BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILLIAM A. MUNDELL
Commissioner
JIM IRVIN
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF INVESTIGATION INTO QWEST CORPORATION'S COMPLIANCE WITH CERTAIN WHOLESALE PRICING REQUIREMENTS FOR UNBUNDLED NETWORK ELEMENTS AND RESALE DISCOUNTS.

DOCKET NO. T-0000A-00-0194
PHASE II-A

QWEST CORPORATION'S MOTION TO REOPEN THE RECORD AND MODIFY THE DECISION

Pursuant to A.R.S. Section 40-252, Qwest Corporation ("Qwest") submits the following Motion to Reopen the Record and Modify the Decision in Decision 65451 issued in Phase IIA of this docket.

Qwest requests that the Commission reopen the Phase IIA wholesale cost proceeding docket for the limited purpose of eliminating the inconsistency between the Commission-ordered analog port rate of $1.61 and other provisions of the Order that establish the methods and assumptions to be used in calculating the analog port rate. In its January 11, 2003 compliance filing in the Docket, Qwest filed a port rate of $2.44. As explained below, this port rate was produced by the HAI model that the Commission adopted in both Phase II and IIA, using the inputs to the model that the Commission ordered in its Phase IIA Decision. Because this port rate of $2.44 is the precise rate that results from the model and the inputs the Commission has adopted, it is the only rate that
is consistent with the Commission’s adopted methodology for setting rates in this proceeding. Accordingly, to reflect the cost and pricing methodology that the Commission has ordered, the Commission should replace the $1.61 figure adopted in the Decision, which is not supported by any economic model.

1. The Commission’s Phase IIA Decision Adopts both the HAI Model and Specific Input Factors for Use In Establishing Switching Rates, Including the Analog Port Rate.

In its January 11, 2003 Compliance Filing, Qwest noted that “[a] dispute remains between the parties with respect to Sections 9.11.1 and 9.11.2 regarding recurring rates for Analog Line Side Port for the first port and each additional port as set forth in Exhibit A.” Qwest realized that there is a disagreement over the port rate when it ran the HAI model in an effort to complete a compliance filing implementing the Decision. The compliance run of HAI revealed that that when the model is run with the inputs the Commission ordered in the Phase IIA decision, it produces the port rate of $2.44. Significantly, AT&T acknowledges, and no other party disputes that the model produces the port rate of $2.44, not $1.61, when it is run with the inputs the Commission ordered. This substantial discrepancy between the $1.61 rate in the Decision and the $2.44 that HAI actually produces should be corrected.

The record clearly indicates that the Commission adopted the HAI model for the purpose of establishing UNE rates in Phase IIA. As the Commission stated:

[W]e therefore adopt the HAI model proposed by Staff and the CLECs for purposes of establishing rate elements for the switching issues addressed in this Order. Consistent with our Decision in Phase II (decision No. 64922), unless otherwise indicated in the discussion of issues that follows below, the HAI model inputs advocated by the CLECs shall be adopted for the purposes of setting UNE rates in this Phase IIA proceeding (Phase IIA Decision , pg.6).

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1 Qwest Compliance Filing, January 11, 2003, pg. 1.
In adopting the HAI model, the Commission reiterated its prior determination that the HAI 5.2a model "provides the most appropriate measure of determining TELRIC-compliant, forward-looking costs and prices for UNEs, when used as a starting point and subject to the determination of specific inputs..."\(^3\) Accordingly, the Commission clearly intended to adopt the UNE rates produced by HAI using the Commission-ordered inputs. In the Phase IIA Decision, the Commission specifically adopted four modifications to the CLEC-proposed inputs to the HAI model for calculating switching costs:

- An 80 percent switch fill factor.
- Elimination of the analog circuit offset.
- Use of “billable” minutes instead of total Dial Equipment Minutes (DEMs).
- A 60 percent assignment of the total switch cost to the port instead of 30 percent.

As AT&T acknowledges\(^4\) and no other party disputes, revising the HAI model to incorporate these four Commission-ordered switching inputs (in conjunction with all other general inputs adopted by the Commission in the Phase IIA Decision) produces the following switch rates:

- Analog Line Port = $2.44
- Non-Port Switch per MOU = $0.00097

Accordingly, Qwest included these rates in its Phase IIA compliance filing. While the Commission-ordered inputs produce an Analog Line Port cost of $2.44, the Commission’s Phase IIA Decision nevertheless adopts an analog port rate of $1.61\(^5\). This rate is indisputably inconsistent with, and unsupported by, the cost model and associated inputs and assumptions adopted by the Commission in its order.

\(^3\) Phase IIA Decision, pg. 6.
\(^4\) At the January 27, 2003 Procedural Conference, AT&T Attorney Wolters agreed that “making the changes that the Commission has adopted would produce a $2.44...port rate.” Transcript, pg. 12.
\(^5\) Decision No. 65451 at page 16.
As stated, no party disputes that running the HAI model with the Commission-ordered inputs would result in the $2.44 port rate Qwest included in its compliance filing. The ordered rate of $1.61 was only derived using the HAI model with mistaken inputs supplied by Staff's consultant that are not found in the Commission Order; consequently, that rate should be modified.

2. The Commission's Decision to Adopt the $1.61 Analog Port Rate Was Based Upon Incorrect Information Provided at the December 9, 2002 Open Meeting

In adopting the $1.61 analog port rate reflected in the Decision, the Commission relied upon an incorrect estimate of the HAI port costs submitted by the Staff's consultant at the Commission's December 9, 2002 Open Meeting. In response to Commissioner questioning regarding the basis for Staff's position supporting a $1.61 analog port rate, Staff Consultant Dunkel indicated that the proposed rate was “a good recommendation.” Mr. Dunkel specifically stated that this port rate was calculated by using a “40 percent distribution instead of 30 percent to port.” As noted above, however, the Commission specifically ordered the assignment of 60% of switching costs to the port rate, not the 40% that Mr. Dunkel assumed in recommending $1.61. Thus, the recommendation of an analog port rate of $1.61 was based on a mistaken representation to the Commissioners that this rate was a close, if not identical, approximation of the expected results of the HAI model using Commission-adopted fill factors and cost assignment variables. During the same discussion before the Commission, AT&T also took this position. The

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7 December 9, 2002 Open Meeting Transcript, pg. 49.
8 At the Open Meeting, AT&T’s Attorney Wolters commented on staff’s position, saying “what Staff’s overall recommendation says is that its taken all this in consideration, and $1.61 is still reasonable, and that is roughly what it [an HAI model-generated analog port rate] would come to. Like they said, you are
calculations rendered as "evidence" at the Open Meeting simply were incorrect. Neither party contended that the $1.61 rate was justifiable for any other policy or evidentiary reason. Nor did either party take the position that Qwest was not entitled to recover costs appropriately identified by the HAI model.

Since, as noted above, the Commission Order clearly requires a 60 percent assignment of switching costs to the port, as opposed to the 40 percent assignment cited by Mr. Dunker, the Commission should re-open the record to modify the adopted-rate to correspond to Commission-adopted assumptions. The Qwest Compliance run is based on the 60 percent assignment of costs to the port that was adopted by the Commission in its order. The remaining 40 percent of the switching costs in the Qwest compliance run is assigned to the local usage rate. Should the Commission decide to maintain the $1.61 Analog Line Port rate proposed by Mr. Dunkel and also utilize its adopted compliance rate for Non-Port Switch usage rate of $0.00097 per MOU, Qwest would be precluded from recovering the switch costs produced by the HAI model with ordered inputs. In fact, this combination of (1) a port rate that indisputably recovers only 40% of total switching costs and (2) a non-port switch usage rate that also recovers only 40% of total switching costs results in a total switching cost recovery of just 80%. In other words, Qwest would arbitrarily be denied recovery of 20% of the switching costs it will incur in violation of its statutory right to recover the costs of providing UNEs through rates that are "just and reasonable."9 If the Commission were to retain the $1.61 port rate, it would, therefore, have to increase the non-port switch usage rate to $0.00146 to recover the 60% of switch costs that would not be assigned to the port.

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at $1.10 now. They basically took $1.10 from the Hatfield model, and said that includes 51 cents for features. They are basically saying we are not going to use that analysis anymore. If you use the 60-40 you adopted, it would come out to roughly $1/42, somewhere in there. You use the fill factor, you have to add roughly 15 percent going from 94 to 80, which would add roughly 21 cents, and then you come up to roughly $1.63, which is only 2 cents more than your $1.61.”

9 See section 252(d)(1)(A) of the Telecommunications Act of 1996.
Qwest respectfully submits that the Commission intended that the switch rates rely on the cost results from running the HAI model with ordered inputs consistent with its determination that HAI produces "the most appropriate measure of determining TELRIC-compliant rates." Given the extensive discussions of HAI model switching inputs in the Phase IIA Decision, Qwest submits that the Commission did not intend to set a switch rate independent of the HAI model and its ordered inputs.10 And, here, all parties agree that the rate of $2.44 from the Qwest compliance run accurately and properly reflects the results from HAI when the model is adjusted to incorporate the inputs the Commission ordered. The extensive discussion in the Phase IIA Decision concerning the rationale for adopting inputs derived from the HAI model supports this conclusion. Accordingly, it is inappropriate to implement an Analog Line Port rate inconsistent with the ordered switch inputs discussed in the Decision.

3. Conclusion

For these reasons, the Commission should permit the addition of Qwest's HAI runs to the record and then adopt the $2.44 port rate proposed by Qwest. Any other decision would be inconsistent with results of the economic model endorsed by Commission and would deny Qwest the recovery of the switching costs it will incur.

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10 During the December 9, 2002 Open Meeting discussion on this issue, Commission Spitzer clearly stated that it was the Commission's intent to employ the HAI model to determine the appropriate inputs for the analog port rate: "It is my view that the Recommended Opinion and Order correctly selected the HAI, and I believe the HAI is consistent with federal law. So my amendment [to establish an 80 percent fill factor], it is my intent to continue with the HAI." Transcript, pg. 59.
Dated: February 11, 2003

Respectfully submitted,

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