BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the	)	DOCKET NO. UT-003013
Continued Costing and Pricing Proceeding for Interconnection, Unbundled Network Elements, Transport and Termination, and Resale	)	TWENTY-THIRD SUPPLEMENTAL ORDER; ORDER ON RECONSIDERATION; MODIFYING PRIOR ORDER, IN PART; ESTABLISHING PART D PROCEEDING REGARDING OSS TRANSITION COSTS FOR LINE SHARING AND SELF-PROVISIONED ENTRANCE FACILITIES

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1 **Synopsis:** Public Counsel and Qwest Corporation ("Qwest") each filed a Petition for Reconsideration of the Thirteenth Supplemental Order in Part A of this proceeding. The Commission denies Public Counsel's petition. The Commission modifies its Part A Order by increasing Qwest's total recovery of OSS transition costs for UNEs in the state of Washington from $5.5 million to $8.6 million, and by approving Qwest's proposed entrance facility rates. However, Qwest is conditionally required to permit CLECs to self-provision entrance facilities outside the central office. A supplemental Part D proceeding is established to determine the total amount of OSS transition costs for line sharing to be recovered by both Qwest and Verizon Northwest, Inc., and to determine Qwest's costs where a CLEC is permitted to self-provision entrance facilities. The Commission denies Qwest's petition in all other respects.

Background

2 This proceeding was opened on February 17, 2000, to address issues arising out of the Federal Telecommunications Act of 1996,[1] and Commission Docket Nos. UT-

[1] Pub. L. No. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §§ 151 *et seq.* (1996). *See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (August 8, 1996) ("Local Competition Order"), *aff'd in part and vacated in part, Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part and rev'd in part and remanded sub nom. AT&T Corp. v. Iowa Utils. Bd.* 525 U.S. 366 (1999); *see also* 47 C.F.R. § 51.319.

960369, 960370, and 960371 (also referred to as the "Generic Costing and Pricing Proceeding").[2] The Commission established a two-part schedule, and Part A issues were identified as line sharing, operations support systems ("OSS"), and collocation.[3] The Commission made procedural rulings by order and conducted hearings.

3 The Commission entered its Thirteenth Supplemental Order as its final order in Part A ("Part A Order") in this docket on January 31, 2000. The Part A Order resolved issues regarding line sharing, including the setting of a positive price for access to the high frequency portion of the loop ("HUNE"), OSS transition and transaction costs, and collocation costs to access line sharing and unbundled network elements ("UNEs").[4]

4 Public Counsel and Qwest have asked the Commission to reconsider specific decisions in the Part A Order. The Commission will address issues raised in the parties' petitions in turn.

PUBLIC COUNSEL'S PETITION FOR RECONSIDERATION

5 Public Counsel raises one principal issue: it argues that the Commission erred by failing to provide a credit to customers at the same time that it established a non-zero price for the high frequency portion of the loop.

Background

6 Public Counsel previously argued that the Commission should adopt a positive HUNE rate and undertake loop rate rebalancing at the same time to avoid a potential double recovery by incumbent local exchange carriers ("ILECs"). According to Public Counsel, an ILEC recovers its total loop costs in basic service rates from subscribers; additional revenue from competing local exchange carriers ("CLECs") for line sharing constitutes a double recovery.

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[2] *See In the Matter of the Pricing Proceeding For Interconnection, Unbundled Elements, Transport and Termination, and Resale*, Docket Nos. UT-960369 (general), UT-960370 (U S WEST), and UT-960371(GTE), Order Instituting Investigations (November 20, 1996) ("UT-960369").

[3] Part B hearings have concluded, parties have filed post-hearing briefs, and a final Part B Order is pending. The Commission also initiated a Part C proceeding to address rates for microwave collocation; however, those issues were resolved prior to hearing and the Part C proceeding was cancelled.

[4] Qwest and Verizon have incurred costs to modify their OSS in two stages. Initially, ILECs were required by the Act and the FCC's Local Competition Order to modify their OSS to allow access by CLECs to provision certain UNEs. Subsequently, the ILECs were ordered by the FCC to provide additional UNEs, including line sharing. Qwest and Verizon presented OSS transition costs for some additional UNEs along with UNEs identified in the Local Competition Order. However, Qwest presented OSS transition costs for line sharing separate from other UNEs, and in this Order those costs are discussed separately.

7 The Commission found that the loop is used to provide both basic exchange and advanced telecommunications service, and that recovery of the entire cost of the loop from voice services would violate Section 254(k) of the Act. The Commission agreed with Public Counsel that it should set a non-zero price for the HUNE, and it established a flat-rate contribution of $4.00. The Commission considered making retail and UNE rate adjustments, but decided that it is premature at this time to determine whether a non-zero price for the HUNE will lead to over-earnings on a regular basis.

The "Double Recovery" Issue

8 Public Counsel argues on four grounds that the Commission must address the "double recovery" issue in tandem with the adoption of a positive rate for line sharing:

- The Commission has erred by regarding line sharing revenues as part of the incumbent local exchange carriers' total earnings, rather than finding that those revenues constitute double recovery for the same service under the present pricing regime.
- Failure to adjust rates at this time will result in unjust enrichment.
- Failure to adjust rates violates Section 254(k) of the Act.
- Allowing a positive HUNE charge without adjusting other rates is anticompetitive.

Treatment of HUNE Revenues

9 The Commission addressed similar arguments raised by Public on reconsideration in the Part A Order. In particular, the Commission considered and rejected the notion that the potential for "double recovery" required the rebalancing of basic service rates as a necessary consequence of establishing a positive HUNE charge. The Commission remains resolute that the approach most consistent with the public interest is to broadly consider these revenues as part of the incumbent carrier's total recovery.

10 The creation of a retail credit to customers who subscribe to digital subscriber line service ("xDSL") would impose additional transaction costs on providers, and likely lead to increased rates to consumers, without any commensurate benefit. These HUNE revenues should not be segregated from other revenues that may be affected by the proliferation of xDSL service.

11 Furthermore, it is the very uncertainty of the effect of xDSL services on other revenues that militates in favor of the Commission's stated course of action. Public Counsel chooses to emphasize the uncertainty regarding when, if ever, these revenues will be as part of an earnings proceeding for Qwest or Verizon. However, RCW 80.04.110 establishes the authority of the Commission and CLECs to file a complaint against Qwest or Verizon alleging that their rates are unreasonable (including over-earning), and the Commission may consider whether HUNE revenues contribute to over-earnings on a regular basis after allowing a reasonable period of time for these revenues to occur. Public Counsel's concern that the Commission may approve an alternative form of regulation in the future that conceivably could preclude review of earnings is overly speculative.

Violations of Section 254(k) of the Act

12 Having rejected Public Counsel's argument that HUNE revenues should be narrowly construed as an offset to basic exchange service revenues, the Commission also rejects Public Counsel's argument that any over-recovery of revenues by an ILEC constitutes a violation of Section 254(k) of the Act. Section 254(k) states that a telecommunications carrier may not use services that are not competitive (i.e., basic exchange service) to subsidize services that are subject to competition (i.e., xDSL service). Section 254(k) is not relevant to the issue of over-earning revenues by a telecommunications carrier.

Anticompetitive Rates

13 Rhythms Links, Inc. ("Rhythms"), agrees with Public Counsel that, absent rate rebalancing, a positive HUNE charge is anticompetitive and argues that the Commission confers an undue advantage to the ILECs. According to Rhythms and Public Counsel, Qwest would be able to undercut CLEC prices by the amount of the HUNE charge it does not pay.

14 These concerns are addressed in the Part A Order. The Commission requires that Qwest submit evidence sufficient to show that any proposed changes to the retail price of its advanced telecommunications services pass an imputation test, and Verizon Northwest, Inc.'s ("Verizon") subsidiary provisioning advanced services in the state of Washington ("VADI") must also pay the flat-rate HUNE contribution to Verizon's regulated operations. Thus, the same costs that are paid by the CLECs are charged to the ILECs retail xDSL operations. Neither Rhythms nor Public Counsel explains how these protections fail to accomplish their objectives.

HUNE Revenue Accounting

15 Finally, the Commission notes that all responding parties are opposed to Public Counsel's request that the Commission require Qwest and Verizon to account for

additional HUNE revenues in a tracking or deferral account. A requirement that such an account be established provides no discernable benefit to a future determination regarding over-earnings and, as suggested by Qwest, the number of line sharing customers will be determinable at any given point in time. Therefore, Public Counsel's request is denied.

Decision

16 The Commission rejects each of Public Counsel's arguments and denies its Petition for Reconsideration. The Commission notes Public Counsel's recommendation that other proceedings be initiated to determine how rates should be rebalanced, but no decision is made on that issue at this time.

QWEST'S PETITION FOR RECONSIDERATION

17 Qwest requests reconsideration of the Commission's decision that its total recovery for OSS transition costs for UNEs equal $5.5 million and that those costs be recovered at $3.27 per local service request ("LSR"). Further, Qwest seeks clarification of the total amount of OSS transition costs for line sharing it may recover.

18 Qwest also challenges the rates the Commission established for two physical collocation elements – entrance facilities (the facilities necessary to bring fiber from the CLEC network into the Qwest central office and to the CLEC's collocated equipment) and terminations (the connections between Qwest UNE access points and the CLEC's collocated equipment).

Qwest's Total Recovery for OSS Transition Costs for UNEs

19 Qwest objects to the Commission's comparison of its OSS transition costs to Verizon's costs and refutes the contention that the record demonstrates that the difference in proposed rates is due in large part to Qwest's reliance on Telcordia to perform modifications to its software systems. According to Qwest, all references to Telcordia cited in the Part A Order were made in the context of OSS transition costs for line sharing, and not UNEs.

20 The Commission need not re-examine the record to determine whether Qwest did or did not rely on Telcordia to perform OSS modifications for UNEs because the Commission did not base its decision on that premise. The Part A Order states:

> [R]egardless of the reasons for the difference in proposed prices between Qwest and Verizon, Qwest's proposal clearly fails the just and reasonable standard of Section 252(d)(1) of the Act. Qwest's proposed rates are as much

> as ten times higher than Verizon's – the only cost-based measure of record – for the same functionality, and we conclude that Qwest's proposed rates do not conform with the Act's pricing standard. *Part A Order, at Para. 155.*

21 Qwest contends that neither its operation support systems nor its transition costs are the same as Verizon's, and argues that the record does not support the Commission's decision. We find that Verizon's expenditures represent "real world" experience and provide a source to validate Qwest's proposed costs.

22 Verizon accomplished its OSS modifications for its national network of approximately 26 million access lines for a reported $56.7 million, while Qwest claims that its total OSS transition costs for UNEs were $121.8 million for its national network of approximately 17 million access lines. Verizon is an incumbent LEC in 28 states. Qwest is an incumbent LEC in 14 states. Thus, Verizon accomplished its OSS modifications for 50% *more* access lines for 50% *less* in costs than Qwest.

23 Verizon's internal information technology ("IT") organization, GTE Data Services, developed software solutions in order to provide CLECs with non-discriminatory access to its OSS. Verizon witness Jerry Holland testified that the Gartner Group, a consulting firm specializing in computing solutions, conducted a study and ranked GTE's IT organization as the most cost-efficient data-processing center across all industries in 1998.[5] The Gartner Group's study compared similar-sized data processing firms running similar types and amounts of work in similar environments. The Gartner Group study supports our conclusion that Verizon incurred its OSS transition costs for UNEs in an efficient and cost-effective manner.

24 Qwest bears the burden to demonstrate that its proposed rates are just and reasonable, and no similar outside evidence exists to validate Qwest's proposed transition costs for UNEs. The record in this case does not support the argument that there are functional differences between Qwest's and Verizon's OSS that account for the wide discrepancy in their reported transition costs, and we reaffirm our conclusion that Qwest's evidence is not credible.

25 We also repeat our conclusion that the calculation of Qwest's total recovery for OSS transition costs based on Verizon's costs is just and reasonable. However, we find that the methodology used to calculate Qwest's total recovery of costs in the Part A Order requires adjustment.

26 Both Qwest and Verizon acknowledge that their reported OSS transition costs were not state-specific and that they had roughly allocated a portion of those expenditures to Washington. The Part A Order calculated Qwest's $5.5 million total recovery for OSS transition costs for UNEs by multiplying Verizon's allocation of costs to the

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[5] *See* Direct testimony of Jerry Holland, Exhibit T-260, p.7-10.

state of Washington ($1,900,000) by the approximate ratio of access lines of Qwest to Verizon (2.6/.9) for the state of Washington.

27 Although it appears that Verizon allocated costs to the state of Washington based on its approximate number of access lines in Washington, the record is not clear. Qwest points out that Verizon may have allocated costs based on the number of states where it is an incumbent LEC, without regard to the number of access lines served in Washington. Thus Qwest implies a nexus between OSS transition costs and the number of access lines served. In order to establish a more reasonable benchmark, the Commission recalculates Qwest's total recovery based on Verizon's total national OSS transition costs for UNEs and Qwest's total number of national access lines.

28 Verizon reports that it incurred $56.7 million in costs to perform OSS modifications for UNEs on a nationwide basis. In the Part A Order, we found that Verizon's proposed total recovery of OSS transition costs in the state of Washington is just and reasonable. Implicit in that decision is our finding that Verizon's proposed nationwide recovery of costs is also just and reasonable. Thus, we find that $56.7 million is a just and reasonable benchmark for Qwest's nationwide recovery of OSS transition costs for UNEs.

29 According to FCC statistics, Qwest serves approximately 17,009,000 access lines nationwide.[6] Thus, Qwest's recovery of transition costs is approximately $3.33 per access line on a nationwide basis. As stated in the Part A Order, Qwest serves approximately 2,604,000 access lines in Washington. Therefore, Qwest's total recovery for OSS transition costs for UNEs in the state of Washington is adjusted from $5.5 million to $8.6 million.

Recovery Mechanism for OSS Transition Costs for UNEs

30 Qwest requests reconsideration of the Commission's decision that Qwest be permitted to recover its OSS transition costs only through a charge of $3.27 per local service request ("LSR").[7] Qwest contends that this recovery mechanism does not provide the company a reasonable opportunity to recover those costs because the amount of the charge, coupled with projected volumes of LSRs, will defer total recovery for such a long period of time that recovery is effectively denied.

31 As noted by Qwest, the Commission expressly did not rule whether Qwest's forecasts for UNE demand were accurate.[8] Qwest argues that some level of activity must be assumed in order to assess the reasonableness of the recovery mechanism for

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[6] FCC Statistics of Communications Common Carriers ("SOCC"); Complete 1999 SOCC – released 8/00. http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/socc.html.

[7] The $3.27 charge per LSR was proposed by Verizon, and the Commission found that rate to be just and reasonable.

[8] *See* Part A Order, para. 175.

transition costs, and recommends that the level of charge be at least double the current ordered rate.

32 The Commission finds that Qwest's forecasts for UNE demand are highly speculative, given present competitive market conditions. It is premature at this time to presume that the actual volume of LSRs to be received will not allow Qwest to reasonably recover its costs, because the company hasn't demonstrated that its network is open per Section 271 of the Act. After such a demonstration is made, Qwest may re-petition the Commission if the volume of actual LSRs received raise similar concerns.

Qwest's Total Recovery for OSS Transition Costs for Line Sharing

33 The Part A Order provides that Qwest may recover from the CLECs any reasonable OSS costs incurred to provide line sharing. We ordered that Qwest must recover its OSS transition costs for line sharing through the same per LSR charge that is imposed to recover OSS transition costs for other UNEs. Thus, the time period that Qwest collects the per LSR charge will be extended due to the additional recovery of OSS transition costs for line sharing.

34 The Commission further decided not to rule on the accuracy and sufficiency of evidence submitted by Qwest in support of costs incurred to modify its OSS for line sharing, because Qwest's proposal was not just and reasonable.[9] Qwest now seeks clarification as to the overall magnitude it may recover for OSS transition costs for line sharing, or guidance as to how the level of total costs to be recovered should be calculated.

35 The Commission requires additional information in order to determine the total amount of OSS transition costs for line sharing that Qwest should be permitted to recover. The Commission will serve parties with a separate notice of prehearing conference to address procedural issues in this docket ("Part D") to receive additional evidence regarding Qwest's total OSS transition costs for line sharing in Washington State.

36 Further, the Part A Order noted that Verizon has not proposed a separate charge to be recovered from CLECs for the costs it incurred to modify its OSS for line sharing. We are concerned that Verizon, by default, intends to recover these costs from other regulated revenues and thereby confer an undue benefit on its unregulated subsidiary, VADI, which provides retail xDSL service. Accordingly, Verizon is required in the Part D proceeding to present evidence regarding its OSS transition costs for line sharing and to explain how it intends to recover these costs.

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[9] *See* Part A Order, para. 175.

Collocation Issues

37 Qwest asks the Commission to reconsider decisions in the Part A Order regarding rate elements for entrance facilities and terminations. In each case, the Commission rejected Qwest's proposed rates and ordered the company to use Verizon's rates.

38 Qwest objects, as a matter of general principle, to the Commission's decision to substitute Verizon's costs for Qwest's costs. Qwest maintains that requiring Qwest to use Verizon's costs does not comport with the pricing requirements of the Act, as interpreted by various rulings of the 8th Circuit Court of Appeals. Qwest argues that the 8th Circuit Court's ruling means that Qwest's prices must be based on the actual costs of Qwest providing facilities, not the actual costs of some other ILEC. Qwest states that its provisioning process is different than Verizon's, and argues that comparative product descriptions may differ or material and labor costs may vary.

39 The Commission rejected this same argument in the Part A Order:

> The Commission disagrees with Qwest's interpretation of the meaning and intent of these sections of the Act. The Commission has an obligation under the Act and FCC rules, and under state statutes to pick the most efficiently derived costs based on actual central office space and networking architecture. Using these guiding principles, the Commission believes that a determination as to whether rates are just and reasonable, as well as cost based, can only be made when those rates are judged in light of the prices other firms in the market are obtaining for similar services. The Commission employs these same principles in examining the collocation cost proposal submitted by Qwest. *Para. 124.*

40 Qwest's arguments are unpersuasive and we reaffirm our decision that the Commission has discretion to require Qwest to implement rates developed by Verizon in this proceeding. With specific regard to the rates for terminations discussed below, Qwest may petition the Commission to review these rates at a later date if it can substantiate that those rates are not compensatory.[10]

Entrance Facilities

41 An entrance facility is the connection between the CLEC cable outside the incumbent central office and the CLEC facilities within the office. The costs typically include the manhole where the CLEC cable enters Qwest's facilities, the conduit between the manhole and the central office, the cable running from the manhole to the CLEC

[10] Any subsequent petition to the Commission to review rates for terminations must include supporting evidence when filed.

space, the structure (such as cable racking) used to support the cables, and the placement costs for all cable and equipment.

42 In the prior cost docket, UT-960369, et al., Qwest proposed entrance facility rates that required CLECs to compensate Qwest to construct a separate point of interconnection ("POI") where facilities are unavailable due to congestion. The Commission noted the great disparity between Qwest's and Verizon's rates, and rejected the assumption that all of Qwest's entrance facilities are congested. We directed Qwest to submit cost studies in this proceeding that reflect the sharing of entrance facilities.

43 In the Part A Order, the Commission concluded that Qwest's proposed nonrecurring rates for shared and separate POI entrance facilities were not based directly on its observed costs. Consequently, we rejected Qwest's proposed rates and adopted those proposed by Verizon to be the permanent rates for both ILECs.

44 Qwest contends that only one of its entrance facility options – the Shared POI for Express Fiber rate – can be compared to the entrance facility options offered by Verizon. Thus, Qwest argues that it offers different services than Verizon and that there is no great disparity in pricing between Qwest's and Verizon's rates.[11]

45 Qwest proposes separate rates depending on whether the CLEC or Qwest provides the fiber cable to be installed.[12] When Qwest provides the fiber cable, it bundles the cable along with other components. In comparison, Verizon requires that CLECs provide their own fiber cable for installation; Verizon does not offer to provide cable for CLEC entrance facilities.

46 Qwest also proposes nonrecurring rates for its Standard, Cross Connect, and Express Fiber entrance facility options where its shared point of interconnection ("POI") is congested. Those rates include costs for Qwest to construct a separate POI and additional cable racking between the POI and CLEC facilities inside the central office.

47 Entrance facility congestion is not an issue raised by Verizon, and consequently Verizon did not propose rates that include construction of a separate POI. Verizon has stated that if there is no manhole where a CLEC requires entrance facilities, then Verizon will designate a point to which the CLEC can provide its fiber optic cable for entry into the central office.[13] Further, Nextlink Witness Rex Knowles avers that

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[11] Qwest's proposed nonrecurring rates for entrance facilities are stated in Exhibit No. 911 and in Qwest's petition for reconsideration, at p. 10.

[12] Qwest provides fiber cable to the CLECs as part of its Standard and Cross Connect services, and the CLEC must provide fiber cable for Qwest's Express Fiber service.

[13] *See* Exhibit No. 296.

Verizon permits CLECs to construct their own manhole and conduit into their central offices.[14]

48 The Joint CLECs support the Commission's decision that Qwest should charge rates comparable to Verizon for entrance facilities with the same functionality, and they concede that Verizon does not offer to provide fiber to CLECs. They agree that Qwest's proposed rate of $1,201.16 for Express Fiber at a Shared POI (where the CLEC provides the fiber) is comparable to Verizon's cumulative rate for the same facilities; and they do not object to approval of that Qwest rate. However, the Joint CLECs argue that Qwest's other Shared POI rates, and its Separate POI rates, are unreasonable, even though Verizon does not offer comparable services.

49 We find, on reconsideration of this matter, that Qwest's rate for Express Fiber at a Shared POI is comparable to Verizon's rate, and that Verizon does not offer comparable services to Qwest's other proposed entrance facilities. As discussed below, Qwest's rates for these other proposed entrance facilities will be allowed to go into effect; however, Qwest must allow CLECs to self-provision a separate POI where the shared POI is congested.

Express Fiber at a Shared POI

50 Qwest's Shared POI Express Fiber entrance facility rate is substantially similar to Verizon's singular offering, and Verizon does not offer services comparable to Qwest's other entrance facility options. Qwest's Shared POI Express Fiber entrance facility provides the same functionality as Verizon's entrance facility, and the rate complies with Qwest's obligations pursuant to Section 251 of the Act.

Standard and Cross-Connect at a Shared POI

51 We now turn to Qwest's other proposed Shared POI entrance facility rates. The Joint CLECs object to Qwest's bundling of fiber with electronic components, and imposing minimum order requirements, as part of Qwest's Standard and Cross Connect entrance facility offerings. However, Qwest is under no obligation to provide these options to CLECs, and Verizon, in fact, does not provide fiber to CLECs under any conditions. The record in this case does not sufficiently explain why Qwest's proposed rates for Standard and Cross Connect entrance facilities are calculated on a per-fiber basis or why its fibers are bundled with other electronic components.

52 Where a carrier's proposed rate structure for interconnection already meets its legal duty, the Commission's responsibility to protect the public interest allows for other factors to be weighed when considering rates for optional services. In this instance, it makes greater sense that Qwest make available entrance facility options at potentially

[14] *See* Exhibit No. T-151, p. 15, l. 14-20.

excessive rates rather than not at all. The Commission does not require Verizon to provide fiber cable to the CLECs, nor would we require Qwest to do so. If Qwest's entrance facility rates where it provides fiber to CLECs are excessive, then CLECs should choose to self-provision fiber cable and Qwest will either adjust its rates or its services will fail as competitive offerings.

Express Fiber, Standard, and Cross-Connect at a Separate POI

53 The 17th Supplemental Order states that Qwest can require the CLECs to use a separate manhole ("manhole-0") and recover its related costs from the CLECs, if Qwest can demonstrate that its first manhole ("manhole-1") is congested. Accordingly, Qwest proposed Separate POI entrance facility rates for its Standard, Cross Connect, and Express Fiber offerings that are based on Qwest constructing manhole-0, and several CLECs argue that those rates are excessive. The CLECs did not present evidence regarding costs to construct a separate POI where shared facilities are congested, and Verizon did not propose a comparable rate. Accordingly, there is no specific Verizon rate that Qwest can adopt in lieu of its own Separate POI entrance facility rates.

54 However, as discussed in Paragraph No. 46 above, Verizon has agreed to certain terms and conditions that allow CLECs to self-provision manhole-0. Enabling CLECs to self provision manhole-0 alleviates rate constraints caused by the CLECs dependence on Qwest to construct facilities. Furthermore, the requirement that Qwest permit CLECs to self-provision entrance facilities outside the central office is consistent with prior Commission decisions that CLECs should be able to self-provision certain collocation facilities inside the central office.

55 Where Qwest establishes that manhole-1 is congested, Qwest also must designate a point where CLECs can provide fiber cable as part of the entrance facility. CLECs must be permitted to bypass congested manholes and construct their own routes for entry into the central office. However, Qwest may require that CLECs compensate Qwest to perform construction and placement of conduit and innerduct into the central office from manhole-0, and to provide cable racking to CLEC collocation facilities inside the central office.

56 The record in the Part A proceeding does not address costs related to CLEC self-provisioning of entrance facilities outside the central office. For example, there is no Qwest rate to perform construction and placement of conduit and innerduct to the central office from the separate POI or to construct cable racking. Therefore, Qwest must submit direct evidence in the Part D proceeding to support its costs where a CLEC self-provisions the separate POI.

57 Additionally, it is not clear to the Commission who owns or controls access to entrance facilities self-provisioned by CLECs outside the central office. Accordingly, all parties are requested in the Part D proceeding to address cost issues related to the shared use of the separate POI (i.e., allocating costs among parties that use the facility).

Terminations

58 In the Part A Order, the Commission concluded that Qwest and Verizon use the same DS-0, DS-1, and DS-3 facilities to provide the same functionality; however, the record does not explain why Qwest's termination rates are considerably higher than Verizon's rates. Consequently, we found that Qwest's proposed rates are unreasonably excessive, and we adopted Verizon's proposed termination rates in their stead. We also stated that we will allow Qwest to request further consideration of its costs subsequent to the development of terms and conditions for the self-provisioning of this element by CLECs in Qwest's SGAT proceeding.

59 Qwest asserts that the Commission's decision incorrectly assumes that Qwest's terminations provide the same functionality as Verizon's, and assumes that Qwest's rate structure allows a direct comparison with Verizon. Qwest argues that its termination costs differ and that its proposed rates should be approved. According to Qwest:

- Qwest's rate structure separates each component of terminations into four optional sub-elements. In contrast, Verizon does not offer sub-elements.
- Qwest treats the cost of the 100-pair cable and the block that connects the cable as a non-recurring cost. In contrast, Qwest states that Verizon appears to charge a lower, but recurring, rate.
- Qwest's cost study assumes non-connectorized cables that require more labor, but Qwest believes that Verizon's rates are based on connectorized cables.
- Qwest utilizes two types of termination blocks, and Qwest frequently uses a termination block that offers more features, but is more expensive. Qwest assumes that Verizon's rates are based on the lower cost block.

60 Regarding Qwest's division of terminations into four sub-elements, the Joint CLECs do not object to Qwest continuing to divide terminations into four sub-elements so long as their sum total does not exceed the corresponding Verizon element rate.

61 The Part A Order does not mandate that Qwest separate its terminations, even though the Commission favors Qwest's provisioning of sub-elements. Likewise, the Commission does not mandate whether cable and block costs are developed as recurring or non-recurring, whether "connectorized" or "non-connectorized" cable is more efficient, or whether Qwest must offer more than one type of termination block. However, Qwest's proposed rates are not just and reasonable for reasons stated in the Part A Order, and Qwest must offer the same rates for terminating DS-0, DS-1, and DS-3 facilities as Verizon.

62 The Commission recognizes that Qwest may have to alter its rate structure as the direct consequence of its failure to propose just and reasonable rates in this proceeding. For instance, we note that Verizon does not make termination sub-elements available to CLECs. The Joint CLECs persuasively argue that, when added together, Qwest's termination sub-elements represent the same functionality as the Verizon terminations. If Qwest continues to make sub-elements available, then it must calculate the percentage for each sub-element relative to their total sum, and then apply those percentages to Verizon's rates.

63 Further, Qwest may find it necessary to provision connectorized cable or use "89 Blocks" in order to achieve the same cost efficiencies as Verizon. Qwest may develop options for provisioning terminations so long as it minimally provides equivalent service consistent with applicable service quality standards at the same rates as Verizon.

64 The significance of developing terms and conditions so that CLECs can self-provision these elements was raised in the Part A Order. Where CLECs are dependent on ILECs for provisioning services, the Commission will scrutinize proposed rates without deference to an incumbent carrier's rate structure or multi-jurisdictional uniformity. In contrast, where CLECs possess fully developed market alternatives for provisioning network facilities there is greater flexibility for price setting by ILECs.

ORDER

65 (1) The Commission denies Public Counsel's petition for reconsideration.

66 (2) The Commission modifies the 13th Supplemental Order pursuant to Qwest's petition for reconsideration, and adjusts Qwest's total recovery of OSS transition costs for UNEs for the state of Washington from $5.5 million to $8.6 million.

67 (3) The Commission directs Qwest and Verizon to file additional information in Part D of this proceeding regarding their OSS transition costs for line sharing as described in the body of this Order.

68 (4) The Commission modifies the 13th Supplemental Order pursuant to Qwest's petition for reconsideration, and approves Qwest's proposed nonrecurring rates for entrance facilities. The Commission directs Qwest to file evidence in the Part D proceeding regarding its costs where a CLEC self-provisions the separate POI, and requests that all parties address costs related to the shared use of the separate POI.

69 (5) The Commission denies Qwest's petition for reconsideration in all other respects.

70 (6) The Commission directs Qwest to submit compliance filings required by this Order on Reconsideration and the Part A Order no later than 14 days after service of this Order.

Dated at Olympia, Washington, and effective this day of July 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner