BEFORE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Merger of the Parent	)	DOCKET NO. UT-991358
Corporations of Qwest Communications	)	
Corporation, LCI International Telecom	)	
Corp., USLD Communications, Inc.,	)	
Phoenix Networks, Inc. and U S WEST	)	
Communications, Inc.	)	

DIRECT TESTIMONY

OF

STACEY STEWART

MCLEODUSA TELECOMMUNICATIONS, INC.

December 23, 1999

DIRECT TESTIMONY OF MR. STACEY STEWART
ON BEHALF OF MCLEODUSA

Q. Please state your name, address, and position?

A. My name is Stacey Stewart. My business address is McLeodUSA Technology Park, 6400 C Street, SW, Cedar Rapids, Iowa. I am Vice President – ILEC Relations of McLeodUSA, responsible for business relations between McLeodUSA and the dominant local telephone exchange carriers, including U S WEST. I joined McLeodUSA as the director of strategic accounts management in August 1996 after 10 years as a sales executive with MCI.

Q. Please briefly describe the business activities of McLeodUSA?

A. McLeodUSA is a local and long distance telecommunications carrier with operations in 21 states, including Washington. It offers voice and data carriage through 375,000 business lines, over 120,000 residential lines and 100,000 ILEC lines. Its network comprises 9,000 inter and intra-city route miles. McLeodUSA has more than 7,500 employees and realizes $900 million in revenues on an annualized basis. It has been in the competitive local exchange business since 1994, when it first entered local markets in Iowa and Illinois. It currently provides local exchange service in numerous states in the U S WEST service region, including Washington.

Q. What are McLeodUSA's concerns with the proposed Qwest/U S WEST merger?

A. McLeodUSA is both a customer and a competitor of U S WEST, purchasing wholesale services and interconnection from U S WEST's local exchange monopolies in the areas served by U S WEST. Such wholesale services and interconnections are essential to provide McLeodUSA's customers with the most advanced and efficient retail telecommunications services in competition with U S WEST and others. We are concerned that U S WEST's wholesale services may deteriorate as a result of the merger, which in turn would degrade services provided to McLeodUSA's customers.

Q. Please identify the principal services that McLeodUSA acquires from U S WEST?

A. They include the following: Centrex, including CMS; unbundled loop; collocation; interconnection trunking; directory services; SMDI; local T1's; access services; wire care; voice mail; and call record detail.

Q. Why is McLeodUSA concerned that Qwest's merger with U S WEST will cause U S WEST's service to deteriorate?

A. The level of wholesale service McLeodUSA has received from U S WEST has been unacceptable in the past and McLeodUSA is concerned that, without strong and enforceable commitments, the proposed merger between Qwest Communications International Inc. ("Qwest") and U S WEST will make matters even worse. Qwest has openly stated that it plans to utilize as much of the revenue earned by the U S WEST assets as possible to fund Qwest's entry into the high-margin broadband business around the world. The almost certain result will be even further neglect of basic local services provided to retail and wholesale customers in the U S WEST region.

Dr. Bridger Mitchell of Charles River Associates, an economist, and Dr. Sarah Goodfriend, an economist and former regulator, have examined Qwest's plans as publicly announced and have prepared analyses of their probable effect on the merged firm's incentives and abilities with respect to wholesale and retail telecommunications services. These issues are addressed in their testimony.

The combined entity is likely to be more bureaucratic, both because of its larger size and because its focus will change from U S WEST's local exchange services to the wide array of telecommunications services, including broadband and interexchange services, which are currently at offered by Qwest.

In its responses to data requests regarding plans to improve service quality and funding of services following the merger, U S WEST and Qwest repeatedly state that they have yet to make certain key plans regarding the integrated companies.[1] U S WEST's lack of plans and commitments to wholesale service quality standards suggests that the level of investment in wholesale services and interconnection will continue to decline. Accordingly, McLeodUSA

[1] For example, in response to AT&T et. al 01-032S1, "Qwest and US WEST state that detailed internal processes and procedures to ensure compliance with those [interconnection and inter-carrier agreements] obligations have not been developed." Consider also, in response to AT&T et. al 01-096S1, "No decisions have been made with respect to positions the combined company will take in specific regulatory or legal issues after the merger has been completed." Most important, in response to WUTC 05-119, "[T]he companies do not yet have any schedule for developing plans for state-specific service quality improvement or local competition.

respectfully recommends that this Commission impose the conditions on the merger of the two companies, in order to ensure that in the future the integrated companies provide quality wholesale telecommunications service. Dr. Goodfriend discusses these conditions in her testimony.

Q. Does McLeodUSA have a proposal to avoid deterioration of service?

A. McLeodUSA respectfully submits that wholesale service quality deserves special attention. As the Commission well knows, the best way to improve service quality for retail customers is to enable competition to develop. Even in the best of circumstances, competition takes time to develop. But it is unlikely to develop on a widespread basis if competitors like McLeodUSA cannot be confident that services such as resale, interconnection, and unbundled network elements will be available from the incumbent on a timely basis and on reasonable terms and conditions. Regulators must therefore intervene to prevent a bad situation from getting worse. The Commission should exercise its jurisdiction to require that U S WEST make and fulfill defined conditions designed to improve wholesale and retail service quality before U S WEST is permitted to consummate the proposed merger with Qwest.

Q. Please explain the background underlying McLeodUSA's concerns regarding the impact of the proposed Qwest/U S WEST merger on U S WEST's service quality?

A. I will discuss U S WEST's deficiencies in both retail and wholesale service. First retail: Year after year, U S WEST has been cited for its inability to keep up with telecommunications retail industry norms for trouble reports, held orders, and consumer complaints. No U S WEST customer would be surprised to learn that, in recent customer surveys conducted by the Yankee Group, U S WEST finished last for overall customer satisfaction among the BOCs[2]. Regulators have worked hard to address the problem: Since 1996, regulatory commissions in Arizona, Colorado, Idaho, Montana, and Minnesota have together imposed more than $12 million in service-related fines on U S WEST while other commissions have imposed millions of dollars in rate cuts as penalties for poor service[3]. Unfortunately, these penalties have not caused U S WEST to improve its service. The Commission is of course well acquainted with the problem.

Now, turning to wholesale service: While service quality problems on the retail side are extremely serious, the problem is even worse for the customers of U S WEST 's wholesale CLEC services. As with retail service, U S WEST simply has not allocated adequate resources to ensure that its wholesale customers receive good service. But the problem with wholesale service quality is even more pervasive because U S WEST has a powerful incentive to refuse to meet its obligations to its wholesale CLEC customers[4].

Q. Would you describe this incentive and what it means to local competitors of U S WEST such as McLeodUSA?

A. Local competitors attempting to enter the U S WEST service area must purchase essential

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2 See T. Klauss, "U S WEST Service Criticized In Consumer Study," AP (Dec. 18, 1998).

3 See Letter from Morton Bahr, President, Communications Workers of America to Governor Vilsack, at 2 (June 21, 1999).

4 This discussion focuses on wholesale services U S WEST provides to its competitors in the local market. The discussion does not address other wholesale services U S WEST provides, such as access services it provides to long distance carriers.

inputs of production from U S WEST. For example, McLeodUSA has determined that the most efficient means of entering local markets is to begin by building a customer base by reselling the ILEC's retail services. After building a customer base in an area, McLeodUSA usually constructs its own switch and relies on UNE loops. McLeodUSA must still purchase many inputs, such as interconnection and unbundled elements, from U S WEST. At every step in the entry process, therefore, McLeodUSA has no choice but to remain the customer of the incumbent monopolist. But unlike other kinds of customers, McLeodUSA is U S WEST 's business competitor. As both the supplier of essential inputs to McLeodUSA's operations and a competitor of McLeodUSA, U S WEST has the incentive to withhold these inputs or to provide them to McLeodUSA on discriminatory terms and conditions. Most obviously, U S WEST can withhold inputs entirely (for example by making services central to McLeodUSA's business plan unavailable for resale), and prevent McLeodUSA from entering a market at all. U S WEST can also achieve the same harmful result through more subtle means. For example, it can delay delivery of inputs, withhold dissemination of information regarding changes in the network inputs, and generally provide services to McLeodUSA that are inferior to those U S WEST provides to itself. If McLeodUSA receives lower quality service from U S WEST but must incur the same cost for the service as U S WEST, U S WEST again gains an unfair price advantage.

Q. Has U S WEST acted on these incentives to disadvantage McLeodUSA in the past?

A. Yes. The most obvious example is U S WEST's attempt to withdraw Centrex service just before enactment of the 1996 Telecommunications Act in an effort to thwart McLeodUSA's resale of such service. It did so knowing that McLeodUSA depended on Centrex as a vehicle for market entry. U S WEST was successful in delaying entry in Colorado, North Dakota, South Dakota, and Minnesota. Entry was prevented entirely in Nebraska, Idaho, and Montana. After the attempted Centrex withdrawal was disallowed in some areas, U S WEST offered such service on discriminatory terms by: Imposing a "make whole" surcharge on Centrex service purchased for resale; imposing Centrex resale restrictions including a requirement, for no technical reason, that a separate Centrex system (or "common block") must be established for each Centrex customer even though U S WEST imposes no such restriction on its own Centrex customers (attempted in Colorado); imposing LIDB surcharges; imposing block compromise and chip-in charges; attempting to impose restrictions on Centrex resellers that would have prevented them from using dedicated access facilities to aggregate traffic and deliver it to IXCs (the tariff was filed at the FCC and rejected); refusing to allow McLeodUSA customers to switch from standard service to Centrex service on non-discriminatory terms, in some cases imposing a separate charge on McLeodUSA's customers that want to keep their telephone numbers, while no similar charge is imposed on U S WEST customers; and attempting to limit, for no technical reason, the number of real time changes McLeodUSA could make in the service characteristics of its

Centrex customers. In addition to its past Centrex tactics, U S WEST has engaged in anti-competitive behavior throughout its region that continues to the present day by denying access to essential facilities, delaying operational support systems, and imposing unreasonable and discriminatory charges on McLeodUSA.

Q. Has U S WEST delayed market entry in Washington?

A. McLeodUSA is just beginning to enter the market in Washington. Based on its encounters with U S WEST throughout that ILEC's 14-state region, McLeodUSA expects to confront the same types of problems in Washington that it has experienced in other jurisdictions.

Q. How has U S WEST denied access to necessary facilities?

A. By denying reasonable access to collocation and necessary Centrex features, by restricting the availability of voice mail, and by denying voice mail trunks. For example: When McLeodUSA provides service by reselling Centrex, it provides its customers with Centrex extensions at the customers' premises. Those extensions, which are roughly equivalent to local exchange lines from the customers' perspective, connect to U S WEST local exchange switches at what are called "common blocks." There are then a number of "switch side trunks" that connect the common block to the telephone network via what are known as "Network Access Registers" or "NARs." Because it is unlikely that all extensions will be in use at one time, it is typical for the number of extensions to be greater than the number of NARs, the relationship between the two being referred to as the "NAR ratio." It is possible to engineer the NAR ratio to whatever is necessary to handle the pertinent capacity needs. However, to guard against the call blocking that will result when the number of extensions trying to reach the switched network exceeds the number of NARs, U S WEST offers (for an additional charge) "non-blocking NARs," which essentially means that additional NARs are assigned automatically when demand warrants it.

U S WEST has always offered non-blocking NARs to its retail Centrex customers, thereby making it unnecessary for the customer to monitor utilization to ensure all calls will be processed. McLeodUSA asked U S WEST to allow McLeodUSA to purchase non-blocking NARs and McLeodUSA was told that U S WEST would not provide them to a reseller. At the same time, McLeodUSA asked for accurate information concerning the number of NARs for each common block because McLeodUSA's customers were experiencing the blocking of a tremendous number of calls. U S WEST was consistently unable to provide McLeodUSA with accurate information. After much debate, in 1998 U S WEST eventually agreed to provide non-blocking NARs to McLeodUSA. That should have happened immediately, as there was no legitimate reason for U S WEST's refusal to sell them to McLeodUSA. U S WEST's delay caused McLeodUSA to lose customers and deprived consumers in this state of the benefits of competition.

Q. How has U S WEST engaged in obstructive acts with respect to operational support systems in an effort to delay McLeodUSA's entry into certain markets?

A. The most serious complaint we have with U S WEST is its failure to devote adequate resources to provide timely, reliable wholesale services to McLeodUSA. U S WEST's delaying tactics have continued to the present day. Examples of such tactics include the following:

U S WEST has delayed trunking interconnection. One of McLeodUSA's most important current concerns is its ability to deploy collocation and interconnection across the 14 state U S WEST footprint as rapidly as possible. U S WEST has been very unresponsive to those concerns. McLeodUSA's 1998 collocation order interval statistics averaged 9 months from the time of order to the turn over of the cage.

U S WEST imposed a restriction, for no technical reason, on the number of service conversions U S WEST would process for McLeodUSA to one service conversion per hour. After months of negotiation and problems, McLeodUSA was able to begin sending batch orders of 50. This still did not fulfill McLeodUSA's needs but we took it and continued to push the issue. Meanwhile, all along, our backlog of orders increased. After six months, US West was ordered by the Iowa Utilities Board not to limit our orders. However, U S WEST's obstructive practices had created such a backlog over the preceding 6 months that McLeodUSA's ability to deliver service was seriously impaired. This generated many complaints, cost McLeodUSA customers, and harmed McLeodUSA's reputation in the markets we serve.

U S WEST has failed to provide accurate firm order commitment ("FOC") and order rejection information prior to the day of conversion. In approximately 15%-20% of orders, U S WEST does not inform us until the date scheduled for conversion of a customer's service that U S WEST will not fulfill the order necessary for that conversion to occur. U

S WEST claims it cannot provide order flow-through. However, the biggest reason this problem occurs is because U S WEST actually writes its order the same day the conversion is scheduled to occur, which demonstrates that U S WEST is capable of filling orders on short notice if it wanted to do so. Where the order required that a McLeodUSA technician be available on site on the scheduled conversion date, U S WEST's failure to give timely notice that it will not perform its part results in many cases in which McLeodUSA cannot get that information to the technician in time to avoid wasted time traveling to the customer's premises. This is especially harmful to McLeodUSA, its customers, and competition in areas where the technician must drive hundreds of miles between stops (a common occurrence in at least some parts of virtually every state in which U S WEST provides local telephone service).

U S WEST has failed to implement adequate order entry processes and systems even though McLeodUSA offered to pay for or design an improved order entry process.

U S WEST has chronically failed to process resale orders accurately.

U S WEST has failed, in roughly 80% of order requests, to meet the standard five-day interval for processing resale orders provided for in various state tariffs and resale agreements.

U S WEST has insisted on trivial amendments to interconnection agreements that seem to serve no purpose other than to harass and burden the CLEC. U S WEST has refused to work with McLeodUSA to develop more reliable and robust interconnection arrangements through a technology known as Joint SONET. Rather than working with McLeodUSA to ensure better and more reliable service to telephone service subscribers, U S WEST recently abandoned its AutoQuote Contract Billing order ("AQCB") process and required McLeodUSA to approach this issue through the "Bona fide request" ("BFR") procedure and then declined to provide the requested capabilities.

U S WEST has uniformly delayed implementing agreements.

Q. How has U S WEST sought to increase costs to McLeodUSA, thereby hoping to increase McLeodUSA's prices to its customers?

A. U S WEST has taken a number of steps transparently intended to cause an unwarranted increase in McLeodUSA's costs and thereby to impair McLeodUSA's ability to provide competitive services to customers. For example: U S WEST attempted to impose a so-called Interconnection Cost Adjustment Mechanism charge in most of the states in its region This charge was designed to recover from CLECs the costs that U S WEST incurred in upgrading facilities and processes to fulfill its legal obligation under the 1996 Telecommunications Act to interconnect with competitors. This attempted charge is still pending in most of the states in which it was proposed, but it is not in effect.

Due to the McLeodUSA's heavy reliance on resold U S WEST facilities, it is far more likely than not that service outages experienced by McLeodUSA customers will be attributable to

U S WEST or customer-provided facilities. In 1998, U S WEST adopted a policy of imposing a trouble isolation charge (TIC) for dispatches of repair personnel to an end user's premises when the trouble is isolated to something other than U S WEST 's network. McLeodUSA has experienced an unreasonably high number of instances in which U S WEST has imposed that charge and the problem has contemporaneously disappeared, leading McLeodUSA to suspect that U S WEST is imposing the charge in instances in which the U S WEST technician actually did find a problem in U S WEST (or customer-provided) facilities.

In Iowa, U S WEST attempted to impose a $120 per month surcharge on each Network Access Register (a pathway from the Centrex common block to the public switched network). This unjustified charge was disallowed by the Iowa Utilities Board, but only after McLeodUSA incurred the expense and effort to institute proceedings before the Board.

In North Dakota, South Dakota, and Wyoming, U S WEST imposed unreasonably high recurring and nonrecurring charges (ranging from $6 per month to almost $16 per month) for including listings for McLeodUSA resale customers in U S WEST's directories. As a result, McLeodUSA was obliged to divert resources from more productive efforts to ensure that its customers were listed in their local telephone directories. Where it is feasible to do so, McLeodUSA publishes its own directories, but inclusion in all local directories is important to telephone subscribers.

U S WEST refused to provide reasonable unbundled loop rates.

U S WEST has engaged in general abuse of process by doing such things as making tariff filings and advancing arguments that it knows will be rejected because they have already been rejected in other states, all just to impose on McLeodUSA and other competitors the wasted expense of participating in unnecessary regulatory proceedings.

Q. Has U S WEST engaged in tactics to discourage customers from using McLeodUSA's services?

A. Yes, it has engaged in numerous such tactics, including (a) various efforts to frustrate McLeodUSA's efforts to compete using resold Centrex services, (b) imposing unjustified and discriminatory "facility holds," (c) imposing unjustified and discriminatory "business office holds," and (d) providing very poor and unreliable repair services.

Q. What tactics has U S WEST employed to frustrate McLeodUSA's efforts to compete using resold Centrex services?

A. There are several, and they include the following:

U S WEST fails to provide updated and accurate CMS station message detail recording service (SMDR) (a readily-available capability that tracks interexchange messages carried over McLeodUSA's resold lines), thus preventing McLeodUSA from providing its customers with accurate long distance call detail and preventing McLeodUSA from billing customers for significant amounts for long distance service (this problem has existed in all states where

McLeodUSA operates). It is absolutely essential that U S WEST consistently and accurately update the databases within these two platforms. Information within these two systems is frequently incorrect or, more often, missing, which requires us to create a hard copy order to fulfill the needs of the customer when they could have been fulfilled with a simple computer screen entry.

U S WEST attempted, in Iowa and later in Minnesota, to eliminate the "Assumed 9" function on resold Centrex lines, thus forcing McLeodUSA customers to dial "9" before making any call.

In Iowa and Minnesota, U S WEST refused to include correct information for McLeodUSA resale customers in the U S WEST LIDB database, thus causing degradation in such services as Caller ID.

On the all-too-infrequent occasions on which U S WEST performs significant upgrades or maintenance of its network infrastructure, such as switch upgrades, U S WEST makes far less of an effort to restore promptly the services of its CLEC competitors than it devotes to its own retail services. For example, at the time of a switch conversion, U S WEST will ensure that its retail services are up and working prior to verifying the resale side. An example of this occurred in connection with the recent SW central office switch conversion in Minneapolis, in which McLeodUSA's ability to provide voicemail services to its customers was impaired because U S WEST's voicemail System Message Delivery System

-- Interoffice ("SMDI") was down for 3-4 days due to U S WEST's failure to change 26 codes in the SS7 routing, which made audible "message waiting" signals unavailable to McLeodUSA's voicemail customers.

U S WEST does not provide any notification to its resale customers that maintenance is being performed during business hours. McLeodUSA's customers lose service without warning and are forced to utilize the trouble ticket process to resolve the issues. Advance notice to McLeodUSA would speed the process and lessen the frustration of McLeodUSA customers.

Q. What tactics has U S WEST employed to frustrate McLeodUSA's efforts to compete by imposing unjustified and discriminatory facility holds?

A. An unreasonable number of McLeodUSA's orders are placed on facility hold by U S WEST. This means that the installation of service to McLeodUSA's customers is delayed due to lack of cable pairs, node or switch ports, or network capacity. These problems, which probably result from inadequate investment by U S WEST in its network infrastructure, are widespread and affect McLeodUSA in several different ways. For example: Because U S WEST has chosen not to make the investments necessary to maintain a consistent and accurate facility database, it is not uncommon for U S WEST not to be aware of a facility problem until the day the technician shows up at the customer premises. This will, at a minimum, disappoint the customer and cause the customer to lose confidence in

McLeodUSA, and it often has a mission critical aspect when the order involves a move and McLeodUSA doesn't find out about the facility problems until the day the customer is moving. Even when U S WEST 's facility database is correct, McLeodUSA still doesn't find out about facility issues until the scheduled conversion date because of U S WEST's unjustified practice of waiting until the day of conversion to write the order.

There are also customer-specific examples of instances in which McLeodUSA's order was placed on facility hold, causing the customer to call U S WEST retail for service instead, and encountering no facilities problem with the U S WEST retail order. The following are illustrative examples:

Example 1: The Marion Times:

The Marion Times newspaper in Marion, Iowa, a McLeodUSA customer, decided to move its service. McLeodUSA sent the order in on September 14, 1999, with a requested due date of September 27, 1999. On September 27, the customer notified McLeodUSA that the service was not moved as requested, and McLeodUSA opened a trouble ticket with U S WEST. On September 28, McLeodUSA called the U S WEST Service Center and learned for the first time that the order was placed on facility hold, that a construction job was necessary, and that the due date would be October 27. McLeodUSA conveyed that information to the customer and the customer said that it was going back to U S WEST because U S WEST said it could have the service installed on a retail basis by October 4.

On October 4, U S WEST told the customer that its retail order was also being placed on facility hold.

On October 6, both the McLeodUSA resale order and the Marion Times' U S WEST retail order were released from facility hold and the U S WEST retail service was installed on that date. McLeodUSA's resale order to the same premises was given a due date of October 11, despite the fact that McLeodUSA's order was placed 14 days earlier than the U S WEST retail order. On October 27, U S WEST informed McLeodUSA that its resale order would be installed, and the retail service removed. On November 1, McLeodUSA and the customer were pleased to discover that U S WEST did not charge the customer for installation of the retail service or the minimum 30-day fee.

Example 2: M&W Homes:

In August 1999, McLeodUSA customer M&W homes ordered service from McLeodUSA and received an October 1999 due date, supposedly due to a lack of facilities to fill the order. The customer placed a similar order with U S WEST for retail service and the service was installed on August 27.

Q. What tactics has U S WEST employed to frustrate McLeodUSA's efforts to compete by imposing unjustified and discriminatory business office holds?

A. Early in McLeodUSA's efforts to compete with U S WEST on a resale basis, U S WEST adopted a practice that it would not release orders to serve any customer with an outstanding balance on its account with U S WEST. This included accounts that had just received bills and were not delinquent. U S WEST would not release these customers until they delivered a payment on their account to the local business office. Although this problem was resolved two years ago, McLeodUSA suffered through this process for three years and the answer was simple and something that could have been instituted from the beginning. Again, this harassing practice caused much needless aggravation and cost McLeodUSA customers since many were not willing to go out of their way to accommodate this.

Q. How has U S WEST employed poor repair services to frustrate McLeodUSA's efforts to compete?

A. "Out of service" issues primarily involve instances in which customers are without dial tone. Resolution of such problems has to be a high priority for any telephone company, especially in a competitive environment. Despite U S WEST's long record of poor service, customers rely heavily on their telephone service and their expectations have become very high and customers have very low tolerance for such occurrences. Most problems faced by McLeodUSA as a result of out-of-service conditions arise from U S WEST's failure to make the necessary investments in plant and personnel to maintain and repair its facilities in a timely manner. Of the out-of-service tickets submitted into McLeodUSA's Tech Response group, well over 40% of the tickets do not get resolved in 24 hours and in a couple of the months this year, the incidence of service outages lasting longer than 24 hours has been as high as 65%. That is, for any telephone service provider, a completely unacceptable level of service. I understand that U S WEST claims that it treats its retail customers no better than it treats McLeodUSA and its customers. In McLeodUSA's view, that is not an acceptable answer.

Q. Has McLeod USA encountered specifically in Washington any of the problems that you have described?

A. McLeodUSA is just beginning to provide telecommunications services in Washington. As a result, it is just starting to purchase services from U S WEST. McLeodUSA soon expects to provide service in Washington on the same scale that it provides service in the states that I discussed. On the basis of McLeodUSA's experiences in other states in U S WEST's region, it expects to encounter similar types of problems in Washington that it has been forced to confront elsewhere. The actions detailed in my testimony are examples of U S WEST's wholesale service quality and should be duly noted by this Commission, regardless of where they occurred.

Q. Hasn't the Telecommunications Act of 1996 eliminated U S WEST,s disincentive to

meet its obligations to with competitors?

A. In the Telecommunications Act of 1996 ("1996 Act"), Congress did indeed attempt to blunt the ILECs' harmful incentives by making compliance with the market-opening provisions of the Act a precondition of BOC interLATA entry. Likewise, U S WEST asserts in its data responses that the primary reason it will provide quality service following the merger is that it must do so in order to be allowed to provide interLATA service and realize the benefits of its integration with Qwest. To date, U S WEST has, however, spent few resources in attempting to meet the requirements of the Act. It appears from our experience that the "carrot" provided by the Act is not sufficient to induce U S WEST to open its markets by meeting its obligations to CLECs such as McLeodUSA. Moreover, once U S WEST is granted authority to provide InterLATA services, the "carrot" will no longer exist in any form, and U S WEST will have no reason to improve or even maintain its wholesale service quality. U S WEST's response to McLeodUSA's efforts to get U S WEST to agree to improve service reliability for McLeodUSA's customers through implementation of joint SONET illustrates US West's determination to do no more than it is absolutely required to do by the 1996 Act, rather than reaching out to open its markets. Progress in this area is going to require more enforceable mandates, not incentives.

Q. Have some of the issues outlined previously been resolved with U S WEST?

A. A few of the issues have been partially resolved but, each time some progress is made on one issue, U S WEST interposes another obstacle. U S WEST's approach to providing McLeodUSA with adequate wholesale services and interconnection makes it extremely difficult to serve our customers on a timely basis.

Q. When a practice is disallowed in one state or as to one CLEC, does U S WEST discontinue or forbear from it in other states and with other CLECs?

A. U S WEST is currently negotiating with McLeodUSA but it has not yet made any region-wide agreements. Rather, it negotiates piecemeal agreements on a state-by-state and function-by-function basis, rendering it necessary for us to engage in a repetitive, time consuming and expensive process to achieve region-wide solutions.

Q. What measurements/metrics does McLeodUSA employ to assess U S WEST's performance?

A. Currently, U S WEST provides McLeodUSA with information on performance on 21 key indicators. McLeodUSA currently has the capability on its own to measure 9 key indicators, six of which overlap with the measurements provided by U S WEST. All of these indicators relate only to provisioning of facilities for Centrex resale. These indicators are identified in the table below:

INDICATORS ON WHICH DATA ARE PROVIDED BY U S WEST	INDICATORS MONITORED BY MCLEODUSA
Repair commitments met	Repair commitments **not** met
Repair repeated reports within 30 days	Repeat trouble reports
Trouble cleared in less than 24 hours	Out of service intervals greater than 24 hours
Mean time to restore	Mean time to repair
Installation reports within 30 days	Installation trouble reports
Installation commitments met	Installation commitments met
	Trouble report rate
	Installations with facility issues
	Orders not in CMS

INDICATORS ON WHICH DATA ARE PROVIDED BY U S WEST	INDICATORS MONITORED BY MCLEODUSA
FOC interval within 2 business days	
FOC intervals	
Order flow through	
Order flow through interval	
Standard installation intervals offered	
Installation intervals delivered	
CLEC caused installation commitments	
Disconnect commitments met	
Delayed days	
Delayed due dates (less than 15 days)	
Delayed due dates (less than 30 days)	
Delayed due dates (less than 90 days)	
Trouble cleared in less than 4 hours	
Trouble cleared in less than 48 hours	
CLEC caused repair reports	

This data exchange process itself has significant problems. Since U S WEST typically does not forward its data until 30 to 45 days after the end of the month, this leads to slow reconciliation of data and diminished ability to use the data to address problems in a timely way.

Q. What do metrics disclose?

A. The data disclose particularly acute performance issues in several areas, including, for example, out-of-service intervals, firm order commitments, and mean times to restore. The chart below compares U S WEST's actual performance against (a) the level of performance that McLeodUSA believes its customers want and expect, and (b) McLeodUSA's comparable experience with Ameritech. The disparity between U S WEST's performance and Ameritech's also unsatisfactory performance is striking in itself.

INDICATOR	U S WEST ACTUAL PERFORMANCE	CUSTOMER EXPECTATION	MCLEODUSA EXPERIENCE WITH AMERITECH
Out-of-service intervals >24 hours	47%	5%	25%
Firm order confirmations received in <48 hours	22%	95%	54%
Mean time to restore intervals	45 hours	24 hours	35 hours

U S WEST sometimes undertakes to excuse poor performance on the activities measured by these data by saying that it provides the same poor performance to its retail customers. Of course, that is no excuse. By inhibiting -- through poor wholesale service -- McLeodUSA's ability to provide better service to subscribers, U S WEST avoids the pressure to improve retail services that effective competition would bring.

Q. Does U S WEST keep measurements/metrics to assess its performance in carrier-to-carrier transactions other than the provisioning of facilities for Centrex resale?

A. While U S WEST does keep measurements/metrics for measuring its performance in CLEC transactions in Washington, these measurements are not useful for gauging U S WEST's performance. In this docket, McLeodUSA requested data regarding performance measurements for CLEC transactions. In response, U S WEST provided recent measurements of certain "Service Performance Indicators." These indicators provide little or no provide no basis for evaluation of U S WEST's service quality.

Furthermore, this data is of little value if it is not used to enforce meaningful service quality commitments. According to U S WEST, the "carrot" of approval to provide interLATA services is incentive to provide good service. McLeodUSA's experience with U S WEST has shown that this "carrot" is insufficient motivation. Benchmarks for service performance should be established so that the Commission may develop its own "stick" to ensure quality service.

Q. Why is it important for this Commission to enforce service quality in carrier-to-carrier transactions?

A. There are two reasons that this Commission should establish meaningful benchmarks for service quality in CLEC transactions. First, when U S WEST provides poor service to CLECs in wholesale transactions, this service affects the CLEC's ability to provide quality service to its retail customers. The public interest is harmed because the CLEC cannot provide Washington consumers with a high level of service. Second, when U S WEST provides poor service to a CLEC, it ultimately harms the CLEC's ability to compete in Washington. Competition is important for Washington consumers because only through competition and choice will this state's customers be assured the highest level of telecommunication services.

Q. What has been the overall effect of U S WEST's tactics on McLeodUSA's ability to

compete?

The limitation on the number of order conversions and the problems with conversions generally, including U S WEST's failure to provide accurate FOC and Rejection information prior to the date of conversion, have resulted in the loss of numerous existing customers and most likely the loss of many potential customers because of the damage to McLeodUSA's image when it is not in a position to provide the service that, in reliance on U S WEST's deadlines, McLeodUSA has promised to its customers. This has been especially significant in the case of a customer move, where because of U S WEST's failure, McLeodUSA's customers lose all service for a substantial period.

Q. What mechansims or remedies are available to McLeodUSAto resolve its service quality problems?

A. Very few. McLeodUSAcould utilize the dispute resolution provisions of its interconnection agreement with U S WEST. More likely, McLeodUSAcould file a complaint before the state public utility commission. Unfortunately, however, complaint proceedings are expensive for CLECs, which do not have legal or financial resources comparable to U S WEST's. A CLEC could not afford to bring all of its legitimate complaints for resolution before the state commissions.

Q. If U S WEST succeeds in inhibiting local competition, how will its customers be disadvantaged?

A. U S WEST will undoubtedly fail to improve service without the impetus of the significant competition from CLECs. This is shown by U S WEST's past behavior in providing services only after CLECs have done so in the U S WEST region. For example, U S WEST began providing call waiting, call forwarding and other additional features at no additional charge to its customers only after McLeodUSA did so. In addition, after failing to do so previously, it announced that it would install 95 new switches in the areas served by CLECs.

Q. How is the proposed merger likely to affect U S WEST 's wholesale and retail service?

A. There can be little doubt that both retail and wholesale service provided by U S WEST will only get worse if the Qwest/U S WEST merger is approved in its current form. Since Qwest has revealed no plans regarding allocation of funding in its responses to data requests,[5] Qwest's plan appears to be to divert U S WEST's revenues and resources away from local telephone services to fund Qwest's global high-speed data strategy. Under the plan, retail and wholesale customers in the Washington and throughout the U S WEST region can only lose. The incentives for U S WEST to engage in anti-competitive conduct will only be exacerbated and I am certain that U S WEST will continue to find new and ever more subtle ways to obstruct local competition. Dr. Mitchell and Ms. Goodfriend have examined Qwest's plans as publicly announced and have prepared analyses of their probable effect on the merged firm's incentives and abilities with respect to wholesale and retail telecommunications services. These issues are addressed in their testimony.

Q. Are you aware of Qwest/U S WEST claims that service will improve?

A. I am aware of statements by senior executives of U S WEST and Qwest acknowledging the existence of the sort of service problems McLeodUSA has experienced, and I am aware that

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5 For example, in response to AT&T et. al 01-087S1, "The companies have not yet made specific decisions with respect to the amount or timing of investments, nor have they made specific decisions regarding services and technologies that will be invested in." consider also, in response to WUTC, 04-075, "The decisions that result from the $5.3 billion freed up over a five year period will not be made up front."

U S WEST has said it will make substantial expenditures on customer service in the near future. McLeodUSA's actual experience makes me believe that it is unlikely that the problems we have experienced and continue to experience will be resolved – especially if the merger occurs and the merged company is pursuing Qwest's worldwide agenda – unless the incentive to solve those problems is made considerably stronger than it is today.

Q. Does McLeodUSA have anything to recommend to the Commission to create a greater likelihood that U S WEST service will improve despite the merger?

A. Yes. McLeodUSA believes that the Commission needs to require, prior to approval of the proposed merger, that certain conditionss be made. Those conditions need to be designed to ensure (a) immediate and sustained investments in network infrastructure and systems necessary for the merged firm to meet its obligations to competitors such as McLeodUSA, and (b) ongoing structural arrangements necessary to reduce the merged firm's ability and incentive to frustrate local telecommunications competition in the U S WEST region. Such conditions should reflect the recognition that structural rather than behavioral measures are necessary and ought to include the following, at the very least:

Quest/US West should be required to commit irrevocably to make guaranteed minimum levels of investment in network infrastructure and systems specifically targeted to meeting -- within specified time periods -- the needs of U S WEST's wholesale customers, such as McLeodUSA, for collocation space, local loop and trunking facilities, and efficient OSS systems. These investment commitments should be very specific to ensure that they are transparent and enforceable.

The commitments with respect to OSS systems should specifically include a flow through order mechanism for facilities and services needed by McLeodUSA and others, such as (for example) unbundled loops, Centrex, and 1FBs for resale.

The Commission should impose on the merged company additional service quality reporting requirements and establish performance standards for CLEC transactions. More importantly, the Commission should mandate substantial remedies in the form of liquidated damages payable to CLECs for not meeting established service quality performance standards. The Commission should require that the merged company agree with a comprehensive set of performance measures, standards and remedies for wholesale services. McLeodUSA's proposed conditions are addressed by Dr. Goodfriend and attached to her testimony as Schedule SJG-2.

A commitment to effect a prompt structural separation of wholesale and retail functions should also be required, so that management personnel responsible for wholesale services are insulated from any incentive other than to maximize the quality and availability of services for wholesale customers such as McLeodUSA.

Quest/US West should also be required to commit to put in place mechanisms for guaranteeing that firm order commitment ("FOC") dates are established and met, with meaningful compensatory and punitive sanctions if those dates are not properly established and met.

An arbitration mechanism should be established to ensure rapid and inexpensive resolution of disputes over matters such as failure to provide necessary facilities and services or failures to meet deadlines. To avoid imposing new burdens on the Commission while maintaining the Commission's ability to oversee and regulate the process, the arbitrations should be conducted by industry experts approved or, in the event of disagreement, appointed by the Commission.

The need for these proposed commitments arises directly from the pending transaction, since these steps are necessary to ensure that the faint spark of competition ignited by the 1996 Act is not extinguished by a merged firm focused on taking monopoly revenues out of this state in order to fund business activities elsewhere.

Q. Does that conclude your direct testimony?

A. Yes.