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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 § 271 of those  
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

**QWEST'S RESPONSE TO AT&T'S PETITION  
FOR RECONSIDERATION OF THE 28<sup>TH</sup>  
SUPPLEMENTAL ORDER**

Qwest hereby responds to AT&T's Petition for Reconsideration of certain aspects of the 28<sup>th</sup> Supplemental Order (28<sup>th</sup> Order), and respectfully requests that the Washington Utilities and Transportation Commission (Commission) deny the petition. The challenged aspects of the Commission's 28<sup>th</sup> Order are supported by the law, facts, sound public policy, and decisions of other state commissions. As a result, the Commission should affirm the challenged aspects of its 28th Order.

**I. THERE IS NO BASIS TO MODIFY THE COMMISSION'S DECISION AS IT RELATES TO SECTION 272 OF THE ACT**

AT&T raises two issues regarding Section 272. First, it raises an argument regarding Section 272(e) that it has had ample opportunity to raise -- and has failed to raise -- in earlier stages of these proceedings. Second, it asks the Commission to adopt a set of recommendations on Section 272, issued by a Minnesota administrative law judge, that are inconsistent with the findings of fact and conclusions of

QWEST'S RESPONSE TO AT&T'S PETITION  
FOR RECONSIDERATION OF THE  
28<sup>TH</sup> SUPPLEMENTAL ORDER

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1 law in this Commission's Order.

2 **A. Compliance with Section 272(e)(1)**

3 AT&T is raising for the first time in its petition the claim that Qwest does not comply with Section  
4 272(e)(1). AT&T has never challenged Qwest's showing of compliance with Section 272(e)(1) -- or  
5 any other aspect of Section 272(e) -- in any of its prior pleadings: its opening brief,<sup>1</sup> its reply brief,<sup>2</sup> or its  
6 comments on the ALJ's Initial Workshop Four Order.<sup>3</sup>

7 AT&T's untimely argument should be rejected for this reason alone. But it is without merit in any  
8 event. Qwest has addressed the issue of its compliance with Section 272(e) and has provided evidence  
9 that it stands ready to comply with all of the requirements of this subsection. It has committed in its  
10 testimony that "[t]he BOC does not and will not discriminate in favor of the 272 Affiliate in the provision  
11 of telephone exchange service or exchange access."<sup>4</sup> The record also includes substantial evidence that  
12 Qwest has controls in place that will assure such compliance with Section 272(e)(1). When the 272  
13 Affiliate requests exchange access services, it will "contact its Sales Executive Team representative for  
14 these tariffed services through the same procedures that are available to other interexchange carriers,"  
15 and these "IXC representatives will process orders in a nondiscriminatory manner."<sup>5</sup> Qwest has also  
16 conducted extensive training for its staff members on all of the requirements of Section 272, including  
17 those in Section 272(e).<sup>6</sup>

18 The other state commissions and staff that have expressly addressed Section 272(e) have all  
19 agreed that Qwest complies with its requirements. The Multistate Facilitator found that Qwest has taken  
20 "adequate measures" to assure compliance with Section 272(e).<sup>7</sup> The Montana Commission (in its

21 <sup>1</sup> See AT&T's Brief on Section 272 of the Act, Sept. 6, 2001.

22 <sup>2</sup> See AT&T's Reply Brief on Section 272 of the Act, Sept. 14, 2001.

23 <sup>3</sup> See AT&T Comments on Initial Order, Dec. 14, 2001.

24 <sup>4</sup> See Ex. 1125-T, Supplemental Direct Testimony of Marie E. Schwartz, May 16, 2001, at 42.

25 <sup>5</sup> *Id.*

26 <sup>6</sup> See *id.* at 46-47. Qwest's training covers Section 272(e) and makes clear to employees that "QC is prohibited from providing any facilities, services, or information concerning its provision of exchange access to QCC unless such facilities, services, or information are made available to other providers of interLATA services under the same terms and conditions." See *id.*, Ex. 1136, MES-21. The employee training is attached to Marie Schwartz's Supplemental Direct Testimony, Exhibit 1136.

<sup>7</sup> See In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with § 271 of the Telecommunications Act of 1996, Seven State Collaborative Section 271 Workshop, Facilitator's Report on Group 5 Issues: General Terms and Conditions, Section 272 and Track A at 7, Sept. 21, 2001 ("Facilitator's Report") at 12, 69-70.

1 preliminary report) has endorsed the Multistate Facilitator’s finding that Qwest satisfies the requirements  
2 of Section 272(e).<sup>8</sup> The Nebraska Commission has also found that Qwest has “committed not to  
3 discriminate in favor of QCC [its 272 Affiliate] in the provision of telephone exchange service or  
4 exchange access services.”<sup>9</sup> The New Mexico Commission similarly found Qwest in compliance with all  
5 four requirements of Section 272(e) and noted that Qwest had “implemented practices and procedures  
6 that go towards preventing discrimination in favor of QCC in the provision of telephone exchange service  
7 or exchange access service.”<sup>10</sup>

8 AT&T insists that Qwest must now disclose data on the time it takes to provide these Section  
9 272(e)(1) services to its 272 affiliate, to permit a comparison with provisioning intervals for unaffiliated  
10 carriers.<sup>11</sup> However, the BOC will necessarily have no data to compare provisioning intervals between  
11 affiliated and unaffiliated providers of in-region interLATA services until QCC begins providing such  
12 services. For this reason, the FCC has made clear that Section 272(e)(1) “applies only when a BOC has  
13 an operational section 272 affiliate,”<sup>12</sup> and has proposed only that BOCs commit that they “will maintain”  
14 the required information “upon receiving permission to provide interLATA services pursuant to section  
15 271.”<sup>13</sup>

16 After Qwest receives 271 approval in Washington, which will allow QCC the ability to provide  
17 in-region interLATA long distance services, the FCC will have ample opportunity to verify its compliance

18 <sup>8</sup> Preliminary Report on Qwest’s Compliance with Section 272 and Request for Comments on Findings, *In the*  
19 *Matter of the Investigation into Qwest Corporation’s Compliance with Section 271 of the Telecommunications Act of*  
20 *1996*, Docket No. D2000.5.70, at 34 (Montana Pub. Serv. Comm’n Feb. 4, 2002) (“Montana Report”) (this report will be  
21 finalized upon review of further comments).

22 <sup>9</sup> See Section 272 Satisfied, *In the Matter of U S West Communications, Inc., Denver, Colorado, filing its notice of*  
23 *intention to file its Section 271(c) application with the FCC and request for the Commission to verify US West*  
24 *compliance with Section 271(c)*, Application No. C-1830 (Neb. Pub. Serv. Comm’n, Sept. 19, 2001) at ¶ 20 (“Nebraska  
25 Order”).

26 <sup>10</sup> Order Regarding Section 272 Compliance, *In the Matter of Qwest Corporation’s Section 271 Application and*  
*Motion for Alternative Procedure to Manage the Section 271 Process*, Utility Case No. 3269 (New Mexico Pub. Reg.  
Comm’n, Feb. 13, 2002) ¶¶ 47-48 (“New Mexico Order”).

<sup>11</sup> AT&T Petition at 3-4.

<sup>12</sup> *Performance Measurements and Standards for Interstate Special Access Services*, Notice of Proposed  
Rulemaking, CC Docket No. 01-321, FCC 01-339 (released Nov. 19 2001), at ¶ 10. AT&T states that this Commission  
“has consistently concluded throughout this proceeding that it will undertake an inquiry into Qwest’s actual service  
provisioning.” AT&T Petition at 3. However, the Commission has investigated actual service provisioning in  
connection with checklist items, governing local (not interLATA) services.

<sup>13</sup> First Report and Order and Further Notice of Proposed Rulemaking, *Implementation of the Non-Accounting*  
*Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905 (1996)  
 (“Non-Accounting Safeguards Order”) at ¶ 369. (emphasis added).

1 with Section 272(e)(1). Qwest's compliance record will be thoroughly reviewed as part of the biennial  
2 audit. In fact, Objective VIII of the Biennial Audit Procedures is specifically directed at the question of  
3 Section 272(e)(1) compliance.<sup>14</sup> Before receiving 271 approval, and thereupon initiating in-region,  
4 interLATA service through QCC, Qwest (like other BOCs) can only commit that when it does so it will  
5 maintain, update, and make available the data on provisioning these services to QCC pursuant to the  
6 FCC's requirements. Qwest commits to do so, and is prepared to keep such data in a format previously  
7 deemed acceptable by the FCC. Such a commitment was accepted as sufficient in *SBC-Texas*,<sup>15</sup> *Bell*  
8 *Atlantic-New York*<sup>16</sup>, and *Verizon-Massachusetts*.<sup>17</sup>

9 **B. Minnesota ALJ's 272 Report**

10 AT&T has also submitted -- and asked that this Commission "adopt" -- the findings and  
11 conclusions of a Minnesota ALJ's recommended decision with respect to Qwest's compliance with  
12 Section 272 in place of the findings and conclusions in this Commission's Order.<sup>18</sup> Qwest respectfully  
13 submits the following comments regarding the Minnesota ALJ's recommended decision.

14 Under Minnesota law, that ALJ recommendation "ha[s] no legal effect unless expressly adopted  
15 by the Commission as a final order."<sup>19</sup> In that regard, Qwest has filed exceptions to the ALJ

16 <sup>14</sup> See Biennial Audit Procedures, attached to Schwartz aff. as Ex. 1134, at 42-44, Schwartz testimony.

17 <sup>15</sup> See, e.g., Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell*  
18 *Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance*  
19 *Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*,  
15 FCC Rcd 18354 ¶ 412 & n. 1198 (2000), finding compliance with 272(e)(1) on the basis of evidence from Affidavit of  
Kathleen M. Rehmer, In the Matter of Application by SBC Communications, Inc., Southwestern Bell Telephone  
Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision  
In-Region, InterLATA Services in Texas, filed Jan. 10, 2000, ¶¶ 33-39 & Att. D.

20 <sup>16</sup> Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271*  
21 *of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd 3953 ¶ 418  
& n.1290 (1999) *aff'd sub nom. AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000) finding compliance with 272(e)(1) on  
the basis of evidence from Affidavit of Susan C. Browning, In the Matter of 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, filed Sep. 22, 1999, ¶¶ 17-18 & Att. J.

22 <sup>17</sup> Memorandum Opinion and Order, *Application by Verizon New England Inc., Bell Atlantic Communications, Inc.*  
23 *(d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon*  
24 *Global Networks Inc. For Authorization to Provide In-Region InterLATA Services in Massachusetts*, CC Docket No.  
01-9, FCC 01-130, Apr. 16, 2001 ¶ 230 & n. 747, finding compliance with 272(e)(1) on the basis of evidence from Affidavit  
of Susan C. Browning, In the Matter of 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, filed Sep. 21,  
2001, ¶ 18 & Att. Q.

25 <sup>18</sup> AT&T Petition at 2.

26 <sup>19</sup> Minnesota ALJ Decision at 2.

1 recommendation.<sup>20</sup> A number of the positions taken by the ALJ are inconsistent with the determinations  
2 of every other authority that has addressed Qwest's Section 272 showing -- this Commission, the  
3 Multistate Facilitator, the Arizona Staff,<sup>21</sup> the Nebraska Commission, the New Mexico Commission, the  
4 Iowa Board, the North Dakota Commission (in its interim report), the Montana Commission (in its  
5 preliminary report), and the order of the Chairman of the Colorado Commission.<sup>22</sup>

6 The Minnesota ALJ actually rejected AT&T's principal claims here (as well as a number of its  
7 other claims). These involve Qwest's compliance with the FCC's accounting rules in the timeliness of its  
8 accrual and billing for transactions with its 272 affiliate. On these issues, the Minnesota ALJ concluded  
9 that "Qwest has demonstrated by a preponderance of the evidence that the Qwest BOC and the 272  
10 Affiliate will comply with Section 272(b)(2)," the relevant subsection of the statute.<sup>23</sup> He recognized, as  
11 have the numerous other authorities cited above, that the transitioning of a new 272 affiliate's accounting  
12 controls will necessarily "take time to complete" and that past accounting discrepancies in transactions  
13 that predate that transition, contrary to AT&T's argument, are "not critical to issues of future  
14 compliance."<sup>24</sup> In any event, the independent evaluation of these controls recommended by the Multistate  
15 Facilitator -- and since conducted by KPMG -- provides further assurance that Qwest now stands ready  
16 to comply with Section 272. The KPMG report showed that, except in twelve instances, both Qwest  
17 and the 272 Affiliate complied "in all material respects" with the applicable FCC accounting rules.<sup>25</sup>  
18 Qwest has nonetheless instituted additional controls to address these isolated discrepancies and a  
19 subsequent evaluation by KPMG has found that Qwest's "new controls and control enhancements . . .  
20 appear to strengthen the overall control environment with respect to 272 compliance" and "should  
21 minimize" discrepancies of the kind described in the KPMG report.<sup>26</sup> This Commission and every  
22 Commission to address the KPMG examination, including, the New Mexico Commission, the Iowa

23 <sup>20</sup> *Id.*

24 <sup>21</sup> This staff report will be finalized upon consideration of additional comments.

25 <sup>22</sup> The Iowa Order is being submitted with this pleading

26 <sup>23</sup> Minnesota ALJ Decision at ¶ 37.

<sup>24</sup> *Id.* at 42.

<sup>25</sup> KPMG Report at 4.

<sup>26</sup> Declaration of Philip J. Jacobsen, filed Dec. 19, 2001, at 23. Order at ¶ 241.

1 Board, and the Chairman of the Colorado Commission have agreed.<sup>27</sup> The Minnesota ALJ report has  
2 now similarly found that “Qwest has described controls to assure ongoing compliance with GAAP in  
3 future transactions.”<sup>28</sup> It also concluded that Qwest is in compliance with the Section 272(b)(4)  
4 requirement that the creditors of the 272 affiliate do not have recourse to the assets of the BOC.<sup>29</sup>

5 With respect to some other aspects of Section 272, the ALJ stated that Qwest had not yet met its  
6 burden of demonstrating compliance but could do so by taking recommended actions.<sup>30</sup> These aspects of  
7 the decision ultimately derive from the ALJ’s assertion that the FCC decisions regarding Section 272 are  
8 based on a view of the statute that “does not have a common sense meaning,” or that “the FCC may well  
9 reconsider” in the future.<sup>31</sup> A number of the ALJ’s recommendations are in fact already in place at  
10 Qwest and others go well beyond what the FCC has required of other BOCs that have received 271  
11 approval. The FCC has made clear that a state commission may not “condition or delay BOC entry into  
12 intrastate interLATA services” with requirements inconsistent with those imposed by the FCC,<sup>32</sup> whether  
13 or not the state commission has a different view of what “common sense” requires. Qwest maintains that  
14 its evidence meets the requirements of Section 272 as applied by the FCC and it respectfully requests  
15 that this Commission reaffirm its decision that, subject to Qwest’s showing on the QCC-LCI merger,  
16 Qwest is in compliance with the requirements of Section 272.<sup>33</sup>

17 **II. THERE IS NO BASIS TO MODIFY THE COMMISSION’S DECISION AS IT RELATES TO SUBLOOP**  
18 **UNBUNDLING**

19 A subloop is a portion of the loop “that can be accessed at terminals in the [ILEC’s] outside

20 <sup>27</sup> See Order at ¶ 241; New Mexico Commission Order at ¶¶ 20-21; Iowa Order at 19-28; Colorado Order at ¶¶ E-10-  
E14.

21 <sup>28</sup> Minnesota ALJ Decision at ¶ 37.

22 <sup>29</sup> *Id.* at ¶ 73. The Minnesota ALJ also found no merit in AT&T’s allegation that Qwest’s process for evaluating  
service requests is discriminatory (¶ 107) and rejected AT&T’s request that Qwest be burdened with posting  
requirements not imposed by the FCC on other RBOCs (¶ 101) or marketing restrictions inconsistent with the Section  
272(g) “safe harbor” previously outlined by the FCC (¶¶ 130-131).

23 <sup>30</sup> *Id.* at 40-43.

24 <sup>31</sup> *Id.* at ¶¶ 23, 61 & n.116.

25 <sup>32</sup> First Report and Order and Further Notice of Proposed Rulemaking, *Implementation of the Non-Accounting*  
*Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905 (1996) ¶ 47  
 (“Non-Accounting Safeguards Order”). It is axiomatic that if a state commission cannot condition or delay BOC entry  
into intrastate interLATA services, it also cannot condition or delay BOC entry into interstate interLATA entry with  
requirements inconsistent with those imposed by the FCC.

26 <sup>33</sup> Qwest will make the submission related to the LCI merger this week as ordered.

1 plant.”<sup>34</sup> During the workshop process, Qwest and AT&T were able to reach consensus on subloop  
2 unbundling as it relates to accessing traditional terminals in the outside plant such as the feeder-distribution  
3 interface (FDI). All of the disagreement in the workshop centered around accessing terminals in  
4 “Multiple Tenant Environments” (MTEs).

5 The process Qwest has created for accessing subloops in MTEs is relatively straightforward.  
6 First, upon request Qwest will determine whether it or the landlord owns the facilities inside the MTE. If  
7 the landlord owns the facilities, then the CLEC can gain direct access to the terminal through SGAT §9.5,  
8 concerning NIDs. If Qwest owns the intrabuilding cable, however, then the subloop unbundling  
9 provisions of the SGAT (§9.3) apply. Second, the CLEC must inform Qwest of the number of facilities it  
10 has terminated in the MTE Terminal so Qwest can create an inventory of the facilities. Third, the CLEC  
11 must order the subloop element by submitting a Local Service Request (LSR). The CLEC need not wait  
12 for Qwest to create the inventory before it accesses the subloop. Qwest will complete the CLEC’s LSR  
13 with the inventory information after the fact thereby speeding up the time by which CLECs can gain  
14 subloop access. AT&T challenges all three of these foundational steps even though the parties reached  
15 consensus on two of them in the workshop. The Commission should affirm its prior decision, as this  
16 three-step process is essential to an orderly subloop process.

17 A. **AT&T’s Complaint that the Intervals for Determining Facility Ownership are Unnecessarily**  
18 **Lengthy Are Ill-Founded (WA-SB 3).**

19 The net effect of AT&T’s argument is that Qwest has created a scenario for accessing subloops  
20 that is unnecessarily lengthy and makes it impossible for AT&T to comply with WAC 480-120-051,  
21 which requires local exchange companies to provide primary service to customers within five business  
22 days. The Commission found that the parties had reached consensus on these intervals and ordered  
23 Qwest to place the stipulated intervals into the SGAT.<sup>35</sup>

24 AT&T’s argument is unpersuasive for three reasons:

25 First, AT&T stipulated to the interval that it takes Qwest to determine whether it or the

26 <sup>34</sup> *UNE Remand Order* at ¶206.

<sup>35</sup> 28<sup>th</sup> Order at ¶¶97-99.

1 landowner owns the facilities inside the MTE. SGAT § 9.3.5.4.1 states that Qwest has ten (10) calendar  
2 days to determine facility ownership in the first instance; five (5) days to determine facility ownership  
3 when the building owner claims to know who owns the facilities; and two (2) days when Qwest has made  
4 a prior determination of subloop ownership. These actual intervals were AT&T's idea; therefore, the  
5 SGAT language closed in the workshop as consensus.<sup>36</sup> Moreover, the 10-day interval is derived from  
6 express FCC precedent. In the *MTE Order* – the order cited by AT&T – the FCC held that the ILEC  
7 has up to ten business days to determine ownership of intrabuilding cable.<sup>37</sup> Thus, while AT&T argues  
8 that the FCC has expressed concern about how CLECs access intrabuilding cable, the FCC held that  
9 determining facility ownership within ten business days eliminates this concern. Qwest actually provides  
10 the information to CLECs more quickly, in ten (10) calendar days as opposed to ten (10) business days.  
11 Thus, the first interval about which AT&T complains is supported by both FCC precedent and AT&T's  
12 stipulation that the interval is appropriate.

13         Second, this interval only applies to the first subloop element ordered within a MTE. Once it is  
14 determined that Qwest owns the facilities inside the MTE, AT&T can serve interested customers within  
15 the MTE without any additional delay at all. Given that only one customer per MTE is affected by the  
16 interval, there is no basis for claiming that AT&T cannot meet the requirements of WAC 480-120-051.  
17 If AT&T was truly troubled by its ability to comply with WAC 480-120-051, Qwest believes that this  
18 provision would have surfaced prior t its Motion for Reconsideration. This provision was not discussed in  
19 the workshop, was not discussed in AT&T's opening brief, and was not discussed at the oral argument.

20         Third, once the Commission determines that the interval in SGAT § 9.3.5.4.1 is appropriate, the  
21 Commission's decision to affirm the 28<sup>th</sup> Order on the subject is at an end. The interval in SGAT §

22 <sup>36</sup> 8/1/01 Tr. at 5547-49 and EX 1020

23 <sup>37</sup> First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and  
24 Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum  
25 Opinion and Order in CC Docket No. 88-57, *In the Matter of Promotion of Competitive Networks in Local  
26 Telecommunications Markets, Wireless Communications Association International, Inc. Petition for Rulemaking to  
Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or  
Transmission Antennas Designed to Provide Fixed Wireless Services, Implementation of the Local Competition  
Provisions in the Telecommunications Act of 1996, Review of Sections 68.104 and 68.213 of the Commission's Rules  
Concerning Connection of Simple Inside Wiring to the Telephone Network*, CC Docket No. 96-98 & 88-57, FCC 00-366  
(Rel. October 25, 2000) ("*MTE Order*") ¶ 56.

1 9.3.5.4.1 is the only interval that affects the CLEC's ability to serve customers in the MTE (and again, it  
2 only affects access to the first customer served in the MTE). SGAT § 9.3.3.5 states that "if CLEC  
3 submits a Subloop order before Qwest inputs the inventory into its systems, Qwest shall process the  
4 order in accord with Section 9.3.5.4.1." Because the inventory process does not prevent the issuance of  
5 a subloop order, this SGAT section also closed as consensus.<sup>38</sup> AT&T admits as much in its petition.<sup>39</sup>

6 Thus, while AT&T raises issues about a purported inability to serve customers if the Commission  
7 affirms its decision in the 28<sup>th</sup> Order, AT&T's claims are absolutely without basis. The intervals in  
8 Qwest's SGAT are supported by FCC precedent and agreement from AT&T itself. The Commission  
9 should deny AT&T's request to reconsider these issues.

10 **B. The Commission Should Affirm the Requirement for CLECs to Use a Local Service Request (LSR)**  
11 **to Order Subloops (WA-SB 4/5).**

12 AT&T argues that the Commission should reverse its requirement that CLECs use a LSR to  
13 order subloops due to the "astronomical cost and significant process for creating an LSR."<sup>40</sup> The  
14 Commission required use of a LSR because ten state commissions had all required such use: "Given that  
15 ten other states will require LSRs for subloop orders, we will, in the interest of uniformity, allow Qwest to  
16 require LSRs for subloop inside wire orders."<sup>41</sup> Nonetheless, the Commission also urged "Qwest to  
17 automate the LSR process for subloop orders as soon as practicable" and therefore "require[d] Qwest  
18 to file a status report on this topic subsequent to the issuance of this Order."<sup>42</sup> Qwest will make this  
19 separate filing as required by the Commission.

20 AT&T's request for reconsideration does not concern whether the LSR process is manual or not,  
21 but whether a LSR process is required at all. As an initial matter, AT&T's argument flies in the face of  
22 final determinations of ten different states, each of which required use of the LSR process. Thus, as the  
23 Commission recognized, at this point AT&T must already create a process for submitting LSRs in ten

24 <sup>38</sup> 8/1/01 Tr. 5521-25

25 <sup>39</sup> AT&T Petition at 7, lines 2-4.

26 <sup>40</sup> AT&T Petition at 9.

<sup>41</sup> 28<sup>th</sup> Order at ¶103.

<sup>42</sup> *Id.*

1 different states.

2           Moreover, AT&T itself acknowledged that use of an LSR is appropriate for almost all aspects of  
3 subloop unbundling. AT&T acknowledged it is appropriate for all subloop elements accessed at FDI  
4 (“detached terminals”).<sup>43</sup> AT&T also acknowledges that in an MTE environment, an LSR must be  
5 submitted when AT&T seeks a subloop with number portability. According to AT&T, this constitutes  
6 approximately 70-80% of all such orders.<sup>44</sup> Moreover, submission of an LSR is the industry standard for  
7 wholesale orders.<sup>45</sup> The Ordering and Billing Forum (“OBF”) is the national industry forum that creates  
8 and maintains LSR ordering guidelines, which are the *de facto* standard for ordering. The OBF has  
9 considered how subloop unbundling should be ordered and has developed LSR guidelines for ordering  
10 subloops. Thus, what AT&T seeks to do is create an exception to industry norm for a tiny fraction of  
11 subloop orders.

12           Creating an exception of this type simply does not create the cost savings and efficiency AT&T  
13 seeks. To the contrary, it would create confusion because sales representatives would have to think (1)  
14 what state is the customer in, and (2) does the customer want number portability before deciding what  
15 ordering process to use. Qwest’s process on the other hand would be uniform for all states and to every  
16 situation.

17           Use of an LSR is also a critical step in the process. The LSR provides the process by which the  
18 CLEC informs Qwest that it is gaining access at an MTE. It allows Qwest to update its inventory records  
19 to reflect that CLEC is using the subloop. It allows Qwest to begin billing the CLEC and to register the  
20 circuit in Qwest's maintenance systems.<sup>46</sup> An LSR is the instrument that allows Qwest to perform its  
21 maintenance and repair processes. Without an LSR, Qwest’s repair systems will not recognize a trouble  
22 ticket issued against a subloop element.

23           Further, the absence of an LSR will impede Qwest's ability to service its own retail customers. If

24 <sup>43</sup> See SGAT §9.3.5.2.1.

25 <sup>44</sup> July 13, 2001 Workshop Transcript Vol. 32 at 4706:13-20.

26 <sup>45</sup> July 13, 2001 Workshop Transcript Vol. 32 at 4705:6-12.

<sup>46</sup> July 13, 2001 Workshop Transcript Vol. 32 at 4705:2-5.

1 a customer subscribes to AT&T's service and then decides to return to Qwest, Qwest will have difficulty  
2 providing service because it will not know that AT&T has taken the subloop. Without knowledge  
3 regarding the activity that has taken place at the terminal, a Qwest technician is faced with either pulling  
4 AT&T's jumper off, believing that it should be serving a Qwest customer, or not turning up the Qwest  
5 service. Neither is acceptable an acceptable option because both result in the unnecessary disruption of a  
6 customer's service. If AT&T had notified Qwest of its use of facilities through submission of an LSR,  
7 Qwest would be able to resolve the situation quickly and efficiently.

8 Thus, there is simply no legal or policy justification for eliminating the LSR. Qwest urges the  
9 Commission to affirm its current decision to require use of the LSR, as the commissions in ten other states  
10 have so ordered.

11 **III. CONCLUSION**

12 For all of the aforementioned reasons, Qwest respectfully requests that the Commission deny  
13 AT&T's Petition for Reconsideration and affirm those aspects of the 28<sup>th</sup> Order challenged by AT&T.

14 RESPECTFULLY SUBMITTED this 8th day of April, 2002.

15 QWEST

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