I. Introduction

Staff appreciates the additional guidance provided by the Administrative Law Judges ("ALJs") in the Supplemental ROO. With that additional guidance, the parties are now in the process of calculating the rates that comply with the ROO and Supplemental ROO. Overall, Staff believes the ALJs have done an excellent job of dealing with a very complex case. There are approximately 300 rates being considered in this proceeding. Staff believes the ALJs have done a very good job in analyzing the huge amount of information pertaining to this large number of rates, and achieving fairness. Staff’s takes only minor exception to the Supplemental ROO’s provisions.

II. Discussion

A. Qwest’s Collocation Study Is Flawed and the Supplemental ROO Appropriately Recognized this Fact.

The Supplemental ROO at pages 5 and 6 properly recognizes that the 41 collocation jobs on which Qwest based its collocation, line sharing and CLEC-to-CLEC material costs were unrepresentative. All of those 41 jobs were done by outside contractors. The evidence in this case shows that the outside contractors also supplied materials. (For example, see pages 5 and 10 of Staff Cross-Examination Exhibit S-22) As the Supplemental ROO properly states, in reality, approximately 80% of the Qwest Arizona collocation jobs are done by Qwest’s own affiliated
personnel. Qwest is a high volume purchaser that obtains discounted volume pricing for their telecommunications materials. The ROO and Supplemental ROO properly recognize that the 41 collocation jobs were all done by outside contractors, and are not representative of the average Qwest collocation project. The Supplemental ROO’s finding in this area is correct, and any challenges should be rejected.

**B. More Specification is Needed In Some Instances as to the Rates to be Deferred to Phase III.**

The ROO and Supplemental ROO defer several rates to Phase III. In addition, there are some additional services for which the ROO and Supplemental ROO do not contain enough information to determine the rates. For example, for “manhole verification inspector, per manhole”, Qwest proposes a non-recurring rate of $286.98. (Exhibit MA-1R) Joint Interveners propose a rate of zero for this item. (AT&T Exhibit MH-1R). The Supplemental ROO provides little guidance as to which of these two proposed charges should be adopted, or what charge is appropriate. (See pp. 10-11 of Supplemental ROO) Therefore, Staff cannot calculate compliance rates. This and other similar issues are, therefore, effectively deferred to Phase III. Staff will identify the additional issues that Staff believes have been effectively deferred to Phase III in the Price List that it will file shortly. Page 18 of the Supplemental ROO specifically defers many rates to negotiations, or Phase III if necessary. Staff recommends that the Order specifically state that those rates that are not otherwise dealt with are deferred to Phase III.

**C. The Supplemental ROO Should Clarify that Qwest’s Proposed Rates that are Deferred to Phase III are “Interim Rates” Subject to True-Up and Refund Once Permanent Rates are Established in Phase III.**

There are rates that the Supplemental Order expressly defers to Phase III. Some interim rate mechanism is necessary in the event that a CLEC desires to obtain these services prior to the order in Phase III.

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1 This “manhole verification inspector” charge is not the same as the Qwest proposed “field verification fee, per manhole” charge, which is addressed n page 34 of the ROO.
Staff's interim rate recommendation is as follows:

1. If the service is currently offered, and the rates have previously been reviewed and approved by the Commission, then the current rates should continue in effect until different rates are established in Phase III. These rates would not be subject to refund, since they are the continuation of the existing, approved rates.

2. If, however, the service is a new service with a new rate proposed by Qwest that has not been reviewed and approved by the Commission, then the interim rate would be no more than the rate Qwest has proposed. Staff believes that the Commission should further specify that the Qwest proposed rate is an "interim rate", subject to true-up and refund once permanent rates are established in Phase III.

III. Conclusion

Staff commends the Hearing Division for reaching a fair and balanced resolution of the issues raised in this Docket. Staff recommends adoption of the Supplemental ROO, with the minor changes suggested herein.

RESPECTFULLY submitted this 21st day of March, 2002.

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2 For example, there are currently rates in effect that allow CLECs to utilize Qwest manholes, conduits, and poles. Qwest proposes rates for "inspections" or "verifications" prior to the installation of CLEC cables in Qwest conduits and manholes, as part of the preparation of a service for which there is an existing rate.

3 The Qwest proposed rate would be adjusted for the 10.4% overhead (SROO, page 10). This would generally reduce the Qwest proposed rate by 1% to 2%.
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