Exhibit DLT-10T

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE INVESTIGATION INTO QWEST CORPORATION'S COMPLIANCE WITH §271(C) OF THE TELECOMMUNICATIONS ACT OF 1996.	)))))	**DOCKET NO. UT-003022**

QWEST CORPORATION'S

SUPPLEMENTAL REBUTTAL AFFIDAVIT

OF

DAVID L. TEITZEL

ON PUBLIC INTEREST ISSUES

May 1, 2002

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I. IDENTIFICATION OF WITNESS

My name is David L. Teitzel. I am employed by Qwest Corporation ("Qwest"), formerly known as U S WEST Communications, Inc., as Director-Product and Market Issues. My business address is 1600 7th Avenue, Room 2904, Seattle, Washington, 98191. I filed direct testimony in this proceeding on May 16, 2001, and a rebuttal affidavit on June 21, 2001.

II. EXECUTIVE SUMMARY

This supplemental rebuttal affidavit addresses issues relating to Qwest's satisfaction of the public interest requirements of section 271 raised in this proceeding by the Public Counsel section of the Washington State Attorney General's Office ("Public Counsel") and Diane F. Roth on behalf of AT&T.[1] In this affidavit, I demonstrate that, contrary to the suggestions of the Public Counsel and AT&T, Qwest is in compliance with the public interest requirements of section 271 in Washington. I also discuss why the issues and concerns these witnesses and parties have raised in this proceeding are well outside the scope of the public interest requirements.

I have previously testified that the FCC orders granting section 271 relief outline

[1] *See* Comments of Public Counsel on the Public Interest and Request for Additional Investigations, *In the Matter of the Investigation into Qwest Corporation's Compliance with Section 271 of the Telecommunications Act of 1996* (Apr. 19, 2002) ("Public Counsel's Comments"); Supplemental Affidavit of Diane F. Roth on Behalf of AT&T Regarding Public Interest, *In the Matter of the Investigation into Qwest Corporation's Compliance with Section 271 of the Telecommunications Act of 1996* (Apr. 19, 2002) ("Roth Supp. Aff."). The Public Counsel and AT&T are the only parties who filed affidavits or comments for the May 13-15, 2002 public interest hearing.

the following three-step analysis for determining whether a BOC's application is "consistent with the public interest, convenience, and necessity," within the meaning of 47 U.S.C. 271(d)(3)(C):

- determining whether granting the application "is consistent with promoting competition in the local and long distance telecommunications markets," giving substantial weight to Congress' presumption that when a BOC is in compliance with the competitive checklist, the local market is open and long-distance entry would benefit consumers;[2]
- looking for assurances that the market will stay open after a section 271 application is granted;[3] and
- considering whether there are any remaining "*unusual circumstances* that would make entry contrary to the public interest under the particular circumstances."[4]

According to the FCC, the public interest inquiry is simply "an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist

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[2] *See* Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237 ¶ 268 (2001), *modified, Sprint Communications Co. v. FCC,* 274 F.3d 549 (D.C. Cir. 2001) ("SBC Kansas/Oklahoma Order"). *See also* Memorandum Opinion and Order, *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,* 15 FCC Rcd 3953 ¶ 427 (1999), *aff'd sub nom. AT&T Corp. v. FCC,* 220 F.3d 607 (D.C. Cir. 2000) ("Bell Atlantic New York Order"); Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354 ¶ 416 (2000) ("SBC Texas Order").

[3] *Bell Atlantic New York Order* ¶¶ 422-23; *SBC Texas Order* ¶¶ 416-17.

[4] *SBC Kansas/Oklahoma Order* ¶ 267 (emphasis added). *See also Bell Atlantic New York Order* ¶ 423; Memorandum Opinion and Order, *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*, 16 FCC Rcd 8988 ¶ 233 (2001)

that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected."[5]

I filed my direct affidavit on public interest in this proceeding on May 16, 2001, and my rebuttal affidavit on June 21, 2001. My direct and rebuttal affidavits demonstrated that competition is thriving in Washington and that Qwest's entry into the long distance market would benefit Washington consumers, making approval of Qwest's application consistent with the public interest as the FCC has defined it. I also discussed the fact that Qwest's performance assurance plan would provide adequate assurance of future compliance and that there were no "unusual circumstances" that would make Qwest's entry into the long distance market in Washington contrary to the public interest. The Commission did not accept or reject that showing at the time, but decided to "defer consideration of the public interest issue" and allowed the parties to submit additional testimony or comments on these issues.[6] As noted above, the only parties to file such testimony were the Public Counsel and Ms. Roth on behalf of AT&T.

The Public Counsel argues that the complaints Touch America has filed with the FCC might qualify as "unusual circumstances." The Public Counsel does not claim that

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("Verizon Massachusetts Order").

5 *Bell Atlantic New York Order* ¶ 423.

6 *See* Twenty-eighth Supplemental Order, Commission Order Addressing Workshop Four Issues: Checklist Item No. 4 (Loops), Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance With § 271 of the Telecommunications Act of 1996*, Docket No. UT-003022 (Mar. 12, 2002) ¶ 129.

this dispute requires a finding that Qwest's section 271 application for Washington is not in the public interest, only that the Commission should begin a separate investigation of the issues involved. However, that dispute is already being fully addressed by the FCC, and the Public Counsel has not identified any benefit to either duplicating the FCC's inquiry here or delaying the Commission's public interest determination until the matter is settled.

Ms. Roth, for her part, has used this new round of testimony to proffer a grab bag of unlitigated and unverified allegations that have little or nothing to do with the proper focus of this inquiry, simply to delay the entry of a potential new competitor into its core long distance market. For example, Ms. Roth suggests that the Commission cannot issue a public interest finding until it resolves an as-yet-unadjudicated complaint that AT&T just filed concerning Qwest's implementation of the local service freezes *required* by Washington law. Ms. Roth makes no effort to explain how delaying this inquiry until the complaint proceeding is complete will accomplish anything, and the Commission should not indulge AT&T's request. Any other ruling would permit Qwest's opponents to gin up public interest issues simply by filing complaints (however unmeritorious or unsubstantiated), then pointing to the mere existence of those complaints as a reason to delay the section 271 process. Ms. Roth also suggests that an internal Qwest e-mail is somehow evidence of a broad anticompetitive "strategy" on Qwest's part, but she makes no effort to show how this e-mail affected any of Qwest's competitors in any way. Finally, Ms. Roth uses an unsworn and unverified "white paper" written by an AT&T

contractor to rebut a study on the benefits of BOC entry into the interLATA market that Qwest has never cited to or submitted in this proceeding. The Chairman of the Colorado PUC aptly described AT&T's approach to the public interest inquiry as "let's throw everything against the wall and see what sticks."[7] The FCC has issued clear guidance as to what the public interest inquiry entails, and it is hardly the sort of limitless free-for-all that Ms. Roth suggests. Put another way (and again to quote the Chairman of the Colorado PUC), the public interest test "is not the *'et cetera'* at the end of the 14-point checklist."[8]

III. DISCUSSION

A. Identification of Any "Unusual Circumstances"

The Public Counsel and AT&T have principally used this latest round of comments to throw out another set of issues that they assert represent instances of bad behavior by Qwest.[9] According to the Public Counsel and AT&T, these allegations are evidence of "unusual circumstances" in the local exchange and long distance markets that would

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[7] Order on Staff Volume VII Regarding Section 272, the Public Interest, and Track A, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with § 271(c) of the Telecommunications Act of 1996*, Docket No. 97I-198T, at 51 (Mar. 15, 2002) ("Colorado Order").

[8] *Id*. at 22. *See also* Memorandum Opinion and Order, *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Rhode Island*, 17 FCC Rcd 3300 ¶ 102 (2002) ("Verizon Rhode Island Order") (affirming that the FCC "may neither limit nor extend the terms of the competitive checklist of section 271(c)(2)(B)" as part of the public interest analysis).

purportedly make Qwest's entry into the long distance market contrary to the public interest.

But the FCC has already determined that isolated and anecdotal allegations of disputes involving a BOC do not enter into the public interest inquiry at all.[10] All of the matters Public Counsel and AT&T raise are already being fully addressed in other, more appropriate, forums, and those parties have not provided any reason for duplicating those proceedings here or delaying the public interest finding until those proceedings are complete. Indeed, the FCC has made it clear that section 271 proceedings are not the appropriate forum for addressing those types of specific intercarrier disputes. Other forums, such as state arbitration or state or FCC complaint proceedings, are better suited to addressing disputes between carriers than the narrowly focused section 271 process.[11]

Moreover, most of the Public Counsel's and AT&T's allegations are made without any factual support at all. It is not sufficient to merely allege an assortment of "unusual circumstances" unsupported by any factual proof and then demand that the BOC

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9 Public Counsel's Comments at 2.

10 *SBC Kansas/Oklahoma Order* ¶ 281; *see also Bell Atlantic New York Order* ¶ 50. Similarly, the Multistate Facilitator has found that comparable complaints in that proceeding did not "demonstrate[] the kind of unique circumstances that the FCC believes it takes to support a finding that Qwest's entry into the in-region, interLATA market would contravene the public interest." Liberty Consulting Group, Public Interest Report, *In the Matter of the Investigation into Qwest Corporation's Compliance with §271 of the Telecommunications Act of 1996*, Seven State Collaborative Section 271 Workshops (Oct. 22, 2001) ("Multistate Facilitator's Public Interest Report"), at 9.

11 *See SBC Texas Order* ¶ 383 ("section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions").

disprove all of these allegations. An "unusual circumstance" is supposed to be a set of facts that would justify denying a BOC's application *notwithstanding* that it has complied with the competitive checklist and provided assurances that it will continue to comply post-entry — that is, a circumstance sufficient to rebut the BOC's prima facie case that interLATA entry is justified. As in any litigation, once the plaintiff has established a prima facie case for relief, the other side must *prove*, and may not simply allege, a defense or rebuttal. The Multistate Facilitator explained why the opponents of a section 271 application bear the burden of proving the existence of unusual circumstances as follows:

> Given the FCC's conclusion that checklist compliance is a strong indicator of the satisfaction of the public interest test, we think that it is appropriate to ask those who make public interest assertions to demonstrate the existence of the facts necessary to support their claimed reasons why the public interest would not be served by granting Qwest 271 authority. If nothing else, a simple reliance on the need for order compels the conclusion that those who make specific allegations should be required to prove them.[12]

A number of state commissions, state commission staffs, and hearing commissioners have held the same, not only rejecting the notion that "'Qwest must bear the burden of disproving [third-party allegations] in order to demonstrate that the public interest would be served by granting it 271 authority,'"[13] but further acknowledging (in the Colorado PUC Chairman's words) that "the multifarious grievances raised in the name of the 'public interest' underscores the abuses to which the standard is prone."[14] In the discussion that

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[12] Multistate Facilitator's Public Interest Report at 2.

[13] Colorado Order at 29-30 (quoting the Multistate Facilitator's Public Interest Report at 2).

[14] *Id*. at 30. *See also* Conditional Statement Regarding Public Interest and Track A, Iowa Dept. of

follows, I shall demonstrate that the parties have failed to meet their burden of proof.

1. Touch America

The Public Counsel and Ms. Roth both note that Touch America has filed two complaints against Qwest with the FCC.[15] The complaints do not involve local competition issues at all, but rather concern allegations that Qwest's in-region dark fiber and lit fiber capacity IRU transactions violate section 271. The other complaint alleges that Qwest has not fully complied with the terms of the FCC's U S WEST-Qwest divesture and merger orders. Regardless of whether these allegations have any merit — and Qwest certainly believes that they do not — the FCC has made clear that disputes arising from BOC merger orders that are currently being considered in complaint dockets are best resolved in those other dockets, not brought into the section 271 process.[16]

Commerce Utilities Board, *In Re: U S WEST Communications, Inc. n/k/a Qwest Corporation*, Docket Nos. INU-00-2, SPU-00-11, at 13 (January 25, 2002) ("Iowa Report") (affirming the Facilitator's analysis of the burden of proof); Report on the Public Interest, *In the Matter of the Application of QWEST CORPORATION, fka US WEST Communications, Inc., for Approval of Compliance with 47 U.S.C. § 271(d)(2)(B)*, Docket No. 00-049-08 (Utah P.S.C. Feb. 20, 2002), at 6 (concluding that conclusion that "parties asserting that unusual circumstances exist bear the burden of proof"); First Order on Group 5A Issue, *In the Matter of the Application of Qwest Corporation Regarding Relief Under Section 271 of the Federal Telecommunications Act of 1996, Wyoming's Participation in a Multi-State Section 271 Process, and Approval of Its Statement of Generally Available Terms*, Docket 70000-TA-00-599 (Jan. 30, 2002) at 7 ("Qwest does not, in our opinion, have the burden of raising and disproving every possible problem imaginable. Their burden is to provide the demonstrations required by the federal Act, but they need only to rebut any allegations by others as to special problems or circumstances which might warrant not granting the recommendation sought by Qwest here.").

15 *See* Public Counsel's Comments at 2-3; Roth Supp. Aff. at 7.

16 *See* Memorandum Opinion and Order, *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut,* 16 FCC Rcd 14147 ¶ 79 (2001) (noting that concerns with "Verizon's compliance with the conditions of the Bell Atlantic/GTE merger . . . [should] be appropriately addressed in the

In any event, Touch America's two complaints are without merit. With respect to Touch America's complaint regarding Qwest's IRU transactions, the FCC has already approved the Qwest conduct at issue.[17] In Qwest's formal Divestiture Compliance Report, Qwest detailed the aspects of its plans for complying with section 271 prior to the merger, and specifically stated that it was not planning to unwind any pre-existing sales of IRUs "both for the conveyance of dark fiber and for the conveyance of lit fiber capacity" and that it "intend[ed] to continue selling similar telecommunications facilities in the future."[18] The FCC subsequently approved Qwest's divestiture plan: "Based upon the description of the customers, services and assets being transferred to Touch America," the FCC concluded that the "proposed divestiture . . . will ensure that Qwest will not provide prohibited in-region interLATA services."[19]

In addition, clear FCC precedent establishes that IRUs constitute the conveyance of network facilities, not the provisioning of "telecommunications services." The FCC has stated that "the one-time transfer of ownership and control of an interLATA network is not an interLATA service, which means it falls entirely outside the section 271/272

Commission's" merger audit proceedings, not the public interest inquiry).

17 *See* Answer of Defendants Qwest Communications International Inc., Qwest Corporation, and Qwest Communications Corporation, *Touch America, Inc. v. Qwest Communications International Inc.,* FCC File No. EB-02-MD-003 (Mar. 4, 2002).

18 Qwest Divestiture Compliance Report, *Qwest Communications International Inc. and U S WEST, Inc.,* FCC CC Docket No. 99-272, at 28-30 (filed Apr. 14, 2000).

19 Memorandum Opinion and Order, *Qwest Communications International Inc. and U S WEST, Inc.,* 15 FCC Rcd 11909 ¶¶ 5, 13 (2000).

framework that governs interLATA services."[20] The FCC has also noted that the provisioning of a "network element" — defined in the Act as "a facility or equipment used in the provision of a telecommunications service"[21] — does not itself constitute the provision of "telecommunications."[22] As a result, while it is true that Qwest has several IRU agreements that convey facilities within this state, the Public Counsel's concern "that some of these agreements may constitute the provision of a telecommunications service in violation of § 271(a) of the Act" is unjustified.

Although Touch America's second complaint rehashes many of the claims it made in its IRU complaint, as the Public Counsel acknowledges,[23] it is largely concerned with Qwest's obligations to Touch America under the terms of their agreements, an issue that has nothing to do with section 271 or any other provision of the 1996 Act. In fact, Qwest has moved to dismiss the complaint because it fails to state a claim under the 1996 Act and involves facts that are already the subject of a pending arbitration and court case.[24]

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20 *See, e.g.,* Second Order on Reconsideration, *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended,* 12 FCC Rcd 8653 ¶ 54 n.110 (1997).

21 47 U.S.C. § 153(29).

22 Report and Order, *Federal-State Joint Board on Universal Service,* 12 FCC Rcd 8776 ¶ 157 (1997), *aff'd sub nom. Texas Office of Pub. Util. Counsel v. FCC,* 183 F.3d 393 (5th Cir. 1999).

23 *See* Public Counsel's Comments at 2.

24 *See* Motion to Dismiss of Defendants Qwest Communications International Inc., Qwest Corporation, and Qwest Communications Corporation, *Touch America, Inc. v. Qwest Communications International Inc.,* FCC File No. EB-02-MD-004 (Mar. 21, 2002). The FCC has recently requested additional briefing on Qwest's motion to dismiss Touch America's complaint. *See* Federal Communications Commission Letter Order, *Touch America, Inc. v. Qwest Communications International Inc.*, File No. EB-02-MD-003 (Apr. 26, 2002) at 6.

There is plainly is no reason to duplicate those inquiries here or delay a public interest determination until those inquiries are complete.

2. UNE-P Testing

Ms. Roth attaches to her Supplemental Affidavit a Minnesota Administrative Law Judge's ("ALJ") recommended decision on a systems testing dispute in that state.[25] In short, this is nothing more than an attempt to revisit a systems testing dispute that AT&T has already pursued in both the checklist item 2 and public interest dockets in Washington.[26] Since the parties have already briefed this issue on multiple occasions before this Commission, and since both the Facilitator of the Multistate Proceeding and a number of state commissions have already resolved this issue in Qwest's favor, Qwest urges the Commission to reject AT&T's last-ditch effort to turn the Minnesota testing dispute into a public interest issue in Washington.

The Minnesota ALJ's recommended decision arose from an AT&T request to

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[25] *See* Roth Supp. Aff. at 4-7. The ALJ's decision is attached to Ms. Roth affidavit as Exhibit B.

[26] *See, e.g.*, Testimony, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Vol. XXVI (Apr. 25, 2001) at 3566-3574; *Qwest's Legal Brief* at 4-5; Affidavit of Mary Jane Rasher, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996* (June 7, 2001) ("Rasher Aff.") at 16; *See* Rebuttal Affidavit of David L. Teitzel, *In the Matter of the Investigation into Qwest Corporation's Compliance with § 271(c) of the Telecommunications Act of 1996*, Docket No. UT-003022 (June 21, 2001) at 7-8; Testimony, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Vol. XXXIV (July 17, 2001) at 5051-5052 (citing the Minnesota dispute as an example of alleged anticompetitive behavior); Brief of AT&T Regarding Public Interest, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996* (Sept. 6, 2001) at 20 ("AT&T Brief"); Roth Supp. Aff. at 4-7.

perform extensive systems testing on one thousand UNE-P lines in that state.[27] AT&T requested SGAT language entitling it to the very same testing in the Washington checklist item 2 workshops.[28] Qwest opposed AT&T's request (as it did in the Multistate Proceeding as well[29]) on the grounds that (a) the requested testing was duplicative of the OSS testing already underway, (b) the requested testing was unnecessary in light of other testing provided for in the SGAT, and (c) since AT&T had no plans to enter the local market through substantial use of Qwest's unbundled loops, it had no reason to request that testing other than to delay Qwest's application.[30] Based on the parties' "acknowledge[ment] that some of Qwest's testing procedures will be examined during the ROC OSS testing," the Washington ALJ concluded in the Initial Workshop Three Order that "it would be appropriate to consider the results of [the ROC OSS testing] … before deciding this issue."[31] The Commission subsequently adopted the ALJ's conclusion and currently has this issue under consideration.[32]

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27 *See* Roth Supp. Aff., Exhibit B.

28 AT&T presented written and oral testimony specifically on this subject, and brought a special witness, Michael Hydock, just to address the issue. *See also* Thirteenth Supplemental Order, Initial Order (Workshop Three): Checklist Item No. 2, 5, and 6, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996* (July 24, 2001) ("Initial Workshop Three Order") at 8-9 (summarizing AT&T's position and its request for specific language).

29 Liberty Consulting Group, Unbundled Network Element Report, *In the Matter of Qwest Corporation's Motion for an Alternative Procedure to Manage Its Section 271 Application* (Aug. 20, 2001) at 29 ("Multistate Facilitator's UNE Report").

30 *See Qwest's Legal Brief* at 4-5.

31 Initial Workshop Three Order, at 9.

32 *See* Twenty-Fourth Supplemental Order, Commission Order Addressing Workshop Three Issues:

Qwest also notes that AT&T's proposed SGAT language has been rejected in a growing number of state section 271 dockets. The Facilitator of the Multistate Proceeding, for example, found that AT&T's testing proposal was inflexible and potentially duplicative; that the OSS test would "comprehensively address" AT&T's stated concerns with Qwest's OSS (including its "ability to handle commercial volumes of transactions"); and that AT&T's specific testing request "could prove disruptive to the OSS test procedures now underway."[33] The Facilitator also noted that "AT&T presented no argument or evidence that its near-term market-entry plans require any such test to be performed immediately."[34] In short, the Facilitator said, "AT&T failed to demonstrate the need for such testing now, given the pendency of the comprehensive ROC OSS

Checklist Items Nos. 2, 5, and 6, *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996* (December 2001), at 3 (adopting this conclusion of the Initial Workshop Three Order without modification).

[33] Multistate Facilitator's UNE Report at 30.

[34] *Id.* AT&T's claim that Qwest "deliberately fabricated evidence" to support its contention that AT&T had no local entry plans is not merely false, but deeply ironic. Roth Supp. Aff. at 6. Although the premise of AT&T's complaint in Minnesota was that it had plans to enter the local market, or was at least seriously considering such entry, AT&T failed to submit in the Minnesota proceeding any evidence to support that premise, and succeeded in blocking Qwest's efforts to take discovery to disprove it. Indeed, AT&T blocked Qwest's effort to submit into the record in Minnesota evidence that members of AT&T's Law and Government Affairs organization had told Qwest contemporaneously with its testing request that AT&T was not serious about entering local markets in states other than those in which it had already entered. As noted below, AT&T later admitted in newspaper interviews that it did not plan to enter the residential market in Minnesota. *See* Steve Alexander, *Judge Recommends Qwest Be Fined for Impeding Local Service by AT&T; But AT&T Says It Won't Enter Market*, Star Tribune, Feb. 26, 2002, at D3. While AT&T did an "about face" the next day and stated that it did plan on entering the residential market in Minnesota "once an agreement can be made with Qwest," *Clarification*, Star Tribune, Feb. 27, 2002, Qwest believes that AT&T's initial statement is a strong indicator of the company's true intentions. Those intentions confirm Qwest's initial opposition to the test.

testing, with which AT&T's proposed testing could interfere."[35] The findings of numerous section 271 dockets to have ruled on this issue are consistent with those of the Multistate Facilitator.[36] Given that AT&T's arguments in Washington are identical to the ones rejected in these other section 271 dockets, when this Commission resolves this testing dispute in the context of checklist item 2, it will hopefully reject AT&T's proposal as meritless, as all those other decisionmakers have done.

Ms. Roth's attempt to recycle this checklist item dispute into a public interest issue is unpersuasive.[37] Qwest actually added language to its SGAT voluntarily to prevent the

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35 Multistate Facilitator's UNE Report at 6.

36 In the Multistate Proceeding, *see, e.g.*, Commission Decision Regarding Qwest Corporation's Compliance with 47 U.S.C. § 271 Checklist, *In the Matter of U S WEST Communications, Inc.'s Motion for an Alternative Procedure to Manage Its Section 271 Application*, Case No. USW-T-00-3 (Nov. 21, 2001), at 4 (Idaho); Conditional Statement Regarding August 20, 2001, Report, *In re U S WEST Communications, Inc., n/k/a Qwest Corporation*, Docket Nos. INU-00-2, SPU-00-11 (Dec. 21, 2001) at 18 (finding the new SGAT language sufficient for compliance with checklist item 2 (Iowa)); Final Report on Checklist Item 2 — Access to Unbundled Network Elements and Checklist Item 4 — Access to Unbundled Loops, *In the Matter of the Investigation into Qwest Corporation's Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. D.2000.5.70 (Jan. 30, 2002), at 32 (Montana); Interim Consultative Report on Group 4 Checklist Items, *U S WEST Communications, Inc. Section 271 Compliance Investigation*, Case No. PU-314-97-193 (Jan. 16, 2002), at 8-9 (acknowledging the new SGAT language and conditional compliance with checklist item 2) (North Dakota)). Colorado, Nebraska, and Oregon have ruled similarly. *See, e.g.*, Workshop 3 Findings and Recommendation Report of the Administrative Law Judge and Procedural Ruling, *In the Matter of the Investigation into the Entry of Qwest Corporation, formerly known as U S WEST Communications, Inc., into In-Region InterLATA Services under Section 271 of the Telecommunications Act of 1996*, Docket No. UM 823 (Nov. 2, 2001) at 9 (acknowledging that "no other BOC has been required to perform such tests as a precondition for FCC Section 271 approval") (Oregon); Workshop 3 Findings and Recommendation Report of the Commission, *In the Matter of the Investigation into the Entry of Qwest Corporation, formerly known as U S WEST Communications, Inc., into In-Region InterLATA Services under Section 271 of the Telecommunications Act of 1996*, Docket No. UM 823 (Dec. 21, 2001), at 4 (affirming the Oregon ALJ's rejection of AT&T's request) (Oregon).

37 The FCC has made clear that a party cannot use the public interest analysis to seek additional checklist item terms and conditions that are unavailable under the relevant checklist items

Minnesota testing dispute from ever arising here in Washington, and *AT&T itself* requested the language be removed. Although Qwest objects to the specific OSS testing that AT&T wants to include, Qwest has always been willing to adopt SGAT language clarifying when CLECs can obtain individualized testing going forward. In response to AT&T's concerns about comprehensive production testing, Qwest added a provision to section 12.2.9.8 of the Washington SGAT specifically designed to prevent such a dispute from ever arising in this state:

> [U]pon request by CLEC, Qwest shall enter into negotiations for comprehensive production test procedures. In the event that agreement is not reached, CLEC shall be entitled to employ, at its choice, the dispute resolution procedures of this agreement or expedited resolution through request to the state Commission to resolve any differences. In such cases, CLEC shall be entitled to testing that is reasonably necessary to accommodate identified business plans or operations needs counting for any other testing relevant to those plans or needs. As part of the resolution of such dispute, there shall be considered the issue of assigning responsibility for the costs of such testing. Absent a finding that the test scope and activities address issues of common interest to the CLEC community, the costs shall be assigned to the CLEC requesting the test procedures.[38]

This language was originally proposed by the Multistate Facilitator, who suggested that it "should preclude such a dispute in the future."[39] Nevertheless, AT&T subsequently requested that Qwest remove this language from its Washington SGAT. Since this language was intended only to offer AT&T and other carriers additional protections,

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themselves. *See Verizon Rhode Island Order* ¶ 102.

[38] *See* Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services Provided by Qwest Corporation in the State of Washington, Third Revision (Jan. 29, 2002), § 12.2.9.8.

Qwest agreed to AT&T's request and removed the provision from its Fourth Revised SGAT in Washington, filed on April 5, 2002.[40] AT&T's decision that these protections are unnecessary after all does not change the fact that Qwest stood willing to resolve the UNE-P testing dispute in a manner that would have prevented the testing dispute from ever even arising in Washington.

Ms. Roth ultimately tries to make AT&T's testing dispute into a public interest issue by recasting it as a referendum on Qwest's good faith and veracity. Qwest notes that the facts in Minnesota are not nearly as cut and dried as AT&T suggests. In fact, the Staff of the Minnesota PUC actually disagreed with the ALJ's findings of misconduct in their entirety and recommended that the PUC "[f]ind that Qwest did not act in bad faith as alleged by AT&T and dismiss the complaint."[41] At a minimum, the Staff's recommendation demonstrates that reasonable minds can differ about the conduct of both Qwest and AT&T during the course of the testing dispute in Minnesota. The full PUC did recently affirm the ALJ's determination of liability, but it is currently considering whether to reduce the level of fines that the ALJ recommended.[42]

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39 Multistate Facilitator's Public Interest Report at 9.

40 *See* Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services Provided by Qwest Corporation in the State of Oregon, Fourth Revision (April 5, 2002). In the Fourth Revision (as well as the Fifth Revision, filed on April 19, 2002), § 12.2.9.8 simply says "Reserved for Future Use."

41 Minnesota Public Utilities Commission Staff Briefing Papers (April 4, 2002), at 15.

42 Moreover, even the Minnesota complaint itself is now moot on the facts. Qwest has now completed the testing that AT&T requested in Minnesota. Fully bearing out Qwest's objection that the testing AT&T wanted would simply duplicate the work being performed in the OSS test, the Minnesota UNE-P test did not find anything that was not also found in the ROC OSS test, or that

Ms. Roth's gambit to manufacture a public interest issue out of this Minnesota testing dispute has been rejected repeatedly in other section 271 proceedings. The Multistate Facilitator, for example, found that the Minnesota dispute (1) "do[es] not provide substantial evidence of a predictive, patterned refusal or inability of Qwest to comply with its wholesale service obligations," and (2) does not constitute "the kind of unique circumstances that the FCC believes it takes to support a finding that Qwest's entry into the in-region, interLATA market would contravene the public interest."[43] As noted above, the Facilitator also acknowledged that the underlying question had been "the subject of a good-faith dispute" in the multistate checklist item 2 workshops, and that those workshops had produced "a clear resolution" — namely, the SGAT language discussed above — "that should preclude such a dispute in the future."[44]

Likewise, the Chairman of the Colorado PUC specifically considered the Minnesota ALJ's decision[45] and declared that this dispute, together with the rest of AT&T's evidence of alleged misconduct, failed to demonstrate "any 'pattern' of

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necessitated any changes in Qwest's OSS at all. Subsequent events also confirmed Qwest's good-faith belief that AT&T never actually needed the testing because it had no intention of entering the residential market in Minnesota via UNEs: after the test was complete, AT&T admitted in newspaper interviews that it did not plan to enter the residential market in Minnesota after all. *See* Steve Alexander, *Judge Recommends Qwest Be Fined for Impeding Local Service by AT&T; But AT&T Says It Won't Enter Market*, Star Tribune, February 26, 2002. While AT&T did an "about face" the next day and stated that it did plan on entering the residential market in Minnesota "once an agreement can be made with Qwest," *Clarification*, Star Tribune, February 27, 2002, Qwest believes that AT&T's initial statement is a strong indicator of the company's true intentions. Those intentions confirm Qwest's initial opposition to the test.

43 Multistate Facilitator's Public Interest Report at 9.

44 *Id.*

45 *Colorado Order* at 43.

anticompetitive behavior in Colorado that is foreseeable to take place in the future or implicate welfare enhancement."[46] Indeed, the Chairman went on to say that AT&T's efforts merely "highlight[] the heightened expectations that parties have in a public interest inquiry to sling as much as they can on the wall to see what will stick."[47] This issue clearly has not. An ever-increasing number of state commissions — including Idaho, Iowa, and Wyoming — have also dismissed the Minnesota UNE testing complaint as irrelevant to the public interest inquiry, and I respectfully ask this Commission to do the same.[48]

Finally, it bears repeating that the Minnesota ALJ's interim decision plainly does not concern any complaint or dispute here in Washington. None of the events at issue occurred in this state, and AT&T has never asked Qwest to conduct the same testing in Washington that it demanded in Minnesota. AT&T does not even bother trying to tie its

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46 *Id*. at 45.

47 *Id*. at 44.

48 *See, e.g.*, Commission Decision on Qwest Corporation's Compliance with Section 271 Public Interest and Track A Requirements and Section 272 Standards, *In the Matter of U S West Communications, Inc.'s Motion for an Alternative Procedure To Manage Its Section 271 Application*, Case No. USW-T-00-3 (April 19, 2002), at 10 (finding that the Minnesota testing dispute (and other public interest issues) had been "properly addressed in the Facilitator's Report") (Idaho); Conditional Statement Regarding Public Interest and Track A, *In Re: U S WEST Communications, Inc. n/k/a Qwest Corporation*, Docket Nos. INU-00-2 SPU-00-11 (Jan. 25, 2002), at 27 (finding that "none of Qwest's past actions, as noted in this record [including the Minnesota testing dispute], should be considered predictive of future behavior or contrary to the public interest") (Iowa); First Order on Group 5A Issues, *In the Matter of the Application of Qwest Corporation Regarding Relief Under Section 271 of the Federal Telecommunications Act of 1996, Wyoming's Participation in a Multi-State Section 271 Process, and Approval of Its Statement of Generally Available Terms*, Docket No. 70000-TA-00-599 (Jan. 30, 2001), at 7 (stating that, contingent upon certain QPAP revisions and completion of the OSS test, the Commission "agree[s] with the comments of the Consultant in the Workshop Report that Qwest has satisfied the generalized public interest requirement of the

Minnesota allegations to any conduct in Washington. Indeed, as of December 31, 2001, Qwest had 35,909 UNE-P loops in service in Washington, as well as 52,589 additional stand-alone unbundled loops, evidence that Qwest's systems in the state are functioning properly. AT&T's allegation thus says nothing about whether granting Qwest's interLATA application in Washington would serve the public interest.

3. Local Service Freezes

Ms. Roth also claims that a *not yet litigated* complaint filed by AT&T about Qwest's implementation of the local service freezes required by Washington state law[49] is somehow relevant to the public interest inquiry.[50] This Commission will have every opportunity to review AT&T's allegations — which Qwest certainly disputes[51] — in its separate proceeding on this matter (WUTC Docket No. UT-020388), and can assure itself that the local service freezes have been and will be implemented in a way that protects the interests of Washington consumers. Indeed, Ms. Roth herself acknowledges that the "Commission will ultimately make a ruling in [the] complaint proceeding."[52]

It is not clear what would be gained by delaying the public interest inquiry until

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federal Act") (Wyoming).

49 *See* WAC 480-120-139

50 Roth Supp. Aff. at 8.

51 *See* Qwest Corporation's Answer to Complaint, *AT&T Broadband Phone of Washington, LLC v. Qwest Corporation* (Apr. 11, 2002).

52 Roth Supp. Aff. at 8.

AT&T's complaint is fully litigated. The complaint proceeding already underway will fully address all of AT&T's concerns with Qwest's implementation of the local service freezes in Washington and either vindicate Qwest or order a remedy as appropriate. Delaying Qwest's section 271 application would accomplish nothing more than either penalizing Qwest for conduct ultimately found to be innocent or exacting an unfair and unnecessary double punishment.[53] Moreover, indulging AT&T's request for delay would create improper incentives for Qwest's opponents to manufacture "unusual circumstances" by filing meritless complaints and then demanding that the Commission delay its section 271 recommendation until those complaints are resolved. For all of these reasons, the Commission should refuse AT&T's demand that it delay this inquiry until the local service freeze complaint is fully litigated.

4. Qwest's Internal E-mail Regarding Covad

Finally, Ms. Roth's suggestion that an internal Qwest e-mail discussing Covad's decision to file for Chapter 11 bankruptcy protection is evidence of a Qwest effort to

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[53] As the Chairman of the Colorado Public Utilities Commission has made clear, addressing such complaints as part of the public interest proceeding would be unfair to Qwest and would accomplish little:

> [T]here is the notional difficulty of what the public interest remedy should be for all of Qwest's anticompetitive conduct. Presumably, the demand here would be to put Qwest in the penalty box and delay its § 271 filing until it demonstrates better performance. However . . . to put Qwest in the penalty box now for its otherwise-penalized behavior, would be both arbitrary and duplicative. The "public interest" standard of § 271 should not be used by this Commission or others in so cavalier a way.

Colorado Order at 45-46.

destroy its competitors[54] is absolutely baseless. The Qwest employee that drafted and sent the e-mail, Linda Broberg, was a Grade 5 manager in the product market intelligence organization, and therefore had no authority to establish Qwest policy in any way. As Ms. Roth concedes,[55] a senior Qwest executive has apologized for the incident, and Ms. Broberg was reprimanded for sending the e-mail because her comments violated Qwest's policies with respect to its competitors. The e-mail was sent only to Qwest employees, and *not* to any customers, financial analysts, venture capitalists, or any other person or entity who might be prejudiced by the news or Qwest's reaction, and it does not mention any act or omission on behalf of Qwest that would have caused Covad's problems. Any suggestion that the e-mail reflects a Qwest policy or strategy to harm CLECs is without merit. Indeed, AT&T also presented Ms. Broberg's e-mail during the section 271 proceeding in Oregon, but the presiding administrative law judge disagreed with the notion that the e-mail was evidence of any kind of Qwest strategy: "[I]f this is an internal document . . . I don't consider it problematic with respect to Qwest's outside behavior . . . ."[56] I urge this Commission to find likewise.

B. Promoting Competition in the Local and Long Distance Markets.

In my direct affidavit filed prior to the July 2001 workshops, I presented evidence

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54 *See* Roth Supp. Aff. at 8-9.

55 *Id*. at 9 n.5.

56 Transcript, *In the Matter of the Investigation into Qwest Corporation's Compliance with § 271(c) of the Telecommunications Act of 1996* (Org. P.U.C., Sep. 10, 2001) at 152:12-18.

showing that Qwest's entry into the long distance market in Washington will provide substantial benefits to consumers in the state by increasing competition in the long-distance market. I provided a letter from the Grant County Economic Development Council to the Attorney General supporting Qwest's entry into the interLATA market because Qwest's entry would increase "the level of long-distance competition . . . ."[57] I also discussed a study from the Telecommunications Research and Action Center (TRAC), an independent consumer interest group that compiles information about long distance competitors and their pricing practices, finding that New York consumers have realized savings of up to $700 million in combined local service and long distance charges annually as a result of Verizon's entry into the long distance market in that state.[58]

Ms. Roth argues in her Supplemental Affidavit that "the notion that Qwest's entry into the long distance market would benefit consumers has been easily and thoroughly discredited," and cites in support of her claim a March 2002 white paper entitled "BOC Long Distance Entry Does Not Benefit Consumers," authored by AT&T's witness in numerous other section 271 proceedings, Dr. Lee L. Selwyn.[59] That white paper is an examination of a recent study by Dr. Jerry Hausman of MIT analyzing the potential consumer benefits of a BOC's entry into the interLATA market, *but that study is not part*

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[57] Direct Testimony of David L. Teitzel, *In the Matter of the Investigation into Qwest Corporation's Compliance with § 271(c) of the Telecommunications Act of 1996*, Docket No. UT-003022 (May 16, 2001) at 54.

[58] *Id*. at 56-57.

[59] *See* Lee L. Selwyn, *BOC Long Distance Entry Does Not Benefit Consumers* (Mar. 2002), Exhibit H to the Roth Supp. Aff., at 1 ("Selwyn Paper").

of the record in this proceeding. As Ms. Roth acknowledges in her affidavit, Qwest submitted the study as evidence "in favor of its 271 application *in other states*."[60] In her attempt to demonstrate that Qwest's entry into the interLATA market in Washington would not benefit consumers, Ms. Roth has thus ignored the evidence that Qwest actually presented in this proceeding, and instead attacks a study that was released after the evidentiary record in this proceeding had been closed.

In any event, I have attached Dr. Hausman's study to my affidavit as Exhibit DLT-11, and take this opportunity to discuss the study as well as Dr. Selwyn's criticisms of it. In his study, Dr. Hausman compared the state of competition in the long distance markets in New York and Texas post-section 271 relief with two states that had not received section 271 relief, Pennsylvania and California, over the same period. He concluded that there is "statistically significant evidence that BOC entry enabled the average customer to reap a 9-percent savings on her monthly interLATA bill in New York and a 23-percent savings in Texas."[61] Using Dr. Hausman's formula to calculate customer savings, Qwest calculates that Washington consumers can save as much as $147 million a year when Qwest enters the interLATA market. The average Washington residential customer would save at least $73 per year in local and long distance charges,

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60 Roth Supp. Aff. at 9.

61 Jerry A. Hausman, Gregory K. Leonard, J. Gregory Sidak, *The Consumer-Welfare Benefits from Bell Company Entry into Long-Distance Telecommunications: Empirical Evidence from New York and Texas*, *available at* http://papers.ssrn.com/sol3/delivery.cfm/SSRN_ID289851_code011106140.pdf?abstractid=289851 (Jan. 9, 2002), at 3 ("Hausman Study")

while the average small business customer will save more than $50 per year.

Dr. Selwyn's criticisms of the Hausman study are flat-out wrong. Dr. Selwyn is not an econometrician, nor does he have any formal training in econometrics, so far as Qwest can determine from reviewing the statement of qualifications Dr. Selwyn attached to his declaration filed with the FCC on February 28, 2002 in CC Docket No. 01-347 concerning Verizon's New Jersey petition for interLATA authority in New Jersey. Also, Dr. Selwyn did not attempt to rerun the Hausman model to verify its accuracy. The responses to Dr. Selwyn's specific criticisms of Dr. Hausman's study are as follows:

- Notwithstanding Dr. Selwyn's suggestion that the study results are irreproducible,[62] a trained econometrician can run the model upon which Dr. Hausman based his report, using standard econometric software (*e.g.*, SAS), and obtain the same results.
- Contrary to Dr. Selwyn's professions of mystery regarding the source of all Dr. Hausman's data,[63] the study uses exactly the same data source that AT&T has used in its own economic studies in the past. Dr. Hausman's study is based on a random survey of telephone bills collected by PNR and Associates, a research firm that has been collecting this data for approximately 10 years. This data is publicly available.
- Dr. Selwyn's charge that Dr. Hausman's study failed to control for changes in access prices is simply wrong.[64] All of the states involved in Dr. Hausman's study were affected equally by the FCC's access charge reforms, and so any differences in the long distance prices between the states must be due to factors *other than* any decreases in switched access charges. Therefore, the 15-20% decrease in long distance prices that Dr. Hausman found in New York and Texas must be due to the presence of 271 relief in those states.[65]

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62 *Id.* at 1-2.

63 *Id.* at 5.

64 *Id.* at 15-16.

65 *Id.* at 8-9.

- Dr. Selwyn simply ignores Dr. Hausman's conclusion that local competition in New York and Texas increased measurably more post-BOC interLATA entry as compared to the level of competition in Pennsylvania and California during the same time period.
- While Dr. Selwyn charges that Dr. Hausman's choice of control states (Pennsylvania for New York, and California for Texas) was "entirely arbitrary,"[66] Dr. Hausman makes clear that the control states were chosen based on their similarity in size, geography, and number and size of LATAs to the test state as well as the commonality of the BOC.[67] By contrast, Dr. Selwyn's proffer of Kentucky, Wisconsin, Missouri, and Florida as control states for New York and Texas is "entirely arbitrary" and admittedly results-driven.

Dr. Selwyn's criticisms of the Hausman study are not based on competent evidence and are ill founded, and they should be disregarded.

Ms. Roth concludes her argument with the entirely self-serving assertion that "Qwest's entry into the long distance market, under current prevailing conditions, will serve to benefit Qwest's shareholders, and not consumers . . . ."[68] Leaving aside that this claim is very obviously nothing more than a last-ditch attempt by AT&T to shield itself from facing a new competitor in its core market, *it is also undercut by the very evidence Ms. Roth has provided.* Dr. Selwyn's acknowledges in his white paper that "[t]he single most important source of the enormous drop in long distance prices is the succession of FCC-required decreases in 'access charges.'"[69] In other words, Dr. Selwyn is conceding that the bulk of the price reductions that long-distance customers have received in recent

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66 Selwyn Paper at 11.

67 Hausman Study at 5.

68 Roth Supp. Aff. at 11.

69 Selwyn Paper at 3.

years come *not* from any putative increase in *competition* in the long distance market, but rather from regulatory changes over the years that have reduced the amount that long distance carriers pay local exchange carriers for access.

Indeed, events since Qwest filed its initial testimony in this proceeding have confirmed that the long distance market in Washington remains a cozy oligopoly, and that Washington consumers would benefit greatly from the addition of Qwest as a new competitor. In the absence of Qwest's competition in the long distance market, the Big Three long distance carriers (AT&T, WorldCom, and Sprint) are raising their prices for Washington consumers in lockstep.[70] For example, AT&T's twenty-three million basic residential customers will now pay 35 cents a minute — 17% more — for daytime calling.[71] AT&T's evening rates have similarly been increased, from 25 to 29.5 cents a minute.[72] Moreover, this increase in long distance rates is hitting the most vulnerable Washingtonians — the poorer and less educated — the hardest.[73] Qwest's entry into the long-distance market in Washington would curb this trend, just as it has in every state where a BOC's 271 application has been approved.

Finally, the basic premise of Ms. Roth's argument — that more competition in the

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70 *See AT&T Increases Universal Service Fee Because of 'Lag' Problem*, Communications Daily, Jan. 3, 2002, Vol. 22, No. 2 ("*AT&T Increases Fee*").

71 *See AT&T Increases Fee.*

72 *Id.*

73 *See* Jerry A. Hausman and J. Gregory Sidak, *Do Long-Distance Carriers Price Discriminate Against the Poor and Less-Educated?, available at* http://papers.ssrn.com/sol3/delivery.cfm/SSRN_ID296368_code020125560.pdf?abstractid=296368 (Jan. 22, 2002).

long distance market will not benefit consumers and is not desirable — must fall under its own weight. That claim runs counter to the basic structure of the 1996 Act and section 271. When it adopted the 1996 Act, Congress pledged to "open[] *all* telecommunications markets to competition,"[74] and the Act specifically permit BOCs to enter the interLATA market once they have opened their local markets to competition. Moreover, the very idea that the long distance market is competitive enough — *i.e.*, that another competitor would not provide further benefits to consumers — is nonsensical. The studies by TRAC and Dr. Hausman only confirm the common sense notion that more competition can only benefit consumers. Indeed, the FCC itself *presumes* that "BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist."[75]

In short, neither AT&T nor anyone else has shown that Washington would not benefit from additional competition in the long-distance market, or that the FCC is wrong

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[74] Preamble, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (emphasis added).

[75] *Bell Atlantic New York Order* at ¶ 428; *SBC Texas Order* at ¶ 419; *SBC Kansas/Oklahoma Order* at ¶ 268; Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419 ¶ 125 (2001); *See* Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, 16 FCC Rcd 20719 ¶ 125 (2001); *Verizon Rhode Island Order* ¶ 103; Memorandum Opinion and Order, *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Vermont*, CC Docket No. 02-7, FCC 02-118 (rel. Apr. 17, 2002) ¶ 62.

when it repeatedly holds BOC entry in the interLATA market once the BOC opens its local market through checklist compliance benefits consumers. On the contrary, Washington consumers will face increasing costs so long as the long-distance market is left unchecked by increased competition.

IV. Conclusion

For the reasons discussed above, I respectfully ask the Commission find that Qwest has met its burden of proof with respect to the section 271 public interest analysis in Washington.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE INVESTIGATION INTO QWEST CORPORATION'S COMPLIANCE WITH §271(C) OF THE TELECOMMUNICATIONS ACT OF 1996.	**)**	**DOCKET NO. UT-003022**

EXHIBITS

OF

DAVID L. TEITZEL

ON BEHALF OF

QWEST CORPORATION

RE: PUBLIC INTEREST

May 1, 2002

INDEX OF EXHIBITS