

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Pricing Proceeding for ) Interconnection, Unbundled Elements, ) Transport and Termination, and Resale ) _____ )	Docket No. UT-960369
) In the Matter of the Pricing Proceeding for ) Interconnection, Unbundled Elements, ) Transport and Termination, and Resale ) for U S WEST COMMUNICATIONS, INC.) _____ )	Docket No. UT-960370
) In the Matter of the Pricing Proceeding for ) Interconnection, Unbundled Elements, ) Transport and Termination, and Resale ) for GTE NORTHWEST INCORPORATED ) _____ )	Docket No. UT-960371  RESPONSE TO MOTION TO STRIKE REFERENCES TO THE HAI 5.0a MODEL FROM THE TESTIMONY AND EXHIBITS OF THOMAS L. SPINKS

By motion filed on January 25, 2000, GTE Northwest Incorporated (“GTE-NW”) and U S WEST Communications, Inc. (“U S WEST”) request that the Commission “strike references to the HAI 5.0a model from the testimony and exhibits of Staff witness Thomas L. Spinks.”<sup>1</sup>

GTE-NW and U S WEST assert that the HAI 5.0a model is not part of the record in the Generic Proceeding, Docket Nos. UT-960369, UT-960370, and UT-960371. The companies also assert that the Commission ordered in its 18th and 19th Supplemental Orders in this proceeding that parties may not use cost model information from Docket No. UT-980311(a) in the Generic Proceeding. Staff respectfully responds that, contrary to U S WEST’s and GTE’s allegations, Staff has not ignored the Commission’s orders and has, at most, misunderstood the

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<sup>1</sup>GTE-NW and U S WEST will likely also seek to strike portions of Mr. Spinks’ rebuttal testimony filed on February 7, 2000. Staff’s response in this pleading is intended to address all of Mr. Spinks’ testimony filed in Phase III of this proceeding.

Commission's directions. It is not necessary for the Commission to strike portions of Mr. Spinks' testimony.

## **DISCUSSION**

As GTE-NW and U S WEST note in their motion, the Commission stated in its 19th Supplemental Order that:

The parties agreed to a filing and hearing schedule in Phase III deliberations of deaveraged rates. In conjunction with this discussion, the parties expressed a preference against using cost model information of record in this proceeding, Docket No. UT-980311(a), contending that the models have evolved since those inquiries. Parties therefore asked to present new cost information and suggested that ten days of hearings should be scheduled.

As noted above, the Commission clearly contemplates in its 18th Order that Phase III will proceed upon the cost models and evidence already of record."

19th Supplemental Order at 5 (emphasis added). Staff interpreted this discussion to mean that the Commission directed the parties not to use any new cost models developed since Docket No. UT-980311(a), and that cost models used in Docket No. UT-980311(a) were "already of record" before the Commission. As such, Staff believed that it was following the Commission's instructions in the 19th Supplemental Order. However, given the references to Commission decisions that GTE-NW and U S WEST make in paragraph 9 of their motion, it appears that Staff may have misunderstood and misinterpreted the Commission's directions in the 19th Supplemental Order.

Staff does not dispute that the HAI 5.0a cost model was developed in Docket No. UT-980311(a), the Commission's universal service proceeding. See Testimony of Thomas L. Spinks, page 5, lines 4-6. Staff believes that this cost model is superior to the HM 3.1

cost model in developing geographically deaveraged rates and therefore preferred to use the HAI 5.0(a) in developing testimony in this phase of the proceeding based on its interpretation of the 19th Supplemental Order. However, even if Staff has misinterpreted the Commission's order, there is still no need to strike the portions of Mr. Spinks' testimony referring to the HAI 5.0a cost model.

Mr. Spinks has made several deaveraging proposals in his initial, response, and rebuttal testimony. Mr. Spinks' proposals and exhibits provide a comparison of deaveraged prices using his proposed methodology and both the HM 3.1 and HAI 5.0a cost models to demonstrate the statement in Mr. Spinks' initial testimony that "the choice of a model, however, does not appear to be crucial to the outcome of the deaveraging process." Testimony of Thomas L. Spinks, page 5, lines 6-7. While Mr. Spinks recommends in his rebuttal testimony a deaveraging proposal based on the HAI 5.0a cost model, he notes that if GTE-NW's and U S WEST's motion objecting to the use of the HAI 5.0 is granted, then Staff recommends the HM 3.1 version of costs be adopted by the Commission. If the Commission chooses to disallow the use of the HAI 5.0a cost model, Staff recommends that the Commission not adopt prices developed using the HAI 5.0a cost model, but retain reference to them purely for purposes of comparison. Given the purpose for which Staff proposes including the HAI 5.0a cost model information, there is no need to strike testimony and exhibits referring to, or relying on, the HAI 5.0a cost model.

Staff recognizes the need to establish deaveraged rates prior to May 1, 2000 to meet the deadline set by the Federal Communications Commission and does not seek to delay this

proceeding beyond that date. Should the Commission determine that it is necessary to strike any portion of Mr. Spinks' testimony and exhibits filed in Phase III of this proceeding, Staff recommends that entire pages of testimony need not be stricken, but that the Commission allow Mr. Spinks to refile "clean copies" of his testimony and exhibits prior to the beginning of the hearing scheduled to begin on February 28, 2000.

### **CONCLUSION**

Staff respectfully states that it has not ignored the Commission's directions concerning which cost model data to use in preparing testimony concerning deaveraging, and that Staff, at most, misunderstood the Commission's directions. Staff respectfully requests that the Commission not strike any portion of Mr. Spinks' testimony filed in Phase III of this proceeding. However, should the Commission determine that portions of the testimony should be stricken, to allow Mr. Spinks to refile a clean copy of his testimony and exhibits.

DATED this 11th day of February, 2000.

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