BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

The Commission, on its own motion, to investigate and seek comment on cost models for the following: (1) unbundled network element(UNE) pricing; (2) developing zones to de-average rates on a geographical basis; (3) determining zones for universal service (USF) payments; (4) establishing a permanent funding mechanism for USF payments; and (5) determining whether all subsidies have been removed from access prices.	Docket No. C-2256/PI-38 OPENING OF NEW DOCKET; ORDER SETTING COMMENT PERIOD AND FINDINGS AND CONCLUSIONS
In the matter of the application cation of the Public Service Commission, on its motion, to seek comment on the establishment and implementation of de-averaged rates for unbundled network elements (UNEs) pursuant to the rules of Federal Communications Commission Section 51.507(f).	Docket No. C-2172/PI-34
The Commission, on its own motion, to determine the appropriate price for Expanded Interconnection Channel Termination (EICT).	Docket C-2498/PI-47 Entered: March 20, 2001

BY THE COMMISSION:

B A C K G R O U N D

A. Procedural History of Docket No. C-2256/PI-38

On March 28, 2000, upon its own motion, the Nebraska Public Service Commission (Commission) opened C-2256/PI-38. In our Order Opening Docket And Seeking Comment, we identified five tasks and outlined several issues for which we sought public comment. We also identified three forward-looking cost models and requested comments on how well each model could accomplish the Commission's five objectives. The models identified by the Commission were Benchmark Cost Proxy Model (BCPM), Hybrid Cost Proxy Model (HCPM) and Integrated Cost Model (ICM). The Commission afforded interested parties the opportunity to submit alternative forward-looking cost models for Commission review. AT&T submitted its Hatfield Associates Incorporated (HAI) cost model.

On May 10, 2000, in granting a motion filed by a number of rural companies, the Commission bifurcated C-2256/PI-38. A separate timeline was established for rural companies in C-2290/NUSF-22.

On May 24, 2000, upon the motion of Qwest Corporation (f/k/a US West Communications, Inc.) the Commission entered a protection order which subjected the proprietary information pertaining to Qwest's ICM model and vendor-specific inputs to confidential treatment by the Commission.

On June 6, 2000, the Commission staff released its initial proposal with respect to cost models. The comment period on the staff's initial proposal was temporarily suspended because of a decision handed down by the Eighth Circuit in Iowa Utilities Board, et. al., v. Federal Communications Commission, Case No 96-3321 (8th Cir., July 18, 2000). The Commission also suspended the timeline established in C-2290/NUSF-22 pending a round of comments on the Eighth Circuit's decision.

On June 14, 2000, the Commission granted Qwest's Motion for extraordinary protection under the protection order adopted on May 24, 2000, as it pertained to third party vendor-specific information.

In response to motion filed by AT&T, the Commission extended the time period for filing comments until August 4, 2000, for initial comments and August 21, 2000, for reply comments.

On October 31, 2000, the Commission staff released its initial recommendations on geographic deaveraging. The Commission solicited comments on the staff recommendations and held a hearing in legislative format on December 5, 2000, in which the parties discussed the initial staff recommendations. The Commission also held a work session on December 20, 2000, where the staff explained its recommendations to the Commission and the interested parties.

On January 9, 2001, the Commission entered an order wherein we determined that zones for deaveraging rates on a geographical basis will be determined by grouping entire wire centers. On January 23, 2001, the Commission entered an order to merge three issues from C-2256/PI-38 into
C-2172/PI-34. In our January 23, 2001, order we
further sought comment on the staff's pricing recommendations and set the matter for hearing. The Commission staff released a third set of recommendations to the Commission on February 13, 2001. A hearing in legislative format was held on February 20, 2001. The Commission staff, Qwest, AT&T and ALLTEL participated in that hearing.

B. Procedural History of Docket No. C-2172/PI-34

On December 7, 1999, the Commission opened C-2172/PI-34, on its own motion, to seek comment on the establishment and implementation of de-averaged rates for unbundled network elements (UNEs) pursuant to the Rules of the Federal Communications Commission Section 51.507(f). The Commission received comments from a number of parties including AT&T, Qwest, ALLTEL, Sprint and Nebraska Independent Telephone Association (NITA). A petition of formal intervention was filed by Rhythms Links, Inc.

By order entered, January 23, 2001, the issues labeled (1) through (3) from Docket No. C-2256/PI-38 were merged into Docket

No. C-2172/PI-34. Parties were given the opportunity to comment in the merged dockets and a hearing was held on February 20, 2001, as stated above.

O P I N I O N S A N D F I N D I N G S

On October 31, 2000, the Commission heard staff's initial recommendations on geographic deaveraging and pricing of loops as UNE's. These recommendations addressed two issues; namely, how zones should be created and how prices should be determined. On January 9, 2001, we issued an order addressing the first of these issues. Based on staff's recommendations, analysis of the facts and comments received from the companies, the Commission ordered that entire wire centers should be grouped into UNE price zones. At that time, we did not rule on a methodology for determining prices.

In its October 31, 2000 comments, the staff made its first recommendation for a methodology to create UNE zone loop prices. This methodology calculated UNE prices as a weighted average of a company-wide price. A mathematical formula was introduced as a technique for calculating the resulting weighted average price in each UNE zone. If the number of lines in zones 1, 2 and 3 are represented as n_1, n_2 and n_3, respectively, and the average direct loop cost [per line] in each zone is represented by c_1, c_2 and c_3, then the weighted average price in each zone, P_1, P_2 and P_3, can be calculated so that:$(P_1n_1 + P_2n_2 + P_3n_3) /(n_1 +n_2 +n_3)$ = (an average price); and $P_1 = P$, $P_2 = P(c_2/c_1)$, $P_3 = P(c_3/c_1)$.

On January 23, 2001, the Commission staff presented results of its review of comments from the October 31, 2000, hearing as well as alternatives to its initial recommendations. At that time the staff proposed a second alternative methodology for calculating UNE zone loop prices. The second methodology calculated loop costs in each zone using a forward-looking cost model.

The latest UNE loop pricing hearing was held on February 20, 2001. At that time the staff proposed a third alternative for calculating UNE prices. It suggested that rates determined under the first and second methodologies simply be averaged together. This would create a blended rate that balanced a weighted average interconnection price against a measure of cost. The final staff recommendation was based upon the entirety of evidence presented at the previous two hearings and upon examination of the methods adopted by other state Commissions and Boards in Qwest's territory. It was the opinion of the staff that both methods were valid for calculating loop rates. With this belief, the final staff recommendation set prices for the three zones based on the average of the two methods.

During the hearing of February 20, 2001, the staff discussed methodologies used by other states. A summary of the staff's findings indicates that there was no universally-accepted technique for creating UNE zone prices. Some states deaveraged prices. Others calculated costs. There was no universally accepted cost model either. States used HAI, BCPM, RLCAP, ICM and various combinations of those models. There was an averaging of results across models and application of adjustment factors.

The companies providing testimony and comments on this issue have a variety of opinions as well. Qwest strongly endorses basing loop rates on forward-looking costs and urges that ICM is the appropriate forward-looking cost model. It only reluctantly supports the use of BCPM. AT&T argues that deaveraging the current interconnection price is the appropriate way to set loop rates. For deaveraging purposes alone, it could support use of most forward-looking cost models. However, if the Commission insists on calculating prices from forward-looking costs models, AT&T endorses the HAI model. In hearings and in its comments, ALLTEL supports the staff's third recommendation. ALLTEL's witness expressed the opinion that if deaveraging is based solely on results derived from the HAI model they would be biased toward competitive local exchange carriers (CLECs). He also implied that costs developed from BCPM would be biased toward incumbent local exchange carriers (ILECs). Hence, an averaging would be a reasonable compromise between both party's interests. Citizens supports the use of its CMWM cost model and urges that the Commission use company-specific inputs. Sprint supports the use of its enhanced version of BCPM.

Upon review of all of the materials related to this docket, the Commission feels that both the weighted average and cost methods proposed by the staff are reasonable. Variations of both methods have been endorsed by at least one participant in this hearing and have been used by regulators in other states. AT&T supports results derived from the HAI model. Other states have based rates on the HAI model. Qwest and other carriers support use of the BCPM model and other states have used it to determine rates. Furthermore, many states within the region have averaged across models and methodologies to calculate UNE rates. This Commission feels that since neither a specific technique nor model has been either ubiquitously adopted by other states or endorsed by the carriers, it is prudent to average results across models and techniques. Therefore, the Commission accepts the staff's third recommended procedure for calculating UNE zone loop prices. We find that averaging results derived by the staff's first two recommended methods provides the most reasonable approach to the initial step in setting UNE rates in Nebraska.

Several other issues have been raised during the course of this proceeding. We feel it is appropriate at this time to address those issues.

A. Selection of a cost model

A cost model is needed to calculate the direct and full loop cost within each wire center. The Commission has before it four

models to use in determining costs. They are HAI, HCPM, BCPM and ICM. In its universal service cost docket (C-1633), the Commission carefully considered the HAI and BCPM models. In that docket we recommended to the Federal Communications Commission (FCC) a model for use in calculating federal universal service support. The Commission chose to recommend the BCPM model rather than HAI because we felt that it was "more prudent to select a platform that we are confident will ensure a quality network in high cost areas of our state." (Order in Docket No. C-1633, April 27, 1998 at 3)

The FCC ultimately developed its own model, the HCPM, for federal universal service calculations. HCPM contains its own customer location and plant design algorithm. It amends the plant design results to the reporting modules of the HAI model to generate its final output. HCPM produces copious output and it is possible to use HCPM to calculate direct loop costs by wire center. However, this Commission has never formally reviewed HCPM. The Commission has never held hearings or requested comments on the appropriateness of the HCPM for either universal service or UNE pricing purposes. The FCC has never recommended the HCPM for calculating UNE prices.

Qwest has put forth its ICM model for consideration as well. Although a docket is open (C-1415) which includes the proposal to use ICM to calculate costs, the Commission and its staff have not completed a thorough review of the ICM model. In addition, ICM is applicable to Qwest alone and cannot now be used to determine zone prices for companies other than Qwest. This defeats the Commission's desire to devise a methodology that can be used for all non-rural carriers.

The Commission has already extensively reviewed the BCPM model for federal universal service purposes. In densely populated areas, BCPM's plant assumptions reasonably mirror actual investment patterns for the reasons mentioned above. The staff in its January 23, 2001 recommendation endorsed the use of BCPM to calculate loop costs for UNE deaveraging. We agree with the staff's analysis and recommendation for the same reasons and adopt the BCPM 3.1 for use in calculating direct and full loop costs for purposes of determining UNE loop prices.

B. Selection of an input data set

The BCPM model was first submitted to the Commission for consideration during the Commission's consideration of the appropriate model to use in determining federal universal service support. With federal universal service as its purpose, BCPM was initially populated with an input data set reflecting average national costs. National figures were used for cable and placement costs, capital costs, depreciation rates and salvage values. Extensive hearings and workshops were held, in part, to discuss the appropriateness of those inputs. Ultimately, the Commission recommended that the FCC adopt BCPM version 3.1 with most of the initial inputs. However, we recommended substituting new capital costs, depreciation rates and salvage values into that data set. For clarity, this has been called the adjusted national data set.

Subsequent to our recommendation to the FCC of BCPM with the adjusted national data set, Qwest recommended a different input data set-specific to Nebraska. According to Qwest, this new, Nebraska-specific data set is more reflective of Nebraska costs. Some of its fiber and copper cable costs are higher than in the adjusted national data set. Others are lower. Facilities sharing percentages tend to be higher in the data set reflecting Nebraska costs than in the adjusted national data set. Many inputs, however, are identical in both data sets.

Our preferred capital costs, depreciation rates and salvage values can be substituted into Qwest's Nebraska specific data set as well. This creates a third data set that is most reflective of costs in Nebraska. For clarity, this is called the adjusted Nebraska data set.

Analysis by the Commission's staff indicates that UNE direct loop costs generated by using BCPM's initial input data set are similar to results generated using the adjusted Nebraska data set. Given that the two data sets have many common values, produce similar results and that the adjusted Nebraska data set more accurately reflects cable costs in Nebraska, we accept the use of the adjusted Nebraska data set, which includes the indicated changes in capital costs, depreciation rates and salvage values.

C. Selection of a company-wide average price

As for the appropriate company-wide average price, comments submitted by both AT&T and ALLTEL support use of the existing interconnection price of $15.79. In its comments, Qwest indicated its belief that while the Commission could use the interconnection price, it would be more appropriate to use the UNE price proposed by Qwest in the Docket C-1415 or the Total Element Long Run Incrimental Cost (TELRIC) price as established in its ICM model.

The Commission is of the opinion that the interconnection price of $15.79 is a valid price upon which to deaverage loop rates for Qwest. This rate was established as a company-wide average price after a well documented arbitration process. We see no reason to question that process and therefore, we accept as a starting point the use of the interconnection price of $15.79.

Additionally, by a joint application filed September 21, 1999, amended February 28, 2000, Qwest and Citizens sought authority to sell 14 of Qwest's exchanges to Citizens. The exchanges for sale included: Ainsworth, Atlanta, Emerson, Farwell, Howells, Humphrey-Creston, Oxford,
Randolph, Silver Creek, St. Libory, Atkinson,
Pilger, Valentine and O'Neill. On May 10, 2000, the Commission entered its findings and conclusions, which, inter alia, authorized the proposed sale of these exchanges to Citizens. However, that transaction has not yet closed.

The Commission suspects that this sale will close within the next month or two. No comments were received in opposition to the Staff's recommendation to exclude these 14 exchanges from our calculation of Qwest's deaveraged UNE loop rates. Therefore, the

Commission finds that it would be more appropriate to exclude these exchanges from our calculation of Qwest's deaveraged UNE loop rates. This lowers the Qwest-specific interconnection price to $14.32.

D. Placing wire centers into zones

After examining output from the BCPM model, staff proposed the creation of three UNE price zones. Based on wire center costs and locations, relatively low-cost urban wire centers were classified as zone 1. Zones 2 and 3 contained the remaining higher-cost, more rural wire centers. Natural break points in costs, along with geographic considerations were used to place wire centers in each of the three zones.

The Commission does not want to define zones so narrowly as to devoid them of economic meaning. Neither do we want to define zones so broadly as to combine high-cost and low-cost wire centers. We feel that a careful analysis of costs and competitive realities is most useful in creating zones. The Commission is confident that the staff used such a process to determine zones in this case. We endorse those zones recommended by the staff.

E. Allocation of common costs to calculate full loop cost

In its March 6, 2001, comments to the Commission, Qwest contended the zone prices produced by BCPM and presented by staff on January 23, 2001, had omitted loop maintenance expenses as well as common expenses and investments in support equipment. After careful review, staff agreed in principle and examined the calculation and allocation of common costs to the loop as suggested by Qwest. However, staff felt that there was some overstating of costs in the methodology proposed by Qwest. After careful review and consultation with Qwest, these issues were resolved. The staff is confident that the correct method for calculating full loop costs includes the correct common cost elements.

The staff has been less certain, however, about the percentage of those common cost elements to allocate to the loop. In Qwest's view, the appropriate allocation of common costs is based on the ratio of loop investment to the sum of loop, switching and interoffice facilities investment. That ratio is approximately 86 percent. The FCC, at paragraph 696 in its First Interconnection Order In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, (First Report and Order) (1996) directs the allocation of "only a relatively small share of common costs to certain critical network elements, such as the local loop and collocation." The staff indicated that other allocation methods could be used. However, we have no better data in this record on which to base an allocation of common costs to the loop. Therefore, we feel there is no alternative but to accept Qwest's proposed 86 percent allocation of applicable common costs to the loop.

F. Placing limits of prices in zones 2 and 3

In its January 23, 2001, proposal, staff stated that there was

significant divergence between the resulting zone 1 and the resulting zone 2 and 3 loop prices using its recommended averaging procedure. The staff recommended limiting the prices in zones 2 and 3 to twice and four times the price in zone 1, respectively. The staff claimed a reasonable degree of confidence that the cost models it reviewed in the universal service docket do an adequate job of calculating average loop costs in wire centers with dense populations. However, the staff did not believe that any of the cost models reasonably calculated the cost of providing service in Nebraska's more rural wire centers. The cost models are forward-looking and designed to provide advanced services. Copper loops are restricted to 12,000 or less. This is not reflective of actual plant in rural exchanges. In addition, the staff felt that extraordinarily high prices in zones 2 and 3 might cause significant harm to the state's universal service fund. Therefore, the staff recommended limiting the prices in zones 2 and 3 relative to the zone 1 price.

Qwest's preferred cost model for this docket, its ICM model, establishes zone 2 and 3 costs that are 2.2 and 3.7 times higher than its zone 1 cost. For the BCPM and HAI models, staff indicates that the zone 3 prices are 8.4 and 10 times higher than the zone 1 prices, respectively. In several other Qwest states, staff found that the price in zone 3 is no more than four times the zone 1 price.

The Commission realizes that UNE prices should be based on forward-looking costs. However, we believe that even if limits are imposed on the UNE loop prices in zones 2 and 3, the cost-based nature of the price in zone 1 meets the FCC's requirements. Furthermore, considering the wide variation in model results and in results across states, we accept the staff's proposal and limit the prices in zones 2 and 3 to be twice and four times the price in zone 1, respectively. The resulting zone 2 and 3 prices are high enough to send meaningful economic signals to market participants. Yet, they also indicate our concern for protecting the state's Universal Service Fund.

G. Resulting UNE loop prices for Qwest

Based on our previous conclusions, the UNE zone rates applicable to Qwest are:

	ZONE		
	1	2	3
UNE LOOP PRICE	$13.56	$27.12	$54.24

The figures in the table above assume the sale of previously-mentioned Qwest exchanges to Citizens. If that sale does not go through, we still endorse the methodology described above for

computing UNE loop zone rates. However, the interconnection price and zone costs used for deaveraging will change somewhat if the exchanges in question remain Qwest's property. In turn, this will affect the actual calculation of zone loop prices. We find that if the exchanges in question remain with Qwest, the appropriate zone prices for Qwest are:

	ZONE		
	1	2	3
UNE LOOP PRICE	$13.74	$27.48	$54.96

H. Applicability of findings and conclusions to other non-rural carriers

Our preferred methodology should be readily applicable to the other non-rural carriers in the state. BCPM results can be generated for all non-rural carriers. Each of the non-rural carriers has a published interconnection rate. It should be possible to create a weighted average loop price for each zone based on the company-wide interconnection price. It should also be possible to calculate the full loop cost in each zone based on BCPM results. These two values can be averaged to get the UNE loop price in each zone for the remaining Nebraska non-rural carriers.

I. Applicability of findings and conclusions to rural carriers

The comments filed by the Rural Independent Companies (the Independent Companies) chiefly expressed the concern that the Commission's findings and conclusions reached in this docket would be applicable to them. As stated previously, we bifurcated docket C-2256 and opened C-2290/NUSF-22 to create a separate timeline and cost study for rural companies. Our January 9, 2001, order merging analysis of C-2256/PI-38 into C-2172/PI-43 was silent as to whether our findings were applicable to the Independent Companies, which created some confusion. Therefore, today we explicitly state that our findings and conclusions herein are not binding on the Independent Companies.

J. The Relationship between Wholesale and Retail Deaveraging

In Qwest's comments filed on December 29, 1999, in C-2172/PI-34 and again on November 21, 2000 in C-2256/PI-38, Qwest asserts that the critical issue here is the relationship between retail and wholesale rates. Qwest claims that wholesale and retail rates must be deaveraged in a consistent manner. We recognize the rela-tionship to which Qwest refers. Even more importantly, we are fully aware of the requirements in Neb. Rev. Stat. §86-803(6) (Reissue 1999).

AT&T has responded to this issue in its comments as well. AT&T argues that we should not divert our attention greatly to the linkage between wholesale and retail rates for a number of reasons. First, Qwest has not demonstrated that its retail rates are based on cost. Second, wholesale rates are only one of many factors that affect a company's retail rate offerings. Retail rates are heavily driven by factors other than geography. Finally, if Nebraska Universal Service Fund (NUSF) distributions are targeted to high-cost UNE zones, there would be little, if any, pressure for deaver-aging retail rates.

We agree with Qwest that Neb. Rev. Stat. §86-803(6) should not be ignored. However, we also find that Qwest's emphasis on the Commission's obligation to deaverage retail rates is misplaced. Qwest not only has the opportunity to apply for a change in local rates, pursuant to Neb. Rev. Stat. §86-803; pursuant to that same statute, subject to certain exemptions, we cannot subject tele-communications companies to rate regulation. Moreover, high-cost support is available and will be targeted to high-cost UNE zones. We agree with AT&T that wholesale rates are one of numerous factors that affect retail rates. There is little evidence as to the direct linkage of Qwest's wholesale rates and its retail rates.

K. AT&T's objection to the use of BCPM

In its comments and at the last hearing, AT&T objected to the use of BCPM for setting UNE loop prices. AT&T also took the position that so long as BCPM was used to determine relative costs between wire centers only, they would have no objection to using BCPM. The basis of AT&T's objection is the protective agreement that its experts signed in docket C-1633. AT&T argues that it does not have access to the model and is not permitted to use the model for the purposes of this case. AT&T mentioned this in its comments but made no attempt to contact Qwest to modify its agreement or to obtain the ability to use BCPM for this docket. At the February 20, 2001, hearing, the witnesses for Qwest stated that with the exception of certain inputs, BCPM is not a proprietary model. The Qwest witnesses further stated that BCPM has been a public model for a few years now.

With respect to the restrictions on the use of BCPM in AT&T's comments, we find that AT&T could have at any time requested permission to use BCPM in the instant case. In our first order which opened this docket, we indicated that BCPM was one of the models we would consider for this purpose. Therefore, we conclude that AT&T has not been significantly prejudiced by our use of BCPM in this proceeding.

L. Alternative cost models

In comments submitted to the Commission, Citizens and Sprint recommended that we look at alternative models. We decline to do so at this late date. This would not only delay our decision in this docket, but would also prejudice the other interested parties at this point in the proceeding. In our initial order in C-2256/PI-38, we gave parties adequate

time to submit alternative cost models for our review.

M. Expanded Interconnection Channel Termination Charges

In its comments submitted on February 2, 2001, ALLTEL stated that its support for BCPM-based rates is contingent on the Commission's addressing the issue of Expanded Interconnection Channel Termination (EICT) Charges. We did, in fact, address this issue at great length at our February 20, 2001, hearing. However, we find that we cannot rule on the issue at this time. We do agree that this recurring charge is tied closely to the effective loop cost. Nevertheless, it is preferable to us to conduct an independent review of this charge. Accordingly, the Commission has opened Docket C-2498/PI-47, to determine the appropriate price for EICT. We request comments in that docket regarding the appropriate process the Commission should adopt to establish rates for the EICT. Interested parties are directed to submit written comments on or before April 6, 2001.

N. Continuing Jurisdiction

At the end of our February 20, 2001, hearing we asked the interested parties to file a statement on whether we have continuing jurisdiction to deaverage UNE rates. No interested party commented on this subject. Upon our own review of the Telecommunications Act of 1996 (the Act), the FCC's pricing rules and applicable state jurisdictional issues, we conclude that we do have the continuing jurisdiction to set prices for UNEs and to implement deaveraged rates for unbundled elements. As competition starts to infiltrate other areas in the state, it would create an absurd result if we did not have the jurisdiction to harmonize the zones and the UNE rates in furtherance of the intent behind FCC's pricing rules and the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the staff recommendations to the Commission are adopted to the extent provided herein.

IT IS FURTHER ORDERED that the findings and conclusions adopted herein shall be applicable only to the non-rural telephone companies.

IT IS FURTHER ORDERED that Qwest file the appropriate tariff and/or Statement of Generally-Accepted Terms and Conditions (SGAT) amendments to reflect the unbundled loop prices adopted herein on or before April 20, 2001.

IT IS FURTHER ORDERED that C-2498/PI-47 be opened.

IT IS FURTHER ORDERED that interested parties may file written comments in response to the questions contained herein with regard to Docket No. C-2498/PI-47 on or before April 6, 2001, at 5:00 p.m. Parties must file at least five paper copies of their written

comments and one electronic copy in WordPerfect 5.0 format or later.

MADE AND ENTERED at Lincoln, Nebraska, this 20th day of March, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director