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, Part D** **WORLDCOM'S POST HEARING REPLY BRIEF**

WorldCom, Inc., on behalf of its regulated subsidiaries in Washington, hereby submits its Reply Post Hearing Brief in this matter.

I. INTRODUCTION

Qwest claims to adhere to the Federal Communications Commission's ("FCC's") Total Element Long Run Incremental Cost ("TELRIC") standard in developing its non recurring cost ("NRC") studies but admittedly uses Qwest's *actual* costs and *actual* processing and provisioning activities that are "in place today or scheduled to be implemented." Qwest Brief at p. 7. Ms. Million confirmed during the hearing that Qwest bases its NRC cost studies on the actual processing and provisioning activities that are either in place today or scheduled to be implemented at Qwest over the next 12 to 18 months.[1] Moreover, Qwest admittedly does not reflect more efficient practices or technologies used by other carriers in its cost development.[2]

[1] Tr. at 4139-4145.
[2] Tr. at 4145-4147.

Using Qwest's actual costs and practices as a basis for wholesale rate setting is contrary to TELRIC methodology and was expressly rejected by the Supreme Court in *Verizon Communications Inc. v. Federal Communications Commission.*[3] There, the Supreme Court outlined the history of telecommunications ratemaking, including calculating the rate base on the basis of the incumbent local exchange carrier's ("ILEC's") actual costs.[4] The Court noted that the 1996 Telecommunications Act was intended to create a radical change in the ratemaking process. The Court observed:

> Under the local-competition provisions of the Act, Congress called for ratemaking different from any historical practice, to achieve the entirely new objective of uprooting the monopolies that traditional rate-based methods had perpetuated. A leading backer of the Act in the Senate put the new goal this way:
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> > "This is extraordinary in the sense of telling private industry that this is what they have to do in order to let the competitors come in and try to beat your economic brains out . . .
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> > "It is kind of almost a jump-start . . . . I will do everything I have to let you into my business, because we used to be a bottleneck; we used to be a monopoly; we used to control everything.
> >
> > "Now, this legislation says you will not control much of anything. You will have to allow for nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating companies network that is at least equal in type, quality, and price to the access [a] Bell operating company affords to itself." 141 Cong.Rec. 5572 (1995). (Remarks of Sen. Breaux (La.) on Pub. L. 104-104 (1995)).
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> . . . While the Act is like its predecessors in tying the methodology to the objectives of "just and reasonable" and nondiscriminatory rates, 47 U.S.C Section 252(d)(1), it is radically unlike all previous statutes in providing that rates be set "without reference to a rate-of-return or other rate-based proceeding." Section 252(d)(1)(A)(i). The Act thus appears to be an explicit disavowal of the familiar public-utility model of rate regulation (whether in its fair-value or cost of service incarnations) presumably still being applied by many of the states for retail sales. . in favor of novel rate setting designed to give aspiring competitors every possible

[3] 535 U.S. ____, 122 S.Ct. 1646, 152 L.Ed.2d 701(2002)
[4] *Id., Slip Opinion* at 6-15.

> incentive to enter local retail telephone markers, short of confiscating the incumbents' property.[5]

Later in its decision, the Supreme Court rejected the incumbents' arguments that the FCC should have adopted a methodology based on actual costs. The Court explained:

> As for an embedded-cost methodology, the problem with a method that relies *in any part on historical cost, the cost the incumbents say they actually incur in leasing network elements*, is that it will pass on to lessees the difference between most-efficient cost and embedded cost. See First Report and Order para. 705. Any such cost difference is an inefficiency, whether caused by poor management resulting in higher operating costs or poor investment strategies that have inflated capital and depreciation. If leased elements were priced according to embedded costs, the incumbents could pass these inefficiencies to competitors in need of their wholesale elements, and to that extent defeat the competitive purpose of forcing efficient choices on all carriers whether incumbents or entrants. The upshot would be higher retail prices consumers would have to pay. Id. paras. 655 and 705.
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> There are, of course, objections other than inefficiency to any method of ratemaking that relies on embedded costs as allegedly reflected in incumbents' book-cost data, with the possibilities for manipulation this presents. Even if incumbents have built and are operating leased elements at economically efficient costs, the temptation would remain to overstate book costs to ratemaking commissions and so perpetuate the intractable problems that led to the price cap innovation. See *supra*. at 14-15.[6]

In this case, to develop its cost studies, Qwest uses the costs, activities and work times that it says it actually uses in its network or plans to use in its network over the next 12-18 months. Its SMEs are those who are actually performing the work today or have performed it in the past. Thus, as the Supreme Court observed, Qwest will pass on to the CLECs the difference between most-efficient cost and embedded cost and consequently defeat the competitive purpose of forcing efficient choices on all telecommunications carriers. This will result in higher prices consumers will have to pay.

[5] *Id., Slip Opinion* at 15-17.
[6] *Id., Slip Opinion* at 40-41.

In addition, relying on Qwest employees and Qwest's existing processes and procedures to support the rates that Qwest intends to charge its wholesale customers, which are also its competitors, invites manipulation of data and the temptation to overstate actual costs and increase the time and activities necessary to complete tasks.

The Administrative Law Judge in a recent decision in a Minnesota Public Utilities Commission ("PUC") Docket regarding Qwest's wholesale costs, found that Qwest violated TELRIC principles by using actual processes and procedures to estimate non recurring costs:

> There are several other ways in which Qwest's NRC cost studies fail to reflect costs that would be incurred through the use of economically efficient, forward-looking processes. The inputs for Qwest's NRC studies are based on Qwest's current experience with processing orders and provisioning network plant, using processes that Qwest follows today and, in some cases, processes that are scheduled to be implemented. Consequently, a substantial portion of the direct costs calculated for many elements in Qwest's NRC studies are attributable to Qwest's use of inefficient manual processes, typically performed in the Interconnection Service Center or the Collocation Project Management Center (CPMC).[7]

Specifically with regard to Qwest's collocation rate proposals, the ALJ found:

> Qwest asserts that its collocation assumptions and elements reflect "real world deployment" of collocation; it has done no analysis to determine whether collocation architectures that currently exist are efficient or use currently available technology. This approach is inconsistent with the 1996 Act. The purpose of TELRIC pricing is not to determine what Qwest's costs are or will be, but to determine the costs of an efficient telecommunications provider. One of the basic assumptions of TELRIC is that the network will be rebuilt entirely using forward-looking technology. The adjustments that Qwest has made to its model to "anticipate the likely improvements of an efficient carrier" are minimal "top down" changes to its existing network, as opposed to the modeling of a network designed from scratch to be an efficient telecommunications carrier. In the Generic Cost Case, the ALJ rejected the Qwest collocation model as including too many embedded costs and inefficient processes:
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> > "Moving local telephone service into a competitive market creates the expectation that processes will change to reflect the need for

[7] *In the Matter of the Commission's Review and Investigation of Qwest's Unbundled Network Element (UNE) Prices*, Minnesota OAG for the MPUC, OAH Docket No. 12-2500-14490-2; PUC Docket No. P-421/C1-01-1375 (August 2, 2002) ("MN ALJ Cost Recommendation") pp. 41-44.

> efficiency. Building costs into the collocation rate that are based on inefficient processes raise barriers to entry into local competition for CLECs and reduce the incentive to update processes for ILECs. . . ."[8]

> Qwest's persistence in designing a cost model that is weighted so heavily in favor of its existing architecture and inefficient processes must be viewed as a continuing effort to recover embedded costs. There is no reason on this record to accept that Qwest's actual, real-world collocation costs bear any relationship to the costs that an efficient telecommunications provider would incur in a network built from scratch.[9]

To eliminate the potential to perpetuate past inefficiencies and manipulate data, it is essential that Qwest's cost studies be properly audited, that is, compared to results of time and motion studies or evaluated by third party experts. WorldCom asks the Commission to reject Qwest's cost studies. Until Qwest submits cost studies consistent with TELRIC principles, the Commission should adopt the rates recommended by Messrs. Morrison and Lathrop or order Qwest to charge zero for its NRCs at issue in this docket.

II. QWEST

A. Non-recurring Costs

1. Overview

WorldCom points out above and in it Opening Brief that Qwest failed to adhere to TELRIC principles in its cost studies. First, Qwest failed to apply a forward-looking analysis. Second, Qwest assumed inefficient operations in developing its cost model inputs, including inefficient operational support systems ("OSS"). Third, Qwest failed to provide adequate documentation to prove that its cost studies were consistent with TELRIC.

[8] *Id*. at p. 50 citing *In the Matter of a Generic Investigation of US WEST Communications, Inc.'s Cost of providing Interconnection and Unbundled Network Elements*, MPUC OAH Docket No. 12-2500-10956-2 (Nov. 18, 1998), at ¶ 236.
[9] Id.

Qwest failed to use efficient OSS in its cost studies. WorldCom asks the Commission to order Qwest to utilize a 2% fallout factor in its nonrecurring cost studies and to order Qwest to apply the factor one time for each rate element.

WorldCom argued that Qwest failed to utilize technology in its cost studies that would enable Qwest's systems to communicate smoothly with each other, eliminating much of the duplication and manual intervention contained in Qwest's current actual processes and procedures.[10] WorldCom offered Lucent's Actiview Service Management system and OKI's SMART-MDF system as examples of a forward-looking, efficient technology that is available to streamline work processes and minimize manual intervention.[11] Mr. Morrison testified that he deployed these types of technologies, integrating the business processes of the myriad systems that make up the provisioning process. Standard interfaces between systems eliminated manual tasks of transferring information from one system to another.[12]

SMART-MDF is a technology that enables systems to replace on-site manual cabling of main distribution frames ("MDF") to establish connections between subscribers and the facilities.[13] This technology reduces operating costs, decreases the time it takes to release connections between subscriber lines and the switching system and automatically creates its own database for easy information retrieval.[14] By using these types of technologies to calculate costs, Qwest would eliminate manual activities and minimize error, thereby increasing flow through and reducing costs.

[10] Tr. at 4912-4913 and 4944-4945.
[11] Exhibits 2206 and 2190.
[12] Tr. at 4912-4913.
[13] Exhibit 2190.
[14] Id.

Qwest argues that the Commission should reject WorldCom's arguments, in part, because the SMART-MDF does not satisfy DS1 circuit requirements and failed field trials.[15] The Commission should ignore Qwest's criticisms. First, the documentation describing the technology demonstrates that in fact, it does satisfy DS1 circuit requirements.[16] Second, the only source for Qwest's statement that it failed field trials was a test run at Qwest, over two years ago. Qwest never followed up with the manufacturer to inquire as to the problem or changes that have been made to the product since that time.[17] Moreover, Mr. Morrison's testimony and the documentation describing the products demonstrates that the technology is available and in use today.[18] The standard against which Qwest's cost studies must be evaluated is not what technology is actually used by Qwest today, but what is available for an efficient, forward looking carrier to use to perform the tasks in question. SMART MDF is an example of this type of technology.

Qwest also argues that the Commission should disregard as irrelevant WorldCom's evidence that Southwestern Bell ("SWBT") has achieved a 1% fall out (99% flow through) rate in its EASE system.[19] Qwest argues that SWBT's 99% flow through rate only applies to ordering systems and then only for small business and residential orders. WorldCom cited to SWBT's experience with its EASE system as an example of what is achievable when a carrier aims to improve efficiency in its operating procedures by evaluating its systems and replacing manual tasks with mechanization.[20] That EASE is used as an ordering system rather than a provisioning system does not change the fact that 99% flow through was achieved through such

[15] Qwest's Brief at pp.11-12.
[16] Exhibit 2190.
[17] Tr. at 4658-4661.
[18] See e.g. Tr. at 4908-4909, 4959-4961; Exhibit 2190.
[19] Qwest Brief at pp. 12-13.
[20] Exhibit T-2270 at 17-18; Exhibit ET-2270 at 17; Exhibit 2202 at 12-14.

an evaluation. WorldCom asks this Commission to require Qwest to perform the same evaluation in its cost studies to satisfy TELRIC's requirement that costs be established consistent with forward-looking, most efficient, least cost principles.

In addition, to the extent that the particular non-recurring cost at issue applies to "non designed" services, like UNE-P POTS, variations in flow through should occur within a narrow range. As Mr. Morrison described in his testimony, the forward-looking presumption for both processes is that all network elements are processor controlled.[21]

The Massachusetts Commission concluded that a 2% fallout rate is "indicative of likely experience with forward-looking technologies in [the telecommunications] industry." The Commission based its decision on testimony, consistent with Mr. Morrison's testimony, that many of the sources of fallout could be addressed and largely eliminated by integrated OSS.[22] The Michigan Commission also adopted at 2% fallout factor for Ameritech Michigan's nonrecurring costs. There, Ameritech, like Qwest, used its current operations with any planned efficiency improvements as a basis for its NRCs. No improvements were planned. The Commission found that such a standard resulted in incorrect assumptions that the "current extensive manual intervention in numerous operations is the least-cost, forward-looking approach." The Commission also disagreed with the time estimates and probabilities that Ameritech assumed in its NRC studies.[23]

The ALJ in the recent Minnesota PUC cost case rejected Qwest's NRC methodology and affirmed the Minnesota PUC's previous decision to require Qwest to use a 2% fall out rate for non designed services and a 4.6% fall out rate for all other services. The ALJ observed:

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[21] Exhibit T-2270 at 14.
[22] Massachusetts, D.P.U./D.T.E. 96-73/74, 96-75, 98-80/81, 96-83, 96-94-Phase 4-L Consolidated Arbitration Ruling (October 1999) at 13.
[23] Order, Michigan Public Service Commission, Case No. U-11831 (Nov. 1999) at 27.

> "Flow through" measures the amount of human intervention, as opposed to electronic processing, required to provision orders for UNEs. Because human intervention has the effect of significantly increasing provisioning costs, the extent to which orders "flow through" plays an important role in establishing NRCs.[24] In the Generic Cost Case, the Commission approved a flow-through rate of 98% for POTS and resale services and 95.4% for complex and designed services.[25] The ALJ's Report in the Generic Cost Case discusses in detail the evidence supporting these flow-through rates.[26] These flow-through rates previously approved by the Commission continue to be reasonable in light of the databases and electronic processes that should be available in a forward-looking network.
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> Qwest's NRC models assume a lower flow-through rate of 85% applicable to activities performed by the Interconnection Service Center ("ISC") in connection with the provisioning of two wire and four wire loops. For other activities, the flow-through rate assumed is significantly lower than 85%.[27]

For all of these reasons and the reasons stated in its Opening Brief, WorldCom asks this Commission to reject Qwest's flow through rates. Based on the testimony submitted in this docket, WorldCom requests that the Commission order Qwest to utilize a 2% fall out rate for all services at issue here.

Qwest failed to provide proper supporting documentation for the assumptions in its cost studies. Qwest used employee "subject matter experts" ("SMEs") to develop the work activities and work times utilized in its cost studies. Qwest did not perform time and motion studies to develop or substantiate the SME estimates. WorldCom recommends that the Commission order Qwest to redo its studies, utilizing well-defined and accepted business practices and time and motion studies to develop work activity and time estimates. Until Qwest submits cost studies consistent with TELRIC principles, the Commission should adopt the rates recommended by Messrs. Morrison and Lathrop or order Qwest to charge zero for its NRCs at issue in this docket.

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[24] *See* ALJ Report in Generic Cost Case at ¶ 250.
[25] *Id*. at ¶ 287.
[26] *See* ALJ Report in Generic Cost Case at ¶¶ 250-253, 273-289.
[27] MN ALJ Cost Recommendation at pp. 41-42.

Qwest argues throughout its brief that only its employees who currently perform the work have legitimate opinions as to appropriate work tasks and time estimates to include in a nonrecurring cost study.[28] WorldCom concurs in the comments in Staff's Brief on this issue.[29] If Qwest's arguments were correct, this Commission could never order any changes be made to Qwest's cost proposals. Qwest provided insufficient detail to support its cost estimates, provided no evidence as to how it incorporated improvements in technology and processes into its estimates and failed to consider technologies and processes employed by other carriers.[30] Moreover, Qwest did not present its SMEs as witnesses and allow them to be cross-examined by the Commission or the other parties. Adopting Qwest's unaudited and unverifiable cost estimates would be particularly troublesome since Qwest's SMEs used Qwest's current operations as a standard. As noted above in the discussion of the U.S. Supreme Court's *Verizon* decision, this is inconsistent with TELRIC principles and leads to manipulation of costs by the carrier.

Qwest criticizes WorldCom's witnesses, particularly Mr. Morrison, arguing that he arbitrarily reduced Qwest's estimates by 50%, currently does not perform the tasks subject to the cost studies, provides no analysis or rationale for his adjustments to Qwest's studies, misrepresents the functioning of forward-looking technologies and makes incorrect and misleading assumptions.[31] Qwest's criticisms are without merit.

First, Mr. Morrison's recommendations are well supported by the record here. Mr. Morrison explained, both in his written testimony and then again at the hearing, the reasons for

[28] See e.g. Qwest's Brief at pp. 13-15.
[29] Staff's Brief at pp. 6-8.
[30] Many of Qwest's assumptions can also be refuted by a common sense review of Qwest's study. For example it does not take employee "subject matter experts" to evaluate whether sufficient information is contained in a cost study to support the assumptions or how long it should take to send or print an e-mail. See Tr. at 4871-4874
[31] Qwest's Brief at p. 11.

his reductions to Qwest's estimates.[32] The primary reasons were the unnecessary duplication of efforts reflected in the tasks described in Qwest's studies, Qwest's failure to use efficient technologies in its studies and the lack of documentary support for the estimates contained in Qwest's studies. Mr. Morrison also opined on a couple of issues that, based on his experience in performing the task listed in the studies, the time estimates set forth by Qwest were too high, e.g. jumper running times.[33] Mr. Morrison thoroughly reviewed the studies and the supporting documentation provided by Qwest. Mr. Morrison also propounded extensive discovery to Qwest, attempting to learn more about its estimates. The chart prepared by Mr. Morrison summarizes his changes based on the above criticisms.[34] If he believed the task listed in the study was duplicative or unnecessary, he deleted it and the time associated with it on his chart. If he believed the time estimate was too high for a particular task, he reduced it on his chart. If he believed that Qwest's documentation was insufficient, he deleted the task or reduced it on his chart to what he believed was reasonable. As a testifying expert, Mr. Morrison's job is to help the decision makers evaluate whether Qwest satisfied its burden of proof in this case. The information presented by Mr. Morrison did that. Evaluating whether a cost study complies with TELRIC -- forward looking, least cost, most efficient – is not an exact science, as implied by Qwest's arguments. Rather, the standard is what is reasonable, based on TELRIC principles. Mr. Morrison's analysis complies with this standard.[35]

Second, as Mr. Morrison's background demonstrates, he has extensive experience and training in telecommunications network operations.[36] Much of that experience was gained in his

[32] Exhibits T-2270 – T-C-2291; Tr. at 4908-4909, 4912-4913,4917-4923, 4924-4926, 4927, 4936-4937, 4939-4943, 4944-4945, 4946-4948, 4949, 4951-4957, 4958-4949, 4959-4961, 4962-4963, 4964-4966, 4967-4969.
[33] Tr. at 4939-4943, 4951-57.
[34] Exhibit C-2271
[35] Tr. 4958-4963.
[36] Exhibit T-2270 at 2-5.

23 years at what is now known as Qwest. He is intimately familiar with all the systems and tasks about which he offered his opinions. He even performed time and motions studies for service provisioning on Qwest's MDF operations, including running jumpers on the frames. After Mr. Morrison retired from Qwest in 1993, he helped to build telecommunications networks in Malaysia and Switzerland. One of his many responsibilities was to develop business processes and OSS requirements for the provisioning of telecommunications services. From 1997-1999, Mr. Morrison also worked at Qwest as an outside plant and central office engineer and trained Qwest engineers in collocation.[37]

An expert witness is one who possesses specialized knowledge that can assist the trier of fact to resolve an issue in controversy. Mr. Morrison certainly possesses specialized knowledge on the issues facing the Commission regarding Qwest's proposed NRCs that address central office and outside plant activities. One need not be currently performing the jobs in question to be able to evaluate whether Qwest's time estimates and activities are overstated or whether Qwest employs efficient technologies in its cost estimates. Thus, to the extent that this Commission determines that expert opinion is a valid method to develop and evaluate cost studies, Mr. Morrison's opinions are at least as competent as those presented by Qwest. In fact, because of the problems with Qwest's SMEs highlighted above and in Staff's Brief, WorldCom believes in fact that Mr. Morrison's opinions deserve more weight than those of Qwest's SMEs.[38]

For all of these reasons, the Commission should reject Qwest's criticisms of Mr. Morrison as well as its arguments that its SMEs are the only persons who can legitimately advise

[37] Id.
[38] Tr. at 4945-4948, 4871-4874.

the Commission on the nonrecurring charges that Qwest should charge CLECs here in Washington.

2. Factor Issues

Qwest argues that the Commission should ignore WorldCom's recommendations because it would result in inconsistencies between the rates set in earlier phases of this docket and those set in this phase of the docket. Qwest suggests that WorldCom's issues should be considered and resolved in the next cost case. That is not an appropriate way to view or resolve WorldCom's concerns with Qwest's factors. Qwest argues that for the sake of consistency, this Commission should continue to incorrectly calculate and apply Qwest's cost factors. WorldCom suggests instead, that the Commission fix the problems now and carry the fix forward. For the reasons set forth in WorldCom's testimony and Opening Brief, WorldCom asks the Commission to order Qwest to modify its factors to remove the problems described. At a minimum, the Commission should require Qwest to update its factor model with current expense data.

3. Work Time Estimate Issues

Most of the issues raised in this section of Qwest's Brief are addressed above in the Overview of Qwest's non-recurring cost studies. WorldCom responds here to Qwest's specific arguments regarding time and motion studies. Qwest requests that the Commission accept its cost estimates and not order time and motion studies because time and motion studies (1) produce historic or embedded costs; (2) are too costly; and (3) may not reflect "real world" activities. In addition, Qwest contends WorldCom failed to adequately describe a time and motion study and how it complies with TELRIC principles.[39] WorldCom asks the Commission to reject Qwest's arguments.

[39] Qwest's Brief at pp. 15-16.

Mr. Morrison explained that a time and motion study is a test wherein the tester observes and times a defined task. Several individuals participate in the study, performing the tasks involved. The tester records an average of all of the participants' times. At the end of the test, the tester has a first-hand understanding of what was done and how long it took to do it.[40] To account for the FCC's TELRIC principles in a cost study that is based on time and motion studies, Mr. Morrison also explained that the tester or evaluator reviews each task and process contained in the study and determines whether it can be performed more cheaply or more efficiently. For example, the tester evaluates whether a manual task can be replaced by mechanization. If it can be, the manual times are eliminated from the study.[41]

By evaluating the results of the study to determine whether tasks can be performed more cheaply or efficiently, the study minimizes its reliance on embedded, or the ILEC's *actual*, costs and processes. This evaluation is performed regardless of whether the carrier being tested actually intends to implement the cheaper or more efficient process. Consistent with TELRIC, this evaluation would be based on what technology or process is available or in use today. As to the argument that the study is too costly, no evidence exists in the record to substantiate Qwest's claims. Moreover, to base Qwest's rates to CLECs on unverifiable opinions of Qwest's internal SMEs is too costly a proposition for CLECs. The Commission must balance the competing interests of the parties on this issue and find a way to ensure that Qwest properly substantiates that the rates it charges its wholesale customers are consistent with TELRIC. WorldCom agrees with Staff that the best way to do so is to order Qwest to perform time and motion studies.

As to Qwest's criticism that time and motion studies do not accurately capture the variations in orders so as to reflect "real world" activities, the study can be designed to capture

[40] Tr. at 4948-4949.
[41] Tr. at 4967-4968.

typical variations. Far more activities can be subject to a time and motion study than cannot. The few instances that may be difficult to reflect in a study should not be the basis to reject the principle of time and motion studies altogether.

For all of these reasons, as well as the reasons discussed in the Overview section of this Brief, WorldCom requests that the Commission reject Qwest's arguments against the use of time and motion studies to validate Qwest's wholesale nonrecurring costs.

4. Discussion of Individual Rates

d. CLEC to CLEC Collocation (Exhibit 2050 at Section 8.8)

(i) Direct Connection (Exhibit 2050 at Sections 8.8.1-8.8.5)

Qwest criticizes WorldCom's critique of its Direct Connection Service, stating that "at bottom, the issue is whether the Commission will rely on estimates provided by people who actually perform the work and have direct experience with the functions necessary to design and engineer these connections, or will rely on WorldCom's speculation that the time estimates are too long, for reasons which are either never articulated, or are simply wrong."[42]

Qwest, however, provided virtually no support for the time estimates associated with the various activities that comprise its Direct Connect cost study. In response to WorldCom's critique, Qwest filed an entirely different set of activities in its Rebuttal Testimony, providing no explanation of how the activities in its cost study relate to the activities it filed in Mr. Hubbard's Rebuttal Testimony.[43]

In attempting to rebut Mr. Lathrop's specific adjustments, Qwest states that Mr. Lathrop has not been in a Qwest Washington central office in at least several years. Whether or not Mr. Lathrop has toured a Qwest Washington central office, recently or ever, is irrelevant since many

[42] Qwest's Brief at p. 19.
[43] Exhibit T-2255 at 2-3.

of the activities in Qwest's cost study need not take place in a central office. (Indeed, if touring a Washington central office were relevant, it could prevent the Commissioners or the Administrative Law Judge from ruling on Qwest's cost studies.) For example, most of the activities that comprise Qwest's cost study involve application processing and database verification that do not require Qwest staff to be located in a central office. Whether the staff conducting those activities actually reside in a central office is coincidental and unrelated to the tasks they perform listed in Qwest's cost study. It is hard to understand why Qwest believes looking up information in a database requires a recent visit to a Qwest central office. Of the ten hours that Qwest has claimed it requires to provide this service, the only function that requires being in the central office is the "walk through," which would not be required if Qwest's central office records were up-to-date. On cross-examination, Mr. Hubbard confirmed that Qwest includes time to ensure it made no errors inputting data, time that should not be charged to CLECs, which pay for the data to be input correctly.[44] For all the reasons set forth in WorldCom's Opening Brief on this issue, the Commission should reject Qwest's proposal and either adopt the changes recommended by Mr. Lathrop or order Qwest to charge zero for direct connections until the Commission approves a rate consistent with TELRIC.

(ii) Cross-Connections (Exhibit 2050 at Section 8.8.6)

Qwest's CLEC to CLEC Cross Connection service requires installing (or disconnecting) a jumper cable between CLEC termination cables at a Qwest intermediate distribution frame.[45]

Qwest claims that the function of actually installing the jumper cable requires about 4 minutes, while the entire service requires almost 3 hours. Qwest's documentation clearly indicates that the design activities are related to outside plant, not related to designing a jumper

[44] Tr. at 4551.
[45] Exhibit T-2250 at 14-15.

connecting terminations inside a central office. The variety of factors involved in the former far exceed the latter, as explained by Mr. Lathrop in his Surrebuttal Testimony.[46] As a consequence, Qwest's documentation is inappropriate and overstates Qwest's design time for Cross Connection service. Qwest refuses to acknowledge its documentation for this service is inappropriate and instead claims in its Brief that WorldCom failed to consider additional, possible scenarios, such as CLECs on different floors that require complex routing. This is simply not credible. Mr. Hubbard testified in cross-examination that this service requires both CLECs to have terminations on the same intermediate distribution frame ("ICDF").[47]

In his discussion of Qwest's study on CLEC to CLEC cross connections, the Minnesota ALJ found:

> For certain elements, Qwest's NRC cost study includes costs associated with activities to be performed by the "Service Delivery Coordinator" in its Interconnection Service Center. The portion of the cost study relating to activities performed by the Service Delivery Coordinator in connection with the provisioning, for example, of the CLEC to CLEC cross connection, assumes in calculating the cost of adding the element (1) that only 25% of the requests for this element will be received electronically; (2) that each element must be ordered via a separate Access Service Request (ASR); (3) that for each ASR received, the Service Delivery Coordinator will spend 15 minutes determining whether the CLEC placing the order is certified to provide service and an interconnection agreement with Qwest; (4) that for each ASR received, the Service Delivery Coordinator will take another 25 minutes to check contract terms, intervals, and various billing checklists. To disconnect this element, the model includes another 10 minutes to check contract terms and 15 minutes to check billing checklists. Accordingly, Qwest's NRC cost study assumes that, if a CLEC submits, at the same time, three separate orders for CLEC-to-CLEC cross connections, the Service Delivery Coordinator will spend, for each order, 15 minutes determining whether the CLEC has a contract, another 10 minutes ascertaining other contract terms, and 15 minutes checking various billing checklists.
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> These assumptions are unreasonable. The simple task of verifying whether a CLEC has an interconnection agreement is precisely the type of function that one would expect to be performed automatically, using electronic systems. Qwest has no such system in place. Further, the cost study assumes no economies associated

[46] Exhibit T-2255 at 8.
[47] Tr. 4573.

> with the performing of repetitive tasks. The process described above cannot be reasonably characterized as either efficient or forward-looking.[48]

The cost study that Qwest submitted in this docket for CLEC to CLEC cross connection suffers from the problems cited by the Minnesota ALJ. For all the reasons set forth in Mr. Lathrop's testimony on this issue, this Commission should, like the Minnesota ALJ, reject Qwest's proposal on this issue and either adopt Mr. Lathrop's recommendation or order Qwest to charge zero for this activity, until this Commission approves rates based on a study that properly incorporates TELRIC principles.

e. Space Availability Charge (Exhibit 2050 at Section 8.9)

The Minnesota ALJ rejected Qwest's proposal for the Space Availability Report. In doing so, he found that Qwest overstated the amount of time necessary to perform the activities involved:

> This optional report provides CLECs with information regarding the existing collocation conditions within an office, and the charge for the space inquiry report applies on a "per office" basis each time a CLEC requests a report. Qwest's proposed NRC for the space availability report includes five hours of time to check availability in the central office and process the report. This appears to be an excessive amount of time to process information that should be available quickly in an efficient, forward-looking network. Qwest should revise its model to delete manual activities and to use inputs approved in this docket or the Generic Cost Case, including but not limited to overhead.[49]

WorldCom asks the Commission to reject Qwest's proposal on this rate element and adopt the recommendations of Mr. Lathrop on this issue. In the alternative, the Commission should order Qwest to charge zero for this rate element until the Commission approves a rate based on a cost study that is consistent with TELRIC principles.

[48] MN ALJ Cost Recommendation at pp. 42-43.
[49] Id. at 51.

f. Space Optioning (Exhibit 2050 at Section 8.10)

Qwest asserts in its Brief that no engineering functions for space optioning would duplicate the engineering associated with collocation. If the last remaining space, or a unique space, is optioned in a central office, and the option is later exercised, CLECs should receive credit for the engineering activities performed. Since space optioning is likely to be more popular in space-constrained central offices, it is likely that there will be instances in which an exercised space option will involve the identification of specific space in a central office. Qwest's claim that no engineering functions for space optioning would be duplicated is inconsistent with the list of functions Qwest provided in its cost study. That is, the engineering functions relate to identifying and tracking space – information that must be retained until an option is exercised, at which point the functions (obtaining the information related to the collocation, updating databases) need not be duplicated.

This rate was also one subject to the recent Minnesota ALJ's recommendation. The ALJ agreed with AT&T/WorldCom's argument on this issue and ordered Qwest to reduce the time estimates contained in this study:

> Qwest proposes a Space Option Administration Fee of $1,165.75, which would permit CLECs to reserve space for future collocation needs. This element was not included in the previous cost docket. Space options are subject to first right of refusal requests by other parties with firm collocation orders. According to the study associated with this fee (No. 6218), a substantial portion of the direct costs is for processing of the application and project management/scheduling time (seven hours). Again, this appears to be an excessive amount of time to process information that should be available quickly in an efficient, forward-looking network. Qwest should revise its model to delete manual processing activities and to use any applicable inputs approved in this docket or the Generic Cost Case, including but not limited to overhead.[50]

For the reasons set forth in Mr. Lathrop's testimony and WorldCom's Opening Brief on this issue, WorldCom requests that the Commission order Qwest to use 4 hours for engineering

[50] Id. at pp. 51-52.

activity in developing the cost for its Space Optioning NRC. WorldCom recommends Qwest credit any CLEC that purchases Space Optioning and later exercises its option with three hours of engineering time. Alternatively, the Commission should order Qwest to charge zero for this rate element, until the Commission approves a rate based on a study that is consistent with TELRIC.

j. Multiplexing (Exhibit 2050 at Section 9.6.8)

Qwest argues that the Commission should adopt Qwest's proposal on DS3 to DS1 Multiplexing because the Commission adopted Qwest's proposal in Part B of this docket for DS1 to DS0 Multiplexing and the study in Part D was conducted in the same manner as the Part B study.[51] The Commission should reject Qwest's argument. First, contrary to Qwest's representation, the Commission did not adopt Qwest's proposed rates for DS1 to DS0 Multiplexing. Rather, the Commission modified Qwest's proposal ("We approve Qwest's proposed nonrecurring rates for multiplexing, subject to adjustments based on the company's NRC methodology as ordered.").[52] Second, the Commission should base its decision on the evidence presented in this phase of the case. WorldCom asks the Commission to reject Qwest's proposed DS3 to DS1 Multiplexing rate based on the arguments set forth in Mr. Morrison's testimony and WorldCom's Opening Brief.

u. Customized Routing (Exhibit 2050 at Section 9.13)

WorldCom's plea to the Commission on this issue is multi-faceted. WorldCom first asks the Commission to find that Qwest is not providing customized routing as required under the Act and the FCC rules and, therefore, order Qwest to provide Operator Services and Directory Assistance ("OS/DA") on a TELRIC basis. Second, WorldCom asks the Commission to order

[51] Qwest Brief at pp. 29-30.
[52] Part B Order at para. 162.

Qwest to provide WorldCom with customized routing pursuant to the Act and FCC rules. Third, WorldCom asks the Commission to order Qwest to provide WorldCom with customized routing pursuant to the parties' interconnection agreement. Qwest's Brief attempts to confuse the issues, misleads the Commission as to its willingness to work with WorldCom to attempt to accommodate its request and misrepresents what is required to accommodate WorldCom's request. WorldCom asks the Commission to reject Qwest's excuses for failing to comply with its obligations in this regard.

Paragraph 463 of the UNE Remand Order reads:

> We conclude that the interoperability issues identified in this record do not materially diminish a requesting carrier's ability to provide local exchange or exchange access service. In particular MCI WorldCom complains that incumbent LECs should implement Feature Group D signaling, instead of the outdated legacy signaling protocol. According to MCI WorldCom, to use the incumbent LECs' signaling protocol instead of Feature Group D, most competitive LECs would have to either deploy new customized operator platforms or modify their existing platforms, both of which would impost substantial costs. SBC responds that the customized routing of Feature Group D is not technically feasible in all end-office switches. Bell South, however, offers a technical solution to MCI WorldCom's concern in some of its offices and states its willingness to deploy these solutions throughout its network. In instances where the requesting carrier obtains the unbundled switching element from the incumbent, the lack of customized routing effectively precludes requesting carriers from using alternative OS/DA providers and, consequently, would materially diminish the requesting carrier's ability to provide the services it seeks to offer. Thus, we require incumbent LECs, to the extent they have not accommodated technologies used for customized routing, to offer OS/DA as an unbundled network element.

The UNE Remand Order describes customized routing as follows:

> Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks, which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform. [53]

[53] UNE Remand Order ¶ 441 n.867.

Customized routing is part of the unbundled switching network element.[54]

WorldCom desires to self provision OS and DA services to its customers. It has designated its existing Feature Group D trunks as the trunks to which it desires Qwest to route WorldCom's UNE-P customers' OS/DA calls. Qwest has repeatedly refused to comply with WorldCom's request. Qwest testified that no technical impediment exists to providing customized routing over WorldCom's Feature Group D trunks. Rather, Qwest refuses to comply with WorldCom's request because it has made a "business decision" not to translate a 411 call to a toll call and provide common transport.[55]

Qwest argues that WorldCom never requested customized routing from Qwest until a few weeks before the hearing in this matter. In fact, in the Spring of 2001, nearly a year before the hearing, the parties signed the "UNE-P Amendment" to their interconnection agreement, which memorializes WorldCom's request to provide customized routing over its existing Feature Group D trunks.[56]

Qwest also complains that WorldCom's request was not Qwest's "standard" "customized" routing offering. "Customize" is defined as "to make or alter to individual specifications."[57] Qwest's "standard" offering is thus by definition, not "customized" routing. The FCC's Order is clear that customized routing is a service that is meant to satisfy the needs of the requesting carrier. The requesting carrier is not obligated to devise a "customized" routing specification that fits conveniently into the ILEC's "standard" offering. Rather, the ILEC is

[54] 47 CFR section 51.319 (c)(1)(iii)(B) ("all features, functions and capabilities of the switch, which include but are not limited to: (B) All other features that the switch is capable of providing, including but not limited to, customer calling, customer local area signaling service features, and Centrex, as well as any technically feasible customized routing functions provided by the switch.")
[55] Tr. at 4756-4757.
[56] Exhibit 2057. Qwest claims to have not received a request for customized routing from WorldCom until a few weeks before the hearing but later in the same paragraph of its Brief, refers to the interconnection agreement amendment which memorializes WorldCom's customized routing request.
[57] American Heritage Dictionary, 3rd Edition (1994) at 211.

obligated under the Act to make network modifications to the extent necessary to accommodate interconnection or access to network elements, including WorldCom's request for customized routing over Feature Group D trunks.[58]

Qwest next sidesteps the real issues by claiming that what WorldCom requests is not customized routing but instead "411 presubscription," which is currently being considered by the FCC. WorldCom disagrees. 411 presubscription refers to the ability of end user customers to choose their OS/DA carrier, regardless of which local carrier the customers choose. This is distinguishable from customized routing, which as noted above, allows the competitive local exchange carrier to designate where it wants its end users' OS/DA traffic routed when it provides its end users with its own OS/DA services. WorldCom has requested customized routing, not 411 presubscription.[59] The FCC has already ruled on this issue and concluded that ILECs are required to provide it.

Qwest next claims in its Brief that it is willing to implement the terms of its interconnection agreement with WorldCom that requires it to provide customized routing over WorldCom's existing Feature Group D trunks. However, Qwest interprets the agreement to require WorldCom to order dedicated trunking to each of Qwest's end offices to carry the OS/DA traffic. As discussed in WorldCom's Opening Brief, this is not a reasonable interpretation of the agreement. The clause in dispute provides, "MCIm may custom route operator services or directory assistance calls to unique operator service/directory services trunks, i.e. existing feature group D trunks." "Unique" is defined as "being the only one of its kind" or "without an equal or equivalent, unparalleled."[60] "Unique" was not used here to mean

[58] *In re BellSouth Corp, BellSouth Telecom Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, 13 FCC Rcd 20599 (October 1998) at paras. 221-226.
[59] See Exhibits 2057, 2187, C-2187, 2188.
[60] American Heritage Dictionary, 3rd Edition (1994) at 878.

trunks dedicated to OS/DA traffic or direct to every Qwest end office. Rather, "unique" reiterates the "customized" or "individualized" nature of the routing designation. This is the only interpretation offered by the parties that gives meaning to the entirety of the sentence. "i.e." is an abbreviation of a Latin phrase "Id est" or "that is." Thus, an explanation of "unique operator service/directory services trunks" is "existing Feature Group D trunks." Moreover, as WorldCom expressed in its Opening Brief, it would be uneconomical and wasteful for the Commission to interpret the agreement as advocated by Qwest, as such a ruling would result in the underutilization of trunk groups and significant unnecessary expense to WorldCom.

In the recent Virginia Verizon Arbitration decision, the FCC reemphasized its finding in the UNE Remand Order that "[c]ustomized routing permits a *requesting carrier* to specify that the incumbent LEC route, *over designated trunks* that terminate in the requesting carrier's operator services and directory assistance platform, operator services and directory assistance calls that the requesting carrier's customers originate."[61] Accordingly, the FCC required Verizon to reflect in its interconnection agreement its commitment to provide customized routing for OS/DA calls over WorldCom's Feature Group D trunks.[62]

The Texas Public Utilities Commission reached a similar conclusion. The Texas PUC ordered SWBT to price OS/DA at TELRIC rates until it demonstrates that it has met the customized routing requirements. SWBT, like Qwest, refused to route WorldCom's local customers' OS/DA traffic over existing Feature Group D trunks. The Commission rejected SWBT's argument that it satisfied its obligations under the UNE Remand Order by offering

[61] *In the Matter of the Petition of WorldCom Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corp. Comm'n Re: Interconnection Disputes with Verizon Virginia, Inc. for Expedited Arbitration*, CC Docket Nos. 00-218/249, DA 02 1731, Memorandum Opinion and Order (July 17, 2002) at para. 533 ("FCC Verizon Arbitration Order"), citing UNE Remand Order at ¶ 441, n.867 (emphasis added).

[62] Virginia Arbitration Order ¶ 535.

customized routing over Feature Group C trunks dedicated to each SWBT end office. In doing so, the Arbitrators reasoned:

> Customized routing, by definition, must permit requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent. The Arbitrators therefore reject SWBT's claim that, by providing customized routing through Feature Group C trunks, it has satisfied the customized routing requirement. As the FCC observed, CLECs are impaired without accommodating technologies used for customized routing. There, to the extent ILECs have not accommodated technologies for customized routing, they must offer OS/DA as a UNE.[63]

Qwest next argues that significant issues remain, significant costs will be incurred and WorldCom's request would ultimately only work on the Lucent switches in Qwest's network. Qwest implies that the parties are continuing to work together to resolve these "significant" issues. In fact, the parties are at a standstill. Qwest is not attempting to accommodate WorldCom's request. It is undisputed on the record that no technical impediments exist. Yet, Qwest refuses to provide customized routing as requested by WorldCom because it has made a business decision to deny WorldCom's request. Moreover, it has chosen to interpret the parties' interconnection agreement to require significant unnecessary investment by WorldCom.

WorldCom provided Qwest with the technical requirements necessary for Qwest to provide customized routing over WorldCom's existing Feature Group D trunks. This information included specifications for Lucent, Nortel and Siemens switches. All WorldCom requests is that Qwest route WorldCom local customers' OS/DA traffic in the same way that Qwest currently routes WorldCom's long distance customers' OS/DA traffic. WorldCom wants Qwest simply to set up translations in its switches that would translate and forward 411 calls

[63] *Petition of MCImetro Access Transmission Services, LLC, Sage Telecom, Inc., Texas UNE Platform Coalition, McLeod USA telecommunications Services, Inc., and AT&T Communications of Texas, L.P. for Arbitration with Southwestern Bell Telephone Co. under the Telecommunications Act of 1996*, Arbitration Award, Public Utility Commission of Texas, Docket No. 24542 (April 2002) at 163.

from WorldCom's UNE-P customers to a 10-digit number associated with WorldCom's existing trunk groups that serve the local end user. The OS/DA calls will thereby be routed to WorldCom's existing end office direct Feature Group D trunk groups as well as transit the forwarded calls through its network to WorldCom Feature Group D trunks connected at Qwest's access tandems. In sum, WorldCom's customized routing methodology takes its UNE-P customers' local OS/DA calls and makes them "look like" long distance calls that would naturally flow to WorldCom's existing network.

WorldCom requested the same type of customized routing here from Qwest as it requested in its Arbitration with Pacific Bell in California. The California Public Utilities Commission ("PUC") ordered that if Pacific Bell does not provide customized routing to WorldCom using Feature Group D, WorldCom would be entitled to receive OS/DA at UNE prices. The PUC held that it was unnecessary for the arbitrator to determine whether "particular functions are technically feasible in particular switch types." Citing paragraph 463 of the UNE Remand Order, the PUC observed:

> It is significant that while the FCC acknowledges that there may be technical difficulties in accomplishing the customized routing requested, it does not indicate that technical infeasibility would excuse the ILEC from the requirement to offer OS and DA as UNEs. We will follow that rule in this arbitration as well.[64]

At pages 36 and 37 of its Brief, Qwest raises issues relating to signaling "obstacles" to WorldCom's request. WorldCom asks the Commission to ignore that discussion. First, no record evidence exists to support it. Qwest has provided no record cite in its Brief to support it. In fact, the evidence in the record contradicts this argument. Mr. Craig admitted that WorldCom's customized routing request is technically feasible. Qwest has simply made a business decision to

[64] *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996,* Public Utilities Commission of California, Application 01-01-010 (2001) at 12-13.

deny it. In addition, as reiterated by the FCC in the Verizon Arbitration and by the California PUC in the Pacific Bell/MCIm Arbitration, the FCC has ordered the ILECs to accommodate CLEC technologies for customized routing, including Feature Group D.

The "significant investment" concern that Qwest refers to relates to right to use fees that Qwest contends it will need to pay its vendors for the software needed to implement WorldCom's customized routing methodology in Qwest's switches. Right to use fees for switching software are recovered as part of Qwest's local switching network element rates. As noted above as well as in Qwest's Opening Brief,[65] customized routing is part of the local switching UNE. In fact, Qwest is advocating in this docket that its recurring rate for its Analog Line Side Port (Exhibit 2050 Section 9.11.1) be increased to account for right to use fees that Qwest pays for software needed to provision vertical features in the switch.[66] Thus, WorldCom should pay Qwest for any right to use fee investment necessary for customized routing in the same way that it pays Qwest for all other right to use fee investment – through the recurring local switching rate.

The FCC specifically addressed this issue in *In the Matter of Petition of MCI for Declaratory Ruling that New Entrants Need Not Obtain Separate License or Right to Use Agreements Before Purchasing Unbundled Elements*.[67] There, the FCC held that right to use fees should be included in the UNE rate and should not be recovered separately from the CLECs:

> 9. We conclude that the "nondiscriminatory access" obligation in section 251(c)(3) requires incumbent LECs to use their best efforts to provide all features and functionalities of each unbundled network element they provide, including any associated intellectual property rights that are necessary for the requesting carrier to use the network element in the same manner as the incumbent LEC. In particular, incumbent LECs must exercise their best efforts to obtain co-extensive rights for competing carriers purchasing unbundled network elements. We further

[65] 47 CFR section 51.319(c)(1)(iii)(B) and Qwest's Opening Brief at page 31.
[66] Qwest Brief at p. 58.
[67] CCBPol. 97-4, CC Docket No. 96-98, FCC 00-139 (rel. April 27, 2000).

> find that the nondiscriminatory access obligation requires incumbent LECs to allocate any costs associated with acquiring the necessary intellectual property rights among all requesting carriers, including themselves. . . .
>
> Footnote 27 to this paragraph states that "[t]he costs allocated to intellectual property rights will be considered with all the other costs that go into determining the unbundled network price."
>
> Paragraph 11 elaborates further:
>
> 11. We further conclude that incumbent LECs must recover the reasonable cost associated with renegotiating and extending rights to use intellectual property rights among all requesting carriers, including themselves. We thus disagree with commenters that suggest that costs should be recovered entirely from the competing carriers under cost causation principles. Section 251(c)(3) imposes an obligation on incumbent LECs to provide access to unbundled network elements on terms and conditions that are "just, reasonable, and nondiscriminatory." Moreover, section 252(d)(1)(A) requires that rates for unbundled network elements be based on the cost of providing the network element. These sections reflect Congress' intent to ensure that competing carriers are able to share in the economies of scale and economies of scope of the incumbent. As the Commission stated in the Local Competition First Report and Order, incumbent LECs' rates for network elements must recover costs in a manner that reflects the way they are incurred, and therefore, prices should be based on costs similar to those incurred by the incumbents. Moreover, the Commission stated that, "[t]he costs of shared facilities . . . should be recovered in a manner that efficiently apportions costs among users." We find that the cost of co-extensive intellectual property rights is analogous to the shared use of network elements, and thus, must be shared by the incumbent and competitors, ensuring that all parties bear the same proportionate and reasonable costs associated with unbundled network elements. We note that the price of an unbundled network element already includes the cost of the license for the incumbent to use it. Accordingly, charging the entire cost of any license extension to requesting carriers, without the incumbent sharing in that cost, results in an overcharge to the requesting carriers.

This Commission should disregard Qwest's argument that it should not rule on WorldCom's customized routing request on the basis that "significant cost issues" remain between the parties.

The Staff and Qwest both argue that WorldCom should pursue its customized routing request through the Bona Fide Request ("BFR") Process. At this point, however, the BFR process is essentially complete on this issue. WorldCom submitted its written request and technical specifications on Qwest-supplied forms and pursuant to Qwest's directions. Technical

experts have met on several occasions to discuss the issues. Letters have been exchanged between company executives consistent with the agreed upon escalation process. The escalation process is complete. Qwest has refused to provide WorldCom with customized routing over its existing Feature Group D trunks. WorldCom has submitted the dispute to the Commission.[68] Requiring WorldCom to start over through another "official" BFR process would simply require WorldCom, for no apparent purpose, to repeat steps already taken, adding expense and delay.

The Minnesota Public Utilities Commission ("PUC"), in its investigation of Qwest's Section 271 Application, recently ordered Qwest to price OS/DA at TELRIC rates, finding that Qwest's "standard" customized routing "appears to be no more than a paper promise, as opposed to a demonstration of present compliance."[69] There, like here, Qwest failed to demonstrate that a competitive wholesale market for OS/DA existed since Qwest was not providing customized routing to any CLEC in Minnesota.[70] The Commission also found that Qwest had failed to accommodate technologies used for customized routing, including routing over WorldCom's Feature Group D trunks.[71]

WorldCom asks the Commission to reject Qwest's arguments against its obligation to provide WorldCom with its requested customized routing. As demonstrated in WorldCom's Opening Brief on this issue as well as arguments contained herein, Qwest's denial of WorldCom's request violates the Act and the FCC Orders, violates the parties' interconnection agreement and is harmful to the development of local competition in the state of Washington.

[68] See e.g. BFR process in SGAT, Exhibit 2059 at Section 17.
[69] *Findings of Fact, Conclusions of Law and Recommendation*, Minnesota Office of Administrative Hearings for the Minnesota Public Utilities Commission, OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370 (May 2002) at 33-34.
[70] *Id*.
[71] *Id.*

WorldCom also asks the Commission to order that until Qwest accommodates WorldCom's customized routing request, Qwest must price OS/DA consistent with TELRIC.

z. UNE Combinations (Exhibit 2050 at Section 9.23)

Qwest contends that WorldCom's proposed changes to Qwest's UNE-P New Connection charges are unsupported by the record because Mr. Morrison could not specify whether work times were overstated or the probability of occurrence was too high. Qwest claims that Mr. Morrison never explained the reasons for his proposed reductions. [72]

To the contrary, Mr. Morrison stated that Qwest's supporting documentation was insufficient to substantiate its proposed costs and that time and motion studies should be performed to provide a verifiable basis for the costs.[73] When he reviewed Qwest's responses to discovery, he noticed that many unnecessary tasks were included in the time estimates that were not described in the study. He testified: "Without the ability to do in depth analysis on all those additional processes that lay behind a single line description, it is very, very difficult to get a handle on this cost study and come up with any kind of truly accurate answers to the tasks that are being performed, because the tasks that are being performed are not totally described in the cost study."[74] Consequently, he concluded that Qwest's proposal is "off by at least 50%."[75] Compare the tasks listed in discovery responses, Exhibits 2273-2290, to the tasks listed in Qwest's cost study, Exhibit 2023. Mr. Morrison also addressed this study in his general evaluation in his written testimony of all of Qwest's NRC studies.[76]

As noted above, Qwest's criticisms are based on an assumption that a TELRIC analysis is an exact science. It is not. The FCC set forth guiding principles to be applied in evaluating

[72] Qwest's Brief at pp. 40-41.
[73] Tr. at 4936-4937.
[74] Tr. at 4937.
[75] Id.
[76] Exhibit T-2270 at 24-25; Exhibit C-2271 at 8-12.

whether ILEC cost studies comply with TELRIC. Mr. Morrison applied those guiding principles during his review of Qwest's studies and determined that Qwest's studies did not comply with TELRIC.[77]

For the reasons set forth in Mr. Morrison's testimony and WorldCom's Opening Brief, WorldCom asks the Commission to reject Qwest's proposal for UNE-P New Connection nonrecurring rates. WorldCom asks the Commission instead to adopt Mr. Morrison's recommended changes or order Qwest to charge zero for this rate element until the Commission approves rates consistent with TELRIC.

bb. Directory Assistance/Operator Services (Exhibit 2056 at Sections 10.5 and 10.7)

(i) Branding (Exhibit 2056 at Sections 10.5.3-10.5.4 and 10.7.3 and 10.7.4)

Qwest argues that Branding should be set at market-based rates because the FCC exempted OS/DA from unbundling when an ILEC provides customized routing. As demonstrated above, Qwest does not provide customized routing as required by the FCC. Consequently, its OS/DA services, including branding, must be provided at TELRIC. For all the reasons set forth in WorldCom's Opening Brief and Mr. Gates' testimony, WorldCom asks the Commission to reject Qwest's argument that branding should be set at market rates and order Qwest to submit cost studies for branding based on TELRIC principles.

ee. Access to Poles, Conduit and Right of Way (Exhibit 2050 at Section 10.8)

While Qwest asserts its cost studies are consistent with the FCC's TELRIC requirement, it does not mention that the FCC does not specify whether a cost study that includes the cost of both checking databases and field verification is consistent with TELRIC principles. Contrary to

[77] Tr. at 4961-4963.

Qwest's claim that WorldCom did not challenge the necessity of checking records and conducting field verifications, WorldCom challenged whether it is consistent with TELRIC principles for Qwest to assess CLECs charges for both activities.

Qwest argues that any company with large inventories may have records that do not reflect conditions in the field, pointing to video rental stores and grocery stores as examples. Qwest's examples are irrelevant in that these generally competitive industries do not charge for both database searches and field verifications. Nor is it a matter of rate design, as Qwest alleges. In fact, more accurate databases provide competitive benefits to the providers (in part by making labor more efficient by avoiding wild goose chases for movies not in stock). Thus, competitive providers have an incentive to maintain accurate databases that accurately represent their inventories. Qwest's provision of pole and innerduct inquiry services is not characterized by a competitive market, and hence, Qwest has no incentive to clean up its databases, since there is no alternate provider for CLECs to use. CLECs, however, should not be required to improve Qwest's competitive position by paying Qwest both to conduct network surveys (field verification) as well as to update its databases.

Qwest's testimony on this issue (Supplemental Rebuttal Testimony of Robert J. Hubbard, Exhibit T-2154 at pages 10 and 11) do not match the functions Qwest provided in its cost study, reproduced as Exhibit 2253, page 1 of 5.

The Minnesota ALJ agreed with AT&T/WorldCom's criticism of Qwest's assumptions in its poles, conduits and rights of way cost studies relating to field verification:

> Although Qwest claims that its inventory of dark fiber is reflected in its TIRKS database, Qwest does not rely on that database when provisioning "complex" orders for dark fiber (*i.e.*, orders requiring a splice). Rather, for any complex order for unbundled dark fiber, Qwest requires not only a record inquiry but a "field verification" as well. This field verification process entails a Qwest technician going out into the field to verify that the information reflected in the

> database is, in fact, correct. The claimed justification for requiring this field verification is that information contained in the database may be inaccurate because, for example, a car may have run into the cabinet where the fiber is contained. Qwest further maintains that no amount of updating of its databases will reduce the need for field verifications. This cannot be described as a model of efficient, forward-looking processes.
>
> Qwest has similar field verification requirements that it applies to requests for access to poles and conduits. Thus, Qwest's cost studies assume that, any time a CLEC makes a request for access to a pole, a Qwest technician must go out into the field to verify the pole number, street code and ownership. Qwest also performs field verifications in response to requests for access to conduits, which entails a Qwest employee physically going to one or more Qwest manholes to prepare a sketch of the conduit structure on the manhole wall. These verifications are the kinds of tasks that one should expect, in a forward-looking network, to be completed using electronic databases.[78]

For all of these reasons as well as the reasons set forth in Mr. Lathrop's testimony and WorldCom's Opening Brief on this issue, the Commission should reject Qwest's proposals for access to poles, conduit and rights of way NRCs.

ff. Bona Fide Request Process (Exhibit 2050 at Section 17.1)

Qwest asserts that its time estimates for BFRs are based on the experience of its SMEs analyzing requests. Exhibit 2176 (Qwest's response to WCI 06-457) indicates that the BFRs analyzed by Qwest in 2000 and 2001 included several that appeared to address identical issues. Qwest's witness did not know whether Qwest had reduced the time required to process BFRs to account for the fact that it processed multiple BFRs that addressed identical issues.[79] CLECs should not be charged more than once for "thinking time" for a task. Qwest failed to demonstrate that its study does not exclude costs for thinking time for repetitive tasks. For this reason and the reasons set forth in Mr. Lathrop's testimony and WorldCom's Opening Brief, the Commission should reject Qwest's proposed BFR NRC.

B. Recurring Costs

[78] MN ALJ Cost Recommendation at pp. 43-44, 48.
[79] Tr. at 4559.

1. Discussion of Individual Rates

c. CLEC to CLEC Collocation (Exhibit 2050 at Section 8.8.3)

Qwest claims that its CLEC to CLEC Collocation: Direct Connection cost study assumes one foot of additional cable racking will be required. Qwest fails to mention its assumption that 10 feet of additional cable racking will be required for Direct Connections using fiber cable.

Qwest also claims "the central office model used for collocation rent has no connection to the assumptions in the CLEC to CLEC direct connections costs for cable racking."[80] While that statement is true, it results in an internal inconsistency among Qwest's collocation cost studies. The problem is that Qwest's collocation cost studies should NOT be entirely independent. For example, if Qwest assumes a single floor central office to develop its space rental costs, it should NOT develop cable lengths or cable racking distances based on an assumption that requires traversing multiple floors. Contrary to Qwest's assertion, the various collocation cost studies should be related since Qwest should be estimating collocation costs based on TELRIC principles. It is inappropriate to develop some costs (rent, for example) based on a forward-looking approach using a model and other costs based on Qwest's "actual" cable lengths. For the reasons set forth in Mr. Lathrop's testimony and WorldCom's Opening Brief on this rate proposal, the Commission should reject Qwest's proposed rate.

p. ICNAM (Exhibit 2056 at Section 9.18)

Qwest argues that the Commission should reject WorldCom's request to order a bulk download of Qwest's inter-network calling name database ("ICNAM" or "CNAM") because the

[80] Qwest's Brief at p. 55.

Commission rejected WorldCom's request in Qwest's Section 271 proceeding.[81] WorldCom disagrees.

WorldCom concedes that the Commission considered this issue in the Qwest 271 proceeding. However, the scope of the Section 271 docket was limited to the FCC's requirements for a Regional Bell Operating Company ("RBOC") to satisfy the competitive checklist. Thus, the Commission did not necessarily analyze the issues in that docket based on its ability to expand the unbundling obligations set by the FCC.[82] In its denial of WorldCom's request for reconsideration of this issue, the Commission states, "WorldCom seeks more than the FCC has required of Qwest. Therefore, we deny WorldCom's petition for reconsideration of this issue . . .."[83] Thus, it appears that the Commission limited its review of this issue to what was required by the FCC and did not evaluate whether bulk deloading of CNAM was appropriate under state law.

The rates in this proceeding are set not only for the purpose of determining whether Qwest has satisfied its Section 271 checklist requirements but also as Commission approved "generic" rates that Qwest and Verizon may charge CLECs through interconnection agreements. Many CLECs will likely forego negotiation and arbitration of their interconnection agreements with Qwest and Verizon because of the high expense and resource commitment that such a process entails. In addition, individual CLECs have significantly less bargaining power than is present in a generic proceeding. For these reasons, rates and terms set in this docket will be difficult for an individual CLEC to renegotiate.

[81] Qwest's Brief at pp. 61-62. Staff's Brief appears to address this issue in its discussion of the Directory Assistance Listings ("DAL") Section of its Brief at pages 12-13. Staff seems to have confused the issues. CNAM relates typically to caller ID while DAL refers to name, address and telephone number information for end users.
[82] See UNE Remand Order at paras. 153-161.
[83] See Docket Nos. UT-003022/003040, 25th Supplemental Order (February 2002) at para. 32.

As demonstrated in Mr. Lehmkuhl's testimony, bulk deloading of the CNAM database is the only billing methodology that provides CLECs with access to the database equal to that possessed by Qwest. As such, without it, a CLEC is disadvantaged in the ways described in WorldCom's Opening Brief at pages 73-76.

In Minnesota PUC Section 271 proceeding, the ALJ recommended that the Commission order bulk downloading of CNAM because denying CLECs bulk access is discriminatory:

> …Qwest's refusal to provide the database by bulk download is discriminatory in that it allows Qwest to control the type of service that can be derived from the database and conversely precludes CLECs from using the database to develop new services; and it requires CLECs to pay each time the database is queried, whereas Qwest, as the owner of the database, does not "charge" itself for that information every time a call is terminated.
>
> Requiring that Qwest provide the CNAM database by bulk download is not, as Qwest argues, the creation of a "new UNE" or a "redefinition" or "removal" of a UNE established by the FCC. The database is and always has been the UNE, and it is now technically feasible to require access by bulk download as opposed to access through the SS7 system. [84]

The ALJ also rejected privacy concerns with bulk deloading of CNAM that Qwest has expressed in this proceeding as well:

> Qwest has articulated some privacy concerns that would relate to any new services that WorldCom might offer using the CNAM database, in that the privacy indicator in the CNAM database indicates only whether customers want their name and phone number to be blocked from a caller ID display. This differs from the directory assistance database, which contains information indicating whether customers want their names and telephone numbers published in a directory. WorldCom is subject to the same privacy and confidentiality regulations as is Qwest under § 222 of the Act. As long as WorldCom has the privacy indicator associated with the CNAM record, it will be able to block release of the caller-ID information at the switch, the same way Qwest would. In addition, Qwest is free to omit from the CNAM database the listings stored by other CLECs, unless WorldCom can demonstrate that it has obtained permission from those CLECs to obtain the information.[85]

[84] Minnesota ALJ 271 Recommendation at pages 44-46.
[85] Id.

WorldCom requests that the Commission consider this issue in a broader context than that considered in the Qwest 271 proceeding and follow the reasoning of the Minnesota ALJ. CLECs are harmed by the inability to obtain a bulk download of Qwest's CNAM database. For the reasons set forth in Mr. Lehmkuhl's testimony and WorldCom's Opening Brief, WorldCom requests that the Commission order Qwest to submit cost support to the Commission consistent with TELRIC for the bulk download of its CNAM database.

s. Directory Assistance/Operator Services (Exhibit 2056 at Sections 10.5 and 10.7)

Qwest argues that because it offers customized routing, it need not unbundle OS/DA.[86] For all the reasons set forth above with regard to customized routing as well as the reasons set forth in Mr. Caputo's testimony and WorldCom's Opening Brief, WorldCom asks the Commission to reject Qwest's arguments on this issue. WorldCom asks this Commission to follow the reasoning of the other commissions cited in the customized routing section and hold that until Qwest provides WorldCom with customized routing over WorldCom's Feature Group D trunks, it must provide WorldCom with OS/DA at TELRIC.

t. Directory Listings (Exhibit 2056 at Section 10.6)

Qwest argues that the Directory Assistance Listings ("DAL") database rates should be considered the same as OS/DA under the UNE Remand Order and set at market-based rates.[87] Staff recommends that the Commission require Qwest set rates for DAL at TELRIC.[88] For the reasons set forth in Mr. Lehmkuhl's testimony and WorldCom's Opening Brief, WorldCom asks the Commission to reject Qwest's argument on this issue and order Qwest to provide DAL at TELRIC rates.

[86] Qwest Brief at pp. 66-67.
[87] Qwest Brief at pp. 67-68.
[88] Staff Brief at pp. 12-13.

III. CONCLUSION

For the reasons set forth in WorldCom's Opening Brief as well as those contained herein, WorldCom asks the Commission to adopt its recommendations in this matter.

Dated this 12th day of August 2002.

Respectfully Submitted,

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