BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport, Termination, and Resale.	DOCKET NO. UT-003013 COMMISSION STAFF'S REPLY BRIEF *PART B*

I. A. LEGAL ISSUES

In its opening brief, Verizon advocates that the Commission establish only interim costs and prices in this docket, to "hedge" the possibility that the U. S. Supreme Court will uphold the Eighth Circuit's invalidation[1] of a portion of the FCC's pricing rules. Verizon Opening Brief, ¶¶ 15-18. Staff does not agree that the proper course of action would be to set interim rates. The Commission is well aware that the Eighth Circuit's decision if the FCC's pricing rules are upheld, then the Commission would not need to revisit the costs and prices that have been set. On the other hand, if the FCC's rules are overturned, and thus the costs and prices established pursuant to those principles are called into question, we are confident that the Commission would act as appropriate to revisit the costs and prices set in the proceedings in this docket and associated dockets.

[1] *Iowa Utilities Board v. FCC,* 219 F.3d 744 (Eighth Cir. 2000).

Verizon also asserts that the Commission may act to set costs and prices based only on the final pricing rules of the FCC, and not on any independent state authority. *Id.*., ¶¶ 17, 18. As Covad points out at page 6 of its Post-Hearing Brief, the policy of Washington State, as expressed in RCW 80.36.300, is consistent with the 1996 Act and FCC Orders. The parties to this proceeding agreed that the TELRIC methodology was the most appropriate costing analysis to use[2] for establishing the costs and prices of unbundled network elements, and this Commission has noted that the FCC's Interconnection Order provides guidance on many issues, but is largely nonbinding.[3]

II. A. RESPONSE TO QWEST OPENING BRIEF

1. Nonrecurring costs and Study Methodology

a. 1) Time for carrier service center calls

At pages 13-14 of its opening brief, Qwest asserts that the Commission should reject Ms. Roth's recommendation to reduce the call time for carrier service center calls, as recommended by Ms. Roth in Exhibit C-1363. In support of this argument, Qwest cites to the transcript of Ms. Anderl's cross-examination of Ms. Roth, at pages 3904-3907. However, a careful review of that portion of the transcript reveals that Ms. Roth did not concede that Qwest's cost study differentiated between intracompany calls and calls to or from the customer. Ms. Roth did agree that her recommendation on the time for calls <u>may</u> change, if the time was to reflect handling calls both internally and calls with the customer, but it <u>depends on what the company would file</u> to support that. TR. 3906: 21-24. In other words, if the company's cost study clearly supported the assertion that both intracompany calls and calls to and from the customer were involved,

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[2] *Eighth Supplemental Order Establishing Costs for Determining Prices in Phase II*, Docket No. UT-969369, et.al., ¶ 9.
[3] *Id.*

Staff's recommendation might change. It should also be noted, however, that the two portions of the cost study (C-1002[4]) that were referenced in connection with that study, including times for calls regarding connection (page 213) and disconnection (page 217) use the same number of minutes for calls, even though the description on page 213(for connection) includes "Handle customer and internal calls regarding ASR", while the description on page 217 (for disconnection) reads "Intracompany calls." Thus, even though the description of the activity is different, the company's study used the same number of minutes for both connection and disconnection. Staff's position is that the estimated time for calls relating to connection may be justified as being higher than for disconnection, but the company would need to justify that with a supporting study or other documentation. Qwest has failed to do so.

a. 2) Probability of receiving mechanized orders

Continuing on page 14 of its opening brief, Qwest notes that it did not adopt Staff's recommendation that it increase the probability that it will receive mechanized orders from CLECs, as opposed to receiving those orders by fax. Referring again to Qwest's cross-examination of Ms. Roth, TR. 3907-9, she was asked whether she knew what Qwest's actual percentage of manual vs. electronic orders was. Ms. Roth replied that she could address how she developed the number she used to recommend the 75% probability of mechanized orders. Ms. Anderl, at TR 3907, asked specifically about Ms. Roth's recommendation on Exhibit C-1363 for the probability for non-electronic interconnection, defining electronic interconnections as "either the IMA GUI or IMA EDI interface" TR 3907: 16-17. Ms. Roth replied (TR 3908:2-3) that she could explain how she developed the 75% and 25% figures she used in C-1363, and referenced a confidential compliance filing that Qwest (then US West) made on November 15, 1999, in

[4] The relevant pages in Qwest's updated cost study, Exhibit C-1010, are 276 and 283.

response to the Commissions' 17th Supplemental Order in Docket No. UT-960369. Ms. Anderl did not pursue the identification of the precise reference, which is attached as Confidential Appendix A to this reply brief. From page 4 of COMPL. ATTACHMENT B (Confidential) it can be seen that Ms. Roth's characterization,[5] that the number in Qwest's compliance filing for probability of receipt of mechanized orders is higher than 75% and lower than 25% for processing of manual (facsimile) orders. One can assume that Qwest's processes have become more mechanized as it continues to develop its OSS process. Ms. Roth's recommendation that the probability of 75% for electronic and 25% for manual orders be used is in the range of what Qwest has reported, is reasonable, and should be adopted.

a. 3) Six minute order processing time

In it Opening Brief at pages 17-19, Qwest first states, relating to its cost study for the six minutes for processing orders in the interconnect service center, that it overlooked that adjustment to the time estimates that were necessary to comply with the Commission's Eighth Supplemental Order in Docket No. UT-960369, ¶474. Therefore, in its rebuttal filing, submitted simultaneously with Staff's Rebuttal Testimony on February 7, 2001, Ms. Million testified[6] that Qwest had made those adjustments to its cost study, and submitted a revised copy of it, which has been admitted as Exhibits 1010 and C-1010.

Despite this modification to the cost study, which Qwest states was required by a prior order of this Commission, Qwest argues at pages 17-19 of its Opening Brief in this proceeding, that the six minutes should not be used. The company did not raise this issue in its testimony in this phase of the proceeding; if it had, then Staff's cross-examination of Ms. Million likely would have taken a different approach. Ms. Million, Qwest's witness who sponsored its nonrecurring

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[5] at TR 3908: 20.

cost study, was cross-examined both by Staff and the bench[7] about the origin of the six minutes, and the information included in the Response to Bench Request 21, on which the argument at pages 17-19 of Qwest's Opening Brief are based, was not revealed at that time. Qwest did raise these same arguments in its request for reconsideration of the Eighth Supplemental Order in UT-969369, and the request was denied.[8] Simply because, in response to Bench Request 21, Qwest took the opportunity to explain why the six minutes is not a proper time estimate, the company should not be allowed to use a different number than the six minutes that it presented as the time used in its revised cost study in this case. Because it was not included in Qwest's testimony in this proceeding, and the company modified its cost studies to include adjustments it interpreted as required by the Eighth Supplemental Order, no party had an opportunity to cross-examine a Qwest witness about this issue. Qwest's arguments should be rejected and the six minute adjustment, previously adopted by the Commission, should be used in the Qwest non-recurring cost studies.

a. 4) Validation of opinions of SME's

At page 19, footnote 24 of its Opening Brief, Qwest asserts that the Commission should rely on "the extensive body of experience" that its subject matter experts (SMEs) have, as a source of validation of their estimates of the time necessary to perform the tasks needed to provide certain UNE's. However, Qwest has not provided the Commission with the names and experience of its SMEs, nor has it provided the basis on which their opinions were formed. The Joint Intervenors attempted to elicit this information from Qwest by data requests, and were unsuccessful. *See* Exhibits 1025, 1026.

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[6] Exhibit T-1009, pages 4-5.
[7] TR 1963-1971.
[8] Ninth Supplemental Order on Clarification, Docket No. UT-960369, et.al., ¶¶ 23-29.

II. B RESPONSE TO VERIZON'S OPENING BRIEF

Introduction -- Inefficiency of Verizon ordering processes

At pages 3-4 of its opening brief, Verizon states that "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." However, the burden to show that its proposed rates are just and reasonable is on Verizon; it is not the burden of the CLECs to prove the rates are unreasonable. However, Staff also notes that, regarding the efficiency of Verizon's ordering processes, the testimony of its own witnesses shows that its processes are cumbersome, duplicative, and inefficient. For example, the testimony of Verizon witness Larry Richter[9] on cross-examination patently shows the incredible inefficiency of the Verizon NW process for ordering. It also appears that Verizon's different computer systems, and software, for different types of ordered service, are so incompatible that one cannot copy information from one to the other, but must re-key all of the information. With the amounts that Verizon proposes to charge for OSS modifications, and the types of technology available to the company, it is not believable that Verizon's systems and process do not allow the company to copy and paste information from one file or form to another. If the processes require this nearly complete duplication of effort in entering an order, or converting a special access line to an EEL, Verizon should certainly not be allowed to include these inefficient processes in its calculation of forward-looking costs.

1.a. 3) Study methodology, Fixed/shared costs – NOMC

In its Responsive Testimony, T-1360, pages 11-12, Staff recommended that the Commission eliminate Verizon's charge of $4.92 per LSR, to recover the fixed costs of its

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[9] *See* TR 2557-2563; 2565; 2651-2654.

National Order Market Center (NOMC). Staff agrees with Verizon's characterization of the costs of the NOMC as nonrecurring costs, but does not agree that these costs are reasonable estimates. Staff's argument about the NOMC charge is based on the fact that Verizon's new cost model, the ICM, incorporates categories of costs that were, in previous studies, included in common costs.

Bench Request No. 33 asked Verizon to:

> Explain whether the NOMC shared fixed costs were included as a direct cost or included in the common costs established in UT-960369, et.al., and identify any exhibits that illustrate whether those costs were backed out of the common costs established in that docket, and attach any work papers.

In its opening brief, Verizon notes[10] that it "inadvertently neglected to back-out its NOMC shared/fixed costs from the common costs or the direct costs developed by ICM. In its response to Bench Request 33, Verizon submitted a narrative response to BR 33 and an attachment 33A, and later submitted a revised Attachment 33A, and, still later, a Supplemental Response to BR 33. None of these documents include the work papers called for by the Bench Request. However, the fact that Verizon found an error in its cost calculation of the NOMC costs gives weight to Staff's concern that the fixed costs of the NOMC include some costs that are included in the estimates of unit cost by the ICM, and that Verizon has provided no supporting documentation for how, if these are shared costs, cost allocations were made.[11] Verizon has failed to differentiates the costs attributed to the NOMC fixed charge, as opposed to

[10] Verizon's Opening Post Hearing brief at page 21, footnote 22, citing to its response to Bench Request 33.

[11] Verizon submitted numerous changes to the testimony of Dennis Trimble, and eventually replaced his Exhibit DBT-3 with the document that was admitted as Exhibit 1197. Some of these changes were not submitted until the last day of the first full week of hearing, thus parties were unable to conduct discovery on them, or to thoroughly review them. Staff also notes that the reference to Exhibit T-1170 at 20, contained in footnote 22 of Verizon's opening brief, does not appear to address the point it is cited for.

the costs developed by the ICM. The response to Bench Request 33 does not shed any light on this confusion. None of the parties to this proceeding have been able to review and cross-examine any Verizon witness on this point. Thus, it is impossible to determine whether Verizon has properly identified all the changes wrought by its move from the earlier cost model to the ICM. Verizon should not be allowed to unilaterally recalculate these costs and rates without an opportunity for discovery and cross-examination by the other parties to the case.

1. d. 1) Nonrecurring Costs, EELS Migration As Is.

In the prefiled Supplemental Rebuttal testimony of Larry Richter (Exhibit 1167, page 10) Verizon committed to revise its UNE Migration Cost Study for EELs to delete the costs of the activities of MOG order entry and MOG template creation for EELs Migration, when orders for fewer than fifty circuits are received. Although Verizon's opening brief discusses the EELs migration issues at pages 23-24, it does not mention this change, indicate whether it has been done, nor commit to a date when it may be done. The Commission should direct Verizon to make this modification to its EELs migration Cost Study by a date certain.

As noted by Verizon at paragraph 54 of its Opening Brief, Verizon also reevaluated whether the "Meet Point" item was appropriately included in the ordering cost for EEL Migration. In its response to Record Requisition No. 103, Verizon submitted revised pages for its nonrecurring costs study, to reflect the removal of this charge. Thus, when referring to Section 2 of Exhibit CR-1165, as referenced at par. 53 of Verizon's brief, it is essential to include the changes to that exhibit which would result by incorporating the deletion of the Meet Point charge, shown on Attachment B to the response to BR 103.

2. c. Common Cost Factor

At ¶¶ 76-80 of its opening brief, Verizon discusses the common cost factor, and argues that it would not be appropriate for the Commission to order Verizon to use the 17.89% common cost factor it developed in its response to Bench Request No. 43 because, in essence, other costs that have already been set for Verizon in the earlier phases of this proceeding used the 24.75% common cost markup factor. In making these arguments, Verizon includes new "evidence" in par. 78-80, that has not been verified, nor subjected to cross-examination. This information was taken directly from Verizon's response to BR 43, which was not part of the evidence the parties had available for use in cross-examination. The table on page 34 of Verizon's brief merely shows that the ICM produces higher costs than what the Commission ordered in earlier phases of this case. It is likely that the ICM does so because it attributes costs to different categories of unit costs than the ones which were included in the studies used in earlier phases of this proceeding. This does not show that the common cost factor developed using the methodology of BR 43 is invalid, but does indicate that the common cost factor determined in prior phases of the generic proceeding needs to be reevaluated.

IV. RECIPROCAL COMPENSATION

A-2-(c) To what extent does the FCC's April 27, 2001 Order restrict state commission action regarding ISP-bound traffic?

In our opening brief, at pages 33-36, Commission Staff analyzed the FCC's recent order concerning compensation for ISP-bound traffic. *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 & 99-98, Order on Remand and Report and Order (April 27, 2001) ("FCC Order" or "Order"). Staff opined at that point that the FCC Order may have left some room for state commission action regarding ISP-bound traffic, in two respects.

First, we noted that the FCC specifically stated that compensation for this traffic was to be "*capped*" at certain amounts per-minute over the next three years. The FCC made clear that any state commission actions taken before the effective date of the Order that set compensation levels below the "caps" were valid, and indeed, the FCC indicated that it envisioned possibly moving toward a bill-and-keep system three years from now. *See* Order at ¶ 80. It seemed logical that state commission compensation determinations taken after the effective date of the Order, but within the caps set by the FCC, would be consistent with the FCC's exercise of its jurisdiction. (This is especially true if the Commission made cost-based determinations, since the FCC admits at paragraph 84 of the Order that its caps are not tied to any findings of the actual costs incurred in delivering ISP-bound traffic.)

Second, the FCC made clear that it was not wedded solely to per-minute-of-use rate structures for either ISP-bound or local voice traffic, and it specifically suggested that "any possibility of over recovery associated with calls (to ISPs or otherwise) of longer than average duration can be eliminated through the adoption of rate structures that provide for recovery of per-call costs on a per-call basis, and minute-of-use costs on a minute-of-use basis." *See* Order at ¶ 90. The FCC thus recognized that rate structures presented potential concerns, and suggested that action be taken to resolve them.

Nevertheless, Staff is well aware, as we pointed out initially, of paragraph 82 of the FCC Order. This paragraph provides in part:

> This Order does not preempt any state commission decision regarding compensation for ISP-bound traffic for the period prior to the effective date of the interim regime we adopt here. Because we now exercise our authority under section 201 to determine the appropriate intercarrier compensation for ISP-bound traffic, however, *state commissions will no longer have authority to address this issue.*

(Emphasis added).

Staff notes that each of the other parties to this proceeding that have addressed reciprocal compensation, including Qwest, Verizon, and the Joint CLECs (including AT&T, Electric Lightwave, Focal, XO, and WorldCom) concluded that paragraph 82 preempts the Commission entirely from addressing ISP-bound reciprocal compensation. Upon further review of the FCC Order and the arguments of the other parties, Staff now agrees with the other parties on this issue. This means that we now have a situation in which the FCC has acknowledged deficiencies and potential inaccuracies in its system of capped compensation, and has suggested that action be taken to address them; but at the same time, the FCC has apparently tied the hands of state commissions and stated that it will not act for at least three years, and possibly longer, depending on how long it waits to complete its new rulemaking on intercarrier compensation. While unfortunate, this appears to be the correct reading of the FCC Order, since "state commissions will no longer have authority to address this issue."

Staff emphasizes two points, however. First, the FCC Order does not preempt states from setting reciprocal compensation rates for non-ISP-bound traffic. This is traffic that falls within Section 251(b)(5) of the Act.[12] The Commission should act within this authority to implement the recommendations of Dr. Blackmon to the greatest extent possible. Second, Staff again points out that several parties have petitioned both the FCC and the federal Court of Appeals to reconsider, stay, and vacate the FCC Order. Should these petitions or appeals be successful (and the dissenting opinion to the FCC Order points out several reasons why they may be successful), this Commission's authority to address the issue of ISP-bound compensation may

[12]As we noted in our opening brief, however, the Order may indirectly affect this compensation, because it allows ILECs to take advantage of the capped rates for ISP-bound traffic provided that they "offer to exchange all traffic subject to section 251(b)(5) at the same rate." FCC Order at ¶ 89.

be greatly expanded. Staff believes it would be prudent for the Commission to prepare for this possibility in its consideration of this issue.

D. TANDEM SWITCHING

Staff has recommended that the end-office rate rather than the tandem switching rate should apply when a CLEC has direct trunking to a Qwest end office. Dr. Blackmon explained the economic rationale for this treatment:

> The policy of paying competitors the tandem rate for calls terminating on their switch is based on the general circumstance in which the competitor has customers spread over a broad geographic area on its fiber ring. Were Qwest to serve such a dispersed customer base itself, it would route much of that traffic through a tandem network, and thus it is appropriate to pay the competitor at the tandem rate. However, where there are large volumes of traffic terminating at a single end office, Qwest would use direct end office trunking to deliver that traffic. The traffic would not go through the tandem. The competitor therefore is entitled to compensation at the end office rate and not the tandem rate.

The CLECs contend that Staff's position is not "consistent with federal law." Staff disagrees. While Staff believes that the FCC's rules and orders are ambiguous—particularly in light of the FCC's recent pronouncements in its newly-opened intercarrier compensation rulemaking—[13]Staff believes that its position is consistent with federal law, and it is certainly more equitable than the position advanced by the CLECs.

FCC Rule § 51.711(a) states that "[r]ates for transport and termination of local telecommunications traffic shall be symmetrical," with two exceptions noted in parts (b) and (c), and adds in (a)(3): "Where the switch of a carrier other than an incumbent LEC serves a

[13]*In the Matter of Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, CC Docket No. 01-92 (April 27, 2001) ("Intercarrier Rulemaking Order").

geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent is the incumbent LEC's tandem rate."[14]

In paragraph 1090 of the FCC's Local Competition Order, the FCC stated:

> We find that the "additional costs" incurred by a LEC when transporting and terminating a call that originated on a competing carrier's network are likely to vary depending on whether tandem switching is involved. We, therefore, conclude that states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to the end-office switch. In such event, states shall also consider whether new technologies (e.g., fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch, and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch. Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate.

In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No, 96-98, FCC Record at 15499 (August 8, 1996).

The FCC has thus enacted rules and orders that consider both "geography" and "function" in determining whether tandem or end-office rates should apply. This Commission has applied both tests in deciding the issue. *See* Docket No. UT-960381, *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between AT&T Wireless Services, Inc., and U S West Communications, Inc. Pursuant to 47 U.S.C. Section 252*, Arbitrator's Report and Decision at 25-29 (July 3, 1997) (adopted by the Commission, order currently on appeal); *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between Electric Lightwave Inc., and GTE Northwest Incorporated Pursuant to 47 U.S.C. Section 252*, Order

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[14]FCC Rule § 51.709(a) also provides:

> In state proceedings, a state commission shall establish rates for the transport and termination of local telecommunications traffic that are *structured consistently with the manner that carriers incur those costs,* and consistently with the principles in §§ 51.507 and 51.509 of this part. (Emphasis added).

Approving Negotiated and Arbitrated Interconnection Agreement at 12-15, Docket No. UT-980370 (May 12, 1999).

However, in its recent order commencing a new global rulemaking on the subject of intercarrier compensation, the FCC, while acknowledging that some state commissions "have incorporated a functional equivalency test into their interpretations of section 51.711(a)(3)," *see Intercarrier Rulemaking Order* at ¶ 107, fn. 173, stated:

> [S]ection 51.711(a)(3) of the Commission's rules requires only that the comparable geographic area test be met before carriers are entitled to the tandem interconnection rate for local call termination. Although there has been some confusion stemming from additional language in the text of the *Local Competition Order* regarding functional equivalency, section 51.711(a)(3) is clear in requiring only a geographic area test. Therefore, we confirm that a carrier demonstrating that its switch serves "a geographic area comparable to that served by the incumbent LEC's tandem switch" is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network.

(footnotes omitted).

Where does that leave the situation? In Staff's view, it is still unclear. The FCC has not defined, to our knowledge, what it means for a CLEC's switch to "serve a geographic area comparable" to that served by the ILEC's tandem switch. The CLECs argue, in effect, that the tandem rate must be paid in all cases where the switch is *capable* of serving an area comparable to that served by the tandem switch--even if in many actual circumstances it does not in fact do this (as when there are large volumes of traffic terminating at a single end-office). Staff does not believe the FCC's rules need be construed to lead to this economically unsound result, and one which Staff believes is highly inequitable.[15]

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[15] The CLEC's implied "capable of" standard would quickly lead to some incredible results. Given the global reach of fiber optic transmission facilities, a company could engineer a fiber ring that not only circled the world but also included every major city in the world. By the CLEC's logic, a call could originate and terminate in downtown Seattle and yet the terminating

The CLECs also argue that Staff's position is not "reciprocal": "i.e., Staff does not propose that Qwest receive only the end office rate for traffic delivered by the CLEC to the Qwest tandem if the traffic otherwise would have bypassed the tandem if it had been carried entirely on Qwest's network." Joint CLEC Post-Hearing Brief at 51, ¶ 136. This argument is without merit.

Staff consistently would require payment equal to the cost that the originating carrier would have paid had the call stayed on its own network. The CLEC's concern would be valid only in circumstances where the ILEC network architecture did not allow direct trunking to bypass the tandem switch. The CLECs did not offer any evidence that this concern is anything but theoretical, since ILECs typically use a hub-and-spoke network with the tandem in the hub. In the hub-and-spoke configuration, interconnection agreements already provide for direct trunking (and no tandem switching charge) when there is a large volume of traffic to a single point. Staff is simply proposing that this same principle, which is based on reciprocity and the measurement of costs that would otherwise have been incurred, be applied when calls are terminated on the CLEC's fiber ring-based network.

Finally, the CLECs argue that "Staff also provided no evidence on the technical feasibility or additional costs required to measure and accurately segregate traffic that originates and terminates within geographic areas that are smaller than a rate center." Joint CLEC Post-Hearing Brief at 51, ¶ 136. This argument also is without merit.

The CLECs have not raised a credible challenge to the economic basis for Staff's proposal. Staff has demonstrated that the economically sound approach is to have the originating carrier pay the end office rate if the originating carrier can show that it would have used direct

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carrier would have to pay reciprocal compensation as if the call were routed through Bombay

trunking had the traffic remained on its network. Therefore, the burden falls upon the CLECs to demonstrate that it is in some way impractical to structure reciprocal compensation in this way. (Moreover, it has never been suggested that traffic must be *segregated* in any fashion in order to apply the proper prices. It is unclear why the CLECs have included this in their list of supposed barriers to implementation of this proposal.) The CLECs have offered no such demonstration. If the Commission agrees that this is the proper approach, the burden then falls on the originating carrier to show, in any given circumstance, that it would not have used tandem switching had the traffic remained on its own network.

V. A. 3. Line splitting—collaborative

At pages 53-55 of its opening brief, Verizon discusses the definition of line-splitting, and reiterates that the Commission should rely on the results of the New York collaborative. Verizon argues that the Commission should not order a Washington collaborative to duplicate those efforts. Verizon has misinterpreted Staff's recommendation, perhaps because the structure of the brief outline called for the line splitting issues to be addressed separately from the issues specific to Verizon and Qwest. For Qwest, Staff believes a collaborative, or similar process, should be ordered, as Qwest's line-splitting product is not included by the New York collaborative, nor is Qwest a party to that proceeding. During cross-examination, Verizon admitted that it is possible that the CLECs participating in the New York collaborative may not be the same CLECs who are interested in line splitting in Washington state. However, Staff does believe that the New York collaborative has value, and that Verizon and the Commission should take advantage of that value in defining the line-splitting product and setting prices for Washington. However, Staff also believes that it is necessary to set a date certain for the presentation of a product definition

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and Tokyo.

and description, and proposed permanent costs and prices, to the Commission, in order to insure that progress is made toward defining and pricing the product. Verizon admits in its Opening brief that the costs and rates it proposed for line splitting are interim, and that TBD (to be determined) appears at numerous places in its costs study. Although Verizon states that it is committed to provide line splitting in Washington, it does not mention a specific date and time when it will do so. Absent a Commission-mandated schedule, the ILECs will prolong this process as long as possible.

Respectfully submitted this 19th day of June, 2001.

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