BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the CONTINUED COSTING AND PRICING OF UNBUNDLED NETWORK ELEMENTS, TRANSPORT, TERMINATION, AND RESALE	Docket No. UT-003013, Part A QWEST'S PETITION FOR RECONSIDERATION AND CLARIFICATION OF THE 13TH SUPPLEMENTAL ORDER

Pursuant to the provisions of WAC 480-09-810 and RCW 34.05.470, Qwest Corporation ("Qwest") hereby requests reconsideration and clarification of the Commission's 13th Supplemental Order in this matter, entered on January 31, 2001.

I. INTRODUCTION

Qwest requests reconsideration of several aspects of the Commission's decisions concerning OSS cost recovery, including the decision to cap cost recovery at $5.5 million, and the decision to limit recovery to $3.27 per local service request (LSR). Qwest also requests clarification regarding the authorized level of cost recovery for OSS for line sharing. Finally, Qwest requests reconsideration of the Commission's decision to require Qwest to charge Verizon's rates for several collocation elements, and requests additional time for filing its Microwave Collocation tariffs.

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II. ARGUMENT

A. OSS Cost Recovery

There are two main issues in connection with OSS cost recovery on which Qwest seeks reconsideration. The first issue is the amount of OSS transition costs which may be recovered. The second issue is the cost recovery mechanism. Qwest believes that the Commission erred in reaching its conclusions on both of these issues, and will demonstrate herein that the Commission's 13th Supplemental Order contains mistakes of fact upon which the Commission based its conclusions. The record in this case does not support limiting Qwest's cost recovery to $5.5 million, and does not support $3.27 per LSR as a fair, just and reasonable cost recovery mechanism.

1. Qwest Should Be Allowed Full Recovery of Its OSS Costs

The Commission considered the overall level of OSS transition costs to be recovered by Qwest, and determined that the level was too high. The Commission based this decision on two separate, but related reasons. First, the Commission considered Qwest's costs in comparison to Verizon's costs (Order at ¶¶144-6). The Commission noted that Verizon's costs were, overall, half the level of Qwest's (¶146). The Commission also noted that Qwest's proposed cost recovery mechanism was higher than Verizon's (¶147).

The Commission concluded, at paragraph 148, that the record in this proceeding indicates why such a substantial difference exists between the prices proposed by Qwest and those proposed by Verizon, and that the reason had to do with the use of Telcordia for the performance of OSS modifications. The Commission stated that Qwest's costs for Telcordia work were "captive-customer" costs, as compared with Verizon's "cost-based transition costs" (¶153). The Commission further concluded that the Telcordia prices were not cost-

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based, and that they are not just and reasonable (¶154). Finally, the Commission concluded that the reason for the difference in Qwest's and Verizon's proposed rates was due in large part to Qwest's reliance on Telcordia to perform modifications to its software systems, and Qwest's inability to effectively negotiate its costs (¶155). It was on these bases that the Commission denied Qwest's OSS transition cost recovery proposal, and limited that recovery to $5.5 million, based on a ratio of Qwest's access lines in Washington to Verizon's access lines in Washington (¶¶159-160).

Qwest respectfully suggests that the Commission erred in concluding that Qwest's $21.2 million in OSS transition costs were attributable to Telcordia work. This conclusion is not supported by the record. The Telcordia costs evidenced in the record in this case, and discussed by the Commission in support of its conclusions, are those associated with OSS for line sharing, *not* with the national startup costs for OSS transition. Each record citation that the Commission provides in its order in support of its conclusions that Qwest's OSS transition costs are Telcordia costs is, in reality, a record citation to a discussion about OSS for line sharing only, not OSS transition costs, as set forth below:

RECORD CITE IN 13TH ORDER	**CONTEXT SHOWING THAT REFERENCE IS ONLY TO OSS FOR LINE SHARING**
Fn. 157, TR at 829-835	References to "line sharing" in either the question or the answer: Tr. 829, lines 10, 11, 21; Tr. 831, lines 9, 13, 16, 21, 22; Tr. 832, lines 1, 12, 13; Tr. 832, lines 5, 7.
Fn. 158, TR at 864-65	References to "line sharing" in either the question or the answer: Tr. 864, lines 5, 11.
Fn. 159, Exh. 118	Exhibit 118 is a data request and response (RLI 03-008) referencing only the $11.9 million in Telcordia costs for line sharing OSS, not OSS transition costs

As such, the Commission's conclusions with regard to the reasonableness of the OSS transition cost estimates is not supported by the record.

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Nor is it correct to infer that OSS transition costs were incurred due to Telcordia expenditures simply because the OSS for line sharing costs were incurred in that manner. In fact, if the record were fully developed on that issue, (which it is not, because the question was never raised) the evidence would show that only a very small portion of Qwest's OSS transition costs are Telcordia costs. The vast majority of the OSS transition costs are attributable to the IT (Information Technologies) personnel that U S WEST/Qwest has performing the work of identifying business needs, defining systems to support those needs, managing and designing the systems, and coding and testing the systems. (Ex. T-100 at 14). Some of the costs are associated with software licenses, and a very small fraction were dollars paid to Telcordia, but the total of those costs is less than 5% of the $121.8 million set forth in Table 1 of the 13th Supplemental Order.

Further, it was error to perform a comparison of Qwest's OSS costs with Verizon's overall costs and limit Qwest to a proportional amount compared to Verizon. First, a direct comparison with Verizon's costs necessarily assumes that Qwest's OSS transition costs are the same as Verizon's, and/or that Qwest's OSS are the same as Verizon's OSS. Neither fact is established on this record.

The Commission specifically held that the ILECs would be permitted to recover their reasonably incurred OSS transition costs (¶154). Qwest's costs were supported by Ms. Brohl's testimony and exhibits. In Exhibits C-102 through C-107, Ms. Brohl described in detail the projects for which OSS transition costs were incurred. Each project description provided information, where applicable, about the use of outside vendors. For example, Exhibit C-102 includes four projects that contain references to purchases from Telcordia or Bellcore (codes 12846, 14682, 14685, and 14768), and Exhibit C-106 contains one such

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reference (code 15204). Another project references a contractual arrangement with Hewlett Packard (Ex. C-106, code 15202). However, not all of those references even reflect costs that Qwest is asking to recover. For example, project code 12846 states that an "enhancement to LFACS was purchased from Bellcore," but in fact those dollars were expended in 1996, and are therefore not a part of the costs Qwest is seeking to recover in this proceeding. Telcordia/Bellcore specific expenses for OSS transition in 1997-1999 were less than $5 million of the $121.8 million total.[1] Thus, there is no basis upon which to conclude that Qwest's OSS transition costs are due to "captive customer" status, or that they are otherwise unreasonable in any way.

Further, the methodology that the Commission employed to calculate the $5.5 million allowed for Qwest is not shown to be fair or accurate on this record. The Commission compared, in Table 1, Verizon's access lines in Washington with the amount of OSS transition costs to be recovered in Washington, and then allowed Qwest the same ratio. However, there is no showing whatsoever that the portion of OSS transition costs that Verizon seeks to recover in Washington has any relationship at all to the portion of OSS transition costs that Qwest should fairly recover. Verizon is an incumbent LEC in 28 states, and one must assume that it has spread its OSS transition cost recovery over those 28 states. In fact, if Verizon's total costs are $56 million, and it has asked to recover $1.9 million in Washington, it appears as though Washington bears 1/28 of the total, without regard to the number of access lines Verizon serves in Washington. Qwest is an incumbent in 14 states, and

[1] None of the information with regard to Telcordia costs is on the record, for the simple reason that this issue was not raised during the hearings and Qwest was not aware of the Commission's concern. However, the information can easily be provided, through declaration or a witness.

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Washington access lines are more than 1/14 of Qwest's total access lines. Yet the Commission's calculation does not even allow cost recovery of 1/14 of Qwest's costs.

2. A Charge of $3.27 Per LSR is Insufficient, and is Not Fair and Reasonable

Qwest also requests reconsideration of the Commission's conclusion that Qwest be permitted to recover its OSS transition costs only through a charge of $3.27 per LSR. This recovery mechanism does not give Qwest a reasonable opportunity to recover those costs, because the very low level of the charge, coupled with relatively low volumes of LSRs, will defer recovery for so long that recovery is effectively denied.

As Qwest understands the Commission's order, the Commission disapproved the overall level of costs for OSS transition, but was more concerned with the level of the charges proposed and Qwest's proposal to recover those costs on a per-service-order basis. Thus, the Commission noted that Qwest's proposal effectively imposed rates more than ten times those of Verizon (¶155). Qwest understands the Commission's concern with the disparity between the proposals, but suggests that the Commission has gone too far in attempting to address that concern.

The Commission did not decide whether Qwest's forecasts for UNE demand were accurate (¶175.2). However, in order to assess the reasonableness of the $3.27, one must assume some level of order activity in order to determine what the reasonable estimated recovery period might be. Based on order activity to date (75,000 LSRs in Washington in 2000), Qwest believes that it is reasonable to assume no more than 100,000 LSRs per year.[2] At $3.27 per LSR, Qwest recovers only $327,000 per year for OSS transition costs. Recovery

[2] This estimate is actually quite high, because as many as 20 orders for UNE-P could be transmitted on a single LSR. Additionally, once CLECs understand that the charge applies per LSR, CLECs may well consolidate as many orders as possible on a single LSR.

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2 of $5.5 million would take almost 17 years. At the actual level of LSRs experienced in 2000,
3 recovery would take more than 22 years.
4 In light of this analysis, Qwest asks the Commission to reconsider its order that Qwest
5 charge only $3.27 per LSR for OSS transition cost recovery, and order a higher rate which
6 gives Qwest a reasonable opportunity to recover the allowed level of OSS transition costs.
7 Qwest recommends that the level of the charge be at least double the current ordered rate, and
8 suggests that a charge of $7.00 to $10.00 per LSR is fair and reasonable.[3] This is no where
9 near the level the Commission found to be unacceptable, and provides Qwest with a more
10 realistic opportunity for cost recovery.
11 **B. Clarification Regarding OSS for Line Sharing**
12 Qwest requests clarification regarding the Commission's order on the recovery of costs
13 associated with OSS for line sharing. In paragraph 175.4, the Commission states that it will
14 not decide on the accuracy and sufficiency of documentation provided by Qwest in support of
15 the costs incurred to modify Qwest's OSS for line sharing. However, in paragraph 171, the
16 Commission states that Qwest may recover from the CLECs any reasonable OSS
17 costs incurred to provide line sharing. The Commission goes on to state that Qwest is to
18 impose the same charge for recovery of line sharing costs as it is for OSS transition costs, i.e.,
19 $3.27 (¶174, fn. 173).
20 Thus, Qwest seeks clarification as to the overall magnitude of the costs it may recover
21 for OSS for line sharing. Qwest submits that it has shown that the costs are $12.8 million
22 region wide ($11.9 million of which was a payment to Telcordia), and no party has established
23 that those costs are unreasonable, or that the modifications could have been performed for a
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lower cost. If the Commission were to allocate 14.5% of those costs for recovery in Washington, the OSS for line sharing cost recovery would be approximately $1.5 million. Qwest asks that the Commission clarify its order accordingly, or provide guidance with regard to how the level of cost recovery should be determined.

C. Physical Collocation

The Commission rejected three of Qwest's proposed rate elements for physical collocation, and in each case ordered Qwest to use Verizon's rates. These rate elements are the rates for entrance facilities, the cage enclosure, and terminations. Qwest requests reconsideration and/or clarification of the Commission's decision with regard to entrance facilities and terminations.

As a matter of general principle, Qwest believes it is improper for the Commission to require Qwest to use Verizon's rates for collocation elements, because these rates are reflective of Verizon's costs, but are not necessarily reflective of Qwest's costs. Thus, such a decision will not comport with the pricing requirements of the Act, as interpreted by various rulings of the 8th Circuit Court of Appeals (cited and discussed in Qwest's post-hearing briefs). The Commission has, to date, rejected Qwest's analysis on this issue, holding that it must "pick the most efficiently derived costs based on actual central office space" (¶ 333). However, Qwest respectfully suggests that such a holding does not comport with the pricing requirements under the Act.

As recently as January 8, 2001, the 8th Circuit reiterated its prior rulings that prices must be based on the *actual* costs of providing the facilities that the CLEC will use. The

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[3] This is especially true when one considers that multiple service orders for multiple UNEs can be combined on a single LSR, thus making the cost to the CLEC very low on a per-customer basis.

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Court confirmed its opinion in *Iowa Utilities Board v. FCC*, 219 F.3d 744, 751 (8th Cir., 2000) stating:

> At bottom…, Congress has made it clear that it is the cost of providing *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 (emphasis added).

Southwestern Bell Telephone Company v. Missouri Public Service Commission, 2001 U.S. App. LEXIS 156, (8th Cir., 2001). The Court went on to acknowledge that it had stayed the mandate on that portion of its earlier decision that vacated the FCC's pricing rule (47 C.F.R. §51.505(b)(1)), but that the decision in Iowa Utilities II is not vacated and remains the law. Thus, it does not appear that the Commission may, consistent with the Act, require Qwest to base its prices on Verizon's costs, rather than its own.

Furthermore, it is not at all clear that the CLECs, or the Commission, were correct in their conclusions with regard to whether Qwest's costs were indeed higher than Verizon's for various rate elements. As will be discussed in more detail below, Qwest and Verizon did not produce costs for precisely the same elements, even though the elements may have the same name. Thus, in certain cases where Verizon's costs appear to be lower, it may be because Qwest's costs include different items, or include lower cost materials but additional labor. Requiring Qwest to adopt Verizon's costs in these instances would also require Qwest to adopt Verizon's provisioning process, which, because it is not the same as that which Qwest employs in its other states, would create additional costs.

1. Entrance Facilities

Qwest's revised proposed nonrecurring rates for entrance facilities were set forth in Ex. 911 as follows:

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	Shared POI Non-recurring	Separate POI Non-recurring
Standard	$ 1241.75	$1682.22
Cross Connect	1357.93	1798.51
Express Fiber	1201.16	7589.47

In rejecting these rates, the Commission stated that there were “great disparities in price between Qwest and Verizon’s proposed entrance facility rates” (¶340). Qwest does not agree that there is great disparity between Qwest and Verizon’s entrance facility rates. A comparison between these rates on an “apples to apples” basis demonstrates that the rates are very close, and that Qwest’s rates may actually be lower than Verizon’s.

XO’s witness Rex Knowles, testified that Qwest’s entrance facility rates were significantly higher for “the equivalent element” (Ex. T-151 at 14). In footnote 1 Mr. Knowles states:

> Verizon proposes the following nonrecurring charges for Fiber Cable Pull: $606.30 per project for Engineering, $1.32 per linear foot for Place Innerduct ($264 for 200 feet), and $0.73 per linear foot for Labor ($146 for 200 feet). Verizon also has a separate element for construction of dedicated cable racking used for fiber, power, and terminations (“Overhead Superstructure” at $2,482.64 per project), a proportion of which would be attributable to fiber entrance facilities.

The nonrecurring elements described by Mr. Knowles total $1,016.30 ($606.30 + $264.00 + $146.00), plus some portion of $2,482.64. Mr. Knowles’ testimony states that Qwest’s “equivalent element” is Qwest’s rate for Express Fiber. The nonrecurring rate for Express Fiber, as detailed above, is $1,201.16. It is unclear how much of the $2,482.64 would be applicable in Verizon’s rate elements to equate to Qwest’s entrance facility element.

No other entrance facility rates of Qwest are contended to be the equivalent of any Verizon rates, and this is the only comparison that Qwest has been able to undertake.

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However, it is clear that there is no great disparity between Qwest's and Verizon's rates for entrance facilities with an appropriate comparison, (a difference of about $185 with no cost recovery for 200 feet of dedicated cable racking and aerial support).

Rate structures and the application of rates can vary widely between providers. Such is the case with Qwest's and Verizon's proposed rates in this proceeding. As noted above, it is not apparent to Qwest how Verizon's "Overhead Superstructure" rate is to be applied in conjunction with Qwest's other rates. That rate bundles several components that are offered by Qwest separately, and it will therefore be very difficult for Qwest to appropriately and correctly apply Verizon's rates for entrance facilities in conjunction with its other rates.

Because there is no great disparity in rates, and because of the provisioning and administrative difficulties imposed upon Qwest of using a different rate structure in Washington than in other jurisdictions, Qwest respectfully requests that the Commission reconsider its decision on entrance facilities and approve Qwest's proposed rates for entrance facilities.

2. Terminations

With regard to the rate elements for terminations, the Commission found that "Qwest and Verizon use the same DS-0, DS-1, and DS-3 facilities to provide the same functionality, yet Qwest presents no evidence to explain why its termination rates are substantially higher than Verizon's rates." (¶369). This conclusion requires two assumptions: that Qwest provides the same functionality as Verizon; and, that Qwest models costs in a manner that allows for a direct comparison with Verizon's. These assumptions are incorrect. Verizon uses a different rate structure than Qwest, and makes different assumptions regarding the manner of offering

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terminations. Qwest does in fact provide different functionality than Verizon, and therefore its costs are different.

The reasons for the actual difference in cost that is modeled by each company are as follows. First, Qwest's rate structure separates each component of terminations into optional sub-elements. For example, the four DS0 sub-elements are: DS0 Cable per 100 pair block; DS0 Cable Placement per 100 pair block; DS0 Block; and DS0 Block Placement. As explained in the record, the reason for this structure is to allow the CLEC to choose among each of the sub-elements. That is, the CLEC can choose to supply its own cable, thereby avoiding the DS0 Cable cost. The CLEC can choose to have an approved vendor place its cable, thereby avoiding the DS0 Cable Placement cost. The CLEC can choose to supply its own DS0 block and install it, thereby avoiding the cost of the block and/or the cost of placing the block. Thus, even if Qwest's rates were excessive, which they are not, the CLEC could avoid all of these sub-elements and purchase and provision the equipment themselves. Verizon does not appear to offer these options, making the cost and rate structure different for the two companies.

Additionally, Qwest views the cost of the 100 pair cable and the block that connects the cable as a non-recurring cost, because it is dedicated to a single CLEC. Verizon takes a different view. Verizon appears to consider most of the costs as recurring and therefore has lower rates, but ones that are paid each and every month.

Verizon and Qwest also assume the use of different materials in the provisioning of terminations. Verizon's cost study documentation states that the study assumes connectorized cables, to be supplied by the CLEC:

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> Additionally, we have assumed in our time estimates when terminating these cables, that the cables supplied by the collocator will be pre-assembled connectorized cables.…If GTE must place a connector on the coaxial cable (DS-3), the termination cost will be greatly increased.

(Ex. 291, page 21 of 38).

Qwest's cost study assumes non-connectorized cable. This is because connectorized cable causes the potential for slack in the cable racking. In order to minimize space in the cable rack and efficiently utilize this scarce resource, cables without connectors are required by Qwest – they can be pulled to eliminate slack, and connected using the least amount of cable. From a cost perspective, this results in a slightly lower cost per cable, but a larger non-recurring cost of installation. These differences are evident in the differences between Verizon's and Qwest's termination rates.

Finally, Qwest utilizes two types of blocks for terminations. These are known as "410 Blocks" and "89 Blocks." The 410 Block is used most of the time because it provides the CLEC a Test Port Access capability. This capability allows the CLEC to test for continuity without removing the wire, testing and then re-wrapping the termination (thereby reducing the CLECs future operating costs). The cost of a 410 block is more expensive than an 89 block, which does not provide any easy testing capability. The equipment cost of the block modeled by Verizon makes it clear that they have assumed a block that is not like the 410 block, but closer to the 89 block type.

For all of these reasons, it is clear that the functionality of the equipment and the method of reflecting costs is different for Verizon and Qwest, and therefore explains the differences in proposed rates. The Commission should reverse its decision to reject Qwest's rates for termination and approve its rates as reasonable.

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3. Other Collocation Issues

Two other collocation issues warrant discussion. With regard to collocation for line sharing, the Commission reduced Qwest's engineering time estimates from 20 hours to 15 hours, citing the testimony of both the DLECs and Verizon. For purposes of this proceeding, Qwest accepts the 15 hour value, and will refile its collocation for line sharing options accordingly.

However, in the context of that discussion, the Commission misstated one aspect of Qwest's model, which Qwest would like to correct. At paragraph 227, and again at paragraph 230, the Commission stated that Qwest's model does not recognize that Qwest does not incur bay engineering costs where the CLEC places the splitter in its own collocation area. This is not entirely accurate. Qwest's model only produces cost estimates for the three scenarios where the splitter is *outside* the CLEC collocation area. Thus, Qwest's model does not contain any assumptions at all with regard to engineering costs when the splitter is in the CLEC collocation area.

Finally, the Commission ordered Qwest to file a standardized Microwave Collocation tariff to be considered in Part B of this proceeding (¶377). Qwest simply requests additional time for this filing, and suggests that this tariff cannot be developed in time for consideration in the Part B hearings. Qwest will be prepared to discuss this issue in more detail during the prehearing conference, but raises this issue here to advise the Commission of its concerns with regard to the timing.

III. CONCLUSION

In conclusion, Qwest asks for reconsideration and clarification of the Commission's order as set forth herein. The Commission should allow Qwest to recover its OSS transition

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costs, and should permit a reasonable charge per LSR in order to do so. The Commission should allow Qwest to recover the costs associated with OSS for line sharing as established on this record. Finally, the Commission should reverse its decision to require Qwest to use Verizon's rates for various collocation rate elements.

Respectfully submitted this 12th day of February, 2001.

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