BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Continued Costing and	**)**	
Pricing of Unbundled Network Elements,	**)**	**Docket No. UT-003013**
Transport, Termination, and Resale	**)**	**Phase B**

OPENING POST HEARING BRIEF OF VERIZON NORTHWEST INC.

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Verizon Northwest Inc., f/k/a/ GTE Northwest Incorporated ("Verizon NW" or the Company"),[1] by counsel, hereby submits this Post Hearing Brief.

I. Introduction

1. In 1996, the Washington Utilities and Transportation Commission ("WUTC" or the "Commission") initiated Docket UT-960369, et al.,[2] to establish permanent costs and prices for the unbundled network elements ("UNEs") that incumbent local exchange carriers ("ILECs") are required to provide to their competitors seeking to enter the local telecommunications market, the competitive local exchange carriers ("CLECs"). The Commission intended the Generic Costing and Pricing Docket to establish a cost methodology and prices for use in pending and future arbitrations, and in the tariffs required in consolidated interconnection and rate case proceedings. *Notice of Prehearing Conference*, Docket UT-003013 (Feb. 23, 2000), 1.

2. The Commission set prices for the UNEs identified by the Federal Communications Commission ("FCC") as those necessary for CLEC entry into the local

1 Since the inception of this docket, GTE Northwest Incorporated has changed its name as a result of the merger between its parent company, GTE Corporation, and Bell Atlantic Corporation. For purposes of this brief, the term "Verizon NW" will be used to refer to Verizon Northwest Inc., the company that is a party to this proceeding. The term "Verizon" is used to refer to the merged company, Verizon Communications. The term "GTE" is used to refer to the former GTE companies.

2 In the Matter of Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale, Docket Nos. UT-960369, 960370, and 960371, (the "Generic Costing and Pricing Docket").

telephone market, or without which CLEC entry would be impaired. The prices set by the Commission were established in accordance with the guidelines set forth by the FCC. The Commission also established interim rates for OSS and transition cost recovery and collocation, deferring permanent rates to a new proceeding.

3. After entry of the Commission's Seventeenth Supplemental Order in Docket UT-960369 et al., the FCC issued its *UNE Remand Order*[3] identifying additional UNEs to be provided, and creating new conditions on and exemptions from ILECs' responsibility to provide certain UNEs to CLECs. In the *UNE Remand Order*, the FCC also responded to decisions by the Eighth Circuit and the United States Supreme Court interpreting and invalidating several FCC rules implementing the Telecommunications Act of 1996, 47 U.S.C. § 251 et. seq. (the "Act"). Subsequent to the Commission's Seventeenth Supplemental Order, the FCC also issued its *Line Sharing Order*,[4] requiring ILECs to provide CLECs access to the high-frequency portion of the loop for the purpose of providing advanced services.

4. On March 3, 2000, the Commission initiated this proceeding to address the remaining costing and pricing issues associated with Verizon NW's and Qwest's unbundling obligations. The Commission limited Phase A of this proceeding to OSS, collocation, and line sharing. First Supplemental Order, ¶ 15. Phase A hearings were held on August 21-31, 2000,

[3] *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98 (rel. Nov. 5, 1999).

[4] *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC-Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. Nov. 1999).

and the Commission issued its Thirteenth Supplemental Order establishing rates on January 31, 2001.

5. The Commission established Phase B to determine costs and rates for UNEs not addressed in Docket UT-960369 et al., and to consider the impact of the *UNE Remand Order* on the original UNEs for which the Commission had already set permanent rates. The Commission also included the issues of reciprocal compensation, line splitting, and line sharing over fiber-fed loops in Phase B.

6. In response to the Commission's orders, Verizon NW has submitted costs and prices for the UNEs identified by the Commission as being subject to review in this phase. Verizon NW's prices are based on the Company's forward-looking costs of providing the UNEs, plus the Commission-adopted markup for common costs of 24.75%. No party submitted cost studies as an alternative to Verizon NW's cost studies for its UNEs. Although Verizon NW has presented evidence to support its costs, and its costs are reasonable, just and lawful, some CLECs disagreed with certain of Verizon NW's proposed prices based on their preference for inefficient and below-cost prices. Those disagreements and the estimated prices offered by the CLECs were based on haphazard manipulation of Verizon NW's own studies. Accordingly, the Commission should adopt the costs and prices that Verizon NW has submitted and for which the Company has provided ample evidentiary support. Attachments A and B to this Brief outline Verizon NW's proposed rates.

7. Further, Verizon NW submitted evidence regarding the process through which it provides UNEs in response to CLEC requests. Just as in Docket UT-960369 et al., Verizon NW demonstrated that the ordering and provisioning process that the Company offers to CLECs provides the same information that the Company itself receives, and imposes the same

requirements upon CLECs that Verizon NW imposes upon itself or its data affiliate. Again, the CLECs were unable to provide any credible evidence that Verizon NW's processes, or the prices proposed for them, are inefficient, outdated or unlawful in any way. Rather, the CLEC witnesses testified only as to what these processes may look like in the hypothetical future, and urged the Commission to hold Verizon NW to those as yet unattainable standards. The Commission should reaffirm its findings in Docket UT-960369 et al. that Verizon NW's ordering and provisioning processes are reasonable and lawful.

8. Verizon NW's evidence in this docket addresses each issue before this Commission for decision. That evidence includes complete and fully-documented recurring and non-recurring cost studies relating to UNEs not addressed in Dockets UT-960369, -370, and -371. Verizon NW has also presented its plans and interim rates for line splitting, and its views on line sharing over fiber-fed loops and reciprocal compensation. Verizon NW's position with respect to what costs should be recovered and how they should be recovered is stated clearly in the testimony that addresses each of these studies. Many of Verizon NW's proposals are unrebutted in the record, and on those issues Verizon NW's position should be accepted. For those issues that were addressed by one of the other parties, Verizon NW explains in detail below why its positions should be adopted.

II. Legal and Policy Issues

A. Legal Issues

1. The Telecommunications Act Entitles ILECs To Recover Their Actual Costs

9. Verizon NW's Phase A Brief addresses why the pricing structure contemplated under § 252(d)(1) of the Act confirms that total actual costs are the touchstone for establishing prices. *See* Verizon NW Phase A Opening Brief, ¶¶ 6-9.[5]

2. Federal Court Decisions

a) *Iowa Utilities Board I*

10. On July 18, 1997, the Eighth Circuit invalidated several of the FCC's rules implementing the Act. *Iowa Utilities Board v. FCC*, 120 F.3d 735 (8th Cir. 1997) ("*Iowa Utilities Board I*"). In particular, the court vacated 47 C.F.R. § 51.215(c)-(f), which required ILECs to combine network elements as requested by a potential competitor and as technically feasible "in any manner, even if those elements are not ordinarily combined in the incumbent LEC's network." The Eighth Circuit Court also vacated several other FCC rules, including its TELRIC pricing methodology and its list of UNEs.

11. In a decision issued January 25, 1999[6] reviewing the Eighth Circuit's opinion, the Supreme Court upheld many of the FCC's rules implementing the Act. However, the Court directed the FCC to reevaluate the unbundling obligations of § 251 and to revise the standards under which they are determined. Specifically, the Court required the FCC to give some substance to the "necessary" and "impair" standards in § 251(d)(2), considering the availability

[5] Verizon NW incorporates this section of its Phase A brief by reference.

[6] *AT&T v. Iowa Utilities Board*, 525 U.S. 366, 119 S. Ct. 721 (1999).

of alternative network elements outside an ILEC's network, and to develop a limiting standard that is "rationally related to the goals of the Act." 525 U.S. at 386-393. The Court also rejected the FCC's "assumption that *any* increase in cost (or decrease in quality) imposed by a denial of a network element renders access to that element 'necessary,' and causes the failure to provide that element to 'impair' the entrant's ability to furnish its desired services. . ." *Id*. at 389-90 (emphasis in original).

12. The Supreme Court did not disturb the Eighth Circuit's holding that FCC rules 51.315(c)-(f) must be vacated.

b) *Iowa Utilities Board II*

13. On July 18, 2000, the Eighth Circuit again invalidated many of the FCC's pricing rules on substantive grounds. *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000) ("*Iowa Utilities Board II*").[7] Specifically, the Eighth Circuit found the FCC's TELRIC methodology had required that "[t]he total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent LEC's wire centers." 47 C.F.R. § 51.505(b)(1). The Eighth Circuit found this standard impermissibly hypothetical because it was not based on the existing network of the ILEC or the actual needs of the competitor, and therefore violative of the plain meaning of the Act:

> At bottom [], Congress has made it clear that it is the cost of providing the ***actual*** facilities and equipment that will be used by the competitor (and not some state of the art presently available technology ideally configured but neither deployed by the ILEC

[7] In response to a Motion for Partial Stay of Mandate Pending the Filing of a Petition for Writ of Certiorari filed by the FCC ("FCC Motion"), which was unopposed by Verizon, the Eighth Circuit stayed its mandate on September 22, 2000, "pending the filing and ultimate disposition of a petition for certiorari with the Supreme Court."

> nor to be used by the competitor) which must be ascertained and determined. Consequently, we vacate and remand to the FCC rule 51.505(b)(1).

219 F.3d at 751 (emphasis added). Put more bluntly, the Eighth Circuit stated directly that "Congress was dealing with reality, not fantasizing about what might be." *Id*. at 750.

14. The Eighth Circuit also reaffirmed that FCC Rules 51.315(c)-(f) remain vacated. *Id*. at 759.

15. The Eighth Circuit's invalidation of the FCC's pricing rules casts substantial doubt on the validity under the Act of many pricing determinations made by state utility commissions.[8] *See Southwestern Bell Telephone Company v. Missouri Public Service Commission*, 236 F.3d 922 (8th Cir. 2001) (holding that invalidation of the FCC's TELRIC pricing methodology required that an arbitrated interconnection agreement using that methodology also be invalidated). While the Eighth Circuit decision is stayed pending review by the Supreme Court, it remains the law unless vacated by the Supreme Court. *Id*. at 924, n. 4.

16. Verizon NW expects the Eighth Circuit's well-founded rejection of hypothetical pricing under the FCC's rules to be upheld.[9] If the Commission issues a ruling based on the FCC's current pricing rules and those rules are vacated by the Supreme Court, the Commission

[8] The FCC acknowledged as much in its motion asking the Eighth Circuit to stay issuance of the mandate from its decision. FCC Motion at 9 ("The Court's decision here, invalidating a portion of the Commission's pricing rules on the merits, would require the state public utility commissions to reevaluate their long-standing methodological approach to the arbitration of pricing disputes").

[9] In this connection, it is worth pointing out that the FCC has acknowledged that access rates charged by ILECs "based on historical costs rather than forward-looking economic costs, are permissible under the 'just and reasonable' standard prescribed by § 201(b) of the Act." *Southwestern Bell Telephone Co. v. FCC*, 153 F.3d 523, 548 (8th Cir. 1998). Verizon also notes that the Supreme Court has granted *certiorari* to the Fifth Circuit's decision in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), which determined that use of a forward-looking cost model did not result in an unconstitutional taking. *GTE Service Corp. v. FCC*, 530 U.S. 1213, 120 S.Ct. 2214 (June 5, 2000).

will have to redo its ruling at that time.[10] To deal with this conundrum, Verizon NW again proposes that the Commission establish *interim* costs and prices in this docket, with such determinations remaining subject to adjustment, or true-up, to conform with the Act once the Supreme Court acts on the Eighth Circuit decision. [11]

17. Permanent or final pricing determinations must reflect the final pricing rules that emerge from proceedings on *Iowa Utilities Board II*, and not any independent notion based on conflicting state law. The Act authorizes state utility commissions, acting pursuant to and in compliance with the Act, to set costs and prices for ILECs.[12] In *Iowa Utilities Board II*, the Eighth Circuit held that the FCC's designated pricing methodology ran afoul of the Act. 744 F.3d at 750 ("We agree with petitioners that [the FCC's pricing methodology] violates the plain language of the Act"). Because the Act requires the Commission to follow its pricing standards, the Eighth Circuit's holding that the FCC's pricing rules do not comply with those standards would preclude the Commission's use of that methodology or any substantially similar methodology to set permanent or final costs and prices once the Eighth Circuit's interpretation is upheld.

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[10] In order to assess how to proceed in light of the Eighth Circuit's decision, Verizon moved to suspend this docket on July 27, 2000. Verizon's motion was denied and this docket has proceeded as planned.

[11] The FCC endorsed this type of approach in its Motion to Stay the Eighth Circuit's decision. *See* FCC Motion at 11 (noting that interconnection agreements approved before the Supreme Court acts on *Iowa Utilities Board II* should include "provision[s] for refunds or 'true-ups' in the event that the [FCC's current pricing rules] need[] to be altered").

[12] *See, e.g.*, 47 U.S.C. § 252(d) (establishing pricing standards for state commission determinations of "just and reasonable rate[s]" for network elements); 47 U.S.C. § 252(c)(2) (requiring state commissions to assure compliance with pricing standards of § 252(d)); *see also AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 384 (1999). The Act empowers the FCC to designate a pricing methodology consistent with the Act to which state utility commissions must adhere in setting such prices. *Iowa Utilities Board*, 525 U.S. at 384; *Iowa Utilities Board II*, 219 F.3d at 757 ("we now agree with the FCC that its role is to resolve 'general methodological issues,' and it is the state commission's role to exercise its discretion in establishing rates").

18. Accordingly, the Commission may not ignore the Eighth Circuit's order and its potential implications for the validity of the FCC's pricing rules, nor is it free to rely solely on state authority to set costs and prices. As the Supreme Court made plain in *Iowa Utility Board*, the Act broadly preempts state regulation of intrastate telephone service:

> the question in this case is not whether the Federal Government has taken the regulation of local telecommunications competition away from the States. With regard to the matters addressed by the 1996 Act, it unquestionably has.

525 U.S. at 378 n. 6.

19. The Act creates a role for state utility commissions in the establishment of costs and prices. *MCI Telecommunications Corp. v. Illinois Bell Telephone Co.*, 222 F.3d 323, 343-44 (7th Cir. 2000) *cert. denied*, 121 S. Ct. 896 (2001) (noting that the Act offers state utility commissions "a role as what the carriers have called 'deputized' federal regulator," and that in that role, commissions' "authority to act was derived from provisions of the Act and not from their own sovereign authority"). The Act, however, also establishes statutory standards for determining costs and prices to which state utility commissions must adhere. *GTE North v. Strand*, 209 F.3d 909, 923 (6th Cir. 2000), *cert. denied*, 121 S. Ct. 380 (2000) ("in administering the [Act's] regulatory framework [state commissions] must operate strictly within the confines of the statute"); *US West Communications v. MFS Intelenet, Inc.*, 193 F.3d 1112, 1116 (9th Cir. 1999), *cert. denied*, 120 U.S. 2741 (2000) ("A state commission may impose terms by arbitration only if the terms meet the substantive requirements of section 251, including the regulations implementing that section, and the pricing standards of section 252"). In carrying out its federally-created role, this Commission cannot ignore the Eighth Circuit's authoritative interpretation of the law. *MCI Telecommunications Corp. v. U.S. West Communications*, 204

F.3d 1262, 1267 (9th Cir. 1999), *cert. denied*, 121 S. Ct. 504 (2000) (recognizing that in disputes involving FCC's pricing methodology under the Act, the Eighth Circuit is "the sole forum for addressing . . . the validity of the FCC's rules"), *citing GTE South v. Morrison*, 199 F.3d 733 (4th Cir. 1999); *see also US West Communications v. Hamilton*, 224 F.3d 1049, 1054 (9th Cir. 2000) (reaching the same conclusion). Thus, any costs or prices determined in this docket should be on an interim basis only, subject to true-up when the uncertainty surrounding the controlling pricing rules is resolved.

3. FCC Orders

a) Unbundling Orders

20. On August 8, 1996, the FCC adopted its *Local Competition Order*,[13] implementing the local competition provisions of the Act. In that order, the FCC established rules governing ILEC obligations to open their local networks to competition pursuant to the requirements of § 251 of the Act. Among other things, the *Local Competition Order* adopted rules implementing the network unbundling requirements of the Act. As discussed, many of the unbundling rules adopted by the FCC were invalidated and remanded to the FCC.

21. On November 5, 1999, the FCC released its *UNE Remand Order* identifying additional UNEs to be provided, and creating new conditions on and exemptions from the ILECs' responsibility to provide certain UNEs to CLECs. In that order, the FCC adopted new standards for determining which network elements must be unbundled, and revised its list of elements that ILECs must unbundle.

[13] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, CC Docket Nos. 96-98 and 95-185 (rel. Aug. 8, 1996).

b) Reciprocal Compensation Orders

22. On February 25, 1999, the FCC issued its *Declaratory Ruling on ISP Traffic*,[14] which held that for purposes of inter-carrier compensation ISP-bound traffic (*i.e.* telecommunications traffic delivered to Internet service providers (ISPs)) is largely interstate traffic subject to the jurisdiction of the FCC under § 201 of the Act and is not, therefore, subject to the reciprocal compensation provisions of § 251(b)(5). However, the *Declaratory Ruling on ISP Traffic* permitted states to decide whether the provisions of existing interconnection agreements subjected ISP-bound traffic to reciprocal compensation obligations. On March 24, 2000, the Court of Appeals for the District of Columbia Circuit held on appeal that the FCC, in the *Declaratory Ruling on ISP Traffic,* failed to adequately explain its jurisdictional conclusion and remanded the issue to the FCC for further consideration. *See Bell Atlantic Telephone Companies. v. FCC*, 206 F.3d 1 (D.C. Cir. 2000).

23. On April 27, 2001 the FCC released the *ISP Remand Order*.[15] In the *ISP Remand Order* the FCC again, but based on a different analysis, held that ISP-bound traffic is interstate traffic subject to the jurisdiction of the Commission under § 201 of the Act and not, therefore, subject to the reciprocal compensation provisions of § 251(b)(5) of the Act. In addition, the FCC asserted its jurisdiction over ISP-bound traffic to the exclusion of state commissions.

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[14] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68 (rel. Feb. 25, 1999).

[15] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-carrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order in CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001).

c) xDSL Orders

24. In its *Line Sharing Order*, the FCC adopted 47 C.F.R. § 51.319(h), establishing the high-frequency portion of the local loop as a UNE that must be provided to CLECs on a non-discriminatory basis pursuant to § 251(c)(3) of the Act. The FCC defined the high-frequency portion of the loop as "the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions." *Id.* at ¶ 26; 47 C.F.R. § 51.319(h)(1). The FCC defined "line sharing" as the provision by an ILEC of access to the high-bandwidth UNE to "a requesting telecommunications carrier for the provision of a telecommunications service . . . ." 47 C.F.R. § 51.319(h)(2).

25. On June 30, 2000, the FCC issued a decision approving the application of SBC Communications Inc. to offer long distance service in Texas.[16] This order provided additional guidance on an ILEC's obligations to provide access to the high-frequency portion of the loop.

26. In its *Line Sharing Order on Reconsideration*,[17] the FCC clarified that line splitting is an existing legal obligation, and that ILECs must allow competitors to order line splitting immediately, whether or not a fully electronic interface is in place. Thus, ILECs must ***permit*** CLECs to offer both voice and data services over a single unbundled loop in a line

[16] *In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order (rel. June 30, 2000) ("*SBC Texas 271 Order*").

[17] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Order on Reconsideration in CC Docket No. 98-147; Fourth Report and Order on Reconsideration in CC Docket No. 96-98; Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147; Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (rel. Jan. 19, 2001).

splitting configuration. *Id.* at ¶ 18. The FCC stated that incumbents must make modifications to their networks and OSS for the "pre-ordering, ordering, provisioning, maintenance and repair and billing for loops used in line splitting arrangements." *Id.* at ¶ 20. As carriers identify operational issues associated with line splitting, the FCC recognized that state collaboratives and change management processes could be used by "incumbent LECs and competing carriers to work together to develop processes and systems to support competing carrier ordering and provisioning of unbundled loops and switching necessary for line splitting." *Id.* at ¶ 21.

27. The FCC also clarified that the requirement to provide line sharing applies to the entire loop, even where the incumbent has deployed fiber in the loop (*e.g.*, where the loop is served by a remote terminal). Declining to order any particular method of access to the high-frequency portion of a loop served by fiber-fed DLC, the FCC issued a Further Notice of Proposed Rulemaking on the technical and economic issues associated with implementing this requirement. *Id*. at ¶12.

4. Washington Commission Orders

a) Phase I Costing Orders

28. On April 16, 1998, the Commission issued its Eighth Supplemental Order in the Generic Costing and Pricing Docket. Through this Order, the Commission established the costs and related prices for interconnection, unbundled network elements, transport and termination, wholesale discounts, interim number portability, and collocation. The Commission clarified, reconsidered, and revised its cost determinations in a series of orders that followed. Verizon NW cites herein provisions of these orders that are relevant to the resolution of matters at issue in this proceeding.

29. In addition to the specific cost determinations, the Commission's Orders set forth a number of basic principles to be followed in Phase II of the Generic Costing and Pricing Docket and beyond. For instance, the Commission ruled that, with certain limited exceptions, the costs established by the Eighth Supplemental Order are price floors for UNEs. *See id.* at ¶¶ 20, 491. The Commission recognized that common costs properly excluded from TELRIC estimates may be recovered through a "mark-up" over direct costs. *Id.* at ¶¶ 251, 525. The Commission also recognized that ILECs should recover their transition costs (i.e., the costs associated with modifying the network and OSS to comply with the statutory requirements of the Act). *Id.* at ¶¶ 39-40, 495. The Commission also determined that it would not consider tariff terms and conditions in Phase I of the Generic Costing and Pricing Docket. *See* Fourteenth Supplemental Order, ¶ 75.

b) <u>Phase II and III Orders</u>

30. On August 30, 1999, the Commission issued its Seventeenth Supplemental Order establishing statewide average prices for certain UNEs, and establishing a Phase III to address remaining issues. The Commission adopted a common cost mark-up factor of 24.75% for costs established using GTE cost estimates. Seventeenth Supplemental Order, ¶ 204. The Commission adopted GTE's proposed collocation rates—with certain modifications—on an interim basis pending a final order on a new GTE collocation study. *Id*. at ¶ 302. Similarly, the Commission adopted—with certain modifications—GTE's proposed non-recurring charges for certain UNEs and resale services. *Id*. at ¶¶ 452-55. The Commission also required the ILECs to develop separate non-recurring charges for installation and disconnection. *Id*. at ¶ 471. Included within GTE's approved non-recurring charges were OSS and National Open Market Center ("NOMC") costs. The Commission determined that because OSS is a network element, ILECs

are entitled to recover their OSS costs from CLECs, but that the Commission needed to determine the amount of those costs. *Id*. at ¶¶ 98-108. Therefore, the Commission ordered GTE and U S WEST to file new OSS studies by January 31, 2000. *Id*. at ¶ 526. The Commission deferred consideration of loop conditioning costs and prices to Phase III (and subsequently to this proceeding), and set interim rates for GTE equal to those of U S WEST. *Id.* at ¶ 235.

31. On May 5, 2000, the Commission adopted a tariff structure for implementing the geographic deaveraging of unbundled loop rates. Twenty Fourth Supplemental Order, ¶ 8. In its Twenty-Fifth and Twenty-Sixth Supplemental Orders, the Commission required GTE and U S WEST to make several modifications to cost studies and rates filed in compliance with the Seventeenth Supplemental Order. After ruling on motions for reconsideration and clarification, the Commission approved Verizon NW's compliance filings, adopting the rates resulting from Phases II and III, and those rates took effect on December 15, 2000.

c) UT-003013 Phase A Orders

32. On January 31, 2001, the Commission issued its Thirteenth Supplemental Order on line sharing, OSS and collocation issues. With minor modifications, the Commission adopted Verizon's collocation rates and line sharing service descriptions, cost and rates. The Commission ruled that Verizon NW is not required to continue purchasing splitters on behalf of CLECs beyond the sunset date for its ILEC-owned splitter line sharing configuration. The Commission also approved Verizon NW's OSS transition and transaction charges and NOMC shared/fixed charge.

B. Pricing Policy

33. As Verizon NW outlined in its Phase A Post Hearing Brief, § 252(d)(1) requires that UNE prices not be based solely on TELRIC plus a share of "forward-looking" common

costs, but must, in the aggregate, recover an ILEC's actual costs. *See* Verizon NW Phase A Opening Brief, ¶¶ 4-5, 6-9. The Eighth Circuit's decision in *Iowa Utilities Board II* invalidating the FCC's TELRIC rules confirms Verizon's view. However, Verizon NW recognizes that with the stay of the Eighth Circuit's decision pending Supreme Court review, the TELRIC rules remain in effect. Therefore, in accordance with this Commission's Seventeenth Supplemental Order in Docket UT-960369, et al., Verizon's proposed prices in this proceeding are based on the FCC's TELRIC interpretation that the Eighth Circuit has now determined is unlawful.

34. Verizon NW does not agree with the FCC's TELRIC pricing rules, but the Company has been obligated to go forward with its FCC-compliant cost studies in this docket. Due to the stay of the Eighth Circuit's decision, it is not clear whether the invalidated rules will have continued applicability in Washington or anywhere else. Accordingly, Verizon NW reserves the right to revise its UNE costs and proposed rates as necessary. Further, any rates established in this proceeding should be made on an interim basis, subject to adjustment and true-up once the issue is finally settled at the federal level. Permanent rates should reflect actual forward-looking costs that Verizon NW is expected to incur during the time period that the UNE rates are in effect.

III. UNE Costs and Prices

A. Qwest

35. Verizon NW does not take a position on the costs and prices proposed by Qwest.

B. Verizon

1. Non-Recurring Costs and Rates

36. Verizon NW's proposed non-recurring charges capture the costs that are caused by CLECs' requests for UNEs. Exhibit T-1190:14 (Trimble). The types of costs Verizon NW

incurs include the variable costs (principally labor costs) that arise when workers review, process, and provision CLEC orders; and the shared/fixed costs for the computers, buildings, and similar facilities devoted to fulfilling CLEC requests at Verizon NW's NOMC. *Id.* A third category of costs relates to the development of OSS. *Id.*

37. Verizon NW proposes two types of non-recurring charges: an ordering charge and a provisioning charge. *Id.* at 12-13. The ordering charge, as its name suggests, reflects the administrative costs Verizon NW incurs when a CLEC "places an order" for a UNE (*e.g.*, a two-wire loop) or an activity (*e.g.*, removing bridged taps). *Id*. at 13. The provisioning charge reflects the cost of provisioning that order or activity (*e.g.*, the cost of sending a technician to the field to remove bridged taps). *Id.* at 12-13.

38. The provisioning non-recurring charges are designed to recover the variable costs in fulfilling CLEC orders. *Id.* at 12. The ordering non-recurring charges include recovery of (a) variable ordering costs, (b) fixed/shared ordering costs, and (c) an amount for recovery of OSS costs. *Id*. at 12. In Phase A of this proceeding, the Commission adopted Verizon NW's proposals for recovery of shared/fixed costs and OSS costs.[18] *See* Thirteenth Supplemental Order in Docket UT-003013, ¶¶ 156, 180. Accordingly, the proposed non-recurring charges reflect the appropriate level of shared/fixed and OSS recovery per local service request ("LSR").[19]

[18] The Commission's Nineteenth Supplemental Order, issued May 15, 2001, rejected Verizon's compliance tariffs, which included OSS and NOMC charges in its ordering non-recurring charges. The Commission ordered the company to refile these tariffs with stand-alone OSS/NOMC charges separate from its non-recurring charges. The same change will need to be made to Verizon's proposed rates in this proceeding.

[19] Not all UNEs are ordered via LSR. Only UNE orders placed via LSR will be handled by the NOMC and include charges related to NOMC shared/fixed costs.

39. The variable costs on which Verizon NW's proposed non-recurring charges are based were developed based on the time needed to process the different types of CLEC orders. Exhibit T-1190:12 (Trimble). The testimony of Verizon NW witness Larry Richter explains how these costs were developed by studying the different activities associated with different types of CLEC requests and by applying current labor rates. *See* Exhibits T-1161, T-1163, and T-1167 (Richter). Verizon NW has developed separate non-recurring charges that link the cost with the cost-causer, *e.g.*, a CLEC that places an order for a simple two-wire loop will incur a lower non-recurring charge than a CLEC that places a more complicated order. Exhibit T-1190:16 (Trimble); Attachment B.

a) Study Methodology

40. Verizon NW has presented several non-recurring cost studies in this proceeding to support its proposed non-recurring charges. Specifically, Verizon NW filed its (1) Non-Recurring Cost Study for UNE Remand Issues (Exhibit CR-1160, which includes corrections reflected in Exhibits CE-1160 and CEE-1160); (2) Non-Recurring Cost Study for Loop Conditioning (Exhibit C-1162); (3) Non-Recurring Cost Study for Line Splitting (Exhibit C-1164);[20] and (4) Non-Recurring Cost Study for the UNE Migration Charge for EELs (Exhibit CR-1165) (collectively, the "NRC Studies"). As required by the Commission's orders, Verizon NW developed the NRC Studies to comply with the TELRIC methodology. Exhibit T-1161:3 (Richter). As explained above, the legality of the TELRIC methodology has been called into question and is currently being considered by the United States Supreme Court.[21] Despite the

[20] The costs presented in this study are discussed in Section V.A.5.

[21] *See* discussion *infra*, Section II.A.2.

uncertainty as to the appropriate cost methodology, Verizon NW's proposed non-recurring cost studies comply with TELRIC principles. Exhibit T-1161:3 (Richter).

41. The methodology used to create Verizon NW's wholesale NRC Studies is the same as was presented and approved - with certain modifications - by the Commission in Phase II of Docket UT-960369, et al. *See* Seventeenth Supplemental Order, ¶¶ 452-455. The work times included in the Phase II study were based on studies conducted when GTE's wholesale ordering processes were in a start-up mode. *See* Exhibit T-1166:7 (Richter). Since then, Verizon NW has conducted work time studies of actual wholesale orders being completed in the GTE territories that reflect the impact of OSS enhancements for projects in progress and for OSS enhancements projected for the foreseeable future. *See* T-1161: 8, 10, 14, 17; 1166:3-4, 6-7 (Richter); CR-1160, p. 7-WA-1. The NRC Studies submitted in this proceeding reflect this updated data. Thus, the NRC Studies submitted in this docket - unlike the NRC study in Docket UT-960369, et al. - reflect Verizon NW's *actual* service order process activity. Accordingly, the NRC Studies submitted in this proceeding accurately present the costs Verizon NW will incur to process CLEC UNE requests.

(1) <u>Service Ordering</u>

42. CLECs submit orders for UNEs in one of two ways. CLECs may order by submitting the appropriate completed order form by facsimile, which is identified as a "manual order" in Verizon NW's NRC Studies. Tr. 2657 (Richter). *See also* CR-1160, p. 7-WA-2. CLECs may also order using electronic gateways that interface directly with Verizon NW's OSS. These orders are identified as "semi-mechanized" in Verizon NW's NRC Studies. Tr. 2657 (Richter). *See also* CR-1160, p. 7-WA-2.

43. Not surprisingly, CLECs criticize Verizon's studies as not being "forward-looking enough" because they do not model OSS that process orders in a 100% mechanized fashion. This criticism misses the mark. While the industry continues to develop and implement comprehensive electronic OSS interfaces that enable CLEC orders to be received and processed electronically with little need for human intervention, it is undisputed that activities that follow the initial order receipt—whether by fax or electronically—must include manual intervention. No party introduced evidence of any technology superior to that assumed by Verizon NW in its NRC Studies to be currently available. Indeed, the CLECs' arguments are predicated on a standard or technology that is not currently available, and must be rejected. *See, e.g., Local Competition Order* ¶¶ 683, 690 (forward-looking costs should be computed based on the least-cost, most efficient technology *currently available*).

(2) <u>Provisioning Costs</u>

44. Provisioning costs relate to those activities performed to fulfill CLEC orders. T-1190:12 (Trimble). The activities required vary with the UNE or activity ordered. The methods of developing provisioning costs vary as well, but may include special studies relating to a specific activity (*e.g.*, a jumper running study or a drive time study), or obtaining time estimates from subject matter experts ("SMEs"). *See* T-1161, 10, 14 (Richter).

45. The SME estimates contained in Verizon NW's NRC Studies are accurate estimates of the time required to perform the tasks necessary to provision CLEC orders. The Commission may validate the reasonableness of SME estimates through field visits or outside consultant opinions. Moreover, SME estimates are an accepted method of cost development for many companies. In the Eighth Supplemental Order in Docket UT-960369, et al., the Commission stated that its concern regarding SME estimates in that proceeding related to time

spent in the NOMC and on order processing. *See* ¶ 450-451. As noted above, since then, SME estimates regarding ordering have been replaced by work time studies that provide actual work time data. Moreover, at ¶ 452 of the Eighth Supplemental Order, the discussion relates to a model being developed on SME opinions for a *hypothetical* network that did not exist. Contrary to that situation, in the context of the NRC Studies submitted by Verizon NW in this proceeding, the estimates are based on first hand knowledge of actual operations relating to the tasks for which the SMEs have been asked to provide estimates.

(3) Fixed/Shared NOMC

46. As explained in Verizon NW's Phase A Brief, in addition to its OSS costs, GTE incurred costs specific to its NOMC. These shared/fixed costs were incurred to provide the infrastructure necessary for customer service representatives to receive and process CLEC orders (*e.g.*, the NOMC buildings, the interactive voice response system, office furniture, and personal computers).

47. In its Thirteenth Supplemental Order, the Commission approved Verizon's proposed charge of $4.92 per LSR for the recovery of the NOMC shared/fixed costs. Verizon NW includes a revised NOMC Shared/Fixed rate of $4.40 in the ordering non-recurring rates presented in Phase B.[22] See Exhibit E-1190:4 (Trimble).

[22] Verizon NW inadvertently neglected to back-out its NOMC shared/fixed costs from the common costs or the direct costs developed by ICM. BR Response 33. Verizon NW classifies NOMC costs as non-recurring in nature since they are attributable directly to the non-recurring activity of receiving and processing wholesale orders. *Id.* Thus, these costs should not have been included in the development of expenses in ICM. See Exhibit T-1170 at 20, lines 18-19 (Collins). The impact of removing the NOMC shared-fixed costs is minimal. *See* BR Response 33 and Attachment BR 33A.

b) Dark Fiber

48. In providing dark fiber, Verizon NW incurs costs related to the ordering and provisioning processes, including pre-ordering, pre-qualification, central office work and field work. *See* Exhibit CR-1160, pages 7-WA 14 – 7-WA 15; Exhibit T-1161:5 (Richter). Prior to ordering dark fiber, CLECs must submit an access service request ("ASR") to determine whether there is any dark fiber available on the route requested. Exhibit T-1161:5 (Richter). Verizon NW's plant records for dark fiber are not mechanized at this time. Exhibit T-1136:16 (Lee). Therefore, an extensive manual effort is required to determine whether any unused fiber capacity even exists. *Id.* Once the pre-ordering stage is complete, assuming that fiber is available, the CLEC may then submit a firm order through the ASR process. Exhibit T-1161:6 (Richter). For central office provisioning costs, "jumper-running" studies were conducted to develop the time to place or remove one jumper. *Id.* at 10. To develop the cost per jumper activity, the time per jumper was multiplied by the central office technician loaded labor rate and the number of jumpers required to provision the dark fiber request. *Id.*

c) Sub-Loop Unbundling

49. Verizon NW will incur costs for ordering, provisioning, and central office and field installation activities associated with CLEC sub-loop unbundling requests. Exhibit T-1161:11 (Richter). These costs may be found in Exhibit R-1160, pages 7-WA 14 – 7-WA 15. Requests for sub-loops are submitted by CLECs to the NOMC through the LSR process. Exhibit T-1161:11 (Richter). To determine the costs for sub-loop ordering, Verizon NW relied upon the exchange-basic ordering process as a proxy because the two processes are similar. *Id.* at 12. The provisioning costs Verizon NW incurs to provide subloops depend on the type of subloop

requested by the CLEC.[23] *Id.* at 12-13. Provisioning costs are based on the number of "touches" required to process a CLEC request. *Id.* at 13. In addition, for central office costs, jumper running studies, and subloop drive time and work studies were conducted to provide accurate provisioning work times, depending on the type of subloop requested. *Id.* at 14.

d) EELs

50. Enhanced Extended Links ("EELs") include all combinations of the loop, transport and multiplexing UNEs. *See UNE Remand Order* at ¶¶ 474, 477. EELs are an "Advanced/Special – Complex UNE." EELs may be requested by CLECs in one of two ways - as a "new" order or as a migration of an existing special access circuit to a UNE-EEL. Attachment B outlines the non-recurring rates for each type of request.

51. For "new" EEL requests, Verizon NW will incur costs for ordering, provisioning, central office and field installation activities. Exhibit T-1161:14 (Richter). These costs may be found in Exhibit CR-1160, pages 7-WA 35 – 7-WA 36. Orders for "new" EELs are processed in the same manner as dark fiber requests. Therefore, the discussion above regarding the activities and cost determination for dark fiber requests applies equally to "new" EEL requests.

52. Initially, Verizon NW filed costs for EELs that did not include the costs associated with EEL Migration - when a CLEC seeks to convert a special access circuit to a UNE. Exhibit T-1163:13 (Richter). In response to CLEC criticism, Verizon NW added a classification to its cost study relating to EELs called "Migration As Is." *Id.* at 17. This type of order requires activities related to the ordering and provisioning functions, but no field visit is

[23] There are four categories of requests for sub-loops: 1) main distribution frame ("MDF") connection; 2) feeder connection; 3) distribution connection; and 4) serving terminal connection. These categories correspond to different portions of Verizon NW's network that CLECs can request on an unbundled basis. T-1161:12 (Richter).

necessary. *Id.* "Migration As Is" does not allow for physical changes to the existing special access service. *Id.*

53. The ordering costs for "Migration As Is" were taken from the previously submitted cost study that included the costs for "new" and "disconnect" EELs (pages A9-WA 21 through A9-WA 24 of Exhibit CR-1160). *Id.* These ordering costs were used along with the following two new ordering activities: 1) Mass Order Generator ("MOG") Template; and 2) Termination Liability Calculation. *Id.* at 17-18. The MOG Template activity is necessary to change orders on a mass basis and is applied on a probability of occurrence basis. *Id.* The Termination Liability Calculation activity is required to determine whether early termination of the previous special access arrangement requires the imposition of termination liability. *Id.* at 17-18. Ordering costs for EEL Migration are shown in Section 2 of Exhibit CR-1165 on pages 1–4. Provisioning costs for EEL Migration were developed based on the administrative activities necessary to facilitate the recordkeeping associated with EELs and can be found in Section 3 of Exhibit CR-1165 on page 3.

54. In response to CLEC and Staff criticism, as well as a record request made during the hearing, Verizon NW has reevaluated whether the "Meet Point" item is appropriately included in the ordering cost for EEL Migration. As a result, Verizon NW removed that item from its cost study and has modified its costs - and the corresponding charge - accordingly. *See* Verizon NW Response to Record Request No. 103; Attachment B.

e) <u>UNE-P</u>

55. In providing UNE-P, Verizon NW will incur costs for ordering, provisioning, central office and field installation activities. Exhibit T-1161:15 (Richter). These costs may be found in Exhibit CR-1160, pages 7-WA 20, 7-WA 21, 7-WA 23 and 7-WA 24. UNE-P ordering

applies when the CLEC requests new service or conversion of existing services, retail or resale, to UNE-P. Exhibit T-1161:15 (Richter). The NOMC performs ordering activities through the LSR process. *Id.* at 16. Provisioning costs are based on the number of "touches" required to process a CLEC request. *Id.* at 17. For services that are in place and are being "migrated" to UNE-P, central office or field installation activities are not required. *Id.* at 16.

f) Loop Conditioning

56. Verizon NW will provide loop conditioning (*i.e.*, removal of bridged taps and load coils) when needed to allow CLECs to provide acceptable forms of xDSL-based services over the high frequency portion of the loop. Exhibit T-1190:15 (Trimble). Paragraph 382 of the *Local Competition Order* states that CLECs should bear the cost of loop conditioning when they request it. This Commission, in ¶ 155 of its Eighth Supplemental Order in Docket. UT-960369 et al., adopted the FCC's position.

57. Accordingly, Verizon NW has developed non-recurring rates for loop conditioning based directly on the cost for those activities. Exhibit C-1162. Verizon NW's proposed loop conditioning rates are contained in Attachment B to this brief. In accordance with FCC rules, loop conditioning will not be provided in cases where such conditioning significantly degrades other advanced services or traditional voice band services. Exhibit T-1190:16 (Trimble); FCC Rules 51.230, 51.233, and *Line Sharing Order*, ¶¶ 85, 86 and 201-205.

58. CLECs and Staff did not dispute the activities Verizon NW identified in its cost study as necessary for completing the activities associated with removing load coils and bridged taps. They did suggest modifying Verizon NW's proposed times for these activities by substituting the times adopted by the Commission for Qwest in the Eighth Supplemental Order. The Act requires that Verizon NW's wholesale rates recover *its* costs, not those of another

company. *See* § 252(d)(1) of the Act. Verizon NW's costs for loop conditioning presented in this proceeding are based on its processes and procedures for removing load coils and bridged taps, and should be adopted by the Commission.

g) Dedicated Transport and SS7

59. Verizon NW will incur costs for ordering, provisioning, central office and field installation activities associated with CLEC requests for dedicated transport and SS7. Exhibit T-1161:24 (Richter). Costs for dedicated transport may be found in Exhibit CR-1160, pages 7-WA 26 – 7-WA 27. Costs for SS7 access service may be found in Exhibit CR-1160, pages 7-WA 29, 7-WA 30, 7-WA 32 and 7-WA 33. Verizon NW has been provisioning dedicated transport and SS7 for interexchange carriers ("IXCs") through the National Access Contact Center ("NACC") and the Business Response Provisioning Centers ("BRPCs") for many years, and this experience provided the basis for Verizon NW's proposed costs in this docket. Both the NACC ordering and the BRPC provisioning - the central office jumper work and the outside plant installation work - follow the same processes as previously described for dark fiber.

h) OSS

60. The Commission has previously adopted Verizon NW's proposed method of recovering its OSS transition and transaction costs and the amount of such costs. *See* Thirteenth Supplemental Order, ¶¶ 156, 160. Accordingly, the OSS transition/transaction charge in the amount of $7.03 (the sum of $3.27 for OSS transition costs and $3.76 for OSS transaction costs) will be added to each CLEC LSR. Thus, the ordering charge for each LSR will include (1) the

variable cost of ordering; (2) NOMC fixed/shared ordering costs; and (3) an amount for recovery of OSS costs.[24]

2. Recurring Costs and Rates

61. Verizon NW's rates for UNEs addressed in Docket UT-960369, et al. went into effect on December 15, 2000. Verizon NW chose not to re-litigate these rates in this proceeding. Exhibit T-1190:3 (Trimble). Instead, Verizon NW proposes rates for elements not addressed in the Seventeenth Supplemental Order and for the new offerings resulting from the *UNE Remand Order*.

62. Verizon's long run forward-looking costs are best estimated by its company-specific cost model and studies. The objective of the Commission should be to estimate the ILEC's forward-looking costs of provisioning telecommunications services out of *each company's* own network. Because each company can only provision UNEs out of *its own* network, it necessarily follows that the cost estimates relied on by this Commission must reflect forward-looking costs specific to each company's network. Exhibit T-1170:7 (Collins). Verizon NW witness Kevin Collins sponsored cost evidence in support of Verizon NW's proposed recurring rates. Exhibits T-1170 and T-1174. A majority of these costs were developed using the GTE Integrated Cost Model Version 4.1b ("ICM"). Exhibit 1171; C-1171. No other party introduced a cost model or study to estimate Verizon NW's recurring costs.

[24] The Commission's Nineteenth Supplemental Order, issued May 15, 2001, rejected Verizon's compliance tariffs, which included OSS and NOMC charges in its ordering non-recurring charges. The Commission ordered the company to refile these tariffs with stand-alone OSS/NOMC charges separate from its non-recurring charges. The same changes will need to be made to Verizon's proposed rates in this proceeding.

a) ICM Cost Methodology

(1) Model Overview

63. Verizon's Integrated Cost Model ("ICM") is a long-run incremental cost model designed to calculate the forward-looking cost of provisioning telecommunications services and UNEs out of Verizon NW's Washington network. Exhibit T-1170:3 (Collins). ICM does this by designing the network using currently available, forward-looking technology, while reflecting Verizon NW's engineering practices and operating characteristics, and by relying on the prices for labor, material and equipment that Verizon NW is actually able to obtain in Washington. This is important because unless a cost model reflects Verizon NW's engineering practices and operating characteristics, it cannot produce realistic estimates of Verizon NW's forward-looking costs.

64. In keeping with the FCC's *Local Competition Order*, the modeled network is based on Verizon NW's existing wire center locations. Moreover, the network is modeled so that it is capable of serving one hundred percent of current demand, and its components include all the network elements Verizon NW is required to unbundle (e.g., loops, switches, transport). *Id.* at 15. ICM designs and determines costs for the forward-looking network as if it were built all at once using all new plant and technology. The designed network reflects the economies of scope and scale of all services across Verizon NW's entire Washington network. *Id.* at 16. ICM calculates and reports costs at the wire center level, and at the group level. The group level option allows the user to designate any desired wire center groupings. The user may also extract the wire center data to an external analysis tool, such as a spreadsheet program, and then aggregate the results into any combination the user chooses. ICM also aggregates the wire center costs as a statewide average costs. *Id.* at 22.

65. The basic unit of analysis used in ICM is the Demand Unit, which is a grid that is 1/200th by 1/200th of a degree in size.[25] Utilizing line count estimates by census block from PNR Associates, Stopwatch Maps assigns customer lines to each Demand Unit on the basis of each grid's share of road feet in the wire center. The Demand Units are assigned to each wire center based on Verizon NW's tariffed exchange boundaries and the resulting totals for each wire center are trued up to Verizon NW's actual line counts by wire center. *Id.* at 24.

66. ICM is comprised of six modules: Loop, Switch, Interoffice Transport, Signaling System 7 ("SS7"), Expense, and Mapping/Reporting. The ICM documentation provides a diagram illustrating the main components of the modeled network. *See* Exhibit 1171, Binder 1, Tab 2 - Conceptual Framework, Book I of VII, page 4.[26] As shown in the diagram on page 3, the modeling process begins with commercially available and internal Company data that are used by the first five of ICM's modules to model a forward-looking network and develop investments and expenses for the network components. *See id.* The Mapping/Reporting Module then combines the network component investments and costs into basic network functions ("BNFs"), UNEs, and services. All of the modules are consistent and utilize the same set of inputs. If, for example, inputs related to line counts are changed, then all six modules of ICM will be updated

[25] For the Bothell wire center, for example, this equates to 1,823 feet long by 1,225 feet wide, or about 0.08 square miles.

[26] This information can also be found on the CD ROM contained in Exhibit 1171, C-1171 in the file folder "Supporting Documentation \ ICM Manuals \ WashingtonDoc4.1b \ Model Methodology \ Conceptualframework4.1bfiling."

when the model is run. Exhibit T-1170:15-16 (Collins). A brief description of each module can be found in Exhibit T-1170 at 17-18.[27]

67. ICM possesses several characteristics that will facilitate the Commission's determination of Verizon NW's forward-looking costs in Washington. Specifically, ICM provides the advantages of testability, flexibility, complete openness to inspection, and internal integration. Exhibit T-1170:11-15 (Collins). ICM allows the user to easily see and vary inputs, and evaluate the impact on intermediate and final output, thereby affording tremendous testing capability. ICM is flexible in that it can be used for various purposes, such as the estimation of universal service costs, UNE costs, and the determination of costs for retail services. Another dimension of flexibility that ICM offers is that it is capable of easily accommodating a change in the definition of a service. ICM is completely open to inspection, including the model code and all preprocessing functions. This attribute allows a user to understand precisely how the model is operating. *Id.* at 14; Exhibit T-1174:22-26 (Collins). Finally, ICM is integrated, combining all network components into one model that operates on a consistent set of inputs. Exhibit T-1170:10 (Collins).

(2) Calculation of TELRICs

68. To calculate the TELRIC costs of a UNE, the first four ICM modules identify the forward-looking investments associated with the various network elements, and the Expense Module calculates the factors needed to convert these investments into monthly recurring costs. These monthly recurring costs fall into two broad categories: capital costs and operating

[27] Each of the six modules of ICM is described more fully in Exhibit 1171, Binder 1, Tab 2 "ICM Model Methodology, Books I through VII" and on the CD ROM in file folder "Supporting Documentation \ ICM Manuals \ WashingtonDoc4.1b \ Model Methodology."

expenses. The capital costs include (1) both a return of and a return on the investment, (2) property taxes associated with the investment, and (3) income taxes associated with the return component of capital costs. While Verizon NW believes that its cost studies should be based on forward-looking capital costs,[28] it used in this proceeding inputs for the *return on* and *return of* capital adopted by this Commission in Docket UT-960369, et al. Exhibit T-1170:29 (Collins). However, because the Commission recently reset Verizon NW's depreciation rates in Docket UT-992009, the ICM cost estimates must be adjusted for that change. *Id.*

69. Verizon NW's operating expenses consist of the costs of maintaining and operating the network, including the costs of general support assets such as motor vehicles and general-purpose computers, and marketing, billing and collection expenses associated with a given UNE. The Mapping/Report Module calculates the capital costs and operating expenses, using the factors produced by the Expense Module and the investments identified by the other four modules. The Mapping/Report Module also maps the costs of the network components into UNEs, and produces reports showing the recurring costs of each UNE. Exhibit T-1170:21 (Collins).[29]

b) <u>External Cost Studies</u>

70. Verizon NW used two special cost studies to develop costs for dark fiber and high capacity facilities. These studies use inputs primarily from ICM, but are conducted separately. Exhibit T-1170:34-35 (Collins).

[28] For the reasons outlined by Mr. Collins, Verizon advocates using a cost of capital of 12.737% in estimating its TELRICs. Exhibit T-1170:28 (Collins).

[29] Verizon witness Kevin Collins gives an example of this calculation in Exhibit T-1170:21-22.

(1) Dark Fiber Study

71. Verizon NW proposes to utilize the same components - costs for fiber transport and for loops served, in part, over fiber facilities - found in ICM for its dark fiber study. Therefore, the same inputs for fiber material, trenching, plowing, poles, conduit, etc. were used to develop dark fiber costs for the purposes of this proceeding. *Id.* at 34. Verizon's dark fiber study is found in Exhibit 1171, C-1171 at Tab 22.[30]

72. Dark fiber costs are identified with two different applications: loop and transport. The loop application includes both the cost of the fiber itself and fiber distribution panel ("FDP") costs on each end. Additionally, these costs are split between feeder and distribution plant. In contrast, the transport application identifies the fiber and FDP costs separately. That is, there is a termination piece (FDP) and a distance-sensitive piece (fiber cost per mile). Identification of the distance-sensitive piece of transport separately provides geographic cost detail down to the route level. That is, for any particular transport route, the cost will be a function of the specific route distance. Exhibit T-1170:34 (Collins).

73. Verizon NW's dark fiber study is based on the cost of a 24-fiber cable, using the average length of a business loop modeled by ICM. The material and placement costs, depreciation and return factors, and the other expense factors used are the same as are used by ICM. The outside plant percentages correspond to the overall percentages for aerial, buried and underground placement modeled by ICM for Washington. *Id*. at 35.

[30] The dark fiber study can also be found on the ICM CD ROM at \SUPPORTING DOCUMENTATION \ OUTBOARD COST STUDIES \ DARK FIBER. The file name for the dark fiber study is DKFIBR.PDF.

(2) High Capacity Facilities Study

74. Verizon NW witness Collins also sponsored a special study of high-capacity facilities, which is separate from ICM. These facilities include DS-3 loops, CLEC dedicated transport, and CLEC dedicated transport for EELs. The results of this study are located in Exhibit 1171, C-1171 at Tab 22.[31]

75. The study of high-capacity facilities was performed much the same way as the dark fiber study. Raw material costs are combined with the associated costs for engineering, installation, and minor materials to provide a total installed investment amount. Annual operating expense factors from ICM (*e.g.*, capital recovery, taxes, maintenance, etc.) are then applied to the total installed investment to yield an annual cost, which is then divided by 12 to obtain the monthly cost. Exhibit T-1170:35 (Collins).

c) Common Costs

76. In developing its UNE recurring rates, Verizon NW used the 24.75% common cost factor adopted in the Seventeenth Supplemental Order. Exhibit T-1190:11 (Trimble). Verizon NW presumed that in adopting this common cost factor for Verizon NW, the Commission logically set a factor that should be applied to all the various UNEs to assure that Verizon NW has an opportunity to recover its total estimated common costs. Exhibit T-1195:18 (Trimble). No other presumption makes sense; otherwise parties would be in a continuous circle attempting to show that when various common cost factors are applied to each direct cost item, the companies have the theoretical opportunity to recover their total allowed common costs. *Id.* at 19.

77. In response to Bench Request 43, Verizon NW developed a common cost factor using as the numerator the common costs identified in response to Bench Request 14 submitted on April 2, 2001. The denominator was the direct costs of the company. Direct costs were calculated using the same type of information that the Company used to determine its common costs,[32] rather than the direct costs adopted by the Commission in Docket UT-960369, et al. The formula outlined in Bench Request 43 resulted in a common cost factor of 17.89%. *See* BR Response 43.

78. Use of the 17.89% factor to develop recurring rates in this proceeding is inappropriate for two basic reasons. First, in Docket UT-960369, et al., the Commission found and ordered what it believes the Company's direct costs are for several UNE items. Thus, the direct costs derived from ICM should be adjusted to represent the Commission's previous findings. For example, end-office switching and port TELRICs have already been ordered and are significantly below the costs that are generated by ICM:

	Basic Port TELRIC	EOS TELRIC
Commission Ordered	$ 1.29	$ 0.00136
ICM	$ 2.65	$ 0.00286
DIFFERENCE	($ 1.36)	($ 0.00150)

BR Response 43.

79. Using in-service lines and a conservative estimate of 890 minutes of use per month would lead to a negative adjustment of $28 million in the Company's total direct costs. Thus, the $394 million of direct costs derived from ICM should be reduced to $366 million based

[31] These results are also contained on the ICM CD ROM in SUPPORTING DOCUMENTATION \ OUTBOARD COST STUDIES \ HiCap_SpACC.

[32] *See* Exhibit 1171, C-1171 (ICM) at 14-001-14-689.

on previous Commission findings. The resultant effect on the common cost factor would be to increase it to 19.3% ($70.5 million divided by $366 million). BR Response 43.

80. The Commission's previous orders on UNE prices used the following common cost allocation factors (based on the Commission's finding for direct costs) for the various UNEs:

Loops ..... 17.93 percent
Ports ..... 3.88 percent
EOS ..... 4.05 percent

BR Response 43. These factors are significantly less than the 19.3% that would be required to allow the Company an opportunity to recover its hypothetical forward looking common costs. For all remaining UNE items (which account for a relatively small portion of direct costs) a common cost factor significantly in excess of 19.3% would be required to give the Company a theoretical opportunity to recover its hypothetical forward looking common costs. Thus, applying the previously ordered common cost factor of 24.75% provides a reasonable and yet conservative estimate of the common cost to be assigned to each of the remaining UNEs being addressed in this proceeding.

d) Recurring Rates

81. Where appropriate, Verizon NW deaveraged UNE rates using the five-zone structure adopted in Phase III of Docket UT-960369, et al. *Id.*[33] Verizon NW's proposed rates for each UNE can be found in Exhibit 1197, and are summarized in Attachment A to this brief.

[33] In Docket UT-960369, the Commission only deaveraged the loop. *See generally* Twenty Fourth Supplemental Order in Docket UT-960369, et. al. Only UNE loops possess the requisite geographic cost variation to warrant geographic price deaveraging. Thus, within this proceeding, Verizon NW proposes geographic deaveraged rates only for new loop-related UNEs that exhibit significant levels of cost variation between the geographies that make up the Commission's five zones for Verizon NW.

(1) High Capacity Loops

82. Verizon NW proposes recurring rates for DS-1 and DS-3 UNE loops. A DS-1 loop is a loop that has been conditioned to support DS-1 transmission, including associated electronics. It can be used to provide full-period services (e.g., private line) and switched services (e.g., ISDN PRI) to end-users. In contrast, DS-3 UNE loops are provisioned over fiber optic cable and include the electronics necessary to facilitate DS-3 transmission. Exhibit T-1190:19 (Trimble). Verizon NW's cost studies indicate that only DS-1 UNE loops exhibit cost characteristics that support geographic deaveraging, while the various costs for DS-3 UNE loops exhibit minimal levels of geographic variation. *Id*. at 20. Therefore, Verizon NW only proposes to geographically deaverage rates for DS-1 UNE loops.

(2) Switching

(a) Switch Ports

83. In Docket UT-960369, et al., the Commission adopted rates for a basic analog switch port. In this proceeding, Verizon NW proposes rates for three additional types of switch ports: (1) an ISDN BRI line side port, (2) a DS-1 trunk side port, and (3) an ISDN PRI trunk side port. *Id.* at 20.

(b) Switching Features

84. Verizon NW proposes that the Commission adopt feature-specific rates based on each feature's specific TELRIC plus a reasonable allocation of the Company's common costs (e.g., the fixed-allocator pricing process). *Id.* at 18. Verizon NW has never included the cost of various switch features in the cost of its switch ports or end-office switching UNEs. The rational method for recovery of switch feature costs is to charge the CLECs only for what they use – i.e.,

on a per switch feature usage basis. *Id*. Verizon NW's proposed recurring rates for the most common switch features are depicted in Exhibit 1191 and Attachment A to this brief.

85. If a CLEC seeks to purchase a feature for which Verizon NW has not proposed a rate in Exhibit 1191, Verizon NW will use a bona fide request ("BFR") process to develop a rate. Upon receipt of the request, Verizon NW will determine if the specific switch has the capability to deliver the requested feature. If the feature exists, Verizon NW will develop costs and prices based on the FCC's rules and negotiate the proposed offering with the requesting CLEC. Exhibit T-1190:19-22 (Trimble).

(c) Use of SCIS to Estimate Switching Costs

86. In this proceeding, Verizon NW used ICM to estimate switching costs (i.e. ports, usage, and vertical features). SCIS and CostMod's switch technology module played a secondary role in this process. Both SCIS and CostMod are engineering-based models that provide a detailed breakdown of switching equipment investments related to a wide variety of uses and functions of a switch, *e.g.*, line-to-line call set-up and minutes of use, trunk-to-trunk call set-up and minutes of use, analog line termination, ISDN PRI trunk termination, 3-way calling and caller ID. Verizon NW uses the outputs from these models as raw inputs to ICM. Specifically, Verizon NW uses SCIS/CostMod to provide a relative investment breakdown. The task of identifying the appropriate total switching equipment investment is done outside of these models. In particular, Exhibit 1171, C-1171 at Binder 5, Tab 11 includes detailed calculations of switch discount inputs to be used in SCIS/CostMod. These discounts are calculated in accordance with the switch vendor quotes, which are included in Exhibit 1171, C-1171 at Tab 11. These quotes represent what it would cost Verizon NW today to purchase switches (material cost) from its vendors. Use of the calculated discounts as inputs to SCIS/CostMod essentially calibrates these

models to the switching equipment prices Verizon NW currently faces in the market. This outboard calculation relegates these models to a role of simply identifying investment with the appropriate feature or function of the switch. It renders moot any concern over the ability of SCIS/CostMod to generate reasonable total switch investment levels.

87. In ¶¶ 289-90 of the Eighth Supplemental Order, the Commission expressed disagreement with some of the SCIS's costing methodology related to CCS capacity investment. The Commission's disagreement with the SCIS methodology outlined in these paragraphs appears to be based on some confusion about how and why excess CCS capacity investment is incurred. Verizon NW provided clarification of this issue in its response to Bench Request 37 in Phase B. This response explains that the cost associated with excess CCS capacity is not driven by usage, but is instead driven by the requirement to have a line concentration module, which is non-traffic sensitive. The excess CCS should then be considered a non-traffic sensitive cost. Because SCIS appropriately identifies excess CCS capacity as non-traffic sensitive, the concern over SCIS's costing methodology is not valid.

88. In ¶¶ 291-293 of the Eighth Supplemental Order, the Commission expressed concern about marginal versus average SCIS runs. Verizon NW has addressed the issue of marginal versus average SCIS runs by using results generated by SCIS when run in the average mode. *See* Exhibit 1171, C-1171, CD ROM folder SUPPORTING DOCUMENTATION/Switch Module/Scis. Any of the feature run files in the "Scis" folder will indicate that the SCIS report is an "average" run.

89. In ¶ 294 of the Eighth Supplemental Order, the Commission expressed concerns over the closed nature of the SCIS model. This should no longer be an issue because SCIS and CostMod were calibrated through calculations made and documented outside of those models.

An interested party may review those calculations and all other calculations leading to the determination of total switch investment by simply signing the existing protective order in this case. The level of switching investment in ICM is determined by vendor quotes, as is the investment for other items such as poles and copper and fiber cables. The values for all of these input prices are included in the ICM documentation.

90. In ¶ 298 of the Eighth Supplemental Order, the Commissioner declined to use either the SCIS or SCM models because there were "reasonable alternatives that do not rely on proprietary models for estimating the cost of total switching investment." There are no reasonable alternatives to ICM for calculating switching costs in this docket. Indeed, the only other methodology proposed to calculate switching costs is the proposal outlined in the Commission's Bench Request 42. However, the switching investment function proposed in Bench Request No. 42 does not give this Commission the means to conduct a valid investigation into the nature of switching costs. *See* Verizon NW Response to BR 42.

91. Paragraphs 299 - 300 of the Eighth Supplemental Order provide the apparent basis for the conclusion that the investment levels produced by SCIS were not reasonable. Verizon NW has shown in this docket that the investment levels produced by ICM are reasonable, and that the proposed switch investment function (C = 185,374 + 107 * lines) yields entirely unreasonable results. SCIS and CostMod are used simply to provide an investment breakdown between the different switching functions and features. The total switching investment is driven by user-adjustable inputs in ICM and is documented in Exhibit 1171, C-1171, Binder 5, Tab 11. Specifically, the switching equipment investment values are based on actual vendor quotes included in Exhibit C-1171. Since one of the stated objectives of the TELRIC methodology is to represent "the incremental costs that incumbents actually expect to incur in making network

elements available to new entrants,"[34] the use of actual vendor quotes should serve as the prime validity test for reasonableness.

92. Footnote 34 of the Eighth Supplemental Order identifies a second "test" that validates the investment levels produced by ICM. This footnote states that "[t]he New York Public Service Commission ("NY PSC") recently declined to use the SCIS model because the cost estimates were unreasonably high." As discussed in Verizon NW's response to Bench Request No. 42, this footnote is incorrect. The NY PSC did not decline to use SCIS, but adjusted the discount input to SCIS to yield a per line investment amount of $286.51 (Docket 95-C-0657, April 1, 1997, p.85). This is only $1.49 lower than the $288 figure characterized in ¶ 300 as being unreasonable. Logic would dictate that a figure at or above this amount for Verizon NW, a much smaller company, would be reasonable and an investment figure much below this amount would be unreasonable. Also addressed in Verizon NW's response to Bench Request No. 42 is the fact that the NY PSC generated a local switching per minute TELRIC of $.003673 using the NY Telephone model (including SCIS). This figure is nearly three times higher than the TELRIC ordered for Verizon NW using the same methodology, as proposed in Bench Request No. 42.

(3) ISDN Loop Extenders

93. In many cases, CLECs should be able to provision ISDN BRI services to their end-users through the use of a basic 2-wire UNE loop. However, when the loop's physical make-up is not compliant with the technical parameters for provisioning ISDN PRI service, then the ISDN BRI loop extender UNE in conjunction with the basic 2-wire loop UNE allows CLECs

[34] *Local Competition Order*, ¶ 685.

to provide ISDN BRI service to their end-users. Exhibit T-1190:19 (Trimble). Verizon NW proposes recurring rates for ISDN loop extenders that apply only when required to facilitate the provision of ISDN BRI service. *Id*. at 20.

(4) Dedicated Transport

94. Verizon NW proposes rates for three capacity-based categories of direct trunked transport: (1) a voice grade facility (often called a DS-0 level facility), (2) a DS-1 level facility, and (3) a DS-3 level facility. In addition, Verizon NW proposes rates for any required multiplexing, based on the following two types of multiplexing: (1) DS-1 to voice grade, and (2) DS-3 to DS-1. The rate structure for the transport facilities is based on a per central office termination basis as well as a per airline mile basis. *Id.* at 23.

(5) Tandem Switching

95. Verizon NW proposes a TELRIC-based recurring rate for tandem switching on a per minute of use ("MOU") basis. *Id.* at 21.

(6) Dark Fiber

96. Verizon NW proposes a "per strand" recurring rate for a dark fiber UNE loop, as well as associated distribution and feeder sub-loop elements. Verizon NW does not propose deaveraged dark fiber rates. Dark fiber loops were assumed to exhibit the same relative level of cost variation between geographic zones as DS-3 loops exhibit, since a DS-3 loop is a fiber-based loop. The geographic cost variation for DS-3 loops did not support the deaveraging of that offering; therefore, Verizon NW has no rationale to support the deaveraging of dark fiber loops. *Id.* at 21-22.

97. Verizon NW proposes recurring rates for dark fiber interoffice facilities ("IOF")[35] on a "per termination" and "per airline mile" basis. Verizon NW does not propose deaveraged rates for this element since the IOF price structure is mileage sensitive, and thus inherently accounts for geographic cost differences. *Id.* at 23.

(7) Sub-Loop Elements

98. Verizon NW proposes rates for three separate subloop elements for both 2-wire and 4-wire UNE loops: (1) feeder, (2) distribution, and (3) drop. The feeder subloop is the loop facility that extends from Verizon NW's central office main distribution frame ("MDF") to a feeder distribution interface ("FDI"), which may be a cross-connect box or a digital loop carrier ("DLC"). The distribution facility extends from the FDI to, and including, the network interface device ("NID") at the customer's premises. Verizon NW also proposes rates for the "drop," (which is defined for the provision of "one" line) which extends from the pedestal or terminal serving the customer's premise to, and including, the NID at the customer's premises. In addition, the Company proposes two subloop categories for dark fiber: feeder and distribution. *Id.* at 23-24.

99. The ability of a CLEC to access subloop elements is very customer specific and must be evaluated on a case-by-case basis. Access to subloop elements may occur at a MDF, at a cross-connect box or DLC, or the terminal serving the customer's premise. In all cases, the requesting CLEC must first collocate at the point (or points) where access to the subloop is requested or establish a point of connection ("POC") at those points. A POC is like a meet-point

[35] Dark fiber IOF is any unused fiber strands existing between a fiber patch panel located within one Verizon central office and a fiber patch panel in the next Verizon central office through which the fiber is routed. Exhibit T-1190:23 (Trimble).

arrangement in that it is a physical interface that establishes the point at which the ILEC's facilities will be connected with the CLEC's facilities. In order to establish a POC at the requested interface location, the CLEC must first submit a collocation request to its Verizon NW account management team. The collocation request process will determine the technical feasibility of the CLEC's unbundled subloop request, any labor and/or capital costs for which the CLEC is responsible, and the proposed provisioning time frames to facilitate the creation of a POC with the CLEC. *Id*. at 24.

100. To develop deaveraged subloop recurring rates, Verizon NW developed "cost allocation" factors that could be applied to the 2-wire and 4-wire UNE loop rates adopted in Docket UT-960369, et al. These factors allowed the development of subloop rates from the total" UNE loop rate. Verizon NW developed these factors by using the relative level of investment for feeder and distribution out of ICM, resulting in cost element factors of 30% feeder and 70% distribution for a 2-wire loop and 38% feeder and 62% distribution for a 4-wire loop. Exhibit T-1170:4 (Collins).

(8) <u>Intra-Building Riser Cable/Inside Wire</u>

101. Inside wire typically consists of junction and utility boxes, riser cable, and horizontal distribution wiring within an apartment building, and can also include the loop facility within a campus, a commercial park or a garden apartment building. *UNE Remand Order*, ¶ 170. FCC Rule 51.319(a) requires Verizon NW to provide unbundled access to inside wire owned by the Company.

102. As required, Verizon NW defines and offers access to house and riser cable at any technically feasible point in the form of Intra-Building Riser Cable UNEs. Exhibit T-1195:24 (Trimble). Verizon NW proposes that inside wire costs (and prices) be established on a bona

fide request ("BFR") basis. These facilities are inherently location or customer-specific, and therefore no cost model can be expected to calculate reasonable average costs for them. Exhibit T-1190:29 (Trimble). Verizon NW may not own any inside wire connected to a specific customer or deployed in a specific area, and indeed owns very little inside wire in Washington. Exhibit E-1195:1 (Trimble). For these reasons, the Company proposes that the price of inside wire be negotiated on a BFR basis. When a CLEC requests these facilities in a given area, the Company will first determine whether they exist. If they do, Verizon NW will develop costs and prices based on the FCC's rules. Exhibit T-1190:29 (Trimble).

103. In the alternative, Verizon NW is willing to accept AT&T's proposal that the Commission establish a separate path in this docket to specifically address all the issues surrounding the access to any Company owned house and riser cable.[36] In the meantime, Verizon NW is willing to use the recurring and nonrecurring rates the Commission has already established for access to Verizon's NID as proxy rates for house and riser cable ***on an interim basis***, until conclusion of the proposed separate proceeding. Exhibit E-1195:1 (Trimble). Verizon's proposed interim rates for house and user cable are contained in Attachment A.

104. AT&T appears to seek access to intra-building wire owned ***or*** controlled by an ILEC. Tr. 3505-06 (Baker). However, the *UNE Remand Order* and FCC rules clearly require ILECs to provide unbundled access only to intra-building wire owned ***and*** controlled by the ILECs. *See UNE Remand Order*, ¶ 210. Thus, as recognized by AT&T witness Baker, where an ILEC does not own intra-building cable in a specific building and the ILEC-owned facilities stop

[36] House and riser cable, or intra-building cable, is a form of inside wire that is owned by the Company. Exhibit T-1190:26 (Trimble).

at the demarcation point, a CLEC seeking access to intra-building cable would have to deal directly with the building owner. Tr. 3504 (Baker).

105. Taking an overly expansive view of the FCC's "Best Practices Presumption," AT&T also seeks to impose specific requirements on Verizon NW without demonstrating that they are in the public interest or necessary. The *UNE Remand Order* adopts a best practices presumption:

> Once one state has determined that it is technically feasible to unbundle subloops at a designated point, an incumbent LEC in any state shall have the burden of demonstrating, pursuant to state arbitration proceedings under section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own loops at such a point.

47 C.F.R. § 51.319(a)(2)(C); *UNE Remand Order*, ¶ 227.

106. This "Best Practices Presumption" only applies to the narrow issue of whether it is technically feasible for an ILEC to unbundle subloops at a designated point. Joint Intervenor witnesses Klick/Pitkin and AT&T witness Baker, however, incorrectly assume that this presumption also applies to other pricing schemes or terms or conditions a state commission adopts for unbundling subloops. This interpretation is overly broad and should be rejected.

107. In addition, the Commission does not have authority under state law to order access to intra-building cable as requested by the CLECs. RCW § 80.36.370(5) is the only statute granting the Commission express or implied power to control access to any kind of inside wire. Under this statute, the Commission only may order a private shared telecommunications provider ("STS") to make facilities or conduit space available so that a STS customer may have access to a local exchange carrier directly.

(9) UNE-P

108. Verizon NW does not propose specific UNE-P rates. Rather, the rate for a given UNE-P should be the sum of the recurring rates for the individual UNEs to create the "platform" that is currently serving the end-use customer. Thus, the total recurring rate paid by the CLEC will include a deaveraged UNE loop rate and a UNE port rate. The Company's switch usage rates (end-office and tandem) and common/shared transport rates will apply, as appropriate, for all minutes-of-use generated from the platform. Likewise, Verizon NW's proposed rates for switch features also will apply when specific switch features are ordered, as well as Verizon NW's proposed rates for "non-call set-up" queries to the Company's databases. Exhibit T-1190:27 (Trimble).

(10) EELs

109. An EEL is a combination of UNEs (an unbundled loop, multiplexing as required, and interoffice dedicated transport) that facilitates the "extension" of an unbundled loop beyond the central office that serves an end-user. By using an EEL, the CLEC can avoid the need to collocate at every central office to gain access to the unbundled loops within each central office. FCC Rule 51.319 allows ILECs that provide EELs in the top 50 metropolitan statistical areas ("MSAs") to exempt themselves from providing unbundled local switching to requesting CLECs when the CLEC intends to serve a customer with four or more voice grade (DS0) equivalents or lines. Since Verizon NW will be offering EELs in the "Seattle – Bellevue - Everett" MSA, this exemption will apply. Exhibit T-1190:28 (Trimble). Verizon NW does not propose EEL-specific rates. Rather, the rate for a given EEL should be the sum of the recurring rates for the individual UNEs that are required to provision of the requested EEL. *Id.*

(11) Customized Routing and OS/DA

110. The FCC defined operator services ("OS") as any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call. *UNE Remand Order*, ¶ 443. Directory assistance ("DA") is defined as a service that allows subscribers to retrieve telephone numbers of other subscribers. *Id.* Verizon NW is not required to provide operator services and directory assistance ("OS/DA") on an unbundled basis in Washington because it offers customized routing to CLECs in all areas of the state, subject only to site-specific technical limitations. Exhibit T-1190:29 (Trimble). The *UNE Remand Order* makes clear that where an ILEC provides customized routing to a CLEC as part of the unbundled switching element, lack of access to OS/DA functions does not diminish the CLEC's ability to provide the service it seeks to offer. ¶ 442. Accordingly, Verizon NW is not required to offer OS/DA at all within Washington. Nevertheless, Verizon NW is willing to offer OS/DA services to CLECs. Because access to this UNE is not mandated, however, Verizon NW will offer OS/DA services at market-based rates. Exhibit T-1190:29 (Trimble).

111. As for customized routing, Verizon NW proposes that the rates be established on a case-by-case basis. Despite its availability, Verizon NW has not received a single request for customized routing since 1996. *Id*. Accordingly, it would not be appropriate for the Commission to establish costs and prices in this proceeding. Rather, Verizon NW's proposal provides a more realistic and reasonable manner in which to determine costs and set prices for customized routing.

(12) Packet Switching

112. Verizon NW does not propose specific rates for packet switching, but will handle any requests on a case-by-case basis through the BFR process. Exhibit T-1190:29-30; Tr. 2908

(Trimble). With one limited exception, the FCC expressly declined to require unbundling of packet switching functionality or technologies, *see UNE Remand Order*, ¶¶ 306-317:

> (B) An incumbent LEC shall be required to provide nondiscriminatory access to unbundled packet switching capability *only where each of the following conditions are satisfied . . .*
>
> (i) The incumbent LEC has deployed digital loop carrier systems, including but not limited to, integrated digital loop carrier or universal digital loop carrier systems; or has deployed any other system in which fiber optic facilities replace copper facilities in the distribution section (*e.g.*, end office to remote terminal, pedestal or environmentally controlled vault);
>
> (ii) There are no spare copper loops capable of supporting the xDSL services the requesting carrier seeks to offer;
>
> (iii) The incumbent LEC has not permitted a requesting carrier to deploy a Digital Subscriber Line Access Multiplexer at the remote terminal, pedestal or environmentally controlled vault or other interconnection point, nor has the requesting carrier obtained a virtual collocation arrangement at these subloop interconnection points as defined by § 51.319(b); and
>
> (iv) The incumbent LEC has deployed packet switching capability for its own use.

47 C.F.R. §51.319(c)(5) (emphasis added). No unbundling of packet switching is required unless and until *all four* of the specified conditions are satisfied. These conditions are not currently met in Washington. Verizon NW has not deployed any DSLAMs in remote terminals in Washington. Exhibit T-1190:30 (Trimble). Nor is there any evidence that the other three conditions have been met.

(13) SS7 and Call-Related Database

113. The FCC defined the signaling network element to include signaling links and signaling transfer points. Further, the FCC defined call-related databases as databases that are used in signaling networks for billing and collection or the transmission, routing, or other

provision of telecommunications service. *UNE Remand Order* at ¶ 403. Consistent with the FCC definition of these elements, and as required by FCC Rule 51.319(e)(1), Verizon NW currently provides CLECs with access to signaling networks, call-related databases, and service management systems on an unbundled basis. Verizon NW also provides access to its call related databases including the Calling Name Database, 911 Database, E911 Database, Line Information Database, Toll Free Calling Database, Advanced Intelligent Network Databases, and downstream number portability databases. Pursuant to the FCC rule, Verizon NW provides access to these databases by means of physical access at the signaling transfer point linked to the unbundled database. *See* 47 C.F.R. § 51. 319(e)(2)(i).

114. Verizon NW does not propose prices for CLEC access to the 911 or E911 databases or access to the GTE advanced intelligent network ("AIN") service creation environment and associated databases. Rather, Verizon NW proposes to establish these prices on a case by case basis. T-1190:30-36 (Trimble)

(14) Fiber-Fed DLC

115. Verizon NW's proposed rates for fiber feeder subloops are contained in Attachment A.

IV. Reciprocal Compensation

A. Legal and Policy Issues

116. In the *ISP Remand Order* the FCC has asserted its jurisdiction to define inter-carrier compensation for ISP-bound traffic. The FCC determined "that inter-carrier compensation for ISP-bound traffic is within the jurisdiction of this Commission [FCC] under Section 201 of the Act, …" *ISP Remand Order*, ¶ 4. The FCC concluded that ISP-bound traffic is not subject to the reciprocal compensation requirement in Section 251(b) because it falls into

the carve-out provision in § 251(g), which excludes several enumerated categories of traffic from the universe of "telecommunications" referred to in § 251(b)(5). *Id.* at ¶¶ 34, 44. The FCC explained that "Section 251(g) expressly preserves the Commission's rules and policies governing 'access … to information service providers' in the same manner as rules and policies governing access to IXCs" and that ISP-bound traffic falls within one of the excluded categories of § 251(g), "information access." *Id.* at ¶ 39. The FCC went on to determine that under § 201 it has the authority to establish rules governing inter-carrier compensation for ISP-bound traffic. *Id.* at ¶ 52. Moreover, it stated, "[b]ecause we now exercise our authority under Section 201 to determine the appropriate inter-carrier compensation for ISP-bound traffic, … ***state commissions will no longer have authority to address this issue."*** *Id.* at ¶ 82. (emphasis added). The *ISP Remand Order* has thus preempted this Commission with respect to pending issues relating to inter-carrier compensation for ISP-bound traffic. Several CLECs participating in this proceeding have acknowledged this fact in recent public filings.[37]

B. Jurisdiction

117. Verizon NW addressed the issue of jurisdiction in Section IV.A., above.

C. Rate Structure

118. Verizon's proposed rates for reciprocal compensation for non-ISP-bound local traffic are contained in Exhibit 1191 and Attachment A to this brief. These rates were uncontested and should be adopted.

[37] *See* Comments of Allegiance Telecom of Illinois, Inc., Focal Communications Corp. of Illinois, McLeodUSA Telecommunications Services, Inc., AT&T Communications of Illinois, Inc., TCG Chicago, TCG Illinois, TCG St. Louis and Worldcom Inc. Concerning Impact of FCC Order on Intercarrier Compensation for ISP-Bound Traffic, *Illinois Commerce Commission On Its Own Motion Establishing Rules for Reciprocal Compensation for Internet Service Provider-bound and other local traffic,* Docket 00-0555, filed May 7, 2001.

119. For ISP-bound traffic, the *ISP Remand Order* specifically preempts the Commission's authority to address inter-carrier compensation mechanisms. *FCC ISP Remand Order*, ¶ 82. Should the Commission nevertheless continue to consider this matter, which it should not, Verizon recommends that the Commission initiate a separate generic proceeding to develop a complete and comprehensive framework for establishing the proper rate structures and levels. Exhibit T-1190:34 (Trimble). In the interim, Verizon NW recommends adoption of a rate structure that follows the price structure in place for end users for that type of call. In other words, so long as the end users are billed on a flat-rate basis, the compensation basis for exchange local traffic should also be on a non-traffic sensitive bases. The only plan that exactly matches a flat-rated, retail rate structure—and the one Verizon NW would propose as an appropriate interim guideline—is commonly termed "bill and keep." However, the Commission must also allow individual companies to negotiate whatever structures they agree satisfy their mutual objectives. *Id.* at 35.

120. If the Commission does not adopt bill and keep and instead establishes a usage-based scheme, then Verizon NW proposes that the Commission adopt a rate structure that matches the structure set by the FCC in the *FCC ISP Remand Order*, which phases out inter-carrier compensation for ISP-bound traffic over time. ¶¶ 77-78.

D. <u>Tandem Switching Issue</u>

121. FCC Rule 51.711(a) mandates that reciprocal compensation "shall be symmetrical" except for three specific factual scenarios - one of which CLECs claim applies to them: "when the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch." *See* T-1200:25-26 (Argenbright); T-1220:37-38 (Starkey). CLECs claim that many of their switches meet this

definition merely by virtue of the fact that CLECs use a network architecture that includes a single switch on a ring-like architecture that covers a large geographic area -- even though that switch may not be serving the same function as a tandem in an ILEC's network. *See* T-1200:25-26 (Argenbright); T-1220:37-39 (Starkey).

122. The FCC contemplated new technologies such as those deployed by CLECs and clarified in its *Local Competition Order* that the tandem rate should only apply in the event that the "new technologies" like fiber rings "perform functions similar to those performed by an incumbent LEC's tandem switch…" ¶ 1090. CLECs do not assert, and no evidence has been presented in this proceeding, that their switches serve the same or even similar functions as ILEC tandems. Accordingly, this rule does not apply, and the reciprocal compensation rates applicable for non-ISP-bound calls terminated to CLECs' networks should be symmetrical based on the actual functions performed.

E. Interconnection Cost Sharing

123. According to XO Washington witness Rex Knowles, the disputed issue regarding interconnection cost sharing has been rendered moot by virtue of the Commission's adoption of collocation rates in Phase A of this proceeding. According to Mr. Knowles, the dispute regarding interconnection cost sharing is limited to whether ILECs should be ordered to share the costs of collocation facilities to the extent such collocation facilities are used to provide interconnection *and* are priced inappropriately high. Tr. 3083 (Knowles) (emphasis added). Collocation costs and rates were considered by the Commission in Phase A of this proceeding. Because XO Washington considers the collocation costs and rates adopted by the Commission in Phase A "reasonable," the situation in which XO Washington was seeking cost sharing can no

longer exist. Tr. 3084-3085 (Knowles). Accordingly, and as Mr. Knowles stated in cross-examination, this issue is now moot. *Id.*

V. DSL Issues

A. Line Splitting

1. Implementation of Line Splitting

124. CLECs currently may engage in line splitting using existing FCC defined UNEs. *See* Verizon NW Phase A Opening Brief, ¶¶ 65-66, 72, Verizon NW Phase A Reply Brief, ¶¶ 34-39. Verizon clarified this in a formal policy statement issued on February 14, 2001 to all CLECs, including those participating in this proceeding. *See* Exhibit T-1140:2 (Lee). As this policy statement makes clear, CLECs may engage in line splitting by using Verizon's existing OSS "to order and combine in a line splitting configuration an unbundled xDSL capable loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects." Exhibit 1141. In other words, a CLEC that is using a UNE-P arrangement can order (1) an unbundled xDSL capable loop that is terminated to a collocated splitter and DSLAM equipment and (2) unbundled switching combined with shared transport. This scenario is available today and does not require system modifications by Verizon. Exhibit T-1133:3 (Lee). Moreover, this scenario satisfies Verizon's FCC line splitting obligations. *See MA Verizon 271 Order*,[38] ¶¶ 175-76. The FCC recently found that "the *Line Sharing Reconsideration Order* does not require Verizon NW to have implemented an electronic OSS functionality to permit line splitting." *Id*. at ¶ 180. Thus, Verizon currently satisfies its requirements under the Act and

[38] *Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-9 (rel. Apr. 16, 2001).

"makes it possible for competing carriers to provide voice and data service over a single loop, *i.e.*, to engage in line splitting." *Id*. at ¶ 176.

125. Beyond the current option for line splitting, Verizon is developing a nationwide service description for a line splitting product based on the results of the DSL Collaborative monitored by the New York Commission in Case 00-C-0127 ("New York Collaborative"), allowing for local jurisdictional and OSS differences. Verizon's commitment to implement a standardized line splitting product throughout the Verizon footprint, including Washington, will be consistent with the timeframe, terms, conditions and guidelines agreed upon in the New York Collaborative. Exhibit T-1140:2 (Lee); Exhibit 1141. These service descriptions, outlined in Exhibit 1134, are nearly finalized. Tr. 2510, 2532-33 (Lee). The only objection raised by the CLECs in this proceeding is over the absence of a Verizon-owned splitter configuration. As discussed below, however, Verizon NW is not required to purchase and install splitters on behalf of CLECs.

126. With respect to the complex line splitting arrangements and the associated OSS work for line splitting, the FCC has urged ILECs and CLECs to work together to develop processes and systems to support the ordering and provisioning of such arrangements. *Line Sharing Reconsideration Order*, ¶¶ 21, 22 n. 41. Verizon and the CLECs—including those in this proceeding—have been working in the New York Collaborative to finalize the details associated with ordering, provisioning and billing when a CLEC wants to provide line splitting. Exhibit T-1140:2 (Lee). Verizon NW will implement line splitting OSS enhancements in Washington consistent with these collaborative discussions, accounting for jurisdictional differences between the former GTE and Bell Atlantic OSS.

2. A Separate Washington-Specific Collaborative Is Unnecessary for Verizon NW

127. Given Verizon's commitment to implement line splitting in Washington consistent with the results of the New York Collaborative, Staff's suggestion that a separate collaborative for Washington be established is unnecessary. For over a year, Verizon has been doing just as the FCC recommended in the *Line Sharing Reconsideration Order*—participating in an industry-wide generic proceeding to address the complex technical issue of line splitting, namely the New York Collaborative. The majority of CLECs and DLECs participating in this proceeding are also willing and active participants in the New York Collaborative, and certainly recognize the benefits of the collaborative process. To replicate this process in Washington would not be an efficient use of the parties' or the Commission's resources. The Commission should not ignore the progress already made in the New York Collaborative, and should permit Verizon NW to use the results of the New York Collaborative to develop a uniform nationwide service description and the associated terms and conditions for line splitting. The FCC has already endorsed this approach. *See MA Verizon 271 Order* at ¶¶ 180-81 (recognizing with approval that Verizon is implementing line splitting in Massachusetts based on the results of the New York Collaborative).

3. Splitter Ownership

128. In Phase A, Verizon presented in great detail its position on splitter ownership.[39] The Commission joined the majority of the states that have addressed this issue by declining to

[39] *See* Verizon Phase A Reply Brief, ¶¶ 10-19, incorporated herein by reference.

require ILECs to purchase splitters on behalf of CLECs.[40] *See* Thirteenth Supplement Order, ¶ 196-97.[41] No party filed a motion for reconsideration of that Order, nor did any party provide any evidence in Phase B to justify a different result. On the contrary, AT&T admits that it is just as capable of purchasing splitters as the ILECs. Tr. 3441 (Gillan). Consequently, the Commission should affirm its decision that ILECs are not required to purchase splitters for CLECs.

[40] *See* Final Arbitrator's Report, *Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks,* Rulemaking 93-04-003, Investigation 93-04-002 (Interim Arbitration, Line Sharing Phase) (Cal. P.U.C., May 26, 2000, app'd Commission Order D.00-09-74, Sept. 22, 2000) ("California Final Arbiter's Report) at 21; Order, *Illinois Bell Telephone Company Proposed Implementation of High Frequency Portion of Loop (HFPL)/Line Sharing Service*, Docket No. 00-0393 (Ill. C.C. March 14, 2001) at 52 (concluding that "Ameritech Illinois is not required to provide splitters under any circumstances and, therefore, cannot be required to provide them to CLECs utilizing the UNE-P," and declining to unbundle splitters as a new UNE); Arbitration Decision, *Covad Communications Company Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Docket Nos. 00-0312, 00-0313 (Ill. C. C., Aug. 17, 2000) at 12-13 (citing both *Line Sharing Order* and *SBC 271 Order* in concluding it is clear that "Ameritech Illinois is under no legal obligation to make available Ameritech Illinois owned splitters"); Order No. 76488, *In the Matter of the Arbitration of Rhythms Links, Inc.*, Case No. 8842 (Phase I) (Md. P.S.C., Oct. 6, 2000) at 11-13 (adopting Hearing Examiner's determination that under the FCC's *Line Sharing Order*, ILEC ownership of the splitter is permissive, not mandatory); Order, *Investigation by the Department as to the Propriety of the Rates and Charges Set Forth in M.D.T.E. No. 17*, Docket No. 98-57 (Phase III) (Mass. D.T.E, Sept. 29, 200) ("Massachusetts Order") at 32-35 (finding that the FCC's rules and orders clearly provide that ILECs may provide splitters for CLEC use, but are not required to do so); Opinion and Order, *Petition of Covad Communications Company for an Arbitration and Award Against Bell-Atlantic Pennsylvania, Inc. Implementing the Line Sharing Unbundled Network Element*, Docket Nos. A-310696F002, A-310698F0002 (Penn. P.U.C., Aug. 17, 2000) ("*Pennsylvania Covad Decision*") at 29 (finding no basis in law or policy to require ILECs to purchase splitters); Opinion And Order Concerning Verizon's Wholesale Provision Of DSL Capabilities, Opinion No. 0012, *Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services*, CASE 00-C-0127 (N.Y. P.S.C., Oct. 31, 2000) at 19-20 (rejecting AT&T's arguments that splitter ownership was an intrinsic component of the loop and finding that splitter ownership will continue at Verizon's option unless the FCC finds otherwise); Interim Award, *Petition of IP Communications Corporation to Establish Expedited Public Utility Commission Oversight Concerning Line Sharing Issues*, Docket Nos. 22168, 22469 (Tex. P.U.C., Aug. 1, 2000) at 8 (holding that "the most reasonable interpretation of the *Line Sharing Order* . . . is that the ILECs can *either* provide CLECs with the splitter equipment *or* allow CLECs to use their own splitting equipment").

[41] Since that time, the FCC has ruled yet again that an ILEC only has an obligation to provide line splitter where a CLEC provides its own splitter. *Line Sharing Reconsideration Order*, ¶ 19, 21.

4. The Commission Should Not Require ILECs to Continue to Provide xDSL Services to Customers Migrating to a UNE-P Provider

129. AT&T and Worldcom request that the Commission require Verizon NW or its affiliate to continue providing xDSL service if an end user switches its voice service to a UNE-P provider.[42] Exhibit T-1250:3 (Lathrop); Tr. 3358 (Lathrop). As a preliminary matter, neither company presented any evidence that Verizon Advanced Data Inc. ("VADI") has refused to continue to provide xDSL service in this situation.

130. The FCC has already rejected AT&T's and Worldcom's request. In the *Line Sharing Reconsideration Order*, the FCC concluded:

> We deny, however, AT&T's request that the Commission clarify that incumbent LECs must continue to provide xDSL services in the event customers choose to obtain voice service from a competing carrier on the same line because we find that the *Line Sharing Order* contained no such requirement.

Line Sharing Reconsideration Order at ¶ 16. The FCC further stated:

> Incumbent LEC xDSL and Competing Carrier Voice Service Combinations. As described above, we deny AT&T's request for clarification that under the *Line Sharing Order*, incumbent LECs are not permitted to deny their xDSL services to customers who obtain voice service from a competing carrier where the competing carrier agrees to the use of its loop for that purpose. Although the *Line Sharing Order* obligates incumbent LECs to make the high frequency portion of the loop separately available to competing carriers on loops where incumbent LECs provide voice service, it does not require that they provide xDSL service when they are no longer the voice provider. We do not, however, consider in this Order whether, as AT&T alleges, this situation is a violation of sections 201 and/or 202 of the Act. To the extent that AT&T believes that specific incumbent behavior constrains competition in a manner inconsistent with the Commission's line sharing rules

[42] Verizon NW notes a fundamental due process concern raised by AT&T and Worldcom's request. Verizon NW does not – and is not authorized to – provide advanced services, its separate data affiliate is not a party to this proceeding.

> and/or the Act itself, we encourage AT&T to pursue enforcement action.

Id. at ¶ 26.

131. The FCC's decision applies equally to VADI and Verizon. If VADI were considered to be a successor or assign of Verizon, as a recent District of Columbia Circuit Court decision suggests,[43] then VADI would not only be subject to the unbundling obligations imposed by the FCC's rules, but also to any exemptions therefrom. On the other hand, if VADI is considered a wholly separate entity from Verizon NW, it has the same rights and obligations as any other CLEC or DLEC. Neither the FCC nor this Commission has imposed an obligation on any DLEC providing xDSL services to a customer receiving voice services from Verizon NW to continue providing those services in the event the end user changes voice carriers to a UNE-P provider. Indeed, DLECs would likely vigorously oppose such a requirement. Worldcom and AT&T provided no credible evidence that they would not have the same problem competing with another UNE-P provider providing a combined voice and data package through a line splitting scenario, or—as is likely to soon be the case with AT&T—through its own facilities.

132. AT&T, which has purchased Northpoint's collocation assets and can provide voice and data service itself, would most likely have the same incentive Worldcom believes an ILEC would have to refuse to continue providing xDSL service in an effort to retain its voice customer. Similarly, where a DLEC and the UNE-P provider cannot reach agreement on issues of branding, control of the loop, or who has the relationship with the end user—as the CLECs

[43] *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (rejecting the FCC's conclusion that the separate data affiliate required as a condition of its approval of the merger between SBC Communications, Inc. and Ameritech Corp. is not a "successor or assign" of SBC and thus not subject to the requirements of § 251 of the Act).

and DLECs have in the New York Collaborative, Tr. 3412 (Lathrop)—the DLEC may not want to continue providing xDSL services to an end user receiving voice from a UNE-P provider. Thus, Worldcom provides no rational justification for treating an ILEC or ILEC data affiliate any differently than any other data service provider.

133. Moreover, AT&T and Worldcom offer no solution to a myriad of issues raised by their proposal. Worldcom does not address what—if anything—the UNE-P provider would charge an ILEC or its affiliate to continue providing xDSL service. Tr. 3363-64 (Lathrop). At a minimum, Verizon NW can only assume that the UNE-P provider would charge the $4 rate for the high-frequency portion of the loop established by the Commission's Thirteenth Supplemental Order. However, because CLECs are not subject to the unbundling provisions, and thus are not subject to the pricing rules for UNEs, there are no limitations on what a UNE-P provider could charge in this situation. Similarly, Worldcom does not explain whether the ILEC or its affiliate would remain the branded provider of xDSL services, or who would retain xDSL revenues received from the end user. Tr. 3364-66 (Lathrop). Worldcom suggests that these issues could be handled through negotiation. *Id*. However, because CLECs are not subject to the Act's unbundling, negotiation, and arbitration requirements, it is unclear under what statutory obligation the CLECs would be to indeed negotiate such issues. Similarly, should the parties not agree on the resolution of these issues, the Act provides no mechanism by which they must adjudicate these disputes. In short, to use Chairwoman Showalter's analogy of line splitting as a house,[44] AT&T's and Worldcom's proposal would permit a DLEC leasing the upper floor to

[44] *See* Tr. 2286.

hold an ILEC or its data affiliate hostage on the bottom floor with no rent controls or restrictions on the terms of the lease. Nothing in the Act supports such a result.

134. AT&T's and Worldcom's request stems from a concern that the competitive data providers may soon be out of business, and that they (AT&T and Worldcom) cannot compete for voice customers currently receiving xDSL service unless they can assure the customers continue to receive xDSL service. Tr. 3381-82 (Lathrop). However, neither AT&T nor Worldcom provides any evidence as to why it cannot provide xDSL services to those customers itself. Indeed, Worldcom states that it currently provides data services through its own facilities. Tr. 3393 (Lathrop). Yet, it contends it would be competitively harmed unless the Commission requires an ILEC or its affiliate to continue providing xDSL services. Similarly, AT&T now has the equipment necessary to provide xDSL service itself. Tr. 3438 (Gillan).

135. Moreover, Verizon NW questions the Commission's authority to require any carrier—ILEC or DLEC—to provide xDSL advanced services to any end user. Retail xDSL services have been classified as an interstate exchange access service. *See In the Matter of GTE Telephone Operating Cos. GTOC Tariff No. 1, GTOC Transmittal No. 1148*, CC Docket No. 98-79; Memorandum Opinion and Order (rel. October 30, 1999) ("*GTOC Tariff Order*") (finding that GTE's ADSL service is an interstate service properly tariffed at the federal level). State commissions have no jurisdiction over federally tariffed services.

5. Costs and Interim Rates

136. As required by the Fifth Supplemental Order, Verizon NW submitted preliminary cost estimates and interim rates for line splitting. T-1163:1 (Richter). However, the preliminary costs and interim rates submitted are not intended to be Verizon NW's final costs and rates for line splitting, which can only be determined after a service description has been finalized. *Id.*

Accordingly, Verizon NW recommends that costing and pricing decisions be deferred until a clearer picture of line splitting has evolved. *Id.* at 4.

137. In providing line splitting, Verizon NW will incur costs for ordering, provisioning and central office activities. Although the service description for line splitting had not been finalized at the time Verizon NW submitted its study, the Company assumed that line splitting will likely cause ordering, provisioning and central office activity costs similar to those caused by line sharing. Accordingly, Verizon NW used its previously submitted costs for line sharing, which were approved by the Commission in Phase A, as proxies. In addition, Verizon NW's preliminary costs include costs for migration of an existing line sharing arrangement to a line splitting arrangement. In that case, UNE-P migration costs were used as proxies. Line splitting ordering activities will be performed by the NOMC through the LSR process. Provisioning costs are based on the number of "touches" required to process a CLEC request. *Id.* at 4-12.

138. Verizon NW's proposed prices for line splitting are intended to be ***interim*** prices - in effect only until Verizon NW can develop costs and prices based in the final line splitting descriptions implemented in Washington. To account for such determinations, Verizon NW's proposed rates include placeholders, marked "TBD" ("to be developed") for costs that Verizon NW may incur in providing line splitting but cannot yet define. Consistent with all of Verizon NWs non-recurring rates, line splitting NRCs are based on the costs presented with no mark-up applied for common costs. However, like those submitted for other UNEs, line splitting LSRs will include a charge for the variable costs of ordering, fixed/shared costs, and an amount for recovery of OSS costs. Verizon NW also proposes an additional charge per line sharing and line splitting LSR for recovery of OSS transition costs related to the establishment of the Mechanized Loop-Prequalification process. *Id.* at 13-16.

B. Line Sharing Over Fiber Fed DLC Loops

139. Covad recommends that the Commission order Washington ILECs to permit CLECs to line-share over fiber-fed DLC loops at the UNE rates established for line sharing in the Thirteenth Supplemental Order. Exhibit T-1302:3 (Klick). As a preliminary matter, Verizon NW notes that a CLEC may currently obtain access to the high-frequency portion of a loop served by fiber-fed DLC by collocating its DSLAM at or near the FDI accessible terminal that connects Verizon's copper distribution plant to Verizon's DLC supported feeder, and then purchase a subloop feeder element to transport its data signal back to the central office. A CLEC may also use its own facilities or those of a third party to transport the data over a network separate from Verizon's. *See* Exhibit T-1136:17 (Lee); Exhibit 1137. This configuration satisfies Verizon's requirements under FCC rules. *See Line Sharing Reconsideration Order* at ¶ 12 (clarifying that "where a competitive LEC has collocated a DSLAM at the remote terminal, an incumbent LEC must enable the competitive LEC to transmit traffic from the remote terminal to the central office. The incumbent LEC can do this, at a minimum, by leasing access to the dark fiber element or by leasing access to the subloop element"). Rates for this configuration would consist of those for collocation and the underlying elements ordered by the CLEC.

140. While the FCC has recognized that there are other ways in which line sharing may be implemented where there is fiber in the loop, it has not mandated any particular means. Instead, the FCC initiated further proceedings to address the various methods by which CLECs can obtain access to the unbundled high-frequency portion of the loop where an ILEC has deployed fiber in the loop (*e.g.,* where the loop is served through a fiber-fed DLC at a remote terminal).

141. Verizon NW recognizes that a second method of providing access to the high frequency portion of a loop served by fiber-fed DLC involves the use of an integrated DLC line card that provides voice and ADSL functionality. Exhibit T-1136:17 (Lee); Exhibit 1138. Verizon has now made a tentative decision to pursue the development of a potential wholesale product offering using this second method, similar to SBC's Project Pronto. Exhibit T-1136:17 (Lee). Verizon initiated workshops in New York with over 300 CLECs and DLECs, the first of which was held on February 6, 2001, to address issues surrounding the provision of xDSL services over fiber-fed loops. This is the first step of a process involving a multitude of regulatory, funding, technical, and operational issues that must be resolved. *See* Exhibit T-1150:2-3 (Bykerk). Technical issues include obtaining hardware and software from DLC suppliers that meet performance and standardization testing, and data aggregation and de-aggregation configuration development. Additionally, many process and administrative issues have yet to be addressed, much less resolved, including the development of ordering and provisioning processes and the necessary back-office function development and testing. Exhibit T-1136:17 (Lee).

142. If and when Verizon implements a nationwide Pronto-like wholesale product as a result of these industry workshops, it should be priced based on wholesale market rates, not TELRIC. This is because it will be a service and not a UNE. In any event, because Verizon NW has not yet determined the configuration of these services, it cannot provide any detailed cost studies to support rates at this time. An arrangement where the CLEC places its DSLAM at the remote terminal is the only one that should be considered for TELRIC treatment, based on the FCC's *UNE Remand Order* and *Line Sharing Reconsideration Order.* Exhibit T-1136:19 (Lee).

143. In addition, VADI was created for the provision of advanced services such as xDSL as a merger condition. Verizon NW cannot offer retail advanced services of this type on its own. If a wholesale offering utilizing integrated DLC line cards with ADSL functionality becomes available, Verizon NW will offer it on a non-discriminatory basis to all DLECs and CLECs, including its own affiliate, VADI, under appropriate contractual agreements. Similarly, once the separate affiliate requirement of Verizon's merger conditions sunsets, Verizon's advanced services division must use these same processes.

144. The CLECs seek to own line cards in an ILEC remote terminal. However, under no circumstances should a CLEC be permitted to do so. A remote terminal line card is an integral part of the ILEC voice network, in the same fashion as a switch line card. It is an asset that absolutely needs to remain the property of, and under the sole control of, the ILEC. Likewise, when dual function cards become available (i.e. integrated line cards), the ILEC needs to own and control the physical asset. As previously stated, even though Verizon has decided to pursue a potential nationwide wholesale service offering that would provide DSL capabilities at remote terminals using integrated line cards, it has not finalized that decision nor is it anywhere near operationally ready to offer such a service at this time. Exhibit T-1136:18 (Lee).

VI. OSS Costs

145. While Congress required the ILECs to open up their networks to competition, it also sought to ensure that they would be compensated for reasonable costs incurred as a result of their efforts to comply with this mandate. Accordingly, § 251(d)(1) of the Act requires that rates for interconnection and network elements be "just and reasonable" and "based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable)." The FCC has specifically stated

that ILECs are entitled to recover "reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element." *Line Sharing Order*, ¶ 144. This finding applies by extension to any OSS modifications caused by the obligation to provide any UNE, including line splitting. Neither the Act nor the FCC mention a time limit for such compensation.

146. Moreover, the Commission's Seventeenth Supplemental Order ruled that ILECs are "entitled to recover the cost of OSS from CLECs" and that the ILECs were to make a strong showing of their costs in order to determine what amount ILECs "may reasonably expect to recover." ¶102. The Commission's findings also do not contemplate a limit on ILEC OSS cost recovery, nor should there be, given that additional requests for recovery of OSS costs are a result of additional regulatory mandates.

147. Beyond those identified in Phase A, Verizon NW has not quantified all OSS costs incurred to comply with its unbundling requirements. Specifically, with the exception of the costs incurred to develop a mechanized loop prequalification process, Verizon NW has not identified the costs incurred to implement line sharing and line splitting. Indeed, many of these costs have yet to be incurred. Thus, Verizon NW reserves the right to seek recovery for these costs once they are incurred and quantified.

VII. Conclusion

148. The numerous references in this brief to previous orders of the Commission are a reflection of the progress made toward addressing local market competition in Washington. Many of the initial generation of issues have been resolved and the Commission and the parties are now dealing with more discreet and sometimes more complex issues that are tied directly to

the business plans of the competitors. This is, and will be, a good thing for Washington's end users.

149. The fact that the cost studies and models presented in this docket were sponsored only by the incumbents represents a giant step forward in achieving a more efficient resolution of the issues. Those studies and models reflect more closely the incumbent's own costs on a going forward basis, and their use allows the parties to focus on testing those studies and models as opposed to spending resources on simply deciding what studies or models to use.

150. The issues addressed in this docket also illustrate the difficulty that sometimes exists determining the line that identifies the demarcation between federal and state jurisdiction. The *ISP Remand Order* is perhaps the best example of this tension.

151. With these thoughts in mind, Verizon NW notes that there are many issues before the Commission in this Phase B, but there is no disagreement on many of them. Where there is a disagreement, Verizon NW has considered the alternative positions offered and altered its own position in several instances. Where Verizon NW has considered the alternative position and concluded that its own position is better-supported and well-reasoned, it has continued to support its own position. On these latter issues, Verizon NW respectfully requests that the Commission reach this same conclusion.

Respectfully submitted,

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