BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996	)	Docket No. UT-003022
In the Matter of U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996	)	Docket No. UT-003040

REPLY BRIEF OF AT&T REGARDING PUBLIC INTEREST

The primary shortcoming of Qwest's initial brief in these proceedings is that it improperly seeks to limit the scope of the public interest examination. In addition, however, Qwest's brief is riddled with quotations which have been taken out of context, mischaracterizations of AT&T's testimony and positions, and misstatements of the law. For purposes of the public interest part of this reply, AT&T will deal with each of these in four sections: the proper scope of a public interest analysis; anticompetitive behavior; wholesale and retail pricing disparity; and structural separation.

A. Qwest Improperly Seeks to Limit the Scope of this Public Interest Analysis.

Qwest misstates the standard for an examination of the public interest element of section 271, and attempts to unduly narrow that standard by over-emphasizing the importance of checklist compliance. Additionally, Qwest mischaracterizes AT&T's position on public interest as "a standardless gut call on whether entry is justified."[1]

[1] Qwest Brief at 21.

For example, Qwest asserts that:

> The FCC has repeatedly held that "compliance with the competitive checklist is, itself, a strong indicator that long distance entry is consistent with the public interest." The public interest inquiry is simply "an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the checklist, and that entry will therefore serve the public interest as Congress expected."[2]

While Qwest goes on here to deny that it has ever "suggested that the public interest test encompasses nothing beyond checklist compliance," it also, on page 23, proceeds to lift another FCC quotation out of context in an attempt to demonstrate the very thing it denies having suggested, namely that it was Congress's intent to condition 271 approval "solely" on check list compliance, to the exclusion of a thorough public interest analysis.

Indeed, checklist compliance may be a "strong" indicator that 271 approval is in the public interest, but it is certainly not the only factor to be considered. Qwest quotes this "strong indicator" language several times throughout its brief, but neglects to include anywhere clarifying language from the Ameritech Michigan 271 Order:

> In making our public interest assessment, we cannot conclude that compliance with the checklist alone is sufficient to open a BOC's local telecommunications markets to competition. If we were to adopt such a conclusion, BOC entry into the in-region interLATA services market would always be consistent with the public interest requirement whenever a BOC has implemented the competitive checklist. Such an approach would effectively read the public interest requirement out of the statute, contrary to the plain language of section 271, basic principles of statutory construction, and sound public policy.[3]

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[2] *Id*. at 21. Footnotes omitted.

[3] *In the Matter of the Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region InterLATA Services in Michigan*, 12 FCC Rcd. 20543 (1997), at para. 389.

If the Qwest approach were accepted, then evaluation of a 271 application would stop at checklist compliance, and the public interest standard would in effect be dropped from the statute.[4]

Qwest misstates the public interest standard again when it asserts: "The FCC has held that a BOC's entry into the long distance market, once it has met the checklist, would be contrary to the public interest only in 'unusual circumstances.'"[5]

Here is what the FCC actually said about the "unusual circumstances" test in connection with a public interest analysis:

> Nonetheless, the public interest analysis is an independent element of the statutory checklist and, under normal canons of statutory construction, requires an independent determination. Thus we view the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other *relevant factors* exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. *Among other things*, we may review the local and long distance markets to ensure that there are not *unusual circumstances* that would make entry contrary to the public interest under the particular circumstances of this application. *Another factor* that could be relevant to our analysis is whether we have sufficient assurance that markets will remain open after grant of the application. While *no one factor is dispositive in this analysis*, our overriding goal is to ensure that nothing undermines our conclusion, based on our analysis of checklist compliance, that markets are open to competition.[6]

Far from limiting its examination solely to "unusual circumstances," the FCC has expressly directed that the public interest analysis will encompass several "relevant

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[4] Qwest places a great deal of emphasis on its assertion that "the FCC has *never* rejected a section 271 application on [public interest] grounds where the BOC has met the checklist requirements." Qwest Brief at 21, emphasis in original. But again, following this logic would result in a re-write of the federal Telecommunications Act of 1996, eliminating the public interest standard in its entirety.

[5] Qwest Brief at 21.

[6] *In the Matter of the Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York*, 15 FCC Rcd. 3953 (1999), at para. 423 ("*Bell Atlantic New York 271 Order*"). Footnotes omitted. Emphasis supplied.

factors," including the existence of "unusual circumstances." Qwest's characterization of the public interest standard here is disingenuous.

In fact, the FCC has expressly stated that a proper public interest analysis may also include consideration of "whether approval…will *foster* competition in all relevant telecommunications markets."[7] The public interest analysis anticipated by the federal Telecommunications Act, and by the FCC, is a broad-based inquiry intended to ensure, *inter alia*, that the grant of a 271 application "is consistent with *promoting* competition in the local and long distance telecommunications markets."[8] Promoting and fostering competition are both a far cry from merely allowing competition, which is essentially the level at which mere checklist compliance operates.

So, contrary to Qwest's characterization of AT&T's public interest case as being the mere submission of a "wish list,"[9] AT&T is in fact seeking a thorough, in-depth consideration of the actual, current competitive conditions which exist in the state of Washington. Such consideration is highly relevant to the public interest portion of this 271 case because it is the only way to answer the question of whether a grant of 271 authority to Qwest will truly *foster* and *promote* competition.

AT&T and others have argued in these proceedings that the actual, current competitive conditions include such factors as: the anticompetitive behavior exhibited by Qwest over the past few years, continuing even today; the current pricing disparity between wholesale UNEs and their corresponding retail services; the inequity inherent in

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[7] *Second BellSouth Louisiana 271 Order*, 13 FCC Rcd. at 20805-6. Emphasis supplied.
[8] *In the Matter of the Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, FCC 01-29 (rel. January 22, 2001), at para. 268 ("*Kansas-Oklahoma 271 Order*"). Emphasis supplied.
[9] Qwest Brief at 21.

the current level of access charges; and the need for structural separation if these behaviors are to stop. Much as Qwest would like to limit the consideration of public interest issues solely to checklist compliance, the truth is that each of these factors—Qwest's anticompetitive behavior, its pricing of wholesale services above cost and (more importantly) above corresponding retail prices, and its disobedience of commission rules and regulations—are all relevant to an examination of whether the public interest would in fact be served by a grant of 271 authority. They are all well within the proper scope of these proceedings, and do not, contrary to Qwest's assertions, render this public interest analysis "standardless."[10]

B. Qwest's Anti-Competitive Behavior Cannot Be Ignored in Any Analysis of Public Interest.

Qwest argues that it is not required to demonstrate that CLECs have actually entered its market in order to obtain section 271 approval.[11] But this argument lacks merit where (as here) CLECs have demonstrated that their inability to enter the local market in Washington is a direct result of Qwest's own anticompetitive behavior.

Qwest's anticompetitive actions over the five years or more since passage of the federal Act have been pervasive, blatant, consistent, and single-minded. The litany of abuse presented here is long, and yet the testimony detailing that abuse here is incomplete due to time constraints.[12] It is vital to any public interest analysis that this behavior be addressed, and stopped, prior to any grant of 271 authority to Qwest.

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[10] *Id*. at 21.
[11] Qwest Brief at 23.
[12] See Roth/Rasher Direct, at 14-20.

C. The Existing Price Disparity between Wholesale and Retail Services is Contrary to the Public Interest.

A comparison of the wholesale and retail prices here in Washington reveals a serious inequity in the competitive markets; one which will inevitably result in an absence of competition in those markets. So long as wholesale prices are higher than the corresponding prices for retail services, competitors will clearly be unable to enter the market by purchasing unbundled network elements.

1. Disparity in the pricing of unbundled network elements.

Citing the FCC's *Verizon Massachusetts 271 Order*, Qwest insists that the disparity between its wholesale and retail prices is entirely irrelevant to any evaluation of its 271 application. But this is not true. The first problem with Qwest's conclusion here is that the FCC's refusal to examine and compare wholesale and retail rates was based on its own lack of jurisdiction over retail rates. The FCC explained this as follows:

> Conducting a profitability analysis would require us to consider the level of a state's retail rates, because such an analysis requires a comparison between the UNE rates and the state's retail rates. Retail rate levels, however, are within the state's jurisdictional authority, not the Commission's.[13]

By bringing this matter to the attention of the Washington Commission now, AT&T is placing this issue in exactly the correct forum for discussion and resolution. The FCC may lack jurisdiction to correct the existing disparity between wholesale and retail rates. But the Washington Commission has that jurisdiction. Moreover, the

[13] *In the Matter of the Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, FCC 01-130 (rel. April 16, 2001), at para. 41. ("*Verizon Massachusetts 271 Order*").

Washington Commission is responsible for the implementation of the current wholesale and retail rates, and therefore is responsible for the disparity that exists between wholesale and retail prices. It is also the responsibility of the Washington Commission to correct this situation, and allow CLECs to compete using unbundled network elements and the UNE platform. It is entirely appropriate—and relevant to an analysis of the competitive markets in each of these states—for the Commission to require that this disparity be corrected before it places its stamp of approval on Qwest's 271 application. If the Commission fails to do so, it is shirking that responsibility, and providing nothing more than a rubber stamp on Qwest's 271 application.

Furthermore, although the FCC has expressed a hesitancy to attempt to determine what a "sufficient profit margin" might be,[14] the FCC has also recognized that a profit margin of zero, or a negative profit margin, is unacceptable:

> Because the purpose of the checklist is to provide a gauge for whether the local markets are open to competition, we cannot conclude that the checklist has been met if the prices for interconnection and unbundled elements do not permit efficient entry. That would be the case, for example, if such prices included embedded costs. Moreover, allowing a BOC into the in-region interLATA market in one of its states when that BOC is charging noncompetitive prices for interconnection or unbundled network elements in that state could give that BOC an unfair advantage in the provision of long distance or bundled services.[15]

In most parts of the state, Qwest's UNE prices are *considerably* higher than the corresponding prices for retail service.[16] Qwest's UNE prices are therefore noncompetitive, and not in conformity with federal law. Thus, if there were any

[14] *Verizon Massachusetts 271 Order*, at para. 41.
[15] *Bell Atlantic New York 271 Order*, para. 287.
[16] Outside Zone 1, UNE-P monthly recurring charges range from 128 percent to 205 percent higher than Qwest's own retail rates for residential lines. UNE-P non-recurring charges stand at approximately twice Qwest's retail non-recurring charges. July 17 Transcript at p. 5080.

indication that Qwest's wholesale prices were below its retail prices, then AT&T might agree with Qwest's analysis. At that point, AT&T would merely be quibbling over how much money it will make in the course of its market entry.

But in this instance, the question is much more meaningful. It is not whether the RBOC will "guarantee" a profit to its competitors. Qwest's UNE pricing forecloses *all* profit, requires new entrants to pay more at wholesale than Qwest's end-users pay at retail, and therefore is not in the public interest.

In fact, Qwest's position in these multi-state proceedings is itself anticompetitive, especially considering the fact that in both Oklahoma and Kansas (one of the decisions which Qwest likes to cite most often in this regard), SWBT specifically introduced promotional UNE pricing—and then implemented supplemental rate reductions six months after the promotional filing—in an effort to assuage complaints from new entrants.[17] These rate reductions figured prominently in the FCC's approval of SWBT's 271 application in Oklahoma:

> For the reasons discussed below, we have serious doubts as to whether the permanent rates set forth in the O2A are at TELRIC-based levels. Nevertheless, we conclude that the presence of the promotional rates for many of the UNE-P recurring charges, together with the additional reductions to loop charges outlined in the SWBT December 28 Ex Parte Letter, provide competitive LECs with rates that are within the range that a reasonable application of TELRIC principles would produce.[18]

We have not seen any indication that Qwest intends, or is even remotely contemplating, a similar reduction in its UNE pricing, even though such a reduction was a pivotal element in the FCC's grant of 271 authority to SWBT in both Kansas and

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[17] *Kansas-Oklahoma 271 Order*, paras. 52, 70-3.
[18] *Id*. at para. 73.

Oklahoma. In addition, similar action was taken by Verizon in Massachusetts, reducing wholesale prices prior to a grant of 271 authority there. See *Verizon Massachusetts 271 Order*, para. 18.

It is extraordinary that Qwest takes the position its UNE pricing is beyond the scope of any public interest analysis by the Washington Commission, especially in view of the fact that the FCC has expressly stated the contrary:

> We note, moreover, that even if it were decided that we lacked authority to review BOC prices as an aspect of our assessment of checklist compliance under section 271(d)(3)(A), we would certainly consider such prices to be a relevant concern in our public interest inquiry under section 271(d)(3)(C).[19]

In short, the fact that the FCC is "hesitant" to engage in a comparison of retail and wholesale rates as part of its evaluation of a 271 application does not mean that the FCC would hesitate to view the obvious *negative* profitability inherent in Qwest's pricing structure as being contrary to the public interest. Nor does the FCC's hesitancy mean that this Commission is somehow precluded from making that comparison, and doing something to correct this imbalance. In fact, such a comparison is vitally important in the course of these proceedings for a number of reasons: the problem is obvious; the Commission, unlike the FCC, has the jurisdiction to fix it; and the result of inaction will be devastating—the closure of the local market to meaningful competition, and the remonopolization of the local and long distance market.

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[19] *Bell Atlantic New York 271 Order*, at para. 288. This was clearly written in the context of multiple, and interminable challenges by various RBOCs, including USWest, of the FCC's pricing decisions. Qwest and the other RBOCs have tirelessly resisted the implementation of reasonable, cost-based pricing at every turn, and in every available forum. Yet now, in these proceedings, Qwest has the unmitigated gall to insist that if its current prices do not allow competitors a reasonable profit, "that is not Qwest's fault." Qwest Brief at 32. Apparently, as far as Qwest is concerned, the public interest be damned.

Not only does the Washington Commission have the jurisdiction and responsibility to address the disparity between wholesale and retail rates, it also has a specific legislative mandate to foster and encourage competition, and to ensure that pricing of telecommunications services is fair and reasonable. For example, the legislature has declared that it is state policy to "[e]nsure that customers pay only reasonable charges for telecommunications service," and to "[p]romote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state." RCW 80.36.300(3) and (5). In addition, the legislature has also directed the Commission, in considering any proposed alternative form of regulation, to determine "whether it will…[p]reserve or enhance the development of effective competition and protect against the exercise of market power during its development." RCW 80.36.135(2)(c).

This mandate provides a clear indication that the issue of pricing disparity between wholesale UNEs and retail 1-FRs is a matter of direct concern for this Commission. In order to fulfill its mandate, the Commission should withhold approval of Qwest's 271 application until such time as that disparity has been remedied.

2. Access charges.

Qwest first argues that the question of exorbitant intrastate access charges is irrelevant to an analysis of its 271 application because "FCC review of state-approved intrastate access charges would present the very same jurisdictional concerns as would reviewing state-approved retail rates…."[20] As AT&T has established, however, the question is not whether the FCC has jurisdiction over intrastate access rates—clearly the

[20] Qwest Brief at 33.

Washington Commission has that jurisdiction. The question is whether the WUTC has the responsibility, as well as the authority, to correct the pricing inequity evident in switched access, prior to approving Qwest's 271 application. AT&T submits that this must be answered in the affirmative.

Secondly, Qwest argues that access charges should not be part of a public interest analysis because the 272 safeguards address all public interest concerns. AT&T disagrees. It is clear that Qwest must charge its 272 affiliate "an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service." 47 U.S.C. 272(e)(3). But for Qwest and its affiliate this is merely an internal transaction. No cash will exchange hands, and even if it did, the cash would simply go from one pocket to another in the same pair of trousers.

The same is not true, however, for Qwest's competitors, whose costs of providing long distance service will continue to include Qwest's exorbitant margins until such time as cost-based access charges are implemented on an intrastate basis. The FCC has steadily moved interstate access rates closer and closer to cost. But the same degree of progress cannot be seen here in Washington, on an intrastate basis.

The imputation requirement of section 272(e)(3) will not change the fact that Qwest's margins from its intrastate long distance business will be substantially greater than those of its competitors. Nor will that imputation requirement, by itself, eliminate the possibility that Qwest will attempt to use the difference between its own cost, and the price charged to its competitors, to leverage those competitors out of the market. If Qwest merely sets its own retail rates for long distance at a level equal to its switched access rate, its competitors will be driven from the market. The end result is that even with section 272(e)(3) fully implemented, Qwest stands a much greater chance of surviving than its competitors, and, perhaps more perturbing, Qwest stands in a position of continued and sustained market power over those competitors.

The public interest requires that the Washington Commission address this pricing disparity, and initiate a well-defined, consistent program for the reduction of access charges to their forward-looking economic cost. To ignore this issue, as Qwest would prefer, will contravene Washington's legislative policy to foster and encourage competition, and ultimately contribute to the remonopolization of the long distance market.

D. Structural Separation

Qwest argues that the WUTC here lacks the jurisdiction and authority necessary to require structural separation of Qwest's wholesale and retail operations and that such a restructuring would "impose massive and unnecessary costs on Washington consumers." AT&T disagrees.

1. Jurisdiction to require restructuring of Qwest.

It is certainly true that the functional structural separation which was imposed upon Verizon by the Pennsylvania Commission stemmed from specific statutory authority. However, there is nothing to indicate that the WUTC would in any manner exceed its jurisdiction by requiring that, as a condition of 271 approval, Qwest agree to the structural separation of its wholesale and retail operations. AT&T, in short, is not advocating that the Commission attempt to strain the limits of its own authority by ordering the structural separation of Qwest. Instead, AT&T believes that such a restructuring can be achieved as a state-specific condition for 271 approval. The point here is that regulation has traditionally been a substitute for competition, and where there is going to be less regulation and perhaps insufficient competition (as appears to be the case so far in Washington), such a restructuring will provide a necessary, and more appropriate, level of consumer protection.

As Qwest itself has stated, "The public interest…requires prompt, expeditious and efficient service. Quid pro quo, the company is entitled to rates which are fair, just, reasonable and sufficient to allow it to render such services."[21] Service quality and pricing are clearly important public interest issues. However, new entrants, who represent themselves and their respective customers, are currently paying exorbitant prices for UNEs and switched access, and are not receiving "prompt, expeditious and efficient service," from a wholesale standpoint. In short, the "quid pro quo" to which Qwest refers has clearly broken down. As a result, rather than demonstrating that the Commission lacks authority to impose structural separation on Qwest, the cases cited by Qwest on page 42 of its Brief serve as a basis for insisting upon greater oversight of that "bargain," and hence greater oversight over Qwest. Poor wholesale service quality and unfair, unreasonable UNE and switched access pricing are important public interest issues, which must be addressed in this public interest segment of Qwest's 271 application. They also serve as clear justification for requiring that Qwest agree to structural separation as a precondition to this Commission's grant of approval for Qwest's 271 application.

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[21] *Id*. at 42, citing *Washington Indep. Tel. Ass'n v. TRACER*, 880 P.2d 50, 55 (Wash. App. 1994).

Lastly in this regard, the fact that structural separation was not imposed upon Qwest at the time of its merger with U S WEST is not an indication that it would be illegal, or somehow improper, to require it as a prerequisite to the Commission's approval of Qwest's 271 application. The issues surrounding the merger and the merger approval process were entirely different than those being considered here in the 271 approval process. Allowing Qwest into the long distance market at the time of the merger was entirely out of the question. In fact, an important condition of the merger was that Qwest divest itself of its in-region long distance business. So in a manner of speaking, structural separation *was* a requirement of the merger.

2. Structural separation will not impose undue costs on Washington consumers.

Qwest argues that structural separation will impose "massive and unnecessary costs on Washington consumers," by requiring Qwest to "build a new corporate organization, keep extra sets of books, hire new staff, and purchase additional facilities just to interconnect with its own network."[22] While the costs mentioned by Qwest here sound oddly similar to the costs incurred by new entrants, AT&T disagrees with Qwest's argument on two counts: first, that the costs would be "massive," and second, that the costs are "unnecessary."

From the outset, there is nothing on the record to indicate exactly what the costs of structural separation might be. Even though AT&T began arguing in favor of structural separation in its direct testimony, the Qwest witness chose not to present any evidence as to the costs of structural separation. As a result, Qwest's argument is completely without support in the record.

[22] *Id*. at 43.

While the costs of the 1984 divestiture of AT&T were indeed great, the benefits were quickly realized, and today are indisputable: the fostering and encouragement of competition which resulted from divestiture yielded enormous benefits for consumers, not only in terms of lowering prices, but also in rapidly and exponentially expanding the number and quality of available services. Furthermore, the 1984 divestiture resulted not only in facilities-based retail competition, but also in an extremely competitive wholesale long distance market. Resellers are now able to move from one wholesale carrier to another with ease, cutting deals and leveraging the prices of one carrier against another—something completely unheard of in the local market.

Quite simply, competition took off after divestiture, and will do the same after structural separation. The fact is, structural separation will put the retail operations of Qwest on an equal footing with all CLECs, and therefore will be entirely neutral, from a competitive standpoint. The retail operations of Qwest, once separated from Qwest's wholesale operations, will (for example) be required to build or otherwise acquire new facilities in the same manner as other CLECs.

So, contrary to the argument that structural separation will "destroy Qwest's incentives to improve its network and deploy innovative new services making use of that network," Qwest's retail arm will have plenty of incentive to develop new services and facilities, as well as to improve service quality, in competition with new entrants.[23]

Structural separation should be considered the great equalizer in the telecommunications marketplace. It will effectively prohibit abuse, and put all

[23] *Id*. at 43. Qwest's assertion that structural separation will destroy its incentives to improve its network and deploy innovative new services is particularly ironic in view of its long history, as a monopoly provider, of failing to invest in infrastructure, and refusing to deploy new services such as DSL in a timely manner. In short, exactly what will have been destroyed?

competitors on the same footing. Frankly, that is exactly why Qwest so vehemently opposes it.

As for the necessity of structural separation, the fact remains that without it, Qwest has a clear, continuing incentive to discriminate against its competitors and to act in an anti-competitive manner. Qwest's self-interests are neither parallel to, nor remotely consistent with, the public interest. To the contrary, as demonstrated in AT&T's testimony and briefs here, the incentive to discriminate is obvious, and has resulted in a long list of abuses. See Roth/Rasher Direct at 10-20.

Qwest's incentive to discriminate and to act in an anti-competitive manner can be summarized in a single, concise, logical statement: Qwest cannot fairly and equitably operate the local network that virtually all CLECs rely upon in some form or fashion, and simultaneously compete with those same carriers in the very same retail markets. Furthermore, Qwest has consistently and continually demonstrated its inability to do so ever since passage of the federal Telecommunications Act in 1996.

So, while Qwest screams shrilly that structural separation will be expensive or is otherwise bad public policy, the facts are to the contrary. Structural separation has been tried before, on a massive scale, and it has worked. The public policy underpinnings of divestiture—fostering and encouraging competition, preventing abuses of competitors through control over bottleneck facilities, and so forth—are as valid today as they were in 1984.

By structurally separating Qwest's wholesale operations from its retail operations, and prohibiting the wholesale operations from delivering retail services or discriminating between retail carriers, the local exchange market can be made as vibrantly competitive as its long distance counterpart. Ultimately the result will be lower prices for competitive services, not increased costs as Qwest would have us believe.

E. Conclusion

It is not presently in the public interest for Qwest to be granted authority to provide in-region long distance service on an interLATA basis. The Commission should refrain from approving Qwest's application for that authority until such time as these numerous public interest issues have been properly resolved, and Qwest has also agreed to submit to the structural separation of its wholesale and retail operations.

Respectfully submitted this 14th day of September, 2001.

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