

**BEFORE THE WASHINGTON UTILITIES  
AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into	)	
	)	DOCKET NO. UT-003022
U S WEST COMMUNICATIONS, INC.'s	)	
	)	
Compliance with Section 271 of the	)	
Telecommunications Act of 1996.	)	
_____	)	
In the Matter of	)	
	)	DOCKET NO. UT-003040
U S WEST COMMUNICATIONS, INC.'s	)	
	)	
Statement of Generally Available Terms	)	
Pursuant to Section 252(f) of the	)	
Telecommunications Act of 1996.	)	

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**AT&T'S RESPONSE TO QWEST'S DEMONSTRATION OF COMPLIANCE  
WITH COMMISSION ORDERS AS OF APRIL 19, 2002**

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AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and Oregon (collectively, "AT&T") hereby file their Response to Qwest's Demonstration of Compliance with Commission Orders as of April 19, 2002. AT&T's comments are limited to those revisions identified on Qwest's Matrix, which identifies those revisions necessary to implement the Washington Commission's 31<sup>st</sup> Supplemental Order and set forth in Qwest's Fifth Revision, dated April 19, 2002. To the extent Qwest has made modifications beyond those necessary to implement the 31<sup>st</sup> Supplemental Order, AT&T does not comment on those revisions at this time.

**A. WA-LOOP 3(a) and 3(b) - Section 9.2.2.8 - Access To Loop Qualification Information.**

In its 31<sup>st</sup> Supplemental Order, the Commission rejected Qwest's Petition for Reconsideration relating to access to loop qualification information and directed Qwest to

modify its SGAT to provide to CLECs the ability to audit Qwest's records to ensure parity of access, stating:

We are mindful of the FCC's concern that CLECs obtain loop information in the same time and manner as the BOC's retail operations. The only way we can ensure that the RLDT contains the same information available to Qwest's retail operations is to allow competitors to make manual loop make-up requests and to audit Qwest's information, if it appears to be necessary to do so. Nothing in the FCC's decisions prohibits such a safeguard. The provisions of SGAT section 18.2.8 provide that a CLEC requesting the audit would bear the cost of the audit, including any cost by Qwest to provide a "special data extraction." We deny Qwest's request for reconsideration of paragraph 35 of the 28<sup>th</sup> *Supplemental Order*.<sup>1</sup>

In its revised SGAT, Qwest has proposed the following additional language in Section 9.2.2.8 to implement the Commission's order on this issue:

To ensure parity with Qwest retail operations, CLEC may request an audit of information available to Qwest pertaining to the Loop qualification tools pursuant to Section 18 of this Agreement.<sup>2</sup>

AT&T has several concerns with this proposed revision. First, Qwest misstates the parity standard established by the FCC when it states that this provision is designed "to ensure parity with Qwest retail operations." The FCC could not have been clearer on this point. In the *SBC Kansas/Oklahoma 271 Order*, the FCC states:

In the *UNE Remand Order*, we required incumbent carriers to provide competitors with access to all of the same detailed information about the loop that is available to themselves, and in the same time frame, so that a requesting carrier could make an independent judgment at the pre-ordering stage about whether a requested end user loop is capable of supporting the advanced services equipment the requesting carrier intends to install. At a minimum, SWBT must provide carriers with the same underlying information that it has in any of its own databases or internal records. **We explained that the relevant inquiry is not whether SWBT's retail arm has access to such underlying information but whether such**

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<sup>1</sup> Order, ¶ 28.

<sup>2</sup> SGAT, Fifth Revision, dated April 19, 2002, Section 9.2.2.8.

**information exists anywhere in SWBT's back office and can be accessed by any of SWBT's personnel.**<sup>3</sup>

The FCC even went so far as to state:

**To the extent such information is not normally provided to the incumbent LEC's retail personnel, but can be obtained by contacting incumbent back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.**<sup>4</sup>

Based upon these requirements, the relevant inquiry for the audit ordered by the Washington Commission should be to ascertain what loop information is accessible to any Qwest employee, not just what is available to Qwest's retail representatives. Based upon the position Qwest has articulated throughout these workshops, it is clear that Qwest seeks to limit such an analysis to Qwest's DSL retail representatives. The FCC standard is much broader and encompasses any Qwest employee. Under the FCC's parity standard, CLECs are entitled to have access to any loop information that is accessible by any Qwest employee, whether they access it or not, not just the information that Qwest has selected and placed in its loop qualification tools. Thus, the CLECs must have the ability to audit any loop information that is accessible by any Qwest employee and compare that to what is made available to the CLEC via Qwest's loop qualification tools.

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<sup>3</sup> *In the Matter of 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*, Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29, ¶ 121 (released January 22, 2001) (“*SBC Kansas/Oklahoma 271 Order*”)(Citations omitted); *See also, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CC Docket No. 96-98, FCC 99-238, ¶¶ 427-31 (released November 5, 1999) (“*UNE Remand Order*”), *In the Matter of Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-8, FCC 01-130, ¶ 54 (released April 16, 2001) (“*Verizon Massachusetts 271 Order*”).

<sup>4</sup> *UNE Remand Order*, ¶ 151.

Second, with its reference to the audit being limited to “information available to Qwest pertaining to the Loop qualification tools,” Qwest appears to seek to limit the audit inappropriately to an audit of the information in the tools and the databases that feed those tools. This conclusion is reinforced by the proposed revision Qwest seeks to make to SGAT Section 18.1.1. This section originally read:

18.1.1 "Audit" shall mean the comprehensive review of the books, records, and other documents used in providing services under this Agreement.<sup>5</sup>

Qwest now seeks to add the following sentence:

The term "Audit" also applies to the investigation of network databases supporting the Loop qualification tools.<sup>6</sup>

As discussed above, the purpose of the audit, as the Washington Commission indicates in its order, is to determine whether the CLECs are receiving parity access to loop qualification information. As described above, under the FCC standard, the relevant inquiry is to determine whether there is back office loop information that is accessible to any Qwest employee that is not available to CLECs via Qwest’s loop qualification tools. The only way to make this assessment is for the CLECs to have the ability to audit Qwest’s paper records, including engineering records, back office systems and databases. Absent such access, CLECs would have no way of ascertaining the completeness of Qwest’s loop qualification tools. In other words, there would be no way to assess whether Qwest is providing parity access to loop information as mandated by the FCC.

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<sup>5</sup> SGAT, Fourth Revision, dated April 5, 2002, Section 18.1.1.

<sup>6</sup> SGAT, Fifth Revision, dated April 19, 2002, Section 18.1.1.

Accordingly, AT&T proposes the following audit language. This new audit language more accurately reflects the FCC standard and the intent of the Washington Commission.

CLECs shall have the ability to audit Qwest's company records, back office systems and databases to determine whether Qwest is providing CLECs the same access to loop and loop plant information that is available to any Qwest employee has access. Such audit will be in addition to the audit rights contemplated by Section 18 of this Agreement, but the processes for such audit shall be consistent with the processes set forth in Section 18.<sup>7</sup>

AT&T urges the Washington Commission to adopt AT&T's proposed audit language and to reject Qwest's proposed audit revisions that are found in Sections 9.2.2.8 and 18.1.1 of the SGAT filing, dated April 19, 2002.

**B. Qwest's "Notice of Procedures for Compliance With Section 272(e)(1)" Does Not Comply With the Commission's Order and Is Inadequate to Demonstrate Likely Compliance.**

The Commission required Qwest to "provide *evidence* of a procedure in place to provide data to CLECs regarding actual service intervals for exchange access to affiliates and non-affiliates." 31<sup>st</sup> Supp. Order, ¶ 85 (emphasis added). Qwest produced no evidence in response to the Commission's requirement. Instead, Qwest simply made representations through counsel that it would report minimal information in a standardized format that allegedly "addresses all of the areas of performance addressed by Bell Atlantic in its New York application." Qwest Notice at 4. Qwest's filing does not even approach compliance with the Commission's order.

Qwest has repeatedly claimed in this proceeding that it is unable to measure its performance in provisioning and repairing special access circuits. Most recently in

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<sup>7</sup> AT&T recommends that this language be added at the end of Section 9.2.2.8.

seeking reconsideration of the Commission's 30<sup>th</sup> Supplemental Order, Qwest claimed (without evidentiary support) that "its systems currently are incapable of distinguishing between orders purchased by a carrier . . . and its own retail customers who purchase special access." Qwest Petition for Reconsideration at 12. Qwest's witness Michael Williams testified even more recently that Qwest's measurements of high capacity facilities other than unbundled loops and resold services provided to CLECs "is one big lump, if you will, one bucket of DS1 circuits that constitutes the rest of the universe against which the wholesale is being compared." Tr. at 6985 (Qwest Williams).

Qwest cannot represent to the Commission that it will separately report on its special access provisioning and repair for its Section 272 affiliate and unaffiliated entities while simultaneously claiming that Qwest's systems currently cannot measure special access services separately from other comparable "retail" services. Qwest is not in compliance with the Commission's order until Qwest provides *evidence* that its systems can and will measure the exchange access it provides to its Section 272 affiliate separately from the same access it provides to unaffiliated entities.

The minimal measures on which Qwest proposes to report are also insufficient. Qwest currently provides the Commission and parties with performance reports, and Qwest provides no information on the extent to which the special access measures on which it proposes to report are consistent with Qwest's existing performance reports. The "retail" services to which Qwest compares its high capacity UNE loop and transport performance in those reports are measured consistent with the PID standards used to measure UNEs and include special access circuits provided to both affiliated and unaffiliated entities. Tr. at 6983 (Qwest Williams). Because Qwest's "retail" measures

include all services other than UNEs and resale provided to CLECs, however, the Commission and competitors have no means of determining whether Qwest is favoring its affiliates and/or end user customers over competitors who are provided the same services. *See id.* at 6991-92. Qwest's proposed measures do not remedy that failing. To the contrary, by proposing separate reports without any defined measures or standards, Qwest may use different data, or a different aggregation of the same data, to mask discriminatory treatment.

In addition to reporting on Qwest's provisioning to its Section 272 affiliate, the Commission has previously found that "the record in this proceeding supports a requirement that Qwest, at a minimum, report its monthly provisioning and repair intervals for special access circuits." 30th Supp. Order at 32. Consistent with these prior orders, therefore, the Commission should require Qwest to separately measure and report – in a single document using the same PID measures and standards – Qwest's provisioning and repair of (1) UNEs; (2) comparable special access services provided to unaffiliated carriers; (3) comparable special access services provided to Qwest's affiliates; and (4) comparable special access and other services provided to Qwest's end user customers. Without such comprehensive disaggregated information, the Commission and competitors simply cannot determine the extent to which Qwest is meeting its nondiscrimination obligations, include Section 272(e)(1).

## **CONCLUSION**

WHEREFORE for all the reasons set forth herein, Qwest's Demonstration of Compliance with Commission Orders as of April 19, 2002 does not comply with Commission's 31st Supplemental Order, the Act and implementing FCC orders and

should be rejected. The Commission should not endorse Qwest's application for Section 271 relief in Washington until Qwest's SGAT fully complies with the 31<sup>st</sup> Supplemental Order.

Respectfully submitted this 1st day of May, 2002.

**AT&T COMMUNICATIONS OF THE  
PACIFIC NORTHWEST, INC. AND  
AT&T LOCAL SERVICES ON  
BEHALF OF TCG SEATTLE AND TCG  
OREGON**

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