



0000096585

ORIGINAL

30 NF  
# 62753

BEFORE THE ARIZONA CORPORATION COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

2001 SEP -4 PM 4:43

ARIZONA CORPORATION COMMISSION  
SECRETARY GENERAL

IN THE MATTER OF INVESTIGATION )  
INTO U S WEST COMMUNICATION, )  
INC.'S COMPLIANCE WITH CERTAIN )  
WHOLESALE PRICING REQUIREMENTS )  
FOR UNBUNDLED NETWORK ELEMENTS )  
AND RESALE DISCOUNTS. )

DOCKET NO. T-00000A-00-0194

NOTICE OF FILING

Arizona Corporation Commission Staff ("Staff") hereby files the Public Version of Staff's Initial Post-Hearing Brief in the above-referenced matter. Copies of the Proprietary version are being provided to the Hearing Division and those parties who are signatories to the Protective Agreement herein.

RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of September, 2001.

Christopher C. Kempley, Chief Counsel  
Maureen A. Scott, Attorney  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
Telephone: (602) 542-6022  
Facsimile: (602) 542-4870  
e-mail: [maureenscott@cc.state.az.us](mailto:maureenscott@cc.state.az.us)

The Original and ten (10) copies of the foregoing filed this 4th day of September, 2001 with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission  
DOCKETED

SEP 04 2001

DOCKETED BY

1 Copies of the foregoing were mailed this  
2 4th day of September, 2001 to:

3 Jon Poston  
4 Arizonans for Competition in Telephone Service  
5 6733 East Dale Lane  
6 Cave Creek, Arizona 85331-6561  
7 **Public-Redacted Version**

8 Richard S. Wolters  
9 AT&T Communications of the  
10 Mountain States, Inc.  
11 1875 Lawrence Street, Room 1575  
12 Denver, CO 80202-1847  
13 **Unredacted-Confidential Version**

14 Mary E. Steele  
15 Davis-Wright-Tremaine  
16 2600 Century Square  
17 1505 - 4<sup>th</sup> Avenue  
18 Seattle, WA 98101-1688  
19 **Unredacted-Confidential Version**

20 Joan Burke  
21 Osborn Maledon, P.A.  
22 2929 N. Central Avenue, 21<sup>st</sup> Floor  
23 Phoenix AZ 85067-6379  
24 **Unredacted-Confidential Version**

25 Gregory Kopta  
26 Davis Wright Tremaine  
27 2600 Century Square  
28 1501 Fourth Avenue  
Seattle, WA 98101-1688  
**Unredacted-Confidential Version**

Drake Tempest  
Qwest Communications  
555 Seventeenth Street  
Denver, CO 80202  
**Unredacted-Confidential Version**

Kathryn E. Ford  
QWEST COMMUNICATIONS, INC.  
1801 California Street, Suite 4900  
Denver, CO 80202  
**Unredacted-Confidential Version**

Timothy Berg  
Fennemore Craig, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, AZ 85012  
**Unredacted-Confidential Version**

28 ...

1 Michael W. Patten  
Roshka Heyman & DeWulf  
2 One Arizona Center  
400 East Van Buren, Suite 800  
3 Phoenix, AZ 85004  
**Unredacted-Confidential Version**

4 Jeffrey W. Crockett  
5 Jeffrey B. Guldner  
Snell & Wilmer L. L. P.  
6 One Arizona Center  
Phoenix, AZ 85004-2202  
7 **Public-Redacted Version**

8 Steve Sager  
McLeodUSA  
9 215 S. State Street, 10<sup>th</sup> Floor  
Salt Lake City, Utah 84111  
10 **Unredacted-Confidential Version**

11 Rex Knowles  
Nextlink Communications  
12 111 East Broadway, Suite 1000  
Salt Lake City, Utah 84111  
13 **Unredacted-Confidential Version**

14 Michael Grant  
Todd C. Wiley  
15 GALLAGHER & KENNEDY  
2575 E. Camelback Road  
16 Phoenix, AZ 85016-9225  
**Unredacted-Confidential Version**

17 Thomas H. Campbell  
18 LEWIS & ROCA  
40 N. Central Avenue  
19 Phoenix, AZ 85007  
**Unredacted-Confidential Version**

20 Thomas F. Dixon, Jr.  
21 MCI WORLDCOM  
707 17<sup>th</sup> Street  
22 Denver, CO 80202  
**Unredacted-Confidential Version**

23 Eric S. Heath, Esq.  
24 SPRINT COMMUNICATIONS CO., L.P.  
100 Spear Street, Suite 930  
25 San Francisco, CA 94105  
**Unredacted-Confidential Version**

26 Scott S. Wakefield  
27 RUCO  
2828 N. Central Avenue, Suite 1200  
28 Phoenix, AZ 85004  
**Unredacted-Confidential Version**

1 Timothy Peters  
ELECTRIC LIGHTWAVE, INC.  
2 4400 NE 77<sup>th</sup> Avenue  
Vancouver, WA 98668  
3 **Unredacted-Confidential Version**

4 Kath Thomas  
Advanced Telecom Group, Inc.  
5 100 Stoney Point Road, Suite 130  
Santa Rosa, CA 95401  
6 **Public-Redacted Version**

7 Douglas Hsiao  
RHYTHMS LINKS, INC.  
8 6933 S. Revere Pkwy.  
Englewood, CO 80112  
9 **Unredacted-Confidential Version**

10 NEW EDGE NETWORKS  
P.O. Box 5159  
11 3000 Columbia House Blvd.  
Vancouver, WA 98668  
12 **Public-Redacted Version**

13 Andrea Harris, Sr. Mgr.  
ALLEGIANCE TELECOM INC. OF AZ  
14 2101 Webster, Suite 1580  
Oakland, CA 94612  
15 **Public-Redacted Version**

16 K. Megan Doberneck  
COVAD COMMUNICATIONS  
17 4250 Burton Street  
Santa Clara, CA 95054  
18 **Public-Redacted Version**

19 Traci Grundon  
DAVIS, WRIGHT TREMAINE L.L.P.  
20 1300 S.W. Fifth Avenue  
Portland, OR 97201  
21 Attorneys for Nextlink, Inc., & ATG, Inc.  
22 **Public-Redacted Version**

23 Marti Allbright, Esq.  
Mpower Communications Corp.  
24 5711 South Benton Circle  
Littleton, Colorado 80123  
25 **Public-Redacted Version**

26 Dennis D. Ahlers, Sr. Attorney  
Eschelon Telecom, Inc.  
27 730 Second Ave. South, Ste 1200  
Minneapolis, MN 55402  
28 **Unredacted-Confidential Version**

1 Janet Livengood, Reg. VP  
Z-Tel  
2 601 S. Harbour Is. Blvd.  
Tampa, FL 33602  
3 **Unredacted-Confidential Version**

4 Michael B. Hazzard  
Kelley Drye & Warren LLP  
5 1200 - 19<sup>th</sup> St., NW 5<sup>th</sup> Fl.  
WA DC 20036  
6 **Unredacted-Confidential Version**

7 Ray Heyman  
Roshka-Heyman & DeWulf  
8 One Arizona Center  
400 East Van Buren, Suite 800  
9 Phoenix, AZ 85004  
Attorneys for Alltel Communications  
10 **Unredacted-Confidential Version**

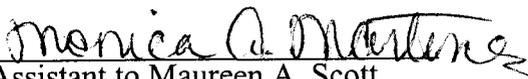
11 Mark J. Trierweiler  
Vice President - Government Affairs  
12 AT&T  
111 West Monroe, Suite 1201  
13 Phoenix, AZ 85003  
**Public-Redacted Version**

14 Kevin Chapman, Dir. Reg. Rel.  
15 SBC Telecom, Inc.  
5800 Northwest Parkway  
16 Suite 125, Room 1-S-20  
San Antonio, TX 78249  
17 **Public-Redacted Version**

18 Thomas H. Campbell  
LEWIS & ROCA  
19 40 N. Central Avenue  
Phoenix, Az 85004  
20 **Unredacted-Confidential Version**

21 Brian Thomas, Vice-President Regulatory-West  
Time Warner Telecom, Inc.  
22 520 S.W. 6<sup>th</sup> Avenue, Suite 300  
Portland, Oregon 97204  
23 **Public-Redacted Version**

24

25 By:   
26 Assistant to Maureen A. Scott  
27 S:\LEGAL\MA\MAUREEN\PLEADING\00-194-nofBRIEF1.DOC

28

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 IN THE MATTER OF INVESTIGATION )  
INTO U S WEST COMMUNICATION, )  
7 INC.'S COMPLIANCE WITH CERTAIN )  
WHOLESALE PRICING REQUIREMENTS )  
8 FOR UNBUNDLED NETWORK ELEMENTS )  
AND RESALE DISCOUNTS. )  
9

**DOCKET NO. T-00000A-00-0194**  
**(PUBLIC VERSION)**

10 **STAFF'S INITIAL POST-HEARING BRIEF**

11 **I. INTRODUCTION**

12 This Docket was opened in the first quarter of the year 2000 to examine a number of issues  
13 relating to U S WEST Communications' (nka "Qwest") pricing of its wholesale services and  
14 products offered to its competitors. Phase I of this Docket was instituted to comply on an expedited  
15 basis with the FCC's geographical deaveraging requirements contained in 47 C.F.R. Section  
16 51.507(f). Phase I concluded on July 25, 2000, with an Opinion and Order by the Commission  
17 (Decision No. 62753) adopting interim geographically deaveraged unbundled network element  
18 ("UNE") rates.

19 Phase II of this Docket was designed to address new and/or modified obligations imposed  
20 on Qwest by subsequent FCC Orders and judicial decisions, and to establish permanent geographical  
21 deaveraged rates. A subsequent Procedural Order provided that Qwest's existing UNE rates would  
22 also be reviewed in Phase II. The Phase II evidentiary hearing concluded on July 31, 2001.

23 There were essentially two alternative costing models put forth by the parties in Phase II for  
24 the Commission's consideration. Qwest sponsored its own model referred to as the Integrated Cost  
25 Model ("ICM"). The second model, known as the HAI 5.2a Model, formerly known as the Hatfield  
26 Model, was sponsored by AT&T/XO/WorldCom (hereinafter collectively referred to as the CLECs).  
27 The Model selected by the Commission will have a direct impact upon the level of UNE rates Qwest  
28 is ultimately authorized to charge its competitors. Staff endorses the use of the HAI 5.2a Model as

1 a starting point for determining UNE rates. Qwest's ICM Model, and in particular one of its  
2 subcomponents known as the LoopMod, is similar to an earlier version of the Model (the "RLCAP")  
3 which the Commission rejected in Decision No. 60635.<sup>1</sup> The problems identified with Qwest's  
4 Model are legion and would result in inflated UNE rates creating an impenetrable barrier to  
5 competition in the local service market in the State of Arizona. Indeed, the rates produced by this  
6 Model and proposed by Qwest in this Docket are overall much higher than the existing wholesale  
7 rates in Arizona. Presently, Arizona has some of the highest UNE rates in the Qwest region. Staff's  
8 expert utilized the HAI 5.2a as a starting point, and recommends that the Commission do so as well  
9 as it did in Decision No. 60635, since this Model is a more accurate indicator of forward-looking  
10 costs than Qwest's LoopMod.

11         Simply put, the Qwest Models are based upon the embedded network and embedded costs  
12 in direct contravention of FCC rules. In addition, as will be discussed at length in Staff's Brief,  
13 unlike the TELRIC standard, the Qwest Model does not presume or incorporate the most efficient  
14 provision of service. Qwest's Models actually build in significant inefficiencies which result in  
15 inflated prices to the CLECs. Interestingly, when Qwest runs the HAI 5.2a Model with what it  
16 considers to be "reasonable inputs", it comes up with a statewide average loop rate of \$19.61, which  
17 is far below the \$25.95 loop rate which its LoopMod produces. Tr. p. 1024.

18         Equally important as the Model, are the inputs that are utilized in the Model, to determine  
19 forward-looking costs. The Commission Staff's expert recommends using the inputs adopted in  
20 Decision No. 60635 as a starting point. Staff believes that the current record establishes that by and  
21 large these same inputs are as appropriate today as they were when the Commission adopted them  
22 in 1998. For those inputs not set by the Commission in Decision No. 60635, Staff's expert, Mr.  
23 William Dunkel, recommends that the Commission utilize the FCC inputs. As discussed at length  
24 below, Qwest's proposed inputs are greatly in excess of those adopted by the Commission in  
25 Decision No. 60635, and do not comply with the Total Element Long Run Incremental Cost  
26 ("TELRIC") standard established by the FCC.

27 ...

28 \_\_\_\_\_  
<sup>1</sup> See, In the Matter of the Petition of American Communications Services, Inc. et al, ACC Docket No. U-3021-  
96-448 et al, Opinion and Order (January 30, 1998)("First Consolidated Cost Docket").

1           Once the statewide average UNE rate is determined, the Commission must also establish the  
2 basis for setting permanent geographically deaveraged UNE rates. All parties to this proceeding,  
3 including Staff, proposed the use of three cost zones for Arizona. Beyond that, the proposals of Staff  
4 and the CLECs departs dramatically from the most recent proposal by Qwest. Qwest's most recent  
5 proposal is patently unreasonable and would result in a substantial wholesale rate increase for over  
6 80 percent of all access lines in Arizona, by placing only two small wirecenters (or only  
7 approximately 5 percent of all access lines ) in Zone 1. The Commission should reject Qwest's most  
8 recent geographical deaveraging proposal which is clearly designed to thwart competition in the  
9 State of Arizona.

10           In addition to the loop rates, there are many other important rates at issue in this proceeding  
11 as well. Qwest's rates for collocation, Line Sharing, Subloop, Dark Fiber, UNE-P, among others,  
12 are also being established in this case. However, once again the rates that Qwest is proposing are  
13 not TELRIC compliant. They are based upon inflated vendor labor rate percentages, engineering,  
14 material and overhead costs. They are the antithesis of a least cost, efficient network, and  
15 accordingly, should be rejected.

16           Qwest also treats its own xDSL provider more favorably than it treats unaffiliated xDSL  
17 providers. Staff demonstrated in its prefiled testimony and at the hearing that Qwest is assessing  
18 charges on unaffiliated xDSL providers which its own xDSL provider does not pay. The only  
19 possible explanation for this discriminatory treatment is that Qwest has made available to its xDSL  
20 affiliate backdoor arrangements that are not available to the CLECs. This is unfair and gives Qwest  
21 license to impose a myriad of charges on unaffiliated providers, which its own affiliated provider  
22 does not have to pay, resulting in an unfair advantage to its affiliate.

23           Finally, on July 25, 2001, Staff and Qwest entered into a stipulation in which Qwest  
24 specifically adopted the testimony of Staff Witness William Dunkel on the avoided cost discount  
25 issue. Under the settlement, the current wholesale discounts would continue in effect. No party has  
26 objected to the settlement between Staff and Qwest., and Staff urges the Commission to adopt it.

27 ...

28 ...

1 **II. BACKGROUND**

2 The Telecommunications Act of 1996<sup>2</sup> (“1996 Act” or “Federal Act”) imposes upon the  
3 Incumbent Local Exchange Carrier (“ILEC”) a myriad of obligations designed to promote the  
4 development of competitive markets. Specifically, under 47 U.S.C. Section 251(c) an ILEC must  
5 permit any requesting Competitive Local Exchange Carrier (“CLEC”) in the ILEC’s local market  
6 to interconnect with the ILEC’s existing local network, and to use that network to compete for local  
7 telephone service provision. Second, the ILEC must provide a requesting CLEC with access to the  
8 elements making up the ILEC’s network on an individual or unbundled basis. Third, the 1996 Act  
9 requires an ILEC to make available any of its retail services to a CLEC on a wholesale basis so the  
10 CLEC may resell Qwest’s finished services to its customers. See 47 U.S.C. Section 251(c)(2)-  
11 (4)(1994 ed., Supp. III). Fourth, the ILEC must allow for physical collocation of the equipment  
12 necessary for interconnection or access to unbundled network elements at the ILEC’s premises, and  
13 when that is not practicable, the ILEC must provide for virtual collocation.

14 The pricing standards for interconnection and network element charges are set forth in  
15 Section 252(d) of the 1996 Act. That Section provides in relevant part:

16 (1) INTERCONNECTION AND NETWORK ELEMENT CHARGES—  
17 Determinations by a State commission of the just and reasonable rate for the  
18 interconnection of facilities and equipment for purposes of subsection (c)(2) of  
19 section 251, and the just and reasonable rate for network elements for purposes of  
20 subsection (c)(3) of such section—

21 (A) shall be—

22 (i) based on the cost (determined without reference to a rate-of-  
23 return or other rate-based proceeding) of providing the  
24 interconnection or network element (whichever is applicable),  
25 and

26 (ii) nondiscriminatory, and

27 (B) may include a reasonable profit.

28 The FCC’s pricing provisions for interconnection and unbundled network elements are based  
upon a forward-looking economic cost methodology that is based on TELRIC. The costs are to be  
based upon an ILEC’s existing wire center locations using the most efficient technology available  
in the industry regardless of the technology actually used by the ILEC and furnished to the

<sup>2</sup> Telecommunications Act of 1996, Pub.L.No. 104-104, 110 Stat. 56 (codified as amended at Title 47 United States Code).

1 competitor. See 47 C.F.R. Section 51.505(b)(1). State commissions must employ TELRIC to  
2 determine the price an ILEC may charge its competitors for the right to interconnect with the ILEC  
3 and/or to use the ILEC's network elements to compete with the ILEC in providing telephone service.

4 At the time that Decision No. 60635 was entered, the FCC's rules<sup>3</sup> implementing large  
5 portions of Section 252 of the 1996 Act, including its pricing provisions, had been vacated by the  
6 Eighth Circuit Court of Appeals on jurisdictional grounds. Iowa Utilities Board v. FCC, 120 F.3d  
7 753 (8<sup>th</sup> Cir. 1997). Subsequently, as a result of the United States Supreme Court's Decision in  
8 AT&T v. Iowa Utilities Board, 119 S.Ct. 721 (1999), those rules were reinstated. The Eighth Circuit  
9 subsequently vacated 47 C.F.R. Section 51.505. See Iowa Utilities Board v. FCC, 219 F.3d 744 (8th  
10 Cir. 2000). The Eighth Circuit's decision has been stayed and is currently pending before the United  
11 States Supreme Court.

12 Several appeals of the Commission's original arbitration decisions and Decision No. 60635  
13 were also filed with the Federal District Court for the District of Arizona. The Federal District  
14 Court's Decision upheld certain of the Commission's determinations and remanded others back to  
15 the Commission for further consideration. See U S WEST v. Jennings, 46 F.Supp.2d 1004 (D.Ariz.  
16 1999). In addition, several of the District Court's rulings were appealed to the Ninth Circuit Court  
17 of Appeals, where they are currently pending. Included in the issues remanded back to the  
18 Commission for further consideration was the need to establish additional resale discount rates, after  
19 considering the range of cost savings for different categories of services.

20 In addition, the FCC has issued several subsequent orders which impose additional  
21 unbundling and other obligations on Qwest which require review by this Commission. (CITE to  
22 Advanced Services Order and UNE Remand Order).

23 Phase II of this Docket was designed to address these new obligations imposed on Qwest by  
24 subsequent FCC Orders and judicial decisions and to establish permanent geographically deaveraged  
25 UNE rates. The parties agreed to defer switching costs to a later phase of this case. See Procedural  
26 Order of August 7, 2001.

27 ...

28 \_\_\_\_\_  
<sup>3</sup> See In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC  
Docket No. 96-98, First Report and Order (Rel. August 8, 1996)("Local Competition Order").

1 **III. DISCUSSION**

2 **A. The Commission Should Adopt the HAI 5.2a Model As The Starting Point for**  
3 **Determining Appropriate Loop Rates in This Proceeding.**

4 Qwest proposed the use of the LoopModule ("LoopMod"), a component of the Qwest  
5 Integrated Cost Model ("ICM"). The CLECs proposed the use of the HAI 5.2a Model (formerly  
6 known as the Hatfield Model). After evaluating both models, Staff believes that use of the HAI 5.2a  
7 Model will produce results most consistent with TELRIC. The ACC used the Hatfield Model as the  
8 basis for its determinations in the first Consolidated Cost Docket in Decision No. 60635.

9 In that Decision, the ACC rejected the U S WEST Model for the following reasons:

10 The U S West models are based upon embedded costs and technology, and  
11 do not consider particular demographics and geology of the State of Arizona.  
12 Although the U S WEST models were supposed to represent forward-  
13 looking models, the results were similar to its embedded cost studies. This  
14 result was in spite of U S WEST's own acknowledgment that its existing  
15 system embodied different technologies installed over many years and did not  
16 represent the most efficient current technology.

17 Decision No. 60635 p. 7. Qwest Witness Million acknowledged on cross-examination that while  
18 there have been modifications to the Qwest Model since Decision 60635, it is essentially the same  
19 model that the Commission rejected in Decision 60635. Tr. p. 770. Consistent with the  
20 Commission's earlier finding in Decision 60635, Staff's analysis once again indicated that Qwest's  
21 Model is simply not consistent with TELRIC principles, or with the way that costs are actually  
22 incurred, nor is the Model consistent with future expected costs. While Qwest Witness Fitzsimmons  
23 admits that TELRIC is supposed to use the least cost, most efficient currently available technology  
24 (Qwest-29, p. 17), the record in this proceeding is clear that Qwest's Model and its inputs assumes  
25 much less efficiency than actually exists in the real world.

26 One example of this, as will be discussed later at length, is that in the real world, Qwest  
27 buries cable or conduit before the streets are paved, but the Qwest cost model pretends that Qwest  
28 buries cable and conduit after the streets are paved, which of course is much more expensive. This  
creates a large built-in fictional cost which Qwest does not incur in the real world.

Besides the Model itself, the inputs used in the Model also have a significant impact upon  
the rates resulting from the Model. Like the Qwest Model, Qwest's proposed inputs are based upon

1 an embedded network, rather than the TELRIC standard, which requires that the rates Qwest charges  
2 to competitors be based upon forward looking costs using the most efficient technology available.

3 **B. The Record Does Not Support Qwest's Proposed Overhead Factor**

4 In its cost studies in this proceeding, Qwest uses a number of overhead factors which result  
5 in increasing the cost by 32 percent over direct cost. Staff-32; Schedule WD-23. In Decision  
6 60635, the ACC considered information from four different studies pertaining to overhead costs.

7 In that Decision, the ACC adopted an overhead cost factor "including attributed, joint and common  
8 costs, of 15 percent".<sup>4</sup> The ACC's selection of a 15 percent overhead factor was not remanded by  
9 the Court. U S WEST v. Jennings, 46 F.Supp.2d 1004, 1011-1012 (D.Ariz 1999).

10 However, in this proceeding, Qwest has alleged that when the ACC adopted the 15 percent  
11 factor that was for corporate common overhead costs (Account 6700) only, and did not include  
12 "attributed" costs, such as network operations. Tr. pps. 505, 1007 and 1154. However this Qwest  
13 contention is simply wrong. The ACC Decision clearly states:

14 Therefore, we will adopt an overhead cost factor, including attributed, joint and  
15 common costs, of 15 percent.

16 Decision No. 60635 p. 13.

17 In addition, Qwest's claim that the 15 percent factor was only for common costs, and did not  
18 include "attributed" does not make sense. Part of the evidence that the Commission considered in  
19 its Order was:

20 U S WEST claimed that only the five percent factor was Overhead, while the 22  
21 percent is attributed cost.

22 Decision No. 60635 p. 13.

23 It is highly unlikely that the Commission would have adopted a 15 percent Overhead factor  
24 when Qwest itself was urging adoption of only a five percent Overhead factor. Therefore, 15 percent  
25 factor adopted by the Commission clearly had to include not only corporate common overhead costs,  
26 but "attributed" costs as well, exactly as the ACC Decision specifies.

27 In addition, Staff and other parties also identified many problems with Qwest's calculation  
28 of these overhead expenses, including, but not limited to, the following:

---

<sup>4</sup> Decision No. 60635, p. 13.

- 1
- 2 • Qwest has direct charges for power when a CLEC receives power from Qwest  
3 when a CLEC receives power from Qwest for collocation. In addition, Qwest's  
4 cost studies also include a "power" loading factor that applies to all collocation  
5 facilities. Ms. Gude acknowledged that the Qwest cost study improperly applies  
6 this power factor to non-powered collocation facilities. However, Ms. Gude  
7 claimed that it would "not be efficient from a time or cost perspectives" to  
8 calculate a power factor that applied to only the facilities that actually used  
9 power.
  - 10 • Ms Gude argued that the rent collocators pay only covers their own space, but  
11 they use "cable racking" outside of their own space, and therefore they should be  
12 charged land and building factors to cover that outside space. However, there are  
13 also cable racks that pass through the area for which the CLECs pay the full rent.  
14 Cables in those racks may be used by others. Yet, on cross examination, Ms.  
15 Gude indicated that she did not know of collocators receiving any credit on their  
16 rent for the fact that other cables may be passing through the space for which they  
17 pay the full rent. Tr. p.992. This is a one sided adjustment. It is inappropriate  
18 for collocators to be charged "rent" for other areas that their cables pass through,  
19 but not receive any credit or rent offset for the fact that other companies' cables  
20 pass through the area for which they pay the full rent.
  - 21 • It also appears from the rebuttal testimony of Ms. Gude p. 7, that Qwest may have  
22 inappropriately included costs associated with its 271 case in certain overhead  
23 accounts. In footnote 4 on page 7 of her rebuttal testimony, Ms. Gude refers (for  
24 illustration purposes) to the complex activity occurring in the Statement of  
25 Generally Available Terms workshops, where she states that "many hours have  
26 been undertaken for this category of costs." Staff believes that it is inappropriate  
27 of Qwest to be including any costs associated with its 271 case, whether that be  
28 for the Third-Party Independent OSS Test or SGAT workshops or any other 271  
related costs, in overhead accounts which it then charges back to the CLECs.  
Qwest is required to comply with 47 U.S.C. Section 271 in order to obtain the  
benefits associated with its entry into the long distance market. Accordingly, to  
charge any of these costs back to the CLECs is inappropriate.

18 Finally, Qwest Witness Fleming mischaracterized Staff's position on overhead costs.  
19 Exhibit 5 of Mr. Fleming's Rebuttal Testimony (Qwest-8) had columns that Mr. Fleming had labeled  
20 "Dunkel's modifications." However, during cross-examination, Mr. Fleming admitted that he had  
21 calculated all of the numbers in those columns, and Mr. Dunkel did not calculate any of the figures  
22 in those columns. Tr. p. 469. On that Exhibit, Mr. Fleming alleged that Staff Witness Dunkel's  
23 proposal included "no Power, Land, Building, and IDC factors used." In addition, it stated that Staff  
24 Witness Dunkel included "no HVAC nor Electric inputs", and "does not include Aerial Support,  
25 Cable Racking, or Lighting." Qwest-8, Ex. 5. On cross-examination, Mr. Fleming admitted that  
26 Staff Witness Dunkel actually did include these costs. Tr. p. 465. Totally excluding all of these  
27 costs was not Mr. Dunkel's recommendation, and not what Mr. Dunkel had done in his calculations.  
28 Tr. p. 469. Mr. Dunkel stated:

1 I recommend the more reasonable calculation than the company used...but I did not  
2 exclude these costs. The recovery of these costs are included in the rates which I  
propose on Rebuttal Schedule WD-17.

3 Staff-32, p. 4.

4 In summary, the Commission should reject Qwest's proposal to significantly increase its  
5 overhead costs.

6 **C. The Commission Should Adopt the Inputs Used By the Staff Which Rely Upon**  
7 **the ACC Inputs in Decision 60635 and the FCC Inputs Contained in its Tenth**  
8 **Report and Order Since Qwest's Proposed Inputs Are Based Upon Historical**  
9 **Data.**

10 Each Model utilizes literally hundreds of inputs. Tr. p. 66. The Staff utilized the inputs  
11 adopted by the ACC in Decision 60635 where specified, and the FCC-determined inputs, for those  
12 not adopted/specified in the ACC Decision. The FCC inputs were those adopted by that agency in  
13 In the Matter of Federal-State Joint Board on Universal Service; CC Docket No. 96-45, FCC 99-304,  
14 Tenth Report and Order (Rel. November 2, 1999). The FCC conducted an extensive proceeding, in  
15 which various parties presented their positions pertaining to the various inputs. Based upon the  
16 extensive record before it, the FCC adopted specific inputs. Staff-30, p. 72. Staff believes that the  
17 ACC inputs contained in Decision 60635 are reasonable, and, if ACC inputs are not available, then  
18 the FCC inputs provide the most reliable source for inputs in the Model. Both sets of inputs were  
19 based upon extensive records developed before both agencies. Qwest has not presented reliable data  
20 to support any significant changes to any of the inputs already determined to be appropriate by the  
ACC in Decision No. 60635 and the FCC in its Tenth Report and Order in CC Docket No. 96-45.

21 An example of the inappropriate assumptions made by Qwest are best illustrated when considering  
22 its proposed inputs for structure sharing and placement costs.

23 **1. Structure Sharing**

24 Structure sharing refers to the degree to which outside plant structures will be shared by the  
25 ILEC, cable operators, electric utilities and others including competitive local exchange carriers and  
26 interexchange carriers. Qwest's model incorporates a **\*\*PROPRIETARY\*\*** structure sharing factor  
27 for buried facilities. On cross-examination, Ms. Torrence indicated that what this effectively  
28 assumes is that Qwest will pay for **\*\*PROPRIETARY\*\*** of the costs of trenching for distribution

1 cables in new  
2 standard residential subdivisions out of its own pocket. Tr. 911-912. This is unrealistic and is very  
3 close to the structure sharing factor proposed by Qwest in the First Consolidated Cost Docket which  
4 the Commission rejected. Decision No. 60635 p. 20. In standard residential subdivisions, not only  
5 are the buried cables and other underground facilities placed prior to the surface obstructions, but  
6 the trench is generally provided by the developer at no cost to Qwest during the development of a  
7 new residential subdivision. In real world, Qwest would generally be paying nothing for the trench  
8 in new standard residential subdivision. Tr. 913.

9 The above discussion focuses on residential subdivisions because they have the highest  
10 weighting in Qwest's study. As shown on Staff-5, the standard residential subdivision ("DG3")  
11 represents **\*\*PROPRIETARY\*\*** of the lines in the Qwest LoopMod cost model. The Qwest  
12 LoopMod cost model includes a total of five density groups. None of the other four density groups  
13 have a weighting in excess of **\*\*PROPRIETARY\*\*** in the model. Tr. 903-904.

14 Qwest's proposed structure sharing percentages for aerial and underground facilities are also  
15 very similar to those rejected by the Commission in Decision 60635. *Id.* p. 20. Qwest's proposed  
16 structure sharing percentages are based entirely upon historical or embedded cost data and bear no  
17 relationship to the least cost forward-looking TELRIC standard, mandated under the Federal Act and  
18 FCC rules.

## 19 2. Placement Costs

20 Placement costs refer to the various types of placement activities, such as trenching or  
21 boring, and the frequency with which Qwest will encounter particular placement activities. In  
22 Decision No. 60635, the Commission adopted the Hatfield Model's method for calculating  
23 placement costs (*Id.* p. 19) and the Staff urges the Commission to adopt the HAI 5.2a once again.

24 The Qwest model greatly exaggerates placement costs in downtown business districts, in  
25 feeder, and other areas. As they did in the residential subdivision, Qwest assumed that they would  
26 have to place the underground facilities after the surface obstructions were in place. Qwest assumed  
27 that a high percent of installation costs would require them to cut and restore concrete, asphalt, or  
28 sod, or bore under such surface obstructions. Qwest Witness Torrence admitted that in the Qwest

1 LoopMod, Qwest assumed that of the total length of distribution cables would have to be replaced  
2 either by cutting and restoring concrete, cutting and restoring asphalt, cutting and restoring sod, or  
3 boring under such surface obstructions in standard residential subdivisions (DG-3 in Qwest's  
4 LoopMod study). Tr. p. 910.

5 However, in discovery, Qwest acknowledged that Qwest's own practice was to place the  
6 buried cables prior to the time that the streets, and other surface obstructions were in place.

7 Yes, in new subdivisions where the developer coordinates with utilities, outside plant  
8 facilities are generally placed prior to the placement of streets and landscaping.

9 Staff Ex. 30, p. 70.

10 The Qwest Witness also admitted that in the real world it is generally true that in residential  
11 subdivisions,

12 ....you do not cut and restore concrete, you do not cut and restore asphalt, or cut and  
13 restore sod and bore under the length because those obstructions are not there are the  
time you place the distribution cable.

14 Tr. 914, 915.

15 In addition, on cross-examination, Qwest's Witness Torrence acknowledged that in  
16 downtown areas, feeder is generally in "conduit." Tr. p. 919. Conduit is essentially a form of buried  
17 pipe that creates what amounts to small tunnels underground. Qwest Witness Torrence also  
18 acknowledged that with conduit, they install new cables by pulling them through the conduit, and  
19 they do not have to dig up the ground when placing a new cable in conduit. Tr. p. 919. Qwest  
20 generally places the conduit before a road or street is paved because that is more economical. Tr.  
21 p. 920.

22 In short, in the real world, before roads are paved, Qwest places conduit under where those  
23 roads will be. In the future, when Qwest needs to run cables under the downtown streets or under  
24 highways, they will pull the cable through the conduit. They do not have to cut through the  
25 pavement, nor bore under the pavement, or otherwise dig up the length of the cable in order to install  
26 new cable where they have conduit. The buried distribution cables in residential subdivisions are  
27 designed to last the life of the subdivision. That is, the Company does not come back later to add  
28 additional distribution cables. Tr. pp. 916-918. In fact, Ms. Torrence indicated that Qwest's practice

1 is to install enough distribution facilities to avoid having to come back later and tear up the surface  
2 obstructions when residential customers want additional lines.

3 Qwest's LoopMod cost study improperly assumes the highway or downtown street is paved  
4 first, and then, at a huge additional expense, Qwest would cut through and patch the existing roads,  
5 or bore under the. These costs are mostly fictional, are not what generally occurs in the real world,  
6 nor are they costs that are generally expected to be incurred in the future. The costs of "placement"  
7 represents approximately **\*\*PROPRIETARY\*\*** of the total investments in the model. Staff-30, p.  
8 68.

9 Qwest argues that the placement methods it used in its LoopMod analysis, such as using  
10 boring for a high percent of the distribution cable length, is based upon the placement methods that  
11 Qwest used in a trial in Omaha. As indicated in Staff-8, the Omaha trial involved replacing copper  
12 distribution pairs with fiber or coax. As Mr. Buckley admitted on cross-examination, this is not the  
13 way the standard telephony network is designed. Tr. 204. Moreover, Qwest found the Omaha  
14 experience of replacing twisted copper buried distribution cables with coax or fiber distribution to  
15 be prohibitively expensive. These substantial costs resulted from working around or through the  
16 surface obstructions that exist in a developed neighborhood. As a result of that experience and the  
17 significant expense involved, Qwest has no plans for the widespread replacement of the distribution  
18 cables in existing residential neighborhoods. The trial apparently convinced Qwest to not actually  
19 perform such installations on a widespread basis in the future, because they are prohibitively  
20 expensive. Qwest also claimed that it observed the practices of a cable company in North Dakota  
21 and AT&T Broadband. However, the installations Qwest observed did not involve the installation  
22 of twisted copper pair cable. Tr. at pps. 203 and 209. The inclusion of these costs in the LoopMod  
23 is not reflective of the forward-looking costs that are actually expected to be incurred.

24 Copper twisted pair is the forward looking distribution cable used in both the Qwest  
25 LoopMod and HAI cost models. There is no need to go into existing neighborhoods at great  
26 expensive to install twisted copper distribution cable after the streets, sidewalks, driveways, lawns,  
27 bushes, etc. are laid. It is already there, and was generally installed prior to the time the streets were  
28

1 placed. As previously discussed, at the time a residential subdivision is developed, Qwest puts in  
2 two or three distribution pairs per household. However, there are approximately 1.17 lines in service  
3 per household in Arizona. Therefore, there is plenty of existing distribution copper cable in place  
4 in Arizona to accommodate growth. Tr. 913-918.

5 As a result of criticism by the Staff and others, in their Rebuttal testimony, Qwest made one  
6 change in their placement method, but that change was only a token change, and had little impact.

7 On page 2, lines 14-15 of Qwest-21, Mr. Buckley adjusted "DG-5" (very low density group) in the  
8 Qwest LoopMod cost model to include more "plowing" for placing facilities. However, as Mr.  
9 Buckley admitted on cross-examination, Mr. Buckley's DG-5 adjustment impacted little over one  
10 percent of the distribution lines in Arizona. Tr. 187-189. This was a token adjustment that did not  
11 impact the major problem. For example, Mr. Buckley did not change the placement methods  
12 assumed for standard residential subdivision (DG-3), which represents over **\*\*PROPRIETARY\*\***  
13 of Qwest's lines in Arizona Tr. at pps. 903-904.

14 Once again, Qwest proposed inputs assume a large fictional cost which Qwest does not incur  
15 in the real world. Qwest's proposal should be rejected.

### 16 **3. FCC Inputs**

17 In testimony filed late in the proceeding, Mr. Fitzsimmons attacked the Staff 's run of the  
18 Model and whether it correctly utilized the FCC inputs. However, Mr. Fitzsimmon's attack was  
19 based upon an incorrect understanding of the inputs used in the run contained in the Staff's  
20 Supplemental Testimony, and therefore, Mr. Fitzsimons attempt to discredit the Staff's run should  
21 be disregarded.

22 In the HAI 5.2a run that accompanied Mr. Dunkel's Direct Testimony, Mr. Dunkel had used  
23 the FCC inputs exactly as shown in the "Input" tab of the actual FCC run that the FCC used to  
24 determine universal service fund (USF) eligibility for Qwest in Arizona. Staff-32, p. 1. In Mr.  
25 Fitzsimmons' Rebuttal Exhibit WLF-3, he provided values for inputs that he alleged were the correct  
26 FCC determined input values, and recommended that the Staff run the values shown in his "FCC  
27 Scenario Value" column on that Exhibit WLF-3. Qwest-29, Ex. WLF-3. For example, for "SAI  
28 indoor investment 12" (50 lines), the Staff Direct run had used a value of "98", and Mr. Fitzsimmons

1 alleged that the correct FCC value was "220". In response to Mr. Fitzsimmon's Testimony, Mr.  
2 Dunkel reran the HAI 5.2a model using the "FCC Scenario Values" shown on Qwest-29, Ex. WLF-  
3 3. For example, for the "SAI indoor investment 12" (50 lines), the run utilized in Staff's  
4 Supplemental Testimony (Staff-32) used the value of "220," not the "98" value that had been used  
5 in the run contained in Staff's Direct Testimony. The overall impact was minor, resulting in a 12  
6 cent difference per loop.

7 Staff Witness Dunkel stated:

8 Since this issue has little effect, and to avoid further controversy My Rebuttal  
9 Schedule WD-19 utilizes what Qwest identified as the "FCC Scenario Value" in puts  
as shown on Exhibit WLF-3.

10 Staff-32, p. 1.

11 Staff's run contained in its Supplemental Testimony used every number from Qwest-29, Ex.  
12 WLF-3 that Mr. Fitzsimmons claimed was the correct FCC number.

13 Following Staff's Supplemental Testimony, Mr. Fitzsimmons filed Surrebuttal Testimony  
14 (Qwest-36), in which Mr. Fitzsimmons again argued that using the "98" value for the SAI indoor  
15 investment 12 (50 lines) was the incorrect value, and that the "220" value should be utilized. Qwest-  
16 36, Table 1, p. 6. Mr. Fitzsimmons' Surrebuttal Testimony totally ignored the fact that Staff's  
17 Supplemental Testimony clearly stated that Staff was not using the "FCC Scenario Value" inputs  
18 from Qwest-29, Ex. WLF-3. In addition, Staff had provided Qwest with a disk that showed the input  
19 values used in the Staff Supplemental Testimony run. Therefore, it is unclear whether Mr.  
20 Fitzsimmons simply did not review Staff Witness Dunkel's Supplemental Testimony or whether he  
21 did not understand it.

22 The simple fact is that none of the figures in the column headed "Dunkel run of HAI 5.2a"  
23 in Table 1, page 6 of Qwest-36, accurately represent the inputs that are used in Staff's Supplemental  
24 Testimony run, which is the one which the Staff is recommending that the Commission adopt. In  
25 all cases, Staff's Supplemental run used the same numbers that are shown in the "FCC Tenth Report  
26 and Order" column on Mr. Fitzsimmons' Table 1. The changes that Mr. Fitzsimmons recommended  
27 on Table 1, page 6 of Qwest-36 are the changes that had been previously made by the Staff, and were  
28 already incorporated in Staff's recommendations. On cross-examination, Mr. Fitzsimmons

1 acknowledged that Mr. Dunkel's Surrebuttal run of the cost model used the inputs from the FCC  
2 column of his Rebuttal Exhibit WLF-3. Tr. 1875.

3 **D. Staff's Proposal For Permanent Geographical Deaveraging is Reasonable.**

4 Utilization of the HAI 5.2a Model as a starting point, along with the input values  
5 recommended by Staff result in a statewide average loop rate of \$12.35. Staff's proposed statewide  
6 average loop rate of \$12.35 is almost identical to the proxy rate originally proposed by the FCC for  
7 Arizona in its Local Competition Order which was \$12.85. See 47 C.F.R. Section 51.513.

8 Staff is further recommending that the \$12.35 statewide average loop rate be deaveraged into  
9 the following zones and rates:

10	Zone 1	\$9.93
11	Zone 2	14.60
12	Zone 3	35.41

13 Staff's proposed deaveraging incorporates the AT&T/XO/WorldCom proposal that would  
14 minimize the deviation between the average cost for a zone and the individual wire center costs in  
15 those zones. This program groups the wire centers so as to make as small a total difference as  
16 possible between the cost of each wire center and the average cost for the zone which includes that  
17 wire center. Staff-30, p. 74. This procedure makes sense and is less arbitrary than many other  
18 methods of dividing the wire centers between zones. Staff-30, p. 74. Staff's expert used the  
19 AT&T/XO/WorldCom program to group the wire centers by minimizing the deviation between the  
20 individual wire center costs and the average zone costs. Staff-30, p. 74.

21 Qwest's latest deaveraging proposal was contained in the June 27, 2001 Rebuttal Testimony  
22 of Teresa K. Million. Qwest-18. Qwest proposed a statewide average loop rate of \$25.95,  
23 deaveraged into the following three zones:

24	<u>Cost</u>	<u>No. of Lines</u>	<u>Percentage of Lines</u>
25	Zone 1 = \$16.89	145, 780	5.6%
26	Zone 2 = \$22.57	1,658,501	63.1%
27	Zone 3 = \$34.34	823,336	31.3%

1 In addition, a separate grooming charge of \$1.50 would apply in each Zone. Currently, the  
2 grooming charge is not a separate charge, but is included in the Company's present statewide average  
3 loop rate of \$21.98.

4 When compared to Qwest's current loop rates<sup>5</sup>, one can quickly see that what Qwest is  
5 actually proposing is a substantial rate increase on a significant percentage of its wholesale access  
6 lines. According to Staff's calculations over 80 percent of access lines would experience a  
7 significant wholesale price increase. This is inappropriate and Staff urges the Commission to reject  
8 Qwest's permanent geographical deaveraging proposal.

9 **E. Qwest's Line Sharing Rate Is Unreasonable**

10 Line sharing allows CLECs to place a digital signal, such as for high speed Internet access,  
11 on the high frequency portion of the loop ("HFPL") while Qwest places the normal voice telephone  
12 service on the low frequency portion of that same loop. Staff-30, p. 19.

13 Qwest proposes a \$5.00 per line monthly line sharing loop charge. However, it is unclear  
14 how Qwest arrived at this specific \$5.00 charge. Staff-30, p. 36. While Qwest Witness Fitzsimmons  
15 correctly notes that the loop cost is a common or joint cost, and the recovery should be spread among  
16 the services that use that common cost, he does not provide any specific guidance as to how that rate  
17 should be calculated. Qwest-36, p. 7.

18 Qwest's proposed \$5.00 charge for line sharing is equal to approximately 20 percent of the  
19 Qwest calculated unbundled loop cost. The zone unbundled loop rates that Staff recommends  
20 produce a statewide average loop rate of \$12.35. Twenty percent of the statewide average unbundled  
21 loop rate of \$12.35 that Staff proposes is \$2.47, which is Staff's recommendation for the line sharing  
22 loop charge.<sup>6</sup>

23 **F. Qwest Discriminates Against Unaffiliated xDSL Providers Compared to its Own**  
24 **xDSL Provider**

25 Qwest treats its affiliated xDSL<sup>7</sup> provider, Broadband Services Inc. ("BSI"), much differently  
26

27 <sup>5</sup> Qwest's current statewide average loop rate is \$21.98. Its interim geographically deaveraged loop rates are:  
Zone 1 - \$18.96 (approximately 90 percent of access lines); Zone 2 - \$34.94 and Zone 3 - \$56.53.

28 <sup>6</sup> Staff-32, Schedule WD-17, p. 11; See also Staff-30, p. 75.

<sup>7</sup> DSL and xDSL services are generic names for a whole family of high-speed digital services that are provided  
over copper loops.

1 than it treats unaffiliated x DSL providers. For example, Qwest proposes a \$2.68 recurring per line  
2 per month charge for modifying its Operational Support Systems (“OSS”)<sup>8</sup> to implement a “long  
3 term” solution to line sharing. This charge would apply to all unaffiliated xDSL providers that  
4 utilize line sharing. However, it would not apply to Qwest’s affiliate xDSL provider, BSI, in spite  
5 of the fact that BSI does utilize line sharing. Such discrimination is not acceptable. Under the  
6 FCC’s affiliate transaction rules, if there are tariffed rates for goods and services, including  
7 published UNE rates, then an affiliate is supposed to pay those tariff rates. Under Qwest’s proposal,  
8 a published UNE rate applies to all unaffiliated xDLS providers that line share, but would not apply  
9 to Qwest’s DSL affiliate that line share. If there is no tariff rate, then the affiliates are also supposed  
10 to pay that prevailing company price. Under Qwest’s proposal, there would clearly be a prevailing  
11 company price that would apply to all unaffiliated xDSL providers for line sharing, but would not  
12 apply to Qwest’s affiliate. In addition, Qwest’s current line sharing agreement with xDSL providers  
13 states that for any xDSL subsidiary “Qwest will provision line sharing to the separate subsidiary at  
14 the same rates Qwest is using to provide line sharing to other telecommunications carriers.”<sup>9</sup>  
15 However, under Qwest’s proposal, it would be charging unaffiliated xDSL providers the above-  
16 referenced rate, but would not be charging that rate to its affiliated xDSL affiliate that utilizes line  
17 sharing.

18 However, if the line sharing OSS cost is collected in a charge<sup>10</sup> that applies to all line sharing  
19 xDSL providers, including the Qwest affiliate, BSI, a charge of \$0.10 per shared line per month will  
20 recover the costs. This is Staff’s recommendation.

21 There is another form of discrimination between the unaffiliated and affiliated xDSL  
22 providers. Unaffiliated xDSL providers must pay Qwest numerous collocation charges. However,  
23 Qwest’s xDSL affiliate does not pay the charges on this list, but instead has a very simple charge that  
24 it pays for collocation, as shown on page 3 of Schedule WD-10 of Mr. Dunkel’s Direct Testimony.  
25 Staff-30.

26 Qwest’s attempts to explain these discriminatory treatments did not stand up to cross-

27 <sup>8</sup> OSS are programs that the Company uses for service ordering, installation, repair and switch activation. Staff-  
28 30, p. 32.

<sup>9</sup> Staff-30, pps. 32-33.

<sup>10</sup> Staff-30, Schedule WD-11.

1 examination in the hearings. On page 62 of Ms. Million's Rebuttal Testimony (Qwest-18), Ms.  
2 Million claimed:

3           It is highly likely that BSI pays as much or more than the CLECs do for the  
4 same activities.

5           In discovery, Staff asked for evidence or workpapers in support of this claim. See, Staff-23.  
6 On cross-examination, Ms. Million admitted that none of the documents provided by Qwest in  
7 response in that request would allow Staff to verify Ms. Million's claim. Tr. pps. 812-813. In  
8 addition, BSI line sharing orders can allegedly be processed by Qwest without using the same OSS  
9 that the unaffiliated xDSL providers utilize only because of "back door" arrangements between  
10 Qwest and its affiliated xDSL provider that are not available to unaffiliated xDSL providers. Tr. pps.  
11 1183-1184.

12           Staff recommends that the tariff charges or prevailing charges for a particular service that  
13 apply to the unaffiliated xDSL providers should also apply to the Qwest affiliated xDSL provider,<sup>11</sup>  
14 or that Qwest make the same arrangements it provides to its affiliate, available to the CLECs.

15           **G. The Loop Cost is Not Caused By Basic Local Exchange Service.**

16           Qwest Witness Fitzsimmons claimed that the loop facility costs are caused by basic exchange  
17 service.<sup>12</sup> Qwest Witness Gude testified that residential basic exchange service is subsidized by other  
18 services.<sup>13</sup> These claims are incorrect. It is important to recognize that the loop facility cost is not  
19 "caused" by just basic exchange service. Even Mr. Fitzsimmons acknowledged on cross-  
20 examination that the cost of the loop facility is jointly caused by the high and low frequency portions  
21 of the loop.<sup>14</sup> In addition, Mr. Fleming acknowledged that a CLEC considers the revenues from the  
22 full package of services it will be providing to its customers when it makes a decision to provide  
23 service.<sup>15</sup>

24           A Qwest executive succinctly stated that a telephone company decision to install the loop  
25 facility is based on the expectation of receiving all revenues that will be derived over that loop  
26

27 <sup>11</sup> Staff-30, Schedule WD-11.

<sup>12</sup> Qwest-29, pps. 66-71.

<sup>13</sup> Qwest-27, p. 55.

<sup>14</sup> Tr. pps. 1870-74, See also Qwest-29, pps. 67-68.

<sup>15</sup> Qwest-8, p. 6.

1 facility. These are annuity businesses and services. Once I have that line, which is a \$12.95 [a  
2 month] relationship with you today, I can visualize how I'm going to get that to be a \$60 relationship  
3 tomorrow. That's how we think. It's not just that product. It's what the product means for our  
4 relationship. In the voice world today that \$12 to \$14 access line really represents anywhere from  
5 \$60 to \$80 a month as we add those vertical features. The same thing in the data world. That's how  
6 many of us in the business think about it.<sup>16</sup>

7 There is no valid reason that just one of the services that shared what is effectively the  
8 combined local/toll loop, should support the full cost of that loop facility. The simple fact is that the  
9 loop facilities are shared by many services, and it is the entire family of services which is responsible  
10 for those costs, not just basic exchange service. When a customer orders service, they are ordering  
11 a whole family of services. The loop is not caused just by basic exchange, or by any one member  
12 of the family of services that share the loop facility. It is caused by the entire family of services that  
13 use the loop and benefit from the loop.<sup>17</sup>

14 **H. Qwest's Proposed Collocation, Line Sharing and CLEC-to-CLEC UNE Rates**  
15 **Are Based Upon Unsupportable and Inflated Labor Rates, Engineering,**  
16 **Material and Overhead Costs Which Results in Inflated Charges to Qwest's**  
17 **Competitors.**

18 **1. The Mix of Qwest/Vendor Installations**

19 Qwest performed a study of 41 actual collocation jobs. Many of the rates that Qwest  
20 proposes for collocation, line sharing, and CLEC-to-CLEC UNE services were based on the labor,  
21 material, and engineering costs for various functions derived from this study of 41 jobs. Qwest-8,  
22 pps. 50 and 81. However, the study of 41 collocation jobs was an unrepresentative study that does  
23 not reflect the average cost actually incurred for collocation installations. In the real world, the vast  
24 majority of collocation installations are done by Qwest's own personnel. However, Qwest excluded  
25 all jobs which were done by Qwest personnel from their study of 41 collocation jobs. Excluding  
26 these jobs created unrepresentative and inflated collocation costs. The mix of vendor vs. Qwest  
27 Technologies Installation ("QTI") installations that was included in the study is nowhere near

28 <sup>16</sup> Telecommunications Reports, December 13, 1999, "Turning DSL into Dough is the Goal of US West", p.

36.

<sup>17</sup> Staff-30, p. 24.

1 reflective of the real world mix. Using the proper mix of Qwest installation vs. outside vendor is  
2 important, because the cost for vendor installation is much higher than the installation cost using  
3 Qwest personnel. In Arizona in the year 2000, Qwest's internal installation organization, QTI  
4 installed 79 percent of the collocation jobs, and only 21 percent of the Qwest Arizona collocation  
5 jobs were installed by outside vendors, as shown on Staff-11. Tr. 471-475. Data for the year 2001  
6 to date shows that 83 percent of the collocation jobs have been done by QTI, and only 17 percent of  
7 the collocation jobs have been done by outside vendors. However, in the study of the 41 "actual"  
8 collocation jobs, Qwest excluded all of the collocation jobs that were installed primarily by QTI.  
9 All of the 41 jobs studied included the use of contract labor. Qwest-8, p. 58.

10 Qwest's calculations overstate the average collocation cost. The cost for a QTI installation  
11 is much lower than a similar installation by an outside installer. Staff-33 shows that if Qwest  
12 installers are used, it costs **\*\*PROPRIETARY\*\*** per foot to place a certain size cable. However, if  
13 outside vendors are used, the cost is **\*\*PROPRIETARY\*\*** per foot for the same cable placement.  
14 This is over **\*\*PROPRIETARY\*\*** as much if an outside vendor is used for installations than if QTI  
15 performs the installation. Clearly the mix of Qwest vs. outside vendor installation has a huge impact  
16 on the costs that result from the study.

17 Moreover, Qwest acknowledged that the study of 41 vendor jobs was not representative.  
18 Therefore, Qwest adjusted their labor costs to assume 50 percent Qwest labor and 50 percent vendor  
19 labor. Mr. Fleming testified that his proposed 50/50 split of contract vendor labor and Qwest labor  
20 represented a "balancing of vendor and QTI labor." (Tr. p. 476). However, on cross-examination,  
21 Mr. Fleming was presented with Staff-11, which demonstrates that in the real world in Arizona, QTI  
22 installed 79.3 percent of the collocation jobs in 2000, and 82.8 percent in 2001. Tr. 472-475. On  
23 cross-examination, even Mr. Fleming acknowledged that in light of this Arizona data, one could  
24 conclude that Qwest's collocation studies should be further adjusted to include "more Qwest labor"  
25 relative to contract vendor labor to be more reflective of what is actually being experienced in  
26 Arizona. Tr. p. 528.

27 The Staff calculation correctly used 80 percent of the labor as provided by QTI, and 20  
28 percent as provided by contract labor, which is consistent with what is actually occurring in Arizona.



1                                    2.     Engineering Costs

2                    Some of Qwest's non-recurring cost studies include engineering costs that Qwest obtained  
3 from its study of the 41 collocation jobs. Qwest-8, pps. 40 and 50. As previously discussed, these  
4 41 jobs are not representative of all collocation installations, because they exclude QTI installations.  
5 Therefore, the engineering costs from the 41 jobs Qwest selected were constructed primarily by  
6 vendors, the engineering costs that Qwest uses in its cost studies are based primarily on the costs of  
7 outside vendor provided engineering. Tr., p. 475. Of the 41 jobs Qwest included in its study, only  
8 **\*\*PROPRIETARY\*\*** of the engineering costs are QTI engineering costs, and the  
9 **\*\*PROPRIETARY\*\*** of the engineering costs are vendor engineering costs. However, this is not  
10 reflective of the actual situation in Arizona. As discussed above, the actual situation in Arizona is  
11 that 79 percent to 83 percent of Qwest's collocations are installed by QTI, and only 21 percent to 17  
12 percent are installed by outside vendors. When QTI personnel perform the installations, the  
13 engineering is done by Qwest engineers located in Denver. The Qwest engineers have electronic  
14 blueprints showing the location of virtually all objects in the central office, which allow them to  
15 efficiently engineer the routings and locations for the installation of additional facilities. Staff-30  
16 p. 21.

17                    Qwest did not adjust the engineering expense derived from their 41 jobs to reflect the actual  
18 mix of Qwest vs. outside vendor engineering. The engineering costs from the 41 jobs were directly  
19 included in the Qwest cost studies (Qwest-8, p. 51), and therefore the Qwest proposed rates are  
20 biased and are not reflective of the actual average engineering cost incurred for collocation.

21                    In addition, Qwest's "engineering" cost for "splitter" collocation includes the cost of an  
22 engineer conducting a "field survey". However, when the Staff toured the Phoenix Main central  
23 office as part of its research for this proceeding, Qwest's Interconnection Manager for Arizona and  
24 New Mexico and QTI's installation manager both clearly stated that the engineers do not generally  
25 conduct a "field survey." The engineers are actually located in Denver, and generally do not conduct  
26 a "field survey." Instead, they have detailed electronic drawings similar to "blueprints", on which  
27 they draw in the new facilities. Those documents are then forwarded to the installation personnel  
28 in Arizona for installation. Staff-30, p. 21.

1 Another problem is that Qwest proposes a line splitting "Engineering Fee" of \$1,274.63,  
2 which includes what Qwest claims are the costs to engineer a bay and the associated cabling, racks,  
3 bracing, ground wires, and associated facilities. The engineering costs that the Company has  
4 calculated are "per bay" engineering costs. However, Qwest proposes charging the non-recurring  
5 charge for every splitter installation, even if it is for only one "shelf." However, the bay will hold  
6 eight line splitters. (The bay has eight "shelves"). Once a bay has been installed, there is no need  
7 to engineer the installation of that "bay" when a CLEC is just using an additional "shelf" in that bay.  
8 Therefore, that full "bay" engineering cost should not be recovered from a project which is using  
9 a shelf or shelves in a bay which the CLEC has already paid to have engineered. Staff recommends  
10 a non-recurring line splitting engineering charge of \$560 for the order of a CLEC that requires a bay.  
11 Tr., pps. 1171-1176. This engineering charge includes the cost of engineering the bay, associated  
12 racks, cables, shelves, braces, and other supporting facilities. In addition, in order to allow the CLEC  
13 to utilize any or all of the remaining shelves in the bay, the Staff recommends that an engineering  
14 charge of \$120 apply to any subsequent "filling the bay" orders placed at a later time that require  
15 Qwest to install additional cables or similar activities (but do not require the engineering/installation  
16 of a new bay). Staff-30, pps. 20-22.

17 In summary, the engineering costs proposed by Qwest are not representative of all  
18 collocations installations and therefore should be adjusted downwards accordingly.

### 19 3. Material Costs

20 The materials costs that Qwest used in calculating many of its collocation, line sharing and  
21 CLEC-to-CLEC rates are the material costs from the same 41 collocation jobs previously discussed.  
22 As previously discussed, these jobs are not representative of the average collocation installations,  
23 because all of those 41 jobs were outside vendor installation. Tr., p. 475. Staff-22 clearly  
24 demonstrates that the outside vendors that were providing the labor are also providing a portion of  
25 the installation materials for these projects. Tr., pps. 804-806. This is not the valid basis for  
26 materials. Qwest is one of the largest purchasers of telecommunications equipment, and has used  
27 that purchasing power to negotiate discounts of telephone equipment. Staff-30, Schedule WD-3, p.  
28 3. For example, for one item, Qwest included a material cost of \$85.46 in their collocation and line

1 sharing studies, but Qwest's internal documents show that the Qwest discounted material cost for  
2 that same item was \$44 during this same time period. Tr., pps. 1131-1133. The evidence indicates  
3 that the materials are available at costs lower than shown in Qwest's collocation studies, even  
4 without Qwest's huge telecommunications purchasing power. Staff-22 demonstrates a vendor  
5 charged Qwest \$0.98 for each flat washer. Tr. pps. 804-807.

6 Qwest's material costs do not reflect the forward looking most efficient provision of service  
7 in all cases and therefore, Qwest's material cost should be adjusted to comply with TELRIC pricing  
8 standards.

9 **4. Qwest's Proposed Rent Charges for Collocation Are Overstated**

10 Qwest's proposed collocation costs also assumed that Qwest would have to run separate air  
11 conditioning ducts to each collocation cage. These proposed charges are over and above what Qwest  
12 would be charging the CLEC for rental space in the Qwest-owned building. However, in the real  
13 world, buildings have air conditioning ducts appropriately placed in the entire equipment room in  
14 the Qwest building. Qwest does not run separate air conditioning ducts to each collocation cage.  
15 Therefore, the costs of air conditioning ducts and other required equipment are properly included  
16 in the rate Qwest charges the CLEC for rent. Due to this fact, Staff recommends that no additional  
17 charges apply for air conditioning ducts. Staff's proposed rent charge includes all appropriate  
18 charges for air conditioning.<sup>18</sup>

19 **I. Attachment A – Price List**

20 Staff's proposed rates are shown on Attachment A. Three points bear mention with regard  
21 to Exhibit A. First, for rates not shown or commented upon by Staff's expert, the rates should be  
22 at least 13 percent below the rates proposed by Qwest, just to allow for the difference in overhead  
23 factors between those used by Qwest and the 15 percent overhead factor adopted by the ACC in its  
24 prior Decision. Any adjustments to direct costs would be in addition to this adjustment. Second,  
25 Staff believes that some of the non-recurring charges appearing on the Price List may be excessive  
26 and may be based more upon perceived "risk" to Qwest than any legitimate reason for requiring such  
27 large upfront payments. The non-recurring charges appearing in the table have been proposed by  
28

---

<sup>18</sup> Staff-30, p. 24.

1 Qwest. While included to reflect what Qwest claims are its costs, Staff is not in any way endorsing  
2 the level or magnitude of the non-recurring charges appearing on Attachment A. Third, Qwest is still  
3 proposing considerable Individual Case Base (“ICB”) Pricing. The Company should be required to  
4 eliminate ICB pricing in favor of specific charges where at all possible.

5 **J. Avoided Cost Discount**

6 On July 25, 2001, Staff and Qwest entered into a stipulation in which Qwest agreed to keep  
7 the current wholesale discounts in effect. This issue was remanded by the Arizona District Court.

8 In Jennings v. U S WEST, the Court stated:

9 ....The ACC must at least consider the range of cost savings for different categories  
10 of services, as well as the potential for abuse through selective ordering tactics, and  
11 determine whether additional discount rates are needed. Whether the ACC has, or  
12 can even obtain, the information needed to more accurately identify the cost savings  
attributable to various services will also be a factor in deciding whether to establish  
additional discount rates.

13 Because the decision does not adequately explain the result reached, or demonstrate  
14 that the ACC considered all relevant factors, the issue of resale discounts is remanded  
for further consideration. The court expresses no opinion regarding the proper result  
on remand.

15 46 F.Supp.2d at 1006.

16 While Qwest Witness Gude had proposed additional discounts for various services, the  
17 overall impact was a significant reduction in the wholesale discounts applicable to residential  
18 services. Qwest’s proposal would reduce the current average composite discount, which is  
19 **\*\*PROPRIETARY\*\*** percent **\*\*PROPRIETARY\*\***. Staff-30, p. 55. Qwest’s proposal cannot be  
20 supported. Under the guise of disaggregating the discounts, Qwest was actually trying to greatly  
21 reduce them. Staff-30, p. 44.

22 Further, while Qwest argued that it relied upon the same studies in seven other jurisdictions,  
23 Staff would note that the avoided cost discount for residential basic exchange service adopted by the  
24 commissions averaged 14.9 percent. The avoided cost study that Ms. Gude has filed in this  
25 proceeding, found that a mere 4.19 percent discount for residential basic exchange service was  
26 appropriate. Clearly, whatever the other commissions based their avoided cost discount on was very  
27 different than the avoided cost study filed in this proceeding by Ms. Gude. Staff-30, p. 56. A case  
28 in point is the Washington Order relied upon by Ms. Gude which does not indicate that the

1 Company's judgments were used at all, but instead indicates that the avoided cost discount was  
2 based primarily on the Washington Staff proposal:

3 The Commission's review of direct, avoidable cost indicates that Commission Staff's  
4 estimates of the ratio of avoidable costs for product management, sales, and product  
5 advertising are appropriate. With respect to customer services, the Commission also  
6 finds Commission Staff's ratio to be reasonable, except that the customer service  
7 costs related to non-recurring charges in excess of revenue are 100 percent avoidable.  
8 ...Otherwise, we adopt Commission Staff's presentation on call completion and  
9 number service.

10 Eighth Supplemental Order Interim Order Establishing Costs for Determining Prices on Phase II;  
11 and Notice of Prehearing Conference, Washington Utilities and Transportation Commission, Docket  
12 No. UT-960369 et al., May 11, 1998, para. 408.

13 A comparison of the wholesale discounts Qwest proposed for Residential Basic Exchange  
14 Service in this proceeding, to the discounts approved for this service in the States in which Qwest  
15 claims the Commissions adopted/relied on its data and cost studies in setting the resale discounts is  
16 illuminating.

	<u>Residential Basic Wholesale Discount:</u>
Arizona-Qwest Proposed	4.19%
	<u>Discounts in Effect:</u>
Colorado	13.00%
Iowa	10.27%
Nebraska	22.50%
New Mexico	15.05%
South Dakota	15.49%
Utah	12.20%
Washington	16.00%

17 As stated in his testimony, Staff Witness Dunkel found that the Commission does not have  
18 the information needed to more accurately identify the cost savings attributable to various services,  
19 nor can it obtain it. The USOA records, ARMIS reports, and other standard records as kept by the  
20 Company do not show the avoided cost by product line. Qwest had prepared studies in which they  
21 proposed costs by product lines, and what portion of those costs would be avoided by product line.

22 However, Staff Witness Dunkel's testimony indicates that the allocation of costs to product lines,  
23  
24  
25  
26  
27  
28

1 and the determination as to what portion of those costs would be avoided was largely based upon  
2 "managerial judgment." Considering this and other factors, Mr. Dunkel testified:

3 In short, there is no factual basis on which to establish a more accurate  
4 disaggregation of the avoided cost discounts than was established in Decision No.  
5 60635.

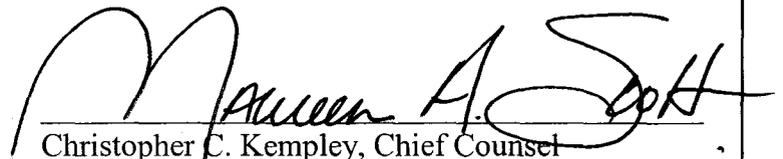
6 Staff-30, p. 55.

7 Accordingly, Staff Witness Dunkel's recommendation was to continue the existing  
8 discounts. The existing discounts are 12 percent for residential basic exchange service, and 18  
9 percent for all other services to which the discount now applies. Staff recommends that the  
10 Commission adopt the stipulation entered into between Qwest and Staff which would maintain the  
11 existing wholesale discounts at their current levels.

#### 12 IV. CONCLUSION

13 For all of the reasons discussed above, the Commission should adopt the HAI 5.2a Model  
14 as a starting point for determining loop rates in this case. Unlike the Qwest LoopMod, the HAI 5.2a  
15 Model reflects forward-looking costs using the most efficient technology available. The  
16 Commission should reject Qwest's proposed overhead factor and its LoopMod inputs since they are  
17 based upon embedded costs and otherwise assume significant inefficiencies which result in inflated  
18 prices to the CLECs which will only act to stifle competition in the Arizona local exchange market.  
19 The Commission should also reject Qwest's proposed rates for collocation, line sharing and CLEC-  
20 to-CLEC UNE rates because they are based upon unsupportable and inflated labor rate percentages,  
21 engineering, material and overhead costs which result in inflated charges to Qwest's competitors.

22 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of September, 2001.

23  
24 

25 Christopher C. Kempley, Chief Counsel  
26 Maureen A. Scott, Attorney  
27 Legal Division  
28 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
Telephone: (602) 542-6022  
Facsimile: (602) 542-4870  
e-mail: [maureenscott@cc.state.az.us](mailto:maureenscott@cc.state.az.us)