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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1025

In the Matter of)	
)	
QWEST CORPORATION,)	
)	ORDER
Investigation to Review Costs and)	
Establish Prices for Certain Unbundled)	
Network Elements provided by Qwest)	
Corporation.)	

DISPOSITION: MOTION DENIED

On October 30, 2003, Qwest Corporation (Qwest), filed a Motion with the Public Utility Commission of Oregon (Commission) in this proceeding. The motion seeks to prohibit AT&T Telecommunications of the Pacific Northwest, Inc., AT&T Local Services on behalf of TCG Oregon, and WorldCom, Inc. (now known as MCI), (jointly, AT&T/MCI) from introducing or using the HAI cost model, release 5.3 (HAI model).

In support of its motion, Qwest states that AT&T/MCI has failed to comply with Commission Order No. 03-533, granting in part Qwest's motion to compel discovery of information relating to the HAI model. Qwest emphasizes that the data requests at issue are crucial to a complete understanding of the HAI model. It argues that exclusion of the model in its entirety is the appropriate sanction for AT&T/MCI's failure to comply with the required discovery.

AT&T/MCI and the Commission Staff filed responses opposing Qwest's motion. Among other things, these parties observe that Order No. 03-533 already specifies a sanction for failure to produce the required information:

If AT&T and WorldCom [now MCI] do not produce the information required by the June 11 Ruling, the Commission will accord limited weight to those elements of the HAI model that depend on the omitted information.¹

¹ Order No. 03-533 at 10.

Both parties point out that various components of the HAI model do not rely on the disputed data, and that these components serve a useful purpose as a comparison to the Qwest cost model. Staff, for example, indicates that it desires to continue analyzing the HAI model and to make changes to Qwest's model where appropriate.

After reviewing the filings made by the parties, the Commission finds that the sanction for noncompliance set forth in Order No. 03-533 is reasonable and appropriate. Accordingly, Qwest's motion to prohibit the introduction and use of the HAI model in this proceeding is denied.

ORDER

IT IS ORDERED that the motion filed by Qwest Corporation to exclude in its entirety the HAI cost model, release 5.3, is denied.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.