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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 and UT-003040

COVAD COMMUNICATIONS
COMPANY'S COMBINED MOTION
FOR LEAVE TO FILE SUPPLEMENTAL
COMMENTS REGARDING LOOP
ISSUE 3(b) OF THE TWENTIETH
SUPPLEMENTAL ORDER AND
SUPPLEMENTAL COMMENTS ON
LOOP ISSUE 3(b)

Covad Communications Company ("Covad") respectfully requests leave to file supplemental comments regarding the findings and conclusions on Loop Issue 3(b) (mechanized loop testing) in the Twentieth Supplemental Order (the "*Initial Order*"), and hereby submits its Supplemental Comments on Loop Issue 3(b), if and to the extent, leave is granted:

1. During the course of Workshop 4, Covad presented evidence and argued that Qwest should be required to provide to CLECs pre-order/provisioning mechanized loop testing. As Covad stated specifically in its Impasse Brief on Loop Issue 3(b), the source of Covad's request for "a pre-order mechanized loop test ("MLT") is simple: Covad seeks a test that will provide some assurance that the loop delivered by Qwest to Covad does, in fact, have data continuity and is capable of supporting xDSL services." Impasse Brief, p. 18

2. In the *Initial Order*, Covad's request for pre-order/provisioning MLT was rejected, largely on the basis that Qwest's RLDT presumably provided all information that otherwise would be provided by a pre-order/provisioning MLT. In its Comments on the *Initial Order*, Covad disagreed with that assessment, arguing that an MLT is the only source of loop

1 make up information regarding the loop ordered by a CLEC. Comments, p. 5. Covad further
2 contended that, taken in tandem with a pre-qualification tool, “the MLT process [will] provide
3 critical information when used in conjunction with pre-qualification of line shared and line/loop
4 split loops.” Comments, p. 5. In other words, an MLT will ensure that Qwest will deliver a line
5 shared or line split loop capable of supporting xDSL services.

6 3. On December 12, 2001, Covad learned (during the Change Management forum)
7 certain information regarding Qwest’s provisioning of line shared loops.¹ More specifically,
8 Qwest made clear, for the very first time, that it would not make any (and thus presumably made
9 no) representation regarding whether a line shared loop provisioned by Qwest would support
10 ADSL service. To the contrary, Qwest stated that its only obligation in provisioning a line
11 shared loop to a CLEC was to provide a copper loop without load coils and a minimum amount
12 of bridged tap. Qwest further stated that it was under no obligation to provide a line shared loop
13 (1) free of electrical faults, (2) free of foreign battery/voltage, or (3) which has adequate
14 grounding. In other words, Qwest would not guarantee that a line shared loop ordered and paid
15 for by Covad was capable of supporting ADSL service.

16 4. Even more egregiously, when Covad pointed out that Qwest’s provisioning
17 process raised a parity issue since Qwest tested its own line shared DSL loops at the time of
18 delivery and thus was capable of implementing an immediate line and station transfer if the loop
19 provisioned could not support the Qwest DSL service, Qwest simply ignored that comment and
20 provided no response.

21 5. Qwest’s clarification of its line shared loop provisioning process, and its adamant
22 refusal to provide any assurance of line shared loop quality, plainly underscores the absolute
23 necessity of a pre-order/provisioning MLT, particularly for line shared and line split loops. In
24 the absence of a pre-order MLT, Qwest is free to provide a line shared loop over which ADSL

25 ¹ This information was provided to counsel for Covad on December 14, 2001, the same day comments on the *Initial*
26 *Order* were due, but the day after Covad had sent its Comments on the *Initial Order* to the WUTC for filing.

1 service cannot be provided due to the existence of electrical and other impediments that destroy
2 data continuity. Put simply, Qwest provides a “bad” loop, and foists the burden and the cost on
3 to CLECs to correct the deficiencies in the loop, to Qwest obvious and insurmountable
4 competitive advantage.

5 6. In light of the delay in the provision of this critical information by Qwest to
6 Covad, good cause has been shown to grant Covad leave to submit these Supplemental
7 Comments regarding Loop Issue 3(b). The information contained herein is highly relevant,
8 highly material, and was disclosed at a point at which Covad could not include it in its pre-filed
9 testimony, oral testimony at the Checklist Item 4 workshops, or in its Comments on the *Initial*
10 *Order*. Covad therefore requests that the Commission grant it leave to submit Supplemental
11 Comments and that it incorporate into the record before the Commission the substantive
12 Supplemental Comments on Loop Issue 3(b) contained herein.

13 7. Covad reiterates the contention that it made throughout the workshops and
14 in its Impasse Brief; Covad seeks from Qwest nothing more than good quality loops, provided at
15 an acceptable interval, that will permit Covad to compete with Qwest in a meaningful manner for
16 customers in the Washington local market. Thus, Covad requests that the conclusion in the
17 *Initial Order* regarding Loop Issue 3(b) be reversed, and Qwest be ordered to provide pre-
18 order/provisioning MLT.

19 DATED this 21st day of December, 2001.
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Respectfully submitted,

COVAD COMMUNICATIONS COMPANY

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1 I hereby certify that I served a true and correct copy of the foregoing on the
2 following:

3 *Please see attached Service List*

4 by the following indicated method or methods:

5 By **faxing** full, true, and correct copies thereof to the attorneys at the fax numbers
6 shown above, which are the last-known fax numbers for the attorneys' offices, on
7 the date set forth below. The receiving fax machines were operating at the time of
8 service and the transmissions were properly completed, according to the attached
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10 prepaid envelopes, addressed to the attorneys as shown above, the last-known
11 office addresses of the attorneys, and deposited with the United States Postal
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17 **Those parties marked with an asterisk were sent a confidential copy via U.S.
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