Enclosed please find the recommendation of Administrative Law Judges Lyn Farmer and Dwight D. Nodes. The recommendation has been filed in the form of a Supplement to the November 8, 2001 Recommended Opinion and Order on:

QWEST CORPORATION
(INVESTIGATION INTO QWEST CORPORATION'S COMPLIANCE WITH CERTAIN WHOLESALE PRICING REQUIREMENTS FOR UNBUNDLED NETWORK ELEMENTS AND RESALE DISCOUNTS)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the Supplement by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **12:00 noon** on or before:

MARCH 18, 2002

The enclosed is **NOT** an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Open Meeting to be held on:

APRIL 11, 2002 at 10:00 a.m.

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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BRIAN C. McNEIL
EXECUTIVE SECRETARY
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VII. SUPPLEMENTAL DISCUSSION AND FINDINGS

On November 8, 2001, a Recommended Opinion and Order was issued in Phase II of this proceeding to address issues related to Qwest Corporation’s (“Qwest’s”) pricing of wholesale products and services. The parties were directed to file exceptions to the Recommended Order, as well as a joint price schedule, by November 28, 2001. By joint request, the date for filing exceptions was extended to December 12, 2001 and the date for filing the joint price list was extended to December 19, 2001.

Exceptions were filed by Qwest, Staff, jointly by AT&T of the Mountain States, Inc. and XO Arizona, Inc. (“AT&T”), WorldCom, Inc. (“WorldCom”)¹, Time Warner Telecom of Arizona, LLC (“Time Warner”), and Cox Arizona Telecom, LLC (“Cox”). Compliance price schedules were filed individually by Qwest, Staff, and AT&T on December 19, 2001. In their exceptions and compliance filings, the parties raised arguments disagreeing with the findings in the Recommended Opinion and Order and requesting clarification of issues that they believed were either unclear or not discussed in the Recommended Order. On January 3, 2002, Qwest filed a response to other parties’ exceptions. Oral argument on these issues was held on January 25, 2002. The CLECs and Staff filed responses to Qwest’s exceptions on February 1, 2002. On February 8, 2002, Qwest filed a reply to those responses. On February 15, 2002, AT&T filed a motion to strike and response to Qwest’s February 8, 2002 reply. On February 26, 2002, Qwest filed a response to AT&T’s motion to strike.

Based on the additional arguments relating to issues the parties believed were unclear or not resolved, we make the following findings:

A. Terminal and Splice Inputs

The terminal is the box located in a customer’s yard where the drop cable to the house connects to the incumbent local exchange company’s (“ILEC’s”) distribution facilities. In the prior cost docket (Decision No. 60635), the Commission established the investment for these costs at $70.00 per line. The Terminal and Splice investment default values in the HAI model are $42.50 for

¹ AT&T and WorldCom will be referred to jointly as “the CLECs.”
buried cable and $32.00 for aerial cable. Staff seeks clarification whether the intent in the
Recommended Order was to adopt the HAI default values or the $70.00 cost from the prior decision.
Both Staff and Qwest recommend that the $70.00 cost per line adopted previously should be retained
in this docket.

We agree with AT&T that the HAI model default values of $42.50 for buried cable and
$32.00 for aerial cable should be used in this proceeding, consistent with our adoption of the HAI
model for determining recurring loop costs. Qwest did not specifically question these default values
during the hearing and no party addressed this issue in the post-hearing briefs. We believe it is
appropriate to use the HAI default values for this issue.

B. Calculation of Four-Wire Costs

Once the two-wire loop costs are established, it is necessary to determine the loop cost for
four-wire loops. Staff and Qwest proposed that the four-wire loop cost should be calculated by
doubling the two-wire loop investment, and then subtracting the cost of one network interface device
(“NID”). The CLECs proposed that the four-wire cost be calculated by multiplying the two-wire cost
by a factor of 1.3.

We agree with the CLECs that the four-wire loop cost should be calculated by multiplying the
two-wire cost by a factor of 1.3. No evidence was presented to support the conclusion that placing a
four-wire loop should be significantly more expensive than placing a two-wire loop. Our resolution
of this issue is consistent with our conclusion in the First Cost Docket Order where we determined
that the four-wire loop charge should be only 4.2 percent higher than the two-wire loop charge.

C. High Capacity Loops

The HAI model does not calculate the cost for high capacity “DS1 Capable” or “DS3
Capable” loops. Staff claims that the CLECs’ proposed rates for these elements are generally half of
Qwest’s proposed rates (See, Ex. MH-1R, at 11-12). Because the HAI outputs do not provide
guidance for the level of these costs, Staff suggests that the CLECs’ proposals should be adopted to
determine the costs associated with these high capacity loops.

In calculating high capacity loop costs, Qwest employed the Network Access Channel
(“NAC”) model, a specialized version of Qwest’s LoopMod. Qwest used the NAC to develop the
cost of placing the copper or fiber loop facility between a Qwest wire center and a customer location, plus the additional optical-digital electronics and other equipment needed at the wire center and the customer location to allow digital transmission (Qwest Ex. 18, TKM-07R).

1. Equipment Prices

The CLEC's contend that Qwest's NAC model overstates high capacity loop costs because LoopMod, in general, overstates the required investment. The CLEC's also claim that Qwest's equipment prices are overstated because they rely on 1999 prices, which are not reflective of the most current vendor contract prices. Qwest's witness agreed that the most recent equipment prices should be used which would reduce equipment costs by approximately 20 percent compared to Qwest's model (Tr. 862). In accordance with Qwest's agreement, the most recent equipment contract prices should be employed.

2. Fill Factors

The next issue that affects the cost of high capacity loops is the utilization or "fill" factors used in the model. The CLEC's assert that Qwest's NAC model assumes fill rates that are significantly lower than reasonable levels. According to the CLEC's, Qwest's fill rates are reflective of its current usage for high-capacity loop architectures, rather than what would be achieved on a forward-looking basis. The CLEC's claim that distribution cable fills cannot be used for comparison because optical-digital equipment is much easier to install than loop facilities, and could therefore be reinforced at a lower cost (AT&T/WorldCom Ex. 6, at 48-49).

We find that Qwest's fill factor assumptions for high capacity loops are too low. As the CLEC's point out, Qwest's fill rates do not reflect total demand that would likely be experienced on a forward-looking basis. In contrast to distribution cable that is more difficult to replace, optical-digital equipment can be reinforced more easily when it is close to exhaustion (Id. at 47-50). Qwest's cost studies should therefore be revised to reflect the fill factors proposed by CLEC witness Weiss.

3. Total Installed Factors

Total Installed Factors ("TIF's") are applied by Qwest to material investments to account for costs such as installation, transportation, warehousing, power costs, and taxes. The CLEC's contend that Qwest improperly calculates TIF's based on embedded costs. The CLEC's claim that, because
Qwest’s TIFs are based on its booked expenditures, rather than reflecting costs in a forward-looking TELRIC environment, the TIFs are significantly overstated.

Qwest argues that its TIFs are appropriate because, in the real world, it must have warehouse facilities available to store materials, it incurs transportation and labor costs associated with installing equipment, and it incurs network operations costs to maintain and operate the network.

We find that the TIFs employed in Qwest’s cost studies fail to reflect a forward-looking environment in compliance with TELRIC standards. Mr. Weiss testified that a forward-looking analysis would eliminate warehousing costs because modern just-in-time ordering and delivery of equipment minimize the need to store much of the equipment necessary to provision local interconnection and UNEs to CLECs (AT&T/WorldCom Ex. 6, at 57-58). Similarly, the transportation component and vendor and labor components significantly overstate costs in a forward-looking environment. We agree with the CLECs that TELRIC methodology requires TIFs that are reflective of forward-looking costs, as opposed to embedded costs. We will, therefore, adopt Mr. Weiss’ recommendation to employ TIFs of 1.34 and 1.14 for plug-in and hard-wired equipment, respectively.

4. **High Capacity Loop Pricing**

Based on these fill factors and TIFs, and applying their recommended expense factors, the CLECs recommended a statewide average DS1 loop rate of $43.35 and a DS3 statewide average rate of $516.73. Given our agreement above with the CLECs’ arguments regarding high capacity loops, we will adopt the DS1 and DS3 pricing proposals advocated by Mr. Weiss, as set forth in AT&T’s proposed price list filed on December 19, 2001. As Staff asserts, the CLECs’ high capacity loop proposal is consistent with our adoption of the HAI model. Adoption of the CLECs’ proposal on this issue avoids the type of anomalous pricing results that were pointed out by Staff.

D. **Plant Mix**

We have found that an aerial cable ratio of 19 percent would “give recognition to the declining trend in the use of such cable” (Infra, at 15). That rate could be applied in one of two ways: by assuming 19 percent standard aerial placement for each density group or by varying the aerial percentage by density group with the average for all density groups equaling 19 percent. The CLECs
assumed that the most densely populated areas would have the highest proportion of aerial cable, whereas Qwest's cost studies assumed that the placement of aerial plant is proportionately higher in rural areas. Qwest claims that its assumption is consistent with the FCC's distribution of aerial plant in its *Inputs Order*.

We believe that the 19 percent aerial cable ratio should be applied equally across all density groups. This treatment gives recognition to the parties' divergent views of whether aerial cable should be assumed to be placed in greater proportion in urban or rural areas. According to Qwest's compliance filing, using the constant 19 percent aerial ratio in all distribution groups raises the per line loop cost by $0.49.

**E. IDLC Unbundling Cost**

In our discussion of Integrated Digital Loop Carrier (IDLC) unbundling costs, we stated that 

"[T]here is wide disparity in the positions taken by Qwest and the CLECs, and we do not believe that either position is appropriate. We conclude that an input of 10 percent IDLC loops will properly recognize the likelihood of increased purchases and use of IDLC loops on a forward-looking basis."

Qwest claims that to implement this finding would raise the loop cost by $1.03 because UDLC systems utilize more expensive line cards which would have to be factored in to the HAI model compliance.

We disagree with Qwest that the proposed adjustment needs to be made to the HAI model to give effect to our finding. Our resolution of this issue was intended to strike a medium ground to reflect increased usage of IDLC loops on a forward-looking basis. No additional adjustments are necessary.

**F. Material Costs**

Staff points out that material costs were used as inputs in the proposed cost studies for collocation rates, line sharing rates, and CLEC-to-CLEC rates. Qwest based its proposed material, labor, and engineering costs on 41 actual collocation jobs that Qwest claimed were representative of costs that it would incur in placing collocation facilities. Staff and the CLECs argued that material, labor, and engineering costs based on the 41 jobs were unrepresentative of Qwest's true costs because
the 41 jobs were performed by outside vendors, whereas approximately 80 percent of actual collocation jobs are done by Qwest Technologies Installation ("QTI") personnel.

Staff claims that, in addition to weighting labor costs at 80 percent QTI labor and 20 percent outside vendor labor, the material costs that were based on the same 41 collocation jobs should be adjusted. According to Staff, the material costs associated with Qwest's 41 outside vendor jobs are equally unrepresentative because they overstate the Company's actual equipment and material prices associated with collocation jobs that are performed primarily by Qwest personnel. Accordingly, Staff recommended that the material costs used in Qwest's cost studies should be reduced by 50 percent to recognize that the Company's cost studies significantly overstate its real world costs (Staff Ex. S-30, at 18).

Qwest argues that Staff's proposed 50 percent reduction to materials costs is unjustified. According to Qwest, Staff's claims are based on citation to several isolated claims of excessive costs, which are not sufficient justification to reduce all materials costs by 50 percent on an across-the-board basis.

We agree with Staff's contention that Qwest's material costs are significantly overstated. Consistent with our treatment of labor costs, we will reduce material costs by 50 percent. As Staff indicates, the record reflects that Qwest's cost study included material costs that were significantly higher than quotes received by the CLECs' witness from other material vendors (WorldCom Ex. 13, at 59). In addition, Staff points out that Qwest's cost studies included various materials at costs that were excessive (Tr. 804-807, 1131-1133). Based on the record, we agree with Staff that Qwest has failed to sustain its burden of proof on this issue and that Qwest's cost study overstates its materials costs. Accordingly, material costs should be reduced by 50 percent to more accurately reflect the material costs in a forward-looking, least-cost environment.

G. Engineering Costs

We have found that Qwest's proposed engineering charge for collocation should be reduced by one-half to recognize the excessiveness of its proposed charges. Staff proposes that this reduction in engineering costs should apply not only to the "space construction" element of collocation, but to other engineering charges as well.
Our adoption of Mr. Lathrop’s recommendation earlier in this Decision was limited to reducing collocation engineering charges by one-half (See, AT&T/WorldCom/XO Ex. 13, at 45-46). The engineering charge for CLEC-to-CLEC connections is specifically addressed in that section (RO&O at 48).

With respect to line sharing engineering, WorldCom argues that, although Qwest accepted Mr. Lathrop’s recommendation of ten hours for CLEC-to-CLEC engineering costs, no similar adjustment was made for line sharing even though the functions performed are identical (WorldCom Ex. 13, at 47-48). Staff witness Dunkel agreed with Mr. Lathrop’s proposal (Staff Ex. 32, Sched. WD-17). We agree with WorldCom and Staff that, since there is no distinction between the duties performed for engineering CLEC-to-CLEC connections and line sharing, Mr. Lathrop’s recommendation should be adopted and the line sharing engineering should be modified consistent with WorldCom’s proposal.

With respect to engineering a collocation bay related to line sharing, Qwest proposed that the charge for engineering a bay should apply each time a CLEC requires engineering of even a single shelf within the bay. Staff recommended that, because there are eight shelves in a bay, a lower engineering fee should apply when an additional shelf is added to an existing bay since that bay would already exist. We agree with Staff’s analysis of this issue and clarify that the line sharing engineering charge should be reduced for subsequent shelves ordered within a bay. The rates recommended by Staff should be adopted as set forth in Staff Exhibit 32, Schedule WD-17.

H. Power Cables

WorldCom contends that the proper collocation power cable length for Arizona should be 70 feet. Qwest, on the other hand, claims the average length of cables in Arizona running directly to the power board is 177 feet and the average cable length running to the battery distribution fuse board (“BFDB”) is 80 feet. Qwest witness Fleming stated that Qwest’s model used lengths of 183 and 83 feet for cable running to the power board and BFBD, respectively, and therefore the model’s results are reasonably reflective of actual results in Arizona (Qwest Ex. 8, at 79).

We believe that the power cable length to be employed in this case should be 70 feet. We agree with WorldCom that using a 70 feet cable length is consistent with Qwest’s own space rent
study which includes a standard length for cabling for a typical central office. The adoption of this shorter cable length is also consistent with the observance of a forward-looking network that includes modern central offices requiring shorter cable lengths.

I. Non-Recurring Charges

1. DS1 and DS3 Loops

We have found that the CLEC sponsored non-recurring charge ("NRC") model properly recognizes the efficiency that will occur in a forward-looking network and we have adopted the CLEC model. Staff points out that, although this conclusion addresses most of the NRCs, Qwest has proposed some NRCs, or a combination of NRCs, that are in addition to those proposed by the CLECs. Staff claims that Qwest is taking the position that, for any variations from the CLECs' supporting NRC schedule (Lathrop Ex. RL-2), Qwest's proposed NRCs would apply. As an example, Staff states that Qwest proposed a NRC of $144.15 for the first “DS1 Loop Installation,” while the CLEC NRC model establishes a rate of $23.40 for this service. However, according to Staff, Qwest is attempting to recover a proposed NRC of $153.26 for a slightly different DS1 installation with “coordinated installation without cooperative testing.” Staff argues that Qwest's position would create the anomalous situation where a DS1 loop would be installed for $23.40 but an almost identical installation that is a “coordinated installation without cooperative testing” would have a rate of $153.26.

Qwest argues that the CLEC NRC model does not include costs for coordinated installations, coordinated installations with testing, and DS1 and DS3 installations. For coordinated installations, Qwest claims that it is necessary to coordinate with the CLEC to make sure the line is cut over. When testing is also requested by the CLEC, Qwest contends that it must send a technician out to the customer premises and test the line to ensure that it is working properly. Qwest argues that these are services required under its SGAT for which real costs are incurred by the Company to provision service to CLECs. Qwest asserts that the CLECs' assumption that these installations can be performed by a simple electronic transaction is unrealistic and will result in under-recovery of costs.

The CLECs contend that any testing costs incurred by Qwest, at the CLECs' request, could be recovered through a miscellaneous charge. With respect to coordinated cut-overs, the CLECs
claim that the same steps are involved as for a non-coordinated cut-over and, therefore, no additional charges should be assessed by Qwest.

We agree with Staff and the CLECs that the anomalous results created by Qwest’s proposed use of its NRC study were not intended. As Staff points out, Qwest’s assertion that coordinated cut-overs are significantly more expensive than non-coordinated cut-overs is belied by Qwest’s own pricing proposal for installation of a DS1 loop. For DS1 loop installations, Qwest has proposed a NRC of $144.15 for non-coordinated and $153.26 for coordinated cut-overs. The minimal difference between the two types of installations supports the CLECs’ claim that no separate additional charge should apply for coordinated installations.

We also agree with the CLECs that the CLEC NRC model provides costs for all NRCs that are required for providing access to UNEs. Therefore, the CLEC model shall be adopted for purposes of establishing NRC prices in this docket.

2. **Connection Charge NRCs**

Staff also claims that Qwest’s position on certain connection charge NRCs creates inconsistent results. As indicated above, we have adopted the CLECs’ NRC model, the charges for which are incorporated in Mr. Lathrop’s Exhibit RL-2. Mr. Lathrop’s exhibit includes a NRC of $7.60 for connecting DS1 and DS3 interoffice, but is silent as to the connection charges for similar facilities that are DS0, OC-3, or OC-12. Staff claims that Qwest is taking the position that the NRCs for these items should be set at the amount proposed by Qwest (i.e., in excess of $300).

We agree with Staff’s arguments on this issue. It is not our intent to produce the result whereby Qwest’s NRC for installing a DS0, OC-3, or OC-12 would be over $300, while installing a DS1 or DS3 would result in a NRC of only $7.60. We therefore adopt Staff’s clarifying recommendation that the $7.60 connection charge and $0.53 disconnection charge contained in Mr. Lathrop’s exhibit should also apply to all similar services including the DS0, OC-3, and OC-12 installations.

3. **Non-Recurring Charges for Features**

Staff raised a related issue regarding NRCs for certain “features” for which Qwest had proposed NRCs but no separate NRC had been proposed by the CLECs.
At the oral argument, the parties agreed that this issue would be addressed in the “switching issues” phase of this proceeding, Phase II A (Oral Arg. Tr. 52). In accordance with the agreement of the parties, this issue will be considered in the Phase II A Order.

J. Overhead Factor

We have found that Qwest’s proposed overhead factor of 13.0 percent significantly overstated the Company’s overhead costs, and have adopted the HAI model’s default 10.4 percent overhead factor. Staff questioned what overhead factors should be used in the models other than the HAI model (such as the collocation model). Staff contends that in the First Cost Docket, Decision No. 60635, the Commission adopted a 15 percent overhead factor, which included all directly attributable costs and common costs. Staff argues that the directly attributable costs included network operations and general support asset expenses. As such, Staff recommends that the Commission adopt the same 15 percent overhead factor in this proceeding, without separate recognition of directly attributable and common costs.

The Commission adopted a 15 percent overhead factor in the First Cost Docket Decision, but separately recognized that an input for network operations was appropriate (See, Tr. 1444-1445).

We agree with Qwest that the 15 percent overhead factor advocated by Staff should be rejected. Although it is unclear what overhead costs were intended to be captured in the 15 percent factor adopted in Decision No. 60635, the fact that the Decision separately recognized network operations expense lends credence to Qwest’s argument that directly attributable costs were not actually captured within the 15 percent factor. Moreover, since we have adopted separate treatments for both network operations and general support assets costs, it is appropriate to adopt the 10.4 overhead factor advocated by the CLEC’s for both the HAI model and the other models adopted in this proceeding.

K. Access to Poles, Ducts, Conduits, and Rights of Way

Qwest proposed a NRC of more than $460 per manhole as a charge for field verification of conduit occupancy for determining whether sufficient space is available on a given route requested by a CLEC for placing its own fiber. We have found that Qwest’s proposed charge was excessive and therefore limited the Company’s charges for conduit occupancy verification to no more than two
hours of engineering time, with the charge applying to no more than half of the manholes along the
conduit route requested by the CLEC.

Staff requests that the rate for each of the other items in this category (i.e., access to poles,
ducts, and rights-of-way) be set at the same proportion to the Qwest proposed rate as the rate adopted
for conduit occupancy.

Although the NRCs associated with these various services are grouped together in a common
price schedule category, we have addressed only the conduit occupancy charge, which was singled
out for criticism by CLEC witness Knowles (AT&T/WorldCom Ex. 11, at 17-19). Mr. Knowles' testimony was limited to that specific charge in Qwest's cost proposal. No witness took issue with the other fees in this category and we decline, therefore, to extend this finding beyond that specific charge.

L. Power and Land and Building Factors

WorldCom witness Lathrop alleged that Qwest improperly applies power and land and building factors to cable racking and other investments (WorldCom Ex. 13, at 40). Mr. Lathrop claims that Qwest applies these factors as a means of spreading the costs of its central office power plants, as well as land and building investments, over its various services. According to Mr. Lathrop, collocation service is different from other general services because collocators pay directly for their proportion of Qwest's power plant, and for their proportionate share of Qwest's land and building investment, through the space rental charge assessed to collocators (Id.). WorldCom claims that allowing Qwest to recover these general factors from collocators would result in double recovery of Qwest's costs.

We agree with Qwest that WorldCom's arguments are misplaced. As Qwest explained, the space within a CLEC collocation area is not assessed power and land and building factors under Qwest's cost study. However, outside the CLECs' collocation cages, where CLEC equipment runs through Qwest's central office space, it is appropriate for Qwest to assess these factors. We therefore reject WorldCom's position on this issue.

...
M. HVAC and Electrical Costs

WorldCom also alleges that Qwest double counts HVAC and electrical costs. According to Mr. Lathrop, this double counting results because Qwest adds HVAC and electrical costs as components of its “standard space construction” cost, while retaining HVAC and electrical costs in its per square foot floor space rental cost (Id. at 51-52).

Qwest contends that it specifically backed out $23.51 per foot for mechanical and electrical delivery in its cost study. Qwest claims that Staff witness Dunkel verified that such costs were backed out of Qwest’s study (See, Staff Ex. 30, at 23).

The record supports Qwest’s contention that costs were backed out of Qwest’s cost study in order to avoid the double recovery of HVAC and electrical costs for collocators (Qwest Ex. 8, at 73).

In addition, we have adopted WorldCom’s recommendation to reduce Qwest’s proposed floor space rental charge by 10 percent, to no more than $3.56 per square foot because it is not clear that all duplicative costs for HVAC, electrical, architectural fees, land costs, site work, landscaping, and Qwest project management were removed from Qwest’s proposed charge. Based on the record evidence, we do not believe that any additional adjustments are appropriate.

N. Individual Case Basis (“ICB”) Pricing

WorldCom opposes Qwest’s proposal to price certain services on an ICB basis, such as for Construction, Adjacent Collocation, and Field Connection Point Construction (WorldCom Ex. 13, at 32). WorldCom claims that such ICB charges are problematic because they can only be quantified after a request is made for the service by a CLEC. WorldCom contends that ICB pricing also puts CLECs at a competitive disadvantage because of delays in getting a confirmed price, as well as Qwest’s superior negotiating position if a CLEC has a need for a specific collocation space. WorldCom also states that ICB pricing of services gives Qwest little incentive to pursue efficiencies and improve the collocation implementation process (Id. at 34).

Qwest contends that ICB pricing is sometimes necessary because, for certain services, the Company has no experience or history that allows it to develop a cost study (Tr. 302). As an

2 Qwest submitted a cost study for Remote Collocation in the Phase II A proceeding, thereby removing that ICB issue from proceeding.
example, Qwest witness Hubbard stated that the Company has no experience in pricing a service such as adjacent collocation (collocation space placed just outside a central office due to space limitations) because no CLEC has previously requested the service (Tr. 306).

Although ICB pricing is, for many reasons, less desirable than UNE prices supported by a cost study, for the few remaining services offered on an ICB basis there is currently no alternative. If CLECs wish to order services such as Adjacent Collocation it is better to have the service available, even at a negotiated price, than to not have the service available at all. However, Qwest is directed to develop cost studies for all services offered in this docket on an ICB price basis in Phase III. Qwest should make every effort to develop reasonable cost-based prices for such services even if it has little or no experience actually provisioning the services.

O. Market Pricing for Information Services and Databases

WorldCom claims that Qwest has proposed unsubstantiated market-based pricing for numerous information services and database elements. WorldCom contends that there is not sufficient evidence in the record to determine if these market-based prices are reasonable. WorldCom argues that Qwest’s witnesses were unable to explain the basis for these prices, other than to observe that there is a “profit” factor built into the rates (Tr. 565, 572-573). WorldCom cites to Decision No. 63487 (March 30, 2001) wherein the Commission approved a settlement agreement in Qwest’s retail rate case that provided, among other things, that “Basket 2 services (including Discount Wholesale Offerings, and wholesale services such as PAL lines) will remain at their current rates until the specific pricing rules are changed or the Commission determines that other prices are appropriate” (Decision No. 63487 at 5). According to WorldCom, until Qwest can provide support for the reasonableness of these market-based prices, the Commission should strike all such prices.

Qwest takes the position that the FCC has “preempted” the Commission’s authority to require that these market-based services be cost-based. According to Qwest, the services at issue have been determined by the FCC to be competitive wholesale services that are available from alternative providers and that it has provided prices for the services in this docket merely as a “courtesy” (Tr. 688). Qwest claims that these rates do not need to be cost-based to be considered reasonable, and the protection against unreasonable rates is the competitive market. Qwest argues that the Commission’s
jurisdiction over the reasonableness of the rates is essentially limited to determining whether the rates
are discriminatory amongst various CLECs. Qwest also contends that, as a practical matter, there is
no alternative to the rates proposed by Qwest because the CLECs did not present any alternative
prices for the Commission's consideration (See, Oral Arg. Tr. 86-98).

In the passage quoted above from Qwest's last rate case Decision, it is clear that the
Commission intended to retain jurisdiction over the reasonableness of the wholesale rates contained
in Basket 2 of Qwest's rates. We do not agree with Qwest's view of the limited scope of our
jurisdiction over market-based rates and, although no alternative prices have been proposed by the
intervenors in this proceeding, we do not believe that the record supports adoption of Qwest's pricing
proposals on these issues.

In Qwest's last rate case, the Commission adopted a settlement agreement that provided,
among other things, that Basket 2 (wholesale) services "will remain at their current rates until the
specific pricing rules are changed or the Commission determines that other prices are appropriate"
(Decision No. 63487, at 5). Qwest has not previously submitted these services for a determination
that they should be deemed "competitive." Nor has Qwest provided sufficient justification for the
reasonableness of its proposed rates, in the form of cost studies or other supporting documentation
(Tr. 689).

Given the lack of supporting evidence, it is not appropriate at this time to approve Qwest's
proposed prices for these services. If Qwest desires to have these services deemed competitive
services, it should submit the appropriate tariff filings pursuant to the Commission's rules and
Decision No. 63487. Until the Commission orders otherwise, the proposed prices will be denied.

P. Directory Assistance Listing ("DAL") Information Database

WorldCom contends that Qwest must provide DAL information at cost-based, non-
discriminatory rates. WorldCom asserts that, although the FCC has determined in the UNE Remand
Order that directory assistance and operator services ("OS/DA") are not considered UNEs if
customized routing is provided, DAL is distinguishable from OS/DA in that it is the underlying
customer listing information that assists callers in finding a customer listing or completing a call.
Qwest argues that there is no legal basis for subjecting it to regulated rates for providing access to its DAL database because that database is part of the OS/DA UNE that the FCC removed from the list of elements to be unbundled, upon determining that it does not meet the "impairment" standard of 47 U.S.C. §251(d)(2). Qwest claims that the FCC’s decision is dispositive of the issue raised by WorldCom and, therefore, the DAL database is not subject to cost-based UNE pricing.

According to WorldCom, even if the DAL database is no longer considered a UNE by the FCC, there is nothing that prevents the Commission from declaring it as such under §251 of the 1996 Telecom Act. WorldCom contends that Qwest remains the only reliable source for DAL information and that, without such data, CLECs are placed at a direct competitive disadvantage. WorldCom claims that several states have treated DAL as a UNE, including New York and Texas, which have set DAL database prices at levels significantly lower than those proposed by Qwest. WorldCom witness Caputo testified that the DAL database rates set in Texas and New York range from $0.001 to $0.005 per listing, compared to Qwest’s proposed rate of 2.5¢ per listing (WorldCom Ex. 17, at 11).

We agree with WorldCom that the FCC’s UNE Remand Order does not preclude the Commission from setting reasonable DAL prices. However, as WorldCom suggested at the oral argument, the cost-based analysis of Qwest’s provision of DAL database service would need to be addressed in a subsequent phase of this docket (Oral Arg. Tr. 99). Accordingly, we direct Qwest in Phase III to submit a cost study that identifies its TELRIC-based costs in provisioning such service to CLECs.

Q. ICNAM Database

The proposed "ICNAM" service allows CLECs to query Qwest’s ICNAM database to secure the listed name information associated with a requested telephone number, in order to deliver that information to the CLECs’ end users. WorldCom proposed that the ICNAM database be made available to CLECs on a “batch” basis rather than on a per query basis.

The parties have agreed that, because this issue is being addressed through the Commission’s §271 Workshop process, there is no need to separately decide the issue in this proceeding (See, Oral Arg. Tr. 102-103).
R. Transport

Qwest contends that, since we have adopted the HAI model sponsored by the CLECs, the outputs derived from the HAI model for transport rates should also be adopted. AT&T argues that it never sponsored the HAI model for the purpose of establishing transport rates but, rather, proposed that transport rates be determined by making adjustments to the Qwest model. AT&T states that Qwest never questioned the CLECs' transport pricing proposal until Qwest's exceptions to the Recommended Order were filed. AT&T claims that it is inappropriate to use the HAI model for transport pricing because HAI develops averaged pricing rather than breaking transport into a fixed piece, and then adding a per mile charge. AT&T states that this is the manner in which transport is typically priced and it is the method that was advocated by all parties in this proceeding.

AT&T further contends that it could not have used HAI to develop transport rates in this case, because it would have needed wire center specific information regarding the amount of traffic flowing between Qwest's central offices to develop such rates, and that information is within Qwest's exclusive control. AT&T also asserts that the Colorado Commission recently determined that average transport prices produced by the HAI model would produce discriminatory results because a CLEC that orders a shorter transport would be paying more than the cost of the element. AT&T argues that, since no party in this case advocated use of HAI for setting transport prices, it is inappropriate to use HAI for that purpose.

Qwest contends that AT&T's proposed rates for dedicated transport would fall significantly below the HAI model's results, below the norm in Qwest's region, and below the rates adopted in the states for which the FCC has granted Section 271 approval. Qwest argues that AT&T has not provided any plausible reason for selectively abandoning its own cost model for setting transport prices and that AT&T's own witness, Mr. Denney, endorsed the use of the HAI model of setting transport prices. Mr. Denney testified that the HAI model "employs numerous optimization routines that ensure ... efficient interoffice fiber optics transport rings" (AT&T/WorldCom Ex. 3, at 12).

Qwest further contends that although it was advocating the use of its own ICM model for both the loop cost and transport, it is entitled to ask that the HAI model be applied consistently and not just where it creates the greatest advantage for the CLECs.
We believe that consistency requires adoption of the HAI model’s results for both loop costs and transport. As Qwest points out, any UNE pricing inquiry necessarily involves some cost averaging among different kinds of facilities. Even loop costs within a given zone require averaging of costs for different loop lengths within that zone. Accordingly, we will adopt the HAI model’s results for purposes of pricing transport in this proceeding.

Although we are adopting the HAI model’s results at this time, we believe that this issue should be re-examined in Phase III so that a full record may be developed. AT&T points out that in order to achieve appropriately deaveraged prices, it needs to input wire center specific data that is in Qwest’s exclusive control. In Phase III, Qwest should provide the parties, through discovery, the wire center specific information necessary for the CLECs to determine how the HAI model can be deaveraged into appropriate fixed and per mile components.

S. Campus Wire Element

During the oral argument, counsel for Qwest stated that there was not sufficient evidence presented at the hearing to determine a campus wire rate, as was advocated by Cox (Oral Arg. Tr. 120-122). Qwest is attempting to reargue an issue that we have fully discussed and decided. We have concluded that Qwest should price both campus wire and intrabuilding cable at the same "on-premises wire" price, as proposed by Cox. No additional discussion is required regarding this issue.

T. Miscellaneous Issues

Staff stated that that there were a number of issues for which there was no evidence in the record to base a decision. Staff specifically named multiplexing, OC-3 and OC-12 UDIT, OC-12 and OC-48 (extended unbundled dedicated interoffice transport and side channelization), unbundled dark fiber, trunk ports, SS7, line information database, 8XX database query service, miscellaneous elements, channel regeneration, and UNE-P new connections as examples of issues where sufficient evidence does not exist in the record for purposes of rendering a decision (Staff Exceptions at 9). Staff suggests that, if no existing rate for these elements exists, the Commission should set interim rates using a default calculation based on a ratio of the statewide average loop rate approved by the Commission compared to the statewide average loop rate proposed by Qwest in this proceeding (Id. at 10).
AT&T argues that, "[B]ecause of the overwhelming number of rate elements proposed by Qwest in this proceeding, no party could specifically analyze each proposed cost study and model" (AT&T Response to Questions Raised During January 25, 2002 Oral Argument, at 7). AT&T recommends that, for those elements that the CLECs and Staff have been unable to provide specific evidence regarding the Qwest proposals, the Commission should adopt Staff's recommendation to set interim rates based on a default calculation. AT&T argues that, at a minimum, the Commission should adjust the rates proposed by Qwest to recognize that those rates are based upon excessive overhead calculations as determined by the Recommended Order.

Qwest opposes Staff's interim rate proposal for these miscellaneous elements. Qwest argues that it presented cost studies for its proposed rates and the time to challenge its studies or propose adjustments was during the evidentiary hearing.

We do not believe it is appropriate to adopt prices for services for which there is not an adequate record. Therefore, we will not adopt Qwest's proposed rates for these miscellaneous services; nor will we adopt Staff's proposed formula for calculating prices for these services. We believe it is in the best interests of all parties to promptly meet to attempt to resolve the pricing issues associated with these services and, if necessary, resolve them in Phase III.

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12. On November 8, 2001, a Recommended Opinion and Order was issued.
13. On December 12, 2001, various parties filed exceptions to the Recommended Order.
14. On December 19, 2001, compliance price schedules were filed.
15. On January 3, 2002, Qwest filed a response to the other parties' exceptions.
16. Oral arguments were held on January 25, 2002 to discuss issues that were unresolved by the Recommended Opinion and Order.
17. On February 1, 2002, the CLEC's and Staff filed responses to Qwest's exceptions.
18. On February 8, 2002, Qwest filed a reply to the CLEC and Staff responses.
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