STAFF’S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE’S
RECOMMENDED OPINION AND ORDER

I. INTRODUCTION

Staff files the following exceptions to the recommended opinion and order issued on
November 8, 2001. Staff believes the ALJ’s order is well reasoned and represents a balanced
resolution to this docket. Staff’s exceptions, therefore, are limited in nature and in large part
address items on which Staff seeks clarification or additional guidance from the Hearing
Division.

II. DISCUSSION

A. INPUTS IN THE HAI MODEL

1. THE “TERMINAL AND SPLICE” INPUTS FOR THE HAI MODEL

The “terminal and splice” investment default inputs in the HAI model are $42.50 for buried,
and $32.00 for aerial. In the prior proceeding, Docket No. U-3021,96-448 et. al., the ACC had
determined that the investment for these items should be $70.00 per line.\(^1\) However, the ROO in this
proceeding does not specifically address this issue. Staff recommends that the Administrative Law
Judge specifically state whether the HAI default values are to be utilized, or the $70.00 figure
adopted by the Commission in its prior Order be adopted.

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\(^1\) ACC Decision No. 60635 in Docket No. U-3021-96-448 et. al, page 22, line 23.
Staff recommends that the $70.00 value that was adopted by the Commission in the prior Order be utilized in this proceeding.

2. **CALCULATION OF THE FOUR-WIRE COSTS**

Another issue related to the HAI model is how to calculate the four-wire costs once the two-wire costs have been determined by the HAI. Joint Intervenors propose to calculate the four-wire loop cost by multiplying the two-wire loop cost by a factor of 1.3. Staff and Qwest calculate the four-wire cost by doubling the cost of the two-wire loop. The cost of one NID is subtracted. This is required since the cost of each two-wire loop involves one NID, and when that is doubled, it includes the cost of two NIDs. However, a four-wire loop only uses one NID. The result of this calculation is the four-wire cost.

Staff recommends that the cost of the four-wire loop be calculated by doubling the cost of the two-wire loop less the cost of one NID. (The “two-wire loop” and NID costs are available from the HAI run.)

3. **THE RATES FOR LOOPS THAT ARE NOT CALCULATED IN THE HAI MODEL**

Among other things, the HAI model calculates the cost for two-wire loops. However, it does not calculate the cost for “DS1 Capable” or “DS3 Capable” loops. There is significant disagreement among the parties as to what the rates for these loops should be. The Joint Intervenors’ proposed rates generally are roughly one-half of the Qwest proposed rates. (Exhibit MH-1R, pages 11-12). The HAI outputs do not provide guidance for the majority of the costs involved in these studies. Therefore, the Order needs to make a determination on these high capacity loops.

Since the ROO adopts the HAI model, which is the proposal of the Joint Intervenors, for the purpose of calculation the rate for the two-wire loops, Staff suggests that the Joint Intervenors’ proposals be adopted for the calculation of the other loop costs as well. Most loops are two-wire (DS0) loops. Therefore, this proposal would simply maintain consistency in the Order among the different types of loops.

**B. THE ROO IS SILENT ON A NUMBER OF IMPORTANT ISSUES**

Overall, Staff believes the Administrative Law Judge’s Recommended Opinion and Order
(ROO) to be a very reasonable and balanced Order. The ROO adopts parts of the proposals of all major parties participating in the proceeding. For example, the ROO adopts Qwest's proposals for the depreciation values for drops, NIDs and SAIs (ROO, p. 22), as well as Qwest's proposed power costs (ROO, p. 43). In addition, the ROO selects a middle-ground proposal for drop lengths that balanced the proposals of Qwest, Staff and the Joint Interveners. (ROO, p. 19) The ROO also adopts various portions of the proposals set forth by Qwest, Staff and the Joint Interveners. However, Staff recommends several amendments to the ROO to provide needed guidance with respect to certain important issues where the ROO is silent, or where further clarification is needed. These recommended amendments are described in detail below.

1. **MATERIAL COSTS**

Material costs were used as inputs in the cost studies for collocation rates, line sharing rates, and CLEC-to-CLEC rates for these services. Qwest generally based its material, labor, and in some cases, engineering inputs on the material, labor and engineering costs that Qwest calculated for 41 actual collocation jobs. (Exhibit Qwest-8, page 50 and 81) In this proceeding, certain parties included Staff's contention that the material, labor, and engineering costs based on those 41 collocation jobs were unrepresentative, since all of those 41 jobs involved jobs performed by outside vendors (Exhibit Qwest-8, page 58), whereas the vast majority (approximately 80%) of the actual Qwest collocation jobs are done by Qwest (QTI) personnel. (Exhibit Staff-11, Tr. 471-475)

In the ROO, the Administrative Law Judge quite reasonably analyzed this information and concluded that the labor costs used in these cost studies should be weighted 80% QTI labor and 20% outside vendor labor. However, the ROO does not appear to address the fact that the material costs that are derived from these 41 outside contractor jobs are not representative of the material costs that Qwest actually incurs on the majority of the projects. In reality, the vast majority of the jobs are actually performed by Qwest (QTI) personnel.

The collocation jobs performed by Qwest's own personnel have both labor and material costs that are dramatically lower than those performed by outside contractors. Several parties in this proceeding presented evidence that Qwest's cost studies overstate the equipment and material prices used in those studies. For example, Joint Interveners (AT&T, WorldCom, and XO) indicated that
Qwest's cost study overstates by approximately **20%** the costs of providing the optical digital equipment needed to provide high capacity loops. (Post-Hearing Brief of Joint Interveners, p. 21). Joint Interveners' witness Mr. Lathrop demonstrated that Qwest overstated the cost of DSO blocks. Mr. Lathrop compared Qwest's claimed costs to much lower price quotes he had obtained from two other material vendors. (WorldCom Exhibit 13 [Lathrop Direct Testimony], p. 59). Staff provided an example where Qwest's cost study included a material cost of $85.46 for one particular item, despite the fact that Qwest's own internal documents indicated that Qwest's actual cost of the item was $44.00 for the same time period used in the study. (Staff Initial Post-Hearing Brief, pp. 23-24, 28). Staff also pointed out that Qwest's cost studies shows that one of its vendors charged Qwest a ridiculously high $0.98 for each flat washer used on a collocation job. (Staff Initial Post-Hearing Brief, p. 28).

Joint Interveners' examples of material costs, where Qwest's material costs were actually checkable with real-world costs demonstrate that Qwest's cost studies have the serious problem of overstating material costs from 20% to nearly 100%, and in some cases many times the reasonable cost. In this proceeding, Staff recommended that the material costs that are used in these studies should be material costs that are 50% less than the material costs that Qwest used in their studies for these services. (Staff Exhibit S-30 (Dunkel Direct Testimony), p. 18) Staff continues to support this proposal, and recommends that the ROO be amended to require the Qwest claimed material costs be reduced by 50%.

As it stands, the ROO is silent on the issue of Qwest's inflated material costs. (ROO, p. 37) Therefore, the ROO should be amended to properly acknowledge the fact that Qwest's actual material costs are overstated, and should be reduced by 50%.

2. **ENGINEERING COSTS**

Many of Qwest's proposed rates include Qwest estimates of engineering costs. Typically in such calculations, Qwest used its estimate of the time to engineer certain functions. On pages 39 and 40, the ROO discusses a Qwest proposed charge for "engineering." That charge was disputed, and alternatives were presented by other parties. (See Exhibit Staff-32, ACC Staff Pricing Proposal, Rebuttal Schedule WD-17, page 12) The ROO recommends to "reduce Qwest proposed colocation
In another engineering-related issue, Qwest had proposed a quote preparation fee of $4,763.06 for cage collocation, and $4,380.68 for virtual collocation. Both collocation quotes involve significant engineering costs. (Page 38, line 28 of ROO) (Exhibit MH-1R, pages 7-8) The ROO reasonably finds that this fee should be $1,381.54. (Page 39, ROO) On this related item, the ROO has properly concluded that the reasonable charge is approximately one-third the Qwest proposed charge.

Numerous of the Qwest collocation, line sharing, and CLEC-to-CLEC charges include Qwest estimates of engineering costs embedded in their calculation. The ROO is silent on how Qwest’s proposed amounts for these engineering costs should be handled. Staff requests clarification of whether the one-half reduction is limited to the statement on page 40, line 23 reducing the Qwest proposed collocation engineering charge for the collocation “space construction”, or whether this reduction also applies to other engineering charges.

Testimony in this case indicated that Qwest was including in this engineering charge, the cost of a field trip, but the evidence actually indicated that such field trips generally did not occur. (Page 21, Exhibit Staff-30, Dunkel Direct).

Staff recommends that the ROO be clarified to indicate that all Qwest proposed engineering charges be reduced by one-half throughout the collocation, line sharing, and CLEC-to-CLEC calculations, unless the charge is specifically addressed in the ROO and assigned a different reduction. The rates that Staff recommends are shown on Rebuttal Schedule WD-17, Exhibit Staff-32.

3. ENGINEERING ON LINE SHARING

There is an additional engineering issue that was not addressed in the ROO. For line sharing, Qwest proposed an engineering charge that included the cost of engineering a bay. Qwest proposed that this charge apply each time a CLEC required engineering of even one “shelf.” However, there are eight “shelves” in a bay. Therefore, Staff proposed that a lower engineering fee apply when an additional shelf is added to an existing bay, since that bay would already exist. (Pages 20-21, Exhibit 2 This recommendation does not apply to the Qwest rates in which they present an engineering labor per half hour as a specified rate.
Staff-30, Dunkel Direct; page 12, Rebuttal Schedule WD-17, Exhibit Staff-32) Staff asked the
Hearing Examiner to address this issue in the ROO. Staff recommends that the engineering cost for
adding a shelf to an existing bay be lower than the engineering cost that is incurred when a new bay
must be engineered as shown on Exhibit Staff-32, page 12, Rebuttal Schedule WD-17.

Staff believes the ROO’s analysis of Qwest’s engineering charge was correct in concluding
that the appropriate charge should be one-half the engineering charge proposed by Qwest.

4. **POWER CABLES**

As indicated in the ROO, WorldCom argued that Qwest’s cost studies overstate the length
of power cable. The ROO also indicates that Qwest disagreed with WorldCom on the issue of cable
lengths. The ROO indicates that WorldCom’s position is that the power cable length should be 70
feet, while Qwest recommended 177 feet. (ROO, p. 43) While the ROO recognizes cable lengths
were at issue, the ROO does not resolve the proper cable length to be used in the cost models in this
proceeding. Therefore, the ROO should be amended to provide guidance as to the proper cable
lengths to be used in the models. Staff agrees with the Joint Interveners that in most instances in a
properly designed office, an average cable length of less than 177 feet would be reasonable.

5. **POSSIBLE FURTHER CLARIFICATION OF THE NON-
RECURRING CHARGES**

Page 32 of the ROO states:

We believe that the CLEC sponsored NRC model properly
recognizes the efficiency that will occur in a forward-looking
network, and we, therefore, adopt the CLEC model in this
proceeding.

The results of that CLEC model are shown on Exhibit RL-2 of Mr. Lathrop in this
proceeding. That finding addresses most of the non-recurring (NRC) charges, however, Qwest has
proposed some NRCs, or a combination of NRCs that are in addition to those shown on that Joint
Interveners’ Exhibit. Based upon our discussions to date, it appears that Qwest is proposing that the
Qwest proposed NRCs apply to all of these variations. For example, for the first DS1 loop
installation, Qwest had proposed a NRC of $144.15. However, by adopting the CLEC NRC model,
the ROO establishes a rate of $23.40 for this item. For a slightly different installation that is a
"coordinated installation without cooperative testing", Qwest proposed a NRC of $153.26. (Exhibit MH-1R, page 13) Since this is a NRC rate that does not exactly match the wording listed on the Joint Intervenors' Exhibit, Qwest contends that rate should be the Qwest proposed NRC of $153.26.

To be consistent, Staff recommends that unless the proposed NRC has been modified by the Administrative Law Judge in the ROO, the NRCs be those charges as proposed by Joint Intervenors. If this is not done, the resulting rates will be anomalous. For example, the rate for installing DS1 loops would be $23.40, but an almost identical installation that is a "coordinated installation without cooperative testing" would have a rate of $153.26. For those NRCs not specifically addressed in the ROO, charges should be established consistent with the ROO's adoption of the CLEC NRC model

6. RELATED NRC ISSUE

Mr. Lathrop's Exhibit RL-2 shows a NRC for connecting DSI interoffice as being $7.60, and the NRC for connecting a DS3 interoffice as being $7.60. Page 32 of the ROO effectively adopts the CLEC's proposal. However, Mr. Lathrop's Exhibit RL-2 is silent as to the connection charges for the similar facilities that are DS0, OC-3, or OC-12. Qwest contends the NRCs for these items should be in excess of $300. Staff recommends the $7.60 connection charge, and $0.53 disconnection charge the ROO adopts from Mr. Lathrop's Exhibit apply to the similar services as well, including the DS0, OC-3, and OC-12. Otherwise, the result will be anomalous NRCs for connecting these facilities (e.g. the NRC to install a DS0 would be over $300; to install a DS1 would be $7.60; to install a DS3 would be $7.60; to install a OC-3 would be over $300, etc.) To prevent these anomalous charges, Staff recommends the $7.60 installation, and $0.53 disconnection fee that the ROO already adopts apply consistently across all of these connections.

7. NON-RECURRING CHARGES FOR FEATURES

Page 32 of the ROO states:

We believe that the CLEC sponsored NRC model properly recognizes the efficiency that will occur in a forward-looking network, and we, therefore, adopt the CLEC model in this proceeding.

3 This recommendation is intended to apply to the NRCs that are primarily addressing service order, data input, or other non-recurring activities related to establishing and connecting the service. This statement is not intended to apply to those NRCs in which a significant portion of the costs of the facilities are being recovered in the NRCs. (For example, line sharing)
For certain "features," Qwest had proposed NRCs, whereas Joint Intervenors had proposed no separate NRC. (Exhibit MH-1R, bottom of page 20 through page 25) Staff's understanding is that Qwest has taken the position that the above-referenced finding on page 32 of the ROO does not constitute adoption of the Joint Intervenors' non-recurring proposals pertaining to features.

Staff believes the wording in the ROO was intended to adopt the Joint Intervenors' proposed NRCs. To be consistent with the other NRCs that are specifically adopted in the ROO, Staff recommends that the Joint Intervenors' proposed NRCs be adopted unless modified by the ALJ in the ROO. 4

8. COMMON OVERHEAD FACTORS IN COST STUDIES OTHER THAN THE HAI MODEL

The ROO finds that Qwest's proposed overhead factor of 13.0 percent significantly overstates overhead costs. The ROO adopted the HAI Model's default 10.4 percent overhead factor be used in the HAI model. (ROO, p. 21) However an additional item must be addressed: no clear direction is given as to what overhead factors should be used in the models other than the HAI model (such as the collocation model).

In its proposed collocation cost model, Qwest included "indirect" and "common" overhead costs of approximately 32%. Both Staff and interveners testified this overhead was excessive. Staff proposed changes which would result in replacing Qwest's 32% markup with a 15% markup in the collocation models. Interveners also proposed changes which resulted in a 23% markup over direct cost (Staff Ex. 32, Schedule WD-23, AT&T/XO Brief, p.40-42, Weiss Direct p. 31-40).

For the HAI the ROO adopts a corporate overhead factor of 10.4 %, which is less than what Qwest had included in its equivalent model. The ROO adopted the HAI calculations for the overhead/indirect costs other than corporate overhead. Therefore for the HAI the ROO has clearly adopted overhead costs which are lower than proposed by QWEST.

The ROO needs to specify what markup over direct costs should be included in the models other than the HAI model (such as in the collocation model). The Staff recommends a

4 This recommendation is intended to apply to the NRCs that are primarily addressing service order, data input, or other non-recurring activities related to establishing and connecting the service. This statement is not intended to apply to those NRCs in which a significant portion of the costs of the facilities are being recovered in the NRCs. (For example, line sharing and many of the collocation cage examples.)
15% markup over direct costs for these models.

C. MISCELLANEOUS AND MINOR CHARGES

After the above items are discussed, there are still several miscellaneous or minor items that are not addressed in the ROO, and are not addressed in the above items. Most of these items are minor, but some disposition of them is required. In this section, Staff presents its recommendation pertaining to these items below:

1. SERVICES THAT ARE CLASSIFIED AS "ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY" (PAGE 36, EXHIBIT MH-1R)

The ROO specifically addressed one item in this category “Field verification fee, per manhole.” (Page 34, ROO) The ROO does not address any of the other items in this category. Staff recommends that the rate for each of the other items in this category be set at the same proportion to the Qwest proposed rate as the rate adopted on page 34 of the ROO for “Field verification fee, per manhole” is to the Qwest proposed rate for that item.

2. OTHER MINOR ITEMS NOT ADDRESSED IN THE RECORD

In addition, Staff is not aware of any data in the record on which to address the following issues in detail:

(1) Multiplexing - Different forms of Multiplexing appear in various forms in the rate proposals. (i.e. Exhibit MH-1R, pages 18 and 33 and other locations);

(2) OC-3 and OC-12 UDIT (Pages 17 and 18 of Exhibit MH-1R);

(3) OC-12 and OC-48 Extended unbundled dedicated interoffice transport and side channelization items (Page 18, Exhibit MH-1R);

(4) UDIT rearrangement (Page 19, Exhibit MH-1R);

(5) All items under “unbundled dark fiber” that are not addressed elsewhere in the ROO (Exhibit MH-1R, page 19);

(6) Trunk ports, common channel signaling/SS7, line information database, 8XX database query service, miscellaneous elements, channel regeneration, UNE-P new connections (pages 25-30, Exhibit MH-1R) (which effectively adopts Mr. Lathrop’s Exhibit RL-2, page 33)
The above issues generally are not addressed in the ROO. Staff recommends that the rates for these above items be set as follows, in the event that the Hearing Division cannot determine on the basis of the existing record what the rate should be for these items:

1. If there is an existing rate, that existing rate should continue as an interim rate until final rate can be set;

2. For the items in this group for which there is no existing rate, Staff suggests the Commission adopt interim rates using a default calculation. (For example, the default calculation could establish rates for such services as these miscellaneous, minor services, in the same proportion to the Qwest proposed rates as the statewide average UNE loop rate that is approved in this proceeding is in relationship to what Qwest had proposed for the statewide average UNE loop rate. (For example, if the Commission approved statewide average UNE loop rate is 85% of the Qwest proposed statewide average UNE loop rate, these rates for the services would be set at 85% of Qwest’s proposed rate.) This would reflect the differences in the costs as actually found, as compared to the costs that Qwest has proposed. Such interim rates would continue in effect until such time as these rates are readdressed by the Commission in a future proceeding or phase.

III. CONCLUSION

The above additional guidance is needed in order to calculate the rates. For example, one of the major issues that must be addressed is the material prices to be used as inputs for the collocation, line splitting, and CLEC-to-CLEC related studies, all as discussed above. Staff asks the Administrative Law Judge to provide guidance on the issues discussed above, so that rates that comply with the Administrative Law Judge’s findings can be prepared.

Staff and other parties are still working to prepare a combined price list, along with additional citations to the record, if needed. The parties will also identify in more detail specific rates which they believe the ROO should adddress.
RESPECTFULLY SUBMITTED this 12th day of December, 2001.

[Signature]

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