

T-00000A-97-0238 SPECIAL OPEN MEETING 8/23/2001

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1 BEFORE THE ARIZONA CORPORATION COMMISSION

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3 IN THE MATTER OF U S WEST) DOCKET NO.
COMMUNICATIONS, INC.'S) T-00000A-97-0238
4 COMPLIANCE WITH SECTION 271)
OF THE TELECOMMUNICATIONS) SPECIAL OPEN MEETING
5 ACT OF 1996.) STATUS OF QWEST'S
6) 271 APPLICATION

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REPORTERS' TRANSCRIPT OF PROCEEDINGS

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Phoenix, Arizona
August 23, 2001

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1 COM. IRVIN: I just wanted to throw in
2 acronyms for fun.

3 MR. ZULEVIC: The third element I'd like to
4 discuss is the performance assurance plan. And it's
5 Covad's understanding that the PAP is strictly a
6 voluntary undertaking by Qwest. Therefore, according
7 to Qwest, no changes may be made to the PAP's terms
8 and conditions, PIDs or associated penalty regime even
9 by the Commission without Qwest's approval. Secondly,
10 most emerging service PIDs such as line-shared loops
11 and sub loops are deemed diagnostic and therefore not
12 included.

13 MR. KEMPLEY: Mr. Chairman, I understand that
14 Covad has comments that they'd like to make about the
15 performance assurance plan, but we're kind of getting
16 to specifics and these are --

17 CHMN. MUNDELL: Are those some disputed
18 issues?

19 MR. KEMPLEY: These are disputed issues in
20 the 271 proceeding at this time, and I believe that's
21 the appropriate place to deal with those issues.

22 COM. IRVIN: Actually, Mr. Kempley, if you
23 look, do you have a copy of his prepared remarks?

24 MR. KEMPLEY: I don't have a copy of his
25 prepared remarks.

1 COM. IRVIN: He's got what he's saying right
2 here, and it's pretty general. I'm not seeing --

3 MR. KEMPLEY: Mr. Chairman, Commissioner
4 Irvin, unfortunately, the specific comments that he's
5 making already have gone into issues that are disputed
6 in the proceeding. If you want to talk about the
7 general nature of a performance assurance plan that
8 Covad would think is appropriate, I don't think that
9 would be a problem, but the specifics that he's talked
10 about are disputed in the proceeding. I guess I'll
11 leave it at that.

12 CHMN. MUNDELL: Let me ask this, Mr. Kempley:
13 Is the issue of whether or not the performance
14 assurance plan is voluntary, is that an issue of
15 dispute? Because it's not clear in the legislation,
16 and Qwest has taken one position and other people have
17 taken another position.

18 MR. KEMPLEY: I think you could tell from
19 Mr. Rowell's presentation that if you simply say that
20 the performance assurance plan is voluntary, you
21 stated a fact. But what Covad is talking about is
22 issues that are in dispute about what the consequences
23 are of the voluntary nature of the performance
24 assurance plan, and I believe at that point you're
25 starting to get into discussions that are ongoing and

1 in dispute in the proceeding.

2 COM. IRVIN: Mr. Chairman, I'm on Page 8 of
3 the prepared remarks, and I think that as you can see,
4 I would agree, Mr. Kempley, they do get specific on
5 here.

6 CHMN. MUNDELL: Try to keep it, as I said, at
7 30,000 feet so that we can --

8 COM. IRVIN: And that raised another issue.
9 We've been handed these things, I already read them.
10 They were handed out, they were made public record.
11 MCI pulled their stuff back. I don't want to get in
12 trouble.

13 CHMN. MUNDELL: We'll unring the bell and
14 disregard it.

15 MR. KEMPLEY: I think at this point I would
16 disregard it. I'm not concerned about the handout.
17 All of these items will be pursued through the 271
18 process, and brought to you in some guise after
19 they've had the opportunity to be fully explored
20 through that process. And that's really the reason I
21 think that we're trying to exclude disputed issues
22 today, is because those issues haven't had the benefit
23 of the full process, and that process should be
24 allowed to play itself out.

25 CHMN. MUNDELL: It was difficult trying to

1 talk about this issue and also deal with disputed
2 items, and I understand that. And at the time we set
3 this, it was a few months ago when we decided to do
4 this, and it's moved through the process, so you're
5 going to get your day in court, just so everyone is
6 clear about that.

7 And I think as Commissioner Spitzer said
8 earlier, we know what the issues are, this has been
9 educational and informative, and when we get into the
10 decision we'll make decisions based on the record, not
11 press releases. That's what I said before when we
12 took a recess an hour ago. Make your points without
13 getting into they said this, we said, that kind of
14 scenario. That will be helpful for today.

15 COM. SPITZER: Mr. Chairman, I might add that
16 just looking at Page 10, where the statement is made,
17 as a result Covad has committed to vigorously opposing
18 Qwest's application to the FCC. It sounds like the
19 gentleman will have two days in two courts.

20 CHMN. MUNDELL: More than two days I think
21 with two courts.

22 COM. SPITZER: Correct.

23 CHMN. MUNDELL: Go ahead, sir, if you can do
24 that, and summarize.

25 MR. ZULEVIC: I think I've had enough days

1 and too many courts at this point, and I apologize, we
2 have not had the resources to be actively involved in
3 the PAP recently, so I'm not aware which issues are at
4 official dispute.

5 But just at a very high level, in general, as
6 was discussed earlier today, emerging services are
7 just that, they are emerging, and there needs to be
8 some accountability for making sure that we are able
9 to successfully compete in the area of emerging
10 services in the State of Arizona. And the PAP seems
11 to be what we're going to have to rely upon.

12 CHMN. MUNDELL: Thank you, sir.

13 Any questions?

14 COM. IRVIN: No.

15 CHMN. MUNDELL: Anything else? I mean I
16 don't want to cut you off because I sort of cut you
17 off midstream in your thought process, if you've got
18 something you want to...

19 MR. ZULEVIC: Let me get back on track if I
20 could, Mr. Chairman.

21 CHMN. MUNDELL: Sure.

22 MR. ZULEVIC: Mr. Chairman, just briefly, I
23 know it's getting late and I'll try to move through
24 this as quickly as I can.

25 Qwest's conduct outside of 271 proceedings

1 reveals its desire to eliminate its competitors, in
2 Covad's opinion. Qwest states in its 271 proceedings
3 that it's permitted competition in the region. Qwest
4 tells Covad that it's one of its most valuable
5 customers. After Covad announced it voluntarily
6 pre-negotiated a Chapter 11 filing, a Qwest employee
7 e-mailed over 100 other Qwest employees briefly
8 describing Covad's restructuring effort as, quote, the
9 third batter down, probably a reference to Rhythms'
10 and North Point's problems, and the, quote, end of the
11 national DLEC game, end quote.

12 And they referred to Covad's announcement of
13 continued operations as, quote, delusional, end quote.
14 And the result of, quote, drinking too much Kool-Aid,
15 end quote. This particular Qwest employee predicts
16 that, quote, it's quite likely the judge will say they
17 have no chance to succeed and force them to immediate
18 Chapter 7 liquidation, end quote.

19 Covad faces this kind of open anticompetitive
20 conduct by Qwest on a regular basis. Qwest employees
21 have told Covad's end-user customers that Covad is
22 notorious for stealing copper pairs; that they have
23 disconnected Covad DSL service over the objection of
24 the end-user. Qwest technicians have stolen valuable
25 network monitoring equipment out of Covad's

1 collocation space, and just last week solicited a
2 Covad end-user customer when the Qwest employee,
3 acting on behalf of Covad, went to the end-user's
4 premises to correct the trouble on a line.

5 The substantive issues taken in tandem with
6 Qwest's anticompetitive attitude demonstrated Qwest's
7 271 relief in the State of Arizona is not in the
8 public interest.

9 Also, I'd like to express some concerns about
10 the overall 271 proceeding that I've been an active
11 participant in the workshops here in Arizona, as well
12 as the workshops in Colorado and Washington. I feel
13 that resource and timing constraints on the ACC makes
14 it difficult if not impossible for a complete and
15 thorough evaluation and resolution of all issues,
16 including emerging services issues.

17 Resource and timing constraints on ACC makes
18 it difficult if not impossible for the ACC to fulfill
19 the obligations the FCC expects the ACC to satisfy.

20 Initially, Covad made the decision, a
21 business decision to participate in the 271 process
22 only in Colorado and Washington, given the limited
23 resources that we have available. We were asked a
24 number of times by a number of parties to please come
25 down and participate in Arizona, that our input as a

1 DLEC would be very valuable.

2 As a result of the resolution of several key
3 emerging services issues, as well as the logistical
4 and scheduling difficulty Covad has faced in
5 attempting to participate in these proceedings, Covad
6 believes it was requested to participate not to ensure
7 that all CLEC concerns will be addressed and the steps
8 necessary to open and keep open Arizona local markets,
9 but simply to complete the proceeding with the
10 inclusion of at least one DLEC.

11 As a result Covad is committed to vigorously
12 opposing Qwest's application.

13 Thank you very much. That concludes my
14 comments.

15 CHMN. MUNDELL: Thank you, sir.

16 Any questions?

17 COM. IRVIN: Based on your previous
18 statements, this alleged conduct of the Qwest
19 employee, did that activity occur in Arizona or did
20 that activity occur elsewhere?

21 MR. ZULEVIC: I'm sorry?

22 COM. IRVIN: The alleged activity of the
23 Qwest, that you allude to of the filing of Chapter 11.

24 CHMN. MUNDELL: The e-mail that you talked
25 about.

1 MR. ZULEVIC: I do have copies of that if the
2 Commission would like to see them. I'm not sure
3 where.

4 COM. IRVIN: I'm not sure if you want to
5 provide that. My question is did that occur in
6 Arizona or did that occur in another state, the
7 e-mail, where did it occur from?

8 MR. ZULEVIC: I can't really tell from the
9 e-mail as to what state it originated in, but it was
10 distributed to 190 Qwest employees. I don't really
11 know what state. I'm sure it was multiple states.

12 COM. IRVIN: So it is your conclusion that
13 despite what you've heard today that our process is an
14 incomplete process, yet I don't see anything in here
15 that you offer valuable -- you've agreed and even your
16 comments, even though you don't, the issues that the
17 Staff and that the groups are addressing are key
18 concerns of yours, and yet you go on to say that
19 you're going to oppose it, which is your prerogative,
20 which is fine, and that you think our process is not,
21 will not be complete and in essence is unfair.

22 I fail to see how you can draw that
23 conclusion. I understand that you might be a little
24 upset with Qwest if indeed that e-mail took place and
25 those things happened.

1 MR. ZULEVIC: Well, it isn't that I feel that
2 there was a lack of interest in really doing the
3 process well. What I would say is that from the
4 experience that I had in the workshops in other
5 states, there were some key things that were missing
6 here that I think would have lent themselves well to
7 providing additional information for the Commission to
8 make its decisions.

9 CHMN. MUNDELL: Are those unresolved issues?
10 We haven't made a decision yet on what the ultimate --
11 we're ultimately going to decide, so that's what I'm
12 asking. Are there issues that you believe still need
13 to be addressed and you don't have an opportunity to
14 do that? I think that's what Commissioner Irvin is
15 trying to get at.

16 MR. ZULEVIC: I feel like we were definitely
17 given an opportunity to express our concerns,
18 definitely. From that perspective there was due
19 process.

20 The thing that I had a concern about -- and
21 to be a little more specific, is that I tend to deal
22 primarily with engineering and technical issues. The
23 271 workshops that were held in Colorado and
24 Washington always had someone with technical
25 experience, if not a telecommunications engineer,

1 either as an active participant or available on a
2 moment's notice to consult and to help bring some of
3 these issues more to light and create more of an
4 understanding. And I don't feel that that happened
5 here. I don't feel -- I don't know that there was
6 ever a Staff person available or at any of the
7 proceedings that had an engineering for telecom
8 technical background.

9 COM. IRVIN: Having heard that and knowing
10 that the people involved and the consultants that we
11 hired, I think they had access to those people. The
12 issue was raised, and in order -- I mean I'm guessing,
13 and you heard this morning's presentation, certainly
14 it would appear to me there was plenty of technical
15 expertise available. And I know in fact AT&T has
16 participated vigorously and provided technical
17 expertise on behalf of the whole process, and I'm sure
18 MCI has done the same thing. It's just not a bunch of
19 lawyers and a bunch of lobbyists sitting in a room,
20 they have to get their information from someplace, as
21 well as our own Staff has experts, so I would take
22 exception.

23 I think your impression is a wrong one. And
24 it wasn't one workshop that was concluded at the end.
25 It was, as I understand it, more than one workshop,

1 and the issues were addressed and were raised more
2 than once and then gone back and resolved. Hopefully
3 satisfactorily.

4 Obviously the Commissioner, as the Chairman
5 alluded to, there still are some issues still in
6 dispute which we're trying to work out on. We can
7 carry this on for 15 years, we're obviously not going
8 to keep everybody happy. But I don't know what more
9 you want and I hope it's important, if the Commission
10 finds everything is improper, and hopefully you will
11 submit your comments at least in writing if you can't
12 be in person, and those workshops can address those
13 concerns.

14 MR. ZULEVIC: I totally agree that there was
15 ample technical involvement by the other CLEC
16 participants in the proceeding. The thing that again
17 I saw that was missing was not having the interaction
18 of a party, engineer someone with a technical
19 background that could assist in working through the
20 issues, and definitely --

21 CHMN. MUNDELL: I think what would be helpful
22 is to sort of do what Mr. Beach did and give us, not
23 today, but you could put it in writing, concrete
24 engineering examples that you believe still need to be
25 addressed in the appropriate docket. Why don't we

1 agree that what you submit is one thing, but again, if
2 you have issues that you think need to be addressed,
3 then again, it would give us concrete examples so that
4 we can read your filings and then deal with them
5 appropriately and accordingly.

6 COM. SPITZER: Mr. Chairman, if I may, and I
7 guess again I draw a comparison to the testimony of
8 Mr. Beach, or the statements of Mr. Beach. I am
9 interested in doing it right, and I've always
10 believed, as an elected official, and as well in my
11 professional career as an attorney, it's more
12 important to do it right than to do it fast. And I
13 think the Staff shares our view and has been willing
14 to solicit input. And we are in the midst of a
15 proceeding here. There are several items that have
16 been agreed to. There are items that are in dispute.

17 The pricing docket, as we've heard, has been
18 the subject of a voluminous, vigorously contested,
19 litigated process before the administrative law judge,
20 and an order will be ultimately forthcoming for the
21 consideration of this Commission. We are again in the
22 process of achieving the same result in this
23 proceeding here on the OSS, and that's an additional
24 step that was taken I think by the Staff in holding
25 this meeting today so that complaints or constructive

1 criticism could be aired.

2 And in distinction to the comments of
3 Mr. Beach, what I see in this paper that was
4 submitted, which I frankly find extraordinary, are
5 some factual assertions unsupported, ending with a
6 conclusion that you're going to oppose Qwest's
7 application at the FCC in advance of the conclusion of
8 this proceeding, in advance of the Staff report, in
9 advance of any decision rendered by any administrative
10 law judge, and in advance of any determination by this
11 Commission. So it would appear that, and again, I
12 have some unsupported anecdotal gibberish leading to a
13 conclusion that you're prepared to oppose the result.
14 The conclusion we don't know enough today.

15 And I guess what is disturbing, and I would
16 echo both my colleagues' comments, constructive
17 criticism is always welcome, and anything that will
18 assist this Commission in reaching a proper
19 adjudication of the 271 process, however it turns out,
20 and I have no idea how it will turn out, in compliance
21 with the 1996 federal statute and in the best
22 interests of the people of Arizona is always welcome.
23 But again, a statement that you're prepared to
24 vigorously contest this regardless of the outcome, not
25 even knowing what that outcome is, is curious.

1 MR. ZULEVIC: Yes, Mr. Commissioner, that is
2 probably somewhat premature to make that kind of a
3 statement, I would agree. And what it's based upon is
4 a rather frustrating experience in working through a
5 lot of these issues in the workshops. And I don't
6 want to imply at all that there were issues that were
7 not able to be brought up during the 271 process.
8 That is absolutely not the case. We were given every
9 opportunity to bring forth every issue that we had.

10 Again, the only criticism, whether it be
11 considered constructive or not, is that from my
12 perspective it would have been helpful to have that
13 mutual Commission Staff engineering expertise during
14 those proceedings.

15 CHMN. MUNDELL: Thank you.

16 Commissioner Irvin.

17 COM. IRVIN: No. Do we have anybody else?

18 CHMN. MUNDELL: We do. I don't see them at
19 the table, I don't know if they wanted to speak or
20 not. I've got on my list RUCO. Come on up. You're
21 on my agenda, I'll have to swear you in like I've done
22 everybody else separately, I guess.

23 MR. KEMPLEY: Mr. Chairman, before RUCO
24 speaks, Mr. Rowell indicated that at the pleasure of
25 the Commission, we would like to address briefly

1 Covad's comments specifically, the very last statement
2 about engineering expertise.

3 CHMN. MUNDELL: I'll go ahead and let him,
4 but I don't want to have point counterpoint. We can
5 be here till 11:00 this evening.

6 MR. KEMPLEY: I believe this particular issue
7 is unique with regard to the comments that have been
8 made, and we have avoided making any responses to
9 other comments that other parties made.

10 COM. SPITZER: Mr. Chairman, I would like to
11 know if Covad filed comments at the end of the
12 workshops.

13 CHMN. MUNDELL: Based, Mr. Kempley, on your
14 statement is sort of like trying to make a decision on
15 what a witness is going to testify to without knowing
16 what the witness is going to say, I will take it on
17 your avowal that this needs to be done from your
18 perspective. So go ahead, state your name and tell us
19 what you want.

20 MR. ROWELL: This is Matt Rowell, Commission
21 Staff. Just for the record I'd like to state that at
22 almost all the workshops and the TAG meetings that we
23 did have, Mr. Hagood Bellinger was present. And
24 Mr. Bellinger is with DCI, which is Staff's
25 consultant, and we rely on DCI extensively.

1 Mr. Bellinger is an engineer with extensive telecom
2 experience. That's really all I had to say.

3 COM. IRVIN: He is a mutual third party.

4 CHMN. MUNDELL: Thank you. We're not going
5 to go point counterpoint. You can file written
6 documents if you'd like.

7 Go ahead and raise your right hand.

8 (Daniel Pozefsky was duly sworn.)

9 CHMN. MUNDELL: State your name for the
10 record, tell us who you represent.

11 MR. POZEFSKY: Good afternoon, Chairman,
12 Commissioner Irvin, Commissioner Spitzer. Dan
13 Pozefsky. I'm here on behalf of RUCO.

14 I'd like to address the Commission from the
15 standpoint of an individual that has not nearly the
16 experience of these fine gentlemen sitting here at
17 this table doing the area of telecom. I say that
18 because over the past year I've sat through a couple
19 workshops, not as many as I would have liked to, but
20 some of the ones that we viewed I wouldn't say more
21 important, but we wanted to concentrate on, such as
22 the sub loops and the public interest and the number
23 portability workshops.

24 And I have to tell you that the majority of
25 the material utterly confused me. It's taken just a

1 ton of time to really get a handle on it, and I can't
2 say I have a total handle on it, but I do have a
3 handle on some things, and there were a few
4 observations that I've made and I'd like to pass them
5 on to the Commission.

6 I think that there are a couple areas of
7 performance that I know RUCO would like to see
8 addressed and followed. And before Qwest is
9 ultimately given 271 RUCO would like to see some sort
10 of resolution on these things.

11 There are a number of areas, I picked out
12 four that I went through my notes and looked at. Some
13 of these we've already addressed, and I don't want to
14 get too far into the substance of them because I think
15 they're disputed.

16 But I would pick out the firm order
17 confirmations, which is one area; the disparity in the
18 number portability issue. Setting up service in new
19 subdivisions seems to be an area of concern, and that
20 one is of particular interest because that sort of
21 behavior, at least the way it's been described by
22 CLECs and brought up in the --

23 MR. KEMPLEY: Mr. Chairman, we're back now,
24 and I guess I was prepared to just sit and let him
25 identify the issues that he thought we need to be

1 resolved, but if we're going to talk about the
2 specifics of what's the issue is on disputed issues, I
3 think the ongoing proceeding is the place to deal with
4 that.

5 CHMN. MUNDELL: As I said earlier, it's
6 difficult to address these issues and try to keep it
7 at a certain level, so if you can just tell us what
8 the issues are.

9 COM. IRVIN: Mr. Chairman, if he would stick
10 to his written comments. It says RUCO understands and
11 notices these issues are not the subject before the
12 special open meeting, and intend to address them
13 before the Commission when it is appropriate. What
14 you filed is proper. Identify them, and when we get
15 up there we'll take care of it.

16 MR. POZEFSKY: I'll try to keep to that
17 thousand degree level.

18 COM. IRVIN: The Chairman set the level at
19 30,000 feet. He said a thousand, so he needs to rise.

20 MR. POZEFSKY: The fourth one that I thought
21 was something that we need to, I know RUCO would like
22 to find out where this goes, is the policy changes,
23 the internal policy changes that happened within Qwest
24 and how they're related to the CLECs, in fact some
25 information sort of issues, but we would like to make

1 sure that there's a total information parity, if you
2 will, and that there's no issue on that.

3 All this kind of leads me also to one other
4 quandary that I've been listening to the comments that
5 were said today. Commissioner Spitzer very fairly
6 brought up the Qwest market share, and the issue of
7 market share, of course, was an issue that's in
8 dispute in the public interest sector.

9 But my question is, I guess I'm addressing
10 this question to the Commission because we still are
11 dealing with the issue of market share, and I know
12 that the way the FCC has looked at it, at least from
13 the New York case and all the cases is as far as
14 market share is concerned, market share itself will
15 not undermine the openness of the market, and that if
16 in fact market share was relevant for that particular
17 purpose Congress would have decided to a definitive
18 market share percentage which in fact it never did.

19 The market share issue has been raised by
20 CLECs in most of these proceedings, and I know the FCC
21 has kind of looked at it like to the extent that the
22 CLEC doesn't come into the market as a result of a
23 business decision, and the ILEC, that shouldn't be
24 held against the ILEC as far as their application is
25 concerned. So given that, I think market share, to

1 the extent that the CLECs are being discriminated
2 against and that's the reason they're being kept out
3 of the market, market share itself is a very important
4 issue.

5 I only bring that up because I noticed how
6 important it is as part of the conversation where I
7 want to go with the public interest workshop, I don't
8 know, but I'm just trying to figure out what the
9 Commission's thoughts and where they are on that as
10 far as the importance of that for this Commission.

11 MR. KEMPLEY: Mr. Chairman, that's
12 specifically posing to you one of the disputed issues
13 in the case and --

14 CHMN. MUNDELL: We're not going to answer it.
15 I'm not here to answer questions of the parties.

16 COM. SPITZER: We ask the -- he can ask the
17 questions.

18 CHMN. MUNDELL: He can.

19 MR. POZEFSKY: I wasn't being smart.

20 CHMN. MUNDELL: We appreciate the issue. I
21 don't think Mr. Kempley wants to worry about us
22 answering it.

23 MR. POZEFSKY: That's all I have.

24 CHMN. MUNDELL: According to my agenda, we
25 have time for rebuttal from Qwest if necessary.

1 MR. DAVIS: Thank you, Your Honor.
2 Recognizing the time, I'll keep this to the point. My
3 name is Steve Davis, and I'm the senior vice-president
4 for Qwest for policy and law.

5 We also filed comments in advance which seem
6 to be a little bit outside the scope of this
7 proceeding as has been defined today, so we would like
8 to withdraw those comments if that's permissible with
9 all the parties, or the Commission, the other parties
10 can live with it as we will.

11 CHMN. MUNDELL: We'll give them to
12 Mr. Kempley.

13 MR. DAVIS: Your Honor, I've been with Qwest
14 some 19 months, with AT&T some 19 years before that.
15 One of the things I would like to take exception to
16 this afternoon is the characterization of Qwest as a
17 company from Covad.

18 I never would have come to Qwest if Qwest was
19 going to be a company that's similar to the other BOCs
20 that impedes competition, that tries to keep markets
21 closed, and that doesn't look at the country as a
22 whole and try to compete in the entirety of the
23 market.

24 Before I came here I received assurances from
25 Joe Nacchio and Mr. Mohebbi, who you heard today, as

1 well as the Qwest business plan, that that's not the
2 case. We are unique. We look at the country as being
3 100 percent, and 90 percent of it is outside of our
4 territory, when you're talking about the business
5 opportunity and the market opportunity. We were about
6 opening market to competition both in our region and
7 outside our region. You will never see us take a
8 position in Arizona that is not exactly the same as
9 the position we take at Dallas or Miami or St. Louis
10 or Los Angeles.

11 We want to meet the 271 requirements as soon
12 as possible, there's no secret about that. We have a
13 large hole in our network. The 14 states, whether
14 it's serving multinational companies, locations in
15 this region or serving consumers within this region,
16 we have a large homeowner product offering, and we
17 would like to fix that.

18 We have done everything we could over the
19 last 15 months or so since this merger to achieve
20 that, and quite frankly I would state that it occurred
21 long before that as the mergers proceeding we saw much
22 greater emphasis by the companies in opening markets
23 and meeting the 271 requirements. I am sorry about
24 the e-mail that was sent by the Qwest employee. That
25 employee has been disciplined and that doesn't reflect

1 the position of Qwest, and that's been taken care of,
2 and I believe we've apologized to Covad, letting them
3 know.

4 An awful lot of what AT&T and MCI, and quite
5 frankly a lot of what Covad said I agree with. This
6 process is about testing Qwest's systems to see if we
7 have done the things required by the act to meet the
8 14-point checklist which would then enable us to enter
9 into market. Systems are critical.

10 The whole purpose of this OSS test, this
11 third-party test that you have conducted for the last
12 eight months, nine, seven, eight months is to make
13 sure those systems work, those systems give a parity,
14 quality performance to a CLEC that buys our services
15 as it does to a retail customer that buys those
16 systems from Qwest. It's just an ugly test. It takes
17 forever, it costs a lot of money, it is
18 extraordinarily detailed. I commend the Commission
19 for conducting it and the Staff for going through this
20 inordinate process. It's a lot for us to go through,
21 and we really see a benefit at the end of the day.

22 But that is the purpose of the test. The
23 systems have to work, and this test should prove that,
24 and when that test is finished, it should be finished.

25 Our performance is critical. We have to