

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

In the Matter of Qwest's Petition to  
be Regulated Under an Alternative  
Form of Regulation Pursuant to  
RCW 80.36.135

Docket No. UT-061625

**REBUTTAL TESTIMONY**

**OF**

**MARK S. REYNOLDS**

**QWEST CORPORATION**

**FEBRUARY 16, 2007**

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Exhibits:

- MSR-5 - Qwest's Redlined Modification of Staff's AFOR Proposal – Exhibit TWL-3
- MSR-6 - Qwest's Revised AFOR Proposal

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**I. IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND EMPLOYMENT.**

A. My name is Mark S. Reynolds and my business address is 1600 7<sup>th</sup> Ave., Room 3206, Seattle, Washington, 98191. I am employed by Qwest Services Corporation (“QSC”) as the Senior Director of Washington Public Policy for Qwest Corporation (“Qwest”) and other Qwest companies. I am the same Mark S. Reynolds that filed direct testimony on October 20, 2006 supporting Qwest’s Petition for an alternative form of regulation (“AFOR”). Information about my current job responsibilities, education, and employment background are the same as filed in my direct testimony.

**II. PURPOSE/SUMMARY OF TESTIMONY**

**Q WHAT IS THE PURPOSE OF THIS TESTIMONY?**

A. The purpose of my testimony is to respond to the testimony of Thomas L. Wilson, Deborah J. Reynolds, Kristen M. Russell, and Paula M. Strain on behalf of the Staff of Washington Utilities and Transportation Commission (“Staff”), and Mary M. Kimball and Dr. Robert Loube on behalf of Public Counsel. In its testimony, Staff recommends what it refers to as an ‘improved AFOR plan’ in which Staff essentially adds, deletes, and changes a number of provisions in Qwest’s AFOR proposal. My testimony will address each Staff modification of

1 Qwest's AFOR proposal and explain why some of the modifications are  
2 acceptable to Qwest and why some are not. Likewise, my testimony will address  
3 why most of the conditions that Public Counsel's witnesses maintain are  
4 necessary for an acceptable AFOR are unacceptable to Qwest.

5 In addition to my testimony, Qwest will also be filing the testimony of Dr.  
6 William Taylor to rebut certain economic issues raised by Dr. Loube's testimony,  
7 including his use of the HHI index to determine market concentration; David L  
8 Teitzel to rebut certain claims made by Dr. Loube regarding competition; Mike  
9 Williams to rebut certain service quality claims made by Ms. Kimball; and Phil  
10 Grate to provide Qwest's response to the accounting and financial reporting  
11 proposals made by Ms. Strain and Dr. Loube.

12 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

13 A. My testimony evaluates both Staff's and Public Counsel's proposals for  
14 modifications to Qwest's AFOR. For each party's proposal, I explain which, if  
15 any, of the proposed modifications are acceptable to Qwest, and provide the  
16 basis and rationale for why the other modifications are not acceptable. In  
17 addition, I propose certain modifications that, while not identical to those  
18 proposed, attempt to accomplish the same objectives, but on bases that are  
19 acceptable to Qwest.

20 **III. RESPONSE TO STAFF'S MODIFIED AFOR PROPOSAL**

1 **Q. WHAT MODIFICATIONS DID STAFF MAKE TO QWEST'S AFOR**  
2 **PROPOSAL REGARDING FINANCIAL TRANSACTIONS REPORTING?**

3 A. Qwest's AFOR provision that it be treated as a competitively classified company  
4 pursuant to RCW 80.36.320, effectively waives Chapter 80.08 (Securities),  
5 Chapter 80.12 (Transfers of property), and Chapter 80.16 RCW (Affiliated  
6 interests). Staff modified this provision in Qwest's AFOR regarding these  
7 statutes as follows:

- 8 • Grant the waiver of all of the **securities reporting statutes and rules**<sup>1</sup>  
9 except for RCW 80.08.030 concerning the use of proceeds. Staff found  
10 that securities information is available publicly in case the Commission  
11 has a need for it at a later date.
- 12 • Modify the waiver such that Qwest would be required to comply with the  
13 **property transfer statutes and rules**<sup>2</sup> for those transfers of property that  
14 are greater than one percent of Qwest's rate base (estimated to be  
15 approximately \$15.6M)
- 16 • Modify the waiver such that Qwest would be required to comply with  
17 certain **affiliated interest statutes and rules**<sup>3</sup> regarding the affiliated  
18 interest tracking process and annual reporting requirements, but would not  
19 be required to comply with the individual affiliated interest transaction  
20 reporting requirement in other affiliated interest statutes and rules<sup>4</sup>

21 **Q. ARE THESE PROPOSED MODIFICATIONS ACCEPTABLE TO**  
22 **QWEST?**

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<sup>1</sup> Chapter 80.08 RCW; WAC 480-120-365; WAC 480-120-389

<sup>2</sup> Chapter 80.12 RCW; WAC 480-120-379; Chapter 480-143 WAC

<sup>3</sup> Chapter 80.16 RCW; WAC 480-120-395 (1-3)

<sup>4</sup> RCW 80.16.020; WAC 480-120-375; WAC 480-120-395

1 A. Yes, with some minor modifications. Staff states that it “. . . sought areas where  
2 the Commission could remove or reduce regulatory effort by Qwest while  
3 maintaining adequate public safeguard.”<sup>5</sup> Qwest agrees with this approach,  
4 although its evaluation criteria are geared more towards evaluating its regulatory  
5 obligations versus those of its competitors.

6 **Q. WHAT MODIFICATIONS DOES QWEST PROPOSE TO STAFF’S**  
7 **PROPOSAL REGARDING FINANCIAL TRANSACTIONS REPORTING?**

8 A. Qwest recommends raising Staff’s proposed reporting threshold for property  
9 transfer transactions from one to ten percent of rate base. This would raise the  
10 estimated threshold from \$15.6M to \$156.0M. In return, Qwest would agree to be  
11 bound by RCW 80.12 not only for purposes of reviewing any merger involving its  
12 regulated company, which is already committed to in the current Qwest AFOR  
13 proposal, but also for purposes of reviewing any sale of exchanges, even if the  
14 dollar value is less than the ten percent threshold. Qwest understands that it is  
15 these two types of property transfer transactions that are the most important to the  
16 Staff for the Commission’s consideration.

17 **Q. WHAT ABOUT CASH TRANSFERS AND SUBSIDIARY REPORTING?**

18 A. As Ms. Reynolds indicates in her testimony, “Qwest also agrees to be bound by  
19 the parts of the [cash transfer] rules (WAC 480-120-369 and WAC 480-120-395)  
20 that are currently being challenged in the Court of Appeals of the State of  
21 Washington Division II, pending a final resolution of that appeal.”<sup>6</sup> Although Ms.  
22 Reynolds also includes a recommendation that “Qwest should continue to comply

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<sup>5</sup> See DJR-1TC, page 5, lines 3-4.

<sup>6</sup> See DJR-1TC, pages 2-3, lines 21-22; 1-2.

1 with cash transfer rule, WAC 480-120-369”,<sup>7</sup> Qwest assumes this  
2 recommendation would no longer apply if a final court ruling overturns the rule.  
3 If this is the case, then there is no difference between Qwest’s and Staff’s  
4 positions on this issue.

5 **Q. WHAT MODIFICATIONS DID STAFF MAKE TO QWEST’S AFOR**  
6 **PROPOSAL REGARDING SERVICE QUALITY REPORTING?**

7 A. In its AFOR plan, Qwest proposed waiver of WAC 480-120-439(1), which is  
8 the service quality reporting requirement for Class A companies.<sup>8</sup> Understanding  
9 the importance to Staff and the Commission of Qwest continuing its service  
10 quality reporting during the initial four years of the AFOR, Qwest’s AFOR plan  
11 also included a transition period provision that would require it to continue the  
12 service quality reporting required by WAC 480-120-439(1) during the initial four  
13 years of the AFOR. At the end of the initial four years of the AFOR there will  
14 be a review of the plan by the parties and any continuation of an AFOR beyond  
15 four years will be subject to Commission approval. Nevertheless, Staff  
16 recommends that the Commission not waive WAC 480-120-439(1).

17 **Q. ARE THERE ANY OTHER MODIFICATIONS THAT STAFF MADE TO**  
18 **QWEST’S AFOR PROPOSAL REGARDING SERVICE QUALITY**  
19 **REPORTING?**

20 A. Yes. In its AFOR plan, Qwest has also proposed that the Customer Service  
21 Guarantee Program (“CSGP”) reporting requirement in the Seventeenth  
22 Supplemental Order in Docket UT- 991358 be waived. This Order requires that  
23 Qwest provide monthly reports on remedies it provides under its CSGP. This is

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<sup>7</sup> See DJR-1TC, page 3, lines 17-18

<sup>8</sup> “Class A company” means a local exchange company with two percent or more of the access lines within the state of Washington.

1 a report that no other competitive or non-competitive telephone company  
2 regulated by the Commission is required to provide. Nevertheless, Staff  
3 recommends that the company be required to continue providing the report,  
4 albeit on quarterly, rather than monthly basis.

5 **Q. ARE STAFF'S SERVICE QUALITY REPORTING MODIFICATIONS**  
6 **ACCEPTABLE TO QWEST?**

7 A. Yes, with one exception. Qwest believes that it should only be required to  
8 provide the CSGP report on an annual basis rather than the quarterly basis  
9 recommended by Staff. Surely, for a report that is not even required of any other  
10 telephone company in the state, annual reporting should be sufficient.

11 **Q. DOES STAFF MAKE ANY OTHER SERVICE QUALITY RELATED**  
12 **MODIFICATIONS TO QWEST'S AFOR?**

13 A. Yes. Staff proposes that Qwest should be allowed to exercise its option under its  
14 proposed AFOR to increase the rate for standalone residential flat-rated service  
15 ("1FR") by up to fifty cents per line per month in years two through four only if  
16 the number of service quality complaints (violations) reported to the Commission  
17 improves by more than five percent over the previous year.<sup>9</sup>

18 **Q. IS THIS PROVISION ACCEPTABLE TO QWEST?**

19 A. No, it is not. Qwest understands Staff's rationale for tying the 1FR rate increase  
20 to a service quality metric, but is concerned that its ability to continue to reduce  
21 service quality complaints can be manipulated by other parties. The number of  
22 service quality violations is a function of total service quality complaints which  
23 can be easily manipulated.

24 **Q. DOES QWEST HAVE AN ALTERNATIVE PROPOSAL?**

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<sup>9</sup> See TLW-1TC, page 4, lines 11-22



1 A. Yes. In their testimony, both Staff and Public Counsel express interest in having  
2 Qwest continue to offer its Customer Service Guarantee Plan (“CSGP”).<sup>10</sup> Qwest  
3 is willing to modify its AFOR proposal to make any 1FR rate increases subject to  
4 Qwest continuing to offer its CSGP under tariff. This still satisfies the public  
5 policy service quality goals of RCW 80.36.135 by tying regulatory flexibility to  
6 an ongoing service quality commitment and is not capable of being manipulated  
7 by other parties.

8 **Q. WHAT MODIFICATIONS DID STAFF MAKE TO QWEST’S AFOR**  
9 **PROPOSAL REGARDING ACCOUNTING AND FINANCIAL**  
10 **REPORTING REQUIREMENTS?**

11 A. In its AFOR, Qwest proposes to keep its books of account consistent with its  
12 FCC accounting records (MR books) in accordance with the *Uniform System of*  
13 *Accounts* (“USOA”), Part 32, as currently promulgated. Qwest proposed to file  
14 an annual report and a report on its results of operations in accordance with  
15 standard FCC reporting, except that it would include several adjustments for  
16 Washington regulatory items. Staff generally accepts Qwest’s proposal, but  
17 recommends the following modifications:<sup>11</sup>

- 18 • Fix the date of Part 32 rules as the date that Qwest transitions from JR  
19 to MR books;
- 20 • Qwest should be required to maintain the ability to produce updated  
21 amounts for it regulatory adjustments, if requested and to develop any  
22 other adjustments that stem from changes in law or policy during the  
23 transition period;

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<sup>10</sup> See KMR-1T, page 14, lines 9-13; MMK-1TC, page 2, lines 19-21

<sup>11</sup> See PMS-1TC, pages 4-5, lines 1-23; 1-9

- 1                   • Qwest should be required to file comprehensive information on its  
2                   financial condition for the transition review contemplated in the  
3                   AFOR.

4 **Q. ARE STAFF'S ACCOUNTING AND FINANCIAL REPORTING**  
5 **MODIFICATIONS ACCEPTABLE TO QWEST?**

6 A. Not entirely. Although Qwest's proposed modifications to Staff's accounting  
7 and financial reporting proposal, as discussed in Ms. Strain's testimony, can be  
8 found in Phil Grate's rebuttal testimony, an outline of Qwest's response is as  
9 follows:

- 10                   • Qwest agrees with Ms. Strain that it should be allowed to discontinue  
11 filing the quarterly financial reports required by WAC 480-120-  
12 385(2);
- 13                   • Qwest agrees with Ms. Strain that during the AFOR term, Qwest  
14 should be allowed to file its annual reports as proposed, with a results  
15 of operations report that includes regulatory adjustments for Dex,  
16 sharing, rural sales, and the transition from JR to MR books;<sup>12</sup>
- 17                   • Rather than be tied to using Part 32 as of a specific date as Ms. Strain  
18 proposes, Qwest should be permitted to use the same accounting  
19 methods for Washington regulatory accounting and reporting purposes  
20 as it uses for FCC accounting and reporting purposes so that it need  
21 keep only one set of regulatory books. However Qwest agrees with  
22 Ms. Strain that the Commission should retain its oversight of  
23 regulatory accounting methods.

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<sup>12</sup> See PMS-1TC, page 4, line 13.

1 **Q. DOES STAFF ADD ANY NEW PROVISIONS IN THEIR**  
2 **MODIFICATION OF QWEST'S AFOR PROPOSAL?**

3 A. Yes. They add the following six new provisions:

- 4 1. A provision that at the end of the second year of the AFOR, Qwest  
5 should provide a plan for infrastructure development. At the end of  
6 the AFOR, for the review process, Qwest should file a report on  
7 infrastructure development informing the Commission about Qwest's  
8 progress in promoting the infrastructure plan, including analysis of the  
9 goal of making advanced telecommunications services available to  
10 83% of customers, including Greenfield living units.<sup>13</sup>
- 11 2. A provision that any time there is a major outage in a given area with a  
12 cause that is within Qwest's control, that affects the availability of  
13 advanced telecommunications services, the company must build in  
14 either more redundancy to serve that area or a technological  
15 improvement that removes the vulnerability that caused the outage.<sup>14</sup>
- 16 3. An 'exception' to the AFOR provision that would otherwise treat such  
17 a service as competitively classified for Directory Assistance Free Call  
18 Allowance – for each residential line and Centrex-type dormitory  
19 station line, one direct dialed call to directory assistance per month at  
20 no charge when an intraLATA phone number is requested under the

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<sup>13</sup> See TWL-3, Provision #4.

<sup>14</sup> See TWL-3, Provision # 5.

1 Directory Assistance Service tariff (WN U-40, Section 6.2.4) and  
2 IntraLATA and National Directory Assistance charges will not be  
3 applicable to request originating from telephone service Qwest has  
4 determined are used on a continuing basis by a person(s) certified  
5 incapable of using published telephone directory. IntraLATA  
6 Directory Assistance charges will not be applicable for calls that  
7 originate from hospitals.<sup>15</sup>

- 8 4. A provision that Qwest agrees that if the Commission determines, after  
9 an appropriate proceeding, to revoke the previously-granted  
10 competitive classification for Qwest's DS-1 or DS-3 private line  
11 services, Qwest will not contend that the provisions of this AFOR  
12 nonetheless require those services to be treated as competitively  
13 classified.
- 14 5. An 'exception' to the AFOR provision that would otherwise treat such  
15 a service as competitively classified for Public Access Line Service
- 16 6. A provision that Qwest would not seek relief or forbearance from the  
17 obligations and requirements described above insofar as they apply to  
18 Washington State for the duration of the AFOR.<sup>16</sup>

19 **Q. ARE ANY OF THESE NEW PROVISIONS ACCEPTABLE TO QWEST?**

20 A. Yes. The part of provision number 3 that requires Qwest to leave under tariff the  
21 waiver of Directory Assistance Service charges for persons incapable of using a

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<sup>15</sup> See TWL-3, Exception #2, sub-bullet 4.

1 published telephone directory and for calls that originate from hospitals. Qwest  
2 supports inclusion of this provision because it is reasonably related to the public  
3 policy goals of the AFOR rule. Also, Qwest will accept provision numbers 4 and  
4 5 as they represent provisions from an as yet unfiled settlement agreement  
5 among some of the parties.

6 **Q. WHY AREN'T THE OTHER NEW PROVISIONS ACCEPTABLE TO**  
7 **QWEST?**

8 A. Provision 1 is not well defined and does not commit the company to do anything  
9 other than file a plan at the beginning of the AFOR term and then file a report on  
10 the progress of completing the plan at then end of the AFOR term. Qwest will  
11 present a much more substantive proposal regarding the deployment of advanced  
12 telecommunications services later in my testimony.

13 Provision number 2, that obligates Qwest to build in either more  
14 redundancy or a technological improvement that removes vulnerability whenever  
15 it experiences a major outage within an area that is under Qwest's control, is  
16 similarly not well defined and appears to be a solution in search of a problem.  
17 Although most major outages that Qwest reports under WAC 480-120-412 are  
18 due to reasons beyond its control, it is not clear by the proposed provision exactly  
19 what 'under Qwest's control' means. Furthermore, even if an outage is 'under  
20 Qwest's control' it is not clear that building in redundancy or a technological  
21 improvement will prevent such an outage in the future. The cure for many major  
22 outages is simply to replace the equipment that has been damaged. Because of  
23 these reasons, the provision is unacceptable to Qwest.

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<sup>16</sup> See TWL-3, Exception #1, last sentence.

1           The portion of provision number 3 that would leave tariffed the one free  
2           directory assistance call for residential exchange service is unacceptable to Qwest  
3           because it is not uniformly required of other telephone companies that are  
4           regulated by the Commission. The Commission deregulated Directory Assistance  
5           Service a number of years ago and there is no reason that customers should be  
6           entitled to a free directory assistance call from Qwest. In fact, a good argument  
7           could be made that the service is anti-competitive towards other directory  
8           assistance providers.

9           Finally, provision number 6 which seeks to prohibit Qwest from filing  
10          petitions with the FCC to forbear from its regulation under Telecommunications  
11          Act of 1996 is a provision that this Commission cannot grant and one that Qwest  
12          will not agree to. It is Qwest's understanding that Staff believes that this  
13          provision somehow supports the requirement in the AFOR statute related to  
14          carrier-to-carrier service standards.<sup>17</sup> Qwest disagrees. Qwest's AFOR plan  
15          already addresses this statutory requirement by including the following exception:

16                "This AFOR does not address the commission's authority to regulate  
17                Qwest's wholesale obligation under the Telecommunications Act of 1996,  
18                nor does it address existing carrier-to-carrier service quality requirements,  
19                including service quality standards or performance measures for  
20                interconnection and appropriate enforcement or remedial provisions in the

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<sup>17</sup> 80.36.135 (3) states, in part, "The plan must also contain a proposal for ensuring adequate carrier-to-carrier service quality, including service quality standards or performance measures for interconnection, and appropriate enforcement or remedial provisions in the event the company fails to meet service quality standards or performance measures."

1 event Qwest fails to meet service quality standard or performance  
2 measures.”

3 Additionally, Qwest is also willing to add the following provision to its AFOR to  
4 address concerns by the interveners that their issues regarding intrastate DS-1 and  
5 DS-3 private line should be preserved under an AFOR:<sup>18</sup>

6 “Qwest expressly agrees that if the Commission determines, after an  
7 appropriate proceeding, to revoke the previously-granted competitive  
8 classification for Qwest’s DS-1 or DS-3 private line services, Qwest will  
9 not contend that the provisions of this AFOR nonetheless require those  
10 services to be treated as competitively classified.”

11 Finally, prohibiting Qwest from exercising its rights to seek forbearance from  
12 regulation, due to the unprecedented level of competition that it faces, flies in the  
13 face of its rationale for seeking an AFOR in the first place.

14 **Q. IT APPEARS THAT STAFF HAS MODIFIED THE AFOR LANGUAGE**  
15 **THAT ADDRESSED THE INITIAL FOUR YEAR TERM OF THE PLAN**  
16 **AND THE PROVISION FOR PLAN REVIEW. IS THIS LANGUAGE**  
17 **ACCEPTABLE TO QWEST?**

18 A. Yes, it is. It reflects language to which many of the parties have already agreed.

19 **Q. HAVE YOU ADDRESSED ALL OF THE DIFFERENCES BETWEEN**  
20 **STAFF’S AFOR PROPOSAL AS PRESENTED IN WILSON’S EXHIBIT**  
21 **TWL-3, AND QWEST’S INITIAL AFOR PROPOSAL AS PRESENTED IN**  
22 **EXHIBIT MSR-2?**

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1 A. Yes, and for ease of review of the differences, I have attached Exhibit MSR-5  
2 which is a 'redlined' version of Staff Exhibit TWL-3 to reflect the changes that I  
3 have discussed in my testimony and to which Qwest is willing to adopt as its  
4 revised AFOR proposal. Exhibit MSR-6 is a 'clean' version of Exhibit MSR-5  
5 and now represents the AFOR proposal for which Qwest seeks Commission  
6 approval.

7 **Q. WHY HAS QWEST AGREED TO MODIFY ITS ORIGINAL AFOR**  
8 **PROPOSAL TO INCORPORATE SOME OF THE CHANGES PROPOSED**  
9 **BY STAFF?**

10 A. Qwest has actually modified its AFOR proposal many times during the meetings  
11 that have taken place over the past year to integrate the feedback of the parties  
12 involved in the discussions. The process has been an evolutionary one and  
13 Qwest appreciates the feedback from all the parties that have been involved.  
14 Qwest makes the modifications discussed in my testimony in order reduce the  
15 differences between the parties in an attempt to achieve a consensus plan.

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17 **IV. RESPONSE TO PUBLIC COUNSEL'S CONDITIONS FOR AN**  
18 **ACCEPTABLE AFOR**

19 **Q. WHAT CONDITIONS DOES PUBLIC COUNSEL'S WITNESS MARY M.**  
20 **KIMBALL PROPOSE FOR AN ACCEPTABLE AFOR?**

21 A. Ms. Kimball, Public Counsel's service quality witness, proposes the following  
22 conditions regarding service quality:



- 1 • Institute a Service Quality Incentive Plan (SQIP) which places \$16M  
2 at risk annually in automatic, self-actuating credits to customer should  
3 retail service quality fall significantly below certain benchmarks;<sup>19</sup>
- 4 • Require the company to continue to offer the Customer Service  
5 Guarantee Program (“CSGP”) under tariff for the duration of the  
6 AFOR;<sup>20</sup>
- 7 • Require the company to continue to provide CSGP reports;<sup>21</sup> and
- 8 • Require the company to continue to provide service quality reports in  
9 accordance with the service quality reporting requirements for Class A  
10 telephone companies in WAC 480-120-439(1).<sup>22</sup>

11 **Q. ARE ANY OF THESE CONDITIONS ACCEPTABLE TO QWEST?**

12 A. Yes. As I have discussed in my previous testimony addressing Staff’s AFOR  
13 modifications, Qwest agrees to modify its AFOR to remove the provisions that  
14 would seek to waive its service quality reporting requirements under WAC 480-  
15 120-439(1) and its CSGP reporting obligations in conjunction with Docket UT-  
16 991358. Furthermore, Qwest has proposed to modify its AFOR to make its  
17 optional 1FR increase contingent on offering the CSGP under tariff.

18 **Q. IS THE INSTITUTION OF A SELF-EXECUTING REMEDY PLAN SUCH**  
19 **AS THE SQIP ACCEPTABLE TO QWEST?**

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<sup>19</sup> See MKK-1TC, page 2, lines 14-19

<sup>20</sup> See MKK-1TC, page 2, lines 19-21

<sup>21</sup> See MKK-1TC, page 5, lines 16-17

<sup>22</sup> See MKK-1TC, page 5, line 12

1 A. Absolutely not. Qwest will not accept an AFOR that includes such a plan.  
2 Consistent with most of its other conditions for an AFOR, Public Counsel seems  
3 to believe that AFOR stands for ‘additional’ forms of regulation rather than an  
4 alternative form of regulation. Although the testimony of Michael G. Williams,  
5 on behalf of Qwest, provides ample reasons why such a plan is unnecessary from  
6 a service quality performance perspective, the overriding rationale against such a  
7 plan is that it is duplicative of the Commission’s current service quality rules and  
8 Qwest’s Customer Service Guarantee Program. Additionally, such a plan is  
9 retrogressive and discriminatory in that it substantially increases regulation on  
10 only one provider during a period of unprecedented competitive activity.

11 **Q. WHAT CONDITIONS DOES PUBLIC COUNSEL’S WITNESS ROBERT**  
12 **LOUBE PROPOSE FOR AN ACCEPTABLE AFOR?**

13 A. Dr. Loube proposes the following conditions:

- 14 • The Commission should impose a rate freeze on 1FR service at the  
15 current monthly recurring rate of \$12.50 for the duration of the AFOR.  
16 The rate freeze would also apply to the current installation charge;<sup>23</sup>
- 17 • The Commission should preclude Qwest from charging more for a  
18 bundle than the sum of the standalone component prices;<sup>24</sup>
- 19 • Increases in rates for residential exchange service features purchased  
20 independently of Qwest packages should be capped at the Consumer  
21 Price Index less 2 percent;<sup>25</sup>

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<sup>23</sup> See RL-1TC, page 9, lines 14-15

- 1           • The Commission should continue to require Qwest to include the  
2           Directory Assistance Service one free call allowance with its 1FR  
3           service;<sup>26</sup>
- 4           • The AFOR should last no more than four years and should then expire  
5           unless extended or modified by Commission order;
- 6           • Qwest should not be allowed to terminate any of its current reporting  
7           and record keeping with regard to its earnings;<sup>27</sup>
- 8           • The Commission must retain its power to supervise Qwest's affiliate  
9           transactions, property leases, and securities transactions and its  
10          authority associated with accident investigations, mergers, and  
11          property transfers.<sup>28</sup>
- 12          • Revenue associated with Qwest's packages that include interstate or  
13          non-regulated service should be allocated to the interstate jurisdiction  
14          or the non-regulated sector. Qwest should file quarterly reports that  
15          substantiate this revenue allocation,
- 16          • The Commission should obtain a commitment from Qwest to ensure  
17          that a minimum of 75 percent of its lines in every wire center are  
18          capable of providing DSL service;<sup>29</sup>

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<sup>24</sup> See RL-1TC, page 9, lines 21-22

<sup>25</sup> See RL-1TC, page 19, lines 12-17

<sup>26</sup> See RL-1TC, page 10, lines 17-18

<sup>27</sup> See RL-1TC, page 15, lines 1-10

<sup>28</sup> See RL-1TC, pages 16-17, lines 14-20; 1-2

<sup>29</sup> See RL-1TC, page 6, lines 1-3

1                   • Qwest should commit to offering a broadband lifeline service;<sup>30</sup>

2 **Q. ARE ANY OF THESE CONDITIONS ACCEPTABLE TO QWEST?**

3 A. No. Public Counsel's recommended conditions place more regulation on Qwest  
4 than it currently faces as a fully regulated company.

5 **Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL'S PROPOSED 1FR RATE**  
6 **FREEZE IS UNACCEPTABLE TO QWEST?**

7 A. Under Qwest's AFOR proposal its stand alone residential exchange service  
8 remains under tariff and subject to full regulation. The plan caps the price for the  
9 service at \$14.50 and allows no more than a \$.50 increase in any of the initial  
10 four years of the plan. Public Counsel's recommendation that the recurring and  
11 non-recurring prices for the service be frozen at current levels is based on the  
12 assumptions that there is limited competition for the service and that Qwest has  
13 monopoly power in the market for the service.<sup>31</sup> The testimony of David L.  
14 Teitzel and Dr. William Taylor effectively rebut these erroneous assumptions.  
15 Dr. Taylor also provides an economic evaluation of how the 1FR price has  
16 actually decreased over the past eight years when adjusted for inflation and has  
17 declined as percentage of income between 1998 and 2006.<sup>32</sup> Further, Staff's  
18 testimony in this case is that even if Qwest were to increase its monthly recurring  
19 rates for its 1FR service by the annual \$.50 increase allowed under its proposed

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<sup>30</sup> See RL-1TC, page 6, lines 13-15

<sup>31</sup> See RL-1TC, pages 23-50

<sup>32</sup> See WET-1T, pages 28-30

1 plan, Qwest would still not be earning its Commission authorized rate of return.<sup>33</sup>

2 Also, Staff witness Wilson provides testimony that the service does not currently  
3 cover cost and that when compared to the same rates for Verizon, he questions  
4 whether Qwest rates are sufficient to fund new investment.<sup>34</sup> Consequently, it  
5 appears that even under full regulation, Qwest would be reasonably entitled to a  
6 rate increase for the service. Finally, as I previously stated, Qwest has revised its  
7 proposal regarding the optional rate increase for its 1FR service to make such  
8 increases contingent upon Qwest continuing to offer its Customer Service  
9 Guarantee Program under tariff. Consequently, Public Counsel's proposal to  
10 freeze 1FR rates for the term of the AFOR is not supported by facts in this case  
11 and should be rejected.

12 **Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL'S PROPOSAL THAT**  
13 **PRICES FOR BUNDLES BE GREATER THAN THE PRICES FOR THE A**  
14 **LA CARTE COMPONENTS THAT COMPRISE THE BUNDLE IS**  
15 **UNACCEPTABLE TO QWEST.**

16 A. Although Qwest has no intent of pricing its bundles at levels greater than the sum  
17 of the prices for a la carte services, there is no reason to cap the bundle price as  
18 prescribed by Dr. Loubé. As Dr. Taylor explains in his testimony, "[n]o  
19 consumer is forced to buy a package whose price exceeds the sum of  
20 individually-available services, and the sum of those services is a perfect

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<sup>33</sup> See PMS-1TC, pages 15-16, lines 20-22; 1-4

<sup>34</sup> See TLW-1TC, pages 57-58; lines 6-23; 1-9; pages 71-72; lines 22-23; 1-6; and TLW-4-C

1 substitute for the package.”<sup>35</sup> Public Counsel’s recommendation is unnecessary,  
2 only serves to create more regulation, and should be rejected.

3 **Q PLEASE EXPLAIN WHY PUBLIC COUNSEL’S PROPOSED PRICE CAP**  
4 **(CPI LESS 2%) ON 1FR FEATURES IS UNACCEPTABLE TO QWEST.**

5 A. Public Counsel’s recommendation that 1FR feature rate increases be capped at  
6 the consumer price index less 2% is based on the assumptions that there is  
7 limited competition for Qwest’s features and packaged services and that Qwest  
8 has monopoly power in the market for the services.<sup>36</sup> The testimony of David L.  
9 Teitzel and Dr. William Taylor effectively rebut these erroneous assumptions.  
10 Public Counsel offers no rationale whatsoever for its 2% takeaway. The 2%  
11 reduction from the CPI effectively limits any increases to a miniscule 1-1.5%  
12 increase. Public Counsel’s recommendation is unnecessary, only serves to create  
13 more regulation, and should be rejected.

14 **Q PLEASE EXPLAIN WHY CONTINUATION OF THE 1FR DIRECTORY**  
15 **ASSISTANCE ONE FREE CALL ALLOWANCE IS UNACCEPTABLE TO**  
16 **QWEST.**

17 A. This condition is unacceptable to Qwest because it is not uniformly required of  
18 other telephone companies that are regulated by the Commission. The  
19 Commission deregulated Directory Assistance Service years ago and there is no  
20 reason that customers should be entitled to a free directory assistance call from

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<sup>35</sup> See WET-1T, page 26, lines 4-8

<sup>36</sup> See RL-1TC, pages 23-50

1 Qwest. In fact, a good argument could be made that the service is anti-  
2 competitive towards other directory assistance providers.

3 **Q PLEASE EXPLAIN WHY PUBLIC COUNSEL’S PROPOSAL TO LIMIT**  
4 **THE AFOR TO FOUR YEARS UNLESS EXTENDED OR MODIFIED BY**  
5 **COMMISSION ORDER IS UNACCEPTABLE TO QWEST.**

6 A. The AFOR term language currently reflected on page 1 of Staff’s proposal,  
7 Exhibit TLW-3, is acceptable to Qwest and all the other parties to this  
8 proceeding. The language appears to accomplish the same result as Public  
9 Counsel’s proposal and so should be acceptable to Public Counsel.

10 **Q PLEASE EXPLAIN WHY PUBLIC COUNSEL’S PROPOSAL THAT**  
11 **QWEST BE PROHIBITED FROM TERMINATING ANY OF ITS**  
12 **CURRENT FINANCIAL REPORTING OR ACCOUNTING WITH**  
13 **REGARD TO ITS EARNINGS IS UNACCEPTABLE TO QWEST.**

14 A. Dr. Loube’s testimony indicates that the Commission requires the current  
15 accounting methods and level of reporting to ensure against over-earnings.<sup>37</sup> He  
16 makes this contention without any apparent supporting data or analysis.  
17 Furthermore, if Qwest is not being regulated under rate-of-return for the AFOR  
18 term, such analysis is irrelevant. In contrast, the testimony of Staff witness  
19 Strain and Qwest witness Grate provide multiple pages of analysis and  
20 supporting documentation regarding a number of ways that the current  
21 accounting methods and financial reporting practices could be streamlined and  
22 made more efficient, which actually supports one of the AFOR policy goals that  
23 Dr. Loube so adamantly clings to elsewhere in his testimony.<sup>38</sup> Staff’s and

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<sup>37</sup> See RL-1TC, page 15, lines 1-9

<sup>38</sup> RCW 80.36.135 (b) Improve the efficiency of the regulatory process;

1 Qwest's proposals offer a more efficient accounting and financial reporting  
2 process, while continuing to track the information the Commission will require  
3 to make an informed judgment about the plan at the end of its four year term.  
4 Consequently, the Commission should reject Public Counsel's proposal to do  
5 nothing in this regard.

6 **Q DR. LOUBE TESTIFIES THAT THE COMMISSION MUST RETAIN ITS**  
7 **POWER TO SUPERVISE QWEST'S AFFILIATE TRANSACTIONS,**  
8 **PROPERTY LEASES, AND SECURITIES TRANSACTIONS AND ITS**  
9 **AUTHORITY ASSOCIATED WITH ACCIDENT INVESTIGATIONS,**  
10 **MERGERS, AND PROPERTY TRANSFERS.<sup>39</sup> IS THIS PROPOSAL**  
11 **ACCEPTABLE TO QWEST?**

12 A. It is difficult to say. Dr. Loube doesn't provide a great deal of detail regarding  
13 his proposal. If he means that nothing should change, then the proposal is not  
14 acceptable to Qwest. A detailed discussion of Qwest's modified proposal  
15 regarding the regulation and reporting of these financial transactions is on pages  
16 2-6 of this testimony. Clearly, the Commission would still retain its power,  
17 consistent with its rules, to supervise most of the transactions. Qwest's proposal  
18 regarding these transactions deals mostly with eliminating unnecessary reporting,  
19 which furthers the goal of improving the efficiency of regulation. Public  
20 Counsel's ill defined proposal should be rejected.

21 **Q DR. LOUBE TESTIFIES THAT REVENUE ASSOCIATED WITH**  
22 **QWEST'S PACKAGES THAT INCLUDES INTERSTATE OR NON-**  
23 **REGULATED SERVICE SHOULD BE ALLOCATED TO THE**  
24 **INTERSTATE JURISDICTION OR THE NON-REGULATED SECTOR**

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<sup>39</sup> See RL-1TC, pages 16-17, lines 12-20; 1-2



1           **AND THAT QWEST SHOULD FILE QUARTERLY REPORTS THAT**  
2           **SUBSTANTIATE THIS REVENUE ALLOCATION. IS THIS**  
3           **ACCEPTABLE TO QWEST?**

4       A.     No. As Dr. Taylor testifies, “Dr. Loubé’s discussion of cost allocation is  
5           irrelevant to the Commission’s decision in this case.” Furthermore, it is  
6           especially irrelevant to make such allocations during the term of the AFOR.  
7           Qwest witness Grate explains the relevant financial reporting and tracking that  
8           Qwest proposes to do during the AFOR. Public Counsel’s recommendation  
9           should be rejected as it seeks to create more regulation to produce information  
10          that is not useful to the Commission or any other party.

11       **Q     PLEASE EXPLAIN WHY PUBLIC COUNSEL’S PROPOSAL THAT THE**  
12       **COMMISSION OBTAIN A COMMITMENT FROM QWEST TO ENSURE**  
13       **THAT A MINIMUM OF 75 PERCENT OF ITS LINES IN EVERY WIRE**  
14       **CENTER ARE CAPABLE OF PROVIDING DSL SERVICE IS**  
15       **UNACCEPTABLE TO QWEST.**

16       A.     It is unacceptable because there is absolutely nothing in Public Counsel’s AFOR  
17           conditions that could possibly induce a company like Qwest to accept the  
18           substantial infrastructure commitment that is suggested by this proposal. As I  
19           have previously stated, Public Counsel offers nothing but additional regulatory  
20           requirements in its proposal and then expects a significant infrastructure proposal  
21           for a service that is completely outside the jurisdiction of the Commission. It is  
22           not acceptable to Qwest.

23       **Q     IS THERE ANY WAY THAT A DSL INFRASTRUCTURE**  
24       **COMMITMENT PROPOSAL MIGHT BE ACCEPTABLE TO QWEST?**

1 A. Yes. Qwest understands that a driving force behind such a proposal is that it  
2 would be responsive to the AFOR statute's policy goal to facilitate the broad  
3 deployment of technological improvements and advanced telecommunication  
4 service to underserved areas or underserved customer classes.<sup>40</sup> If the  
5 Commission accepts Qwest's AFOR proposal as modified by this testimony  
6 without further modification, Qwest will make a commitment to provide DSL in  
7 the seven remaining wire centers where it has not yet deployed the service.  
8 Specifically, by the end of the first year of the plan, Qwest will file a DSL  
9 deployment plan that indicates the schedule for DSL deployment over the  
10 succeeding three years of the plan for the Easton, Elk, Northport, Pateros, Roy,  
11 Springdale, and Waitsburg wire centers.

12 **Q PLEASE EXPLAIN WHY PUBLIC COUNSEL'S RECOMMENDATION**  
13 **THAT QWEST COMMIT TO OFFERING A BROADBAND LIFELINE**  
14 **SERVICE IS UNACCEPTABLE TO QWEST.**

15 A. Broadband service is competitive and does not warrant discounts that must be  
16 cross-subsidized by other services. In fact, it would be anti-competitive to cross-  
17 subsidize a competitive service like DSL with revenues from regulated services.  
18 It is Qwest's opinion that such a proposal would need to be legislated with an  
19 appropriate funding source. In any event DSL is an interstate service that is  
20 regulated by the FCC, not state regulatory commissions.

21 **Q DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A. Yes, it does.

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<sup>40</sup> RCW 80.36.135 (2) (a)