

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Pricing Proceeding ) for Interconnection, Unbundled Element, ) Transport and Termination, and Resale ) ..... ) In the Matter of the Pricing Proceeding ) for Interconnection, Unbundled ) Elements, Transport and Termination, ) and Resale for ) ) U S WEST COMMUNICATIONS, INC. ) ) ) In the Matter of the Pricing Proceeding ) for Interconnection, Unbundled ) Elements, Transport and Termination, ) and Resale for ) ) GTE NORTHWEST INCORPORATED ) ..... )	DOCKET NO. UT-960369  DOCKET NO. UT-960370  DOCKET NO. UT-960371  THIRTY-FIRST SUPPLEMENTAL ORDER  ORDER ON RECONSIDERATION; MODIFYING PRIOR ORDER; DIRECTING REILING
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1     **Synopsis:** The Commission denies a petition for reconsideration filed by parties to this docket. It has discovered an error in a model run producing the deaveraged loop costs, and recalculates those costs.

**Background**

2     These consolidated dockets were initiated to resolve issues relating to the unbundling of telecommunications services and the need to recognize the challenges that a competitive telecommunications environment pose for the historical practice of averaged regulated rates. The Commission conducted several phases of hearings, each addressing certain of the necessary issues. It made procedural rulings by order and entered substantive orders following each of three hearing phases, on which parties sought and received review by means of petitions for clarification.

3     The Commission entered its Twenty-Sixth and Twenty-Seventh Supplemental Orders in these dockets on September 1, 2000, following Phase III of the proceeding. The Twenty-Sixth Supplemental Order resolved issues involving the cost of the deaveraged loop, the principal topic of Phase III. The Commission entered the Twenty-Seventh Supplemental Order as its final order and incorporated the decisions

of earlier orders to provide finality to the dockets as provided in RCW 34.05.461 of the Administrative Procedure Act.

4 NEXTLINK Washington, Inc., Electric Lightwave, Inc., Advanced TelCom Group, Inc., WorldCom, Inc., and TRACER (competitive telecommunications carriers, collectively "CLECs" or "Petitioners") have asked the Commission to reconsider or rehear its decision in the Twenty-Seventh Supplemental Order ("Final Order").

5 The Petitioners ask that the Commission reconsider or rehear its decision establishing the state-wide averaged loop cost of \$18.16, which the Commission set in its Seventeenth Supplemental Order. They also ask for reconsideration or rehearing of the decision in the Twenty-Seventh Supplemental Order concerning the Spokane and Tacoma wire center groupings for geographically deaveraged loop rates for Qwest Corporation, ("Qwest," formerly known as U S WEST Communications, Inc.). Commission Staff and Qwest answer the Petition, opposing the requested relief.

#### **PETITION FOR RECONSIDERATION**

6 The petitioners raise two principal issues: they challenge the accuracy of the determination of the statewide average loop cost of \$18.16, and they challenge the placement of several Spokane and Tacoma wire centers, contending that the cost of the assigned rating will impede the development of competition.

#### **Accuracy of the State-Wide Average Loop Cost of \$18.16**

7 The Petitioners focus on three major points:

- The petitioners contend that the quantified values of the Commission's post-model-run adjustments in the Eighth Supplemental Order that are found in paragraph 205 of the Seventeenth Supplemental Order have no evidentiary support in the record. They argue that the adjustments "...conflict with prior Commission findings in the Eighth Supplemental Order upon which they were ostensibly based." (Petition at paragraph 3).

As evidence of this the Petitioners note that in the Eighth Supplemental Order, at paragraph 269, the Commission found the cost of an Unbundled Loop to be \$17.00 and provided a table that noted the impact of the Commission's post model run adjustments, but did not quantify them. At this paragraph the Commission noted, in reference to these cost adjustments, that: "There are a few areas in which we could not modify the models to comport to our findings. In those instances, we indicate the likely impact on the loop cost."

The Petitioners urge as further evidence of the asserted lack of quantification, that subsequent copies of the table, appearing at paragraph 269 of the Eighth

Supplemental Order, in the Ninth Supplemental Order at paragraph 2, and in the Fourteenth Supplemental Order at paragraph 13, also (with one exception) lack quantification of the post-model-run adjustments.

- The Petitioners also take exception to the Commission’s use of a different calculation of common cost for each of the models submitted in the docket instead of adding a consistent amount for the common costs to the average loop cost that the Commission developed.

The Petitioners assert that, because the overhead factor the Commission used for the HAI model was developed in a prior docket and because the Commission adopted overhead factor for the Bench Mark Cost Proxy Model (BCPM) was based on proprietary information sponsored by Qwest, but opposed by Sprint, BCPM’s sponsor, the only common cost figure supported in the record of these dockets is the 4.05% figure proposed by Qwest for its RLCAP (Regional Loop Cost Analysis Program) model.

- Finally, the Petitioners contend that the Commission in establishing the \$18.16 loop price failed to consider the impact this price would have on local exchange competition in Washington. They argue that loop prices set at this level will decrease the level of competition.

8 As a solution to the “problems” presented above the Petitioners propose that the Commission reconsider its decisions from the prior orders and that it find the following:

- (1) The average of the three cost model outputs is already reflective of any additional unquantifiable adjustments that might need to be made to the individual model cost estimates (with the exception of the \$1.65 grooming addition to RLCAP) and that the prior adjustments made by the Commission are unnecessary and should be revoked; and
- (2) The 4.05% common cost markup proposed by Qwest for the RLCAP model is the only supported markup factor and it should be applied to the average loop cost resulting from the Petitioners’ prior suggestion. The CLECs contend that the resulting statewide average loop rate would become \$15.47.

### **Responses of Other Parties to Accuracy of the State-Wide Average Loop Cost**

9 On the issue of the state wide average loop rate, Commission Staff argues that “...it is entirely within the proper scope of the Commission’s duty to determine ‘fair, just, and reasonable’ rates to use its expertise to estimate a value for the items which could not be quantified.” (Staff Answer, p. 3).

- 10 Qwest agrees, and goes on to point out that the Petitioners "...do not contend that the "non-quantifiable" adjustments were inappropriate factors for the Commission to consider, or even that the Commission made the wrong decision on these items." (Qwest Answer, p. 2). Qwest contends that the Petitioners are wrong in asserting that no record evidence supports the Commission's post-model-run adjustments. Qwest points out, for example, that the Commission stated it would adjust the cost of the loop upward to reflect the impact of competition and that Qwest's witness Dr. Robert Harris testified that competition would likely increase an incumbent's overall cost of production.
- 11 Qwest also states that the Petitioners are wrong in asserting that the Commission has any obligation to establish the lowest loop prices possible. Qwest points out that it is the Commission's obligation to establish costs and prices that are consistent with the Telecommunications Act of 1996. Qwest argues that whether or not certain entrants find the resulting costs and prices undesirable should have no bearing on the Commission's decision.

### **Responses of Other Parties to Deaveraging**

- 12 Concerning deaveraging, Staff states that to the extent the wire center groupings are not based on a calculation error, it does not share the concern expressed by the Petitioners since the Commission's decision establishes UNE Loop rates at the wire center level as the Staff had proposed.
- 13 Qwest argues that the deaveraging issue has already been decided by the Commission's response to the parties' petitions for review of its Twenty-Fourth Supplemental Order. Qwest points out that the Commission considered objections similar to those raised here, and did not change the findings or the conclusions of the Twenty-Fourth Supplemental Order. Qwest argues that since the Petitioners are raising no new issues on this subject, their petition should be denied.

### **Commission Decision**

- 14 In reviewing the parties' contentions on this issue, the Commission has discovered an error in its earlier calculation of the deaveraged loop cost. We correct the error in a later section of this order. Our discussion below relates to the corrected calculations.

### **Post-Model-Run Adjustments**

- 15 The Petitioners are incorrect in their assertion that there is no evidentiary record concerning the Commission's Post-Model-Run Adjustments. As the Petitioners have correctly noted, the Eighth Supplemental Order, at paragraph 269, states that: "There are a few areas in which we could not modify the models to comport to our findings. In those instances, we indicate the likely impact on the loop cost." The direction of

these likely impacts was noted and the Commission quantified these impacts in various ways by conducting a reasoned appraisal of the record before it in this docket and considering that record in light of its expertise.

16 For example, on the subject of the impacts of competition on loop costs, paragraph 200 of the Eighth Supplemental Order discusses the impact of a decline in installed loops, which suggests that a decline in the number of loops does have a significant impact on the unit cost of production. Paragraphs 59 through 61 of that Order discuss how changes in market share affect loop costs. This issue was also addressed during the hearings. Dr. Harris, responded to the question “Is that fact that we’re modeling a single provider relevant at all to the cost sharing assumption that has been the focus of much discussion in this proceeding?” by stating:

You can't on the one hand say we want to have all this sharing with all these other firms, however, they are going to have a zero market share. They are not going to build a network unless they are going to expect to have some customers. So...the more sharing you want to put in..., then the more corresponding change one should make in the assumptions about the scale economies and that is the denominator on the access per line cost. The denominator should go down, which means the costs per loop go up.  
(Transcript Vol. 16, pp. 1808-09)

17 Reflecting on this testimony, along with the testimony presented by the CLECs who advocated that rivalry be assumed in the sharing percentages (see paragraph 69 of the Eighth Supplemental Order), the Commission sensibly adopted the position that an assumption of more sharing in the future must consider the fact that this greater sharing also results in a loss of market share.

18 As noted at paragraph 68 of the Eighth Supplemental Order, the GTE model did not provide model users with the flexibility to alter the model’s assumption of zero structure sharing for underground conduit or buried cable. This lack of flexibility resulted in an overstatement of loop costs, which the Commission stated would be taken into account in its findings on loop costs. The adjustment for this overstatement is one of the components comprising the Commission’s post model run adjustments for GTE’s LCM found in the table at paragraph 205 of the Seventeenth Supplemental Order. The Commission has used its judgment to both increase and decrease the loop cost estimates in its effort to find the most accurate result possible. The CLECs have not objected to the sharing adjustment that results in lower loop costs.

19 In this Docket, as in many other proceedings, the Commission had to rely on its judgment because all of the cost study submissions presented for its consideration in this Docket were flawed (see paragraphs 35 and 262 of the Eighth Supplemental Order) and therefore it could not adopt any one model for the purpose of estimating

the cost of the loop. Rather, as in a rate case, the Commission exercised its judgment on a complex issue. To do otherwise would require us either to adopt a flawed model with inherent biases, or to fail to establish permanent rates. Neither of those alternatives is acceptable.

### **The Derivation of Overhead Costs.**

- 20 The Petitioners challenge the overhead factor that the Commission used for the HAI model because it was developed in a prior docket. The Commission explained its derivation in paragraph 183 of the Seventeenth Supplemental Order, including the rationale for using that source. Parties offered no disagreement with that process in comments on the Seventeenth Order. The Commission is satisfied that the use of this factor is proper.

### **The Use of Different Overhead Factor Cost Calculations for Each Model**

- 21 The Petitioners' call for the use of a consistent common cost mark-up factor for each model is not persuasive. Simply stated, the different models reflect different direct costs. While all models are designed to measure the same pool of total costs, they vary in how those costs are classified. Some costs that are classified as direct or attributed in one model are classified as common in a second. Due to the differences in how each of the three models classified direct costs, the Commission was required to develop separate common cost factors.
- 22 The CLECs offer no support for a suggestion that the resulting methodology is flawed. Instead it appears that they merely ask the Commission to use a method that results in the lowest possible cost estimate. If the Commission were to accept the CLEC proposal, costs that all parties agree should be recovered, would not be recovered. This follows from the proposition that the U S WEST cost model treated some costs as direct or directly attributable that were treated in other models as common costs. This is illustrated by the discussion at paragraph 203 of the Seventeenth Supplemental Order.

### **The Impact of the Commission's Established State Wide Average Loop Cost on Competition**

- 23 The Petitioners argue that the Commission must consider the impact its established state wide average loop cost will have on competition in the state. As Qwest has rightly pointed out, this was not the Commission's charge in this Docket. This Docket's focus, and the Commission's responsibility, was to establish UNE costs and prices that were consistent with the principles established by the Telecommunications Act of 1996.

- 24 The Petitioners themselves asked that we group wire centers according to cost. They have pointed out to the Commission that the FCC stated, "...what is important is that the prices reflect TELRIC principles and result in fact in reasonable, procompetitive prices." (Petitioners' Response, paragraph 4). While a more competitive market is an outcome greatly desired by the Commission, we note that healthy competition rests on accurate price signals that tell competitors when to invest and when to use other strategies. We do not believe that striving for the lowest possible price, as the Petitioners would have us set, is the best way to achieve the common goal of procompetitive prices. Prices set too low would send the wrong signal to the market and could harm the development of competition in the long run.
- 25 In this Docket we have worked to ensure that TELRIC principles have been applied in a manner that result in costs and prices that are accurate, and therefore reasonable and just. The Commission can do no more than this. That the end result has not been to the Petitioners' liking is not grounds for reversing decisions that have been based on a reasoned analysis of the evidence presented.

#### **The Qwest Wire Center Groupings (Spokane and Tacoma Wire Centers)**

- 26 The Petitioners also seek reconsideration or rehearing of the Commission's decision in the Twenty-Sixth Supplemental Order establishing the five-zone loop prices for the Qwest wire centers in the Company's Spokane and Tacoma exchanges. Their challenge centers on the assertion that wire center groupings in Spokane and Tacoma vary significantly from what Petitioners proposed in Exhibit 2C, and that this disparity was not addressed by the Commission in its Order. The Petitioners do acknowledge that the Commission explained the methodology behind its wire center grouping in its Final Order at paragraphs 14 through 20.
- 27 The Petitioners argue that the Commission should be also be concerned about this disparity from a policy perspective. They contend that the viability of using unbundled loops in Spokane will be eliminated because five of the eight central offices in Spokane would have recurring and non-recurring loop rates that, combined, would exceed Qwest's retail basic business exchange rate. (Petition at paragraph 10).
- 28 The Petitioners have previously raised the same concerns. The Commission addressed those concerns in its Twenty-Seventh Supplemental Order. As we pointed out in that Order, the cost disparity that the Petitioners argue is not present in the wire center groupings found in the Commission's model run. We concluded then, and we conclude again here, that the disparities that the Petitioners identify result from model runs that do not conform with the Commission's Eighth Supplemental Order.
- 29 This conclusion is supported by the Commission's review of the modules, data, and output used by Staff in attempting to replicate the Commission's results, referred to on page 3 of Staff's answer. Staff's model run did not conform to the Commission's

Eighth Supplemental Order. The line counts used by the Staff did not conform to those used in our run of the model, nor did the sharing fractions, nor the service lives.

30 The Petitioners have not indicated whether or not they have run the version of the model the Commission used in its Twenty-Seventh Supplemental Order. The CLECs, as has Staff, could have provided copies of its model runs to supplement their pleadings rather than merely contending error.

31 As to the policy implications of this asserted anomaly, we can only reiterate our comments above regarding the need to find and use accurate information. Providing accurate price signals, we believe, provides the best long-range consequences for the development of competition and for the public benefit.

### **Corrected Model Run**

32 During its review of the deaveraging issues of the petition for reconsideration, the Commission discovered an error in the HAI model run used in the Twenty-Fourth Supplemental Order to establish deaveraged loop costs. We must correct that error and establish corrected costs. The Twenty-Fourth Supplemental Order run of the HAI model yielded a weighted average UNE loop cost of \$12.19. The corrected wire center HAI runs yield a weighted average UNE loop cost of \$13.13. The HAI model results adjusted to the level of the statewide average previously determined, as explained in paragraphs 14 through 20 of the Twenty-Sixth Supplemental Order.

33 The correction affects the composition of Zones 2 and 3 in a minor way. That is, under the corrected run the Tacoma Logan wire center (TACMWALO) is now classified in zone 2 although it was formerly in zone 3, and the Kent O'Brien wire center (KENTWAOB) is now in zone 3 although it was formerly in zone 2. The corrected designations were derived by sorting the wire centers by cost as shown in the new runs, and then determining the zone designations from the deaveraging run of the Twenty-Fourth Supplemental Order.

34 The net effect of the increase in the weighted average loop cost between the two runs is to raise the UNE costs in all the zones above that approved in the Twenty-Fourth Supplemental Order, except for zone 5, whose cost drops. This is shown in the comparative tables below.



<b>U S WEST</b>			
<b>Monthly Loop Costs by Zone (24th Supplemental Order)</b>			
Zone	Monthly Loop Costs	Percent of Lines in Zone	Density by Zone
<b>Total Company</b>			
	\$18.16	100.00%	157
1	\$7.50	5.52%	16,194
2	\$13.89	19.65%	1,486
3	\$15.73	20.62%	1,490
4	\$17.78	20.85%	769
5	\$24.18	33.36%	57

<b>U S WEST</b>			
<b>Corrected Monthly Loop Costs by Zone (30<sup>th</sup> Supplemental Order)</b>			
Zone	Monthly Loop Costs	Percent of Lines in Zone	Density by Zone
<b>Total Company</b>			
	\$18.16	100.00%	157
1	\$7.91	5.52%	16,194
2	\$14.13	19.71%	1,422
3	\$15.90	20.56%	1,557
4	\$17.85	20.85%	769
5	\$23.82	33.36%	57

35 In its response to the Commission letter of October 20, 2000, Commission Staff also stated that it felt that the Commission run erred in its use of some of the depreciation values. The Commission ran the model using Staff's suggested changes for depreciation. The difference in result was effectively *de minimus*. Consequently, we did not adopt the changes. At the density level, the average cost of the loop went from \$13.53 per loop in the run used in the Eighth Supplemental Order to \$13.48 per loop. Since the Commission averaged the outcome of three models, the HAI, BCPM, and RLCAP in obtaining its loop cost estimates, this change in loop cost would have minimal impact. Given this minimal impact, the Order need not be changed.

36 Commission Staff also used a Directory Listing Expense input value of 15 cents, while the Commission run used an input value of 10 cents. To test the effect of this variation, the Commission ran the model using the Staff-suggested changes mentioned above, and also changing the Directory Listing Expense Inputs to 15 cents.

This change had no impact on the cost of the loop, which remained at \$13.48 per loop as described above.

37 It will be necessary for Qwest to refile its deaveraged wire center rates consistent with the result of this order.

**ORDER**

38 (1) The Commission denies the petition for reconsideration. The Commission corrects the deaveraged wire center zones and costs as described in the body of this Order.

39 (2) The Commission directs Qwest to refile deaveraged wire center rates consistent with the result of this order within seven days after the service date of this order, showing an effective date of five business days after the date of filing. Service of the tariff filing and all related comments must be made on parties no later than the date the serving party files the documents with the Commission. Commission Staff must, and other parties may, comment on the filing within two business days, stating whether the filing complies with the terms of this order. Parties may respond to any such comments no later than the next business day.

Dated at Olympia, Washington, and effective this      day of December 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

MARILYN SHOWALTER, Chairwoman (Concurring in part and abstaining in part): I join fully in the Commission's decisions in this Order on matters arising in Phase III of this docket. As to those portions of the Order which incorporate the results of prior phases, I abstain because I did not personally hear the evidence in those phases.

MARILYN SHOWALTER, Chairwoman