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**

POST HEARING BRIEF OF VERIZON NORTHWEST INC.

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Verizon Northwest Inc., f/k/a/ GTE Northwest Incorporated ("Verizon")[1], by counsel, hereby submits this Post Hearing Brief.

I. Introduction

1. Verizon's evidence in this docket addresses each issue before this Commission for decision. That evidence includes complete and fully-documented cost studies relating to line sharing, Operational Support Systems ("OSS"), and collocation. Verizon's position with respect to what costs should be recovered and how they should be recovered is stated clearly in the testimony that addresses each of these studies. Many of Verizon's proposals are unrebutted in the record, and on those issues Verizon's position should be accepted. For those relatively few issues that were addressed by one of the other parties, Verizon explains in detail below why its respective position should be adopted.

II. Legal and Policy Issues

A. Policy Issues

2. Perhaps the most pivotal policy issue before this Commission is the determination

[1] Since the inception of this docket, GTE Northwest Incorporated has changed its name as a result of the merger between its parent company, GTE Corporation, and Bell Atlantic Corporation. For purposes of this brief, the term "Verizon" will be used to refer to Verizon Northwest Inc., the company that is a party to this proceeding. The term "GTE" is used to refer to the former GTE companies, which are now part of Verizon Communications along with the former Bell Atlantic companies. This will make clear when the brief addresses policy positions, cost studies, activities, or systems used by the former GTE telephone operating companies.

of the pricing methodology that governs the rates that are ordered in this docket. Verizon's position on this issue is discussed fully in § B(2)(b) below.

3. Whatever pricing methodology the Commission decides to follow, however, it should appreciate the very real distinction that exists between determining a statewide average rate and deaveraged rates for the unbundled loop and the rates that are to be decided in this docket. That is, Total Element Long Run Incremental Cost ("TELRIC") and "actual"—as used in the context of the costs Verizon seeks to recover—are not opposites as applied to costs and prices under the ("Act"). The context in which these words or terms are used must be examined to determine what they mean. For example, in the unbundled network element ("UNE") context, GTE has previously argued before this Commission that it is entitled to recover its actual, historical costs incurred to construct and maintain its network. In this regard, Verizon notes that the United States Supreme Court recently decided to hear Verizon's appeal of the Federal Communication Commission's ("FCC's) interpretation of the Telecommunications Act of 1996 in the *Universal Service Order*, challenging its focus on hypothetical, forward-looking costs instead of an Incumbent Local Exchange Carrier's ("ILEC's") actual costs of providing universal service.[2]

4. Nevertheless, in the context of the line sharing, OSS, and collocation issues in this docket, Verizon is not arguing for the recovery of historical costs. "Actual" does not mean "historical." Instead, "actual" means real dollars spent today for line sharing, OSS, or collocation to facilitate competition. There is nothing historical or embedded about these costs; they are costs incurred now or in the very recent past to facilitate competition on a going-forward basis. From a

[2] *GTE Serv. Corp. v. FCC*, 183 F.3d 393 (5th Cir. 1999), cert. granted, 2000 U.S. LEXIS 3778 (U.S. June 5, 2000) (No. 99-1244).

TELRIC perspective, these costs are very different than costs incurred historically to build and maintain the network. Moreover, these are costs that would not have been incurred by Verizon but for its obligations under the Act.

5. This distinction between the costs at issue in this docket and the costs under consideration in the UNE context is readily apparent when the evidence that must be examined in the two contexts is considered. That is, in the UNE context, the cost evidence consists of proposals that address what will happen in the future in a predicted competitive environment. The cost evidence presented in this docket, however, focuses on the line sharing, OSS, and collocation costs that are actually incurred to implement competition. Many of these costs have already been incurred. For others, there is current cost evidence that provides the best indication of what the going-forward cost will be. These "actual" costs are related directly to the onset of local market competition, are clearly the types of costs that are contemplated by the Act, and should be recovered by Verizon.

B. Legal Issues

1. The Telecommunications Act

a. Section 252(d)(1) Entitles ILECs To Recover Their Actual Costs.

6. The Act's pricing structure under § 252(d)(1) confirms that total actual costs are the touchstone for establishing prices and universal support. Under this section of the Act, the just and reasonable rate shall be "based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) … [and] may include a reasonable profit." This language plainly requires that Verizon fully recover its actual costs. Indeed a firm can never earn a profit until it first recovers its actual costs.

7. The Fifth Amendment to the United States Constitution also requires that a utility be permitted to obtain a revenue stream sufficient to "maintain its financial integrity, to attract capital, and to compensate its investors for the risk [they have] assumed …." *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989) (quoting *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1994)). Under this standard, "it is important that there be enough revenue not only for operating expenses, but also for the capital costs," which include service on the debt and dividends on the stock. *Hope*, 320 U.S. at 603. Thus, "[o]ne of the elements *always* relevant to setting the rate … is the return investors expect …." *Duquesne*, 488 U.S. at 314 (emphasis added). As Justice Scalia, joined by Justice O'Connor, explained in his concurrence in *Duquesne*, one can determine whether a company has been allowed a fair return only by a comparison to a measure of relevant investment, and "[f]or that purpose, all prudently incurred investments may well have to be counted." *Id*. at 317. *Duquesne* and *Hope* thus require that compensation be sufficient to cover an ILEC's actual costs (plus a reasonable profit), including operating costs *and* service on the debt and equity used to finance investment. *See also State of Missouri ex rel. Southwestern Bell Tel. Co. v. Public Service Commission*, 262 U.S. 276, 290 (1923) (Brandeis, J. concurring) ("[T]he Federal Constitution guarantees to the utility the opportunity to earn a fair return" on the "capital embarked in the enterprise.").

8. Established principles of statutory construction mandate that, if possible, statutes be construed to avoid an unconstitutional taking. *See e.g. United States v. Security Indus. Bank*, 459 U.S. 70, 78-80 (1982) (narrowing construction of statute to be applied to avoid taking). Furthermore, when an act of Congress requires the determination of "just and reasonable rates," that language is universally construed to require compensation sufficient to meet constitutional standards.

See Hope, 320 U.S. at 606-07. Thus, even if the Act were less clear in requiring that ILECs have an opportunity to recover fully their actual costs, principles of statutory construction would require the Act to be construed in that manner.

9. Under these principles, any attempts to zero out or assume away costs for line sharing, OSS, or collocation are not sustainable. Certainly, where Verizon must perform an activity to facilitate local market competition under the Act or at the request of a Competitive Local Exchange Carrier ("CLEC"), Verizon is entitled to recover the costs of performing that activity. To deny such recovery would be to develop prices based on the myth of a hypothetical, never-to-exist network.

b. Collocation Obligations Under Section 251(c)(6)

10. The collocation obligations of an ILEC are set forth in section 251(c)(6) of the Act:

> The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

11. The touchstone of this provision, as it applies to this proceeding, is that an ILEC is to recover its costs of providing collocation through "just" and "reasonable" rates.

c. Section 254(k)

12. Section 254(k) of the Act prohibits a telecommunications carrier from using noncompetitive services to subsidize services subject to competition. None of Verizon's proposals in this case violate this provision.

d. Section 706

13. Section 706 of the Act requires each state commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." CLECs would have this Commission believe that the only way to satisfy the goals of § 706 is to require ILECs to provide access to the high frequency portion of a loop in any manner the CLECs want. However, the Commission can encourage widespread deployment of advanced services only within the confines of the Act as a whole. Specifically, the Commission may only require ILECs to provide access to unbundled network elements consistent with the necessary and impair standard found in § 251(d)(2) and the pricing guidelines of § 252(d)(1), which allow the ILEC to recover their costs plus a reasonable profit. Moreover, the Commission can only impose requirements on ILECs that are consistent with FCC rules.

2. Federal Court Decisions

a. GTE Service Corp. v. FCC

14. In *GTE Serv. Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000) (the "*D.C. Circuit Court Ruling*"), the United States Circuit Court of Appeals for the District of Columbia vacated and remanded portions of the FCC's *Advanced Services Order*,[3] discussed in more detail below.

[3] First Report and Order and Further Notice of Proposed Rulemaking on *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 98-147, FCC 99-48 (rel. March 31, 1999) ("*Advanced Services Order*").

The *D.C. Circuit Court Ruling* was based largely on the Supreme Court's interpretation of the Act's use of the word "necessary" in *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 119 S.Ct. 721 (1999). Based on this interpretation, the *D.C. Circuit Court Ruling* found that particular provisions of the *Advanced Services Order*:

> diverge[d] from any realistic meaning of the statute, because the Commission has favored the LECs' competitors in ways that exceed what is 'necessary' to achieve reasonable 'physical collocation' and in ways that may result in unnecessary takings of LEC property.

205 F.3d at 424.

15. In particular, the *D.C. Circuit Court Ruling* made the following findings:

> the FCC's "used or useful" standard on equipment to be collocated "appears to permit competitors to collocate equipment that may do more than what is required to achieve interconnection or access."
>
> the "cross-connects requirement imposes an obligation on LECs that has no apparent basis in the statute."
>
> "The FCC offers no good reason to explain why a competitor, as opposed to the LEC, should choose where to establish collocation on the LEC's property; nor is there any good explanation of why LECs are forbidden from requiring competitors to use separate entrances to access their own equipment; nor is there any reasonable justification for the rule prohibiting LECs from requiring competitors to use separate or isolated rooms or floors…."

See 205 F.3d at 423-26.

16. One part of the *Advanced Services Order* not vacated and remanded by the *D.C. Circuit Court Ruling* is its reliance on state commissions—such as this one—to ensure that ILECs recover the costs they incur to provide collocation.[4] In fact, state commission responsibility for cost

[4] *See, e.g., Advanced Services Order* ¶ 48 ("We expect that state commissions will permit incumbent LECs to recover the costs of implementing these security measures from collocating carriers in a reasonable manner."); ¶ 58 ("We expect that state commissions will permit incumbent (continued...)

recovery was expressly noted in the *D.C. Circuit Court Ruling*. The D.C. Circuit quoted approvingly from the FCC's Brief to the effect that the *Advanced Services Order* "contemplates mechanisms for the recovery of [a LEC's] prudently incurred costs." *Id*. at 427. These "mechanisms" are to be implemented by state commissions.

b. The Eighth Circuit Court Remand Ruling

17. On July 18, 2000, the Eighth Circuit invalidated many of the pricing rules established by the FCC. *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000).[5] For example, the FCC had required that "[t]he total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent LEC's wire centers." 47 C.F.R. § 51.505(b)(1). The Eighth Circuit found this standard impermissibly hypothetical not based on the existing network of the ILEC or the actual needs of the competitor, and therefore violative of the plain meaning of the Act:

> At bottom [], Congress has made it clear that it is the cost of providing the ***actual*** facilities and equipment that will be used by the competitor (and not some state of the art presently available technology ideally configured but neither deployed by the ILEC nor to be used by the competitor) which must be ascertained and determined. Consequently, we vacate and remand to the FCC rule 51.505(b)(1).

(...continued)
LECs to recover the costs of implementing these reporting measures from collocating carriers in a reasonable manner.").

[5] In response to a Motion for Partial Stay of Mandate Pending the Filing of a Petition for Writ of Certiorari filed by the FCC ("FCC Motion"), which was unopposed by Verizon, the Eighth Circuit stayed its mandate on September 22, 2000, "pending the filing and ultimate disposition of a petition for certiorari with the Supreme Court."

219 F.3d at 751 (emphasis added). Put more bluntly, the Eighth Circuit stated directly that "Congress was dealing with reality, not fantasizing about what might be." *Id*. at 750.

18. The Eighth Circuit's invalidation of the FCC's pricing rules casts substantial doubt on the validity under the Act of many pricing determinations made by state utility commissions, creating confusion regarding what pricing rules should govern the Commission's conclusions in this docket.[6] Moreover, there are broad implications of this ruling given that the FCC's rules state that the relevant pricing rules "apply to the pricing of network elements, interconnection, and methods of obtaining access to unbundled elements, including physical collocation and virtual collocation." 47 C.F. R. § 51.501(a).

19. Although the Eighth Circuit decision is stayed pending review by the Supreme Court, Verizon expects the Eighth Circuit's well-founded rejection of hypothetical pricing under the FCC's rules to be upheld.[7] Verizon recognizes, however, that until the Supreme Court acts, the applicable law is in a state of flux. If the Commission issues a ruling based on the FCC's pricing rules, it will have a problem if those rules are vacated by the Supreme Court—either by refusing to hear the case

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[6] The FCC acknowledged as much in its motion asking the Eighth Circuit to stay issuance of the mandate from its July 18 Order. FCC Motion at 9 ("The Court's decision here, invalidating a portion of the Commission's pricing rules on the merits, would require the state public utility commissions to reevaluate their long-standing methodological approach to the arbitration of pricing disputes").

[7] In this connection, it is worth pointing out that the FCC has acknowledged that access rates charged by ILECS "based on historical costs rather than forward-looking economic costs, are permissible under the 'just and reasonable' standard prescribed by § 201(b) of the Act." *Southwestern Bell Telephone Co. v. FCC*, 153 F.3d 523, 548 (8th Cir. 1998).) Verizon also notes that the Supreme Court has granted *certiorari* to the Fifth Circuit's decision in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), which determined that use of a forward-looking cost model did not result in an unconstitutional taking. *GTE Service Corp. v. FCC*, 120 S.Ct. 2214 (June 5, 2000).

or upholding the Eighth Circuit's decision. If that were to occur, the Commission would have to revisit its ruling at that time.[8] To deal with this conundrum, Verizon proposes that the Commission establish *interim* costs and prices in this docket, with such determinations remaining subject to adjustment, or true-up, to conform with the Act once the Supreme Court acts or elects not to act on the Eighth Circuit decision. The FCC endorsed this type of approach in its Motion to Stay the Eighth Circuit's decision.[9]

20. Permanent or final pricing determinations must reflect the final pricing rules that emerge from proceedings on the Eighth Circuit decision, and not any independent notion based on conflicting state law. The Act authorizes state utility commissions, acting pursuant to and in compliance with that Act, to set costs and prices for incumbent local exchange carriers.[10] In its July 18 Order, the Eighth Circuit held that the FCC's designated pricing methodology ran afoul of the Act. *Iowa Utilities Board v. FCC,* 744 F.3d at 750 ("We agree with petitioners that [the FCC's pricing methodology] violates the plain language of the Act"). Because the Act requires the Commission to follow its pricing standards, the Eighth Circuit's holding that the FCC's pricing rules

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[8] In order to assess how to proceed in light of the Eighth Circuit's decision, Verizon moved to suspend this docket on July 27, 2000. Verizon's motion was denied and this docket has proceeded as planned.

[9] *See* FCC Motion at 11 (noting that interconnection agreements approved before Supreme Court acts on the Eighth Circuit's July 18 Order should include "provision for refunds or 'true-ups' in the event that the [FCC's current pricing rules] need[] to be altered").

[10] *See*, *e.g.*, 47 U.S.C. § 252(d) (establishing pricing standards for state commission determinations of "just and reasonable rate[s]" for network elements); 47 U.S.C. § 252(c)(2) (requiring state commissions to assure compliance with pricing standards of § 252(d)); *see also AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 384 (1999). The Act empowers the FCC to designate a pricing methodology consistent with the Act to which state utility commissions must adhere in setting such prices. *Iowa Utilities Board*, 525 U.S. at 384; *Iowa Utilities Board v. FCC*, 219 F.3d at 757 ("we now agree with the FCC that its role is to resolve 'general methodological issues,' and it is the state commission's role to exercise its discretion in establishing rates").

do not comply with those standards would preclude the Commission's use of that methodology or any substantially similar methodology to set permanent or final costs and prices once the Eighth Circuit's interpretation is upheld.

21. Accordingly, the Washington Commission may not ignore the Eighth Circuit's order and its potential implications for the validity of the FCC's pricing rules, nor is it free to rely solely on state authority to set costs and prices. As the Supreme Court made plain in *Iowa Utility Board*, the Act broadly preempts state regulation of intrastate telephone service:

> the question in this case is not whether the Federal Government has taken the regulation of local telecommunications competition away from the States. With regard to the matters addressed by the 1996 Act, it unquestionably has.

525 U.S. at 378 n. 6.

22. The Act creates a role for state utility commissions in the establishment of costs and prices. *MCI Telecommunications Corp. v. Illinois Bell Telephone Co.*, 2000 U.S. App. LEXIS 17739, *54-*55 (7th Cir. July 24, 2000) (noting that the Act offers state utility commissions "a role as what the carriers have called 'deputized' federal regulator," and that in that role, commissions' "authority to act was derived from provisions of the Act and not from their own sovereign authority"). The Act, however, also establishes statutory standards for determining costs and prices to which state utility commissions must adhere. *GTE North, Inc. v. Strand*, 209 F.3d 909, 922 (6th Cir. 2000), *petition for cert. filed* (July 17, 2000) ("in administering the [Act's] regulatory framework [state commissions] must operate strictly within the confines of the statute"); *US West Communications v. MFS Intelenet, Inc.*, 193 F.3d 1112, 1116 (9th Cir. 1999), *cert. denied*, 120 U.S. 2741 (2000) ("A state commission may impose terms by arbitration only if the terms meet the

substantive requirements of section 251, including the regulations implementing that section, and the pricing standards of section 252"). In carrying out its federally-created role, this Commission cannot ignore the Eighth Circuit's authoritative interpretation of the law. *MCI Telecommunications Corp. v. U.S. West Communications,* 204 F.3d 1262, 1267 (9th Cir. 1999) (recognizing that in disputes involving FCC's pricing methodology under the Act, Eighth Circuit is "the sole forum for addressing ... the validity of the FCC's rules"), *citing GTE South, Inc. v. Morrison,* 199 F.3d 733 (4th Cir. 1999); *see also US West Communications v. Hamilton,* No. 99-35586 (9th Cir., Sept. 13, 2000) (reaching the same conclusion). Thus, any costs or prices determined in this docket should be on an interim basis only, subject to true-up when the uncertainty surrounding the controlling pricing rules is resolved.

3. FCC Orders

a. Line Sharing Orders

(1) The Line Sharing Order

23. On December 9, 1999, the FCC issued an order and rule 47 C.F.R. § 51.319(h) establishing the high frequency portion of the local loop as an unbundled network element. *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket Nos. 98-147 and 96-98, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. December 9, 1999) (hereinafter the "*FCC Line Sharing Order*"). The FCC defined the high frequency portion of the loop as "the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions." *Id*. at ¶ 26; 47 C.F.R. § 51.319(h)(1). The FCC defined "line sharing" as the

provision by an ILEC of access to the high-bandwidth UNE to "a requesting telecommunications carrier for the provision of a telecommunications service . . . ." 47 C.F.R. § 51.319(h)(2).

24. The Line Sharing Order unambiguously states that an ILEC is not required to provide line sharing on a loop unless it provides voice service to the end user: "[L]ine sharing contemplates that the incumbent LEC continues to provide POTS[11] services on the lower frequencies while another carrier provides data services on the higher frequencies." *Id.* ¶ 72; *see also id.* at ¶ 4 ("The provision of xDSL-based service by a competitive LEC and voiceband service by an incumbent LEC on the same loop is frequently called 'line sharing.'"); ¶¶ 13, 67, 70, 72; 47 C.F.R. § 51.319(h)(3) ("An incumbent LEC shall only provide a requesting carrier with access to the high frequency portion of the loop if the incumbent LEC is providing, and continues to provide, analog circuit-switched voiceband services on the particular loop for which the requesting carrier seeks access.").

25. Limiting the ILEC's line sharing obligations to situations where the ILEC is the underlying voice carrier is consistent with the broader reasoning behind the Line Sharing Order. The FCC imposed the line sharing obligation on ILECs because it determined that CLEC data providers would be competitively impaired relative to ILEC data providers in the absence of such a requirement. The FCC found that this impairment resulted from a "significant cost advantage" the ILEC data provider would enjoy over competitors if ILEC voice and data services could share a line and competitors could not. *Line Sharing Order* at ¶ 40. No such ILEC cost advantage exists when the ILEC is no longer the voice provider.

26. Similarly, the line sharing requirement is intended to save CLECs the expense of

[11] POTS refers to "plain old telephone service."

purchasing an entire loop to provide data service. *See id*. at ¶¶ 35, 39. When the CLEC has already obtained the entire loop, this justification does not apply.

(2) SBC Texas 271 Order

27. On June 30, 2000, the FCC issued a decision approving the application of SBC Communications Inc. to offer long distance service in Texas. *In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order (rel. June 30, 2000) (hereinafter "SBC 271 Order"). As discussed in § III(D) below, this Order provides further guidance on line sharing issues, and specifically reaffirmed that ILECs are not required to provide line sharing over UNE-Ps.

b. Collocation Orders

28. There are three primary FCC orders that address collocation matters generally: the *First Report and Order*,[12] the *Advanced Services Order* and the *Order on Reconsideration*.[13] The FCC initially interpreted section 251(c)(6) of the Act in the *First Report and Order*, setting forth general collocation rules on a national basis. For example, the *First Report and Order* defined certain collocation terms and issued general standards on the types of equipment to be collocated and

[12] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98, 95-185 (rel. August 8, 1996) ("*First Report and Order*").

[13] *Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No.* 96-98, FCC 00-297 (rel. Aug. 10, 2000) ("*Order on Reconsideration*").

non-discriminatory space reservation policies. *See, e.g.*, *First Report and Order* ¶¶ 570, 576, 583.

29. The FCC expanded its interpretation of collocation obligations in the *Advanced Services Order*, implementing more specific requirements on equipment, alternative arrangements, security, space preparation cost allocation, and procedures for denying collocation requests. *See, e.g., Advanced Services Order* ¶¶ 25, 46, 50, 56. In fact, as discussed above, the *Advanced Services Order* expanded collocation obligations on ILECs beyond those permitted by the Act, resulting in the *D.C. Circuit Court Ruling*.

30. In response to a Petition for Reconsideration on the *Advanced Services Order* filed by Sprint, the FCC's *Order on Reconsideration* set minimum collocation provisioning intervals in the absence of state-set intervals, and made clear that adjacent collocation requirements applied only to land owned or leased by the ILEC. *See e.g.*, *Order on Reconsideration* ¶¶ 27, 44.

(1) Current Collocation Costs Provide An Appropriate Estimate Of Forward-Looking Costs.

31. In a subsequently dismissed investigation into GTE's federal collocation tariff, the FCC made clear that it viewed GTE's current collocation costs as a reasonable approximation of its efficient, forward-looking collocation costs. *In the Matter of GTE Telephone Operating Companies Revisions to Tariff F.C.C. No. 1; GTE System Telephone Companies Revisions to Tariff F.C.C. No. 1*, CC Docket No. 00-36, Order Designating Issues for Investigation (rel. Feb. 28, 2000) and Order Terminating Investigation (rel. May 16, 2000). The FCC stated:

> We presume that recovery of current costs … is reasonable because such costs approximate forward-looking costs and an efficient LEC operating in competitive markets would recover forward-looking costs from collocators and its other customers . . . .

> We presume that it is reasonable that GTE develop the current average cost per square foot for [HVAC and power] facilities based on installations during 1997, 1998, and 1999 because these costs are recent and are therefore likely to approximate prices that GTE would pay today for these facilities.

Id. at ¶¶ 23-24. The FCC's endorsement of the current cost approach to assessing forward-looking collocation costs is an important guide for the Commission to consider in setting Verizon's collocation costs and prices in this docket.

(2) ILECs Are Entitled To Recover Site Preparation Or Building Modification Costs.

32. In its general collocation orders discussed above, and others, the FCC recognized that ILECs are entitled to recover the costs incurred to prepare space in their current central offices, or to otherwise modify these buildings to meet their collocation obligations under the Act. There are many examples of references made by the FCC to an ILEC's recovery of costs incurred to modify or prepare particular central offices for collocation:

> *First Report & Order* ¶ 201: "We conclude, as a practical matter, that space limitations at a particular network site, without any possibility of expansion, may render interconnection or access at that point infeasible, technically or otherwise. Where such expansion is possible, however, … *the requesting party would bear the cost of any necessary expansion.*"
>
> *Advanced Services Order* ¶ 41: "… the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or *condition the space for collocation use* …"; ¶ 51: "… if an incumbent LEC implements cageless collocation arrangements *in a particular central office that requires air conditioning and power upgrades,* … [w]e expect state commissions will determine the proper pricing methodology to ensure that incumbent LECs properly allocate site preparation costs among new entrants."

> *FCC Brief to the United States Court of Appeals for the District of Columbia Circuit On Appeal of Advanced Services Order* at 50:[14] endorsing an approach in which Bell Atlantic-NY was to recover the costs it incurred "in order to *condition* the appropriate amount of common space …"

33. As noted in ¶ 51 of the *Advanced Services Order*, listed above, the FCC made clear that it is state commissions—such as this one—that are tasked with the responsibility to ensure that ILECs do in fact recover their site preparation or building modification costs.

4. Washington Commission Orders

34. In 1996, the Commission initiated UT-960369, 960370, and 960371, *In the Matter of Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale* (the "Generic Costing and Pricing Docket") to consider cost and pricing issues that arose during the arbitration proceedings and the Commission's obligations under the Act and Title 80 of the Revised Code of Washington. *Notice of Prehearing Conference*, Docket No. UT-003013 (Feb. 23, 2000) at 1. The Commission intended the Generic Costing and Pricing Docket to establish a cost methodology and prices for use in pending and future arbitrations, and in the tariffs required in consolidated interconnection and rate case proceedings. *Id*.

a. Phase I Costing Orders

35. On April 16, 1998, the Commission issued its Eighth Supplemental Order in the Generic Costing and Pricing Docket. Through this Order, the Commission established the cost methodology and costs to form the foundation of the prices charged for interconnection, unbundled

[14] Brief for Respondents, *GTE Serv. Corp. V. FCC*, No. 99-1176 (D.C. Cir. Oct. 15, 1999) ("*FCC Brief*"). This portion of the *FCC Brief* was quoted approvingly in the *D.C. Circuit Court Ruling*, which specified that the *Advanced Services Order* "contemplates mechanisms for the recovery of an ILEC's prudently incurred costs …" 205 F.3d at 427.

network elements, transport and termination, wholesale discounts, interim number portability, and collocation. The Commission clarified, reconsidered, and revised its cost determinations in a series of orders that followed. Verizon cites herein provisions of these orders that are determinative or relevant to the resolution of matters at issue in this proceeding.

36. In addition to the specific cost determinations, the Commission's Orders set forth a number of basic principles to be followed in Phase II of the Generic Costing and Pricing Docket and beyond. For instance, the Commission ruled that, with certain limited exceptions, the costs established by the Eighth Supplemental Order are price floors for unbundled network elements. Eighth Supplemental Order, ¶¶ 20, 491. The Commission recognized that common costs properly excluded from TELRIC estimates may be recovered through a "mark-up" over direct costs. Eighth Supplemental Order, ¶¶ 251, 525. The Commission also recognized that ILECs should recover their transition costs (i.e., the costs associated with modifying the network to comply with the statutory requirements of the Act). Eighth Supplemental Order, ¶¶ 39, 495. Finally, the Commission determined that it would not consider tariff terms and conditions in Phase I of the Generic Costing and Pricing Docket. Fourteenth Supplemental Order, ¶ 75.

b. <u>Phase II and III Orders</u>

37. On August 30, 1999, the Commission issued its Seventeenth Supplemental Order establishing statewide average prices for certain unbundled network elements, and establishing a Phase III to address remaining issues. The Commission adopted a common cost mark-up factor of 24.75% for costs established using GTE cost estimates. Seventeenth Supplemental Order at ¶ 203. The Commission adopted GTE's proposed collocation rates—with certain modifications—on an interim basis pending a final order on its new collocation study. *Id*. at ¶ 302. Similarly, the

Commission adopted—with certain modifications—GTE's proposed non-recurring charges for certain UNEs and resale services. *Id*. at ¶¶ 452-55. The Commission also required the ILECs to develop separate non-recurring charges for installation and disconnection. *Id*. at ¶ 471. Included within GTE's approved non-recurring charges were OSS and National Open Market Center costs. The Commission determined that because OSS is a network element, ILECs are entitled to recover their OSS costs from CLECs, but that the Commission needed to determine the amount of those costs. *Id*. at ¶¶ 98-108. Therefore, the Commission ordered GTE and U S WEST to file new OSS studies by January 31, 2000. *Id*. at ¶ 526. The Commission deferred consideration of loop conditioning costs and prices to Phase III, and set interim rates for GTE equal to those of U S WEST. *Id.* at 235.

38. In its Nineteenth Supplemental Order, the Commission limited Phase III of the Generic Costing and Pricing Proceeding to geographic deaveraging of the rates established in Phase II. Nineteenth Supplemental Order at 3. The Commission indicated that it would open a new proceeding to address cost and pricing issues for UNEs for which new or modified cost studies were required and which could not be resolved in the Generic Costing and Pricing Proceeding, OSS, collocation, a capacity charge for transport and termination, and any other UNEs ordered by the FCC. *Id* at 6.

39. On May 5, 2000, the Commission issued its Twenty-Fourth Supplemental Order adopting a tariff structure for implementing the geographic deaveraging of loop costs. Twenty Fourth Supplemental Order at ¶ 8. In its Twenty-Fifth and Twenty-Sixth Supplemental Orders, the Commission required GTE and U S WEST to make several modifications to cost studies and rates filed in compliance with the Seventeenth Supplemental Order. On September 1, 2000, the

Commission issued its Twenty-Seventh Supplemental Order in the Generic Costing and Pricing Proceeding, which was stayed by the Twenty-Eighth Supplemental Order pending a ruling on a petition for reconsideration filed by several CLECs. Rates resulting from Phases II and III of the Generic Costing and Pricing Docket will not take effect until the Commission issues its order on reconsideration.

c. UT-003013 Phase A Orders

40. On March 3, 2000, the Commission initiated this proceeding to address the remaining issues in the Generic Costing and Pricing Docket. The First Supplemental Order limited Phase A of this proceeding to OSS, collocation, non-recurring charges, and line sharing. First Supplemental Order at ¶ 15. New UNEs created by the FCC's UNE Remand Order—including UNE-Platforms—were deferred to Phase B. *Id* at ¶ 16. In its Third Supplemental Order, the Commission clarified that non-recurring charges would be considered along with the recurring rates of their related network elements. Third Supplemental Order at ¶ 9. The Commission also clarified that Phase A would establish permanent rates for interconnection entrance facilities. *Id*. at ¶ 15. In its Fourth Supplemental Order, the Commission deferred loop conditioning to Phase B. Fourth Supplemental Order at ¶ 8.

III. Line Sharing

41. Line sharing is the ability of two different service providers to offer two different services over the same copper loop over different frequencies. Exhibit T-210:2 (Boshier). As defined by the FCC, line sharing occurs when an ILEC provides voice analog services over the low frequency band of the loop while a CLEC provides Asynchronous Digital Subscriber Line ("ADSL") services over the high frequency band. *Id*.

42. To provision line sharing, xDSL[15] service is added to a local loop used for "traditional" voice service by installing passive signal filters, or "splitters'' at each end of the end users' local loop. Exhibit T-210:3 (Boshier). In most cases, one splitter is installed at the end user's premises and another at the central office. The central office splitter filters the high frequency data traffic signals from the voiceband signals, directing the voiceband signals through a pair of copper wires to the Class 5 switch. The full frequency spectrum—including digital traffic—travels through another pair of copper wires to a digital subscriber line access multiplexer ("DSLAM") attached to the packet-switched network. *Id*.

43. Verizon proposes for adoption the complete set of terms, conditions, and prices contained in the testimony and exhibits of witnesses John Boshier and Robert Tanimura in the form of a line sharing amendment to its Interconnection Resale and Unbundling Agreements.[16] These proposals were developed as a result of meetings and negotiations between GTE and various CLECs—including Covad, Rhythms, Northpoint, New Edge, AT&T, and others—on various line sharing issues. *Id*. at 4. While these efforts, which began in January 2000, were focused on meeting the schedule for a California Public Utilities Commission proceeding, all parties agreed that the discussions were intended to form the basis for national agreements. *Id*. at 4-7. Verizon proposes to recover line sharing costs through both recurring and non-recurring charges. Specifically, service order processing, installation of jumpers, and initial testing will be recovered through non-recurring charges, as discussed in § III(C) below. Capital costs associated with the splitters, splitter bays, and

[15] xDSL is used to refer generically to the various types of Digital Subscriber line services available.

[16] Exhibit 211 contains the generic line sharing agreement that Verizon intends to offer for general terms to CLECs in Washington. Tr. 1221 (Boshier).

cabling between the bays and the MDF will be recovered through monthly recurring charges, as discussed in § III(B)(5) below. Costs associated with all tie cables between Verizon's MDF and CLEC collocation areas are recovered through collocation cross connect charges and cable charges contained in Verizon's proposed collocation charges. *See* Tr. 1223-24, 1227 (Boshier).

A. HUNE Price

44. Verizon has allocated zero cost to the loop for purposes of setting prices for line sharing (as defined by the FCC) in this proceeding. Therefore, this is not a disputed issue between Verizon and the CLECs, and need not be addressed by the Commission for Verizon. It is important to note, however, that Verizon's allocation of zero cost is based on the critical assumption that Verizon remains the voice provider on the line shared loop. Therefore, in the event that this or other circumstances change, Verizon reserves the right to redesign rates in the future so as to recover its costs.

B. Collocation[17]

45. Verizon offers line sharing to CLECs through three different configurations:

Configuration 1: CLEC-Owned Splitter in Virtual Collocation-Like Arrangement

46. In Verizon's first configuration, the CLEC owns the splitter and places it in a virtual

[17] Verizon assumes that this section of the brief relates to the capital costs associated with the splitters, splitter bays, and cabling between the bays that it proposes to recover through monthly recurring charges. Collocation—either physical or virtual—is a prerequisite for line sharing. Exhibit T-320:16 (Tanimura). In the first two configurations, a CLEC must place its own DSLAM equipment and the splitters in Verizon's central office. *Id.* Moreover, a CLEC must have tie cables running from its collocation area to Verizon's MDF. *Id.* The applicable rates and charges for satisfying these collocation prerequisites are discussed in § V below, and are separate from the line sharing and related charges proposed herein.

collocation-like arrangement. Exhibit T-210:9 (Boshier). The CLEC leases the splitter to Verizon for $1, and Verizon installs the splitter in a Verizon-managed area of the central office and operates and maintains the splitter on behalf of the CLEC. The splitter is dedicated to the CLEC, and no other carrier will be able to use it. The voice path is cross-connected from the Verizon MDF to the CLEC-collocated splitters through tie cables provided by the CLEC. Likewise, the combined voice and data path is returned over a separate CLEC-provided tie cable. *Id*. In this configuration, the DSLAM is connected directly to the splitter. Tr. 1223 (Boshier). This configuration is depicted in Exhibit 213.

47. Verizon proposes both monthly recurring and non-recurring charges for this configuration. The monthly recurring costs were developed by first identifying the unit costs of each piece of equipment required to enable line sharing (e.g., the splitter shelf, the splitter module/card, plus 10% for spare splitters) and engineering and installation costs. Exhibit T-233:4 (Behrle). The total investment of material and labor was then expressed, by these two categories, on a per-shelf unit of capacity basis. Material loadings were then applied to the per-shelf unit material investment, and engineering and installation costs were added to obtain the total per unit investment. Verizon applied annual expense factors for maintenance and support, which were developed on a statewide basis using all engineered and installed circuit equipment investment. *Id*. Verizon then identified the expense of maintaining 192 MDF jumpers.[18] *Id*. at 4-5. These expenses were added together to develop a total annual cost per shelf unit, which was divided by 12 to express the capacity cost on a monthly basis. *Id*. at 5. Finally, Verizon applied a sales, advertising, and marketing cost factor to

[18] Each splitter bay shelf can hold 24 splitter modules/cards. Each splitter module/card provides for splitter capacity for four lines. Hence, each bay shelf has a maximum of 96 lines. Multiplying the 96 splitters times by the two jumpers required per splitter yields 192 MDF jumpers. Exhibit T233:4-5 (Behrle).

yield the total monthly cost for Configuration 1. Tr. 1273 (Behrle). The cost support underlying the monthly recurring costs in Configuration 1 are contained in Exhibit C-234.

48. Verizon applied the Commission ordered mark-up of 24.75% to allow for recovery of a reasonable share of Verizon's common costs to develop monthly recurring rates.[19]

Configuration 2: CLEC-Owned Splitter in CLEC's Physical Collocation Area

49. In Verizon's second line sharing configuration, a CLEC can own and install the splitter in its physical collocation area. Exhibit T-210:9 (Boshier). The voice service path is connected from the Verizon switch to the MDF, and is then cross-connected to the splitter located in the CLEC's collocation area. *Id*. There, it is combined with the data service path, and the combined voice/data path leaves the splitter in the CLEC collocation area and is cross-connected back to the MDF, where it is wired to the local loop. *Id*. at 9-10. This configuration requires two connections between the MDF and the collocation area, both of which are provided under existing collocation terms and conditions. *Id*. at 10. This configuration is shown in Exhibit 214.

50. In this second line sharing configuration, Verizon does not incur any costs for the splitter, relay rack, or cabling. Exhibit T-320:18 (Tanimura). Consequently, Verizon does not propose any recurring charge for this configuration. *See id*. Verizon's non-recurring costs and charges for this configuration are discussed in § III(C) below.

Configuration 3: Verizon-Owned Splitter

51. Configuration 3 is one in which Verizon owns the splitter. Verizon installed in

[19] Verizon's proposed prices for this proceeding are summarized in Attachment A to this brief.

selected Washington central offices a bay containing splitters configured to combine and separate the high and low frequency portions of the end user's service. Exhibit T-210:10. The voice service is connected from the Verizon switch to the MDF, and is then cross-connected to a splitter mounted in the splitter bay. Likewise, the data service is cabled to the Verizon MDF and cross-connected to the same splitter bay. The combined voice/data service path leaves the splitter bay and is cross-connected back to the MDF, where it is then wired to the local loop. *Id.* The splitter in this configuration will be dedicated for the CLEC's use. Tr. 1225 (Boshier). This configuration, depicted in Exhibit 215, will be available to CLECs until December 15, 2000. Exhibit T-217:4 (Boshier). After that date, any CLEC currently using a Verizon-owned splitter will continue to receive line sharing under this configuration, but any new line sharing orders must use one of the CLEC-owned splitter configurations. Tr. 1229 (Boshier).

52. In this third configuration, Verizon will own and install a bay and splitter and then provide the cabling and terminations necessary to hand off the high frequency portion of the loop to a collocating CLEC. Verizon proposes a combination of recurring and non-recurring charges for this configuration. Monthly recurring charges will recover the cost to Verizon of providing the splitter, relay rack and cabling required to pass the high frequency portion of the loop to the CLEC's termination on the MDF. *Id.* at 20-21. Specifically, Verizon identified the unit costs of each piece of equipment required to enable line sharing (e.g., splitter, relay rack, cables, splitter termination, and jumpers) and engineering and installation costs. Exhibit T-230:5 (Behrle). The total investment of material and labor was then expressed, by these two categories, on a per unit of capacity basis. Material loadings were then applied to the per unit material investment for the bay-mounted splitter arrangement. The engineering and installation costs were added together to obtain the total per unit

investment. Verizon then applied annual expense factors (e.g., capital recovery, composite income tax, maintenance and support, and property tax) to the total investment, and identified the expense of maintaining three MDF jumpers. These expenses were summed to develop a total annual cost per unit, which was divided by 12 to express the capacity cost on a monthly basis. The capacity cost was then divided by a 75% utilization factor to derive the TELRIC for this element, consistent with paragraph 682 of the FCC's First Interconnection Order. Finally, Verizon applied a sales, advertising, and marketing cost factor to yield the total monthly cost for the Verizon-owned splitter. *Id*. The cost support underlying Verizon's recurring costs for the Verizon-owned configuration line sharing are contained in Exhibit 231.

53. Verizon applied the mark-up of 24.75% to allow for recovery of a reasonable share of Verizon's common costs to develop the monthly recurring rates.

1. Cable Lengths

54. In the Verizon-owned splitter configuration, Verizon's recurring cost studies assume an average cable length between the MDF and the splitter of 175 feet, which was developed using the various lengths of connectorized cables available for provisioning line sharing. Exhibit T-235:10 (Behrle). Actual cable lengths observed in Verizon's collocation arrangements and a recent sample of work orders indicate that this assumed average is a reasonable approximation of the actual cable lengths used in Washington to provision line sharing. *See Id*. at 10-11.

2. Engineering Costs

55. Verizon based its engineering costs on a subject matter expert estimate of 10 percent of the major material invest as a reasonable approximation of the engineering costs for provisioning line sharing. Exhibit T-235:5-6 (Behrle); Exhibit 236. Verizon used this estimate because of the

difficulty predicting the exact engineering time expended per order without knowing the exact magnitude of frequency of orders from CLECs. Exhibit T-235:6 (Behrle). This is an accepted method for determining engineering costs in this type of situation. Moreover, Verizon's engineering factor was validated by two work order estimates for the provisioning of line sharing splitters. See Exhibit C-234.

3. Qwest Shelf Allocations

56. Verizon does not advocate a position on this issue.

4. Efficient Configuration

a. Location of Splitters and xDSL Equipment

57. Nothing in the Act or the FCC's rules require ILECs to place any CLEC equipment in any particular location without regard to the planned or designated use of central office floor space. In overturning FCC rules that would have given CLECs the right to designate where equipment can be collocated in an ILEC's central office, the *D.C. Circuit Opinion* made clear that the ILEC, not the CLEC, has the right to determine where equipment is collocated in the ILEC's facilities:

> The FCC offers no good reason to explain why a competitor [CLEC], as opposed to the LEC, should choose where to establish collocation on the LEC's property; . . . It is one thing to say the LECs are forbidden from imposing unreasonable minimum space requirements on competitors; *it is quite another thing, however, to say that competitors, over the objection of LEC property owners, are free to pick and choose preferred space on the LEC's premises, subject to only technical feasibility. There is nothing in Section 251(c)(6) that endorses this approach.*

GTE Services Corp. v. FCC, 205 F.3d at 426 (emphasis added). Based on this decision, the California Commission has rejected claims that a CLEC was entitled to dictate the location of the

splitter. *Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks*, Rulemaking 93-04-003, Investigation 93-04-002, Final Arbitrator's Report (Public Utilities Commission of California, May 26, 2000) (approved by Commission Sept. 21, 2000) at 22-24.

58. Verizon proposes efficient splitter configurations that take into account the multiple uses of its central offices and MDF equipment. The CLECs seek a configuration whereby splitters are mounted directly on the MDF, claiming this is the most efficient splitter configuration. Exhibit T-170:13-14 (Zulevic); Tr. 959 (Zulevic). However, an MDF-mounted splitter takes up to three times more mounting space on an MDF as a bay-mounted splitter. Exhibit T-220:5 (Bykerk). In fact, it was for this very reason that GTE switched from using MDF-mounted splitters to bay-mounted slitters for its own retail ADSL services. Moreover, a bay-mounted splitter shelf includes a voice path cut through capability that is not available on an MDF-mounted splitter. *Id*. at 6. If the splitter card has to be removed for maintenance purposes, there are no contacts on the splitter shelf that will come together or close to permit the voice path to the central office to remain intact when the splitter card is removed. Therefore, to perform maintenance on a MDF-mounted splitter, a central office technician must manually jumper/strap the cable pair and switch port terminals together on the MDF splitter block for each of the two splitters located on the splitter card, and remove those temporary jumpers/straps when the splitter card is replaced. A bay-mounted splitter eliminates the need for such a time consuming process and reduces any potential technician error. *Id*.

59. As an alternative configuration, Covad and Rhythms suggest that all xDSL equipment

should be located within 25 feet of the MDF. Exhibit T-172:3 (Zulevek). Such a requirement is not feasible. It is important to remember that an MDF is not an equipment frame or bay, but a cross-connection device, and many types of equipment terminate on the MDF and are cross- connected to outside facilities or other equipment terminated on the MDF. Exhibit T-224:5 (Bykerk). Verizon places splitter relay racks as close to the MDF as is practical within the limits of the space utilization plan for a particular central office. Exhibit T-224:6 (Bykerk). Whether a CLEC's equipment can be placed within 25 feet depends on the particular central office's space utilization plan and the availability of rack or floor space within the 25 foot distance. *Id*. It simply may not be possible to put a CLEC within 25 feet of the MDF. As even Covad/Rhythm's witness Michael Zulevic recognized, it is not feasible for all equipment requiring access to the MDF to be located within 25 feet of the MDF. Tr. 995 (Zulevic).

b. Port-at-a-Time Splitter Provisioning <u>of</u>
<u>Verizon-Owned Splitters</u>

60. Verizon proposes that where it owns and provides splitters to CLECs, those splitters be provided from a common pool of splitters on a "port-at-a-time" basis. Exhibit T-220:3 (Bykerk). Splitters from the common pool would be available to CLECs on a first-come, first-served basis. As explained by Verizon Witness Russell Bykerk, a common pool of Verizon-owned splitters for all CLECs to share is the most efficient means of providing splitters in a central office. If the Verizon-owned splitters were dedicated to a specific CLEC, the CLEC would have to provide a projected demand. *Id*. at 4. Verizon would have to allocate splitters, monitor utilization of each individual pool of CLEC splitters, and have a means of adjusting (up or down) the number of splitters dedicated to each CLEC. Verizon's administrative and provisioning systems do not have

this capability. Even if they did, there is a risk of exhausting splitters in a given CLEC splitter pool, thus denying service, while splitters in another CLEC pool remain underutilized. These risks are reduced, however, when splitters are provided on a port-at-a-time basis from a common pool since any CLEC has access to any splitter in the common pool.

61. Moreover, if pools of splitters are allocated to specific CLECs, three jumpers associated with the first CLEC's splitter must be removed and three new jumpers must be run to a splitter in the second CLEC's pool as end users migrate their DSL data services from one CLEC to another. *Id*. For the period of time it takes to remove and rerun jumpers associated with voice service, the end user's service will be interrupted. *Id*. at 4-5. However, with a common pool of splitters, only the one jumper associated with the high frequency data must be relocated and voice service will not be interrupted. *Id*. at 5.

C. Non-Recurring Charges

62. The non-recurring charges for line sharing recover the costs incurred for receiving, provisioning, and service activating activities associated with a CLEC request for line sharing. Exhibit T-250:14 (Casey). The processes used for each activity and the methodology for capturing associated costs are outlined in the direct testimony of Linda Casey. *See* Exhibit T-250:15-20 (Casey).

63. The non-recurring charges for service ordering and cross-connect activities are based on the cost studies developed by Verizon witness Linda Casey in Exhibits 2521 C-252 and 2541 C-254. Consistent with Verizon's pricing of other non-recurring charges, these rates are based on the cost of activities with no mark-up applied for common costs. Exhibit T-320:19 (Tanimura). Verizon proposes to establish separate rates for initial and subsequent service orders and for initial and

additional provisioning units. In conformance with the Commission's Seventeenth Supplemental Order, Verizon also proposes to establish separate rates for manual and semi-mechanized ordering and for disconnection activities. As discussed in detail in section IV below, Verizon adds a per Local Service Request ("LSR") charge for recovery of NOMC shared/fixed costs, ($4.92), OSS transaction costs ($3.76), and OSS transition costs ($3.27) to its ordering non-recurring charges for ***all*** UNEs and wholesale services—including line sharing. Verizon's proposed non-recurring charges for line sharing are contained in Attachment A.

D. Line Splitting Over UNE-P

64. AT&T and WorldCom request that the Commission require Verizon to provide access to the high frequency portion of the loop over a UNE-P. This is often called "line splitting." As discussed in § II above, the *FCC's Line Sharing Order* clearly excludes the provisioning of line sharing where the ILEC is not the voice provider, and specifically in a UNE-P environment. The FCC reiterated this exclusion in its *SBC 271 Order*.[20]

65. In that proceeding, CLECs and Data LECs ("DLECs") argued that SBC had an obligation to provide line sharing over UNE-P loops. The FCC disagreed:

> [U]nder the *Line Sharing Order*, the obligation of an incumbent LEC to make the high frequency portion of the loop separately available is limited to those instances in which the incumbent LEC is providing, and continues to provide, voice service on the particular loop to

[20] AT&T and MCI WorldCom sought clarification, or in the alternative, reconsideration, from the FCC with respect to this exclusion. Petition of AT&T Corp. for Expanded Clarification or, in the Alternative, Reconsideration, CC Dkt Nos. 96-98, 98-147, dated Feb. 9, 2000, at 2; ("The Commission should [clarify] that nothing in the *Line Sharing Order* precludes CLECs from combining xDSL with the end-to-end combination of network elements (commonly referred to as the UNE Platform or UNE-P")); Petition for Clarification of MCI WorldCom, CC Dkt. Nos. 96-98, 98-147, dated Feb. 9, 2000.

> which the requesting carrier seeks access. Thus, the situation that these commenters describe is not technically line sharing, because both the voice and data service will be provided by competing carrier(s) over a single loop, rather than [SBC]. To avoid confusion, we characterize this type of request as "line splitting," rather than line sharing. . . .

Id. ¶ 324. The FCC concluded that:

> [I]ncumbent LECs have an obligation to permit competing carriers to engage in line splitting over the UNE-P where the competing carrier *purchases the entire loop and provides its own splitter*. . . . For instance, if a competing carrier is providing voice service over the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P with a configuration that allows provisioning of both data and voice service.

Id. ¶ 325 (emphasis added).

66. Thus, the FCC has made clear that CLECs *are permitted* to engage in line splitting. The CLECs can compete in the provision of integrated voice/data services by purchasing unbundled ADSL-compatible loops and adding the appropriate splitter and DSLAM equipment in order to provide an integrated voice and data service. *See* Tr. 1242-44 (Boshier). Nothing in Verizon's proposed line sharing proposals prohibits any CLEC or DLEC from introducing line splitting in this fashion. This Commission need do no more.

67. Moreover, Verizon submits that a state commission lacks authority to exceed the bounds of the Line Sharing Order at this time. The FCC stated its intent in the Line Sharing Order to "establish a national framework governing the obligations of incumbent LECs to unbundle the high frequency portion of the loop." *Line Sharing Order* at ¶ 223. Therefore, "states may add or modify unbundling requirements only to the same extent" they are permitted to do so under the *UNE Remand Order*. *Id*. That Order in turn allows states to establish access obligations for ILECs that

"are consistent with [FCC] rules implementing section 251" and the FCC's national policy framework established in that order. *UNE Remand Order* at ¶ 154.

68. Section 251 of the Act makes clear that the states must follow the FCC's lead in requiring access to particular UNEs. Specifically, § 251(d)(2) provides that the FCC must determine "what network elements should be made available for purposes of" obtaining access to UNEs under section 251(c)(3). Clearly, at least at this point in time, the FCC has determined, and its rules state, that:

> An incumbent LEC shall only provide a requesting carrier with access to the high frequency portion of the loop if the incumbent LEC is providing, and continues to provide, analog circuit-switched voiceband services on the particular loop for which the requesting carrier seeks access.

47 C.F.R. § 51.319(h)(3).

69. Section 251(d)(3) does not authorize a state commission to impose UNE requirements in a general rulemaking context in contravention of the existing FCC rules, nor prior to the FCC's decision on a matter that is explicitly pending before it. The plain language of § 251(d)(3) provides that any state "access and interconnection obligations" must be "consistent with the requirements of [§ 251]" and must not "substantially prevent implementation" of the requirements of that section. Such consistency cannot be determined at this time.

70. Expanding the scope of the *Line Sharing Order* in the context of this generic proceeding would be similarly impermissible. Section 252(c)(1) requires a state commission to consider the standards of § 251 and the "regulations prescribed by the Commission pursuant to section 251" in reviewing and approving arbitrated interconnection agreements. The FCC's existing rules concerning the UNE-P issue will in particular be an essential aspect for a state commission to

consider as part of its obligation under § 252.

71. Moreover, if the Commission were to require line splitting in a UNE-P context, or anticipate FCC rulings, such action would be contrary to sound policy and could lead to inconsistent outcomes. Until the FCC has ruled on the issues pending before it, premature state action creates the possibility of arbitrary and conflicting regulatory outcomes via inconsistent decisions within a particular state (involving standards revised to comply with a later federal ruling), conflicting rulings by different states, and conflicts between federal and state determinations, which would subject the state to preemption. Such results would not comport with the "national framework" sought by the FCC in its *Line Sharing Order*. Even AT&T has recognized that this "national framework" does not currently exist: "UNE-P line splitting will require the development of procedures that enable the [UNE-P CLEC], or a third party, to add, modify or remove xDSL capabilities to a new or already operating UNE-P line" since "no such procedures are currently in place." Exhibit T-216:5 (quoting AT&T Petition at 5).

72. Lastly, as explained by Verizon Witness Boshier, requiring Verizon to provide UNE-P line splitting is not critical to local competition. Exhibit T-216:5 (Boshier). CLECs are able to assemble unbundled elements and combine them with xDSL service today, and can share collocation arrangements. *Id*. at 5-6. There is no need to insert Verizon into such CLEC-to-CLEC business relationships.

73. In short, it would be unwise from a policy perspective to attempt to "prejudge" any FCC action and require the development of procedures that may prove inconsistent with the FCC's ultimate decision. For these reasons, Verizon urges the Commission to stay within the bounds of the *FCC's Line Sharing Order* and focus on the articulated goal of Phase A of this proceeding to

achieve the deployment of line sharing consistent with that order.

IV. OSS/Transition Cost Recovery

74. As described in the Commission's Seventeenth Supplemental Order, there are two types of costs associated with OSS: (i) the ***transition*** costs of converting the OSS so that the ILEC's back office operations are accessible to CLECs; and (ii) the ***transaction*** costs incurred each time a CLEC places an order. Seventeenth Supplemental Order at ¶ 89.

A. Sufficiency and Accuracy of OSS Cost Estimates

75. Verizon's OSS cost study presents the actual incremental costs incurred for each of the projects completed between 1997 and 2000 to provide CLECs access to Verizon's OSS[21]. Exhibit T-250:5 (Casey). These projects are described in detail in the direct testimony of Jerome Holland. Exhibit T-260 (Holland).

1. Calculation of Transition Costs

76. Transition costs include the costs to upgrade GTE's OSS and the start-up costs to establish new mechanized systems supporting CLEC functionalities. Exhibit T-250:5 (Casey). Transition costs include expenses for: (i) modifying or developing systems for pre-ordering, ordering, provisioning, repair/maintenance, and billing functionalities; and (ii) systems development and enhancement ("D&E") for Performance Measurement Reports required to provide CLECs information regarding the level of service that Verizon provides for these functionalities. *Id*. at 5-6. These transition costs were incurred as a result of complying with: (i) national standards determined

[21] Verizon seeks cost recovery for OSS costs incurred by the former GTE telephone operation companies. The OSS used by GTE will continue to service the former GTE companies, while the OSS used by the former Bell Atlantic companies will be used in former Bell Atlantic service territories.

by the industry through the Ordering and Billing Forum; (ii) FCC orders requiring ILECs to provide access to their OSS functionalities, and (iii) state commission mandates. *Id*. at 6. GTE determined that its existing financial systems contained sufficiently detailed data elements to capture and track all OSS transition costs. Exhibit T-270:3 (Maria).

a. Calculation of OSS Costs Incurred From 1996 to 1998

77. From 1996 through March 1998, GTE used the general ledger system called Operating Planning and Reporting System ("OPARS") to track all company-wide costs, including OSS transition costs. In April 1998, OPARS was replaced with Systems, Applications and Products in Data Processing ("SAP"). *Id.*. GTE elected not to convert any OPARS transactional data to SAP for historical access, but to keep OPARS data intact and available for providing historical data reflecting results through March 1998. *Id*. at 3-4. In addition to OPARS and SAP, GTE's payroll system, Reporting Distribution Module ("RDM"), was used as needed to extract individual labor costs. *Id*. at 4. These systems, and the data elements used for cost extraction are described in detail in Exhibit T-270:4-7 (Maria).

78. The OSS transition costs were identified separately from monthly recurring OSS costs by using work order numbers and budget centers (OPARS) or workcenters (SAP). *Id* at 7. The costs were then aggregated for presentation in Verizon's cost study. *Id*.

79. Total OSS incurred costs were extracted from GTE's OPARS, primarily through the work order established in March 1996 to capture all systems D&E expenses exclusively related to Open Market Transition ("OMT")[22] start-up and implementation. *Id*. at 7. Additional retrieval

[22] OMT is the term used within GTE for all efforts relating to activities involved in (continued...)

elements (e.g., book date, work order, budget center, account code and cost element code) were used to refine the cost extraction. *Id*. The total OSS expenses were separated, using cost element code and budget center code or cost component code and work center code, and assigned to one of various categories, as described in Exhibit T-270:7-13.

80. With the exception of specific Data processing Service Requests, ("DPSRs"), GTE Data Services ("GTEDS") costs were directly assigned to the specific OSS projects as described in Exhibit T-260 (Holland). Exhibit T-270:14. However, the costs of total work groups or employees that worked on multiple OSS projects could not be directly assigned to one particular project. *Id*. These costs included external vendor costs, contractor costs, infrastructure costs, employee expenses and labor/benefits. These costs were allocated to the projects using the process described in the direct testimony of Ms. Maria. *See* Exhibit T-270:14-15 (Maria).

b. Calculation of 1999 and <u>Beyond OSS Transition Costs</u>

81. In 1999, GTE implemented the GTE Integrated Systems Plan ("GISP"), which called for the standardization of all D&E activity across all GTE Business Units. Exhibit T-270:16 (Maria). GTEDS will bill GTE Network Services the amortized cost of the software over a five-year period beginning at the time the software is placed in service. *Id*. at 17. OSS-related DPSRs are tracked so as to identify the amortization associated with OSS implementation. All applicable OSS related DPSRs for 1999 have been identified and will be billed to GTE Network Services over a five-year period beginning in 2000 through 2004. *Id*.

(...continued)
implementing local competition and the requirements of the Act.

82. Because Verizon cannot predict the level of future OSS requirements, the Company has not included any forecasts of costs for 2000 and beyond. Exhibit T-250:7 (Casey). However, Verizon will continue to incur additional transition costs to comply with the requirements of the Act. For example, in its *Line Sharing Order* and *Advanced Services Order*, the FCC detailed additional OSS requirements (e.g. pre-qualification of the loop) that ILECs must implement. Verizon will incur one-time D&E costs for the changes to its systems to comply with these recent orders and any future orders, and therefore reserves the right to seek future recovery as these costs are known.

2. Calculation of Transaction Costs

83. Transaction costs are the ongoing costs incurred each time a CLEC places an order through a LSR. Exhibit T250:8. These costs are attributable solely to the provisioning of CLEC requests, and pertain to the systems used for pre-ordering, ordering, and provisioning. *Id*. To calculate OSS transaction costs, GTE first classified systems as being used for the processing of recurring, non-recurring, or both (shared) activities.[23] *Id*. GTE then performed the following steps to determine wholesale transaction-specific costs:

> Separated the non-recurring systems into the following categories:
>
> > Retail only,
> > Local Wholesale only,
> > Access only, and
> > Shared systems;
>
> Pulled the 1999 incurred Information Technology and Data Processing ("IT/DP") expense data from the Systems Information Repository ("SIR") database; and
>
> Using the 1999 actual Retail, Access and Wholesale order volumes data, allocated

[23] The recurring systems costs were ***not*** included in the OSS transaction-specific costs since they are recovered through the recurring rates developed in Verizon's Integrated Cost Model ("ICM") filed in Phase B of this proceeding. *Id*. at 9.

> the shared systems on-going expense to the market segments. The Local Wholesale market segment on-going system expenses are the sum of the Local Wholesale shared systems expense and the Local Wholesale only systems expense.

Id. at 10. The total Local Wholesale costs Verizon seeks to recover are contained at Exhibit C-252 at 5-WA 25-26.

3. An Audit of Verizon's OSS Costs Is Unnecessary.

84. The Commission need not require an independent audit of the OSS cost studies filed in this proceeding. The adjudication process established by Part IV of chapter 34.05 RCW provides an adequate opportunity to thoroughly review and determine the accuracy of all cost studies. Indeed, the Commission established a procedural schedule for Phase A that gave all parties a sufficient amount of time—60 days—to conduct discovery on these cost studies. *See* First Supplemental Order at ¶ 15. No party has explained why this was an insufficient amount of time to conduct a thorough analysis of Verizon's OSS cost study. Nor do any parties explain why OSS costs alone, and not any other costs reviewed in the Generic Costing and Pricing Proceeding, would require an audit.

85. Moreover, a private audit requirement raises a number of administrative issues that the Commission must resolve. Nothing in the record indicates what such an audit would cost, how it would be paid for, and how or whether the costs could be spread over service territories served by each ILEC's OSS in other states. *See* Tr. 933 (Cross of Zulevic by Dr. Gabel).

B. Appropriate Cost Recovery Mechanism

86. In order to implement the Commission's order that OSS costs be recovered directly from CLECs, Verizon proposes to establish an OSS charge to be implemented on each LSR accepted by Verizon to provide services to a CLEC. Exhibit T-320:7 (Tanimura). A charge per LSR is the

most efficient pricing structure because it is based on access to, and use of, OSS systems by CLECs. Verizon proposes to base the per-LSR charge on the forecasted number of LSRs. Thus, Verizon proposes to divide total OSS costs by the forecasted CLEC LSRs to develop appropriate charges. *Id*.

87. Because OSS costs are incurred on a nationwide basis and not attributable to any state, Verizon develops its per-LSR charge based on nationwide OSS costs. The LSR-charge structure ensures, however, that Washington CLECs pay for the cost recovery in direct proportion to the amount of activity they generate in Washington. Exhibit T-327:8 (Tanimura). Thus, the LSR-charge is appropriately Washington-specific, while avoiding the arbitrary cost allocations that would be required to assign prospectively a portion of the costs to the state of Washington. *Id*.

C. CLEC Surcharge Rate Design: LSR or Per Activity?

88. As discussed above, because OSS transition and transaction costs were incurred to give CLECs general access to Verizon's OSS, an OSS charge is appropriately levied on each order utilizing this general access to OSS. Because Verizon handles orders from CLECs via LSRs, its proposed OSS charge should be assessed on a per-LSR basis. Exhibit T-320:7 (Tanimura). A per-LSR charge also ensures that the cost recovery burden on CLECs is in proportion to the benefits they derive from OSS. Exhibit T-327:15 (Tanimura). Even NEXTLINK agrees that "any OSS charges should be on a per LSR basis, as Verizon has proposed …." Exhibit T-151:8 (Knowles).

D. Allocation Issues and Line Sharing

1. Number of Lines/Demand Assumptions

89. A key component of the OSS cost recovery mechanism is the number of forecasted

orders (LSRs) over which to spread the OSS transition and transaction costs. Verizon's forecast of CLEC LSRs across the former GTE service territories throughout the United States during the 2001-2005 period is approximately 3.5 million per year. Exhibit T-320:8 (Tanimura). Thus, the total number of LSRs forecasted to be processed over that 5 year period is 17.375 million, providing the total number of LSRs over which to allocate recovery of the OSS ***transition*** costs. *Id*. at 10. This demand estimate, however, is subject to a substantial degree of uncertainty. Given the uncertainty, Verizon proposes to recover the OSS transition costs through the $3.27 per LSR charge until the projected 17.375 million orders have been processed. *Id*. at 10.

90. Verizon proposes recovery of OSS ***transaction*** costs using the same average annual LSR forecast (3.475 million), but to be recovered each year. It is appropriate to recover the annual OSS transaction costs ($13.1 million) each year through a $3.76 per LSR charge because, unlike transition costs, transaction costs will be incurred every year going forward. *Id*. at 11. This is a very conservative mechanism because until 3.5 million LSRs are processed annually – which is several years away – the OSS transaction rate will be severely under-recovering costs. For example, if the per LSR charge to recover OSS transaction costs were based on today's LSR volume, it would be over $20 per LSR. Exhibit T-327:14 (Tanimura).

2. Length of Time - Depreciation Life

91. Verizon proposes to recover the OSS transition and transaction costs over different lengths of time based on the respective nature of each type of cost. The length of time to recover OSS transition costs is not as important for Verizon's proposal because, as discussed above, the charges would stay in effect until the appropriate level of costs were actually recovered. The annual recovery of $13.1 million in OSS transaction costs is appropriate because transaction costs will be

incurred every year going forward.

3. Allocation Over Other Loops

92. Verizon assumes this section of the brief outline addresses Qwest's line sharing OSS cost recovery proposal. Verizon does not advocate a position on this proposal, but reserves the right to respond on this issue in its reply brief.

4. Line Sharing

93. The Line Sharing Order specifically recognizes that "incumbent LECs should recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element." Line Sharing Order at ¶ 144. Verizon has not quantified any OSS costs specific to line sharing only, and therefore does not propose an additional OSS charge applicable to line sharing orders only at this time. Exhibit T-237:26 (Tanimura). However, Verizon does propose that the OSS charge proposed for all orders apply equally to orders for line sharing.

E. Other Issues

1. Verizon's OSS Costs Are Not Recovered Through Retail Rates.

94. Verizon's retail rates in Washington do not include recovery of its OSS developmental, or enhancement, costs. Verizon's last rate case was in 1985, far in advance of when these OSS costs were incurred beginning after the Act was passed in 1996. Exhibit T-237:11 (Tanimura). In fact, each new retail service rate established since 1985 would not have included OSS cost recovery because these costs were tracked separately on a nationwide basis and were excluded from the factors used for pricing development. *Id.*

95. Staff claims that these OSS costs are being recovered in current retail rates because

Verizon's rate levels were reviewed and "reset" in the merger settlement, Docket No. UT-981367, using a 1998 test year. Exhibit T-350:9 (Spinks). As explained by Dr. Tanimura, the merger settlement did not consider such costs. Exhibit T-327:10 (Tanimura). The negotiated settlement resolved three separate dockets: GTE/Bell Atlantic's merger application, intrastate access reform, and earnings review. Thus, current retail levels were not considered in isolation from other issues such as potential merger savings and intrastate access levels. Because the overall look at Verizon was based on several factors, individual retail rates were not scrutinized, adjusted, or reset. In approving the agreement in which Verizon decreased revenues by $30 million and all three dockets were closed, the Commission noted specifically that unfunded mandates – such as OSS development costs – could be recovered in the future. Fourth Supplemental Order (December 16, 1999), Docket Nos. UT-981367, UT-990672, and UT-991164 at 23.

2. OSS Trend Analysis

96. As required by paragraph 109 of the Seventeenth Supplemental Order, Verizon submitted costs that trended OSS expenses from 1994 through 1999. Exhibit T-250:13 (Casey). This analysis shows that GTE first experienced a small portion of its OSS costs for implementation of the Act in 1996, and ramped up its OSS expenditures for meeting the requirements of the Act during 1997, 1998 and 1999. Simultaneous development of GTE's retail and access OSS development occurred in order to keep pace with technological advancements in those markets. However, the OSS costs for implementation of the Act were tracked separately for regulatory reporting requirements. *Id.*

97. Verizon's trending comparison was based on GTE's total company expenditures as a ratio between the local competition expenditures and expenditures for other GTE markets. Exhibit

T-250:14 (Casey). Because any annual variables, such as labor rates or costs for hardware and software would not vary appreciably between market segments in any given year, Verizon did not present an adjusted trend analysis. *Id*.

3. Recovery of Other Transition Costs

98. In addition to its OSS costs, GTE incurred transition costs specific to its National Open Market Center ("NOMC"). Exhibit E-321:18 (Tanimura). These shared/fixed costs were incurred to provide the infrastructure necessary for customer service representatives to receive and process CLEC orders (*e.g.* the NOMC buildings, the interactive voice response system, and office furniture and personal computers). Consistent with its non-recurring charge proposal in the Generic Cost and Pricing Docket, Verizon allocates a reasonable pro rata share of this shared/fixed cost to each order processed at the NOMC.

99. Verizon incurs approximately $17.1 million annually in connection with the NOMC. *Id*. at 19; Exhibit C-252 at 1-WA-13. As with OSS costs, the annual NOMC shared/fixed costs are incurred on a system-wide basis specifically for CLECs in the former GTE territories. Exhibit E-321:19 (Tanimura). Verizon proposes a charge of $4.92 per LSR for the recovery of the NOMC shared/fixed costs. This charge was developed by dividing the annual NOMC shared/fixed cost ($17.1 million) by the 3.475 million average LSRs expected over the 2001-2005 time period in the former GTE territories.

V. Collocation

A. Qwest Cost and Pricing Proposal

100. Verizon does not advocate a position on Qwest's collocation proposals.

B. Verizon Cost and Pricing Proposals

101. The Verizon Expanded Interconnection Services Cost Study ("Verizon Collocation Cost Study") examines the actual costs that Verizon will incur going forward to provide collocation in Washington. Exhibit 291, C-291. Verizon identified the current processes and activities necessary to provide collocation and then developed various cost elements that captured those processes and activities. It is those cost elements that are identified for each form of collocation studied: single cage, shared, sublease, cageless, and adjacent on-site. To determine the correct cost for each of the identified cost elements, Verizon used a "bottoms-up" approach of analyzing all of the elements involved in Verizon's provisioning of collocation. A team of costing personnel, subject matter estimates, field management employees, and technicians assisted in the gathering and analyzing of data, including actual contractor invoices. Exhibit T-290:19-23 (Richter).

102. Verizon's Collocation Cost Study relies on Verizon's experience in providing collocation to provide the actual costs that will be incurred going forward in provisioning collocation in Washington. Consistent with the FCC's Orders, the Commission Staff endorses the approach of examining current costs to estimate forward-looking collocation costs. For example, in the context of overtime labor costs incurred to provide collocation, Mr. Griffith recommends that Qwest rely on current and actual experience in providing collocation in order to estimate forward-looking collocation costs. *See* Exhibit T-360:6 (Griffith); Tr. 1641 (Griffith).

103. Verizon's Collocation Cost Study is the only study in the record examining Verizon's collocation costs. Even other parties that have developed their own models to study an ILEC's collocation costs decided not to submit those models in this proceeding. Tr. 1338-39 (Lathrop); Tr. 1046 (Klick). Thus, for all elements uncontested by other parties, data from Verizon's Collocation

Cost Study is the only evidence in the record. Numerous collocation costs proposed by Verizon were not contested – or were even endorsed – by other parties. *See e.g.,* Exhibit T-360:12 (Griffith) ("Staff is not taking a position on whether the pricing of cages, entrance facilities, or security should be changed at this time."); Exhibit T-151:24 (Knowles) (Qwest should "establish rates for those elements that are at the same level that Verizon has proposed, except for Cage Enclosure, Building Modification, and Cable Splicing."); Exhibit T-151:9 (Knowles) (Verizon's "… proposed rates as a whole do not appear to be unreasonable …."); Tr. 1353 (Lathrop) ("…in looking at the distances assumed for power and connectivity cabling, I didn't find anything worth writing testimony about; there was no egregiously long distances. So separate from the space preparation, which is – and those costs are impacted by placement, the other important costs are these distances, and I didn't have a problem with those filed, the cost studies in this case."); Tr. 1383 (Lathrop) (WorldCom is not recommending that the Commission reject Verizon's space rental costs).

104. Moreover, as will be discussed in more detail below, for many of the elements contested other parties did not provide viable cost proposals as an alternative to Verizon's Collocation Cost Study.

1. Cage Enclosure

105. Verizon's Collocation Cost Study examines the two elements necessary to build a collocator's cage: the cage enclosure itself and the cage gate providing access and security to the cage. Verizon's cost for the cage enclosure, including the fencing, poles, and the other items necessary to build a cage, is $3,527.51; Verizon's cost for the cage gate is $591.37. Exhibit 291 at 8-WA-9. These costs were derived by averaging contractor invoices for collocation jobs in GTE central offices in Texas and California. *Id*. at 1-WA-17. By representing a number of different

collocation jobs, the invoices provide a representative sample of the costs likely to be incurred for cage enclosures and gates going forward. The costs from the contractor invoices were adjusted through an area modification factor obtained from RS Means[24] to provide a Washington-specific cost.

106. NEXTLINK criticized Verizon's proposed cage enclosure costs by offering a non-detailed "quote" for the construction of ten contiguous 100 square foot cages. Exhibit T-151:10 (Knowles); Exhibit 161. NEXTLINK conceded that this quote is based on a "hypothetical central office." Tr. 896-97 (Knowles). Although "not trying to state that it has anything to do with a particular central office that Verizon has," Tr. 897 (Knowles), NEXTLINK asks this Commission to rely on this single hypothetical quote instead of the actual collocation costs representing work done at actual central offices. The quote offered by NEXTLINK for a hypothetical central office is not representative of Verizon's actual collocation jobs. For example, the quote assumes the construction of ten cages at one time, a faulty assumption in light of the fact Verizon has an average of three collocators in its Washington central offices. Tr. 894-96 (Knowles). Obviously, such a ten-cage assumption creates unrealistic economies of scale.

107. Moreover, NEXTLINK's quote is so lacking of details that it is of no value, particularly when its supporting witness, Mr. Knowles, is unaware of the details of what the quote envisions. For example, it is impossible to tell whether the contractor is properly insured or whether the quote includes blueprints or architectural plans, work during non-business hours, or dust partitions. Tr. 897-98 (Knowles). The drawing attached to Exhibit 161 is equally unhelpful as well;

[24] RS Means, "Building Construction Cost Data 55 Annual Edition 1997."

it appears to be a general sketch of ten cages without any specifications as to where the cages would be located within a central office. *Id*.

108. NEXTLINK also cites a single Qwest invoice for construction of a single cage in a Utah central office. Exhibit T-151:10; Exhibit C-159. Again, however, NEXTLINK is unable to explain any details regarding the quote. Although Mr. Knowles is "assuming that if it's a good enough cage for US West, it's probably a good enough cage for Verizon," Tr. at 900 (Knowles), such an assumption cannot properly be made without examining the specifics of what the job entailed. For example, it is impossible to determine:

- what gauge fence material was used in this project;
- what types of lights were used in the job;
- how close the collocation job was to an electrical panel;
- whether the quote includes conduit from the light in the duplex back to an electrical panel; or
- whether work was done after business hours.

Id. There is even some doubt regarding the few details NEXTLINK asserts about the invoice. For example, although initially claiming that it includes "the dust partitioning to protect surrounding equipment during construction," Exhibit T-151:10 (Knowles), Mr. Knowles stated at the hearing that "I do not see the dust partitioning specifically stated here, …. I don't remember off the top of my head." Tr. at 901-02 (Knowles). Thus, the Commission should ignore the quotes offered by NEXTLINK when examining Verizon's cage enclosure costs.

2. Floor Space Rental

109. Floor space costs are incurred to provide environmentally conditioned floor space to the collocator, based on an average cost per square foot, plus costs to account for shared floor space.

Exhibit T-290:15 (Richter). Verizon developed its average floor space cost per square foot, $25.36, by examining the building investment amounts, square footage, and monthly maintenance/utility expenses of a selected sample of central offices of varying switching technology and size utilized by Verizon across the state of Washington. *Id*. The representative sample of central offices was selected based on line size, wire center, and whether the building was purchased or built after 1945. Verizon used factors from RS Means to bring the original building investments to present value. *Id*. at 16.

110. The HVAC investment contained in the building cost was calculated and adjusted based on criteria identified in RS Means. This calculation was determined by: (1) removing the average building investment for HVAC, 16%, from the total value of the building; (2) determining the amount of HVAC investment necessary to cool the square footage of the building, excluding any equipment, based on the RS Means factor that 300 square feet of building space required one ton of HVAC; and (3) then adding back the adjusted amount of HVAC to the building investment. *Id*. at 16.

111. Because no appropriate index is available, original investment values from the same sample of central offices were used to determine land costs to add to the per square foot building values. *Id*. at 17. Original land investments would be lower than present value; thus, the result is a conservative estimate of land investment. The monthly maintenance and utility expenses for each central office were taken from actual year-end 1998 expense reports and added to the building investment costs. *Id*.

112. In order to determine the appropriate amount of shared footage within a central office, Verizon averaged the shared footage within sixteen central offices from various states. *Id*. Shared

space includes building areas that all parties will use in their daily business operations, including hallways, restrooms, breakrooms, and, in some cases, staging areas.[25]

113. Although conceding that Verizon's approach "generally estimates forward-looking central office space costs," WorldCom criticized Verizon's methodology as excluding the economies of scale that would be available by providing HVAC for an entire building. Exhibit T-330:9 (Lathrop). This claim is wrong. Verizon derived the cost per ton of HVAC to cool 300 square feet of floor space by examining the HVAC requirements for the building addition to the Feather Sound Central Office and using RS Means. Exhibit T-293:2-3 (Richter). The cost of HVAC included in Verizon's building investment reflects the current cost per ton to provide HVAC based upon the economies of scale of a 60 ton unit.

114. In fact, WorldCom has not done any analysis as to whether economies of scale are reflected in this figure. Mr. Lathrop testified that he "didn't have time to assemble – to sort of replicate what Verizon did using a larger square footage area to put all the components together to see." Tr. 1374 (Lathrop). WorldCom also backed away from an earlier criticism of Verizon's space rental costs. WorldCom had criticized Verizon for using the "overhead and profit" column from RS Means and adding its overhead cost factor. Exhibit T-330:10 (Lathrop). At the hearing, however, Mr. Lathrop conceded that "the overhead and profit factor is paid to a subcontractor, and that doesn't affect …, Verizon's, overhead, which I thought is probably a legitimate point." Tr. 1378 (Lathrop).

[25] To estimate the size of the hallway area, Verizon calculated the square root of the square footage of the buildings to obtain an estimated walking length, and then multiplied this figure by 3 to account for a 3-foot hallway. To estimate the size of the restrooms, staging areas, and breakrooms, Verizon examined the actual building prints and measurements for the central offices being studied and derived an average amount of floor space size for each. Exhibit T-290: 17-18 (Richter).

Mr. Lathrop went on to state that:

> [g]iven the approach of the overhead factor that Verizon has, I wouldn't object to maintaining their overhead and even using the overhead and profit column from RS means. And as I mentioned, I didn't have time to investigate what Verizon meant by the general conditions and whether those are necessary if indeed the contractor is performing the work.

Id.

3. Building Modification

115. Building modification costs include all costs associated with modifying a central office to accommodate a collocator. As discussed above, the FCC recognizes that building modification costs are to be recovered from CLECs. Due to the variability between central office collocation projects, there are several building modification cost elements presented in Verizon's Collocation Cost Study. Each cost element presented is the average cost incurred when underlying work is completed for a project. Exhibit T-290:5-6 (Richter).

116. Verizon proposes to recover certain building modification costs on a nonrecurring basis and others on a monthly recurring basis. The following building cost elements would be recovered on a nonrecurring basis: access card administration, cage grounding bar, overhead superstructure, cage enclosure, and cage gate.[26] The following building modification costs would be recovered on a recurring basis: storage security, card reader, demolition and site work, dust partition, HVAC-minor, environmental conditioning, and electrical.[27]

[26] The cage enclosure and cage gate elements are discussed above.
[27] The environmental conditioning cost element will be discussed below.

a. Building Modification Costs To Be Recovered On A Non-Recurring Basis

(1) Access Card Administration

117. The Access Card Administration function is the time necessary for Verizon's security group to process an access card request by activating the card reader at the particular central office for which the collocator seeks access. Activities within this function include card ordering, card activation, card reader activation, card distribution, and maintenance of cardholder records, as well as making any necessary changes to accommodate collocators. Costs for these activities, totaling $19.26 per card, were developed by the Verizon personnel who actually prepare the cards and program the card reader/controller for activation. Exhibit T-290:7 (Richter).

(2) Cage Grounding Bar and Overhead Superstructure

118. The cage grounding bar element addresses the functions and costs associated with placing a cage ground bar in the collocation cage to be used by the collocator to ground its equipment. A ground cable will be placed from the cage ground bar to the floor ground bar, which is connected to the central office network ground. The activity associated with the overhead superstructure involves placing cable racking from the existing racking to the collocator's area. The elements necessary to accomplish this activity are engineering, installation labor, travel time, and materials. The cost of providing the cage ground bar and the overhead superstructure include both labor and material costs, which were obtained from GTE Advanced Materials Systems ("GTEAMS") and Washington-specific loaded labor rates. *Id*. at 7-8.

b. Building Modification Costs To Be Recovered On A Recurring Basis

119. Verizon proposes a monthly recurring charge of $157.94 per request for the following building modification costs: storage security, card reader, demolition and site work, dust partition, HVAC-minor, environmental conditioning, and electrical.

(1) Storage Security

120. The storage security costs are the costs incurred to modify existing cabinets to allow them to be locked. The development of these costs was based on estimates from contractors who perform this type of activity, assuming that twenty cabinets need to be locked in each central office. The estimates include the installation of a lockable hasp on the cabinet, and the cost of the lock. *Id*. at 23.

(2) Card Reader, Demolition and Site Work, Dust Partition, and HVAC-Minor

121. Verizon will incur costs to prepare central offices for collocation, including demolition and site work, as well as installation of a card reader/controller and HVAC ductwork to a collocator's space. The card reader/controller may be necessary to provide collocators with secured access to a central office. "Minor" HVAC is the minor work that may be necessary to relocate or place air conditioning ducts to serve a particular collocation area. Duct work is necessary to ensure that cooling is provided to the area in which the heat-producing telecommunications of a CLEC is located.

122. Demolition and site work activities are necessary to prepare an area within a central office for collocation, causing Verizon to incur costs to remodel, repair and rehabilitate the central office. A dust partition, usually plastic, is placed around a construction area during this demolition

and site work to prevent dust and other foreign matters from being picked up through the central air conditioning system and distributed through the central office.

123. The costs of the card reader, demolition and site work, dust partition, and minor HVAC were derived from actual costs incurred by GTE in Texas and California, adjusted to be Washington-specific using factors provided by the National Construction Estimator ("NCE"). *Id*. at 23. NCE is an industry-accepted manual used by building engineers and contractors to estimate costs, labor, and material on a state or city basis.

(3) Electrical

124. Electrical building modification costs include the cost for lighting, an electrical outlet, and a floor-grounding bar. The lighting costs are those incurred to install a two-bulb fluorescent lamp in the collocation cage or in the relay rack area. Verizon also will incur the costs to place an electrical outlet within a collocator's cage or relay rack area for use in operating electrical devices for installing and maintaining equipment. A floor ground bar tied to the main central office ground also must be placed in the collocation area, causing Verizon to incur the cost of the floor ground bar, ground cable in the conduit, connection taps, and the labor incurred to place these items. These electrical costs are based on the material cost taken from the NCE. *Id*. at 23-24. An area modification factor was applied to these costs to determine the amount of electrical costs applicable to Washington. Exhibit 291/C-291 at 8-WA-62-63.

125. NEXTLINK and WorldCom generally criticized Verizon's building modification cost elements but did not propose any specific costing alternatives. NEXTLINK claims that by costing building modification activities "on a stand-alone basis, Verizon is eliminating the economies realized when all of these functions are performed as part of a single construction project." Exhibit

T-151:12 (Knowles). NEXTLINK further asserted that "all of these activities can be conducted for under $5,000, as the Qwest contractor invoice demonstrates." *Id*. The Qwest contractor invoice for a single project in Utah does not "demonstrate" anything of the sort. As discussed above, NEXTLINK offered ***no*** evidence of what functions are included in this invoice, simply "assuming" that they are comprehensive. Tr. 900 (Knowles).

126. WorldCom claimed that costs for "demolition and site work" and "dust partition" elements are "duplicative of forward-looking space rental costs." Exhibit T-330:10 (Lathrop). These elements are not duplicative of forward-looking space rental costs. As discussed above, the FCC has consistently recognized the right of an ILEC to recover costs such as demolition and site work and for dust partitions to prepare particular central offices for collocation. Moreover, there is no evidence even suggesting that the RS Means factor used by Verizon to bring forward the initial building investments the specific costs caused by a CLEC's request for collocation that Verizon seeks to recover in addition to its floor space rental costs. *See, e.g.*, Tr. 1344 (Lathrop).

127. WorldCom also asserted that "minor" HVAC is duplicative of Verizon's environmental conditioning element. Exhibit T-330:10 (Lathrop). It is not. The "minor" HVAC cost relates to minor duct work or diffuser arrangements necessary to provide cool air to the location where the CLEC has placed its equipment. Ventilation ductwork is necessary to provide maximum cooling of the CLEC's equipment because the central office would not have been constructed with ductwork to cool all equipment placed within certain locations of the central office. Thus, as changes are made within the central office, minor adjustments must be made to provide appropriate ventilation ducts. Exhibit T-290:5-6 (Richter).

4. DC Power

128. Verizon proposes to recover DC power costs through nonrecurring and recurring charges. The DC power facility costs to be recovered through nonrecurring charges are those for installing the power cables that run from the battery distribution fuse bay ("BDFB") to the collocator's individual location.[28] Exhibit T-290:8-9. The size of the cables will be engineered in accordance with the requested amps, the voltage drop, and the distance to the collocator's area. The cost of installing the required cables is based on the loaded labor rate, and an estimate from the installers who perform this activity within Verizon that it takes, on average, 0.25 hours per foot to pull power cable. *Id*. at 9.

129. The DC power facility costs to be recovered through recurring charges are the material and labor costs incurred to provide DC power to the collocator's area. For example, Verizon incurs power plant costs necessary to serve the collocator, including material and labor costs for batteries, rectifiers, main fuse panels, and electrical connections to the main power source. *Id*. at 19-20. Verizon's costs for this function were developed from GTEAMS, a tracking system of actual prices paid by Verizon for materials, SME estimates of the hours per unit to perform certain functions, and Washington-specific loaded labor rates. *Id*. at 20.

130. The DC power utility costs to be recovered on a monthly recurring basis are the monthly electricity expense incurred to serve the collocator's power requirements. The amount of commercial electricity necessary to power termination equipment was determined by examining the amount of electricity consumed in Verizon buildings within Washington. Verizon power engineers

[28] The power cables themselves may be provided by the CLEC or purchased from Verizon by the CLEC.

used a Lorain model V200D50 Rectifier to determine the efficiency and heat loss factor that will be incurred to provide the necessary amount of power. [29]

Exhibit T-290:21.

131. Staff offered an alternative proposal on the time necessary to install DC power cables. Staff proposes that instead of using Verizon's proposed fifteen minutes per foot for such installation, Verizon be required to use "an average of three to five minutes per foot for installation of power cable" based on RS Means Electrical Cost Data. Exhibit T-360:10 (Griffith). This proposal is faulty because the RS Means data upon which it appears to rely is for the time necessary to place cable within a conduit already installed at the central office. There are two significant problems with this assumption: (1) it is much easier and takes significantly less time to pull cable through conduit using a pull line and (2) no cost or time is included to install the conduit upon which the assumption is based, even though such conduit would not be available in the central office for this purpose. Tr. 1507-08 (Richter). Therefore, the Commission should reject Staff's proposal.

5. Environmental Conditioning

132. Environmental conditioning costs, one part of the building modification costs that Verizon proposes to recover on a monthly recurring basis, are those incurred to provide air conditioning to handle the heat dissipated by the collocator's electronic telecommunications equipment. In order to derive this number, the amount of air conditioning necessary to handle the heat generated by four collocators, each requesting 80 amps and each occupying a 100 square foot cage, was considered. The cost of the air conditioning necessary for this purpose was determined

[29] The Lorain model V200D50 is the type of rectifier that would be purchased by Verizon today, not the type of equipment that may be found in the typical existing central office.

using RS Means, and was converted to a cost per DC amp based on industry accepted formula. Tr. T-290:25 (Richter).

133. WorldCom offered a generalized criticism that Verizon's "environmental conditioning" costs double count the "shell" costs. Tr. 1373-74 (Lathrop). There is no such double counting; the cost to cool the shell provides the necessary cool air for the employees in the central office while "environmental conditioning" costs are those costs necessary to counteract the heat created by collocators' equipment. Mr. Lathrop claimed that "the air molecules … don't know the difference between the air heated by equipment and air in a shell …." Tr. 1374 (Lathrop). The air molecules may not know the difference, but costs are incurred to cool both the shell and the collocators' equipment. Verizon's Collocation Cost Study accounts appropriately for these differences.

6. Cable Splicing

134. Although Verizon prefers that fiber optic cable run from the manhole to the collocation space without a splice, Verizon does offer a cable splicing rate in case such a splice is necessary. The splicing costs are taken directly from Verizon's "single source provider" system, which awards contracts based on competitive bidding. The splicing costs, including drafting and planning the splice, are $65.29 splice cost per fiber for 48 fiber cable or less and $61.57 splice cost per fiber for greater than 48 fiber cable. Exhibit T-290:11 (Richter); Exhibit 291 at 8-WA-14.

135. NEXTLINK criticized Verizon's cost study because it claims to "pay its outside contractor $28 per splice." Exhibit T-151:13-14 (Knowles). NEXTLINK's sole source for this figure, however, is one particular splicing job in Salt Lake City, Utah, for two sets of splicing 144 fibers. Tr. 904 (Knowles). The invoice is not representative of Verizon's actual splicing costs; it

is not sufficiently detailed, and it represents only a single job that involved a large number of splices in a non-Verizon territory. For example, it may only be the rate to splice the fiber, excluding other valid costs such as travel, tools, truck, and other contractor items associated with fiber splicing. Exhibit T-293:9 (Richter). Moreover, as shown by the different cabling rates within Verizon's single source provider bidding system, splicing rates depend on the number of splices. The more splices, in this case two sets of splicing 144 fibers, the lower the rate.

7. Microwave Collocation

136. Verizon proposes that microwave arrangements be costed and priced on a case-by-case basis. There are numerous ways to provide microwave arrangements, and costs depend specifically on the type of arrangement. Exhibit 299, Section 2.6. For example, depending on the type of arrangement, costs may be incurred for cabling, initial site visits, coring, roof preparation, equipment installation, and escort service for the CLEC visits to the proposed location for the microwave arrangement. Although certain cost elements may be used from Verizon's collocation cost study, Tr. 1473-74 (Richter), others cannot. For example, elements such as coring and roof preparation are very site-specific. Others, such as the number of CLEC rooftop visits that would necessitate escort service, are completely out of the ILEC's control. Accordingly, costs for these arrangements cannot be modeled in general terms, and should instead be handled on an individual basis.

8. 45 Day Interval

137. Staff proposes that Verizon "prepare collocation prices such that a 45-day installation interval is available." Exhibit T-360:7 (Griffith). Shorter intervals inevitably lead to higher costs, as overtime and contract labor will be necessary. As Staff concedes, however, there are non-cost

factors that impact whether an ILEC can meet a shorter provisioning interval. Tr. 1642 (Griffith). For example, as Verizon has made clear with examples in the collocation rulemaking docket, UT-990582, complying with intervals is heavily dependent on vendors, contractors, and manufacturers. In fact, in many cases, it takes more than 45 days for deliveries of materials from vendors alone. Exhibit T-282:3 (Ries). In the frequent instances in which material shipment by vendors takes such time as to prohibit compliance with the interval, permitting the recovery of additional costs would be irrelevant. Thus, as Verizon has argued in more detail in the collocation rulemaking docket, a 45-day interval is entirely too short and inconsistent with thresholds set by other state commissions. *Id.* Such an unrealistic interval should not be adopted.

9. Other Issues

a. NRC/MRC recovery

138. Verizon's proposed pricing structure for certain collocation start-up costs in this proceeding reflects a change from Verizon's previous position. Verizon has shifted the recovery of certain up-front costs so that they are recovered on a monthly recurring basis.[30] For example, rather than assessing the entire start-up cost for building modifications and environmental conditioning to the first entrant, Verizon uses fill factors to spread the cost among the average number of entrants over a 30-year period. Exhibit T-320:13 (Tanimura). As part of this proposal, Verizon will refund any non-recurring charges paid previously by collocators for building modifications and environmental conditioning and revise the charge using the appropriate monthly recurring charges.

[30] It should be noted that one pricing difference between nonrecurring and monthly recurring charges is that the 24.75% common cost allocator is applied to costs recovered on a monthly recurring basis. Exhibit T-320 at 12.

Id. at 14. Verizon's proposed collocation rates are summarized in Attachment A.

139. Staff criticized Verizon's proposal to recover certain start-up costs through monthly recurring charges by making the following recommendations: (1) CLECs be offered the option of paying the full cost up-front or over 1-5 year time periods; (2) Verizon use the estimated number of CLECs anticipated to collocate in Washington central offices to calculate applicable charges.[31] Exhibit T-360 at 11-12. The first recommendation would be less favorable to collocating CLECs than Verizon's proposal. For example, Verizon's cost recovery of its investments in the building modification and environmental conditioning rate elements are based on useful lives of 30 years. Exhibit T-327:21 (Tanimura). Shortening this time period to 1-5 year periods or converting this charge back to a nonrecurring lump-sum payment likely would be unappealing to a CLEC who can instead pay the charges back over the time it actually occupies a collocation space.

140. Similarly, Staff's proposal to use the estimated number of CLECs anticipated to collocate in Washington central offices ignores the conservative nature of Verizon's assumption that collocation costs will be shared among an average of four collocators.[32] Given that, on average, there are three collocators per Verizon central office in Washington with collocation, Verizon's estimate of four collocators per central office is reasonable. *Id*. at 22.

b. <u>Premise Space Report</u>

141. In compiling the Premise Space Report, which is provided on a per-request basis,

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[31] In making this criticism, Staff witness Griffith also appears to suggest that Verizon's collocation costs are not Washington-specific. In fact, they are. Verizon's proposed collocation costs are either derived from actual costs from Washington or are adjusted to reflect Washington-specific costs. Exhibit T-293 at 11-12.

[32] The costs for Security Access- Card Reader & Controller are spread across 5 users, not 4, because Verizon also benefits from this equipment. Exhibit T-327:21-22 (Tanimura).

Verizon incurs costs for the engineers to visit a particular central office and to create a detailed report indicating the available collocation space. Verizon's costs of providing such a report were determined by examining the estimated amount of time that it would take the Network Designer & Building Services and the Local Network Designer to complete the comprehensive, limited, and annual evaluations necessary to produce the report. Exhibit T-290:14; Exhibit 291 at 8-WA-22 (Richter). The amount of time was multiplied by the appropriate employee's Washington loaded labor rate to determine the cost.

142. WorldCom claimed that Verizon's ongoing records should include all of the information necessary for the Premise Space Report. Exhibit T-330:15-16 (Lathrop). This is incorrect. There are no databases that house this type of information on a readily available basis, nor is it feasible to design such a system going forward. A Verizon central office has switching, transmission, power, HVAC, and cabling requirements, each administered by different groups within the company. Moreover, even after a report is finished, it can become outdated within a matter of weeks. Accordingly, the existing demands and forecasted growth must be reviewed each time a space report is developed. Physical inspections also are necessary given constant changes that occur within vacant areas of a central office. Exhibit T-282:6-7 (Ries).

VI. Conclusion

143. Verizon's proposed configurations for line sharing comply with its obligations under the Act and the FCC's line sharing rules. Similarly, Verizon's proposed prices for line sharing, OSS and collocation are based on its complete and fully-documented cost studies that identify the costs that the company actually incurs to provide these elements and services to CLECs. These cost studies comply with the Act as interpreted by federal courts, FCC rules, and this Commission's

orders. For the reasons outlined above, the Commission should adopt Verizon's proposals in their entirety.

Respectfully submitted,

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