest/225	**United States District Court Order in Case No. C00-0013C; Metronet Telemanagement Corporation antitrust Complaint against Qwest Corporation**

I. EXECUTIVE SUMMARY

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. My rebuttal testimony addresses a range of arguments raised by Staff and other intervenors in this docket concerning Qwest's proposed retail rate design. Many of Qwest's retail pricing proposals, such as those concerning Features, Listings and Advanced Services have not elicited significant opposition. However, Qwest's pricing proposals regarding Message Toll (Issue 3), Centrex Plus (Issue 7), Centrex 21 (Issue 8), Extended Area Service (Issue 9), Business Local Exchange Service (Issue 11) and Residential Local Exchange (Issue 12) have generated controversy as to rate design and absolute price level, and my testimony clarifies Qwest's position in each of these categories.

Regarding Message Toll Service, Qwest and Staff concur on many aspects of Qwest's proposal around streamlining the structure of the service and reducing the number of optional calling plans offered. However, Qwest and Staff disagree in regard to the calculation of annual revenue reductions associated with the proposed rate reductions. In view of the Commission's prior orders and a variety of market factors influencing demand for Qwest's intraLATA long distance services, including the cross-elastic effects of long distance competition, Qwest elected not to utilize a stimulation factor in estimating intraLATA long distance annual revenue reductions in this docket. Dr. Andy Banerjee and Mr. Ken Bailey also have filed rebuttal testimony discussing the rationale for Qwest's approach. In contrast, Staff has proposed application of a demand stimulation factor developed in 1990 which results in a forecast of **increased** demand for Qwest's intraLATA long distance service above the demand levels used in the test period in this docket of March 1997 through February 1998. Staff's approach results in a difference in excess of $6m in the annual revenue impact associated with the intraLATA long distance rate reductions in this docket as compared to Qwest's approach. Since Qwest is constrained by the obligation to reduce overall revenues in this docket by $64.2m, the $6m difference resulting from the diverging Staff and Qwest calculations creates a "ripple" effect throughout the rate design for all services in this docket.

AT&T and WorldCom, through the testimonies of Arleen Starr, Anthony DiTirro and Lee Selwyn, present arguments suggesting that Qwest will "squeeze" long distance competitors from the market unless Switched Access is priced at cost. In addition to the rebuttal testimony of Mr. Scott McIntyre and Mr. Robert Brigham on behalf of Qwest, my testimony discusses why imputation guidelines will continue to ensure that Qwest's prices are set at levels which will ensure the continuation of robust competition in the long distance market.

Qwest's local exchange service pricing proposals include a significant streamlining of the current Extended Area Service rate structure (including steep price reductions), modest increases in residential local exchange prices to move those rates toward the benchmark rate of $21.00 established by the Commission in Docket UM 731 and aligns business local exchange rates with the wholesale rate structure adopted by the Commission in Docket UT 148. Importantly, my testimony, as well as that of Dr. Selwyn on behalf of AT&T, discusses how the net effect of Qwest's pricing proposals will represent a benefit to Oregon customers. Finally, my rebuttal testimony addresses why Qwest's Centrex Plus pricing proposal is appropriate and discusses how Qwest's Public Access Line (PAL) rate proposal complies with applicable Federal and State guidelines.

II. INTRODUCTION OF WITNESS

Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.

A. My name is David L. Teitzel. I am employed by Qwest Corporation (Qwest) as Director-Product and Market Issues. My business address is 1600 7th Avenue, Room 2904, Seattle, WA, 98191.

Q. ARE YOU THE SAME DAVID L. TEITZEL WHO FILED TESTIMONY ON NOVEMBER 15, 2000 IN THIS DOCKET?

A. Yes.

III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and rebut issues raised in the direct testimony of Oregon Public Utility Commission Staff (Staff) and other intervenors in this docket. There are a number of areas in which Staff and Qwest are in substantial agreement regarding rate design. For purposes of brevity, I will not readdress those areas, and will instead focus upon those areas in which there are differences of opinion between Staff and Qwest. Regarding Staff, my rebuttal testimony addresses issues raised by Mr. James Stanage, Mr. Thomas Turner and Mr. David Sloan. In addition, I address issues raised by Dr. Pamela Cameron on behalf of the American Association of Retired Persons (AARP), Dr. Nina Cornell on behalf of Advanced Telecommunications Group, Inc. (ATG), Mr. Anthony DiTirro on behalf of WorldCom, Ms. Arleen Starr and Dr. Lee Selwyn on behalf of AT&T Communications of the Pacific Northwest (AT&T) and WorldCom and Mr. Don Wood on behalf of the Northwest Payphone Association (NWPA).

IV. ISSUE 3: MESSAGE TOLL SERVICE

A. Mr. Thomas Turner

Q. WHAT PRICING OBJECTIVES WERE COMMON TO MR. TURNER AND QWEST REGARDING QWEST'S INTRALATA LONG DISTANCE SERVICES IN THIS DOCKET?

A. Mr. Turner and Qwest concur that the current pricing structure for Qwest's intraLATA long distance services is overly complex and that a combination of structure simplification and price reduction is appropriate in Oregon. These objectives are achieved via consolidation of the existing multi-level pricing structure for intraLATA long distance service, which consists of pricing differentials by distance and call duration, into a "postalized" structure featuring a unified rate per minute for day calls and a lower unified rate for off-peak calling. In addition, the number of optional calling plans is being reduced to streamline and simplify the range of options offered to Oregon customers. These changes will ease customer confusion and are in alignment with industry trends to simplify long distance rate structures.

Q. WHAT IS THE FIRST MAJOR DIFFERENCE BETWEEN MR. TURNER'S PROPOSAL AND QWEST'S PROPOSAL FOR INTRALATA LONG DISTANCE SERVICES?

A. Mr. Turner proposes to eliminate the proposed pricing differentials between the residence, business and miscellaneous long distance rate schedules, while Qwest believes that customer usage patterns warrant establishment of these distinctions.

Q. WHY IS IT APPROPRIATE TO MAINTAIN PRICING DISTINCTIONS BETWEEN RESIDENTIAL, BUSINESS AND MISCELLANEOUS INTRALATA LONG DISTANCE PRICES?

A. At Page 8 of his direct testimony, Mr. Turner acknowledges that "...there may be some general usage distinctions between classes of users...",[1] but goes on to state that the underlying cost, on a per minute of use basis, does not "...depend on whether the local service classification of the caller is residential or business." Both these concepts are true. However, Mr. Turner does not go far enough in his

[1] Staff/8, Turner/8, L. 9-10.

conclusions. First, business calls are predominantly made during the day and residential calls are disproportionately made during evening and weekend hours. Second, residential long distance calls are longer in duration than business calls. Since the switching costs associated with setting up a long distance call are recovered in the first minute of use, costs for the first minute are higher than costs for additional minutes of use. Since business calls are shorter in duration than residential calls,[2] the average cost per minute of use is higher for business calls than for residential calls. Third, business long distance calls, by definition, are used for the conduct of business and occur predominantly during standard business hours, when call volumes on Qwest's network are highest. Miscellaneous long distance calls include those made via credit card or otherwise requiring operator intervention, and calling patterns in this service category tend to be a blend of residence and business patterns. Typically, business customers utilize Miscellaneous long distance service during business hours, and residential customers tend to use this service in off-peak periods. The prices proposed by Qwest for this service therefore reflect the proposed day rates for Business intraLATA long distance service and the off-peak rates for Residential intraLATA long distance service.

Q. WHAT MARKET EFFECTS WILL RESULT IF MR. TURNER'S INTRALATA LONG DISTANCE PRICING PROPOSAL IS ADOPTED?

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[2] Based upon December 2000 Qwest intraLATA long distance usage data, the average length of a residential call is 5.86 minutes, while business calls average 3.01 minutes in duration.

A. Under Mr. Turner's averaged pricing proposal, residential customers using Qwest's intraLATA long distance service in evening and weekend calling periods will pay 17% more per minute of use than they will under Qwest's proposal. In addition, Mr. Turner recommends a decrease in Qwest's proposed business day intraLATA long distance rate from $0.12 to $0.11 per minute. His proposal reduces the differential between the average business rate per minute of use and Qwest's imputed price floor, limiting Qwest's ability to differentiate its market and offer attractive calling plans to customers based upon call volume. In effect, Mr. Turner's proposal reduces Qwest's ability to offer its best deals to its highest volume Toll users.

Q. WHAT CONCERNS DO YOU HAVE REGARDING MR. TURNER'S PROPOSALS FOR QWEST'S OPTIONAL LONG DISTANCE CALLING PLANS?

A. While Mr. Turner and Qwest agree that the number of optional calling plans should be reduced and prices for these plans should be adjusted to maintain an appropriate relationship with standard intraLATA long distance prices, Mr. Turner proposes to eliminate a greater number of calling plans, due in large part to the pricing relationships of these plans to his averaged pricing structure for standard intraLATA long distance service. First, Mr. Turner recommends consolidating the Volume Calling Connection and Tenant Calling Connection calling plans. Since these plans are nearly identical and carry the same prices, Qwest does not object to Mr. Turner's proposal. Second, Mr. Turner recommends elimination of the Simple Value calling plan for business customers. Qwest disagrees. This plan is currently priced for business customers at \$0.11 per minute for day calling and \$0.08 for off peak calling. Under Qwest's proposal, these rates will be reduced to \$0.09 per minute and \$0.06 per minute for day and off peak calling respectively, which reflect appropriate discounts from Qwest's proposed rates of \$0.12 and \$0.10 for standard business intraLATA long distance calling. Third, Mr. Turner disagrees with Qwest's proposed Super Savings plan rate of \$0.06 per minute for all times of day, and instead recommends a continuation of the current rate of \$0.08 per minute for business subscribers of the Super Savings plan. Mr. Turner goes on to state that Qwest's proposed rate for this plan "...undermines Qwest's entire proposed rate structure."[3] The Super Savings plan, while available to any Oregon business customer who requests the plan, is an important marketing tool to Qwest. This plan is used proactively by Qwest's sales teams as an incentive to encourage customers considering competitive alternatives to remain with Qwest and to encourage those who have left Qwest for a competitor to return. It is a targeted plan that is not broadly advertised. Mr. Turner's suggestion that Qwest's proposed business rates undermine Qwest's entire intraLATA long distance pricing structure is incorrect. The Commission found that the current rate of \$0.08, without any conditions such as monthly recurring charges or usage minimums, was appropriate. Qwest's proposal simply lowers the current rate to maintain an appropriate pricing relationship with other intraLATA long distance prices that are also being lowered in this docket.

[3] Staff/8, Turner/13, L. 26-27

Q. IN REGARD TO OUTWATS AND 800 SERVICE, MR. TURNER AGREES WITH YOUR PROPOSAL TO GRANDFATHER BOTH SERVICES, BUT RECOMMENDS THAT BOTH SERVICES BE DISCONTINUED UPON A DATE CERTAIN. WOULD YOU COMMENT?

A. Yes. The customer base for both services has been in decline for some time, and Qwest believes the rate of decline will accelerate as customers opt to convert to standard intraLATA long distance calling or elect to subscribe to optional calling plans that provide greater value than either of these services. Qwest agrees with Mr. Turner's proposal to discontinue both services, effective 12 months from the effective date of the Commission's final order in this docket. In the interim period, Qwest will commit to contacting each of its customers subscribing to these services and suggesting an alternative service that will better fit the customer's calling needs. In cases where Qwest is a designated intraLATA toll carrier for independent local exchange carrier (ILEC) end users, Qwest will work with the ILECs to ensure they are aware of the changes to the availability, terms, conditions and prices of Qwest's toll services. It is Qwest's objective that, at the end of the 12 month period, the number of customers subscribing to these services will be virtually nonexistent.

Q. MR. TURNER DISAGREES WITH QWEST'S PROPOSAL TO INCREASE 800 SERVICELINE RECURRING RATES FROM $3.00 TO $5.00. WHY IS QWEST'S PROPOSAL APPROPRIATE?

A. Qwest's competitors recurring rates are in the range of $5.00 for services comparable to 800 ServiceLine. Qwest's proposal is market based, and moves prices for this service in Oregon toward consistency with the remainder of states in the traditional U S WEST Region.

Q. MR. TURNER DEVELOPS A DEMAND ELASTICITY EFFECT TO CALCULATE THE NET REVENUE DECREASE ASSOCIATED WITH REDUCTIONS IN QWEST'S INTRALATA LONG DISTANCE PRICES, BASED ON A TOLL STIMULATION STUDY PRODUCED BY PACIFIC NORTHWEST BELL IN 1990. IS THIS APPROPRIATE?

A. No. This is a key issue in this docket, and is addressed extensively in the rebuttal testimonies of Dr. Andy Banerjee and Mr. Ken Bailey[4] on behalf of Qwest. Not only is the referenced study seriously outdated and not reflective of current market conditions, Mr. Turner's calculations ignore the effects of other relevant market variables on demand for Qwest's intraLATA long distance services. As his estimate stands, Mr. Turner's application of the elasticity factor suggests that Qwest's intraLATA long distance price reductions will stimulate enough increased calling demand to generate a revenue increase of nearly $6.3m annually.

Q. AT PAGE 5, MR. TURNER STATES THAT "…QWEST ARGUES THAT ITS INTRALATA TOLL MARKET IS ESSENTIALLY INELASTIC…"

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[4] Mr. Bailey is the author of the 1990 demand elasticity study referenced by Mr. Turner in this Docket.

HAS QWEST MADE THAT PARTICULAR ARGUMENT IN THIS DOCKET?

A. No. Mr. Turner has mischaracterized Qwest's position on this issue. Qwest has not argued in any testimony or data request response in this docket that intraLATA long distance service is price inelastic. However, I clearly stated on pages 36 and 37 of my direct testimony that a variety of market factors in the modern market, beyond price elasticity, contribute to changes in demand for Qwest's intraLATA long distance services. It is true that some customers will place more long distance calls when prices are lowered. It is also true that competitive market forces influence demand, as discussed in my direct testimony and in the rebuttal testimonies of Dr. Banerjee and Mr. Bailey. In applying the outdated stimulation factor in his revenue calculations, Mr. Turner has completely ignored other equally relevant market factors that can, and do, mask the measurable effects of price elasticity.

Q. AT PAGE 27, MR. TURNER STATES THAT VERIZON (F/K/A GTE) SUBMITTED A 1995 PRICE ELASTICITY STUDY, AND IN FACT, THE COMMISSION USED PRICE ELASTICITY IN CALCULATING THE REVENUE EFFECTS ASSOCIATED WITH VERIZON'S INTRALATA LONG DISTANCE PRICE REDUCTIONS IN DOCKET UT 141. HAS THE DEMAND STIMULATION FORECASTED IN THAT PARTICULAR DOCKET ACTUALLY OCCURRED IN OREGON?

A. Neither Verizon or the OPUC Staff seem to know. However, in response to Qwest's first set of data requests to Verizon in this docket, Request No. 2(a), Verizon stated:

> Verizon has not initiated any price changes in Oregon other than that which occurred as a result of Docket UT 141. Since that time, Verizon's toll revenues have declined by approximately two-thirds as a direct result of increased competition in the market. **Under these circumstances, there simply is no way to gauge the effect, if any, of the stimulation factor imposed by the Oregon Commission in the UT 141 proceeding**. (emphasis added). (Exhibit Qwest/223, Teitzel/1).

After implementation of the Verizon intraLATA long distance price reductions in UT 141, there has been no discernable increase in demand for these services in response to the price change.

In addition, Qwest has received a response from Staff to Qwest's data request 3.11, in which Staff indicates that no attempt has been made to verify whether the stimulation forecast stipulated between Staff and Verizon in Docket UT 141 actually happened in the marketplace. (Exhibit Qwest/224, Teitzel/1)

Q. WHY IS VERIZON'S CONCLUSION IN THE ABOVE-REFERENCED DATA REQUEST RESPONSE IMPORTANT TO THE COMMISSION IN DOCKET UT 125?

A. If the Commission accepts Mr. Turner's premise that a stimulation factor of -.362 should be used, in strict isolation from other market factors influencing demand, a significantly higher amount of demand for Qwest's intraLATA long distance service will be forecast from the test period than can actually be measured in this market. This premise results in an erroneous conclusion that increased demand will allow Qwest to recoup a net $6.3m of the revenue foregone through rate decreases.

Q. IF STIMULATION FACTORS ARE USED TO CALCULATE NET REVENUE DECREASES, FOR QWEST OR ANY OTHER TELEPHONE COMPANY SERVING OREGON, IS IT IMPORTANT TO TEST THE VALIDITY OF THE FACTOR WITH ACTUAL MARKET DATA?

A. Absolutely. Unless the Commission and the company track demand response to an actual price change in Oregon in the modern market, neither party can have any comfort that the forecasting process drives to a meaningful result. To this day, it is clear neither Staff or Verizon know whether the demand stimulation forecast developed for Docket UT 141 in 1995 actually materialized. Verizon itself indicated that its toll revenues decreased by two thirds, showing that any demand stimulation due to price changes was more than offset by other factors.

B. Arleen Starr (AT&T)

Q. AT PAGE 24, LINES 11-14, MS. STARR SUGGESTS THAT, UNLESS THIS COMMISSION REDUCES SWITCHED ACCESS RATES TO FORWARD-LOOKING ECONOMIC COST, THERE WILL BE AN ADVERSE IMPACT ON COMPETITION AND QWEST WILL HAVE LITTLE INCENTIVE TO "…RELEASE ITS MONOPOLY HOLD…" ON

THE LOCAL EXCHANGE MARKET. DO YOU AGREE WITH HER SUGGESTION?

A. No. Local and long distance markets in Oregon are both open and subject to competition. In this docket, Qwest is required to reduce rates to achieve a fixed revenue reduction of $64.2m, and has filed a pricing proposal that maintains competitive parity. Qwest's Switched Access rates are being reduced proportionately more than Qwest's intraLATA toll service rates in this proposal. There is certainly no basis for Ms. Starr to imply that intraLATA long distance markets will become less competitive in light of Qwest's pricing proposals. In addition, Qwest is actively seeking support from state commissions in each of its states to reenter the interLATA long distance market. Before lending their support, state regulators will require a demonstration from Qwest that local exchange markets are indeed open to competition. If Qwest had any intent, as alleged by Ms. Starr, to maintain its alleged "monopoly hold on the local exchange market," that strategy would be in direct conflict with Qwest's prospects for being granted Section 271 authority to provide interLATA long distance services. Her allegation simply makes no sense.

Q. AT PAGES 25 AND 26, MS. STARR DISCUSSES EXAMPLES SHE PURPORTS TO REPRESENT A "MARGIN ANALYSIS" AND A "PRICE SQUEEZE." ARE THESE EXAMPLES REASONABLE?

A. No. As discussed in the rebuttal testimony of Mr. Scott McIntyre, Ms. Starr asks the reader to accept two important assumptions: 1) that $0.04 is an accurate representation of "intra-company costs", and 2) that Qwest intends to price its intraLATA long distance service at an average of $0.06 per minute. Both assumptions are purely hypotheticals, and hypotheticals can be used to support nearly any argument.

Q. CAN YOU SUPPLY A HYPOTHETICAL EXAMPLE DEMONSTRATING THAT QWEST AND INTEREXCHANGE CARRIERS ARE ABLE TO COMPETE ON PAR, SO LONG AS QWEST'S INTRALATA TOLL PRICES REMAIN ABOVE ITS PRICE FLOOR?

A. Certainly. Suppose that Switched Access charges are 7.8 cents per minute while the cost of supplying Switched Access service is 1.2 cents. Also suppose that non-access costs of providing toll service are 2 cents per minute for Qwest and AT&T. AT&T could argue, in this scenario, that its cost per toll minute is 9.8 cents per minute, while Qwest's actual costs for the same minute are only 3.2 cents. If the imputed price floor for Qwest is 9.8 cents per minute (non-access cost plus access price), AT&T might argue that Qwest still earns a profit of 6.6 cents per minute, while AT&T's profit is zero if Qwest elected to price exactly at its price floor. There is a significant flaw in this hypothetical argument. Carrier access is priced above incremental cost. Therefore, it is true that when Qwest provided carrier access services, it generates contribution that can be used to support shared fixed and common costs, subsidized services or any other expenditure flow of the corporation. However, that contribution flow is not a barrier that toll competitors must overcome.[5]

Q. IN YOUR HYPOTHETICAL EXAMPLE, WHY IS THE 6.6 CENT "PRICE ADVANTAGE" FOR QWEST NOT A BARRIER FOR QWEST'S TOLL COMPETITORS?

A. Suppose that toll competition drives down the toll price to 9.8 cents. As stated above, it might be argued that this price would eliminate profit potential for Qwest's competitors. However, Qwest must charge itself precisely the same 7.8 cents per minute it charges AT&T under imputation rules. This was Congress' answer to any concern about anticompetitive conduct arising from the level of the Switched Access rate.

In addition, AT&T might claim that Qwest will receive the same 7.8 cents per minute in access charges, irrespective of which long distance provider actually carries the call. However, if Qwest carries the call, Qwest will not receive the 7.8 cents per minute in access charges from any unaffiliated long distance carrier. Thus, a Qwest manager attempting to maximize corporate profits would have to recognize the 7.8 cents in access *cost* to Qwest whenever Qwest carries the long distance call – not because of imputation rules, but because the 7.8 cents per minute that used to go into Qwest's corporate pocket when AT&T carried the long distance call would no longer do so when Qwest carries the call. What could

[5] AT&T cannot object to the fact that Qwest derives positive contribution from a particular service. Similarly, AT&T derives contribution from its cable services which can be used to support a variety of competitive AT&T services.

be called a 6.6 cent "profit" to Qwest, even under imputation rules, is actually a "cost."

Q. WHAT DOES THIS HYPOTHETICAL EXAMPLE MEAN RELATIVE TO COMPETITIVE PARITY?

A. In this example, when AT&T carries the call, Qwest earns a contribution of 6.6 cents for providing carrier access services. When Qwest itself carries the call (at a retail price of 9.8 cents per minute), Qwest earns a contribution of 6.6 cents per minute—9.8 cents less non-access costs of 2 cents and access costs of 1.2 cents. At a retail price below 9.8 cents, Qwest would lose money by providing long distance service--providing access would be more profitable. If Qwest's non-access costs were higher than 2 cents, it would similarly be unprofitable for Qwest to supply long distance service at a price of 9.8 cents. In short, the decisions that a profit-maximizing manager of Qwest's long distance service would make—e.g., pricing, marketing and network investment—would be precisely the same as those an AT&T manager would make. AT&T incurs an access cost of 7.8 cents when it carries a long distance call, and Qwest incurs an access cost of 1.2 cents plus an opportunity cost of 6.6 cents (lost contribution from Switched Access) when it carries a long distance call. While Qwest receives contribution from Switched Access charges, that contribution does not give Qwest any advantage in the toll market, and other carriers, such as AT&T, earn contribution from services other than toll.

Q. IN THE ABOVE HYPOTHETICAL, WHAT CONSIDERATION IS IGNORED THAT IMPACTS INTEREXCHANGE CARRIERS' ACTUAL COSTS OF PROVIDING LONG DISTANCE SERVICES?

A. This example ignores the fact that interexchange carriers provide both intraLATA and interLATA/interstate services. Since interstate switched access prices are typically lower than intrastate prices, and interexchange carriers typically carry their customers' intraLATA and interLATA/interstate calls, their actual average Switched Access rate per minute is lower than the intraLATA Switched Access rate Qwest must impute to itself.

In addition, the larger interexchange carriers commonly use dedicated facilities to transport a portion of their customers' long distance traffic directly from the customer's location to the carrier's Point of Presence (POP), bypassing Switched Access charges entirely. For example, AT&T's network chief Frank Ianna stated that "...50% of AT&T's traffic from business customers runs directly to AT&T's network, bypassing the Bells altogether, and this will be beefed up further when AT&T completes its $11.4 billing purchase of competitive local carrier Teleport Communications Group, Inc. this summer, giving it additional direct connections to subscribers across the country."[6] Since the AT&T/TCG merger has been completed since Mr. Ianna made his statement, it can be surmised that the percentage he cited is now substantially higher, contributing to a reduction in the average cost AT&T incurs in originating and terminating long distance traffic.[7]

[6] Wall Street Journal, P. A8, June 3, 1998

[7] On May 1, 2001, the Administrative Law Judge ordered AT&T to respond to Qwest's data request seeking to obtain this specific information.

Q. WHAT CONCLUSIONS CAN BE DRAWN BY THE COMMISSION FROM THE PRECEDING DISCUSSION?

A. The important conclusions that can be drawn from this discussion are as follows:

- Qwest's proposed Switched Access and toll price reductions maintain an appropriate pricing relationship between these two services.
- Toll imputation guidelines will prevent an inappropriate price squeeze.
- Qwest's Switched Access prices need not be set at cost to provide interexchange carriers a fair opportunity to compete, particularly in view of alternatives available to carriers which enable them to drive down the average cost of carrying a toll call, such as averaging interstate/intrastate costs and utilization of dedicated facilities to transport toll calls to and from the carrier's POP.
- Ms. Starr's hypothetical "margin" and "price squeeze" examples are flawed and driven by assumptions that are clearly debatable.

C. Mr. Anthony DiTirro (WORLDCOM)

Q. AT PAGE 6, MR. DITIRRO ARTICULATES FOUR GOALS HE BELIEVES THE COMMISSION SHOULD KEEP IN MIND IN THIS DOCKET RELATIVE TO PRICES FOR QWEST'S SWITCHED ACCESS AND MESSAGE TOLL RATES. DO YOU WISH TO COMMENT ON ANY OF MR. DITIRRO'S SUGGESTED GOALS?

A. Yes. I would like to address Mr. DiTirro's Goal No. 2: "Eliminate explicit and implicit subsidies," and Goal No. 4: "Avoid setting rates that benefit Qwest to the detriment of its competitors."

Q. REGARDING IMPLICIT AND EXPLICIT SUBSIDIES, DOES SECTION 254(C) OF THE FEDERAL TELECOMMUNICATIONS ACT "...EXPRESSLY REQUIRE THE ELIMINATION OF SUCH SUBSIDIES," AS SUGGESTED BY MR. DITIRRO AT PAGE 7, LINES 19-20?

A. No. In fact, Universal Service and Lifeline subsidies are two explicit subsidies supported by the Act. The Act does require that implicit subsidies be made explicit, not that they be eliminated. However, the requirements of ORS 759.425(3) that basic service prices be moved toward the benchmark will minimize implicit subsidies that exist in Oregon.

Q. AT PAGES 8 AND 9, MR. DITIRRO ARGUES THAT IT IS "IRRATIONAL" TO ALLOW QWEST'S TOLL RATES TO DECREASE MORE THAN THE DECREASES PROPOSED FOR SWITCHED ACCESS. IS HE CORRECT?

A. No. In fact, Switched Access rates are reduced in Qwest's proposal to a substantially greater degree than Qwest's toll rates. The relative reduction between the two services is the inverse of Mr. DiTirro's contention. Specifically, Qwest's proposal reduces Switched Access rates by an average of 52%, while Qwest's intraLATA toll rates are proposed to be reduced by an average of 42%.

Mr. Scott McIntyre also addresses the pricing relationships between intraLATA toll and Switched Access in his rebuttal testimony on behalf of Qwest.

Q. AT PAGE 19, LINES 13-14, MR. DITIRRO RAISES A SERIOUS ALLEGATION THAT QWEST'S MESSAGE TOLL PRICING PROPOSALS CREATE AN "...ANTICOMPETITIVE PRICE SQUEEZE..." ON WORLDCOM, YET SUPPLIES NO DOCUMENTATION TO SUPPORT THIS ALLEGATION. WOULD YOU COMMENT?

A. Yes. Again, Mr. Ditirro suggests that Qwest is decreasing its toll rates by an amount greater than is being proposed for its Switched Access services, and appears to use that general suggestion as support for his price squeeze allegation. However, he has provided no documentation to enlighten the Commission as to the mechanics of the price squeeze he alleges.

In fact, as stated previously, Switched Access rates are proposed to be reduced more aggressively than Qwest's intraLATA toll rates in this docket. So long as Qwest's intraLATA toll rates remain above the price floors identified in the testimony of Mr. Robert Brigham on behalf of Qwest, a price squeeze (i.e., a situation in which a vertically-integrated retail service provider prices its wholesale services at levels above its retail prices for the express purpose of driving competitors from the market) cannot exist.

D. Dr. Lee Selwyn (AT&T/WorldCom)

Q. WHAT ARGUMENTS ARE RAISED BY DR. SELWYN REGARDING QWEST'S INTRALATA LONG DISTANCE PRICING PROPOSALS IN THIS DOCKET?

A. First, he echoes Mr. Ditirro and Ms. Starr in their appeal to reduce Switched Access prices to cost, and suggests that Qwest's intraLATA long distance prices should not be reduced by an amount greater than the gross Switched Access reductions, at least until Switched Access rates are driven to cost. Second, he argues that stimulation/repression factors should be used in calculating Toll and all other revenue impacts associated with price changes in this docket. Third, he suggests that Qwest "...has a formidable competitive advantage in the toll market." Fourth, he argues that Qwest has the market power to implement a price squeeze. Fifth, he claims that Qwest's proposed business Super Savings calling plan price falls below the imputed price floor.

Q. WOULD YOU COMMENT ON EACH OF THE ISSUES YOU IDENTIFIED IN DR. SELWYN'S TESTIMONY?

A. Yes. As discussed in the testimony of Mr. McIntyre and earlier in my testimony, Switched Access rates are being decreased proportionately greater than Qwest's toll rates. If AT&T and WorldCom's suggestions are followed, resulting in reduction of Switched Access rates to cost, interexchange carriers will receive a disproportionate competitive benefit: their costs for providing intraLATA long distance service will be reduced to well under $0.05 per minute of use, while Qwest's intraLATA long distance prices will remain relatively high in the context of UT 125. Qwest's competitors will enjoy significant price decreases, while Qwest will be forced to take additional toll price reductions in a step subsequent to UT 125 to remain competitive. In effect, this situation will cause Qwest to take revenue reductions in excess of the Commission-mandated $64.2m and is inappropriate.

Q. WHAT CONCERN DO YOU HAVE WITH DR. SELWYN'S SECOND POINT?

A. Dr. Selwyn suggests that stimulation or repression factors should be used to calculate the annual revenue impact of each Qwest price change in this docket. Qwest believes that the Commission may not make such an adjustment since it has ordered, in approving a settlement of the revenue requirement phase of this docket, that the revenue reduction of $63m will be "based upon U S WEST's August 1997 billing units." Moreover, as I stated in my rebuttal of Mr. Turner's direct testimony, and as discussed in the rebuttal testimony of Dr. Banerjee, we have clearly seen that stimulation or repression factors that were developed based upon observed customer demand response to price changes well in the past are extremely suspect. It is also clear that neither Verizon or the Staff has knowledge as to whether the demand stimulation estimate used by Verizon (f/k/a GTE) in their UT 141 rate case actually occurred. Without knowing whether stimulation or repression factors are accurate, or even remotely reasonable, application of such factors to the price changes proposed by Qwest in this docket is strictly an academic exercise with dangerous repercussions.

Q. IN DR. SELWYN'S THIRD POINT, HE SUGGESTS THAT QWEST HAS A "FORMIDABLE COMPETITIVE ADVANTAGE IN THE TOLL MARKET." BASED UPON YOUR EXPERIENCE WITH THE OREGON INTRALATA TOLL MARKET, IS THIS CORRECT?

A. No. If Dr. Selwyn intends to suggest that Qwest in some way is able to leverage this alleged "advantage" into retaining or gaining share of the intraLATA long distance market, he is mistaken. Qwest's intraLATA long distance calling volumes have been declining, and sharply so since the advent of intraLATA dialing parity in Oregon. Rather, absent Qwest's ability to provide "one stop shopping" for our customers to meet their intraLATA and interLATA/interstate long distance calling needs, I suggest that it is the interexchange carriers, not Qwest, who retain a "formidable competitive advantage."

Q. DR. SELWYN, IN HIS FOURTH POINT, ALLEGES THAT QWEST HAS THE MARKET POWER TO IMPLEMENT A PRICE SQUEEZE ON ITS TOLL COMPETITORS. WOULD YOU COMMENT?

A. Dr. Selwyn's allegations are not based in reality. First, Qwest has complied, and will continue to comply, with Federal and state imputation requirements designed to prevent a price squeeze. More importantly, whether or not Qwest has "market power," to the best of my knowledge, no state Commission in the traditional U S

WEST states has ever found that Qwest has created a price squeeze against a toll competitor. Protections against price squeezes are currently in place in Oregon and will continue to be in place after the UT 125 rates are put into effect. Asking the Commission to take additional action now to prevent such price squeezes is tantamount to asking a judge to put a newborn in prison because of the possibility that she may someday commit a crime.

Q. FINALLY, DR. SELWYN CLAIMS THAT QWEST'S PROPOSED BUSINESS SUPER SAVINGS PRICE FALLS BELOW THE IMPUTED PRICE FLOOR. DO YOU AGREE?

A. No. As discussed in the testimony of Mr. Brigham, the imputed price floor for the Super Savings calling plan is lower than $0.05 per minute after Qwest's proposed Switched Access rate reductions are factored in. The proposed Business Super Savings price is not below its imputed price floor.

V. ISSUES 7 AND 8: CENTREX PLUS, CENTREX 21

A. Mr. David Sloan

Q. WOULD YOU COMMENT ON MR. SLOAN'S PRICING PROPOSALS REGARDING CENTREX SERVICES IN THIS DOCKET?

A. Yes. Mr. Sloan's proposals align closely with Qwest's pricing proposals for Centrex services, with a few notable exceptions. First, Mr. Sloan concurs in

Qwest's proposal for the Centrex Plus access line, but disagrees with Qwest's pricing proposals for Centrex Plus "blocked" and "non-blocked" local usage charges. Next, he disagrees that the additional $500,000 in annual Centrex Plus line rate reductions identified in Qwest's modified rate design as filed on March 16, 2001, should be offset by increases in other business service rates. Third, he recommends that the Centrex Plus "chip in" charge, applicable when customers migrating to the service of a Centrex Plus reseller elect to retain their existing telephone numbers, should be eliminated. Finally, Mr. Sloan recommends introduction of a Rate Group 3 rate for Centrex 21 service, which Qwest had not proposed. I discuss each of these areas of disagreement in detail in the testimony that follows.

Q. AT PAGE 2, LINES 19-22, MR. SLOAN STATES THAT QWEST HAS OFFSET REDUCED REVENUES FOR THE CENTREX PLUS LINE WITH INCREASES IN THE CENTREX PLUS USAGE CHARGE AND NAF RATE. IS THIS ACCURATE?

A. No. In general, Qwest's proposal represents rate reductions from current usage and NAF rates. Qwest filed a modified rate design proposal on March 19 as a result of discussions between parties in the UT 125 settlement conference on March 9, 2001. This modification addressed pricing for the Network Access Facility (NAF) rate, which provides "blocked" local usage for Centrex Plus systems in a manner comparable to the level of blockage experienced by PBX trunk customers. In the modified rate design, the NAF rate is reduced by $0.25 per month below current rates for Two Way, In Only and Out Only NAFs. Furthermore, Qwest's March 19 rate design modification reduces Centrex unblocked usage for 1-50 lines from $14.90 to $4.08 and increases this element from $3.00 to the same $4.08 level only for 51 lines and above.

Q. WHAT CONCERNS DO YOU HAVE REGARDING MR. SLOAN'S RECOMMENDATION THAT REVENUES ASSOCIATED WITH THE REVISED CENTREX PLUS PRICES IDENTIFIED IN QWEST'S MARCH 16 FILING NOT BE RECOVERED THROUGH ADJUSTMENTS IN PRICES FOR OTHER BUSINESS SERVICES?

A. The revised Centrex Plus proposal filed on March 19 was submitted in the spirit of moving toward resolution of one of the more contentious aspects of Qwest's pricing proposal by deepening the revenue reductions associated with Centrex Plus prices. Since Qwest must achieve a net revenue reduction of $64.2m in this docket, adjustments to other rate elements are necessary. In this instance, Qwest has adjusted business and PBX local exchange rate elements slightly to balance the overall revenue reduction to the targeted level. However, each business and PBX local exchange rate affected by these adjustments will continue to receive a reduction from rates currently in effect.

Q. MR. SLOAN, AT PAGE 26, PROPOSES THAT THE CURRENT "CHIP IN" NONRECURRING CHARGE APPLICABLE TO CENTREX PLUS RESELLERS SHOULD BE ELIMINATED. DO YOU CONCUR?

A. Yes. Although the "chip in" charge is based upon costs incurred by Qwest to import numbers into a Centrex Plus common block, I agree with Mr. Sloan that this charge can be eliminated if Qwest's overall price proposal for Centrex Plus is accepted. If Qwest's proposal is not accepted, Centrex Plus margins may be insufficient to provide cost recovery for this charge, and the assessment of the "chip in" charge will need to be revisited.

Q. CONTRARY TO QWEST'S PROPOSAL, MR. SLOAN RECOMMENDS THAT A CENTREX 21 RATE BE ESTABLISHED IN RATE GROUP 3. DO YOU CONCUR?

A. Due to Oregon building block requirements in establishing price floors for non-basic services, as Centrex 21 is classified, a Rate Group 3 rate will not make economic sense for current Centrex 21 customers located in that Rate Group. However, I understand that Mr. Sloan's objective in establishing this particular rate element is to comply with ORS 759.410, and do not object to his proposal to establish a Rate Group 3 Centrex 21 rate. As there is currently a relatively small number of Centrex 21 customers in this Rate Group, Qwest will proactively contact each of these customers to migrate them into an alternative feature package that will meet their needs, ultimately leaving no Centrex 21 subscribers in this Rate Group.

B. Dr. Nina Cornell (ATG)

Q. AT PAGE 3, DR. CORNELL SUGGESTS THAT "PER LOCATION" PRICING IS "AN ABUSE OF MARKET POWER." DO YOU AGREE?

A. No. The concept of "per location" pricing is intended to provide volume-based discounts to customers with significant numbers of access lines clustered at a single physical premises. Specifically, Centrex Plus service is a retail service designed to be economically attractive to business customers with at least 50 local business lines at a single location. This pricing structure is a type of volume discount that recognizes economies of scale, a concept that is widely employed in competitive telecommunications and non-telecommunications business markets.

Q. WHAT "ECONOMIES OF SCALE" DOES QWEST REALIZE WHEN PROVIDING SERVICE TO BUSINESS CUSTOMERS WITH GREATER THAN 50 LINES AT A SINGLE BUSINESS LOCATION?

A. Providing a volume of 50 or more access lines at a single location allows Qwest to employ alternative local loop technologies, such as T-1 service, which significantly reduces Qwest's loop costs to deliver service to the location. Those efficiencies are precisely why Qwest can support Centrex Plus loop prices for larger system sizes at a specific location than is possible for smaller system sizes. For example, loop distribution efficiencies enable Qwest to offer Centrex Plus loop prices at an average five year contract rate of $8.02 per line for a 300 line system at a single location in Rate Group 1 in this proposal.

Q. AT PAGE 5, LINES 9-10, DR. CORNELL ALLEGES THAT QWEST'S "...COST DRIVERS ARE THE DENSITY OF THE PLANT SERVING THE ENTIRE VICINITY, OR NEIGHBORHOOD, WHERE THE CUSTOMER IS LOCATED AND THE LENGTH OF THAT PLANT." IS SHE CORRECT?

A. Relative to Centrex Plus service, the focus of her testimony, she is not. Qwest cannot economically use a T-1 facility to provide local exchange service to a "vicinity" or a "neighborhood," and volume-based discounts based upon that local loop technology are therefore not warranted.

Q. AT PAGE 9, LINES 7-9, DR. CORNELL SUGGESTS THAT "QWEST HAS MARKET POWER OVER SMALLER VOLUME CUSTOMERS AND CUSTOMERS IN LESS DENSELY POPULATED AREAS BECAUSE TO DATE THESE ARE NOT CUSTOMERS THAT FACILITIES-BASED PROVIDERS ARE YET ABLE TO SERVE FOR THE MOST PART." WHAT IS WRONG WITH THIS SUGGESTION?

A. First, all Qwest retail services are now available to CLECs for resale at standard resale discounts for use in providing service to any Oregon customer the CLEC elects to serve. In its June 2000 report, the FCC included access lines provided by CLECs on both a resale and facilities basis in estimating CLEC market share in each of the 50 states. Dr. Cornell ignores resale of all types of services other than Centrex Plus as a factor in determining the degree to which Qwest has market power. Second, the FCC has included use of UNEs by CLECs in its definition of "facilities-based" competition. Again, UNEs, either available separately or in a UNE-P combination, are now available to CLECs who elect to use them to compete with Qwest on a facilities basis anywhere in Qwest's service territory. Dr. Cornell also appears to ignore UNE-based competition in her above statement, as well as competition from cable systems. Finally, Centrex 21 service, which is a flat-rated, unblocked service designed for customers with systems sizes of between 3 and 50 lines and includes over 26 features in the basic monthly charge, remains fully available for resale. In the small business market targeted by ATG, Centrex 21 service is a direct substitute for Centrex Plus service.

Q. AT PAGE 11, LINES 15-17, DR. CORNELL SEEMS TO SUGGEST THAT QWEST HAS ATTACHED "...CONDITIONS ON ITS VOLUME DISCOUNTS THAT PREVENT THEM FROM BEING RESOLD..." IS THIS ALLEGATION ACCURATE?

A. Although this allegation does not specifically name Centrex Plus as the culprit, I can only assume that it is the service that Dr. Cornell's client is concerned about. Dr. Cornell is wrong. Centrex Plus "per location" volume discounts are available for resale without restriction. All Centrex Plus resold lines terminating at a single location are included in determination of the volume discount.

Q. HAVE OTHER STATE COMMISSIONS IN THE TRADITIONAL U S WEST REGION FOUND CENTREX PLUS "PER LOCATION" DISCOUNTS TO BE APPROPRIATE?

A. Yes. Centrex Plus "per location" discounts are currently in effect in each of the other thirteen states in the traditional U S WEST region.

Q. HAVE QWEST'S PRICING PRACTICES CONCERNING CENTREX PLUS SERVICE BEEN EXAMINED RECENTLY BY A COURT OF LAW?

A. Yes. On April 16, 2001, the United States District Court for the Western District of Washington issued an order in Case No. C00-0013C (Exhibit Qwest/225) which was a case brought against Qwest by Metronet, a large Centrex Plus reseller operating in Washington. In part, Metronet claimed that Qwest had violated antitrust laws through application of "per location" pricing discounts. After reviewing the facts in this case, the District Court granted Qwest's Motion for Summary Judgement dismissing Metronet's claims in their entirety, finding, among other things, that Qwest does not have monopoly power and did not engage in anticompetitive conduct.

Q. IS THE MARKET IN OREGON COMPETITIVE FOR BUSINESS CUSTOMERS WITH 51 LINES OR MORE AT A SINGLE LOCATION?

A. Yes. These customers are often located in metropolitan areas, and CLECs join Qwest in recognizing that these customers represent profitable business opportunities. In addition, these customers have sufficient concentration of access lines to warrant consideration of PBX service, which is directly cross-elastic with Qwest's Centrex Plus service.

Q. IF CENTREX PLUS RESELLERS ARE ALLOWED TO AVAIL THEMSELVES OF QWEST'S CENTREX PLUS "PER LOCATION" VOLUME DISCOUNTS TO PROVIDE SERVICE TO CUSTOMERS ANYWHERE WITHIN A WIRE CENTER, AS DR. CORNELL SUGGESTS AT PAGE 16 OF HER DIRECT TESTIMONY, WHAT WILL BE THE RESULT?

A. Once a reseller is able to attract at least 50 customers within a particular wire center, the reseller would qualify for Qwest's volume discount for the Centrex Plus access line, which is proposed to be priced at an average of $10.49 per month, based upon current distribution of resold Centrex Plus access lines. It is important to note that, at this price, the access line includes over 28 standard vertical calling features. There is little doubt that resellers would enjoy the competitive advantage this price represents, but it is a price that is significantly below its direct cost, since Qwest would not be able to employ T-1 loop technology to provide service to the reseller's small business customers distributed throughout the wire center.

Conversely, if the reseller wishes to resell Centrex Plus service to a larger customer with 51 or more lines at a single location in Oregon, Qwest would likely employ T-1 loop technology to provide that service, and the "per location" discount would therefore be cost-based and appropriate.

VI. ISSUES 9, 11 AND 12: EAS, BUSINESS LOCAL EXCHANGE, RESIDENTIAL LOCAL EXCHANGE

A. <u>Mr. James Stanage</u>

Q. WHAT ASPECTS OF MR. STANAGE'S PROPOSALS REGARDING QWEST'S LOCAL EXCHANGE PRICES DIFFER FROM QWEST'S PRICING PROPOSALS IN THIS DOCKET?

A. In his proposal, Mr. Stanage generally concurs in Qwest's proposal to consolidate Extended Area Service (EAS) prices from five rate bands into three and to reduce "Band B" measured EAS usage rates per minute from $0.05 to $0.03. However, he suggests a different means of consolidating the EAS rate bands than Qwest's proposal and recommends that EAS rates overall be reduced only half as much as the reductions proposed by Qwest. In addition, Mr. Stanage proposes no change to flat residential access line rates in Rate Group 1 for initial or additional lines, and an increase of $1.00 in Rate Group 2 and $2.00 in Rate Group 3 for this service. In contrast, Qwest proposed rate increases of $1.00, $2.00 and $3.00 in Rate Groups 1, 2 and 3 respectively for the first flat residential access line at a location (additional lines are proposed to be priced $1.00 below initial access lines). Next, Mr. Stanage proposes to leave residential measured rates unchanged, in contrast to Qwest's proposal to adjust these prices to $9.50, $10.50 and $11.50 in Rate Groups 1, 2 and 3 respectively. Finally, Mr. Stanage proposes to consolidate the Rate Groups 2 and 3 prices for Business exchange access services, including flat lines and PBX trunks, while Qwest proposes deaveraged prices for Rate Groups 1, 2 and 3 for these services.

Q. WHAT IMPACT DO MR. STANAGE'S PROPOSALS HAVE UPON THE REVENUE IMPACT CALCULATIONS SUBMITTED BY QWEST IN THIS DOCKET?

A. As referenced in Staff/1, Ball/4(RD), Mr. Stanage's proposals represent a change in the Qwest-proposed revenue reduction for EAS service from $(21.763)m to $(11.321)m, a change in the Business local exchange service revenue reduction from $(.873)mto $(.713)m and a change in Qwest's proposed Residential local exchange service revenue increase from $11.492m to $1.121m.

Q. REGARDING EAS PRICING, WHAT CONCERNS DO YOU HAVE WITH MR. STANAGE'S PROPOSAL?

A. Senate Bill 622 (now codified as Oregon Revised Statutes 759.400 through 759.425) created price floors and ceilings for all "non-basic" services. Price floors consist of the price that is charged to other telecommunications carriers for the essential functions required by those carriers to duplicate Qwest's retail service, plus the TSLRIC of non-essential functions. The price ceiling for "non-basic services" will be the prices ultimately ordered by the Commission in this docket.

Since EAS has been classified as a "non-basic" service, it is bound by these pricing guidelines. However, EAS prices have traditionally been set in a manner that recovers Qwest's intraLATA long distance revenues foregone when a calling route is converted to EAS calling, plus any network costs associated with the conversion. EAS prices are not "cost-based," from the perspective that they are, in large part, a revenue-neutral means to recover lost intraLATA long distance revenues. In this docket, Qwest and the Commission have an unusual opportunity to significantly restructure and reduce EAS prices, which are paid on a non-optional basis by all Oregonians, as a step toward simplification and eventual elimination of this charge.

Q. DOES QWEST SUPPORT MR. STANAGE'S EAS CONSOLIDATION PROPOSAL?

A. Only in part. Both Mr. Stanage's and Qwest's proposals address the key objective of streamlining the existing EAS pricing structure. As Mr. Stanage recognized in Staff/16, Stanage/5, lines 22 and 23, EAS prices in both Staff's and Qwest's proposals are driven largely by proposed levels of residential local exchange rates in this docket. In other words, Qwest's residential local exchange proposal yields a larger annual revenue increase which can be used to offset the EAS revenue decrease within the overall parameter of a $64.2m reduction in this docket. In contrast to Staff's proposal, Qwest's EAS proposal allows the Commission to meet the legally mandated objective of moving residential local exchange prices closer to the benchmark, while mitigating the net increase on individual customers through deep reductions in the non-optional EAS charge.

In regard to Mr. Stange's proposal to consolidate the existing five EAS rate bands into three, while his recommendation differ's from Qwest's proposed EAS rate structure, Qwest does not dispute the three rate band structure he proposes.

Q. AT PAGE 12, LINES 11 THROUGH 15, MR. STANAGE SUGGESTS THAT QWEST'S REVENUE IMPACT CALCULATIONS RELATIVE TO THE EAS PRICING PROPOSAL SUFFERS FROM "...A SERIES OF ERRORS..." WOULD YOU COMMENT?

A. Yes. In calculating his revenue impact estimate, Mr. Stanage used rates in effect in October 2000, which reflected rate increases implemented in EAS rate bands A and B. For its calculations, Qwest used rates in effect in October 1999, an approach Qwest believed Staff had concurred in. This difference accounts for virtually all of the "error" Mr. Stanage discussed. While Qwest disagrees with the characterization of this difference in approach as an "error," Qwest will not dispute Mr. Stanage's calculations.

Q. WHAT CONCERNS DO YOU HAVE REGARDING MR. STANAGE'S PROPOSALS FOR FLAT AND MEASURED RESIDENTIAL LOCAL EXCHANGE SERVICES?

A. In Docket UM 731, the Commission established a Universal Service Benchmark rate of $21.00 for all local exchange services classified as "basic" service. ORS

759.425(3) requires the Commission to "…seek to limit the difference between the price a telecommunications utility may charge for basic telephone service" and the "benchmark." In his proposal, Mr. Stanage recommends no change in current residential measured services and residential flat service rates in Rate Group 1, and increases of $1.00 and $2.00 for residential flat service in Rate Groups 2 and 3 respectively. This proposal falls short of the mandate of ORS 759.425(3) that the Commission move basic service prices toward the $21.00 benchmark. As shown in my proposal in Confidential Exhibit Qwest/204, Qwest's residential EAS recurring rate reductions range from $0.75 to $3.50. The residential local exchange increases proposed by Qwest allow the Commission to move these local exchange rates toward the benchmark as contemplated by Oregon law. The EAS reductions mitigate the effects of the basic rate increases upon residential customers.

Q. MR. STANAGE PROPOSES TO CONSOLIDATE BUSINESS LOCAL EXCHANGE PRICES IN RATE GROUPS 2 AND 3, WHILE LEAVING BUSINESS LOCAL EXCHANGE RATES IN RATE GROUP 1 SEPARATE. DO YOU AGREE WITH THIS APPROACH?

A. No. This approach creates a deviation from the deaveraged UNE loop structure ordered by the Commission in Docket UT 148. In that docket, the Commission established three rate groups for the unbundled loop, and established prices in each rate group that recognized the recurring costs in wire centers in Rate Group 3 are substantially higher than costs in Rate Groups 1 and 2. My proposal aligns the business local exchange rate structure adopted by the Commission in Docket UT 148. If Mr. Stanage's proposal is adopted, a further disincentive to growth of competition in Rate Group 3 wire centers will result: unbundled loops to serve Rate Group 3 customers will be priced significantly higher than Qwest's retail prices to serve those same customers.

B. Dr. Pamela Cameron

Q. WHAT IS THE ESSENCE OF DR. CAMERON'S POSITION ON BEHALF OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS (AARP) IN THIS DOCKET?

A. Dr. Cameron suggests that any increase to residential recurring or nonrecurring charges is untenable.

Q. WHAT IS THE SIGNIFICANCE OF ORS 759.425 TO THE COMMISSION'S CONSIDERATION OF QWEST'S PRICING PROPOSALS IN THIS DOCKET FOR RESIDENTIAL LOCAL EXCHANGE SERVICES?

A. Qwest is regulated under the terms of SB 622, and the prices proposed by Qwest, and ultimately placed into effect by the Commission, must conform to the requirements of this statute. The Legislature provided clear guidance to the Commission in ORS 759.425(3), in which it states "…the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark." The "benchmark" referenced in this section of the statute is the USF benchmark price of $21.00 per month established in Docket UM 731. Clearly, the Commission has a legislative mandate to move the price of any "basic telephone service," such as residential local exchange service, toward the benchmark if those prices are below the benchmark. As stated in my direct testimony, however, these pricing adjustments should be undertaken in a manner that mitigates rate shock to the extent practicable.

Q. HOW CAN THE COMMISSION "MITIGATE RATE SHOCK" OF ANY RESIDENTIAL LOCAL EXCHANGE PRICE INCREASES?

A. A wide range of prices are being changed in Qwest's proposal in this Docket, including intraLATA long distance, EAS and feature prices used by residential customers. In my direct testimony (Qwest/201) at Page 13, I displayed a "worst case" example of the effects of Qwest's pricing proposal on a residential customer in Leaburg, a Rate Group 3 exchange. In this example, while the residential access line rate is being increased by $3.00, the corresponding EAS rate that the customer must pay, is reduced by $2.01, resulting in a net monthly increase of $0.99. If this customer is a user of even modest amounts of intraLATA long distance service or subscribes to only a few vertical calling features, it is probable that the his/her net monthly bill will either remain unchanged or will decrease. Qwest's proposal provides mitigating rate offsets that provide the Commission a means of moving access line rates toward the benchmark while minimizing the rate impact upon the customer.

Q. AT PAGES 14 AND 15, DR. CAMERON SUGGESTS THAT QWEST'S PRICING PROPOSALS IN THIS DOCKET MAY NOT BE IN ALIGNMENT WITH SECTION 254 OF THE FEDERAL TELECOMMUNICATIONS ACT. DO YOU AGREE?

A. Not at all. Dr. Cameron ignores the net effect of Qwest's residential pricing proposals on customers'monthly bills, and chooses to focus only upon the customer that subscribes to a residential access line and who uses absolutely no intraLATA long distance or other Qwest services, and ignores the offsetting effects of EAS price reductions. This is not the typical Qwest customer profile. However, for customers with limited financial resources, the Oregon Telephone Assistance Plan (OTAP) will continue to be available to ensure continued subscribership, and measured service is also a lower-priced option that will continue to be available to customers wishing to reduce telephone service expenditures.

Q. SHOULD THE COMMISSION CONSIDER REQUIREMENTS OF THE ACT IN EVALUATING QWEST'S PRICING PROPOSALS IN THIS DOCKET?

A. Yes. The central goal of the Act is to stimulate the growth of competition for telephone service. While markets are now open and competition is present in Oregon, competitors tend to focus primarily on the profitable business segments. Moving residential local exchange rates toward the OPUC-established benchmark will encourage competitors to consider the residential markets in Oregon and accelerate the availability of competitive choices for residents.

Q. AT PAGE 20, DR. CAMERON REFERENCES A JUNE 30, 2000 FCC REPORT OF ACCESS LINES SERVED BY CLECS IN OREGON COMPARED TO THE BASE OF ACCESS LINES SERVED BY THE INCUMBENT. WHAT SHOULD THE COMMISSION KNOW ABOUT THESE NUMBERS?

A. Dr. Cameron reports that there were 2,178,697 access lines in Oregon, and only 58,699 of those were reported to have been served by CLECs. First, this report is nearly a year old and doesn't reflect the rapid competitive growth occurring in Oregon. Second, the total number of access lines she reports includes access lines served by all providers, including independents. Third, the number of 58,699 CLEC lines only represents lines reported by CLECs who supplied information to the FCC: all CLECs operating in Oregon did not supply information to the FCC. In short, no conclusions should be drawn from these numbers regarding Qwest.

C. Dr. Lee Selwyn (AT&T/WorldCom)

Q. DR. SELWYN STRONGLY DISAGREES THAT QWEST'S PROPOSED RESIDENTIAL LOCAL EXCHANGE PRICE INCREASES WILL "FACILITATE COMPETITIVE GROWTH" IN OREGON, AND GOES ON TO STATE THAT REDUCTIONS IN OTHER PRICES OF SERVICES

USED BY RESIDENTIAL CUSTOMERS IN OREGON MAY CREATE NET PRICE REDUCTIONS FOR CUSTOMERS AND DISINCENT COMPETITIVE GROWTH. DO YOU AGREE?

A. No. First, a basic economic tenet with which I'm sure Dr. Selwyn will agree is that competition tends to drive prices toward cost. Residential local exchange service in Oregon is well below the benchmark established in Docket UM 731. At the current rate level, savvy local exchange competitors have little incentive to strongly compete with Qwest for the residential customer, and instead tend to focus on the more lucrative business customer. If competition is to flourish as envisioned in the Act, local exchange prices ultimately will need to be driven toward the benchmark levels.

Dr. Selwyn's perspectives regarding the net impact of Qwest's prices for all services used by Oregon residential customers is interesting, in light of Dr. Cameron's testimony that Qwest's proposals are bad for Oregon customers. Essentially, Dr. Selwyn concludes that when all price changes, including local exchange, EAS, toll and features, are considered, Oregon customers will enjoy a net benefit from Qwest's proposal. This conclusion is similar to the one I outlined earlier in this testimony regarding the net bill effect customers in Leaburg may expect from Qwest's pricing proposals in this docket.

D. Mr. Don Wood (NWPA)

Q. CAN YOU SUMMARIZE MR. WOOD'S ARGUMENTS REGARDING QWEST'S PUBLIC ACCESS LINE (PAL) PRICING PROPOSALS?

A. Yes. Essentially, Mr. Wood suggests four questions this Commission should consider in determining whether Qwest's PAL pricing proposals are appropriate, as follows:[8]

1) Are Qwest's rates cost-based?
2) Are Qwest's rates consistent with the requirements of Section 276 of the Act?
3) Are Qwest's rates *nondiscriminatory?* (emphasis added)
4) Are Qwest's rates consistent with the FCC's Computer III tariffing guidelines (i.e., in compliance with the so-called "new services test"?)

Q. DO QWEST'S PAL PRICING PROPOSALS COMPLY WITH EACH OF THESE STANDARDS?

A. Yes.

Q. BEFORE YOU DISCUSS HOW QWEST'S PROPOSAL COMPLIES WITH EACH ITEM IDENTIFIED BY MR. WOOD, WOULD YOU DESCRIBE PAL AND SMART PAL SERVICES, TWO OF THE SERVICES AT ISSUE?

[8] NWPA/1,Wood/3-4

A. Yes. Public Access Line (PAL) service provides basic exchange access for use by a Payphone Service Provider (PSP) to connect pay telephones to Qwest's switched network to enable the payphone user to originate local and long distance calls. Payphones are placed at locations, accessible to the public, as determined by the owner of the property upon which the payphone is located. Basic PAL service provides a standard voice grade line designed for use by independent payphone providers who utilize "smart" payphone sets which perform coin control functions within the set itself. PAL service is currently classified as a "basic" retail service in Oregon,[9] and is considered to be local exchange business line for pricing purposes. Smart PAL service is similar to Basic PAL service, and is a voice grade exchange access line designed for use with "dumb" payphone sets. With Smart PAL, coin control functions are performed by Qwest's central office switching equipment. Both Basic and Smart PAL services are available with usage-sensitive local calling or with unlimited local calling for a flat monthly fee. Qwest utilizes Smart PAL to provide exchange access to the deregulated payphones it currently provides.

Q. HAS THE OREGON COMMISSION PREVIOUSLY TAKEN A PARTICULAR POSITION AS TO THE MANNER IN WHICH PAL SERVICE SHOULD BE PRICED?

A. Yes. In Qwest's (f/k/a PNB) last rate case in Oregon, on June 27, 1990, the Commission rendered the following decision regarding measured PAL pricing:

> PNB's current rate for PAL service is $33.50 for the exchange access line plus usage. The access line rate is $4.39 higher than the company's

[9] PAL service appears in Oregon Exchange and Network Service Tariff No. 29, Section 5.5.7

> current rate for regular business measured service. Since PAL access lines and measured service access lines are identical, there is no cost justification for the differential.
> To rectify the problem, staff proposes to reduce the PAL access line rate to the existing business measured service rate. PAL customers would continue to pay the same usage sensitive rates as regular measured business line customers. The proposed reduction in PAL access line rate is incorporated in the Fifth Stipulation and is expected to reduce annual revenues by $52,785. There was no opposition to the staff recommendation.[10]

More recently, on March 6, 2001, the Commission ordered measured and flat PAL rates into effect that mirror exactly the measured and flat business local exchange rates proposed in Qwest's revenue-neutral Universal Service Fund compliance filing (Advice No. 1844).

Q. TURNING TO THE QUESTIONS MR. WOOD POSED IN HIS DIRECT TESTIMONY, ARE QWEST'S PAL RATES COST-BASED?

A. Yes. As a retail service that is comparable to business local exchange service, Qwest's PAL rates are based upon TSLRIC costs, as discussed in the testimony of Mr. Robert Brigham. This does not mean that PAL rates, or business local exchange rates, are set at cost. Rather, Qwest retail services rates are set to recover TSLRIC plus Qwest's shared and common costs and to contribute a market-driven return to the firm.

Q. IN INTERPRETING THE PROVISIONS OF SECTION 276 OF THE ACT, HAS THE FCC PRESCRIBED ANY SPECIFIC LEVEL OF

[10] Order No. 90-920, P. 34, June 27, 1990

CONTRIBUTION ABOVE DIRECT COST THAT MUST BE USED TO SET PAL PRICES?

A. No. The FCC states, "once direct costs have been identified, LECs will add an appropriate level of overhead costs to derive the overall price of the new service. To provide the flexibility to achieve efficient pricing, we are not mandating uniform loading, but BOCs will be expected to justify the loading methodology they select as well as any deviations from it."[11] Clearly, the FCC deferred to state Commission discretion in establishing PAL prices, and has not attempted to preempt the states on this issue. This Commission has previously found that PAL services are retail services that should be priced at the same level as corresponding local exchange services, and clearly has the latitude to do so.

Q. AT PAGE 10, MR. WOOD ATTEMPTS TO DRAW A PARALLEL BETWEEN "COST-BASED" WHOLESALE SERVICES PRICING REQUIREMENTS DRIVEN BY SECTIONS 251 AND 252 OF THE ACT AND PRICING REQUIREMENTS RELATIVE TO PAL SERVICES. DO SECTIONS 251 AND 252 OF THE ACT RELATE IN ANY WAY TO PAL PRICING IN OREGON?

A. No. PAL services are retail services, and the cost-based requirements of Sections 251 and 252 of the Act apply exclusively to interconnection and wholesale (Unbundled Network Element) services. The FCC reaffirmed this in its Report and Order in Docket 96-388, in which it stated "We decline to require, as proposed by AT&T, that the pricing regime under Sections 251 and 252 apply to all Section 276 payphone services offered by incumbent LECs. Section 276 does not refer to or require the application of Section 251 and 252 to LEC payphone services."[12]

Q. HAS QWEST SUPPLIED TO THIS COMMISSION EVIDENCE THAT IT HAS PROPOSED PAL PRICES THAT EXCEED "BUILDING BLOCK" PRICE FLOORS AS DEFINED IN THE COMMISSION'S ORDER IN DOCKET UM 844?

A. Yes. In Docket UM 844, this Commission defined "building block" price floors as consisting of the price of the combination of wholesale service element rates that a competitor must purchase to construct a service comparable to Qwest's retail service plus the TSLRIC of non-essential functions, such as marketing and billing, Qwest incurs in providing the service. The testimony of Mr. Robert Brigham provides calculations of price floors for a wide variety of services, including PAL and related business local exchange services.

Q. DO QWEST'S PROPOSED PAL RATES COMPLY WITH THE UM 844 PRICE FLOOR TEST?

A. Yes. Qwest's PAL and related business local exchange services prices are above their respective price floors. This ensures that Oregon CLECs desiring to provide

[11] CC Docket Nos. 89-79 and 87-313. Report and Order on Further Reconsideration and Supplemental Notice of Proposed Rulemaking. Adopted June 13, 1991. ¶ 44.
[12] CC Docket No. 96-388, adopted September 20, 1996, ¶147

PAL services in competition with Qwest can do so on a non-discriminatory manner, since the price floor is intended to be an approximation of a competitor's cost to provide a comparable service.

Q. AT PAGE 13, MR. WOOD SUGGESTS THAT JURISDICTIONAL SEPARATIONS MUST BE APPLIED TO LOOP COSTS SUPPORTING PAL COSTS TO AVOID DOUBLE RECOVERY. IS THIS CORRECT?

A. No. Charges defined by the FCC, such as SLC/CALC, which are designed to recover a portion of loop costs, can be included in the numerator of a revenue/cost calculation to determine whether revenue associated with a particular rate element is above a UM 844 cost floor. Additionally, application of SLC/CALC is applied in precisely the same manner for Qwest's local exchange services as it is to PAL services. Since these services are both retail services, Mr. Wood's limited suggestion cannot be accepted without a fundamental alteration in cost methodology for all retail loop-based services.

Q. AT PAGE 20, MR. WOOD QUESTIONS WHETHER QWEST'S PAL RATES ARE DISCRIMINATORY. ARE HIS POINTS VALID?

A. No. Mr. Wood suggests that Qwest's pricing structure may favor Smart PAL (the service used by Qwest to provide local exchange service for its own payphones) over Basic PAL service. In fact, Qwest's proposed Smart PAL rates are approximately $5.00 higher than its proposed Basic PAL rates in this docket, which accounts for the central office-based coin control functions inherent in the

Smart PAL service. It is also important to note that Qwest's deregulated payphone organization is assessed SLC/CALC charges identical to those assessed to unaffiliated payphone providers. In Advice No. 1844, this Commission recently evaluated Qwest's PAL and Smart PAL prices and found both to be appropriate in Oregon.

Q. AT PAGES 21 THROUGH 36, MR. WOOD QUESTIONS WHETHER QWEST HAS COMPLIED WITH THE "NEW SERVICES TEST" IN ITS PROPOSED PAL PRICES. WOULD YOU COMMENT?

A. First, I would like to briefly summarize the requirements of the "new services test." This pricing test, as set forth in 47 C.F.R. § 61.49(g)(2), is a benchmark that must be met when the Company files a federal tariff for a new service. There are essentially two parts to the test: 1) each service must be priced above cost, and 2) each service price must reflect a reasonable level of contribution. This test is designed to ensure that a LEC's PAL prices are not subsidized by other services by being priced below cost or are not discriminatory by being priced unreasonably high.

Qwest's PAL prices meet the test on both counts. They are above cost, as demonstrated by exceeding UM 844 price floor levels, and are priced exactly at levels of corresponding business local exchange services.

Q. MR. WOOD REFERS TO THE "WISCONSIN ORDER" AS BEING HELPFUL TO THE OPUC IN DETERMINING WHETHER QWEST HAS

MET THE REQUIREMENTS OF THE NEW SERVICES TEST IN PRICING ITS PAL SERVICES. IS HE CORRECT?

A. No. The "Wisconsin Order" was issued on March 2, 2000, and was drafted by a deputy director at the FCC. None of the FCC Commissioners signed the order, and it remains under dispute. On April 3, 2000, the "LEC Coalition", consisting of Qwest, Bell South, Verizon, Ameritech and SBC, filed a Petition for Stay of this order. Since that time, the FCC has solicited comments from interested parties, and has yet to act on the request for stay. Qwest believes that it is probable that this order will be overturned and that it provides no meaningful guidance to the OPUC in this docket.

Q. AT PAGE 37, MR. WOOD SUGGESTS TO THE COMMISSION THAT PAL RATES SHOULD NOT BE GEOGRAPHICALLY DEAVERAGED, AND IS APPARENTLY ASKING THE COMMISSION TO OVERTURN THE DEAVERAGED STRUCTURE IT RECENTLY APPROVED IN QWEST'S ADVICE NO. 1844. IS THIS REASONABLE?

A. No. Qwest's PAL proposal in this docket is based on the deaveraged retail pricing structure previously approved by the Commission, and complies with the Commission's guidelines in UM 844 in identifying price floors for Qwest's retail services. Further, Mr. Wood seems to suggest that, by charging a statewide averaged PAL rate, PAL prices in Rate Group 3 should be held at levels well below their cost. If this is Mr. Wood's suggestion, it is in direct conflict with the provisions of Section 276(a)(1), which prohibit a LEC from subsidizing "...its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations."

VII. CONCLUSION

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. This docket brings resolution to earnings and pricing issues that have been pending in Oregon for several years. Qwest is obligated, on a Commission-mandated test period basis, to reduce revenues by a total of $64.2m (a combination of the net revenue reduction of $63m ordered by the Commission on April 14, 2000 in Order No. 00-190 and a reduction associated with the shift of the implicit fund of $1.2m, collected annually by Qwest to fund Commission operations, to an explicit line item charge on customers' bills). Qwest's retail rate proposals in this docket fully comply with the Commission's revenue reduction mandate, and also comply with all applicable Federal and State requirements governing competitive pricing practices. I respectfully request the Commission to approve Qwest's proposal as filed, with the limited exceptions identified in this testimony.

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UT 125
(Phase II – Rate Design)

In the Matter of the Application of Qwest Corporation, for an Increase of Revenues	VERIZON NORTHWEST INCORPORATED'S RESPONSES TO QWEST CORPORATION'S FIRST SET OF DATA REQUESTS

Verizon Northwest Incorporated (f/k/a GTE Northwest Incorporated, hereinafter "Verizon"), by counsel and pursuant to OAR 860-014-0070, submits the following responses and objections to the data requests (the "Requests") propounded by Respondent Qwest Corporation ("Qwest").

GENERAL OBJECTIONS

1. Verizon objects to the Requests to the extent that they purport to call for the production, identification or disclosure of information or documents protected by the attorney-client or other privileges, information or documents protected by the work-product doctrine, information or documents protected as trial preparation material, or information or documents otherwise protected as confidential, such as competitively sensitive or proprietary information not already the subject of an appropriate protective order.

2. Verizon objects to the Requests to the extent that they call for the production of documents beyond the requirements of the applicable Oregon rules.

3. Verizon objects to the Requests to the extent that they call for Verizon to produce public documents or documents and information already in the possession, custody or control of Qwest.

Verizon used the formulas for residential and business toll elasticities of demand developed in this study. These formulas indicate that the residential toll elasticity of demand equals -2.432 times the average price of toll. The business toll elasticity demand equals -0.7325 times the average of business price toll. Verizon has not prepared any comparison of the Oregon Docket UT 141 demand stimulation forecast with actual demand data.

Provided by:

Name: Don Perry

Position: Manager-Regulatory

Business Address: 1800 41st Street
Everett, WA 98201

2. In Oregon, Verizon (defined as including its predecessor, GTE Northwest, Inc.] changed its price for intra-LATA toll service as a result of Docket UT 141. Please:

a) identify minutes of use (MOU) of your intra-LATA toll products in Oregon for the 12 months preceding the effective date of that price change and for the 12 months following the effective date of that price change;

b) produce any study or analysis of the effect of that price change on intra-LATA toll demand, including supporting documentation;

c) identify all other factors affecting toll demand during that time period, including but not limited to EAS conversions, any other price changes, the introduction of toll packages including calling plans, and the conversion to intra-LATA toll dialing parity.

d) identify the rate per minute for intra-LATA toll calls in effect during each month for which data is provided, including basic MTS and all calling plans, as well as the average rate per minute for such calls for each such month.

OBJECTIONS AND RESPONSE: Verizon objects to this request to the extent that it requires Verizon to create documents not in existence. With regard to subparts (c) and (d), Verizon further objects on the ground that this request calls for production of documents and information that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; any responsive documents or information involve different sets of facts and circumstances than the ones at issue in this docket. Verizon also objects with regard to subparts (c) and (d) to the extent any responsive documents or information are a matter of public record and/or are already in Qwest's possession.

Subject to and without waiving its objections, however, Verizon responds to each subpart of Data Request No. 2 as follows:

a) Verizon does not possess any documents responsive to this request. Furthermore, Verizon does not possess any information that would accurately respond to this request. Verizon has not initiated any price changes in Oregon other than that which occurred as a result of Docket UT 141. Since that time, Verizon's toll revenues have declined by approximately two-thirds as a direct result of increased competition in the market. Under these circumstances, there simply is no way to gauge the effect, if any, of the stimulator factor imposed by the Oregon Commission in the UT 141 proceeding. Verizon's minutes of use (MOU) following the aforementioned price change thus would by wholly irrelevant to this rate proceeding.

b) Verizon has not performed and does not possess any study or analysis of the effect of the price change for intra-LATA toll that resulted from Oregon Docket UT 141. See documents produced in response to Data Request No. 1.

c) See documents attached.

d) See documents attached.

3. Please identify any other price change since January 1, 1996 for intra-LATA toll service for Verizon in Oregon, and with respect to each such price change, please:

a) identify minutes of use (MOU) of your intra-LATA toll products in Oregon for the 12 months preceding the effective date of that price change and for the 12 months following the effective date of that price change;

UT 125
Staff Response to Qwest's Third Set of Data Requests
April 30, 2001

Request No. 11:

With respect to your testimony at Staff/8, Turner/26, lines 19-20: Please provide any evidence that the level of demand stimulation forecast by Verizon's 1995 elasticity study or the elasticity factor utilized by the Commission actually occurred as a result of price changes implemented in Docket UT-141. Please produce minutes of use for Verizon's intra-LATA toll products for the 12 months preceding and following implementation of the UT 141 rates.

Response:

I have not tracked toll usage nor done an elasticity study for Verizon's toll market.

The authorized toll rates in UT-141 became effective on October 1, 1998. See PUC Order 98-388. I have minute-of-use information for 3 of the 24 months requested (October, November, and December 1997). The requested information is subject to a protective order in another docket. Staff's attorney and Qwest's attorney have discussed the matter, and staff will not be providing the information due to its protective status.

Respondent: Tom Turner.

Qwest/225
Teitzel/1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

METRONET SERVICES CORPORATION and METRONET TELEMANAGEMENT CORPORATION, Plaintiff, v. QWEST CORPORATION, Defendant.	CASE NO. C00-0013C ORDER

This matter comes before the Court on defendant's motion for summary judgment (Dkt. No. 47). The Court, having considered the briefs submitted by the parties and determined that oral argument is not necessary, hereby finds and rules as follows.[1]

I. Background

This is an antitrust case between Qwest, a large telecommunications company that, among other business interests, owns the telecommunications infrastructure in many western states, including Washington, and Metronet, a reseller of business phone service.

[1] Plaintiff's motion for leave to file a memo in support of its motion to file an overlength brief (Dkt. No. 65) is GRANTED. Plaintiff's motion for leave to file an overlength brief (Dkt. No. 57) is GRANTED.

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This dispute concerns the manner in which Qwest prices a telecommunications product called Centrex. Centrex is a business phone service that consists of two components: multiple telephone line access to Qwest's physical telephone network (the access component), and calling features, such as caller ID, intercom calling, and long distance service (the features component). Qwest offers a volume discount on the access component of Centrex. The Centrex customer need not purchase each telephone line individually at Qwest's flat rate for business service (the 1FB rate); rather, the Centrex customer gets all the lines it needs at a substantial discount from the 1FB rate. The price of Centrex is competitive with the price of purchasing a PBX and a 1FB line. Smaller businesses, those with 20 lines or fewer, do not qualify for the volume discount reflected in the Centrex rate, and generally cannot justify the expense of a PBX system. Qwest expects small businesses simply to purchase the number of 1FB lines they require, and purchase the calling features they require on the open market.

Metronet's business consists mainly of purchasing Centrex services from Qwest and reselling those services to aggregations of smaller businesses. Because of this discount, there was a substantial difference between the cost at which Metronet could provide Centrex service to an aggregation of small businesses and the price at which a small business could purchase multiple 1FB lines. By pricing Centrex above the cost Metronet incurred in providing the service to the small businesses but below the price at which the small businesses could purchase multiple 1FB lines, Metronet was able to reap handsome profits.

Qwest charges separate fees for the access component and the features component of Centrex, but it requires consumers who purchase one component also to purchase the other component. Initially, the price Qwest charged Metronet for the features component had been calculated based on the number of Centrex packages Metronet purchased from Qwest without regard for the number of individual phone lines to separate locations covered by the Centrex package. In 1997, Qwest instituted a change in their pricing policy regarding the features component of Centrex; the new price is calculated based on both the number of Centrex packages and the number of individual phone lines to separate locations. Qwest refers to this pricing policy as "per location pricing" of Centrex. Because of the change in pricing policy, Metronet must pay significantly more for the Centrex services that it then resells to the aggregated smaller businesses. According to Metronet, Qwest's institution of per location pricing prevents Metronet from pursuing its reselling business profitably.

At roughly the same time that Qwest instituted its per location pricing policy, the local telephone market was opened to competition pursuant to the Telecommunications Act of 1996 ("The Telecom Act"), 47 U.S.C. § 202 et seq. As a result, Qwest significantly reduced the price of its 1FB line, and hence also reduced the price of the access component of Centrex. Metronet now purchases the two components of Centrex at a total price much lower than the price it paid before the Telecom Act went into effect. Because of the per location pricing policy, however, Metronet pays more (and proportionately more) for the features component due to the multiple locations of its aggregated businesses. In fact, Metronet now pays a price for the features component that is much closer to the going rate in the competitive market for calling features. Therefore, the price at which Metronet provides calling features to its customers is now much closer to the price at which those customers could purchase calling features on the open market. And, because of the reduction in the price of 1FB lines, the price Metronet charges its customers for the access component is now much closer to the price at which those customers could purchase 1FB lines from Qwest. Thus, the total price that Metronet charges its customers for Centrex services is now much closer to the price those customers would pay by purchasing 1FB lines and calling features independently. The effect of the reduction in price for 1FB lines and the per location pricing policy has been to reduce, if not eliminate, Metronet's profit margin.

Metronet contends that Qwest's per location pricing of its Centrex product violates federal antitrust laws. Metronet brings three causes of action. First, Metronet claims that Qwest has denied Metronet access to an essential facility in violation of § 2 of the Sherman Act. 15 U.S.C. § 2. Second, Metronet claims that Qwest has illegally maintained a monopoly of local business phone service, also in violation of § 2 of the Sherman Act.. Third, Metronet claims that Qwest has illegally attempted to monopolize local business phone service in violation of § 2 of the Sherman Act.

II. Summary Judgment Standard

Summary judgment is appropriate where there are no issues of material fact and where the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The Supreme Court has rejected the contention that antitrust plaintiffs "can get to a jury on the basis of the allegations in their complaints, coupled with the hope that something can be developed at trial" to support the allegations. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

"Summary judgment is particularly important in antitrust cases because of the fearful dimensions such cases can assume and because of the powerful incentives to offer claims or defenses of little merit." Areeda and Hovenkamp, Antitrust Law, § 322 (1995). The Supreme Court has made clear that the limitations on the use of summary judgment in antitrust cases, if any, attach to claims where motive and intent play a crucial role. Poller v. Columbia Broadcasting System, Inc., 368 U.S. 464, 473 (1962). The theory is that these issues turn on evidence that is peculiarly within the possession of the defendant, and so should not be dismissed summarily. See Areeda and Hovenkamp, Antitrust Law, § 322c (1995). Where, as in this case, the issues do not turn on such evidence, there is no proscription on the use of summary judgment.

III. Essential Facilities Claim

It is well-settled law in the Ninth Circuit that to establish an essential facilities claim the plaintiff must prove four elements:

(1) Defendant is a monopolist in control of an essential facility;

(2) Competitors of the monopolist are unable to duplicate the facility;

(3) The monopolist has refused to provide the competitors access to the facility; and

(4) It is feasible for the monopolist to provide access to the facility.

Ferguson v. Greater Pocatello Chamber of Commerce, Inc., 848 F.2d 976, 983 (9th Cir. 1988); Alaska Airlines, Inc. v. United Airlines, Inc., 948 F.2d 536, 542 n.9 (9th Cir. 1991). Qwest claims, and the

Court agrees, that Metronet cannot prove elements (1) and (3).

The parties are somewhat unclear about what they consider to be the essential facility in this case. The Court finds that it is unlikely that a precise definition is required to decide the issues before this Court.

Under element (1), Qwest controls an essential facility only if it is able to eliminate competition in the downstream market. Alaska Airlines, 948 F.2d at 544. The parties agree that the downstream market is, "The retail provision of wireline switched local exchange and exchange access services to small business customers in the Seattle/Tacoma area." Metronet's Memorandum in Opposition to US West's Motion for Summary Judgment, p. 3, n.3; Qwest's Memorandum in Support of its Motion for Summary Judgment, p. 14, n.18. In short, the relevant market is the retail phone service for small businesses in the Seattle/Tacoma area.[2]

Qwest is not capable of eliminating competition in the market for local business telephone service. The Telecom Act itself requires Qwest to open up access to at least part of its essential facility, its physical network, to firms with their own switching facilities wishing to interconnect with that network. 47 U.S.C. § 251(d)(2). These firms are then able to provide their own features and compete with Qwest in the market for local business phone service. The Telecom Act also requires Qwest to provide access to its calling features. 47 U.S.C. § 153(29). Metronet asserts, however, that Qwest could make access to its calling features financially unrewarding by adopting exclusionary pricing policies

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[2] Metronet is exclusively a reseller of Centrex services, so it actually competes in only a subsection of the market for local business phone service. Nevertheless, it would be inappropriate to define the relevant market more narrowly for the purposes of Metronet's essential facilities claim because an essential facilities claim requires the plaintiff to prove that there is a relevant market in which the plaintiff and defendant compete. See, e.g., Intergraph Corp. v. Intel Corp., 195 F.3d 1346, 1357 (Fed. Cir. 1999)("[T]here must be a market in which plaintiff and defendant compete, such that a monopolist extends its monopoly to the downstream market by refusing access to the facility it controls"). Qwest does not compete in the reselling niche of the larger local business telephone service market. Therefore, limiting the relevant market to reselling would be inappropriate in the context of an essential facilities claim.

such as per location pricing. In a market as broadly defined as local business phone service, however, this point carries little force. Even if the per location pricing policy makes the calling features available to Metronet and other firms on terms that make resale of those features unprofitable, there will still be competition in the market for local business phone service from wholesalers and from firms with their own facilities who have interconnected with Qwest's physical network under the Telecom Act. Therefore, Qwest does not control its essential facilities because it cannot eliminate competition in the relevant market.

Under element (3), Qwest would deny Metronet access to its essential facility if it simply refuses Metronet any access to its facility, or prices access to that facility in a way that would "drive [Metronet] away." Alaska Airlines, 948 F.2d at 545. It is clear that Qwest has not denied Metronet all access to its essential facility because Metronet continues to this day in its business of reselling Centrex. The issue, therefore, is whether Qwest's per location pricing policy has denied Metronet access to Centrex by "driving [Metronet] away."

Qwest will be driving Metronet away if its pricing policy makes it unprofitable for Metronet to continue reselling Centrex and there is no other plausible alternative way in which Metronet can access Centrex and resell the service at a profit. It is unclear from the record whether Metronet remains profitable. Metronet's CEO asserted under oath that the firm is no longer profitable. Declaration of Kenneth Seeley § 4. Metronet's accounting controller, however, stated under oath that the firm remained profitable through 2000. Deposition of Shane Kordosis, 106:2-6, 115:2-4, 117:2-16, 120:8-121:5.

If Metronet does indeed remain profitable, then it cannot rightly claim to have been denied access to Centrex. Resolving this confusion in favor of Metronet by supposing that it is no longer profitable, however, does not help Metronet because Metronet has not shown that any unprofitability was caused solely by Qwest's pricing policy. Qwest has supplied substantial evidence that Metronet's unprofitability, if any, can be explained by numerous factors other than Qwest's pricing policy.[3] Qwest points to (1) the large reduction in the rate of 1FB lines, (2) the increase in competition in the market for local business phone service, (3) the fact that Metronet several times lost management and sales personnel who were not replaced immediately, and (4) the fact that Metronet failed actively to seek new sales of Centrex. See Qwest's Memo in Support at 4-5, and supporting documents. Separately and in concert, these claims provide alternative explanations for Metronet's assumed financial difficulties. By producing evidence in support of these claims, Qwest has produced evidence that calls into question Metronet's assertion that Qwest's per location pricing policy has caused its unprofitability. Faced with this evidence, Metronet's burden on summary judgment requires it to respond with evidence that would permit a rational trier of fact to find that the per location pricing policy, without these other factors, would be sufficient to cause Metronet to be unprofitable. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986). And given that Qwest has produced this evidence, mere dispute or disbelief on the part of Metronet is not enough to carry its burden on summary judgment.

Metronet responds inadequately to the evidence produced by Qwest showing other potential

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[3] Qwest also argues that Metronet is not entitled to access to Centrex on terms that guarantee Metronet's profitability, and should not be permitted to proceed to trial simply by alleging that the terms on which they are granted access to Centrex make it unprofitable for them to pursue their reselling business. Laurel Sand & Gravel, Inc. v. CSX Transport., Inc., 924 F.2d 539, 545 (4^{th} Cir. 1991)(granting summary judgment on an essential facilities claim even though the rate charged for access made it unprofitable for the plaintiff; "the reasonable standard of access factor can not [sic] be read to mean the assurance of a profit for [the plaintiff]"). This argument is unavailing for two reasons: First, no firm can be guaranteed a profit by the terms on which they are granted access to an essential facility because there are myriad potential causes of unprofitability for which the terms of access could not compensate. The force of the Fourth Circuit's statement for this case, then, is not that Qwest may price with impunity no matter what effect its pricing policy has on its competitors in the downstream market. Rather, the statement merely means, in this context, that Qwest cannot be expected to compensate with its pricing policy for other factors that may cause Metronet to be unprofitable. Second, Qwest is well-aware that the Ninth Circuit would find a denial of access where the defendant's terms of access to an essential facility would "drive [defendant's] competitors away." See Qwest's Memo in Support at 12. If the per location pricing policy by itself caused Metronet to be unprofitable, and Metronet can prove this, then Qwest might be driving Metronet away, and therefore denying access under Ninth Circuit interpretation of the denial of access prong of the essential facilities doctrine.

causes of Metronet's assumed unprofitability. Metronet states that whether it is profitable and whether organizational changes within Metronet might have caused any unprofitability are irrelevant to the issues before the Court. Under Ninth Circuit law, the Court finds both issues highly relevant. The issue of Metronet's profitability is relevant because if it is profitable for Metronet to continue as a reseller of Centrex, Metronet has not been denied access to an essential facility. The issue of whether Metronet's organizational changes have caused Metronet to be unprofitable is relevant because unless Metronet can produce at least some evidence that Qwest's per location pricing policy has caused its unprofitability without any of the other potential causal factors cited by Qwest, Metronet has not shown that it has been denied access to an essential facility. Thus, Metronet's unilateral declaration that the issues of its unprofitability and potential causes of its unprofitability are irrelevant is inadequate. Moreover, Metronet does not dispute Qwest's evidence that competition in the relevant market has increased. Therefore, Metronet has not met its burden of showing the existence of a genuine issue of material fact whether Qwest's per location pricing policy has denied Metronet access to an essential facility.

Metronet is also unable to show that there are no reasonable alternative means of access to Qwest's essential facility. Qwest currently sells 1FB lines and certain calling features wholesale, which allows other firms to purchase these services and resell them at the retail level for profit. Metronet, in fact, has entered into an agreement with Qwest to purchase such services wholesale. Metronet claims that Qwest has refused to make certain calling features available at the wholesale level (e.g., voicemail and long-distance), but Metronet does not rebut Qwest's evidence that those features can be purchased elsewhere at competitive prices on the open market. Therefore, as far as Metronet has shown, there are reasonable alternative means of access to Qwest's essential facility.

Metronet has not shown that its unprofitability, if any, is caused by Qwest's pricing policy. Nor has Metronet shown that alternative means of access to Qwest's essential facility are unavailable. Therefore, Metronet has not come forward with evidence sufficient to show that it can establish that Qwest has denied Metronet access to an essential facility. Qwest's motion for summary judgment on this claim is therefore GRANTED.

IV. Illegal Monopolization

To prove an illegal monopolization claim under the Sherman Act § 2, the plaintiff must establish three elements:

(1) The defendant possesses monopoly power in the relevant market;

(2) The defendant willfully acquired or maintained its monopoly power through exclusionary conduct; and

(3) The defendant caused antitrust injury.

American Prof'l Testing Serv., Inc. v. Harcourt Brace Jovanovich Legal & Prof'l Publ'ns., Inc., 108 F.3d 1147, 1151 (9^{th} Cir. 1997). If Qwest is able to show that Metronet cannot establish any one of these elements, summary judgment on the monopolization count must be granted. In fact, Qwest has shown that Metronet can establish none of these elements.

The Ninth Circuit has been very clear about the test to establish element (1): "[M]onopoly power is the power to exclude competition or control prices." United States v. Syufy Enters., 903 F.2d 659, 664 (9^{th} Cir. 1990). This test is disjunctive, and is not satisfied in this case.

While it is clear that Qwest has a monopoly share of the relevant market (it has more than a 95% share of the local retail business phone service market), it is highly unlikely that Qwest's high market share confers upon it monopoly power (the power to exclude competition or control prices). Qwest has presented undisputed evidence that, since the Telecom Act became effective, there are, or have recently been, as many as 17 competitors in the local retail business phone service market. See Bogus Deposition, 78:2-23, Tatman Deposition, 60:2-17, Beckett Deposition, 35:8-36:1, 91:17-92:5. While Metronet correctly points out that no other competitor in this market has more than a 1.1% share of the market, that is easily explained by the fact that the market has been open to competition for less than 5 years. Given that Qwest had a 100% share of the market at that point, it would be surprising if their market share diminished more quickly than it has because some barriers to entry remain in local telecommunications markets. Metronet's expert overstates the case for high entry barriers in this market, see Metronet's Memo in Support at 21-22 and supporting documents, yet some barriers do remain. For example, Qwest has strong brand name identification, which tends to breed consumer loyalty. Also, certain types of new entrants (those wishing to maintain their own switching facilities and merely interconnect physically with Qwest's network) must absorb substantial start-up costs that Qwest has already incurred. These barriers will diminish in time as new firms build their infrastructure, gain a toehold in the market, advertise more widely, and gain wider recognition. Thus, the current distribution of market share is unlikely to be stable; a 95% market share now could well evaporate in the coming years without antitrust involvement. Therefore, it is unlikely that Qwest can exclude competition.

Qwest is also unable to control prices in the local business phone service market. First, phone service is not the type of commodity that is susceptible to price increase through output reduction.[4] Second, the fact of competition in the wake of the Telecom Act prevents Qwest from unilaterally raising prices. Third, while Qwest can control the price it charges for access to phone service to some degree, the Washington Utilities and Transportation Commission (WUTC) mitigates the extent to which Qwest can simply dictate prices for access to phone service. Metronet points out that Qwest can determine its price for calling features because the WUTC does not control that aspect of Qwest's service. Qwest notes correctly, however, that calling features are not regulated by the WUTC because that market is open to competition. Thus, the WUTC limits Qwest's ability to control access prices, and the competitive market for calling features limits Qwest's ability to control prices for calling features. For the foregoing reasons, then, Qwest is unable to control prices in the local business phone service market.

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[4] According to standard price theory, prices increase as output decreases and demand rises. See Hovenkamp, Antitrust Law and Policy, § 1.1. Thus, monopolists in markets to which price theory applies can increase prices in the market by reducing output and driving up demand. Oil companies, for example, can increase demand, and hence price, by making less oil available. Phone service, however, is not a commodity susceptible to output limitation in the way that oil is. Thus, Qwest cannot control the prices for the service it provides in way that oil companies can control the prices for the product they provide.

To prove exclusionary conduct under element (2), Metronet must show not merely that Qwest's per location pricing policy has harmed competitors (e.g., Metronet), but that the policy constitutes a harm to competition. Oahu Gas Serv., Inc. v. Pacific Res., Inc., 838 F.2d 360, 370 (9th Cir. 1988). The test for harm to competition is whether consumer welfare has been harmed. Rebel Oil Co., Inc. v. Atlantic Richfield Co., 51 F.3d 1421, 1433 (9th Cir. 1995). Consumer welfare, in turn, has been harmed if there has been a decrease in allocative efficiency and an increase in the price of goods beyond competitive levels. Id. "Allocative efficiency" requires that society's resources be allocated efficiently. Hovenkamp, Antitrust Law and Policy, § 2.3 (1994).

The test for element (2) is conjunctive: whether consumer welfare is harmed depends on both a decrease of allocative efficiency and an increase in price. Qwest produced unrebutted evidence that the overall cost of Centrex to consumers dropped significantly when the local phone markets were opened up to competition under the Telecom Act. The fact that competition in the local business phone service market can keep the price of Centrex overall below the pre-price-change level is sufficient to constitute no harm to consumer welfare. And without harm to consumer welfare, Qwest cannot be found to have engaged in exclusionary conduct. And without exclusionary conduct, element (2) in a monopolization claim is not satisfied.

To establish an antitrust injury under element (3), the plaintiff must show that it has suffered an "injury of the type the antitrust laws were intended to prevent" and that the injury "flows from that which makes the defendants' acts unlawful." Atlantic Richfield Co. v. USA Petrol. Co., 495 U.S. 328, 334 (1990). The question of antitrust injury is separate from the question of injury-in-fact and causation of that injury by Qwest's conduct. See Hovenkamp, Antitrust Law and Policy, § 16.3c. Metronet may have suffered an injury, and that injury may indeed have been caused by Qwest, but it is not an antitrust injury unless the injury is caused by conduct by Qwest that is illegal under the antitrust laws. Brunswick Corp. v. Pueblo Bowl-O-Matic, Inc., 429 U.S. 477, 489, 97 S.Ct. 690, 697 (1977).

Because Metronet has not shown that Qwest's actions satisfy the test for monopolization, they cannot show that any injury Metronet has suffered is an antitrust injury and summary judgment on the monopolization claim is therefore GRANTED.

V. Attempted Monopolization

To prove an attempted monopolization claim under the Sherman Act § 2, the plaintiff must establish three elements:

(1) The defendant has a specific intent to monopolize a relevant market;

(2) The defendant has engaged in predatory or anticompetitive conduct; and

(3) The defendant has a dangerous probability of success.

Alaska Airlines, Inc. v. United Airlines, Inc., 948 F.2d 536, 542 (9th Cir. 1991).

Qwest suggests that the evidence brought to support its motion for summary judgment on the monopolization charge is sufficient to support its motion for summary judgment on the attempt charge as well. Indeed, some courts and scholars have wondered whether there is an attempt offense that is not simply identical to the monopolization offense. See P. Areeda and D. Turner, Antitrust Law, § 820 (1994). To the extent that there is, it consists in elements (1) and (3) listed above.

Qwest, for its part, simply declares that Metronet can prove none of the three elements. But Qwest produces no evidence at all regarding elements (1) and (3). Qwest does suggest, albeit somewhat obliquely, that the evidence and arguments brought forth in response to the monopolization charge are sufficient to establish that Metronet cannot prove element (2). Because the test is conjunctive, Qwest need only show that Metronet cannot prove element (2).

Qwest is correct that the attempt offense has as an essential element an anticompetitive conduct requirement that is essentially no different from the monopolization offense's exclusionary conduct requirement. Thus, that Qwest has produced evidence tending to show that Metronet cannot prove exclusionary conduct means that it has produced evidence tending to show that Metronet cannot prove anticompetitive conduct. Metronet has not produced evidence sufficient to allow a rational fact finder to find that Qwest has engaged in anticompetitive conduct. Thus, Metronet has not come forward with evidence sufficient to establish element (2). Qwest's motion for summary judgment on the attempted monopolization claim is therefore GRANTED.

VI. Summary

Where, as here, the issues in an antitrust case do not turn on evidence of motive and intent that is peculiarly within the hands of the defendant, there is no proscription on the use of summary judgment peculiar to antitrust cases. Because Metronet cannot prove each element of the causes of action alleged, Qwest's motion for summary judgment is hereby GRANTED in its entirety. The clerk is directed to enter judgment in favor of Qwest.

SO ORDERED this 16th day of April, 2000.

CHIEF UNITED STATES DISTRICT JUDGE

UT 125

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Public Utility Commission of Oregon
Administrative Hearings Division

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER OF THE APPLICATION	)	
OF QWEST CORPORATION FOR AN	)	**DOCKET NO. UT 125**
INCREASE IN REVENUES	)	**Phase II**

REBUTTAL TESTIMONY

OF

ANIRUDDHA BANERJEE, Ph.D.

ON BEHALF OF

QWEST CORPORATION

MAY 3, 2001

n/e/r/a
Consulting Economists

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REBUTTAL TESTIMONY OF ANIRUDDHA BANERJEE, Ph.D.

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

DOCKET NO. UT 125 (PHASE II)

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ON BEHALF OF QWEST CORPORATION

MAY 3, 2001

I. EXECUTIVE SUMMARY

A. Introduction

In this proceeding, Qwest has proposed to reduce its intraLATA long distance rates by an average of 43 percent. The reductions are expected to be across the board, i.e., for undiscounted Message Toll Service ("MTS") and discounted Calling Connection Plans ("CCP") alike. These intraLATA long distance rate reductions are expected to produce a significant proportion of the almost $63 million in annual revenue reductions to which Qwest has stipulated at a prior stage of the proceeding. The revenue impacts of the proposed rate reductions are to be implemented using service demand volumes from August 1997.

Other parties have filed testimony in this proceeding to require that Qwest apply a demand stimulation factor when evaluating the revenue reductions expected from its intraLATA long distance rate cuts. In support, those parties have advanced their own estimates of the appropriate price elasticity of demand. I understand that Qwest's position is that the Oregon Public Utility Commission ("Commission") may not apply demand stimulation because that would be inconsistent with the Commission's own order approving the settlement of the revenue requirement issues, which requires that the rate design reducing revenues by $63 million be "based upon U S WEST's August 1997 billing units." If the Commission nevertheless considers applying a stimulation factor, then it would be improper to apply such a stimulation factor in isolation, without also accounting for the various other market factors that have caused Qwest's intraLATA long distance service volumes and revenues to trend downward noticeably in recent years. Instead, Qwest has proposed a straight reprice of the rate cuts using test period service volumes for the purpose, in effect assuming that any stimulation from lower prices will be almost exactly offset by shifts in intraLATA long distance demand away from Qwest because of other market factors, primarily competition. This testimony engages this debate from an economic standpoint, with a particular focus on how the revenue impacts of the proposed rate reductions should be evaluated, and how price elasticities of demand should or should not be used.

B. Summary of Issues

When market demands must be taken into account, determining the revenue impacts of proposed price changes requires a careful and judicious forecasting exercise. For this purpose, besides possessing information about the past (of demand and revenue), it is important to have a good understanding of how intervening competitive and structural events in the market could change the course of demand and revenue in the future.

Before the advent of competition and other structural changes in the telecommunications industry, forecasting revenue for most telephone services was relatively straightforward. The process would begin with constructing initial forecasts based on a (generally stable) underlying trend and, subsequently, adjustments would be made to those forecasts to account for demand responses expected to result from small price changes. In today's market, however, this seemingly straightforward two-step procedure has grown far more complicated. Recent Qwest data for its intraLATA long distance services provide strong evidence of relatively frequent changes in trend in both demand and revenue, mainly in response to competitive and structural developments in the market. This makes the earlier assumption of a stable underlying trend invalid and highlights the need for caution when predicting how the proposed large price changes will affect demand and revenue. In particular, any adjustment for demand effects of those price changes should now account for both demand responses and demand shifts, i.e., changes in demand brought about by competition and other structural events (e.g., extended area service conversions, 1+ presubscription, etc.).

In Oregon, recent demand and revenue data for Qwest's intraLATA long distance services confirm that significant and relatively frequent changes of trend have occurred. The persistent and progressively steeper downward trend in demand and revenues signify that, regardless of the demand stimulation that may have followed past price reductions, competitive responses and structural changes that affect the terms of competition among rival service providers may have produced even more substantial reductions of demand and revenue. Thus, an adjustment for demand stimulation alone simply cannot be sufficient. Yet, making such a demand stimulation adjustment in isolation from the effects of competitive responses on revenue is exactly what various parties in this proceeding (Mr. Thomas Turner on behalf of the Commission Staff and Dr. Selwyn on behalf of AT&T and WorldCom) have proposed.

Any calculation of revenue impacts that is based solely on the adjustments proposed by Mr. Turner and Dr. Selwyn (who have both advocated own-price elasticities of their own choosing) will necessarily be incomplete and present a biased picture. The price elasticity of demand is a valuable tool for evaluating the strength of demand response when the price of a good or service alone changes. However, that is not all that should matter when evaluating the revenue impacts of Qwest's proposed price reductions for its intraLATA long distance services. Because countervailing demand shifts (in response to competitive and structural events) can more than offset any demand stimulation purely from price reductions, there is a clear need to account for both demand shifts and demand responses.

The own-price elasticity of demand is usually not constant outside a narrow range of prices. Generally, that elasticity may be expected to increase as the price rises, and diminish as the price falls. A single elasticity value is unlikely to capture correctly demand responses to large price changes (such as of the magnitude proposed here by Qwest). Because of this, the single-valued elasticities advocated by Mr. Turner and Dr. Selwyn cannot be valid for evaluating the proposed price changes.

Qwest's intraLATA long distance (calling plan) rates have been reduced progressively over the past several years. The latest set of proposed reductions will bring those rates to historically low levels in Oregon. At those low levels, the own-price elasticity of demand is unlikely to be of the one-size-fits-all magnitude suggested by Mr. Turner and Dr. Selwyn, who—through their choices of the price elasticity—appear to be relying on dated studies of demand conditions from the pre-competitive era when rates were substantially higher.

In competitive markets, an individual price-taking firm's own-price elasticity tends to exceed that of the market as a whole. However, that is not sufficient grounds to conclude that if the market elasticity were –0.3632 (as Mr. Turner proposes) or –0.5 (as Dr. Selwyn proposes) based on studies conducted several years ago, then Qwest's price elasticity *today* would exceed even those levels. The proper comparison should be to the market price elasticity prevailing today. Unfortunately, an updated market elasticity for Oregon's intraLATA long distance market is not available. However, it is safe to assume that, with prices proposed to be at historically low levels, the market and Qwest's individual price elasticities are both lower than the values proposed by Mr. Turner and Dr. Selwyn. .

Mr. Turner's reliance on the 1990 Qwest study is misplaced. The price elasticity estimated in that study no longer represents Oregon's market realities. Mr. Turner overlooks important caveats noted by that study's author regarding the use of the elasticity in a regime of large price changes or after the advent of competition. He also mistakenly applies an own-price elasticity where demand is measured as *messages* to a demand stimulation calculation for demand measured in *minutes of use*. Dr. Selwyn's choice of –0.5 as the own-price elasticity for both intraLATA long distance and switched access is arbitrary and unsupported by either facts or economic theory. Obvious flaws in his reasoning—explained in this testimony—leave no doubt that his choice of price elasticity should be rejected.

The California Public Utility Commission's adoption in 1998 of an own-price elasticity value of –0.2 is significant. Even more so is the Commission's recognition that the price elasticity may have fallen as prices have been reduced generally. A couple of recent studies, conducted with the new competitive environment in view, offer support for the value adopted in California.

In conclusion, if market demand conditions must be taken into account for determining the revenue impacts of Qwest's proposed price changes for intraLATA long distance services, then it is necessary to account for both changes in trend (in particular, demand shifts caused by competitive and cross-price effects) and demand responses to price changes. This is an important change from the time that Qwest was the sole provider of intraLATA long distance service of any consequence, and the effect of any price changes could almost completely be captured in the own-price demand response. Moreover, it is important to calculate those demand responses by using price elasticities that are more representative of today's market conditions. Today, Qwest faces competition not merely from other providers of intraLATA long distance service but also from alternative communications technologies such as cellular and Internet telephony. Price changes initiated by Qwest can be expected to affect its demand and revenue, but the ripple effects—competitive responses and changes in other long run market trends—can be expected to affect Qwest's demand and revenue as well. These two sets of effects—which generally move demand (or revenue) in opposite directions—will *together* determine how Qwest's revenues will change and the revenue reductions that would result from the proposed price reductions.

II. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND CURRENT POSITION.

A. My name is Aniruddha (Andy) Banerjee. I am a Senior Consultant at National Economic Research Associates, Inc. ("NERA") located at One Main Street, Cambridge, Massachusetts 02142.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL, PROFESSIONAL, AND BUSINESS EXPERIENCE.

A. I earned a Bachelor of Arts (with Honors) and a Master of Arts degree in Economics from the University of Delhi, India, in 1975 and 1977 respectively. I received a Ph.D. in Agricultural Economics from the Pennsylvania State University in 1985, and subsequently served there as an Assistant Professor of Economics. I have over eight years of experience teaching undergraduate and graduate courses in various fields of Economics, and have conducted academic research that has led to several publications and conference presentations.

Since 1988, I have held various positions in the telecommunications industry. Prior to my present position, I have been an economist in the Market Analysis & Forecasting Division at AT&T Communications in Bedminster, NJ, a Member of Technical Staff at Bell Communications Research in Livingston, NJ, and a Research Economist at BellSouth Telecommunications in Birmingham, AL. In these positions, I was responsible for conducting economic and market analysis, building quantitative demand models for telecommunications services, developing economic positions and strategies, and providing expert testimony support on regulatory economic matters. In my present capacity, I provide quantitative and regulatory economic analysis for telecommunications industry clients principally on matters of concern to local exchange carriers. My curriculum vitae is attached to this testimony as Exhibit Qwest/227.

Q. PLEASE DESCRIBE NERA, YOUR PLACE OF EMPLOYMENT.

A. Founded in 1961, National Economic Research Associates or NERA is an internationally known economic consulting firm. It specializes in devising economic solutions to problems involving competition, regulation, finance, and public policy. Currently, NERA has more than 275 professionals (mostly highly experienced and credentialed economists) with 10 offices in the U.S. and overseas offices in Europe (London and Madrid) and Sydney, Australia. In addition, NERA has on staff several internationally renowned academic economists as Special Consultants who provide their professional expertise and testimony when called upon.

The Communications Practice (to which I belong) is a major part of NERA. For over 30 years, it has advised a large number of communications firms both within and outside the U.S. Those include the regional Bell companies and their subsidiaries, independent telephone companies, long distance companies, cable companies, and telephone operations abroad (e.g., Canada, Mexico, Europe, Japan and East Asia, Australia, and South America). In addition, this practice has provided testimony or other input to governmental entities such as the Federal Communications Commission ("FCC"), the Department of Justice, the U.S. Congress, state regulatory commissions and legislatures, and courts of law. Other clients include industry forums like the Unites States Telephone Association.

III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I have been asked by Qwest Corporation ("Qwest") to respond to testimony submitted in this proceeding by Thomas Turner (on behalf of the Staff of the Oregon Public Utility Commission) and Lee L. Selwyn (on behalf of AT&T of the Pacific Northwest, Inc. and WorldCom, Inc.). My testimony addresses their discussion of economic issues, specifically the role of demand response to proposed rate reductions in evaluating Qwest's plan to meet its annual revenue reduction target.

IV. BACKGROUND

Q. PLEASE SET THE CONTEXT FOR YOUR TESTIMONY BY SUMMARIZING HOW THE ISSUES THAT YOU ADDRESS HAVE EVOLVED IN THIS PROCEEDING.

A. Order No. 00-190, issued by the Oregon Public Utility Commission ("Commission") on April 14, 2000, modified and approved a stipulation signed by U S WEST (n/k/a Qwest) and the Commission Staff which agreed to an annual reduction of Qwest's revenues by approximately $63 million in the state of Oregon.[1] Following this, Qwest filed testimony on November 15, 2000, containing its recommended rate design and specific pricing proposals for each of its services. These pricing proposals were advanced with annual service demand volumes for the period March 1997-February 1998 in view. Accordingly, the revenue impacts of Qwest's rate design plan were evaluated by repricing the test period

[1] For simplicity, I shall use "Qwest" to represent both the present company and its predecessor, U S WEST. For the period prior to the Qwest-U S WEST merger in 2000, all references to Qwest should be understood as being those to U S WEST.

volumes at the proposed new service prices, as required by the stipulation. Qwest proposed no adjustments for likely demand response (stimulation or repression) to the price changes (see the direct testimonies of David L. Teitzel and Scott A. McIntyre on behalf of Qwest).[2]

In response, on April 10, 2001, various parties (including Mr. Turner and Dr. Selwyn) filed testimony in this proceeding, disputing various aspects of Qwest's proposed rate design and pricing changes. Among other things, these witnesses questioned Qwest's apparent exclusion of any adjustment for demand response (see, e.g., Turner, at 5, and Selwyn, at 40) for all services but, in particular, for message toll service ("MTS"). Both Mr. Turner and Dr. Selwyn have now projected the likely demand response to Qwest's proposed MTS price reductions by applying own-price elasticities of demand of their own choosing. Although they propose different price elasticities (-0.3632 for Mr. Turner and –0.5 for Dr. Selwyn), both Mr. Turner and Dr. Selwyn believe that Qwest's revenue reduction exercise will fall significantly short of the target (by over $6 million in Mr.

[2] It is important to be clear about the terminology being used here. *Demand response* refers to the change in quantity demanded of a good or service when the price of that good or service alone changes. Thus, a demand *stimulation* is typically expected for a "normal good" when its price alone falls, and a demand *repression* is typically expected when that price alone rises. In economic theory, demand response refers to a movement *along* a demand curve in response to a price change, not a leftward or rightward shift in the demand curve itself. Any shift in the demand curve represents a different kind of response of demand: to all factors *other than the price of the good or service in question*. In my testimony, I shall refer to movements along a demand curve in response to own price changes as "demand response," and to shifts in the demand curve in response to prices of *other* goods or services or non-price factors as "demand shifts." These ideas are also explained by Dr. Selwyn [at 40 and in the discussion that accompanies his Figures 1-3 at 54-56]. Also, to keep the discussion clear, I shall use the terms *own-price effects* and *own-price elasticities* to refer to demand response to *own* price changes, and the terms *cross-price effects* and *cross-price elasticities* to refer to demand shifts induced by changes in the prices of *other* goods or services. Price elasticities are defined by Dr. Selwyn [at 41-44] and Mr. Turner [at 21].

Turner's estimate and over $9 million in Dr. Selwyn's).[3]

Q. SHOULD QWEST HAVE TO ASSESS THE DEMAND RESPONSE IN ORDER TO EVALUATE THE REVENUE IMPACTS OF ITS PROPOSED RATE REDUCTIONS?

A. As I understand it, Qwest's position is that this method of adjusting August 1997 volumes is not permitted under the stipulation that the Commission has approved. Nevertheless, if the Commission decides that demand dynamics must be taken into account, then Qwest's position is two-fold.

First, Qwest questions whether the own-price elasticities proposed by Mr. Turner and Dr. Selwyn are even remotely suited to demand response calculations for the substantial rate reductions for MTS and other intraLATA long distance services that Qwest has proposed in this proceeding.[4] My testimony demonstrates why the own-price elasticities proposed by Mr. Turner and Dr. Selwyn are inappropriate and not reflective of market conditions today.

Second, while accounting for the own-price effects of the proposed price changes is important, it is likely to be only *one* among several determinants of the eventual revenue reduction. My testimony demonstrates why there is good empirical reason to believe that those other determinants or market forces (principally competitive responses) are likely to

[3] See Turner [at 3, Table A] and Selwyn [at 71, Table 3].

[4] As Exhibit Qwest/208 (attached to Mr. Teitzel's direct testimony) shows, MTS usage rates are proposed to be reduced by 46.7 percent, and the weighted average reduction for all intraLATA long distance services is proposed to be 43 percent.

be largely countervailing, i.e., offset much—if not all—of the demand stimulation that is expected to follow the price reductions.

In sum, Qwest believes that accounting solely for own-price effects of the proposed price changes will bias estimates of revenue impacts severely. Indeed, given the two opposing effects on revenue in the current marketplace, the *net* effect of the proposed rate reductions could be very different from what Mr. Turner and Dr. Selwyn expect. If that net effect were zero, i.e., the two forces were to cancel each other, then that would be equivalent to calculating the revenue impact as a straight reprice, i.e., without taking account of either the own-price effects or other market and cross-price effects.

Q. WHAT IS THE DIFFICULTY IN FORECASTING THE REVENUE IMPACTS OF QWEST'S PROPOSED PRICE CHANGES?

A. Forecasting revenue impacts of price changes is always difficult in a market marked by rapid change over a relatively short period of time. Prior to the onset of competition and the development of alternative services, such as when Qwest was the sole provider of intraLATA long distance service in Oregon, the "market" was narrowly defined and demand volumes were fairly stable and predictable from one year to the next. Price changes for that service were also infrequent, and customers with near-fixed needs for intraLATA long distance calling changed their usage patterns relatively little. In this market, the demand response to an infrequent price change was almost always evident in demand volume data. With practically little else occurring in the market, all year-over-year revenue changes could be attributed reasonably to a combination of two observable forces: the *trend* or long run rate of growth of usage (because of population growth, for example) and *demand response* as customers adjusted their usage following price changes.

This situation no longer applies in Oregon. Over the last few years, the onset of intraLATA long distance competition has spurred Qwest and its competitors (some of whom are represented in this proceeding) to offer intraLATA long distance service in several different flavors that carry different price tags and appeal to customers with different calling needs. Moreover, conventional intraLATA long distance telephony now faces strong competition from non-traditional sources such as cellular telephony and Internet telephony.[5] Finally, even as Qwest's competitors for intraLATA long distance service have expanded to include both inter-exchange carriers ("IXCs") and competitive local exchange carriers ("CLECs"), Qwest's own services and their jurisdictions have been re-defined, e.g., through conversions to extended area service ("EAS") zones within which calls previously treated as intraLATA long distance have been redefined as local.

All of these developments, occurring over a relatively narrow span of years, have stretched the long distance "market" in a number of different directions. The end result has been for Qwest's service demand volumes for intraLATA long distance services to become quite volatile and, more importantly, to move in directions that could not be predicted on the basis of price changes alone. As I discuss later in my testimony, the single most

[5] Internet telephony, as used here, refers to all forms of media (voice, video, image), all forms of messaging (including e-mails), and communication ranging from real-time or instant to time-delayed. In its earliest form, Internet telephony meant making local or long distance voice phone calls over the Internet (using personal computers). That has now been extended to include simultaneous voice, data, and video communication among computers and phones.

dramatic manifestation of that is the downward trend in demand volume at a time when Qwest's prices for intraLATA long distance services have generally fallen.

Q. WHY IS IT NECESSARY TO LOOK BEYOND DEMAND RESPONSE BASED ON OWN-PRICE EFFECTS?

A. This is precisely the question that is implicit in the declaration by Dr. Selwyn [at 48]:

> Whatever other conditions or factors may be affecting demand will exist whether or not any price change occurs; hence, the impact and operation of such exogenous factors or conditions *other than price* is entirely irrelevant and beside the point, and should not enter into the question as to how the price change will *in and of itself* affect demand. [emphasis in original]

I disagree with the implication that it is not necessary to look at the market environment as a whole. After all, the revenue outcomes are likely to be the end result of a number of complex interactions in the market stemming from all of the proposed price changes, not just of own-price effects by themselves. Dr. Selwyn's statement above is correct only insofar as it makes the point that, for determining the *demand* response of a good or service to an (own) price change, all factors besides that price do not matter; it is *not* correct, however, to argue that the same is true when determining the overall *revenue* impacts of that price change.

As I explained above, the intraLATA long distance market in Oregon today is a lot more complex than it once was. Add to that the fact that price changes for intraLATA long distance services are likely to trigger a myriad of adjustments and responses by consumers and service providers alike (for long distance as well as other services), and it makes very little sense to pretend that the only revenue consequences for Qwest would be the own-price effects observed for intraLATA long distance services.[6] In terms of what I stated above, this would amount to accounting only for demand response and ignoring demand shifts altogether. Stated another way, this would mean treating the telecommunications market in Oregon today as if it were still stuck in the pre-competition, pre-alternatives, and pre-liberalization era.

Professor Lester Taylor, a prominent economist who has conducted comprehensive surveys of, and research into, studies of telecommunications demand, wrote recently:[7]

> Another area in which there has been abuse in the use of econometric telecommunications demand models in the regulatory area is in the forecasting of revenues. The abuse is in the tendency on the part of regulators to use the estimated repression effects of proposed new rates as forecasts of the actual revenue effects. The observed revenue effects of new rates are often much smaller than the estimated repression effects, and this "over-estimate" is used to discredit the model. The problem with this procedure is that, estimates of

[6] Economists recognize that consumers often set budgets for their expenses on fixed and discretionary purchases. They do so by relying on their knowledge of prevailing prices and their likely levels of consumption of different goods and services. Within that framework, relatively small changes in prices or consumption needs can be accommodated with small adjustments that do not call for significant revisions of the budget outlays. However, large price changes or the availability of radically new goods and services act like "shocks" to this budgeting exercise. When these shocks are experienced, consumers may alter their consumption patterns significantly, often substituting relatively cheaper goods for relatively more expensive ones, or switching to newer or alternative goods from goods they have consumed customarily. When these changes are played out at the level of the market (i.e., with all consumers taken together), the effects on providers of goods and services can be quite significant. The more radical the changes in consumption, the greater are the market-level effects on suppliers. Suppose, for example, that consumers allocate a certain fixed portion of their household incomes to the purchase of gasoline for their automobiles. Small seasonal fluctuations in the price of gasoline may cause consumers to temporarily change their budget allocations, but their overall patterns of gasoline consumption may change relatively little. Now suppose, turmoil in the oil market or other forms of uncertainty drive up retail gasoline prices substantially, or alternative fuels (and automobiles using them) start to compete with the status quo, or a new and ubiquitous public transportation system is put into place, or even modern high technology enables a rapid shift to telecommuting as opposed to working "on site." These are all likely to be significant shocks that elicit major changes in the way consumers use their automobiles or purchase gasoline. In this market environment, simply accounting for the own-price effects of a gasoline price increase would miss the likely revenue consequences for gasoline suppliers by a wide margin.

[7] Lester D. Taylor, *Telecommunications Demand in Theory and Practice*, Norwell, MA: Kluwer Academic Publishers, 1994. See Chapter 10, at 253.

> repression are made on a *ceteris paribus* basis, whereas actual revenues reflect changes in income, population, other prices, etc. Econometric models can certainly be used to forecast revenues, but the forecasting must be done properly, which includes obtaining accurate forecasts as possible of all the independent variables.

Although Professor Taylor wrote about demand repression in response to price increases, his comment would apply equally to demand stimulation in response to price reductions. The point of his comment, of course, was that the revenue forecaster relies solely on a demand response study—and ignores other demand shift factors or trends in the market—at his or her peril. Therefore, the suggestion by Dr. Selwyn and others that a demand stimulation estimate alone would suffice for this proceeding should be rejected.

Q. WHAT FACTORS BEYOND THE TRADITIONAL OWN-PRICE EFFECT NEED TO BE TAKEN INTO ACCOUNT TO MEASURE ACCURATELY THE REVENUE EFFECT OF THE PROPOSED PRICE CHANGES?

A. To measure accurately the revenue effect of the proposed changes in Qwest's intraLATA long distance service prices, we would first need to know the market and firm-specific own-price and cross-price elasticities of the relevant services. These parameters depend on market conditions (e.g., the degree to which other services supplied by Qwest and by competitors are substitutes or complements for the Qwest services in question), and it is unlikely that econometric estimates of these parameters from other times and other geographic areas will be relevant. Second, even if we knew the correct values of these sets of own-price and cross-price elasticities, we would still need to make assumptions about the responses of Qwest's competitors to its price changes. Knowing these responses is essential to determine the overall revenue effect of the proposed Qwest price changes, but competitors' responses are fundamentally unknowable and unpredictable from historical data. As a result, application of the traditional demand response formula cannot yield the correct effect of the proposed price changes on revenue, and the information necessary to measure that effect will remain unavailable, both in fact and in principle.

V. THE CHANGING LANDSCAPE OF DEMAND FOR QWEST'S INTRALATA LONG DISTANCE SERVICES IN OREGON

Q. PLEASE DESCRIBE HOW THE DEMAND FOR QWEST'S INTRALATA LONG DISTANCE SERVICES IN OREGON HAS CHANGED.

A. The period following the Telecommunications Act of 1996 ("1996 Act") witnessed several new developments and changes in market conditions for intraLATA long distance services. Foremost among them was expansion of the type and intensity of competition for Qwest's supply of those services. Many of these changes occurred during and after the test period and caused substantive changes in the time profile of demand for Qwest's services. Any comprehensive demand analysis to account for those changes must, therefore, recognize their effects on demand, both separately and in combination.

The following is a list of factors that possibly affected demand for intraLATA long distance services—both MTS and Calling Connection Plans ("CCP")—over the four year period between January 1997 and December 2000.

1. Competition from IXCs:
    - Equal access (1+ presubscription)
    - Single rate (and source/bill) for inter- and intraLATA calling

- Dial-around and pre-paid card calling
- Inducements such as frequent flyer miles, credit cards, etc.
- Qwest's own activities with respect to price and service offerings
- Price changes for MTS and CCP

2. Competition from cellular telephony
   - Substitution for wireline network access
   - Flat-rated regional and national plans that eliminate long distance and roamer charges for calls that would be intra- or interLATA on wireline networks
3. Competition from Internet telephony
   - Substitution of "free" e-mail for long distance phone calls
   - Phone-to-phone Internet telephony allows long distance calls at competitive per-minute rates (with little loss of service quality over packet-switched networks)
4. Competition from CLECs, particularly after 1998
   - Access lines lost to CLECs frequently means lost intraLATA long distance minutes
   - Competitive loss of intraLATA long distance minutes to CLECs even without loss of access lines
5. EAS conversion of long distance minutes to local minutes

VI. FORECASTING DEMAND FOR INTRALATA LONG DISTANCE SERVICES

Q. HOW HAS FORECASTING DEMAND FOR, AND REVENUE FROM, INTRALATA LONG DISTANCE SERVICES CHANGED?

A. Forecasting demand for Qwest's intraLATA long distance services in Oregon is no longer the mechanical exercise that, arguably, it once was. As I noted above, that demand is now affected, to varying degrees, by several competitive and structural factors. Many of these factors have emerged or become significant only in the past couple of years, but are expected to remain significant influences on the course of long distance competition in Oregon in the future. Consequently, whatever forecasting practices and adjustments may have sufficed in the past now need to be modified or augmented in order to produce more accurate minutes-of-use ("MOU") and revenue forecasts.

A. Structural Events to Consider in Modeling Demand for Qwest's IntraLATA Long Distance Services

Q. PLEASE CATALOG SOME OF THE SIGNIFICANT STRUCTURAL AND OTHER EVENTS THAT HAVE SHAPED DEMAND FOR QWEST'S INTRALATA LONG DISTANCE SERVICES IN OREGON IN RECENT YEARS?

A. Some of the significant structural and other events that marked the recent history of demand for Qwest's intraLATA long distance services were the following:

- EAS conversion (October 1997)
- EAS conversion (October 1998)
- Price reductions (January 1999)
- Equal access or "1+ presubscription" (February 1999)
- Price reductions (July 1999)
- EAS conversion (October 1999)

In addition, market/technological factors that have come into play (particularly since 1998) include the rise of competition from cellular and Internet telephony and more sophisticated competition from IXCs.

First, in the past few years, a steady stream of reports have documented the rise of cellular telephony as a viable *substitute* for (rather than a mere *complement* to) traditional wireline telephony.[8] There is increasing evidence that telephone subscribers, particularly

[8] Two goods are *substitutes* when a price increase for one represses demand for it but increases demand for the other. Two goods are *complements* when a price increase for one not only represses demand for it but also
(continued...)

those taking service for the first time, are looking more and more to cellular service in place of wireline service, particularly because of (1) the former's ability to offer greater mobility, (2) improving quality of both voice and data signals, (3) prices increasingly competitive with corresponding wireline services, and (4) most importantly, flat-rated prices for regional and national long distance calling which reduce the customer's marginal (i.e., additional) cost of long distance calls to zero as long as they do not exceed the generally generous allowances of "included" MOUs. Even "basic" service offered by cellular carriers cover larger territories and enable "long distance" calling up to greater distances at zero marginal cost to the customer than Qwest has traditionally been able to offer.

Second, the rise of Internet telephony in the past few years has been nothing short of spectacular. Diverse sources have documented the phenomenal growth rate of Internet subscribers and users of e-mail services available from Internet service providers. According to some sources, the size of the Internet market (as measured by the number of subscribers) nearly doubles every year. In Oregon, the state's Office of Economic Analysis reports that, in 2000, 70 percent of households in the state owned computers and nearly 63 percent of them had Internet access. The latter figure was up dramatically from 24 percent in 1996—a gain of nearly 163 percent in four years. Among the most popular uses of Internet access is e-mail, a service whose value grows as the community of e-mail users grows (similar to that observed for the community of wireline telephone users). This

(...continued)

decreases the demand for the other. Generally, demand for substitutes moves in opposite directions, while

(continued...)

service has emerged as a popular means of communication at all distances, particularly because of the ease with which a single message can be communicated to multiple persons at one time. This conserves not only the expense of making one long distance call but also the cost of making several such calls to meet one purpose.

Internet telephony has emerged as a practical substitute for wireline long distance calling in another respect. Companies like Net2Phone and others are now aggressively marketing phone-to-phone Internet Protocol ("IP") long distance calling which allows users to place long distance calls using the packet-switched network—at competitive per-minute rates—in place of the circuit-switched network which has traditionally carried such calls. Not surprisingly, major long distance competitors like AT&T have taken large equity positions in carriers like Net2Phone and have readily adopted—rather than resisted—the alternative technology for offering long distance service.[9] In recent years, the quality of streaming audio has improved sufficiently so that voice calls using IP telephony are now reasonably close in quality to voice calls made over the circuit-switched network. This has advanced consumer acceptance and use of IP telephony for long distance calling.

Third, IXCs have also launched several initiatives to capitalize on their market presence—on an equal footing—in the intraLATA long distance market, not only because of the competition among themselves but also to secure a strong position for themselves in

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(...continued)

demand for complements move in the same direction.

[9] "AT&T Completes Net2Phone Investment," Net2Phone Press Release, August 11, 2000. See http://www.net2phone.com/cgi-bin/pagemerge.cgi?outer=press_releases00&inner=08_11_2000.

the long distance market generally *before* Qwest and other Regional Bell Operating Carriers receive authorization—under Section 271 of the 1996 Act—to offer interstate long distance services in each of their states. These IXCs (both facilities-based and resellers) have also resorted to dial-around and pre-paid calling card alternatives to offer present customers of Qwest's intraLATA long distance services real-time options in the manner in which they make intraLATA long distance calls or the sources they use for doing so.

Finally, Commission-mandated EAS conversions have transferred large amounts of MOU and revenue from intraLATA long distance service to local exchange service.

B. Implications for Demand and Revenue Forecasting

Q. WHAT ARE THE IMPLICATIONS OF THESE DEVELOPMENTS FOR DEMAND AND REVENUE FORECASTING?

A. The upshot of all these recent developments is that forecasting MOU and revenue for Qwest's intraLATA long distance services in Oregon (or elsewhere in its serving area) is now considerably more complicated than before. Prior to the developments described above, those forecasts consisted primarily of two steps:

1. Capture and project the trend in the rate of growth of MOUs and, at given rates, of revenue.
2. Adjust forecasts for demand stimulation/repression expected from changes in rates.

Under this approach, the trend factor (usually a linear time trend) accounted for all unobserved factors that were related to time in some predictable way, e.g., personal income, access lines, etc. Because of the scaling effect introduced by the growth of population (and related factors), some forecast models used MOUs per capita or MOUs per access line as the target forecast variable and predicted revenue per capita or per access line accordingly. In the terminology of demand analysis, all of these factors represented the "shift variables" which are responsible for movements *of* the demand curve itself, at a given set of prices.

The overlay adjustment in this approach took into account likely movements *along* the demand curve, holding other factors constant, brought about by changes in prices and consequent demand responses. In order to determine the likely demand response, the standard procedure was to apply an own-price elasticity of demand to baseline MOUs. The consequent stimulation of demand (for price reductions) or repression of demand (for price increases) was then the extent of the requisite overlay adjustment.

The addition of this overlay adjustment to the baseline trend-based forecast then yielded the final forecast. This two-step process thus captured both static changes (along the demand curve) and dynamic changes (movements of the demand curve).

Q. CAN THIS FORECASTING PROCEDURE STILL BE APPLIED TO DETERMINE REVENUE IMPACTS FOR THE PURPOSES OF THIS PROCEEDING?

A. No, this earlier two-step forecasting procedure is no longer sufficient for intraLATA long distance services today. Neither the determination of the underlying trend nor the overlay adjustment for demand response is as straightforward as it used to be. In fact, monthly series for MOUs and revenue for Qwest's intraLATA long distance services (particularly, MTS) in Oregon and other states show vividly the unmistakable changes in trend that have occurred in the past four years.

Q. PLEASE EXPLAIN WHAT THESE DATA SHOW.

A. In Oregon, data from January 1997 to December 2000 show that MTS MOU and revenue series can both best be characterized by a polynomial trend of order 4. This implies that there were at least three "turning points" or points of inflection in the trend line during this period. Stated differently, if separate straight-line trends were fitted to the three segments in between those turning points, then each trend would be different implying a different rate of growth (either positive or negative) for each segment. This suggests that significant structural changes occurred at or near those turning points. Without devoting some analysis to the "interventions" themselves and how (and why) they may have affected the observed path of MOUs and revenue, it is not possible to make accurate projections into the future. In other words, assuming the same underlying *linear* (i.e., straight line) trend for all of the data over the chosen period and, most importantly, for the forecast period, will cause the forecasts themselves to be biased, perhaps severely.

The second set of issues pertains to the application of the own-price elasticity of demand to determine the overlay adjustment for demand response to price changes.[10] Before the onset of competition (from both wireline and non-wireline alternatives), Qwest-provided intraLATA long distance service was the only one of its kind. This meant that the own-price elasticity of demand observed for the *market as a whole* in Oregon was also the elasticity that pertained to Qwest. With competition from a number of sources and the introduction of various discount calling plans by Qwest, earlier estimates of own-price

[10] I discuss these issues in depth in Section VII of my testimony.

elasticity of demand have no further relevance. At the very least, if the old own-price elasticity must be applied to any *current* adjustment for demand response, then so must *cross*-price elasticities between the demand for Qwest's MTS service and prices of competitive alternatives.[11] This is not an easy exercise and reliable estimates of those cross-price elasticities are not generally available today. Therefore, the fact that (1) Qwest's own-price elasticity of demand may have changed and (2) cross-price elasticities affect the course of demand for Qwest's intraLATA long distance services means that any blanket application of *a* price elasticity, considered "reasonable" in pre-competition and pre-structural change times, would no longer be prudent and could, in fact, seriously bias the demand response overlay adjustment.

Q. WHAT IS THE IMPLICATION OF CROSS-PRICE EFFECTS OR ELASTICITIES FOR FORECASTING THE REVENUE CONSEQUENCES OF RATE REDUCTIONS?

A. Because of cross-price effects, it is now no longer sufficient to base forecasts of revenue impacts of proposed price reductions solely on an own-price demand response. The obvious question is: what is the likely *net* price elasticity (i.e., the sum of the own-price and cross-price elasticities) of demand for Qwest's intraLATA long distance services in *today's* market, and what is it likely to be in the near future? Whatever we may think we know about the own-price elasticity (a matter I discuss at length later), knowledge of cross-price

[11] In fact, because MTS and CCP services are priced and structured differently, a single own-price elasticity for "intraLATA long distance service" would not even be appropriate.

elasticities would be equally crucial to determining the revenue impacts.

It is widely believed that, before the advent of competition and the simplification of price structures and levels, consumers of telephone services were generally unaware of the *per-minute* prices they paid for intraLATA long distance calls. Part of this lack of consumer awareness could be attributed to

1. elaborate pricing structures (with distance-sensitivity, time-of-day and day-of-week sensitivity, and initial and additional minute price differences) that existed until a few years ago,[12]
2. infrequent price changes, and
3. lack of competitive alternatives which left consumers generally unmindful of price movements.

Therefore, unless the price changes were a significant percentage of the existing level of prices, or consumers' monthly total bills were significantly altered by those price changes, demand was not particularly responsive. This could explain the general inelasticity or low elasticity that has customarily been associated with intraLATA long distance calls.

Now, the availability of competitive alternatives has added a new dimension to demand in the post-competition era. Apart from the simpler price structures that have emerged since competition started (with many flat-rated or simple two-part pricing plans), the availability of alternative communication technologies—that are competitive both in terms of their per-minute cost to consumers and their ability to better support consumers' lifestyles—has made consumers more mindful about both price and choice of supplier (carrier). Even in an era in which the per-minute price of intraLATA long distance service

[12] These still exist for MTS service, but with CCPs that complexity has been reduced.

has been drifting downward, the ability to switch to competing service providers (often offering alternative communication technologies) means that cross-price effects have grown in significance relative to own-price effects. In other words, even with price reductions, Qwest is likely to find any resulting stimulation (positive demand response) greatly reduced, or offset, or even overwhelmed by competitive price responses or consumer shifts to alternative communication technologies. The bottom line is that applying an own-price elasticity *in isolation* to determine the demand response overlay adjustment is no longer adequate for forecasting the consequences of the proposed price changes for the MOUs and revenue associated with Qwest's intraLATA long distance services.

Q. WHAT EVIDENCE DO YOU HAVE OF THE ROLE THAT STRUCTURAL EVENTS MAY HAVE PLAYED IN CHANGING THE COURSE OF THE DEMAND FOR, AND REVENUE FROM, QWEST'S INTRALATA LONG DISTANCE SERVICES?

A. Common sense suggests that major structural events can affect not only the broad market but also the economic fortunes of the market participants themselves. Thus, the introduction of direct competition for Qwest's intraLATA long distance service, first in the form of dial-around alternatives and eventually through 1+ presubscription, must have affected the course of Qwest's demand and revenues from that service.

To test this possibility, I conducted an analysis of trend for three specific data series pertaining to Qwest's intraLATA long distance service: MTS MOU, CCP MOU, and Total

MOU.[13] For this analysis, I used monthly data for the 48-month period, January 1997 to December 2000. This period spanned all of the significant structural changes listed earlier in my testimony, in particular the introduction of 1+ presubscription in February 1999. It also spanned the test period, March 1997-February 1998, selected for this proceeding.

As expected, a significant change of trend was detected in all three series soon after the 1+ presubscription event. While MTS MOU and Total MOU series showed a marked downturn compared to the period before, even the CCP MOU series showed a discernible downturn. The effect of introducing intraLATA competition on an equal access basis is clearly evident from these results, even for CCPs which may have been expected to be more competitive (relative to MTS) with the offerings of Qwest's competitors.[14] However, competitive losses to direct competitors such as IXCs are unlikely to have accounted for all of the observed steeper downward trend: right about this time, competition from wireless and Internet telephony began to have its effect as well.

Q. WHAT IS THE IMPLICATION OF THIS FINDING FOR THE PURPOSES OF

[13] I also conducted a similar analysis of trend on corresponding series for Qwest's revenue from intraLATA long distance services. The results were exactly the same and are, hence, not discussed here.

[14] Although these patterns were clearly visible from graphs of the different series over the 48-month period, I was able to confirm their existence by use of regression models in which I fitted different polynomial time trends to those series and controlled for events like EAS conversions and the introduction of 1+ presubscription by use of dummy variables. Not surprisingly, the introduction of 1+ presubscription imparted a statistically significant negative effect on MTS and total MOU and revenue. Stated differently, there was statistical evidence that 1+ presubscription reinforced the tendency for MTS and total demand and revenue to fall during this 48-month period. For CCP MOU series, the introduction of 1+ presubscription itself created a statistically significant positive effect (signifying perhaps that, with the advent of competition from calling plans offered by intraLATA toll competitors, demand shifts occurred generally from undiscounted MTS service to those calling plans, even those offered by Qwest). However, whatever bounce Qwest's CCP plans may have received from 1+ presubscription was more than offset by competitive losses and other external demand shift factors, so that

(continued...)

THIS PROCEEDING?

A. The clear implication is that applying a demand stimulation adjustment to a baseline level of demand that is already subject to strongly countervailing competitive pressure would be counter-productive. That approach would only succeed in inflating demand volumes artificially and badly distort the actual revenue reduction effects.

Q. WHAT EFFECT DO YOU BELIEVE QWEST'S INTRALATA LONG DISTANCE RATE REDUCTIONS (IN JANUARY 1999 AND JULY 1999) HAVE ALREADY HAD?

A. It is very hard to point to a specific or quantifiable effect of these price changes. While I agree with Dr. Selwyn and Mr. Turner that all price reductions bring forth some demand stimulation (even for services with low, but not zero, price elasticities of demand), the actual demand and revenue data for the period spanning these price changes and their aftermath all point to one thing: a pronounced downward drift in both. Clearly, whatever demand stimulation that may have occurred was more than offset by one or more countervailing forces. Cross-price effects of pricing responses of direct competitors and competitive losses to other forms of telephony are more than likely those forces.[15] That is why, if changes in demand must be considered at all, it should be obligatory to account for both demand responses (which Mr. Turner and Dr. Selwyn advocate) and demand shifts.

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the overall trend was downward..

[15] I revisit these issues in more detail later in my testimony.

Q. DO YOU AGREE WITH DR. SELWYN'S CONCLUSION [AT 60] THAT, WITHOUT THE ADJUSTMENT FOR DEMAND RESPONSE HE IS ADVOCATING, QWEST WILL END UP *UNDER*STATING ITS ACTUAL REVENUES AND *OVER*STATING ITS REVENUE REDUCTIONS?

A. Not at all. In fact, quite the opposite is likely if Qwest were obliged to follow the Turner-Selwyn prescription. For reasons I have explained, if cross-price effects (and factors responsible for demand shifts generally) are not taken into account, then the real danger is that Qwest will overpredict its revenues and underpredict its revenue reductions.

Q. PLEASE SUMMARIZE YOUR PRINCIPAL ARGUMENTS REGARDING THE MANNER IN WHICH THE REVENUE IMPACTS OF THE PROPOSED PRICE REDUCTIONS SHOULD (OR SHOULD NOT) BE DETERMINED.

A. My arguments in this matter may be summarized as follows:

1. When market demand dynamics must be taken into account, determining the revenue impacts of the proposed price changes amounts to a careful and judicious forecasting exercise. For this purpose, besides possessing information about the past (of demand and revenue), it is important to have a good understanding of how intervening competitive and structural events may change the course of demand and revenue in the future.

2. Before the advent of competition and other structural changes, revenue forecasting was a relatively straightforward two-step exercise. It consisted, first, of constructing initial forecasts based on a (generally stable) underlying trend, and then overlaying on it an adjustment for the demand response expected to small price changes. In today's market, this seemingly straightforward procedure has grown far more complicated. Recent Qwest data for its intraLATA long distance service provide strong evidence of relatively frequent changes in trend in both demand and revenue, mainly in response to competitive and structural developments in the market. This invalidates the earlier assumption of a stable underlying trend and highlights the need for caution when predicting how the proposed large price changes will affect demand and revenue. In particular, any adjustment for demand effects of price changes should now account for both demand

responses and demand shifts (which show up indirectly in the changes of trend) associated with the proposed price changes and competitive responses.

3. In Oregon, Qwest's demand and revenue data (for intraLATA long distance service) in recent years confirm that significant and relatively frequent changes of trend have occurred. This signifies that competitive and cross-price effects have been a large part of the persistent and progressively steeper downward trend in MOUs and revenues. Thus, an adjustment for demand stimulation alone (as advocated by Mr. Turner and Dr. Selwyn) will definitely not be sufficient. Because countervailing demand shifts (in response to competitive and structural events) can more than offset any demand stimulation purely from price reductions, there is a clear need to account for both trend (demand shifts) and demand responses.

VII. THE USE AND ABUSE OF PRICE ELASTICITIES

Q. BOTH MR. TURNER AND DR. SELWYN ADVOCATE APPLYING A PRICE ELASTICITY OF DEMAND TO CALCULATE THE REVENUE IMPACTS OF QWEST'S PROPOSED PRICE REDUCTIONS FOR INTRALATA LONG DISTANCE SERVICES. WHAT IS YOUR POSITION ON THIS MATTER?

A. The price elasticity of demand is a valuable and necessary tool for evaluating the strength of demand response when the price of a good or service alone changes. The important question is whether that is all that should matter for evaluating the *overall revenue impacts* of Qwest's proposed price reductions for its intraLATA long distance services. Mr. Turner and Dr. Selwyn would confine that evaluation solely to the price elasticity-based adjustment, while Qwest would account for concomitant effects on intraLATA long distance demand and revenue as well.

Q. WHY, THEN, DO MR. TURNER [AT 23] AND DR. SELWYN [AT 49-52] ACCUSE QWEST OF FAILING TO CONDUCT A PRICE ELASTICITY-BASED

ADJUSTMENT TO ITS FORECAST OF THE REVENUE IMPACT OF ITS PROPOSED PRICE REDUCTIONS?

A. Both Mr. Turner and Dr. Selwyn appear to be reacting to the direct testimony of Qwest witness David L. Teitzel (Exhibit Qwest/201). In his testimony [at 36-37], Mr. Teitzel had acknowledged that a price reduction, especially one of 40 percent, should ordinarily be expected to produce a stimulation of demand. This is hardly a denial (on Qwest's part) of the existence of the own-price elasticity or of demand response to own-price changes. Mr. Teitzel also noted, however, that in Oregon (and other Qwest-served states as well), the demand for Qwest's intraLATA long distance services—and the revenues from those services—have been falling appreciably in recent years, *despite substantial price reductions during that time*. For example, in Oregon, Qwest's CCP rates were reduced by 16.8 percent and 8.5 percent in January 1999 and July 1999, respectively. Yet, between January 1999 and July 1999, total MOUs for Qwest's intraLATA long distance services fell over 21 percent, and revenue from those services fell over 22 percent. Also, over one year following the July 1999 rate reductions, total MOUs and revenue fell over 26 percent and 28 percent, respectively. While, from these data, it is hard to tell how much demand stimulation (if any) may have occurred following both sets of rate reductions, it is obvious that the *net* declines in demand and revenue experienced by Qwest's intraLATA long distance services were substantial. This clearly supports Mr. Teitzel's characterization [at 36] of the intraLATA long distance market as not having behaved like "a normal market" in recent years. Moreover, Mr. Teitzel's testimony cited similar experiences in other Qwest-served states, e.g., Wyoming, Montana, and Nebraska.

Q. WERE BOTH MTS AND CCP RATES REDUCED IN JANUARY AND JULY 1999?

A. No. All rate reductions occurred for Qwest's CCP services only on those two occasions.

Q. SHOULDN'T WE THEN ATTRIBUTE THE OBSERVED DECLINE IN TOTAL MOU AND REVENUE TO THE FACT THAT (1) QWEST'S MTS SERVICE LOST SIGNIFICANT MOUs TO ITS CCP SERVICES AND (2) BECAUSE MTS SERVICE IS PRICED HIGHER THAN CCP SERVICES, THAT BROUGHT REVENUES DOWN AS WELL?

A. Not necessarily. The "cannibalization effect" alluded to in the question may have happened, but the complete answer is almost certainly much more complicated than that. Because of precisely this possibility, I also computed percent changes in MOU and revenue for MTS and CCP services separately. The table below summarizes my findings.

Service/Unit of Measure	Percent Change January 1999-July 1999	Percent Change July 1999-June 2000
CCP MOU	1.0	-19.0
CCP Revenue	-6.2	-30.3
MTS MOU	-27.7	-29.6
MTS Revenue	-26.7	-27.3
Total MOU	-21.2	-26.5
Total Revenue	-22.4	-28.0

The possibility that some cannibalization occurred (i.e., MTS MOU shifted over to CCP MOU) arises from the very slight (1 percent) increase in CCP's MOU between

January and July 1999.[16] However, the remaining entries in the table suggest strongly that demand shifts and revenue declines happened for reasons beyond just the substitution of CCP services for MTS service.

First, MTS MOU accounted for a significant fraction of total MOU (falling slightly from 77 percent in January 1999 to 68 percent in June 2000). Thus, if all of the MOU lost by MTS were merely gained by CCP, then MTS MOU losses of the magnitude of –27.7 percent (January 1999-July 1999) and –29.6 percent (July 1999-June 2000) would have meant gains by CCP MOU of 40 or more percent. However, CCP MOU only gained a meager 1 percent during the first of those periods and actually lost 19 percent in the second period. Therefore, significant demand shifts and revenue losses were driven by external forces unrelated to any cannibalization effect.

Second, economic theory implies that the greatest revenue reduction occurs following a rate reduction when the own-price elasticity of demand is zero (the lowest value that the elasticity can take, often described as the state of perfect inelasticity). With perfectly inelastic demand, a rate reduction by x percent will produce an identical x percent reduction in revenue. Yet, the table shows that corresponding to the 16.8 and 8.5 percent reductions in CCP rates in January and July 1999, respectively, CCP revenue fell 6.2 and 30.3 percent, respectively, while total revenue fell 22.4 and 28 percent, respectively.[17] This pattern of

[16] This shifting of demand was a cross-price effect which happened because MTS became *relatively* more expensive than CCP services, even though only the absolute prices of the latter were reduced.

[17] These revenue effects are calculated for seven and 12 months respectively, arguably long enough for the long run price elasticity effects to have been fully experienced.

revenue reductions implies clearly that those reductions happened largely because of factors other than the change of CCP rates or any consequent cross-elastic shifts of demand from MTS to CCP services.

Q. WHAT DO YOU CONCLUDE FROM THESE FINDINGS?

A. The upshot of these findings is clear. Whatever the demand responses (own-price elasticity effects) may have been following rate reductions in Oregon and other Qwest-served states, they have literally been swamped by an overwhelming downward trend in demand and revenues (and, more particularly, negative demand shifts). As explained earlier, the difficulty in isolating the demand stimulation effects by first factoring out the trend factor in the data on declining demand and revenue complicates the search for the applicable price elasticity that would be needed to make the demand response adjustments advocated by Mr. Turner and Dr. Selwyn.[18] Under these circumstances, I can understand Mr. Teitzel's instinct to refrain from overlaying a demand response adjustment based on an arbitrarily chosen own-price elasticity, when, in fact, any such elasticity is clearly more than offset by the effects of demand shifts. Mr. Teitzel's straight reprice of the proposed rate reductions using test period demand volumes amounts, in effect, to declaring that the opposing demand response and demand shift effects of the proposed rate reductions are "a wash." To his credit, Mr. Teitzel refrained from conducting an arbitrary demand stimulation calculation and then *overlaying* on that an even larger negative demand shift effect which would have

[18] A carefully constructed econometric study would be needed to separate these effects in the recent data. As I explain in my testimony, neither price elasticity suggested by Mr. Turner and Dr. Selwyn passes muster for this (continued...)

left demand and revenue falling even faster than reported in his testimony.

Q. IS IT YOUR TESTIMONY, THEN, THAT TO FORECAST THE REVENUE IMPACTS OF QWEST'S PROPOSED RATE REDUCTIONS, WHAT SHOULD MATTER IS THE "NET" DEMAND EFFECT, NOT MERELY THE DEMAND STIMULATION EFFECT ADVOCATED BY DR. SELWYN AND MR. TURNER?

A. Exactly. It bears repeating that Qwest is not lowering its intraLATA long distance service prices in a vacuum. Prices of other services, most notably switched access service, are being adjusted as well. Competitors also will adjust their prices and service offerings in response to Qwest's price changes. These factors create a complex set of market interactions which simply cannot be captured by an arbitrary demand stimulation calculation for intraLATA long distance service alone.

Q. DO YOU AGREE WITH DR. SELWYN [AT 43] THAT THE OWN-PRICE ELASTICITY MAY VARY WITH THE LEVEL OF PRICE?

A. Yes. There are both theoretical and empirical studies in economics to support this idea. It also makes intuitive sense. Thus, the own-price elasticity may rise as price rises, and fall as price falls. It is important to appreciate what this means. For normal goods, demand is stimulated as price falls, and repressed as price rises. However, the stimulation is greater if price falls from a "high" level and smaller if it falls from an already "low" level. By the

(...continued)
purpose.

same token, any repression is greater if price rises from an already "high" level and smaller if price rises from a "low" level. In terms of the demand curve presented in Figures 1-3 of Dr. Selwyn's testimony, the own-price elasticity rises with any movement up that demand curve, and falls with any movement down the curve.

There is one more important implication of this relationship between the own-price elasticity and the level of price. Economists are always careful to point out that the own-price elasticity is only likely to take on a particular value within *a narrow range of prices.* That is, as price changes increase in magnitude, the price elasticity changes in magnitude as well. Of course, in what direction that change occurs depends on whether the price rises a lot or falls a lot. For this reason, I would correct the following statement by Dr. Selwyn [at 43]:

> Generally, price elasticity tends to increase as the price of a product or service increases or where the *change* in price is relatively large. [emphasis in original]

While I agree with the first part of that statement, the second part is not necessarily true. Rather, all that can be said is that the price elasticity changes (not necessarily increases) when the change in price is relatively large.

Q. WHAT IS THE PRACTICAL SIGNIFICANCE OF THIS RELATIONSHIP BETWEEN THE OWN-PRICE ELASTICITY AND THE LEVEL OF PRICE?

A. The practical significance lies in the fact that a *constant* own-price elasticity is inappropriate, and should not be used, for estimating the demand response to a very large price change. Qwest's proposed price reductions for its intraLATA long distance services average 43 percent. Because any particular value of the own-price elasticity remains invariant only for a small change in prices, it follows that for the magnitude of price changes proposed by Qwest, it would be a gross mistake to rely on a single value of the own-price elasticity to determine the likely demand stimulation, as Mr. Turner and Dr. Selwyn have proposed doing.

The second, and equally important, implication of this is that for a 43 percent *reduction* in prices, the own-price elasticity is more than likely to get smaller in magnitude as those prices fall. Therefore, any own-price elasticity computed—by whatever means—at times of generally stable or slowly changing prices would be doubly wrong if applied to the proposed 43 percent price reduction. First, it would be inappropriate to assume that the price elasticity would remain constant over that range of price reductions. Recognizing this very fact, Dr. Selwyn states [at 43]:

> Ordinarily, however, a constant value for the price elasticity is assumed for any given product or service where a price change is relatively small, i.e., within a relatively small range relative to the original price.

Second, with Qwest's intraLATA long distance service prices at their historically lowest levels after the proposed price changes are implemented, the own-price elasticity that applies would very likely be much smaller in magnitude than any calculated at an earlier time in a regime of significantly higher, and more stable, prices.

Q. DOES THIS CAST DOUBT ON THE APPLICABILITY OF THE OWN-PRICE ELASTICITIES PROPOSED BY MR. TURNER AND DR. SELWYN?

A. Yes. Mr. Turner's selection of a value of –0.3632 for the own-price elasticity is based on a 1990 study submitted by Qwest in Docket No. UT 102 (see Exhibit Staff/12). Dr. Selwyn's selection of a value of –0.5 is more arbitrary, emerging from a discussion of price elasticities that have been estimated at various points of time and in different contexts. As best as I can tell, his present selection mirrors that of the California Public Utilities Commission in the so-called IRD proceeding in 1994. Unlike Mr. Turner, Dr. Selwyn doesn't offer any specific study based on Qwest's operations in Oregon or in any of its other states, choosing instead to rationalize that choice by seeking out some rough parallels between Pacific Bell's situation in California in 1994 and Qwest's situation in Oregon today. Dr. Selwyn's recommended value for the price elasticity is arbitrary and, as I explain later, based on unsubstantiated assumptions.

More importantly, neither choice of the price elasticity recognizes the special nature of a 43 percent average reduction in prices to historically low levels, or the reasonable possibility that the price elasticity could be much lower at those low prices. A one-size-fits-all price elasticity is fundamentally inappropriate for the type of rate reductions being proposed in this proceeding.

Q. DO YOU ACCEPT DR. SELWYN'S ASSERTION [AT 44 AND 67] THAT, IN COMPETITIVE MARKETS, THE *FIRM'S* PRICE ELASTICITY DIFFERS FROM, AND TYPICALLY EXCEEDS, THE *MARKET* PRICE ELASTICITY?

A. Yes, it is true that the two price elasticities diverge in competitive markets, with the firm's own-price elasticity being farthest from the market own-price elasticity at the point the market is perfectly competitive.[19] However, even though Dr. Selwyn gets the theory right, he misapplies it to the circumstances with which we are concerned. Starting with the California Commission's choice of –0.5 (which he simply assumes to be a fair representation of the state of demand faced by Qwest in Oregon today), Dr. Selwyn argues that if that value is that for a market price elasticity, then it must be true that the actual price elasticity faced by Qwest in Oregon's intraLATA long distance market is even higher (in absolute value) than –0.5. However, with no firm evidence on that point, he settles for the choice that the California Commission made in 1994.

Apart from the fact that Pacific Bell's intraLATA long distance market circumstances in 1994 were actually quite different,[20] Dr. Selwyn's reasoning is flawed for another reason.

[19] There *are* some significant exceptions to this rule, depending on what is meant by the term "competition." In a market in which *all* firms are "price-takers," i.e., no single firm has any influence on the level of the market price (which is determined solely by the interaction of total market demand and supply), the rule about price elasticities mentioned by Dr. Selwyn does apply. However, there are other forms of competition that may better characterize telecommunications markets, at least in the initial years after competition is introduced. A case in point is the form of competition known as the "dominant incumbent firm and competitive fringe" model. In this scenario, the incumbent firm "sets" the market price by dint of its dominant market position. In response, all other competitors—each quite small relative to the market—act as price-takers and supply all they can at the prevailing price. The dominant incumbent then faces a demand curve that is the residual between the market demand curve and what the competitive fringe supplies at each price. In this model, over some range of prices (that are low enough), the competitive fringe withdraws from supplying the product, and the incumbent firm's demand curve actually coincides with that of the market. Thus, this model of strategic interactions among competing firms of different sizes is actually a hybrid between the perfect competition model (with all firms acting as price-takers) and perfect monopoly. It also represents well several examples of real-world industries at certain stages of their evolution. See, e.g., W. Kip Viscusi, John M. Vernon, and Joseph E. Harrington, Jr., *Economics of Regulation and Antitrust*, second edition, Cambridge, MA: MIT Press, 1996, at 164-166.

[20] In 1994, the California Commission issued its ruling in the Implementation Rate Design proceeding ("IRD ruling"), the third and final phase of the Commission's effort to establish a new regulatory framework for California's two principal local exchange carriers, Pacific Bell and GTE. With regard to existing *intra*LATA long distance rates of these carriers, the Commission found that they were higher (in some instances, considerably so) than the *inter*LATA long distance rates being charged by IXCs who, until that point, were not permitted to compete in the intraLATA long distance market. Moreover, Pacific Bell introduced a variety of optional discounted calling plans for the first time, thus freeing customers to select their calling plans

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As the California Commission has itself recognized (see the passage from its IRD ruling quoted by Dr. Selwyn, at 66-67), with linear demands, the own-price elasticity actually changes with price changes and, with lower prices, a "lower elasticity would be an expected result from a linear demand estimation."[21] Keeping in view the history of large intraLATA long distance rate reductions by Qwest in Oregon, it is highly debatable whether either the market price elasticity or the firm price elasticity is anywhere as high as –0.5 anymore. In other words, even if the market price elasticity had once been –0.5 in Oregon, and (as Dr. Selwyn claims) Qwest's own price elasticity had been even higher, it is entirely possible that the two price elasticities are considerably lower today. So even if Qwest's own price elasticity exceeds that of the intraLATA long distance market in Oregon as a whole, it is conceivably much lower than what Dr. Selwyn has claimed. For example, if the market elasticity at the historically low prices is now –0.15, then Qwest's own price elasticity could be –0.2 and still exceed that of the market.

This criticism applies equally to Mr. Turner's selection of an own-price elasticity of –0.3632. His selection dates back to a 1990 study which used data from 1984 to 1989.

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according to their usage. Qwest's situation in Oregon today cannot be considered analogous to that of, say, Pacific Bell in California in 1994. Qwest's intraLATA long distance rates (particularly for CCP) are closer to interLATA long distance rates by comparison, and Qwest's customers have been enjoying a variety of optional calling plans for some time now. The magnitude of Qwest's proposed rate reductions may be comparable to those implemented for Pacific Bell in 1994, but the underlying market conditions are, arguably, not the same.

[21] It is of no small interest that the California Commission's choice of a price elasticity value of –0.5 was subsequently belied by Pacific Bell's revenue record since 1995. That record shows that a lower value of that elasticity would have been justified. The California Commission's "correction" in 1998 that lowered the designated elasticity value to –0.2 was confirmation of this. See Paul N. Rappoport and Lester D. Taylor, "Toll Price Elasticities Estimated from a Sample of U.S. Residential Telephone Bills," *Information Economics and*

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This period pre-dates by several years the advent of vigorous intraLATA long distance competition in Oregon, or competition generally in Oregon's telecommunications markets. IntraLATA long distance customers had no alternatives to Qwest at that time, indeed few alternatives to undiscounted MTS service, and prices for intraLATA long distance services were, on average, at their historically highest levels. In short, whatever market circumstances the 1990 study purported to model bear absolutely no resemblance to the market circumstances in Oregon today. It makes no economic sense whatsoever to borrow an own-price elasticity number from a bygone era simply because no handy value for that elasticity is available to reflect market conditions today. While that may argue for the need to conduct a carefully constructed price elasticity study for today's market, there is no reason to believe that we can't do better than accept either Mr. Turner's or Dr. Selwyn's choice without further examination.

Q. IN THE ABSENCE OF AN OREGON AND QWEST-SPECIFIC STUDY, HOW COULD THE COMMISSION SELECT A REASONABLE VALUE FOR QWEST'S PRICE ELASTICITY IN TODAY'S MARKET?

A. There is no simple answer, and absent a definitive study, any recommendation would be based, at least in part, on speculation. However, we may apply some of the predictions of economic theory to the task in order to outline some possibilities. As Mr. Turner and Dr. Selwyn have both pointed out, several empirical studies of demand for intraLATA long

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distance services (for different carriers and different states) conducted over the last 15 years or so have confirmed that that demand is decidedly inelastic (i.e., less than one in absolute value). These studies generally found the own-price elasticity to be in the –0.2 to –0.47 range. Starting with that, we also know that competition in intraLATA long distance markets have driven rates down, first through the offering of discounted calling plans and then through a general lowering of all rates. Hence, we should expect that both market and firm price elasticities have been drifting down as well. The finding by the California Commission in 1998 (affirming a study by National Economic Research Associates) that the market price elasticity at that time may have been as low as –0.2 suggests that similar conditions may well exist in other states experiencing vigorous intraLATA long distance competition and with prices at historically low levels. Again, absent a definitive study, this may be a more reasonable conclusion about the own-price elasticity than that reached by either Mr. Turner or Dr. Selwyn.

Q. ARE THERE OTHER REASONS TO BELIEVE THAT MR. TURNER'S RELIANCE ON THE 1990 ESTIMATE OF THE PRICE ELASTICITY IS ILL-ADVISED?

A. Yes. First, Mr. Turner attempts [at 28] to justify his selection by placing it in the context of several empirical studies of demand for intraLATA long distance service. All but one of those studies date back to the 1980s and early 1990s; in all cases, those studies pre-date the very different era in which we are today, with vigorous competition and historically low prices. For reasons stated above, the applicability of the results of those studies to Qwest today is very much in doubt.[22]

Second, while Mr. Turner has accepted the own-price elasticity estimated in the 1990 Qwest study (or, at least, a value close to it), his testimony makes no absolutely no mention of the two important caveats stated by the author of that study.[23] These appeared in the following passage from the study report [at 8] (see Confidential Exhibit Staff/12):

> Of course, these results may not be applicable to estimates of demand response when future price changes are well in excess of those experienced in the past. Also, if the future environment changes substantially from the present, e.g., *intra* state/*intra*LATA competition expands dramatically, extrapolation of these results might be spurious.
>
> Future work in this area should be pursued as the *intra*state/*intra*LATA MTS environment evolves. Specifically, continued attention should be given to the development of a competitive activity variable. Inclusion of such a variable would allow a quantification of the impact of competitor responsiveness to changes in U S WEST MTS pricing behavior, for instance.

With perfect 20/20 hindsight, it is obvious that the author of the 1990 Qwest study proved to be prescient about the way market conditions would change. The author also cautioned against the danger in applying the results from the study without first, in effect, building the change in market conditions into the econometric model that estimated the price elasticity. Further, he warned against applying the estimated price elasticity when large price changes, out of proportion to the price changes in the data used for the study, began to happen. The

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[22] A more recent, unpublished study reports that the own-price elasticity for intraLATA long distance service is about –0.23 for both households that use their local exchange carrier for that service and households that have access to at least one competitive supplier as well (if only through dial-around methods). The *cross*-price elasticity (between the two sources of the service) for these latter households is about 0.21. See Lester D. Taylor, "Competitive Own- and Cross-Price Elasticities in the IntraLATA Toll Market: Estimates from the Bill Harvesting II Database," mimeo, 1998.

[23] The author of that study, Kenneth C. Bailey, has presented rebuttal testimony on Qwest's behalf in this

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econometric model used in the study specified demand in a double logarithmic form. While this type of model is sometimes used because it conveniently yields the own-price elasticity as the coefficient of the own-price variable, it also necessarily produces a constant value for that elasticity, regardless of how much prices change. As explained earlier in my testimony, a constant elasticity is highly inappropriate when large price changes occur.

Third, Mr. Turner points [at 25] to the putatively very high degree of fit by the model to the data, presumably as justification for his accepting the estimated price elasticity for present purposes. The author of the study reported an R-squared statistic of 0.998 which is only a hair's breadth away from the theoretical state of a "perfect fit."[24] Given that an econometric model is, at best, an abstraction of reality, and that it is simply not possible to capture every conceivable influence on the data, anything seemingly so close to the perfect fit should be interpreted with great caution. There may be a simple, if unglamorous, explanation for that outcome. As an influential article pointed out over a quarter century ago, sometimes a high R-squared value (signifying an exceptionally high degree of model fit to the data) can be a simple artifact of "common trends" in the dependent variable (here, the number of messages) and one or more independent variable (here, income or access lines in-

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proceeding.

[24] The perfect fit occurs when R-squared assumes a value of one. At that point, the model may be said to have explained fully all of the variation in the dependent variable, here, the demand for intraLATA long distance service. Needless to say, this represents the econometric version of utopia, a state that, to the best of my knowledge, has never been achieved.

service), and not necessarily an indicator of a strong underlying relationship between them.[25] Although I cannot verify this without having access to the original data, the manner in which the model was set up strongly suggests that possibility.[26]

Finally, Mr. Turner errs in applying an own-price elasticity that was calculated with *messages* (i.e., the number of intraLATA long distance calls) as the variable representing demand to a demand response adjustment for *minutes* or MOU. It is not uncommon for demand to be thought of in terms of both messages and minutes but, to the best of my knowledge, most empirical models of demand for long distance services use MOU to measure demand. At any rate, an elasticity measured for one would not be applicable to the other unless the ratio of one to the other, i.e., the minutes per message ratio, remained invariant over time. With all that has happened in telecommunications markets over the past decade or so, I would be extremely cautious about any claim that the minutes per message ratio has never changed. Other questions arise as well. As large price reductions occur, do consumers make more frequent calls (i.e., more messages) or do they make the same number of calls as before, only longer? If they do make more frequent calls, are those shorter calls than before? How do increased calls translate into increased minutes? Mr. Turner does not address these questions; consequently, the validity of his analysis is open to

[25] Clive W.J. Granger and Paul Newbold, "Spurious Regressions in Econometrics," *Journal of Econometrics*, vol. 2, at 111-120.

[26] The presence of common trends among time series dependent and independent variables can inflate the value of R-squared and create the appearance of a better fit to the data than, in fact, is the case. That does not necessarily mean that the underlying relationships among those variables uncovered by the model do not actually exist. While not an indictment of the model or its results, this does mean that caution is warranted when the value of R-squared becomes the sole basis for validating a model's fit to data on time series variables.

question.

Q. DO YOU ACCEPT DR. SELWYN'S RATIONALE FOR PROPOSING THE SAME OWN-PRICE ELASTICITY FOR SWITCHED ACCESS AS FOR INTRALATA LONG DISTANCE SERVICE, NAMELY, -0.5?

A. No. Like his choice of an own-price elasticity for intraLATA long distance, Dr. Selwyn's choice of –0.5 for switched access is completely arbitrary and, in fact, inconsistent with economic theory. Dr. Selwyn notes correctly [at 69] that the demand for intrastate switched access service (an input) is derived from the demand for intraLATA long distance service (the output). Therefore, it is also correct to expect a relationship between their respective own-price elasticities. In particular, economic theory predicts[27] that the own-price elasticity of an input like switched access would be a weighted average of two factors: (1) the own-price elasticity of demand for intraLATA long distance (or output) and (2) the elasticity of substitution between switched access and all non-access inputs. [28] The weight for the first factor is the share of the cost of supplying intraLATA long distance service accounted for by switched access, and the weight for the second factor is the corresponding cost share of non-access inputs. Stated differently, this is:

[27] P.R.G. Layard and A.A. Walters, *Microeconomic Theory*, New York: McGraw Hill, 1978, at 267.

[28] The elasticity of substitution represents how flexibly one input can be substituted for another input when its price rises relative to that of the first input. A "high" elasticity of substitution between input A and input B means that, as A becomes more expensive relative to B, the supplier shifts easily to using more B in place of A. Precisely the opposite happens if B becomes more expensive relative to A. The elasticity of substitution is zero whenever the supplier cannot use one input in place of the other when one becomes more expensive relative to the other. That may happen for technological reasons: some inputs simply cannot do the job of other inputs.

Own-price elasticity of switched access

= (Own-price elasticity of intraLATA long distance) x (Cost-share of switched access)

+ (Elasticity of substitution between access and non-access) x (Cost-share of non-access)

Now, consider that intraLATA long distance service is made up of both access and non-access (network-related, retailing and marketing, etc.) inputs. Therefore, even though access may be the most prominent input into intraLATA long distance service, it would not account for all of the cost of providing that service, i.e., its share of cost is less than 100 percent. For technological reasons, it is plausible that non-access inputs cannot substitute for access (and vice versa), no matter how much their relative prices to the long distance service provider changed. Putting all this information together, it stands to reason that the second factor in the weighted average calculation of the own-price elasticity of switched access would be zero (because of the zero elasticity of substitution between access and non-access inputs). This would leave the own-price elasticity of switched access as simply the own-price elasticity of intraLATA long distance service *weighted* by switched access' share of the cost of the long distance service. Clearly, if that cost share were 80 percent, the own-price elasticity of switched access would only be 80 percent of the own-price elasticity of intraLATA long distance service. It would be even smaller if that cost share were only 50 percent.

Therefore, in order to derive the own-price elasticity of switched access, it would be necessary to know the own-price elasticity of demand for intraLATA long distance service *and* the cost-share of switched access. Dr. Selwyn makes no such calculation, and his pick of –0.5 as the price elasticity of switched access service is, therefore, inconsistent with his use of –0.5 as the price elasticity of intraLATA long distance and is arbitrary and indefensible.

Q. DO YOU ACCEPT DR. SELWYN'S REASONING [AT 69-70] THAT QWEST'S PROPOSED PRICE REDUCTIONS FOR INTRALATA LONG DISTANCE SERVICE WILL PRODUCE "ROUGHLY COMPARABLE" DEMAND STIMULATION FOR QWEST AND IXCs THAT COMPETE WITH QWEST IN OREGON FOR INTRALATA LONG DISTANCE SERVICE?

A. No. I am baffled by Dr. Selwyn's assertion that, as the IXCs move to match Qwest's rate reductions, the demand stimulation experienced by both Qwest and those IXCs would be roughly the same in percentage terms. This statement is equivalent to saying that Qwest and its IXC competitors have roughly the same own-price elasticities of demand for intraLATA long distance service and impose roughly the same percentage price reduction. It is not at all clear from Dr. Selwyn's testimony why he expects all providers of intraLATA long distance service in Oregon to have roughly the same own-price elasticities. There is neither theoretical nor empirical evidence on this point to back up Dr. Selwyn's assertion. If he is using the *market* price elasticity to evaluate the demand stimulation that individual service providers experience, then he should have made that clear. Besides, that would violate Dr. Selwyn's own point that, in competitive markets, individual firm-level price elasticities diverge from the market price elasticity. Is he suggesting that they all diverge to roughly the same degree? If he is, there is no empirical support for it.

Q. DO YOU ACCEPT THE CONCLUSION HE REACHES NEXT [AT 69-70] THAT QWEST'S NET STIMULATION FOR BOTH ITS SWITCHED ACCESS AND INTRALATA LONG DISTANCE SERVICES SHOULD BE ABOUT THE SAME AND, THEREFORE, THE TWO SERVICES SHOULD BE THOUGHT OF AS HAVING THE SAME OWN-PRICE ELASTICITY?

A. Of course not, the entire reasoning is based on a premise that is flawed or inadequately supported. First, it is not clear that IXCs would experience roughly the same stimulation as Qwest in their demand for intraLATA long distance service. Hence, it does not necessarily follow that Qwest will experience a roughly equivalent stimulation in the demand for its switched access service.

Second, *even if* Qwest experienced the same *percentage* stimulation in the demand for both its switched access and intraLATA long distance services, it does not automatically follow that the own-price elasticities for both services should be the same. The price elasticity is the *ratio* of (1) the percent change in demand volume to (2) the percent change in price. Even if the percent change in demand were the same for both switched access and intraLATA long distance service, the percent changes in their respective prices will *not* be the same.

To understand this point, suppose the price of Qwest's intraLATA long distance service is 6¢ per minute and the price of its switched access service is 4¢ per minute (the remaining 2¢ per minute being the cost of network and retailing, or non-access, functions). Next, suppose Qwest reduces its switched access price by 2¢ to 2¢ per minute (a drop of 50 percent), and that it flows through that reduction completely in its price for intraLATA long distance service. As a result, the price of the latter drops 2¢ to 4¢ per minute. This, however, is only a drop of 33 percent. Therefore, when calculating the own-price elasticity of the two services, that for switched access will have a larger denominator (50 percent) while that for intraLATA long distance service will have a smaller denominator (33 percent). As a consequence, the own-price elasticity for switched access will be smaller (in absolute value) than that for intraLATA long distance service.

Q. PLEASE SUMMARIZE YOUR PRINCIPAL ARGUMENTS REGARDING THE MANNER IN WHICH AN OWN-PRICE ELASTICITY OF DEMAND SHOULD (OR SHOULD NOT) BE CHOSEN FOR QWEST'S INTRALATA LONG DISTANCE SERVICE.

A. My arguments in this matter may be summarized as follows:

1. The price elasticity of demand is a valuable tool for evaluating the strength of demand response when the price of a good or service changes. However, that is not all that should matter when evaluating the revenue impacts of Qwest's proposed price reductions for its intraLATA long distance service. Due account must be taken of *both* demand responses and demand shifts. The net effect of these possibly opposing forces will estimate the actual revenue impacts more accurately.
2. The own-price elasticity of demand is usually not constant outside a narrow range of prices. Generally, that elasticity may be expected to increase as the price rises, and diminish as the price falls. A single elasticity value is unlikely to capture correctly demand responses to large price changes (such as of the magnitude proposed here by Qwest). Because of this, the single-valued elasticities proposed by Mr. Turner and Dr. Selwyn cannot be valid for evaluating the proposed price changes.
3. Qwest's intraLATA long distance (calling plan) rates have been reduced progressively over the past several years. The latest set of proposed reductions will bring those rates to historically low levels in Oregon. At those low levels, the own-price elasticity of demand is unlikely to be of the one-size-fits-all magnitude suggested by Mr. Turner and Dr. Selwyn, who—through their choices of the price elasticity—appear to be relying on dated studies of demand conditions from the pre-competitive era when rates were substantially higher.

4. In competitive markets, an individual price-taking firm's own-price elasticity tends to exceed that of the market as a whole. However, that is not sufficient grounds to conclude that if the market elasticity were –0.3632 (as Mr. Turner proposes) or –0.5 (as Dr. Selwyn proposes) based on studies conducted several years ago, then Qwest's price elasticity *today* would exceed even those levels. The proper comparison should be to the market price elasticity prevailing today. Unfortunately, an updated market elasticity for Oregon's intraLATA long distance market is not available. However, it is safe to assume that, with prices proposed to be at historically low levels, the market and Qwest's individual price elasticities are both lower than the values proposed by Mr. Turner and Dr. Selwyn.

5. Mr. Turner's reliance on the 1990 Qwest study is misplaced. The price elasticity estimated in that study no longer represents Oregon's market realities. Mr. Turner overlooks important caveats noted by that study's author regarding the use of the elasticity in a regime of large price changes or after the advent of competition. He also mistakenly applies an own-price elasticity where demand is measured as *messages* to a demand stimulation calculation for demand measured in *minutes* or MOU.

6. Dr. Selwyn's choice of –0.5 as the own-price elasticity for both intraLATA long distance and switched access is inconsistent with his choice of –0.5 as the own-price elasticity for intraLATA long distance service. It is thus arbitrary and unsupported by either facts or economic theory. Obvious flaws in his reasoning leave no doubt that his choice of price elasticity should be rejected.

7. The California Public Utility Commission's adoption in 1998 of an own-price elasticity value of –0.2 is significant. Even more so is that Commission's recognition that the price elasticity may have fallen as prices have been reduced generally. A couple of recent studies, conducted with the new competitive environment in view, offer support for the value adopted in California.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

ANIRUDDHA (ANDY) BANERJEE

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Dr. Banerjee is a Senior Consultant with the Communications Practice at NERA. He is responsible for providing analysis of, and expert witness testimony on, regulatory and economic issues of concern to telecommunications companies, preparing and responding to interrogatories in regulatory proceedings, and conducting econometric/statistical analysis to support marketing and market research activities of telecommunications companies. Dr. Banerjee works on a range of issues including Internet economics, price cap and incentive regulation, local and long distance competition, pricing of interconnection and unbundled services, reciprocal compensation, resale and avoided cost, benchmark and proxy cost models, and universal service. His market research activities are carried out, as needed, in collaboration with leading providers of telecommunications data or directly with telecommunications companies.

Before coming to NERA, Dr. Banerjee was a Research Economist (and internal economic consultant) at BellSouth Telecommunications where he was responsible for providing economic policy guidelines to key decision-makers and the Officer Body, preparing testimony and cross-examination questions, responding to interrogatories, and building econometric models to answer business questions. He provided quantification support for BellSouth's successful initiative of designing and securing price cap regulation for itself in each of its nine states, and contributed to BellSouth's policies on local and toll imputation, universal service, interconnection pricing, rate rebalancing, and per use pricing of vertical services. In the process, Dr. Banerjee collaborated with outside consultants from McKinsey and Company and Strategic Policy Research, Inc. He also represented BellSouth's participation in the National Telecommunications Demand Study, an ongoing study of demand trends in the telecommunications industry.

Prior to BellSouth, Dr. Banerjee was an economic consultant as a Member of the Technical Staff at Bell Communications Research and a Staff Supervisor at AT&T. Dr. Banerjee has several years of experience teaching graduate and undergraduate courses in economic theory, statistics, econometrics, industrial organization, and public finance. He has conducted research on the dynamics of futures markets and various aspects of time series econometrics. He has presented a number of papers on telecommunications economics issues at national business and academic conferences.

EDUCATION

THE PENNSYLVANIA STATE UNIVERSITY
Ph.D., Agricultural Economics, 1985

UNIVERSITY OF DELHI, INDIA
M.A., Economics, 1977

UNIVERSITY OF DELHI, INDIA
B.A., Economics (Honors), 1975

EMPLOYMENT

NATIONAL ECONOMIC RESEARCH ASSOCIATES, INC.

1995- Senior Consultant, Communications Practice. Responsible for applying economic theory, regulatory economics, and econometric analysis to a variety of tasks: supporting telecommunications firms in litigation and regulatory matters, market research, and strategic planning. Provide expert witness testimony and strategic advice.

BELLSOUTH TELECOMMUNICATIONS

1992-1995 Research Economist, Statistics and Econometrics Group. Developed, led, and disseminated economic and econometric research on issues of concern to BellSouth Telecommunications in particular and the telecommunications industry in general. Contributed to each of the following areas: regulatory economics, demand analysis (growth and elasticities), market potential, diffusion, pricing, cost, new product planning, forecasting, market research, competitive analysis, and the development of strategy/policy positions for BellSouth. Supervised and collaborated with other BellSouth economists and strategic planners and outside consultants.

BELL COMMUNICATIONS RESEARCH

1989-1992 Member of Technical Staff, Regulatory Economics and Pricing Theory, Demand Response Analysis Group. Developed various statistical and econometric methods and models that are applicable to the study of demand for various types of telephone service. The focus was on analysis, forecasting, and rate design support to client companies including BellSouth, U S West, NYNEX, and Bell Atlantic. Developed software for demand and market potential analysis using advanced mathematical/statistical languages. Transformed original techniques research into business tools for analysts within client companies.

AT&T COMMUNICATIONS

1988-1989 Staff Supervisor, Market Analysis and Forecasting, Consumer Markets and Services. Assisted and contributed to demand analysis and forecasting efforts of the group. The focus was on demand issues related to AT&T's business and residential long distance telephone services.

THE PENNSYLVANIA STATE UNIVERSITY

1985-1988 Assistant Professor, Department of Economics. Developed and taught undergraduate and graduate courses in economics and econometrics. Conducted personal research in economics and econometrics. Supervised graduate student research leading to M.S. and Ph.D. degrees in economics. Developed the econometrics component of a new graduate program in policy analysis at Penn State. And, advised undergraduate economics students on their curriculum and course selection. Taught courses on introductory macro-economic theory, introductory and intermediate micro-economic theory, industrial organization, public sector economics, statistics, and introductory econometrics. Developed and taught advanced graduate econometrics and time series courses (frequency-domain econometrics and spectral analysis, dynamic simultaneous equations systems and state space models, causality, model testing and validation, nonlinear time series, and asymptotic theory.

1982-1985 Instructor, Department of Economics. Taught a number of undergraduate economics courses including macro-economic theory, micro-economic theory, public sector economics, and statistical foundations of econometrics.

1979-1982 Research Assistant, Department of Agricultural Economics & Rural Sociology. Assisted in research activities of Professor Robert D. Weaver of the Department of Agricultural Economics. Research areas included: stabilization of prices of internationally traded agricultural commodities; choice under risk-aversion by a firm faced with multiple sources of uncertainty; impacts of public policy on risk-averse firms; market efficiency, role of information, distribution of asset returns, and market equilibrium; and productivity and cost relations in the wheat, corn, and soybean producing areas of the U.S. using crop survey data from the U.S. Department of Agriculture. Most of the work consisted of literature research, writing computer programming, and econometric data analysis.

UNIVERSITY OF DELHI, INDIA

1977-1979 Lecturer, Department of Economics, Shri Ram College of Commerce. Taught undergraduate economics courses including micro-economic theory, public finance, and economic planning and policy.

HONORS AND AWARDS

Marquis' Who's Who in the South and Southwest, 1995-96
Gamma Sigma Delta Honor Society of Agriculture, inducted 1983
Phi Kappa Phi, inducted 1982

Department Head Award, BellSouth Telecommunications, 1993
Department Head Commendation, Bell Communications Research, 1992
Vice President's Award, Bell Communications Research, 1990

PAPERS AND PUBLICATIONS

CONTRIBUTIONS TO NERA REPORTS

"Efficient Inter-Carrier Compensation for Internet-Bound Traffic: Reply to Time Warner Telecom," (with William E. Taylor), ex parte with FCC on behalf of Qwest Corporation, October 23, 2000.

"An Economic and Policy Analysis of Efficient Intercarrier Compensation Mechanisms for ISP-Bound Traffic," (with Agustin Ros and William E. Taylor), ex parte with FCC on behalf of U S WEST Communications, Inc., November 12, 1999.

"Determining Fair and Reasonable Rates Under Competition: Response to Major Themes at the FPSC Workshop," for BellSouth Telecommunications, Inc., November 1998.

"Costing and Pricing Principles for Determining Fair and Reasonable Rates Under Competition," for BellSouth Telecommunications, Inc., September 1998.

"Local Telecommunications Competition: An Evaluation of a Proposal by the Communications Staff of the Florida Public Service Commission," with William E. Taylor, for BellSouth Telecommunications, Inc., November 1997.

"Costing and Pricing Principles for Competitive Telecommunications: A Critique of David Gabel's Recommendations," for BellSouth Telecommunications, March 1997.

"Comments (on Universal Service and the Hatfield Model)," with William E. Taylor, for BellSouth Telecommunications, Inc. (filed with the Federal Communications Commission for CC Docket No. 96-45), August 1996.

"Telephone Company Provision of Broadband Services: Economies of Scope, Competition, and Public Policy," for BellSouth Interactive Media Services, 1995.

"Economic Welfare Benefits from Rate Rebalancing," for Stentor Resource Centre Inc., 1995.

TESTIMONY

Rebuttal testimony opposing the position of Global NAPs, a competitive local exchange carrier, that it is owed reciprocal compensation for the carriage of Internet-bound traffic, on behalf of BellSouth Telecommunications, Inc., Florida Public Service Commission, Docket No. 991267-TP, December 20, 1999. [Appeared at Hearings, January 2000]

Affidavit, on behalf of the United States Telephone Association, Review of the Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket No. 98-137, November 23, 1998 (with William Taylor).

Affidavit supporting BellSouth Telecommunications Inc.'s motion to dismiss liability case brought by Public Storage Inc. of California because of lack of personal jurisdiction, before the U.S. District Court of the Central District of California, Case No. 90-3943 R (RZX), September 1998.

Affidavit and Reply Affidavit supporting the application by BellSouth Corporation for provision of in-region, interLATA services in Louisiana, Round 2, CC Docket No. 98-121, July-August 1998.

Affidavit and Reply Affidavit supporting the application by BellSouth Corporation for provision of in-region, interLATA services in Louisiana, CC Docket No. 97-231, October-December 1997.

Testimony critiquing the Hatfield Cost Model for setting unbundled network element rates for GTE in Alabama, on behalf of GTE South and Contel of the

South in Arbitration with AT&T, Alabama Public Service Commission, Docket No. 25704, November 1996. [Testified at Hearings, December 1996]

Testimony critiquing the Hatfield Cost Model for setting unbundled network element rates for GTE in Texas, on behalf of GTE Southwest in Arbitration with ASCI, Texas Public Utility Commission, Docket No. 16,473, November 1996. [Testified at Hearings, December 1996]

Testimony critiquing the Hatfield Cost Model for setting unbundled network element rates for GTE in Oklahoma, on behalf of GTE Southwest in Arbitration with AT&T, Oklahoma Corporation Commission, Cause No. PUD 960000242, November 1996. [Testified at Hearings, November 1996]

Direct Testimony critiquing the use of the Benchmark Cost Model for setting the unbundled loop rate for BellSouth in Georgia, on behalf of BellSouth Telecommunications, to Georgia Public Service Commission, Docket 6759-U, October 1996. [Testified at Hearings, October 1996]

Consolidated Direct and Rebuttal Testimony critiquing bill and keep compensation for interconnection, on behalf of BellSouth Telecommunications, to Florida Public Service Commission, Docket 950985-TP (Petitions by Continental Cablevision, Metropolitan Fiber Systems of Florida, and MCI Metro Access Transmission Services), November 1995. [Testified at Hearings, January 1996]

Direct Testimony on unbundling by local exchange carriers and related cost issues, on behalf of BellSouth Telecommunications, to Florida Public Service Commission, Docket 950984-TP (Petitions by Metropolitan Fiber Systems of Florida, and MCI Metro Access Transmission Services), November 1995. [Testified at Hearings, January 1996]

Rebuttal Testimony critiquing bill and keep compensation for interconnection, on behalf of BellSouth Telecommunications, to Florida Public Service Commission, Docket 950985-TP (Petition by Teleport Communications Group), September 1995.

Direct Testimony addressing interconnection rate structure design, on behalf of BellSouth Telecommunications, to Florida Public Service Commission, Docket 950985-TP (Petition by Teleport Communications Group), September 1995.

Testified on behalf of BellSouth Telecommunications in Universal Service Proceeding, Tennessee Public Service Commission, Docket 95-02499, October 1995.

Wrote significant sections of NERA testimony/comments/affidavits presented to:

- state regulatory commissions on
    1. Price cap, local competition, interconnection, and unbundling issues (Arizona, Connecticut, Kentucky, Louisiana, Mississippi, Pennsylvania, New Mexico, Vermont)
    2. Regulatory Reform (Arizona)
    3. Rate case (Arizona, New Mexico)
    4. Universal service issues (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Jersey, New Mexico, North Carolina, South Carolina, Tennessee)
    5. Loop cost subsidies: measurement and testing (New Mexico, North Dakota)
    6. Resale and avoided cost (Alabama, Louisiana, Tennessee)
    7. Network Cost models (Alabama, Georgia, Massachusetts, Missouri, New Jersey, New York, Oklahoma, Pennsylvania, Texas)
    8. Estimation of Loop Cost (New York)
    9. Local company entry into interLATA long distance (Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee)
    10. TELRIC pricing of unbundled elements (Alabama, Delaware, Maryland, Mississippi, New Jersey, North Carolina, South Carolina, Tennessee, Virginia, Washington DC, West Virginia)
    11. Access charge reform (Arizona, Nebraska, Pennsylvania)
    12. Rate rebalancing and welfare impacts (Ohio)
    13. Pricing flexibility under price caps (New Mexico, North Carolina, Wyoming)
    14. Cost recovery for Operations Support Systems and service quality and performance measurement (Alabama, Arizona, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee)
    15. Reciprocal compensation for cellular, paging, and internet service providers (Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Kentucky, Louisiana, Massachusetts, Mississippi, Montana, Nebraska, New Mexico, North Carolina, Oregon, South Carolina, Tennessee, Washington)
    16. Payphone rates and new services test (Arizona, Louisiana, South Carolina, Tennessee)
    17. Telephone company mergers (Arizona, Minnesota, Montana, Utah, Washington, Wyoming)
    18. Reclassification of competitive services (Arizona, Nebraska, Washington)

- Federal Communications Commission in dockets or ex partes on
    1. CMRS interconnection (for NYNEX)

2. Benchmark and proxy cost models (for BellSouth, Southwestern Bell, and NYNEX)
3. Universal service (for BellSouth)
4. InterLATA authority (for BellSouth)
5. Access reform (for BellSouth)
6. Regulatory forbearance for hicap services (for BellSouth)
7. Depreciation reform (for USTA)
8. Inter-carrier compensation for Internet-bound traffic (for U S WEST/Qwest)

- Canadian Radio-television and Telecommunications Commission in price cap proceeding (for Manitoba Telephone System)

- Telefonica Spain, on matters of reciprocal compensation

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May 3, 2001

UT 125

ORIGINAL

RECEIVED
MAY 0 3 2001
Public Utility Commission of Oregon
Administrative Hearings Division

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Application of	)	
QWEST CORPORATION	)	**Docket No. UT 125**
for an Increase in Revenues	)	

REBUTTAL TESTIMONY OF

KENNETH C. BAILEY

FOR

QWEST CORPORATION

MAY 3, 2001

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I. EXECUTIVE SUMMARY

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A In this docket, Mr. Thomas Turner of Staff is advocating the approximate use of an IntraLATA/Intrastate MTS own price elasticity for the purposes of revenue impact calculations that was estimated from a 1990 MTS Econometric model developed by myself at U S WEST. Whereas the model, relying on 1980's data, satisfied the rigors of microeconomic theory and statistical inference at the time, I believe subsequent events in the 1990's to the present (e.g. increased competition through wireline-based competition, wireless, e-mail, Voice over IP, expanded EAS routes, etc.) render the results out of date and misleading. The use of the 1990 MTS Econometric model results for this docket has two significant problems: 1) The proposed MTS price decrease of 40% far exceeds historical price changes used to estimate the model's MTS own price elasticity. This casts considerable doubt in the use of the model's MTS own price elasticity for this docket; 2) The fact that the model does not include variables to reflect now relevant competitive activity would create specification bias applied to today's reality and bias elasticity estimates of the model.

Another significant problem with Mr. Turner's recommendation is that it focuses exclusively upon the own price elasticity for demand stimulation estimates, while ignoring the impact of other important factors of demand (e.g. competition). This approach tells only part of the story. The shift in demand resulting from these increasingly important cross-elastic factors may significantly offset (if not overwhelm) the movement down the demand curve resulting from any price decrease.

II. INTRODUCTION OF WITNESS

Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.

A. My name is Kenneth C. Bailey. I am currently employed by Qwest Communications (Qwest) as a Senior Finance Analyst. My business address is 1600 7th Avenue, Room 2810, Seattle, WA, 98191.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL, PROFESSIONAL, AND BUSINESS EXPERIENCE.

A. I earned a Bachelor of Arts and a Master of Arts degree in Economics from the University of Washington, Seattle, WA in 1974 and 1976, respectively. I have teaching experience in Microeconomic and Macroeconomic Theory at the college level and have conducted economic and econometric research that has led to several conference presentations and publication. Following is a summary of my assignments at what is now Qwest Communications: 1978-1983 - Regional Forecaster (Pacific Northwest Bell), 1984-1985 – Cost Analyst (U S WEST), 1986-1994 – Demand Analysis Group (U S WEST), 1995-1997 – Data Acquisition and Analysis Group (U S WEST), 1998 – Enterprise Modeling Tool

Team (U S WEST) and 1999-Present – Senior Financial Analyst (U S WEST and Qwest Communications). While in the Demand Analysis Group, I was responsible for conducting economic and market analysis which included the estimation of econometric demand models for the IntraLATA/Intrastate MTS market.

III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and rebut issues raised in the direct testimony of Oregon Public Utility Commission Staff member Mr. Thomas Turner.

IV. ISSUE 3: MESSAGE TOLL

A. Mr. Thomas Turner

Q. PLEASE DESCRIBE U S WEST'S 1990 ECONOMETRIC DEMAND MODEL WHICH ESTIMATED AN OWN PRICE ELASTICITY FOR THE OREGON INTRALATA/INTRASTATE MTS MARKET.

A. In 1990, I estimated an econometric model that *pooled* both time-series and cross-sectional quarterly data for all 14 states within the U S WEST Region. The estimation interval included quarterly data from 1984-1989. The non-binary data were logged and hence the estimated coefficient values were interpreted as point elasticities. The model utilized a *Swamy* Random Coefficients procedure to estimate state-specific elasticities within the framework of one unified, Regional model.

Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE USE OF THE MODEL'S ESTIMATED OWN PRICE ELASTICITY FOR THIS DOCKET AS ADVOCATED BY MR. TURNER.

A. Two salient points were addressed in my concluding remarks in the write-up of the 1990 MTS Econometric Model which were not mentioned in Mr. Turner's Testimony (see Confidential Exhibit Staff/12):

> "Of course, these results may not be applicable to estimates of demand response when future price changes are well in excess of those experienced in the past. Also, if the future environment changes substantially from the present, e.g., *intra* state/*intra*LATA competition expands dramatically, extrapolation of these results might be spurious. Future work in this area should be pursued as the *intra*state/*intra*LATA MTS environment evolves. Specifically, continued attention should be given to the development of a competitive activity variable. Inclusion of such a variable would allow a quantification of the impact of competitor responsiveness to changes in U S WEST MTS pricing behavior, for instance."

To the first point, estimation of MTS own price elasticities are significantly impacted by the magnitude of historical price changes embodied in the data. Extrapolation of model results for price changes well in excess of those seen historically are inappropriate. At no time between 1984 though 1989 were there MTS price changes remotely approaching this docket's proposed 40% price change. Hence, application of the estimated Oregon MTS own price elasticity from the model for the purposes of this docket is inappropriate and quite probably misleading. Secondly, the 1990 MTS Econometric model's absence of *Competitive*

Activity Variables (CAV's) cast serious doubts on the applicability of model estimates for this docket. CAV's (e.g. reflecting growth in wireless, internet telephony including e-mail proliferation, IntraLATA Toll presubscription, EAS expansions, etc.) are designed to capture the impacts of *cross-elastic* relationships (i.e. substitution effects) that erode Qwest's IntraLATA MTS markets. While not a problem in the 1980's, exclusion of CAV's in recent modeling efforts would result in mispecified models and thus erroneous results.

Q. PLEASE COMMENT ON THE ABSENCE OF CROSS-ELASTIC VARIABLE(S) IN THE 1990 MTS ECONOMETRIC MODEL AND THEIR IMPACT ON THIS DOCKET.

A. An econometric model is a simplification of reality that attempts to relate the behavior of potentially numerous *causal* factors (independent variables) to the behavior of a particular item under study (dependent variable). When assessing the **total** impact upon the dependent variable (e.g. the total effect on MTS usage), inclusion of all relevant explanatory variables are germane. Concentrating on one factor alone (e.g. own price) excludes critical contributions to the behavior of the dependent variable made by other relevant variables (e.g. CAV's).

During development of the 1990 MTS Econometric Model, specifications including proxy variables for competition (e.g. switched access MOU's) were tested but proved statistically insignificant. The lack of success in this effort implied that competition in the IntraLATA/Intrastate MTS market was not yet large enough to be captured in a statistical sense. Recall that the estimation interval for this effort was from 1984 though 1989 – before significant competition in the form of wireless, 1+dialing, Internet e-mail, voice over IP, etc. developed. With expansion of relatively inexpensive (or free) alternatives to traditional MTS in the 1990's, inclusion of CAV's have become necessary to fully capture, econometrically, impacts of available substitutes for the traditional MTS market. Substitutes like CAV's, would enter the model with positive coefficient values.

Estimation of the **total** impact on Qwest's IntraLATA/Intrastate market requires that the contribution of all variables in the model be included. The impact of a negative own price would be offset by the positive coefficients of CAV's. The extent of the offset would be a function of the magnitude of these competitive factors (e.g. how prolific wireless has become a substitute for basic MTS).

Exclusion of the impact of cross-elastic factors in the post 1980's MTS market and reliance solely on an own price elasticity of demand from the 1990 MTS Econometric model would overstate the true demand response associated with an own price change.

The 1990 MTS Econometric Model reflects a different era in the MTS market when competition was minimal and historic price changes were relatively small. The environment, beginning last decade and continuing today, has changed considerably.

Q. WHAT CONCERNS DO YOU HAVE REGARDING MR. TURNER'S RECOMMENDATION OF USING THE 1990 MTS ECONOMETRIC MODEL RESULTS IN THIS DOCKET, FROM A STATISTICAL STANDPOINT?

A. An econometric model reflects the confluence of economic theory, mathematical economics and statistical inference. The process of building such a model begins with a theory of "what should be" based upon economic theory. Next, the validity of the proposed theory is tested using mathematical and statistical tools. Satisfying the rigors of all three components often generates a "good" model. A statistical problem known as *specification bias* can occur, however, when an econometric model does not explicitly include all relevant factors of demand impacting the dependent variable (e.g. CAV's). The absence of relevant variables in the model specification will introduce bias and inconsistency into the model's estimates. The extent of the bias will be contingent upon the extent of correlation between the missing variables and those specified in the model. One competitive activity variable that must be considered is the relative price of a substitute (whether from an IXC or from wireless or Internet telephony). That relative price is likely to be negatively correlated with the relative price of MTS (i.e., as MTS becomes more expensive relative to the substitute, the substitute will become cheaper relative to MTS). Moreover, if the substitute's price were properly included in the model, then its regression coefficient would most likely have a positive sign. We know the bias in the coefficient of the relative price of MTS, when the substitute's price is omitted, is the product of the negative correlation between the two relative prices and the coefficient on the relative price of the substitute. The former being negative, and the latter positive, the bias will be a negative number. This, when added to an already negative coefficient on the relative price of MTS, will make it even more negative, i.e., bias upward the absolute value of that own-price coefficient (in other words, the own-price elasticity). Hence, absent the bias, the own-price elasticity when properly estimated could conceivably be lower.

Based upon this reasoning there is a distinct risk that the elasticity estimates from the 1990 MTS Econometric Model will be biased and misrepresentative of current reality.

Q. MR TURNER INDICATES THAT "QWEST HAD AN OPPORTUNITY IN RESPOND(ING) TO MY INTERROGATORY TO PROVIDE A MORE CURRENT STUDY. HOWEVER, THE COMPANY CHOSE NOT TO DO SO." (STAFF/8, TURNER/27, LINES 23-24). PLEASE COMMENT RELATIVE TO QWEST STUDIES DONE SINCE THE 1990 MTS ECONOMETRIC STUDY.

A. To the best of my knowledge there were no additional econometric studies developed at U S WEST (or Qwest) for demand response purposes that post-dated the 1990 MTS Econometric Model. An effort was made in 1991 to check the stability (and hence, validity) of the 1990 model's estimates by appending the data set with four more quarterly observations from 1990. Utilizing the same 1990 model specification (with the inclusion of a binary variable in Colorado to account for a sizable EAS expansion in 1990) the results confirmed the stability and hence, validity of the 1990 model estimates. The estimated one-year average own price elasticity for Oregon showed a statistically insignificant change (from –0.36 to –0.38).

V. CONCLUSION

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. For this docket, Mr. Turner has recommended the approximate use of the Oregon IntraLATA/Intrastate own price elasticity derived from the 1990 MTS Econometric model results developed at U S WEST. This approach has two significant problems: 1) The proposed MTS price decrease of 40% far exceeds the 1980's diminutive price changes used to estimate the 1990 own price elasticity. Thus, considerable doubt should be cast in the use of the model's MTS own price elasticity for this docket. 2) The fact that the model does not include variables reflecting now relevant competitive activity would create specification bias if applied to today's reality and bias elasticity estimates of the model.

Another significant problem with Mr. Turner's recommendation is that it focuses exclusively upon the own price elasticity for demand stimulation estimates, while ignoring the impact of other important factors of demand (e.g.

competition). This approach tells only part of the story. The shift in demand resulting from these increasingly important cross-elastic factors may significantly offset (or even overwhelm) the movement down the demand curve resulting from a price decrease.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes it does.

UT 125

ORIGINAL

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UT 125 (Phase II)

In the Matter of the Application of Qwest Corporation for an Increase of Revenues

REBUTTAL TESTIMONY

OF

SCOTT A. McINTYRE

FOR

QWEST CORPORATION

MAY 3, 2001

TESTIMONY OF SCOTT A. McINTYRE

DOCKET NO. UT 125

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I. EXECUTIVE SUMMARY

My rebuttal testimony will address issues raised by Arleen Starr representing AT&T of the Pacific Northwest, Inc., Dr. Lee L. Selwyn representing AT&T and WorldCom, Inc., Anthony J. Ditirro representing WorldCom, Inc. and Cynthia Van Landuyt, representing the Oregon Commission Staff. These witnesses address issues concerning the rate spread proposal offered by Qwest as a final resolution to Docket UT 125. The specific rate designs I will address concern switched access and private line.

AT&T and WorldCom support switched access reductions but want prices to be reduced to lower levels than proposed by both Qwest and the Staff. Ms. Van Landuyt, for the Staff, also proposes rates for access that are lower than Qwest proposes, but higher than those proposed by AT&T and WorldCom. Ms. Van Landuyt also proposes reductions in private line services that go beyond Qwest's proposal.

The switched access rates proposed by Qwest are part of an overall rate design that reduces annual revenues by $64.2M. Other Qwest witnesses will address other parts of Qwest's overall proposal and I will limit my discussion to switched access and private line. Qwest's proposal for switched access represents a reduction of nearly $16M, which is in excess of 50%. This proposal reduces access rates to the lowest level in all of Qwest's 14-state territory. The rates proposed are cost-based and eliminate implicit subsidies. AT&T and WorldCom, as represented by Arleen Starr, Dr. Lee Selwyn and Anthony Ditirro believe that access rates should be lower, but their motivation is the same as any customer seeking lower rates for service. They care only about their own best interests and not for the overall benefit of customers in Oregon.

Ms. Van Landuyt is overly concerned with issues that may be easily remedied and less concerned with how the overall rate design will impact customers. I believe she assumes switched access rate reductions will automatically result in lower toll rates and I believe this assumption is incorrect. Qwest's proposal offers a more balanced benefit to customers.

Decreases in switched access rates are certainly justified, but reducing access rates too far limits the potential reductions for other Qwest services, such as toll. Without balanced reductions in toll, there will be little competitive pressure for carriers to reduce their rates. This will result in millions of dollars in reductions intended for ratepayers in Oregon simply filling the coffers of long-distance carriers. The benefits intended for Oregon customers will go instead to carrier stockholders as increased profits.

The private line rate design offered by Ms. Van Landuyt has several parts. The increases in analog services are reasonable at present but, faced with increasing cost for this service, Qwest recommends a slightly higher price be established through this proceeding. The offsetting reductions in high capacity DS1 services are too steep and unnecessary. DS1 private line service is a very competitive service offered by many providers. It is a staple in the industry and the majority of service is offered under FCC tariff. Prices for DS1 are very competitive and customers have many options. Qwest currently has a very low market share for these services, and while such low prices may help sales, it seems arbitrary to force such reductions for a very competitive service. The revenue reductions proposed by Staff for DDS and DS1 affect a small customer base and these reductions should be aimed at services that impact more customers. Overall, Qwest's proposal for reducing rates is more balanced than the other proposals offered by various parties and presents the best benefit for the most customers.

II. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND PLACE OF EMPLOYMENT.

A. My name is Scott A. McIntyre. I work for Qwest Corporation ("Qwest" or "Company") formerly known as U S WEST Communications, Inc. My title is Director – Product and Market Issues. My responsibilities include the development of market and pricing strategies for Qwest and supporting these positions in the regulatory arena. My business address is 1600 7th Avenue, Room 3009, Seattle, Washington 98191.

Q. ARE YOU THE SAME SCOTT A. MCINTYRE WHO FILED PREVIOUS TESTIMONY IN THIS CASE?

A. Yes, I am.

III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to address and clarify certain issues raised in the direct testimony of Arleen M. Starr representing AT&T, Dr. Lee L. Selwyn representing AT&T and WorldCom, and Anthony J. Ditirro representing WorldCom. I will also rebut testimony offered by Cynthia Van Landuyt on behalf of the Oregon PUC Staff. While the testimony of some of these witnesses deals with several issues, I will focus my rebuttal on the rate proposals for switched access and private line services.

IV. ISSUE 1, SWITCHED ACCESS

A. REBUTTAL OF CYNTHIA VAN LANDUYT

Q. COULD YOU SUMMARIZE MS. VAN LAN DUYT'S POSITION ON ACCESS RATES RELATIVE TO YOUR POSITION?

A. Yes. Ms. Van Landuyt proposes larger reductions in switched access relative to Qwest's proposal.

Q. WHAT IS MS. VAN LAN DUYT'S MAIN RATIONALE LEADING HER TO RECOMMEND LOWER ACCESS PRICES?

A. She is concerned that the difference between intrastate rates and interstate rates will drive carriers to purchase interstate access instead of intrastate access. This would have an adverse affect on the accuracy of data used for Oregon state and federal Universal Service Funds, and other regulatory fees.

Q. IS THIS A VALID CONCERN?

A. It is valid to a degree. I believe however, that audit mechanisms can prevent rampant arbitrage and new technological improvements in signaling and billing systems will greatly reduce this concern. Signaling System 7 is an out-of-band signaling system that transmits call detail along with the signaling information. This means the origination of calls is known and jurisdiction is definite. While this call detail may never be 100% certain, in my mind, other issues outweigh this concern.

Q, MS. VAN LANDUYT CLAIMS QWEST WILL HAVE "LITTLE INCENTIVE" TO PURSUE MISREPORTING PROBLEMS CONCERNING INTERSTATE AND INTRASTATE ACCESS. IS THIS TRUE?

A. No. Qwest has accounting rules to follow, universal service funding to support and revenue to collect. Qwest will pursue accurate reporting of interstate and intrastate minutes of use for all of these reasons. The difference between interstate and intrastate access rates actually encourages Qwest to accurately identify intrastate traffic because it generates more revenue. This means that Qwest will strongly pursue misreporting problems.

Q. WHAT OTHER ISSUES OUTWEIGH YOUR CONCERNS ABOUT ARBITRAGE?

A. My key issue is that switched access reductions will not be passed on to consumers by the carriers in the form of lower toll rates unless Qwest's toll rates are substantially reduced. This means additional toll reductions are more important to Oregon customers than extreme reductions in access rates.

Q. DOES MS. VAN LANDUYT ADDRESS TOLL REDUCTIONS IN HER TESTIMONY?

A. No, the toll proposal is contained in the testimony of Staff witness Thomas A. Turner and he discusses Qwest toll rates but not IXC rates or pass through.

Q. BUT YOU BELIEVE MS. VAN LANDUYT'S PROPOSAL REPRESENTS TOO MUCH REDUCTION IN ACCESS RATES?

A. Yes. As she states in her testimony, her proposal represents a 71% reduction in access rates. This comprises 34% of the total reduction ordered in this case. To give 34% of the reduction to carriers with only a modest chance that this will result in rate reductions for consumers seems extreme. Qwest's proposal is a 52% reduction in access rates on an overall basis and represents the lowest rates in Qwest's territory. In fact, Qwest's overall average rate on a 14 state basis is currently about $.03 per minute. Qwest's proposed $.013 seems very reasonable on this basis. Ms. Van Landuyt's proposed average rate of $.008 goes too far and provides carriers with too large of a share of the overall reduction.

Q. WOULDN'T IT BE A SIMPLE SOLUTION IF THE COMMISSION SIMPLY ORDERED CARRIERS TO PASS ALONG ACCESS REDUCTIONS TO CUSTOMERS?

A. That may sound simple but it is not. I don't believe the Commission has the power to enter such an order given that it doesn't regulate IXC rates. Even if it did, toll rates and packages are complex. It is not an easy matter to discern if carriers actually reduce rates. It is even harder to determine if many customers benefit or just the biggest corporate customers. The Minnesota Commission tried to order the carriers to pass along access savings in early 1999. More than two years later the Commission issued letters to some major carriers asking for documentation illustrating if and how this has been accomplished.

Q. DOES MS. VAN LANDUYT ADDRESS YOUR CONCERN ABOUT WHETHER CARRIERS WILL PASS THOUGH ACCESS REDUCTIONS TO CONSUMERS?

A. No. She does not address this issue.

Q. DOES MS. VAN LANDUYT EXPLAIN WHY SHE BELIEVES CARRIERS DESERVE 34% OF THE TOTAL RATE REDUCTION ORDERED IN THIS CASE?

A. No. She merely says, "Staff determined this was an equitable share of the revenue reduction to assign to intrastate access revenues."(Staff /3,Van Landuyt/6)

B. REBUTTAL OF ARLEEN M. STARR

Q. WHAT IS YOUR UNDERSTANDING OF AT&T'S POSITION ON SWITCHED ACCESS AS OFFERED BY AT&T WITNESS ARLEEN STARR?

A. Ms. Starr makes two initial recommendations. The first is that access rates be based on cost and the second is that the Carrier Common Line Charge (CCL) be eliminated.

Q. IN QWEST'S PROPOSAL, ARE ACCESS RATES BASED ON COST?

A. Yes, but that includes a level of contribution to joint and common costs that Ms. Starr finds objectionable.

Q. IN QWEST'S PROPOSAL IS THE CCL CHARGE ELIMINATED?

A. Yes, it is.

Q. ON PAGE 7 OF HER TESTIMONY, MS. STARR SUGGESTS THAT ACCESS RATES CONTAIN A SUBSIDY. IS THIS CORRECT?

A. Only in the context of the CCL charge, which Qwest has proposed to eliminate. Other rate elements contain no subsidy, because they are priced at a level that is less than the stand-alone cost. Ms. Starr implies that all access rates contain subsidies because she chooses not to separate out the CCL charge in her subsidy discussion. These rate elements may contain more contribution than Ms. Starr would like, but they do not contain subsidies.

Q. HAVE ANY OTHER STATE COMMISSIONS RECENTLY SUPPORTED YOUR CONTENTION THAT THE PROPOSED RATES IN OREGON ARE REASONABLE?

A. Yes. The commissions in Arizona and New Mexico recently approved access rates that are significantly higher than those proposed here. That is substantial support for the conclusion that the rates proposed here by Qwest are reasonable, if not possibly too low.

Q. HOW COULD THE ACCESS RATES PROPOSED BY QWEST BE CONSIDERED TOO LOW?

A. Remember that this total filing is intended to reduce overall revenues by $64.2M. Reductions in access represent reductions in other services that are not taken. Residence service prices for example, could be reduced if access reductions were limited to the magnitude of reductions authorized in other states. This is largely a matter of public policy.

Q. AT THE BOTTOM OF PAGE 8 AND THE BEGINNING OF PAGE 9, MS. STARR SUGGESTS THAT HER PROPOSED RATES WILL STIMULATE TOLL COMPETITION AND THAT QWEST'S PROPOSAL WILL IMPEDE COMPETITION. DO YOU AGREE?

A. No, in fact the exact reverse is true. Ms. Starr's contention is that more access reductions by Qwest and less toll reductions are better for toll competition. In reality, this creates a situation where the toll carriers benefit from reduced cost, but they all benefit to the same degree. This does nothing to stimulate competition between the interexchange carriers. Dr. Selwyn's testimony, which I will discuss in detail later, demonstrates that there is significant margin in IXC toll already. Increasing IXC margins by reducing their costs for access does nothing in terms of competition. They already have large margins and they choose not to cut into these margins any more than they have already for the sake of competition. Toll competition will only be stimulated by this rate reduction to the degree that Qwest reduces toll rates.

Reductions in Qwest's toll rates will truly alter the balance that now exists. The access reductions are irrelevant to competition since all IXC's benefit equally. The only competitive pressure will be that provided by Qwest's lowered toll rates. This is precisely why the IXC's want more access reductions and less toll reductions. It means higher profit margin without competitive interference from Qwest.

Q. IN SECTION III OF HER TESTIMONY MS. STARR CONTENDS THAT RATES ESTABLISHED IN OREGON DOCKET UM 844 SHOULD BE USED TO SET SWITCHED ACCESS RATES IN THIS DOCKET. DO YOU AGREE?

A. No. Docket UM 844 established rates for building blocks. This docket was the last in a series of dockets intended to open up the network to encourage local service competition and modified to insure consistency with the Telecommunications Act of 1996. The rates established by UM 844 and its preceding dockets are available to "any requesting telecommunications carrier" (the Act, Sec 251(c)(3)). These building blocks are not necessarily finished services, as are the switched access services provided under the terms of the Oregon Switched Access Service Tariff. Finished services are more easily ordered by customers who do not understand the details of how telecommunications services are provisioned or interconnected. As a result, the costs, value and pricing should be higher for finished services than for unbundled elements. It is not reasonable to expect the price for finished services to be the same as that for unbundled pieces of network.

Q. CAN AT&T PURCHASE UNBUNDLED ACCESS ELEMENTS NOW?

A. Not unless they choose to offer local exchange service. They are currently precluded from purchasing unbundled elements, solely for inter-exchange access, by a temporary constraint by the FCC.

Q. IS THIS TEMPORARY CONSTRAINT CURRENTLY UNDER REVIEW?

A. Yes. The FCC issued a request for comment on January 24, 2001. The FCC will review whether the constraint should continue, following an examination of the "legal and policy ramifications associated with allowing requesting carriers to substitute combinations of unbundled network elements, obtained at cost-based prices, for the incumbent local exchange carriers' (LECs) tariffed access service for customers for which the carrier does not provide any local exchange service." (FCC/CC Docket 96-98/p. 1/pp. 1)

Q. IF THE FCC DECIDES TO OPEN UP UNBUNDLED ELEMENTS TO CARRIERS, WILL OREGON'S UNE RATES THEN BE AVAILABLE?

A. Yes.

Q. IF THE FCC DECIDES IT IS NOT IN THE PUBLIC INTEREST TO ALLOW CARRIERS TO PURCHASE UNBUNDLED ELEMENTS SOLELY FOR ACCESS, IS IT PRUDENT FOR THE OREGON COMMISSION TO SET ACCESS RATES THE SAME AS UNBUNDLED RATES?

A. No. If the FCC decides UNE rates should be available to carriers, then these rates already exist in Oregon. If, however, the FCC decides there is sufficient cause to maintain the concept that lower UNE rates should only be available for providers of local service, then it would be unwise for Oregon to set access at these lower rates.

Q. IS MS. STARR CONCERNED OVER THE PROPOSED INTRODUCTION OF NEW RATE ELEMENTS FOR SWITCHED ACCESS?

A. Although she says she is "not opposed" to the new rate structure, AT&T has in fact supported this new structure in other jurisdictions. This new structure is a benefit to carriers because it allows them to purchase more of the specific elements needed without bundling in others. Ms. Starr takes issue with the pricing to the degree that she claims there is a "double recovery" of some elements. This concern is simply unfounded.

Q. IS THERE SOME DOUBLE RECOVERY OF COSTS INCLUDED IN THESE NEW ELEMENTS?

A. No. The underlying costs of these rate elements were only counted once. The fact that the costs for two end office ports were calculated by the cost analysis group under the "switching" category does not imply double counting of anything. The building block costs filed in this case were developed before the separation of rate elements proposed here was anticipated. The rates for these elements are reasonable and separating them out makes sense for the industry. The fact that the costs for these separate elements used to be combined is irrelevant. Separating these elements helps carrier customers buy only the piece parts they require and this is a definite step forward. If the costs had been separated, the resulting rates proposed in this proceeding would be exactly the same as they are now.

Q. IS QWEST PROPOSING TO ELIMINATE THE CARRIER COMMON LINE CHARGE IN THIS PROCEEDING?

A. Yes.

Q. DOES MS. STARR SUPPORT ELIMINATING THE CCL CHARGE?

A. Yes.

Q. THEN, WHAT IS HER CONCERN ABOUT CCL?

A. She does not like the fact that our proposal includes an increase in local switching. She claims this is a shift of subsidy from CCL to switching.

Q. WHY HAVE YOU PROPOSED AN INCREASE IN LOCAL SWITCHING?

A. This rate design has at its core an overall reduction of revenues ordered by the Commission to be $64.2M. Qwest has proposed a reduction in access revenues of approximately $16M. Among other rate proposals, there are proposed reductions in toll features and EAS revenues. To the extent that access revenues are reduced more, these other reductions can be reduced less. Qwest's proposal seems more balanced by reducing access by $16M, which is a 52% reduction. Eliminating CCL certainly is desirable, but CCL, by itself, represents almost one-third of the total reduction ordered in this case. Other customers, besides carriers, deserve a larger portion of the overall reduction. To accomplish a better balance, Qwest has proposed some increase in the local switching rate. The net change is still a very substantial reduction for carriers.

Q. IS THIS A SHIFT OF SUBSIDY, AS MS. STARR ASSERTS?

A. Definitely not. As in any rate design attempting to produce a specific revenue adjustment, there are changes in the amount of contribution attributable to any one rate element. All that is proposed here is an adjustment of rates, and subsequently contribution levels, on hundreds of rate elements. The local switching element of switched access is merely one of the hundreds of elements subjected to some adjustment in achieving the $64.2M overall reduction.

Q. MS. STARR MAINTAINS THAT QWEST HAS A "VIRTUAL MONOPOLY ON ACCESS SERVICES" AND THEREFORE QWEST'S PROPOSAL IS "ANTI-COMPETITIVE. DOES QWEST HAVE A MONOPOLY ON ACCESS SERVICES AS MS. STARR CLAIMS?

A. No, for two key, but separate reasons. One reason is that AT&T could use a different approach to obtaining switched access service at exactly the prices Ms. Starr demands.

That approach is to offer local service and purchase Unbundled Elements (UNE's) at exactly the prices Ms. Starr is demanding here. It is true that Qwest would be the provider in this case, but the prices would be the exact prices that Ms. Starr wants. This may not be an alternative in terms of provider, but it is certainly an alternative of structure and price.

The other key reason that Qwest is not a monopoly provider is that there are many ways to bypass Qwest's network that are very cost-effective. Bypassing switched access rates by providing a special access facility is very cost-effective for customers generating even modest amounts of toll traffic. This bypass completely eliminates the charges for switched access and AT&T and other IXCs target many business customers for this approach.

Q. PLEASE EXPLAIN HOW THIS BYPASS WORKS.

A. A direct circuit from the end user to a carrier's Point of Presence (POP) bypasses any switching or switched access transport provided by Qwest. This circuit carries the toll traffic to the carrier and is billed on a flat rate basis instead of the per-minute basis charged for switched access. As long as the customer uses enough toll to justify the dedicated circuit, the carrier saves the switched access charges and passes some of these savings along to the customer in the form of reduced toll charges.

Q. DOES THIS WORK ONLY FOR EXTREMELY HIGH TOLL USERS?

A. No, not at all. Let's take the example of a DS1 private line. A DS1 carries 24 channels of voice traffic. A typical DS1 is priced about $250 per month including the termination of the circuit and some interoffice transport mileage. During an 8-hour workday, this circuit can carry over 250,000 minutes of toll traffic. This equates to an effective cost of less than 1/10 of one cent per minute. This means that switched access costs are almost completely eliminated from the equation. Any customer who generates more than $250 per month of toll is an excellent target for such bypass and this is not an extremely high volume at all.

Q. DO MORE RESIDENCE OR BUSINESS CUSTOMERS GENERATE THIS VOLUME OF TOLL TRAFFIC?

A. Not many residential customers generate this level of traffic, but many business customers do. These business customers are the targets for such bypass and this lowers the carrier's average cost per minute of use dramatically. Large volume business customers account for more than their average share of toll revenues. For example, a small number of business customers might generate a large percentage of the revenue. This makes these high volume customers very desirable.

Q. IN THIS SCENARIO, DOESN'T QWEST STILL GET THE REVENUE FOR PRIVATE LINES?

A. Not necessarily. There are many providers of dedicated circuits, especially in metropolitan areas where many businesses reside. Some carriers use Qwest as a provider of these circuits only as a last resort. Even if Qwest does provide the circuit, the revenues received are much less. Qwest might receive in such a case, $250 per month for the DS1 instead of over $3,200 per month in switched access revenue. This $3,200 is what Qwest would otherwise receive from 253,000 minutes carried by the DS1 at Qwest's proposed average access per minute price of 1.3 cents.

Q. MS. STARR ASSERTS THAT NOT SETTING RATES FOR ACCESS AT FORWARD LOOKING ECONOMIC COSTS CREATES AN OPPORTUNITY FOR A PRICE SQUEEZE. DO YOU AGREE?

A. No, there certainly is no price squeeze. Mr. Robert Brigham in his testimony for Qwest, defines a price squeeze as a situation where margins are driven to zero. That is certainly not the case here. Qwest's proposal reduces rates for switched access and toll. In fact, as I will discuss later in a discussion of Dr. Selwyn's testimony, this proposal represents a greater percentage reduction in Qwest's margins than it does for carrier margins. Qwest's proposal certainly does provide competitive pressure on the carriers to reduce their toll rates. That is what competition does. It puts pressure on other providers to lower prices, cut costs or live with reduced margins. Qwest's proposal in this case proposes reductions on the margins of all providers, including Qwest. Ms. Starr and Dr. Selwyn seem to believe that carriers should somehow be exempt from pressure on their margins. Different providers constantly put pressure on each other's margins. That is called competition.

Q. IN HER PRICE SQUEEZE SCENARIO, MS. STARR MAKES SOME ASSUMPTIONS FOR THE SAKE OF HER EXAMPLE. ARE ALL OF HER ASSUMPTIONS ACCURATE?

A. No. There are a couple of key assumptions that Ms. Starr would like us to accept, but they are incorrect and certainly taint her analysis. The first is that she assumes a cost of 4 cents for all toll providers to account for internal costs of providing toll. The bulk of these costs will be administrative and therefore not traffic sensitive. To develop a per-minute cost as described by Ms. Starr, you must divide these costs by minutes of use. This per-minute cost is highly dependent on the volume of traffic carried by the provider. Since AT&T and other carriers also carry interLATA and interstate traffic, these per minute costs will be much less than Qwest's limited intraLATA traffic. To assume these costs are the same for high volume carriers like AT&T and low volume carriers like Qwest, is a gross distortion in this example.

The second incorrect assumption is that carriers actually pay the switched access rates for all their toll traffic. The bypass of switched access by the use of special access circuits significantly lowers the average rate per minute paid by carriers. Providing bypass circuits to just the larger business customers in metropolitan areas might lower the average switched access rate by 10 to 20%. This is highly significant when compared to the imputation price floor established by current methods. Combine this with a cost advantage due to higher toll volumes and the carriers could easily have an absolute cost advantage over Qwest.

Q. WHAT IS THE BASIS FOR YOUR STATEMENT THAT IXC'S CARRY SIGNIFICANTLY MORE TOTAL TRAFFIC THAN DOES QWEST?

A. On the basis that Qwest bills almost twelve times as much interstate and intrastate switched access minutes as compared to the toll minutes carried by Qwest.

Q. DID QWEST ASK FOR MORE DEFINITIVE INFORMATION IN DATA REQUESTS TO AT&T AND WORLDCOM?

A. Yes, Qwest asked AT&T and WorldCom to provide the average price they pay for switched access per minute of use for intraLATA toll that Qwest originates and terminates in Oregon. AT&T objected and refused to provide the information. WorldCom has not yet responded. On May 1, 2001 the Administrative Law Judge granted Qwest's motion to compel, requiring AT&T to provide this information. Consistent with the Judge's ruling, Qwest will provide supplemental rebuttal on this issue when it receives the information.

Q. DOES MS. STARR MAKE ANY OTHER ASSERTIONS IN HER EXAMPLE THAT MISREPRESENT THE FACTS?

A. Yes. She makes the statement that "With a gross margin of zero, IXCs will have little incentive to market their services in Oregon, while Qwest retains its margin of 1.7 cents per minute." Even if the IXCs' margin were zero, which certainly is not the case, they would still have incentives to offer service. A great deal of marketing services is "one stop shopping". The interstate market is much larger than the intrastate market and competition is high. Reductions in margin on intrastate services can easily be offset by the value of interstate services and offering the customer a complete package is very valuable. The IXCs know this and will fight for intrastate customers' service, regardless of the margins. In addition, local services and feature packages all add to the value of offering a complete line of services. The IXCs will not abandon this lucrative total service market.

Q. DO MS. STARR'S CONCLUSIONS AND RECOMMENDATION PROVIDE ADDITIONAL INSIGHT INTO AT&T'S MOTIVES FOR THEIR PROPOSAL?

A. Yes. Ms. Starr's conclusions are restatements of the fact that AT&T would like to improve the competitive advantage they already have in the toll market. They would like Qwest to reduce switched access to unbundled element rates. This allows them to get the additional benefits of finished services for free and without any requirement to enter the local exchange market. AT&T would like Qwest toll rates reduced as little as possible. Qwest reductions in toll are the only way to put competitive pricing pressure on the IXCs and they want this pressure minimized.

Q. MS. STARR SEEMS CONCERNED THAT THIS IS THE COMMISSION'S LAST CHANCE TO LOWER THESE RATES TO LEVELS THAT THEY MUST ACHIEVE OR QWEST WILL DRIVE ALL OTHER COMPETITORS OUT OF OREGON. HOW REALISTIC IS THIS CONCERN?

A. It is much more dramatic than realistic. The prices Ms. Starr wants are already available if AT&T wants them in conjunction with the provision of local exchange service. The margins at stake for Qwest are in the vicinity of 1 cent per minute. The cost advantage for carriers already in the interstate business has to be at least 1 cent on the basis of lower intracompany costs. This all means that Qwest's so-called advantage really does not exist at all, and the only real issue is whether AT&T can manage to keep Qwest's intrastate toll rates as high as possible. Any success to this end will reduce competitive pressure on AT&T. This will insure an ongoing AT&T advantage for combined toll services even after Qwest enters the InterLATA market.

C. REBUTTAL OF DR. SELWYN

Q. HOW DOES DR. SELWYN APPROACH AT&T'S AND WORLDCOM'S POSITIONS IN THIS MATTER?

A. Fundamentally, Dr. Selwyn makes the same points as does Ms. Starr. He addresses three key issues that I will discuss individually.

Q. WHAT IS DR. SELWYN'S FIRST MAJOR ISSUE WITH REGARD TO QWEST'S PROPOSED RATE DESIGN IN THIS CASE?

A. Dr. Selwyn asserts that not setting access rates at cost-based levels narrows the gross margin of competitors and creates a price squeeze situation when toll reductions by Qwest are taken into consideration.

Q. IS THIS ASSESSMENT ACCURATE?

A. Not at all. There are three major flaws in Dr. Selwyn's portrayal of this proposal. First, he claims that Qwest's proposal does not reduce rates to "cost-based" levels. Dr. Selwyn agrees with Ms. Starr that forward-looking economic cost includes a reasonable allocation of forward-looking joint and common costs. As with Ms. Starr, Dr. Selwyn implies that contribution to joint and common cost is appropriate but that only prices set at the price floor are reasonable

Q. WHAT ABOUT DR. SELWYN'S CLAIMS OF A PRICE SQUEEZE?

A. That is simply not the case. Margins for IXC toll services seem to be very healthy by Dr. Selwyn's example.

Q. WHAT IS A PRICE SQUEEZE?

A. Mr. Brigham defines a price squeeze in his testimony. In addition, according to Lawrence J. Spiwak, as reprinted in the Federal Energy Law Journal (14 Energy L.J. 75 (1993)): "Simply stated, a price squeeze occurs when a firm with monopoly power on the primary, or wholesale, level engages in a prolonged price increase that drives competitors out of the secondary, or retail level, and thereby extends its monopoly power to the secondary market. A price squeeze will not be found, however, for any short term? (sic) exercise in market power. Rather, because anticompetitive effects of a price squeeze are indirect, the price squeeze must last long enough and be severe enough to produce effects on actual or potential competition in the secondary market."

Q. SO, WHY IS THIS NOT A PRICE SQUEEZE SITUATION?

A. There are three key reasons. First, Qwest is proposing to reduce access rates, not increase them. This has the effect of increasing competitor margins, not reducing them. AT&T, and WorldCom may wish access rates to go even lower, but there is no marketing, legal or regulatory reason why they need to be further reduced.

Second, the toll reductions proposed by Qwest do nothing more than put competitive pressure on AT&T and WorldCom. This is no different than if Sprint or any other carrier were to lower toll rates. This is what competition is all about. Different competitors adjust rates to gain market share. If Qwest reduced access rates and some other carrier responded by lowering toll rates, would AT&T claim a price squeeze?

The effects would be exactly the same. AT&T would have to respond by cutting its margins, cutting its costs, or lose some market share. This is the nature of competition. Third, this is in no way severe enough to fit the category of a price squeeze. By Dr. Selwyn's own example beginning on page 16 of his testimony, under Qwest's proposed rates, IXC's might, if they choose to, reduce their price markup on toll from a current markup of 100% down to a markup of 67%. Retaining a markup of 67% on toll services does not come close to a price squeeze situation. A market where markup over cost is 67% draws competitors. It does not drive them away.

Q. DR. SELWYN ASSERTS THAT ACCESS AND TOLL MUST BE REDUCED ON A CENT FOR CENT BASIS UNTIL ACCESS IS PRICED AT COST (AT&T-WCOM/1/SELWYN/20), OTHERWISE THE PROPOSAL IS ANTI-COMPETITIVE. DOES THIS MAKE SENSE?

A. Not at all. First of all, the average rate for Qwest toll is currently 19 cents. The average rate for access is 2.76 cents per terminating or originating end. The difference between Qwest's proposed rate for access and AT&T's proposed rate is less than one cent per (originating or terminating) minute (1.3 cents proposed by Qwest and .48 cents proposed by AT&T). For a complete call the difference is approximately 1.6 cents. The difference of the two proposals relative to a 19-cent average retail rate for toll is minimal. By AT&T's logic, anything more than a 4 ½ cent toll decrease is anti-competitive. If Qwest's access proposal is accepted, AT&T would suggest that anything more than a 3 cent reduction in toll is anti-competitive. Basically, it seems that irrespective of the decision on access pricing, AT&T believes that any toll reduction beyond a range of 16% to 24% is anti-competitive behavior on Qwest's part. In truth, it is *competitive* behavior and that is what AT&T is against.

Q. ARE THERE OTHER ASPECTS OF DR. SELWYN'S ANALYSIS THAT ARE QUESTIONABLE?

A. Yes. His assumption (AT&T/WorldCom/1/Selwyn/19) that all carriers will have identical costs for "non-access retailing functions, including billing and collection", is faulty. These are administrative costs and the cost per minute he assumes to be 4 cents will vary significantly based on the volume of minutes. (Ms. Starr used this same assumption in her testimony.) Because these costs are essentially the same for intrastate and interstate toll minutes, the large volume providers of toll will have costs much lower than low-volume providers on a per-minute basis. In this example, a carrier such as AT&T might have "non-access costs" that are half of Qwest's costs. In Dr. Selwyn's example, such a cost advantage on non-access costs outweighs any cost advantage Qwest might have relative to access. Qwest's so-called advantage in access margins might be as high as 1 cent per minute as Dr. Selwyn sees it, but AT&T might easily have an advantage on non-access costs of 2 cents or more.

Q. IS IT REASONABLE TO THINK THAT A LARGE CARRIER'S COSTS MIGHT BE HALF THAT OF QWEST'S FOR NON-ACCESS COSTS?

A. Yes. Carriers in total carry more than ten times the toll traffic that Qwest does. With this kind of volume, costs per minute are driven down for administrative type costs. This type of differential is very possible, even likely.

Q. YOU SAID EARLIER THAT UNDER QWEST'S PROPOSAL, AT&T'S MARKUP OVER COST WOULD DROP 33%, FROM 100% TO 67%. WHAT WILL HAPPEN TO QWEST'S MARKUP UNDER THIS SAME PROPOSAL?

A. Using Dr. Selwyn's assumptions, Qwest's markup would drop 57%. This is almost twice the reduction in margins that AT&T would experience.

Q. WHAT WOULD HAPPEN TO QWEST'S PERCENT MARGIN UNDER QWEST'S PROPOSAL?

A. Under Qwest's proposal, Qwest's margin would drop from approximately 74% as a percentage of revenues to approximately 55%.

Q. WHAT WOULD HAPPEN TO AT&T'S PERCENT MARGIN UNDER QWEST'S PROPOSAL?

A. AT&T's percentage margin would drop from 50% to 40%.

Q. IF, IN FACT, AT&T HAS A ONE CENT COST ADVANTAGE FOR NON-ACCESS COSTS, HOW WOULD AT&T'S PERCENTAGE MARGINS BE AFFECTED?

A. In this case AT&T's margins would change from a current 55% to a proposed 49%.

Q. IF AT&T ACTUALLY HAD A 2 CENT ADVANTAGE IN NON-ACCESS COSTS, WHAT WOULD BE THE EFFECT OF QWEST'S PROPOSAL ON AT&T'S PERCENTAGE MARGIN?

A. In that case, AT&T's percentage margin would drop from a current 60% to a proposed 58%.

Q. SO WHAT DO ALL THESE NUMBERS MEAN?

A. First, they mean that the changes proposed by Qwest for access and toll may be represented in various ways, depending on how you want to slant your analysis. Mostly what they mean however, is that any way you look at it, the toll market has very healthy margins and that Qwest's proposal does not come close to anything resembling a price squeeze as Dr. Selwyn and Ms. Starr would like to portray. All this amounts to is competitive pressure that the IXC's want to avoid. Qwest's proposal for access reductions are very substantial and actually increase the carriers' margins. It is the decrease in toll rates they are trying to forestall. The toll reductions actually represent real competition for toll service.

Q. DR. SELWYN CLAIMS THAT IT IS THE ABSOLUTE CENTS PER MINUTE OF MARGIN THAT IS IMPORTANT. IS THIS ACCURATE?

A. It certainly depends on what you are trying to prove, but absolute cents per minute tell you nothing about competitive opportunity without a volume calculation. Percent margin in the area of 50%, as we are discussing here, or percent markups in the areas of 67 to 100% certainly give a better indication of competitive opportunity, without knowing anything else about the market. In very high volume markets, even seemingly small absolute numbers represent millions of dollars.

Q. MUST IXC'S PASS ACCESS REDUCTIONS ALONG TO CUSTOMERS?

A. No, and without significant toll reductions on the part of Qwest, they likely will not pass these savings on to end users.

Q. DR. SELWYN SUGGESTS THAT BECAUSE ACCESS RATES ARE DROPPING, THERE SHOULD BE SOME STIMULATION FACTOR ADDED IN THE CALCULATION FOR REVENUE REDUCTION. DO YOU AGREE?

A. I agree that, in theory, such factors might be appropriate. There are two key problems with applying that logic here, however. The first is that the rate adjustments proposed here are intended to be a point in time adjustment as required by the stipulation which the Commission approved in Order 00-190. This is also the only practical approach and it means rates and the revenues produced by those rates are adjusted at a specific time. This may not be an exact way to adjust ongoing revenues, but it is manageable and consistent with the Commission's prior orders. The second reason is that the impacts of stimulation or repression due to rate changes are too complex to predict. Many of these services are interrelated and the dynamics are complicated. For access, stimulation will be highly dependent on how carriers react. If they maintain their existing toll rates, which seems likely, there could be no stimulation at all. Access reductions do not affect the customers directly. Customer demand is stimulated only if carriers pass along rate reductions. Mr. Teitzel and Dr. Banerjee for Qwest, will discuss toll stimulation relative to Qwest's reduced toll rates. If Qwest's toll is stimulated, as other parties believe, there could actually be a drop in switched access minutes as customers shift their toll service toward Qwest. If carriers respond to Qwest's drop in toll rates by lowering their own rates, the status quo could be maintained with no stimulation or repression. Dr. Selwyn would like to pick certain products for stimulation because it would further his goals in this case, but this piecemeal application of theoretical impacts is not reasonable.

D. REBUTTAL OF ANTHONY J. DITIRRO

Q. DOES THE TESTIMONY OF ANTHONY J. DITIRRO, FOR WORLDCOM, INTRODUCE ANY NEW PERSPECTIVE IN THIS CASE?

A. No. Mr. Ditirro reiterates most of Dr. Selwyn's and Ms. Starr's testimony.

Q. WHAT ARE MR. DITIRRO'S KEY POINTS, AS YOU SEE THEM?

A. Mr. Ditirro makes 5 key points. First, that this is the "last chance" for the Commission to set rates for these services. Second, that access rates should be set "at cost." Third, that explicit and implicit subsidies should be eliminated. Fourth, that switched access rates should be set equal to unbundled network elements. Fifth, that rates should not benefit Qwest over its competitors.

Q. DOES MR. DITIRRO REALLY MEAN RATES SHOULD BE SET "AT COST?"

A. He uses that language, but mostly for effect. He admits in his footnote that his definition of "cost" includes a reasonable contribution to joint and common costs and a reasonable profit. Qwest has proposed such rates in this case.

Q. SHOULD EXPLICIT AND IMPLICIT SUBSIDIES BE ELIMINATED AS MR. DITIRRO SUGGESTS?

A. Implicit subsidies should be eliminated. This is directed by the Telecommunications Act of 1996 and is in the best interests of consumers. This is why Qwest has proposed the elimination of the Carrier Common Line charge, which is pure implicit subsidy. Explicit subsidies are another matter. The universal service concept, which has just recently been put in place in Oregon, is an explicit subsidy intended to support the concept that everyone in the nation should have reasonably priced telephone service. Without this concept, rural telephone for all would certainly be in jeopardy. I don't support Mr. Ditirro's assertion at all, that this type of subsidy should not be allowed.

Q. DOES MR. DITIRRO WANT ACCESS RATES SET AT COST OR AT UNBUNDLED RATES?

A. It would seem that this is the same issue he raised above, stated a different way, I assume, for effect. Unbundled rates are already available to WorldCom as I described earlier. If they want those rates, they should purchase unbundled elements and offer local service. As with Ms. Starr, for AT&T, WorldCom wants the additional service provided by finished switched access for free and without any effort to introduce competition for local exchange services.

Q. MR. DITIRRO WANTS RATES THAT DO NOT BENEFIT QWEST TO THE DETRIMENT OF ITS COMPETITORS. IS THIS REASONABLE?

A. It is certainly understandable from a carrier's perspective. WorldCom already faces competition from AT&T and other toll carriers. To the degree they can limit Qwest's effectiveness in the toll market, so much the better. Lower access rates and higher Qwest toll rates limit the competitive pressure dramatically. In terms of profits, every cent per minute reduced on access rates and every cent per minute **not** reduced on Qwest toll represents millions in profits to the carriers. This argument is understandable but is narrowly focused only at IXC goals in this case.

V. ISSUE 2, PRIVATE LINE

A. REBUTTAL OF CYNTHIA VAN LANDUYT

Q. WHAT IS MS. VAN LANDUYT'S PROPOSAL FOR PRIVATE LINE RATES?

A. She has proposed an overall increase of $.3M.

Q. ARE THERE DIFFERENT SERVICES ADDRESSED WITHIN THE PRIVATE LINE CATEGORY?

A. Yes. There are three basic categories of private line services address in this case. Analog, Digital Data Service (including Digicom) and DS1 are essentially different bandwidth classifications within the private line family of services.

Q. HOW DOES MS. VAN LANDUYT'S PROPOSAL FOR ANALOG SERVICES COMPARE WITH QWEST'S PROPOSAL?

A. Ms. Van Landuyt recommends increases in the Network Access Channel (NAC) that Qwest agrees with. To partially offset these substantial increases, however, she has reduced some Channel Performance elements to a greater degree than proposed by Qwest.

Q. MS. VAN LANDUYT'S APPROACH TO PRICING THESE ELEMENTS SEEMS PRETTY STRAIGHTFORWARD. WHAT IS WRONG WITH RATES 25% ABOVE UM 844 RATES?

A. Analog private lines are in decline. Many customers are migrating to other types of telecommunications services. As a result, the costs of providing these services are rising. Channel Performance elements represent the electronic equipment that determines the transmission characteristics of the circuit. As this equipment declines in use, manufacturers cut back the supply. Even services declining in general, require new circuits and this means higher costs as time progresses. Qwest would like to see more contribution in these rates in anticipation of higher costs in the future. This process does establish a price cap for these services so in a very few years, these prices might well be below cost. Qwest's proposed increase of just over 23% is a more reasonable long-term price cap.

Q. MS. VAN LANDUYT DOES NOT AGREE WITH YOUR PROPOSAL TO PHASE-IN NAC RATES IN ZONES 2 AND 3. DO YOU STILL BELIEVE THIS IS AN IMPORTANT PART OF QWEST'S PROPOSAL?

A. Yes. The NAC rates in zones 2 and 3 represent very large increases. Although there are small numbers of customers involved, the increases proposed by Ms. Van Landuyt may result in increases of over 300% in these zones. Phasing in these rates as Qwest has proposed will allow these customers time to analyze their networks and find alternative services if they so desire.

Q. HOW DOES MS. VAN LANDUYT'S PROPOSAL FOR DIGITAL DATA SERVICE COMPARE WITH QWEST'S PROPOSAL?

A. Ms. Van Landuyt proposes a reduction of approximately 27% while Qwest's proposed reduction is approximately 10%. Ms. Van Landuyt's proposed rate reduction here is unnecessarily large. Digital Data Service customers make up a very small percentage of the customer base. There are only 4% as many DDS circuits as analog circuits for example. Ms. Van Landuyt's proposal is too great for such a small base of customers. It seems more appropriate to put this extra reduction on other services such as toll where more customers benefit.

Q. WHAT IS MS. VAN LANDUYT'S PROPOSAL FOR DS1 SERVICES?

A. Ms. Van Landuyt proposes a reduction for DS1 of almost 40%. This reduction is also too large. DS1 service has less than 1000 terminations. It is a highly competitive service with many alternative providers. Ms. Van Landuyt's proposed mileage rates (per mile), for example, are in the neighborhood of 90% less than equivalent rates in the FCC tariff. Reductions beyond those recommended by Qwest are excessive and should be directed to other services. As with switched access, if the FCC determines that IXC's should be allowed to purchase UNE's, then such rates will be available through UNE tariffs. There is no need to reduce DS1 service so dramatically. This could create a situation where customers shift away from FCC tariffed rates toward intrastate rates. This is a reverse of the arbitrage situation Ms. Van Landuyt is so concerned about in the case of switched access.

VI. SUMMARY

Q. WOULD YOU PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY?

A. Yes. The carriers in this case argue that switched access rates should be set at UNE rates. This is clearly not appropriate, as switched access is a finished service. If the FCC decides carriers should be allowed to purchase UNE's without offering local service then this issue is moot and the carriers are free to purchase UNE's at existing prices. If the FCC decides there are valid reasons for restricting UNE purchases to local service providers, then it would be unwise for the Oregon Commission to preclude the FCC on this issue.

The Staff recommended reductions in switched access provide carriers with too great of a percentage of the overall $64.2M reduction. This 34% share is too large because these rate reductions are not likely to be totally passed on to consumers in the form of toll rate reductions. Reductions in other services such as toll or EAS affect more customers with more certainty than switched access reductions.

The Staff recommended increases in analog private line are a step in the right direction, but not quite enough to insure that these services cover cost in the long term. The Staff proposed reductions in Digital Data Service are very large relative to the size of this customer base. Staff's proposed reductions for DDS and Digicom 1 should be cut in half. Staff's proposed reductions for DS1 are also too great. This is a highly competitive service that is market priced and customers have many alternative services and providers. Staff's proposed 40% reduction of DS1 rates should be cut to the 15% reduction proposed by Qwest.

Overall, Staff's proposed reductions in Switched Access and private line provide a small percentage of customers with a large percentage of the total reduction. More customers would benefit more directly if the excess revenue reductions proposed by Staff were shifted to toll or EAS reductions.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

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Administrative Hearings Division

ORIGINAL

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

In the Matter of the Application of Qwest Corporation for an Increase in Revenues	**Docket No. UT 125**

REBUTTAL TESTIMONY OF

ROBERT H. BRIGHAM

FOR

QWEST CORPORATION

May 3, 2001

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EXECUTIVE SUMMARY

Purpose of Testimony

The purpose of my testimony is to respond to issues raised in the direct testimonies of Dr. Lee Selwyn, Ms. Arleen Starr and Mr. Anthony DiTirro. In particular, I address the issues of toll imputation and price squeezes. Both of these issues are categorized under Issue 3; Message Toll.

What is a Price Squeeze?

Dr. Selwyn and Ms. Starr (along with Mr. DiTirro) argue that unless AT&T and Worldcom are guaranteed the same "margin" as Qwest for toll service, a price squeeze must exist. Per AT&T/Worldcom, this price squeeze can only be eliminated if prices for access are set at cost, and if AT&T/Worldcom's costs and margins are the same as Qwest's.

This is not a proper definition of a price squeeze. Imputation, as a general concept, is designed to prevent a firm from engaging in pricing behavior that could lead to a "price squeeze." An imputation price floor for a retail service represents the sum of two components: (1) The imputed wholesale price for essential bottleneck facilities, and (2) the TSLRIC for other cost elements required to provide the service. This price floor is codified in Oregon law in ORS 759.410(4), which applies to Qwest by virtue of its election of price cap regulation. If the firm sets prices for its retail service *below* the imputation floor, this may result in a price squeeze. If the firm sets prices *above* this price floor, it cannot engage in pricing behavior that could lead to a price squeeze.

Thus, a price squeeze may occur only when the margin for a competitor is *eliminated*—a price squeeze does not occur when the margin (price less cost) for a competitor is simply less than Qwest's margin. There is no basis for AT&T/Worldcom's claim that any prices for switched access that are set at a level that is above "cost" will result in a "price squeeze."

Average Revenue Per Minute (ARPM)

A toll imputation test should not be performed at the "service element" level. An imputation test should compare the average revenue per minute (ARPM) for all toll services with the imputation-based price floor. If one assumes an IXC purchases switched access in order to provide toll service, this carrier must price its intraLATA toll service in a manner such that the intraLATA toll Average Revenue Per Minute (ARPM) is greater than the imputed switched access rates. As long as the IXC's ARPM is greater than its costs (the price it must pay for access plus marketing and billing costs), the IXC can achieve a positive margin, and a price squeeze does not exist.

Dr. Selwyn's Imputation Analysis

Dr. Selwyn has performed an imputation analysis for Qwest's "Super Savings" toll plan service. Based on his analysis, he concludes that the 6 cent per minute rate for "Super Savings" is set at a level that is below the imputation floor, and that the rate for this toll offering must be raised.

My testimony demonstrates that there are several errors in Dr. Selwyn's analysis. As an initial matter, an imputation analysis should not compare the "Super Savings" rate with an imputed floor—it should compare the ARPM for all intraLATA toll services with the imputed floor. However, even if we perform the imputation analysis at the individual toll plan level, if *any one* of the errors in Dr. Selwyn's analysis are corrected, the imputation price floor is less than the 6 cent per minute rate for "Super Savings." Thus, even if we accept Dr. Selwyn's premise that each toll plan should be viewed separately, there is no need to increase the "Super Savings" price, as recommended by Dr. Selwyn.

First, Dr. Selwyn has included access *rates* for independent-originated calls in his imputation price floor. The access charges paid to independent telephone companies ("independents") should not be included in the access rates, since access provided by an ILEC is not an "essential function" provided by Qwest. Second, Dr. Selwyn has included the *rates* Qwest charges for various billing and collections services in his imputation calculation. Since these are not essential functions, a properly constructed imputation analysis should include the *costs* for billing and collections services, not tariffed rates. Third, Dr. Selwyn has utilized a flawed methodology to derive the retail costs associated with providing toll service, and has significantly overstated these costs.

Conclusion

The Commission should reject the "price squeeze" definitions provided by AT&T/Worldcom. My testimony demonstrates that a price squeeze for toll service only can occur when the retail price (ARPM) is lower than the imputed price for essential functions needed to provide the service, plus the TSLRIC for other functions. There is no basis for AT&T/Worldcom's claim that a price squeeze exists as long as they are not guaranteed the same toll margin (ARPM less cost) as Qwest. In addition, my testimony demonstrates that the imputation analysis performed by Dr. Selwyn contains several errors. If any one of these errors is corrected, the proposed price for

"Super Savings" passes the imputation test. Thus, the intraLATA toll pricing proposals outlined in Mr. Teitzel's testimony should be approved by the Commission.

I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH THE QWEST CORPORATION.

A. My name is Robert H. Brigham. My business address is 1801 California Street, Denver, Colorado. I am employed as a Director - Service Costs in the Qwest Services Corporation Policy and Law department. I am testifying on behalf of Qwest Corporation ("Qwest").

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. On November 15, 2000, I filed Direct testimony in this proceeding.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to issues raised in the direct testimonies of Dr. Lee Selwyn, Ms. Arleen Starr and Mr. Anthony DiTirro. In particular, I will address the issues of toll imputation and price squeezes. Both of these issues are categorized under Issue 3; Message Toll.

III. PRICE SQUEEZES AND TOLL IMPUTATION (ISSUE #3)

A. What is a Price Squeeze?

Q. IN THIS PROCEEDING, HOW DO AT&T AND WORLDCOM DEFINE A PRICE SQUEEZE?

A. Essentially, Ms. Starr, Mr. DiTirro and Dr. Selwyn argue that unless switched access prices are set at a level equal to cost, Qwest will be able to place its toll competitors in a "price squeeze." For example, Dr. Selwyn states that "Qwest's competitive advantage and its ability to implement a price squeeze will remain until switched access rates are reduced to cost-based levels."[1] In similar fashion, Ms. Starr states that "As long as access is priced above cost, Qwest is always in a position to price squeeze its toll competitors out of the market."[2]

Essentially, what Dr. Selwyn and Ms. Starr (along with Mr. DiTirro) are saying is that unless AT&T and Worldcom are guaranteed the same "margin" as Qwest for toll service, a price squeeze must exist. Per AT&T/Worldcom, this price squeeze can only be eliminated if prices for access are set at cost, and if AT&T/Worldcom's costs and margins are the same as Qwest's.

Q. IS THIS THE CORRECT DEFINITION OF A PRICE SQUEEZE?

A. No. A price squeeze is a form of anti-competitive conduct that a firm can exert on its competitors when both of the following specific conditions exist:

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1 AT&T-WCOM/1, Selwyn/22.

2 AT&T/1, Starr/28.

- The firm competes with other firms in the sale of a retail service, and
- The firm is the sole supplier of an essential bottleneck facility that both it and its competitors need to produce the retail service.

Imputation, as a general concept, is designed to prevent a firm from engaging in pricing behavior that could lead to a "price squeeze." An imputation price floor for a retail service represents the sum of two components: (1) The imputed wholesale price for essential bottleneck facilities, and (2) the TSLRIC for other cost elements required to provide the service. This price floor is codified in Oregon law in ORS 759.410(4), which applies to Qwest by virtue of its election of price cap regulation. Per this statute, the price floor is "equal to the sum of the total service long run incremental cost of providing the service for the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions."

If the firm sets prices for its retail service *below* the imputation floor, this may result in a price squeeze. If the firm sets prices *above* this price floor, it cannot engage in pricing behavior that could lead to a price squeeze.

Q. HAS IMPUTATION TRADITIONALLY BEEN UTILIZED AS A TOOL TO PRECLUDE THE POSSIBILITY OF A PRICE SQUEEZE IN THE INTRALATA TOLL SERVICES MARKET?

A. Yes. For more than a decade, imputation has been employed in the telecommunications environment (and in Oregon) as a mechanism to preclude local exchange carriers (LECs) such as Qwest from having the opportunity to price their toll services in a manner that would lead to a price squeeze. The possibility of a price squeeze in the toll environment only exists when: (1) the LEC provides retail toll service in competition with other interexchange carriers; *and* (2) the interexchange carrier has no alternative except to purchase essential bottleneck access facilities from the LEC in order to provide its competing toll service. In order for a LEC such as Qwest to have the opportunity to engage in anticompetitive price squeeze behavior, ***both*** of these conditions must exist. If the interexchange carrier can purchase alternative access from another source, or self-provision access, the LEC facilities are not essential bottleneck facilities, and the LEC would not be able to engage in behavior that would result in a price squeeze.

Thus, a price squeeze may occur only when the margin for a competitor is *eliminated*—a price squeeze does not occur when the margin (price less cost) for a competitor is simply less than Qwest's margin. There is no basis for AT&T/Worldcom's claim that any prices for switched access that are set at a level that is above "cost" will result in a "price squeeze."

Q. HOW DOES THE COMMISSION STAFF DEFINE A PRICE SQUEEZE?

A. Mr. Turner states that "A price squeeze results when a toll service competitor must pay access charges that approach the toll prices offered by Qwest so that it can no longer reasonably compete in the market."[3] This definition is closer to the proper definition of a price squeeze, since it acknowledges that the price squeeze occurs when toll prices approach the access prices, leaving no margin.

[3] Staff/8, Turner/28.

B. Imputation Methodology Issues

1. Toll Imputation – Switched Access or Building Blocks?

Q. DID QWEST FILE AN IMPUTATION ANALYSIS IN THIS PROCEEDING?

A. Yes. Exhibit Qwest / 219 contains an imputation analysis for Qwest's services. This analysis imputes the building block prices established by the Commission into the price floor for the retail services under consideration in this proceeding. This analysis imputes building block rates into the price floor for toll services.

Q. WHAT RATES DID MR. TURNER AND DR. SELWYN IMPUTE INTO THE PRICE OF TOLL SERVICE?

A. Mr. Turner and Dr. Selwyn imputed switched access rates into the price of toll service.

Q. DO YOU AGREE THAT SWITCHED ACCESS RATES, RATHER THAN BUILDING BLOCK RATES, SHOULD BE IMPUTED INTO TOLL SERVICES?

A. Based on ORS 759.410(4), one may conclude that switched access rates, if they are deemed "essential functions," should be imputed into toll rates.

Q. IS SWITCHED ACCESS AN "ESSENTIAL FUNCTION" OF TOLL SERVICE?

A. In today's environment, interexchange carriers often have alternatives to switched access in order to reach customers. These carriers can purchase dedicated private line services from Qwest, purchase access from alternative access providers, or self-provision access. Thus, it is not clear that switched access is in fact an "essential function," since carriers in most cases have alternative options.

Q. WILL YOU PROVIDE EVIDENCE TO PROVE THAT SWITCHED ACCESS IS NOT AN ESSENTIAL FUNCTION?

A. No. While much information has been filed in other jurisdictions to demonstrate that switched access is not an essential function, I will not produce this voluminous data here. While Qwest believes that switched access is not an essential function, it is not necessary to provide this data in order to demonstrate that the toll rates proposed by Qwest are appropriate. As I will demonstrate below, even if we assume that switched access is an essential function, and that these rates should be imputed, the Qwest toll prices proposed by Mr. Teitzel are greater than an imputation price floor that includes switched access prices.

2. Average Revenue Per Minute (ARPM)

Q. SHOULD A TOLL IMPUTATION TEST BE PERFORMED AT THE "SERVICE ELEMENT" LEVEL?

A. No. An imputation test should compare the average revenue per minute (ARPM) for all toll services with the imputation-based price floor. If one assumes an IXC purchases switched access in order to provide toll service, this carrier must price its intraLATA toll service in a manner such that the intraLATA toll Average Revenue Per Minute (ARPM) is greater than the imputed switched access rates. As long as the IXC's ARPM is greater than its costs (the price it must pay for access plus marketing and billing costs), the IXC can achieve a positive margin, and there is not a price squeeze.

When an interexchange carrier (IXC) provides intraLATA toll services, it may have several intraLATA toll pricing plans, with a range of prices. Some plans may include prices that are below the IXC's costs (access plus marketing and billing costs), while other plans may include prices that are above the IXC's costs. As long as the average revenue per minute

(ARPM) is greater than the switched access-based imputation floor, the IXC will have a positive margin, and there is no price squeeze. An imputation analysis, which is designed to preclude a price squeeze, must consider this. If an IXC is considering ARPM in its pricing decisions, then the imputation analysis must also consider the ARPM for Qwest.

Q. BASED ON THIS, WHAT IS THE RELEVANT IMPUTATION TEST?

A. If a toll imputation test is to be performed, it should be performed at the aggregate intraLATA toll service level. That is, the ARPM for all of Qwest's intraLATA toll services must be greater than the imputation price floor for all intraLATA toll services. The proper imputation test is to assure that the ARPM in the aggregate across all Qwest intraLATA toll plans is greater than the imputation price floor. This method acknowledges that IXCs often provide intraLATA toll service using multiple rate plans, with prices that vary across customers and time periods.

Q. DOES MR. TURNER PERFORM AN IMPUTATION TEST AT THIS LEVEL?

A. Yes. The imputation analysis contained in Confidential Exhibit Staff 11/Turner 1 (RD) is performed at the aggregate level. Mr. Turner compares the ARPM for toll services with the imputation floor. He does not perform a unique analysis for each individual toll offering.

Q. DOES DR. SELWYN PERFORM AN IMPUTATION TEST AT THE INDIVIDUAL SERVICE LEVEL?

A. Yes. Dr. Selwyn performs an imputation test for one specific service: "Super Savings." He compares the rate for this offering with the imputation floor. Thus, he does not consider the

ARPM for all toll services. This is not an appropriate approach, and appears to be inconsistent with the position taken by Dr. Selwyn in a Colorado imputation docket.[4]

Q. ARE THERE OTHER INDICATIONS THAT ARPM FOR ALL INTRALATA TOLL SERVICES IS THE PROPER CRITERION TO USE IN AN IMPUTATION TEST?

A. Yes. The use of ARPM was apparently deemed reasonable by a Worldcom witness in a 1998 New Mexico docket. In early 1998, Qwest (U S WEST) filed an application with the New Mexico State Corporation Commission to eliminate the imputation requirement.[5] At the Commission hearing, WorldCom Witness Rebecca Bennett admitted that the company offered some intraLATA long distance rates that were below cost, but when viewed in the aggregate, the company considered its toll services to be priced above cost. (See Exhibit Qwest/231 for excerpts from New Mexico hearing transcripts -- especially page 33—pertaining to this subject.) It is apparent that in other proceedings, both AT&T and Worldcom have indicated that they view this issue in the same manner that Qwest and Staff advocate in this proceeding.

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[4] In the Colorado docket, Dr. Selwyn stated that "For determining whether U S WEST is being subjected to a reverse price squeeze, the only relevant quantity for each competing long distance carrier is its Average Revenue Per Minute (ARPM) for Colorado intraLATA toll calls." (Before the Public Utilities Commission of Colorado, Docket No, 00A-201T, Testimony of Lee L. Selwyn, July 18, 2000, page 7) Later in this testimony (page 12) Dr. Selwyn also stated that "The Colorado PUC's imputation rules require that imputation be satisfied across the total service, not necessarily on an individual element-by–element basis. Thus, the (imputation) rule is not violated if *some* individual rate elements fall below the imputation threshold, provided that the *average* rate per minute across the entire intraLATA offering exceeds that threshold." Thus, in the Colorado docket, Dr. Selwyn appears to agree that the imputation test should consider whether the ARPM for intraLATA toll service is greater than the imputation floor.

[5] In the Matter of the Application of U S WEST Communications, Inc. to Change Its Toll Base Index Rate, Docket No. 98-159-TC.

3. Dr. Selwyn's Imputation Analysis

Q. HAS DR. SELWYN PERFORMED AN IMPUTATION ANALYSIS IN HIS DIRECT TESTIMONY?

A. Yes. Dr. Selwyn has performed an imputation analysis for Qwest's "Super Savings" toll plan service. Based on his analysis, as depicted in Exhibit AT&T-WCOM/5, Selwyn/1, he concludes that the 6 cent per minute rate for "Super Savings" is set at a level that is below the imputation floor, and that the rate for this toll offering must be raised.

Q. DO YOU AGREE WITH DR. SELWYN'S ANALYSIS?

A. No. First, as I described above, an imputation analysis should not be performed at the individual toll plan level. That is, an imputation analysis should not compare the "Super Savings" rate with an imputed floor—it should compare the ARPM for all intraLATA toll services with the imputed floor. However, even if we perform the imputation analysis at the individual toll plan level, if the errors in Dr. Selwyn's analysis are corrected, the imputation price floor is less than the 6 cent per minute rate for "Super Savings." Thus, even if we accept Dr. Selwyn's premise that each toll plan should be viewed separately, there is no need to increase the "Super Savings" price, as recommended by Dr. Selwyn.

Dr. Selwyn's analysis contains at least three errors, which lead him to incorrectly conclude that the proposed price for the "Super Savings" toll offering is set at a level that is below the imputation floor. Correcting any one of these errors by itself would cause his imputation floor to be less than the 6 cent rate for "Super Savings." I will discuss these three errors below. Please note that while I will discuss these three errors, this does not mean that I agree with all of the remaining calculations in his analysis.

Q. WHAT IS THE FIRST ERROR IN DR. SELWYN'S ANALYSIS?

A. Dr. Selwyn has included access *rates* for independent-originated calls in his imputation price floor.[6] Clearly, the access charges paid to independent telephone companies ("independents") should not be included in the access rates, since access provided by an independent is not an "essential function" provided by Qwest.

Q. HOW SHOULD INDEPENDENT COMPANY ORIGINATED TRAFFIC BE CONSIDERED IN THE DEVELOPMENT OF IMPUTATION PRICE FLOORS?

A. Imputed access rates should not include the originating access charges paid to independent companies. Imputation is designed to prevent a price squeeze, where the company competing in the toll market *also controls essential bottleneck facilities* that must be purchased by competing toll carriers in order to provide competing toll services. When calls are originated in an independent's territory, it is the *independent telephone company*—not Qwest, that controls any essential bottleneck facility. *Since Qwest does not own or control the bottleneck facility, it is impossible for Qwest to engage in "price squeeze" behavior for independent-originated calls.* Therefore, there is no justification for including these access charges in an imputation price floor that is designed to prevent a price squeeze. A properly constructed imputation analysis would include the costs of only Qwest-originated traffic.

Q. WHAT IS THE IMPACT OF CORRECTING THIS ERROR IN DR. SELWYN'S ANALYSIS?

A. The elimination of independent-originated calls from Dr. Selwyn's analysis would reduce the "total access" number shown on line 10 of his analysis (AT&T-WCOM/5, Selwyn/1), as the weighted rates on lines 8 and 9 would be eliminated. I have been unable to replicate Dr.

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6 Staff also imputes rates for traffic originating from Independent telephone companies.

Selwyn's exact calculation, but the elimination of independent-originated calls would result in a significant reduction in the amount on line 10. I would estimate, based on past experience, that this would result in at least a 20% reduction in the "total access" amount on line 10.

Q. WHAT IS THE SECOND ERROR IN DR. SELWYN'S ANALYSIS?

A. Dr. Selwyn has included the *rates* Qwest charges for various billing and collections services in his imputation calculation.[7] A properly constructed imputation analysis should include the *costs* for billing and collections services, not tariffed rates.

Q. WHY SHOULD AN IMPUTATION ANALYSIS CONSIDER BILLING AND COLLECTIONS COSTS, RATHER THAN RATES?

A. In today's telecommunications marketplace, IXCs can and often do, perform their own billing and collections functions, or purchase these services from other providers. Since these services are available from other sources, billing and collections is not an *essential function* provided by Qwest. Thus, there is no basis for assuming that billing and collections rates should be imputed. Instead, consistent with ORS 759.410(4), an imputation analysis should include the "total service long run incremental cost" of this function. It is the cost of billing and collections that is included in the Qwest imputation analysis provided in Exhibit Qwest/219, Brigham/81.

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[7] Staff uses the same billing and collections rates in its imputation analysis (See Confidential Exhibit Staff/11).

Q. DOESN'T COMMISSION ORDER 89-221 STATE THAT BILLING AND COLLECTIONS RATES SHOULD BE INCLUDED IN AN IMPUTATION ANALYSIS?

A. Yes. However, this order was released twelve years ago. Indeed, much has changed over the past twelve years, and the availability of billing and collections options for carriers has increased. The telecommunications environment has changed significantly since 1989, with the passing of the Telecommunications Act and ORS 759.400 - .425 both occurring since the Commission issued Order 89-221, along with rapidly increasing competition. The Commission should not hold on to a standard that was implemented in a much different environment. ORS 759.410(4), passed subsequent to Order 89-221, states that an imputation analysis should include the "long run incremental cost for nonessential functions." Billing and Collections is a nonessential function.

Q. IF BILLING AND COLLECTIONS COSTS ARE SUBSTITUTED FOR BILLING AND COLLECTIONS RATES, WHAT IMPACT DOES THIS HAVE ON DR. SELWYN'S IMPUTATION ANALYSIS?

A. In its imputation analysis, Qwest utilized the billing and collections cost calculated in the cost studies for Docket UM 773. This cost per minute is $0.002082. If this cost is used in Dr. Selwyn's analysis, the price floor is reduced to $0.052, which is less than the 6 cent rate for "Super Savings." Thus, this single change results in a price floor that is below the "Super Savings" rate proposed by Qwest.

Q. WHAT IS THE THIRD ERROR IN DR. SELWYN'S ANALYSIS?

A. The third error in Dr. Selwyn's analysis involves his identification of "retail" costs. Dr. Selwyn has utilized a flawed methodology to derive the retail costs associated with providing toll service, and has significantly overstated these costs.

Q. HOW HAS DR. SELWYN IDENTIFIED TOLL "RETAIL" COSTS?

A. Dr. Selwyn has utilized the 22% retail discount that was established in Docket ARB 3/6 in 1997. Dr. Selwyn has assumed that this discount reflects total toll retail costs, and he has then removed billing and collections to avoid double counting these expenses. Thus, he applies an 11.6% discount factor to the 6 cent rate to derive his retail costs for "Super Savings."

Q. IS THIS A REASONABLE METHODOLOGY?

A. No. There are several serious flaws in this methodology. First, the 22% represents an "across the board" discount that applies to all services—this discount does not provide the costs that would be avoided for toll services in general, or "Super Savings" specifically. Second, the 22% greatly overstates avoided retail costs, and is counter to the July 18, 2000 Eighth Circuit Order (No. 96-3321). The 22% discount was based on costs that Qwest could theoretically avoid, not costs Qwest actually would avoid. The Eighth Circuit Court rejected this methodology, stating that "the plain meaning of the statute is that costs that are actually avoided, not those that could be or might be avoided, should be excluded from the wholesale rates."[8] The Commission has opened Docket UM 962 to establish new avoided cost discounts. Third, the 22% discount includes avoided *nonrecurring* costs that would not be avoided when Qwest offers toll services. Fourth, the 22% avoided cost discount is based on embedded costs. Per ORS 759.410(4), the "total service long run incremental cost" of nonessential functions must be considered in an imputation. The methodology used by Dr. Selwyn is in direct conflict with this provision of Oregon law.

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[8] Order of the United State Court of Appeals for the Eighth Circuit, No. 96-3321, *Iowa Utilities Board, et al v. FCC*, Filed July 18, 200, page 17.

In sum, the 22% is a flawed starting point for estimating retail (marketing) costs. This renders Dr. Selwyn's "retail" cost estimate, which is based on the 22% retail discount, invalid.

Q. WHAT MARKETING COST AMOUNT SHOULD BE USED IN AN IMPUTATION ANALYSIS?

A. An imputation analysis should utilize the incremental marketing costs identified in the Docket UM 773 costs that were used to set the building block rates in Docket UM 844. For example the "interconnection" marketing factor listed on page 8 of Exhibit Qwest/219 was used to develop the marketing costs for building blocks. The UM 773 cost data also included a marketing factor for toll service, as listed on page 8 of Exhibit Qwest/219. This factor should be used to calculate the marketing costs in a toll imputation. The application of this factor to the toll cost per minute results in a marketing cost of $0.0003 per minute—far less than the $0.0069 estimated by Dr. Selwyn.

Q. WHAT IS THE IMPACT OF THIS CORRECTION?

A. If the marketing cost from Docket UM 773 is entered into Dr. Selwyn's analysis, this change alone reduces the price floor to $0.0572, which is below the proposed "Super Savings" price.

Q. WHAT DO YOU CONCLUDE?

A. An imputation analysis should compare the ARPM for toll services with the imputation floor. However, even if the analysis is performed at the toll plan level, the proposed price for "Super Savings" is above a properly calculated imputation price floor. Correcting any one of the errors in Dr. Selwyn's analysis reduces the price floor for "Super Savings" to a level that is below the proposed 6 cent price. Thus, Mr. Teitzel's pricing proposal for toll services is reasonable, and is consistent with Oregon law.

IV. CONCLUSION

Q. WHAT DO YOU RECOMMEND?

A. The Commission should reject the "price squeeze' definitions provided by AT&T/Worldcom. As I have demonstrated, a price squeeze for toll service only can occur when the retail price (ARPM) is lower than the imputed price for essential functions needed to provide the service, plus the TSLRIC for other functions. There is no basis for AT&T/Worldcom's claim that a price squeeze exists as long as they are not guaranteed the same toll margin (ARPM less cost) as Qwest. In addition, as I have demonstrated, the imputation analysis performed by Dr. Selwyn contains several errors. If any one of these errors are corrected, the proposed price for "Super Savings" passes the imputation test. Thus, the intraLATA toll pricing proposals outlined in Mr. Teitzel's testimony should be approved by the Commission.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE NEW MEXICO STATE CORPORATION COMMISSION

SANTA FE, NEW MEXICO

IN THE MATTER OF THE APPLICATION)
OF U S WEST COMMUNICATIONS, INC.) DOCKET NO. 98-159-TC
TO CHANGE ITS TOLL BASE INDEX RATE) VOLUME IV

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on to-wit Tuesday, the 30th day of June, 1998, the above-entitled matter came on for hearing before the New Mexico State Corporation Commission at the P.E.R.A. Building, Fourth Floor Hearing Room, Santa ~~Fe~~, New Mexico, at the hour of 1:35 p.m.

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BY: MS. M. KAREN KILGORE

A. -- for their toll service --
Q. Uh-huh.
A. -- package that it might offer to MCI --
Q. Uh-huh.
A. -- for resale, how would we be price squeezed?
Q. Right.
A. We would be price squeezed because we would still -- we would still be providing service through switched access. We would not be providing service through U S WEST -- through resale of U S WEST's toll package. It would mean if we -- I mean, I think I went into detail in my testimony and in my summary, resale for facilities based carriers, such as MCI, is not a really good economic option. It means abandoning our network and all kinds of other things. So the price squeeze would still be there.
Q. Thank you.
MS. HURST: That's all the question I have, sir.

CROSS-EXAMINATION

BY MS. STANG:
Q. Good afternoon, Ms. Bennett. My name is Lynn Stang, and I represent U S WEST.
A. Good afternoon, Ms. Stang.
Q. You testified this morning that you are a Regulatory Manager for New Mexico?
A. That's correct.

Q. And as a Regulatory Manager you are familiar with MCI's tariffs; is that correct?

A. That is correct.

Q. Filed in the state of New Mexico?

A. I do not review them on a regular basis because our tariffs are filed out of our San Francisco office, but as a general policy and in preparation for this I did review our tariffs.

MS. STANG: I'm going to hand you what I'll ask the court reporter to mark as U S WEST Exhibit 3 -- it consists of three pages.

(U S WEST Exhibit No. 3 was marked for identification.)

Q. (By Ms. Stang) Will you take a look at that exhibit and tell me if you can identify it?

A. Surely, if you'll give me a second. I have reviewed them, they appear to be MCI's current tariff pages.

Q. Okay. Could you look at the first page of Exhibit 3? I believe as you look at the top of that page it would be about five or six lines down, there's a section that says Premier Calling Plan; do you see that?

A. Yes.

Q. And this is a plan that -- an intrastate toll plan that MCI offers in New Mexico; is that correct?

A. That is correct.

Q. Isn't it correct that the current rate for that plan is $3.15 for the first hour, with an additional $0.14 per minute for additional minutes; correct?

A. That is correct.

Q. And if you were to divide the hourly rate by minutes, isn't it correct that the effective rate for that plan is 0.525 minutes -- or 5.525 cents per minute for the first hour?

A. I'll accept your numbers.

Q. Do you mind if I use the chalkboard here and record that as we go through this?

MR. LEVIN: Did you say five cents or point five cents?

MS. STANG: It's 5.2 cents. You're welcome to use my calculator.

Q. (By Ms. Stang) If you can go to the next page on U S WEST's Exhibit 3. And I believe that should be a page that references -- well, let me go back to the first page. Was this rate approved by the Commission?

A. I would assume it is. I mean, it's in our tariff and it was effective October 10th, 1997.

Q. If you look at the bottom right-hand corner, is there a stamp that says approved?

A. Yes.

Q. Isn't it true then or wouldn't it be true then, Ms.

Bennett, that this rate is above cost, MCI's cost?

A. I think you said above cost.

Q. Is it above U S WEST's cost?

MR. LEVIN: I'm going to object. There is no requirement of New Mexico law that every rate that MCI have be above cost.

MS. STANG: I'd ask that the witness --

COMMISSIONER SERNA: Let the witness respond, you may object if you wish.

A. This individual rate as set, it does not appear to cover MCI's cost. However, as I heard the imputation order or methodology read this morning, services must cover cost. And if we'll look at each additional minute, each additional minute is $0.14. If you would look -- this is an MTS service, and if you would look at these minutes, average in -- let's say the person speaks an additional hour, offhand I'd say about -- I don't know. You've got -- you have the advantage, I don't have a calculator here.

Q. (By Ms. Stang) Well, let me help you with that. Let's assume that they do speak -- let's say they speak even 11 hours -- I mean, 3 hours.

A. Sure.

Q. If you take three hours and you divide it by the number of minutes, then what I think you get is $0.11 a minute.

A. Okay. But my point is: This is an MTS call, it happens to be a particular pricing, but MTS is the service. And when you look at MCI, MTS services in the aggregate across New Mexico, and you factor in, say, the MTS rate that a business pays during the business days, all of MCI's services are above cost in the aggregate. Now we may offer here and there particular special limited calling packages, but that does not mean that the service is below cost.

Q. Is it your position then, Ms. Bennett, that so long as U S WEST's MTS services in the aggregate are above the imputation floor, MCI would not object or have any basis to object to that pricing mechanism?

A. I think that the imputation order speaks for itself.

Q. Isn't that --

A. And the imputation order was read here this morning. If U S WEST's services, whether within the aggregate or individually, however U S WEST and the Commission apply the imputation order, if the imputation order is properly applied and the service is above cost, I'm not an attorney, but I don't know how we could object.

Q. And that's how you have asked or proposed that it be applied to MCI?

A. Well, the imputation --

MR. LEVIN: I'm going to object --

A. -- order does not apply to MCI.

Q. (By Ms. Stang) Let me direct your attention to the next page.
A. Page 99, revised page 99 is it?
Q. That is it. It says metered service use and there is a line that identified a plan as "Option E (MCI Prism I)," do you see that?
A. Yes, I do.
Q. Is the rate for this plan 0.1360 for business, evening 0.1160, and night and weekend 0.0970?
A. That's correct.
Q. Was this tariff approved by the Commission?
A. Yes, it was.
Q. Let's go to -- I'm going to record that here as well. Now, let me go back and ask you a question that will apply to both of those.
A. Sure.
Q. Isn't it true that MCI has pricing flexibility so that it can reduce its plans by 50 percent?
A. I -- I know we have pricing flexibility. I apologize, I don't know exactly how much we can reduce our prices by. I -- I don't know if we are under the same pricing flexibility as U S WEST.
Q. Well, if I represent to you that MCI can reduce it 50 percent, will you accept that subject to check?
A. I'll accept it.

CERTIFICATE OF SERVICE

I hereby certify that an original and 5 copies of **REBUTTAL TESTIMONY OF ROBERT BRIGHAM QWEST CORPORATION (FORMERLY U S WEST COMMUNICATIONS, INC.)** was hand delivered on this 3rd day of October, 2000, at or before 2:00 p.m. to the following:

Mr. Bruce N. Smith
Colorado Public Utilities Commission
Executive Secretary
1580 Logan St., Office Level 2
Denver, CO 80203

and a true and correct copy was hand-delivered at or before 2:00 p.m. to the following:

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Judy L. Cowgill

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Public Utility Commission of Oregon
Administrative Hearings Division

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UT 125

(Phase II)

I hereby certify that on this day I served the foregoing **Rebuttal Testimony and Exhibits of David L. Teitzel, Aniruddha Banerjee, Kenneth C. Bailey, Scott A. McIntyre and Robert H. Brigham** on the following persons by causing to be mailed a true copy thereof, contained in a sealed envelope, with postage prepaid, addressed to said persons at the following addresses and deposited in the post office at Portland, Oregon on this day:

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DATED: May 3, 2001.

PERKINS COIE LLP

By ______________________________
Lawrence Reichman, OSB No. 86083

Attorney for Qwest Corporation

Response due: 6/1/00
Order due: 7/17/00

UT125/UT80

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Administrative Hearings Unit Division

May 17, 2000

VIA FAX NO. (503) 378-6163
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HARD COPY OF 5/17/00 FAX

Ms. Diane Davis
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OREGON PUBLIC UTILITY COMMISSION
550 Capitol Street, N.E., Suite 215
Salem, OR 97301-2551

Re: In the Matter of the Application of U S WEST Communications, Inc., for an Increase in Revenues
OPUC Docket Nos. UT 125/UT 80

Dear Ms. Davis:

Enclosed for filing is a facsimile copy of "Application for Reconsideration and/or Clarification of the Western States Competitive Telecommunications Coalition and Northwest Payphone Association" in the above referenced proceeding. The original and five (5) copies of the Application are being delivered via next day mail.

Thank you for your assistance.

Very truly yours,

Davis Wright Tremaine LLP

R. Dale Dixon, Jr.

Enclosures
cc: Service List (w/encl.)

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Portland

Response due 6/1/00
Order due: 7/17/00
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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST Communications, Inc., for an Increase in Revenues.	)))))	Application for Reconsideration and/or Clarification of the Western States Competitive Telecommunications Coalition and Northwest Payphone Association

Pursuant to OAR 860-014-0095, the Western States Competitive Telecommunications Coalition (the "Coalition")[1] and the Northwest Payphone Association ("NPA") hereby submit the instant application and request that the Oregon Public Utility Commission (the "Commission") reconsider, or, in the alternative, clarify, specific portions of Order No. 00-190 ("*Phase I Order*") in the above-referenced docket regarding refunds that U S WEST is required to issue to "former" U S WEST customers.[2]

INTRODUCTION

In its *Phase I Order*, the Commission decided, among other determinations, that U S WEST must provide consumers with refunds for overpayments dating back to May 1, 1996. Further, as part of its *Phase I Order*, the Commission revised several aspects of the Stipulation originally entered into by Commission Staff and U S WEST on September 9, 1999. Under the revised Stipulation's refund procedures, U S WEST is required to issue refunds to former U S

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1 For purposes of this Application for Reconsideration and/or Clarification, the Coalition consists of Electric Lightwave, Inc., Advanced TelCom Group, Inc., Shared Communications Services, Inc., Advanced Telecommunications, Inc., Teligent Services, Inc., Global Crossing Telemanagement, Inc., and Global Crossing Local Services, Inc.

2 *See In the Matter of Application of U S WEST Communications, Inc., for an Increase in Revenues*, Docket No. UT 125/UT 80, Order No. 00-190 (entered April 14, 2000) ("*Phase I*

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WEST customers that have switched to a competitive carrier's services.

The Coalition commends the Commission for its decision to provide former U S WEST customers with refunds in an effort to prevent unfair and anticompetitive results regarding the refund process. Some of the provisions of the *Phase I Order*, however, contradict the Commission's stated goal of "allowing [former customers] to share in the refund."[3] As described in more detail below, without reconsideration or clarification by the Commission, the revised refund procedures would result in many former U S WEST customers receiving substantially smaller refunds than the refund amounts to which they are entitled based on their overpayments to U S WEST. The impact will hit NPA members particularly hard. Depending on how the Commission's order is interpreted it could effectively prevent them from receiving *any* refunds whatsoever. Accordingly, the Coalition and NPA request that the Commission reconsider, or, in the alternative, clarify, it decision, to preserve competitive neutrality and to ensure that former U S WEST customers receive equitable refunds.

DISCUSSION

Several parties to the above-referenced proceeding, including the Coalition, requested that the Commission amend the original Stipulation and refund procedures in an effort to ensure that former customers would receive refunds for their overpayments to U S WEST. As the Commission notes in its *Phase I Order*, "[n]umerous customers, large and small, have likely left the [U S WEST] system in the nearly four years since rates have been interim, and some of those who left took service from [U S WEST] for a substantial period."[4] To exclude former customers

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Order").

3 *Phase I Order* at 15.

4 *Id.*

from the refund process, the Coalition and other parties explained, would punish consumers for switching to a competitive provider and would create incentive for CLEC customers to return to U S WEST, and thereby harm competition.

Under the revised Stipulation, as explained in the *Phase I Order*, U S WEST must set aside five percent of the local refund amount "to return to customers who were customers of U S WEST for at least six months during the period from May 1, 1996, to the date of the refund bill credits."[5] Former U S WEST retail customers who were customers for at least six months between May 1996 and the day the last refund bill credit is given are eligible for a refund. To receive the refund, former customers must submit a claim form that contains "information sufficient to allow U S WEST to verify the customer's claim of eligibility for the refund, such as customer name, telephone number(s), and dates of service."[6]

Unfortunately, the provisions of the Commission's *Phase I Order* that explain which former customers would be eligible for a refund and how much refund they would receive create ambiguous and contradictory results that impede the Commission's efforts to "return money to some of the customers who left the [U S WEST] system."[7] Based on the Commission's stated intentions to refund overpayments to former customers that left U S WEST's system for competitive providers, the Coalition presumes that the discrepancies and ambiguities that would serve to prevent former customers from receiving the true refunds owed are due to a simple and unintended drafting oversight.

Under the revised Stipulation, to be eligible for the refund, a customer must: (1) have been a U S WEST retail customer for a period of no less than six months between May 1, 1996,

5 *Id.*
6 *See Revised Stipulation* §1(c)(i).
7 *Phase I Order* at 15.

and the date of the refund bill credit; (2) no longer be a U S WEST customer; and (3) have received no refund bill credit.[8] Based on the eligibility criteria in the revised Stipulation, two large groups of consumers would not receive refunds to which they otherwise should be entitled: (1) former U S WEST customers that switched to competitive providers but, out of technological necessity or prudent business planning, migrated their lines to competitive providers over a period of time; and (2) customers that decided to spread their multiple lines among multiple providers.

In the case of the first group, for example, a business customer with 200 lines might have elected to switch to a competitive provider. Although that customer would meet the first of the three criteria listed above – *i.e.*, the customer took service from U S WEST for the 200 lines for at least a six month period during the time between May 1, 1996, and the date of the refund bill credit – the customer would receive an insufficient and inequitable refund. For many reasons – often for business planning purposes or technological limitations – such a customer would be required to switch its 200 lines over a period of time. Indeed, it is frequently not possible for a larger business to switch its numerous lines for multiple locations in one fell swoop. For instance, the business customer with 200 lines might have transitioned those lines to a competitive carrier over a period of eight weeks. Further, the customer might have switched 198 of the 200 lines within the first seven weeks of that period, switching the final two lines from U S WEST's system – and thus completely leaving the U S WEST system – on a certain day in the eighth week. Under the revised Stipulation's refund procedures, the customer would be eligible to receive a refund for only the final two lines it last switched to a competitive provider. That customer would be ineligible for a refund of the overpayments – 99 percent of the overpayments

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8 *See Revised Stipulation* §1(c)(ii).

– associated with the 200 lines it had with U S WEST for that long period.

Similarly, as in the case of the second group of consumers cited above, many customers, including a large number of business customers, either choose or are forced to take service for their many lines from multiple providers. Indeed, in many instances, due to the relatively limited footprint of competitive providers – vis-à-vis U S WEST – large business customers with locations throughout Oregon have no choice but to take service from U S WEST. Again using the example of the customer with 200 lines, that customer might have selected to switch 198 of its lines to a competitive provider, leaving two lines on the U S WEST system. Because the customer would receive a refund bill credit for the two lines on U S WEST's system, the customer would fail to meet the third of the above-listed criteria. Accordingly, the customer would not be eligible to receive a refund for the 198 lines it switched to a competitive provider. This scenario in some ratio is typical for payphone service providers, whose payphones are located in both urban and rural areas, sometimes all over the state of Oregon.

The above-described scenarios demonstrate the inequitable and anticompetitive results inherent in both the original and the revised Stipulations. Further, such results cannot be reconciled with the second sentence of the revised Stipulation at §1(c)(ii), which states, in pertinent part, "[i]f customers subscribed to more than one USWC line for a six-month period between May 1, 1996, and the date of this order, they will receive refunds for each line to which they subscribed simultaneously, provided they subscribed for six months or more." While that language might protect the rightful refund interests of the customer in the first scenario, the consumer in the second scenario would not be protected, and thus would not receive its rightful refund for the lines it switched to a competitive provider. Moreover, when read in conjunction with the subsequent sentence in §1(c)(ii) of the Stipulation, which states that "[c]ustomers who had a varying amount of lines will be limited to the number of lines the customer had on the last day the customer was on USWC's system," it is possible to interpret the previous sentence in §1(c)(ii) of the Stipulation in a manner that would preclude the customer in the first scenario from obtaining a refund for lines other than the final lines it switched from U S WEST to a competitive provider.

Although the Commission notes in the *Phase I Order* that "reseller CLECs are free to pass their refunds through to their customers, thus rewarding customers for switching to a competitive alternative,"[9] that statement does not address the many customers that have left U S WEST to take service from facilities-based competitive providers. Facilities-based competitive providers, including many members of the Coalition, are not eligible for and will not receive any refunds to pass through to their customers. Many NPA members have switched hundreds of lines to facilities-based competitors. Accordingly, it is imperative that the Commission ensure customers of facilities-based providers who had lines with U S WEST receive their due refunds from U S WEST.

The Coalition seeks reconsideration, or, in the alternative, clarification, of the aforementioned issues pursuant to OAR 860-014-0095(3)(d), on the basis that the noted inconsistencies and discrepancies demonstrate good cause for further examination of a matter essential to the decision in the *Phase I Order*.

In order to resolve the unfair – albeit perhaps unintended – result of the revised refund mechanism as it relates to former customer refunds, the Commission should require U S WEST to issue refunds to former customers based on the number of lines to which the former customers subscribed simultaneously during the six-month period that the customer was on U S WEST's

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9 *Phase I Order* at 15.

network.

U S WEST can easily verify such information. Indeed, the Commission's revised Stipulation requires former customers requesting a refund to include such information on the claim forms submitted to U S WEST – *e.g.*, the claim form for former customer refunds would include "information sufficient to allow U S WEST to verify the customer's claim of eligibility for the refund, such as customer name, telephone number(s), and dates of service".[10] Under the revised Stipulation, U S WEST to honor or deny a claim must verify that a customer actually subscribed to the lines in question for at least six months.

Accordingly, to clarify the *Phase I Order* and revised Stipulation, the Commission would not need to alter the refund request procedures. For example, a former customer would submit a list of telephone numbers for which it took service from U S WEST for at least six months between May 1, 1996, and the date of the refund bill credit. U S WEST, in verifying the submitted claim form and accompanying information, would simply determine whether each number appeared on the U S WEST system for the required six-month period. If particular numbers remain on the U S WEST system, the customer would receive a bill credit refund for those numbers. On the other hand, if particular numbers were no longer on the U S WEST system but had been on the U S WEST system for the required six-month period, the customer would receive a check refund for those numbers.

The Coalition recommends that the Commission adopt the following changes to §1(c)(ii) of the revised Stipulation, to clarify the *Phase I Order* and to ensure that former U S WEST customers receive appropriate refunds:

ii. Retail ~~C~~customers who subscribed to ~~were retail customers of~~ one or more U S WEST lines for a period of no less than six months

[10] *See Revised Stipulation* §1(c)(i).

between May 1, 1996, and the date of the refund bill credit, and who ~~are~~ no longer subscribe to such lines through U S WEST ~~customers, and who did not receive a refund bill credit~~, are eligible for a refund from the Fund. If customers subscribed to more than one USWC line for a six-month period between May 1, 1996, and the date of this order, they will receive refunds for each line to which they subscribed simultaneously, provided they subscribed for six months or more. ~~Customers who had a varying amount of lines will be limited to the number of lines the customer had on the last day the customer was on U S WEST's system~~

Customers shall receive only one refund for multiple lines to which they subscribed sequentially, as would be the case if a customer moved residences within USWC's service area and switched to a new account at the new address.

Refund to these former customers shall be made by check. The base amount of the refund shall be the same as for retail customers still on the system. If the Fund is exhausted by claims against it, claims made after its exhaustion will not be paid.

For the Commission to make such a clarification would not change the percentage of the refund to be set aside for former customers.[11] Further, the change or clarification requested by the Coalition would not alter the outcome of the *Phase I Order* to the detriment of any party to the proceeding.

[11] The portion of the total refund pool to be set aside for former customer refunds – 5 percent – should be more than sufficient to provide refunds to customers that have left the U S WEST system to switch to competitive providers. Although additional claims against the pool could reduce somewhat the refunds to current customers, the impact on the current customers is negligible. The reduction in current customers' refunds pales in comparison to the customers that have switched many, but not all, of their lines and could be denied any refund without the suggested modification to the revised stipulation.

CONCLUSION

For the forgoing reasons, the Coalition requests that the Commission reconsider, or, in the alternative, clarify, the provisions of its *Phase I Order* in the above-referenced proceeding, in order to ensure that former U S WEST customers receive equitable refunds for overpayments to U S WEST for lines that such customers switched to a competitive provider.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **APPLICATION FOR RECONSIDERATION AND/OR CLARIFICATION OF THE WESTERN STATES COMPETITIVE TELECOMMUNICATIONS COALITION AND NORTHWEST PAYPHONE ASSOCIATION"** upon the parties on the attached service list.

I further certify that said copies were served by placing them in sealed envelopes addressed to said partys'/attorneys' last known addresses as shown and deposited in the United States Mail at Portland, Oregon, and that the postage thereon was prepaid.

DATED this 17th day of May, 2000.

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JUN 02 2000

Public Utility Commission of Oregon
Administrative Hearings Unit Division

June 1, 2000

VIA FACSIMILE AND U.S. MAIL

Ms. Diane Davis
Administrative Specialist
Oregon Public Utility Commission
Suite 215
550 Capitol Street NE
Salem, OR 97301-2551

Re: UT 125/UT 80

Dear Ms. Davis:

I am enclosing the original plus five copies of U S WEST's Response in Opposition to the Application for Reconsideration and/or Clarification of WSCTC and Northwest Payphone Association in the above-referenced docket. Because of the time-sensitive nature of this filing, I am also filing one copy by facsimile. Thank you for your attention to this matter.

Sincerely yours,

Lawrence Reichman

LHR:hmr
Enclosures

cc: Service List
Randy Kim
Sheila Harris

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[13141-0126/PA003688.336]

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JUN 02 2000
Public Utility Commission of Oregon
Administrative Hearings Unit Division

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST Communications, Inc. for an Increase of Revenues	U S WEST'S RESPONSE IN OPPOSITION TO THE APPLICATION FOR RECONSIDERATION AND/OR CLARIFICATION OF WESTERN STATES COMPETITIVE TELECOMMUNICATIONS COALITION AND NORTHWEST PAYPHONE ASSOCIATION

Pursuant to OAR 860-014-0095, U S WEST Communications, Inc. ("U S WEST") submits the following Response in Opposition to the Application for Reconsideration and/or Clarification (the "Motion") filed by the Western States Competitive Telecommunications Coalition and Northwest Payphone Association (collectively, the "Applicants").

I. <u>INTRODUCTION</u>

The Applicants disingenuously term their Motion as one for either "reconsideration" or "clarification." It is neither. The Motion plainly does not fall within the criteria set forth in OAR 860-014-0095; accordingly, it is not a motion for reconsideration. Moreover, the Motion does not request clarification so much as it seeks to rewrite certain portions of Order No. 00-190. A

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cursory reading of pages seven and eight of the Motion demonstrate that the Applicants request wholesale edits - - not clarification.

In fact, the wholesale changes the Applicants request the Commission make in Order No. 00-190 would greatly increase the administrative work involved in refunding monies to former customers and, consequently, drive up the costs associated with the refund. The increased costs would lower the amount of monies available for the refund. The sole benefit would be that certain customers in special circumstances may find themselves with larger refunds. U S WEST does not believe the marginal benefits justify the Applicants' request. The Commission should therefore decline the Applicants' invitation to rewrite Order No. 00-190.

II. ARGUMENT

A. THE MOTION DOES NOT PROPERLY SEEK RECONSIDERATION.

OAR 860-014-0095 sets forth specific criteria justifying reconsideration:

(1) new evidence;

(2) a change in law or policy;

(3) an error of law or fact; or

(4) good cause for further examination of a matter essential to the decision.

The Applicants' Motion does not satisfy either criteria (1), (2), or (3). Accordingly, the option left is criterion (4). The Applicants, however, also fail to satisfy this criterion.

Good cause does not exist for the Commission to reconsider Order No. 00-190. The Applicants' Motion fails to acknowledge that the refund is a zero-sum game; that is, increasing the refunds due to some large business customers may quickly exhaust the amount of the refund available to smaller (mainly residential) customers. The refund to former customers is limited to 5% of the total to be distributed - - once the money is gone, refunds to former customers cease.

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In addition, and as more fully set forth below, the Applicants' proposed revisions would drive up the costs to administer the refund, thereby further depleting funds available for former customers.

Thus, "good cause" exists only from the Applicants' biased viewpoint. Indeed, the Applicants fail to support their Motion by identifying how many customers would benefit from the proposed changes and how many would be harmed. U S WEST does not believe that enlarging some customers' refunds at the expense of others constitutes "good cause" for reconsideration under the Commission's rule or precedents.

B. NO CLARIFICATION IS NECESSARY.

In their Motion, the Applicants alternatively request "clarification" of the Order. The Applicants' suggested revisions make plain that the Applicants do not seek "clarification;" rather, they seek modification. There are at least two reasons why the Commission should deny the Applicants' request to change Order No. 00-190.

First, the requested modifications would create an administrative nightmare in implementing the refund. U S WEST believes that larger customers would request U S WEST compile information for them in regards to the refund. This would create a large impact upon U S WEST's Business Office resources, severely disrupting service levels. Further, all claims would have to be researched back four years in order to verify the specific customer's "highest level of service." This would require U S WEST to delve into records kept in two separate systems (one keeping records for 18 months, the other keeping older records). The Commission has indicated that all requested claims need to be verified before payments; this would include verifying their service over a period of four years. U S WEST does not believe it was the Commission's intent to impose this type of onerous task when it initially ordered the hold-back for former customers.

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U S WEST has determined that it may take as long as two (2) days to complete the review process for one (1) large business customer. Even then, there is no way U S WEST can eliminate the possibility that the customers would receive duplicate refunds for the same lines. This is a function of the processes used to complete orders. For example, a Centrex customer who moves its service will show up both as a "disconnect" and an "in" order. Such a customer would be able to obtain a refund for both the "disconnected" line and the "new" line. Moreover, large business customers have line counts which fluctuate frequently – making it difficult (if not impossible) to track the actual number of lines in service for any past, specific six month period. These examples demonstrate some of the reasons why the Applicants' "clarification" would require a Herculean effort to implement.

Second, the costs to implement the refund to former customers would skyrocket. Initially, U S WEST estimated the costs of the refund to be between $499,000 and $1,145,000. If the Applicants' proposal were to be adopted, U S WEST estimates that the costs would increase to between $1,039,000 and $4,955,000. As noted, these increased costs decrease the amount available for refund. The costs and efforts involved simply do not justify the Applicants' request that Order No. 00-190 be modified.

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III. CONCLUSION

For the foregoing reasons, U S WEST requests the Commission to deny the Applicants' Motion.

DATED this 1st day of June, 2000.

By: _______________________ FOR

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CERTIFICATE OF SERVICE
UT 125/80 (Phase I)

I hereby certify that on this day I served the foregoing **U S WEST's Response in Opposition to the Application for Reconsideration and/or Clarification of Western States Competitive Telecommunications Coalition and Northwest Payphone Association** on the following persons by causing to be mailed a true copy thereof, contained in a sealed envelope, with postage prepaid, addressed to said persons at the following addresses and deposited in the post office at Portland, Oregon, on this day:

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Administrative Hearings Unit Division

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST Communications, Inc. for an Increase in Revenues.	STAFF'S REPLY TO APPLICATION FOR RECONSIDERATION OR CLARIFICATION

On or about May 17, 2000, the Western States Competitive Telecommunications Coalition and the Northwest Payphone Association (collectively "Petitioners") filed an "Application for Reconsideration and/or Clarification" (Application) of the Commission's Order No. 00-190 (Order). The substance of the Application concerned the refunds U S WEST is required to issue to its former customers under the Order.

Staff's Position and Recommendation

In reply, staff does not support or oppose the Application. If the Commission grants the Application in principle, then staff suggests that the Commission insert the following wording in place of Section 1(c)(ii), at page 22 of the Order. Staff believes the following language captures the Petitioners' intent but makes it very clear that, in order to get a refund, a U S WEST customer must have subscribed to each and every line, for which the refund is made, for at least six months.

Staff recommends the following changes to the Order only if the Commission chooses to grant the Application:

> ~~**Customers**~~ **Former retail customers** who ~~**were retail customers of**~~ **subscribed to one or more** U S WEST **lines** for a period of no less than six months between May 1, 1996, and the date of ~~**the refund bill credit,**~~ **this order, and** who ~~**are**~~ no longer **subscribe to such lines through** U S WEST ~~**customers, and who did not receive a refund bill credit**~~, are eligible for a refund from the Fund. If **former retail** customers subscribed to more than one USWC line for a six-month period between May 1, 1996, and the date of this order, they will receive **a** refund**s** for each line to which they subscribed simultaneously, provided they subscribed **to each line** for six months or more. ~~**Customers who had a varying amount of lines will be limited to the number of lines the customer had on the last day the customer was on USWC's system.**~~

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> **<u>Current retail customers, who will receive a refund by bill credit as described in the first paragraph under 1., and 1(a), above, but who subscribed to additional lines between May 1, 1996, and the date of this order, are also eligible for a refund from the Fund for the lines formerly subscribed to. Current retail customers who subscribed to additional USWC lines, simultaneously, for at least six months between May 1, 1996, and the date of this order, but who no longer subscribe to those lines may receive a refund for each such line.</u>**
>
> Customers shall receive only one refund for multiple lines to which they subscribed sequentially, as would be the case if a customer moved residences within USWC's service area and switched to a new account at the new address.
>
> Refund<u>s</u> to these former **<u>retail</u>** customers**<u>, and to current retail customers for former lines,</u>** shall be made by check. The base amount of the refund shall be the same as for retail customers still on the system. If the Fund is exhausted by claims against it, claims made after its exhaustion will not be paid.

Other Concerns

Staff has the following observations about the Application generally.

For unknown reasons, the Petitioners propose to add the word "retail" to describe "customers." This addition would thus limit the refund for former lines to retail customers. This change would not allow refunds to resellers for former lines because resellers are not retail customers. This would exclude the refunds for former lines to third-party dial tone providers (e.g., TelNet, Reconex) and the Centrex resellers (e.g., ATG, SCS, and Global).

The Petitioners characterize their Application in the alternative as one for "clarification" of the Order. The Petitioners further suggest that the current language of the Order may have resulted from an unintentional mistake by the Commission.

While Staff takes no position on the merits of the Application, Staff believes the Order is clear as written and does not need clarification. The Commission deliberately chose to set the refund procedure as it appears in the Order.

In effect, the Petitioners ask the Commission to change its refund philosophy. The Commission tried to balance the desire for ideal "fairness" (allowing refunds to former customers) with practical, administrative needs. U S WEST does not have extensive data on

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former customers in automated format. So, the Commission allowed refunds to former customers (fairness) based on the number of lines they had on their last day (practical administration). The Commission wanted to avoid the expense of having U S WEST search through its records for each refund request from former customers.

The Petitioners' Application, if granted, will require U S WEST to make that search to verify each refund claim. That added administrative work would increase the costs of the refund process. Increased administrative costs would result in a smaller refund amount. Thus, improved "fairness" comes at a cost. Staff does not believe it will be an easy process for U S WEST to verify the information required for the refunds the Petitioners propose.

Conclusion

Staff does not take a position of the merits of the Petitioners' Application. Should the Commission grant the Application, staff proposes new language for the Order consistent with that Application.

DATED this 1st day of June 2000.

Respectfully submitted,

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JUN 02 2000
Public Utility Commission of Oregon
Administrative Hearings Unit Division

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of June, 2000, I served the foregoing PUC STAFF'S REPLY TO APPLICATION FOR RECONSIDERATION OR CLARIFICATION upon the parties by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

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JUN 12 2000

Public Utility Commission of Oregon
Administrative Hearings Unit Division

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UT 125/UT 80

In the Matter of	)	Response to Oppositions to Application
	)	for Reconsideration and/or Clarification
the Application of	)	of Western States Competitive
U S WEST Communications, Inc., for	)	Telecommunications Coalition and
an Increase in Revenues.	)	Northwest Payphone Association

Pursuant to OAR 860-013-0050(3)(d), the Western States Competitive Telecommunications Coalition (the "Coalition")[1] and the Northwest Payphone Association ("NPA") (referred to collectively as the "Petitioners") hereby respond to the oppositions submitted by U S WEST Communications, Inc. ("U S WEST")[2] and Oregon Public Utility Commission Staff ("Staff")[3] in reply to Petitioners' Application for Reconsideration and/or Clarification ("Application")[4] of portions of Order No. 00-190 ("*Phase I Order*") in the above-referenced docket regarding refunds that U S WEST is required to issue to "former" U S WEST customers.[5]

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1 For purposes of this filing, the Coalition consists of Electric Lightwave, Inc., Advanced TelCom Group, Inc., Shared Communications Services, Inc., Advanced Telecommunications, Inc., Teligent Services, Inc., Global Crossing Telemanagement, Inc., and Global Crossing Local Services, Inc.

2 *See* U S WEST's Response in Opposition to the Application for Reconsideration and/or Clarification ("U S WEST Opposition") (filed June 1, 2000).

3 Although Staff notes in its reply that it neither opposes nor supports the Application for Reconsideration and/or Clarification, Staff states that "the Order is clear as written and does not need clarification." Thus, Staff's reply entreats response. *See* Staff's Reply to Application for Reconsideration or Clarification ("Staff Reply") at 2 (filed June 1, 2000).

4 *See* Application for Reconsideration and/or Clarification of the Western States Competitive Telecommunications Coalition and the Northwest Payphone Association (filed May 17, 2000).

5 *See In the Matter of Application of U S WEST Communications, Inc., for an Increase in Revenues*, Docket No. UT 125/UT 80, Order No. 00-190 (entered April 14, 2000) ("*Phase I*

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DISCUSSION

Through their Application, Petitioners seek reconsideration and/or clarification of specific provisions of the *Phase I Order*, in an effort to ensure that former U S WEST customers receive equitable refunds for overpayments to U S WEST. As explained in the Application, because former customers would be ineligible for refunds if they receive *any* bill credit refund from U S WEST, the refund mechanism in the *Phase I Order* would unfairly preclude former customers from receiving refunds for lines switched to competitive providers if such customers maintain *any* U S WEST lines.[6] Further, because the refund process would limit former customers' refunds to the number of lines such customers had on the last day they were on the U S WEST network, former customers would receive inadequate and inequitable refunds if they transitioned lines to competitive carriers over any period of time.[7]

Contrary to U S WEST's contention, Petitioners do not seek a complete rewrite of the refund provisions.[8] Petitioners simply seek clarification of contradictory and vague terms and conditions regarding the refund eligibility of former customers.[9] Indeed, while U S WEST argues that the Petitioners request "wholesale edits,"[10] Staff's reply suggests that Petitioners might have requested additional reconsideration or clarification.[11]

Order").

6 *See* Application at 3-5.

7 *Id.* at 3-6.

8 *See* U S WEST Opposition at 1-3.

9 For example, with respect to the six month requirement contained in the refund eligibility criteria, Petitioners agree with Staff's reiteration of the Commission's determination that customers, to receive a refund for lines switched to competitive carriers, must have subscribed to each and every line for six months between May 1, 1996, and the date of the Commission's final order.

10 *Id.* at 2.

11 *See* Staff Reply at 2. As explained in more detail below, Staff incorrectly asserts that Petitioners propose to add the term "retail: to the former customer eligibility requirements. In fact, the Commission used the word "retail" in its Order. Thus, if the eligibility requirements

Petitioners requested reconsideration, or, in the alternative, clarification – in the event the Commission did not foresee the anticompetitive and inequitable consequences of the refund procedures – on the basis that the noted inconsistencies and discrepancies present good cause for further examination of the refund mechanism, a matter essential to the decision in the *Phase I Order*.[12]

Regarding refund eligibility, contrary to Staff's statement, Petitioners do not propose to *add* the term "retail" to describe the former customers eligible for refunds.[13] Indeed, the original phrase in the *Phase I Order* states that "[c]ustomers who were *retail* customers of U S WEST for a period of no less than six months between May 1, 1996, and the date of the refund bill credit . . . are eligible for a refund from the Fund."[14] Petitioners' suggested clarifying edit simply moved the term "retail" to the beginning of the sentence, resulting in the following phrase: "*Retail* customers who subscribed to one or more U S WEST lines for a period of no less than six months between May 1, 1996, and the date of the refund bill credit, and who no longer subscribe to such lines through U S WEST, are eligible for a refund from the Fund."[15] Moreover, the provision in question – Section 1(c) – sets forth, in its introduction, the refund mechanism for "refunds to former *retail* customers."[16] Thus, Petitioners did not add the term "retail."[17]

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were improperly limited to former "retail" customers, the error existed in the Commission's original phrasing.

12 Although U S WEST argues that the Application could qualify only under the good cause criterion for reconsideration, the contradictory terms and anticompetitive and inequitable results of the refund mechanism demonstrate errors of law and fact. The Commission appears to have intended to treat former customers equitably and assumed that its order did so. As the instant motion points out, such an assumption is erroneous because of the way that large customers transition their service to competitive carriers.

13 *See* Staff Reply at 2.

14 *See* Revised Stipulation §1(c)(ii) (emphasis added).

15 *See* Application at 7-8.

16 *See* Revised Stipulation §1(c) (emphasis added).

17 Moreover, to the extent resellers are purchasing tariffed services from U S WEST, those

With respect to the administrative burden U S WEST would assume in processing the refund requests, Staff explains that the Commission wanted to avoid the expense of having U S WEST search through its records for each refund request from former customers.[18] The *Phase I Order*, however, requires that claim forms include information sufficient for U S WEST to verify the refund request, including "dates of service."[19] That requirement should relieve U S WEST's concern that "larger customers would request U S WEST compile information for them in regards to the refund."[20]

U S WEST argues that "*all* claims would have to be researched back four years in order to verify the specific customers 'highest level of service.'"[21] Moreover, U S WEST claims that the proposed clarification would require U S WEST to "verify[a requesting customer's] service over a period of four years."[22] Those arguments are disingenuous and misleading. Under the Commission's *Phase I Order*, former customers seeking refunds would be required to provide the phone numbers in question and, at a minimum, a six-month window during which the customer took service from U S WEST for such numbers. Accordingly, a customer's "highest level of service" would not be a factor in verifying the refund. In addition, U S WEST would need to verify service over a continuous period of six months, not four years.

Further, U S WEST claims that the administrative costs of implementing the refund sought through reconsideration or clarification would be as much as ten times higher than its

---

resellers would be retail customers and thus would be eligible to request and receive refunds.

18 *See* Staff Reply at 2-3.

19 *See* Revised Stipulation §1(c)(i).

20 *See* U S WEST Opposition at 3. Further, it should be noted that the members of NPA are able and intend to submit complete documentation to support their Public Access Line ("PAL") refund claims.

21 *See* U S WEST Opposition at 3 (emphasis in original).

22 *Id.*

initial cost estimates.[23] Throughout the course of this proceeding, U S WEST declined to provide estimates regarding the cost of administering the refund.[24] Now, however, U S WEST provides a figure that increases its refund cost tenfold. The Commission should give little or no credence to U S WEST's unsubstantiated and grossly inflated estimate.

Ensuring that deserving former customers receive their due refunds would have only the slightest impact on the overall refund. With the exception of administrative costs, which, if generously calculated to U S WEST's advantage, would be less than one percent of the total refund pool, the total refund amount would not change. Further, the former customer refund amount remains fixed at five percent of the total refund pool.[25] Any increased administrative burden that accompanies Petitioners' request would have only a negligible impact on customers overall. On the other hand, if the Commission denies Petitioners' request, the impact on competition and certain former customers of U S WEST would be tremendous. Thus a weighing of the costs and benefits clearly shows that it is in the public interest to modify the refund mechanism slightly to achieve a much more equitable outcome.

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23 *Id.* at 4.

24 *See, e.g.,* U S WEST Response to Northwest Payphone Association Data Request 01-006 (indicating that U S WEST had not estimated the costs to issue refunds to former customers in the UT 125/UT 80 proceeding).

25 Moreover, once the five-percent fund is exhausted, no additional claims can be processed. Thus, U S WEST's costs to refund a fixed amount of money should be the same irrespective of Petitioners' request.

CONCLUSION

The Petitioners respectfully submit that the public interest would best be served by modifying the refund procedures as to former customers. Accordingly, the Commission should grant Petitioners' motion to reconsider or clarify the provisions of its *Phase I Order*, to ensure that former U S WEST customers receive equitable refunds for overpayments to U S WEST for lines that such customers switched to a competitive provider.

Respectfully submitted,

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<u>CERTIFICATE OF SERVICE</u>

I hereby certify that I served a copy of the foregoing **"RESPONSE TO OPPOSITIONS TO APPLICATION FOR RECONSIDERATION AND/OR CLARIFICATION OF WESTERN STATES COMPETITIVE TELECOMMUNICATONS COALITION AND NORTHWEST PAYPHONE ASSOCIATION"** upon the parties on the attached service list.

I further certify that said copies were served by placing them in sealed envelopes addressed to said partys'/attorneys' last known addresses as shown and deposited in the United States Mail at Portland, Oregon, and that the postage thereon was prepaid.

DATED this 9th day of June, 2000.

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June 19, 2000

Vikie Bailey-Goggins, Secretary
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Subject: Settlement Proposal of Northwest Payphone Association in Docket No. UT-125

Dear Ms. Bailey-Goggins:

The Northwest Payphone Association ("NWPA") submits the attached settlement proposal in the above captioned docket. The NWPA proposes public access line ("PAL") rates that are consistent with the FCC's "new services" test, whereby ILEC PAL rates may not exceed the direct cost of the service plus a "just and reasonable portion of the carrier's overhead cost." 47 C.F.R. § 61.49(f)(2); *See* Report and Order, CC Docket No. 96-128, FCC 96-388 (1996). ILECs must calculate costs based on a forward looking, economic cost methodology, such as TELRIC. *Order*, In the Matter of Wisconsin Public Service Commission, CCB/CPD No. 00-1, DA 00-347 at ¶ 9 (March 2, 2000). Accordingly, we have shown the UM-844 price "floors" as the "FCC Price Ceiling," since those numbers already include a reasonable allocation of overhead. The other settlement proposals currently before the Commission do not incorporate the new services test when calculating PAL rates and are inconsistent with federal regulations.

We are sending a non-confidential version of our proposal by facsimile and mailing under seal the confidential version to parties that have executed the protective order. Please direct any questions to the undersigned.

Very truly yours,

Brooks E. Harlow

Brooks E. Harlow

Enclosure
cc: All Parties of Record

confidential documents
in Locked cabinet
envelope 96(21)

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CERTIFICATE OF SERVICE
CONFIDENTIAL DOCUMENTS ONLY
Docket UT-125

I certify that I served a copy of the foregoing on the parties listed below by first-class mail, in sealed envelopes, postage fully prepaid and deposited in the U.S. Mail at Seattle, Washington, on this 19th day of June, 2000.

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Dated this 19th day of June, 2000.

Patricia Kulgren
Patricia Kulgren

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Public Utility Commission of Oregon
Administrative Hearings Division

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UT 125 / UT 80

In the Matter of the Application of US WEST Communications, Inc. for an Increase in Revenues.	STAFF'S REPLY IN OPPOSITION TO APPLICATION FOR RECONSIDERATION

On or about June 9, 2000, the Advanced TelCom Group, Inc. and Shared Communications Services, Inc. (collectively "Petitioners") filed an Application for Reconsideration (Application) of the Commission's Order No. 00-190 (Order). The substance of the Application concerns refunds that U S WEST Communications, Inc. (USWC) is required to issue to resellers of Centrex service.

Staff opposes the Application for the following reasons.

1. Petitioners fail to show the Order has an essential error of law or fact.

Petitioners bring their Application under OAR 860-014-0095(3)(c). *See* Application at 5-6. This rule allows the Commission to grant an application for reconsideration if the applicant shows there is "an error of law or fact in the order which is essential to the decision." Petitioners argue in their Application that the Order errs by limiting the refunds to Centrex resellers to the 1.0 residential ratio, rather than the "more appropriate business simple ratio of 2.40." *Id.* Petitioners fail to specify whether this alleged flaw in the Order is an error of "law" or one of "fact."

In the Order, the Commission discussed the issue of refunds to Centrex resellers as follows:

> WSCTC asks the Commission to amend the proposed refund ratio for Centrex resellers from 1.00 to 2.40 per line to reflect their special circumstances, particularly the surcharge. Centrex resellers have twice challenged the surcharge and the Commission has decided that the surcharge is justified (citation omitted). We are not convinced by WSCTC' arguments that Centrex resellers should be treated equally with business rather than equally with residential customers. *We find that the pricing of Centrex station lines is far closer to prices paid by residential customers than by business customers. A more reasonable approach is to place Centrex customers on a par with residential customers, as the Stipulation does.*

Order at 17 (emphasis added).

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Thus, it is clear the Commission has previously considered the same exact issue that Petitioners raise. Indeed, the facts and arguments Petitioners make in their Application are the same assertions presented by Dr. Zepp, testifying on behalf of the Western States Competitive Telecommunications Coalition (WSCTC), in the proceeding underlying the Order.[1] Petitioners' mere repetition of the position they took during the proceeding below fails to satisfy their burden to show on reconsideration that the Order contains an essential error of law or fact. For this reason, the Commission should deny the Application.

2. The Order's decision on refunds to Centrex resellers is lawful.

Staff is not required to defend the lawfulness of the Order, because Petitioners have not satisfied their burden to show the Order contains an essential error. Nevertheless, staff will briefly explain why the Order's decision about refunds to Centrex resellers is fair, reasonable and lawful.

In essence, the Petitioners request a fundamental change in the refund methodology, at least for them. The Petitioners observe that they paid a monthly per line surcharge of $5.40, paid more for station lines than non-resellers, and purchased more NARs per station line in order to provide service. Application at 2-3. Petitioners conclude that "all of the excess charges" make the Centrex reseller rates closer to business rates, not residential rates. Application at 3.

However, it is important to remember that the "refund per line" methodology taken in the Order is based on line rates paid to USWC, not on total paid or revenue per line as Petitioners urge. Stated differently, the refunds for the different groups are not based on revenue per line, but rather they are based on line rates. Staff testified in the UT 125 proceeding that the Centrex resellers paid line rates that were more comparable to residential rates than to business rates. *See* Staff/115, Harris/16-19. Accordingly, Centrex users and Centrex resellers should receive the same refund as residential customers.

///

[1] WSCTC's membership includes the Petitioners. *See* Order at 8.

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Finally, the Petitioners assert that their requested refund change, which would provide larger refunds for them, "would not alter the outcome of the *Phase I Order* to the detriment of any party to the proceeding." Application at 6 (emphasis in the original). Staff is confused by how the Petitioners arrive at their conclusion. The total refund amount is fixed by a formula. The total does not depend on how the refund is distributed among customer groups. Thus, if the Centrex resellers get more money, other groups necessarily get less money.[2] It goes without saying that the groups who would receive less money under the Petitioners' plan would view this as a "detriment."

Conclusion

For the reasons stated, staff asks the Commission to deny the Petitioners' Application.

DATED this 23rd day of June 2000.

Respectfully submitted,

HARDY MYERS
Attorney General

Michael T. Weirich

Michael T. Weirich, #82425
Assistant Attorney General
Of Attorneys for the PUC Staff

---

[2] Staff estimates that the dollar change would amount to about $7.2 million, or about 3% of the total refund amount.

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of June, 2000, I served the foregoing PUC STAFF'S REPLY IN OPPOSITION TO APPLICATION FOR RECONSIDERATION upon the parties by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

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June 26, 2000

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Administrative Hearings Unit Division

VIA FACSIMILE AND U.S. MAIL

Ms. Diane Davis
Administrative Specialist
Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
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HARD COPY OF 6/26/00 fax

Re: UT 125/UT 80

Dear Ms. Davis:

I am enclosing the original plus five copies of U S WEST's Response in Opposition to the Request for Reconsideration in the above-referenced docket. Because of the time-sensitive nature of this filing, I am also filing one copy by facsimile. Thank you for your attention to this matter.

Sincerely yours,

Lawrence Reichman

LR:hmr
Enclosures

cc: Service List
Randy Kim
Sheila Harris

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[13141-0126/PA003691.186]

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JUN 27 2000

Public Utility Commission of Oregon
Administrative Hearings Unit Division

ORIGINAL

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UT 125

HARD COPY OF 6/26/00 fax

In the Matter of the Application of U S WEST Communications, Inc. for an Increase of Revenues	U S WEST'S RESPONSE IN OPPOSITION TO THE REQUEST FOR RECONSIDERATION

U S WEST Communications, Inc. ("U S WEST") pursuant to OAR 860-014-0095, hereby submits the following opposition to the Application for Reconsideration filed by Advanced TelCom Group, Inc. and Shared Communications Services, Inc. (collectively, the "Applicants"):

U S WEST believes that the current Application must be denied in its entirety. Initially, the Application is not an actual motion for reconsideration; rather, it is simply the Applicants' transparent attempt to rehash and reargue the arguments the Applicants made in their brief. The Applicants candidly admit as much. For example, the Applicants state:

> This application, <u>like the Petitioners' previous comments in this proceeding</u>, simply requests that the Commission adjust the refund ratio for Centrex resellers to reflect the actual rates paid Centrex resellers.

(Application at p. 5, emphasis added). The Application does not present any new law or evidence to support the Applicants' restatement of their earlier comments. Moreover, although the Applicants claim that their Application is based upon a mistake of law or fact, the Applicants fail to identify the "mistake." The Applicants do not present any "good cause" for reconsideration.

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In fact, the Applicants fail to satisfy any of the grounds for reconsideration. Accordingly, the Application should be denied as falling outside the scope and purpose of OAR 860-014-0095.

Moreover, the Application should be denied because it is based on a demonstrably false premise. That is, the Applicants believe that they are entitled to a refund equal to that given 1FB customers because Centrex resellers (as opposed to Centrex customers) have been treated in the past as on par with business rates for regulatory purposes. (Application at p. 4). The Commission's decision, however, was not based upon how Centrex resellers (and their rates) were treated for regulatory purposes. Rather, the Commission's decision was based upon the unequivocal fact that Centrex customers (including resellers) pay rates closer to the rates paid by residential customers than business customers:

> We are not convinced by WSCTC's arguments that Centrex resellers should be treated equally with business rather than equally with residential customers. We find that the pricing of Centrex station lines is far closer to prices paid by residential customers than by business customers. A more reasonable approach is to place Centrex customers on a par with residential customers, as the Stipulation does.

Order No. 00-190 at p. 17. The Commission's conclusion in this regard was and is manifestly correct. U S WEST's basic residential rate is $12.80 per month. The basic rate for business customers is $30.87. Station line rates for Centrex customers range from $10.03 to $14.00 to $16.50. (See Staff/115, Harris/17). When one adds the $5.40 surcharge for Centrex resale, these rates range from $15.43 to $19.43 to $21.90. (Id.) Obviously, Centrex rates - - even with the surcharge - - are closer to prices paid by residential customers than those paid by business customers. Moreover, Centrex lines have a number of standard features per line, which add quite a bit of value to the standard line. (Id.) The Commission's decision to treat Centrex customers (including resellers) "on a par with" residential customers for purposes of the refund is palpably correct. Centrex customers, including resellers' customers, pay rates more similar to the 1FR than the 1FB. Indeed, Centrex customers receive several standard features on a basic Centrex line

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for which typical business customers must pay additional charges. (Id.) To put Centrex customers on par with 1FB ratepayers would give Centrex customers and resellers an inappropriate windfall.

One final note. The Applicants claim that "[T]he requested change would not alter the outcome of the Phase I Order to the detriment of any party to the proceeding." (Application at p. 6). This statement is disingenuous. The refund distribution is a zero-sum exercise. If the Commission were to increase the refund due to the Applicants, other recipients of the refund would necessarily see their shares reduced. If the Commission were to grant the Application, it would be to the detriment of all other recipients of the refund.

WHEREFORE, U S WEST respectfully requests the Commission to deny the Application in its entirety.

DATED this 26th day of June, 2000.

By: [signature] For

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CERTIFICATE OF SERVICE
UT 125/80 (Phase I)

I hereby certify that on this day I served the foregoing **U S WEST's Response in Opposition to the Request for Reconsideration** on the following persons by causing to be mailed a true copy thereof, contained in a sealed envelope, with postage prepaid, addressed to said persons at the following addresses and deposited in the post office at Portland, Oregon, on this day:

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DATED: June 26, 2000.

PERKINS COIE LLP

By: ______________________________
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ORIGINAL

UT 125
Phase II

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

RECEIVED

JUN 28 2001

Public Utility Commission of Oregon
Administrative Hearings Division

UT 125
Phase II

In the Matter of the Application of QWEST CORPORATION for an Increase in Revenues.	)))	STAFF'S OPENING BRIEF

INTRODUCTION

In UT 125 (Phase I), US West Communications, Inc., now known as Qwest Corporation (Qwest or Company), stipulated to reduce its annual revenues by $64.2 million. Order No. 00-190, Appendix A. UT 125 (Phase II) encompasses the rate design for the stipulated annual revenue reduction of $64.2 million.

On November 15, 2000, Qwest filed Advice No. 1849.[1] On November 17, 2000, Qwest filed replacement sheets for Advice No 1849. On March 19, 2001, Qwest filed a modified portion of Attachment B to Advice No. 1849 entitled "Revised UT 125 Rate Spread." These filings represent Qwest's rate design proposal to reduce annual revenues by $64.2 million. In the rate design phase, Qwest continues to have the burden of proof to demonstrate that its rate design proposal creates rates that are "just and reasonable." ORS 756.040(1), 759.035, 759.180.

A settlement conference was held on March 8-9, 2001 to discuss Qwest's rate design proposal. On March 12, 2001, thirteen issues were identified as the remaining issues to be resolved in Phase II of this docket. The brief will discuss the issues in the order that they were presented in the March 12, 2001, Issues List.

On April 10, 2001, staff filed its rate design proposal and supporting testimony in response to Qwest's filed rate design proposal. Staff's rate design proposal would reduce net

[1] An earlier filing, Advice No. 1806 and Transmittal No. 99-014-PL were replaced in their entirety by Advice No. 1849.

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revenues by $64,232,454. Staff/2, Ball/2 (RD).[2] Staff's proposal recommends residential reductions amounting to $27.716 million and business reductions of $36.514 million. Staff/2, Ball/3.

In determining the appropriate rate spread, staff applied three basic considerations. First, staff considered Senate Bill 622, codified in relevant part as ORS 759.400 through 759.455. The second consideration was docket UM 731, which involves the Oregon Universal Service Fund. Staff's third main consideration was docket UT 148, which geographically deaveraged Qwest's unbundled loop prices. Staff/1, Ball/8-12.

ORS 759.405 permits a telecommunication utility to elect price cap regulation. Because Qwest has elected price cap regulation,[3] staff considered the implications of ORS 759.400 through 759.455 when determining their rate design proposal. Staff/1, Ball/8-9.

ORS 759.400(1) required the Public Utility Commission of Oregon (PUC or Commission) to define, by rule, basic telephone service. The Commission adopted OAR 860-032-0260 defining basic telephone service on May 19, 2000. The Commission retains discretion to determine basic service prices for utilities electing price cap regulation. However, ORS 759.410 provides for maximum prices ("price caps") and minimum prices ("price floors") for non-basic services. The price caps are the existing rates at the time Qwest elected price cap regulation. However, ORS 759.415 allows the price caps for non-basic services to be adjusted, but only in this proceeding. Staff gave consideration to the service rates for non-basic services, because this proceeding is the Commission's last opportunity to adjust Qwest's non-basic service rates under current law. Staff/1, Ball/9.

Staff also gave consideration to UM 731 in designing its proposed rate spread. Qwest's required revenue-neutral filing in UM 731 reduced the company's revenues by $26.75 million[4],

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[2] For the convenience of the administrative law judge, staff will not include (RD) in future brief citations to staff's and other parties filed exhibits.
[3] Qwest elected price cap regulation on November 30, 1999, effective December 30, 1999.
[4] Qwest's revenue-neutral filing became effective on April 30, 2001.

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which includes a $15.388 million reduction for basic business access lines and a $11.365 million reduction for various miscellaneous business rates. Staff used this revenue-neutral filing as the starting point for the rate design proposal in this proceeding. Staff/1, Ball/10-11.

Consideration was also given to the Commission's decision in UT 148, which involved the deaveraging of wholesale "unbundled network elements" (UNEs). Staff's rate design proposal incorporates deaveraged Network Access Channels (NACs) for private line service, CENTREX services, and residential and business local exchange services consistent with the final order in UT 148.[5] Staff/1, Ball/11-12.

Staff then determined its proposed rate spread in a traditional way, while at the same time abiding by the three basic considerations discussed above. Historically, staff begins a rate spread evaluation with message toll services. After determining whether a re-price of toll services is necessary, rate spread considerations proceed through discretionary services with local exchange services considered as residual rate design categories. Staff/1, Ball/10.

The Commission retains broad discretion in determining the appropriate rate design. ORS 756.040. Staff's rate design proposal conforms to all relevant Oregon statutes, Oregon Administrative Rules, and is consistent with Commission policies for determining the appropriate rate design.

ISSUE 1: SWITCHED ACCESS RATE DESIGN

Issue 1 concerns the parties' rate design proposals for switched access service. Switched access is a service Qwest provides to "interexchange carriers" (IXCs) for the purpose of connecting the IXCs to their end user toll customers via the local switched network. *See* Qwest/209, McIntyre/2; AT&T/1, Starr/6-7.

Staff's proposal contains several parts, the results of which will reduce Qwest's intrastate switched access revenues by 71.32 %, or $21.8 million annually. Staff/3, Van Landuyt/2; Confidential Exhibit Staff/5, Van Landuyt/1, Column D, line 8 and Column C, line 8

[5] Order no. 00-481, UT 148.

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respectively. Under staff's proposal, the "Carrier Common Line Charge" (CCLC) is eliminated and the average access charge rate decreases from 2.8 cents per access minute to 0.8 cents per access minute. Staff/3, Van Landuyt/1.

Qwest proposes to reduce its intrastate switched access revenues by $16 million, or a 52% annual decrease. Qwest's price changes, also including its proposed elimination of the CCLC, reduces the average access charge rate from the current 2.8 cents per access minute to 1.3 cents per access minute. *See* Qwest/209, McIntyre/2.

Finally, AT&T Communications of the Pacific Northwest, Inc. (AT&T) proposes to reduce Qwest's intrastate switched access revenues by $25.3 million, or an 82.7 % reduction. AT&T/1, Starr/13, footnote 23. AT&T also recommends the elimination of the CCLC, and its proposal would reduce the average access charge rate down to the UM 844 price levels, for a composite rate of 0.48 cents per access minute. AT&T/1, Starr/10.

Staff agrees with Qwest that the Commission has broad discretion in the switched access rate design area. *See* Qwest/229, McIntyre/8 ("This [referring to switched access rate design] is largely a matter of public policy"). Both staff and Qwest also share the same overall rate design goal of moving Qwest's (higher) intrastate switched access rates closer to the company's (lower) interstate switched access rates. *See* Staff/3, Van Landuyt/4; Qwest/209, McIntyre/28. For the following reasons, staff's proposal is superior to Qwest's because staff consistently brings Qwest's intrastate and interstate rates closer together, while Qwest's proposal actually drives certain key interstate and intrastate rates further apart.

A. Staff's switched access rate design is superior to Qwest's plan

Switched access service has three main components: (1) Local Transport, (2) Local Switching, and (3) the CCLC. *See* Qwest/209, McIntyre/24. As stated, all parties presenting testimony agree that the CCLC should be eliminated through this docket. *See* Staff/3, Van Landuyt/2; Qwest/209, McIntyre/29-30; AT&T/1, Starr/4. The Local Transport and the Local

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Switching elements have their own respective components. Confidential Staff/5 shows these Local Transport and the Local Switching subparts in detail.

To accomplish its goal of moving Qwest's intrastate switched access rates closer to Qwest's interstate switched access rates, staff proposes setting the Local Transport rates approximately equal to Qwest's current approved interstate access rates, where those rates are above the UM 844 and UT 148 prices. Staff/3, Van Landuyt/3. Staff's Local Transport proposal generates only 1.4 percent more intrastate revenue than Qwest's current interstate rates would within the UT 125 test period. Staff/3, Van Landuyt/5. This slight increase is mainly due to the inclusion of new access charge elements adopted by the Federal Communications Commission (FCC) in its Access Charge Reform Docket 96-262, and staff's desire to not decrease rates below the UM 844 and UT 148 prices. *Id.*

Similarly, staff follows the FCC's access charge reform rate design by decreasing the Local Switching rate by almost 27 percent (and including the new access charge elements adopted by the FCC in its Local Transport rate design). Staff/3, Van Landuyt/3; Staff/3, Van Landuyt/5.

Conversely, Qwest significantly increases the Local Transport rate, thus moving it further apart from its already-lower interstate transport rate. The difference between staff's and Qwest's proposals is easily seen in Confidential Exhibit Staff/5, Van Landuyt/1. Staff's Local Transport proposal will increase Qwest's total Local Transport revenues by 10.77 percent. On the other hand, Qwest's proposal will increase the same revenues by 64.31 percent. *Id. – Compare* line 5, Column D *with* line 5, Column H. Qwest's much larger increase in Local Transport revenues arises because Qwest significantly increases the Tandem Switching rate, a component of Tandem Switched Transport.[6] As a result, Tandem Switched Transport revenues increase 25.97 percent for staff, compared to the 91.25 percent increase proposed by Qwest. *See* Confidential Staff/5, Van Landuyt/1, line 2, Column D and line 2, Column H.

[6] Although "Tandem Switching" may sound like it is a component of "Local Switching," it is actually an element of Local Transport.

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Thus, while Qwest claims it wants to move interstate and intrastate Local Transport rates closer together, Qwest's proposal actually moves the two rates further apart. AT&T outlines similar concerns with Qwest's Local Transport proposal. *See* AT&T/1, Starr/15-17.

The same disconnect between Qwest's stated goal and its actual rate design is found in its Local Switching proposal. Again, staff's proposal would result in a 27 percent reduction in Qwest's Local Switching rates, thus bringing them closer to Qwest's already-lower interstate switching rates. Staff's proposal would result in Qwest's Local Switching rates being approximately 1.95 times greater than Qwest's interstate switching rates. In comparison, Qwest's proposal actually *increases* its Local Switching rate by almost 32 percent. Staff/3, Van Landuyt/3-4. As a result, Qwest's proposed Local Switching rates are approximately 3.5 times greater than its interstate Switching rates. *Compare* Staff/4, Van Landuyt/7 *with* AT&T/3; *see also* AT&T/1, Starr/14.

Furthermore, Qwest also adds the FCC's new access charge elements and adopts new price elements for them. Qwest previously included the costs for these same new access charge elements in its Local Switching rate element. Thus, staff has a concern that Qwest's proposal may result in a double-recovery for these new access charge elements. *See* Staff/3, Van Landuyt/6.

Thus, staff's switched access rate proposal is superior to Qwest's because, unlike Qwest, staff remains true to its stated goal of setting Qwest's intrastate rates closer to its interstate rates. Staff's proposal also removes the CCLC and aligns the switching and private line transport rates. Staff/3, Van Landuyt/7.

B. Staff's proposal is also superior to AT&T's recommendation

The major difference between staff's proposal and AT&T's is AT&T wants to reduce all switched access rate elements to the UM 844 "wholesale" price levels. AT&T/1, Starr/3. In doing so, AT&T's proposal would encompass about $25.3 million of the $64.2 million, compared to staff's $21.8 million annual reduction. Confidential AT&T/1, Starr/31.

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While staff is sympathetic to AT&T's desire to enjoy the lower UM 844 prices, staff is unwilling to commit more of the $64.2 million rate reduction to switched access rates than it already has proposed.[7] Other classes of customers should enjoy rate reductions, and staff believes its allocation of the $64.2 million is the most fair and equitable for all customer groups.

In designing switched access rates, one of staff's primary goals was to move Qwest's intrastate switched access rates closer to the company's lower interstate rates. *See* Staff/3, Van Landuyt/4; TR at 453 (Van Landuyt). Besides better aligning these two rate structures, moving the intrastate and interstate rate structures closer together would help reduce arbitrage opportunities between the interstate and intrastate jurisdictions. *Id.* Staff's proposal is true to its goal. The Commission should adopt staff's switched access rate design proposal.

ISSUE 2: PRIVATE LINE RATE DESIGN

Private line services are a collection of transport services that provide direct connections for customers between two or more locations. Qwest/209, McIntyre/7. Private line service has several components, organized by service type. There are three basic types of service (1) Analog, (2) Digital, and (3) DS1. Further, there are four basic elements typically used to provide a 2-point private line services: (1) "network access channel" (NAC); (2) channel performance; (3) transport mileage; and (4) optional features and functions. Qwest/209, McIntyre/9.

A. Staff's private line rate design proposal

Staff proposes to change rates for various private line services, which together increase Qwest's intrastate private line revenues by 1.63 percent, or $0.305 million. Staff/3, Van Landuyt/8. As an overall approach, with one exception, staff recommends setting Qwest's private line rates at approximately 25 percent over the UM 844 UNE prices. *Id.*; TR at 459 (Van Landuyt). Staff chose a 25 percent markup over the UNE prices to ensure that when a "competitive local exchange carrier" (CLEC) orders a private line for resale, the discounted

[7] Staff's proposal allocates 33.9 percent of the total rate reduction to switched access service.

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private line rate will be at least equal to the sum of the UNEs required for the equivalent bundled service. *Id.*; TR at 460 (Van Landuyt). Staff's "markup" proposal ensures that a CLEC cannot purchase a private line for resale at a price below the ORS 759.410(4) price floor (when the wholesale discount is applied to the private line rate). TR at 460-461 (Van Landuyt).

The one exception to staff's general approach is for the NAC rates. For the NAC, staff proposes to deaverage the 2-wire and 4-wire NAC termination rates using the deaveraged UT 148 prices, and include a 13 percent to 18 percent markup. Staff/3, Van Landuyt/8; TR at 461 (Van Landuyt). Staff chose the slightly lower markup for NACs because the same NAC rates have been significantly increased through UT 148, particularly in Rate Groups 2 and 3. *Id.*, TR at 461-462 (Van Landuyt).

Thus, for Qwest's Analog private line services, staff proposes to increase the 2-wire and 4-wire NACs to cover the UT 148 price floors, deaverage the NAC rates into three rate groups, align the transport rates with Qwest's switched access transport rates, and lower the majority of the Channel Performance and Optional Features and Functions rates. Staff/3, Van Landuyt/9. Staff's proposal would increase Qwest's intrastate Analog private line revenues by 12.52 percent. Staff/3, Van Landuyt/10; *see also* Staff/7, Vanlanduyt/1 (Column D, line 9 and Column H, line 9 respectively).

For Digital private line service , staff proposes to increase the Digicom 1 and Digital Data Service 2-wire and 4-wire NAC rates to cover the UT 148 price floors, deaverage the NAC rates into three rate groups, decrease Channel Performance and Features and Functions rates for all digital private line services and align the DS1 monthly transport rates with Qwest's switched access DS1 transport rates. Staff/3, Van Landuyt/10. Staff's proposal would decrease Qwest's total Digital private line revenues by 25.46 percent. *Id.*

Finally, for DS1 private line service, staff proposes a 24.78 percent decrease in DS1 revenues. *Id.*

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B. Staff's private line design proposal is superior to Qwest's plan

Qwest agrees with staff's recommended NAC rate increases. *See* Qwest/229, McIntyre/26-27. However, Qwest recommends that the Commission "phase-in" the NAC rate increases for the deaveraged Rate Groups 2 and 3 over several years. Qwest/229, McIntyre/27; Qwest/209, McIntyre/11. Qwest is concerned, as is staff, about the effect of the relatively large NAC rate increases upon customers in these rate groups. *Id.* Indeed, this was the same concern that led to staff's recommendation of a lower markup on the NAC rate in Rate Groups 2 and 3 (13 percent to 18 percent compared to a 25 percent markup over UNE prices overall). Staff/3, Van Landuyt/8; TR at 461-462 (Van Landuyt).

Unfortunately, Qwest's suggested "phase-in" of rates approach violates ORS 759.410(4)'s price floor requirement. The current 2-wire and 4-wire NAC rates are below the price floor. Staff/3, Van Landuyt/9; TR at 462 (Van Landuyt).[8] As such, Qwest's proposed transition period would leave the unlawful, below-price floor prices in existence for several years. Thus, despite the possible merits of Qwest's approach, it is not lawful and the Commission should reject it.[9]

Qwest also disagrees with staff's recommended increase for the Analog private line rates. Qwest alleges the costs for these services may increase in the future, and if so, then the costs could go higher than the ORS 759.410(4) price cap prices. Qwest/229, McIntyre/27. As such, Qwest recommends a proposed increase of 23 percent. *Id.*

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[8] In reaching this conclusion, staff expressly rejects Qwest's suggestion that ORS 759.410(4) may be applied to the "combined rates" for different private line services and elements. *See* Qwest/209, McIntyre/12-13. Staff interprets ORS 759.410(4) to mean that each service or element that has a rate in a Qwest tariff must pass the price floor test. Staff's approach is a reasonable interpretation of ORS 759.410(4). Staff's method also resolves other practicable problems with Qwest's "combination" application of the statute. *See* Staff/3, Van Landuyt/9. Staff is uncertain whether Qwest will pursue this issue further in its opening brief and reserves the right to reply if it does so.

[9] There is also an unrelated issue of whether the Commission may lawfully phase-in rates after the end of a rate case. It is not necessary to resolve this issue, however, due to the failure of Qwest's proposal to satisfy the requirements of ORS 759.410(4). Again, staff reserves the right to address this potential issue further should Qwest pursue its "combination" interpretation of ORS 759.410(4).

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In response, staff's recommended Analog rates are based upon current evidence of cost, and satisfy ORS 759.410(4)'s requirements. Conversely, Qwest's concern about potential cost increases is mere speculation and is not based upon any reliable evidence. As staff witness Cynthia Van Landuyt testified at the hearing in response to a question from Qwest's attorney about the private line cost rising in the future:

> That's true, but that could be [true] for many other services also…[W]e're setting the rates for the private line based on the information that we have now. TR at 463-464 (Van Landuyt).

Staff is puzzled by Qwest's dissatisfaction with its Digital private line services proposal. Qwest's customers order both Analog and Digital services. Staff's recommended Digital private line decreases will thus help offset the Analog private line rate increases. Staff's proposal decreases Digital private line revenues by 25.46 percent, while Qwest's proposal decreases the same Digital private line revenues by just 13.14 percent. Clearly, staff's proposal does a better job of accomplishing this offset.

Similarly, staff is uncertain why Qwest disagrees with staff's proposal for DS1 service. Qwest asserts that staff's proposed rate decrease is "too large." Qwest/229, McIntyre/28.

In response, staff observes that it is was Qwest who first recommended offsetting the Analog private line rate increases with decreases to the DS1 service rates because as Qwest alleges, its customers used both services. Qwest/209, McIntyre/20. In the same passage, Qwest also proposed the DS1 rate decreases because the DS1 services were highly competitive and, as such, "[t]he reduced prices will position Qwest in a better position to compete for these services." *Id.*

Somewhat strangely, Qwest now uses these very same reasons, presented in its support of a need for a DS1 rate decrease, to argue that staff's recommended decrease is "too large." Staff respectfully suggests that its proposed DS1 rate is neither too large or too small, but "just right."

Staff recommends the Commission adopt its private line rate design. Staff's proposal accomplishes all lawful objectives. Further, staff's proposal increases total private line revenues

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by only 1.63 percent ($0.305 million) while Qwest's proposal increases the same revenues by an unnecessary 12.98 percent ($2.6 million).

ISSUE 3: MESSAGE TOLL SERVICE

Issue 3 concerns "message toll service" (MTS) rate design and associated issues. Qwest proposes the Commission apply $32.0 million of the $64.2 million UT 125 rate reduction to MTS rate reductions. Conversely, staff recommends an $8.6 million decrease from Qwest's proposal, for a total MTS rate reduction of $23.4 million.

Staff's adjustments encompass two main areas: (1) MTS rate design differences and (2) MTS price elasticity. Under the MTS rate design issue, staff also conducts an MTS Access Imputation Analysis. *See generally* Staff/8.

A. MTS rate design

Staff and Qwest agree on the fundamental issue surrounding MTS rate design. Specifically, staff does not object to Qwest's attempt to simplify its MTS pricing structure, and reduce prices where appropriate. However, staff witness Tom Turner identifies $2.3 million in adjustments to Qwest's MTS proposal. Staff/8, Turner/3. Subsequently, Qwest witness David Teitzel agreed with the following staff adjustments:

1. Qwest agrees with staff's recommendation to consolidate the Volume Calling Connection and the Tenant Calling Connection plans. Qwest/222, Teitzel/7; *see also* Staff/8, Turner/10-11.
2. Qwest agrees with staff's proposal to discontinue OutWATS and 800 service effective 12 months from the effective date of the Commission's final order in this docket. Qwest/222, Teitzel/9; *see also* Staff/8, Turner/16.

However, there is no revenue amount associated with Qwest's concessions in these two matters. Qwest and staff remain $2.3 million apart on MTS rate design issues.

1. Postalized rate structure

Staff agrees with Qwest's proposal to "postalize" its MTS rate schedule to eliminate rate differences by distance band and by initial and subsequent conversation minute. Staff/8,

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Turner/4. Staff disagrees, however, with Qwest's proposed separate postalized rate schedules for residential, business, and miscellaneous calls. Instead, staff recommends one standard postalized rate structure, for all types of calls, of 11 cents per minute for calls made during daytime periods (peak) and 7 cents per minute for evening (off-peak) hours. *Id.*

Staff proposes its adjustment because Qwest's customer class distinction has no relation to costs. The simple fact is the underlying costs associated with a toll minute do not depend upon the local service classification of the caller. Staff/8, Turner/7.

Qwest concedes staff's point in its rebuttal testimony. Mr. Teitzel quotes from the same passage of Mr. Turner's testimony cited immediately above and concludes he is correct. Qwest/222, Teitzel/5. However, Qwest then defends its class distinction approach based upon usage patterns that staff allegedly ignored. Qwest/222, Teitzel/6. According to Qwest, business calls are generally made during the day and are of short duration. Conversely, residential MTS calls usually occur at night, and last longer than business calls. As such, Qwest proposes a higher rate for business calls than for residential calls. *Id.*

Despite Qwest's allegation to the contrary, staff did not ignore caller usage patterns in making its recommendation. Staff witness Turner was aware there is generally more business calling in the daytime, and more residential calling in the evening. Staff/8, Turner/7. However, these usage distinctions can be better accommodated through off-peak discounts. *Id.* As stated, staff proposes a standardized postal rate of 11 cents for peak calling (daytime) and 7 cents for off-peak calling (evening). Customers with a particular calling pattern also have the option of choosing from one of Qwest's discount calling plans. *Id.*

2. Optional MTS discount calling plans

Qwest's MTS calling plans are structured to offer discounts to customers with certain calling patterns. Staff/8, Turner/9. Staff generally agrees with Qwest's proposal to eliminate and consolidate many of the MTS discount calling plans. However, Qwest and staff remain apart on the following matters.

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Qwest has a discount plan known as "Simple Value." Qwest proposes to modify the Simple Value plan by eliminating the plan for residential customers and by lowering the rates for business customers from 11 cents and 8 cents (peak/off-peak) to 9 cents and 6 cents (peak/off-peak).

Staff recommends the Commission eliminate the entire Simple Value plan and transfer current subscribers to standard MTS. Staff/8, Turner/11. Staff's proposed standard MTS rates of 11 cents and 7 cents (peak/off-peak) accomplishes the same goals as the Simple Value plan, and there is no reason for Qwest to have two nearly identical plans. This is particularly true in light of Qwest's stated desire to simplify and eliminate calling plans. In rebuttal, Qwest fails to offer any new arguments in support of retaining its Simple Value plan. *See* Qwest/222, Teitzel/8.

Qwest and staff also disagree about Qwest's "Super Savings" calling plan. Under Qwest's Super Savings proposal, the rate for residential customers is reduced from 10 cents per minute to 8 cents per minute for calling at all times of day and for all distance bands. Similarly, the rate for business customers is reduced under Qwest's proposal from 8 cents to 6 cents per minute (all times of day, all distance bands). *See* Staff/8, Turner/12.

Staff agrees with Qwest's 8-cent proposal for residential customers. However, staff cannot accept Qwest's proposed 6-cent business rate. Instead, staff proposes an 8-cent rate for both residential and business customers. Staff/8, Turner/12. Staff's recommendation reflects its concern that Qwest's 6-cent business rate, with no other charges or minimum usage requirements, would undermine its entire MTS rate structure. Staff's concern is shown by simply comparing the proposed 6-cent Super Savings rate to the higher proposed rates for Qwest's Volume Calling Connection plan (7 cents), Simple Value (9 cents and 6 cents for peak/off-peak), and the standard MTS rates of 12 cents and 10 cents (peak/off-peak). Staff/8, Turner/12-13. A rational, informed customer would clearly choose the Super Savings 6-cent rate over any of these other options.

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Qwest's only response to staff's concern is that it will try to keep its Super Savings plan a secret, and only offer it to its "best" customers. Qwest/222, Teitzel/8. Despite Qwest's marketing plan to provide Super Savings under a "don't tell, don't inform" policy, the undeniable fact is the Super Savings rate is available to anyone who somehow learns about it and requests it. TR at 57-59, 64-65, 110 (Teitzel). As such, Super Savings is at odds with Qwest's entire MTS rate structure.

Finally, as discussed later in this subsection, Qwest's 6-cent rate fails the imputation test and the Commission should reject it for that reason as well. Staff/20, Turner/7.

Finally, staff recommends the Commission deny Qwest's proposal to increase the monthly charge for 800 ServiceLine from $3 to $5. Staff/8, Turner/18. Qwest responds that the increase is comparable with competitors' recurring rates for 800 ServiceLine, and is consistent with the other states in which Qwest operates. Qwest/222, Teitzel/10.

Staff notes, however, that the "average revenue per minute" (ARPM) under Qwest's proposal is $0.21 per minute when the per-minute rate is combined with the monthly recurring rate. Exhibit Staff/9, Turner/7. This ARPM is double that of any of the other MTS proposals (excluding OutWATS and 800 Service which will be grandfathered and then eliminated). Because of the high ARPM and the fact that 800 ServiceLine will be the only InWATS service offered after elimination of the regular 800 Service tariff, staff continues to recommend no increase in Qwest's current monthly charge for 800 ServiceLine.

B. Price elasticity and stimulation of toll

A key difference between Qwest's and staff's MTS revenue proposals is Qwest's failure to account for "price elasticity" (and the related concept known as "stimulation") surrounding its proposed toll rate reductions. Price elasticity, leading to toll stimulation, is responsible for a $6.3 million difference between Qwest's and staff's proposals. Staff/8, Turner/20.

Price elasticity was the subject of extensive oral and written testimony presented by staff, AT&T/WorldCom, and Qwest. Although Qwest differs with staff and AT&T/WorldCom about

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the appropriateness of using pricing elasticity in this docket, the parties' experts seem to agree on the following basic concepts and definitions.

1. Overview and definition of terms

"Price elasticity" is a measure of the responsiveness of consumer demand to changes in price. Staff/8, Turner/21. In other words, the theory of price elasticity captures the commonsense notion that consumers will generally purchase more of a product as its price is reduced, or conversely, less of a product as its price increases. AT&T-WCOM/1, Selwyn/40; TR at 216-217 (Selwyn). As applied to this case, price elasticity means that the apparent decrease to Qwest's toll revenues resulting from the MTS rate reductions will be lessened because customers will use (purchase) more of Qwest's toll services at the new, lower prices.

"Market price elasticity" refers to consumers' demand response to a change in the overall market price level (i.e. when all, or most, firms in that market adopt the new price level). AT&T-WCOM/1, Selwyn/44; TR at 205-206 (Selwyn). This concept is relevant to UT 125 because a monopoly provider (like Qwest in the late 1980's and early 1990's) is, in essence, the "market."

"Firm price elasticity" refers to the demand response to a price change that is implemented by one firm, assuming all other firms in the same market hold their prices constant. *Id.* By its nature, firm price elasticity will always be equal to or greater than the market price elasticity. AT&T-WCOM/1, Selwyn/45; TR at 205-206, 214-215 (Selwyn).

"Demand response" refers to the responsiveness of consumer demand to changes in price alone. Qwest/226, Banerjee/10, footnote 2. In graphic terms, demand response is plotted as a demand curve. AT&T expert witness Lee Selwyn provides an example of a typical demand curve in his Figure 1. *See* AT&T-WCOM/1, Selwyn/54.

"Demand shift" refers to the response in consumer demand to changes other than in price. AT&T-WCOM/1, Selwyn/54; Qwest/226, Banerjee/10, footnote 2. In graphic terms, events other than a change in price cause the demand curve to shift either left (down) or right (up), and

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may affect the slope of the curve itself. A demand shift is illustrated in Figure 2 of Dr. Selwyn's testimony. *See* AT&T-WCOM/1, Selwyn/54-55; TR at 174 (Banerjee); at 217-221 (Selwyn).

Mathematically, price elasticity is measured as the ratio of the percentage change in quantity divided by the percentage change in price. Staff/8, Turner/21. Because the relationship between price and quantity has an inverse relationship (when price goes up, quantity goes down), price elasticity is expressed with a minus ("-") sign. AT&T-WCOM/1, Selwyn/44. For example, if price elasticity is –0.4, for each 1% drop in price, quantity would be expected to increase by 0.40%, all else being equal. *Id.* The price elasticity ratio is also shown graphically as the slope of the demand curves illustrated in Dr. Selwyn's testimony. *Id.*

"Stimulation" is calculated by multiplying the price elasticity by the proposed change in price (shown as a percentage). For example, in the present case, staff concluded that a conservative (i.e. low, in Qwest's favor) price elasticity for Qwest's 40% MTS price reduction would be –0.3632. Staff/8, Turner/20. Consequently, staff calculated that Qwest's MTS toll usage would be stimulated by 14.5%. *Id.*[10] In actual application, staff stimulated each MTS service individually based on its proposed price change as expressed in "average revenue per minute." *See* Confidential Staff/10, Turner/3; TR at 261 (Turner). This accounts for the $6.3 million difference between staff's toll revenue proposal and Qwest's proposal.

2. Consideration of post-1997 test year "demand shift" events are irrelevant and inappropriate

There are several areas involved with the price elasticity dispute. However, a fundamental issue arises from Qwest's desire to use post-test year non-price events (such as increased competition) to "cancel out" staff's elasticity factor of –0.3632 (and AT&T-WCOM's factor of –0.50). For the following reasons, staff strenuously objects to and disagrees with Qwest's attempt to eliminate the price elasticity factor based upon any post-test year events.

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[10] Thus, the 14.5% stimulation of consumer demand is calculated by the following formula: (price elasticity) x (percentage price change). Numerically, this appears as (-0.3632) x (-40%) = 14.5%

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First, there is no question that 1997 is the test year for this docket. The parties stipulated to the 1997 test year, and the Commission adopted the Stipulation in its Order No. 00-190. As recited in the Order, the parties agreed that Qwest would reduce its Oregon intrastate revenue by $63 million from current rates "based on August 1997 billing units for local services and the minutes of use for the five months preceding and six months following August 1997, for switched access services." Order 00-190 at 10. The underlying language from the Stipulation itself is found at pages 5 and 14. *See* Order 00-190, Appendix A at 5, 14.

However, in defiance of the 1997 test year, Qwest asks the Commission to consider post-test year events that have eroded its toll market since 1997. These post-test year events, if considered, would cause a "demand shift" as illustrated in Dr. Selwyn's Figure 2. AT&T-WCOM/1, Selwyn/55. Qwest identifies these post-test year events as including (1) increased competition brought about, in large part, by the introduction of mandated "1+" dialing parity; (2) new toll calling alternatives arising from new technology; and (3) new "extended area service" (EAS) routes. *See* Qwest/226/, Banerjee/17-18; Qwest/201, Teitzel/37. Qwest then engages in a lengthy argument about why it is "unfair" to stimulate the toll test year revenue when in fact its toll revenues are much lower today due to these post-test year events. Qwest/226, Banerjee/*passim*; *see also* TR at 145-146, 150, 155, 164, 173-175 (Banerjee).

Qwest's attempt to introduce these post-test year events to eliminate staff's use of price elasticity in the test year clearly violates Order 00-190's adoption of the 1997 test year period for this case. Simply stated, all post-test year "demand shift" non-price events (such as the implementation of 1+ dialing parity) are not relevant because they are outside of the test year.

Qwest's approach to price elasticity and post-test year events is particularly egregious for another reason. As stated, Qwest wants the Commission to eliminate staff's price elasticity factor based upon post-test year events which have allegedly caused its toll volume and revenues to dramatically decline from 1997. However, Qwest then equally vigorously argues that the Commission must *ignore* the fact that its toll volume is almost 50% less today than when what it

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was in 1997 when the Commission spreads the mandated $64.2 million rate reduction.[11] In other words, if current toll service volumes were used as Qwest demands in its price elasticity argument, Qwest's $32 million toll rate reduction would be cut in half to only $16 million. Qwest would still have to reduce other rates in this case (such as residential service, or switched access) by another $16 million. Qwest is well aware of this result, and carefully avoids extending its "demand shift" argument to include current toll service volumes for rate reduction purposes.

Both staff witness Turner and AT&T-WCOM expert witness Dr. Selwyn address Qwest's inconsistent use of post-test year events in their respective testimony. Mr. Turner agrees that Qwest's toll revenues having significantly declined from 1997 to the present, for many of the same reasons Qwest alleges. Staff/8, Turner/24. Mr. Turner carefully observes, however, that:

> [T]he company [Qwest] has already agreed to the test period in this case...If, for the sake of the argument, we were to move the test period into the current year, the entire base upon which the proposed toll revenue reduction is calculated would be dramatically diminished...Given the pluses and minuses of changing the test year, I recommend that the 1997 test period be retained. Indeed, to change the test year would be to begin a new rate case, which cannot be done.

Staff/8, Turner/24-25.

Similarly, Dr. Selwyn notes the fact that Qwest's toll revenues today are much lower than in the 1997 test-period is not a reason to ignore price elasticity and stimulation. Dr. Selwyn observes:

> A more accurate solution would be to substitute current service volumes for the test period quantities for purposes of performing the revenue impact analysis. This would be done not just for intraLATA toll, but for *all* of Qwest's intrastate services...I do not offer an opinion as to whether this should be done, inasmuch as the Commission has already established the test period for this case...Qwest should not be permitted to argue, on the one hand, that the test period must be preserved at all costs, while at the same time claiming that adjustments to test year quantities to give effect to the demand stimulation that will result from the price reductions that are to be adopted in this proceeding should be omitted because the test year is not representative of current conditions. Yet that is precisely what Mr. Teitzel appears to be doing.

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[11] The figure of "50 percent" may be found in AT&T/11 at 2. *See also* TR at 265 (Turner).

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AT&T-WCOM/1, Selwyn/58-59 (emphasis in the original); *see also* TR at 239-240, 253-255 (Selwyn).

In sum, but for the test year, staff is not against recognizing the fact that Qwest's toll revenues are much lower today than they were in 1997. Staff can also agree that there are many likely reasons for Qwest's toll volume decline, including perhaps all of the post-test year events Qwest identifies. However, the Commission should not allow Qwest to identify its toll call service volume declines as a reason to eliminate staff's price elasticity adjustment. Such events are outside the test year, and are thus not relevant or appropriate for consideration. Moreover, Qwest should not be permitted to ask the Commission to recognize its reduced toll revenues and volumes for one purpose (eliminating the price elasticity adjustment) but ignore it for another purpose (applying the $64.2 million rate reduction to its toll service minutes of use base).

3. Staff's application of a price elasticity adjustment is reasonable

Staff's use of a price elasticity adjustment is reasonable, consistent with Order 00-190 and with past Commission practice. Staff *always* adjusts toll revenues for price elasticity when a major rate reduction (or rate increase) is proposed in a rate case. Staff/8, Turner/26; TR at 442, 446-447 (Ball). Here, staff proposes to reduce Qwest's toll rates by 40% - a major rate reduction under any definition of the term.

Qwest, however, presents a disingenuous argument about staff's use of a price elasticity adjustment. While not entirely clear, Qwest's view seems to be that the toll service volumes are "set" for the period of March 1997-February 1998 (Qwest/226, Banerjee/9-10). *See* TR at 420-430 (Ball). From this premise, Qwest appears to claim that applying price elasticity to the toll service volumes is "unfair" under the Order and Stipulation setting the test year in this proceeding. *Id.*

Due to the unclear nature of Qwest's argument, staff will not be able to fully respond until it reviews Qwest's opening brief on this point. However, staff briefly observes that its use of a price elasticity adjustment is entirely consistent with the Order and Stipulation.

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The Order clearly sets the test year as March 1997 to February 1998 for toll service volumes. Order 00-190 at 10, at Appendix A at 5, at 14; at Appendix B; *see also* Qwest/226, Banerjee/9-10. Then, staff applied the price elasticity adjustment to the toll service volumes *just as it would in any other rate case with a proposed major toll rate change in the test year.* Again, the purpose of the price elasticity adjustment is to recognize that the net revenue effects of a price reduction, or price increase, will be affected by consumer response to the price change. With a price reduction, it is expected that Qwest's toll revenues will fall. However, it is also expected consumers will make more toll calls under the new, lower price, thus increasing revenues. To emphasize, staff makes such an elasticity adjustment for toll revenues in every rate case involving a major price change. Indeed, staff views the toll elasticity adjustment as a type of non-controversial "pro forma" adjustment. TR at 434-435 (Ball). As such, the net effect of the rate reduction will include the expected increase in toll volumes arising from the rate cuts.

As staff witness Turner reasoned:

> It is the UT 125 test year customer demand that is being evaluated in this phase of the docket. It is my opinion that the test year's toll customers would have responded to the significant price reductions that I am proposing here.

Staff/8, Turner/25.

Indeed, even Qwest witness Teitzel is careful to point out that he agrees with the notion of price elasticity for toll services generally:

> Qwest has not argued in any testimony or data request response in this docket that intraLATA long distance service is price inelastic...It is true that some customers will place more long distance calls when prices are lowered.

Qwest/222, Teitzel/10-11.[12]

Staff is also somewhat puzzled by Qwest's apparent claim that staff may only use the toll service volumes that occurred in August 1997 (i.e. based solely upon the August 1997 billing units). *See* TR at 421-422 (Ball). If this is Qwest's assertion, it is confusing because both staff

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[12] Mr. Teitzel also argues in the same passage that he believes price elasticity is eliminated in this docket due to post-test year events. As discussed in the immediately preceding section of this brief, consideration of these post-test year events is prohibited by Order 00-190 and it is inappropriate for Qwest to want reduced toll volumes considered for one purpose, but not for the purpose of applying the $64.2 million rate reduction.

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and Qwest calculate toll "minutes of use" (MOUs) on an annual basis. The reason an annual basis is used is to adjust for "seasonality" surrounding long distance calling. For example, toll calling typically increases in those months containing a major holiday. TR at 443-445 (Ball). Indeed, as shown by Qwest/208, Mr. Teitzel computed annual toll revenues directly from present and proposed "TY MOUs" – i.e. "Test Year Minutes of Use." *See also* TR at 102-104 (Teitzel). Both Qwest and staff used the same current demand units and the same calculation to derive current annual revenues. *See* TR at 427-432 (Ball).

Staff's calculation of toll revenue on an annual basis does not violate any direction from the Commission in Order No. 00-190. Similarly, application of a price elasticity factor to the annual toll volumes is consistent with the Order and past Commission precedent.

4. Staff's price elasticity factor of –0.3632 is reasonable

Staff recommends the Commission apply a price elasticity factor of –0.3632 to toll calling volumes in this case. Staff/8, Turner/20. Preliminarily, it is important to note that Qwest, while attacking staff's elasticity number, fails to present *any* elasticity figure for the Commission's use. Again, Qwest's entire case rests upon the notion that *any* elasticity figure that staff, AT&T-WCOM, or presumably any other party, proposes is automatically "canceled out" by post-test year, non-price events. Staff arrived at the –0.3632 figure in the following manner.

Staff began with Qwest's latest price elasticity study from 1990. The study was developed for use in PUC Docket No. UT 102. The entire study is found at Staff/12. Staff used a conservative (i.e. favors Qwest) elasticity figure from the study of –0.3632. Staff/8, Turner/22 (RD). Qwest has not updated the study except to check its validity in response to a Colorado "extended area service" (EAS) Expansion. Qwest/228, Bailey/8-9; Staff/8, Turner/23; TR at 180 (Banerjee).[13]

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[13] Indeed, the updated study increased (in absolute value) the elasticity factor from -0.36 to -0.38.

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Staff did not attempt to perform its own price elasticity study for toll. Such studies are time consuming, complex and require a large amount of data that staff does not have in its possession. Staff/8, Turner/27; TR at 289 (Turner). However, staff drew upon its experience in other cases, and performed additional research, to conclude that the –0.3632 figure is reasonable.

Staff reviewed its work in PUC Docket No. UT 141, a Verizon rate case. Verizon's 1995 price elasticity study, submitted in UT 141, showed that the overall price elasticity for various Verizon states was –0.38 and –0.14 for residential and business toll, respectively. Staff/8, Turner/26. Similarly, staff's experience with EAS conversions showed that consumers respond to price reductions when toll rates are replaced by lower EAS rates. In such conversion cases the toll minutes converted to EAS minutes double due to the lower EAS prices. Staff/8, Turner/26-27.

Staff also reviewed price elasticity work performed by the Federal Communications Commission (FCC), in other states, and in a number of economic publications. In the FCC's analysis of the so-called "CALLS Plan," the FCC's experts concluded that the elasticity effect for a change in the average interstate and international toll charge per minute for both business and residential customers was –0.8.[14] *See* Staff/22; TR at 215-217 (Selwyn). This figure is significantly greater than staff's –0.3632 price elasticity number. Staff's review of work published by various experts in the elasticity field also showed a price elasticity for intraLATA toll in the range of –0.38 to –0.44. Staff/8, Turner/27.

Staff's use of Qwest's 1990 elasticity study is conservative for another reason. The 1990 study is based upon data drawn from the 1980's. During this time period, Qwest was essentially a monopoly provider of intraLATA toll. In elasticity terms, Qwest's "firm price elasticity" was also the "market price elasticity" during the time the study was conducted. TR at 263-264 (Turner). Again, by its nature, firm price elasticity is always equal to or greater than market

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[14] Interestingly the -0.8 interstate/international elasticity is based on an average revenue per minute of 13.5 cents per minute—less than the 14.39 cents average revenue per minute for Qwest MTS service today. Exhibit Staff/11, Turner/1, line A.1; TR at 278 (Turner).

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price elasticity. By the 1997, the intraLATA market was expanding and becoming more competitive. *See* TR 213-215 (Selwyn). As such, the -0.3632 elasticity factor, being a market price elasticity number, is very likely conservative when compared to the 1997 test year period and Qwest's firm price elasticity. *See also* TR at 206 (Selwyn) ("So the absolute most conservative approach possible is to assume that the market elasticity is controlling and not to look at the firm elasticity").

Finally, the experts testifying for AT&T-WCOM and AARP each state that staff's elasticity figure was overly conservative in Qwest's favor, but reasonable. AT&T-WCOM/1, Selwyn/3-4; AARP/3, Cameron/9-11; TR at 222-223 (Selwyn). Indeed, AT&T-WCOM propose a higher price elasticity factor of –0.50 for toll calling volumes. AT&T-WCOM/1, Selwyn/65.

Staff's price elasticity factor of –0.3632 is reasonable, carefully calculated and likely too conservative. Conversely, Qwest presents no price elasticity factor of its own. Rather, Qwest's position is that any elasticity factor will be canceled out by non-relevant, post-test year events. Under any comparison of the two approaches, the Commission should adopt staff's price elasticity factor in this case.

C. Access charge imputation

"Imputation" is a concept designed to prevent a company from engaging in pricing behavior that could cause a "price squeeze" to its competitors. *See* Staff/8, Turner/28 (RD); Qwest/230, Brigham/iii. While the meaning of "price squeeze" was the subject of some debate, staff defines it as follows:

> A price squeeze results when a toll service competitor must pay access charges that approach the toll prices offered by Qwest so that it can no longer reasonably compete in the market.

Staff/8, Turner/28 (RD).[15]

The Commission uses the concept of a "price floor" to conduct an imputation analysis. ORS 759.410(4) provides the following formula for calculating a price floor:

[15] Qwest appears to accept staff's statement as a reasonable definition for price squeeze. *See* Qwest/230, Brigham/4.

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> [A] price floor [is] equal to the sum of the total service long run incremental cost of providing the service for nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions.

The Commission earlier calculated the "total service long run incremental cost" (TSLRIC) for each "building block" service element in PUC Docket Nos. UM 351 and UM 773. The prices for these service elements were then ultimately set in PUC Docket No.UM 844. Further, the Commission traditionally views all building blocks or elements established in these dockets as "essential functions" of the service. PUC Order No. 96-188 at 53; PUC Order No. 95-313 at 3, footnote 3.

Staff witness Tom Turner performed an imputation test based on current and proposed carrier access service charges.[16] Staff's imputation analysis initially included originating and terminating access charges, billing and collection charges[17], and an allowance for uncollectible toll revenue. Staff/8, Turner/28. Later, in his rebuttal testimony, staff witness Turner agreed to use in his imputation analysis the local number portability element suggested by ATT-WCOM witness Dr. Selwyn. Staff/20, Turner/7. Staff concluded that all parts of staff's MTS proposal pass the MTS access imputation analysis. Staff/8, Turner/28.

Specifically, staff witness Turner presents his imputation analysis at the aggregate average revenue per toll minute for Qwest's intraLATA toll services assuming two different methods of toll billing: full minute rounding and six-second rounding. Staff/8, Turner/28-29; Staff/11, Turner/1-2. Even though staff's imputation analysis is summarized at the aggregate level, the imputed cost results can be compared against average revenue per minute for each Qwest toll service depending upon how the toll conversation minute is measured for billing purposes (i.e., full minute or six-second rounding). After making this comparison for each service, staff concludes that Qwest's standard message toll service, as well as each of the

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[16] Carrier access charges are the prices that interexchange carriers pay to originate and terminate long distance toll calls on Qwest's local exchange network.

[17] Billing and collection charges are prices that Qwest would charge an interexchange carrier for billing and collecting moneys from end users in behalf of the carrier.

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discounted calling connection plans, passes the imputation test based on staff's proposed rates for toll and carrier access services. Staff/8, Turner/28-29.

In contrast, Qwest performed an imputation analysis based on the unbundled network element (UNE) prices set in UM 844. Qwest/219, Brigham/82; TR at 6-7 (Brigham). Unlike staff, Qwest then compared the "average revenue per minute" (ARPM) for *all* toll services combined together to an imputation-based price floor. Qwest/230, Brigham/6-7; TR at 12, 17-18 (Brigham). Finally, while Qwest asserts that carrier access service is not an essential service, it specifically declined to pursue the issue in this docket. Qwest/230, Brigham/5-6; TR at 6-7, 11-12, 42 (Brigham).[18]

The difference between the two approaches can be seen with the Super Savings issue. Staff, and AT&T-WCOM, independently performed an imputation test for Super Savings.[19] Both staff and AT&T-WCOM concluded that Qwest's proposed 6-cent Super Savings rate for its business customers fails the imputation test. Staff/20, Turner/7 (RD); AT&T-WCOM/1, Selwyn/82-83. Thus, Super Savings, considered alone, failed the imputation test because, at 6 cents per minute, it is priced below the imputation price floor. Qwest, on the other hand, would conclude that Super Savings passes the imputation test if the ARPM for all of its calling plans together is above the imputed price floor for all services.

Staff's and AT&T-WCOM's approach is consistent with ORS 759.410(4) and Qwest's method is not. The statute speaks to the sum of all relevant costs for "the" service at issue, not the "service categories in aggregate." A reasonable interpretation of this language does not allow Qwest's "average of all services" method.

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[18] The issue goes to whether a proper imputation analysis for switched access imputes the building block rates (TSLRIC) or the switched access rates (price) under ORS 759.410(4). However, as stated, Qwest declares that it will not dispute the "essential function" categorization for switched access services in this docket. Qwest/230, Brigham/6. As such, Qwest's tariff rate charged to other carriers for switched access is the proper input under ORS 759.410(4)'s price floor test.

[19] Again, staff performed an imputation test for each toll calling service, including, for example, Super Savings.

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For example, a customer purchasing Super Savings is not concerned about the average price for all of Qwest's calling plans. That customer's only concern is the price of the particular service he is interested in (such as Super Savings). The same holds true for competitors who wish to compete in the market against particular calling plans, not the average of all plans together. Finally, Qwest's "average of all services" method would improperly allow some services that are priced above the price floor to subsidize the below-price floor services. *See also* AT&T-WCOM/1, Selwyn/81-82.

Qwest also disagrees with staff and AT&T-WCOM and argues that billing and collection is not an essential function. The issue arises mainly under the imputation analysis conducted for Qwest's Super Savings calling plan. *See* Qwest/230, Brigham/11. However, billing and collection services are treated as essential services under Commission Order No. 89-221. Staff agrees with AT&T-WCOM that billing and collection remains an essential service until the Commission issues an order otherwise. *See also* PUC Order No. 96-188 at 53 TR at 24-25 (Brigham).

Finally, Qwest disagrees with staff's and AT&T-WCOM's inclusion of access rates for independent LEC-originated calls in their imputation price floor analysis. Qwest/230, Brigham/10. Qwest argues the Commission should include only the costs of Qwest-originated traffic. *Id.*

Staff disagrees and argues that Qwest must pay access charges and other reasonable compensation to the independent LECs to originate and terminate its toll calls on their local exchange networks. This is NOT an option. Nor may Qwest abandon those toll routes without explicit Commission authority.

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ISSUE 4: FEATURES

A. Residential Features

Staff agrees with Qwest's proposal to significantly reduce prices for various primary residential features, resulting in an annual revenue reduction of $5,587,158. Staff/13, Sloan/5; Staff/14, Sloan/4; Qwest/206, Teitzel/1-9.

Generally, one of staff's goals is to align prices for telecommunication services toward cost, as represented by their respective price floors. Staff's rate design proposal does move prices closer to that level. However, the prices for residential features would still remain significantly above their respective price floors. Staff does not propose additional reductions in residential features because staff is limited to total reductions in this docket of $64.2 million. Staff contends that because of the popularity of Caller ID, Call Waiting and Call Forwarding, it is reasonable to target these particular residential features for price reductions. Staff/13, Sloan/5.

Staff proposes to raise monthly flat rates for residential lines in Rate Group 2 and Rate Group 3 by $1.00 and $2.00, respectively. Staff/16, Stanage/19. If this portion of staff's rate design proposal is adopted, then Qwest should be allowed to reduce prices for its residential CustomChoice and ValueChoice for customers in Rate Group 2 and Rate Group 3 by $1.00 and $2.00, respectively. Staff/13, Sloan/5. Grandfathered residential customers of the now obsolete services would pay $29.95 for CustomChoice with an initial line, plus $26.95 for an additional line and $23.95 for ValueChoice, including the line charge. Staff/13, Sloan/7.[20]

Qwest proposes increasing monthly flat rates for residential lines by $1.00, $2.00, and $3.00 in Rate Groups 1, 2, and 3, respectively. Qwest/201, Teitzel/30; Staff/16, Stanage/19. For purposes of residential features, staff's rate design proposal assumes that staff's proposed prices for monthly flat residential lines are adopted. Staff/13, Sloan/5. However, if the Commission adopts Qwest's proposed prices for monthly flat residential lines, staff recommends that the

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[20] The particular CustomChoice and ValueChoice services at issue in this proceeding are those which were grandfathered by Qwest's Transmittal No. 2000-005-PL, effective October 1, 2000, to customers in service on September 30, 2000.

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Commission allow Qwest to reduce prices by $1.00, $2.00, and $3.00 in Rate Groups 1, 2, and 3, respectively, for those grandfathered obsolete CustomChoice and ValueChoice services. The objective is to leave the grandfathered customers of the now obsolete services at total package prices of $29.95 for CustomChoice with an initial line, plus $26.95 for an additional line and to leave the package price for the grandfathered ValueChoice at $23.95 including the line charge. In sum, staff and Qwest are in agreement on the appropriate rate design for residential features. Staff/13, Sloan/5.

B. Business Features

Staff agrees with Qwest's proposal to reduce prices for various business features by $1,276,230. Staff/13, Sloan/7; Staff/14, Sloan/5-6. While staff's goal is to align these prices towards their costs, as represented by their price floors, most business features will remain priced significantly above their price floors because staff is limited in the amount it can allocate to business features, considering the total reductions in this docket cannot exceed $64.2 million. Because of the limited amount of reductions available, staff believes that it is reasonable for Qwest to target its most popular business features. Staff/13, Sloan 7-8.

Qwest proposes to eliminate twelve business feature packages identified by the following uniform service order codes; NLUB+, NLUY1, NLUY2, ESA, ESR, ET8, ETC, ESG, ESB, ET3, ES3 and ES5. Qwest/201, Teitzel/29. Staff agrees that, with conditions added, it is reasonable to allow the elimination of these services. Qwest should be required to contact each affected customer to assist them in migrating to the a la carte purchase of the individual features in their packages or an alternative feature package. Staff further recommends that customers should not be required to pay non-recurring charges because of this migration. If staff's recommendations are adopted, then no customer will be economically disadvantaged as a result of the elimination of these business features and the proposed elimination should be allowed. Staff/13, Sloan/8; Staff/14, Sloan/6a.

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ISSUE 5: FEATURES – NON-RECURRING CHARGES

Staff agrees with Qwest's proposal to eliminate non-recurring charges for residential features, which results in an annual revenue reduction of $729,744. Staff/13, Sloan/9; Staff/14, Sloan/7. Elimination of the non-recurring charges will stimulate sales to additional residential customers.

Staff also believes that the margins (difference between the price floor and tariffed monthly recurring charge) for individual residential features and their average product service life are sufficient to insure that even if Qwest does not recover its costs of initiating the service through a non-recurring charge, it will still not be selling these services below the price floor in violation of ORS 759.410. Staff/13, Sloan/9.

ISSUE 6: LISTINGS

Staff agrees with Qwest's proposal to decrease the monthly recurring rates for Non-Listed and Non-Published Listing services, which decreases annual revenues by $237,196. Staff's proposal would lower Non-Listed service from $0.50 to $0.35 per month and Non-Published service from $0.75 to $0.65 per month. Staff/13, Sloan/10; Staff/14, Sloan/8.

ISSUE 7: CENTREX PLUS

Staff's proposal decreases Qwest's composite annual revenues for Centrex Plus service by $726,284; which includes a composite decrease of $459,024 from the Centrex Plus line charge, $209,323 from the Centrex Plus usage charge and $57,937 from the Centrex Plus Network Access Facility (NAF) charge. Staff/13, Sloan/11.

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A. Centrex Plus Line Charge

Staff agrees with Qwest's proposal[21] for a composite decrease of $459,024 for Centrex Plus line charges. Staff/13, Sloan/21; Staff/14, Sloan/13; Revised UT 125 Rate Spread/Confidential Attachment/5. A price matrix delineated on three basic criteria determines a customer's Centrex Plus line charge. Staff/13, Sloan/13.

First, the line charge is determined by the number of lines at one location, broken down into six stepped line size categories (cohorts) – 1-20 lines, 21-50 lines, 51-100 lines, 101-300 lines, 301-500 lines, and over 500 lines. Staff/13, Sloan/13. Staff believes that Qwest's proposal to base pricing on location is reasonable because it is consistent with prior approved tariff terms and conditions and Commission orders. *See* Qwest Tariff, P.U.C. OREGON NO. 29/Paragraph 9.1.16.C.2; *See also* Order No. 99-438 at 7.

Second, the line charge is based on the geographically deaveraged rate group where the customer's Centrex Plus system is located. Staff employed the three rate groups from Order No. 00-481 to apply this criterion to the Centrex Plus pricing matrix. Staff/13, Sloan/13.

The third criterion for the Centrex Plus price matrix is the length of time that the customer is contracting for the service. Pricing discounts are given for contracts of 12-35 months, 36-59 months, and 60 months. Staff/13, Sloan/13-14; Staff/14, Sloan/10-13.

Staff believes that Qwest's proposal for changes to Centrex Plus line charges and the pricing matrix are consistent with Commission rules, orders and Oregon Statutes. Centrex Plus service is not a "basic" service and is, therefore, a "non-basic" service. ORS 759.400; OAR 860-032-0260. As a non-basic service, staff tested Qwest's proposal to assure that it meets the price floor requirements of ORS 759.410. This was accomplished by utilizing the rate groups and network access channel (NAC) price floors approved in Order No. 00-481, and then Qwest's current unbundled network element prices for switching, transport and other non-NAC elements

[21] On March 19, 2001, Qwest filed a modified portion of Attachment B to Advice No. 1849, entitled "Revised UT 125 Rate Spread." Staff considers Qwest's proposal as consisting of Advice No. 1849 as modified by their March 19, 2001, letter entitled "Revised UT 125 Rate Spread."

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of Centrex Plus service. Staff utilized billing and marketing cost provided by Qwest. Staff has determined that Qwest's proposal for Centrex Plus line charges is consistent with ORS 759.410. Staff/13, Sloan/14, 16-20.

B. Centex Plus Usage Charge

Staff's proposal decreases composite annual revenues for Centrex Plus usage charges by $209,323. Staff/13, Sloan/22; Staff/14, Sloan/6. The Centrex Plus usage charge is a monthly recurring charge, per station, for non-blocked Centrex Plus systems. The current tariffed Centrex Plus usage charge is $14.90 per line for the 1-20 line cohort, $14.90 per line for the 21-50 line cohort and $3.00 for all cohorts in excess of 50 lines. Staff's proposal replaces this matrix with a standard flat rate Centrex Usage Charge of $4.04 per line, regardless of the Centrex Plus system size. Staff/13, Sloan/21.

Staff's proposal is consistent with Qwest's original proposal for Centex Plus usage charges. Qwest/201, Teitzel/22-23; Qwest/203, Teitzel/6. However, Qwest modified its original proposal on March 19, 2001, by filing a modified portion of Attachment B to Advice No. 1849, entitled "Revised UT 125 Rate Design." Qwest's modified proposal increases the Centrex Plus usage charge. This modification was proposed by Qwest as one of the price adjustments to offset its proposal to further decrease the Centrex Plus line charge. Revised UT 125 Rate Spread (March 19, 2001)/Confidential Attachment.

Staff adopted Qwest's March 19, 2001, proposal for additional decreases in the Centrex line charge. However, staff's proposes to offset the additional Centrex Plus line charge revenue decrease with adjustments to prices for other non-Centrex services. Staff/13, Sloan/2, 22.[22]

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[22] In rebuttal testimony Qwest suggests that staff has misstated its proposal. Qwest/222, Teitzel/26, lines 13-17 ("At page 2, lines 19-22, Mr. Sloan states that Qwest has offset reduced revenues for the Centrex Plus line with increase in the Centrex Plus usage charge and NAF rate. Is this accurate? No." However, Mr. Sloan's actual statement is that the "company proposed to offset its reduced revenue from the Centrex Plus Line charge by increasing the rates that it proposed it its Advice No. 1849 for certain other services, <u>including</u> the Centrex Plus Usage charge and the NAF charge." [emphasis added].

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C. Centrex Plus NAF Charge

Staff's proposal decreases Qwest's annual composite revenues from Centrex Plus NAF charges by $57,937. Staff/13, Sloan/23; Staff/14, Sloan/6. Staff's proposed NAF charge is set at staff's proposed price for a Digital Switched Service trunk ($17.00). Staff/19, Stanage/6. For Two Way and In Only service, a price element of $1.36 is added for the Hunting feature inherent in those services. Qwest/219, Brigham/18. Therefore, staff's proposal for monthly Two Way, In Only and Out Only NAF charge is $18.36, $18.36, and $17.00, respectively. Staff/13, Sloan/23.

Staff's proposal is consistent with Qwest's originally proposed decreases in NAF charges. Qwest/201, Teitzel/22-23; Qwest/203, Teitzel/5. In Qwest's, March 19, 2001, modification filing, Qwest proposed to increase the NAF charge from its original proposal in Advice No. 1849; this adjustment was made as one of Qwest's proposed pricing elements to offset its proposed additional decrease in the Centrex Plus line charge. Revised UT 125 Rate Spread (March 19, 2001)/Confidential Attachment. Staff has not adopted Qwest's adjustments to the NAF charge that were presented in the March 19, 2001, "Revised UT 125 Rate Design" proposal. Staff/13, Sloan/24.

D. Centrex Plus Non-Recurring Charges

Staff's proposal makes the non-recurring Line Identification Data Base (LIDB) charge permanent. Staff/13, Sloan/25. In Order No. 97-441, the Commission ordered that "the proposed LIDB rate from Transmittal No. 97-037-PL supplemental will go into effect, effective December 5, 1997, subject to refund." The proposed rate from Transmittal No. 97-037-PL supplemental was a non-recurring charge of $3.50 per line for subsequent changes only. The non-recurring charge should continue to apply only to subsequent changes. There is no tariffed LIDB charge associated with initial installation.

Staff proposes that the $4.25 non-recurring chip-in charge per line that is currently listed in Qwest's tariff, but is not being applied, should be changed to reflect a non-recurring charge of zero for Centrex Plus resellers. Staff/13, Sloan/26.

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In Order No. 97-480, the Commission ordered that the chip-in charge be an issue in the rate design phase of UT 125. The Commission later stated that it "agrees with the joint petitioners and staff that the proposed chip-in charge contravenes the existing stipulation adopted by Order No. 93-746 and that the stipulation should remain in effect pending a complete investigation of the costs associated with the chip-in service." Order No. 98-079 at 3.

Qwest seems to agree with staff that it is appropriate to eliminate the current chip-in non-recurring charge. However, Qwest limits its proposal to eliminate the chip-in charge on the Commission accepting Qwest's overall price proposal for Centrex Plus and states that "if Qwest's proposal is not accepted, Centrex Plus margins may be insufficient to provide cost recovery for this charge, and the assessment of the chip-in charge will need to be revisited." Qwest/222, Teitzel/28. While Qwest implies that the Centrex Plus margins may be insufficient to provide cost recovery, it offers no evidence that suggests that cost recovery would be insufficient if the chip-in charge is eliminated. Since the Commission ordered that the chip-in charge be an issue in this proceeding and Qwest has not offered any additional cost information concerning chip-in service, staff recommends that the non-recurring chip-in charge be eliminated whether or not Qwest's overall Centrex Plus proposal is accepted by the Commission. Order No. 97-480 at 1; Staff/13, Sloan/25-26.

ISSUE 8: CENTREX 21

Staff's proposal decreases Qwest's annual revenues from Centrex 21 service by $12, 411. Staff/13, Sloan/27; Staff/14, Sloan/9. Staff's proposal is consistent with Qwest's proposal to increase the month-to-month rates in Rate Groups 1 and 2 to $46.95, which allows Qwest to maintain a proper pricing relationship with Qwest's Business CustomChoice service, which is grandfathered at a price of $49.95 including the line charge. Because Business CustomChoice includes slightly more standard features than Centrex 21, a $3.00 per line difference is reasonable. Staff's proposal also adopts Qwest's proposal to slightly reduce the rates for the

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12-to-36-month and the 37-to-60-month rate stabilization contracts in Rate Group 1 and Rate Group 2. Staff/13, Sloan/27; Staff/14, Sloan/9; Qwest/201, Teitzel/24; Qwest/203, Teitzel/6-7.

Qwest's original proposal did not propose a Rate Group 3 for Centrex 21 service. Qwest/201, Teitzel/24; Qwest/203, Teitzel/6-7. However, Qwest has now agreed with staff's proposal to establish rates for Centrex 21 service in rate group 3 consistent with ORS 759.410 and Order No. 00-481. Staff/13, Sloan/28; Staff/14, Sloan/9; Qwest/222, Teitzel/28. Although rates will be established for Rate Group 3 to account for annual revenues from the average, March 1997 to February 1998, Centrex 21, Rate Group 3 customers, staff and Qwest agree that the new prices will not make economic sense for current Centrex customers in Rate Group 3. Accordingly, Qwest has agreed that it will proactively contact each of these customers and migrate them into an alternative feature package that is priced more attractively and will ultimately result in no Centrex 21 subscribers in Rate Group 3. Staff/13, Sloan/28, Qwest/222, Teitzel/28. Staff further recommends that customers should not be required to pay non-recurring charges as a result of this migration.

ISSUE 9: EXTENDED AREA SERVICE

Extended Area Service (EAS) is a service that allows Qwest telephone customers the ability to call nearby telephone exchanges without incurring long distance charges. This service allows customers to make calls for a fee to areas beyond their home exchanges. Exchanges that have EAS capability are grouped by rate band. EAS charges vary depending on the particular rate band. Qwest/201, Teitzel/9.

Qwest's rate design proposal would decrease annual revenues for EAS by $21.763 million. Qwest/204, Teitzel/2. Staff's proposal decreases Qwest's annual revenues for EAS by $11.321 million. Staff/16, Stanage/11; Staff/2, Ball/4. As Qwest correctly points out, the EAS prices in both staff's and Qwest's proposals are driven by Qwest's proposal to increase revenue from two residential services, Flat Residential (1FR) and Residential Measured Service.

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Qwest/222, Teitzel/36; Staff/16, Stanage/5. The discrepancy between Qwest's and staff's EAS proposals can be explained simply as a function of the differences between Qwest's and staff's proposals for 1FR and Residential Measured Service rates. Staff/16, Stanage/5.

Staff's EAS rate design also proposes to consolidate the five current Rate Bands (Bands A through E) into three Rate Bands. Staff accomplished this by combining Rate Bands A and B into one rate, Rate Bands C and D into one rate, while keeping Rate Band E at one rate. Staff/16, Stanage/11. Qwest originally proposed a different grouping of the five bands. Qwest/201, Teitzel/10. However, Qwest has concluded that it does not disagree with staff's proposed Rate Band structure. Qwest/222, Teitzel/37.

Staff's proposal also noted that Qwest's rate design presented incorrect current EAS flat rates, which resulted in an understatement of Qwest's revenue reduction for EAS of $954,731 and a overstatement of its ISDN-BRS reduction by $176,646. Staff/16, Stanage/12. Since Qwest notes that it does not dispute the staff calculation, it should therefore be accepted. Qwest/222, Teitzel/37.

Staff agrees with Qwest's proposal to reduce EAS measured usage rates for Residential and Business service customers from $0.05 to $0.03 because the current price is well in excess of cost, as represented by a UM 844 price floor. Staff/16, Stanage/3; Staff/16, Stanage/13; Qwest/201, Teitzel/10.

ISSUE 10: ADVANCED SERVICES

A. Integrated Services Digital Network (ISDN)

There are two types of Integrated Service Digital network (ISDN) services; ISDN-Basic Rate Service (BRS) and ISDN Primary Rate Service (PRS). Staff's proposal reduces annual revenue from Single Line ISDN-BRS rates by $100,000 and reduces annual revenue from ISDN-PRS rates by $30,000. Staff/14, Stanage/3.

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Staff's proposal reduces Single Line ISDN-BRS rates by $100,000 by reducing rates in Rate Group 1 by 6 percent, leaving the current rates for the various terms of service unchanged in Rate Group 2, and increasing rates in Rate Group 3 by approximately $17.00.[23] Staff's proposed reductions for ISDN-BRS slightly exceed the proposed Qwest reductions (after corrections to current rates are made to Qwest's initial proposal). The primary difference between the respective proposals is that Qwest proposes to raise rates for each term period in Rate Group 2 by approximately $6.00, while staff proposes that the current term period rates remain unchanged. Staff/16, Stanage/14; Staff/19, Stanage/4. It is inappropriate to raise the rates in Rate Group 2 because the rates are already well above their established price floor and the rates were lowered, by approximately $7.00, as recently as November 8, 2000. Staff/16, Stanage/14.

Staff agrees with Qwest's proposal to decrease certain ISDN-PRS rates, which results in an annual revenue reduction of $30,000. Staff/16, Stanage/15; Qwest/203, Teitzel/8. The proposed reductions will make the relationships between the price floors and the proposed ISDN-PRS rates similar to those for local business access lines. Staff/16, Stanage/15.

Staff agrees with Qwest's proposal to reduce certain Digital Switched Service (DSS) rates, which results in an annual revenue reduction of $200,000. Staff/16, Stanage/16; Qwest/203, Teitzel/8-10. Staff also agrees with Qwest's proposal to reduce rates for Direct Inward Dialing, which results in an annual revenue reduction of $300,000. Staff/16, Stanage/16; Qwest/203, Teitzel/5.

ISSUE 11: LOCAL BUSINESS ACCESS SERVICES

Staff's proposal decreases Qwest's annual revenues for local business access services by $1.3 million. Staff/16, Stanage/4. Qwest's proposal would decrease annual revenues by $1.2 million. Qwest/203, Teitzel/3. The difference between the proposals is that Qwest proposes to

[23]This $17.00 increase has no revenue effect because there are no ISDN-BRS lines in service in Rate Group 3.

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reduce business access service rates in Rate Group 3 by $0.35, while staff reduces the rates in Rate Group 3 by $2.35. Staff's proposal reduces business access rates in Rate Group 3 to bring these rates closer to the universal service benchmark. Staff/16, Stanage/18.

Staff agrees with Qwest's original proposal to decrease annual revenues from Public Access Line (PAL) services by $13,000.[24] Staff/16, Stanage/18; Qwest/201, Teitzel/18-19. Staff's proposal eliminates the PAL Flat Rate with Measured Usage after 300 calls and reduces PAL rates so that they are equal to the staff proposed one-party flat business rates for all three Rate Groups. Staff/16, Stanage/18.

Northwest Payphone Association (NWPA) contends that Qwest's, and by implication staff's, PAL proposals are inconsistent with the FCC *Payphone Orders*. NWPA/1, Wood/32. NWPA asserts that there are four relevant criteria; are the rates cost based, are the rates consistent with the requirements of section 276 of the Act, are the rates nondiscriminatory, and are the rates consistent with the "new services test?" While NWPA cites four criteria, they can be reduced to two – are the rates cost based and nondiscriminatory? If the rates are cost based then they will be consistent with the "new services test." Additionally, if the rates are consistent with section 276 of the Act they will be nondiscriminatory.

The "new services test" requires that rates be cost based with a reasonable contribution to overhead. 47 C.F.R. 61.49(g)(2). Staff's proposed rates are cost based because they exceed, by a reasonable margin the long run incremental costs approved by the Commission in docket UM 773. Qwest/219, Brigham/20-25; Staff/19, Stanage/1-2, column D. Staff's proposed PAL rates are also nondiscriminatory. As recently as April 2001, the Commission ordered that PAL rates should match business local exchange rates. Order No. 00-312. *See* Qwest Advice No. 1844; Transmittal No. 2000-006-PL, Supplement No. 2.

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[24] Staff's proposal matched Qwest's original proposal in Advice No. 1849. However, Qwest filed a "Revised UT 125 Rate Spread" on March 19, 2001 that is slightly different from their original proposal.

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ISSUE 12: LOCAL RESIDENTIAL ACCESS SERVICES

Staff's proposal increases Qwest's annual revenues for monthly residential access line service flat rates by $1.12 million. Staff/2, Ball/4, Staff/16, Stanage/19. Qwest's proposal would increase annual revenues by $11.49 million. Qwest/222, Teitzel/35; Staff/2, Ball/4.

Qwest's proposal would raise rates in Rate Groups 1, 2, and 3 by $1.00 (to $13.80), $2.00 (to $14.80), $3.00 (to $15.80), respectively. Qwest/201, Teitzel/11. Staff's proposed rate design leaves Rate Group 1 unchanged at $12.80 and raises rates in Rate Group 2 and 3 by $1.00 (to $13.80) and $2.00 (to $14.80), respectively. Staff/16, Stanage/19.

Qwest argues that it is appropriate to raise residential access line service rates in order to move prices toward the benchmark of $21.00.[25] Qwest/201, Teitzel/11; Qwest/222, Teitzel/38. However, there is no good reason to raise prices in Rate Group 1 since the service is already priced above cost, as represented by UM 844 price floor.[26] Staff/16, Stanage/19-20. Staff's proposal to increase rates in Rate Groups 2 and 3 is appropriate because it allows rates in Rate Groups 2 and 3 that are below a UM 844 price floor to move closer to the benchmark. Staff/16, Stanage/21.

Qwest's proposal increases One-Party measured residential (1MR) access line recurring rates by $2.2 million. Qwest/201, Teitzel/13-14. Staff's proposal would leave these rates unchanged. Staff/16, Stanage/4-5. It is inappropriate to raise the 1MR rates because, according to the company's data, the present rates already exceed the proposed price floor as presented in Qwest's testimony.[27] TR at 526, 1-15 (Stanage).

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[25] The Commission established the basic telephone service "benchmark" rate of $21.00 per month in Docket UM 731.

[26] The Commission is not required to price basic telephone service above a price floor. ORS 759.410(4).

[27] It should be noted that the PUC has not established price floors for retail services such as 1MR services. However, Qwest presents a "proposed" price floor of $16.62 for residential measured service. Qwest/219, Brigham/11. A calculation using Qwest data results in total revenue of $17.44, which includes the $6.37 fixed charge, the $4.35 subscriber line charge (which goes up to $5.00 on July 1, 2001), plus 6.72 of monthly usage revenue calculated based on Qwest's exhibit. TR at 526, 1-15 (Stanage). The average monthly usage revenue is calculated by 224 minutes (Qwest/219, Brigham/6) times 3 cents per minute. This calculation employs the same methodology used by Qwest throughout the case. *See* Qwest/219, Brigham/14; Qwest/219, Brigham/22.

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ISSUE 13: RESIDENTIAL NONRECURRING CHARGES

Staff agrees with Qwest's proposal to increase the non-recurring residential line charge, which results in an annual revenue increase of $1.4 million. Staff/16, Stanage/5; Staff/18, Stanage/3; Qwest/202 Teitzel/2. This increase is justified because it moves the rate closer to its established total service long run incremental cost while still remaining one of the lowest charges for this service applied by any former Bell operating company in the United States. Staff/16, Stanage/23.

CONCLUSION

For the reasons stated above, Staff's rate design proposal should be adopted.

DATED this 28th day of June 2001.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June, 2001, I served the foregoing STAFF'S OPENING BRIEF upon the parties by email and mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

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JUN 2001
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June 28, 2001

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JUN 29 2001

Public Utility Commission of Oregon
Administrative Hearings Division

VIA FEDERAL EXPRESS

Honorable Ruth Crowley
Administrative Law Judge
Oregon Public Utility Commission
550 Capitol St. NE, Suite 215
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Subject: OPUC Docket UT-125

Dear Judge Crowley:

Enclosed for filing are an original and five copies of the Opening Brief Of The Northwest Payphone Association, which is being filed pursuant to the protective order in the above-referenced docket. Please return a conformed copy to us in the stamped self-addressed envelope provided. Thank you for your assistance.

Very truly yours,

Richard J. Busch

Richard J. Busch

cc w/enc: All Parties of Record (pursuant to protective order)

Confidential Material
to Locked Cabinet
Env. # 96(35)

DOCKETED

RECEIVED

JUN 29 2001

Public Utility Commission of Oregon
Administrative Hearings Division

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DATED this 28th day of June, 2001.

Carol Munnerlyn

Carol Munnerlyn

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Public Utility Commission of Oregon
Administrative Hearings Division

Read copy to R.C

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST COMMUNICATIONS, INC., for an Increase in Revenues.	OPENING BRIEF OF THE NORTHWEST PAYPHONE ASSOCIATION

The Northwest Payphone Association ("NWPA") files this opening brief requesting the Commission to hold that Qwest's proposed rates for pay telephone access services improperly exceed the rates allowable under Section 276 of the Telecommunications Act and the FCC's implementing orders. The NWPA requests the Commission to recalculate Qwest's rates using the proper methodology, as provided by NWPA witness Don Wood.

I. BACKGROUND

Congress intended Section 276 of the Telecommunications Act of 1996 "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public. . . ." 47 U.S.C. § 276(b)(1) ("Section 276"). To achieve this, Congress delegated the duty to oversee the deregulation of payphones to the FCC. *Id.* Among other things, Section 276 required the FCC to "prescribe a set of non-structural safeguards for Bell operating company payphone service . . . which safeguards shall, at a minimum, include the non-structural safeguards equal to those

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adopted in the Computer Inquiry-III (CC Docket No. 90-623) proceeding." 47 U.S.C. § 276(b)(1)(C).

The FCC responded by releasing a series of orders implementing Section 276 ("*Payphone Orders*").[1] In that proceeding, the FCC distinguished between the payphone equipment, such as the telephone itself, and the ILEC-provided network services needed to connect the equipment, referred to in this brief as pay telephone access services ("PTAS"). *Order on Reconsideration* at ¶ 162. PTAS includes both public access lines ("PAL") and "unbundled functionalities." *Id.* at ¶ 163.

The *Payphone Orders* changed the way that ILECs must set their PTAS rates. First, the FCC determined that PTAS rates must be:

a. Cost based;

b. Consistent with the requirements of Section 276;

c. Nondiscriminatory; and

d. Consistent with *Computer III* tariffing guidelines.

Id. The Computer III tariffing guidelines incorporate the "new services test." *Id.* at n.492.[2]

Second, the FCC required ILECs to file conforming tariffs and supporting cost studies for PTAS with state commissions. *Bureau Waiver Order* at ¶ 24. It also required ILECs to submit this documentation for payphone functionalities and features to the FCC. *Id.* The deadline for these filings was January 15, 1997, with a required effective tariff date of April 15,

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[1] Report and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd. 20,541 (1996) (*"Report and Order"*); Order on Reconsideration, 11 FCC Rcd. 21,233 (1996) (*"Order on Reconsideration"*); Order, 12 FCC Rcd. 20,997 (1997) (*"Bureau Waiver Order"*); Order, 12 FCC Rcd. 21,370 (1997) (*"Second Bureau Waiver Order"*).

[2] The FCC has applied the new services test to evaluate rates for Open Network Architecture, interconnection, collocation, and PTAS. Ex. NWPA/1 at 21, ll. 4-6 (Wood).

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1997. *Order on Reconsideration* at ¶ 163; *See Bureau Waiver Order* at ¶ 19.[3] The FCC directed state commissions to evaluate these filings to ensure that payphone functions and the basic payphone line are tariffed "in accordance with the requirements of Section 276." *Id.* The FCC reasoned that "application of the new services test separately by state and federal authorities to payphone offerings will assure that carrier offerings to payphone service providers will be reasonable and help achieve the goals of Section 276." *Id.*

By establishing the four-part test, the FCC directed ILECs to set PTAS rates differently from the way they set rates for other services. Under the new approach, ILECs must build their rates based on proven costs using a "bottom up" approach. TR 564, ll. 10-11 (Teitzel). This is a radical departure from the traditional rate-of-return approach used for business and residential service rates, where ILECs start with their revenue requirements and then determine the appropriate rates necessary to yield those requirements. *See* Ex. NWPA/1 at 30, ll. 15-17 (Wood). The FCC determined that the new approach is necessary "to eliminate the effects of some long-standing barriers to full competition in the payphone market" and to erase "sources of market distortion." *Bureau Waiver Order* at ¶ 4.

Both the FCC and state commissions have used the four-part test to evaluate ILEC PTAS rates. For example, in March 2000 the FCC issued an order directing four ILECs in Wisconsin to submit their state PAL tariffs to the FCC to determine whether they met the test. Order, *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, 15 FCC Rcd. 9978 at ¶ 9 (2000) ("*Wisconsin Order*").[4] Although the *Wisconsin Order* merely reiterates existing FCC regulations and does not make new law, it is an example of how the FCC would

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[3] The FCC extended the filing deadline by forty-five days. *Id.*; *See Second Bureau Waiver Order* at ¶ 25.

[4] The FCC only evaluated the ILEC rates based on the fact that Wisconsin Public Service Commission does not regulate PAL rates, unlike Oregon. The FCC noted that the Wisconsin Commission would have jurisdiction to review the PAL tariffs, if that were not the case. *Id.* at ¶¶ 3-4.

evaluate PAL rates under similar circumstances. Similarly, the Delaware Public Service Commission, the West Virginia Public Service Commission, the South Carolina Public Service Commission, the Public Service Commission of Maryland, and the Tennessee Regulatory Authority used the FCC's four-part test to determine whether ILEC PTAS rates are lawful.[5]

II. QWEST HAS NOT SET ITS PTAS RATES BASED ON THE FCC'S FOUR-PART TEST

Despite clear direction from the FCC, Qwest has never complied with the FCC's four-part test when setting PTAS rates. Instead, Qwest has ignored it, distorted it, or made unsubstantiated and groundless claims that its rates meet the four-part test. In the next section, NWPA demonstrates this by addressing each component of the four-part test in the following order: (1) the new services test, (2) discrimination, (3) Section 276, and (4) cost-based rates. NWPA analyzes PAL and payphone features, the two components of PTAS, separately within each of the four parts.

A. QWEST'S PTAS RATES DO NOT COMPLY WITH THE NEW SERVICES TEST

1. Overview of the New Services Test.

Under the new services test, ILECs must calculate their PTAS rates by adding their "direct costs" to "an appropriate level of overhead costs." Report and Order, *In the Matter of Amendments to Part 69 of the Commission's Rules*, 6 FCC Rcd. 4524 at ¶ 44 (1991) ("*ONA*

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[5] Order No. 4637, *In the Matter of the Tariff Filing by Bell Atlantic-Delaware, Inc. to Make Revisions to PSC-Del.-No. 1*, Delaware PSC Docket No. 97-013T (November 4, 1997) at ¶¶ 3, 18; Order, *Bell Atlantic-West Virginia, Inc.*, West Virginia PSC Case No. 97-0643-T-T (May 22, 1998) at pp. 4-5, 8, 13-15 (*West Virginia Order*); Order, *Request of Bell South Telecommunications, Inc. for Approval of Revisions to Its General Subscriber Service Tariff and Access Service Tariff*, South Carolina PSC Docket No. 97-124-C, Order No. 1999-285 (April 19, 1999) at ¶ 40; Order, *In the Matter of the Inquiry Into the Payphone Tariffs of Bell Atlantic-Maryland, Inc.*, Public Service Commission of Maryland, Case No. 8763 (February 27, 2001), at p. 2 (*Maryland Order*); Order, *In re: All Telephone Companies' Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Docket 96-128*, Tennessee Regulatory Authority, Docket No. 97-00409 at p. 17 (February 1, 2001) (*Tennessee Order*) at p. 17.

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Order"); *see also* 47 C.F.R. § 61.49(h). All other costs are prohibited. *Id.* So, the new services test is both a price floor and a ceiling.

Direct costs are "those costs that are specific to the service or individual rate element being studied; in other words, it is the decision or requirement to offer the specific service or rate element that *causes* the cost to be incurred." Ex. NWPA/1 at p. 9, ll. 5-7 (Wood). Overhead costs include shared and common costs. Shared costs are "caused by the decision or requirement to offer a group of services," such as marketing costs. *Id.* at p. 9, ll. 9-10 (Wood). Common costs "are caused simply by the fact that the company is in business; they are not specific to (i.e., are not caused by) any rate element, service, or group of services. *Id.* As noted above, the FCC required ILECs to file studies supporting these costs with state commissions in 1997. *Bureau Waiver Order* at ¶ 19.

2. **Qwest Ignored the New Services Test When It Set PAL Rates.**

Based on the foregoing, Qwest had two primary duties regarding its PAL rates under the new services test: (1) file studies showing direct and overhead costs for PAL with the Oregon Commission, and (2) set PAL rates based on these costs. Qwest did neither of these. Indeed, Qwest has never set its Oregon PAL rates according to the new services test.

a. **Qwest never submitted the required cost-support data to this Commission.**

Qwest has never filed a new services cost study with this Commission. Qwest's primary excuse is that "the Oregon Commission rules have not incorporated the FCC's rules for new services and there is no requirement in Oregon for Qwest to file cost information that utilizes the FCC's new services test." Ex. NWPA/9 at 1; *See* Ex. Qwest/222 at 50, ll. 11-12 (Teitzel Rebuttal). Actually, it is irrelevant whether the Commission has "incorporated" the FCC's rules, because they plainly apply to Qwest:

> The Commission's payphone orders, as clarified by the *Bureau Waiver Order*, mandate that the payphone services a LEC tariffs at the state level are subject to

> the new services test *and that the requisite cost-support data must be submitted to the individual states.*

Second Bureau Waiver Order at ¶ 18 (*emphasis added*). Qwest's predecessor US WEST, as a member of the "RBOC Coalition," expressly conceded this fact to the FCC, adding that "ensuring that previously tariffed payphone services meet the new services test . . . should not be too problematic." *Second Bureau Waiver Order* at ¶ 15.[6]

Qwest's secondary argument is that Exhibit 219, the "Summary of Selected Design Proposals," contains cost data that complies with the new services test. *See* Ex. NWPA/9.[7] However, Exhibit 219 lacks the information required by the FCC to support a new services test analysis. The FCC has clearly specified that a LEC must establish its direct costs by filing "its engineering studies, time and wage studies or other cost accounting studies to identify the costs of providing the new service, absent overheads. . . ." *ONA Order* at ¶ 42. This must include at a minimum: "(1) a study containing a projection of costs for a representative 12-month period; (2) estimates of the effect of the new service on traffic and revenues, including the traffic and revenues of other services; and (3) supporting work papers for estimates of costs, traffic, and revenues." *Id.* A LEC must establish its overhead costs by including in its tariff filings "ratios of direct unit cost to unit investment and direct unit cost to unit price." *Id.* at ¶ 44. LECs "will be expected to justify the loading methodology they select." *Id.*

Exhibit 219 contains none of this data. In fact, Exhibit 219 has nothing to do with the new services test. Qwest developed it towards the end of 1999 in preparation for this proceeding, over two years after the FCC directed Qwest to file a new services test study with this Commission.[8] At one point, Qwest admitted that most recent TSLRIC and price floor study

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[6] For at least part of the FCC's payphone proceeding, US WEST was a member of the RBOC Coalition, which "consists of all of the Bell Operating Companies ("BOCs") except Ameritech." *Second Bureau Waiver Order* at n.7; TR 723, ll. 1-14 (Wood).

[7] "[T]his data does represent a projection of costs consistent with 47 C.F.R. § 61.49(g)(1)(i)." Ex. NWPA/9 at 1.

[8] At that time it was referred to as Exhibit 223.

on PAL dates from 1994. Ex. NWPA/5 at 1. Qwest described that study as "irrelevant" due to its "vintage." *Id.*

As a result of Qwest's failure to file a new services cost study, there is absolutely *no evidence* in the record of Qwest's PAL overhead costs. They are not included in Exhibit 219, and Qwest has refused to disclose these costs to NWPA despite repeated requests. For example, Qwest refused to disclose its overhead methodology to NWPA "[t]o the extent that this requires a special study to be conducted," and stated without elaboration that PAL rates "are set by adding a reasonable mark-up to the direct cost of the service to recover a reasonable portion of U S WEST's overhead costs." Ex. NWPA/6 at 1. Obviously, Qwest misunderstood that it already had a duty to create a "special study" under the FCC's *Payphone Orders*. When the NWPA asked for clarification, Qwest responded that "PAL rates are priced in alignment with business rates." Ex. NWPA/7 at 1. Qwest also failed to file with this Commission the cost-to-price ratio for all PAL rate elements, as required by the *ONA Order*. *ONA Order* at ¶ 44. As Mr. Wood explained, "[t]he problem in this proceeding is not that Qwest has failed to make an effective demonstration of the level of overhead loadings in the existing or proposed PAL rates, but rather that Qwest has made no demonstration at all." Ex. NWPA/1 at 32, l. 17-20 (Wood).

At best, it is possible to piece together some evidence of Qwest's direct costs using Exhibit 219. However, Qwest's failure to file studies showing its overhead costs is directly contrary to the FCC's *Payphone Orders* and Section 276.

(1) *Qwest's failure to provide adequate cost data for PAL is consistent with the fact that, until very recently, Qwest behaved as if the new services test did not exist.*

Qwest has proposed several different, inconsistent explanations for its PAL rates, none of which comply with the new services test. In November 1999, Qwest filed its first proposed rates in this proceeding. At that time, Qwest's proposed PAL rates were lower than the previous rates but still higher than the basic business exchange line rates. Ex. Qwest/201 at 19, ll. 7-13 (Teitzel 1999 Direct). Mr. Teitzel justified the new rates by explaining that "the proposed Basic PAL flat rate maintains the same percentage differential relative to the Simple Business Flat rate that existed prior to this proposal." *Id.* Mr. Teitzel did not provide overhead costs for PAL or mention the new services test, which the FCC had created two years earlier.

Qwest's changed its position on November 15, 2000, when it proposed PAL rates that "mirror the proposed prices for Flat Business basic exchange service and each Rate Group." Ex. Qwest/201 at p. 18, ll. 19-21 (Teitzel Direct); *Id.* at p. 20, ll. 1-4. This was the first mention of parity between PAL and business line rates. Again, Mr. Teitzel did not mention the new services test or provide any of the required supporting information.

Then, Mr. Teitzel's rebuttal testimony filed May 3, 2001 stated briefly and with limited elaboration that Qwest's PAL rates meet the new services test. Ex. Qwest/222 at 44, ll. 15-17 (Teitzel Rebuttal). Yet, Qwest proposed the same rates as before, in which PAL was at parity with business local exchange services rates. *Id.* Obviously, Qwest developed its PAL rates under some other criteria, then claimed months later that they comply with the new services test. Even at this late date, Qwest provided no overhead cost data.

b. **Qwest misrepresents the factors used in the new services test.**

Qwest's failure to produce and file cost support data is *by itself* sufficient for this Commission to reject Qwest's proposed PAL rates. However, Qwest also failed to meet its second duty under the new services test, which is to calculate its rates based on the appropriate cost data. Instead, Qwest has set PAL rates according to many different criteria and methodologies that have nothing to do with the new services test.

(1) *Qwest adds prohibited "contributions" and "market-driven return" costs to its PAL rates*

As indicated previously, the new services test requires ILECs to set PAL rates by adding their "direct costs" to "an appropriate level of overhead costs." *ONA Order* at ¶ 46; *see also* 47 C.F.R. § 61.49(h). All other factors are prohibited. *Id.* Yet, Qwest's version of the test

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is different. Mr. Teitzel states that under the new services test "1) each service must be priced above cost and 2) each service price must reflect a reasonable level of *contribution*." Ex. Qwest/222 at 50, ll. 12-14 (*emphasis added*) (Teitzel Rebuttal). A "contribution" is not part of the new services test and appears nowhere in Section 276 or the FCC's *Payphone Orders*. Qwest never explains the legal source for the "contribution" or its disregard of the FCC's "overhead costs" factor.

Moreover, Qwest refuses to define the term "contribution." Mr. Teitzel does not explain it, and Qwest has not provided a coherent explanation to NWPA, despite numerous data requests. Qwest merely informed the NWPA that the term "contribution:"

> [I]s a term of art. PAL service is a retail service directly comparable to business local exchange service. To the extent that this Commission determines that business retail local exchange rates are "reasonable," by extension, contribution within business local exchange and PAL rates is also "reasonable . . . "

Ex. NWPA/10 at 1. This is circular and uninformative. Yet, subsequent NWPA data request yielded a similarly evasive response from Qwest. Ex. NWPA/11 at 1. Mr. Teitzel was equally vague at the hearing, stating that "[c]ontribution is a markup over and beyond the direct cost of the service." TR 962, ll. 17-20 (Teitzel). These responses are inadequate. The new services test requires an overhead loading "methodology" plus a "justification" of the "methodology" selected, not artful dodging. *Wisconsin Order* at ¶ 11.

Obviously, the "contribution" is an arbitrary "fudge factor" created by Qwest to justify its PAL rates. Qwest simply set its rates according to the same criteria it always used, then attempted to disguise its actions by inventing the term "contribution." Of course, to the extent the "contribution" exceeds Qwest's overhead costs, it violates Section 276 and the FCC's *Payphone Orders*.

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(2) *Qwest's PAL rate improperly incorporates a "market-driven" return*

In another departure from the new services test, Mr. Teitzel states that Qwest's PAL rates are cost-based because they "are set to recover TSLRIC plus Qwest's shared and common costs *and to contribute a market-driven return to the firm.*" Ex. Qwest/222, at 46, ll. 22-24 (*emphasis added*) (Teitzel Rebuttal). Like the "contribution," a "market-driven return" is neither an overhead cost nor a direct cost, and thus it is not a permissible factor under the new services test. In fact, inclusion of a "market-driven return" is the exact opposite of cost-based rate setting, particularly for PAL service, which has not been shown to be effectively competitive. As the FCC has stated, "[g]iven that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LECs services." *Wisconsin Order* at ¶ 11.

(3) *Qwest improperly sets its PAL rates based on the rates for business local exchange service*

Qwest argues that its PAL rates are subject to a "reasonable markup," because PAL is priced "in alignment with business rates." Ex. NWPA/7 at 1; *See* Ex. Qwest/222 at 50, ll. 18-20 (Teitzel Rebuttal). There are several problems with this premise. First, an ILEC may not set rates "based on considerations not relevant under the new services test, such as the current prices for these services and their intrastate tariffs." *Payphone Features Order* at ¶ 6. Accordingly, the existing rates in Oregon for PAL, business lines, or any other services that have not been priced under the new services test are not acceptable benchmarks.

Second, there are substantial differences between PAL and business local exchange service. Most importantly, PAL and business rates are set by completely different mechanisms. ILECs must set PAL rates according to the new services test, whereas ILECs may set business lines rates through one of many different non-cost-based mechanisms. *See* Ex. NWPA/1 at 30, ll. 15-25 (Wood). Business lines may also subsidize other services, which is prohibited under a cost-based approach. *Id.* Additionally, payphone providers obtain PAL

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service from Qwest to compete with Qwest's own payphone division, which also purchases PAL lines. TR 600, l. 21 to 601, l. 4 (Teitzel). Qwest does not compete with its business local exchange service customers, as Mr. Teitzel admitted. *Id.*

Because of these differences, it is not discriminatory to charge different rates for PAL and business lines. Oregon only prohibits charging different rates for "a like and contemporaneous service under substantially similar circumstances." O.R.S. § 759.260. The distinctions identified above show that PAL and business lines are not "like and contemporaneous." Even if they were similar under Oregon law, the FCC's new services test preempts Oregon's discrimination statute to the extent they conflict. Section 276 provides that "[t]o the extent that any state's requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such state requirements." 47 U.S.C. § 276(c). So, Qwest must follow the new services test regardless of the discrimination statute.

(4) *Qwest advocates an inappropriately high overhead ratio*

Qwest apparently believes that, because the FCC approved rates for certain payphone features that were 4.8 times cost, the same overhead ratio is presumptively acceptable for its PAL rates. *See* TR 737, l. 21 to 738, l. 23 (Wood). Qwest bases this argument on the FCC's *Bell Atlantic Features Order*. *See* TR 733, l. 22 to 734, l. 14 (Wood); Memorandum Opinion and Order, *Local Exchange Carriers Payphone Functions and Features*, 12 FCC Rcd. 17996 at ¶ 13 (1997)("*Bell Atlantic Features Order*"). However, this was not the FCC's intent. The overhead ratios in that proceeding have no relevance to Qwest's PAL rate. The *Bell Atlantic Features Order* involved features with direct costs that were extremely low or zero and that were "provided either at very low rates or at no charge," ranging from "no charge for two of the services to a monthly rate of $0.015 for two other proposed services." *Bell Atlantic Features Order* at ¶ 13. The FCC noted that "[w]e do not find that our determination here concerning overhead loadings for Bell Atlantic's provision of payphone features and functions will necessarily be determinative in evaluating overhead loadings for other services." *Id.* Obviously, ratios in the *Bell Atlantic Features Order* are inapplicable to Qwest's considerably higher PAL rates, which range from **{Confidential Information, No. 1}**. Ex. Qwest/219 at 20; TR 736, l. 12 to 737, l. 5 (Wood).

(5) *Section 276 preempts the 1990 rate case.*

Qwest argues that it may set the PAL rate higher than the business exchange rate, based on the fact that the Commission approved this approach in a 1990 rate case. Ex. Qwest/222 at 45, ll. 20-21 (Teitzel Rebuttal). However, Section 276 preempts all inconsistent state law, as noted previously. 47 U.S.C. § 276(c). So, Qwest cannot rely on the 1990 case to justify rates that violate the new services test.

(6) *States must set PAL rates based on the guidelines set by the FCC*

Qwest also argues that this Commission may set PAL rates according to any criteria it chooses, because "the FCC deferred to state Commission discretion in establishing PAL prices, and has not attempted to preempt the states on this issue." Ex. Qwest/222 at 47, l. 7-9 (Teitzel Rebuttal). This is yet another misrepresentation. In reality, the FCC deferred to state commission discretion the ability to establish PAL prices *in accordance with the FCC's four-part test, including the new services test*. This is analogous to the fact that the FCC established rules for local interconnection and pricing of UNEs then directed state commissions to follow TELRIC to determine prices for interconnection and UNEs.[9] *See* 47 C.F.R. § 51.513.

In sum, Qwest ignored its FCC-mandated duties to prepare and file cost data for PAL with this Commission and distorted or ignored the requirements of the new services test. NWPC next explains how Qwest's payphone features rates do not comply with the new services test.

[9] Unlike UNE pricing, however, there are no pending court challenges to the FCC's rules requiring application of the new services to PTAS.

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3. Qwest Set Its Payphone Features Rates Without Regard to the New Services Test.

Although NWPA believes that all payphone features should be set according to the new services test, the NWPA is focusing on CustomNet, also known as selective class of call screening. Qwest has long denied that CustomNet is subject to the new services test, refused to provide relevant cost data, and set rates according to prohibited criteria.

a. The new services test applies to CustomNet.

Qwest has refused to concede that CustomNet is a payphone feature subject to the new services test. TR 616, l. 23 to 617, l. 9 (Teitzel). There are no grounds for Qwest's position. First, the new services test applies to "*any unbundled features* [ILECs] provide to their own payphone services." *Order on Reconsideration* at ¶ 163 *(emphasis added)*. Qwest has admitted that it "does provide CustomNet to its own Basic PAL lines ordered by its payphone division," thus establishing conclusively that CustomNet is subject to the new services test. *See* Ex. NWPA/14 at 1.

Moreover, usage patterns show that CustomNet is a payphone feature. Indeed, the **{Confidential Information, No. 2}** of payphone service providers ("PSP") order it. For example, Qwest's data request responses show that the purchasers of **{Confidential Information, No. 3}** of the basic PAL lines in Oregon rely on CustomNet in order to provide service. Ex. NWPA/1 at 29, ll. 4-5 (Wood), ll. 3-6; Ex. NWPA/13 at 2.[10]

PSPs order CustomNet because it is essential to avoid fraudulent charges, as Qwest's network is currently configured. TR 620, l. 8 to 621, l. 9 (Teitzel). For example, a caller can access an operator using a payphone, ask the operator to place a call to Pakistan and charge the cost of the call to the phone from which the call is placed. In the absence of CustomNet, the operator may not see any call restrictions on the line. The caller completes the

[10] Based on factors like these, the FCC determined that GTE's selective class of call screening service is subject to the new services test. *Bell Atlantic Features Order* at ¶ 15.

call for free, and the PSP must pay for a call that may cost several hundred dollars. PSPs cannot reduce fraud by blocking access to certain operator service providers, because the FCC requires PSPs to provide access to all operator service providers as part of its implementation of the Telephone Operator Consumer Services Improvement Act. 47 U.S.C. § 226; Second Report and Order, *In the Matter of Policies and Rules Concerning Operator Service Access and Payphone Compensation*, 7 FCC Rcd. 3251 ¶ 4 (1992).

CustomNet solves this problem by inserting a code in the ANIii stream informing the operator that the call originates from a restricted line. Under these circumstances, the operator will not charge the call to the payphone. So, PSPs must purchase screening services like CustomNet to protect themselves.

The Maryland Public Utilities Commission explained the need to apply the new services test to essential payphone features like CustomNet when it rejected a request by Bell Atlantic-Maryland ("BA-MD") to exclude certain usage and features-related rate elements from the PAL rate setting process:

> As an initial point, we recognize that the primary goal of Section 276 is to encourage and promote competition within the payphone industry. To permit BA-MD to price a *necessary payphone element* contrary to the mandates of the FCC's payphone reclassification proceeding would be contrary to the purposes of the Act. Our findings are supported by the formal interpretation of Section 276 provided by the Common Carrier Bureau of the FCC to the office of the New Jersey Attorney General.

Maryland Order at pp. 17-18 (*emphasis added*). So, Qwest's evasiveness about the application of the new services test to CustomNet has no basis.

b. **Despite the fact that CustomNet is a payphone feature, Qwest never filed cost data for it**

Qwest filed even less data for CustomNet than it did for PAL. For example, Exhibit 219 has no direct or overhead cost information for CustomNet, and Mr. Teitzel admitted that Qwest did not provide that information in this docket. TR 623, ll. 13-17 (Teitzel).

Accordingly, Mr. Wood provided the only cost data, estimating that costs for CustomNet are **{Confidential Information, No. 4}** per month, per line. TR 763, ll. 20-24 (Wood).

Qwest attempted to excuse its failure to provide cost data by stating that "[s]ince US WEST is not proposing any price changes for originating line screening (a/k/a Selective Class of Call Screening) in this docket, a current Oregon TSLRIC cost and price floor analysis has not been prepared." Ex. NWPA/5 at 2. Qwest's decision to retain the current rate has no bearing on its FCC-imposed duty to file the required information. However, "[s]imply because Qwest is not proposing a rate change in this proceeding for a given PAL rate in no way excuses it from compliance with the requirements of the *Payphone Orders*." Ex. NWPA/1 at 29, l. 11-13 (Wood).

Based on the limited cost information available, Qwest's rates for CustomNet clearly violate the new services test. Qwest charges $2.00 per month for CustomNet service. Ex. NWPA/14. This is a **{Confidential Information, No. 5}** markup over its direct costs of **{Confidential Information, No. 6}**. TR 763, ll. 20-24 (Wood). Qwest never provided any justification for such an enormous overhead loading.

4. **Conclusion**

As the foregoing discussion illustrates, Qwest sets its PTAS rates according to a myriad of factors and methodologies then justifies them after the fact by claiming that they meet the new services test. This Commission should not reward Qwest for its failure to comply with the law by approving its currently-proposed rates.

B. QWEST'S PTAS RATES ARE DISCRIMINATORY

1. **Qwest's PAL rates improperly recover certain interstate costs twice**

Qwest admits that each PAL line sold gives it subscriber line charge ("SLC"), customer access line charge ("CALC"), end user common line ("EUCL"), and primary interexchange carrier charge ("PICC") revenues. TR 557, l. 21 to 559, l. 4 (Teitzel). However, Qwest has not lowered its proposed PAL rates to reflect that these charges recover non-traffic-sensitive interstate costs of PAL service, thereby giving Qwest a double-recovery of these costs. Ex. NWPA/1 at 32, ll. 3-9 (Wood). Qwest justifies this based on the fact that "application of SLC/CALC is applied in precisely the same manner for Qwest's local exchange services as it is to PAL services." Ex. Qwest/222 at 49, ll. 11-15 (Teitzel Rebuttal). This argument carries no weight.

First, the FCC has already recognized that ILECs must reduce PAL rates to account for these charges so that ILECs do not recover their costs twice. In the *Wisconsin Order*, the FCC directed certain ILECs to demonstrate that in setting their PAL rates they have "taken into account other sources of revenue (e.g., SLC/EUCL, PICC, and CCL charges) that are used to recover the cost of the facilities involved." *Wisconsin Order* at ¶ 12. Removal of these other sources of revenue from PAL rates is necessary "[i]n order to avoid double recovery of costs . . . ." *Id.*

Second, the nature of these federal charges clearly shows that they create a double recovery for Qwest. They are all charges Qwest collects to cover the non-traffic-sensitive *interstate* costs of its local loop. Qwest's PAL costs in this proceeding are jurisdictionally unseparated, and thus they include *both interstate and intrastate* costs of the local loop. Ex. NWPA/1 at 13, n.12 (Wood). By collecting the federal charges plus the PAL rate, Qwest recovers the interstate local loop costs twice.

The Tennessee Regulatory Authority arrived at the same conclusion when it directed Bell Atlantic-West Virginia to reduce its PAL rates to account for these revenues:

> [P]ayphone rates that are based on jurisdictionally unseparated costs are designed to recover a portion of the same costs that the SLC, EUCL and PICC are intended to recover. The TRA further found that LECs are authorized to collect the SLC, EUCL and PICC revenues from PSPs. Therefore, setting rates based on jurisdictionally unseparated costs and allowing the LECs to access the federal charges on PSPs in addition to collecting the rate would result in double recovery.

Tennessee Order at pp. 17-18. The West Virginia Public Service Commission and the Maryland Public Service Commission reached similar conclusions. *Maryland Order* at p. 23; *West Virginia Order* at p. 16.

The fact that Qwest applies these federal charges equally to local exchange services and PAL is irrelevant. Ex. Qwest 222 at 49, ll. 11-15 (Teitzel Rebuttal). Section 276 applies to PAL service, not local exchange services. Accordingly, Qwest does not need to obey Section 276's requirement of cost-based rates when setting local exchange rates.

By collecting interstate costs twice, Qwest discriminates against its competitors. Qwest can use the proceeds from its double-recovery to offer higher payphone commission payments than its competitors. As a result, competing payphone providers are subsidizing Qwest's payphone operations. Ex. NWPA/1 at 32, ll. 5-9 (Wood).

The Commission should direct Qwest to adjust its PAL rates to reflect the fact that it is already recovering part of its costs through these federal charges. Mr. Wood's recommended rates, discussed later in this brief, would accomplish this. This is essential to deny Qwest an unlawful and discriminatory advantage over its competitors.

2. <u>**Qwest's Rates and Practices Regarding CustomNet are Discriminatory**</u>

Many of Qwest's practices regarding CustomNet described throughout this brief are discriminatory, although they will not be fully repeated here. These practices include Qwest's **{Confidential Information, No. 7}** markup for CustomNet and its refusal to disclose cost data. TR 623, ll. 13-17 (Teitzel); TR 763, ll. 20-24 (Wood). Collectively, these and many other practices of Qwest discriminate against competitive payphone providers and erode their ability to provide viable competition with Qwest's payphone service.

C. QWEST'S PTAS RATES ARE INCONSISTENT WITH SECTION 276

Qwest's refusal to accept cost-based pricing clearly violates Section 276. As Mr. Wood argued, "Qwest has made no effort to demonstrate (or even to assert) that its existing or proposed rates for PAL service will permit the stated objectives of Section 276 – increased competition and widespread deployment of payphones – to be met." Ex. NWPA/1 at 34, ll. 13-15 (Wood). Mr. Teitzel merely claims that Qwest's PAL rates meets Section 276 without elaboration. Ex. Qwest/222 at 44, l. 15-17 (Teitzel Rebuttal). Similarly, Qwest's unjustifiably high CustomNet rates hurt independent payphone providers and thus undercut Section 276's objectives.

D. QWEST'S PTAS RATES ARE NOT COST-BASED

There is apparently no debate that Qwest must use a forward-looking economic cost methodology when setting PTAS rates. *See* Ex. NWPA/1 at 12, ll. 6-12, 18-22 (Wood). This cost methodology is TSLRIC. *Id.* at 13, ll. 1-4. However, this alone does not indicate that Qwest's PTAS rates are cost-based. The NWPA's evaluation of Qwest's rates is fully briefed in the section regarding the new services test.

E. THE COMMISSION SHOULD REJECT QWEST'S PTAS RATES

As described above, Qwest has failed to meet its burden of showing that its rates for PAL and payphone features, the two components of PTAS, meet each element of the FCC's four-part test. On this basis, the Commission should reject Qwest's proposed PAL rates as well as its currently tariffed rates for CustomNet.

III. <u>RECOMMENDATIONS FOR PTAS RATES</u>

Qwest's decision to ignore the new services test has made it more difficult for this Commission to set PTAS rates. However, NWPA proposes two approaches whereby the Commission can set Qwest's PTAS rates according to the FCC's four-part test by using the best available evidence.

A. RECOMMENDATION NUMBER ONE

Under the approach, the Commission should establish Qwest's direct and overhead costs based exclusively on the information it has produced in this proceeding. Under this approach, Qwest's direct costs would equal TSLRIC shown in Exhibit 219. Ex. NWPA/1 at 35, ll. 3-8 (Wood). Qwest's overhead loading should be zero, because Qwest did not prove its overhead costs and resisted attempts to extract them. The Commission should then subtract from the direct costs all federal charges which would otherwise permit double recovery of loop costs such as SLC/CALC and PICC. *Id.*

Qwest's rate for CustomNet should be zero. Ex. NWPA/1 at 36, ll. 10-15 (Wood). This is because it failed to produce any evidence for direct or overhead costs for this service. Otherwise, the Commission should set the CustomNet rate at **{Confidential Information, No. 8}** per month, based on Mr. Wood's evidence of Qwest's direct costs. *See* TR 763, ll. 20-24 (Wood).

B. RECOMMENDATION NUMBER TWO

Alternatively, the Commission could set rates based on a proxy for Qwest's PTAS overhead costs. As explained below, this would create fair, cost-based rates in accordance with Section 276.

a. The PTAS overhead loading should be the same as the UNE overhead loading

The Commission should set the overhead for Qwest's PTAS rates based on the percentage that overhead costs exceed direct costs for UNEs. This percentage is called the "overhead loading" factor. Ex. NWPA/1 at 31, ll. 20-22 (Wood). For Qwest's UNEs in Oregon, the overhead loading factor is **{Confidential Information, No. 9}**. *Id.*

There is precedent for this approach. In the *Wisconsin Order*, the FCC used the UNE overhead loading for PAL rates where ILECs provided insufficient evidence of their overhead costs. It did so because UNEs and PAL are both essential for the ILECs' competitors and thus are "comparable services":

> Absent justification, LECs may not recover a greater share of overheads in rates for the service under review than they recover from comparable services. . . . For purpose of justifying overhead allocations, *UNEs appear to be 'comparable*

services' to payphone line services, because both provide critical network functions to an incumbent LECs competitors and both are subject to a 'cost based pricing requirement.' Thus, we expect incumbent LECs to explain any overhead allocations for their payphone line services that represent a significant departure from overhead allocations approved for UNE services.

Wisconsin Order at ¶ 11 (*emphasis added*). Similarly, the West Virginia PSC used the UNE overhead loading factor when setting PAL rates for Bell Atlantic-West Virginia ("BA-WV"). In that case, BA-WV sought an overhead loading for PAL ranging from 33.2% to 102%. The PSC rejected this analysis, because "[t]here simply was insufficient evidence presented for BA-WV to justify such large overhead allocations." *West Virginia Order* at p. 15. The PSC substituted the 10.2% overhead allocation that previously had been used for UNEs. *Id.*

Plainly, there is widespread agreement that regulators can use the UNEs overhead loading factor as a substitute for PAL loading. The same logic applies to payphone features like CustomNet. So, this approach is appropriate in this proceeding, where Qwest has not provided sufficient information of its PAL or CustomNet costs.

b. **Application of the UNE overhead loading to Qwest's PTAS rates**

Mr. Wood's revised Exhibits NWPA/3 and NWPA/4 (attached in confidential folder) show how the Commission can use the UNE overhead loading factor to establish a statewide average rate for Qwest's PTAS. Under this approach, the Commission should:

- Establish *direct costs* using PTAS costs reported in Exhibit 219. These costs are listed in Column B, Exhibit NWPA/4.
- Establish *overhead costs* by multiplying Qwest's direct costs by {**Confidential Information, No. 10**}, the allowable overhead loading factor for UNEs. This is the proxy for Qwest's overhead loading.
- Add the direct costs in Column B to the overhead costs established above to calculate Qwest's *total allowable new services costs*.
- Adjust the total allowable new services costs based on the *universal service benchmark*. This number appears in Column E, Exhibit NWPA/4.

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- Establish and remove the revenues obtained from *EUCL/CALC* and *PICC*, to prevent double recovery of interstate line costs. These revenues are listed in Column F, Exhibit NWPA/4. The PTAS rates with these revenues removed appear in Column G. This is the final deaveraged rate.
- Establish a *statewide average rate* by weighing the deaveraged rate based on the line data provided by the Commission Staff. The weighing factor appears in Column D, Exhibit NWPA/3. The final statewide average rate appears in Column E, Exhibit NWPA/3.

NWPA believes that the statewide average rates in listed in Column E, Exhibit 3 are the most appropriate but has also provided deaveraged rates as an alternative in Column G, Exhibit 4. NWPA advocates a similar approach for CustomNet, as shown in Exhibit NWPA/4, page 4. Under this approach, the CustomNet rate is {**Confidential Information, No. 11**}. Ex. NWPA/4.

Mr. Wood developed the revised Exhibits NWPA/3 and NWPA/4 as substitutes for NWPA's original Exhibits NWPA/3 and NWPA/4. The original rate proposals were based on the cost study provided by Qwest in response to NWPA's data requests, which Qwest called "Exhibit 223" at that time. Ex. NWPA/1 at 37, ll. 6-10 (Wood). NWPA's revised rate proposal applies the same methodology to Qwest's updated cost information in Exhibit 219, except that Mr. Wood considered intrastate universal service funding when developing the revised rate proposal to account for the significant increases in the costs reported by Qwest for rate groups 2 and 3 in the new cost data. TR at 710, ll. 16 to 711, l. 4 (Wood).

c. **Qwest's objections to this approach are not credible**

Qwest has objected to NWPA's approaches based on unreasonable interpretations of applicable law and distortions of the proposals. None of Qwest's objections has merit. First, Qwest argues that NWPA cannot use the UNE overhead loading developed pursuant to Section 251 and 252 as a proxy for the PTAS overhead loading, because these Sections govern

UNE rates only, not payphone rates. *See* Ex. Qwest/222 at 47, p. 13-48, p. 4 (Teitzel Rebuttal). Qwest has misstated NWPA's position, however. NWPA agrees that the obligation to set cost-based rates is in Section 276 and the *Payphone Orders*, not Section 251 and 252. Mr. Wood only proposes that the Commission develop a PAL overhead loading *by analogy* to a service that is cost-based and its provided to Qwest's competitors. UNEs fit that description. Accordingly, UNE costs and rates are an appropriate benchmark for evaluating the level of PTAS overhead loading. Ex. NWPA/1 at 11, ll. 18-20 (Wood).

Of course, the only reason it is necessary to analogize PTAS and UNE overhead loading is due to Qwest's failure to file overhead cost information in this proceeding. Qwest could have avoided this result if it had only complied with its obligations. The Commission would only reward Qwest's failure by refusing to consider the overhead loading developed in the UNE proceeding.

Second, Qwest argues that the NWPA cannot rely on the *Wisconsin Order* because it was "drafted by a deputy director at the FCC" and "remains under dispute." Ex. Qwest/222 at 51, ll. 3-5 (Teitzel Rebuttal). Qwest cannot ignore the *Wisconsin Order* on this basis. It is a validly-issued FCC order, and Qwest cannot simply disregard it. The FCC has accepted petitions for reconsideration but has neither overturned nor stayed it more than one year after it was issued. Moreover, it is the FCC's last word on the new services test and thus provides very useful guidance about how the FCC would apply the new services test to similar situations.

Apparently, Qwest's strategy is to convince this Commission that the NWPA's case is based solely on the *Wisconsin Order*, then to discredit it. As stated throughout this brief, the *Wisconsin Order* is only a small part of the NWPA's case. Moreover, Qwest's obligations under the new services test preexisted the *Wisconsin Order*, which was released in 2000. As Mr. Teitzel admitted, the *Reconsideration Order* issued in 1997 requires Qwest to apply the new services test to PAL service. TR 616, ll. 14-22 (Teitzel). So, Qwest's PAL rates should be lower, regardless of the *Wisconsin Order*.

Third, Qwest alleges that Mr. Wood cannot propose a statewide average PAL rate, because this would be an unlawful subsidy under Section 276(a)(1). Ex. Qwest/222 at 51, l. 20 to 52, l. 2 (Teitzel Rebuttal). This is incorrect. Section 276(a)(1) prevents a LEC from "subsidizing . . . its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations." 47 C.F.R. § 276(a)(1). The term "payphone service" refers only to customer premises equipment only, not PAL, as Mr. Teitzel admitted at the hearing. TR 541, ll. 14-24 (Teitzel). Accordingly, the Commission can establish a statewide PAL rate without violating Section 276. However, Mr. Wood has provided deaveraged PAL rate recommendations as an alternative.

Finally, Qwest argues that universal service revenues "are not relevant to this proceeding." Ex. NWPA/8 at 1; *see* TR 587, ll. 1-14 (Teitzel). To the contrary, this Commission's Universal Service Order expressly stated that "the OUS Program should support all residential and business basic local exchange lines." Order, *In the Matter of the Investigation of Universal Service in the State of Oregon*, UN 731, Order No. 00-312 (2000). Similarly, the FCC requires support for all "[v]oice grade access to the public switched network." 47 C.F.R. § 54.101. Accordingly, universal service applies to all lines, including PAL.

d. **It is reasonable that rates under the new services test would be less than current rates**

NWPA's proposed PTAS rates are lower than existing rates, as should be expected. Section 276 and the FCC's *Payphone Orders* require the application of a cost-based pricing standard that is fundamentally different from the way these rates were initially established. Comparing the existing rates for payphone access services with these new rates is consequently "purely an apples to oranges comparison." Ex. NWPA/1 at 39, ll. 8-9 (Wood).

In fact, the FCC intended for payphone rates to be lower under the new services test than they were previously. This was the only way to meet the goal of Section 276, which was to promote the wide deployment of payphones:

> [O]ur ultimate goal in this proceeding is to ensure the wide deployment of payphones through the development of a competitive, deregulatory payphone industry. To achieve this goal, we found that it would be necessary to eliminate certain vestiges of a long-standing approach to payphones. To this end, the *Report and Order* directs the removal of subsidies to payphones, provides for nondiscriminatory access to bottleneck facilities, ensures compensation for all calls from payphones, and allows all competitors an equal opportunity to compete for essential aspects of the payphone business.

Order on Reconsideration at ¶ 139. Congress and the FCC would not have wasted their resources developing a new methodology if they wanted PTAS rates to remain the same. Even Mr. Teitzel admitted that if the *Wisconsin Order* were not overturned or if the Oregon PUC applied the methodology set forth in the *Wisconsin Order*, Qwest's PAL price "would be lower than the flat business price we proposed here in this docket." TR 611, l. 14 to 612, l. 9 (Teitzel).

Qwest's proposed approach for keeping PAL rates low is directly contrary to these goals. Qwest argues that the "contribution" added to its PAL rates will remain low because "[i]f the prices for particular services are too high, customers will simply curtail purchasing these services." TR 599, ll. 1-6 (Teitzel). In the context of payphone service, a payphone service provider's decision to "curtail" PAL service would mean that "service wouldn't be available at that location," as Mr. Teitzel admits. TR 600, ll. 3-4 (Teitzel). This would reduce deployment, not increase it.

Apparently, Qwest does not acknowledge that Congress and the FCC support wide deployment of payphones through lower rates. For example, Mr. Teitzel admits that PAL and residential service have **{Confidential Information, No. 12}** costs, but he justifies PAL's higher price based on the fact that residential rates "have been held relatively low for a long period of time for societal reasons that are completely separate and distinct from services like . . . public access line services." TR 603, ll. 14-18 (Teitzel); TR 608, ll. 20-23 (Teitzel). He claims that the societal reason for keeping rates low is to insure that "penetration rates of residential access line services are high in the state of Oregon." TR 609, ll. 1-4 (Teitzel). Yet, these "societal reasons" that support high penetration for residential service apply equally to PAL service under Section 276.

As Congress and the FCC recognized, promoting payphones is an important policy goal even with the wide deployment of cellular service. In those geographic areas of Oregon where cellular coverage is unavailable, and for certain groups of customers in all areas, payphones represent an important "last resort" means of communication. This is especially true for customers who do not have residential telephone service, which may be as much as five percent of the residences in Qwest's Oregon territory. *See* TR 609, l. 19 to 610, l. 13 (Teitzel).

To achieve the objectives of Congress and the FCC, Qwest must comply with the new services test now. Independent payphone providers can no longer compete effectively with Qwest's payphone operations and cellular telephones without cost-based rates. As the competitive position of these independent payphone providers continues to weaken, it will become more difficult to ensure widespread deployment of payphones in Oregon. But the diminishing base of payphones and struggle of payphone providers is not inevitable. The decline in the number of payphones relative to cellular phones is at least partially a product of the different rate-setting approaches adopted by ILECs. For example, the FCC promoted cell phone growth by directing ILECs to permit cellular providers to interconnect at cost-based rates. The ILECs have complied, and cellular providers have thrived as a result. Ex. NWPA/1 at 8, 9-22 (Wood). The FCC also attempted to promote the payphone industry by requiring ILECs to assess cost-based rates. ILECs like Qwest resisted, and the payphone industry has suffered as a consequence. Forcing Qwest to comply with its duties would go a long way towards reversing this decline.

Qwest's adoption of cost-based PTAS rates *in this proceeding* is essential to permit independent payphone providers to compete with both Qwest's payphone operations and cellular providers on a reasonably equal footing. Otherwise, the independent payphone industry will continue to wither. Once that occurs, Qwest price increases are inevitable. In fact, they are already occurring, as shown by Qwest's new fifty cent coin rate. TR 610, l. 21 to 611, l. 5 (Wood).

IV. CONCLUSION

Qwest has never complied with the FCC's four-part test. It has simply set payphone rates according to whatever methodology it chooses, either in the hope that this Commission will be distracted by other issues in this proceeding or that the financially depleted independent payphone providers will have insufficient resources to force Qwest to do otherwise. This is unacceptable under Section 276 and the FCC's *Payphone Orders*. Accordingly, the Commission should reject Qwest's PTAS rates and instead adopt the rates proposed by NWPA, which conform to federal law.

DATED this 28th day of June, 2001.

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June 29, 2001

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Public Utility Commission of Oregon
Administrative Hearings Division

Via Hand Delivery

Ms. Frances Nichols
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Re: UT 125 – Rate Design

Dear Ms. Nichols:

I am enclosing for filing the original and five copies of Qwest Corporation's Post-Hearing Opening Brief in the above-referenced docket. Please note that Appendix A is confidential and is being filed under seal pursuant to the terms of Protective Order No. 96-045 that was issued in this docket. Thank you for your attention to this matter.

Sincerely yours,

Lawrence Reichman

LR:hmr
Enclosures

cc: Service List
Randy Kim

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UT 125
Phase II

In the Matter of the Application of U S WEST Communications, Inc. for an Increase in Revenues	**QWEST CORPORATION'S POST-HEARING OPENING BRIEF**

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INTRODUCTION

The rate design under consideration in this phase of the case will lower Qwest's revenue from regulated services by approximately $64.2 million. The Commission must balance the interests of competing customer groups (many of whom are competitors of Qwest) in distributing this revenue reduction among different customer classes and services. Although Qwest proposes numerous pricing changes, the significant areas of dispute are limited to the rates for the following services: switched access, toll, Centrex Plus, EAS, business basic (including public access lines), and residential basic service.

In two of these areas -- switched access and public access lines -- some of the other parties would like the Commission to treat the services as unbundled services and order rates that are equivalent to unbundled network element ("UNE") prices established pursuant to Section 252 of the Telecommunications Act of 1996. These are finished services, however, and the Commission should allow these services to provide a greater level of contribution to joint and common costs than do UNEs.

With respect to toll service, the Commission should base this rate design on Qwest's billing units from 1997, as required by the Stipulation that resolved the revenue requirement phase of this case, and reject the other parties' request that the Commission adjust those billing units by forecasting growth through application of a demand elasticity factor. Even if the Commission could adjust the toll billing units for forecasted demand growth, no party has established an evidentiary record that could support such a decision. Rather, those parties rely on outdated elasticity studies that are plainly inapplicable in today's competitive environment. The Commission should also approve Qwest's six cent per-minute Super Savings rate for business customers and approve a distinction in rates between business and residential customers.

The Commission should also approve Qwest's proposed modest increase in residential basic service rates, consistent with the mandate to limit the difference between the price of basic

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service and the universal service benchmark of $21.00. This price increase will help stimulate competition in the residential market, and will be more than offset by Qwest's proposed reductions in EAS rates as well as the other rate reductions that Qwest proposes. Finally, the Commission should approve Qwest's proposed rates for Centrex Plus service based on cost and pricing considerations applicable to retail services.

Qwest's rate design proposal represents a fair distribution of the revenue reduction that will ensure that consumers realize significant rate reductions. The other parties' proposals do not reach such a balanced result. Accordingly, the Commission should adopt Qwest's proposed rate design.

ARGUMENT

I. ISSUE 1: SWITCHED ACCESS

A. Introduction

Qwest proposes a 52 percent overall reduction in switched access rates, including the complete elimination of the Carrier Common Line ("CCL") charge. AT&T and WorldCom want even lower switched access rates, and argue that the Commission should set Qwest's intrastate switched access rates at the equivalent rates for unbundled network elements ("UNEs"). These parties are quick to acknowledge that this is not required by the Telecommunications Act of 1996 (the "Act") or by any provision of Oregon law. They assert, however, that such pricing is required to avoid a "price squeeze" that would force them to leave the Oregon market because their margins would decrease. Upon closer examination, these arguments are so plainly flawed that AT&T's witness quickly back-pedaled, testifying that the alleged price squeeze is more accurately described as a "competitive advantage" for Qwest.

All of AT&T's and WorldCom's arguments requesting that the Commission set switched access rates equal to their cost ring hollow. At bottom, all that these carriers want is to lower their costs and increase their profit margins. Qwest agrees with these carriers and Staff that a significant price reduction in switched access rates is appropriate; that is why Qwest proposes to

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reduce such rates by 52 percent overall, utilizing approximately 25 percent of the total revenue reduction in this case. Any further reductions are unjustified, and would not result in consumer savings.

Qwest also proposes a restructuring of switched access rates, introducing several new rate elements for local transport to bring the intrastate rate structure in line with the interstate rate structure. The other parties agree that the proposed rate structure is appropriate, but AT&T challenges certain of the new rates on the grounds that they would result in some double recovery of costs. AT&T is wrong.

B. Qwest Is Not Required to Price Switched Access at UNE Rates

Both AT&T and WorldCom ask the Commission to price Qwest's rates for switched access service at the same prices the Commission established for equivalent building blocks, currently being converted to UNEs, in Docket UM 844. Ms. Starr, appearing for AT&T, cites in her testimony the pricing standard from Section 252(d)(1) of the Telecommunications Act. She also states that Qwest's proposed rates for intrastate switched access do not comply with the requirements of the Act. AT&T/1, Starr/23. Similarly, Mr. DiTirro, appearing for WorldCom, testifies that Qwest's proposed rates for intrastate switched access "are directly contrary to the Act's requirement that prices be cost based." WorldCom/1, DiTirro/16.

Each of these witnesses agrees, however, that Qwest is not required to unbundle switched access service under Section 251 of the Act, and that Section 252 does not establish the pricing standard for the Commission to apply in setting switched access rates in this proceeding. Tr. 301, line 22 - 302, line 4 (Starr); Tr. 393, lines 3-7 (DiTirro). AT&T also agrees that there is *nothing* in the Act that requires the Commission to set switched access rates equivalent to comparable UNE rates established in Docket UM 844. Tr. 303, lines 6-9. Under current federal law, IXCs could use certain UNEs to provide toll service to customers, thereby avoiding switched access charges for those customers, if the IXCs provide a significant amount of local exchange service in addition to exchange access service to those customers. Tr. 303, line 15 - 304, line 4. *In the*

Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, 1999 FCC LEXIS 5999, ¶¶ 4-5 (FCC 99-370, rel. Nov. 24, 1999). There is no reason for this Commission to allow what the FCC has not yet seen fit to allow. Qwest/229, McIntyre/9-10. If the FCC decides to allow IXCs to purchase UNEs to provide toll service without also providing local exchange service, Oregon has UNE prices in place that can be applied. Until the FCC makes that decision, however, there is no reason for Oregon to make that pricing available.

AT&T's witness also agreed that setting switched access at the UM 844 prices is not required by Oregon law. Tr. 304, lines 8-22. The UM 844 rates that these parties desire are the *price floors*, or minimum rates, for switched access service under Oregon law. Id. It makes no sense that the Commission should set retail rates at the price floor.

C. Qwest's Proposed Switched Access Rates Will Not Result in Any Price Squeeze on IXCs

1. What is a price squeeze?

AT&T and WorldCom's witnesses all assert that Qwest's proposed toll rates will result in a "price squeeze" on competing carriers. These parties do not define this term precisely nor do they use it correctly. Dr. Selwyn, appearing as an expert for both AT&T and WorldCom, equates a price squeeze with "narrowing the gross margin available to its competitors." AT&T-WCOM/1, Selwyn/11, line 21. His argument is that if the rate for switched access is above its cost, then Qwest's toll "competitors will thus face a lower gross margin, assuming that retail rates are set at a similar level." AT&T-WCOM/1, Selwyn/18, lines 17-21.

The fundamental flaw in AT&T/WorldCom's argument is that they do not use the term price squeeze in a technically correct sense. A price squeeze exists only in the limited circumstances where two or more equally efficient providers compete in a retail market and one of the firms is the sole provider of an essential bottleneck facility needed by the other providers to produce the retail service. Further, a price squeeze requires that, in those circumstances, the firm supplying the essential facility prices the retail service below the price it charges retail competitors for the essential service, eliminating its competitors' margins and driving them out of the market. Qwest/230, Brigham/2-3. *See also* Qwest/229, McIntyre/19. When confronted with the proper price squeeze definition, AT&T's witness quickly admitted that "price squeeze" is too strong a term to describe the situation that AT&T hypothesizes; rather, she testified it is more like a "competitive advantage from a pricing and cost perspective." Tr. 308, lines 16-20.

The price floor test that the Commission employs pursuant to ORS 759.410(4) provides complete assurance that Qwest's switched access and toll rates will not cause a price squeeze. Qwest/230, Brigham/3. That is, as long as Qwest's toll service is priced above its price floor (which it is), Qwest's rates for switched access cannot squeeze its competitors from the toll market. Only if Qwest's toll rates fall below the price floor is there any possibility of a price squeeze. Id.

In 1998, the California PUC ("CPUC") reduced intraLATA toll and switched access for Pacific Bell in context of $305 million revenue reduction. AT&T and MCI argued in that case that the CPUC should reduce switched access rates to economic cost. They argued, as they do here, that the CPUC needed to do that to avoid a price squeeze. The CPUC rejected that argument, finding that the price floors the Commission had established "are sufficient to prevent anti-competitive behavior." *Re Pacific Bell*, Decision 98-07-033, Application 97-03-004, 187 P.U.R.4th 120, 1998 Cal. PUC LEXIS 570 at 15 (hereinafter "*Pacific Bell*").[1] This Commission should reach the same conclusion under Oregon law and the evidence presented in this case.

AT&T, MCI and Sprint also pledged to the CPUC that they would pass-through the entire amount of any switched access reductions to consumers in the form of lower intraLATA toll rates. The CPUC relied on those pledges in ordering some reductions to switched access rates.

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[1] A complete copy of *Pacific Bell* is attached to this brief as Appendix B. Page references are to the pages of the exhibit as numbered in the top, right-hand corner.

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Pacific Bell at 20. Neither AT&T nor WorldCom has been squeezed out of the intraLATA toll market in California, despite the facts switched access rates were not reduced to economic cost and that they passed through the entire amount of switched access reductions. Tr. 202, lines 12-22; Tr. 203, lines 11-12. Indeed, AT&T is not aware of any instance where any ILEC, including Qwest, has squeezed an IXC from the market. Tr. 311, line 2 - 312, line 6. AT&T acknowledged that "rules," "such as imputation of costs" exist "to try and prevent that behavior from happening." Id. In this regard, AT&T is correct.

2. AT&T and WorldCom do not prove that a price squeeze would result from adoption of Qwest's proposed rates

All that AT&T and WorldCom's testimony and examples show is that if Qwest lowers its toll rates by an average per-minute amount more than Qwest lowers its switched access rates, this may lower IXCs' margins on toll service. Needless to say, lowering Qwest's price for toll service will also lower Qwest's margins for toll service. Qwest's proposed rates for toll and switched access will *not*, however, result in a price squeeze on other IXCs.

AT&T and WorldCom's examples assume several things that may not prove to be true, and exaggerate the effect of the reduction in their margins. First, AT&T's examples assume that other IXCs will match Qwest's price reductions precisely. Tr. 188, lines 10-19. AT&T's and WorldCom's witnesses, however, were not very clear that this would be the case. Tr. 186, line 7 - 190, line 7; Tr. 394, line 23 - 398, line 5. Second, AT&T's examples assume that other IXCs' non-access costs are 4 cents per minute and are equal to Qwest's. Tr. 324, lines 5-9. AT&T acknowledged that IXCs' non-access costs could be different from Qwest's. Tr. 324, lines 10-12. In reality, other IXCs' non-access costs are more likely in the range of 1 to 2 cents per minute. *Pacific Bell* at 17. Other IXCs' non-access costs are also very likely to be lower than Qwest's because, between interLATA and intraLATA toll service, they carry as much as 12 times more traffic than does Qwest. Qwest/229, McIntyre/15; Tr. 380, line 9 - 382, line 20. Thus, there is a much larger base over which to spread their non-access costs.

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Third, AT&T's and WorldCom's testimony assumes incorrectly that these carriers have "no alternative" to using switched access to carry toll calls for Qwest local service customers. As was made clear in the hearing, these IXCs use "special access" circuits for their high-volume intraLATA toll customers, completely bypassing Qwest's switched access charges for all originating and some terminating traffic for these customers. Qwest/229, McIntyre/ 15-16; Tr. 196, line 8 - 200, line 5; Tr. 326, line 17 - 328, line 16; Tr. 354, lines 4-9; Tr. 400, lines 6-17. Indeed, based upon information provided by WorldCom in discovery, it appears that at least approximately 15 percent of the Oregon intraLATA toll MOUs carried by WorldCom travel over special access circuits provided by Qwest. Tr. 402, line 1 - 404, line 5; Exs. Qwest/235 and Qwest/236.[2] This does not even account for special access circuits that are provided by other carriers besides Qwest or by WorldCom itself. Id. Thus, by assuming that IXCs pay Qwest switched access charges for each minute of intraLATA toll traffic, these examples overstate IXCs' reliance upon switched access service and the cost of switched access to IXCs for each minute of intraLATA toll that they carry.

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[2] This figure is derived from WorldCom's response to Qwest's data requests, utilizing the month of October 2000 as an example. Ex. Qwest/236, Confidential Attachment A, shows the MOU for originating and terminating intraLATA toll that WorldCom carried over dedicated, or special access facilities that WorldCom leased from Qwest for that month. Ex. Qwest/235, Confidential Attachment C, shows the MOU of intraLATA toll traffic for which WorldCom paid Qwest switched access charges for the same month. Adding these numbers together produces a total of MOU of intraLATA toll for WorldCom customers in Qwest's Oregon territory for that month, which is the denominator in the calculation. The numerator is the MOU for special access.

This percentage figure is on the low side since it only includes MOU for special access carried over circuits that WorldCom leased from Qwest. It does not include MOU for special access over circuits that WorldCom obtained from other providers or self-provisioned in Qwest's territory. Ex. Qwest/236; Tr. 402, line 21 - 403, line 12. Including that data, if WorldCom had made it available, would increase the numerator of the equation and, consequently, the overall percentage of traffic carried over special access circuits. Although Qwest requested the same information from AT&T, that company was not as forthcoming in the discovery process, nor could its witness provide this information at the hearing. Tr. 330, line 7 - 332, line 10.

The bottom line is that IXCs still can be quite profitable if the Commission approves Qwest's proposed toll and switched access reductions. Dr. Selwyn testified that if Qwest lowers its ARPM by 6.2 cents per minute and lowers its switched access rates by 2.9 cents per minute, as Qwest has proposed, that would reduce competitors' margins by 3.3 cents per minute. Tr. 185, lines 19-23. As discussed above, that example assumes that competitors will reduce their intraLATA toll rates by an equal amount to Qwest, which may not be the case. Tr. 186-190. Even so, WorldCom's current average gross margin for intraLATA toll service above the price it pays to Qwest for switched access service on a per-minute-of-use basis is Confidential Number A.[3] This would still leave WorldCom a gross margin of Confidential Number B, more than enough to cover its non-access costs of 1-2 cents per minute and still make a healthy profit. AT&T's witness did not know what AT&T's actual gross margin for intraLATA toll service in Oregon is, despite the fact that her testimony presents alleged examples of margin reduction and so-called price squeeze. Tr. 325, line 7 - 326, line 7. AT&T's witness did testify, however, that AT&T would not leave the Oregon market if it were earning a gross margin of 3.4 cents per minute. Tr. 323, lines 22-25.

As stated above, AT&T's and WorldCom's examples assume that they will match Qwest's price reductions precisely and that they have no other means of recovering switched access charges. AT&T's recent experience proves otherwise. AT&T recently introduced in Colorado a monthly charge of $1.25 to its intrastate toll customers to cover at least a portion of its intrastate switched access costs. Tr. 320, line 12 - 321, line 20. AT&T may also introduce such a charge in Oregon. Tr. 321, line 21 - 322, line 8. Assuming, as discussed in Dr. Selwyn's example, that competitors' gross margins are reduced by 3.3 cents, a charge of $1.25 per month would cover

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[3] Confidential Appendix A hereto includes all confidential numbers used in this brief.

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the full "lost margin" for approximately 38 minutes of intraLATA toll calls per month.[4] IXCs also charge their customers the full cost of special access circuits, further reducing IXCs' overall access costs. Tr. 328, lines 1-8; Tr. 411, line 11 - 412, line 12. IXCs such as AT&T and WorldCom also may offer interLATA toll service in addition to intraLATA service. These competitive advantages -- including the ability to increase their prices in Oregon by the introduction of new rate elements without Commission approval -- provide the IXCs with many opportunities to remain competitively successful and profitable in the intraLATA toll market despite the level of reductions in Qwest's toll and switched access service.

D. Staff Does Not Support Its Proposed Level of Switched Access Rates

Staff also recommends a greater level of reduction in switched access rates than Qwest, although Staff does not go as far as AT&T and WorldCom. Staff still would reduce switched access rates by approximately $21.8 million, representing approximately 34 percent of the total revenue reduction in this case. Staff/2, Ball/4.

The principal reason asserted by Staff for this proposed level of switched access reductions is to remove what Ms. Van Landuyt perceives to be an "arbitrage" problem between the intrastate and interstate jurisdictions. Staff/3, Van Landuyt/4. The IXCs self-report the jurisdiction of their traffic through the use of a Percent Interstate Usage factor ("PIU"). Ms. Van Landuyt is concerned that IXCs will report usage through the PIU in the jurisdiction with the lowest rates, regardless of the true nature of the calling, and believes that bringing the rates closer

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[4] Even if it does not introduce such a surcharge, AT&T recently filed increased rates in Oregon for intrastate toll which include significantly higher charges for calls made through switched access as distinguished from those made over special access circuits. *See* Appendix I. For intraLATA calls, AT&T's rate for the same call made through switched access is 3.3 cents higher for the first 30 seconds than the same call made over special access. For intrastate interLATA calls, where AT&T does not compete with Qwest, AT&T's rate for calls through switched access is 6.9 cents higher for the first 30 seconds than the same call made over special access. Appendix I, p. 6. Appendix I is a public document from the Commission's files, which dates from after the hearing, and Qwest respectfully requests the Commission to take official notice of it. This also shows that AT&T and other IXCs are able to recover the costs of switched access in their rates.

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together will reduce that incentive. Id.; Tr. 455, line 10 - 456, line 1. The flaw in her reasoning is that this incentive exists under the current rate structure. Tr. 456, lines 2-4. Despite that fact, she is not aware of any misreporting instances in Oregon. Tr. 456, lines 8-10. Indeed, *any* lowering of the switched access rates will reduce that incentive. Tr. 456, lines 5-7.

Ms. Van Landuyt does not believe that Qwest has any incentive to vigorously pursue reporting problems. Staff/3, Van Landuyt/4, lines 22-23. Her testimony does not withstand even the slightest scrutiny. If the intrastate switched access rates are higher, Qwest would receive greater revenues if it vigorously pursues misreporting problems. Qwest/229, McIntyre/4-5; Tr. 457, lines 5-19. Ms. Van Landuyt's concern that Qwest's election of price cap regulation removes any incentive to capture greater revenue also is counter-intuitive and remains unexplained. Staff/3, Van Landuyt/4. Ultimately, Ms. Van Landuyt admitted at the hearing that Qwest does have a financial incentive to pursue misreporting problems. Tr. 457, lines 20-23. Moreover, Qwest has available, through Signaling System 7, technology that can track the actual nature of traffic to detect and remedy any misreporting instances. Qwest/229, McIntyre/4; Tr. 457, line 24 - 458, line 19. It is not appropriate to base a rate design on an unsubstantiated fear that IXCs will engage in fraudulent behavior.

E. The Commission Should Adopt Qwest's Proposed New Rate Elements

Qwest also proposes a restructuring of switched access rates, introducing four new rate elements for local transport to bring the intrastate rate structure in line with the interstate rate structure. Qwest/209, McIntyre/25-28. The other parties agree that the proposed rate structure is appropriate, but AT&T challenges Qwest's proposed rates for the tandem trunk port, the end office shared port, and the end office dedicated trunk port on the grounds that they may result in some double recovery of costs. AT&T/1, Starr/16-18.

AT&T bases this position on two footnotes in Ex. Qwest/219, which indicate that the cost basis for these new rate elements "is included in the tandem switching building block" and the "local switching building block." Id. This does not mean, however, that Qwest is double-

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recovering these costs. As Mr. McIntyre explained in his rebuttal testimony, the building block cost studies were prepared and approved by the Commission before Qwest filed to separate these rate elements in this case. The fact that the underlying costs for these new rate elements are included in the building block costs for more inclusive elements does not mean that there is any double-counting, and there is none. Qwest/229, McIntyre/11.

F. Summary

The Commission should approve Qwest's proposed significant reductions in switched access rates and the restructure of those rates. The Commission should reject AT&T and WorldCom's arguments that these rates should be reduced to their underlying cost because they have failed to prove that such a drastic reduction is required by law or otherwise justified. The Commission should also reject Staff's proposal which is between Qwest's and AT&T-WorldCom's, as Staff has not provided adequate support for that proposal. Reductions in switched access rates will only boost IXCs' margins; they are not guaranteed to lower the rates paid by consumers of toll service.[5] The Commission would be able to make sure that the revenue reductions ordered in this case result in lower consumer rates for telephone service by limiting the switched access rate reductions to the level proposed by Qwest and allocating the remainder of the revenue reduction to other retail rates.

II. ISSUE 2: PRIVATE LINE

A. Introduction

There is one primary area of disagreement between Staff and Qwest with respect to private line rates. Staff proposes setting the price for some channel performance rate elements at

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[5] Notwithstanding the grudging apparent agreement by AT&T to pass along the full level of switched access rate reductions to customers in the form of lower rates (Tr. 313, line 12 - 318, line 21), neither WorldCom nor any other IXC has made a similar commitment. Tr. 393, line 12 - 394, line 3. Staff has no opinion as to whether lower switched access rates will result in lower toll rates for Oregon consumers (Tr. 458, line 20 - 459, line 7), and it is not clear that the Commission can order IXCs to pass along such savings or that this will otherwise occur. Qwest/229, McIntyre/23.

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rates that are lower than Qwest's proposal. Pricing channel performance at the lower level proposed by Staff would cause the price for reselling private line services, including both a NAC and a channel performance element, at the current resale discount rate of 22 percent to be below the UNE price for the service and, consequently, below the price floor. Staff and Qwest agree that the discounted price of a retail service should not fall below the price floor; however, only Qwest's proposal achieves this result. It is appropriate to consider a NAC and a channel performance rate element together in analyzing what the discounted price would be, because neither element purchased independently provides a telecommunications service.

Pricing at the low level proposed by Staff is also inappropriate because channel performance is generally increasing in cost. Consequently, it makes sense to build in a sufficient cushion above the price floor so that Qwest will not need to ask the Commission to raise the price later to ensure that it remains above the required floor (assuming that the Commission has the power to make such adjustments).

B. The Commission Should Set Channel Performance Rates at Qwest's Proposed Higher Levels to Avoid Below-Cost Resale Pricing

Staff proposes setting Qwest's rates for private line elements at approximately 25 percent over the UM 844 rates. The basis for Staff's proposal in this regard is to "assure[] that when a CLEC orders private line services for resale, the discounted rate will not be lower than the sum of the UNEs required for the equivalent bundled service." Staff/3, Van Landuyt/8. Staff's proposal in this regard is based upon the fact that 22 percent is a common resale discount rate in Qwest's Oregon interconnection agreements. Tr. 460, lines 12-14. Staff's witness believes that it is both important and necessary to make sure that the discounted resale price is not below the price floor. Tr. 460, line 20 - 461, line 10. Qwest agrees that this is both important and necessary. It would not be appropriate for Qwest to be required to resell a finished service at a price that is below the price floor established by ORS 759.410, or the equivalent UNE prices.

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Staff, however, departs from this proposal when it comes to analog NACs. In the case of analog NACs, Staff proposes prices based upon the equivalent UNE prices plus a mark-up that ranges from 13 to 18 percent. Staff/3, Van Landuyt/8. Staff acknowledges, however, that a NAC priced at that level would be sold for resale below the price floor, assuming a 22 percent discount were applied. Tr. 461, lines 18-22. Staff's only defense of that proposal is that the rates for private line NACs are increasing significantly from their current levels, particularly in Rate Groups 2 and 3, and the lower mark-up helps to avoid "rate shock." Tr. 461, line 22 - 462, line 3.

Qwest understands Staff's desire to avoid rate shock. In fact, Qwest proposed an alternative method to address the "rate shock" of increasing the NAC rates in Rate Groups 2 and 3, which involved a phase-in of the higher rates. Qwest/209, McIntyre/11-12. Since Qwest's rate design proposal is based on the final, higher rate of this phase-in period, customers would gain and Qwest would lose revenue from this phase-in approach.

The problem with Staff's proposal is that, with lower channel performance rates, the price of a combination of a NAC and channel performance, when sold at a wholesale discount of 22 percent, is below the price floor. As an example, the price of a 2-wire NAC in Zone 1 plus a common channel performance element (Voice Grade 32 Loop Start Sig - LS) under Staff's rate proposal equals $24.75. Staff/6, Van Landuyt/1, 3. The price of those elements under Qwest's proposal equals $25.40, with Qwest's higher channel performance rate making up the difference. Id. The price floor for these elements combined is $20.96. Id. Thus, Qwest's proposed rates are 21 percent above the floor, while Staff's are only 18 percent above the floor.

The Commission should choose Qwest's higher channel performance rates to avoid the untenable situation of requiring Qwest to resell services at prices that are below the price floor. It is appropriate for the Commission to consider the price floor analysis using a combination of these rate elements because the service that a CLEC would purchase for resale is private line, including a NAC and some element of channel performance. All private lines require some channel performance element. If a customer bought channel performance and nothing else, they could not

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do anything with it. Tr. 467, Lines 11-14. Staff's witness did not even know if she would characterize a channel performance element as a telecommunications service. Tr. 467, lines 6-10. For these reasons, the Commission should adopt Qwest's higher channel performance rates.

C. The Commission Should Adopt Qwest's Proposed Channel Performance Rates to Avoid the Need to Raise the Rates in the Future

Pricing channel performance rate elements at the low level proposed by Staff is also inappropriate because channel performance is generally increasing in cost. Analog private line services are in general decline as customers shift to newer technologies. Qwest/229, McIntyre/27. Future regulatory proceedings concerning these services will add unnecessary administrative expense to a product line already faced with rising costs. An additional cushion above the price floor, as proposed by Qwest in this case, will reduce the likelihood that Qwest will need to ask the Commission to raise the price later to ensure that it remains above the required floor (assuming that the Commission has the power to make such adjustments, a subject as to which Staff's witness expressed no opinion (Tr. 462, line 21 - 463, line 17)).

D. The Commission Should Adopt Qwest's Proposed Digital Private Line Rates

Both Qwest and Staff propose reduced rates for digital private line services, although Staff proposes a greater level of reductions. Staff/3, Van Landuyt/10-11. Qwest prefers its rate design proposal, but is willing to accept Staff's proposal.

III. ISSUE 3: MESSAGE TOLL

A. Introduction

The primary area of disagreement between Qwest and the other parties with respect to the amount of the reduction in toll revenues relates to Staff's recommendation that the Commission apply a "stimulation" factor in computing the amount of the reduction in revenue that will result from a decrease in Qwest's toll rates. Staff recommends that the Commission apply a demand elasticity factor of -0.3632, which is the result of a 1990 study based upon intraLATA long distance demand data from the 1980s. The effect of applying this factor would be to reduce the

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amount of revenue reduction resulting from Qwest's rate decrease by approximately $6.3 million, from approximately $32 million to approximately $25.7 million. Staff proposes other adjustments to Qwest's rate proposal to arrive at a revenue reduction for toll of approximately $23.4 million.

Qwest contests Staff's proposed elasticity adjustment on several grounds. First, the effect of Staff's proposed adjustment is to increase the units of toll (minutes of use or "MOU") from those recorded in the test period, which is not permissible under the Stipulation that the Commission approved in Order No. 00-190. Second, even if an elasticity adjustment were permissible in this phase of the case, the 1990 study is entirely inapplicable in 2001, even according to its own terms. The competitive landscape for intraLATA toll has changed so drastically since the 1980's that results from a study based on that time period cannot be applied today with any semblance of credibility. More recent studies suggest much lower levels of stimulation, as well as the conclusion that demand is nearly inelastic at the price levels at issue. Third, if the Commission were able to engage in the practice of predicting the revenue impact of toll rate reductions by adjusting test year units, the Commission should try to do that accurately. If the Commission is to assume that use of Qwest's toll service will be stimulated by lower prices, the Commission also must consider all other factors that will affect toll demand, such as competitive response from wireline and other technologies. In sum, predicting the revenue impact of a price change in the current climate is pure speculation, which is why the Commission should utilize the test year billing units which match in time to the required revenue reduction, just as the Stipulation requires.

AT&T and WorldCom also contend that one of Qwest's proposed rates, SuperSaver for business customers, does not pass the price imputation test found in ORS 759.410(4), and assert that this rate should be set at 7 cents per minute, not the 6 cents proposed by Qwest. Staff appears to agree. These parties are incorrect. The Commission should perform the price test at the aggregate level for toll services, not at a price plan level. In any event, the 6 cent rate is above the price floor.

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Qwest also proposes that the Commission establish a pricing distinction between residential, business, and miscellaneous toll rates. Staff would apply the same rate to each customer class, even though their call characteristics, and consequently their costs, are different.

B. The Stipulation Requires the Rate Design To Be Based on Qwest's August 1997 Billing Units, and Does Not Permit Forecasting Growth

Qwest[6] and Staff signed a Stipulation to Resolve Matters on Appeal effective September 9, 1999 to settle the revenue requirement issues in this case (the "Stipulation," found as Appendix A to Order No. 00-190.). At that time, the Commission's Order No. 97-171, issued in the revenue requirement phase of this proceeding, was on appeal to the Oregon Court of Appeals. The Stipulation provided for refunds to customers in the amount of $53 million per year plus interest, as well as ongoing revenue reductions in the amount of $63 million per year. The Commission approved the Stipulation in Order 00-190, with some modifications relating to allowing refunds to former customers.

With respect to the ongoing revenue reduction, the Stipulation provides, in pertinent part: "U S WEST agrees to implement . . .an ongoing annual revenue reduction in the amount of $63 million from current rates, *based upon U S WEST's August 1997 billing units* . . .." Order No. 00-190, App. A at 5 (emphasis added). There is no room for debate that the Stipulation requires this rate design to be based on Qwest's August 1997 billing units and that no further adjustments may be made.[7] Staff witness Lance Ball was not able to point to any language in the Stipulation

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[6] The Stipulation actually was signed by U S WEST. All references to Qwest in this brief also include its predecessor, U S WEST.

[7] The use of August 1997 billing units is subject to one clarification, which does not affect this discussion. Page 10 of Order No. 00-190 recites Staff's comment that the Stipulation would reduce U S WEST's "annual intrastate revenues by $63 million from current rates (based on August 1997 billing units for local services and the minutes of use for the five months preceding and six months following August 1997, for switched access services)." Toll is not a switched access service; accordingly, August 1997 billing units are the appropriate figure to use in setting Qwest's toll rates. Use of data from March 1997 through February 1998 is an alternative method to capture test year units that eliminates the seasonality that may result from strictly using August 1997 units. Tr. 428, line 7 - 429, line 14. Using

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that supports any other approach for the Commission to utilize in performing the rate design, specifically with respect to the billing units that should be used. Tr. 422-29. Staff also proposes deviating from test year billing units only in the case of toll. Tr. 431, lines 7-18. The Commission should reject this proposal and utilize Qwest's toll billing units from August 1997, unadjusted for projected growth as a result of demand stimulation.

Not only is this conclusion required from the plain language of the Stipulation, it is also the logical result of the proceedings leading up to the Stipulation. In the revenue requirement phase of this case, the Commission utilized a 1995 test year. Order No. 00-191 at 6. The Commission applied annualization and normalization adjustments to the revenue from that test year. Tr. 433, lines 1-8; Order No. 00-191 at 6-16. The Commission also forecast U S WEST's revenues to the mid-point of what it believed would be the rate-effective period. That mid-point was August 1997. Id. So, besides performing normalizing adjustments to test year revenue, the Commission also forecast revenue growth past the test year. The issue of forecasting revenue growth was a significant part of Qwest's successful challenge to Order No. 97-171 before the Marion County Circuit Court. The Stipulation, however, retains the revenue growth forecasts, such that projecting revenues to August 1997 is incorporated in the revenue requirement that the Commission approved in Order Nos. 00-190 and 00-191. Id. The parties agreed to utilize August 1997 billing units in performing the rate design because that would match the test year revenue requirement with the test year units, which is a fundamental assumption of utility rate-making.

All adjustments to revenue are made in the revenue requirement phase of a rate case. Indeed, Staff witness Lance Ball testified that Staff looks at stimulation as "a kind of pro forma adjustment over current revenues." Tr. 434, line 11 - 434, line 3. "Pro forma" adjustments are precisely the sort of adjustments that were made in the revenue requirement phase of this rate

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such a 12-month period does not, however, constitute forecasting based upon demand response, which is improper.

case. Order No. 00-191 at 6-16. This case may be unique in that the Commission bifurcated proceedings on revenue requirement and rate design. That bifurcation does not, however, permit the Commission to adjust revenues twice, first by projecting growth to a date outside the test year, then again by predicting the demand response to a price change. The Commission should use unadjusted units from the test year in performing the rate design for toll and all other services, and should not further adjust those units to account for alleged increased demand.

C. All Evidence Regarding Levels of Demand Response Are Outdated and Inapplicable to the Current Competitive Environment

Staff proposes that the Commission utilize a price elasticity factor of -0.3632 that is the same factor resulting from a study performed by U S WEST in 1990 in connection with Oregon Docket UT 102. Tr. 262, line 21 - 263, line 3. This figure is the average first-year elasticity, which is the level of elasticity during the first year after implementing a rate change. Tr. 262, lines 4-23 The problem with applying that study in 2001 (or even in 1997) is that it is based upon conditions in an entirely different market, one in which there was insignificant competition for intraLATA toll service in comparison to the current toll market. Predicting demand response to a price change in a market in which there is only one provider is an easier exercise than predicting that response in a fully competitive market, since competitors will respond to the price change, offsetting increased demand for Qwest with the shift of demand to other providers and even other technologies.

The 1990 study is based on data from 1984-1989. Qwest had nearly 100 percent of the intraLATA toll market in Oregon in 1990. Tr. 264, line 4 - 265, line 2. On the other hand, the intraLATA toll market is now vigorously competitive. Tr. 265, line 21 - 266, line 4. Qwest introduced 1+ dialing parity for intraLATA toll in 1999. That makes it much easier for IXCs to compete for intraLATA toll customers. Tr. 266, lines 5-16. Dr. Selwyn stated that he would expect other IXCs to reduce their prices when Qwest reduces its toll prices. Tr. 186, lines 14-16.

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Even with Qwest's toll rate reductions, other IXCs are likely to continue to attract customers from Qwest.

There are other competitive factors that influence Qwest's market share for intraLATA toll besides traditional wireline competition from IXCs. Wireless phones featuring pricing plans with no additional charges for long distance service are very popular. Internet protocol telephony (to which switched access charges currently do not apply) is also developing, with comparable quality and very low prices. Calling cards that permit customers to dial-around pre-selected providers are also becoming more popular. With the possible exception of a limited amount of dial-around service, none of these were factors in 1990. Qwest/226, Banerjee/12-31; Tr. 267, line 9 - 269, line 15. Mr. Turner for Staff conceded that there has been a "dramatic change" between 1990 and 2000. Tr. 269, lines 10-15.

Staff did not perform or engage an expert to perform a current study of stimulation; nor did any other party. Tr. 210, lines 18-22; Tr. 289, lines 4-9. Qwest (including U S WEST) has not performed such a study since 1990. Qwest/228, Bailey/8. It may be that no party has performed a stimulation study recently because it is too complicated to do given the competitive activity or because the results would lack validity for the same reason. Staff simply relies upon the 1990 study for its stimulation figure. Use of that study today is wholly inappropriate, however, because it did not account for any of those competitive factors. In fact, that study states: "If the future environment changes substantially from the present, e.g. intrastate/intraLATA toll competition expands dramatically, extrapolation of these results might be spurious." Staff/12, Turner/4. That study also states: "continued attention should be given to the development of a competitive activity variable. Inclusion of such a variable would allow a quantification of the impact that competition has on MTS demand." Id.

The 1990 study also was applied in a case, Docket UT 102, with a much smaller reduction in toll rates. The percentage reduction in toll prices in connection with UT 102 was less than 2 percent. Tr. 273, line 21 - 276, line 13; Ex. Qwest/233 at 4. In this case, Qwest proposes toll

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reductions in excess of 40 percent. Tr. 276, lines 14-16. The 1990 study also stated that "these results may not be applicable to estimates of demand response when future price changes are well in excess of those experienced in the past." Staff/ 12, Turner/9. By its own terms, the 1990 study is inapplicable in the current environment, where competition is flourishing and the percentage reduction in Qwest's toll rates is over 20 times larger than in 1990. The author of the 1990 study, Mr. Kenneth Bailey, testified that subsequent events during the 1990's render the results of his 1990 study "out of date and misleading." Qwest/228, Bailey/1-10.

AT&T/WorldCom also argue that the Commission should apply a stimulation factor, and advocate that the Commission should utilize the figure of -0.50 that the California PUC ("CPUC") applied in a 1994 decision. These parties also fail to acknowledge the fact that the competitive environment in California at that time was very different from the current situation in Oregon. There was absolutely no competition for intraLATA toll prior to that order, as the California PUC opened the market for intraLATA toll competition effective January 1, 1995. Tr. 207, lines 14-19. In addition, in 1995 the CPUC only allowed the introduction of competition via dial-around, and did not allow 1+ dialing parity for intraLATA toll at that time. Tr. 207, lines 20-25; *Pacific Bell* at 6. Dr. Selwyn also attempts to minimize the very salient fact that in 1998 the CPUC reexamined elasticity for intraLATA toll and ordered a lower stimulation factor of -0.20. AT&T-WCOM/1, Selwyn/66. The CPUC stated that its decision at that time "reflected recent market changes." *Pacific Bell* at 31. Those changes included the introduction of intraLATA toll competition in 1995. Tr. 210, lines 2-5. However, California still did not have 1+ dialing parity for intraLATA toll in 1998 (Tr. 210, lines 6-8), and the CPUC's order at that time did not contemplate that would occur until Pacific Bell received authorization under Section 271 of the Act. *Pacific Bell* at 18.

Other evidence suggests that any demand response to a change in Qwest's toll rates may be extremely small since Qwest's toll rates are being reduced from a relatively low level. Dr. Selwyn, appearing for AT&T and WorldCom, testified that demand response to a price decrease

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is less when the starting price is lower. Tr. 204, lines 9-15. He also testified that a product might exhibit a "near-inelastic" demand at a relatively low price. AT&T-WCOM/1, Selwyn/43, lines 19-20. Mr. Turner agreed with those propositions. Tr. 277, line 14 - 278, line 14. Qwest's current average revenue per minute ("ARPM") for toll service is 14.93 cents. Ex. Qwest/208. One economist has concluded recently that residential demand for intraLATA toll "becomes price inelastic at an average price per minute below fifteen cents." Ex. Qwest/234 at p. 123.

Indeed, the recent experience of the other large utility in Oregon argues against utilization of any stimulation factor. The Commission utilized an elasticity factor of -0.277 in Verizon's rate case in 1998, Docket UT 141. Tr. 281, lines 4-18. Staff has not tracked Verizon's toll revenues to see if that demand response in fact occurred. Tr. 285, lines 6-9. In response to a data request, Verizon indicated that its toll revenue has actually *dropped by two-thirds* since implementing that rate change, as a result of competition. Qwest/223, Teitzel/3. This is perhaps the most telling evidence submitted in this case about the likely revenue impact of a price change for Qwest's toll service. Given the certainty of a competitive response to Qwest's price change, it is impossible to forecast with any degree of certainty that Qwest's toll volume will increase at all. For all of these reasons, the Commission should not employ any stimulation factor in calculating the revenue impact of Qwest's toll rate reduction.

D. If the Commission Were to Forecast the Revenue Impact of Toll Price Reductions, It Must Consider Other Factors Affecting Demand

Qwest's position on stimulation is not that there is no demand response to price changes; rather, Qwest's point is that if the Commission is to forecast the revenue impact of a price change, the Commission must consider all factors that may affect demand, such as competition from other providers and other technologies. Qwest/226, Banerjee/31-49. Qwest's experience in other states is that such other factors completely offset demand response to a price change alone, such that the Commission should not adjust toll demand at all. Qwest/201, Teitzel/37-39. Qwest's position was succinctly summarized by Dr. Banerjee at the hearing:

> Let's start with the fundamentals here. I think we all agree that the own price effects are likely to be in the form of demand response. We may disagree on how much demand response, but we at least agree that there should be some. So that would necessarily bump volumes up. Now, in an era in which we're actually observing that volumes are going down rather than up, one has to reach the logical conclusion that there must be two forces that are working at cross purposes; demand response which is pushing volumes up, and demand shifts which are pushing volumes down. And if demand shifts win, then the volumes are down on balance.

Tr. 155, lines 13-25. Mr. Turner for Staff agrees that there are many factors besides price that could affect toll demand, including those discussed above. Staff/8, Turner/23, lines 15-17.

If the Commission were to consider adjusting the test year billing units, then it should try to do so as accurately as possible, which requires that the Commission look not only at demand response, as suggested by Dr. Selwyn and Mr. Turner, but must also consider the effects of demand shift.

> If you want to make a comprehensive revenue forecast; that is to say if you want to predict what kind of revenue reductions will occur as a result of certain rate reductions that are going to be implemented in this proceeding, then all I was trying to point out was that it would be insufficient to look only at the demand responses, given the kind of market that Qwest and its competitors operate in today. It would necessarily mean looking beyond demand responses as well as at demand shifts as well.

Tr. 164, lines 8-16. Dr. Selwyn agreed that an accurate revenue forecast, like the one that Wall Street analysts would want to make, would consider both demand response and demand shifts. Tr. 219, line 22 - 220, line 313; Tr. 221, lines 5-11; Tr. 254, line 3 - 255, line 16. There is no reason that this Commission should base an order on an analysis that is less accurate.

For the reasons discussed above, none of the figures proposed by Staff or AT&T/WorldCom has any validity in this proceeding. Moreover, neither Staff, AT&T, nor WorldCom has introduced a recent study applicable to the current environment in Oregon. Thus, there is no basis upon which the Commission could quantify the impact of competition on toll demand. Since Staff and parties other than Qwest have raised the issue of stimulation and are asking the Commission to apply a price elasticity factor, they are the parties that should bear the

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burdens of persuasion and production on such issues. *See, e.g.* Oregon Evidence Code Rules 305 and 307. These parties have failed to satisfy their burden to present this Commission with persuasive evidence regarding the appropriate level, if any, of stimulation that the Commission should apply in calculating the revenue impact of Qwest's toll rate reductions. Accordingly, the Commission should decline to apply any level of stimulation in calculating the revenue impact of Qwest's toll rate reductions.

E. Qwest's Super Savings Rate for Business Customers Is Above the Price Floor

Dr. Selwyn contends that Qwest's proposed rate for the Super Savings plan for business customers of 6 cents per minute is below the price floor for that service. AT&T-WCOM/1, Selwyn/82-83. Mr. Turner seems to agree. Staff/20, Turner/7. Qwest performed the price floor tests for toll service at the aggregate, or ARPM level, and believes that is the appropriate method to perform such an analysis. Qwest/230, Brigham/6-8. Mr. Turner also performed the imputation test at the aggregate, service level. Staff/11, Turner 1. Further, Dr. Selwyn testified in a Colorado proceeding that imputation studies should be performed at the ARPM level. Qwest/230, Brigham/8. Ex WorldCom/2 at 5 and 10. ORS 759.410(4) establishes a price floor for a "regulated retail telecommunications service." Qwest submits that the "service" at issue under this test is intraLATA toll, not each and every particular price plan that Qwest may offer for toll service. Therefore, it is appropriate to utilize the ARPM to determine if toll service exceeds the price floor.

In any event, even if the Commission were to perform a price floor test at the price plan level, Qwest's price floor for business Super Savings is below 6 cents. Mr. Brigham pointed out in his rebuttal testimony three distinct errors in Dr. Selwyn's imputation analysis, each of which when corrected would independently show that the price is above the floor. Qwest/230, Brigham/9-15. To highlight just one of them, Dr. Selwyn testified that billing and collection is an "essential function" of intraLATA toll service, such that the Commission should utilize the price

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charged other carriers for this service, not the lower cost of that service, in computing the price floor. AT&T-WCOM/1, Selwyn/76-77. Billing and collection is a nonessential function. Many toll carriers, including AT&T and WorldCom, bill and collect charges directly from their own customers, rather than using Qwest to do that. Qwest/230, Brigham/11-12; Tr. 210, line 23 - 211, line 2.

Indeed, AT&T tries to encourage its long-distance customers to utilize AT&T's own billing and collection services by charging such customers $1.50 per month if they do not receive their bills directly from AT&T. Tr. 211, line 3 - 212, line 5. In view of this action, it is inconceivable that any party could continue to argue that billing and collection by Qwest is an essential function. Since billing and collection by Qwest is a nonessential function, the Commission should utilize Qwest's costs in calculating the price floor for toll service. Just this one change alone shows that SuperSaver is priced above the floor. Qwest/230, Brigham/12. Correcting the other errors discussed by Mr. Brigham only reinforces the conclusion that this plan is priced above cost. Tr. 40, lines 4-13.

F. The Commission Should Establish a Pricing Distinction Among Residential, Business, and Miscellaneous Services.

Qwest proposes that the Commission establish a pricing distinction between residential, business, and miscellaneous toll rates. Qwest/201, Teitzel/31-34. Staff, on the other hand, proposes that the same rates apply to each customer class, on the assumption that there is no cost justification for any distinction. Staff/8, Turner/7. To the contrary, the call characteristics, and consequently the costs, of toll calls for these customer classes are different, justifying different rates. Business customers tend to make toll calls during the day, when call volumes on Qwest's network are highest, while residential customers tend to make toll calls during evening and weekend hours. Business calls also tend to be approximately half as long in duration as residential calls. Since switching costs associated with setting up toll calls are recovered in the first minute of use, the average cost per minute of a business call is higher than a residential toll call.

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Qwest/222, Teitzel/5-6. If the Commission adopts Staff's proposal, residential customers will pay 17 percent more for off-peak calls than they would under Qwest's proposal. Qwest/222, Teitzel/7. The Commission should adopt Qwest's customer class pricing distinctions.

G. Summary

Applying any stimulation factor to increase the revenue impact of Qwest's toll price reduction violates the Stipulation which the Commission has approved. Even if the Commission could apply a stimulation factor, there is inadequate evidence in the record upon which to do that. Staff offers only a study that is plainly outdated and inapplicable in today's competitive environment. The only current evidence indicates that any demand response from a price change is completely overwhelmed by other factors, most notably competition. The Commission should not apply any stimulation factor to inflate the revenue effect of Qwest's toll price reductions.

AT&T's and WorldCom's motivation for challenging Qwest's proposed Super Savings rate is plain: since these carriers believe that they will need to match Qwest's toll price reductions in order to be competitive, they would like Qwest's toll rates to be as high as possible to preserve their profit margins. Lowering Qwest's toll rates is one areas where the Commission can make a significant impact in lowering rates for consumers served by all providers in addition to Qwest. The Commission should allow Qwest's Super Savings plan to be priced as Qwest proposed. Similarly, the Commission should reject the other proposed modifications to Qwest's proposed toll rates -- such as the elimination of business/residential class distinctions -- and allow the rates to go into effect as Qwest proposed.

IV. ISSUE 4: FEATURES

Qwest proposed allocating approximately $6.684 million of the overall revenue reduction to features, and proposed a specific rate design. Qwest/201, Teitzel/28-30. Staff recommends that the Commission adopt Qwest's rate design proposal for features with no modifications. Staff/13, Sloan/5-8. No other party raised issues regarding Qwest's proposal for rates for features. Accordingly, the Commission should adopt Qwest's proposal without modification.

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V. ISSUE 5: FEATURES -- NON-RECURRING CHARGES

Qwest proposed eliminating the non-recurring charge for residential features. Qwest/201, Teitzel/28-29. Staff recommends that the Commission adopt Qwest's proposal for features. Staff/13, Sloan/9. No other party raised issues regarding Qwest's proposal to eliminate the non-recurring charge for residential features. Accordingly, the Commission should adopt Qwest's proposal.

VI. ISSUE 6: LISTINGS

Qwest proposed decreasing the monthly recurring rates for non-listed and non-published listing services. Qwest/201, Teitzel/31. Staff recommends that the Commission adopt Qwest's proposal for listings. Staff/13, Sloan/10. No other party raised issues regarding Qwest's proposal to reduce these rates for listings. Accordingly, the Commission should adopt Qwest's proposal without modification.

VII. ISSUE 7: CENTREX PLUS

A. Introduction

Staff and Qwest agree on Qwest's proposal for Centrex Plus rates. The only party who disagrees with the proposal is ATG, who challenges Qwest's volume discount pricing approach which provides discounts based upon the number of access lines at a customer's specific location. Qwest believes that its "per-location" volume discount pricing approach is appropriate because Qwest's costs of serving a customer are reduced as the customer has more lines at a specific location. Qwest's pricing approach for Centrex Plus must also be evaluated in the context in which it was developed, as a competitive alternative to customer-owned PBX-based systems. In considering the issues raised by ATG, a reseller, the Commission should not lose sight of the fact that Centrex Plus is, first and foremost, a retail product that Qwest markets to retail customers.

ATG contends that Qwest's per-location pricing proposal is "an abuse of market power" and "anticompetitive" in that it "prevents retail competition." ATG requests that the volume discounts be applied on a per-wire center, not per-location basis. While such a pricing approach

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may benefit ATG's specific business plan, there is nothing anti-competitive about Qwest's per-location discount pricing for Centrex Plus. Centrex resellers like ATG compete with Qwest for the sale of basic business lines with feature packages. Such retail services are priced well above the prices that Centrex resellers are able to charge based upon the current pricing of Centrex Plus. Indeed, Centrex resale has been a growing, thriving business even with per-location pricing in effect.

B. Qwest's Proposed Centrex Plus Pricing Is Appropriate

1. Qwest's per-location pricing is based on the lower cost of serving high volumes of access lines at a single location.

ATG's challenge to per-location pricing for Centrex Plus is based on Dr. Cornell's assertion that Qwest's proposed volume discounts are not "based on costs saved by serving a given customer location in volume." ATG/1, Cornell/4. ATG is simply wrong. Qwest's proposed volume discount pricing applies when Qwest serves a customer at a given location with 50 or more access lines. Qwest can use alternative loop technologies to serve such customers, such as T-1 or higher capacity service instead of copper loops, realizing cost savings through such economies of scale. Qwest/222, Teitzel/ 29.

Dr. Cornell mistakenly asserts that Qwest's costs are based on the density of a vicinity or neighborhood, not the number of customers at a given location. ATG/1, Cornell/5. While Qwest's overall costs of service may be higher in a sparsely populated area than in a densely populated one, it does not follow that Qwest's cost to serve an access line at a particular customer location does not change depending on the number of lines that a customer subscribes to at a given location. The forward-looking cost of serving a customer with one or two telephone lines will be based on the cost of individual loops, since that is how such customers are actually served. Qwest/222, Teitzel/30. On the other hand, the forward-looking cost of serving a customer with 50-300 lines at one location will be based upon the most efficient technology, which may be a large copper cable with many pairs, a T-1 circuit delivered over two copper pairs, or a T-1 or a

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DS-3 circuit delivered over a fiber optic loop. Tr. 648, lines 5-21. It is clear that the per-line cost of serving such customers is much lower than over an individual copper loop. Ex. ATG/12.

2. Qwest's proposed rates for Centrex Plus are based upon the competitive alternative, PBX systems.

The Commission must keep in mind that it is setting prices for Qwest's retail rates in this proceeding. In doing so, it is appropriate to compare the rates for different retail services, as that is what Qwest's retail customers do. In this regard, Centrex Plus was developed as a competitive alternative to customer-owned PBX systems, served by Qwest over PBX trunks. Centrex Plus provides similar functionality to a PBX system, such as intercom dialing and a variety of features, but as a central office-based system. A customer considering purchasing a PBX system is one who has a relatively large number of access lines at a given location. Such a customer will compare the cost of a PBX system to Centrex Plus service. Tr. 705, line 7 - 706, line 3.

As a competitive alternative to PBX systems, which are cost-effective only where there are a large number of access lines at one location, Centrex Plus also offers per-location volume discounts. Elimination of the per-location requirement to obtain the volume discount would distort the pricing relationship of Centrex Plus to its competitive retail alternative, PBX systems. Eliminating the per-location requirement would also break the relationship between Qwest's cost of providing the service and the price, and should be rejected.

C. The Per-Location Volume Discount Does Not Impede Centrex Resale

1. Centrex resellers compete for small customers, with whom they have a significant pricing advantage

It is undisputed that the market for Centrex resellers are small and medium-sized businesses. Tr. 769, lines 3-6. Centrex resellers are able to offer these customers the equivalent of basic business service plus over 40 features. Tr. 769, lines 7-16. If a customer wanted to obtain a comparable level of service from Qwest as they could obtain from a Centrex reseller, the customer would likely purchase either a basic business line with separate features or with a feature package. Tr. 771, lines 17-25. Qwest's CustomChoice package for business customers includes a

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line and approximately 20 features for approximately $55. Tr. 772, lines 6-13. Centrex customers, including resellers, pay less per line than do customers for basic business service with a comparable level of features. Tr. 773, line 23 - 774, line 2. Centrex resellers are also able to offer customers both inter- and intraLATA toll service. Tr. 769, lines 17-19.

It is plain that Centrex resellers have a significant pricing advantage over Qwest in competing for the small and medium-sized business customers. Centrex resellers, such as ATG, have been able to leverage their pricing advantage to capture a significant amount of the market for smaller business customers in Oregon.

2. Centrex resellers have competed very successfully

Centrex resellers, including ATG, have been very successful in capturing business customers in Oregon. Ex. Qwest/242 shows the following growth in Centrex access lines sold by Qwest to resellers in Oregon from December 1995 through April 1998:

Date	Number of Resold Centrex Lines
December 1995	16,192
December 1996	25,489
December 1997	38,304
April 1998	41,138

To put these numbers in perspective, as of August 1997, the period used to establish billing units for this rate design, Qwest had Confidential Number C simple and complex business access lines in service. Qwest/203, Teitzel/1. Thus, Centrex resellers had over Confidential Number D percent of the number of access lines serving small and medium sized business customers as Qwest.[8] This is a significant level of competition, given that it is only one form of

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[8] This calculation utilizes a simple average of the figures for resold Centrex lines from December 1996 and December 1997 (31,896) to estimate the number of Centrex lines from August 1997. This is probably conservative. Even comparing the lower figure for resold Centrex lines from December 1996 to

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competition for business customers.[9] This growth in Centrex resale occurred while per-location pricing was in effect. Tr. 777, line 17 - 778, line 3. It is also important to keep in mind that, during the time period in question, this Commission had ordered Qwest to charge a surcharge of $5.40 per month on each resold Centrex line. Order No. 98-372. Despite these conditions, Centrex resale flourished. Thus, there is no basis for Dr. Cornell's assertion that per-location pricing is anti-competitive or "prevents retail competition." ATG/1, Cornell/14.

D. A Federal Court Has Rejected Centrex Resellers' Challenges to Qwest's Per-Location Pricing as Being Anti-Competitive

Dr. Cornell claims that Qwest's per-location pricing of Centrex is "an abuse of market power." ATG/1, Cornell/3. She claims that per-location pricing "prevents retail competition." ATG/1, Cornell/14. She also accuses Qwest of attempting to eliminate Centrex resale. Id. Nothing could be further from the truth.

Another Centrex reseller, Metronet, recently brought suit against Qwest in the United States District Court for the Western District of Washington, making similar accusations. Specifically, Metronet claimed that Qwest's per-location volume discount pricing for Centrex Plus violates the federal antitrust laws. Ex. Qwest/225 is the Court's order granting Qwest summary judgment on all claims. Among other things, the Court found that it is "highly unlikely" that Qwest has monopoly power. Qwest/225, Teitzel/ 9. The Court also found that Qwest's per-

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the number of Qwest retail business in August 1997 results in the conclusion that Centrex resellers had over Confidential Number E percent of the number of access lines serving small and medium sized business customers as Qwest.

[9] In the current time, there are approximately 20,000 resold basic lines, excluding Centrex, in Oregon. Tr. 706, line 22 - 707, line 7. In addition, competitors have purchased another 50,000 unbundled loops in Oregon. Tr. 707, lines 20-24.

Indeed, the Commission should evaluate the significance of the issues raised by ATG in Qwest's overall rate design given that no other Centrex reseller has appeared and that ATG itself has expressed to the Commission its intention of "converting" its resold Centrex lines "to ATG facilities and is not pursuing a resale strategy going forward." Ex. Qwest/243 at 3.

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location pricing policy did not harm competition, let alone "prevent" competition. Qwest/225, Teitzel/11.

Finally, the Telecommunications Act of 1996 requires Qwest "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." 47 U.S.C. § 251(c)(4)(A). That plainly includes Centrex Plus. Tr. 782, line 24 - 783, line 2. There simply is no merit to any of ATG's accusations.

VIII. ISSUE 8: CENTREX 21

Qwest proposed modest reductions to Centrex 21 service rates and a specific rate design. Qwest's proposed rate design deaveraged Centrex 21 prices for Rate Groups 1 and 2. Qwest did not propose a Rate Group 3 because Qwest believes that the price floor requirements of ORS 759.410 would make a deaveraged rate for Centrex 21 in Rate Group 3 economically unattractive. Qwest/201, Teitzel/24. Staff recommends that the Commission adopt Qwest's proposal for Centrex 21, with the exception that the Commission should establish a rate for Rate Group 3. Staff/13, Sloan/27-28. No other party raised issues regarding Qwest's Centrex 21 proposal. Qwest is willing to agree with Staff's proposal for Centrex 21. Qwest/222, Teitzel/28. Accordingly, the Commission should adopt Qwest's proposal with Staff's suggested modification.

IX. ISSUE 9: EAS

A. Introduction

Qwest proposes a significant reduction in EAS rates in this proceeding, with a revenue impact of $21.763 million. Qwest also proposes simplification of the EAS pricing structure, reducing the current five price bands to three. Qwest/201, Teitzel/10-11. Staff also proposes a reduction in EAS rates, but only approximately one-half the level proposed by Qwest, with a revenue impact of $11.321 million. Staff also proposes reducing the number of price bands from five to three, but structured differently. Staff/16, Stanage/11. Qwest is willing to agree to the rate band structure that Staff proposes. Qwest/222, Teitzel/37.

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The difference between the positions of Qwest and Staff with respect to the level of EAS rate reductions is largely driven by these parties' different positions with respect to residential basic service rates. It is not a coincidence that the difference between Qwest's and Staff's proposals to raise residential basic service rates is $10.371 million and the difference between these parties' proposals to reduce EAS rates is $10.442 million. Staff/2, Ball/4. Indeed, Mr. Stanage testifies that: "In fact, it is precisely because of the first two differences ([between Qwest's and Staff's proposals for] increases to residential rates) that the third difference [with respect to EAS rates] has the opportunity to appear." Staff/16, Stanage/5.

Thus, Qwest expects that the Commission's decision on the level of rate reductions for EAS is likely to be driven by the Commission's decision on residential local exchange service, Issue 12, discussed below. Staff/1, Ball/10 n. 18 ("local exchange services" are traditionally used by the Commission as "residual rate design categories"). In making this decision, in addition to considering Qwest's arguments regarding why a modest increase in residential basic service rates is appropriate, the Commission should also consider several reasons why a significant price decrease for EAS rates is appropriate at this time.

B. EAS Is a Required Service

EAS allows customers to call beyond their local exchange, to others located within a community of interest that the Commission or legislature has approved, without making a toll call. Qwest offers EAS on a flat-rated or measured basis. Beyond that option, however, customers do not have a choice. Once an EAS route is established, a Qwest customer can only access those other residents through Qwest's EAS.[10] Since EAS is, effectively, a replacement for toll service, Qwest believes that the percentage reduction in EAS service (Qwest proposes 56.5 percent)

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[10] It is theoretically possible that a customer could "dial-around" Qwest's EAS and complete such a call by using the toll services of another provider. That, however, is unlikely to occur given the level of EAS pricing as compared to toll pricing. EAS is offered as a flat-rated service. In addition, Qwest proposes reducing the measured EAS rate to 3 cents per minute (which Staff does not dispute).

should be comparable to the level of reduction in toll rates (Qwest proposes 42.3 percent). *See* Advice No. 1849, Attachment B, modified March 19, 2001.

C. The Commission Has a Unique Opportunity to Rationalize EAS Pricing and Bring It Closer to Cost

The Commission has traditionally set EAS prices in a manner different from most other regulated services. When the Commission establishes an EAS route, EAS calling replaces what would otherwise be intraLATA toll calls. The conversion of network facilities to accommodate a new EAS route also imposes costs on carriers like Qwest. Accordingly, the Commission has traditionally viewed EAS rates as a mechanism to keep an ILEC indifferent, from a revenue perspective, from the conversion. Thus, EAS rates have been determined based upon the net toll revenue that an ILEC would forego as a result of the conversion as well as the costs of the conversion. Qwest/222, Teitzel/36. The revenue-neutral conversion process has been based upon intraLATA toll prices that have been substantially higher than current prices or the toll prices proposed in this case.

In addition to using this case to reduce and simplify the EAS rate band structure, the Commission should use this opportunity of a general rate case (indeed, Qwest's last general rate case in Oregon since its election of price cap regulation under ORS 759.400 et seq.) to establish EAS rates that make sense from customers' perspectives and in light of Qwest's entire rate structure. The Commission does not have to be concerned with the size of the reduction from previous EAS rates that were established to keep Qwest "revenue-neutral" in an EAS conversion; implementation of an overall revenue reduction will ensure that Qwest's revenue requirement is met. Adopting Qwest's proposed EAS rates will local service reduce rates for all Oregon customers. The Commission should adopt Qwest's proposal for EAS rates (as amended by Staff's proposed rate band structure) along with Qwest's proposed residential basic service rates.

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X. ISSUE 10: ADVANCED SERVICES

Qwest has proposed rate reductions for certain advanced services, namely ISDN-BRS, ISDN-PRS, Digital Switched Services ("DSS"), and Direct Inward Dialing ("DID"). Qwest/201, Teitzel/24-27. Staff recommends relatively minor revisions to Qwest's proposal for ISDN-BRS rates and corrects some calculations that Qwest made in calculating the revenue effect of its proposed rate changes. Staff also recommends that the Commission adopt Qwest's proposals for ISDN-PRS, DSS, and DID service rates. Staff/ 16, Stanage/14-16. No other party submitted testimony on this issue. Qwest accepts Staff's corrections and recommendations. The Commission should, therefore, approve Qwest's proposal as modified by Staff.

XI. ISSUE 11: BUSINESS LOCAL EXCHANGE

A. Introduction

In connection with its UM 731 (Universal Service) compliance filing, which became effective April 30, 2001, Qwest proposed, among other things, significant reductions to basic business rates and the deaveraging of those rates into three Rate Groups, matching the deaveraging structure that the Commission had ordered for UNE loop rates. The Commission allowed those rates to go into effect. Advice No. 1844, acknowledged March 12, 2001. Qwest's rate design proposal in this proceeding maintains the deaveraged rate structure and proposes a variety of additional changes in the rates for business local exchange service, including a further small decrease in those rates. Staff generally agrees with all of Qwest's proposed changes, except that Staff proposes that the rates for business basic service in Rate Groups 2 and 3 should be the same. Staff/16, Stanage/17.

Qwest believes that the Commission should not retreat from the extent of deaveraging that it has already approved, and should maintain a deaveraging of retail rates that matches the deaveraging of loop rates, which reflect actual cost differences in the three zones, in order not to impede the development of facilities-based competition in those areas. Qwest/222, Teitzel/38-39.

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The other disputed issue with respect to business local exchange rates are the rates for public access lines.

B. Public Access Line Pricing Overview

In its rate design proposal, Qwest proposes a change in the price for Public Access Line ("PAL") service. Qwest/201, Teitzel/18-20. Qwest proposes making the rates for PAL access line service consistent with business line rates. PAL service is provided to business customers (Payphone Service Providers, or "PSPs") and is functionally equivalent to business line service. Tr. 630, line 25 - 631, line 1. This is consistent with the Commission's finding in Docket UT 85, in which it stated that measured PAL access lines are identical to measured business service lines and should be priced the same. Staff supports Qwest's rate design of PAL services, with the exception discussed above that Staff proposes the same rates for Rate Groups 2 and 3. Staff/16, Stanage/18.

Northwest Payphone Association ("NWPA") asserts that the rates proposed by Qwest do not conform to the requirements of Section 276 of the Act as interpreted by the FCC.[11] Section 276 of the Act provides that a Bell operating company that provides payphone service may not subsidize its payphone service from its telephone exchange service operations or its exchange access operations, and it may not prefer or discriminate in favor of its payphone service. 47 U.S.C. § 276(a). To implement these prohibitions, Congress directed the FCC to "prescribe a set of nonstructural safeguards . . . which safeguards shall, at a minimum, include the nonstructural

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[11] In support of his statement that the Commission should establish PAL rates that comply with Section 276, Mr. Wood asserts that the base of payphones is "diminishing." NWPA/1, Wood/8. Aside from his unsupported conclusory statement, Mr. Wood offers no evidence that the number of payphones in Oregon has decreased. The evidence in this case suggests otherwise. Ex. Qwest/239 shows that the number of payphones operated by NWPA members in Oregon increased approximately 24 percent from 1997 to 2000. (Qwest received NWPA's response to this data request in August 2000.) Mr. Wood attempted to refute this conclusion by stating that he did not know how the number of payphones operated by NWPA members compares to the total number of payphones in Oregon. Tr. 726, line 19 - 727, line 7. However, the number of payphones operated by NWPA members in 1997 is within 3 percent of the total number of PAL lines recorded in the test year. Qwest/203, Teitzel/5.

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safeguards equal to those adopted in the Computer Inquiry – III (CC Docket No. 90-623) proceeding." *Id.* at (b)(1)(C). In a series of orders known as the "Payphone Orders," the FCC explained the standards to be used when determining whether PAL pricing proposals comply with the Act. The PAL rates must be: "(1) cost based; (2) consistent with the requirements of Section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory." *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Reconsideration, CC Docket No. 96-128, 11 FCC Rcd 21233, 1996 FCC LEXIS 6257, ¶ 163 (FCC 96-439 rel. Nov. 8, 1996).[12] The FCC directed the states to apply these requirements "and the Computer III guidelines" when reviewing PAL pricing proposals. *Id.* The "Computer III guidelines" are also known as the "new services test." "The new services test is a cost-based test that establishes the direct cost of providing the new service as a price floor. LECs then add a reasonable level of overhead costs to derive the overall price of the new service." *In the Matter of Local Exchange Carriers' Payphone Functions and Features*, Mem. Op. & Order, CC Docket No. 97-140, 12 FCC Rcd 17996, 1997 FCC LEXIS 5854, ¶ 2 (FCC 97-392, rel. Oct. 29, 1997) (footnote omitted) ("Payphone Features Order").[13]

C. PAL Service Is a Retail Service, Not a Wholesale Service, and Should Be Priced as Such.

It is undisputed that PAL service is a retail service. Tr. 745, lines 7-9. Nevertheless, Mr. Wood asserts that the Commission should use the pricing standards under Section 252 of the Act, pricing standards that apply to *wholesale* services, to establish prices for PAL service in Oregon. NWPA/1, Wood/11, lines 16-19. Mr. Wood's proposal has been roundly rejected by the FCC and various state commissions, even in decisions that Mr. Wood relies upon in his testimony.

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[12] Relevant pages of this Order are attached as Appendix C.

[13] This Order is attached as Appendix D.

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For example, the FCC stated in the original Payphone Order:

> We decline to require, as proposed by AT&T, that the pricing regime under Sections 251 and 252 apply to all Section 276 payphone services offered by incumbent LECs. Section 276 does not refer to or require the application of Sections 251 and 252 to LEC payphone services. In addition, the elements and services to be offered under Sections 251 and 252 are not available to entities that are not telecommunications carriers, and many PSPs are not telecommunications carriers. In addition, Section 276 does not refer to or require the application of Sections 251 and 252 to LEC payphone services.

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provision of the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-128, 11 FCC Rcd 20541, 1996 FCC LEXIS 5261, ¶ 147 (FCC 96-388 rel. Sept. 20, 1996).[14] Further, the Tennessee utility commission, in a decision cited by Mr. Wood several times in his testimony, stated: "[P]ayphone services are more closely akin to retail services than to UNEs . . .. Unlike UNEs, payphone service is a marketable service that does not have to be combined with any other element in order for it to function at the retail level. Based on these findings, the Directors voted unanimously that TELRIC pricing is not required . . .." In re: All Telephone Companies Tariff Filings, Docket No. 97-00409, 2001 Tenn. PUC LEXIS 74 (Tenn. Reg. Util. Comm'n Feb. 1, 2001).[15] The New York Public Service Commission also expressly found that the Section 252 pricing standards do not apply to payphone services. Petition Filed by the Independent Payphone Ass'n of New York, Inc., Case 99-C-1684, 2000 NY PUC LEXIS 832, *9 (N.Y. PSC Oct. 12, 2000) ("Although [CLECs], as carriers, are entitled to TELRIC rates for PALs as UNEs under the Telecommunications Act of 1996, payphone service providers (PSPs), as end user subscribers, are not entitled to the same treatment under the Act.") ("New York Decision").[16]

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[14] Relevant pages of this Order are attached as Appendix E.

[15] This Order is attached as Appendix F.

[16] This Order is attached as Appendix G.

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Thus, although NWPA seeks to have the Commission price PAL service at UNE rates, it could not be more clear that it is inappropriate for PAL service, a retail service, to be priced under the principles established for wholesale services such as UNEs.

Moreover, PAL service can be obtained at UM 844 rates by CLECs, including PSPs who qualify as CLECs. Tr. 632, line 20 - 633, line 16; Tr. 636, lines 17-23. Thus, there is no reason for the Commission to make those rates available at the retail level in this proceeding.

D. NWPA Seeks To Impose Obligations on Qwest That Are Not Required Under Federal Law.

NWPA asserts that Qwest has not provided the Commission with sufficient information to justify its proposed PAL rates. In his testimony, Mr. Wood asserts that Qwest is required to make an "affirmative demonstration" through a "cost study of each of the categories of cost to be included in the rate" that the proposed PAL rates comply with the FCC criteria. NWPA/1, Wood/23. Mr. Wood's declarations about the information required to justify PAL rates is an overly formalistic reading of the law. Although both the FCC and various state commissions have examined a variety of evidence to determine if PAL rates comply with Section 276 and the FCC standards, they do not prescribe the type of evidence necessary to ensure that PAL rates are cost-based, consistent with Section 276, nondiscriminatory, and satisfy the new services test.

For example, Mr. Wood rejects the notion that the FCC's standards may be satisfied by "calculating a cost/price ratio for PTAS and comparing that ratio to the ratio of other services, such as a local business line." NWPA/1, Wood/24. At the hearing, Mr. Wood testified that he was unaware of any state commission that has relied on cost/price ratios to support payphone rates. Tr. 742, line 21 - 743, line 6. Mr. Wood, however, is aware of state and federal decisions which use cost to price ratios "as a shorthand for the amount of overhead that's included." Id. The decision of the Tennessee Regulatory Authority that Mr. Wood cited in his testimony provides that "cost-price ratio comparisons generally can be used to demonstrate the reasonableness of overhead loadings for payphone services." *See also* Payphone Features Order,

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¶ 6 (FCC examined cost/price ratio to measure overhead loadings). Mr. Wood attempts to minimize the significance of these decisions, since they apply only to the amount of overhead that is included; however, the reasonable amount of overhead loading is the basic dispute between Qwest and NWPA in this case. Tr. 595, lines 5-10.

Further, in support of his statement that Qwest must "fully justify" its proposed PAL rates, Mr. Wood cites the Payphone Features Order.[17] NWPA/1, Wood/22. In that order, Bell Atlantic and GTE filed federal tariffs governing payphone features and functions. Because the overhead loading proposed by Bell Atlantic was relatively high, the FCC ordered Bell Atlantic to explain why the overhead loading was justified. The decision simply refers to the "revised cost data" submitted by Bell Atlantic and Bell Atlantic's *explanation* of its overhead loadings. *Id.* at ¶ 13. It does not purport to set forth specific requirements about the type of evidence necessary to justify PAL rates.

Mr. Wood asserts that the Wisconsin Order[18] sets forth the "details of the process that certain ILECs must follow when providing information to the FCC in order to demonstrate compliance with the four part test," and that the Commission should require Qwest to submit the same information in this proceeding. NWPA/1, Wood/23. The Commission is not bound by the Wisconsin Order and should not follow it. Mr. Wood admitted that the Wisconsin Order was not signed by any of the FCC Commissioners and that it only applies to the specific LECs in Wisconsin that are named in the order. Tr. 759, line 9 - 760, line 5. The LEC Coalition has

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[17] *In the Matter of Local Exchange Carriers' Payphone Functions and Features*, Mem. Op. & Order, CC Docket No. 97-140, 12 FCC Rcd 17996, 1997 FCC LEXIS 5854 (FCC 97-392, rel. Oct. 29, 1997). Mr. Wood also cited *In the Matter of Local Exchange Carriers' Raters, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport*, Order Designating Issues for Investigation, CC Docket No. 94-97, Phase II, 10 FCC Rcd 11116, 1995 FCC LEXIS 6193 (DA 95-2001, rel. Sept. 19, 1995). This order concerns expanded interconnection through virtual collocation, pre-dates the Act, and has nothing to do with PAL service.

[18] *In the Matter of Wisconsin Public Service Comm'n*, Order, 15 FCC Rcd 9978, 2000 FCC LEXIS 1060 (DA 00-347, rel. Mar. 2, 2000).

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requested a stay of the Wisconsin Order; the FCC is considering that request but has not acted on it. *See LEC Coalition Files a Petition for Stay and an Application for Review of the Common Carrier Bureau's Order Directing the Four Largest Incumbent LECs in Wisconsin to File State Basic Payphone Rates*, Public Notice, 15 FCC Rcd 6238, 2000 FCC LEXIS 1874 (DA 00-823, rel. April 12, 2000).[19] Indeed, during the hearing, Mr. Wood retreated from his testimony and stated, "I don't suggest the Commission here make any decisions based on the Wisconsin order but instead base its decision on the previous orders that came from the full commission." Tr. 759, line 23 - 760, line 1. The Commission, therefore, should ignore the three and one-half pages of Mr. Wood's testimony that is devoted to the Wisconsin Order. NWPA/1, Wood/23-26. *See also* New York Decision at * 9-10 (refusing to apply Wisconsin Order).

NWPA's emphasis on form over substance is illustrated by its cross-examination of Qwest witness David Teitzel. During its cross-examination of Mr. Teitzel, NWPA focused on the fact that Qwest did not use the *terms* "new services test" or "overhead loading" in its direct testimony. Tr. 568, line 16 - 570, line 15. As noted by Mr. Teitzel, although those *terms* were not expressly used, the testimony does, in fact, contain information sufficient to satisfy the new services test and provides the Commission with sufficient information from which to establish a reasonable level of overhead costs.

E. Qwest's PAL Pricing Proposal Complies With the FCC Standards

Qwest has provided the Commission with information sufficient to satisfy the FCC guidelines. The rebuttal testimony of David Teitzel concisely summarizes how the proposed PAL rates are consistent with the federal standards. *See* Qwest/222, Teitzel/44-52.

With respect to the application of the new services test, the Payphone Features Order provides: "The new services test is a cost-based test that establishes the direct cost of providing the new service as a price floor. LECs then add a reasonable level of overhead costs to derive the

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[19] This Notice is attached as Appendix H.

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overall price of the new service." Qwest's PAL rates clearly satisfy this standard. The Commission's establishment of a revenue requirement in this case determines the appropriate overall level of contribution that Qwest's retail services must make. Aligning Qwest's PAL rates with rates for comparable business services is a reasonable method of allocating overhead. Tr. 630, line 15 - 631, line 1. NWPA would have the Commission limit the level of contribution to that established in Docket UM 844 for UNEs; however, the Commission is designing retail, not wholesale rates, and the UM 844 prices are not the appropriate rates for PAL service. Staff notes that its retail pricing proposals, which adopt Qwest's proposed PAL rates, are "cost-based." Staff/1, Ball/5; Staff/16, Stanage/6-7.

NWPA asserts that Qwest has not provided sufficient information regarding the "overhead loading" associated with the proposed PAL rates. The FCC does not mandate a uniform overhead loading or specific methodology for establishing PAL rates. The overhead loading, which the FCC simply describes as "the percent by which a rate exceeds the direct cost for a particular service,"[20] simply must be "reasonable." In the Payphone Features Order, the FCC required an explanation of Bell Atlantic's overhead loadings *only* because it determined that, based on cost/price ratios, the overhead loadings did not appear to be "reasonable." The FCC and state Commissions have determined that a wide range of overhead loading is reasonable, including overhead loading that results in rates that are 4.8 times higher than direct costs and 30 percent above direct costs. Payphone Features Order at ¶ ¶ 11 n. 39, 13; New York Decision at * 8-9. Indeed, the New York Commission noted "Traditionally, under the new services test, the FCC allowed rates one to two times above direct embedded costs." Id.

Qwest's proposed rates for Flat PAL, PAL Message Line, and PAL Measured services range from 26 percent to 91 percent above their direct costs, as approved by the Commission in UM 773. Qwest/219, Brigham/20-22; see also Tr. 594, line 16 - 595, line 4 (UM 773 rates are a

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[20] Payphone Features Order at ¶ 2 n. 7.

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reasonable approximation of direct costs as that term is used in the new services test). The overhead loading for each of these services is less than one time above its direct costs, which is well within the level of contribution that the FCC traditionally has allowed. This information is sufficient to allow the Commission to determine that Qwest's proposed PAL rates contain reasonable overhead allocations.

NWPA also asserts that the rates for PAL should be adjusted to account for line charges such as SLC/CALC, also known as EUCL, and PICC to avoid giving Qwest a "double recovery" of costs." Tr. 754, lines 11 - 23. Qwest, however, applies those charges to all access lines, including purchases of PAL service, and Qwest is required to apply these charges under federal law. 47 C.F.R. § 69.152(a) ("A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones.").

NWPA also asserts that Qwest should not apply these federal charges to PAL subscribers to avoid giving Qwest a competitive advantage in the payphone business. Tr. 754, lines 11 - 23. Qwest has no competitive advantage based upon the way it applies PAL pricing or these federal charges. Qwest charges the same rates to its payphone division as it does to independent providers. Qwest also applies these federal charges to the Qwest payphone division. Tr. 629, lines 1-20. In a similar situation, the Independent Payphone Association of New York argued that Verizon's payphone rates should be adjusted to account to EUCL and PICC charges. New York Decision at *5. Verizon responded that it was required to impose those federal charges on all business lines. *Id.* at *6. The New York PSC rejected the Payphone Association's arguments to subtract the federal charges from payphone rates. *Id.* * 11-12. The Commission should reach the same result here.

F. It Would be Inappropriate for the Commission to Order a Refund of PAL Service Rates.

Mr. Wood asserts that any new PAL rates should be made retroactive to April 15, 1997 and that Qwest should be required to provide refunds for the difference between the rates actually

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paid and the rates set by the Commission. NWPA/1, Wood/26. Mr. Wood also states: "It is my understanding that NWPA is requesting that the Commission establish compliant rates for PAL services in this proceeding, and will be seeking any applicable refunds in a subsequent proceeding." NWPA/1, Wood/6 n.2. NWPA is seeking a refund in a separate proceeding, Docket UC 600/DR 26, and that is the appropriate docket in which to consider a refund.[21] Therefore, the Commission should disregard pages 26-27 of Mr. Wood's testimony relating to a refund.

XII. ISSUE 12: RESIDENTIAL LOCAL EXCHANGE

A. Introduction

Qwest proposes a modest increase in residential local exchange rates, as well as deaveraging those rates into three zones on the same basis that the Commission deaveraged the loop UNE. Specifically, Qwest proposes raising the rate for residential basic service in Rate Group 1 by $1.00 to $13.80, by $2.00 in Rate Group 2 to $14.80, and by $3.00 in Rate Group 3 to $15.80. Qwest believes that an increase in residential basic rates is appropriate in order to comply with the legal mandate that "the Commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark" of $21.00 established by the Commission in Docket UM 731. ORS 759.425(3)(c). Qwest also believes that competition is more likely to develop in the residential market if the Commission increases Qwest's residential rates. Qwest balances the increase in residential basic service rates with a large proposed decrease in rates for EAS service (Issue 9), which are subscribed to by most residential customers.

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[21] On June 15, 2001, the parties filed a stipulation in that proceeding that provides: "The parties agree that UT 125 is the appropriate and exclusive docket for setting PAL rates. The parties also agree that this docket is the appropriate and exclusive docket for determining whether Qwest's past PAL rates are subject to a refund based on the rates established in UT 125."

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Staff opposes Qwest's proposal to increase rates in Rate Group 1, but supports the deaveraging proposal and the increases in Rate Groups 2 and 3. Staff appears, however, not to have considered fully the impact of ORS 759.425 on the level of residential basic rates in this docket.

AARP opposes any increase in residential rates. While AARP has given some consideration to the impact of ORS 759.425, its analysis of the relationship of the rate for residential service to the benchmark is based upon a flawed understanding of the statute and the Commission's definition of the term "basic telephone service."

B. The Commission Should Raise the Rate for Residential Basic Service To Limit the Difference Between the Price and the Benchmark

For years, the Commission has accomplished certain public policy objectives by charging relatively high rates for business basic service and relatively low rates for residential basic service. Section 254 of the Telecommunications Act of 1996 and ORS 759.425 have changed that. Section 254 requires that federal and state mechanisms to advance universal service be "specific and predictable." This has generally been understood to require that subsidies be explicit rather than implicit. Similarly, ORS 759.425 requires the Commission to establish and implement a universal service fund. ORS 759.425(3)(a) requires that the universal service fund provide "explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark . . .."

ORS 759.425(3)(c) provides that "the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark." In Docket UM 731, the Commission established the benchmark at $21. Order No. 00-312 at 22. The Commission also ordered that regulated telecommunications utilities shall adjust their rates prior to receiving distributions from the universal service fund to ensure that such distributions are made on a revenue-neutral basis. Id. at 29. Qwest implemented this requirement in April 2001 by lowering the rates for a variety of business services. At that time,

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Qwest eliminated the distinction between simple and complex basic business service, deaveraged rates, and lowered the rate for basic business service (simple) from $30.87 to $26.40 in Rate Group 1, $28.90 in Rate Group 2, and $30.85 in Rate Group 3. Qwest/201, Teitzel/14-15.

This case is the first opportunity for the Commission to implement ORS 759.425(3)(c) with respect to residential service. The Commission should take this opportunity to make a modest increase in the rate for residential basic service to start moving that price towards the universal service benchmark. Qwest/201, Teitzel/11-13.

C. Staff Failed To Examine the Relationship Between the Price for Residential Basic Service and the Universal Service Benchmark

Staff's testimony on the impact of ORS 759.425(3)(c) is inconsistent. On the one hand, Staff proposes reducing the rates for business basic service by $0.40 in Rate Groups 1 and 2 and by $2.35 in Rate Group 3 because business basic rates "are too far above the universal service benchmark." Staff/16, Stanage/17, line 19 - 18, line 1. Staff also justifies its proposed increase in residential rates for Rate Groups 2 and 3 because "those rates are brought closer to the universal service benchmark." Staff/16, Stanage/20, lines 16-18. Staff, however, proposes no increase for residential basic service rates in Rate Group 1 although over 90 percent of Qwest's residential customers are included in that Rate Group. Tr. 514, lines 11-19.

What is most curious about Staff's testimony with respect to the impact of ORS 759.425(3)(c) on residential basic service rates is that Staff apparently *did no analysis whatsoever* to even attempt to implement the mandate of the statute.

> Q Well, do you agree that the current rate for residential basic service is below the universal service bench mark?
>
> A No.
>
> Q You think it's above the universal service bench mark?
>
> A No.
>
> Q You think it's exactly at the universal service bench mark?

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A I don't know what the relationship is.

Q You don't know what the relationship is?

A No. I haven't had any reason to examine what the relationship is.

Q You've had no reason to examine the relationship between residential -- the price for residential service and the bench mark?

A That's correct.

Q But you testify about that, don't you?

A Yes. And my testimony says that I base the residential rate on the relationship between the current rate and the price floor.

Tr. 507, line 25 - 508, line 20.

Despite the statutory mandate that the Commission *shall* seek to limit the difference between the price of basic service and the universal service benchmark, Commission Staff's witness on the issue of residential basic service rates, Jim Stanage, testified that he "had no reason to examine the relationship between . . . the price for residential service and the benchmark." Rather, Staff's witness chose to base his recommendation for the price of residential basic service on "the relationship between the current rate and the price floor."

Q Okay. So you would agree with me that the current residential rate of $12.80 for residential flat basic service is below the $21 bench mark?

A In rate groups 2 and 3.

Q And it's the same rate in rate group 1 today, correct?

A That's correct.

Q And so isn't it below the bench mark in rate group 1 today?

A I don't know because I don't really have an opinion about what ought to be or what ought not to be in the bench mark or in the revenue to the rates that are compared to the bench mark. But I do know that the rate in rate group 1 is above the price floor. And I believe that the price floor is the

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> appropriate criterion to use in judging whether or not the service is priced properly under the statutes.
>
> Q Under which statutes are you referring to?
>
> A Well, among others, 759.400. Whatever those numbers are after 400. The changes in the statute that were brought about by Senate Bill 622.

Tr. 511, line 9 to 512, line 4.

It is clear that Staff is in error with respect to the legal mandates that apply in setting the price for residential basic service. Staff focussed on the relationship of basic service rates to the price floor established in ORS 759.410; however, the price floor does not apply to basic service. "Basic telephone service shall not be subject to a price floor." ORS 759.410(4). At the same time as Staff's witness focussed on the wrong legal standard, he completely ignored the applicable standard. In setting the price for basic service, "the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark." ORS 759.425(3)(c). In effect, Staff did not even "seek" to limit the difference, let alone produce a recommendation that actually accomplishes that. Despite its Staff's omission, the Commission must respect and apply the law.

D. AARP Performed an Incorrect Analysis Comparing the Price for Residential Basic Service to the Universal Service Benchmark

AARP opposes any increase in the price for residential basic service, and attempts to justify its position by showing that no change is required to comply with ORS 759.425(3)(c). AARP's effort fails because it is based on a fundamental misunderstanding of Oregon law.

Dr. Cameron testified that the price for flat-rated residential basic service of $12.80 should not be compared to the universal service benchmark. Rather, she believes that the benchmark "can only be appropriately compared to the sum of all revenues supported by the loop." That includes "basic services, EAS, features, access and intrastate toll and the revenue from the CCL and federal support amounts." AARP/1, Cameron 27, lines 15-17. Performing that comparison,

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Dr. Cameron concludes that the Commission does not need to adjust the price of residential basic service because it "nearly equals" the benchmark. Tr. 478, line 14.

The problem with Dr. Cameron's analysis is that it is based on an incorrect reading of the statute. While she would have the Commission seek to limit the difference between "the sum of all revenues supported by the loop" and the universal service benchmark (Tr. 488, lines 22-25), ORS 759.425(3)(c) requires the Commission instead to compare "the price a telecommunications utility may charge for basic telephone service" with the benchmark. Instead of following the clear language of the statute, Dr. Cameron would essentially have the Commission include revenue from a number of non-basic services in the price of basic service for the purpose of complying with the law.

As required by ORS 759.425(2)(a), the Commission has defined "basic telephone service" by rule. OAR 860-032-0260. The definition of basic telephone service specifically excludes EAS (OAR 860-032-0260(2)(a)), intrastate toll (OAR 860-032-0260(2)(b)), and custom calling features (OAR 860-032-0260(4)(i). Nevertheless, Dr. Cameron would include revenue from these non-basic services in the price for basic service in comparing the price for basic service with the universal service benchmark. Tr. 491, lines 10-14. That simply makes no sense.

Dr. Cameron testifies that it is not necessary to move the rate for residential basic service to the benchmark in a single change. Rather, AARP believes that it is sufficient to move rates in the right direction. AARP/3, Cameron/7, lines 19-22. Qwest agrees, which is why Qwest proposes only a $1.00 increase in Rate Group 1 and additional $1.00 increases in each of the higher cost areas. As Dr. Cameron admitted, however, AARP's proposal for residential basic rates would not have them moving at all. Tr. 495, lines 15-17.

E. Summary

Increasing the price for residential basic service in all Rate Groups -- especially in Rate Group 1 where the vast majority of residential customers are located -- complies with the legislative mandate of ORS 759.425(3)(c); leaving the price where it is does not. Increasing residential basic service rates also is more likely to stimulation competition for residential customers than will leaving the rates largely unchanged. Qwest proposes only a modest adjustment to the basic service rates, $1.00 per month in Rate Group 1, and an additional $1.00 in each of Rate Groups 2 and 3 respectively. At the same time, Qwest proposes reductions in non-basic services subscribed to by many residential customers -- EAS, toll, and features -- which will cause the typical residential customer's overall charges to decrease. Qwest/201, Teitzel/12-13. The Commission should adopt Qwest's proposal.

XIII. ISSUE 13: RESIDENTIAL NON-RECURRING CHARGES

Qwest proposes raising the non-recurring charge for residential service installation from $12.00 to $16.50 to bring the rate closer to the direct cost of the service. Qwest/201, Teitzel/14. Even at this level, the rate still will be significantly below cost. Qwest/221, Brigham/8. Staff recommends that the Commission adopt Qwest's proposal because it will move the rate closer to the price floor, noting that Qwest's proposed rate is still one of the lowest charges for this service by any BOC. Staff/16, Stanage/23.

Only AARP disputes Qwest's proposal to raise the non-recurring charge for residential service. AARP, however, fails to make any specific argument addressing this proposed rate, other than its assertion that "there is no basis for an increase in basic local residential rates" in the context of an overall revenue reduction. AARP/1, Cameron 4. The Commission applies a number of considerations in evaluating a rate design, and it does not suffice to say that no element of residential rates should be increased in the context of an overall revenue reduction. As discussed above, many other rates utilized by residential customers -- such as features, intraLATA toll, and EAS -- are decreasing in Qwest's proposal. The Commission should be concerned with below-cost rates and increase them where possible. Accordingly, the Commission should adopt Qwest's proposal to increase the residential non-recurring charge without modification.

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CONCLUSION

For the foregoing reasons, the Commission should adopt Qwest's rate design proposal, with the modifications agreed to by Qwest as indicated in this brief.

DATED: June 29, 2001.

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*1998 Cal. PUC LEXIS 570, *; 187 P.U.R.4th 120*

Re Pacific Bell

Decision 98-07-033, Application 97-03-004

California Public Utilities Commission

1998 Cal. PUC LEXIS 570; 187 P.U.R.4th 120

July 2, 1998

CORE TERMS: reduction, toll, elasticity, switched, customer, offset, residential, subsidy, universal, estimate, margin, carrier, local usage, custom, telecommunication, settlement, surcredit, tariff, competitive, permanent, discount, stimulation, surcharge, recommend, volume, decrease, ceiling, minute, calculation, sustainable

HEADNOTES:
[*1]

OPINION and ORDER authorizing a telephone local exchange carrier (LEC) to reduce its rates to offset its receipt of universal service funds from the newly-created California High Cost Fund-B (CHCF-B).

The rate reductions are revenue neutral to the LEC and are funded by a universal service surcharge on the monthly bills of all retail customers of telecommunications services in California. The purpose of the rate reductions is to prevent Pacific Bell from receiving a windfall of both a subsidy from the CHCF-B fund and monies from the implicit subsidy contained in rates for services, which are priced to help offset the costs of universal service.

Commission adopts $ 305.2 million in price ceiling reductions for the LEC, with the reductions targeted to services with such a high margin of revenue over direct costs that they are deemed to provide an implicit subsidy toward the cost of other services. The rate reductions are also designed to benefit the broadest base of customers and to ensure that sustainable prices result.

Commission allocates price ceiling reductions to all identified high margin services, with the largest reductions to toll service because toll service historically **[*2]** has provided the highest implicit subsidy support. It finds that its rate reduction goals are best met through an initial 10% reduction to message toll service, followed by an equal percentage reduction to message toll service and all other identified high margin services - i.e., switched access, local exchange, zone usage measurement, and custom calling services. In calculating the rate reductions the commission adopts an elasticity factor of -0.20 for toll and -0.24 for switched access to reflect the demand stimulation expected to result from price changes.

Commission reduces implicit subsidies from services that face competition, or may face it in the future, in a manner that does not provide an unfair competitive advantage to the LEC. To ensure that the LEC cannot unilaterally raise prices for the services to which the offset is applied, the price ceilings of affected flexibly priced services are reduced. Moreover, to ensure that prices are not set at an anticompetitively low level, a substantial contribution margin is left in every service for which rates are reduced.

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1. PROCEDURE, § 1

[CAL.] Conduct of proceedings - Ratesetting - Experimental rules - Senate Bill 960. **[*3]** p. 127.

2. RATES, § 640

[CAL.] Procedure - Implementation of reduction - Experimental rules - Senate Bill 960.
p. 127.

3. RATES, § 534

[CAL.] Telecommunications rate design - Special factors - Offset for Universal Service Fund subsidy support - Offset mechanism - Allocation of rate reduction - Local exchange carrier - Discussion.
p. 127.

4. RATES, § 534

[CAL.] Telecommunications rate design - Special factors - Offset for Universal Service Fund subsidy support - Offset mechanism - Reductions targeted to services with high contribution margins - Local exchange carrier.
p. 132.

5. MONOPOLY AND COMPETITION, § 83

[CAL.] Telecommunications - Offset to rates for Universal Service Fund subsidy support - Avoiding unfair competitive advantage - Reduced ceilings for flexibly priced services - Retention of substantial contribution margin - Local exchange carrier.
p. 132.

6. RATES, § 532

[CAL.] Telecommunications rate design - Offset for Universal Service Fund draw - Reduction to high-margin services - Local exchange carrier.
p. 134.

7. RATES, § 582

[CAL.] Telecommunications rate design - IntraLATA toll service - Price reductions - Offset for Universal Service Fund draw - **[*4]** Parity for residential and business customers - Local exchange carrier.
p. 134.

8. TELEPHONES, § 14

[CAL.] Connecting carriers - Switched access service - Rate reduction - Offset for Universal Service Fund draw - Targeted rate elements - Local exchange carrier.
p. 136.

9. RATES, § 588

[CAL.] Telecommunications rate design - Switched access service - Flow-through of access charge reductions.
p. 136.

10. MONOPOLY AND COMPETITION, § 94

[CAL.] Telecommunications - IntraLATA toll rate reductions - Access charge reductions - Local exchange carrier - Offset for universal service fund draw - Flow-through verification.
p. 136.

11. RATES, § 553

[CAL.] Telecommunications rate design - Local usage - Reduction to offset for Universal Service Fund draw - Local exchange carrier.
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12. RATES, § 541

[CAL.] Telecommunications rate design - Zone usage measurement - Reduction to offset for Universal Service Fund draw - Local exchange carrier.
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13. RATES, § 553

[CAL.] Telecommunications rate design - Custom calling services - Reduction to offset for Universal Service Fund draw - Local exchange carrier.
p. 138.

14. RATES, § 532

[CAL.] Telecommunications rate design **[*5]** - Offset for Universal Service Fund draw - Reduction to high-margin services - Adopted price reductions - Local exchange carrier.
p. 138.

15. RATES, § 235

[CAL.] Initiation of changes - Implementation of rate reduction - Offset for Universal Service Fund draw - Compliance filing process.
p. 139.

16. RATES, § 534

[CAL.] Telecommunications rate design - Special factors - Elasticity of demand - Revenue impact of rate reduction - Local exchange carrier.
p. 141.

17. REVENUES, § 4

[CAL.] Forecasts - Impact of rate reduction - Increased patronage under new rates - Elasticity factors - Telephone local exchange carrier.
p. 141.

18. REVENUES, § 4

[CAL.] Forecasts - Impact of rate reduction - Increased patronage under new rates - Elasticity factor - Firm elasticity versus market elasticity - Discussion.
p. 141.

19. RATES, § 582

[CAL.] Telecommunications rate design - IntraLATA toll service - Price reductions - Revenue impact - Elasticity factor - Local exchange carrier.
p. 141.

20. TELEPHONES, § 14

[CAL.] Connecting carriers - Switched access service - Rate reduction - Revenue impact - Elasticity factor - Local exchange carrier.
p. 141.

21. RATES, § 534

[CAL.] Telecommunications **[*6]** rate design - Special factors - Elasticity - Need for sophisticated elasticity studies - Local exchange carrier.
p. 146.

22. REVENUES, § 4

[CAL.] Forecasts - Impact of rate reduction - Increased patronage under new rates - Elasticity - Calculation of demand stimulation - Adopted methodology.
p. 147.

23. RATES, § 534

[CAL.] Telecommunications rate design - Special factors - Elasticity of demand - Revenue impact of rate reduction - Calculation of demand stimulation - Local exchange carrier.
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24. TELEPHONES, § 14

[CAL.] Connecting carriers - Price reductions to offset universal service fund draw - Effect on intercompany settlements.
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25. TELEPHONES, § 14

[CAL.] Connecting carriers - Switched access service - Rate reduction - Flow-through verification - Dissent.
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26. RATES, § 588

[CAL.] Telecommunications rate design - Switched access service - Flow-through of access charge reductions - Dissent.
p. 162.

27. MONOPOLY AND COMPETITION, § 94

[CAL.] Telecommunications - IntraLATA toll rate reductions - Access charge reductions - Flow-through verification - Dissent.
p. 162.

PANEL:

Richard A. Bilas, President; P. Gregory Conlon, Jessie J. Knight, Jr., Henry **[*7]** M. Duque; Josiah L. Neeper (dissenting in part), Commissioners

OPINION

Summary

In this decision, we adopt $ 305.2 million in price ceiling reductions for Pacific Bell (Pacific) as a permanent offset for its receipt of universal service funds from the California High Cost Fund (CHCF-B). In Decision (D.) 96-10-066, we afforded the five large and mid-size local exchange carriers (LECs) participating in the CHCF-B the opportunity to request a permanent rate reduction offset rather than using the surcredit mechanism we adopted. Pacific is the first LEC to make such a request.

Pacific and other parties present six proposals for a permanent offset. The proposals differ as to which services are recommended for reduction, and the amount and structure of the reduction for each service.

The goals that guide us in choosing the most appropriate permanent offset are: (1) to target the services parties demonstrate contain implicit subsidies; (2) to ensure the rate reductions we adopt result in sustainable prices; and (3) to reduce the rates within these services in a manner which benefits the broadest base of customers.

In addressing our first goal, the targeting of specific services, we recognize **[*8]** that not all of Pacific's services provide implicit subsidy support for universal service. The services identified by parties all contribute a high margin of revenue over direct costs; this contribution is available to meet Pacific's shared and common costs and to provide an implicit subsidy toward the cost of other services.

We meet our second goal, sustainable prices, by reducing implicit subsidies from services that face competition today or may face competition in the future in a manner that does not provide Pacific an unfair competitive advantage. In order to ensure that Pacific cannot unilaterally raise these prices, we also lower the price ceiling for these services to the level of rates herein adopted.

To achieve broad-based customer benefits, our third goal, we reduce implicit subsidies in all the services that we identify as providing implicit subsidy support and we do it in a manner that provides benefits to the greatest number of customers within each service.

While we allocate price ceiling reductions to all identified high margin services, we provide the largest reductions to toll because it has the highest contribution margin and has historically contributed the highest **[*9]** implicit subsidy support. We allocate the toll reductions only to the basic residential and business schedules, not to the discount calling plans, and we do not set prices below levels now existing in the competitive market. We maintain the Commission's existing policy of parity between residential and business prices, providing the funds to support this by a lesser reduction in ceiling prices for custom calling services.

Also at issue in this proceeding is the elasticity factors that should be applied to toll or switched access price reductions for Pacific to reflect the demand stimulation caused by price changes. We find the elasticity study presented by Pacific is reasonable for Pacific given its current market conditions and, therefore, we adopt its factors. We find the record here does not allow us to make a determination regarding the reasonableness of these elasticity factors for GTE California, Inc. (GTEC).

** See Table in Original. **

The specific price reductions we adopt are attached as Appendix C. A comparison table of the parties' proposals with our adopted revenue reductions is shown on the previous page. 1. Procedural Background

A. Overview

In Rulemaking (R.) 95-01-020 **[*10]** and Investigation (I.) 95-01-021, which were consolidated and filed on January 24, 1995, the Commission opened a proceeding to develop rules to pursue universal service goals in a competitive telecommunications environment. This proceeding is part of our comprehensive review of how state regulatory policies need to respond to the opening of monopoly markets to competition. It is also one of the three proceedings the Commission initiated to facilitate the opening of local exchange telecommunications markets to competition.

The transition from monopoly to competitive telephone markets began at the federal level in long distance competition. This accelerated in 1982 with the divestiture by American Telephone and Telegraph Company of its local exchange telephone service under an antitrust consent decree between the U.S. Department of Justice and American Telephone and Telegraph Company (the Modified Final Judgment). Recognizing the inroads of competition into local exchange markets, the Commission in 1987 took the first step to convert the regulation of its LECs to an incentive form of regulation.

In I.87-11-033, the Commission stated its intent to explore the implications of both relaxing **[*11]** its ban on intraLATA (Local Access Transport Area) competition and reforming its pricing policies. This investigation developed a New Regulatory Framework (NRF) for California's two largest LECs, Pacific and GTEC, and culminated in the Implementation Rate Design (IRD) decision, D.94-09-065, which opened intraLATA toll markets to competition beginning January 1, 1995 and undertook a revenue rebalancing and rate design to move the price of services toward cost while reflecting expected levels of competition.

Building on the foundation laid in I.87-11-033, the Commission in its November 1993 report Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure stated its intent to open all telecommunications markets in California to competition by January 1, 1997. The legislature adopted this policy in Assembly Bill (AB) 3606, codified in Section 709.5 of the Public Utilities Code.

In D.94-12-053, the Commission adopted a roadmap plan to facilitate the introduction of local exchange competition. This plan recognized three areas of technical and policy issues related to local exchange competition that would need to be addressed in a coordinated manner in **[*12]** separate proceedings. Today, this plan moves forward with: technical costing issues related to the unbundling of network elements (UNEs) and Operations Support Systems (OSS) and pricing issues for UNEs and wholesale service being handled in the Open Access and Network Architecture Development (OANAD) proceeding, R93-04-003/ I.93-04-002; issues related to universal service being handled in R.95-01-020/ I.95-01-021; and the implementation rules governing local competition being handled in R.95-04-043/I.95-04-044. n1

n1 See also D.95-07-050 (60 CPUC 2d 536) for additional background on the universal service proceeding Order Instituting Investigation (OII)/Order Instituting Rulemaking (OIR).

B. Comments on the Proposed Decision

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Pursuant to Public Utilities Code Section 311, the proposed decision of the assigned administrative law judge was mailed to all parties. Comments and reply comments on the proposed decision were timely filed by Pacific, AT&T Communications of California, Inc. (AT&T), MCI Telecommunications Corporation (MCI), Office of Ratepayer Advocates (ORA), Sprint Communications Company L.P. (Sprint), and The Utility Reform Network (TURN); opening comments only were filed **[*13]** by the two groups representing the small LECs. This decision makes several changes based on parties' comments.

The major change we adopt is in response to Pacific's comments that the proposed decision erred in not recognizing that the toll price reductions it proposed for residence and business basic message toll service had dropped to levels that could effect the viability of some of Pacific's discounted optional calling plans. We correct this inadvertent error by reducing the amount of toll reductions to a level that does not drop below any of Pacific's toll discount calling plans. We reallocate the available revenue resulting from our toll changes to a further reduction to switched access service prices.

Also in response to comments, we (1) change three custom calling prices in Appendix C, (2) provide further support for our discussion on switched access service elements, (3) round the toll, local usage, and ZUM prices adopted in Appendix C to four places to the right of the decimal point in order to accommodate Pacific's billing system, and (4) adopt recommended minor revisions to the decision for purposes of clarification and correction.

C. The Universal Service Proceeding **[*14]**

In D.96-10-066, the Commission finalized the universal service rules that it originally proposed in D.95-07-050. The legislature through AB 3643 (Stats. 1994, Chapter 278), which became effective January 1, 1995, provided guidance as to the type of issues the Commission should address in the universal service OIR/OII. Specifically, AB 3643 directed the Commission to examine the current and future definitions of universal service in telecommunications with the following objectives:

(1) Define the goals of universal service given the new technologies and increasingly competitive markets, with emphasis on the role of basic service in education, health care, and in the workplace.

(2) Delineate the subsidy support needed to maintain universal service in the new competitive market.

(3) Design and recommend equitable and broad based subsidy support for universal service in freely competitive markets.

(4) Develop a process to periodically review and revise the definition of universal service to reflect new technology and markets.

(5) Address the issues of "carrier of last resort" and "franchise obligations." (Stats. 1994, Chap. 278, Sec. 2(a).)

In developing its final rules, the Commission **[*15]** first proposed draft rules for written comment and, after reviewing the comments, held a full panel hearing. Following this, the Commission co-hosted with the State and Consumer Services Agency 13 public participation hearings, and then held workshops and evidentiary hearings on issues pertaining to the formulation of a proxy cost study for determining the cost of basic services.

In D.96-10-066, the Commission decided that the five large and mid-size LECs (Pacific, GTEC/Contel, Citizens Telephone Company, and Roseville Telephone Company) would be included in a proxy cost model calculation for determining universal service support. They, as other carriers of last resort (COLRs) who serve high cost areas in their service territories, are eligible for subsidy support through the newly created CHCF-B.

As required by Ordering Paragraph 8 of D.96-10-066, all California telecommunications carriers, effective with the billing cycle that began February 1, 1997, are required to charge all end users the CHCF-B surcharge, initially set at 2.87%, for all telecommunications services except Universal Lifeline Telephone Services billings, rates set by contract prior to September 15, 1994, coin-sent **[*16]** paid calling, debit card messages, one-way radio paging, usage charges to coin operated pay telephones, and directory advertising

The 17 smaller LECs in California are not subject to the rules applicable to the CHCF-B fund. Instead, the smaller LECs continue to be eligible for universal service support under the preexisting California High Cost Fund, now referenced as CHCF-A.

In order to avoid a windfall to the five large and mid-size LECs, the Commission directed that any explicit subsidy support received from the CHCF-B shall be reduced by the same amount through an equal percentage reduction for all services except for basic service rates. In D.96-10-066, we afforded the five large and mid-size LECs the opportunity to request by application a different offset methodology that would reduce rates or price caps downward to permanently offset the explicit subsidy support.

D. Pacific's Application

[1, 2] On March 6, 1997, Pacific filed its application requesting that the estimated $ 305.2 million it will receive each year from the universal service fund be offset by $ 297.8 million in permanent reductions to residential and business toll ceiling prices and $ 7.4 million in reductions **[*17]** to switched access ceiling prices. Timely protests to the application were filed by AT&T, Evans Telephone Company et al. (small LECs), GTEC, MCI and Sprint, ORA, TURN, and WorldCom Inc.

In its application, Pacific requests to include this proceeding in the Commission's experimental Senate Bill (SB) 960 program. Under the experimental program, the Commission selected a representative sample of proceedings to operate under experimental rules and procedures in order to gain experience with management of Commission proceedings under the requirements of SB 960; the requirements of SB 960 became effective on January 1, 1998. The experimental rules that govern this proceeding are set forth in Resolution ALJ-170, adopted January 13, 1997 (Experimental Rules).

On March 11, 1997, Pacific amended its application to include a proposed scoping memo pursuant to Experimental Rule 3.a. All interested parties submitted prehearing conference (PHC) statements addressing Pacific's proposal, a PHC was held on April 24, 1997, and additional PHC comments were filed by parties on May 5, 1997.

On July 11, 1997, Assigned Commissioner Knight issued a Final Scoping Memo (Scoping Memo). Pursuant to Experimental **[*18]** Rule 5, the Scoping Memo confirmed the categorization of this proceeding as "ratesetting," adopted a procedural timetable (with projected submission date), and specified the issues to be addressed. n2

n2 The scoping memo adopted a projected submission date of December 17, 1997. A Joint Assigned Commissioner and Administrative Law Judge's (ALJ) Ruling on November 7, 1997, changed the submission date to February 20, 1998 to reflect the late adjournment of the hearings, the holiday season, and the schedules of the new rulemaking and investigation on OSS performance and the OSS phase of the OANAD proceeding.

In the Scoping Memo, Commissioner Knight ruled: (1) to proceed with Pacific's application in order to implement rate reductions in a timely manner, recognizing that there is uncertainty until the CHCF-B is operational and that the Commission may need to revisit the rate reduction it adopts here; (2) to examine elasticity in this proceeding; (3) to not address the concerns of the 13 small LECs who currently elect to participate with Pacific in pooling and settlement arrangements for toll, access, and private line services in this proceeding, but to refer those issues to the existing **[*19]** CHCF-A filing mechanism; (4) to deny GTEC's request that the Commission delay Pacific's ability to implement all of its requested rate reductions until after Pacific raises its basic service rates to the statewide average cost of providing basic service; (5) that D.96-10-066 allows Pacific to request a permanent reduction in the manner set forth in its application and that the merits of its proposal will be litigated in this proceeding; and (6) to limit the use of cost data in this proceeding to costs that have already been adopted by the Commission. n3

n3 In ruling on the small LECs' request, the Assigned Commissioner stated that he expected Pacific, subsequent to a decision in this proceeding, to work expeditiously and diligently with the small LECs in order to determine the "industry" settlement effects resulting from this decision and to provide each small LEC a report of its share of the industry settlement effects so that each LEC can make a determination as to whether it should seek recovery from CHCF-A. Further, Pacific should concurrently serve the Commission's Telecommunications Division a copy of this report, together with supporting workpapers.

Evidentiary hearings **[*20]** were held in San Francisco on October 14 through November 5, 1997. Pursuant to Experimental Rule 9(b), a closing argument was held on October 28, 1997. Opening briefs were filed on January 9, 1998 and reply briefs on February 20, 1998, at which time the matter was submitted. n4

n4 Pursuant to Experimental Rule 9(d), a final oral argument before a quorum of the Commission will be held. Pursuant to ALJ Resolution 175, the closed session provisions of the final SB 960 rules do not apply to this proceeding.

Interested parties who participated in the hearings are Pacific, AT&T, the Facilities-Based Carriers (FBC), GTEC, MCI, ORA, Sprint and TURN. n5

n5 FBC consists of ICG Telecom Group, Inc., NEXTLINK California LLC, and the California Cable Television Association.

II. Permanent Offset for Pacific's Explicit Subsidy Support

A. Issues

[3] The primary issue before the Commission in this proceeding is what is the appropriate permanent offset for the CHCF-B universal service fund subsidy support authorized Pacific in D.96-10-066. In that decision, the Commission adopted as an initial offset mechanism an equal percentage reduction methodology (EPRM) for all rates, except for residential **[*21]** basic service. The Commission adopted this mechanism because it resulted in the most competitively neutral outcome in the short term and provided an immediate offset without much controversy.

Parties in this proceeding present six different proposals for the Commission's consideration. Underlying each proposal is a recognition that the rate reductions are revenue neutral to Pacific, and are being funded by a universal service surcharge on the monthly bills of all retail customers of telecommunication services in California. Each party addresses the goals the Commission should follow in deciding which services should be reduced, which customers using those services should benefit, and what the effect of this reduction should be on Pacific's monopoly and competitive markets.

In addressing the issue of benefits to customers, several parties recommend the Commission apply little or no reductions to switched access services because these reductions may not be flowed through to the customers who pay the CHCF-B surcharge. The purchasers of switched access service are the interexchange carriers (IXCs), who use this service to provide toll service to their retail customers. TURN, Pacific, **[*22]** ORA, and FBC all question whether and how price reductions to switched access service will be flowed through to the customers of toll services, especially the less elastic toll customers. n6

n6 We use the generic term elasticity to refer to the price elasticity of demand. The price elasticity of demand is the percentage change in demand generated by a 1% change in price. (See Section III below.) Therefore, an elastic customer is one whose amount of usage of a service is most sensitive to price changes.

In raising this issue, parties cite to D.96-10-066, where the Commission chose to directly surcharge all customers of telecommunications services in California rather than adopt a funding mechanism that surcharged the telecommunications carriers. In D.96-10-066, the Commission states it chose its funding mechanism to ensure (1) that customers of less elastic services and customers who live in high cost areas do not pay higher charges than customers of competitive services, i.e. that the funding mechanism be "competitively neutral," and (2) that all customers would be clearly informed of the source of the subsidy.

Also at issue in this proceeding is the elasticity factors that should **[*23]** be applied to any price reductions to toll and switched access to reflect the demand stimulation caused by price changes. The higher the magnitude of the elasticity factor used, the greater the rate reductions Pacific will need to maintain revenue neutrality. As discussed in Section III, we adopt an elasticity factor of -0.20 for toll and -0.24 for switched access. We use these elasticity factors to compute the pricing reductions we adopt in this section.

In order to implement a permanent rate reduction proposal in this decision, we need to address several issues. First, we discuss the current status of the CHCF-B fund and establish when the offset we adopt here is to be effective. Next, we specify the actual ceiling rates, price floors, or surcredits that our choice of a permanent offset provides and adopt a procedure for reconciling Pacific's $ 305.2 million estimate with its actual draw. Finally, we decide whether to adopt a mechanism to annually true-up changes in Pacific's actual draw from the universal service fund with the adopted ceiling rate reduction offset.

B. Parties' Proposals

1. Pacific

In its application, Pacific proposes to reduce rates for its highest margin service, **[*24]** intraLATA toll, by $ 297 million and to reduce another high margin service, switched access, by $ 7 million. Switched access is the switching and transmission service provided by Pacific to connect end-users with IXCs and vice versa; for the IXC it is a building block of toll service.

Pacific requests to reduce toll prices for both its basic service and its discounted Optional Calling Plans (OCPs), and requests to change the threshold for residential customer discount eligibility from $ 5/month in toll calls to $ 20/month. Pacific allocates $ 172.5 million to residential toll reductions, for an average 24% price decrease and $ 125.3 million to business toll reductions, for an average 28% price decrease. It states its proposal benefits virtually all customers.

Pacific states that adoption of its proposal will level the competitive playing field by removing the implicit subsidies from toll and setting these prices in line with those of its competitors. It testifies that toll is the market where it faces its most competition and where its prices contain the highest level of subsidy. It concludes that when presubscription is allowed for IXCs, Pacific's current toll prices will no longer **[*25]** be sustainable. n7

n7 Presubscription is defined in D.97-06-104 as the ability of a telephone customer to designate (or presubscribe to) a communication carrier and thereafter dial toll calls within a LATA without having to dial additional numbers.

In testimony, Pacific presents an analysis showing that the relative contribution levels, using revenue to cost ratios, is higher for toll than access, even after its proposed price reductions. In its opening testimony Pacific emphasizes that toll provides more contribution per minute than does access. In reply testimony, Pacific disputes AT&T's relative contribution analysis and demonstrates that toll has a higher revenue to cost ratio than access. It asserts that the IXCs are currently earning high profit levels because they did not flow through to customers all of the substantial switched access price reductions adopted by the Commission in IRD and that the IXCs can match the proposed toll price reductions by simply reducing their profits to fair and reasonable levels.

Pacific states that no anti-competitive price squeeze occurs between toll and switched access prices under its proposal because Pacific's rates remain above the price **[*26]** floors established by the Commission. It asserts that it faces the same economic cost as do its IXC competitors when providing access to itself because Pacific's cost includes the opportunity cost of not selling access to the competitor at the retail rate and collecting its authorized contribution.

It does not recommend rate reductions for local usage and zone usage measurement (ZUM) and custom calling services, stating that the price distortions in toll calls need correcting prior to addressing these services Pacific asserts that toll has a higher contribution margin than either service. Further, for custom calling services, the volume of services any one customer can order is limited. For local usage, Pacific asserts the Commission should look at local access lines as well and consider the low margins for these services. For ZUM, Pacific states that intraLATA toll calls are priced much higher than ZUM calls of the same distance and therefore should be the first category to receive price reductions.

Pacific asserts that in D.96-10-066 the Commission granted it the right to determine which prices to permanently reduce to offset its receipt of CHCF-B funds and that its proposal should **[*27]** be adopted without modification.

2. AT&T

AT&T proposes that Pacific's receipt of CHCF-B funds be offset by reducing switched access prices to economic cost in order to promote economic efficiency. It asserts this is competitively neutral and results in considerable consumer benefits. Specifically, AT&T proposes $ 263 million in price reductions to switched access with the Commission choosing the services to receive the remainder of the offset.

It pledges to pass through the cost savings it receives from switched access price reductions to its residential customers proportional to the amount of revenue these customers currently contribute. In response to criticism that it did not flow through IRD reductions, AT&T presents a study which shows that between 1987-1995 it reduced toll prices in excess of the Commission-ordered access charge reductions.

AT&T testifies that the Commission should target for rate reduction the services where competition itself will not reduce the rates to cost. Another reason supporting switched access reductions is that price reductions to inputs at earlier parts in the production chain have larger beneficial economic impacts. Pacific's proposal amounts **[*28]** to a vertical price squeeze and is therefore anti-competitive as well as inefficient.

In its testimony, AT&T recommends the use of a price markup calculation (i.e., the markup as a percentage of the price) for comparing levels of contribution, not the total dollar of contribution. Using a price markup comparison, AT&T's calculations show a higher markup for access than toll. There is no need to allocate a shared cost that the incumbent incurs and the competitors do not. Even if there were a need, AT&T argues that it would be efficient to allocate the "burden" by an equal percentage markup so as not to disturb the relative price ratios.

3. MCI

MCI also recommends the rate reduction offset be targeted to reduce switched access prices to direct economic cost. With AT&T, it sponsors a tariff exhibit showing specific rate element reductions. MCI states that the Commission should:

1. reduce the prices for services currently and historically priced substantially above economic cost in order to support universal service;

2. reduce the prices for the least competitive and most essential services and, thus;

3. order those price reductions that would best promote competition, consumer welfare, **[*29]** and economic growth in California.

MCI views switched access as a bottleneck service and testifies that continuing above-cost pricing leads to three types of inefficiencies: allocative (economic welfare); productive (not enough incentive to provide service at lowest cost); and dynamic (no incentive to innovate). The Commission's imputation rules, even with a structural separation (i.e., having toll operated by a separate subsidiary), is ineffective in mitigating the price squeeze problem because only Pacific incurs the economic cost of access whereas its toll competitors must incur the retail rate.

MCI asserts that it did pass through all IRD access reductions but the time period presented by Pacific is too short; MCI cites AT&T's study as evidence of its flow through. It pledges to pass through to consumers any reductions in switched access prices adopted here.

4. Sprint

Sprint recommends the Commission focus reductions on switched access in order to avoid a price squeeze by Pacific. It recommends the elimination of the Network Interconnection Charge (NIC), one of four rate elements of the switched access tariff that were created specifically as subsidies.

Elimination of the NIC **[*30]** is an approximate $ 139 million rate reduction. Sprint recommends the Commission impute a corresponding $ 139 million reduction to Pacific's intraLATA toll price floors, thereby allowing Pacific the ability to match the switched access reduction. The remaining $ 27 million should be used to reduce the local switching element, to be matched with an equal amount of additional reductions to Pacific's toll price floors.

Sprint also commits to passing through any switched access reduction. It does not provide any specifics as to how this will be done.

5. FBC

FBC recommends that the interim EPRM surcredit be adopted as permanent for Pacific as it is the most competitively neutral proposal. A principle the Commission should adopt is to reduce prices to those who contribute to the CHCF-B.

FBC states that Pacific's proposal only serves its own interests and has already been rejected in D.96-10-066. Pacific would have to reduce its toll rates in any case to respond to competition; CHCF-B funds should not be used to finance Pacific's competitive response.

FBC explains why the EPRM is consistent with the FCC's actions in its recent Access Charge Reform Order I and the IXCs' proposals are not. **[*31]** It states the FCC found that because universal service costs are intermingled with other costs and implicit subsidies cannot be readily distinguished from other costs, the FCC chose not to reduce interstate access charges to cost but instead to restructure them, relying on regulatory changes and market forces to move access charges gradually, not immediately, toward cost.

6. ORA

ORA states that D.96-10-066 provides clear direction that CHCF-B funds should be evenly distributed among many services and classes of customers. Its proposal does this on a competitively neutral basis and in a manner that does not pose an administrative burden. ORA's proposal in its direct testimony is to reduce toll by $ 218 million (residential by $ 134 million and business by $ 84 million), switched access by $ 52 million, custom calling services by $ 13 million, and Centrex services by $ 23 million.

In its reply testimony, ORA changes it recommendation to reflect the benefits of reductions to local usage and ZUM. Its proposal is to reduce toll by $ 161 million (residential by $ 93 million and business by $ 68 million), switched access by $ 52 million, local usage and ZUM by $ 78 million, and custom **[*32]** calling by $ 15 million.

ORA testifies that Pacific's request to substantially reduce only toll rates is neither competitively neutral nor does it foster universal service. It believes Pacific's targeted toll reductions are anti-competitive and need to be balanced by sufficient decreases to switched access and other services. It proposes to reduce the NIC element of switched access by 50%. To address the problem of the IXCs not passing through all of the access reduction, ORA recommends the Commission order a pass through.

ORA reports that the contribution from current residential toll ceiling rates (based on average revenue per minute) is less than the contribution from current business toll rates. Under Pacific's proposal however, this relationship would reverse, and residential toll service would provide more contribution than business toll service.

Another ORA concern is Pacific's proposal to change the current residential direct discount plan by raising the volume threshold from $ 5 to $ 20/month. ORA believes this will disproportionately harm low-income residential customers and recommends it not be adopted.

7. TURN

TURN recommends the Commission apply three criteria in considering **[*33]** which rates to reduce. First, and most importantly, the Commission should take into account the degree of competition which exists now, or will in the near term, for a given service. Second, the Commission should consider the degree to which a given service is currently priced above cost. Third, the Commission should consider the extent to which the service under consideration is essential to users of the network, i.e. which rate reductions will best promote our universal service goals.

Based on the above criteria, TURN recommends a $ 194 million reduction to local usage prices and a $ 110 million reduction to ZUM prices. Local usage and ZUM are local exchange services which are among Pacific's least competitive services. TURN favors reducing local usage and ZUM over custom calling services because the former are essential services while custom calling features are discretionary. Local usage and ZUM are also more essential services than toll or custom calling.

TURN does not favor using CHCF-B funds to reduce switched access charges because it believes customers, not carriers, should be the direct beneficiaries of offsetting rate reductions. While the Commission could order a mandatory **[*34]** flow through of any switched access reductions, TURN does not see this as a workable solution because structuring and enforcement of a flow-through requirement would be fraught with administrative problems. TURN believes the IXCs, if not closely monitored, will try to flow through a disproportionate amount of access charge reductions to their highest volume customers and to new customers in promotional offerings..

In support of its position, TURN compares the IRD access charge reductions of about 2.5 cents per minute for Pacific with how AT&T's rates have actually changed since IRD. It states some rate schedules actually increased, such as commercial Message Telecommunications Services (MTS) rates, and both residential and commercial calling card rates. Residential MTS rate reductions since IRD fall far short of the access charge reductions. To the extent AT&T passed through its IRD access cost reductions at all, most of the rate reductions bypassed the basic toll service used by many residential and small business customers.

C. Discussion

1. Commission Goals

[4, 5] The purpose of this proceeding is to offset Pacific's estimated $ 305.2 million annual draw from the universal service **[*35]** fund, CHCF-B, in order to avoid Pacific receiving a windfall of both a subsidy from the CHCF-B fund and monies from the implicit subsidies contained in rates for services which are priced to help offset the costs of universal service.

Our goals in adopting a rate reduction are to (1) target the services parties demonstrate contain implicit subsidies; (2) ensure the rate reductions we adopt result in sustainable prices; and (3) reduce the rates within these services in a manner which benefits the broadest base of customers.

In targeting specific services, we recognize that not all of Pacific's services provide implicit subsidy support for universal service. The services identified all contribute a high margin of revenue over direct costs that is available to meet Pacific's shared and common costs and to provide an implicit subsidy toward the cost of other services. The record in this case establishes Pacific has extremely high contribution margins for the following services: intraLATA residential and business toll, switched access, local usage and ZUM, and custom calling services. n8

n8 The elements of switched access identified by parties for reduction are the NIC and the call setup and minute of use (MOU) rate elements of Pacific's LS1 and LS2 tariffs. **[*36]**

We measure contribution levels using a revenue/cost ratio as this is the ratio generally used by the Commission to review relative contribution levels for services. As AT&T's witness Dr. Economides demonstrates in his workpapers, using a revenue/cost ratio yields the same results as using a profit rate when comparing the relative contribution levels of different services. However, as Pacific's witness Dr. Timothy J. Tardiff (Tardiff) points out in his reply testimony, Economides incorrectly compares the profit rate of Pacific's access to that of an IXC's toll. If we compare the profit rates or the revenue/cost ratios of Pacific's access to Pacific's toll, we find

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that toll has a higher relative contribution than does access.

In selecting the high margin services identified by parties for rate reduction, our first goal, we rely on the relative magnitude of the measurement, not on a precise calculation. We recognize that the Commission continues to refine cost measurement in the OANAD proceeding. This proceeding is noticed to consider only rate decreases, not increases, and these rate decreases apply only to Pacific, and only within a range of $ 305.2 million. Recognizing the scope **[*37]** and limitations of this proceeding, we will not use the measurements on this record to equalize margins between services or to reduce the price of any service close to its existing price floor.

Our second goal, to ensure the rate reductions we adopt here result in sustainable prices, requires us to remove implicit subsidies from services that face competition today or may face competition in the future but not in a manner that provides Pacific an unfair competitive advantage. It also means that for toll, local exchange/ZUM, and custom calling services, all services where Pacific has pricing flexibility, we should set the price ceilings at the new reduced rates and charges. By reducing Pacific's authorized price ceilings for these services, we ensure that Pacific cannot unilaterally raise these prices, thereby negating or redirecting our adopted offset; Pacific must file an application to raise its service price ceilings.

Under the procedures adopted in NRF, in D.96-10-066, we found that the need for sustainable prices is a primary reason for establishing the CHCF-B surcharge:

With the introduction of competition, multiple carriers will be competing for the same customers. The implicit **[*38]** subsidies of averaged rates, and services priced above cost to support services priced below cost, will no longer be sustainable in a competitive market.

Therefore, revisions to the mechanisms for the funding of high cost areas are needed so that the CLCs, and the incumbent LECs, can have access to universal service funds on a competitively neutral basis. To that end, as discussed later in this decision, we have created a new explicit subsidy support mechanism for high cost areas of the state. This fund shall be known as the CHCF-B. The purpose of this fund is to replace the implicit subsidies that are used to support universal service, with an explicit funding mechanism. (Id. at 17.)

This record provides no bright line to distinguish (1) how much of the contribution margin of a service is an implicit subsidy rather than a proper allocation of shared and common costs and (2) at what level a price reduction using CHCF-B funds constitutes an unfair competitive advantage to Pacific. All high margin services identified by parties have some level of competition today, although testimony reflects that Pacific's competitors have achieved only a very small market-share for switched access **[*39]** and local usage/ZUM services.

Recognizing our pricing information is imprecise and that if we err in setting too low of a price Pacific will obtain an unfair competitive advantage, we will leave a substantial contribution margin in every service we reduce.

Therefore, we do not reduce any service near the price floors the Commission has previously determined are sufficient to prevent anti-competitive behavior. Despite the urgings of the IXCs, this is not the proceeding where we will reexamine our imputation standard.

To further our third goal, we agree with ORA that the benefits of the rate reduction offset should be broadly distributed among the customers who are paying the CHCF-B surcharge. Pacific customers should not be required to pay twice to support universal service.

To achieve broad-based customer benefits, we reduce implicit subsidies in all the services that have been identified as providing subsidy contributions to universal service and we do it in a manner that provides benefits to the greatest number of customers within each service.

Several parties question whether we meet our goal of broadly distributing the benefits of price reductions to the customers paying the CHCF-B **[*40]** surcharge by reducing the price of switched access service. The customers of this service, IXCs, do not pay CHCF-B surcharges. Pacific, FBC, ORA, and TURN argue that rate reductions to switched access services will not be completely flowed-through to the IXCs' customers and that the reductions that are flowed-through will be in the form of discounts to large volume customers and special promotional offers to new customers.

AT&T addresses the charge that it did not flow through the IRD rate reductions by testifying that competition does not work perfectly or immediately, but it will pledge in this proceeding to immediately reduce its intrastate toll rates by the entire amount of any access rate reduction attributable to its residential services. MCI and Sprint offer similar pledges.

We do not find the IXCs' pledges are sufficient to establish that any switched access price reductions we adopt will be completely and timely flowed-through to a broad-base of IXC customers. In their testimony and briefs, the IXCs do not provide adequate details to establish that their pledges can be effectively implemented, monitored, and verified by the Commission. Therefore, we are cautious in applying **[*41]** CHCF-B funds to reduce switched access services.

Another high margin service that parties testify should not receive CHCF-B funded price reductions is local usage. Pacific asserts that the higher margins for residential and business local usage are appropriate because the margin on business measured access lines is low and the prices for residence measured access lines are currently below cost. TURN disputes this, stating that Pacific has not examined its costs by geographic area and population density; it believes that if this were done, it is more likely that Pacific's measured lines would be found to be easily recovering their costs on a statewide basis. We find merit in TURN's position. We also do not agree with Pacific's premise that all implicit subsidies should remain in local usage to support local access lines.

MCI and Pacific question if the Commission, in calculating the amount of support needed for universal service, used local usage revenues to offset the universal service fund. The record in this proceeding does not provide a clear answer. However, Column G, in Appendix D of D.96-10-066, establishes that the answer is no. We find that local usage and ZUM are high margin **[*42]** services that meet our adopted goals.

Parties suggest other goals which we do not adopt today. For example, all parties except Pacific testify that our adopted permanent rate reduction offset should be competitively neutral as this is a goal adopted by the Commission in D.96-10-066. We do not agree. In D.96-10-066, we adopted an interim mechanism that in the short term would be competitively neutral, the EPRM, because it was expedient, not because it best met our goals. We stated: "Neither the CLCs or the incumbent LECs gain an advantage as a result of the adoption of an across the board reduction. Although some of the services provide greater contribution toward universal service than other services, an across the board reduction will result in an immediate offset without much controversy" (mimeo. at 208).

A concern with the EPRM, first raised in the universal service proceeding and not resolved on this record, is whether applying a 7.029% surcredit to Pacific's services would leave any service with prices below cost.

In addition, if the Commission adopts FBC's proposal, we would apply rate reductions to services that no party demonstrated were providing an implicit subsidy to universal **[*43]** service. This is a significant concern because, as Appendix A shows, it would result in these services receiving nearly 40% of the total rate reduction offset.

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For the reasons discussed above, as well as our preference to provide reductions directly to prices rather than use a billing surcredit, we do not adopt FBC's proposal.

Another goal we do not adopt is to exclude certain high margin services from rate reductions. AT&T, MCI, and TURN ask the Commission to adopt as a criteria that rate reduction offsets should only be applied to monopoly services for reasons of economic efficiency and fairness. Pacific, with GTEC's support, advocates that the Commission grant it complete discretion to offset its receipt of universal service funds by reducing prices on its most competitive services.

We do not adopt either position. Our goal is to reduce subsidies from all services identified as providing support for universal service, not to allow Pacific to target only its most competitive services nor to attempt to fully leverage the rate reductions by selecting only monopoly, or near monopoly, services for offset.

2. Adopted Rate Reductions

[6] Based on our discussion above, we choose here **[*44]** to allocate the estimated $ 305.2 million in rate reduction offset to all identified high margin services, with a preference given to toll reductions because this service has the highest contribution margin and has historically provided the highest implicit subsidy support. We find that an initial 10% reduction to MTS toll, followed by an equal percentage reduction to MTS toll and all other identified high-margin services (i.e., switched access, local exchange, ZUM, and custom calling services) best meets our goals. Based on comments received to the proposed decision, we shift $ 31.3 million in reductions from toll to switched access and recognize the revenue reductions targeted to custom calling will not result in price reductions for multi-feature packages.

The goals of sustainable prices and broad-based benefits guide us in selecting the amount and structure of the rate reduction we apply to each high margin service. The structure of the rate reduction for each service selected is important because the contribution margins vary within the rate categories of each service and, in the example of toll, Pacific has already reduced the contribution margins for its most elastic customers **[*45]** through discount plans and contracts.

a) IntraLATA Toll Service

[7] The record reflects that Pacific's intraLATA toll ceiling prices provide the highest margin contribution. The Commission has historically viewed toll as a service providing an implicit subsidy to other services and found in D.96-10-066, that with increasing competition, the sustainability of this pricing structure is no longer viable.

Pacific testifies that its average residential toll rates are approximately 10% higher than AT&T's average rates and that both its residential and business toll rates are 20-30% higher than MCI's. Further, Pacific states that AT&T and the other IXCs can at anytime make large price reductions and still earn fair and reasonable profits simply by flowing through the remaining IRD access charge reduction. Pacific shows that IXCs can profitably provide toll at $ 0.04 to $ 0.05 per minute, based on the $ 0.01 and $ 0.02 per minute of additional costs they incur over the current switched access price of $ 0.029 per minute. Sprint testifies that all toll rates proposed by Pacific are within its existing authorized pricing flexibility. ORA testifies that the residential toll prices it proposes, **[*46]** which are sometimes lower than Pacific's, retain a substantial margin. The above testimony will guide us in determining a sustainable price for toll.

We do not adopt the specific price reductions proposed by Pacific. All interested parties object to the structure of Pacific's toll reductions and establish that Pacific's proposal excludes many customers from any noticeable savings and concentrates most of the benefits in the hands of Pacific's largest customers.

We should target our toll reductions to Pacific's basic MTS ceiling rates. MTS includes calls directly dialed by the caller (referred to as Direct Distance Dialed calls) and calls dialed by the caller and paid by calling card or credit card. Basic MTS has higher prices that those offered under Pacific's OCPs or its contracts and the majority of Pacific's toll customers purchase service under the MTS schedule. Thus, by targeting MTS, we reduce the toll prices containing the highest implicit subsidy while benefiting the greatest number of customers.

Targeting all toll reductions to MTS is consistent with our IRD decision. In D.94-09-065, we adopted price reductions for Pacific's proposed optional and automatic discount toll plans **[*47]** in order to position Pacific to compete in the expanded competitive arena created by the Commission in IRD. In taking this action, we stated that Pacific was free to offer more generous discount plans through its pricing flexibility but that any resulting revenue shortfalls would not be accounted for in revenue rebalancing.

Usage charges for MTS calls are currently tariffed at uniform statewide rates, based on a series of mileage bands and on the duration of the call and the time of day of the call. Maintaining the Commission's existing policy of parity between residential and business basic MTS prices is an issue no party addressed although the toll rates proposed by Pacific and ORA result in different residential and business MTS rates. In adopting price reductions here, we will maintain the policy of parity for residential and business basic MTS. Although we choose here to maintain rate parity for these services, Pacific has pricing flexibility that could be exercised to result in rate disparity.

The additional revenue required to provide toll parity for MTS service is $ 26 million. We find it reasonable to use a portion of the reduction initially allocated to custom calling for **[*48]** the purpose of toll parity.

In applying price reductions to basic MTS, we effectively eliminate the volume discount provision of Pacific's present tariffs. This is the same result that occurs under Pacific's business toll proposal. We find eliminating the volume discount provision for residential and business MTS service benefits the broadest number of customers and use that to set the residential and business basic MTS reductions. We do not adopt Pacific's proposal to change the terms of its residential discount.

While the testimony of parties focused on the increased competition Pacific will face when it is required to offer intraLATA toll presubscription, we believe our focus should be on assessing sustainable prices in today's market. Presubscription will occur when Pacific is granted authority to enter the interLATA market. We expect that market pressures brought about by presubscription will require Pacific to lower its intraLATA toll prices; however, at the same time Pacific will have the opportunity to earn additional profits by competing in the interLATA market.

The proposed decision reduced all business and residential MTS rates 32.5%. In its comments on the proposed decision, **[*49]** Pacific states that this level of reduction places basic MTS toll prices at a lower level than what most customers are currently paying under two residential optional calling plans, the Service Area Plan and the Community Plan, and what some business customers are paying under the Advantage 50 Plan. n9 Pacific states that it plans to contact these customers and recommend that they switch to the lower basic MTS rates. It calculates that if all residential OCP customers migrate to basic MTS it will experience an $ 18.4 million loss.

n9 The Service Area Plan costs $ 4.50 per month and provides a 30% discount on eligible

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charges from $ 0 to $ 45 and a 40% discount on charges above $ 45. The Community Plan costs $ 7.00 per month and it provides a 40% discount on calls to a designated community and a 30% discount to all other communities. The Advantage 50 Plan costs $ 7.50 per month and provides a 30% discount on eligible charges from $ 0 to $ 300 and a 35% discount for on charges above $ 300.

Pacific states that the price reductions adopted by the Commission should leave it revenue neutral; therefore, we should compensate it for its estimated $ 18.4 million loss by applying the same **[*50]** $ 186 million revenue reduction to toll services but spreading the revenue over a broader customer base, thereby resulting in a reduction to basic MTS prices of only 30.7%.

We recognize the proposed decision inadvertently erred in reducing basic MTS prices below some OCPs. However, we should not correct the proposed decision by adopting Pacific's proposal as this would be contrary to our decision not to allocate toll reductions to Pacific's discount calling plans, as discussed above. We also do not agree with Pacific's estimate of its revenue loss. In response to the level of basic MTS toll reductions recommended by the proposed decision, Pacific could choose to exercise its pricing flexibility to adjust the monthly charge of its OCPs for some customers rather than advising these customers to switch to basic MTS. With only 4% of Pacific's residential customers on an OCP plan, making some adjustment to the monthly charges of the plans could cost significantly less than $ 18.4 million. n10

n10 Pacific at the Final Oral Argument changed its estimated loss from $ 18.4 million to $ 26 million but did not provide a citation to any evidence or workpapers in this record.

We will address **[*51]** Pacific's revenue neutrality concern by reducing the amount of basic MTS toll price reductions to a level that remains above Pacific's existing OCPs. Therefore, we adopt a 29% basic MTS toll reduction for residential and business customers.

Our change addresses the revenue neutrality concern raised by Pacific by reducing the revenue reduction offset applied to MIS toll by $ 31.3 million. Due to our elimination of the automatic discount provisions of basic MTS, our 29% rate reduction shown at Appendix C provides an average discount for residential and business MTS customers that is substantially less than 29% and that is also below the effective average discount Pacific states applies to its residential OCP customers. We also note that the final decision's revised MTS reductions of 29% are below the initial 30% discounts offered by Pacific's residential and business OCPs.

We now turn to the issue of which of the remaining high margin services should receive the additional $ 31.3 million in revenue reductions. We do not chose local usage/ZUM because we are cautious to adopt price reductions beyond those recommended in the proposed decision until the cost of local access lines has been **[*52]** identified and fully examined. We do not chose custom calling because Pacific in its comments states that its three residential custom calling multi-feature package offerings are currently below existing price ceilings; therefore, revenue reductions applied to these services do not lower existing prices, only the authorized price ceiling.

We will apply the additional $ 31.3 million in revenue reductions to switched access service. Switched access service contains relatively high margins and the interLATA customers of the IXCs are broad-based and significant contributors to the CHCF-B. This is a substantial change for switched access service, bringing the total reductions to $ 63.6 million, a 17.6% overall revenue reduction.

b) Switched Access Service

[8-10] As discussed earlier, we are not adopting AT&T and MCI's proposals to target all rate

reductions to switched access services. However, switched access is a high margin service and it should receive a share of rate reductions under our adopted goals, provided we have some assurance that the reductions we adopt will be flowed-through to a broad base of their customers. Our concern is only with the IXCs' customers, as we are not **[*53]** adopting Sprint's recommendation to provide Pacific an equivalent rate offset to reflect its reduced imputed cost of access.

We expect a significant amount of flow-through will occur from the IXCs' competitive response to the toll reductions adopted for Pacific. In addition, another assurance is the pledges of AT&T, MCI, and Sprint. As other parties demonstrate, these pledges do not provide us the full assurance represented by their sponsors. The pledges represent only part, albeit an extremely large part, of the IXC market, and are vague and potentially administratively burdensome. Nevertheless, we will accept the pledges and direct that the three IXCs each submit to the Commission an implementation plan within 30 days of this decision and a verification report within 6 months of the rate reductions adopted here being effective. We will review the success of the pledge programs in the access charge reform proceeding.

The issue of how to design the rate reductions for switched access is complex. At the direction of the assigned ALJ, the three IXCs supplemented their testimony with marked-up tariffs specifying by rate element their recommended reductions.

The primary switched access **[*54]** rate element proposed to be reduced by the IXCs, and ORA is the NIC. Parties testify that the NIC is chosen because it is a noncost-based rate element and, therefore, consists entirely of implicit subsidies.

We disagree with parties' representation of the NIC. While the Commission has stated that the NIC is not a cost-based rate element, this is based on a finding that the cost components of the NIC have yet to be determined, not that there are no costs. The NIC is a per-minute charge assessed on all switched access users that is designed to recover historic costs associated with the tandem switch. The FCC determined that these costs should not be recovered from the tandem switching rate element in order to protect the small IXCs. We should not make adjustments to this rate element until we have completed a full review of the cost studies filed in OANAD and looked at specific rate elements in the upcoming access reform proceeding. (See D.95-04-073 and D.95-12-020.)

In the Access Charge Reform Proceeding, n11 the FCC examined the costs currently recovered by the Transport Interconnection Charge (TIC), which is the interstate counterpart of the NIC. The FCC substantially reduced the **[*55]** NIC by identifying several costs included in the TIC and reallocating those costs to other access elements. Specifically, the FCC reassigned five network elements which had been included in the TIC as follows:

. SS7 costs to local switching or signalling rate elements;

. tandem switching costs to their respective category;

. DS1/voice-grade multiplexer costs to the newly created trunk ports category within the traffic sensitive basket;

. host/remote trunking costs to the tandem-switched transport category;

. additional multiplexers associated with tandem switching to the tandem-switched transport category. (Id., pp. 92-94.)

n11 First Report and Order, In the Matter of Access Charge Reform (et al.). CC Docket 96-262 et al., May 16, 1998.

Based on the findings of the FCC, it is reasonable to conclude that there are network elements whose costs are recovered through the NIC. While we recognize that the NIC needs to be revisited in light of the FCC's recent order, we do not have the record here to do this.

Therefore, in making rate reductions to switched access service, we should reduce two rate elements recommended by AT&T and MCI that do have an identified cost basis: the per **[*56]** call set-up charge and the access per minute charge of the local switching element of the end office rate. (Section 6.8.3.(a) of Pacific's Access Service Tariff.)

c) Local Usage and ZUM Services

[11, 12] Local usage and ZUM are services proposed for rate-reductions by both TURN and ORA. TURN testifies that measured local usage for residential and business customers provides an essential service to a broad base of Pacific's customers, has a high contribution margin, and is among the least competitive services Pacific offers.

Local usage includes measured local service for residential and business customers. Flat rate residential service is not covered because it is part of universal service; Pacific does not offer a flat rate service for business. ZUM rates apply to calls that are located just beyond a caller's local calling area but within its community of interest. n12 The Commission has treated ZUM calls as more akin to local service than toll service.

n12 TURN notes that ZUM rates, available in most metropolitan areas in Pacific's service territory, are charged for calls completed to a zone between 12 and 16 miles from a call's rate center. For customers with measured service, local usage rates apply to calls to zones that are less than 12 miles from a caller's rate center. **[*57]**

While TURN considers ZUM to be essentially a local exchange service, it proposes different percentage rate reductions for local usage and ZUM in order to leave the services with a uniform mark-up. In its testimony, however, TURN states that Pacific attributes the same Total Service Long-Run Incremental Cost (TSLRIC) to both services and does not separately track the revenues. Based on our record here, we will apply an equal percentage price reduction.

FBC raises the concern that the Commission's policy is to promote local competition; yet, if reductions of the magnitude recommended by TURN are adopted, the result could be to stifle competition. However, based on TURN's testimony, we find that even at the dollar levels proposed by TURN, rate reductions to local usage/ZUM will still leave sustainable prices for new competitive entrants.

d) Custom Calling Services

[13] The category of custom calling services is the last high margin service proposed for rate reductions. Custom calling has both residential and business customers and consists of the following features, offered individually or in packages: call forwarding; call waiting; three-way calling; speed calling; call return; repeat **[*58]** dialing; message waiting indicator; intercom, priority ringing; repeat dialing; delay call forwarding; call return; call screen; call trace; caller ID; and blocking. The majority of customers purchasing custom calling services are residential; business customers can also obtain the features through Centrex service.

ORA is the only party to propose a rate reduction for this service and it proposes rate reductions of varying amounts to specific features that total $ 15 million for the category. Pacific included custom calling reductions in its original rate offset proposal in R.95-01-020/I.95-01-021.

We find that custom calling meets our adopted goals and should be included in the permanent rate reduction offset. However, we recognize that parties place a higher priority on other high margin services. ORA states in its direct testimony that it proposes a 5% reduction to Custom Calling and Centrex in order to provide a broad range of services in its proposal; in its reply testimony it withdraws its recommendation for a $ 23 million reduction for Centex services and applies the amount to Local Usage and ZUM.

Therefore, we find it is appropriate to reduce prices for custom calling less **[*59]** than for other high margin services and to apply the difference to maintain residential basic MTS toll parity. Our adopted reduction is 2.5%, spread evenly to all individual basic custom calling feature charges.

In its comments on the proposed decision, Pacific states that the current prices for three residential feature packages shown at page 2 of Appendix C are below the current ceiling prices and, therefore, the final decision should adopt price reductions for the existing ceilings, not reduce current prices. We agree that our regulatory framework supports Pacific's position and, therefore, we adopt the change. (See 33 CPUC2d 43, 122-128 and 56 CPUC2d 117, 196.)

e) Adopted Price Reductions

[14] The prices that result from our adopted rate reduction offset are all substantially above adopted Commission costs, are sustainable prices, and provide benefits to a broad-base of customers using a broad range of Pacific's services. We adopt a permanent rate reduction offset that results in revenue reductions to the high margin services shown at Appendix A as follows: 16.7% revenue reduction to MTS toll, 17.6% revenue reduction to switched access, 11.9% revenue reduction to ZUM/local usage, **[*60]** and a 2.5% revenue reduction to custom calling. The specific ceiling prices we adopt are contained in Appendix C.

The rate changes ordered by this decision will cause Pacific's toll, access and exchange billing bases to decrease by approximately $ 300.3 million. These reductions in the billing bases require that adjustments be made to Pacific's Rule 33 - Billing Surcharges tariff. Therefore, simultaneous with the implementation of rates contained in Appendix C, we will order the revisions to Pacific's Rule 33 Billing Surcharges as contained in Appendix D of this decision.

We adopt final prices based on the testimony and workpapers in evidence in this proceeding. Further rate calculations are not required. A summary of our revenue reductions for Pacific based on our adopted rate reductions is provided below in Table 2.

** See Table in Original. **

Footnotes in table

n1 Toll and Access Revenue Reductions include elasticity, stimulation costs, and settlement effects.

n2 Toll Revenues reflect the elimination of direct discounts, resulting in an additional 10.7% rate reduction.

n3 Approximately $ 26 million of Custom Calling Reductions were redirected to Residential MTS in order to maintain **[*61]** Residential and Business MTS rate parity.

3. Implementation Issues

[15] We have several implementation issues to decide. These issues are (1) whether Pacific should implement its tariff changes through a compliance filing or through an advice letter

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filing subject to protest; (2) whether there should be a delay in implementing the permanent price changes; (3) the procedure Pacific should follow to reconcile its $ 305.2 million estimate of the offset with the amount of its actual draw from the CHCF-B fund; and (4) whether we should adopt an annual true-up mechanism.

We do not decide here another issue raised by parties, which is the method Pacific should use to return to customers the offset reductions that will be owed when it receives its CHCF-B draw for the period February 1, 1997 through the effective date of the permanent rate reduction offset. Pacific testifies it estimates its offset will be a 7.029% surcredit for the prior months and that this money should be returned expeditiously to customers, either as a one-time refund or over a six to twelve month period. The disposition of this money is an issue the Commission will address in the universal service proceeding, R.95-01-020/I.95-01-021, **[*62]** where all affected carriers are parties of record.

In the universal service OIR/OII, several decisions related to CHCF-B funding have recently been issued. By D.98-01-023, as modified by D.98-04-068, the Commission addresses the issue of interest and the interest rate to be paid by carriers holding CHCF-B and California Teleconnect Fund (CTF) surcharge revenues and by COLRs owed reimbursement. n13 By ALJ ruling on April 28, 1998, ALJ Timothy Kenney specifies the monthly claim form to be used by COLRs for the CHCF-B and requires each COLR to submit by no later than September 15, 1998, a separate claim form for each month during the period of February 1997 through July 1998; the ruling also states that for all months after July 1998, claims forms must be submitted within one calendar month plus 15 days after the close of the month for which a claim is made.

n13 The decisions do not specify the rate of interest to be paid carriers owed reimbursement for services provided under the CHCF-B program. For the CTF program, D.98-01-023 states that carriers owed reimbursement for services provided since February 1997 shall receive interest on the amounts owed based on the seven-day compound yield on taxable money market funds published in The Wall Street Journal. **[*63]**

ORA recommends in this proceeding that the Commission delay adoption of permanent rate reductions until the Commission has activated the CHCF-B trust and put in place the interim EPRM. However, we note that sufficient procedures are in place now, as referenced above, for the Commission to be able to put in place permanent price reductions without further delay. By September 15, 1998, the Commission will have Pacific's request for its CHCF-B draw through July 1998; we can specify the procedures in this decision by which Pacific's $ 305.2 estimate can be timely reconciled with the actual draw approved by the Commission. Therefore, we do not adopt ORA's recommendation.

On the implementation issue of whether Pacific should file its tariffs by compliance filing or subject to protest, we select the compliance filing. We do this because we herein adopt the revenue effects and rate ceilings set forth in Appendices B and C and we want to deliver the benefits of the rate reductions we adopt to customers without undue delay. The IXCs object to this process, stating that parties should be given the opportunity to protest the filings, and to litigate the specific tariff adjustments using the latest **[*64]** available data and adopted costs. We disagree.

The Commission made clear in the Scoping Memo and in the hearing process that its purpose in this proceeding was to timely adopt price reductions and that it would do so based on the record evidence. The Commission chose the compliance filing process to implement the prices adopted in IRD. (56 CPUC2d 117, 289.) The Commission also chose the compliance filing rather than a protestable advice letter for adoption of costs in OANAD when the cost adjustments were clearly specified in the decision. (See D.96-08-021 and D.98-02-106.)

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The tariffs Pacific files to implement this decision should allow the adopted price reductions to be effective as soon as possible, but no later than 60 days after the effective date of this order. We use Pacific's $ 305.2 million estimate in this proceeding. Pacific should true-up this estimate when its CHCF-B claims are approved for the twelve month period immediately preceding the date rates are effective. If the CHCF-B is not activated prior to Pacific implementing its price reduction offset, it can apply to be compensated for the time value of money in a manner consistent with that set forth in D.98-01-023 **[*65]** as modified by D.98-04-068.

Pacific recommends that any difference in the true-up of its $ 305.2 million estimate to its actual draw be dealt with through a one-time surcharge adjustment. However for this proceeding, we believe a targeted price reduction is preferable to a surcharge/surcredit for offsets to the CHCF-B. Therefore, we find that it would be preferable to specify that if the adjustment is within 10% of $ 305.2 million, Pacific should by compliance advice letter filing adjust its rates for local usage and ZUM as these are services with a combined annual billing base of $ 677 million. A $ 30.5 million adjustment would result in an acceptable net price reduction of between 7.25% to 16.25%. If the adjustment to the $ 305.2 million estimate is greater than 10%, we should consider whether it is appropriate to apply the adjustment to local usage/ZUM. Therefore, Pacific should file this adjustment by an advice letter, which will be subject to protest.

ORA recommends that the Commission annually track the revenues from the permanent rate reduction offset to ensure they are within a reasonable range of the amount drawn by Pacific from the CHCF-B as it is concerned that revenues **[*66]** could be inaccurately forecasted and that any adopted elasticity estimate, whether or not accurate, could soon be inapplicable. We do not adopt this proposal. We expect there will be some changes in the annual revenue effect of the price reductions we adopt, and the changes may be due to a number of factors both within and beyond Pacific's control. As with IRD, we find that is acceptable. We do not chose to adopt a mechanism that would blunt Pacific's incentives for efficiency and innovation.

Other parties cite to changes in Pacific's annual draw, based on the number or cost of subsidized subscriber lines, as a reason for an annual true-up. We do not adopt a true-up mechanism for Pacific's draw either. Pacific will retain an incentive to carefully manage its costs and we do not expect a large change in the number of high cost customers in the next few years.

The Commission will review the CHCF-B program in a timely manner. In D.96-10-066, the Commission set forth a review process of the CHCF-B to occur in three years. It stated a review should take place of the subsidies generated by the fund to ensure that the overall size of the fund is within reason and that the fund will be adjusted **[*67]** as competition and technology evolve. III. Elasticity

A. Background

[16-20] Elasticity is an economic measure that describes the relationship between the movement in two variables. The price elasticity of demand is the percentage change in demand generated by a 1% change in price. To illustrate, an elasticity measure of -.5 means that a 1% reduction in price would lead to a 0.5% increase in demand. n14 Unless otherwise noted, we will use the generic term elasticity to refer to the price elasticity of demand. In general, the elasticity value is negative since price and demand are negatively correlated (i.e. a price decrease generally leads to an increase in demand and vice versa). Economic literature often focuses on the magnitude of the elasticity measure. A measure is considered more elastic when its absolute value is higher. In this decision, we will maintain the negative sign in front of the elasticity value, but we will use the absolute value to describe the relative size of the elasticity.

n14 For large reductions, the calculation of the percentage demand increase is more accurately

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calculated by the formula (((P new n / P old n)e)-1) rather than the simple ratio. For example a 20% price decrease with a-.5 elasticity would yield an 11.8% increase in demand - (((.8/1)-.5)-1) = 11.8% instead of a 10% increase. **[*68]**

We address elasticity in this proceeding because we are adopting rate reductions for specific services in order to reduce the revenues generated from those services. In order to get an accurate measure of the revenue impacts from rate decreases, we need to account for the demand stimulation created by those rate decreases. Because of elasticity, revenues will decrease by less than the percentage of rate reduction.

The Commission previously visited price elasticity in the IRD proceeding, which involved the restructuring of Pacific's and GTEC's rates and charges while maintaining revenue neutrality. In that proceeding, GTEC and Pacific submitted elasticity studies for the toll and access markets. Other parties critiqued these studies and cited several other studies of toll and access elasticity that arrived at higher elasticity measures. In D.94-09-065, the Commission adopted an intraLATA toll elasticity of -.5 and a switched access elasticity of -.44. These figures did not come from any particular study, but fell within the range of estimates submitted in the proceeding.

In D.96-02-023, we denied several petitioners' request for rehearing of D.94-09-065 and affirmed our adopted elasticity **[*69]** figures and addressed the issue of properly calculating the elasticity impact on revenues. In D.97-02-049, we denied a petition for modification of D.94-09-065 by Pacific and GTEC which alleged that the elasticity factors adopted by the Commission were too high and requested various rate increases for compensation. We refused to consider issuing a true-up to account for any revenue shortfall since this would shield the company from the risk of competitive losses and undermine the principals of NRF. We also concluded that it would not be reasonable to compensate Pacific or GTEC for any alleged shortfall in its toll or access revenue without considering any possible windfall in its revenues from other services.

This application presents new estimates of intraLATA toll elasticity and intrastate switched access elasticity that are lower (in absolute value) than those adopted in IRD. Pacific argues for the Commission to adopt these new estimates instead of the IRD figures.

Several parties object to Pacific's attempt to introduce new elasticity factors in this proceeding. These parties express concern about the added complexity of introducing the elasticity issue in this proceeding. They **[*70]** also argue that addressing the issue might conflict with pending litigation concerning the elasticity adopted in D.94-09-065.

In his Scoping Memo, Commissioner Knight ruled that this proceeding should use current data to set the elasticity factors, stating that this was consistent with the Commission's decision to deny Pacific's Petition for Modification of D.94-09-065.

Therefore, in this proceeding, we will consider new elasticity estimates for intraLATA toll and for switched access and reexamine the correct method to calculate the revenue impact from the rate reductions.

B. Elasticity Estimation

1. Positions of the Parties

a) Pacific

Pacific's economic witness, Tardiff, estimates elasticity by using statistical regression techniques. In statistical regression, the modeler selects a particular formula to describe the relationship between a dependant variable and the many variables that affect the values of that dependant variable. Then the modeler collects data that represent those variables and measures the correlation among those collected data points.

Tardiff's toll study assumes that the MOUs of intraLATA toll is a non-linear function of Pacific's current and past toll rates, **[*71]** total California income, and the month of the year.

To perform his study, Tardiff collects monthly data from the period of January 1992 through September 1996. The MOUs include both Pacific's intraLATA toll and the 10XXX intraLATA MOUs carried by competitors. To represent price, Tardiff uses a price index of post-surcredit rates, with each data point representing the ratio of the current rate to the December 31, 1994 rate. The price index is then adjusted for inflation using the consumer price index. The model includes a polynomial distributed lag in the price variable to measure the long-run elasticity, accounting for the consumers' tendency to take several months to adjust their consumption behavior to a price change. To measure income, Tardiff uses inflation-adjusted California personal income. Finally, Tardiff includes variables to account for demand variations that are associated with different months in the year. By including income and monthly variables, Tardiff testifies that his study more precisely estimates the impact of the price change on the demand stimulation.

Pacific's model assumes a non-linear demand function. In order to perform a linear regression on the data, **[*72]** Tardiff uses the natural logarithm of the MOU, price, and income variables. The resulting sum of the estimated coefficients on the price variables represents the elasticity estimate. The toll study yields a price elasticity of -.20.

Pacific's switched access study assumes that the demand for MOUs of switched access is a non-linear function of Pacific's current and past switched access rates, total California income, and the month of the year. Tardiff collects monthly data from the period of January 1992 through September 1996. The MOU data include Pacific's intrastate interLATA switched access MOUs. n15 For the price variable, Pacific uses the annual average revenue per minute of feature group D switched access. As with the toll estimation, Tardiff uses a polynomial distributed lag in the price variables. Tardiff also uses the logarithm of the volume, price and income variables to perform linear regression. His study yields an elasticity of -.24.

n15 After January 1, 1995, when intraLATA competition was authorized, Pacific began recording 10XXX intraLATA switched access minutes. In order to make the 1992-1994 data comparable to the post IRD data, Pacific attempted to eliminate the post IRD 10XXX intraLATA switched access minutes by subtracting 2.1* the 10XXX toll MOUs. EDITOR'S APPENDIX PUR Citations in Text [CAL.] Re Alternative Regulatory Frameworks for Local Exchange Carriers, 33 CPUC 2d 43, 107 PUR4th 1, D.89-10-031, I. 87-11-033 et al., Oct. 12, 1989. [CAL.] Re Open Access to Bottleneck Services and a Framework for Network Architecture Development of Dominant Carrier Networks, 59 CPUC 2d 389, 161 PUR4th 509, D.95-04-073, R.93-04-033, I.93-04-002, April 26, 1995. [CAL.] Re Pacific Gas & E. Co., 58 CPUC 2d 398, 159 PUR4th 371, D.94-12-054, Dec. 21, 1994. **[*73]**

b) GTEC

GTEC recommends that the Commission adopt the elasticity measures estimated by Tardiff. Additionally, GTEC requests that the Commission apply Tardiff's elasticity figures to GTEC if it chooses to file a permanent rate reduction application pursuant to D.96-10-066. GTEC sponsors two witnesses.

The first witness, Dr. Kenneth Train (Train), considers four factors to be key in deriving the best estimates for price elasticity. He testifies that the data should:

(1) be as recent as possible;

(2) be for the specific product under examination;

(3) be from the geographic market area where the product is offered; and

(4) contain as large a variation in the price as possible. Train concludes that all four of these factors are present in Tardiff's work.

Train also uses many different model specifications to estimate price elasticity using Tardiff's data. Based on his results, Train concludes that Tardiff's estimates are reasonable.

GTEC's witness, Mr. Donald Perry (Perry), testifies that Tardiff's results can be reasonably applied to GTEC. Perry applies Tardiff's elasticity measures to GTEC's 1994 intraLATA toll data in order to forecast GTEC's 1995 intraLATA toll volumes and finds **[*74]** that the predicted volumes are within 3.8% of the actual volumes. Perry asserts that prediction errors of plus or minus 5% are considered acceptable by econometricians and other analysts. Therefore, he concludes that Tardiff's estimate reasonably reproduces GTEC's actual experience in the intraLATA toll market following the IRD rate reduction in 1995.

GTEC recommends that it be allowed to submit its own estimate for use in its future universal service rate reduction filing. However, it would be willing to accept Pacific's elasticity analysis in its own filing to mitigate the strain on the Commission's and other parties' resources of re-litigating the elasticity issue.

c) ORA

ORA testifies that the elasticity issues are not adequately scrutinized in this proceeding and therefore, the Commission should not adopt a new elasticity measure until it convenes a workshop attended by COLRs, IXCs, and other toll providers. ORA emphasizes the large financial impact of selecting an incorrect elasticity factor, and urges caution. ORA provides both an economic witness and a policy witness.

Like GTEC's witness Train, ORA's economic witness, Dr. Thomas Reneghan (Reneghan), tests Tardiff's results **[*75]** by applying Tardiff's data to several different model specifications and estimating the elasticity. Reneghan concludes that Tardiff's estimated elasticity is robust with respect to the model specification.

ORA questions whether Tardiff's data adequately represent the intraLATA toll market. In rebuttal testimony, ORA's witness, Ms. Kelly Boyd (Boyd), focuses on the possible limitations of Tardiff's data. Boyd points out that Pacific's intraLATA toll study omits a significant portion of the intraLATA toll market. Boyd cites Pacific's own estimates of intraLATA toll market share that are considerably lower than its market share that would be calculated using the data in Tardiff's study. Boyd notes that the significant segment of the market that is excluded from Tardiff's study might include a group whose price responses are much more elastic than Pacific's study would indicate.

Additionally, Boyd points out that in this proceeding, the parties have relied on only one set of data whereas in IRD the Commission considered studies performed on several data sets. Also, ORA testifies that there are few publicly available alternative toll elasticity studies to corroborate Tardiff's results. **[*76]** Further, ORA suggests that Pacific should have conducted separate studies for residential and business toll elasticity.

ORA expresses concern with the elasticity results. For instance, ORA questions why the access elasticity is higher than the toll elasticity. ORA argues that this is seemingly illogical because access is an input to toll and consequently, access price reductions should only lead to increased access minutes indirectly through toll stimulation, and only to the extent that access price reductions are flowed through to toll price reductions. Also, ORA questions why the elasticity estimates are significantly different from the measures submitted and adopted in IRD. Finally, ORA doubts that the elasticity measures would have decreased since IRD because the market today has more competition.

In its brief, ORA states its concern that Pacific underestimates toll elasticity because it assumes the existence of the 7% EPRM surcredit, which still has not been implemented. Therefore, Tardiff's study would falsely measure a demand response to an assumed price decrease which never existed.

ORA also raises concerns about the validity of using post surcredit/surcharge rates in the **[*77]** elasticity study. It argues that many customers might not respond to changes in their surcredits/surcharges, but rather focus only on the tariff rate. No party submitted an estimation which relied on the tariff rates for the price variable.

d) FBC

FBC recommends that the Commission adopt the EPRM as a permanent surcredit and not adopt new elasticity figures. FBC is concerned that Pacific and GTEC might gain large windfalls if these elasticity figures significantly underestimate the demand response.

FBC also concurs with two of ORA's critiques. First, FBC agrees that it is seemingly illogical to have access elasticity that exceeds toll elasticity. Secondly, it agrees that Pacific inappropriately assumes that the 7% EPRM is in place.

C. Discussion

1. Did Pacific Measure the Correct Market?

After reviewing Train and Reneghan's results, we agree that Tardiff's results are not driven by his model specification. Among the range of elasticity estimates generated from alternative model specifications, Tardiff's figures are near the high end.

However, we recognize ORA's concern that Tardiff's study might not have captured the entire intraLATA toll market. Indeed, in this proceeding and **[*78]** in other proceedings before the Commission, Pacific has suggested that there is a significant portion of the intraLATA toll market- sometimes referred to as the "bypass market"-that it has not included in Tardiff's study. We realize that this segment of the intraLATA toll market may be delivered over alternative technology and priced differently than MTS. However, it is quite likely that adjustments to Pacific's MTS rates will have impacts on consumption in this related toll market.

Nonetheless, we recognize that this bypass market existed and was growing before the price changes in IRD. Also, we do not know whether the MTS price reductions in IRD led to matching price reductions in this bypass market or whether traffic from the bypass market returned to Pacific's MTS toll volumes.

Thus, we have no record to determine whether this bypass market data should have been included in the toll elasticity study. ORA has not demonstrated that its inclusion would have affected the elasticity estimate.

ORA also argues that Pacific should have conducted a disaggregated study that measures residential and business elasticity separately. Pacific points out that in IRD the Commission rejected Pacific's **[*79]** proposal to use different elasticities for these different market segments. ORA does not provide a convincing reason why we should reject Pacific's study for not segregating residential and business toll minutes.

2. Why Does Switched Access, a Component of Toll, Have a Higher Elasticity?

FBC and ORA argue that it is illogical for switched access elasticity to be higher than toll elasticity. Pacific provides three responses. First, it argues that its switched access study captures more interLATA minutes than intraLATA minutes. Consequently, since interLATA toll has a higher elasticity than intraLATA toll, the interLATA switched access elasticity can be higher than the intraLATA toll elasticity. Secondly, Pacific argues that switched access service has relatively more alternatives, such as special access, than toll has. Finally, Pacific points out that the difference in the estimates is negligible.

In considering Pacific's three arguments, we can only accept the last one. We agree that the access study did measure interLATA traffic whereas the toll study measured intraLATA traffic. However, there is no evidence on the record to conclude that interLATA elasticity is higher than intraLATA **[*80]** elasticity. Indeed, in IRD the Commission did explore this question and could not conclude that interLATA elasticity was higher than intraLATA elasticity or that toll elasticity increased with distance. Secondly, although the transport portion of switched access does have alternatives, we have no basis to conclude that this makes switched access as elastic as or more elastic than toll. We note that access consumers are IXCs, not end-use toll consumers. Even though the IXCs' overall demand for access is driven by their end-users' demand for toll, the IXCs' demand for switched transport instead of special access should also be sensitive to the relative prices of those access services.

We do agree with Pacific that the difference in the measures is insignificant. In reviewing Tardiff's calculations, we note that the two measures are roughly one standard deviation away from one another. Therefore, one cannot conclude that the elasticity estimates are statistically significantly different from one another.

3. Why Has Elasticity Decreased When There Is More Competition Today?

ORA questions why Tardiff's study yields price elasticities which are much lower than those adopted in IRD. Pacific **[*81]** points out that ORA is confusing firm elasticity with market elasticity. Pacific argues that there is no a priori reason that market elasticity should change because there are more competitors.

A discussion about the distinction between firm elasticity and market elasticity clarifies this point. Market elasticity is concerned with the demand for a product, regardless of which firm supplies it. Firm elasticity is concerned with the response of a firm's own consumers to its price changes. Firm elasticity is never less than market elasticity. The degree to which firm elasticity exceeds market elasticity depends on the number of firms in the market and the competitive interaction among those firms. In a competitive industry, the firm elasticity is generally very high, reflecting the inability for the firm to raise its prices without losing significant demand. For example, in the gasoline market, although overall consumer demand for gasoline is rather inelastic, individual firms do not face such inelastic demand.

In the past, the distinction between firm and market elasticity was not as clear in the monopoly intraLATA toll and switched access markets because Pacific's firm elasticity was **[*82]** also the market elasticity. Now, however, we have competition in the intraLATA toll market.

Pacific has attempted to estimate the market elasticity for intraLATA toll and intrastate switched access services. This market elasticity measures how customers' demand for those services (regardless of the number of suppliers) respond to the price changes for those

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services.

It is not surprising that the market elasticity has changed since IRD. Reneghan agrees that elasticity is not a static measure; its value can change over time. Also, in linear demand functions, elasticity is not a constant measure, but rather decreases when price decreases or volume increases. Linear demand functions are common in economics and were used in some of the studies considered in IRD. Given the direction of price and volume since IRD, the lower elasticity would be an expected result from a linear demand estimation.

4. Is Price Measured Accurately?

In its brief, ORA claims that Pacific inappropriately assumes that the 7% EPRM surcredit had gone into effect. Although Pacific makes this incorrect assumption in its testimony, this does not affect its elasticity estimation. Pacific's elasticity studies rely on **[*83]** data from January 1992 through September 1996. Thus the EPRM, which would have gone into effect after October 1996, is not considered in Tardiff's estimation.

However, Pacific acknowledges that it did incorrectly make the EPRM surcredit assumption in applying elasticity to its rate reductions. This is discussed in the next section.

Examining Tardiff's study, we note that while Tardiff's price index demonstrates significant price variation, most of the variation is accounted for by inflation and changes in surcredit levels. The tariff rate is assumed constant from January 1992 through December 1994. After a 44% toll decrease ordered in IRD, the tariff rate is again assumed constant from January 1995 through September 1996. Tardiff's price index ignores the probability that different segments of the market have not paid the tariff rate for toll because of calling plans and contracts and might have not been affected by surcredits.

In IRD, the Commission criticized a toll elasticity study that used post-surcredit rates, arguing that customers do not view billing surcredits as price reductions for toll service. The Commission also expressed a preference for explicit rates over large surcharges **[*84]** or surcredits in order to provide clearer price signals. Implicit in this policy is the Commission's belief that customers respond more precisely to tariff rates than they do to post-surcredit rates.

Since there are many surcredits throughout Tardiff's study period, the studies might not precisely measure the price decreases perceived by consumers. Likewise, the studies include inflation-adjusted prices. Consumers might not respond to the relatively invisible effects of inflation when considering the price of a service. Consequently, the study might not yield the most accurate elasticity estimate possible.

However, it is unlikely that this leads to a significant underestimate of elasticity. Large commercial consumers of toll and IXC consumers of switched access probably understand the real price that they are paying for these services, regardless of whether the effective price is embedded in surcredits. Residential and small business customers might begin to consume more toll when they discover that their total telephone payments are decreasing. Tardiff's elasticity study captures significant demand responses that are delayed by as much as 12 months.

5. Adopted Elasticity for this **[*85]** Proceeding

Based on the record, we find that Pacific's estimates of the elasticity of intraLATA toll and intrastate switched access market demands to changes in Pacific's price reductions are reasonable. Therefore, we will adopt the estimates, -.20 for toll and -.24 for access for the purposes of this proceeding.

Parties raise several concerns with Pacific's study. These criticisms do not convince us that Tardiff's study has significantly underestimated elasticity. We recognize that estimating elasticity is not an exact science.

We do not consider our finding precedent-setting. Elasticity is not a static measure. Accurate studies need current data that reflect recent market changes. Thus, we are only adopting these elasticity factors for this particular proceeding and for Pacific given its current market conditions.

6. Future Elasticity Studies

[21] The next time that parties need to establish an elasticity factor, we would prefer to see more sophisticated studies and testimony that address at least the following questions:

. What is the appropriate measure of the intraLATA market? What impact does the toll bypass market have on toll elasticity?

. What impact does the special **[*86]** access market have on switched access elasticity?

. Is it appropriate to measure market elastic responses to Pacific's price changes, without knowing how competitors price their services?

. Should the studies only use explicit, tariff rates for the price variable, or should the studies use inflation-adjusted, post surcredit rates?

. Should residential and business markets be estimated separately?

. What trends are affecting the market elasticity for toll and for switched access?

. What are the elasticities for local service, ZUM, and custom calling?

7. ORA's Proposal to Retain IRD Elasticity Factors Pending a Workshop

We deny ORA's proposal to delay the adoption of elasticity factors pending a future workshop. Pacific's March filing alerted the parties that elasticity could be an issue in this case. Also, the Scoping Memo directed the parties to consider elasticity in this proceeding.

Pacific has submitted a rigorous elasticity study. Several economists have reviewed the study. It would not be fair to delay the adoption of the new elasticity figure (and new final rate reductions) pending the outcome of some indefinite series of workshops. Furthermore, we are not confident that the **[*87]** parties would work in good faith to achieve a consensus outcome from these proposed workshops. ORA would have little incentive to conclude such workshops if the old IRD elasticity would remain in effect pending their outcome. At the same time, if we adopt Pacific's new elasticity figure pending the outcome of the workshops, Pacific and GTEC would have little incentive to cause a constructive outcome.

8. Applicability to GTEC

We deny GTEC's request that we apply these figures to GTEC for its future universal service rate design proposal. GTEC's market area does not coincide with Pacific's. Also, the data will no longer be current. Furthermore, we would view this as a due process violation because GTEC's customers were never given notice and afforded an opportunity to participate in a matter which would affect their rates.

D. Calculation of Elasticity Stimulation

[22, 23] There is little disagreement among the parties concerning how demand stimulation is calculated and its overall revenue impact. Thus we briefly describe Pacific's method and other parties' objections and then discuss how we have applied this method to our adopted rate reductions.

1. Pacific's Method

Pacific's **[*88]** calculation of its demand response to its price changes follows a 3-stage process. In the initial step discussed above, Pacific estimates the elastic response of the whole market to Pacific's proposed rate decreases. In the next step, Pacific applies this market elasticity to its proposed rate reductions to arrive at a stimulation factor. Then, Pacific applies that stimulation factor to its own MOU data to estimate how much its market would grow from this price change. This method assumes that Pacific's market share remains unchanged.

Pacific calculates both stimulated revenue and stimulated costs by multiplying the stimulated MOUs by the new rate and TSLRIC, respectively. To calculate the revenue impact, Pacific offsets the revenue reductions over its current MOU volumes with the net revenues generated from its stimulated volumes. No party takes issue with Pacific's use of a net revenue offset instead of a gross revenue offset.

2. Other Parties' Positions

Several parties pointed out that Pacific incorrectly assumed that the 7% EPRM surcredits would have been in place by the time any reductions were ordered. Therefore, Pacific's initial calculations underestimated the size of the **[*89]** proposed rate reductions and consequently underestimated the size of the stimulated net revenue offset. After parties identified this flaw, Pacific in its rebuttal testimony agreed that the EPRM surcredit should not have been included.

In their access revenue calculations attached to their testimony, MCI and AT&T made adjustments to Pacific's stimulation calculation by using a post-surcredit booked revenue basis instead of a tariff billed revenue basis. The choice of a revenue base affects the measurement of the percentage rate reduction, which is an input in the stimulation calculation.

3. Adopted Method

We adopt Pacific's general method of calculating its projected demand with some clarifications. We have corrected for Pacific's initial inclusion of the EPRM. Also, we have chosen to use a surcredit rate or revenue base when calculating the stimulation.

Pacific's method of calculating the revenue offset generated by rate reductions is consistent with the methods employed in IRD. In IRD, we constructed our rate design with the assumption that Pacific should be able to capture its share of new market demand that would result from the proposed rate reductions. We also recognized that **[*90]** Pacific would incur some "implementation costs" in providing the stimulated volumes and thus only considered the net revenue provided by those stimulated volumes.

Our adopted rate design involves percentage rate reductions for toll service and access elements. Pacific's Rule 33 toll and access billing surcharge increments will change after the price reductions ordered in this decision by approximately one-half a percentage point. (See Appendix D.) Therefore, the stimulation factor is slightly higher using post-surcredit rather than tariff rates. Although the selection of a rate base does not materially affect the stimulation factor under our adopted rate design, we do clarify that we prefer to use the surcredited rate as the base for the rate adjustment. We recognize that customers, especially IXC access customers, are aware of current surcredits or surcharges when making their consumption decisions. Additionally, this position is consistent with the Commission's determination in D.96-02-023 that post-surcredit (or surcharge) rates be used in calculating the stimulation factor.

Pacific's actual experience might deviate from this estimation depending on how it competes and on any unexpected **[*91]** changes in market conditions. Nonetheless, we will not intervene in the future to ensure that Pacific captures those projected volumes. To do so would risk compensating Pacific for any competitive losses and would be counter to our NRF principles. IV. Intercompany Settlement Effects

[24] The Assigned Commissioner's Ruling of July 11, 1997 placed expectations on Pacific, as the administrator of the intercompany settlement pools, to work expeditiously and diligently with those small LECs that concur in its toll and access tariffs in order to determine the "industry" settlement revenue effects resulting from a Commission decision in this docket. However, we note that this decision not only changes toll and access rates and charges, but it also changes some of Pacific's local rates and charges (e.g., ZUM, Custom Calling and Local Usage). As previously noted, changes in Pacific's local rates and charges will necessarily affect Pacific's local exchange rate of return and subsequently the payments that the small LECs will receive from Pacific for providing Extended Area Service (EAS). Therefore, we will also require Pacific to provide the EAS "settlement" revenue impacts of this decision **[*92]** on affected small LECs.

Appendix B indicates that the total estimated industry settlement revenue impacts of the adopted rate design for Pacific on small LECs is $ 4,800,000 (rounded) ($ 3,352,300 - toll, $ 1,469,100 - access). The estimated toll and access settlement revenue impacts were derived using the toll and access settlement factors contained in work papers provided by Pacific during the course of this proceeding. However, this record does not contain a factor to be used for determining EAS "settlement" revenues for those small LECs that provide EAS.

Pacific shall within ten days from the effective date of this decision calculate the non-recurring and recurring industry settlements effects of the price ceiling changes adopted by this decision and serve a draft copy of its results and supporting workpapers on the Commission's Telecommunications Division and all affected small LECs. Within 25 days of the effective date of this decision, Pacific shall file by advice letter subject to protest the industry settlement effects for all affected small LECs. The small LECs may reflect their respective settlement revenue impacts, including the one-time 1998 impacts, in their annual CHCF-A **[*93]** filings on October 1, 1998.

Should there be disputes between the affected small LECs and Pacific regarding the settlement revenue impacts, the Commission will resolve any disputes by resolution action. If the Commission determines that the matter should go to hearing, it may open an appropriate proceeding to further review and investigate the issues.

For Pacific, any incremental difference between the estimated settlement revenue impact of $ 4,800,000 at Appendix B and the industry settlement revenue impact resulting from Pacific running the adopted rates and charges through its settlement models should be included in Pacific's reconciliation of its $ 305.2 million estimate with its approved draw.

Findings of Fact

1. In R.95-01-020 and I.95-01-021, which were consolidated and filed on January 24, 1995, the Commission opened the universal service proceeding to develop rules to pursue universal service goals in a competitive telecommunications environment.

2. In D.96-10-066 in R.95-01-020/I.95-01-021, the Commission adopted final universal service

rules and established the CHCF-B for the five large and mid-size LECs.

3. In D.96-10-066, the Commission adopted a surcharge mechanism **[*94]** to fund the CHCF-B and required that Pacific and the other CHCF-B COLRs offset any anticipated receipt of CHCF-B funds to avoid a windfall. The offset mechanism initially adopted is a monthly billing surcredit calculated as an equal percentage rate reduction for all services except for residential basic service and rates set by contract.

4. In D.96-10-066, the Commission afforded the five large and mid-size LECs the opportunity to request by application a different offset methodology that would reduce rates or price caps downward to permanently offset the explicit subsidy support provided by the CHCF-B.

5. On March 6, 1997, Pacific filed its application for a permanent rate reduction offset pursuant to D.96-10-066.

6. In its application, Pacific requests to include this proceeding in the Commission's experimental SB 960 program.

7. The SB 960 experimental rules that govern this proceeding are set forth in Resolution ALJ-170 adopted January 13, 1997.

8. Pursuant to Experimental Rule 5, on July 11, 1997, a final scoping memo was issued by the assigned Commissioner confirming the categorization of this proceeding as "ratesetting," adopting a procedural timetable, and specifying the issues **[*95]** to be addressed.

9. Eleven days of evidentiary hearings were held in October and November of 1997 in San Francisco, California.

10. The proceeding was submitted with the receipt of reply briefs on February 20, 1998.

11. The primary issue in this proceeding is what is the appropriate permanent offset for Pacific's estimated $ 305.2 million annual draw from the CHCF-B universal service fund.

12. Also at issue in this proceeding is the appropriate elasticity factors that should be applied to any price reductions to toll and switched access services to reflect the demand stimulation caused by price changes.

13. Not all of Pacific's services provide implicit subsidy support for universal service.

14. Toll, switched access service, local usage, ZUM, and custom calling services contribute a high margin of revenue over direct costs. This high contribution margin is available to meet Pacific's shared and common costs and to provide an implicit subsidy toward the cost of other services.

15. On a total dollar, per-minute basis, Pacific's toll provides more contribution than does access.

16. AT&T compares the profit rate of Pacific's access to that of an IXC's toll.

17. Pacific's cost of access **[*96]** is lower than that of an IXC that uses switched access.

18. The revenue to cost ratio for Pacific's toll is higher than that for Pacific's access.

19. Targeting all toll reductions to MTS is consistent with our IRD decision.

20. IXCs do not pay CHCF-B surcharges.

21. The pledges of AT&T, MCI, and Sprint to flow-through any switched access price reductions from this decision to their customers are not sufficient to establish that any switched access price reductions we adopt will be completely and timely flowed-through to a broad-base of each IXC's customers.

22. We expect a significant amount of flow-through of switched access price reductions will occur from the IXCs' competitive response to the MTS toll reductions adopted by this decision.

23. In D.96-10-066, the Commission did not use local usage revenues to offset the universal service fund, CHCF-B.

24. This record provides no bright line to distinguish (1) how much of the contribution margin of a service is an implicit subsidy rather than a proper allocation of shared and common costs, and (2) at what level a price reduction using CHCF-B funds constitutes an unfair competitive advantage to Pacific.

25. The five high margin services **[*97]** identified by the parties as containing implicit subsidies all have some level of competition today.

26. This record does not resolve whether applying a 7.029% EPRM surcredit to all of Pacific's services except basic residential service would result in any service being priced below cost

27. FBC's proposed EPRM surcredit would apply approximately 40% of the rate reduction offset to services that no party recommended be reduced.

28. The Commission has yet to determine the cost components of the NIC rate element of switched access.

29. The two elements of switched access service that should receive the price reductions for switched access are the per call set-up charge and the access per minute charge of the local switching element of the end office rate.

30. It is reasonable to apply an equal percentage price reduction to local usage and ZUM services.

31. For this proceeding, a price reduction is preferable to a billing surcredit because customers understand and respond more precisely to price changes.

32. An annual true-up mechanism for the permanent rate reduction offset is not necessary or appropriate.

33. The price elasticity of demand is the percentage change in demand generated **[*98]** by a one percent change in price.

34. We account for the demand stimulation created by price changes in order to obtain an accurate measure of the revenue impacts from price changes.

35. In D.94-09-065, the Commission adopted an intraLATA toll elasticity of -.5 and a switched access elasticity of -.44.

36. In this application, Pacific presents new estimates of intraLATA toll elasticity and intrastate switched access elasticity that are lower, in absolute value, than those adopted in D.94-09-065. Pacific's toll study yields an elasticity of -.20 and its switched access study yields an elasticity

of -.24.

37. Pacific's elasticity results are not driven by its model specifications; among the range of elasticity estimates generated from alternative model specifications, Pacific's figures are near the high end.

38. In his Scoping Memo, Commissioner Knight ruled that this proceeding should use current data to set the elasticity factors.

39. Pacific has estimates of its intraLATA toll market share that are lower than its market share that would be calculated using the data from its intraLATA toll elasticity study.

40. Pacific's toll elasticity study aggregated both business and residential **[*99]** toll traffic.

41. In IRD, the Commission considered Pacific's disaggregated elasticity study, but adopted an aggregate elasticity for both residential and business toll.

42. ORA does not provide a convincing reason why we should reject Pacific's study for using an aggregated elasticity factor.

44. The toll elasticity and the switched access elasticity estimates are within one standard deviation from one another.

45. The record is inconclusive as to whether Pacific should have included the bypass market in its toll study.

46. There is no a priori reason that market elasticity should change because there are more competitors.

47. Pacific estimates market elasticity for intraLATA toll and intrastate switched access.

48. Elasticity is not a static measure; it can change over time.

49. The IRD-adopted elasticity factors relied on a variety of demand studies, some of which used linear demand functions.

50. In linear demand functions, elasticity decreases when price decreases or volume increases.

51. It is unlikely that the use of post-surcredit, inflation-adjusted rates in Pacific's study leads to a significant underestimation of elasticity.

52. Pacific's study captures significant demand **[*100]** responses that occur up to 12 months after a price change.

53. The EPRM which would have gone into effect after October 1996 is not considered in Pacific's elasticity studies, which relied on data from January 1992 through September 1996.

54. Pacific's estimates of the elasticity of intraLATA toll and intrastate switched access are reasonable.

55. GTEC's market area does not coincide with Pacific's.

56. GTEC's customers were never given notice and an opportunity to participate in the issue of GTEC's elasticity, an issue that can affect GTEC's rates.

57. Pacific's method of calculating the revenue impact of elasticity generated by rate reductions is consistent with the method used in D.94-09-065, with adjustments, and is a reasonable method to use for this decision.

Conclusions of Law

1. The exhibits and briefs submitted under seal in this proceeding shall remain under seal at the Commission for a period of one year from the date of this ruling, and during that period should not be made accessible or disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned ALJ, or the ALJ then designated as Law **[*101]** and Motion Judge.

2. If any party believes that further protection of the exhibits and briefs submitted under seal is needed after one year, it may file a motion stating the justification for further withholding the exhibits from public inspection, or for such other relief as the Commission rules may then provide. This motion should be filed no later than one month before the expiration of this protective order.

3. The motions of Pacific, FBC, MCI, Sprint, and TURN requesting to file under seal an unredacted copy of their briefs should be granted.

4. Our goals in adopting a rate reduction offset should be to (1) target the services parties demonstrate contain implicit subsidies; (2) ensure the rate reductions we adopt result in sustainable prices; and (3) reduce the rates within these services in a manner which benefits the broadest base of customers.

5. Recognizing the limitations of the cost data available in this proceeding, we should rely on the relative magnitude of the measurements, not the precise calculations, and we should not use the revenue/cost measurements to equalize margins between services or to reduce the price of any service too close to its existing price floor. **[*102]**

6. We should reduce prices and/or price ceilings for all five of the services identified as providing implicit subsidies in order to achieve our goals.

7. In D.96-10-066, we found that the need for sustainable prices was a primary reason for establishing the CHCF-B.

8. We should not reduce any service near the price floors the Commission has previously determined are sufficient to prevent anti-competitive behavior.

9. We should not adopt the EPRM as a permanent rate offset for Pacific.

10. Pacific's rate reduction offset proposal does not meet our goals.

11. We should not adopt the specific price reductions proposed by Pacific.

12. Toll provides a relatively larger contribution than does access.

13. We should apply all toll reductions to Pacific's basic MTS for residential and business customers.

14. In applying price reductions to toll, it is reasonable to effectively eliminate the volume discount provision of Pacific's residential and business MTS tariffs.

15. We should reduce the price ceiling for Category II services.

16. It is reasonable to provide the funds to support residential MTS toll parity from revenues that would otherwise go to price reductions for custom calling services. **[*103]**

17. We should not apply price reductions to the NIC.

18. We should apply the largest price reductions to toll because it has the highest contribution margin and has historically provided the largest implicit subsidy for universal service.

19. The price reductions adopted for local exchange and ZUM are reasonable and should not discourage new competitive entrants.

20. The price reductions set forth in Appendix C are reasonable and should be adopted.

21. Sufficient procedures for the CHCF-B fund are in place for the Commission to implement a permanent rate reduction offset for Pacific.

22. If the CHCF-B is not activated prior to Pacific implementing its permanent rate reduction offset, Pacific may apply to be compensated for the time value of money in a manner consistent with that set forth in D.98-01-023 as modified by D.98-04-068.

23. We should not reject Pacific's study of toll elasticity for not accounting for a toll bypass market.

24. Pacific should file tariffs to implement the price reductions adopted in Appendix C by compliance letter filing within 15 days of this decision. This compliance filing should be limited to current tariffs only, modified to reflect the authorizations **[*104]** of this decision; no other tariff modifications may be presented as part of this compliance filing. The tariffs filed should be effective no earlier than 15 days after filing and no later than 60 days after filing and shall have an effective date of the first calendar day of a month.

25. Pacific should file revised tariff sheets to reflect the adopted increments to its Schedule A-2, Rule 33-Billing Surcharges, shown in Appendix D.

26. Pacific should reconcile its $ 305.2 million estimate with its approved draw from the CHCF-B for the 12-month period immediately preceding the date rates are effective. If the adjustment resulting from Pacific's reconciliation of its $ 305.2 million estimate to its approved draw from the CHCF-B is within 10% of $ 305.2 million, Pacific should file by compliance letter to recover or refund the difference through a change to local usage and ZUM prices. If the adjustment is greater than 10% of $ 305.2 million, Pacific's advice letter filing should be subject to protest.

27. We should not adopt an annual true-up mechanism.

28. This proceeding should use current data to set the elasticity factors.

29. We should not reject Pacific's study for using an aggregated **[*105]** elasticity factor.

30. It is a reasonable result for the switched access elasticity measure to be higher than the toll elasticity.

31. It is a reasonable result for the elasticity measures in this proceeding to be lower than those adopted in IRD.

32. The price data used in Pacific's elasticity studies do not lead to an underestimation of

elasticity.

33. We should adopt an elasticity of -.20 for toll and -.24 for switched access for this proceeding. We should adopt Pacific's general method of calculating its projected demand with a correction for Pacific's initial inclusion of the EPRM.

34. Elasticity should be reexamined in future proceedings in light of current data and more sophisticated studies, and should address at least the questions set forth in Section III.C.6 of this decision.

35. We should not adopt elasticity factors for GTEC in this proceeding.

36. Pacific should within ten days from the effective date of this decision calculate the non-recurring and recurring the industry settlement effects of the price changes adopted by this decision and serve a draft copy of its results and supporting workpapers on the Commission's Telecommunications Division and all affected small **[*106]** LECs. Should Pacific deem its workpapers to be proprietary, it should provide each of the affected small LECs their respective workpapers that support the LEC's settlement revenue impacts. Within 25 days of the effective date of this decision, Pacific shall file by advice letter subject to protest the industry settlement effects for all affected small LECs. The small LECs may reflect their respective settlement revenue impacts, including the one-time 1998 impacts, in their annual CHCF-A filings on October 1, 1998.

ORDER

IT IS ORDERED that:

1. The motions of Pacific Bell (Pacific), Facilities-Based Carriers, MCI Telecommunications Corporation, Sprint Communications Company L.P., and The Utility Reform Network requesting to file under seal unredacted copies of their briefs are granted.

2. The exhibits and briefs submitted under seal in this proceeding shall remain under seal at the Commission for a period of one year from the date of this ruling, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the **[*107]** ALJ then designated as Law and Motion Judge.

3. If any party believes that further protection of the exhibits and briefs submitted under seal is needed after one year, it may file a motion stating the justification for further withholding the exhibits from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than one month before the expiration of this protective order.

4. The price changes set forth in Appendix C are adopted.

5. Pacific shall file tariffs to implement the price reductions adopted in Appendix C by compliance letter filing within 15 days of this decision. This compliance filing must be limited to current tariffs only, modified to reflect the authorizations of this decision; no other tariff modifications may be presented as part of this compliance filing. The tariffs filed shall be effective no earlier than 15 days after filing and no later than 60 days after filing and must have an effective date of the first calendar day of a month.

6. Pacific shall file revised tariff sheets to reflect the adopted increments to its Schedule A-2, Rule 33 Surcredits, shown in Appendix D.

7. Pacific shall reconcile **[*108]** its $ 305.2 million estimate with its approved draw from the California High Cost Fund (CHCF-B) for the 12-month period immediately preceding the date rates are effective. If the adjustment resulting from Pacific's reconciliation of its $ 305.2 million estimate to its approved draw from the CHCF-B is within 10% of $ 305.2 million, Pacific shall file by compliance advice letter to recover or refund the difference through a change to local usage and zoned usage measurement prices. If the adjustment is greater than 10% of $ 305.2 million, Pacific's advice letter filing will be subject to protest.

8. We adopt an elasticity of -.20 for toll and -.24 for switched access for this proceeding. We adopt Pacific's general method of calculating its projected demand with a correction for Pacific's initial inclusion of the equal percentage reduction.

9. We do not adopt elasticity factors for GTE California, Inc. in this proceeding.

10. Pacific shall within ten days from the effective date of this decision calculate the non-recurring and recurring industry settlement effects of the price changes adopted by this decision and serve a draft copy of its results and supporting workpapers on the Commission's **[*109]** Telecommunications Division and all affected small LECs. Should Pacific deem its workpapers to be proprietary, it should then provide each of the affected small LECs their respective workpapers that support the LEC's settlement revenue impacts. Within 25 days of the effective date of this decision, Pacific shall file by advice letter subject to protest the industry settlement effects for all affected small LECs and/or provide Extended Area Service. The small LECs may reflect their respective settlement revenue impacts in their annual CHCF-A filings on October 1, 1998.

11. Any incremental difference between the estimated settlement revenue impact of $ 4,800,000 at Appendix B and Pacific's advice letter filing should be included in Pacific's reconciliation of its $ 305.2 million estimate with its approved draw.

12. This proceeding is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

Appendix A

** See Table in Original. **

Appendix B

** See Table in Original. **

Appendix C

** See Table in Original. **

Appendix D

** See Table in Original. **

DISSENTBY:
NEEPER (In Part)

5370

DISSENT:
Commissioner Josiah L. Neeper, Dissenting in part:

[25-27] I dissent in part, but only **[*110]** in part, from the Order adopted by the majority. I dissent to that part of the decision that directs interexchange carriers (IECs) to verify through a reporting requirement that the rate reductions applied to switched access service have been implemented and effective.

Underlying the desire to dictate how carriers should spend a savings that result from reduced access rate is an obsolescent philosophical vestige from a single-service provider era regulation that the regulator must ensure "pass-through" to customers. I believe such a requirement is unnecessary and unwarranted in a deregulated market such as the long distance telephony where rates have continued to come down as a result of competition and consequently.

The fact that there is intense competition in the long distance market with dynamic changes in market shares of carriers and rates are the main competitive tools is a good indicator that regulatory actions are not necessary to protect customers interest. In fact, it is precisely because the long distance market is competitive that we classified companies like AT&T, one of the largest long distance carriers, and over 500 others as non-dominant carrier freeing them from **[*111]** the shackles of numerous regulations. In August of last year when we classified AT&T as non dominant, we noted as one of the reasons for our action, its declining market share which had continued to slide over the years from a high of 70% in 1989 to about 55% in mid 1997 of last year. Similarly, AT&T's control of transmission capacity was only 20%; which means its competitors can readily absorb AT&T's entire customer base without adding capacity.

Events like these proved that the long distance market is competitive and thus subject to minimal regulation that forbears rate oversight and provides maximum flexibility in rate setting and changes. Having dismantled a monopoly era regulation in lieu of a laissez faire regulatory policy for this sector of the market, I find it quite perplexing that if somehow, coincidentally, an element of the cost of long distance service is to be offset through our regulation of a dominant carrier such as Pacific Bell, that we find a renewed interest to ensure that this offset must be "passed through" to consumers through a regulatory direction. The proposal is fallacious because, one, the Commission has no means of ensuring that the offset is passed **[*112]** on to consumers since IECs are free to lower and raise rates; and, two, if "passing through" the offset becomes an overriding concern, re-regulation of the industry will be necessary, which defies logic and the reality of the market.

Furthermore, the forewarning in the majority decision, which smacks of a threat, that this Commission may consider IECs' compliance with this direction in the switched access reform proceeding is antithetical to the principles of a competitive market. This mix and match of a "reformed monopoly regulation" approach needs to be checked so that we do not create in the market unnecessary market distortion.

For all the above reasons, I will dissent in part.

/s/ Josiah L. Neeper

Commissioner

San Francisco, California
July 2, 1998

Service: **LEXSEE®**
Citation: **1998 cal puc lexis 570**
View: Full
Date/Time: Monday, May 28, 2001 - 12:52 PM EDT

Appendix C
Page 1 of 3

*11 FCC Rcd 21233, *; 1996 FCC LEXIS 6257, **;*
5 Comm. Reg. (P & F) 321

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation; Petition of the Public Telephone Council to Treat Bell Operating Company Payphones as Customer Premises Equipment; Petition of Oncor Communications Requesting Compensation for Competitive Payphone Premises Owners and Presubscribed Operator Services Providers; Petition of the California Payphone Association to Amend and Clarify Section 68.2(a) of the Commission's Rules; Amendment of Section 69.2(m) and (ee) of the Commission's Rules to Include Independent Public Payphones Within the "Public Telephone" Exemption from End User Common Line Access Charges

CC Docket No. 96-128; CC Docket No. 91-35

FEDERAL COMMUNICATIONS COMMISSION

11 FCC Rcd 21233; 1996 FCC LEXIS 6257; 5 Comm. Reg. (P & F) 321

RELEASE-NUMBER: FCC 96-439

November 8, 1996 Released; Adopted November 8, 1996

ACTION: [1]** ORDER ON RECONSIDERATION

JUDGES:
By the Commission

OPINION:
[*21234] I. INTRODUCTION

1. On September 20, 1996, the Commission adopted a Report and Order implementing Section 276 of the Communications Act of 1934, as amended by the **[*21235]** Telecommunications Act of 1996 ("1996 Act"). n1 In the Report and Order, the Commission adopted new rules and policies governing the payphone industry that: (1) establish a plan to ensure fair compensation for "each and every completed intrastate and interstate call using [a] payphone[;]" n2 (2) discontinue intrastate and interstate carrier access charge payphone service elements and payments and intrastate and interstate payphone subsidies from basic exchange services; n3 (3) prescribe nonstructural safeguards for Bell Operating Company ("BOC") payphones; n4 (4) permit the BOCs to negotiate with payphone location providers on the interLATA carrier presubscribed to their payphones; n5 (5) permit all payphone service providers to negotiate with location providers on the intraLATA carrier presubscribed to their payphones; n6 and (6) adopt guidelines for use by the states in establishing public interest payphones to be located "where there would otherwise not be a payphone[.]" n7

n1 Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (rel. Sept. 20, 1996) ("Report and Order"), appeal docketed sub nom. Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir., filed Oct. 17, 1996); Notice of Proposed Rulemaking, 11 FCC Rcd 6716 (1996) ("Notice"). **[**2]**

n2 47 U.S.C. § 276(b)(1)(A).

5373

marketing, installation and maintenance, and billing and collection because LECs do not have a competitive advantage in these unregulated markets. n484 The RBOC Coalition asserts that the Commission should not extend the nondiscrimination requirement to the LEC installation and maintenance of payphones. n485

n483 Sprint Comments at 16.

n484 RBOC Coalition Comments at 23.

n485 Id. at 23.

iii. Registration and Demarcation Point for Payphones

161. NJPA and AT&T do not object to a flexible demarcation point for payphones as long as LECs must treat independent payphone providers in a nondiscriminatory manner with regard to the demarcation point. n486

n486 NJPA Comments at 13; AT&T Comments at 13, n. 31.

d. Discussion

i. Unbundling of Payphone Services

162. Section 276 requires that the Commission take all actions necessary to "discontinue ... all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues." n487 To implement this requirement we have deregulated **[**160]** payphone equipment and established a requirement that LECs provide tariffed payphone services to independent payphone providers that they provide to their own payphone operations. n488 Federal tariffing enables the Commission to directly ensure that payphone services comply with Section 276. In Computer III and ONA, the Commission included both state and federal tariffing requirements. n489 Our requirement in the Report and Order for federal tariffing was consistent with Section 276, Computer III and ONA. We did not in the Report and Order preclude states from requiring the tariffing of payphone services. Consistent with this conclusion, we provided that states could require further unbundling of payphone services than those required in the Report and Order. Although we disagree with BellSouth and Ohio PUC regarding our authority to require federal **[*21308]** tariffing of payphone services, on reconsideration we modify the federally tariffing requirement as discussed below. n490 Accordingly, as required in the Report and Order, LECs must provide tariffed, nondiscriminatory basic payphone services that enable independent providers to offer payphone services using either instrument-implemented **[**161]** "smart payphones" or "dumb" payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECS. LECs must file those tariffs with the state. In addition, as required by the Report and Order, any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis. Those unbundled features or functions must be tariffed in the state and federal jurisdiction. Federal tariffing of unbundled network features is consistent with Computer III and ONA. The Commission has also required, for example, federal tariffing of originating line screening services. n491

n487 47 U.S.C. § 276(b)(1)(B).

n488 See 47 U.S.C. § 276(c) and §§ 210-205 regarding authority to require tariffing of basic payphone services.

n489 BOC ONA Order, 4FCC Rcd at paras. 224-341.

n490 Section 276(c) also provides for the preemption of inconsistent state requirements.

n491 Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, Third Report and Order (rel. Apr. 5, 1996) at para. 34. **[**162]**

163. We require LECs to file tariffs for the basic payphone services and unbundled functionalities in the intrastate and interstate jurisdictions as discussed below. LECs must file intrastate tariffs for these payphone services and any unbundled features they provide to their own payphone services. The tariffs for these LEC payphone services must be: (1) cost based; (2) consistent with the requirements of Section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory. States must apply these requirements and the Computer III guidelines for tariffing such intrastate services. n492 States unable to review these tariffs may require the LECs operating in their state to file these tariffs with the Commission. In addition, LECs must file with the Commission tariffs for unbundled features consistent with the requirements established in the Report and Order. n493 LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission. We will rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276. **[**163]** As required in the Report and Order, and affirmed herein, all required tariffs, both intrastate and interstate, must be filed no later than January 15, 1997 and must be effective no later that April 15, 1997. Where LECs have already filed intrastate tariffs for these services, states may, after considering the requirements of this order, the Report and Order, and Section 276, conclude: 1) that existing tariffs are consistent with the requirements of the Report and Order as revised herein; and 2) that in such case no further filings are required. We delegate authority to the Common Carrier Bureau to determine the least burdensome method for small carriers to comply with the **[*21309]** requirements for the filing of tariffs with the Commission, such as those suggested by NTCA.

n492 The new services test required in the Report and Order is described at 47 C.F.R. Section 61.49(g)(2). See also Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79, 6 FCC Rcd 4524, 4531(1991) at paras. 38-44.

n493 Report and Order at para. 146-148.

164. In the Report and Order we provided a waiver of the notification **[**164]** period of Computer II and Computer III network information disclosure requirements with which BOCs may be required to comply pursuant to the requirements of the Report and Order. Consistent with our clarification above that LECs may comply with all the requirements of the Report and Order by April 15, 1997, we also clarify that the waiver of the network information disclosure requirements to allow a minimum three month period for notification of payphone service and and related unbundled feature tariffs is also granted if BOCs file those tariffs earlier than the January 15, 1997 date. We clarify further that the waiver provided in the Report and Order and in this order is only effective for payphone tariffs to comply with this order and only until April 15, 1997, because network information disclosures must be made, as required by the Report and Order, no later than January 15, 1997.

165. On reconsideration, we decline to require further unbundling of payphone services beyond those established in the Report and Order. We clarify that any unbundled network features provided to a LEC payphone operation must be available on a nondiscriminatory basis to independent payphone providers **[**165]** and must be tariffed in the federal and state jurisdictions. n494 Under Computer III, independent payphone providers may request unbundled features through a 120-day process and BOCs must indicate why they decline to provide the requested features. n494 We did not create a similar requirement for LECs other

Service: **LEXSEE®**
Citation: **1997 fcc lexis 5854**

*12 FCC Rcd 17996, *; 1997 FCC LEXIS 5854, **;*
10 Comm. Reg. (P & F) 539

In the Matter of Local Exchange Carriers' Payphone Functions and Features; Bell Atlantic Telephone Companies Revisions to Tariff F.C.C. No. 1; GTE System Telephone Companies Revisions to Tariff F.C.C. No. 1; GTE Telephone Operating Companies Revisions to Tariff F.C.C. No. 1

CC Docket 97-140; Transmittal Nos. 962 and 966; Transmittal Nos. 206 and 1112; Transmittal Nos. 1095 and 217

FEDERAL COMMUNICATIONS COMMISSION

12 FCC Rcd 17996; 1997 FCC LEXIS 5854; 10 Comm. Reg. (P & F) 539

RELEASE-NUMBER: FCC 97-392

October 29, 1997 Released; Adopted October 27, 1997

ACTION: [1]** MEMORANDUM OPINION AND ORDER

JUDGES:
By the Commission

OPINION:
[*17996] I. INTRODUCTION

1. In this Order, we terminate our investigation of the rates set forth in the above-captioned federal access tariffs filed by the Bell Atlantic Telephone Operating Companies (Bell Atlantic), GTE Systems Telephone Companies (GSTC), and GTE Telephone Operating Companies (GTOC) (collectively "GTE") applicable to the offering of various unbundled payphone features and functions. We find that it is not necessary to address the lawfulness of the rates initially at issue in this proceeding because those rates have been superseded by recently filed rates and because the carriers had no customers for the services offered under the initial tariffs. We further find no basis for finding Bell Atlantic's subsequently filed rates unlawful. We find, however, that GTE has failed to adequately justify its nonrecurring charge for installation of a feature called Selective Class of Call Screening (SCOCS). We therefore find this charge unlawful. We direct GTE to file a revised tariff within five days from the release date of this Memorandum Opinion and Order striking this charge from its tariff. We do not direct refunds with respect to the **[**2]** nonrecurring charge for SCOCS because, as with its initially filed tariff, GTE does not have as yet customers for its payphone features and functions offered under its revised tariff.

II. BACKGROUND

2. Section 276 of the Act establishes a federal regulatory regime designed to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public. n1 In the Payphone Reclassification Proceeding n2 the **[*17997]** Commission adopted regulatory requirements implementing Section 276. The Commission required, inter alia, that incumbent LECs file tariffs for basic payphone lines at the state level, and that payphone specific unbundled features and functions provided by LECs to their own payphone operations or to others be tariffed at both state and federal levels. n3 In the Payphone Clarification Order, the Bureau stated that tariffs for

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payphone services, including unbundled features and functions filed pursuant to the Payphone Reclassification Proceeding, must be cost-based, nondiscriminatory, and consistent with both Section 276 and the Computer III tariffing guidelines. n4 In the Payphone Order, the Commission concluded **[**3]** that the "new services" test should be used to price payphone services, including, in particular, the pricing of unbundled features and functions tariffed at the interstate level. n5 The new services test is a cost-based test that establishes the direct cost of providing the new service as a price floor. n6 LECs then add a reasonable level of overhead costs to derive the overall price of the new service. n7

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n1 47 U.S.C. § 276(b)(1).

n2 Implementation of the Pay Telephone Reclassification And Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 11 FCC Rcd 20541 (1996) (Payphone Order); Order on Reconsideration, 11 FCC Rcd 21233 (1996) (Payphone Reconsideration Order), aff'd in part and remanded in part, sub nom. Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir. July 1, 1997).

n3 Payphone Reconsideration Order, 11 FCC Rcd at 21307-09.

n4 Implementation of the Payphone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128, Order, DA 96-678 (Com. Car. Bur., rel. April 4, 1997) (Payphone Clarification Order) at para. 2, citing Payphone Reconsideration Order, 11 FCC Rcd at 21308. The Payphone Clarification Order also granted a limited waiver of the deadline for filing the federal tariffs for unbundled features and functions allowing LECs to file the required tariffs within 45 days after the release of that Order, with a scheduled effective date no later than 15 days after the date of filing. Id. at para. 1. **[**4]**

n5 Payphone Order, 11 FCC Rcd at 20614.

n6 See Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Memorandum Opinion and Order, 4 FCC Rcd 1 (1988) (BOC ONA Order), recon., Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order on Reconsideration, 5 FCC Rcd 3084 (1990) (BOC ONA Reconsideration Order); Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order, 5 FCC Rcd 3103 (1990) (BOC ONA Amendment Order) erratum, Filing and Review of Open Network Architecture, Erratum, 5 FCC Rcd 4045, pets. for review denied, California v. FCC, 4 F.3 1505 (9th Cir. 1993), recon., Filing and Review of ONA Plans, Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 97 (1993) (BOC ONA Amendment Reconsideration Order); Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order, 6 FCC Rcd 7646, 7649-50 (1991) (BOC ONA Further Amendment Order), pet. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (collectively "BOC ONA Proceeding"); Amendment of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79, Report and Order & Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524, 4531 (1991) (Part 69 ONA Order). **[**5]**

n7 Id. For purposes of this order, an overhead loading is defined as the percent by which a rate exceeds the direct cost for a particular service.

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3. On May 19, 1997, Bell Atlantic, GSTC, and GTOC filed their Transmittal Nos. 962, 206, and

1095, respectively, to make available various payphone features and functions under their federal **[*17998]** access tariffs. n8 On May 27, 1997, the American Public Communications Council (APCC) filed petitions urging the Commission to reject, or altematively, to suspend and investigate these transmittals. n9 On June, 2, 1997, replies to these petitions were filed by Bell Atlantic and GTE. n10

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n8 Bell Atlantic Access Tariff FCC No. 1, Transmittal No. 962; GSTC Access Tariff FCC No. 1, Transmittal No. 206; and GTOC Access Tariff FCC No. 1, Transmittal No. 1095.

n9 Petitions of APCC to Suspend and Investigate Bell Atlantic Transmittal No. 962 ("APCC (BA) Petition"), GSTC Transmittal No. 206 ("APCC (GSTC) Petition"), and GTOC Transmittal No. 1095 ("APCC (GTOC) Petition").

n10 Reply of Bell Atlantic to APCC Petition to Suspend and Investigate Bell Atlantic Transmittal No. 962 ("Bell Atlantic Reply"); Reply of GTE Service Corporation to APCC Petition to Suspend and Investigate GSTC Transmittal No. 206 and GTOC Transmittal No. 1095 ("GTE Reply").

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4. In the Suspension Order, the Competitive Pricing Division (Division) of the Bureau concluded that these transmittals raised significant questions of lawfulness, including whether the proposed rates were unreasonably discriminatory in violation of Section 202(a) of the Act, were unjust and unreasonable in violation of Section 201(b) of the Act, and whether they included any subsidy, preference, or discriminatory provision in violation of Section 276 of the Act. n11 In the Designation Order, the Bureau designated the following issues for investigation: (1) whether Bell Atlantic's proposed overhead loading for unbundled payphone features was unreasonable and excessive under the new services test; (2) whether Bell Atlantic's determination of rates was consistent with the new services test; (3) whether GTE's direct investment for SCOCS was reasonable; and (4) whether GTE's rates for SCOCS were consistent with the new services test. n12 On September 3, 1997, Bell Atlantic and GTE filed their direct cases in response **[*17999]** to the Designation Order. n13 On September 10, 1997, APCC filed a joint opposition to the direct cases filed Bell Atlantic and GTE. n14 On September 17, Bell Atlantic and **[**7]** GTE filed their rebuttals. n15 On October 8, 1997, Bell Atlantic filed Transmittal No. 1004, which proposed to revise rates for the unbundled payphone features made available under its initial tariff that are at issue in this investigation. APCC filed comments in response to the Bell Atlantic tariff revisions on October 10, 1997. The Division suspended this tariff for one day and allowed the tariff to become effective subject to this investigation. n16 On September 5, 1997, GTE filed Transmittal Nos. 217 and 1112, which also proposed to revise the rates for the SCOCS payphone features made available in its earlier federal access tariffs. n17 No petitions were filed against the GTE transmittals. The Division suspended these tariffs for one day and allowed the tariffs to become effective subject to this investigation. n18

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n11 Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Suspension Order, DA 97-1149 (Com. Car. Bur., Comp. Pric. Div., rel. June 2, 1997) (Suspension Order). The Suspension Order required the carriers to advance by one day the effective date of each of these transmittals, to June 2, 1997, suspended each transmittal for one day to June 3, 1997, initiated an investigation, and imposed an accounting order. See Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Erratum, DA 97-74559 (Com. Car. Bur., Comp. Pric. Div., rel. June 5, 1997). The Suspension Order also suspended and initiated an investigation of the NYNEX Telephone Companies (NYNEX)

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Transmittal No. 452. On July 2, 1997, the Division, on its own motion, reconsidered that Order with respect to NYNEX Transmittal No. 452 and found, based on the record before it, that the NYNEX transmittal did not warrant investigation and that the investigation of the transmittal should be terminated. Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Order on Reconsideration, DA 97-1396 (Com. Car. Bur., Comp. Pric. Div., rel. July 2, 1997). On June 9, 1997, Bell Atlantic filed Transmittal No. 966, which, among other things, adjusted a rate that it stated was incorrectly displayed in its earlier Transmittal No. 962. On June 11, 1997, the Division released an order finding that Bell Atlantic's proposed rate adjustment raised the same issues of lawfulness as Transmittal No. 962. Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Suspension Order, DA 97-1233 (Com. Car. Bur., Comp. Pric. Div., rel. June 11, 1997). Accordingly, the Division suspended Transmittal No. 966 for one day insofar as it proposed to adjust rates made available under Transmittal No. 962. In addition, the Division instituted an investigation of that part of the transmittal, consolidated that investigation with the pending investigation of Bell Atlantic Transmittal No. 962, and imposed an accounting order. Id. **[**8]**

n12 Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Order Designating Issues for Investigation, DA 97-1764 (Com. Car. Bur., rel. Aug. 19, 1997) (Designation Order).

n13 Direct Case of Bell Atlantic in CC Docket 97-140 ("Bell Atlantic Direct Case"); Direct Case of GTE Service Corporation in CC Docket 97-140 ("GTE Direct Case").

n14 Opposition of the American Public Communications Council to the Direct Cases of Bell Atlantic and GTE ("APCC Opposition").

n15 Reply of Bell Atlantic to APCC Opposition in CC Docket 97-140 ("Bell Atlantic Reply"); GTE's Rebuttal in CC Docket 97-140 ("GTE Rebuttal").

n16 Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Order, DA 97-2194 (Com. Car. Bur., Comp. Pric. Div., rel. Oct. 14, 1997).

n17 GTOC Tariff F.C.C. No 1, Transmittal No. 217 and GSTC Tariff F.C.C. No. 1, Transmittal No. 1112 filed September 5, 1997.

n18 Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Order, DA 97-2035 (Com. Car. Bur., Comp. Pric. Div., rel. Sept. 19, 1997).

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III. INVESTIGATION **[**9]** ISSUES

A. Bell Atlantic Transmittals

1. Background and Contentions

5. In Transmittal No. 962, Bell Atlantic proposed to include in its federal access tariff six unbundled payphone features. n19 Bell Atlantic stated that these services would assist independent payphone service providers in making payphone services available to the public by providing services, among others, that can aid customers in preventing fraudulent calls from their payphones. Bell Atlantic stated in its initial explanation submitted with the tariff that it determined the rates for unbundled payphone features on the basis of "the cost, the pricing of these service features as they currently exist in Bell Atlantic's intrastate tariffs, the available competitive alternatives, and other information on the value of these **[*18000]** services." n20

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n19 Bell Atlantic Transmittal No. 962, Description and Justification (D&J) at 2. These unbundled Bell Atlantic features are line-side answer supervision (LSAS), inward callblocking, outward callblocking, incoming/outgoing call screening, outward call screening, and limited interLATA dialing. Id. Pursuant to Section 276(d) of the Act, the term "payphone service" is defined as "the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services." 47 U.S.C. § 276(d). **[**10]**

n20 Bell Atlantic D&J at 8.

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6. In the Designation Order, the Bureau examined the ratios of rates to direct costs, which provide a measure of the overhead loadings, and found that Bell Atlantic's rates for the proposed payphone features ranged from a low of 27 times greater than the direct costs to a high of more than 6,900 times greater than the direct costs. n21 The Bureau concluded that the record before it did not justify such high levels of rates in relation to direct costs. Therefore, the Bureau directed Bell Atlantic to explain why these services should recover such a large share of Bell Atlantic's overhead costs. n22 In addition, the Bureau found that Bell Atlantic had set rates based on considerations not relevant under the new services test, such as the current prices for these services in their intrastate tariffs. n23 The Bureau directed Bell Atlantic to explain in detail how its development of rates for these features complied with the new services test, Section 276, and the Payphone Orders. n24

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n21 Designation Order at para. 10. **[**11]**

n22 Id.

n23 Designation Order at para. 11.

n24 Id.

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7. In its direct case conceming its initially filed tariff, Bell Atlantic argues that the reasonableness of the rate elements for its federally tariffed payphone features must be assessed in light of associated payphone services offered in state tariffs. n25 Bell Atlantic argues that a state-tariffed payphone access line and the individual features on that line together constitute a single integrated service. Bell Atlantic contends that the overall rates for its federal payphone tariffs are just and reasonable when the rate for the state tariffed basic payphone service line and the rates for the optional features are both taken into account. n26

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n25 Bell Atlantic Direct Case at 2.

n26 Id.

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8. Bell Atlantic also argues that overhead loadings need not be uniform under the new services

test, citing the NYNEX Tariff Termination Order. n27 According to Bell Atlantic, LECs are **[**12]** allowed to distribute overhead loading costs in a non-uniform manner among similar services if they adequately justify those loadings. n28 Bell Atlantic states that the rates under this investigation satisfy this test. It explains that the loadings for the optional features, while not uniform, allow the entire service to be compensatory, and most of the features are priced at a uniform rates to simplify the rate structures for the public. n29

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n27 Bell Atlantic Direct Case at 4, citing NYNEX Telephone Companies Revisions to Tariff F.C.C. No. 1, Memorandum Opinion and Order, 7 FCC Rcd 7940 (1992).

n28 Id.

n29 Id. at 4.

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[*18001] 9. In opposition to Bell Atlantic's direct case, APCC contends that state rates are not relevant to the proposed federal rates and that it is appropriate to apply the new services test at the federal level only to the federally tariffed payphone features and functions. n30 APCC argues that since the Commission ruled that only unbundled features should be federally tariffed, **[**13]** the rates for unbundled features must be justified on the basis of the underlying costs of those features measured by the new services test, and not in conjunction with services tariffed at the state level. n31

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n30 APCC Opposition at 2.

n31 Id. at 3.

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10. On October 8, 1997, Bell Atlantic filed Transmittal No. 1004 revising rates for five of the six proposed unbundled payphone features proposed in its initial tariff filing. n32 Bell Atlantic explains that based on its further review, it has elected to reduce the rates for these payphone features to avoid protracted litigation. n33 In response, APCC states that, while the proposed rate reductions are in the public interest, the rates for some of the payphone features are as high as 3.4 times the direct costs. n34 APCC argues that in other contexts ratios of this magnitude have been found unreasonable, citing Open Network Architecture Tariffs of Bell Operating Companies. n35 APCC asserts that the revised overhead allocations are acceptable in the context of the de **[**14]** minimis rates proposed by Bell Atlantic even though they would be unreasonable in the context of other services, such as line and local usage rates. APCC requests that the Commission limit any finding that Bell Atlantic's overhead allocations are reasonable to the context of the unbundled payphone features offered by Bell Atlantic and other LECs in their federal payphone tariffs. n36 On October 14, 1997, Bell Atlantic filed reply comments. n37 It states that the Commission should terminate this investigation because it does not have interstate customers for the services offered under the initial payphone tariffs and because its newly filed tariffs, which substantially reduce the rates for the payphone features and functions that are under investigation, are unopposed. n38

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n32 Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 1004 (filed October 8, 1997).

n33 Id., Bell Atlantic D&J at 2.

n34 Comments of APCC filed in Response to Bell Atlantic Transmittal No. 1004 (October 10, 1997) ("APCC Comments") at 2-3.

n35 Id. at 3, citing Open Network Architecture Tariffs of Bell Operating Companies, 9 FCC Rcd 440, 458 (1993). **[**15]**

n36 Id. at 3-4.

n37 Reply Comments of Bell Atlantic (October 14, 1997).

n38 Id. at 2.

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3. Discussion

11. Because Bell Atlantic has revised the rates that were initially at issue in this investigation and did not have customers for the relevant services, we find that it is unnecessary to consider the lawfulness of those rates or to consider the need for refunds. Further, we find no basis to find that the **[*18002]** overhead loadings in Bell Atlantic's revised rates are unreasonable or that they produce unreasonable rates. n39 In view of Bell Atlantic's substantially reduced rates and the record support for them, we also find that the revised rates do not warrant a finding that they are based on considerations not within the scope of the new services test.

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n39 Bell Atlantic did not revise its rate for the interLATA dialing service offered in its initial tariff. The overhead loading for this rate is 38 percent of direct costs. APCC has not objected to this rate in this proceeding. We find no basis on this record for finding this rate or its overhead loading unreasonable.

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12. We reject Bell Atlantic's view that we should review the reasonableness of its payphone service tariffs in light of tariffs filed at the state level. In the Payphone Reconsideration Order, the Commission required LECs to file tariffs for basic payphone lines at the state level only, and that unbundled features and functions be tariffed at both state and federal levels. n40 The Commission required that all incumbent LEC payphone tariffs filed at the state and federal levels be cost-based, nondiscriminatory, and consistent with both Section 276 and the Commission's Computer III tariffing guidelines, including the new services test. n41 Bell Atlantic has not provided any basis for departing from this scheme within the context of this investigation to provide for an assessment of federal charges in light of charges filed at the state level. As envisioned by the Bureau and the Commission, application of the new services test separately by state and federal authorities to payphone offerings will assure that carrier offerings to payphone service providers will be reasonable and help achieve the goals of Section 276. Accordingly, we will not assess the reasonableness of Bell Atlantic's **[**17]** offering of unbundled payphone features and functions by reference to state tariffs.

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n40 Payphone Reconsideration Order, 11 FCC Rcd at 21307-09.

n41 Payphone Clarification Order at para. 2, citing Payphone Reconsideration Order, 11 FCC Rcd at 21308.

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13. With respect to Bell Atlantic's rates, we find no basis in the revised cost data to find that these overhead loadings are unreasonable or produce unreasonable rates in this case. In particular, we note that these services are provided either at very low rates or at no charge. n42 In addition, Bell Atlantic has explained that its overhead loadings used to develop the rates for its payphone features and functions are comparable with other tariffed services offered by Bell Atlantic. n43 We also note that Bell Atlantic's overhead loadings are comparable to those of other LECs. Bell Atlantic's ratio of rates to direct costs for payphone features range from a low of zero times greater than the direct costs to a high **[**18]** of 3.4 times greater than the direct costs while the ratio of rates to direct costs for the payphone features offered by other LECs ranges from a low of zero times greater than the direct costs to a high of 4.8 times greater than the direct costs. n44 We also agree with Bell Atlantic that the Commission's pricing requirements do not mandate uniform overhead loading provided that the loading methodology selected as well as any deviation from it is justified. n45 Accordingly, we find record support for Bell Atlantic's overhead loadings **[*18003]** and find no basis for finding that they are unreasonable under the new services test or produce unreasonable rates. In Open Network Architecture Tariffs of Bell Operating Companies, the Commission concluded that US West's overhead rates for Open Network Architecture (ONA) features were unsupported because it failed to provide a reasonable explanation for its overhead loadings for those rates. n46 We do not find that our determination here concerning overhead loadings for Bell Atlantic's provision of payphone features and functions will necessarily be determinative in evaluating overhead loadings for other services.

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n42 The revised rates range from no charge for two of the services to a monthly rate of $ 0.15 for two other proposed services. **[**19]**

n43 Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 1004 (D&J) at 4-5. For example, Bell Atlantic's Premier Messaging Service Interface uses a non-uniform overhead loading with a rate of 3.59 times greater than the direct costs.

n44 See, e.g., NYNEX Tariff F.C.C. No. 1, Transmittal No. 452; US West Tariff F.C.C. No. 5, Transmittal No. 858; and Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1932.

n45 Part 69 ONA Order, 6 FCC Rcd at 4531.

n46 Open Network Architecture Tariffs of Bell Operating Companies, 9 FCC Rcd at 458 (1993).

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14. In light of Bell Atlantic's substantially reduced rates and the record support for them as described above, we find no basis to find that the rates are based on factors other than direct costs and overhead loadings. Therefore, we also find that the revised rates do not warrant a finding that they are based on considerations not within the scope of the new services test.

B. GTE's Transmittals

Issue A: Whether GTE's direct investment for SCOCS is reasonable.

1. Background and Contentions

15. In **[**20]** Transmittal 206, GTE added to its two federal access service tariffs an unbundled, payphone-specific feature called Selective Class of Call Screening (SCOCS). This feature enables the customer to block outgoing 1+, 0+, and 0- calls that are charged to the originating number. n47 In the Designation Order, the Bureau noted that GTE's cost justification for SCOCS was based upon a claimed direct switching investment of about $ 50 per line per year and that this was significantly higher than the direct investments reported by other LECs for similar services. n48 The Bureau tentatively concluded that GTE's direct investment of $ 50 per line for SCOCS was unreasonable and raised a substantial question that the SCOCS rates were unreasonable. The Bureau directed GTE to provide detailed information regarding its derivation of the unit investment of $ 50 per line for SCOCS. n49

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n47 GTOC Tariff F.C.C. No. 1, Transmittal No. 1095, and GSTC Tariff F.C.C. No. 1, Transmittal No. 206, both issued May 19, 1997. In these transmittals, GTE also clarified certain matters unrelated to payphone features, such as the application of its multiline end-user subscriber line charges and the addition of certain provisions regarding the warehousing and hoarding of toll-free subscriber numbers. We excluded from the application of the LEC Payphones Functions and Features Suspension Order the tariff revisions included in these two transmittals that are unrelated to GTE's provision of payphone features and functions. Those provisions became effective on June 3, 1997. **[**21]**

n48 Designation Order at para 12.

n49 Id.

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

16. In its direct case, GTE explains that the bulk of the unit investment of $ 50 per line for SCOCS was based on cost estimates for switching investment of $ 44 per line per year. n50 According to GTE, this initial estimate in its tariff transmittals for switching investment was based on estimated calling patterns for the SCOCS feature (three call attempts during periods of busy network usage) and the assumption that it would be necessary to utilize a particular switch function from Bellcore's SCIS model **[*18004]** known as Selective Carrier Denial. n51 In its direct case, GTE asserts that based on its reexamination since its initial tariff filing of the available industry data, it can assume one call attempt during periods of busy network usage instead of three and that a different, more economical SCIS function known as Code Restriction and Diversion is available. n52 GTE maintains that the lower assumed busy hour call attempts and the different feature selection produce a lower estimate of costs resulting in a revised switching investment estimate of $ 6.00 **[**22]** per line per year. GTE asserts that it will amend its payphone tariff to reflect the revised switching estimate. n53 In response to GTE's direct case and revised tariff filing, APCC agrees with GTE's acknowledgement that its earlier estimate of direct investment for the SCOCS feature was incorrect, and it states that GTE's revised investment cost is much closer to the investment costs estimated by other incumbent LECs. n54 GTE filed its revised tariffs on September 5, 1997. APCC did not respond separately to GTE's September 5, 1997 tariff filing.

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n50 GTE Direct Case at 2.

n51 Id.

n52 Id.

n53 See GTOC Transmittal No. 217 and GSTC Transmittal No. 1112 filed September 5, 1997. On September 19, 1997, the Division released an order finding that the GTOC and GSTC transmittals raised the same issues of lawfulness as Transmittal Nos. 206 and 1095. Accordingly, the Division suspended Transmittal Nos. 217 and 1112 for one day, instituted an investigation of those transmittals, consolidated that investigation into the investigation initiated in CC Docket No. 97-140, and subjected the rates proposed in Transmittal No. 217 and 1112 to the accounting order imposed in CC Docket 97-140 in order to facilitate any refunds that may later prove necessary. Local Exchange Carriers' Payphone Functions and Features, CC Docket No. 97-140, Order, DA 97-2035 (rel. Sept. 19, 1997). **[**23]**

n54 APCC Opposition at 4.

- - - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

3. Discussion

17. GTE's revised direct switching investment per line is substantially reduced from its initial tariff filing. There is no basis in the record for finding, nor is it alleged, that the $ 6.00 per line per year direct investment produces an unlawful charge. Accordingly, we find no basis on this record for finding that this direct investment is unreasonable or that the rates based on it are unlawful.

Issue B: Whether GTE's rates for SCOCS are consistent with the "new services test."

1. Background and Contentions

18. GTE stated in its initial transmittals that its rates for SCOCS would be recovered through both recurring and nonrecurring charges, and that nonrecurring charges would mirror the nonrecurring installation charges contained in its existing local exchange tariffs in order to minimize arbitrage and tariff shopping that might result between GTE's federal and local exchange tariffs. n55 Based on this approach, GTE's Transmittal Nos. 206 and 1112 proposed widely different rates for the two separate study areas in California covered by the two transmittals. **[**24]** n56 GTE's Transmittal No. 206 set a $ 1.99 monthly charge for SCOCS with no nonrecurring charges whereas Transmittal No. 1095 established a $ 23.00 nonrecurring **[*18005]** charge and a monthly charge of $ 1.69. n57 In the Designation Order, the Bureau expressed concern that by mirroring the nonrecurring installation charges contained in its existing local exchange tariffs, GTE had set rates for SCOCS based on considerations not relevant to the new services test since rates would be set on factors other than the direct costs and a reasonable overhead loading. n58 The Bureau directed GTE to explain in detail how its determination of rates complies with the new services test, Section 276, and the Payphone Orders. In particular, the Bureau directed GTE to demonstrate how the nonrecurring charges and any recurring charges for SCOCS individually comply with the new services test. n59

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n55 GTE Reply to APCC Petition at 4.

n56 Although these transmittals were company-wide, APCC only raised concerns with respect to SCOCS rates in two study areas in California.

n57 Id.

n58 Designation Order at para. 16.

n59 Id.

-----------------End Footnotes----------------- **[**25]**

19. In its direct case, GTE describes its tariff revisions that it filed after the initial tariff was set for investigation. GTE states that its tariff revisions establish a $ 5.00 nonrecurring rate for every state it serves, eliminating the large variations in nonrecurring charges attributable to mirroring discussed in the Designation Order. n60 GTE states that the new monthly recurring rates range from $ .27 to $ .33 a month as compared to the original range of $ 1.07 to $ 2.02 a month. GTE asserts that the pricing information submitted in its direct case demonstrates that the new and lower proposed rates for SCOCS only recover the direct cost of the service plus a reasonable allocation of company overheads. n61

-----------------Footnotes-----------------

n60 GTE Direct Case at 3. GTE filed their revised tariffs on September 5, 1997.

n61 Id.

-----------------End Footnotes-----------------

20. APCC asserts that GTE's revised tariff still proposes unreasonable overhead loadings. n62 APCC sees no reason why overhead loading allocations should exceed 30 or 40 percent of the direct costs. n63 In addition, **[**26]** APCC finds GTE's proposed uniform non-recurring charge of $ 5.00 excessive in relation to the low annual cost ($ 3.78 to $ 4.73) attributed to the service. n64 APCC also states that most large LECs apply a nonrecurring charge only if SCOCS-type screening service is ordered after the installation of the payphone line. Thus, APCC states that GTE should not be permitted to impose the nonrecurring charge unless SCOCS is ordered after installation of the payphone line. n65

-----------------Footnotes-----------------

n62 APCC Opposition at 4-5.

n63 Id. at 5.

n64 Id.

n65 Id.

-----------------End Footnotes-----------------

21. In its rebuttal, GTE responds that APCC's statement that GTE is now proposing an unreasonable overhead loading ratio is incorrect. n66 Using as an example its calculations for the State of Arkansas in Exhibit 1 of its Direct Case, GTE states that APCC based its overhead loading calculations on a $ 0.08 direct cost figure that excludes other direct costs, such as order processing, customer billing, **[*18006]** and software expenses. n67 GTE also argues that APCC should have calculated overhead **[**27]** costs that encompasses additional costs, including the Commission's prescribed 11.25 percent rate of return, order processing, customer billing, and software expenses, all of which are recoverable under the Commission's rules, according to GTE. n68 GTE states that using all recoverable costs results in a $ 0.35 monthly charge that includes recurring and nonrecurring costs instead of the $ 0.08 monthly charge used by APCC in its calculations. n69 GTE states that its $ 5.00 nonrecurring installation charge is justified because it is only charging $ 0.28 for its recurring monthly charge even though its costs could justify a $ 0.35 monthly charge.

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n66 GTE Rebuttal at 2.

n67 Id. at 3.

n68 Id.

n69 Id.

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

3. Discussion

22. Our analysis of GTE's revised recurring charges for SCOCS shows, on average, a rate to direct cost ratio of 2 (rates are two times greater than its direct costs for this service). n70 This ratio is comparable to the ratio of rates to direct costs for similar LEC services. n71 Further, the record **[**28]** does not show that the costs GTE has included in its overhead loadings are unreasonable in this case. There is no other information in the record showing that the proposed recurring charges and the overhead loadings are unreasonable under the new services test.

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n70 For example, for the State of Arkansas, GTE's monthly rate of $ 0.28 for SCOCS is approximately two times greater than the direct costs for the service. The direct costs, which include switching investment and items such as order processing and software expenses, are derived by deducting overhead costs (administration and marketing expenses) from the total annual costs.

n71 The ratio of rates to direct costs for similar payphone features offered by other LECs range from a low of zero times greater than the direct costs to a high of 4.8 times greater than the direct costs. See, e.g., US West F.C.C.Tariff No. 5, Transmittal No. 858 and Pacific Bell F.C.C. No. 128, Transmittal No. 1932.

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23. As explained by GTE in its direct case, it has chosen to recover **[**29]** a portion of its SCOCS costs through a nonrecurring charge. GTE has failed, however, to submit any cost support justifying the $ 5.00 nonrecurring charge. While it might be reasonable to recover SCOCS costs through a combination of recurring and nonrecurring charges, GTE unsupported statement that its has chosen to charge $ 0.28 instead of $ 0.35 in recurring charges does not justify a $ 5.00 nonrecurring fee. Nor has it explained how this charge was derived consistent with the new services test. Moreover, GTE has not addressed APCC's concern that limiting application of the nonrecurring charge to requests for SCOCS after installation of the line is the only proper application of nonrecurring charges. Accordingly, we find that GTE has failed on this record to justify its $ 5.00 nonrecurring charge for SCOCS. We therefore find this charge unlawful on this record. Its recurring charge for SCOCS may remain in effect. Based on GTE's statement that there have been no customers for the payphone services made available in its federal access tariff, we find that it is not necessary to direct GTE to make refunds with respect to its nonrecurring charges.

IV. CONCLUSION

24. As explained, the [**30] initial Bell Atlantic and GTE rates at issue in this proceeding have been revised. Because the carriers had no customers for the services offered under the original tariffs, we do [*18007] not need to determine whether the rates established in them were unlawful or whether refunds should be required. Finally, for the reasons discussed above, we find no basis on the record for finding Bell Atlantic's rates, as revised, unlawful. However, we find GTE's revised $ 5.00 nonrecurring charge for SCOCS is unlawful. Therefore, GTE is directed to file tariff revisions removing this unlawful rate no later than 5 days from the release date of this Memorandum Opinion and Order. GTE may seek to justify a nonrecurring charge for SCOCS by means of adequate cost support and a demonstration of compliance with the new services test. Because GTE does not have customers for SCOCS under this tariff, it is not necessary to order refunds. n72

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

n72 See Letter dated October 21, 1997, from W. Scott Randolph, Director, Regulatory Matters, GTE to Federal Communications Commission (indicating that GTE has no customers for its interstate SCOCS service, either as originally proposed or as revised).

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - - [**31]

V. ORDERING CLAUSES

25. Accordingly, IT IS ORDERED that pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), the investigation and accounting order imposed by the Common Carrier Bureau in CC Docket 97-140 with respect to Bell Atlantic Telephone Companies Transmittal Nos. 962, 966 and 104 and GTE System Telephone Companies Transmittal No. 206 and 217 and GTE Telephone Operating Companies Transmittal No. 1095 and 1112 ARE TERMINATED.

26. IT IS FURTHER ORDERED that pursuant to Sections 4(i), 201(b), 204(a), of the Communications Act, 47 U.S.C. §§ 154(i), 201(b), 204(a), that the nonrecurring charge identified in this Order and contained in payphone features and functions tariffs filed by GTE Systems Telephone Companies and GTE Telephone Operating Companies, described in para. 22, supra., IS UNLAWFUL.

[*18008] 27. IT IS FURTHER ORDERED that GTE System Telephone Companies and GTE Telephone Operating Companies SHALL FILE tariff revisions, as discussed in para. 24, supra., to become effective on seven days' notice.

28. IT IS FURTHER ORDERED that Sections 61.58 and 61.59 of the Commission's Rules, 47 C.F.R. [**32] §§ 61.58 and 61.59, ARE WAIVED for the purposes of this compliance Order. GTE Systems Telephone Companies and GTE Telephone Operating Companies should cite the "FCC" number of this Order as authority for their tariff filings.

William F. Caton

Acting Secretary

Appendix E
Page 1 of 3

*11 FCC Rcd 20541, *; 1996 FCC LEXIS 5261, **;
4 Comm. Reg. (P & F) 938*

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation; Petition of the Public Telephone Council to Treat Bell Operating Company Payphones as Customer Premises Equipment; Petition of Oncor Communications Requesting Compensation for Competitive Payphone Premises Owners and Presubscribed Operator Services Providers; Petition of the California Payphone Association to Amend and Clarify Section 68.2(a) of the Commission's Rules; Amendment of Section 69.2(m) and (ee) of the Commission's Rules to Include Independent Public Payphones Within the "Public Telephone" Exemption from End User Common Line Access Charges

CC Docket No. 96-128; CC Docket. No. 91-35

FEDERAL COMMUNICATIONS COMMISSION

11 FCC Rcd 20541; 1996 FCC LEXIS 5261; 4 Comm. Reg. (P & F) 938

RELEASE-NUMBER: FCC 96-388

September 20, 1996 Released; Adopted September 20, 1996; As Corrected September 27, 1996

ACTION: **[**1]** REPORT AND ORDER

JUDGES:
By the Commission: Commissioner Chong issuing a statement.

OPINION:
[*20543] I. INTRODUCTION

1. On June 4, 1996, the Commission adopted a Notice of Proposed Rulemaking ("Notice") to implement Section 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("1996 Act"). n1 In this Report and Order, the Commission adopts new rules and policies governing the payphone industry that: (1) establish a plan to ensure fair compensation for "each and every completed intrastate and interstate call using [a] payphone[;]" n2 (2) discontinue intrastate and interstate carrier access charge payphone service elements and payments and intrastate and interstate payphone subsidies from basic exchange services; n3 (3) prescribe nonstructural safeguards for Bell Operating Company ("BOC") payphones; n4 (4) permit the BOCs to negotiate with payphone location providers on the interLATA carrier presubscribed to their payphones; n5 (5) permit all payphone service providers to negotiate with location providers on the intraLATA carrier presubscribed to their payphones; n6 and (6) adopt guidelines for use by the states in establishing public interest payphones to be located "where **[**2]** there would otherwise not be a payphone[.]" n7

n1 Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Notice of Proposed Rulemaking, 11 FCC Rcd 6716 (1996) ("Notice"). The complete text of Section 276 is attached as Appendix A.

n2 47 U.S.C. § 276(b)(1)(A).

n3 47 U.S.C. § 276(b)(1)(B).

5390

set of nonstructural safeguards for [BOC] payphone service ... which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III ... proceeding." 47 U.S.C. § 276(b)(1)(C). **[**165]**

n497 See 47 U.S.C. § 276(b)(1)(C).

n498 Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, 2 FCC Rcd 143 (1987)(BOC CPE Relief Order).

n499 See Computer II, 77 FCC 2d at 469-70. Structural separation requirements initially imposed on GTE were removed on reconsideration. See 84 FCC 2d at 72-75.

n500 See Implementation of the Telecommunications Act of 1996: Accounting Safeguards under the Telecommunications Act of 1996, Notice of Proposed Rulemaking, 11 FCC Rcd 9054 (1996) ("Accounting Safeguards NPRM").

n501 BOC CPE Relief Order, 2 FCC Rcd at 143. See 47 U.S.C. § 276(c).

ii. Unbundling of Payphone Services

146. We conclude, pursuant to Computer II, Section 201, 202, and 276 of the Act, and previous CPE decisions, that incumbent LECs must offer individual central office coin transmission services to PSPs under nondiscriminatory, public, tariffed offerings if the LECs provide those services for their own operations. n502 Under Computer II, all carriers must unbundle basic transmission services from CPE. n503 Moreover, Section 202 of the Act prohibits a carrier from discriminating unreasonably **[**166]** in its provision of basic service. n504 We conclude that incumbent LECs must provide coin service so competitive payphone providers can offer payphone services using either instrument-implemented "smart payphones" or "dumb" payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECs. Because the incumbent LECs have used central office coin services in the past, but have not made these services available to independent payphone providers for use in their provision of payphone services, we require that incumbent LEC provision of coin transmission services on an unbundled basis be treated as a new service under the Commission's price cap rules. Because incumbent LECs may have an incentive to charge their competitors unreasonably high prices for these services, we conclude that the new services test is necessary to ensure that central office coin services are priced reasonably. Incumbent LECs not currently subject to price cap regulation must submit cost support for their central office coin services, pursuant to Sections 61.38, 61.39, or 61.50(i) of the Commission's rules. n505 Incumbent LECs must file tariffs with the Commission **[**167]** for these services no later than January 15, 1997. To the extent that this requirement precludes the BOCs from complying with the Computer II, Computer III, and ONA network information disclosure requirements, we waive the notice period in order to ensure that these services are **[*20615]** provided on a timely basis consistent with the other deregulatory requirements of this order. n506 Pursuant to this waiver, network information disclosure on the basic network payphone services must be made by the BOCs by January 15, 1997.

n502 Computer II, 77 FCC 2d at 387-9; 47 U.S.C. §§ 201, 202, and 276; BOC CPE Relief Order, 2 FCC Rcd at 143.

n503 See 47 C.F.R. § 64.702(e).

n504 See 47 U.S.C. § 202(a).

n505 47 C.F.R. §§ 61.38, 61.39, 61.50(i).

n506 Network disclosure requirements are discussed in Computer II, 2 FCC Rcd at 150-151; 3 FCC at 23-24; and Computer III at 3 FCC Rcd at 1164-65. The Commission may waive a rule for good cause shown, in whole or in part, on the Commission's own motion or petition. 47 C.F.R. § 1.3. Regarding the waiver standard, see Wait Radio v. Federal Communications Commission, 418 F.2d 1153 (D.C. Cir. 1969); Northeast Cellular Telephone Co. v. Federal Communications Commission, 897 F.2d 1164 (D.C. Cir. 1990). See also Inmate Services Waiver Order 11 FCC Rcd at 8013 (granting a waiver of the network disclosure notice period to enable the provision of payphone services for inmate payphones before the required notice period). **[**168]**

147. We conclude that tariffs for payphone services must be filed with the Commission as part of the LECs' access services to ensure that the services are reasonably priced and do not include subsidies. n507 This requirement is consistent with the Section 276 prescription that all subsidies be removed from payphone operations. We decline to require, as proposed by AT&T, that the pricing regime under Sections 251 and 252 apply to all Section 276 payphone services offered by incumbent LECs. Section 276 does not refer to or require the application of Sections 251 and 252 to LEC payphone services. In addition, the elements and services to be offered under Sections 251 and 252 are not available to entities that are not telecommunications carriers, and many PSPs are not telecommunications carriers. n508 In addition, Section 276 does not refer to or require the application of Sections 251 and 252 to LEC payphone services. Moreover, Section 276 specifically refers to the application of Computer III and ONA requirements, at a minimum for BOC provision of payphone services. Accordingly, we conclude that Computer III tariff procedures and pricing are more appropriate for basic payphone services **[**169]** provided by LECs to other payphone providers. Pursuant to Section 276(c), any inconsistent state requirements with regard to this matter are preempted.

n507 BOCs have filed payphone service tariffs with the Commission. See e.g., US West Communications, Tariff FCC No. 5, Pay Telephone Sent-Paid Services, August 5, 1994; BellSouth Communications Inc., Tariff F.C.C.No. 1, Access Service, Coin Services, January 31, 1992. See 47 U.S.C. § 276(c) and §§ 201-205 regarding authority to require tariffing of basic payphone services.

n508 See Local Competition Order at para. 876 (holding that the services that incumbent LECs offer to PSPs are retail services provided to end users, and should be available at wholesale rates to telecommunications carriers and Section 251(c)(4), but need not be made available at wholesale rates to independent PSPs that are not telecommunications carriers).

148. Parties argue that several other network services and network elements should be unbundled and provided to payphone providers. We decline to impose this requirement on all LECs. We do not find that such unbundling is necessary to provide payphone services. In addition, some features require substantial **[**170]** costs to make switch changes. n509 Moreover, pursuant to Computer III and ONA requirements discussed below, BOCs must unbundle **[*20616]** additional network elements when requested by payphone providers based on specific criteria established in the ComputerIII and ONA proceedings. In Computer III, we decided that it was not necessary to apply this requirement to other LECs, and we similarly conclude that it is not necessary to direct other LECs to unbundle additional services or unbundled elements in this proceeding because additional services are not necessary to provide payphone services and because other LECs do not represent the same control of payphone facilities as the BOCs. n510 We note, however, that any basic transmission services provided by a LEC to its own payphone operations must be available under tariff to other payphone providers pursuant to Computer II. n511 States may impose further payphone service unbundling requirements that are not inconsistent with Section 276 requirements and requirements established herein. n512

n509 See ex parte, Michael K. Kellogg to William F. Caton, Secretary, FCC, September 6, 1996

2001 Tenn. PUC LEXIS 74

IN RE: ALL TELEPHONE COMPANIES TARIFF FILINGS REGARDING RECLASSIFICATION OF PAY TELEPHONE SERVICE AS REQUIRED BY FEDERAL COMMUNICATIONS COMMISSION (FCC) DOCKET 96-128

DOCKET NO. 97-00409

Tennessee Regulatory Utility Commission

2001 Tenn. PUC LEXIS 74

February 1, 2001

CORE TERMS: payphone, tariff, calculation, overhead, intrastate, non-traffic, subsidy, unanimously, usage, voted, unseparated, telecommunication, jurisdictionally, ratio, cost-price, minute, effective, methodology, supervision, intervene, maximum, interim, monthly, coin, reclassification, interstate, loop, state law, reimbursement, reimburse

Sara Kyle, Chairman

INTERIM ORDER

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3. Conclusions

The merits of this matter came before the Tennessee Regulatory Authority ("TRA") at the regularly scheduled Authority Conference held on December 19, 2000. This is an Interim Order and shall be incorporated into the Final Order as if fully rewritten therein.

I. Factual and Procedural History

Pursuant to § 276 of the Federal Telecommunications Act of 1996 ("Act"), the Federal Communications Commission ("FCC") issued a series of orders directing state commissions to enforce the FCC's newly promulgated rules. These rules required telephone companies to file tariffs with state commissions reclassifying payphones and removing subsidies associated with payphone operations from other classes of services. n1

n1 *See* *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, FCC Docket No. 96-388, CC Docket No. 96-128, 11 FCC Rcd 20,541 (Sept. 20, 1996) (Report and Order) (hereinafter *Report and Order*); *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, FCC Docket No. 96-439, CC Docket No. 96-128, 11 FCC Rcd 21,233 (Nov. 8, 1996) (Order on Reconsideration) (hereinafter *Order on Reconsideration*).

On February 28, 1997, BellSouth Telecommunications, Inc. ("BellSouth") filed a tariff in Docket No. 97-00346, n2 and on January 10, 1997, United Telephone-Southeast, Inc. ("UTSE") filed two tariffs in Docket Nos. 97-00345 and 97-00344. n3 The tariffs each contained an effective date of April 1, 1997. n4 The Tennessee Payphone Owners Association ("TPOA") filed a petition to intervene in each of the dockets on March 14, 1997.

n2 *See Tariff Filing by BellSouth Telecommunications to Comply with FCC Order 96-439, Concerning the Reclassification of Pay Telephones (Tariff 97-067)*, TRA Docket No. 97-00346. BellSouth filed a *Petition of BellSouth Telecommunications, Inc. for Certification that Its Intrastate Tariffs for Payphone Services are Consistent with the FCC's "New Services Test"* on May 19, 1997. In this filing, BellSouth requested that the TRA rule that sections A7.4.5 and A7.8.2 of its General Subscriber Services Tariff comply with the FCC's requirements.

n3 *See Tariff Filing by United Telephone Southeast to Comply with the FCC Order 96-439, Concerning the Reclassification of Pay Telephones (Tariff 97-010)*, TRA Docket No, 97-00345; *Tariff Filing by United Telephone Southeast to Revise General Subscribers Tariff to Comply With the FCC Order 96-439, Concerning the Reclassification of Pay Telephones (Tariff 97-007)*, TRA Docket No, 97-00344.

n4 UTSE later filed an amended tariff on May 19, 1997, with an effective date of April 15, 1997.

Claiborne Telephone Co., Ooltewah/Collegedale Telephone Co., Ardmore Telephone Co., Adamsville Telephone Co., Millington Telephone Co., Peoples Telephone Co., West Tennessee Telephone Co., United Telephone Co., Crockett Telephone Co., Citizens Telecommunications Company of Tennessee L.L.C. and Citizens Telecommunications Company of the Volunteer State L.L.C. (collectively "Citizens"), Loretto Telephone Co., and the Telephone Data System Companies ("TDS"), which include Tennessee Telephone Co., Humphreys County Telephone Co., Concord Telephone Exchange, Inc., and Tellico Telephone Co., each filed tariffs and revised tariffs in January, February, and/or March 1997. All the tariffs contained an effective date of April 15, 1997.

The TRA considered the tariffs in Docket Nos. 97-00344, 97-00345, and 97-00346 and the TPOA's petitions to intervene at a regularly scheduled Authority Conference on March 18, 1997. Thereafter, the TRA entered an order on April 4, 1997, in Docket Nos. 97-00344 and 97-00345 and on April 7, 1997, in Docket No. 97-00346 granting the TPOA's petitions to intervene, approving the respective tariffs pending the outcome of a contested case, and opening consolidated docket No. 97-00409 to proceed with the contested case.

By letter of April 9, 1997, AT&T Communications of the South Central States, Inc. ("AT&T")

requested that the TRA consider its petitions to intervene filed on April 2, 1997 in Docket Nos. 97-00344, 97-00345, and 97-00346 as filed in the new, consolidated docket. The Consumer Advocate Division of the Office of the Attorney General and Reporter ("Consumer Advocate") filed a *Petition to Intervene* on April 14, 1997. n5
n5 This division is now known as the Consumer Advocate and Protection Division.

At the regularly scheduled Authority Conference held on April 15, 1997, the TRA appointed Director H. Lynn Greer, Jr. as the Pre-Hearing Officer in Docket No. 97-00409. The TRA granted AT&T's and the Consumer Advocate's petitions to intervene, ordered TDS to reduce its rates and eliminate the subsidy to payphones from regulated services revenues through tariff filings, and approved the tariffs of TDS, n6 Loretto Telephone Co., Citizens, Peoples Telephone Co., West Tennessee Telephone Co., United Telephone Co., Crockett Telephone Co., Claiborne Telephone Co., Ooltewah/Collegedale Telephone Co., Ardmore Telephone Co., Adamsville Telephone Co., and Millington Telephone Co. pending the outcome of the contested case. n7
n6 These tariffs added coin supervision and did not remove the subsidy.
n7 The TRA entered written orders on April 24, 1997 and May 2, 1997 memorializing the rulings rendered during the April 15, 1997 TRA Conference. The April 24, 1997 Order granted AT&T's petition to intervene. The May 2, 1997 Order appointed Director H. Lynn Greer, Jr. as the Pre-Hearing Officer, granted the Consumer Advocate's petition to intervene, approved the tariffs, and ordered TDS to reduce the rates and eliminate the subsidy to payphones from regulated services revenues.

On April 22, 1997, MCI Telecommunications Corporation ("MCI") filed a petition to intervene. At the regularly scheduled Authority Conference held on April 29, 1997, the TRA unanimously voted to grant the petition and entered a written order granting the petition on May 12, 1997.

At a Pre-Hearing Conference held on May 29, 1997, the Consumer Advocate requested that the TRA bifurcate Docket No. 97-00409 to include BellSouth, UTSE, and Citizens and then open another docket to include the remaining, smaller, independent local exchange carriers ("independent LECs"). The Pre-Hearing Officer ordered the bifurcation after finding that the expense of preparing cost studies for this docket would be too great for the independent LECs. In addition, the Pre-Hearing Officer obtained the parties' agreement to a procedural schedule. The Pre-Hearing Officer memorialized this decision and the schedule in the *Preliminary Report and Recommendation of the Hearing Officer* entered on May 29, 1997 and in the *Order Establishing a Separate Docket for the Smaller Companies* entered on June 6, 1997. n8
n8 The docket involving the independent LECs was assigned No. 97-01181.

On June 26, 1997, the TPOA filed *TPOA Request for Continuance*. The TPOA requested that the Pre-Hearing Officer continue the procedural schedule for approximately thirty (30) days to allow the TPOA to consult with expert witnesses and prepare for the hearing. On July 8, 1997, the Pre-Hearing Officer held a Pre-Hearing Conference to address several issues including the *TPOA Request for Continuance*. During the conference, the Pre-Hearing Officer granted the TPOA's request and scheduled a status conference for September 3, 1997 to finalize the issues list and amend the procedural schedule. The Pre-Hearing Officer recounted these rulings in the *Second Report and Recommendation of the Hearing Officer* entered on July 15, 1997.

On September 3, 1997, the Pre-Hearing Officer conducted the previously scheduled status conference. During the conference, the parties determined that the issues included: 1) the calculation of subsidies to or from payphone operations; 2) the rate changes to remove any determined subsidies; and 3) an access line rate for payphones. Also during the conference, the Consumer Advocate requested a delay in the procedural schedule until after the first of 1998. The TPOA and UTSE favored the requested delay. MCI expressed no preference, and BellSouth opposed the delay. The Pre-Hearing Officer agreed to the requested delay and determined that another status conference was necessary to establish a new procedural schedule. The Pre-Hearing Officer entered the *Third Report and Recommendation of the Hearing Officer* reflecting this decision on September 16, 1997, which the TRA adopted at the October 7, 1997 Authority Conference.

At the second status conference held on September 23, 1997, the parties stated that they had not settled any of the issues and agreed to a new procedural schedule. n9 The Pre-Hearing Officer entered the *Fourth Report and Recommendation of the Hearing Officer* on September 24, 1997 memorializing the September 23rd rulings, which the TRA adopted at the October 7, 1997 Authority Conference.
n9 During the September 23, 1997 status conference, the Pre-Hearing Officer restated his September 3, 1997 ruling granting the requested delay in order to avoid any confusion. *See Transcript of Pre-Hearing Conference*, p. 3-4 September 23, 1997.

On March 4, 1998, the TPOA filed an *Agreed Motion for Continuance* on behalf of all the parties. The TPOA asserted that the TRA should continue the docket until it completes the Permanent Prices docket and the Universal Services docket, Docket Nos. 97-01262 and 97-00888 respectively, because both dockets involve the determination of the costs of various BellSouth services, including the costs of facilities used to serve payphones. In addition, the motion stated that the parties had agreed to the postponement because, as required by the FCC, the final rates would be applied retroactively to April 15, 1997. The Pre-Hearing Officer agreed to the motion and granted the continuance in the *Initial Order for Extension of Time* filed on March 27, 1998.

Docket No. 97-00409 remained inactive until March 21, 2000, when the TPOA filed a letter requesting that the Pre-Hearing Officer reconvene the proceeding and set a procedural schedule. The TPOA argued that the docket should be reconvened because the Permanent Prices docket appears to be reaching a conclusion, the FCC released a decision providing further guidelines for the determination of payphone rates, n10 and the members of the TPOA need relief from existing rates. BellSouth filed a responsive letter on March 31, 2000. Although BellSouth agreed that the Pre-Hearing Officer should reconvene the proceeding, it did not agree with the TPOA's characterization of the FCC's recent decision. UTSE and Citizens filed a letter on May 12, 2000 wherein the parties argued that the request to reconvene the docket is premature because the TRA has not issued final orders in either the Permanent Prices docket or the Universal Services docket.
n10 *See In re Wisconsin Pub. Serv. Comm'n*, CCB/CPD No. 00-1, 2000 WL 232182 (March 2, 2000) (Order Directing Filings).

On June 22, 2000, the TPOA filed a *Motion for Interim Relief*. In its motion, the TPOA stated that its members who operate payphones in the BellSouth region pay average rates of $ 40.00 per line n11 and that its members need immediate relief if they are to continue providing service. As evidence, the TPOA attached affidavits from payphone service providers ("PSPs") who claimed to have suffered severe economic harm as a result of the continuation of the docket.
n11 Although the parties routinely refer to the "$ 40.00 interim rate," the actual interim rate is the tariffed rate for business measured service. According to the TPOA, the total charges are approximately $ 40.00 per month.

The Consumer Advocate, UTSE, and BellSouth filed comments to the *Motion for Interim Relief* on June 30, 2000. The Consumer Advocate supported a swift resolution of the payphone proceeding and interim relief for PSPs. In its response, UTSE stated that the TPOA's reasons for relief contain assertions regarding BellSouth that could adversely impact UTSE if such assertions are accepted as true and applied to UTSE as well as BellSouth. UTSE noted the dramatic increase in independent PSPs, despite the purported exorbitant rate. UTSE also asserted that the PSPs' revenue decreases and other alleged economic harm stem from increased competition; increased costs, other than those in dispute; and the PSPs' failure to collect dial around compensation from inter-exchange carriers. BellSouth reiterated UTSE's arguments regarding the claims of the PSPs. In addition, BellSouth objected to the adoption of a revised interim rate without the benefit of testimony, cross-examination, or cost studies.

The TPOA filed its reply on July 7, 2000. The TPOA reiterated its position that BellSouth's payphone rates are excessive and argued that a small reduction in the monthly charge would keep more payphones in operation. The TPOA also argued that BellSouth failed to provide a legal justification for its contention that an evidentiary hearing is required for the setting of interim rates.

On July 21, 2000, the Pre-Hearing Officer filed an Order, which reconvened Docket No. 97-00409 and directed the parties in Docket Nos. 97-00409 and 97-01181 to file comments on three options concerning how to proceed with the two dockets. The three options presented called for either: combining the dockets, maintaining separate proceedings, or maintaining separate proceedings with the Docket No. 97-01181 parties intervening in Docket No. 97-00409 for the limited purpose of commenting on the proposed rates.

In the July 21, 2000 Order, the Pre-Hearing Officer also denied the TPOA's *Motion for Interim Relief* and set out a swift and efficient procedural schedule to which the parties had agreed. The Pre-Hearing Officer first focused on the $ 18.90 rate proposed by the TPOA to be the revised interim rate. The Pre-Hearing Officer acknowledged that the parties did not agree to the TPOA's $ 18.90 rate. The Pre-Hearing Officer then found that the $ 18.90 rate was not based on an evidentiary record and stated that there were disputed issues related to the method used to calculate that rate. Given the disputed issues, the Pre-Hearing Officer concluded that the $ 18.90 rate could not be adopted absent the development of an evidentiary record or agreement of the parties. In addition, the Pre-Hearing Officer determined that any further delay in setting permanent rates harms competition in the payphone market.

On July 26, 2000, the TPOA filed an Appeal of the July 21st Order. The TPOA argued that the Pre-Hearing Officer's reasons underlying the decision to deny the TPOA's *Motion for Interim Relief* were unsound and inconsistent with the TRA's rulings in other cases.

Concurrent with the above action, the parties filed comments on the three options proffered by the Pre-Hearing Officer concerning how to proceed with Docket Nos. 97-00409 and 97-01181. The TPOA filed its comments on July 21, 2000 and argued that TDS should be a party to 97-00409, not 97-01181. TDS and the other independent LECs also filed comments on July 21, 2000. These companies argued in favor of the third option, maintaining separate dockets with the Docket No. 97-01181 parties intervening in Docket No. 97-00409 for the limited purpose of commenting on the proposed rates. Citizens opted for combining the dockets.

After considering the comments and arguments of the parties, the Pre-Hearing Officer filed an Order on July 31, 2000. In the Order, the Pre-Hearing Officer found that none of the parties had provided a compelling reason to overturn the June 6, 1997 Order bifurcating the dockets. The Pre-Hearing Officer reaffirmed his previous conclusion that the parties to Docket No. 97-01181 should be spared the expense associated with filing cost studies in Docket No. 97-00409.

At the August 1, 2000 Authority Conference, the Directors addressed only the procedural schedule set forth in the July 21st Order. Thereafter, a discussion ensued related to the TPOA's Appeal and subsequent filings directed at the July 31st Order. Director Greer, as the Pre-Hearing Officer, asked BellSouth to file its response to the TPOA's Appeal on August 9, 2000, and the other parties to file any objections to the July 31st Order by August 9, 2000.

As a result of the Pre-Hearing Officer's directions, the parties filed numerous documents from August 3, 2000 through August 11, 2000. On August 3, 2000, the TPOA filed an Objection to the July 31st Order. In its Objection, the TPOA disagreed with the Pre-Hearing Officer's decision to classify "TDS Telecom among the state's 'small' local exchange carriers, rather than with the larger carrier[s] for the purpose of establishing cost-based payphone rates." TDS filed a response to the TPOA's Objection on August 10, 2000. Citizens and BellSouth filed their responses to the TPOA's Appeal on August 9, 2000, and UTSE filed a letter advocating denial of the TPOA's Appeal on August 11, 2000. The TPOA replied to BellSouth's response on August 11, 2000.

At the August 15, 2000 Authority Conference, the Directors found that during the May 29, 1997 Pre-Hearing Conference, the Pre-Hearing Officer provided the opportunity for the parties to determine which parties should participate in Docket Nos. 97-00409 and 97-01181. At that time, it was determined that TDS would be a party to Docket No. 97-01181. Not only were there no objections to this determination, but the TPOA specifically stated that the decision should be left to TDS. n12 During the August 15th Conference, the Directors also found that the most efficient manner in which to proceed with this docket is to set permanent rates quickly, but the TPOA should be permitted to renew its *Motion for Interim Relief* if a breakdown in the procedural schedule occurs. Accordingly, the Directors voted unanimously to approve the Pre-Hearing Officer's Orders of July 21st and 31st, which retained TDS in Docket No. 97-01181 and denied the *Motion for Interim Relief.*
n12 *See Transcript of Pre-Hearing Conference*, p. 31 (May 29, 1997).

On August 17, 2000, AT&T filed its *Notice of Withdrawal of Intervention*. In its notice, AT&T stated that its interests no longer required AT&T's participation in the proceeding. Accordingly, AT&T withdrew from the docket.

On August 25, 2000, the Consumer Advocate filed a *Motion to Compel and to Modify Scheduling Order*. In the motion, the Consumer Advocate alleged that UTSE had failed to adequately respond to the Consumer Advocate's data requests and that such responses were necessary to the development of the Consumer Advocate's case. The TPOA responded to the motion and suggested that the Pre-Hearing Officer require UTSE to file a cost study utilizing a forward-looking methodology. UTSE argued that the Consumer Advocate's motion was vague and, with respect to the modification of the scheduling order, argued that the Consumer Advocate did not adequately explain the necessity of the action. UTSE replied to the TPOA's response on September 6, 2000, contending that it was premature for the Pre-Hearing Officer to determine which pricing methodology should be used. The Pre-Hearing Officer issued an Order on September 11, 2000 granting in part the motion to compel while denying the motion to alter the procedural schedule.

BellSouth and UTSE filed their cost studies on September 15, 2000, n13 and Citizens filed their cost studies on August 15, 2000. n14 The LECs n15 and the TPOA also filed direct testimony in support of their cost studies on September 15, 2000. BellSouth filed the testimony of Thomas F. Lohman, D. Daonne Caldwell, and Sandy E. Sanders. Citizens filed the testimony of Scott Kitchen. UTSE filed the testimony of Jeffrey P. Caswell. The TPOA filed the testimony of Don J. Wood.
n13 BellSouth attached its cost study to the direct testimony of Daonne Caldwell, and UTSE attached its 1996 cost study to the direct testimony of Jeffrey P. Caswell.
n14 Citizens attached its cost study to its responses to the TPOA's discovery requests.
n15 For the purposes of this Order, the LECs include BellSouth, UTSE, and Citizens.

On October 5, 2000, the TPOA filed a *Motion to Compel* BellSouth to furnish certain information concerning the calculation of overhead costs via the Total Elemental Long Run Incremental Cost ("TELRIC") calculator. BellSouth responded that it had not performed a TELRIC study, that it did not have a duty or obligation to produce the requested documents, and that the Pre-Hearing Officer should deny TPOA's motion because production of the requested information would be unduly burdensome.

On October 6, 2000, BellSouth filed the rebuttal testimony of Sandy E. Sanders, UTSE filed the rebuttal testimony of Jeffrey P. Caswell, and the TPOA filed the rebuttal testimony of Don J. Wood. Citizens did not file any rebuttal testimony.

At a Pre-Hearing Conference held on October 10, 2000, the Pre-Hearing Officer addressed the TPOA's *Motion to Compel* and set a schedule to completion. The Pre-Hearing Officer found, consistent with the September 11, 2000 Order, that BellSouth should not be compelled to provide the TPOA with the TELRIC study as requested, but that BellSouth should provide all data necessary for the TPOA to develop an alternative cost study in opposition to BellSouth's position. As to how the case would proceed before the Authority, the parties agreed to having the Authority decide the case based on the filed testimony and evidence in the record and to presenting oral arguments on October 25, 2000 in lieu of filing post-hearing briefs. The Pre-Hearing Officer also ordered that any further motions in this docket must be filed by October 20, 2000, and scheduled a final Pre-Hearing Conference for October 24, 2000 to consider any such motions.

BellSouth and the TPOA filed supplemental rebuttal testimony on October 20, 2000. BellSouth proffered the supplemental rebuttal testimony of D. Daonne Caldwell, and the TPOA filed supplemental rebuttal testimony of Don J. Wood.

At the October 24, 2000 Pre-Hearing Conference, there were no outstanding motions to consider. The Pre-Hearing Officer did, however, resolve certain procedural matters. First, the Pre-Hearing Officer was informed by the TPOA that the parties had not been able to negotiate a settlement. Second, the Pre-Hearing Officer verified that the time allotted for oral argument would be twenty (20) minutes per party, but that the Consumer Advocate and TPOA could divide their forty (40) minutes as they deemed necessary. Lastly, the Pre-Hearing Officer informed the parties that the TRA was reserving the right to issue data requests following the presentation of oral arguments.

The Directors heard oral arguments in this matter on October 25, 2000. The parties in attendance were:

> BellSouth Telecommunications, Inc. -- **Guy M. Hicks**, Esquire, 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300 and **Langley Kitchings**, Esquire, 675 W. Peachtree Street, Suite 4300, Atlanta, GA 30375;
>
> Citizens Telecommunications Company of Tennessee and Citizens Telecommunications Company of the Volunteer State -- **Guilford F. Thorton, Jr.**, Esquire, Stokes, Bartholomew, Evans & Petree, Suntrust Center, Suite 2800, 424 Church Street, Nashville, TN 37219;
>
> Consumer Advocate Division, Office of the Attorney General -- **L. Vincent Williams**, Deputy Attorney General, 426 5th Avenue, N., 2nd Floor, Nashville, TN 37243;
>
> Tennessee Payphone Owners Association -- **Henry Walker**, Esquire, Boult, Cummings, Conners & Berry, 414 Union St., # 1600, P. O. Box 198062, Nashville, TN 37219-8062;
>
> Telephone Data System Companies -- **T. G. Pappas**, Esquire, Bass, Berry & Sims PLC, 2700 First American Center, Nashville, TN 37238; and
>
> United Telephone Southeast, Inc. -- **James B. Wright**, Esquire, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900.

During the October 25th oral arguments, the TPOA orally moved for an award of prejudgment interest. Thereafter, the Directors heard from opposing parties and ultimately requested the TPOA file a written motion to ensure clarity of the motion. The TPOA complied with the TRA's request and filed its *Motion for Prejudgment Interest* on October 26, 2000 and *Memorandum of Law in Support of Motion for Prejudgment Interest* on October 31, 2000. In its motion, the TPOA argued that it was entitled to prejudgment interest pursuant to Tenn. Code Ann. § 47-14-123. The Consumer Advocate filed a memorandum of law in support of the motion on November 3, 2000. On this same day, BellSouth and UTSE filed responses opposing the motion. As part of their arguments, BellSouth and UTSE contended that the TRA lacked authority to award prejudgment interest pursuant to Tenn. Code Ann. § 47-14-123.

On October 27, 2000, the TRA issued data requests to BellSouth, UTSE, and Citizens. BellSouth and UTSE filed their responses to the data requests on November 8, 2000. BellSouth failed to answer requests number one and two and instead, asserted an objection based on relevance. Citizens filed its responses on November 14, 2000.

On November 12, 2000, the TPOA filed a *Motion to File a Reply Brief* with an attached brief. The TPOA argued that it had not addressed the issue of whether the TRA has jurisdiction to award prejudgment interest in either its motion or memorandum. The TPOA contended that it should be provided the opportunity to argue in support of jurisdiction because BellSouth and UTSE advanced the argument of lack of jurisdiction.

The Directors considered BellSouth's objections to the data requests and the *Motion to File a Reply Brief* during the regularly scheduled TRA Conference on November 21, 2000. The Directors found that BellSouth's objections to the data requests were without merit and that the TPOA, as the movant, should have the final opportunity to reply to opposing arguments. Therefore, the Directors voted unanimously to overrule the objections and grant the motion. These rulings were memorialized in an Order entered on January 4, 2001.

II. Issues

As provided by § 276 of the Act, the purpose of this docket is to establish payphone rates and remove any subsidies benefiting local exchange carriers' ("LECs") payphone affiliates and operations. In order to fulfill this purpose, the TRA must address certain issues including: A) what method should the LECs use to charge consumers for the service, i.e., rate design; B) what standard and/or test should the TRA use to calculate payphone access line rates; C) issues related to the application of the new services test such as whether the LECs should be permitted to recover the interstate line charges n16 in their intrastate payphone rates and the amount of any reasonable allocation of overhead; D) the calculation of payphone access line rates; E) whether the calculated rates comply with state law and any other requirements; and F) whether the LECs are required to recalculate the payphone subsidy amounts. Additionally, in recognition of the FCC's requirement that the LECs reimburse payphone owners the amount overpaid since April 15, 1997, the TRA must: G) determine the method for calculating the amount of such reimbursement and order the payment thereof.

n16 The interstate line charges are the Subscriber Line Charge ("SLC"), End User Common Line Charge ("EULC"), and Primary Interexchange Carrier Charge ("PICC").

III. Findings and Conclusions

A. Rate Design

The TPOA recommended that the TRA adopt a flat rate for payphone service that encompasses both non-traffic sensitive and usage sensitive costs. The LECs did not explicitly address the rate design issue. Instead, they supported their existing tarriffed rates, which contain separate components for non-traffic sensitive service and usage.

The TRA finds that a single, flat rate, as proposed by the TPOA, may force LECs to incur unrecovered costs due to the variance in usage between payphone locations. Conversely, the LECs may reap a windfall by serving payphone locations that have below average usage. Consistent with the TRA's approach in establishing a rate design for unbundled network elements ("UNEs"), the Directors voted unanimously that payphone rates should be designed to recover costs in the manner in which costs are incurred. Thus, the TRA held that payphone rates should include a flat rate component to recover the non-traffic sensitive costs of the loop and a usage rate component to recover the traffic sensitive costs of the switched network.

It is important to note that the current payphone rates contained in the LECs' tariffs are deaveraged; that is, the rates vary according to rate group or local exchange. In certain circumstances, such as setting UNE rates, the goal of promoting efficient competition supports the establishment of deaveraged rates. Such may not be the case, however, with payphone rates. The intent of § 276 of the Act is to "promote competition among payphone service providers and promote the widespread deployment of payphone services . . . ." n17 While the goal of promoting payphone competition will be served by setting rates consistent with the FCC's orders as well as federal and state law, the goal of widespread deployment of payphone services, as alluded to by the Consumer Advocate's oral arguments, may best be served by average rates. It could be argued that average rates would better ensure the placement of payphones in high-cost regions. Moreover, payphone services are complete retail services as opposed to UNEs, for example, where deaveraging is appropriate. Notwithstanding the foregoing, the record in this proceeding does not support any particular deaveraging methodology. Therefore, the TRA voted unanimously to establish a single, non-traffic sensitive rate and a single, usage sensitive rate for each LEC's payphone products. To further study the deaveraging issue, the TRA directed the parties to file comments on the deaveraging issue **no later than February 16, 2001.**
n17 47 U.S.C. § 276(b)(1).

B. Standard and/or Test for Calculating Rates

In its payphone service orders, the FCC has indicated that states must use the "new services test" when establishing intrastate payphone rates pursuant to § 276 of the Act. n18 The new services test creates a price floor equal to the direct or economic cost of providing a service, including a reasonable rate of return. n19 Additionally, the new services test creates a price ceiling equal to the direct cost plus a reasonable allocation of overhead cost. n20 Thus, the new services test produces a rate that is restricted to a reasonable range of prices. The new services test does not mandate the use of any particular costing methodology; however, once a LEC selects a particular method for computing costs, it must consistently apply that same methodology in arriving at the direct costs for all related services. n21
n18 *See Order on Reconsideration*, P163; *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, 11 FCC Red. 858, P41 (released September 20, 1995) (Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1) (hereinafter *Second Notice*).
n19 *See Second Notice*, P41.
n20 *See id.*
n21 *See id.*

Additionally, any rates calculated pursuant to the new services test must comply with § 276 of the Act and state law. Section 276 of the Act prohibits payphone rates from including subsidies to or from other telecommunications services and creating preferences to a LEC's payphone operation. n22 As for state law, the LECs in this docket are price-regulated companies whose rates must comply with applicable statutes, including Tenn. Code Ann. §§ 65-5-208 and 65-5-209. Furthermore, the payphone rates set in this proceeding must be consistent with the state's general telecommunications policy established in Tenn. Code Ann. § 65-4-123. Lastly, the rates established in this docket must be cost-based and non-discriminatory, which is

consistent with the mandates of § 276 and Tenn. Code Ann. § 65-5-208(c) listed above.
n22 *See Report and Order*, P2.

Based on the foregoing, the Directors voted unanimously to set rates that are: 1) compliant with the new services test; 2) consistent with § 276 of the Act; 3) nondiscriminatory; and 4) cost-based.

C. Common Issues Related to the Application of the New Services Test

1. Recovery of the Subscriber Line Charge ("SLC"), End User Common Line Charge ("EULC"), or Primary Interexchange Carrier Charge ("PICC") in Payphone Rates

The TPOA argued that the LECs should not be able to bill PSPs for the SLC, EULC, or PICC. According to the TPOA, these charges were designed to permit LECs to recover the cost of the local loop attributable to interstate services. The TPOA further contended that payphone rates that are based on jurisdictionally unseparated costs n23 allow for double recovery of that portion of the payphone loop costs that is attributable to interstate services. Thus, the TPOA argued that payphone rates must be adjusted to eliminate the double recovery.
n23 Jurisdictionally unseparated costs include both interstate and intrastate costs.

BellSouth and UTSE countered that the SLCC, EULC, and PICC are charges required by the FCC to recover regulated costs assigned to the interstate jurisdiction and no adjustments are needed to calculate cost-based rates. BellSouth also contended that the FCC requires PSPs to pay these charges for all payphone lines.

The TRA found that payphone rates that are based on jurisdictionally unseparated costs are designed to recover a portion of the same costs that the SLC, EUCL, and PICC are intended to recover. The TRA further found that LECs are authorized to collect the SLC, EULC, and PICC revenues from PSPs. Therefore, setting rates based on jurisdictionally unseparated costs and allowing the LECs to assess the federal charges on PSPs in addition to collecting the rate would result in double recovery. For this reason, the TRA voted unanimously that the LECs should base their payphone rates on jurisdictionally separated costs or the TRA should adjust the rates, if the LEC based its rates on jurisdictionally unseparated costs.

In order to adjust the rates, the TRA looked to the FCC and found that the FCC has traditionally used a seventy-five percent (75%) intrastate/twenty-five percent (25%) interstate separations factor in order to segregate non-traffic sensitive costs n24 between the two jurisdictions. n25 Thereafter, the Directors voted unanimously to apply the seventy-five percent (75%) intrastate cost separations factor to the non-traffic sensitive costs submitted by any LEC using jurisdictionally unseparated costs. Accordingly, the direct costs of the loop submitted by BellSouth and UTSE should be multiplied by seventy-five one-hundredths (.75) in order to obtain the intrastate direct costs of providing the payphone line.
n24 An example of a non-traffic sensitive cost is the cost of the loop. This same analysis would not apply to the calculation of the usage rate, which is traffic sensitive.
n25 *See* 47 C.F.R. § 36.154.

2. Reasonable Allocation of Overhead

An issue common to all the LECs is the determination of a reasonable allocation of overhead costs. The TPOA argued that the LECs must make an affirmative demonstration supported by cost studies that the overhead costs included in the proposed payphone rates are reasonable. n26 The TPOA contended that the LECs should use the TELRIC calculator to allocate overhead costs. BellSouth and UTSE relied on cost-price ratios to support their overhead allocations. BellSouth also argued that it should be afforded more flexibility than allowed by TELRIC in pricing its payphone lines because the provisioning of payphone lines is a retail service, not a

UNE regulated by §§ 251 and 252 of the Act.
n26 The TPOA did not challenge Citizens overhead allocations as Citizens was the only LEC to make an affirmative demonstration through its cost studies that its overhead loadings were reasonable.

The TRA found that the new services test does not require the use of any particular methodology to determine the amount of the reasonable allocation of overhead costs. Although payphone service is an intermediate service sold by LECs to PSPs, payphone services are more closely akin to retail services than to UNEs. Payphone services are complete, operable service offerings that LECs market to a certain group of customers, PSPs. Unlike UNEs, payphone service is a marketable service that does not have to be combined with any other element in order for it to function at the retail level. Based on these findings, the Directors voted unanimously that TELRIC pricing is not required and that cost-price ratio comparisons generally can be used to demonstrate the reasonableness of overhead loadings for payphone services.

The TRA further held that cost-price ratios for payphone service should be compared to other complete services, not to low-cost rate elements of a service as suggested by BellSouth. BellSouth testified that the FCC has accepted, as reasonable, cost-price ratios for complete services ranging from seventy one-hundredths (.70) to sixty-seven one hundredths (.67). The use of such ratios would permit overhead loadings that result in prices of one and four-tenths (1.4) to one and five-tenths (1.5) times greater than direct cost. n27 This range of overhead loadings is consistent with the amount of overhead cost that Citizens computed for its payphone services without objection from the TPOA.
n27 BellSouth's testimony that the cost-price ratios for certain elements of its services range from one and one-tenth (1.1) times greater than direct cost to fifty (50) times greater than direct cost is of no value in assessing whether overhead loadings for payphone services are reasonable. While it may be appropriate to charge $ 0.01 for an element of a service that has a direct cost of $ 0.0002 (.002 x 50 = .01), it does not necessarily follow that it is appropriate to charge $ 500 for a service that has a direct cost of $ 10 (10 x 50 = 500).

Based on this evidence, the Directors voted unanimously to allow BellSouth to assess a reasonable allocation of overhead for each of BellSouth's payphone products that, at a maximum, result in a rate that is one and five-tenths (1.5) times greater than direct cost. n28 The Directors also voted unanimously to allow Citizens to set payphone rates that, at a maximum, are based on the overhead allocation calculations contained in their cost studies because the allocations were not challenged and are consistent with the cost-price ratio found to be reasonable for BellSouth. n29
n28 This level of overhead loading represents a cost-price ratio of .6666.
n29 The Directors did not vote on a reasonable allocation of overhead figure for UTSE for reasons that will become evident later in this Order.

D. Application of the New Services Test

1. BellSouth's Rates

The parties' only disagreements over the direct costs proposed by BellSouth relates to BellSouth's use of jurisdictionally unseparated costs in its cost studies and its use of cost-price ratio comparisons to calculate its overhead allocation. Having already addressed these issue, the TRA applied the seventy-five percent (75%) intrastate separation factor to the non-traffic sensitive costs and the .6666 cost-price ratio and unanimously adopted the following maximum rates:

Payphone Line	Monthly Flat Rate	Usage Rate (per minute of usage)
PTAS n30	$ 13.78 n31 (exclusive of SLC, EULC, or PICC)	$ 0.0042 n32
SmartLine (R)	$ 20.94 n33 (exclusive of SLC, EULC, or PICC)	$ 0.0042 n34

BellSouth shall file compliant tariffs **no later than Friday, December 29, 2000**. Such tariffs shall become effective upon notification by the agency.
n30 PTAS is an acronym for Pay Telephone Access Service and is sometimes referred to as a "dumb" line because the intelligence for certain payphone features, such as coin-handling, resides in the payphone set instead of the LEC's central office switch. For SmartLine (R) service, this intelligence resides in the LEC's switch. Additionally, SmartLine (R) and "dumb" line are terms used exclusively by BellSouth to describe their services.
n31 For the calculation of this rate, see Exhibit 1 attached hereto.
n32 For the calculation of this rate, see Exhibit 3 attached hereto.
n33 For the calculation of this rate, see Exhibit 2 attached hereto.
n34 For the calculation of this rate, see Exhibit 3 attached hereto.

2. Citizens' Rates

The TPOA argued that the coin supervision enabled line card n35 component of Citizens costs is not essential for the payphone services purchased by all PSPs. In addition, the TPOA contended that Citizens' direct costs should be adjusted to account for Citizens' use of jurisdictionally unseparated costs. Finally, the TPOA noted that Citizens' cost data is insufficient to produce a usage rate because Citizens failed to provide local usage on a perminute basis.
n35 The use of the coin supervision enabled line card creates a line comparable to BellSouth's SmartLine (R) service.

Because the TPOA's testimony regarding the coin supervision enabled line card was not contradicted, the TRA held that a "dumb" line rate should be developed. In addition, the TRA found that Citizens' direct costs should be multiplied by a seventy-five percent (75%) intrastate cost separations factor to eliminate any double recovery resulting from the use of jurisdictionally unseparated costs.

At the Authority Conference held on November 21, 2000, the TRA asked Citizens to submit the average monthly minutes of use for payphone access lines for both companies. On November 29, 2000, Citizens responded by filing data that was not payphone-specific. Instead, the data was based on a 1996 traffic study that included 17,958 business lines. Because the calling patterns for measured business customers could substantially differ from the calling patterns for payphone lines, the TRA found, at the December 19th Conference, that it would not be appropriate to use the data to determine usage sensitive rates for payphone service.

Based on these findings, the TRA voted unanimously to order Citizens to file a payphone-specific study identifying the average monthly minutes of use per payphone access line for each company **no later than Friday, December 29, 2000** and adopt the following non-traffic sensitive rates:

Company	Monthly Flat Rate	Coin Supervision Rate (per month)
Citizens of Tennessee	$ 13.22 n36 (exclusive of SLC, EULC, or PICC)	$ 3.98 n37
Citizens of the Volunteer State	$ 17.78 n38 (exclusive of SLC, EULC, or PICC)	$ 3.96 n39

Usage sensitive rates will be determined after Citizens has had an opportunity to submit payphone-specific average monthly minutes of use.
n36 For the calculation of this rate, see Exhibit 4 attached hereto.
n37 For the calculation of this rate, see Exhibit 5 attached hereto.
n38 For the calculation of this rate, see Exhibit 6 attached hereto.
n39 For the calculation of this rate, see Exhibit 7 attached hereto.

3. UTSE's rates

The TRA found that it has insufficient information to set rates for UTSE's payphone service due to deficiencies in UTSE's cost study. First, UTSE's cost study is not specific to payphone operations. While the calculation of the direct cost of payphone service elements like coin supervision and blocking and screening features obviously apply only to payphone service, UTSE's calculation of the direct cost of a payphone access line does not account for loop characteristics of a payphone access line. Second, the direct cost calculation contains expenses that appear to be corporate overheads. Regardless of the methodology used in its derivation of rates, direct cost measurements should not include overhead expenses. Without a proper measurement of direct cost, it is impossible to determine if the proposed rate is compliant with the new services test.

Based on the foregoing findings, the Directors voted unanimously to direct UTSE to file a payphone-specific cost study that is consistent with the methodology adopted for BellSouth and Citizens. The cost study shall be filed **no later than Friday, February 2, 2001**. Additionally, the Directors voted unanimously to adopt the monthly flat and usage sensitive payphone rates adopted for BellSouth herein as interim rates for UTSE until such time as a compliant cost study is filed and permanent rates are established.

E. Compliance with State Law and the Remaining Factors

As previously stated, the rates calculated herein pursuant to the new services test must also comply with state law, particularly Tenn. Code Ann. § 65-4-123 and 65-5-208(c). Moreover, the rates must be consistent with the requirements of § 276 of the Act, cost-based, and nondiscriminatory.

Section 276 of the Act prohibits certain anti-competitive practices, such as cross-subsidization, preferences, predatory pricing, price squeezing, and price discrimination. n40 The rates adopted by the Authority apply to all PSPs, including the LECs' own payphone operations and affiliates. By applying the rates to all PSPs, the rates prevent the LECs from engaging in any of the above-listed anti-competitive practices. Furthermore, this action is consistent with Tenn. Code Ann. §§ 65-4-123, Tennessee's general telecommunications policy to foster the development of telecommunications by permitting competition in all telecommunications markets, and 65-5-208(c) as well as the dual goals of § 276 of the Act to promote competition and the widespread deployment of payphone services.
n40 *See Report and Order*, P2.

The rates adopted herein are cost-based rates. The rates are comprised solely of two cost factors. The first factor is the direct cost of providing the service, and the second factor is the LECs' general overhead costs, a portion of which is included in the rates. There are no other factors in the rate calculations. Furthermore, the LECs themselves provided the cost data upon which the rates were calculated.

Lastly, the rates are nondiscriminatory. As explained above the rates adopted in this docket apply to all providers of payphone service. In other words, BellSouth Public Communications, Inc., BellSouth's payphone affiliate, pays BellSouth the same rate for a payphone access line as a member of the TPOA. For this reason, the rates are nondiscriminatory.

F. Revision of Payphone Subsidy Calculations

Section 276 of the Act requires LECs to remove any subsidies attributable to payphones from intrastate rates. In 1997, the LECs filed payphone subsidy calculations based on their tarriffed payphone rates as the companies' costs. The LECs also filed associated reclassification tariffs that ostensibly removed the calculated payphone subsidies from intrastate rates by reducing access rates. Both BellSouth and UTSE contend that these reclassification tariffs filed in 1997 were sufficient to remove their payphone operations from regulated services and, accordingly, allege that there are no payphone subsidies in any of today's rates.

The TRA found that BellSouth's and UTSE's contentions were without merit and held that it is necessary for the LECs to recalculate the payphone subsidy amounts based on the permanent payphone rates and to use such rates as the cost basis for calculating the subsidy. In other words, the tariffed rates the LECs used in their 1997 subsidy calculations should be replaced with the cost of providing payphone services as determined in this proceeding. The LECs then must file reclassification tariffs to adjust intrastate rates to reflect these corrected subsidy calculations in order to remove the appropriate amount of payphone subsidies from regulated operations. Based on these findings, the Directors voted unanimously to direct the LECs to correct their subsidy calculations once the Authority adopts permanent rates for each LEC by filing appropriate reclassification tariffs that remove any subsidies.

G. Reimbursement n41

n41 This issue arose as a result of an order of the FCC, Common Carrier Bureau, that stated: "A LEC who seeks to rely on the waiver granted in the instant order must reimburse its customers or provide credit from April 15, 1997 in situations where the newly tariffed rates, when effective, are lower than the existing tariffed rates." *See* *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No.96-128, 12 FCC Rcd. 21,370, PP25 (released April 15, 1997) (Order) (hereinafter *Second Waiver Order*). The *Agreed Motion for Continuance* filed by the TPOA on March 4, 1998 and the *Motion for Prejudgment Interest* filed on behalf of the TPOA on October 26, 2000 relate to the *Second Waiver Order*. In the 1998 motion, the parties agreed to the "postponement because, in accordance with directions from the FCC, whatever rates are fixed by the TRA in this proceeding will be retroactive to April, 1997. Therefore, no party is prejudiced by delay." This portion of the Interim Order addresses the obligations created by the *Second Waiver Order* and renders the *Motion for Prejudgment Interest* moot.

1. Federal Intent and *Consumer Advocate Division v. Bissell*

In September and November of 1996, the FCC ordered the LECs to file payphone access line tariffs no later than January 15, 1997 with an effective date of no later than April 15, 1997. n42 In an April 4, 1997 Order of the Common Carrier Bureau, the Bureau restated the FCC's ruling that the LECs must comply with the requirements of the *Order on Reconsideration* "by April 15, 1997 for the payphone operations of LECs to receive payphone compensation." n43

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Thereafter, certain LECs, including BellSouth, requested a waiver for forty-five (45) days to extend the requirement that the LECs' intrastate payphone tariffs comply with federal guidelines. n44 The FCC, Common Carrier Bureau, held:

> Because some LEC intrastate tariffs for payphone services are not in full compliance with the Commission's guidelines, we grant all LECs a limited waiver until May 19, 1997 to file intrastate tariffs for payphone services consistent with the guidelines established in the Order on Reconsideration, subject to the terms discussed herein. This waiver enables LECs to file intrastate tariffs consistent with the "new services" test of the federal guidelines required by the Order on Reconsideration and the Bureau Waiver Order, including cost support data, within 45 days of the April 4, 1997 release date of the Bureau Waiver Order and remain eligible to receive payphone compensation as of April 15, 1997, as long as they are in compliance with all of the other requirements set forth in the Order on Reconsideration. Under the terms of this limited waiver, a LEC must have in place intrastate tariffs for payphone services that are effective by April 15, 1997. The existing intrastate tariffs for payphone services will continue in effect until the intrastate tariffs filed pursuant to the Order on Reconsideration and this Order become effective. A LEC who seeks to rely on the waiver granted in the instant order **must reimburse its customers or provide credit from April 15, 1997 in situations where the newly tariffed rates, when effective, are lower than the existing tariffed rates. n45**

The LECs in this docket acted pursuant to the waiver. BellSouth requested certification of its existing tariff as compliant by filing a tariff on May 19, 1997. UTSE filed a revised tariff on May 19, 1997. Citizens Telecommunication Company of the Volunteer State L.L.C. filed a revised tariff on April 7, 1997 and Citizens Telecommunications Company of Tennessee filed a revised tariff on March 26, 1997. UTSE and Citizens' tariff each contained effective dates of April 15, 1997.

n42 *See Payphone Order*, PP186 & 370; *Reconsideration Order*, P163.
n43 *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No.96-128, 12 FCC Rcd. 20,997, P35 (released April 4, 1997) (Order) (hereinafter *Bureau Waiver Order*).
n44 *See Second Waiver Order*, PP2, 13, 18, & 25.
n45 *Id.* P25 (bold emphasis added).

The TRA found that the term "reimburse" as used by the FCC in the *Second Waiver Order* includes to make restitution and to make whole. On both its face and in context, the FCC intended for an affected party to be placed in the position he or she would have been if all the requirements established by the FCC had been met on April 15, 1997. Therefore, the TRA concluded that it would be inconsistent with the FCC's language not to recognize that to "reimburse" must include adjustments for inflation and the time value of money. The TRA found that the Consumer Price Index ("CPI") average annual change since 1997 was approximately two and four-tenths percent (2.4 %), the Gross Domestic Product-Price Index ("GDP-PI") average annual change since 1997 was approximately one and three-tenths percent (1.3%), and the three-year United States Treasury Bond rate has ranged between five (5) and six (6) percent since 1997. n46 The TRA further opined that the three-year, United States Treasury Bond rate represents the yield from a low-risk investment, accounts for inflation and the time value of money, and represents a reasonable overall adjustment.
n46 The TRA took judicial notice of these facts by notice sent to all parties on December 8, 2000. The notice also stated that "the parties may file written responses to the material so noticed by the TRA no later than **Friday, December 15, 2000** . . . ." No parties filed responses.

In *Consumer Advocate Division v. Bissell*, the Court of Appeals affirmed the Public Service Commission's ("PSC") order approving a tariff that contained a refund provision. n47 The Court specifically recognized that, absent Tenn. Code Ann. § 65-5-203, the PSC may not approve temporary or tentative rates subject to a refund under state law, but then affirmed the PSC's award of the refund because the refund in *Bissell* was merely the third step in a plan governed by federal law. n48 Specifically, the Court held that the refund was necessary to "complete the obvious intent of the federal scheme to return the refund to the class that ultimately has had to pay it." n49 The same can be said for this case as it is incumbent upon the TRA to ensure compliance with the intent of the federal legislation expressed in § 276 of the Act as well as the FCC's rules and orders.
n47 *Consumer Adv. Div. v. Bissell*, No. 01A01-9601-BC-00049, 1996 WL 482970, * 4 (Tenn. Ct. App. Aug. 28, 1996).
n48 *See id.* at * 3-4.
n49 *Id.* at * 3.

2. Tenn. Code Ann. §§ 65-5-208(c) and 65-4-123

Reimbursement that excludes the time value of money will not promote fully the goals of Tennessee's telecommunication legislation. The LECs in this docket are price-regulated companies whose practices must comply with Tenn. Code Ann. § 65-5-208(c). If the LECs do not reimburse the PSPs for the value the LECs received from holding the overpayments for over three years, then the LECs and their payphone operations or affiliates will receive a prospective subsidy and/or preference from PSPs who are owed a full reimbursement pursuant to FCC orders. In other words, the LECs will continue to benefit from overcharging the PSPs. Furthermore, this result will hamper competition in the payphone market because the LECs and their payphone operations or affiliates will receive a subsidy or preference not available to the PSPs. Allowing such an environment to persist contravenes Tenn. Code Ann. §§ 65-5-208(c) and 65-4-123. Given the impact of the failure to apply the adjustment for inflation and the time value of money to the overpayments, the decision to award such adjustment is not only necessary to promote the intent and goals of Tenn. Code Ann. § 65-5-208(c) and the state's general telecommunications policy established in Tenn. Code Ann. § 65-4-123, but is also harmonious and consistent with those statutes.

3. Conclusions

Based on these findings and conclusions, the Directors voted unanimously to require the LECs to pay as reimbursement any overpayment n50 since April 15, 1997 adjusted to account for both inflation and the time value of money. Such adjustment shall equal six percent (6%) interest annually since April 15, 1997 on all overpayments received by the LECs from PSPs. The Directors also voted unanimously to require the payment of the reimbursement to PSPs **no later than sixty (60) days from December 19, 2000**. Any further adjustments needed after permanent rates are set for UTSE and Citizens shall be ordered at that time.
n50 Overpayments are defined as the cumulative difference between the existing tariffed rates and the rates established in this proceeding.

IT IS THEREFORE ORDERED THAT:

1) Payphone rates shall include a monthly flat rate component and a usage rate component.

2) To further study the need for deaveraged rates, the parties shall file comments **no later than Friday, February 16, 2001.**

3) The new services test is adopted as the appropriate test to use in calculating payphone access line rates.

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4) When payphone rates are based on jurisdictionally unseparated costs, such costs must be adjusted using the seventy-five percent (75%) intrastate/twenty-five percent (25%) interstate separation factor used by the FCC to segregate non-traffic sensitive costs.

5) BellSouth Telecommunications, Inc. may assess a reasonable allocation of overhead for each of BellSouth Telecommunications, Inc.'s payphone service products that, at a maximum, results in a rate that is one and five-tenths (1.5) times greater than direct costs. Citizens Telecommunications Company of Tennessee L.L.C. and Citizens Telecommunications Company of the Volunteer State L.L.C. may set rates that, at a maximum, are based on the overhead allocation calculations contained in their cost studies filed in this docket.

6) The maximum non-traffic sensitive rate to be charged by BellSouth Telecommunications, Inc. for PTAS is $ 13.78 per month exclusive of SLC, EULC, or PICC with a $ 0.0042 charge per minute of usage. The maximum non-traffic sensitive rate to be charged by BellSouth Telecommunications, Inc. for SmartLine (R) is $ 20.94 per month exclusive of SLC, EULC, or PICC with a $ 0.0042 charge per minute of usage. BellSouth Telecommunications, Inc. shall file compliant tariffs **no later than Friday, December 29, 2000.**

7) Citizens Telecommunications Company of Tennessee L.L.C. may charge a maximum non-traffic sensitive rate of $ 13.22 per month exclusive of SLC, EULC, or PICC with a $ 3.98 charge per month for Coin Supervision. Citizens Telecommunications Company of the Volunteer State L.L.C. may charge a maximum non-traffic sensitive rate of $ 17.78 per month exclusive of SLC, EULC, or PICC with a $ 3.96 charge per month for Coin Supervision. Citizens Telecommunications Company of Tennessee L.L.C. and Citizens Telecommunications Company of the Volunteer State L.L.C. shall file a payphone-specific study identifying the average monthly minutes of use per payphone access line **no later than Friday, December 29, 2000.**

8) United Telephone-Southeast, Inc. shall file a payphone-specific cost study that is consistent with the methodology adopted for BellSouth Telecommunications, Inc., Citizens Telecommunications Company of Tennessee L.L.C., and Citizens Telecommunications Company of the Volunteer State L.L.C. **no later than Friday, February 2, 2001**. In the interim, United Telephone-Southeast, Inc. shall charge the flat and usage sensitive rates adopted for BellSouth Telecommunications, Inc. herein.

9) BellSouth Telecommunications, Inc., United Telephone-Southeast, Inc., Citizens Telecommunications Company of Tennessee L.L.C., and Citizens Telecommunications Company of the Volunteer State L.L.C. shall correct their subsidy calculation as specified herein and file appropriate reclassification tariffs once the TRA sets permanent rates for such company.

10) In order to fully reimburse all payphone service providers, BellSouth Telecommunications, Inc., United Telephone-Southeast, Inc., Citizens Telecommunications Company of Tennessee L.L.C., and Citizens Telecommunications Company of the Volunteer State L.L.C. shall pay to all payphone service providers the true-up amount plus six percent (6%) interest annually since April 15, 1997. Such payment shall be made **no later than sixty days from December 19, 2000**.

11) The calculations of rates described in Exhibits 1-7 are adopted and incorporated in this Order by this reference.

12) Any party aggrieved by this Order may file a Petition for Reconsideration with the Tennessee Regulatory Authority pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of this Order.

Sara Kyle, Chairman

H. Lynn Greer, Jr., Director

Melvin J. Malone, Director

ATTEST:

K. David Waddell, Executive Secretary

EXHIBIT 1

BELLSOUTH TELECOMMUNICATIONS, INC. CALCULATION OF RATES PTAS NON-TRAFFIC SENSITIVE RATE

Line	Description	Amount
1	PTAS Loop Cost	$ 10.28 n1
2	PTAS Non-Traffic Sensitive Line Termination Cost	1.49 n2
3	PTAS Central Office Blocking & Screening	0.17 n3
4	Product Support Cost	0.31 n4
5	Total Non-Traffic Sensitive Direct Cost -- Unseparated	$ 12.25 n5
6	Intrastate Cost Separations Factor (75%)	.75
7	Total Non-Traffic Sensitive Direct Cost -- Separated	$ 9.19 n6
8	Reasonable Overhead Factor (Cost-Price Ratio = 0.6666)	1.50
9	PTAS Non-Traffic Sensitive Costs Including Overhead	$ 13.78 n7

n1 BellSouth Cost Study at Section 1, p. iv.
n2 BellSouth Cost Study at Section 1, p. iv.
n3 BellSouth Cost Study at Section 1, p. iv.
n4 BellSouth Cost Study at Section 1, p. iv.
n5 L1 + L2 + L3 + L4.
n6 L5 * L6.
n7 L7 * L8.

EXHIBIT 2

BELLSOUTH TELECOMMUNICATIONS, INC. CALCULATION OF RATES SMARTLINE NON-TRAFFIC SENSITIVE RATE

Line	Description	Amount
1	SmartLine Loop Cost	$ 16.54 n1
2	SmartLine Non-Traffic Sensitive Line Termination Cost	1.71 n2
3	SmartLine Central Office Blocking & Screening	0.05 n3
4	Product Support Cost	0.31 n4
5	Total Non-Traffic Sensitive Direct Cost -- Unseparated	$ 18.61 n5
6	Intrastate Cost Separations Factor (75%)	.75
7	Total Non-Traffic Sensitive Direct Cost -- Separated	$ 13.96 n6
8	Reasonable Overhead Factor (Cost - Price Ratio = 0.6666)	1.50
9	SmartLine Non-Traffic Sensitive Costs Incl. Overhead	$ 20.94 n7

n1 BellSouth Cost Study at Section 1, p. iv.
n2 BellSouth Cost Study at Section 1, p. iv.

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n3 BellSouth Cost Study at Section 1, p. iv.
n4 BellSouth Cost Study at Section 1, p. iv.
n5 L1 + L2 + L3 + L4.
n6 L5 * L6.
n7 L7 * L8.

EXHIBIT 3

BELLSOUTH TELECOMMUNICATIONS, INC. CALCULATION OF RATES PAYPHONE LINE TRAFFIC SENSITIVE RATE

Line	Description	Amount
1	Average Minutes Per Payphone Call	2.98 n1
2	Average Payphone Calls Per MonthPer Line	237 n2
3	Average Payphone Minutes of Use Per Month	706.26 n3
4	Monthly Traffic Sensitive Direct Cost	$ 1.96 n4
5	Per Minute Usage Direct Cost	$ 0.0028 n5
6	Reasonable Overhead Factor (Cost - Price = 0.6666)	1.50
7	Per Minute Usage Sensitive Cost Including Overhead	$ 0.0042 n6

n1 BellSouth Cost Study at Appendix A, p. 2.
n2 BellSouth Cost Study at Appendix A, p. 2.
n3 L1 * L2.
n4 BellSouth Cost Study at Section 1, p. iv.
n5 L4 / L3.
n6 L5 * L6.

EXHIBIT 4

CITIZENS OF TENNESSEE CALCULATION OF RATES PAYPHONE SERVICE LINE RATE

Line	Description	Amount
1	Service Line Direct Cost	$ 12.17 n1
2	Allocated Overhead	5.46 n2
3	Service Line Direct Cost with Overhead Allocated -- Unseparated	$ 17.63 n3
4	Intrastate Cost Separations Factor (75%)	.75
5	Service Line Direct Cost with Overhead Allocated -- Seperated	$ 13.22 n4

n1 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n2 L3 - L1.
n3 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n4 L3 * L4.

EXHIBIT 5

CITIZENS OF TENNESSEE CALCULATION OF RATES COIN SUPERVISION FEATURE RATE

Line	Description	Amount
1	Coin Supervision Direct Cost	$ 3.09 n1
2	Allocated Overhead	2.22 n2
3	Coin Supervision Direct Cost with Overhead Allocated -- Unseparated	$ 5.31 n3
4	Intrastate Cost Separations Factor (75%)	.75
5	Coin Supervision Direct Cost with Overhead Allocated -- Separated	$ 3.98 n4

n1 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n2 L3 - L1.
n3 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n4 L3 * L4.

EXHIBIT 6

CITIZENS OF THE VOLUNTEER STATE CALCULATION OF RATES PAYPHONE SERVICE LINE RATE

Line	Description	Amount
1	Service Line Direct Cost	$ 15.62 n1
2	Allocated Overhead	8.09 n2
3	Service Line Direct Cost with Overhead Allocated -- Unseparated	$ 23.71 n3
4	Intrastate Cost Separations Factor (75%)	.75
5	Service Line Direct Cost with Overhead Allocated -- Separated	$ 17.78 n4

n1 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n2 L3 - L1.
n3 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n4 L3 * L4.

EXHIBIT 7

CITIZENS OF THE VOLUNTEER STATE CALCULATION OF RATES COIN SUPERVISION FEATURE RATE

Line	Description	Amount
1	Coin Supervision Direct Cost	$ 3.09 n1
2	Allocated Overhead	2.19 n2
3	Coin Supervision Direct Cost with Overhead Allocated -- Unseparated	$ 5.28 n3
4	Intrastate Cost Separations Factor (75%)	.75
5	Coin Supervision Direct Cost with Overhead Allocated -- Separated	$ 3.96 n4

n1 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n2 L3 - L1.
n3 Direct Testimony of Scott Kitchen, Exhibit to Testimony (filed September 18, 2000).
n4 L3 * L4.

Service: **LEXSEE®**
Citation: **2000 ny PUC LEXIS 832**

*2000 N.Y. PUC LEXIS 832, **

Petition filed by the Independent Payphone Association of New York, Inc. that the Commission Modify New York Telephone Company's Wholesale Payphone Service Rates and Award Refunds; Proceeding on Motion of the Commission to Review Regulation of Coin Telephone Services Under Revised Federal Regulations Adopted Pursuant to the Telecommunications Act of 1996

CASE 99-C-1684; CASE 96-C-1174

New York Public Service Commission

2000 N.Y. PUC LEXIS 832

October 12, 2000, Issued and Effective

CORE TERMS: payphone, permanent, overhead, temporary, providers, billing, retail, usage, Telecommunications Act, refunds, cost-based, rebuttal, carrier, tariff, public access, user, comparable, customer, embedded, reply, public interest, pay telephone, telecommunication, effective, establishment, inappropriate, shortage, costly, margins, phones

PANEL:
[*1] COMMISSIONERS PRESENT: Maureen O. Helmer, Chairman; Thomas J. Dunleavy; James D. Bennett; Leonard A. Weiss; Neal N. Galvin

OPINION:
At a session of the Public Service Commission held in the City of Albany on August 16, 2000

CASE 99-C-1684 - Petition filed by the Independent Payphone Association of New York, Inc. that the Commission Modify New York Telephone Company's Wholesale Payphone Service Rates and Award Refunds.

CASE 96-C-1174 - Proceeding on Motion of the Commission to Review Regulation of Coin Telephone Services Under Revised Federal Regulations Adopted Pursuant to the Telecommunications Act of 1996.

ORDER APPROVING PERMANENT RATES AND DENYING PETITION FOR REHEARING

(Issued and Effective October 12, 2000)

BY THE COMMISSION:

BACKGROUND

On December 12, 1999, the Independent Payphone Association of New York, Inc. (IPANY) filed a petition seeking: establishment of a permanent reasonable rate for: public access line (PAL) service provided by Verizon New York, Inc. f/k/a New York Telephone Company (Verizon), refunds from April 1, 1997; and establishment of prospective rates for public access lines and rates for usage.

A Notice Requesting Comments was issued on January 5, 2000 **[*2]** seeking comments on the appropriate level of permanent rates for PALs, features and usage. In response to the notice, Verizon filed comments on February 28, 2000. IPANY filed reply comments on March 20, 2000. Verizon filed rebuttal comments on April 6, 2000 and IPANY filed a response to the rebuttal on April 21, 2000.

COMMENTS

IPANY's Petition and Reply

In its petition, IPANY contends that rates for certain PALs were permitted to go into effect on a temporary basis and that permanent rates were never approved. It argues that under the FCC payphone orders, tariffs for payphone services must be cost-based, consistent with Section 276 of the Telecommunications Act of 1996 (the Act), nondiscriminatory, and consistent with Computer III tariffing guidelines. n1

n1 IPANY's petition at 3, citing, Implementation of the Payphone Reclassification and Compensation Provision of the Telecommunications Act of 1996, CC Docket 96-128, Order released April 4, 1997, DA 96-678 (Payphone Clarification Order).

IPANY argues that the rates must meet the "new services test" in 47 CFR § 61.49(g)(2). It says the new services test applies a direct cost standard, which it argues, is met by use **[*3]** of Total Element Long Run Incremental Cost (TELRIC) methodology.

IPANY concedes that:

> independent payphone providers are not telecommunications carriers within the definition of the Telcom Act. Accordingly, the provisions of the Act which require that services, facilities and Network Elements be priced at TELRIC rates do not, by themselves, strictly govern the rates for underlying payphone service provided to IPANY members. . . . However, simply because TELRIC rates are not automatically mandated by § 251 and § 252 for payphone operators, does not mean that TELRIC and TELRIC-like rates, which encompass the same cost efficient and non-discriminatory purposes, should not be used under authority of § 276. That, in fact, is exactly the result that follows from the FCC's requirement that the 'New Services Test' be applied to the facilities and services purchased by pay telephone providers. n2

n2 IPANY Petition, p. 9.

In further support of its arguments, IPANY points to the FCC Common Carrier Bureau Order, released March 2, 2000 in CCB/CPD No. 00-01 (FCC order). n3 In that order, the FCC's Common Carrier Bureau directed the four largest Wisconsin local exchange companies (LECs) **[*4]** to file tariffs with the FCC for intrastate payphone rates, with cost justification studies. The FCC order states that the rates for payphone services must satisfy the new services test. The order continues:

> To satisfy the new services test, an incumbent LEC filing payphone line rates must demonstrate that the proposed rates do not recover more than the direct costs of the service plus 'a just and reasonable portion of the carrier's overhead costs' [footnote omitted]. . . . Given that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services. For purposes of justifying overhead allocations, UNEs appear to be 'comparable services' to payphone line services . . . the LEC must demonstrate that in setting its payphone line rates it has taken into account other sources of revenue (e.g., SLC/EUCL, PICC, and CCL access charges) that are used to recover the costs of the

facilities involved. . . . At this time, this Order only applies to the LECs in Wisconsin specifically identified herein. n4

n3 In the Matter of Wisconsin Public Service Commission Order Directing Filings, CCB/CPD No. 00-1, adopted March 1, 2000, released March 2, 2000, DA 00-347. **[*5]**
n4 FCC Order, pages 4-5.

IPANY argues that the FCC order provides that Unbundled Network Elements (UNEs) are comparable to payphone line services and the same overhead allocation should be used for both. IPANY contends that the FCC has distinguished payphone rates from other business rates. As an example, IPANY argues that only payphone service rates are subject to the new services test. IPANY continues that Verizon's rates do not meet the new services test because they include "grossly excessive overhead margins and subsidies. n5
n5 IPANY's Reply at 10.

IPANY requests that the rate for PALs as of April 1, 1997 be set on a permanent basis at $ 12.49, less the federal End User Common Line charge (EUCL), and subsequently less both EUCL and the Primary Interexchange Carrier Charge (PICC). It requests that refunds be issued to independent payphone providers (IPPs) from April 1, 1997.

On a prospective basis, IPANY requests that the rate for PALs be established at TELRIC for unbundled links, as deaveraged by the Commission, less any EUCL charge and any PICC imposed with respect to the PAL line. Finally, IPANY requests that on a prospective basis, usage service be provided at rates **[*6]** equivalent to TELRIC.

Verizon's Comments and Rebuttal

Verizon comments that its payphone-related rates are cost-based, including a reasonable contribution to overhead, in compliance with the FCC's new services test and the Commission's regulatory policies and decisions.

Verizon states that its PAL rates have been in effect on a permanent basis since 1992; it argues that only the Public Access Smart-Pay Line (PASPL) rates were approved on a temporary basis in 1997, and that IPANY has not contested PASPL rates in its petition. Verizon argues that its rates are well within the range of pricing margins, which the FCC has ruled is reasonable.

Verizon states that in the original 1997 filing, the direct cost of $ 21.59 was inappropriately labeled "TELRIC". It argues that TELRIC is not the appropriate economic standard for developing long run incremental costs for retail service offerings.

Verizon also argues that EUCL and PICC charges should not be subtracted from the cost of the loop to calculate a cost-based PAL rate. Verizon notes that the EUCL and PICC are federally imposed charges that Verizon is required to assess on all business lines. Verizon continues that the FCC is clear **[*7]** that payphone service providers (PSPs) are to be treated as retail customers, not telecommunication carriers. It emphasizes that the new services test does not require use of TELRIC to price payphone services provided to PSPs. Verizon contends that providing PALs to PSPs is more costly than to CLECs. It must provide retail functions, such as marketing, billing and customer service to PSPs. Therefore, it argues, TELRIC is an inappropriate standard because it does not reflect these additional costs.

Verizon argues that the new services test does not apply to usage rates because they are not payphone specific. It also claims that refunds for PAL rates are inappropriate because the rates have been permanent since 1992.

In its Rebuttal, Verizon contends that the Commission should give no weight to the FCC Common Carrier Bureau Order because it directly contradicts long-standing FCC precedent. It notes that a coalition of LECs has sought a stay of the order pending full FCC review.

DISCUSSION

On March 31, 1997, an Order Approving Tariff on a Temporary Basis was issued in Case 96-C-1174. n6 In the order, Public Access Smart-Pay Line (PASPL) services were introduced and PASPL rates were **[*8]** approved on a temporary basis because the PASPL rates had not been tested in the coin telephone marketplace. It appears from the Order that no revised tariffs for PAL services n7 were filed in 1997 and the existing PAL service rates were left in place. Thus, as Verizon indicates, only the PASPL rates were set on a temporary basis in 1997.
n6 Case 96-C-1174 - Proceeding on Motion of the Commission to Review Regulation of Coin Telephone Service Under Revised Federal Regulations Adopted Pursuant to the Telecommunications Act of 1996.
n7 PAL services are used by IPPs to provide the vast majority of existing payphone services via "smart" coin and coinless pay telephone terminal equipment. The basic PAL rate is $ 15.47.

IPANY is seeking review of all rates being charged by Verizon to independent payphone providers, including PALs, features and functions and usage. The current rates for Verizon's payphone services recover direct embedded cost plus a reasonable contribution toward common costs and overhead. Traditionally, under the new services test, the FCC allowed rates one to two times above direct embedded costs. Verizon's payphone rates include common costs and overhead at 30% **[*9]** above direct embedded costs. The Commission approved the rates as including a reasonable contribution toward common costs and overhead.

Although competitive local exchange companies (CLECs), as carriers, are entitled to TELRIC rates for PALs as UNEs under the Telecommunications Act of 1996, payphone service providers (PSPs), as end user subscribers, are not entitled to the same treatment under the Act. As Verizon points out, providing PALs to CLECs is less costly than providing them to PSPs. Verizon explains that CLECs receive only raw billing data and bill their own customers. CLECs handle their own customer complaints and are responsible for end-user billing questions, service requests, testing end user lines, and isolating trouble prior to reporting it to Verizon. In contrast, Verizon notes that retail PSPs are responsible for none of these obligations. Rather they are served by the Verizon billing manager, provided with detailed bills and assisted with billing inquiries and service requests.

IPANY's reliance on the FCC Common Carrier Bureau order is misplaced. First, by its terms it only applies to the named Wisconsin LECs. Therefore, it is not binding on us in reviewing Verizon's **[*10]** payphone rates. Second, the approach used in that order does not establish that the rates set by the Commission do not satisfy the new services test. We find that Verizon's payphone rates do satisfy the FCC's new services test. Finally, given the retail functions involved in providing service to PSPs (as opposed to CLECs), it is not clear that UNEs are 'comparable services' to payphone line services.

IPANY also argues that lower rates are needed because the payphone business has been reduced by use of cellular phones. There is little or no indication that the payphone market is shrinking in New York, or that there is any shortage of payphones in the State. n8 We will continue to watch the market closely for any indication of a shortage of payphones to meet user demands.
n8 Verizon has reported a reduction in the total number of payphone access lines it is providing to both its own and independent payphones of about 3% over the last six months. However, it appears that during that same period, the number of payphone UNE-P loops that the company is selling to CLECs, who are in turn using these elements to serve payphone providers, is up by at least an equal amount. In addition, during that same period, it is anticipated that growth

occurred in the provision of payphone access lines by facilities based CLECs. **[*11]**

If it is found in the future that the payphone business is becoming unprofitable and phones are not available in geographic areas where they are needed, public interest payphones may be put in place. So far, we have not received any requests for public interest payphones.

Under the 1997 order, PAL service rates were continued at the same level. The tariff filing for PASPL rates was approved on a temporary basis in 1997 and is now made permanent. Rates for all other payphone services are continued at current levels on a permanent basis. No refunds will be issued because temporary rates set in 1997 are being made permanent without change.

CONCLUSION

Verizon's rates for PAL, PASPL and other payphone services are reasonable. Verizon's PASPL rate, set on a temporary basis in 1997, is made permanent. PAL rates and the rates for other payphone services will continue at current levels. IPANY's petition is denied.

The Commission orders:

1. The rates for Public Access Smart-Pay Line of Verizon New York, Inc. f/k/a New York Telephone Company, set on a temporary basis in the March 31, 1997 order in Case 96-C-1174, are allowed to become effective on a permanent basis.

2. Verizon New **[*12]** York, Inc. f/k/a New York Telephone Company's rates for public access line and other payphone services are continued at current levels.

3. The petition of Independent Payphone Association of New York, Inc. is denied.

4. These proceedings are continued.

By the Commission

Service: **LEXSEE®**
Citation: **2000 ny PUC LEXIS 832**
View: Full
Date/Time: Wednesday, June 27, 2001 - 1:32 PM EDT

*15 FCC Rcd 6238; 2000 FCC LEXIS 1874, **

LEC Coalition Files A Petition for Stay and An Application for Review of the Common Carrier Bureau's Order Directing the Four Largest Incumbent LECs in Wisconsin to File State Basic Payphone Rates with the FCC for Review; Pleading Cycle Established

CCB/CPD No. 00-01

FEDERAL COMMUNICATIONS COMMISSION

15 FCC Rcd 6238; 2000 FCC LEXIS 1874

RELEASE-NUMBER: DA 00-823

April 12, 2000 Released; Oppositions Due Date May 12, 2000; Replies To Oppositions Due Date May 29, 2000

ACTION: [*1] PUBLIC NOTICE

OPINION:
On April 3, 2000, the LEC Coalition n1 filed an Application for Review and a Request for a Stay of the March 2, 2000 Order of the Deputy Chief, Common Carrier Bureau (DA 00-347) directing the four largest incumbent local exchange companies in Wisconsin n2 to submit copies of their currently effective tariffs for payphone service offerings that have not been determined by the Wisconsin Public Service Commission to comply with section 276 of the Communications Act of 1934, as amended (Act) and the Commission's rules.

n1 The members of the LEC Coalition are: Ameritech Corporation, the Bell Atlantic Telephone Companies, BellSouth Telecommunications, Inc., GTE Service Corporation, SBC Telecommunications, Inc., Wisconsin Bell and U S West Communications, Inc.

n2 The four largest incumbent local exchange carriers in Wisconsin are: Wisconsin Bell (d/b/a Ameritech Wisconsin), GTE North Incorporated, the subsidiaries of Century Telephone Enterprises, Inc. and Telephone Data Systems, Inc.

The LEC Application for Review and Request for Stay will be available for public inspection in the Commission's Reference Center, Room CY-A257, 445 12th Street S.W., Washington, DC 20554, **[*2]** (202) 418-0270. Copies can be purchased from International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street N.W., Washington, DC 20036, or by calling (202) 857-3800.

Interested parties may file Oppositions no later than May 12, 2000. Replies to Oppositions may be filed no later than May 29, 2000. When filing pleadings, reference file number CCB/CPD No. 00-01.

An original and four copies of all Oppositions and Replies to Oppositions must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 - 12th Street S.W., TW-A325, Washington, DC 20554. In addition, one copy of each Opposition and Reply to Opposition must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street N.W., Washington, DC 20036. One copy must also be filed with the Chief, Competitive Pricing Division, Common Carrier Bureau, 445 - 12th Street S.W., Room 5-A225, Washington, DC 20554.

This proceeding is a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. *See* 47 C.F.R. §§ 1.1200, **[*3]** 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 47 C.F.R. § 1.1206(b).

For further information, contact Lynne Milne or Jon Stover, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1520, TTY (202) 418-0484.

AT&T

Suite 300
121 SW Morrison
Portland, OR 97204

2001 JUN RECEIVED OPUC

June 7, 2001

Janice Fulker, Administrator
Tariff and Data Analysis
Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, Oregon 97301-2551

RE: P.L. No. 2001-22

Dear Ms. Fulker:

The enclosed Pricing Schedule increases certain InterLATA and IntraLATA rates for AT&T Custom Network Services in Oregon effective June 12, 2001.

If you have any questions, please call me on (503) 295-5133.

Sincerely,

Laurene Wilson

Laurene Wilson
Assistant Manager

Enclosure

cc: Adora Miculob

1. AT&T MEGACOM WATS *

1.1 Usage Schedule

1.1.1 Intrastate InterLATA Rates

	Initial 18 Seconds or fraction	Each Additional 6 Seconds or fraction	
Day	$.0414	$.0138	(I)
Evening	.0414	.0138	|
Night/Weekend	.0414	.0138	(I)

1.1.2 Intrastate IntraLATA Rates

	Initial 18 Seconds or fraction	Each Additional 6 Seconds or fraction	
Day	$.0414	$.0138	(I)
Evening	.0414	.0138	|
Night/Weekend	.0414	.0138	(I)

1.2 Usage Discount Plan

Usage discounts apply to intrastate usage of AT&T MEGACOM WATS. The terms and conditions of these discounts are contained in the Company's F.C.C. Tariff No. 1.

1.3 Directory Assistance Charge

A Directory Assistance Charge applies to all calls made using AT&T MEGACOM WATS Service that have access to a Directory Assistance bureau.

Rate - per request See Section 29.1.3

* AT&T MEGACOM WATS Service may no longer be ordered after December 8, 2000. Existing customers with AT&T MEGACOM WATS Service in effect or on order prior to December 8, 2000 may continue under existing conditions.

8. DISTRIBUTED NETWORK SERVICE **

8.1 Usage Schedule

Intrastate Rates					
Initial 18 Seconds or fraction			Each Additional 6 Seconds or fraction		
Day	Evening	Night	Day	Evening	Night
$0.0528	$0.0474	$0.0474	$0.0176	$0.0158	$0.0158

8.2 Usage Discount Plan

Usage discounts apply to intrastate usage of DISTRIBUTED NETWORK SERVICE. The terms and conditions of these discounts are contained in the Company's F.C.C. Tariff No. 1.

8.3 Directory Assistance Charge

A Directory Assistance Charge applies to all calls made using DISTRIBUTED NETWORK SERVICE that have access to a Directory Assistance bureau.

Rate - per request See Section 29.1.3

10. AT&T 800 PLAN K

10.1 Usage Schedule

AT&T 800 Plan K has two rate schedules available: Option A, a per minute rate; Option B, a block-of-time rate.

A. Option A

Initial Minute or Fraction	Each Additional Minute or Fraction	
$0.3120	$0.3120	(I)

B. Option B*

Intrastate Rates		
Initial 30 Minutes or Fraction	Each Additional Minute or Fraction	
$14.40[1]	$0.3780	(I)

Note 1: Option B usage may be any combination of interstate or intrastate usage. (D)

* Effective December 6, 1995, AT&T 800 Plan K - Option B is not availableto new customers. Existing customers or customers with AT&T 800 Plan K - Option B on order may continue their current Option B under this Pricing Schedule.

** AT&T Distributed Network Service may no longer be ordered after December 8, 2000. Existing customers with AT&T Distributed Network Service in effect or on order prior to December 8, 2000 may continue under existing conditions.

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.
OREGON PRICING SCHEDULE
CUSTOM NETWORK SERVICES

11. AT&T PRO WATS/PLAN Q *

11.1 Usage Schedule

11.1.1 Direct Dialed Rates

A. Schedule A[1]

Intrastate InterLATA Rate

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1380	$0.1050	$0.1050	$0.0046	$0.0035	$0.0035	(I)

Intrastate IntraLATA Rate

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1290	$0.1050	$0.1050	$0.0043	$0.0035	$0.0035	(I)

B. Schedule B[2]

Intrastate Rate

Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction		
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend
$0.1050	$0.0800	$0.0800	$0.0210	$0.0160	$0.0160

11.1.2 Customer Dialed AT&T CIID/891 Calling Card Calls

Service charge per call - $0.80
Usage rates - See AT&T Long Distance Service, Section 1.1.B. preceding.

Note 1: Applied where AT&T billing is available.
Note 2: Applied where AT&T billing is not available. Beginning February 1, 1995, this schedule is not available to newly subscribed customers. Customers billed under this schedule on February 1, 1995, may continue such billing until December 31, 1996.

* AT&T PRO WATS/Plan Q Service may no longer be ordered after December 8, 2000. Existing customers with AT&T PRO WATS/Plan Q Service in effect or on order prior to December 8, 2000 may continue under existing conditions.

11. AT&T PRO WATS/PLAN Q (cont'd)

11.1.3 Combined Outward Calling and Inward Calling Discount Option

This optional discount plan is an add-on to the interstate AT&T PRO WATS/Plan Q Combined Outward Calling and Inward Calling Discount Option. The terms and condition of this discount plan are contained in the Company's F.C.C. Tariff No. 1.

A. Inward Calling

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/ Weekend	Day	Evening	Night/ Weekend	
$0.1680	$0.1380	$0.1380	$0.0056	$0.0046	$0.0046	(I)

11.2 Directory Assistance Charge

A Directory Assistance Charge applies to all calls made using AT&T PRO WATS/Plan Q Service that have access to a Directory Assistance bureau.

Rate - per request See Section 29.1.3

11.3 Usage Discount

Usage discounts may apply to intrastate usage of AT&T PRO WATS/Plan Q. The terms and conditions of these discounts are contained in the Company's F.C.C. Tariff No. 1.

11.4 AT&T PRO WATS/Plan Q Partners Option

This optional discount plan is an add-on to the interstate AT&T PRO WATS/Plan Q Partners Option. The terms and conditions of this discount plan are contained in the Company's F.C.C. Tariff No. 1.

Beginning February 1, 1995, the AT&T PRO WATS/Plan Q Partners Option is not available to customers on a month to month basis. This Option will continue to be offered to AT&T PRO WATS/Plan Q customers on commitment plans as described in the Company's F.C.C. Tariff No. 1.

12. AT&T CUSTOMNET SERVICE

12.1 Usage Schedule

Intrastate calls for Customers of AT&T CustomNet Service directly connected to an AT&T Central Office are rated from the rate center of the Customer's NPA-NXX rather than the rate center of the AT&T Central Office.

12.1.1 Outward Calling - Direct Dialed Rates - Service Type 1 Locations

A. Intrastate InterLATA Rates - Switched Access

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/ Weekend	Day	Evening	Night/ Weekend	
$0.1380	$0.1050	$0.1050	$0.0046	$0.0035	$0.0035	(I)

B. Intrastate IntraLATA Rates - Switched Access

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1020	$0.0780	$0.0780	$0.0034	$0.0026	$0.0026	(I)

C. Intrastate InterLATA Rates - Special Access

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

D. Intrastate IntraLATA Rates - Special Access

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

12. AT&T CUSTOMNET SERVICE

12.1 Usage Schedule (Cont'd)

12.1.2 Outward Calling - Direct Dialed Rates - Service Type 2 Locations

A. Intrastate InterLATA Rates - Switched Access

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1440	$0.0870	$0.0870	$0.0048	$0.0029	$0.0029	(I)

B. Intrastate IntraLATA Rates - Switched Access

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1020	$0.0780	$0.0780	$0.0034	$0.0026	$0.0026	(I)

12.1.3 Inward Calling - Service Type 1 Locations

A. Plan A

1. Intrastate - Switched Access

Per Minute of Use			
Day	Evening	Night/Weekend	
$0.3000	$0.2460	$0.2460	(I)

2. InterLATA Rates - Special Access

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

3. IntraLATA Rates - Special Access

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

B. Plan B

Intrastate Rates - Switched Access

Initial 30 Seconds or Fraction			Each Additional Second or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1680	$0.1380	$0.1380	$0.0056	$0.0046	$0.0046	(I)

12. AT&T CUSTOMNET SERVICE

12.1 Usage Schedule (Cont'd)

12.1.4 Option S - Service Type 1 Locations *

A (1). Outward Calling - Options I-V

Intrastate Rate Per Minute of Use

Day	Evening	Night/Weekend	
$0.3000	$0.3000	$0.3000	(I)

A (2). Outward Calling - Option VI

Intrastate Rate Per Minute of Use

Day	Evening	Night/Weekend
$0.2500	$0.2500	$0.2500

B. AT&T CIID/891 Calling Card - Options I-VI

Intrastate Rate Per Minute of Use

Day	Evening	Night/Weekend
$0.2500	$0.2500	$0.2500

Service Charge per Call - $0.80

C (1). Inward Calling - Options I-V

Intrastate Rate Per Minute of Use

Day	Evening	Night/Weekend	
$0.3180	$0.3180	$0.3180	(I)

C (2). Inward Calling - Option VI

Intrastate Rate Per Minute of Use

Day	Evening	Night/Weekend
$0.3000	$0.3000	$0.3000

* AT&T CustomNet Option S - Options I, II, III, IV, V may no longer be ordered after December 8, 2000. Existing customers with AT&T CustomNet Option S - Options I, II, III, IV, V in effect or on order prior to December 8, 2000 may continue under existing conditions.

16. AT&T UNIPLAN SERVICE

16.1 Usage Schedule

Intrastate calls for Customers of AT&T UNIPLAN Service directly connected to an AT&T Central Office are rated from the rate center of the Customer's NPA-NXX rather than the rate center of the AT&T Central Office.

16.1.1 Direct Dial with Switched Access[1]

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1230	$0.0985	$0.0985	$0.0246	$0.0197	$0.0197	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.0920	$0.0860	$0.0860	$0.0184	$0.0172	$0.0172	(I)

16.1.2 Direct Dial with Special Access[1]

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.0760	$0.0610	$0.0610	$0.0152	$0.0122	$0.0122	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.0760	$0.0610	$0.0610	$0.0152	$0.0122	$0.0122	(I)

Note 1: Beginning January 2, 1998, AT&T UniPlan Service is not available to newly subscribing Customers. Existing Customers with AT&T UniPlan Service in effect or Customers with AT&T UniPlan Service on order prior to January 2, 1998 may continue their current AT&T UniPlan Service under existing conditions.

16. AT&T UNIPLAN SERVICE

16.1 Usage Schedule (Cont'd)

16.1.3 Customer Dialed AT&T UNIPLAN Service Card Calls[1]

Intrastate Rates						
Initial 30 Seconds or Fraction			Each Additional 6 Seconds or Fraction			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$0.1750	$0.1405	$0.1405	$0.0350	$0.0281	$0.0281	(I)

Service Charge per Call - $0.70

16.1.4 Integrated Outbound and Inbound Calling Option[1]

Intrastate Rates						
Switched Access Line Rate Per Hour of Use			Special Access Line Rate Per Hour of Use			
Day	Evening	Night/Weekend	Day	Evening	Night/Weekend	
$18.72	$15.12	$15.12	$10.80	$8.64	$8.64	(I)

16.2 FlatRate Pricing Option - Usage Schedule[1]

16.2.1 Direct Dial with Switched Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0900	$0.0030	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0900	$0.0030	(I)

Note 1: Beginning January 2, 1998, AT&T UniPlan Service is not available to newly subscribing Customers. Existing Customers with AT&T UniPlan Service in effect or Customers with AT&T UniPlan Service on order prior to January 2, 1998 may continue their current AT&T UniPlan Service under existing conditions.

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.
OREGON PRICING SCHEDULE
CUSTOM NETWORK SERVICES

16. AT&T UNIPLAN SERVICE

16.2 FlatRate Pricing Option - Usage Schedule (Cont'd)

16.2.2 Direct Dial with Special Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0690	$0.0023	(I)

16.2.3 Customer Dialed AT&T UNIPLAN Service Card Calls

Intrastate Rate		
Initial 30 Seconds or Fraction	Each Additional Second or Fraction	
$0.0900	$0.0030	(I)

Service Charge Per Call $0.70

16.2.4 Inward Calling

A. InterLATA Rates

Switched Access Line Intrastate Rate Per Hour of Use	Special Access Line Intrastate Rate Per Hour of Use	
$10.80	$8.28	(I)

B. IntraLATA Rates

Switched Access Line Intrastate Rate Per Hour of Use	Special Access Line Intrastate Rate Per Hour of Use	
$10.80	$8.28	(I)

16. AT&T UNIPLAN SERVICE

16.3 Basic Service Option[1] - Usage Schedule

16.3.1 Direct Dial with Switched Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 6 Seconds or Fraction	
$0.0900	$0.0180	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 6 Seconds or Fraction	
$0.0900	$0.0180	(I)

16.3.2 Direct Dial with Special Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 6 Seconds or Fraction	
$0.0685	$0.0137	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 6 Seconds or Fraction	
$0.0685	$0.0137	(I)

16.3.3 Customer Dialed AT&T UNIPLAN Service Card Calls

Initial 30 Seconds or Fraction		Each Additional 6 Seconds or Fraction		
Peak	Off-Peak	Peak	Off-Peak	
$0.1750	$0.1405	$0.0350	$0.0281	(I)

Service Charge Per Call $0.70

Note 1: Beginning April 2, 1998, AT&T Basic Service Option is not available to newly subscribing Customers. Existing Customers with AT&T Basic Service Option in effect or Customers with AT&T Basic Service Option on order prior to April 2, 1998 may continue their current AT&T Basic Service Option under existing conditions.

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.
OREGON PRICING SCHEDULE
CUSTOM NETWORK SERVICES

16. AT&T UNIPLAN SERVICE

16.3 Basic Service Option - Usage Schedule

16.3.4 Inward Calling

A. InterLATA Rates

Switched Access Line Intrastate Rate Per Hour of Use	Special Access Line Intrastate Rate Per Hour of Use	
$10.80	$8.28	(I)

B. IntraLATA Rates

Switched Access Line Intrastate Rate Per Hour of Use	Special Access Line Intrastate Rate Per Hour of Use	
$10.80	$8.28	(I)

16. AT&T UNIPLAN SERVICE

16.5 OneRate Pricing Option II - Usage Schedule

16.5.1 Direct Dial with Switched Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0930	$0.0031	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0930	$0.0031	(I)

16.5.2 Direct Dial with Special Access

A. Intrastate InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0690	$0.0023	(I)

B. Intrastate IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0690	$0.0023	(I)

16.5.3 Customer Dialed AT&T UNIPLAN Service Card Calls

Intrastate Rate

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0930	$0.0031	(I)

Service Charge Per Call $ 0.70

16. AT&T UNIPLAN SERVICE

16.5 OneRate Pricing Option II - Usage Schedule (Cont'd)

16.5.4 Inward Calling with Switched Access

A. InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0930	$0.0031	(I)

B. IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0930	$0.0031	(I)

16.5.5 Inward Calling with Special Access

A. InterLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0690	$0.0023	(I)

B. IntraLATA Rates

Initial 30 Seconds or Fraction	Each Additional 1 Second or Fraction	
$0.0690	$0.0023	(I)

16.6 Discount Plans

Discounts set forth in AT&T interstate tariffs may apply to interstate and intrastate usage revenue for AT&T UNIPLAN Service. The terms and conditions of these discounts are contained in the Company's F.C.C. Tariff No. 1.

16.7 Directory Assistance Charge

A Directory Assistance Charge applies to all calls made using AT&T UNIPLAN Service that have access to a Directory Assistance bureau.

Rate - per request See Section 29.1.3

19. AT&T COMMERCIAL LONG DISTANCE SERVICE

19.1 Usage Rates

The charge for an AT&T Commercial Long Distance call is the sum of the initial and additional minute rates shown below. When the calculation results in a fractional charge, it will be rounded to the nearest cent.

Dial Station

	DAY		EVENING		NIGHT/WEEKEND		
RATE MILEAGE	INITIAL MINUTE	EACH ADDITIONAL MINUTE	INITIAL MINUTE	EACH ADDITIONAL MINUTE	INITIAL MINUTE	EACH ADDITIONAL MINUTE	
0-10	$0.2580	$0.1380	$0.2100	$0.1320	$0.1800	$0.1140	(I)
11-22	$0.2580	$0.2040	$0.2100	$0.1740	$0.1800	$0.1440	
23-55	$0.2700	$0.2460	$0.2160	$0.2040	$0.1800	$0.1740	
56-70	$0.2820	$0.2580	$0.2220	$0.2160	$0.1860	$0.1800	
71-124	$0.2940	$0.2700	$0.2340	$0.2220	$0.1980	$0.1860	
125-196	$0.3000	$0.2820	$0.2400	$0.2340	$0.2040	$0.1980	
197-440	$0.3120	$0.2940	$0.2520	$0.2400	$0.2100	$0.2040	(I)

CERTIFICATE OF SERVICE
UT 125

(Phase II)

I hereby certify that on this day I served the foregoing **Qwest Corporation's Post-Hearing Opening Brief** on the following persons by causing to be mailed a true copy thereof, contained in a sealed envelope, with postage prepaid, addressed to said persons at the following addresses and deposited in the post office at Portland, Oregon on this day:

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DATED: June 29, 2001.

PERKINS COIE LLP

By ____________________
Lawrence Reichman, OSB No. 86083

Attorneys for Qwest Corporation

5438

ORDER NO. 00-359

ENTERED JUL 11 2000

BEFORE THE PUBLIC UTITLITY COMMISSION

OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST COMMUNICATIONS, INC., for an Increase in Revenues.	)))	ORDER

DISPOSITION: APPLICATION FOR RECONSIDERATION DENIED

On April 14, 2000, the Commission issued Order No. 00-190 adopting, with modifications, a stipulation between Commission Staff and U S WEST Communications, Inc. (USWC). The stipulation resolved the revenue requirement issues that the parties had been litigating subsequent to issuance of Order No. 97-171. Among other things, the order established refund procedures that allowed former USWC customers to receive refunds, with certain conditions.

On May 17, 2000, the Western States Competitive Telecommunications Coalition (WSCTC) and Northwest Payphone Association (NPA) applied for reconsideration of Order No. 00-190, pursuant to OAR 860-014-0095(3).[1] On June 1, 2000, USWC filed a response opposing the application, and on June 2, 2000, Commission Staff also filed a response. Applicants replied to the oppositions on June 9, 2000.

Applicants' Position. Applicants take issue with the refund procedures in the revised stipulation adopted by Order No. 00-190. That order mandates that USWC issue refunds to former USWC customers who are no longer on USWC's system. Applicants note that the Commission stated a goal of "allowing [former customers] to share in the refund." Order No. 00-190 at 15. Applicants contend that without reconsideration or clarification by the Commission, the revised refund procedures would result in many former USWC customers receiving substantially smaller refunds than the refund amounts to which they are entitled based on their overpayments to USWC. NPA members, applicants assert, will be hit particularly hard.

[1] That subsection lists the following criteria for granting reconsideration:
(a) New evidence;
(b) A change in law or policy;
(c) An error of law or fact; or
(d) Good cause for further examination of a matter essential to the decision.

Under the revised stipulation, USWC must set aside 5 percent of the local refund amount "to return to customers who were customers of USWC for at least six months during the period from May 1, 1996, to the date of the refund bill credits." Order No. 00-190 at 15. Former USWC retail customers who were customers for at least six months between May 1, 1996, and the day the last refund bill credit is given are eligible for a refund. To receive the refund, former customers must submit a claim form that contains information sufficient to allow USWC to verify the customer's claim of eligibility for the refund.

Applicants allege that the Commission's order explaining which former customers would be eligible for a refund, and how much refund those former customers would receive, is ambiguous and would create results that run counter to the Commission's efforts to "return money to some of the customers who left the [USWC] system." Order No. 00-190 at 15. To be eligible for a refund under the order, a customer must have been a USWC retail customer for a period of no less than six months between May 1, 1996, and the date of the refund bill credit, no longer be a USWC customer, and have received no bill credit. Further, former customers receive refunds for the number of lines they had on the last day they were on USWC's system. Applicants maintain that the discrepancies and ambiguities in the order that would prevent former customers from receiving the true refunds owed are due to a simple and unintended drafting oversight.

Two large groups of customers are excluded from receiving refunds, according to applicants: former USWC customers who switched their lines to competitive providers over a period of time; and customers who decided to spread their multiple lines among multiple providers. Customers in the first group might receive an insufficient and inequitable refund, according to applicants, because they might have switched many lines before they finally left the system and under the stipulation they are eligible for refunds only for the number of lines they had on the last day they were on the USWC system.

Customers in the second group might have switched most of their lines to a competitive provider and still have left a few lines with USWC. The fact that these customers retain USWC lines means that they receive a refund based on the number of lines they have with USWC and receive no refund for the lines they switched, because they are not former customers of USWC. Applicants assert that both groups of customers have overpaid and that excluding them from rightful refunds for the lines they had with USWC for six months or longer creates inequities and is anticompetitive.

Applicants further list what they describe as inconsistencies and discrepancies in Order No. 00-190. The second sentence of the revised stipulation at §1(c)(ii) states in part: "If customers subscribed to more than one USWC line for a six month period between May 1, 1996, and the date of this order, they will receive refunds for each line to which they subscribed simultaneously, provided they subscribed for six months or more." That language, applicants charge, fails to protect the rightful refund interests of the second customer group above. Moreover, read in conjunction with the subsequent sentence in the stipulation, which states that: "[c]ustomers who had a varying amount of lines will be limited to the number of lines the customer had on the last day the customer was on USWC's system," it is possible, according to applicants, to interpret the first sentence of §1(c)(ii) quoted above to preclude the customers in the first scenario from obtaining a refund for other than the final lines it switched from USWC to a competitive provider.

Finally, applicants point out that the Commission notes, in Order No. 00-190 at 15, that "reseller CLECs are free to pass their refunds through to their customers, thus rewarding customers for switching to a competitive alternative." Applicants assert that that statement does not address the many customers that have left USWC to take service from facilities based competitive providers. Facilities based providers will not receive any refunds to pass through to their customers. Many members of the NPA, the applicants note, have switched hundreds of lines to facilities based competitors. Applicants argue that the Commission must ensure that customers of facilities based providers who had lines with USWC receive their due refunds. Applicants seek reconsideration or clarification of the issues above pursuant to OAR 860-014-0095(3)(d), on the basis that the noted inconsistencies and discrepancies demonstrate good cause for further examination of a matter essential to the decision.

Responses by Staff and USWC. Staff takes no position on whether the Commission should grant the application. Staff does provide suggested language to amend §1(c)(ii) if applicants prevail. Staff points out, however, that the order is clear as written and reflects the Commission's considered decision to balance fairness (allowing refunds to some former customers) and practicality (basing the refund on the number of lines the customers had on their last day on USWC's system). Staff believes that applicants' request would create an administrative burden for USWC, causing it to search its records to verify each claim. The added administrative work would increase the costs of the refund process and concomitantly reduce the size of the fund available for refunds.

USWC opposes applicants' request on several grounds. First, USWC asserts that applicants have not satisfied the OAR 860-014-0095 criteria for granting reconsideration. Applicants assert that they have shown good cause for further examination of a matter essential to the decision, but USWC disagrees. According to USWC, applicants have failed to recognize that the refund is a zero sum game. That is, a limited pool has been set aside for refunds to former customers. If the large business customers for whom applicants advocate receive more of a refund, small, mainly residential customers, may be left out. USWC argues that enlarging some (unspecified number of) customers' refunds at the expense of others does not constitute good cause for reconsideration.

USWC also argues that no clarification of the order is necessary. According to USWC, the suggested revisions make plain that applicants seek not clarification but modification of the order. The Commission, USWC contends, should deny this request for two reasons. First, USWC asserts that an administrative nightmare would result if it tried to implement the refund as applicants request. All claims would have to be researched back four years to verify the specific customer's highest level of service, for example. USWC would have to delve into records kept in two separate systems (one for keeping records for 18 months, the other keeping older records). USWC does not believe it was the Commission's intent to impose this type of onerous task when it ordered the hold-back for former customers.

USWC further points out that it may take as long as two days to complete the review process for one large business customer and even then there is no way USWC can eliminate the possibility that customers would receive duplicate refunds for the same lines. That is a function of the processes used to complete orders. A Centrex customer who moves service will show up as a disconnect and an in order, for instance. Such a customer would, under applicants' scenario, receive a refund for both the disconnected line and the new line. Moreover, large businesses have line counts that fluctuate frequently, making it difficult, at best, to track the actual number of lines in service for any specific six month period.

Second, USWC urges the Commission to deny applicants' request because it would drive up the costs of implementing the refund to former customers. USWC estimates that the costs of the refund would rise from between $499,000 and $1,145,000 to $1,039,000 and $4,955,000. An increase in the costs of administering the refund represents a decrease in the funds available to refund to former customers.

Applicants' Response to Oppositions. In response to USWC's contentions about the administrative burden of applicants' request, applicants argue that customers would supply information about their highest level of service, so that would not be a factor in verifying the refund. USWC would need to verify service only over a continuous period of six months, not four years. Applicants also contend that the proposed modifications to Order No. 00-190 would have only the slightest impact on the overall refund. The administrative costs USWC cites would be less than 1 percent of the total refund pool, and even that would not change the total refund amount. On the other hand, applicants maintain that the impact of denying their request would have a tremendous impact on competition and on certain former customers of USWC. A weighing of the costs and benefits, they argue, shows that it is in the public interest to modify the refund mechanism slightly to achieve a more equitable outcome.

Disposition. Applicants assert that their request for reconsideration or clarification addresses ambiguities in Order No. 00-190 that would eventuate in results running counter to the Commission's avowed efforts to "return money to some of the customers who left the [USWC] system." According to applicants, their proposed changes to the order would allow former customers to receive the true refunds owed them. Applicants contend that the language of the stipulation they would like to clarify fails, as written, to protect the rightful refund interests of the two customer groups for which applicants advocate. Applicants maintain that the Commission must ensure that customers of facilities based providers who had lines with USWC receive their due refunds. This, applicants argue, is the good cause for further examination of the refund under OAR 860-014-0095(3)(d).

We address applicants' "good cause" argument first. This is the only ground under our rules on which applicants could appeal for reconsideration, since they have not identified new evidence, a change in law or policy, or errors of law or fact. In essence, applicants ask us to revisit the policy decision we made when we included former customers in the refund. Applicants argue that their customer groups will not receive their rightful or due refunds under the present mechanism. We note that refunds to former (or to current) customers do not match, dollar for dollar, customer overpayments. Such a matching is not possible, because until the rate design phase of the USWC rate case is concluded, we will not know how much, or even whether, a given customer has overpaid USWC. Therefore, applicants' arguments about rightful refund interests and due refunds are misplaced.

Applicants assert that our refund mechanism does not reflect our goal of returning money to former customers. Applicants are incorrect. Staff has correctly characterized our intent in designing the refund for former customers. We wanted an efficient and practical way to allow *some* former USWC customers to share in the refund without delaying the remaining phase of USWC's rate case. *See* Order No. 00-190 at 15. We thought it better to include some customers who had been USWC customers in the refund than to include none, as the original stipulation had done. As we stated in the order, at 15: "This plan will permit some recovery by former USWC customers and will not delay refunds to customers currently on the system."

Applicants also argue that the public interest demands that the Commission weigh costs and benefits and modify the refund mechanism as they urge. We do not have a record on which to make a cost-benefit analysis. We do not know how much any individual customer has overpaid nor how many customers are implicated in applicants' customer groups. Finally, we do not know what size refund those customers would claim.

Staff and USWC assert that applicants' proposed changes would cause a serious administrative burden; applicants assert that they would not cause such a burden. We have no grounds for deciding that issue. We do note, however, that applicants did not address the double counting problem raised by USWC.

For the above reasons, we reject applicants' contention that good cause exists to reconsider the refund mechanism we designed for former customers in Order No. 00-190.

As to applicants' contention that the order contains inconsistencies and discrepancies, we reject that as well. The stipulation language in §1(c)(ii) expresses the Commission's intention. It is clear as written. It does not protect the "rightful refund interests" of the customer groups that applicants identify, but it was not meant to do so. Applicants ask for modification rather than clarification of the order, and we deny that request.

CONCLUSIONS

Applicants have not shown good cause for granting reconsideration of Order No. 00-190. Applicants have not shown the need for clarification of the order. Applicants' request for reconsideration or clarification should be denied.

ORDER

IT IS ORDERED that the application for reconsideration or clarification of Order No. 00-190 is denied.

Made, entered, and effective JUL 11 2000.

Ron Eachus
Chairman

COMMISSIONER HAMILTON WAS UNAVAILABLE FOR SIGNATURE
Roger Hamilton
Commissioner

PUBLIC UTILITY COMMISSION OF OREGON

Joan H. Smith
Commissioner

A party may appeal this order to a court pursuant to applicable law.

PUBLIC UTILITY COMMISSION OF OREGON

CERTIFICATE OF SERVICE

UT 125

I, Frances G. Nichols, Administrative Specialist with the Administrative Hearings Division, Public Utility Commission of Oregon, hereby certify that on this day I served a copy of:

ORDER NO. 00-359

upon all persons indicated below, by depositing it in the United States Mail at Salem, Oregon, with postage prepaid, properly addressed to said persons at their listed addresses.

Dated this 12th day of July, 2000.

PUBLIC UTILITY COMMISSION

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Public Utility Commission of Oregon
Administrative Hearings Division

David L. Rice
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July 13, 2001

VIA FEDERAL EXPRESS

Ms. Frances Nichols
Administrative Specialist
Oregon Public Utility Commission
550 Capitol Street N.E., Suite 215
Salem, Oregon 97310-2551

Subject: OPUC Docket No. UT-125

Dear Ms. Nichols:

Enclosed are an original and five copies of the Reply Brief of the Northwest Payphone Association, filed pursuant to the protective order in the above-referenced docket. NWPA requests confidential treatment for the information identified as such and contained in the attached envelope. Also enclosed is an extra copy to be conformed and returned to us in the enclosed self-addressed stamped envelope.

Very truly yours,

David L. Rice

cc w/enc: All Parties of Record

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Public Utility Commission of Oregon
Administrative Hearings Division

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UT 125/UT 80

In the Matter of the Application of U S WEST COMMUNICATIONS, INC., for an Increase in Revenues.	REPLY BRIEF OF THE NORTHWEST PAYPHONE ASSOCIATION

The briefs of both Qwest and the Commission Staff have two critical omissions. First, neither brief addresses the fact that the "new services test" provides both a price floor and a price *ceiling*. Of course the ceiling is not as well defined as the floor. But to conclude that a proposed public access line ("PAL") rate is "cost-based" under the new services test merely because it is *above* cost is to ignore the most important half of the equation. Second, neither brief addresses whether or how their pricing recommendation would promote applicable public policy.

The reasons for these glaring omissions are obvious. Most importantly, Qwest has failed and refused to provide the evidence of overhead costs that would permit determination of a reasonable allocation of those costs to PAL rates. In addition, the huge markup that Qwest and Staff support is plainly inconsistent with the mandate of 47 U.S.C. § 276(b)(1) to promote widespread deployment of payphones.

Careful review of the Qwest and Staff briefs reveal significant admissions on the pay telephone access service ("PTAS") issues, either expressed or by omission. First, neither party disputes that federal law now governs PTAS pricing, rather than traditional state rate-

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setting approaches. Second, both Qwest and Staff acknowledge that the PTAS rates must now be based on cost, as determined under the "new services test." Nevertheless, they still promote higher PAL and other PTAS that will lead to fewer, rather than more, payphones.

It remains clear that (1) Qwest and Staff have set their proposed PAL rates without following the FCC's required four-part test, (2) Qwest has not filed the necessary overhead cost data, (3) Qwest has no meaningful objections to the rate setting methodology of Don Wood, the Northwest Payphone Association's ("NWPA") witness, and (4) Qwest has ignored its duty to set screening, or "CustomNet," rates based on the FCC's four-part test.[1]

Given that the PTAS rates proposed by Staff and Qwest lack support in the record and thwart applicable public policy, the Commission should adopt the proposed rates of Mr. Wood. Otherwise, the Commission will seriously undermine the goals of Section 276 of the Telecommunications Act ("Section 276") and the FCC's *Payphone Orders*[2] all without serving any demonstrated offsetting public policy goal.

A. QWEST AND THE STAFF CANNOT SET PAL RATES BASED ON BUSINESS LINE RATES

Qwest and the Staff propose PAL rates that equal business line rates. *Qwest Brief* at 35, ll. 6-7; *Staff Brief* at 37, ll. 21-22. As explained below, this misguided approach undermines public policy encouraging the widespread deployment of payphones and ignores the PAL rate-setting methodology required by federal law.

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[1] Which is not surprising, given that the service is priced at a **{Confidential Information No. 1}** percent markup or **{Confidential Information No. 2}** times cost. TR 763, ll. 20-24 (Wood). No FCC order has come even close to allowing such a markup under the new services test.

[2] Report and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd. 20,541 (1996) (*"Report and Order"*); Order on Reconsideration, 11 FCC Rcd. 21,233 (1996) (*"Order on Reconsideration"*); Order, 12 FCC Rcd. 20,997 (1997) (*"Bureau Waiver Order"*); Order, 12 FCC Rcd. 21,370 (1997) (*"Second Bureau Waiver Order"*).

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1. <u>Setting PAL rates based on business line rates would undermine public policy encouraging the widespread deployment of payphones</u>

As the NWPA noted in its *Initial Brief*, Congress intended Section 276 of the Telecommunications Act of 1996 "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public. . . ." 47 U.S.C. § 276(b)(1); *Initial Brief* at 1, ll. 19-22. The FCC recognized that the best way to promote this goal was to keep PAL rates low. So, it required ILEC PAL rates to meet a four-part test.[3] This includes the new services test, which imposes a "lower bound" to prevent predatory pricing and "an upper bound on the prices of new services to prevent the LECs from pricing new services at levels that are unreasonably high." Memorandum Opinion and Order, *In the Matter of Amendments of Part 69 of the Commission's Rules*, 7 FCC Rcd. 5235 ¶¶ 8, 12 (1992).

Setting PAL rates equal to business line rates would create PAL rates that are too high to achieve these goals. Unlike PAL service, business rates are set without regard to the new services test or any public policy comparable to that established in Section 276. To the contrary, business rates were historically set high so that residence rates could be kept low. So, business rates contain a high level of "contribution," to use Qwest's term, that Qwest adds to its direct costs to recover its overall revenue requirement. For example, the UM 773 direct cost (without the **{Confidential Information No. 3}** overhead markup) for Qwest's flat-rated business line service in rate group one is **{Confidential Information No. 4}**. Ex. Qwest/219 at 12. The proposed rate is **{Confidential Information No. 5}** without Extended Area Service ("EAS") and Customer Access Line Charges ("CALC") and **{Confidential Information No. 6}** with these

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[3] "The tariffs for these LEC payphone services must be: (1) cost based, (2) consistent with the requirements of Section 276 . . . and (3) nondiscriminatory. States must apply these requirements and the *Computer III* guidelines [meaning the new services test] for tariffing such intrastate services." *Order on Reconsideration* at ¶ 163.

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charges.[4] The markups over direct costs are **{Confidential Information No. 7}** and **{Confidential Information No. 8}**, respectively. This high markup would discourage wide deployment of payphones and thus would be highly inappropriate for PAL service.

Qwest argues that PAL should be priced the same as business service because it is "functionally equivalent." But Qwest's witness was unable to identify any meaningful technical differences between PAL and residence service. TR 601, l. 5 to 602, l. 22 (Teitzel). Turn off the numerous features of Centrex Plus and PAL service is functionally equivalent to that service as well. Yet Qwest proposes to price residence and Centrex services substantially below its proposed PAL prices and with much lower markups. Qwest apparently justifies this proposal by focusing on the fact that business and PAL subscribers both operate (or attempt to operate) for profit. *See* 630, l. 21 to 631, l. 1 (Teitzel). This justification is a vestige of "value of service" pricing and has no place in "cost-based" pricing. Moreover, Qwest is quite candid that its proposal makes no effort to comply with the mandate to promote widespread deployment of payphones. Instead, Qwest proffers that payphones that cannot pay Qwest's "market-based" PAL markup will simply go out of business. TR 599, l. 7 to 600, l. 4 (Teitzel).

Although nothing in the FCC's new services test requires that PTAS rates be aligned with other state-tariffed retail rates, if the Commission feels some alignment is desirable there are certainly other more appropriate rates to consider than basic business rates. For example, the Commission could align PAL rates with residence rates, which would do much to promote deployment of payphones.[5] As with PAL, there is a public policy promoting the widespread deployment of residence services. TR 608, l. 14 to 609, l. 15 (Teitzel). To meet this goal, Qwest keeps the "contribution" for residence services lower than for business lines.

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[4] *See* Ex. Qwest/219 as modified by Qwest's "Revised Rate Spread," p. 3 (March 16, 2001) ("Qwest Letter Revising Ex. Qwest/219").

[5] NWPA only proposes this option in the event the Commission wants to set PAL based on a rate currently proposed by Qwest. NWPA would still prefer that the Commission adopt the rate recommendations of Don Wood.

TR 608, l. 14 to 609, l. 4 (Teitzel). For example, Qwest's UM 773 direct cost for flat-rated residence service (without the **{Confidential Information No. 9}** overhead markup) in rate group one is **{Confidential Information No. 10}**. Ex. Qwest/219 at 9. Its proposed rate is **{Confidential Information No. 11}** without EAS and CALC and **{Confidential Information No. 12}** with these charges. The markups are **{Confidential Information No. 13}** and **{Confidential Information No. 14}**, respectively. Thus, if the Commission follows Qwest's invitation to look behind the technical attributes of the service to the nature of the end user, residence service is more "equivalent" to PAL service from a policy standpoint.

The Commission could also compare Qwest's PAL rates to Centrex Plus rates. Although there is no public policy promoting widespread deployment of Centrex Plus, Qwest voluntarily keeps the "contribution" factor in its Centrex Plus rates low to ensure that it remains competitive with PBXs. For example, the per-line cost for Centrex Plus (unblocked, 51 or more lines) in rate group one is **{Confidential Information No. 15}**.[6] Ex. Qwest/219 at 37. The proposed rate for Centrex Plus (unblocked usage) with a 12 to 35-month contract is **{Confidential Information No. 16}** per line when there are 51-100 lines and **{Confidential Information No. 17}** for customers with more than 101 lines.[7] Ex. Staff/15 at 9-12. Given the complexities of Centrex Plus pricing the NWPA does not recommend that PAL prices be aligned with Centrex. But Qwest's proposal to apply such a relatively low markup to an equivalent access line service should lead the Commission to question how the huge proposed PAL markups are a "reasonable" allocation of overhead when Qwest feels it can live with a much lower allocation of overhead where it faces competition.

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[6] This includes the NAC rate, **{Confidential Information No. 18}**, plus the multiplexing rate, **{Confidential Information No. 19}**. Ex. Qwest/219 at 37.

[7] These rates would be **{Confidential Information No. 20}** higher with CALC included. The fact that these rates are below cost illustrates the importance of considering CALC when measuring the true overhead markup.

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2. **Aligning PAL rates with business line rates ignores the PAL rate-setting methodology required by federal law**

Qwest explains that aligning PAL rates with business line rates "is a reasonable method of allocating overhead," and as a result its PAL rates meet the FCC's four-part test. *Qwest Brief* at 41, ll. 4-7.[8] There are many problems with Qwest's reasoning. First, this approach is inconsistent with the FCC's required methodology. Under the new services test, Qwest must calculate its PAL rates by adding its "direct costs" to "an appropriate level of overhead costs." Report and Order, *In the Matter of Amendments to Part 69 of the Commission's Rules*, 6 FCC Rcd. 4524 at ¶ 44 (1991) ("*ONA Order*"); *see also* 47 C.F.R. § 61.49(h). The FCC requires ILECs to "justify the loading methodology they select as well as any deviations" from methodologies used for related services. *ONA Order* at ¶ 44.

The FCC's procedures are not merely technicalities as Qwest asserts. *Qwest Brief* at 38, ll. 13-15. Rather, they are essential to the half of the equation Qwest chose to ignore: determination of the cost-based price ceiling. By simply aligning PAL and business rates, Qwest has ignored these essential procedures. Instead, it is clear that Qwest simply made a business decision that it could accept a PAL rate that was equal to its business line rate. Then, it justified this approach using the language of the FCC's four-part test but *never actually applying it.* This does not qualify as a "methodology."

Qwest argues that its decision to price PAL at the same rate as business line service is "consistent with the Commission's finding in Docket UT-85, in which it stated that measured PAL access lines are identical to measured business services lines and should be priced the same." *Qwest Brief* at 35, ll. 9-11. Qwest does not provide a cite to any particular statement of the Commission in Docket UT-85, which suggests that this Commission never actually made

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[8] NWPA notes Qwest's admission that its PAL rates must comply with the FCC's four-part test, including the new services test. *Qwest Brief* at 36, ll. 3-17. This is a reversal of a position Qwest held for most of this proceeding.

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this finding. Even if Qwest were correct, Section 276(c) would preempt the Commission's determination because it is inconsistent with the FCC's four-part test and the new services test.[9]

In reality, the rate setting approach for business lines is incompatible with PAL. Qwest and Staff set business line rates in this proceeding as part of a stipulated agreement. *Staff Brief* at 1, ll. 9-12. The agreement was designed to recover Qwest's revenue requirement determined under traditional state ratemaking procedures. This is a completely different approach from the new services test. There are also numerous differences between PAL and business lines that make them irreconcilable for rate-setting purposes, as NWPA explained in its Initial Brief. *Initial Brief* at 10, l. 21 to 12. This includes the fact that Qwest's business lines may subsidize other services while PAL may not, and the fact that Qwest competes against its PAL customers but not its business line customers. *Id.*

The Staff's justification for its rate proposal is based in part on its belief that the FCC's four-part test is really only a two-part test, in which the Commission must only determine whether rates are "cost based and nondiscriminatory." *Staff Brief* at 37, ll. 13-16. The Staff concludes that "[i]f the rates are cost based then they will be consistent with the 'new services test.'" *Id.* NWPA respectfully disagrees. The FCC expressly stated that it was creating a four-part test, as discussed by NWPA in its *Initial Brief. Initial Brief* at 2, ll. 9-15; *Order on Reconsideration* at ¶ 163. However, NWPA agrees with Staff that there is a relationship between "cost based" rates and rates set according to the new services test. The key is that the direct and overhead elements used to compute rates under the new services test must both be cost based. The need to take *only* these costs into account is why it is inappropriate to align PAL rates with non-cost-based business line rates. And allowing a markup for overhead costs without any

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[9] Section 276 provides that "[t]o the extent that any state's requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such state requirements." 47 U.S.C. § 276(c).

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evidence of what those costs actually are undermines the ceiling component of the new services test.

B. QWEST HAS NOT FILED SUFFICIENT OVERHEAD COST DATA TO MEET FCC REQUIREMENTS

Qwest argues that it is not required to file overhead cost data because Section 276 and the FCC "do not prescribe the type of evidence necessary to ensure that PAL rates are cost based, consistent with Section 276, nondiscriminatory, and satisfy the new services test." *Qwest Brief* at 38, ll. 16-18. So, Qwest believes that the evidence of direct costs in Exhibit 219 plus the ratio of its direct costs to overhead costs is sufficient. *Qwest Brief* at 41, ll. 1-8. As explained below, Qwest is incorrect for several reasons.

1. <u>The Commission cannot approve Qwest's PAL rates without knowing its overhead costs</u>

While the FCC does not describe the type of overhead cost evidence an ILEC must submit, it has stated that at a minimum each new services tariff filing "must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead cost." 47 C.F.R. § 61.49(h) (*emphasis added*). Here, Qwest filed *no* overhead cost data, as NWPA discussed in its *Initial Brief. Initial Brief* at 5, l. 17 to 7, l. 19; *see* Ex. Qwest/219. Obviously, the Commission cannot determine whether Qwest's overhead costs are "just and reasonable" without knowing what those overhead costs are.

Second, Qwest must file sufficient overhead cost information to demonstrate that its rates are "cost-based." *Order on Reconsideration* at ¶ 163. The FCC's *Wisconsin Order* further explained that "[g]iven that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services." *In the Matter of Wisconsin Public Service Commission Order Directing Filing*, 15 FCC Rcd. 9978 ¶ 11 (2000) ("*Wisconsin Order*"). So, at a minimum, an ILEC's cost information must prove that its PAL rates do not subsidize other services. In this proceeding, it is impossible to determine conclusively whether or not Qwest's PAL rates

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subsidize other services, based on the absence of cost data. However, the record strongly suggests that Qwest is doing so. For example, Qwest's claims that it sets the "contribution" added to its PAL rates based on its revenue requirements. There is a very high likelihood that this "contribution" contains subsidies for other services.[10] Accordingly, Qwest's submission of direct cost data without any overhead cost data only proves that its rates are *partially* cost-based, which is insufficient.

For the same reasons, NWPA disagrees with the Staff's argument that its proposed PAL rates "are cost based because they exceed, by a reasonable margin the long run incremental costs approved by the Commission in docket UM 773." *Staff Brief* at 37, ll. 18-20. The Staff cannot be certain of this without knowing what Qwest includes in its overhead "contribution." Staff's assertion ignores the ceiling aspect of the new services test.

NWPA also disagrees with the Staff's argument that its proposed PAL rates are not discriminatory because "the Commission ordered that PAL rates should match business local exchange rates," citing the Commission's Order No. 00-312. *Staff Brief* at 37, ll. 21-23. To the best of NWPA's knowledge, Order No. 00-312 deals with Universal Service issues and does not make this specific finding. *See* Order No. 00-312, *In the Matter of the Investigation of Universal Service in the State of Oregon*, UM 731 (June 16th, 2000). The NWPA also understands that the rates set in that docket were interim and subject to change in this docket. There certainly was no consideration given to the new services test or other elements of the FCC's four-part test for pricing PTAS in that docket.

In sum, Qwest's failure to file overhead cost data in this proceeding makes it impossible for this Commission to make the findings required by the FCC based on "substantial

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[10] This does not necessarily mean subsidies in a strict economic sense of below-cost pricing. But when PAL service is marked up **{Confidential Information No. 21}** (without EAS and CALC) and residence is marked up only **{Confidential Information No. 22}**, in a practical sense PAL is subsidizing residence service, since PAL service bears a greater proportion of shared and common costs than does residence service. *See supra*, p. 4.

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evidence in the record," as required by Oregon law. ORS § 183.484(5)(c). There is simply no evidence of Qwest's overhead costs and thus no support for a finding that Qwest has met the FCC's requirements.

2. The ratio of Qwest's direct costs to its overhead costs is unreasonable

Qwest argues that its PAL rates are "reasonable" based on the ratios of direct costs to overhead costs. *Qwest Brief* at 42, ll. 1-2. In fact, these ratios are highly unreasonable. Like Qwest's flat business rate, flat rate PAL in rate group one has a UM 773 direct cost of **{Confidential Information No. 23}**, not including the **{Confidential Information No. 24}** overhead markup. Ex. Qwest/219 at 20.[11] The rate is **{Confidential Information No. 25}** without EAS and CALC and **{Confidential Information No. 26}** with these charges. The markups are **{Confidential Information No. 27}** and **{Confidential Information No. 28}**, respectively. These high markups are inappropriate for a service that Qwest should be promoting pursuant to Section 276 and the FCC's *Payphone Orders*.[12]

Qwest must do more than simply identify the direct to overhead cost ratios for PAL. The FCC has stated that it will "evaluate the reasonableness of the manner in which overhead costs are loaded onto the cost of the service, *including* review of the ratio of direct unit cost to unit investment and direct unit cost to unit price." *ONA Order* at ¶ 44 (*emphasis added*). Accordingly, the ratio is a required factor *but not the only factor* that states must consider. Here, Qwest's failure to file overhead cost information to supplement the ratio makes it impossible for this Commission to fully evaluate the reasonableness of Qwest's overhead loading. *See* NWPA/6 at 1.

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[11] This analysis includes the **{Confidential Information, No. 29}** increase discussed on page 3 of the Qwest Letter Revising Ex. Qwest/219.

[12] Qwest claims that its markups for PAL range from **{Confidential Information No. 30}** to **{Confidential Information No. 31}**, but NWPA cannot determine how Qwest calculated these lower amounts. *Qwest Brief* at 42, ll. 1-3. Presumably, Qwest did not consider CALC or EAS charges, which are essential to understand the true size of the markup over direct costs.

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In the end, Qwest's approach would create an enormous loophole to escape the protections of Section 276. It would allow ILECs to set their rates for services subject to the new services test at any level they want by adding assorted subsidies, costs, fees and other assessments to their direct costs under the guise of a "contribution," as Qwest appears to have done in this case. A prime example of the arbitrary nature of Qwest's approach is the fact that Qwest argued in 1997 that its PAL rate, which then *exceeded* its basic business rate, met the new services test. Qwest has not shown any change in its overhead costs since 1997 that require Qwest to reduce the overhead allocation to PAL service.

It is unreasonable to believe that Congress and the FCC would expend such an immense amount of time and energy developing the new services test only to allow ILECs to eviscerate it through unsupported non-cost-based factors. The Commission should reject Qwest's illogical and arbitrary approach.

C. QWEST'S ATTACKS ON MR. WOOD'S METHODOLOGY HAVE NO BASIS

Qwest argues that Mr. Wood cannot set PAL rates using overhead loading factors developed for UNEs. It believes the FCC's Payphone *Report and Order* stated that Section 276 prohibits setting PAL rates as if PAL were a wholesale service pursuant to Sections 251 and 252 of the Telecommunications Act. *Qwest Brief* at 37, ll. 1-12. This is a misinterpretation of Mr. Wood's proposal and the *Report and Order*. Mr. Wood does not advocate treating PAL like a wholesale service, and he agrees that Section 276 does not require rate setting pursuant to Sections 251 and 252. Rather, Mr. Wood only proposes using the UNE overhead loading *by analogy* to compensate for the fact that Qwest never filed any overhead cost data in this proceeding. TR 743, l. 24 to 749, l. 5 (Wood). This would produce a *retail* PAL rate with a low "contribution," similar to residence service and Centrex service. The *Report and Order* does not prohibit this. NWPA agrees that a better approach would be to evaluate and debate Qwest's overhead loading based on Qwest's actual overhead costs, but Qwest has refused to provide this

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information. Instead, Qwest is attempting to turn its own failure to file or produce adequate cost data into a justification for rejecting Mr. Wood's approach.

Qwest also objects to Mr. Wood's reduction of its PAL rates to account for revenues generated from SLC/CALC, also known as EUCL and PICC. Qwest argues that it "applies those charges to all access lines" and "Qwest is required to apply these charges under federal law." *Qwest Brief* at 42, ll. 9-14. The fact that Qwest is required to assess these charges does not mean that it is also required to recover costs related to these charges a *second time* as part of its PAL rates. The *Initial Brief* contains NWPA's full response to this issue. *Initial Brief* at 15, l. 22 to 17, l. 15.

Qwest advises this Commission to ignore the *Wisconsin Order* discussed by Mr. Wood because it "was not signed by any of the FCC Commissioners and that it only applies to the specific LECs in Wisconsin that are named in the Order." *Qwest Brief* at 40, ll. 1-3. These are inadequate reasons for disregarding the *Wisconsin Order*. Orders of the FCC's Bureau Chiefs "have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission." 47 C.F.R. § 0.203. Accordingly, Qwest cannot treat the *Wisconsin Order*, which was issued by the FCC's Common Carrier Bureau Chief, as if it has no validity. Also, as NWPA noted in its *Initial Brief*, the *Wisconsin Order* is the FCC's most recent application of the new services test to PAL rates. *Initial Brief* at 22, ll. 13-20. It is illogical to assume, as Qwest does, that the FCC would take a completely different position if it were to review PAL rates again.

Qwest's argument that payphone providers can obtain UNE-based rates by becoming CLECs is a complete red herring. *Qwest Brief* at 38, ll. 5-7. Nothing in Section 276 or the FCC's payphone orders excuses Qwest from complying with the pricing requirements of the new services test for retail PTAS services.

Finally, Qwest's argument regarding Mr. Wood's refund discussion can be ignored. Both Qwest and the NWPA have agreed to defer consideration of refund issues to

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another docket and another day. The refund determinations cannot be made until the Commission sets proper PTAS rates, which is the issue to be determined here.

D. QWEST HAS IGNORED ITS DUTY TO SET CUSTOMNET RATES ACCORDING TO THE FOUR-PART TEST

The Qwest Brief ignores screening, or "CustomNet" rates completely. It did so despite the fact that NWPA raised this issue in Mr. Wood's testimony and at the hearing. Ex. NWPA/1 at 38, ll. 10-15; TR 763, ll. 20-24 (Wood). Qwest also failed to file any cost support for its CustomNet service. Evidently Qwest cannot justify a **{Confidential Information No. 32}** percent markup even under its tortured interpretation of the new services test.[13]

As NWPA explained in its *Initial Brief*, Qwest must set the rates for CustomNet according to the FCC's four-part test, because it is a payphone service. *NWPA Brief* at 13, ll. 6-14. To assist the Commission, NWPA proposed a rate that complies with the four-part test. *Initial Brief* at 21, ll. 9-12. Qwest's refusal to address this issue means that it either concedes that CustomNet is subject to the new services test and that Mr. Wood's proposed rates are acceptable or it simply hopes the Commission will disregard it. In either case, this Commission should adopt NWPA's position, which is the only position briefed by the parties in this proceeding and the only one supported by evidence of record.

E. CONCLUSION

The Qwest Brief has failed to justify Qwest's PTAS rates. Qwest simply asserts, without foundation, that it has met the new services test by aligning PAL and business rates. It also ignores the requirement to set CustomNet rates based on the new services test. Accordingly, the Commission would violate Section 276 and the FCC's *Payphone Orders* by approving

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[13] The rate for the service is $2.00 per line per month. Ex. NWPA/14. The cost is **{Confidential Information No. 33}**. TR 763, ll. 20-24 (Wood).

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Qwest's proposed rates. Instead, the Commission should adopt the rates proposed by Mr. Wood, which comply with federal law.

DATED this 13th day of July, 2001.

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Richard Busch /by D. Rice

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I hereby certify that I served the foregoing REPLY BRIEF OF THE NORTHWEST PAYPHONE ASSOCIATION on the following:

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by the following indicated method or methods:

- [x] By **mailing** full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Seattle, Washington, on the date set forth below.

- [ ] By **e-mail all parties who received a non-confidential copy.**

- [x] **Those parties marked with an asterisk were sent a confidential copy via U.S. Mail.**

DATED this 13th day of July, 2001.

Carol Munnerlyn

Carol Munnerlyn