

October 9, 2001

Via E-mail and Regular Mail

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P O Box 47250
Olympia, WA 98502-2750

Re: **Docket No. UT-003013 – Phase D**

Dear Ms. Washburn:

On October 4, 2001, the Commission invited response to WorldCom's request that the Commission re-establish Qwest's recurring UNE loop and switching rates in the Part D proceeding. Staff comments as follows:

As stated in Staff's initial comments filed on September 28, 2001, Staff supports the WorldCom request to update loop costs and believes that such an update should apply to Verizon as well as Qwest UNE loops and switching elements. However, staff does not believe it is possible to prepare revised UNE loop cost estimates under the current Part D schedule.

With respect to WorldCom's request, the Commission needs to decide whether it should reset the UNE loop and switching rates that were set in the Eighth Supplemental Order in Docket UT-960369. Staff, like WorldCom, believes that there are several reasons for the Commission to undertake re-examination of the loop and switching rates that were set in the Eighth Supplemental Order in Docket UT-960369. Access line counts play a substantial role in determining the cost of a loop, and the number of access lines have grown considerably since the time the loop rates were initially calculated. Second, the assumptions about current forward-looking technologies should be re-examined to see if they are still valid. Finally, the cost models used in the earlier proceeding have been superseded by improved versions which address many of the criticisms and concerns of the earlier models. With respect to the question of new cost models, if the Commission wishes to re-establish UNE loop and switching rates, Staff suggests that the Commission consider foregoing any re-examination of cost models and adopt instead the FCC Hybrid Cost Proxy Model (HCPM) for use in recalculating loop costs using the Commission decisions on inputs that were decided in the generic cost

docket as well as the Universal Service docket. The HCPM is used by the FCC for estimating loop costs for USF purposes and in evaluating UNE loop rates in Section 271 proceedings. The model has been thoroughly reviewed, and documentation is available on the FCC website. In addition, in a recent decision, the 10th Circuit Court of Appeals specifically upheld the validity of this model that had been challenged by Qwest. *Qwest Corp. v. FCC, et.al.*, 258 F.3d 1191, 1205-1207 (10th Cir., 7/31/01).

Staff also notes that it is possible that Qwest could ask to reduce those rates in conjunction with a Section 271 proceeding. Staff met with representatives of the FCC and DoJ on September 30 and October 1, 2001 at the Qwest Regional Oversight Committee meetings in Denver. In those meeting both agencies stressed the importance of UNE prices in their analysis of 271 applications. Both agencies use, in part, a comparative analysis of UNE rates in assessing 271 applications. If, as WorldCom asserts, there are substantial differences between Washington UNE loop and switching rates and the rates in other states where Section 271 applications have been approved, Qwest may propose to make unilateral UNE rate reductions in order to gain 271 approval. Staff believes the Commission would need to concur in any such proposed reduction. However, in the event Qwest proposed lower UNE rates for Section 271 purposes, the Commission should still consider the question of updating Verizon's UNE loop rates.

With respect to the question of timing, as stated earlier, staff does not believe the re-examination could occur within the timelines set out in Part D. In Part D, Staff has asked leave to file testimony regarding further deaveraging. The Commission, if it wishes, could decide to only address further deaveraging of UNE loop rates and do so in Part D, without first resetting UNE loop rates.

If the Commission wishes to reset UNE loop and switching rates, Staff notes the Commission has already agreed to consider the recovery of additional OSS costs for Qwest and Verizon with testimony on that issue tentatively due in March 2002. Parties could prepare to file direct testimony on UNE loop and switching rates that same March 2002 date when the OSS testimony is due. If the Commission decides to re-examine UNE loop and switching costs in the March timeframe, Staff would plan to address further zone deaveraging at that time because updating the loop costs may result in changes to wire center zone classifications and sub-loop costs that may largely negate any zone deaveraging scheme proposed in Part D. Conversely, if the Commission decides not to re-examine UNE loop costs, staff requests leave to file testimony on further deaveraging in Part D.

Very truly yours,

MARY M. TENNYSON
Sr. Assistant Attorney General

MMT:tjj
cc: Larry Berg
All Parties