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*) QWEST'S REPLY BRIEF August 13, 2002

QWEST CORPORATION'S PART D
REPLY BRIEF

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I. INTRODUCTION

In its opening brief, Qwest Corporation ("Qwest") emphasized a fundamental difference between its approach to the costing and pricing issues in this docket and that of the competitive local exchange carriers ("CLECs"). Qwest's cost studies and proposed prices are forward-looking, but they also are grounded in the company's real-world experience of maintaining a network and providing CLECs with interconnection services and access to unbundled network elements ("UNEs"). By contrast, the CLECs' advocacy is premised upon unrealistic assumptions about what it takes to operate a network and provide wholesale services and is designed to drive down prices to a level that would deny Qwest the full recovery of its costs that it is entitled to under the Telecommunications Act of 1996 ("the Act").

The parties' post-hearing briefs are further confirmation of these different approaches to the costing and pricing issues in this docket. At virtually every turn, the CLECs criticize Qwest for relying on actual experience in developing the inputs and assumptions that are used in its cost studies. As the CLECs would have it, the term "forward-looking," as used in connection with cost studies, should preclude Qwest and the Commission from relying on this type of real-world, actual experience in developing prices that meet the Act's "just and reasonable" requirement.

Reliance on actual experience and the incorporation of reality into Qwest's cost studies does not mean, as the CLECs contend, that Qwest's studies produce estimates that reflect embedded costs. Qwest's cost studies do not produce embedded cost estimates. The studies use state-of-the art network designs and the least-cost, forward-looking technologies that are currently available. The fact that Qwest often uses these same designs and technologies in its own network does not mean that they are inappropriate for use in a forward-looking study. In addition, the CLECs' claim that Qwest's studies produce estimates of embedded costs ignores the fact that Qwest applies forward-looking productivity and inflation factors to the investment included in its studies. The use of those factors clearly differentiates the investment in Qwest's studies from Qwest's embedded costs.

An additional theme that underlies many of the CLECs' arguments is the claim that the Commission should resolve the costing and pricing issues in this docket with a singular focus on doing

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whatever is necessary to make it easier for CLECs to compete in Washington's local exchange market. Qwest urges the Commission to respond cautiously to this theme. To be sure, the Commission's pricing decisions in this docket should support competition in the local exchange market. But that objective is achieved not by a decision-making process designed to establish the lowest possible prices, but, rather, by application of principles that lead to cost-based prices, send the proper economic signals to the market, and ensure that Qwest will recover its costs in compliance with the Act.

If the Commission continues to adhere to sound economic principles for the costing and pricing of network elements, Qwest will receive proper compensation for its large and ongoing network investments, and CLECs will receive pricing signals that will encourage them to use an efficient mix of resale, unbundled elements, and construction of their own facilities. This result, which is achieved through objective application of cost-based pricing principles, will lead to the greatest benefits for Washington consumers.

II. REPLY TO WORLDCOM

WorldCom's post-hearing brief raises a number of issues to which Qwest will reply. Qwest fully addressed all of the disputed issues in its opening brief, and a lack of reply to one or more points raised by WorldCom should not be interpreted as a concession by Qwest on the issue. However, there are several points raised by WorldCom to which a reply is necessary for clarification purposes. These issues include nonrecurring costs (specifically the use of subject matter experts and the proper assumptions regarding OSS and flow through); factors; collocation issues; multiplexing; customized routing; "UNE-P new" nonrecurring costs; branding; access to poles, conduits and rights of way; and directory listings.

Nonrecurring Costs: WorldCom criticizes Qwest's nonrecurring costs, claiming that Qwest violated TELRIC principles by basing is cost estimates on Qwest's "current experience" (WorldCom Brief, p. 8), that Qwest assumed inefficient operations and excessive time to perform functions (Id.), and that Qwest inappropriately relied on subject matter experts for time estimates instead of time and motion studies.

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TELRIC Assumptions

WorldCom misinterprets Qwest's evidence regarding the use of time estimates based on Qwest's "current experience." WorldCom takes this one phrase out of context and uses it in an attempt to prove that Qwest's estimates are purely historic and not forward looking. WorldCom attempted to do the same thing during the cross-examination of Ms. Million. (Tr. 4139-40). However, it is clear from both the prefiled testimony and exhibits, and the testimony at hearing that WorldCom's interpretation is incorrect.

While Qwest has used its actual experience as a *basis* for the estimates, the estimating process does not stop there. Qwest modifies the times based on its actual experience to present a forward looking view, by accounting for process and system improvements that will be implemented within 12-18 months. (Tr. 4140-41). Indeed, the Commission recently recognized that Qwest's work time assumptions for the interconnect service center have significantly decreased over the past years.[1] The Commission-ordered work time of six minutes is still less than Qwest's forward looking assumptions. Thus, it is wrong to assert that Qwest's nonrecurring cost estimates do not reflect forward-looking assumptions and inputs.

Subject Matter Experts

With regard to subject matter experts, WorldCom reiterates its complaint that the use of subject matter experts is not the correct way to obtain work time estimates. WorldCom states that Qwest relies on in-house experts, and in some cases only one in-house employee to provide time estimates. (WorldCom Brief, p. 9). WorldCom fails to explain why it is improper to rely on the people who actually perform or supervise the work to obtain time estimates, and further fails to explain why the use of subject matter experts is improper. WorldCom's advocacy on this point is irreconcilably at odds with its recommendation that the Commission should instead rely on the testimony of WorldCom's own "experts" – individuals who are not currently performing the work about which they render an opinion, and who in many cases have never performed the work tasks.

[1] Docket No. UT-003013, Part B Order, ¶ 120.

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Flow Through/Fallout

WorldCom complains that Qwest improperly applies fallout percentages, and states that fallout must be viewed in the context of the total provisioning process, not individual process steps. (WorldCom Brief, p. 11). It is unclear whether this criticism is leveled at a particular aspect of Qwest's cost studies, or is simply a general observation. WorldCom did not identify a particular task or set of tasks that it claimed were treated improperly with regard to fallout assumptions. Thus, Qwest simply reiterates its response to this issue, as explained by Ms. Million.

WorldCom's argument simply identifies two ways that fallout rates could be applied in a study. One is to apply the fallout rate at the level of work steps, the other is to apply the rate once to the entire process. WorldCom gives an example that it claims show that Qwest's studies and methods of reflecting fallout results in 100 additional work item computations, compared to 10 additional computations when applied the way WorldCom advocates. (WorldCom Brief, pp. 10-11). This is not a legitimate comparison. WorldCom's example merely shows that the fallout rate can be applied differently from one study to another and will produce a different result. In one case WorldCom applies a hypothetical 10% fallout rate to each work step in each order, and in the other WorldCom applies the 10% rate once to each order. These are two entirely different approaches; individual work steps and orders do not share a common denominator. A valid analysis would be to apply fallout rates individually to the number of minutes in each work step in each order, and compare that to applying the weighted-average fallout rate once to the total number of minutes in each order. This approach places the items being compared on the same basis and allows for a meaningful analysis. The result of such an "apples to apples" comparison is that each method produces the same amount of fallout in minutes.

The real issue to be addressed by the Commission with regard to fallout is whether it is more appropriate to estimate an average fallout rate that is applied once to the total minutes of processing time for each order, or to provide individual fallout rates for the work steps performed for each order. Qwest believes that it is a better and more accurate approach to apply fallout rates individually to work steps for two reasons.

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First, fallout rates, as well as mechanization rates, vary from one work activity to another because of the involvement of different systems and different process flows in each step. In other words, the activities and process flows that take place in the Interconnect Service Center are entirely different and unrelated to the activities in the Loop Provisioning Center, except to the extent that one "hands off" to the other in the overall process of provisioning a loop. Assuming an overall fallout rate may make for a simpler study. However, it ignores the fact that over time process improvements may occur in one center and should be reflected in the study, but may have no impact on other centers or processes. Qwest's approach provides a more accurate and effective way to reflect forward-looking process improvements in its nonrecurring charges.

Second, the time estimates and probabilities that Qwest uses in its nonrecurring cost study are provided by the subject matter experts for each of the centers or work processes. These people have responsibility for the processes based on their often considerable experience. They work day-to-day in the centers where the work steps are performed, and they are involved in evaluating and implementing process and system improvements in their groups. By assigning fallout and mechanization probabilities at work-step levels, Qwest is able to provide a more accurate estimate of the activities associated with each process or work center. Developing an overall fallout rate would require assembling the inputs from each of the individual subject matter expert and calculating a weighted average to apply across all work steps and centers. This approach would not allow the Commission to evaluate or judge the efficiencies reflected in Qwest's nonrecurring cost studies at any level of detail.

OSS

WorldCom asks this Commission to follow the example of other commissions and order Qwest to incorporate WorldCom's 2% "fallout" proposal into Qwest's non-recurring cost studies. WorldCom suggested that this will reflect a forward looking, cost efficient process. (WorldCom Brief, p. 13). WorldCom's proposal goes well beyond the normal discussion of "fallout" or flow-through by suggesting that Qwest should experience only 2% fallout through the entire ordering and provisioning processes.

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Qwest witness Ms. Albersheim explained that the normal discussion of flow through generally revolves around the electronic ordering process only, and that the provisioning process is not included in these discussions. (Ex. T-2200, pp. 9-10). There are inherently manual processes involved in the provisioning of many products, some of which will never be eliminated even in a forward-looking environment. Ms. Albersheim also explained that it is not appropriate to view flow-through beyond the ordering process, as once CLEC orders pass through the Qwest provided ordering interfaces, CLEC orders enter into the same downstream systems as those used by Qwest, and there is then no distinction regarding how Qwest and CLEC orders are provisioned.

WorldCom suggests that other commissions agree with its position on "fallout," but a closer reading of the commission orders cited by WorldCom shows otherwise. For example, the Michigan commission concluded in its order that it should set the fallout rate at 2% as an incentive to Ameritech to make further improvements to its systems since Ameritech had no plans to make any further enhancements.[2] The same is true of the Connecticut order cited by WorldCom. The Connecticut commission also used the 2% fallout rate to serve as an incentive to Southern New England Telephone Company to make system enhancements since the ILEC in that case had demonstrated that it had no intention of improving its systems.[3]

The circumstances of Ameritech and Southern New England Telephone Company at the time of the Michigan and Connecticut orders do not match Qwest's. Qwest has made continuous improvements to all of its systems and has every intention of continue making improvements going forward. (Ex. T-2201, p. 6). Qwest recognizes the need to make these improvements and to take advantage of technological advancements to improve efficiency. Such improvements benefit Qwest as well as the CLECs. Qwest needs no further incentive to continue to improve the efficiency of its systems.

WorldCom also cites a Massachusetts commission order in support of its advocacy for an end-to-end ordering and provisioning fallout rate of 2%. The Massachusetts commission did order a 2% rate,

[2] *See* Michigan PUC Case U-11831 (November 1999) at 41-42. (The Michigan order cited by WorldCom was incorrectly labeled as Case No. U-11280. The Correct Case No. was U-11831 for the order issued November 1999).

[3] *See* Connecticut PUC, Docket 97-04-10 decision (May 1998) at 129-132.

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but it did not intend that rate to apply end-to-end, nor did the commission intend the rate to apply to all orders. The commission made this clarification in a subsequent decision in the same docket cited by WorldCom.[4] The commission clarified that the 2% fallout rate should only apply to electronic orders, and that it should not apply to orders that will require some manual intervention. "We did not expect Verizon to remove Coordination Bureau costs from orders that would normally be handled manually, such as hot cuts."[5] Thus, the Massachusetts commission had a much narrower view of appropriate application of flow through, a view more in line with Qwest's proposed rates.

Finally, WorldCom claims that Qwest does not reflect efficiencies that would be achieved by forward-looking OSS. (WorldCom Brief, p. 14). This claim is remarkable in light of the fact that WorldCom's witness agreed that each of Qwest's OSS identified was a forward-looking system. (Tr. 4911-12). While WorldCom went on to claim that there exist certain other systems (workforce managers) that would link these systems and allow more efficient processing, WorldCom failed to identify any such systems that are currently available and/or that function as claimed. Further, WorldCom failed to account for the additional costs that implementation of such hypothetical systems would entail. Thus, WorldCom would have the Commission reduce work times based on imagined efficiencies to be achieved by equipment that is still under development and that has failed field trials, and would not provide for any cost recovery for the implementation of those systems on a network-wide basis. The Commission should reject such suggestions out of hand. WorldCom's analysis also ignores the evidence offered by Ms. Million and Ms. Albersheim that the proposed flow-through rates in Qwest's non-recurring cost studies are forward looking and reflect rates that are not yet achieved for a number of products.

Therefore, this Commission should adopt the flow through rates defined in Qwest's non-recurring cost studies, as Qwest has shown that they are forward looking, and appropriately applied to the ordering process.

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[4] *See* Massachusetts, D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94 Phase 4S (September 2000).

[5] Id.

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Factors: WorldCom inexplicably raises a number of issues in its opening brief that Qwest believed had been addressed to WorldCom's satisfaction by Ms. Gude's rebuttal testimony, Exhibit T-2210. These issues include the allegation of improper compounding of factors (WorldCom Brief, pp. 17-18), as well as allegations regarding reductions in the expense factors that WorldCom claims should result from merger-related cost savings. (Id., pp. 19-20).

With regard to the compounding issue, WorldCom's brief merely recites Mr. Gose's testimony that, since the simple summation of Qwest's directly assigned, directly attributed and common cost factors produces a result that is less than the applied value, that a "compounding" error has occurred. However, as Ms. Gude explained, this simplistic analysis is flawed. (Ex. T-2210, pp. 9-10). If WorldCom had reviewed Qwest's cost factor development documentation, WorldCom would have realized that sequential application of cost factors does not lead to erroneous mathematical compounding when factors are appropriately derived. Qwest's Expense Factor User Manual, filed on November 9, 2001 in support of its cost studies, explains the three major factor groups: Directly Assigned, Directly Attributed, and Common.[6] It describes that each of these major factors are "cumulative" in how they are applied, and that the denominator of one factor is dependent on the denominator and numerator of the previous factor, thereby lowering its effect. Thus, the costs resulting from the sequential application of Qwest's factors do not erroneously compound, e.g. inflate, the final cost result, and accordingly, Mr. Gose's algorithm issue regarding the "compounding" of costs is without merit in this proceeding.

WorldCom also claims that Qwest's factors should be reduced as a result of savings and efficiencies gained through the Qwest/U S WEST merger. As Ms. Gude explained, this claim is erroneous for several reasons. First, WorldCom's calculation of merger-related headcount reductions is vastly overstated. (Ex. T-2210, pp. 14-15). Second, merger-related changes in expenses would not have an effect on the costs modeled in this docket, and would not all be related to in-region telecommunications operations. (Id., p. 16). Third, the factors employed for purposes of this docket

[6] *See* Exhibit 2021, EXPENSE FACTOR MODULE – TELRIC 99V2.doc, dated December 1999 (e.g., pages 2, 16, and 24).

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reflect lower than actual costs, and are lower than would be produced under a current calculation. (Id., pp. 17-20). Thus, WorldCom's proposal regarding merger-related changes is not well taken.

Collocation Issues: Collocation issues in this docket include CLEC to CLEC interconnection. Qwest's opening brief anticipated and addressed all of the issues raised by WorldCom regarding collocation, and Qwest will respond to only a few points here. WorldCom disputes Qwest's proposed charges, arguing, among other things, that Qwest's cable racking assumptions are not forward looking. (WorldCom Brief, p. 27). WorldCom claims that collocators should be assumed to be next to each other, or across an aisle, and that the general collocation cost study should have captured costs for cable racking between the CLECs. The simple fact is that Qwest's collocation cost study did capture some cable racking costs, but specifically did not include assumptions for sufficient cable racking to connect CLECs to each other. Qwest's assumption of the need for a modest amount of additional cable racking is reasonable, and should be accepted.

WorldCom also disputes the nonrecurring charge for the CLEC to CLEC cross connection, claiming that the work times are excessive. (WorldCom Brief, p. 31). WorldCom assumes, without supporting evidence, that a circuit design for a CLEC to CLEC connection will take less time than a traditional high capacity circuit. However, Mr. Hubbard explained why this is not necessarily the case. (Ex. T-2154, p. 19). The back up information explains why the circuit design assumptions are appropriate for CLEC to CLEC connections as well as other types of circuit design activities. (Ex. C-2024, p. 61). Further, the back up information indicates that although the information was originally gathered in 1998, it was verified as being appropriate to use in 2000. Thus, it was appropriate to use in a filing that was made in 2001. On this same topic, WorldCom makes a statement that is somewhat puzzling – WorldCom states that the fact that Qwest did not modify the work times "calls into question the veracity of the statement, [that the work times are forward looking] given the change in Qwest's OSS systems since then." (WorldCom Brief, p. 31). It is unclear what change in Qwest's OSS WorldCom is referring to. Qwest does not believe that any OSS changes necessarily impact the actual circuit design process, which is a manual process that is always performed by a design engineer. Other aspects of the

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ordering and provisioning process related to circuit design are already assumed to be mechanized most of the time. Thus, it is unclear what additional mechanization WorldCom expects to see, or in which systems.

Multiplexing: WorldCom challenges Qwest's nonrecurring charge for multiplexing, recommending a reduction of the work time estimates for installation and disconnection. (WorldCom Brief, pp. 40-41). WorldCom's reductions are significant, eliminating 700 minutes from the installation and over 500 minutes from the disconnection. WorldCom claims that these reductions represent redundant work items and/or that they reflect the elimination of the verify/check/validate functions. However, a closer look at WorldCom's adjustments reveals that they are not well taken. Of the 700 minutes that WorldCom removes, 166 are attributed to validate, verify and check items. (Ex. 2271, p. 6). All of the other minutes that are removed are attributed to "other" in column "F" on Exhibit 2271. As discussed in Qwest's opening brief, WorldCom never identified why those adjustments were made, other than the use of the 50% reduction due to claimed, but unproven, systems improvements.

Additionally, WorldCom's claim that the activities are "redundant" is incorrect. Review of Qwest's nonrecurring cost study clearly shows that Qwest uses probabilities of 28 or 29, as appropriate, to reflect the number of orders that are actually processed for an M1-3 multiplexing order – one order for the high side (DS3) and 28 orders for the low side (28 DS1s per DS3). (Exhibit 2023, p. 58). Thus, the activities are not redundant, but necessary to process the entire order. The small amounts of time reflected for each of the work items that occur 28 or 29 times indicate that the time estimates already assume that the items are being processed in bulk rather than individually. In addition, Qwest has assumed various mechanization rates in the cost study for this element as appropriate, further reducing the overall time. WorldCom's unsupported adjustments should be rejected.

Customized Routing: WorldCom challenges Qwest's customized routing proposal, and alleges that Qwest's conduct in implementing customized routing is in violation of the parties' interconnection agreement. Qwest disputes that allegation and believes that a review of the record will reveal that it is entirely without substance. WorldCom had improperly tried to shoehorn its specific dispute about

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customized routing into this generic cost proceeding, over Qwest's objection. Nevertheless, Qwest responded to WorldCom's allegation and innuendo during the hearing, and will do so again here.

WorldCom's evidence in the case establishes that WorldCom requested customized routing only weeks before the hearing in this docket, and that the parties were still in the process of conducting implementation meetings when the hearing was held. WorldCom has not established any violation of the parties' interconnection agreement, and indeed its proposal is at odds with that interconnection agreement. Under the terms of the parties' agreement, WorldCom is permitted to designate only "unique" trunks for customized routing. Some of WorldCom's feature group D trunks are unique, and others are shared. Qwest agrees to customized route traffic to WorldCom's unique FGD trunks. WorldCom insists on reading language into the interconnection agreement that simply is not there. Qwest explained, during the hearing, that WorldCom's actual request was for 411 presubscription, an issue that is currently under consideration by the industry and the FCC. The Commission here does not have a record upon which to require 411 presubscription, and does not have a record from which to conclude that WorldCom's position has any merit whatsoever.

One other point that bears reply is WorldCom's insistence on its allegation that Qwest somehow tried to represent that a Commission order prevented it from complying with WorldCom's request. (WorldCom Brief, p. 45). WorldCom provides no citation to the record in support of this claim. Indeed, there is none. During the hearing Mr. Craig, who was present at the meeting where this representation was allegedly made, was asked about this issue. WorldCom's counsel repeatedly attempted to obtain an admission to that effect, but Mr. Craig emphasized that Qwest had never said that there was a regulatory prohibition against the request, only that there was a concern about whether such an order existed. (Tr. 4682-83). It is unclear why WorldCom insists on misrepresenting the meetings between the parties in this manner, but WorldCom's lack of candor about the conversations and transactions between the parties should be a caution against adopting WorldCom's view of the facts on disputed points.

UNE-P New: The nonrecurring charge for UNE-P new service was discussed in Qwest's opening brief. There, Qwest pointed out that WorldCom's proposed work time adjustments were

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unsupported, speculative, and so lacking in specificity that Qwest was unable to explore with the WorldCom witness which work times and probabilities were adjusted and why.

In WorldCom's opening brief, WorldCom unveils a new approach at criticizing Qwest's estimates. WorldCom claims that Qwest has provided (in discovery) a detailed list of work steps underlying the overall function performed at the loop provisioning center. (WorldCom Brief, p. 55). However, this is essentially a criticism of the fact that the time estimate has been performed for an overall function rather than the underlying detailed steps, and that each and every task is not assigned a precise increment of time. This is exactly at odds with WorldCom's criticism elsewhere that Qwest had broken tasks down into increments that are too small. (WorldCom Brief, p. 33. "Qwest's subject matter experts appear to have provided time estimates for very small activities that were considered mutually exclusive, rather than providing time estimates to complete overall functions"). Thus, WorldCom leaves itself free to criticize information that is detailed, claiming that the level of detail inflates the time, and information that is not detailed enough, claiming that there is not enough information to ascertain the reasonableness of the time estimates. This is clearly a pleasant enough position for WorldCom to be in, but the Commission should not indulge this obviously results-oriented advocacy.

Branding: WorldCom complains about Qwest's proposed rates for branding operator services and directory assistance. WorldCom asks the Commission to establish TELRIC rates for branding, but provides the Commission with no citation to any legal authority allowing the Commission to impose such a pricing requirement on a service that is not a UNE. Qwest will provide branding, but because Qwest also provides customized routing, Qwest is not required to provide branding at TELRIC rates, since operator services and directory assistance are not UNEs. Qwest's legal analysis regarding this issue is set forth in its opening brief and will not be repeated here. However, WorldCom apparently misunderstood two aspects of Qwest's proposal, which Qwest will clarify here.

WorldCom claims that Qwest is proposing ICB pricing for branding. (WorldCom Brief, p. 60). This is not correct. There are no elements of Qwest's pricing proposal that are ICB for branding. WorldCom further claims that Qwest will assess the branding nonrecurring charge twice, once for

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operator services and once for directory assistance, even though the same taped announcement could be used for both services. (Id., p. 62). This is also incorrect. Ms. Malone clarified in March 2002, (months before the hearing) that if the same taped announcement was used for both services, Qwest would assess the nonrecurring charge only one time (Ex. T-2131, p. 9).

Access to Poles, Conduits, and Rights of Way: WorldCom challenges Qwest's rates for access to poles, conduits and rights of way. Qwest has proposed separate nonrecurring rates for the database inquiry and the field inspections necessary to process each request for access. At the heart of WorldCom's challenge is the allegation that the "information contained in its [Qwest's] databases is unreliable." (WorldCom Brief, p. 63). While Qwest cannot agree with the use of the word "unreliable", with its attendant negative connotations, Qwest does agree that field conditions can change in ways beyond Qwest's control such that the database information does not always match the conditions in the field. Qwest explained how this can happen in its testimony, in its opening brief, and in its Part B petition for reconsideration. WorldCom has never addressed these concerns, and has never explained how Qwest is to keep its databases current without field verifications. If it is the CLEC request for access that necessitates a field verification in a particular instance, it is appropriate that the CLEC pay the costs, just as Qwest pays when its own network needs drive the field verification. Contrary to WorldCom's assertion, Qwest is not asking CLECs to pay to "clean up Qwest's databases." Rather, Qwest is asking the cost causer in each case to be responsible.

Directory Listings: In its opening brief, Qwest anticipated and responded to WorldCom's unfounded arguments that DAL listings must be provided "at cost," whatever WorldCom means by that phrase. Qwest will not repeat its analysis here.

However, Qwest will briefly reply to two of WorldCom's arguments regarding the propriety of Qwest's proposed reload rates. WorldCom's analysis is internally inconsistent. While WorldCom argues at length that all DAL listing rates should be cost based (citing FCC decisions that do not, in fact, mandate cost-based pricing), WorldCom ignores its own logic and explicitly instructs the Commission to disregard the fact that "Qwest incurs programming costs when reloads are furnished since the data needs

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to be extracted from Qwest's databases." (WorldCom Brief, p. 85). Instead, WorldCom urges the Commission to compel Qwest to provide the reload service for free since WorldCom has already paid for the data once. (Id.). Such advocacy is neither cost-based nor market based, it is purely result-oriented.

In addition, WorldCom argues that the reload charge should be lower since Qwest avoids certain setup costs it assumes Qwest recoups through its initial listings. WorldCom's analysis is flawed for several reasons. First, since DAL listings are not UNEs, Qwest does not assert that its proposed rates are TELRIC. Thus, WorldCom's argument about reduced costs to Qwest is irrelevant. Second, to the extent Qwest is "recouping" new account set-up costs, it does so through its separate one-time set up fee. (Ex. 2056, § 10.6.4). Finally, WorldCom's argument overlooks the fact that Qwest does in fact charge 20% less for reloads than it does for the initial loads. (Id., §§ 10.6.1, 10.6.2).

Qwest's rate design is logical and fairly treats CLECs. The Part D record is bereft of any evidentiary support for WorldCom's arguments that Qwest's DAL listings rate structure is discriminatory or in any way unlawful. Based on the legal analysis set out in Qwest's opening brief and the Part D record, the Commission should approve each of Qwest's proposed DAL listings rates.

III. REPLY TO COVAD

Covad's post-hearing brief raises three issues to which Qwest will reply. Covad challenges Qwest's proposals for loop installation with cooperative testing, unbundled packet switching, and miscellaneous charges.

Cooperative Testing: Covad asserts that "Qwest should compensate competitors, or at least not charge them, for the testing costs that Qwest has forced CLECs to bear in order to minimize the costs created by Qwest's own provisioning problems." (Covad Brief, pp. 10-11). Covad claims that Qwest has forced it into ordering cooperative testing by delivering poor quality loops when it orders basic installation. Covad, however, has not provided any information concerning the quality of loops provided when it ordered a basic installation, nor has any Covad witness testified that basic installation did not

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provide acceptable loops. Far from supporting the claim that Qwest delivers bad loops, Covad's testimony supports the value of cooperative testing in resolving mutual problems.

Covad cites several Verizon cases in which other Commissions have ordered a zero dollar amount for cooperative testing. (Covad Brief, pp. 13-15). In those cases, however, cooperative testing was mandatory; Verizon did not offer basic installation without this service.[7] Moreover, the Maryland case involved only cooperative testing with line shared loops that were previously installed and presumably worked for voice. This case involves only optional cooperative testing for stand-alone loops. In circumstances where the CLEC has the option to order loops without testing, as is the case here, the CLEC who demands additional cooperative testing should be assessed the incremental cost of that additional activity.

Covad also cites an order from Massachusetts in support of it argument. (Id, p. 15). This order merely reaffirms the Massachusetts' Department of Telecommunications and Energy's previous decision requiring Verizon to "share in the cost of cooperative testing by absorbing all of its own costs associated with its test, as the CLECs do with respect to their own testing,"[8] However, cooperative testing was also mandatory in this case, not optional as it is in Washington.

In 2001, Covad also made essentially the same argument before the Pennsylvania Public Utility Commission as it does here.[9] That commission rejected those arguments and permitted Verizon to impose a cooperative testing charge whenever Verizon performs continuity testing at the request of a CLEC.[10] Indeed, the commission found that such charges were "reasonable and not susceptible to

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[7] *See, e.g.,* Order No. 76852, *Arbitration of Rhythms Links, Inc. and Covad Communications Co. vs. Bell Atlantic-Maryland, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 8842, Phase II (Md. P.S.C. April 3, 2001) at 38-39; Decision and Order, *Board's Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic-New Jersey, Inc.*, Dkt. No. TO00060356 (N.J. Bd. Pub. Utils. Nov. 20, 2001) at 199.

[8] *See Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts,* Dkt. No. D.T.E. 01-20 (Mass. D.T.E. July 2002) at 239.

[9] *See Verizon Pennsylvania, Inc.*, R-00005261, R-00005261C0001, A-310696F0002, *et al*., Opinion and Order (Pennsylvania PUC Sept. 4, 2001) at 19.

[10] *See Verizon Pennsylvania, Inc.*, R-00005261, R-00005261C0001, A-310696F0002, *et al*., Interim Order and Opinion (Pennsylvania PUC June 8, 2001); *recon. denied Verizon Pennsylvania, Inc.*, R-00005261, R-00005261C0001, A-310696F0002, *et al*., Opinion and Order (Pennsylvania PUC Sept. 4, 2001).

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providing Verizon with a disincentive to provide quality service to the CLEC."[11] Furthermore, within Qwest's incumbent service territory, state commissions in Arizona and Colorado have also approved rates for testing and coordinated installation.[12]

Unbundled Packet Switching: Covad begins its discussion of unbundled packet switching ("UPS") by pointing out that this Commission previously rejected Qwest's architecture for UPS wherein DSLAMs are placed remotely at the feeder distribution interface ("FDI"). However, the Commission made that determination in Part B of this docket[13] on the basis of language in the FCC's Line Sharing Reconsideration Order about line sharing over DLC facilities. In addition, the Commission discussed Covad's claim that Qwest's "DA Hotel" proposal would only provide CLECs the ability to share the distribution portion of the loop but not the feeder portion. It is important to remember that Qwest's DA Hotel proposal as presented in Part B of this docket was in the early stages of development at that time. It should be clear by now that neither Qwest's UPS proposal nor its proposal for remote terminal collocation limit a CLEC's ability to access the feeder portion of the loop if the CLEC desires.

Nowhere in its discussions of Qwest's DA Hotel proposal for Part B did Covad mention the FCC's Order Clarification.[14] In the Order Clarification, the FCC clarified that "the *Line Sharing Reconsideration Order* in no way modified the criteria set forth in the Commission's *UNE Remand Order* regarding the unbundling of packet switching functionality."[15] Thus, UPS continues to be required only in circumstances where: 1) the ILEC has deployed DLC systems; 2) there are no spare copper loops capable of supporting xDSL services the CLEC seeks to offer; 3) the ILEC has not permitted the CLEC to deploy a DSLAM in the remote terminal; and 4) the ILEC has deployed packet switching for

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[11] *Id*.

[12] *See* Phase II Order, *Investigating into QWEST Corporation's Compliance with Certain Wholesale Pricing Requirements for Unbundled Network Elements at Resale Discounts*, Docket No. T-00000A-00-0194, Decision No. 64922, at 33-34 (ACC June 12, 2002); Commission Order, *In The Matter of U S WEST Communications, Inc.'s Statement of Generally Available Terms and Conditions*, Docket No. 99A-577T, Decision No. 01-1302, at 14-15 (CPUC Nov. 13, 2001).

[13] Docket No. UT-003013, Part B Order, (dated June 21, 2002), ¶ 35.

[14] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 98-147 and CC Docket No. 96-98 (rel. February 23, 2001) (Order Clarification).

[15] Order Clarification, ¶ 1.

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its own use. Further, the FCC's discussion of these requirements in the *UNE Remand Order* at paragraphs 303 and 304 contemplated DSLAMs as a component of packet switching and specifically declined to adopt definitions of packet switching that excluded DSLAMs from the packet switching functionality. There is simply no basis for the Commission to reject a DSLAM-based UPS architecture when that architecture has been specifically accepted by the FCC in its orders.

Covad goes on to argue that Qwest's UPS rates must be rejected because they do not represent the least-cost architecture and are therefore not TELRIC-compliant. Covad claims that NGDLC is the least-cost forward-looking architecture, yet provides no alternative evidence supporting its conclusion. In contrast, Qwest proposed a cost study based on the remote deployment of DSLAMs and also provided a comparison to an NGDLC solution. That comparison (Exhibit C-2074) shows that NGDLC is not the least-cost solution. If Covad truly believes NGDLC is a less costly solution, it should have presented a cost comparison of its own.

Covad does attempt to argue that Qwest's investment of $514 per subscriber compared to the NGDLC investment of $123 per subscriber for SBC's Project Pronto proves that NGDLC would offer the least-cost solution for providing UPS. However, there is nothing in the record that supports $123 as a verifiable cost per subscriber under the NGDLC architecture. Covad presented no evidence of the basis for the investment number it cited, nor did it provide any actual evidence regarding SBC's estimate of demand. Thus, there is no way to determine whether the figures provided by Covad's witness, Mr. Donovan, during the hearings are anything more than pure speculation.

In addition, Covad's discussion of NGDLC as the least-cost solution appears to assume that NGDLC with DSLAM functionality at the DLC would be deployed 100% throughout the network. However, this assumption is inconsistent with the assumptions contained in the models that this Commission relied upon in setting Qwest's unbundled loop rates. Those models assumed that only 40-60% of the network would be provisioned using a DLC architecture, and they most certainly did not include assumptions that "one piece of equipment at one location [could] perform both the voice and data muxing functions" as suggested in Covad's brief on page 21. Therefore, in order to be consistent with the

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Commission's existing assumptions about the way Qwest's network would be configured in a forward-looking environment, there is a significant amount of additional equipment that would need to be installed in that network and included in the cost for NGDLC to be a viable UPS solution. It would be inappropriate for the Commission to allow Covad's suggested architecture to be used for UPS without also providing Qwest with adequate recovery for the additional cost of assuming that architecture in the loop network. In contrast, Qwest's proposed solution is the least-cost choice, not because of Qwest's embedded network as suggested by Covad, but because of the forward-looking network assumptions contained in other decisions already made by this Commission.

Covad also claims that Qwest's UPS product may not be competitively viable or sufficient because it covers an unspecified bit rate which will not support Covad's needs and does not include a loop. (Covad Brief, p. 24). Qwest did not specify a bit rate because the CLEC can run whatever rate it wants through the virtual channel which shares a digital pipe with other Qwest and CLEC services between the DSLAM and the ATM switch port. At peak times, all services in a virtual channel may face restricted bandwidth. If Covad wants a committed bit rate, it may order a subloop feeder of the appropriate size to connect the DSLAM to the ATM port and a dedicated loop of the same size. Qwest offers a variety of options for the CLEC to include a loop in the UPS configuration of its choice. In short, Qwest provides an end-to-end service, which can be configured to provide committed bit rate service through the purchase of the proper UNEs.

Covad does not actually challenge Qwest's remote terminal collocation cost study for remote deployment of DSLAMs, nor provide the Commission with verifiable costs of its own. Instead, it claims that it should be permitted to buy UPS or some version of "line sharing over fiber" wherever Qwest has deployed its own remote DSLAM, and at a price based on a network that doesn't exist either in reality or in the forward-looking network configurations for loops. It asks the Commission to make such a determination because, it argues, no CLEC can afford to provide DSL through remote collocation of its own DSLAM. Nevertheless, the FCC confirmed in its Order Clarification that its rules regarding an ILEC's obligation to provide UPS continue to provide the appropriate test, and that the inability of

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CLECs to remotely deploy DSLAMs is based on space limitations and not cost. The Act requires a TELRIC-based offering, and Qwest's proposal is consistent with that requirement.

Miscellaneous Charges: Covad challenges Qwest's proposed "Miscellaneous Charges." Covad claims that Qwest did not provide cost support for these charges, and did not define how the charges would be applied, and that because of those failings, Qwest should not be permitted to assess any of the listed charges. (Covad Brief, p. 25).

In support of its claim that Qwest did not provide cost support for the charges, Covad cites to a transcript reference of "5/21/02 (Easton)," page 153. (Covad Brief, fn. 67). Covad may have confused this proceeding with the Minnesota cost docket, in which hearings began on May 21, 2002. There were no cost docket hearings in Washington on May 21, 2002, and there is no relevant "page 153" in this record. Indeed, in Washington, Covad did not ask Mr. Easton any questions about these charges.

Qwest's miscellaneous charges are supported by the cost study contained in Exhibit 2023, and the back up information provided in Exhibit C-2024, pages 357-8. The application of the miscellaneous charges is defined in the SGAT, Exhibit 2059. Miscellaneous charges are defined in SGAT §4.40(a), and addressed in §9.1.12 and in various other sections of the SGAT. Thus, there is no basis for Covad's allegation that Qwest failed to provide cost support for the charges or that there is no definition as to how the charges would be applied.

IV. REPLY TO STAFF

Commission Staff's post-hearing brief raises two issues to which Qwest will reply. First, Staff challenges Qwest's use of subject matter experts, contending that subject-matter expert testimony cannot be substituted for properly conducted time and motion studies. Staff further contends that Qwest's work time estimates are not forward looking. Second, Staff incorrectly states that Qwest did not provide cost support for its customized routing proposal.

Subject Matter Experts: Many of the issues regarding subject-matter expert testimony have been addressed in response to WorldCom's brief above. However, it is important to reiterate that time

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and motion studies will not provide the Commission with a more accurate, reliable, or forward-looking set of work time estimates than currently exist from reliance on subject matter experts.

By their very nature, time and motion studies are backward looking, and measure only activities as they are or have been performed in the past. (Ex. T-2052, pp. 6-7). Time and motion studies do not lend themselves to estimation of complex and variable work functions. (Ex. T-2154, pp. 2-7). Rather, they are best suited to measuring repetitive, assembly line type work. (Id.). Furthermore, they are expensive and time consuming to conduct. Thus, it is difficult to understand any basis upon which such studies would be required, when they are demonstrably in violation of TELRIC costing principles, and otherwise of limited value.

Indeed, the only way to cure the "backward looking" nature of a time and motion study would be to engage one or more subject matter experts to adjust the results of the study to incorporate forward looking assumptions. Furthermore, the only way to conduct a time and motion study of complex and variable activities would be to engage one or more subject matter experts to adjust the results of the study to incorporate simplifying assumptions and/or probabilities of occurrence for the variables. This would result in a reliance on the opinions of subject matter experts that is as great as it is today.

Qwest's subject matter experts are already instructed to incorporate forward-looking assumptions when they provide their estimates. (Ex. C-2024, p. 21). Additionally, they exclude problems encountered during the processing of the service order, supplements to the initial order, and maintenance and repair times. (Id.). A time and motion study would capture all of these additional work times, which would then have to be removed or otherwise adjusted out.

Staff contends that Qwest cannot accurately reflect changes in times due to technological or other improvements, citing Ms. Million's response to a question from Dr. Gabel. (Staff Brief, p. 7). However, Staff overlooks other important testimony from Ms. Million, where she did specifically identify assumptions in the cost study (based on SME estimates) that reflect efficiencies not yet achieved. For example, Ms. Million identified one element where Qwest's actual (experienced) flow through was 5%, but the cost study assumption is 85%. (Tr. 4329-30).

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A time and motion study would thus only increase Qwest's administrative costs, and provide no material benefit to the Commission or the CLECs. Qwest again asks the Commission to reject the various parties' requests that Qwest be ordered to conduct such studies.

Customized Routing: Staff states that Qwest did not provide cost support for customized routing, citing Ms. Million's testimony at page 4184 of the transcript, lines 6-8. (Staff Brief, p. 11). This is incorrect. The cited testimony actually addresses the fact that Qwest did not provide cost studies for directory assistance and call branding, not customized routing. Qwest's customized routing proposal is supported by the nonrecurring cost study, Exhibit 2023, pages 510-513 and the back up documentation contained in Exhibit C-2024, pages 614-621.

V. CONCLUSION

For the reasons stated, Qwest requests that the Commission adopt the costs and rates that Qwest has proposed.

RESPECTFULLY SUBMITTED this 13th day of August, 2002.

QWEST

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