

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation Into	)	
U S WEST Communications, Inc.'s	)	Docket No. UT-003022
Compliance With Section 271 of the	)	
Telecommunications Act of 1996	)	
_____	)	
	)	
In the Matter of U S WEST Communications,	)	Docket No. UT-003040
Inc.'s Statement of Generally Available	)	
Terms Pursuant to Section 252(f) of the	)	ELI AND TWTC BRIEF ON
Telecommunications Act of 1996	)	QWEST PERFORMANCE
_____	)	REPORTS

Electric Lightwave, Inc. (“ELI”) and Time Warner Telecom of Washington, LLC (“TWTC”) provide the following brief on the performance reports filed by Qwest Corporation (“Qwest”). Qwest has failed to demonstrate that it is providing DS1 loops at an acceptable level of service quality. Qwest’s performance measures, moreover, do not provide the Commission and competitors with sufficient information to determine whether Qwest is discriminating in favor of its affiliates and end user customers in the provisioning and repair of high capacity circuits. Accordingly, the Commission should require Qwest to improve its performance and disaggregate the “retail” performance measures against which Qwest compares its unbundled network element (“UNE”) performance.

**DISCUSSION**

Qwest’s own reports demonstrate that Qwest’s provisioning and repair of high capacity circuits is inadequate. Qwest’s performance reports indicate that Qwest’s intervals for installing DS1 loops consistently exceed the 5 day interval to which Qwest agreed in the merger docket and the 9 day interval that Qwest has included in Exhibit C to its Statement of Generally Acceptable Terms (“SGAT”). Tr. at 6975-76 (Qwest Williams); Ex. 1338 at 134 (3/00-2/01 Performance Reports).

Qwest's provisioning and repair of DS1 loops accounted for five of the six loop performance objectives Qwest failed to meet between November 2001 and February 2002 – including installation commitments met, new service quality, all troubles cleared within four hours, mean time to restore, and trouble rate. Ex. 1337 at 61-62 (Qwest Williams 4/05 Supp. Direct). Qwest cannot plausibly claim that such service quality meets the standards in the Telecommunications Act of 1996 (“Act”) or Washington law.

Qwest attempts to minimize its poor performance by stating that DS1 capable loops account for only a small percentage of the total loops that Qwest provides to competing local exchange companies (“CLECs”). That rationalization provides cold comfort to CLECs like ELI and TWTC that rely on high capacity circuits from Qwest to provide local exchange service to their customers. Qwest's comparison, moreover, is misleading and ignores the customer impact of Qwest's poor performance. A DS1 loop enables a CLEC to provide its customer(s) with the equivalent of 24 voice grade (analog or DS0) loops. When multiplied by 24, the service affected by Qwest's poor DS1 loop service quality is a much larger percentage of Qwest's total loop performance than Qwest represents.

Qwest also contends that its DS1 UNE provisioning and repair is equal to or better than Qwest's provisioning and repair of “retail” high capacity circuits. Again, CLECs find no consolation in the fact that Qwest's “retail” service quality is even worse than the bad service the CLECs receive – particularly when CLECs and other competitors are purchasing a significant amount, if not the majority, of those “retail” circuits. Qwest's witness Michael Williams confirmed that the “retail” services to which Qwest compares its high capacity UNE loop and transport performance include special access services. Tr. at 6983 (Qwest Williams); Exs. 1362-64 (Qwest Responses to ELI/TWTC/XO data requests). As discussed previously in this proceeding, CLECs obtain special access circuits in addition to, or in lieu of, high capacity UNEs to provide local service to their customers. *E.g.*, Ex. S10-TWT-

TEK-1 at 4-5 (TWTC Kagele QPAP Response); Ex. S10-XOU-RMK-1 at 20-21 (XO Knowles QPAP Response). Comparing Qwest's DS1 loop service quality with Qwest's provisioning and repair of special access circuits for the same CLECs simply is not meaningful. To the contrary, Qwest has every incentive to lower the service quality of special access services to competitors to ensure that those services are just as bad or worse than Qwest's UNE service quality to the ultimate detriment of CLECs, their customers, and the development of effective local exchange competition in Washington.

The Commission 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." 30<sup>th</sup> Supp. Order at 32. That finding is equally applicable to, and should be integrated with, Qwest's performance reports. Mr. Williams testified that the "retail" services used in those reports are measured using the same PID definitions and requirements that Qwest uses to measure its UNE performance but include all services other than UNEs and resold services. Tr. at 6983-85 (Qwest Williams). Qwest's performance reports cannot provide sufficient information on Qwest's service quality unless Qwest disaggregates its "retail" service measurements to report special access circuits provided to competitors separately from services that Qwest provides to its affiliates and end user customers using the same PID definitions and requirements. Because Qwest's current "retail" measures include all services other than UNEs and resale provided to CLECs, 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 & 7028-30.

Accordingly, 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 cannot determine the extent to which Qwest is meeting its service quality and nondiscrimination obligations, and Qwest cannot satisfy its burden to prove that it "is providing" service to competitors as required under the Act.

### CONCLUSION

Qwest currently is not providing DS1 capable loops at acceptable levels of quality in Washington. In addition, Qwest's reporting fails to provide sufficient information for the Commission or interested parties to determine the extent to which Qwest's provisioning of high capacity circuits is nondiscriminatory. The Commission, therefore, should not find that Qwest has satisfied the requirements of Section 271 until Qwest provides disaggregated "retail" service quality measures for high capacity circuits that demonstrate that Qwest's service quality to CLECs both meets applicable standards *and* is at parity with the quality of service that Qwest provides to its affiliates and end user customers.

DATED this 6th day of May, 2002.

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By \_\_\_\_\_

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