

INCLUSION OF LOOP SPLITTING IN PO-5, OP-3, OP-4, OP-5, OP-6, OP-15, MR-3, MR-4, MR-6, MR-7 AND MR-8

It is indisputable at this point that the competitive industry is at its greatest moment of uncertainty since the Act was passed in 1996. There is uncertainty around:

- »whether Qwest will be required to provide access to UNE-P,
- »whether a relatively rapid, mass cutover of customers from UNE-P to UNE loops will be required,
- »who or which commission(s) will have the authority to make the UNE-P access and transition determinations,
- »when industry stakeholders will know the scope of their respective rights and obligations, and
- »whether any appeal will be sought, and granted, from the Supreme Court on the *USTA II/TRO* decisions.

Compounding the uncertainty is the FCC's recent call for carriers to negotiate commercial arrangements for access to UNE-P, which would take heretofore regulated network elements out of the realm of regulation.

It is against this backdrop that Covad and MCI seek the inclusion of loop splitting in the PIDs enumerated above. Loop splitting is the provision of voice and data over a single unbundled loop. Unlike line splitting, which is voice and data provided together over the UNE-P, there is no doubt that access to local loops for purposes of loop splitting is required now and will be required in the future. It is precisely because of the certainty of access to unbundled loops, and their consequent use as an assured and certain delivery mechanism for a bundled voice and data offering to customers that MCI, among others, is investigating loop splitting as an alternative service option.

Because of the existing and growing importance of loop splitting, driven as it is by significant shifts and uncertainties in the regulatory landscape, Covad and MCI request that loop splitting be added as a product disaggregation for the PIDs identified above. And in light of the fact that carriers may have to undertake mass cutover from UNE-P arrangements to UNE loop arrangements, it is imperative that performance backstops be in place to ensure the smooth and efficient transition to an unbundled loop/loop splitting environment.

Notably, not only will use of UNE-L for purposes of loop splitting ensure that CLECs can continue to provide bundled services to customers, but also it has the salutary effect of encouraging and increasing CLEC investment, since use of the UNE-L necessarily requires that a CLEC collocate in all serving central offices and invest in and deploy the facilities-based equipment necessary to access and provide service over unbundled loops. Consequently, loop splitting not only benefits consumers, who will have access to

competitive bundled offerings, but it also ensures facilities-based competition by CLECs with Qwest. Both of these goals are appropriately endorsed and supported by state commissions, and the inclusion of loop splitting in the PIDs will facilitate achievement of these dual goals.

Qwest's sole objection to the inclusion of loop splitting in the PIDs is that there is zero volume. As MCI pointed out during the face to face meeting in Denver, however, that statement is not accurate since MCI, at least, has begun placing loop splitting test orders. MCI has placed orders to test Qwest's two LSR Loop Splitting process. This contradicts Qwest's repeated statement that there is "zero" volume for Loop Splitting. Currently, Qwest's Loop Splitting is provided on existing 2-Wire Non-Loaded, 4-Wire Non-Loaded or ADSL Compatible Loops. If you have an existing analog loop it must be converted to one of the above listed loop types prior to ordering Loop Splitting. So, the process requires one LSR to convert an analog loop to a 2-Wire Non-Loaded, 4-Wire Non-Loaded or ADSL Compatible Loops and then the second order adds the Loop Splitting or data. MCI is also working with Qwest on the process requirements for changing from UNE-P to Loop Splitting. These processes are currently slated to change to a one LSR process with the release of IMA version 16.0. Given this is a new process for Qwest and that there are plans to change from a two LSR to one LSR process, it is critical to begin the reporting of Qwest's performance in this area.

Undoubtedly, Qwest will retort that the volumes are so low that loop splitting should not be included in the PIDs. But, low volumes are a reality whenever a carrier rolls out a new product. More importantly, given the regulatory uncertainties discussed above, the necessity of providing certainty to competitive carriers more than outweighs any concerns about the use of Qwest resources to report on currently low volume products (but products for which volumes will certainly increase). Thus, any potential efforts undertaken by CLECs to shift their existing and new lines to unbundled loop splitting arrangements should be supported in the form of ensuring that that process will go smoothly and adequately via constant reporting and monitoring of loop splitting in the PIDs. Absent any confidence that unbundled loop splitting provisioning and repair will go smoothly, CLECs likely will not make the transition from line splitting to loop splitting, to the detriment of consumers, who benefit from competitive alternatives. Equally important, absent confidence that the transition from line splitting to loop splitting can be undertaken successfully (i.e. smoothly, well and with adequate performance by Qwest), CLECs will opt not to invest in facilities, since such investment would just be a waste of time and money if loop splitting performance is poor and there is no recourse via discussions over the performance reflected in the PIDs. Thus, it is absolutely clear that loop splitting should be included in the PIDs.

Covad and MCI are willing to make a concession to Qwest's concern about using resources for low volume products. In exchange for the inclusion of loop splitting in the PIDs enumerated above, Covad and MCI will agree to six months of diagnostic reporting, with a standard to be established at the end of that six month period.