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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 Hearing Reply 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 21st day of September, 2001.

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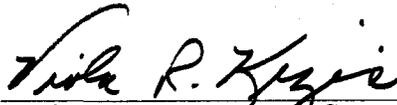
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
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4 MARC SPITZER
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5)
6 IN THE MATTER OF INVESTIGATION INTO)
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DOCKET NO. T-00000A-00-0194
(PUBLIC VERSION¹)

9
10 **STAFF'S REPLY BRIEF**

11
12 **I. THE COMMISSION SHOULD CONSIDER THE COMPETITIVE**
13 **IMPACT OF THE WHOLESALE RATES DETERMINED IN THIS**
14 **PROCEEDING.**

15 Qwest correctly asserts that "the role of the Commission is to set cost-based rates that are
16 competitively neutral & unbiased." Qwest Initial Brief at 67. However, Qwest's view of what is
17 competitively neutral is curious, for it would likely result in there being no competitors other
18 than itself. The purpose of the 1996 Act is "to promote competition and reduce regulation in
19 order to secure lower prices and higher quality services for American telecommunications
20 consumers and encourage the rapid deployment of new telecommunications technologies." Iowa
21 Utilities Bd. v. FCC, 219 F.3d 744, 748 (8th Cir. 2000) (citing Telecommunications Act of 1996,
22 Pub.L. No. 104-104, purpose statement, 110 Stat. 56, 56 (1996)). The Commission should
23 interpret the 1996 Act in light of this purpose, and therefore must consider the impact on
24 competition when interpreting the pricing standards of the 1996 Act (and the TELRIC
25 regulations implementing them). Because the TELRIC standard was adopted pursuant to the
26 1996 Act, the purpose of the Act is relevant, and therefore Qwest's assertion that "establishing
27 prices that are truly cost-based requires divorcing policy objectives from pricing decisions" must
28 be rejected. Qwest Initial Brief at 2.

¹ NOTICE: This document contains information claimed to be proprietary by Qwest. Throughout this document proprietary information is designated as follows: ****PRIOPRIETARY****

1 By adopting the TELRIC standard, the FCC sought to further the goals of the 1996 Act
2 by not burdening the CLECs with paying for inefficient, historical costs. While rates should be
3 set using the TELRIC standard and not the economics of the CLECs, a rate which would likely
4 drive all CLECs from the market must raise a "red flag" that something is amiss. That red flag is
5 fluttering noticeably above Qwest's rate proposals. In other words, because the TELRIC
6 standard was intended to lower costs, when it instead produces higher costs, one must suspect
7 that the TELRIC standard is being applied incorrectly.

8 **II. STAFF'S RELIANCE ON THE HAI MODEL IS REASONABLE.**

9 Qwest claims that the HAI model produces results that can not be validated. Qwest
10 Initial Brief at 64. In fact, the extensive history of the HAI model shows that it is the best choice
11 for the Commission. The Commission should consider the evolution of both models in
12 determining which model is more likely to produce the forward-looking technologically efficient
13 results required by the 1996 Act. Qwest acknowledges the long history of the HAI model, but
14 distorts this history by claiming that improvements to the model show its inadequacies. Qwest
15 Initial Brief at 39-40. The HAI model, as Qwest states, has undergone significant changes since
16 its release in 1996. These changes have been the result of input from public utility commissions,
17 CLECs, and ILECs throughout the telecommunications industry. With each new version the
18 HAI model has improved. The recommendations for improvement come from all "sides of the
19 fence." ILECs recommend improvements for protection of their shareholder's interests, CLECs
20 do the same, and commission staffs have recommended improvements to meet their objectives -
21 a model providing results that will promote competition through meeting of the TELRIC
22 standards.

23 Qwest's LoopMod model has not undergone this type of rigorous evolution. Indeed,
24 LoopMod is totally untested. LoopMod is the product of Qwest engineers, who worked without
25 the input of CLECs or utility commission staffs. The Commission should not reject the most
26 tested and time proven model. In response to Commissioner Spitzer's questions, Qwest itself
27 admitted that given the proper inputs the HAI Model will produce reasonable results. Tr. at
28

1 173-75 (Buckley Cross)(“In my opinion, yes, it does produce reasonable results, if you have the
2 proper inputs.”)

3 **III. THE INPUTS PROPOSED BY STAFF ARE REASONABLE**

4 **A. Staff relied upon ACC and FCC approved input values.**

5 In addition to acknowledging the validity of the HAI model if proper inputs are used,
6 Qwest also states: “If the Commission decides to rely on the HAI model for any purposes, it
7 should adjust most of the major cost-driving inputs that the model uses.” Qwest Initial Brief at
8 39. This is exactly what Staff did. The inputs that Staff used are reasonable and are based on
9 ACC and FCC inputs. Staff used the inputs that the ACC adopted in Decision No. 60635. For
10 those inputs for which the ACC has not made a determination, Staff used the inputs determined
11 by the FCC. The FCC conducted an extensive proceeding in which many parties provided
12 information pertaining to the appropriate inputs. The costs of various types of materials and
13 labor for telephone equipment as determined by the FCC in that proceeding are the most
14 uncontroversial and unbiased set of inputs that are available to Staff. The use of these inputs in
15 the HAI model result in information that is Arizona-specific. The HAI model uses geocode
16 information that is specific to Arizona as part of its inputs. This cost data pertains to type of
17 terrain, density, and customer locations. The result is a valid, Arizona-specific cost.

18 One advantage of Staff’s proposed cost inputs over the Qwest LoopMod calculation is
19 that the input costs are not simply the values that are claimed by one party, but instead are the
20 inputs that the ACC and FCC have determined to be appropriate based on evaluating information
21 provided by numerous parties. Staff, in this Reply Brief, cannot address all of the inputs issues
22 raised in Qwest’s 119-page initial pro-hearing brief. A discussion of some of the most
23 important inputs follows.

24 **B. Qwest’s criticisms of the sharing inputs and network operation factors
25 proposed by the joint intervenors do not apply to the Staff’s proposed input
26 values.**

26 Qwest criticizes the sharing inputs and network operation factors that the Joint
27 Intervenors proposed. These criticisms do not apply to Staff’s recommendations. For example,
28 Staff used the sharing factors ordered by this Commission. Staff also used the network

1 operations factors ordered by this Commission. In addition, many of Staff's other inputs are
2 different from the Joint Intervenor inputs because Staff used the ACC inputs where the ACC had
3 determined those inputs, or the FCC inputs for any inputs that the ACC had not determined.

4 Qwest criticizes the Joint Intervenors depreciation expense for drops, NIDs and SAIs
5 because it alleges they are not based upon ACC approved depreciation parameters. Staff's
6 depreciation expense for drops, NIDs, and SAIs are specifically calculated using the Commission
7 authorized depreciation parameters. Staff-32 (Dunkel Reb.) at 2. Therefore, this criticism does
8 not apply to Staff's recommendation.

9 **C. The HAI model's drop lengths should be adopted.**

10 Qwest proposes an average drop length of 150 feet, while the Joint Intervenors advocate
11 an average drop length of 66 feet. Qwest Initial Brief at 55-57. Qwest complains that the Joint
12 Intervenors' figure is based on a national study, while Qwest's figures are based on a regional
13 study. Id. In fact, both studies suffer from the same flaw – they are not Arizona specific. Qwest
14 has state specific figures for New Mexico, North Dakota and Wyoming, but not Arizona. Qwest-
15 2 (Buckley Reb.) at 10. Presumably, these are the states in which Qwest's "regional" study was
16 conducted. By excluding states with large urban areas, like Arizona or Colorado, the results of
17 Qwest's study must be viewed as skewed. Because the vast majority of Arizona loops are
18 located in urban areas, the results of a Qwest regional study are likely as invalid as those of a
19 national study. In Decision 60635, the Commission adopted the Hatfield Model calculation of
20 drop costs and rejected U S West's "claim that its present cost of installation uses the most
21 efficient technology possible." Because drop length is a major component of drop cost, the
22 Commission's prior adoption of the Hatfield drop cost implicitly adopted the Hatfield drop
23 length. Qwest has not provided any compelling, Arizona-specific data to justify overruling this
24 Commission determination. Indeed, the Commission's determination that Qwest's current drop
25 configurations are not the "most efficient technology possible" strongly suggests that Qwest's
26 proposal, based on its historical configuration, is not TELRIC compliant, and should therefore be
27 rejected.

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D. Qwest's cable placement costs are not forward looking.

1. Qwest's view of "forward looking" is incorrect.

In addressing TELRIC, Qwest notes that the 8th Circuit "...has stated that state commissions should apply this pricing methodology with an eye toward reality and not for the purpose of developing 'imaginary' costs." Qwest Initial Brief at 4. Qwest also states "the key test for any cost model is its ability to represent reality." Id. at 64. Qwest explained its approach to forward looking costs:

The 'forward looking costs' that are included in Qwest's studies are those that are likely to be incurred in the future using the least-cost, forward-looking technologies and methods of operation that are currently available and practical to deploy in the network, given demand for the total element.

Id. at 10. However, the cable placement methods that Qwest used in its cost study are not realistic. They create largely "imaginary" costs. Qwest's cable placement methods simply do not reflect the placement methods that are expected to be used in the future. This issue is very important because, as Qwest acknowledges, "more than 60 percent of Qwest's total investment in buried cable is related to the cost of placing the cable." Qwest Initial Brief at 28.

In the real world, Qwest generally places buried cable and underground conduit before roads are paved or other surface obstructions are in place. However, in its cost model, Qwest includes these imaginary costs that are based upon the assumption that Qwest will generally place cables or underground conduits after roads are paved and other surface obstructions are in place. This incorrect assumption creates large, "imaginary" costs that are included in Qwest's claimed costs for UNE loops and similar items.

Qwest acknowledges that it is more expensive to install cables after streets and sidewalks are paved, than if the cable is installed before such surface obstructions exist. If cable is placed prior to such surface obstructions, than trenching or plowing can generally be used. If the cable is installed after such surface obstructions, the much more expensive methods of cutting and restoring concrete or asphalt, or boring under surface obstructions, must be used. Qwest Initial Brief at 29-30.

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2. **LoopMod does not correctly model distribution cable placement in a standard residential subdivision.**

Qwest's figures indicate that ****PROPRIETARY**** of the lines in the Qwest Loop Cost model (LoopMod) are in what Qwest calls "DG-3", which is a standard residential subdivision. Staff-5. In response to discovery, Qwest admitted that "in new subdivisions...outside plant facilities are generally placed prior to the placement of streets and landscaping." Staff-30 at 70. Normally the subdivision developer is required to provide the trench at no cost to Qwest. Tr. 913; see A.A.C. R14-2-506.E.3.a. The actual method used to bury the distribution cable in residential subdivisions is a low cost method.

At the time Qwest buries these cables, Qwest generally buries three pairs per potential living unit. Qwest Initial Brief at 37. Therefore, in the future, even if customers desire additional lines, Qwest does not have to bore under or cut through the surface obstructions. Instead, Qwest provides those additional lines by using the spare pairs in the buried cable that was installed when the subdivision was first developed.

However, Qwest's LoopMod assumes that Qwest will generally place these buried cables in subdivisions after the surface obstructions are in place. Qwest Initial Brief at 33-34. Qwest's cost study includes huge fictional costs which assume Qwest is generally cutting through the concrete and asphalt, or boring under surface obstructions, in order to install distribution cables in residential subdivisions. These placement costs included in Qwest's LoopMod are largely imaginary costs. They are not the costs that are actually incurred, nor are they the costs that are expected to be incurred in the future.

3. **Qwest misstates Staff's testimony on this issue.**

Qwest incorrectly states the testimony of Staff on page 31 of its Initial Brief, where Qwest states:

As a pure factual matter, Mr. Dunkel on behalf of Staff is incorrect in claiming that LoopMod uses directional boring and cut & restore methods for 60 percent of the distribution cable length that is included in the model.

Qwest fails to mention that Mr. Dunkel's testimony actually stated that this figure was for "residential subdivisions". In the Qwest LoopMod, the standard residential subdivision is called DG-3. Qwest Initial Brief at 27. The percent of boring and cutting and restoring concrete and

1 asphalt that Qwest included in its study for standard residential subdivisions (DG-3) adds up to
2 60%. Qwest-1 (Buckley Direct), Exhibit RJB-3 at 5.²

3 **4. Qwest also misstates the overall placement number.**

4 Qwest also claims that “[t]he accurate figure is that LoopMod uses boring, cut & restore
5 concrete, cut & restore asphalt, and cut & restore sod for 41 percent of the distribution cable
6 length.” Qwest Initial Brief at 31. This is not correct. The percent of these placement methods
7 that Qwest used for each of its DG groups, and the Qwest weighting of these DG groups, is
8 shown on Rebuttal Schedule WD-21 of Staff-32.³ The total weighted average for these
9 placement methods is ****PROPRIETARY**** in LoopMod.

10 Qwest further claims that LoopMod assumes that overall “boring will be used for 26% of
11 cable placement.” Qwest Initial Brief at 32. That number is also inconsistent with the
12 distribution cable data in the record. The weighted average assumed in Qwest’s LoopMod is
13 ****PROPRIETARY**** of the distribution cable would be placed using boring.⁴

14 **5. LoopMod also does not correctly model downtown business districts.**

15 In downtown business districts, Qwest’s LoopMod assumes that the majority of cable or
16 conduit will be placed after the surface obstructions are in place. This is another largely
17 imaginary cost that does not recognize the actual cost incurred now, nor is it a cost that will be
18 incurred in the future. In reality, in downtown business districts, and for feeder, Qwest generally
19 uses “conduit.” Tr. 919. Conduit is essentially a type of buried pipe that creates small tunnels
20 underground, through which cable is run. Qwest admits that with conduit, Qwest installs new
21 cables by pulling them through the conduit. Qwest does not have to dig up the ground when
22 placing these new cables. Tr. 919. In addition, Qwest generally places conduit before the roads

23
24 ² The fact that these Qwest numbers add up to 60% can also be seen on Rebuttal Schedule
25 WD-21 of Exhibit Staff-32 (Dunkel Rebuttal).

26 ³ Also see Exhibit Staff-5.

27 ⁴ These boring and weighting percentages are shown on Rebuttal Schedule WD-21 to Staff-32.
28 They are from Mr. Buckley’s Exhibit RJB-3 to Qwest-1 and page 2 of Qwest-2 (Buckley
Rebuttal), which shows the percent of boring that Qwest assumed in each Design Group.
Qwest’s discovery response (Staff-5) shows the weighting of each of those Design Groups in
Qwest’s LoopMod.

1 and highways are paved. Qwest has an organization that keeps track of road and highway
2 projects, and coordinates the placement of their facilities that they have conduit or other facilities
3 in place before those roads are paved. Tr. 919-920.

4 In short, Qwest's UNE loop costs and similar costs are greatly inflated because Qwest
5 assumes fictional costs that are based upon generally installing cable and conduit after the
6 surface obstructions are in place at great costs. In the real world, Qwest generally installed buried
7 cable or conduit at a much lower cost prior to the time that the surface obstructions are in place.

8 **6. Future placement**

9 Qwest claims that "[p]utting new technologies in these locations requires building around
10 and through the landscaping and streets that currently exist." Qwest Initial Brief at 33.

11 However, this statement is incorrect because the "forward looking" distribution cable technology
12 for subdivisions that is included in both Qwest's LoopMod and the HAI model is the same
13 technology that is already buried. The LoopMod and HAI models also both use copper twisted
14 pair cable as the "forward looking" residential subdivision distribution cable technology.⁵ In
15 order to have this technology in residential subdivisions, it is not necessary to dig under, around,
16 or through the existing surface obstructions. Those cables are already there, and were installed at
17 the time the subdivision was first developed. These cables also have significant spare capacity,
18 generally three pairs per potential living unit, to allow for additional lines and growth.

19 In its Brief, Qwest alleges that there are approximately 1.7 working lines per residential
20 unit, and cites Qwest-1 (Buckley Direct) at 32. See Qwest Initial Brief at 37. However, the
21 actual number in Mr. Buckley's direct is 1.1712 working lines per residence. In fact, the number
22 of lines in service is nowhere near exhausting the three distribution pairs per living unit that are
23 already buried in the ground. Indeed, Qwest admits:

24
25 A two or three pair design would cause Qwest to respond to
26 demand for additional pairs, regardless of whether the demand
27 exists in the neighborhood, with little additional investment

28 ⁵ Staff-32 (Dunkel Rebuttal) at 3, which references Qwest's response to Request STF 15-245.

1 and without the disruption to a customer premises that comes
2 from reinforcing facilities.⁶ (emphasis added)

3 Id. In downtown areas it is not generally necessary to dig through or bore under the streets in
4 order to put in “new technologies”. Since conduit is used in these areas, new cables can be
5 pulled through the conduit, without digging up the streets or boring under them.

6 **7. Qwest’s reliance on the Omaha study is flawed.**

7 Qwest claims that its assumed percent of boring, or cutting and restoring, is “confirmed
8 by the real life experience from Omaha, Nebraska and Bismarck, North Dakota.”⁷ However,
9 these two “real life” experiences have nothing to do with how the Company plans to install, or
10 now installs, standard telephone distribution facilities. The trial in Omaha, Nebraska was a trial
11 in which Qwest was testing the replacement of copper distribution pairs with fiber or coax.
12 Staff-8. This is not the way the standard telephone network is designed. Tr. 204. In fact,
13 Qwest’s witness in another state stated that the cost of the experience in Omaha convinced
14 Qwest not to replace the copper distribution cables in existing neighborhoods. Staff-9. Qwest’s
15 statement about Bismarck, North Dakota relates to an installation of coaxial cable by a cable
16 television (CATV) company, again not the installation of copper twisted pair distribution cables
17 that are the standard telephone distribution cable technology for residential subdivisions. Tr.
18 203, 209. In short, the examples that Qwest gives do not reflect how actual telephone
19 distribution cable in residential subdivisions is installed or is expected to be installed in the
20 future.

21 **IV. QWEST HAS MISSTATED STAFF’S LOOP RECOMMENDATIONS AND
22 INPUTS, WHICH ARE BASED ON ACC AND FCC APPROVED INPUTS.**

23 **A. Staff’s inputs are based upon the correct FCC inputs.**

24 Qwest, under the heading “Staff’s analysis of loop costs is inaccurate and unreliable”
25 claims that Staff’s recommendation results in a statewide average loop rate of \$11.89 with sold
26 exchanges removed, or \$13.21 with sold exchanges included. Qwest goes on to argue that these
27 numbers are inaccurate because they do not use the actual FCC inputs. The numbers Qwest
28 quotes are not the current Staff recommendation. The numbers Qwest cites are from Mr.

27 ⁶ Qwest Initial Brief at 37.

28 ⁷ Qwest’s Initial Brief at 31. There is a similar statement on page 34 of Qwest’s Initial Brief.

1 Dunkel's direct testimony. Staff-30 (Dunkel Direct) at 73. Qwest's claim that Mr. Dunkel had
2 not used the correct FCC values relates to Mr. Dunkel's Direct⁸.

3 Mr. Dunkel's rebuttal testimony (Staff-32) accepted all of the FCC input values that Mr.
4 Fitzsimmons presented on Exhibit WLF-3 and used those FCC inputs in the revised run that
5 accompanied Mr. Dunkel's rebuttal testimony. As Mr. Dunkel stated in his rebuttal testimony:

6
7 It appears that there are different FCC documents that have
8 conflicting 'FCC values' for certain inputs. To determine if there
9 was any significant difference, I reran the HAI model using the
10 'FCC scenario value' inputs shown on Exhibit WLF-3, which
11 made a 12 cent difference. Since this issue has little effect, and to
12 avoid further controversy, my Schedule WD-19 utilizes what
13 Qwest identifies as the 'FCC Scenario Value' inputs as shown on
14 Exhibit WLF-3.⁹

15 The loop rates in Mr. Dunkel's final recommendation (which resulted from this and other
16 revisions) are different than the numbers that Qwest claims are the Staff recommendation. Staff's
17 recommended rates for three zones results in a statewide average of \$12.35 with sold exchanges
18 removed (instead of the \$11.89 claimed on page 64 of Qwest's Initial Brief)¹⁰. Qwest's concern
19 about the FCC inputs have been met by Staff's Rebuttal testimony adopting what Qwest claims
20 were the correct FCC determined values.

21 **B. Qwest's interpretation of the "Scorched Node Assumption" is incorrect.**

22 Qwest asserts that "The scorched node assumption dictates that Qwest use the existing
23 central offices, not some idealized office of the future." Qwest Initial Brief at 83. This is simply
24 incorrect, for the scorched node assumption only retains the locations of existing central offices.
25 See U S West Communications, Inc. v. Jennings, 46 F.Supp.2d 1004, 1009 (1999) (noting that
26 "TELRIC employs a "scorched node analysis" which assumes that the existing U.S. West
27 network is replaced by a[n]... efficient telephone network that retains only the locations of

28 ⁸ This was first claimed in Mr. Fitzsimmons' Rebuttal testimony (Qwest-29) on Exhibit WLF-3,
which responded to Mr. Dunkel's direct testimony.

⁹ Pages 1 and 2, Rebuttal Schedule WD-23 (Staff-32).

¹⁰ Staff recommends rates for three zones, which results in a statewide average of
\$13.60 with sold exchanges included (instead of the \$13.21 claimed on page 64 of
Qwest's Initial Brief). Staff-32 (Dunkel Reb.), Schedule WD-19 at 1.

1 existing U.S. West wire centers.”) Moreover, Qwest has not constructed a central office in
2 Arizona in at least 10 years, yet Qwest refers to “recently constructed sites”. Tr. at 597; Qwest
3 Initial Brief at 83. Qwest figures are thus hardly forward looking.

4 **V. QWEST’S INCONSISTENT APPROACH TO GEOGRAPHIC DEAVERAGING**
5 **SHOULD BE REJECTED.**

6 Qwest has abandoned its previous approach to geographic deaveraging, and has
7 accepted the joint intervenor’s method (using the “optimization program” adopted in Washington
8 and Minnesota), agreeing that the optimization program is a valid approach to deaveraging.
9 Qwest Initial Brief at 69-70; Qwest-18 (Million Reb.) at 58-59; Tr. at 750-765. But having made
10 this concession, Qwest wants to have it both ways, as Qwest arbitrarily assigns only the two
11 lowest cost wire centers to Zone 1 and only uses the optimization program to assign Zones 2 and
12 3. Id. Qwest offers no evidence justifying this departure from the optimization program other
13 than the fact that it was used in Washington, but Qwest’s witness acknowledged that there were
14 five zones in Washington. Tr. at 761. Because of the different structure of the Washington
15 deaveraging plan, Qwest’s justification is not persuasive. In adopting this arbitrary deviation
16 from the optimization program, Qwest seeks to artificially inflate the cost of deaveraged loops.
17 If the optimization program is a valid approach, as Qwest concedes, then it should be used to
18 assign all zones.

19 In evaluating deaveraging proposals, the Commission has wide latitude. See 47 C.F.R. §
20 51.507(f)(only requirement is that a State Commission must establish at least three zones).
21 Geographic deaveraging was instituted to “reflect geographic cost differences” with the purpose
22 to “minimize implicit subsidies”. Decision 62753 at 3 (noting “general agreement” of all
23 parties). Moreover, “Commission policy” must be “taken into consideration in setting
24 geographic deaveraged UNE rates.” Id. at 5. The best way to reflect geographic price
25 differences is to group the majority of low-cost, urban loops in Zone 1. This is what the
26 Commission did (at U S West’s request) in establishing interim deaveraged rates. Id. at 3, 5
27 (noting 95 percent of access lines in Zone 1). Thus, even if Qwest’s new proposal were not
28

1 inconsistent, the Commission would be justified in adopting the Joint Intervenor's proposal in
2 full, because it better serves the purposes of deaveraging.

3
4 **VI. STAFF'S LOADINGS ARE PROPER AND CONSISTENT WITH
DECISION 60635.**

5 Qwest once again asserts that Staff's 15% loading factor, based on Decision 60635, is
6 "improper" because "[t]hat decision applied only to true overhead in the 6700 account not the
7 shared and common costs . . .". Qwest Initial Brief at 95. Qwest's position simply ignores the
8 plain language of Decision 60635, which states: ". . . we will adopt an overhead cost factor,
9 including attributed, joint and common costs, of 15 percent." Decision 60635 at 7. Qwest's
10 position is more fully refuted in Staff's Initial Brief at 7-8. Moreover, the District Court noted
11 that the 15 percent figure applies to "Overhead and Common Costs", and remarked that "[t]here
12 is no basis to disturb the ACC's decision" on this point. Jennings, 46 F.Supp.2d at 1011-12.

13 **VII. QWEST'S LABOR ALLOCATIONS MUST BE ADJUSTED TO REFLECT
14 REALITY.**

15 **A. Qwest has mischaracterized Staff's labor allocations. Staff actually
16 recommends an 80% QTI/20% vendor mix.**

17 Qwest asserts that "Mr. Dunkel claims that because the vendor labor rate is substantially
18 higher than Qwest's internal labor rate, Qwest should reduce all its labor charges to the internal
19 rate." Qwest Initial Brief at 87. This is not the Staff's recommendation. Staff is not
20 recommending a 100% weighting of the internal labor rates. Staff witness Dunkel's
21 recommendation is "20% vendor installations and 80% Qwest installations." Staff-32 (Dunkel
22 Rebuttal) at 3.

23 **B. Qwest's actual mix is 80% QTI/20% vendor.**

24 Qwest has asserted that the average mix of outside vendors vs. internal installations "over
25 the last three years is 50-50." Qwest Initial Brief at 85. This claim is not supported by any data
26 in the record, and indeed is contrary to the data in the record. Qwest's own discovery response
27 indicates in the year 2000, out of ****PROPRIETARY**** Qwest Arizona collocation jobs,
28 ****PROPRIETARY**** of those were installed by Qwest's internal installation group, QTI. Staff-
11 (Confidential Attachment A to Qwest Data Response to AT&T Request 08-192). Therefore,

1 Qwest's internal personnel installed 79% of the collocation jobs in Arizona in the year 2000.
2 Only 21% of the collocation jobs in Arizona in the year 2000 were installed by outside vendors.
3 For the year 2001 (to date) Qwest's own discovery response shows that out of
4 ****PROPRIETARY**** Qwest Arizona collocation jobs, ****PROPRIETARY**** were installed by
5 QTI, which means that 83% of the 2001 collocation jobs were installed by Qwest, and only 17%
6 were installed by outside vendors. Id. There is no data of collocation jobs for any other year in
7 the record in this case. This data does not indicate a 50/50 split. Instead, it indicates that
8 approximately 80% or more of the collocation jobs are installed by QTI, and only 20% are
9 installed by outside vendors. Moreover, because vender installation is not the lowest cost
10 alternative, a high proportion of vender installation is not TELRIC-compliant. Accordingly,
11 Staff's 80/20 split is more appropriate than Qwest's 50/50 split.

12 **VIII. QWEST'S APPORACH TO COLLOCATION COSTS IS INCORRECT, AND**
13 **QWEST ATTACKS ON STAFF'S APPROACH TO COLLOCATION COST**
14 **ARE ERRONIOUS.**

15 **A. Qwest misstates Staff's recommended collocation rates.**

16 Qwest asserts that Staff proposes a "total reduction in collocation prices of more than
17 60%." Qwest Initial Brief at 87. This statement is simply incorrect for two reasons. First, the
18 60% reduction figure is from a Staff proposal early in the proceeding. That figure has been
19 replaced by a 39% discount for that same category of services.¹¹ Second, even if Qwest number
20 were correct, Qwest's phrase "reduction in collocation prices" misstates the meaning of this
21 figure. The figure is not a reduction from the current collocation prices, but is a difference
22 between the Staff proposal and Qwest proposal. Tr. at 1159.

23 **B. Qwest's attack on Staff's analysis of Qwest's collocation study is**
24 **unfounded; and Qwest's proposed engineering costs are inflated.**

25 The corrections that Staff made to the Company's study of 41 collocation jobs properly
26 impact the price for many collocation services, because the Company had based its costs and
27 prices for many collocation services on its study of the 41 collocation jobs. Staff-32 (Dunkel

28 ¹¹ Schedule WD-23, Exhibit Staff-32 (Dunkel Rebuttal). The corrected number is shown as 61% of Qwest's proposal, which would be a figure that is 39% below Qwest's proposal. See also Tr. at 1159 (Dunkel testifying that "this is effectively a 39% discount from the numbers Qwest proposed for this category of service.")

1 Reb.) at 3 and Schedule WD-23. Therefore, when corrections are made to that study of 41
2 collocation jobs, they impact the proper cost and prices for all collocation elements that were
3 based upon the Qwest study of 41 collocation jobs.

4 For example, the majority of the collocation engineering is actually performed by Qwest
5 engineers. The engineering cost that Qwest included in the 41 collocation jobs that it used as the
6 basis for its collocation costs included ****PROPRIETARY**** of engineering performed by
7 outside vendors. Qwest-8 at 50 and 81. As discussed in Part B above, this figure needs to be
8 adjusted to reflect the actual mix of Qwest and Vender labor.

9 **IX. QWEST'S MATERIALS CHARGES ARE INFLATED.**

10 **A. Qwest had outside installers provide materials in the "41" job study.**

11 Qwest claims:

12 However, as the supporting documents indicate, there are no
13 vendor- purchased materials with tacked on charges included in the
14 collocation study, except to expedite delivery where necessary or
to acquire materials then in short supply.

15 Qwest Initial Brief at 19. However, the support documents do show the labor vendor also
16 providing materials. Staff-22; Tr. 805-807. In addition, Qwest does not cite any support in the
17 record for the claim that these vendor provided materials only "to expedite delivery where
18 necessary or to acquire materials then in short supply."

19 **B. Qwest's material prices are high.**

20 Qwest's study also appears to contain excessive material costs. In one case, Qwest
21 appears to be paying 98 cents per washer. Tr. 806-7. On redirect, Qwest alleged that the 98
22 cents was for a packet of 100 washers. Tr. 879-82. However, on cross-examination, Qwest's
23 witness, Mr. Fleming, indicated he was essentially guessing that it was a packet of 100 washers.
24 Id. Mr. Fleming agreed that if in fact this was a packet of 100 washers, he would submit
25 information indicating that at a later date. Id. Qwest has not submitted information supporting
26 Mr. Fleming's claim.

1 **C. Qwest's attack on Staff is inaccurate**

2 Qwest claims that, "contrary to Staff's and CLEC's contentions", Qwest "uses the same
3 price for blocks in the collocation study that it uses in the DSL study." Qwest Initial Brief at 91.
4 Staff did not make any misstatement in this area. In the Qwest DSL study that Staff referred to,
5 Qwest did show a price that "included" the discounts on material. Staff-30, Schedule WD-3. On
6 Rebuttal, Qwest produced a different DSL study which did not show the discounted material
7 prices. Qwest's ability to produce a different study in no way invalidates the correctness of the
8 Staff testimony pertaining to the study that Staff was referring to. As a large purchaser of
9 telecommunication equipment, Qwest obtains a significant discount on its materials. By having
10 outside vendors bring their own materials instead of obtaining them using the Qwest discount, or
11 by producing studies that do not show the actual discounted material price, Qwest overstates the
12 cost of the materials.

13 **X. STAFF DOES PROPOSE RECOVERY OF CERTAIN INDIRECT COSTS.**

14 Qwest claims to have calculated the impact of Staff's recommendation¹². As previously
15 discussed on page 9 of Staff's Initial Brief, Fleming Exhibit 5 does not represent Staff's
16 recommendation. In fact, in cross-examination, Mr. Fleming admitted that Mr. Dunkel had not
17 calculated any of the figures in the "Dunkel Modification" columns. Tr. 469. On cross-
18 examination, Mr. Fleming admitted that Mr. Dunkel had not recommended that there be "No
19 power, land, buildings" and "no HVAC or electrical inputs", although that is what Qwest
20 included in the so-called "Dunkel Modification" columns on that Exhibit. Tr. 465. Mr. Dunkel
21 clearly stated "I recommend a more reasonable calculation than the Company used ... but did not
22 exclude these costs." Staff-32 (Dunkel Reb.) at 4. In addition, Qwest did not make all of the
23 corrections that Mr. Dunkel proposed on Fleming Exhibit 5. This Qwest Exhibit does not
24 represent Staff's recommendation and is based on an incorrect view of Staff's recommendation.

25 **XI. STAFF'S FIELD SURVEY TESTIMONY IS RELIABLE.**

26
27
28 ¹² Qwest Initial Brief at 87. Qwest refers to page 63 of Mr. Fleming's Rebuttal. This page of
 Mr. Fleming's Rebuttal contains statements that are based upon Exhibit 5 to Qwest-8.

1 Qwest claims "Mr. Dunkel testified that he had been told that a Qwest employee said that
2 Qwest generally does not conduct a field survey." Qwest Initial Brief at 106. Qwest calls this
3 "hearsay" testimony. Qwest's claim that Mr. Dunkel testified that "he had been told that a Qwest
4 employee said", does not accurately reflect Mr. Dunkel's testimony or what actually happened.
5 Mr. Dunkel toured the Phoenix Main central office, and personally talked to the personnel in
6 charge of installing the collocation jobs. As Mr. Dunkel testified:

7 When I and members of the ACC Staff toured the Phoenix
8 Main central office ... I talked to the personnel actually in
9 charge of installing the splitter bays.

10 Staff-29 (Dunkel Direct) at 21.

11 Moreover, this was no mere "Qwest employee." Both John Lawrence, who is the
12 Interconnection Manager for Arizona and New Mexico, and Donna McCoy-Shay, who is the
13 QTI installation manager, clearly stated that Qwest engineers generally do not conduct a field
14 survey for the installations in question. Staff-29 (Dunkel Direct) at 21. The Qwest personnel
15 who have knowledge of, supervise, and manage these installations directly told Mr. Dunkel that
16 engineers generally do not make field visits for these installations. Qwest does not deny these
17 were the statements made by these knowledgeable Qwest personnel.

18 Qwest goes on to state that "the Qwest employee may not have been aware of field
19 surveys performed by contractors of Qwest." Qwest Initial Brief at 106. However, as noted
20 above, QTI personnel install approximately 80% of all the collocation jobs. Staff-11. Therefore,
21 QTI personnel have knowledge of what occurs in the vast majority of the installations. In its cost
22 study, Qwest did not include the cost of a "field survey" only for those jobs performed by outside
23 contractors, but instead included the cost of a field survey for all splitter collocation projects.

24 If in fact vendors do perform field surveys, such a fact would further support Staff's
25 conclusion that the Qwest cost study for collocation is invalid. Qwest did not adjust the
26 engineering cost to reflect the actual mix of vendor vs. Qwest engineering. Qwest-8 at 51. The
27 Qwest study of 41 actual collocation jobs included engineering costs of which
28 **PROPRIETARY** were vendor engineering costs. Id. at 40, 50; see also Schedule WD-22 to

1 Staff-22 (Dunkel Reb.). However, only approximately 20% of collocation jobs are actually
2 installed and engineered by outside vendors. Staff-11.

3 **XII. QWEST'S OSS CHARGES ARE IMPRUDENT AND DISCRIMINATORY.**

4 Qwest seeks recovery of \$12, 826,720 in modifications to its Operating Support System
5 (OSS). Qwest Initial Brief at 112-116. The majority of these costs relate to charges by
6 Telcordia to modify Qwest's OSS. Id. However, these charges were made pursuant to a
7 "custom" contract with Telcordia. Tr. at 108-112. If Qwest had waited for a nationwide rollout
8 of Telcordia's line-sharing solutions, the cost to Qwest would likely have been lower. Thus,
9 Qwest's "custom" contract rate should be disallowed as imprudently incurred.

10 Moreover, Qwest proposes to charge nearly the entire cost of these OSS improvements to
11 the CLECs, asserting that "Qwest did not need these modifications for its xDSL product. The
12 OSS changes were made solely for the benefit of [the CLECs]." Qwest-2 (Albershiem Direct) at
13 24. In other words, Qwest proposes to totally exempt itself and its own DSL affiliate's products
14 from supporting the OSS improvements. Such an exemption violates the 1996 Acts requirement
15 of non-discriminatory access, and amounts to a subsidy for Qwest and its DSL affiliate.
16 Accordingly, it should be rejected.

17 **XIII. QWEST'S LINE SHARING AND PER-BAY CHARGES REPRESENT
18 FURTHER DISCRIMINATION IN FAVOR OF QWEST AND ITS DSL
19 AFFILIATE.**

20 Qwest's attempt to exempt itself and its affiliates from paying for OSS improvements is
21 not the only example of discriminatory charges proposed by Qwest. For example, Qwest asserts
22 that "when the Commission sets permanent rates for line sharing, those rates will apply to Qwest
23 affiliates." Qwest Initial Brief at 107-108. However, this statement does not represent Qwest's
24 proposal. In response to discovery, Qwest specifically stated that the Qwest proposed recurring
25 charge for line sharing OSS would apply to all non-affiliated line sharing xDSL providers, but
26 would not apply to BSI, which is Qwest's affiliate that provides xDSL services utilizing line
27 sharing. Staff-30 (Dunkel Direct) at 32.

28 Another example of a discriminatory charge is Qwest's acknowledgement that its
affiliated xDSL provider does not pay the same "per bay" charges as unaffiliated xDSL providers

1 pay. Qwest tries to explain this difference by asserting that the Qwest affiliated xDSL provider
2 uses different equipment than the unaffiliated xDSL providers. This argument is meaningless.
3 Qwest provides the bay, the cables that run to and from the bay, and similar supporting facilities.
4 The xDSL provider provides and places the equipment in the bays. Therefore, any alleged
5 difference in the equipment that these different companies place in the bays has no impact on
6 what Qwest charges the companies for the bays.

7 Qwest tries to justify these discriminatory charges by explaining that it does not charge
8 this rate to its affiliate because this interim rate is "neither a prevailing company rate nor a fair
9 market value." A charge that is imposed on all unaffiliated xDSL providers should be
10 considered a "prevailing company rate". A prevailing rate is a rate that is generally charged – in
11 other words a charge that applies to everyone in the universe except Qwest and its affiliates is a
12 "prevailing company rate".

13 **XIV. QWEST'S LOOP GROOMING CHARGE IS INCONSISTENT.**

14 Qwest proposes a \$1.59 per loop per month charge for loop grooming. Qwest Initial
15 Brief at 38. Loop Grooming is only necessary for Integrated Digital Loop Carrier (IDLC)
16 systems. Qwest-2 (Buckely Reb.) at 18-19. Qwest has undertaken a bulk deloading project in
17 Arizona in which it has already removed the tap and bridge coils on many loops. The CLECs
18 should not be required to pay grooming charges on any loops included in Qwest's bulk deloading
19 project in Arizona.

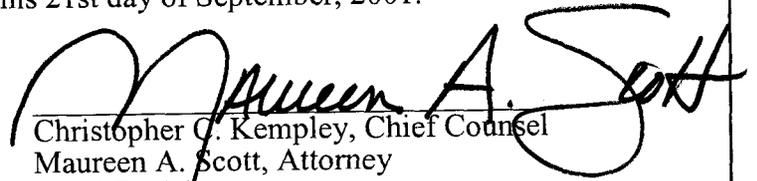
20 Moreover, the loop grooming fee is monthly, but loop grooming is a one-time activity.
21 Yet Qwest repeatedly asserts that nonrecurring expenses should not be paid for by recurring
22 charges. See Qwest Initial Brief at 75-76, 80. Until Qwest resolves these inconsistencies, its
23 proposed loop grooming fee should be rejected.

24 **XV. STAFF DOES ALLOW RECOVERY FOR USE OF THE HIGH FREQUENCY LOOP.**

25 Qwest argues that there should be a "positive price for the high frequency loop."
26 Qwest Initial Brief at 69. Staff agrees, and has proposed a positive price. However,
27 Qwest provides no real insight as to how it arrived at \$5 as being the appropriate
28

1 "positive" price. Qwest's proposed \$5 rate is approximately 20% of what Qwest
2 contends the UNE loop cost was. Staff-30 (Dunkel Direct) at 37. Applying this same
3 relationship to the UNE loop cost as calculated by Staff results in a Staff recommended
4 HFPL line sharing loop charge of \$2.47 per line per month. Staff-32 (Dunkel Rebuttal)
5 Schedule WD-17 at 11.

6
7 RESPECTFULLY SUBMITTED this 21st day of September, 2001.

8 
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