BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

AT&T'S POST HEARING BRIEF REGARDING QWEST'S COMMERCIAL PERFORMANCE AND DATA RECONCILIATION EFFORTS

AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and TCG Oregon ("AT&T") hereby submit their post-hearing brief regarding the status of data reconciliation efforts regarding Qwest's performance data, the accuracy and reliability of Qwest's data, and Qwest's commercial wholesale performance in the state of Washington.

I. LEGAL STANDARDS FOR SATISFYING PERFORMANCE OBLIGATIONS

The FCC requires that incumbent local exchange carriers ("ILECs") such as Qwest must provide services and unbundled network elements to CLECs at parity and in a nondiscriminatory fashion.[1] Where the service or element being provided has a retail analogue, Qwest must provide access to CLECs in "substantially the same time and

[1] *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*, CC Docket 01-100, FCC 01-208 (July 20, 2001) at Appendix D, ¶ 5 [hereinafter "**Verizon Connecticut 271 Order**"].

manner" as it provides to itself.[2] For those services that do not have a retail analogue, the ILEC's service must provide the CLECs with a meaningful opportunity to compete.[3]

The FCC has determined that in order to meet the obligations set forth in the previous paragraph, the ILEC must generally demonstrate through reported measures of performance that the performance for its own customers does not differ in any statistically significant fashion from the service provided to the CLECs and the CLECs' customers.[4] If a benchmark or parity requirement is missed, an ILEC will fail to satisfy that checklist item unless the misses are "slight, or occur in isolated months, and thus suggest only an insignificant competitive impact."[5] A steady improvement in performance may indicate that problems are being resolved. Where performance is decreasing over time, however, this creates a cause for concern and indicates that checklist items are not being met. The FCC will consider "the degree and duration of the performance disparity, and whether the performance is part of an improving or deteriorating trend."[6] In fact, "disparity with respect to one performance measurement may support a finding of statutory noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete."[7]

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[2] Id.
[3] Id.
[4] *Verizon Connecticut 271 Order* at Appendix D, ¶ 8; *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Communications Services, Inc. d/b/a Sought Western Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, FCC 01-29 (January 22, 2001) at ¶ 31 [hereinafter "**SBC Kansas/Oklahoma 271 Order**"].
[5] *SBC Kansas/Oklahoma 271 Order* at ¶ 32.
[6] Id. at ¶ 31.
[7] *Verizon Connecticut 271 Order* at Appendix D, ¶ 9.

II. STATUS OF ACCURACY AND RELIABILITY OF QWEST'S DATA

The problem with the Commission making any current decisions about Qwest's ability to satisfy its legal obligations as shown by its reported performance data is that Qwest's data continues to be unreliable and continues to change as problems with the data are uncovered. Liberty Consulting has recently completed its data reconciliation efforts for all states, including the state of Washington. In its Washington report, Liberty found some new problems that it had not uncovered in its previous state reviews, and found that "significant problems" existed with Qwest's data for both Covad and AT&T.[8] It remains unclear whether those problems have been fixed, and whether the current data in Washington that would be affected by those problems is currently reliable and has been modified retroactively so that the Commission can rely on previous months' data to determine accurate trends in Qwest's performance. Significantly, the problems uncovered through Liberty's review of the Washington specific data are not minor ones.

Although Qwest relies on the Liberty audit and subsequent reconciliation process as proof that its data is reliable, the Commission cannot rely on that. AT&T too, as an active participant in the data reconciliation process with Liberty, had hoped that Liberty's findings would put to rest all data disputes once and for all that existed between the parties, and leave the parties to argue only about whether Qwest's performance was sufficient to satisfy its legal obligations. It had hoped that arguments about whether the Commission could rely on Qwest's reported performance data would be obsolete at the end of Liberty's work. Although AT&T and other CLECs participated in good faith to

[8] Exhibit 1330, p. 2.

reach that point, unfortunately such conclusions are impossible to make at the end of the Liberty process.

Whether crunched for time, or simply bowing to other political pressures, AT&T regrets to inform the Commission that it finds many of Liberty's findings and conclusions to be unsupported and unprofessional. Although AT&T believes that Liberty did all that it could to professionally conclude its work and verify the fixes Qwest put in place for discovered problems when it came to coding problems or computer type errors, Liberty's work was not as thorough for the many human errors that it encountered. Although Liberty could have, with very little incremental effort, also verified the effectiveness of the fix for human errors, it chose not to do so.[9]

The magnitude of the human errors that Liberty discovered were greater than what they believed appropriate even given the accepted principle that humans will make errors.[10] KPMG Consulting, the vendor responsible for conducting the 13 state ROC OSS test, has affirmed this concern in its Observation 3089 wherein it states that Qwest relies far too heavily in its responses to identified problems on the excuse that the problem was the result of human error, which Qwest has remedied through additional training of the rogue employee or employees responsible.[11] In reality, this is an easy escape for Qwest to say that it has taken care of the problem through hands-on training or updated training materials available to its employees. Before accepting the conclusion that these human error problems have been solved, the Commission should require that an additional audit be conducted, by Liberty or, preferably to AT&T, some other entity or

[9] See Transcript of Proceedings, UT-003022/UT-003040, Volume XLVII, 4/22/02, pp. 7054-7061 [hereinafter "Tr., 4/23/02"].
[10] Exhibit 1372, p. 8.
[11] Exhibit 13.

staff that the Commission can confidently rely upon, to check data occurring after the supposed fixes were developed, including a review of recent performance data, to insure that the problems are not recurring. To the extent that the problems are recurring in significant volumes, the Commission cannot possibly rely upon the data produced under such circumstances.

A. Liberty's Failure to Verify Fixes.

As is clear in Liberty's reconciliation documentation, and as Liberty admitted at trial, it determined not to verify the accuracy of many fixes Qwest proclaimed to have put in place to fix problems identified by Liberty during the reconciliation process.[12] This is the case for at least half of the identified problems.[13] Liberty was unable to verify the fixes for Observations 1028, 1029, 1030, 1031, 1032, 1033, 1035 and 1037. In deciding that despite not having verified the fixes, Liberty would close out the Observations, Liberty made the following findings:

- **Observation 1028:** This Observation observed a "significant error rate" (about 15%) by Qwest in calculating repair duration. In deciding to "close" this Observation, Liberty simply reviewed information by Qwest regarding "recent training programs and review efforts geared towards further improving the handling of trouble tickets." Even though Liberty concluded that it could not "substantiate th[e] effects" of the renewed methods and procedures, and determined that the problem was significant enough to warrant "future monitoring work," it closed the Observation

[12] Tr., 4/22/02, pp. 6728-6730.
[13] Id.

without doing anything further to verify that the new methods would help at all in solving the problem. See Exhibit 1375, p.1.

- **Observation 1029:** This Observation concerns Qwest's exclusion of orders because it did not know which CLEC the orders belonged to. Liberty was told by Qwest that a permanent solution to this problem was added to its systems in December 2001, and a "work around" solution was used between July and November 2001 to fix the problem. In reviewing Liberty's disposition report for this Observation, however, it appears that Liberty was only to verify the work around solution, and not the permanent solution. There is no indication that any solutions or data were reviewed for the time frame following December 2001 to see if the permanent solution actually solved the problem identified. See Exhibit 1375, p.2.
- **Observation 1030:** This Observation deals with Qwest failing to report on a number of orders because the state code was not automatically populated for those transactions. Liberty apparently has concluded that a code break that caused this problem in EDI version 6.0, does not exist in later versions of the EDI interface. Liberty apparently did not attempt to verify the fix, however, in closing this Observation. Instead, it simply conducted interviews with Qwest personnel and issued data requests to satisfy itself that the problem had been fixed. See Exhibit 1375, p.3.
- **Observation 1031:** This Observation relates to whether Qwest is improperly coding performance misses as "customer caused" rather than

Qwest-caused. This is an issue that has the potential to significantly affect Qwest's performance. In closing this Observation, Liberty was told by Qwest that it "retrained affected employees" and Liberty reviewed some internal Qwest documentation and found that it "adequately addressed the coding issue." Another version of this problem appeared when Qwest's typists were apparently entering the wrong date into the system. Even though "it could not be determined exactly why a customer miss was entered for some of these orders," Liberty closed the Observation after reviewing more documentation (i.e., training and job aid materials) provided by Qwest. See Exhibit 1372, pp. 13-15.

- **Observation 1032:** This Observation deals with whether Qwest was improperly including orders in its performance results that should have been excluded because of longer than standard provisioning intervals. In closing this Observation, which Qwest had dubbed a "human error" problem, Liberty reviewed Qwest documentation to determine that it "should help to avoid this kind of error in the future." Again, no attempt was made to determine if that desired result was actually achieved. See Exhibit 1375, p. 4.
- **Observation 1033:** This Observation deals with Qwest using incorrect order application date/time information in reporting its performance results. In response to this finding, Qwest indicated to Liberty that it intended to improve its quality review processes in order to address the issue. Even though Liberty, appropriately, wanted to "see the results of

the quality review process" to determine what Qwest was referring to, Qwest was never able to produce any quality control review reports to Liberty in connection with this problem.[14] Nevertheless, Liberty closed the Observation based on a review of training documentation while recommending "that Qwest retain its quality control reports for a period of at least a year and that application date error rates be closely monitored and tracked over time." Liberty, however, did nothing to determine whether Qwest had fixed or even improved this problem. See Exhibit 1375, p. 5.

- **Observation 1035:** This Observation involves error in reported data due to Qwest's improper inclusion of cancelled orders. Qwest apparently indicated to Liberty that the problem was due to a "software error" although there is no indication that Liberty was able to review the proposed fix as it had done for some other software and coding errors. In addition, Liberty has admitted that the problem may still exist for orders that are manually closed, although it gives no indication of the magnitude of this category of orders. Nevertheless, Liberty concludes that Qwest put a programming fix into place in May of 2001 that has corrected the problem. We do not know if Liberty was able to confirm this. We do know that Liberty did not review any later data to see if the problem was actually fixed since they indicate that results beginning in June of 2001 "should not be affected." See Exhibit 1375, pp. 7-8.

[14] Tr., 4/22/02, p. 6744.

- **Observation 1037:** This Observation relates to Qwest's incorrectly recording hot-cut stop times. One of the problems identified had to do with not properly recording the stop time. Liberty reviewed later data in an attempt to determine that this problem had been fixed. Liberty also determined, however, that employees were also improperly recording "delay time" but then subtracting it out such that results were not affected. Although Liberty conceded that this practice "was not consistent with the PID definition," Liberty closed the Observation based on Qwest's "reporting" that it had updated its job aids and retrained its employees. Liberty's lack of verification of this fix is unsustainable. See Exhibit 1375, p. 10.

Liberty's lack of thoroughness, particularly with respect to the above-discussed Observations, can provide no support for concluding that Qwest's data is reliable. Therefore, unfortunately, the Liberty reconciliation process provides little support to ridding the Commission from having to distinguish between CLEC and Qwest claims regarding performance data. Such a state of affairs is a great disappointment to AT&T, and should be to the Commission as well. Without further professional verification that the fixes proposed by Qwest will cure deficiencies that Liberty believed important enough to warrant an Observation, the Commission should disregard Liberty's premature closure of these Observations and presume that the identified problems still exist.

As Liberty testified to at trial, whether it opened an Observation or an Exception to document an identified problem, was not dependent upon how severe or CLECaffecting it believed the problem to be.[15] Instead, the distinction between an Observation and an Exception for Liberty had to do with how certain they were that the perceived problem was actually a problem at the time they opened the Observation.[16] Therefore, the Commission should not presume that problems found by Liberty, but identified as Observations, have any less potential competitive impact than if Liberty had tagged them as "Exceptions." As you read through Liberty's various reports, you find that Liberty often downplays a problem based on its magnitude to the reported data as a whole. Very often, however, Liberty has simply relied upon Qwest's assertions regarding how extensive the problem is rather than attempting to quantify it themselves. Further, because Liberty is seemingly acting more as an advocate for Qwest's data in these proceedings than an independent and professional auditor, AT&T believes that the Commission should read these disclaimers by Liberty with a grain of salt. The bottom line is that Liberty opened Observations that clearly indicated a problem with Qwest's data and then, arguably in an attempt to conclude its work quickly, prematurely closed Observations without attempting to verify whether Qwest's proposed fix would work or whether Qwest was even being forthcoming in their claims of fixes. The Commission should keep these things in mind when reviewing Liberty's conclusions.

B. KPMG's Findings Regarding Qwest's Data

KPMG Consulting is also involved in a review of the accuracy of Qwest's data as part of performing their role as third party tester for the ROC 13 state OSS test. KPMG is attempting to replicate Qwest's reported data in another effort to analyze the accuracy of the input data underlying Qwest's reported performance. Because the Liberty data

[15] Tr., 4/22/02, pp. 6731-6734.
[16] Id., p. 6733.

reconciliation efforts were limited to three CLECs, four services and seven states, the KPMG reconciliation effort will be much broader in scope. The KPMG effort will include a wider range of services and will include results from all of the thirteen states participating in the ROC OSS test. Because it will look at more products and more states, it will provide insights into the accuracy and reliability of Qwest's performance results that will likely not be obtained in Liberty Consulting's reconciliation of a limited amount of data.[17]

Although KPMG is still in the process of retesting some data integrity problems that it has uncovered, and the final results of that retesting will not be released until KPMG releases its final report on or around May 28, 2002, its initial findings are instructive in concluding that Qwest's data remains unreliable. This is particularly troubling given that these findings occur **after** Qwest has passed both a multi-month Liberty audit of its performance data and a detailed reconciliation of that same data. In both cases, Liberty has concluded that Qwest's data is accurate and reliable, and that any problems found are insignificant in scope when looking at Qwest's performance and performance reporting over all. Such findings by KPMG after Qwest has completed these exhaustive efforts by Liberty cannot help but call into question the thoroughness and professionalism in Liberty's work.

KPMG has issued Exception 3120, which combines problems that it first identified in Observations 3089 and 3099, and then decided should be "escalated" to the level of an Exception rather than an Observation.[18] Exception 3120 determines that "[K]PMG Consulting has identified several data integrity issues involving Qwest's

[17] See Verified Comments of John F. Finnegan, p. 4.
[18] Exhibit 1361, p. 6.

calculation of the PID results" and "several differences between" the data produced by KPMG for the Pseudo CLEC and that produced by Qwest for the Pseudo CLEC. With respect to the first issue, KPMG has concluded that:

> Without accurate reporting of PID results, regulatory commissions and CLECs have no way of knowing if Qwest is providing an environment in which CLECs are able to compete. Additionally, assuming eventual 271 relief is granted to Qwest, accurate PID data will be required by the regulators to insure that there is no backsliding by Qwest once it is allowed to reenter the in-region long distance market.[19]

With respect to the second issue, KPMG determined "[o]ut of 240 orders reviewed, 25 were mishandled in the calculation of the OP-4 PID… If these determinations are correct, this issue has an impact on the accurate reporting of PID results."[20] After reviewing data a second time that Qwest had apparently recast in an attempt to address KPMG's concerns, KPMG found that problems with the data continued, which primarily fell into three categories: exclusions, dates and intervals, and missing data.[21] As you can see, these are similar to problems first identified by Liberty Consulting when looking at data from the first half of 2001, which were purportedly fixed, and now found to continue to exist in some fashion in February of 2002. Based on these continuing concerns, even after Qwest had apparently tried once again to fix the problems discovered by KPMG, KPMG recommends keeping the exception open due to "outstanding data integrity issues."[22] KPMG recognizes the significance of data problems, and their potential impact on the competitive marketplace.

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[19] See Exhibit 1361, pp. 1-2.
[20] Id., p. 7.
[21] Id., p. 9.
[22] Id., p. 10. See Exhibit 1361.

III. FINDINGS BASED ON QWEST'S CURRENT PERFORMANCE RESULTS

Based on the above discussions of the status of both Liberty and KPMG work relating to Qwest's reported performance results, and the findings so far therein, AT&T believes that it is premature to judge Qwest's ability to satisfy its section 271 performance obligations based on current unreliable data. Nevertheless, AT&T recognizes that even after both Liberty and KPMG have completed their work, there may be many questions outstanding about the reliability of Qwest's data. This uncertainty may be unavoidable, regardless of the extent of reconciliation work that is performed. Therefore, AT&T hereby comments on Qwest's current level of performance as reflected in the latest PID results in the record before the Commission.

AT&T's conclusion is that based on the current record, the Commission could find that Qwest is conditionally satisfying, depending upon the final results of the ROC OSS test, checklist items 1,3,5,6,7,8,9,10,12, and 13. The current data, however, is insufficient to allow the Commission to find that Qwest satisfies its obligations under checklist items 2,4,11 and 14. Qwest must either improve its performance with respect to these checklist items before the Commission can recommend section 271 relief, or prove to the Commission, based on additional evidence, that the poor performance reflected in the Washington performance results is not reflective of Qwest's overall performance or ability to perform.

A. Checklist Item 2 - Unbundled Network Elements

1. Flow-Through

Qwest's flow-through performance cannot support competitive activity for the CLEC community nor allow them a meaningfully opportunity to compete. A need for manual intervention can severely restrict the number of CLEC orders that an ILEC can process in a day and severely impact the emergence of competition. Qwest's rate of order flow-through is very poor. Less than 35% of all LSRs submitted for resale orders via the IMA-EDI interface in the last twelve months flowed through (PO-2A-1).[23] If looking only at eligible resale EDI orders, Qwest still fails to exceed 50% in most of the last 12 months.[24]

The flow-through results for unbundled loop orders in the last twelve months are much worse. For unbundled loop orders submitted via the IMA-GUI interface, the flow-through rate over the last twelve months never exceeded 35% (PO-2A-1).[25] For unbundled loop orders submitted via the EDI interface, the flow-through rate has only exceeded 38% twice in the last eleven months (PO-2A-2).[26] CLECs will never be able to count on Qwest accurately processing unbundled loop orders in any significant volumes with Qwest's extensive reliance on manual processing.

Qwest also has difficulties processing local number portability ("LNP") orders. In the last eleven months, Qwest's performance for LNP flow-through for orders submitted via the IMA-GUI interface never exceeded 59% (PO-2A-1).[27] For LNP orders submitted via the EDI interface, the flow-through rate never exceeded 64% (PO-2A-2). [28] Human error can be predicted with reliability when thousands of LNP orders in any given month are subjected to manual processing.

[23] Ex. 1338, p. 52.
[24] Ex. 1338, p. 52.
[25] Ex. 1338, p. 53
[26] Id.
[27] Id., p. 54
[28] Id.

2. <u>Billing</u>

a. <u>Qwest's Bills to CLECs are Inaccurate and Incomplete</u>

The FCC has found that, "a BOC must demonstrate that it provides competing carriers with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete."[29] The FCC has also found "that the BOC must demonstrate that it can produce a readable, auditable and accurate wholesale bill in order to satisfy its nondiscrimination requirements under checklist item 2."[30] The FCC has recognized that, "[i]naccurate or untimely wholesale bills can impede a competitive LEC's ability to compete in many ways."[31]

Both the results of the Regional Oversight Committee ("ROC") Operational Support Systems test and Qwest's own commercial performance data demonstrate that Qwest cannot produce an accurate wholesale bill. KPMG Consulting observed, "[m]ultiple Observations and Exceptions highlighting rate discrepancies between Qwest's public documentation and invoices to CLEC customers indicate that <u>**Qwest's process for ensuring complete, timely, and accurate rate updates is deficient**</u>."[32] (emphasis added)

KPMG Consulting described the issue of Qwest's inaccurate wholesale bills as follows:

> KPMG Consulting has discovered numerous instances where [wholesale] <u>**rates and charges were inconsistent with the prevailing contract**</u>

[29] Before the Federal Communications Commission, In the Matter of 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, CC Docket No. 01-138, Memorandum Opinion and Order, Adopted: September 19, 2001, Released: September 19, 2001, [hereinafter "**Pennsylvania Order**"], ¶ 15.
[30] <u>Id</u>., ¶ 22.
[31] <u>Id</u>., ¶ 23.
[32] ROC Observation 3076, Initial Date: December 27, 2001.

> **and/or tariff**. Evidence of these instances is detailed in Exceptions 3008, 3034, 3069, 3088 and Observation 3041. Qwest's response to these Exceptions and Observations suggest that in some instances the **incorrect rates were resident in the P-CLEC rate tables, or new rates were not changed in a timely manner in the P-CLEC rate tables**. In response to the instances cited in the abovementioned Exceptions and Observations, Qwest has updated the rate and/or discount tables to reflect the appropriate rate and/or discount. KPMG Consulting requests that Qwest describe how these errors occurred and the approach Qwest will take to prevent inconsistencies between contract, tariff rates, and discounts.[33] (emphasis added)

KPMG Consulting described the impact of Qwest's failure to remit accurate wholesale bills as follows:

> Issuing bills with incorrect charges will have the following effect on CLECs:
>
> - **Altering expected operating costs**. By incorrectly charging for a given service, Qwest alters a CLEC's expected operating costs and could affect CLEC budgetary planning and related activities.
>
> - **Increased resource usage**. Incorrect application of rates and charges on a CLEC's bills will force a CLEC to regularly reconcile these bills – identifying and correcting the incorrect rates and charges. The necessity of an extensive validation of each bill will increase CLEC resource utilization, thereby increasing operating costs.[34]

Increasing a CLEC's costs through overcharges and increased resource utilization as a consequence of Qwest sending CLECs inaccurate wholesale bills prevents CLECs from having a meaningful opportunity to compete. Qwest's commercial results for the state of Washington show that CLECs are finding Qwest's wholesale bills to be as inaccurate as KPMG Consulting found. The BI-3A Billing Accuracy measurement tracks how well Qwest does in sending accurate wholesale bills. The BI-3A standard is parity with Qwest's retail bills. In three of the last five months of reported data, Qwest's performance to CLECs was discriminatory as compared to its performance to its retail

[33] Id.

customers.[35] In November of 2001, Qwest's wholesale bills to CLECs were only 56.13% accurate.[36] In October of 2001, Qwest's wholesale bills to CLECs were only 72.45% accurate.[37] In that same period, Qwest's bills were never less than 98.82% accurate. Not only is Qwest's performance in sending accurate wholesale bills to CLECS discriminatory on a relative basis, it is also abysmal on an absolute basis. In contrast to Qwest's abysmal wholesale billing performance, it should be noted that the wholesale billing accuracy results that the FCC used in Verizon's successful Section 271 application in Pennsylvania was 97.79%.[38]

Qwest's commercial results in Washington show that Qwest's wholesale bills to CLECs are also not as complete as the bills it provides to its retail customers. The BI-4A Billing Completeness performance measurement tracks the completeness of Qwest's wholesale bills. The performance standard for BI-4A is parity with retail bills. Qwest's reported performance results show statistically significantly discriminatory performance in **11 of 12 months** of reported results.[39] In that twelve-month period, Qwest's retail results for billing completeness were never worse than 96.1%. In contrast, the CLECs results only exceeded 96.1% completeness in two months, and were as bad as 24.87%.[40]

b. Qwest Sends Incomplete Usage Information to CLECs

The FCC has stated that, "a BOC must demonstrate that it provides competing carriers with complete, accurate and timely reports on the service usage of their customers in substantially the same time and manner that a BOC provides such

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34 Id.
35 Ex. 1338, p. 78.
36 Id.
37 Id.
38 Pennsylvania Order, ¶ 26.
39 Ex. 1338, p. 79.
40 Id.

information to itself."[41] Through the ROC OSS test, KPMG Consulting found that the usage files that Qwest sends to CLECs are woefully incomplete.

Usage information is reported by Qwest to CLECs in what is referred to as the daily usage file or "DUF." KPMG Consulting described the issue of Qwest sending incomplete usage information as follows:

> From June 11th – June 29th 2001, KPMG Consulting placed 7,855 test calls for which DUF records were expected. Qwest provided DUF records for 5,388 (69%) of the completed test calls. KPMG Consulting expected to receive DUF records for a minimum of 95% of those test calls that were expected to generate DUF records.

A significant number of the missing records are for local call details completed on UNE-P or resale measured lines. This includes both direct-dialed and operator-handled calls. Other instances of missing DUF records include other call types such as toll, directory assistance, and switched access (UNE-P only).[42] (footnote omitted)

KPMG Consulting described the impact of the missing usage information as follows:

> Failure to deliver DUF records may prevent a CLEC from accurately billing its customers, and could prevent the CLEC from receiving its complete usage revenue. In addition, the absence of appropriate access records could result in lost revenue from Interexchange Carriers for access minutes of use for calls delivered to CLEC end users.[43]

KPMG Consulting has identified a second significant problem with how Qwest provides usage information. KPMG Consulting has found that Qwest is inaccurately recording the state of a CLEC's line. Qwest has been identifying lines that are resale lines as being UNE-P lines and identifying lines that are UNE-P lines as resale lines. KPMG described the impact of Qwest's errors as follows:

[41] Pennsylvania Order, ¶ 14.
[42] ROC Exception 3036, September 6, 2001.

> Inconsistencies between DUF records and the account status could prevent a CLEC from accurately billing its customers, thereby denying the CLEC usage revenue. It could also result in additional effort by the CLEC to correct this issue with Qwest. In addition, the absence of appropriate access records could result in lost revenue from Interexchange Carriers for access minutes of use for calls delivered to CLEC end users.[44]

c. Qwest Sends Untimely Billing Completion Notices

FCC described billing completion notices as:

> [Billing Completion Notifiers (BCNs)]BCNs inform competitors that all provisioning and billing activities necessary to migrate an end user from one carrier to another are complete and thus the competitor can begin to bill the customer for service. Premature, delayed or missing BCNs can cause competitors to double-bill, fail to bill or lose their customers.[45] (footnotes omitted)

The PO-7 Billing Completion Notification Timeliness measurement results shows Qwest's performance in providing timely billing completion notices. The standard for the PO-7 measurement is parity with Qwest's retail performance. Qwest's PO-7 performance results show that Qwest's performance is statistically significantly discriminatory in comparison to its retail results and inadequate on an absolute level.

In two of the last four months Qwest has failed to provide billing completion notices to CLECs in Washington that use the IMA-GUI interface as quickly as it does for retail customers.[46] In the last two months, Qwest has failed to provide billing completion notices to CLECs in Washington that use the IMA-EDI interface as quickly as it does for retail customers.[47] In one of those months, the difference was statistically significant. Qwest's recent performance in delivering timely billing completion notices has been as

[43] Id.
[44] Exception 3037, September 6, 2001.
[45] Pennsylvania Order, ¶ 43.
[46] Ex. 1338, p. 66.
[47] Id.

poor as 84.50% for Washington CLECs that use the IMA-GUI interface and as poor as 90.80% for Washington CLECs that use the IMA-EDI interface.[48]

It should be noted that the timeliness standard for the PO-7 measurement is the percent of notices delivered within five business days.[49] In contrast, the FCC found performance that delivers 95% of the billing completion notices by **noon of the day following order completion in its billing systems** as "a reasonable and appropriate measure of whether Bell Atlantic provides timely notification that a service order has been recorded as complete in Bell Atlantic's billing systems."[50] The FCC approved Bell Atlantic's 271 application when Bell Atlantic was providing 100% of the billing completion notices by noon the day following order completion.[51] Qwest's performance in providing as few as 84.50% of billing completion notices within **five days** of order completion is woefully inadequate as compared to previous 271 applications that the FCC has approved.

Qwest's inability to provide CLECs with accurate and complete wholesale bills, its failure to send complete usage information and its untimely and discriminatory provision of billing completion notification information are sufficient evidence for the Commission to conclude that Qwest has failed to comply with the requirements of Checklist Item #2.

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[48] Id.
[49] Ex. 1359, October 22, 2001, p. 19.
[50] *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*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, released December 22, 1999, ("BANY Order"), ¶ 189.
[51] Id.

3. OP-15 Number of Due Date Changes Per Order

The OP-15 performance measurement tracks the number of times that Qwest changes the due date on an order for Qwest-caused reasons after it has already provided a committed due date to a CLEC via a firm order commitment ("FOC"). The CLEC results are compared to the equivalent retail results. The standard for this performance measurement is diagnostic. A performance measurement with diagnostic standard is one in which there is no actual standard but the results may point to some other problem. Qwest's OP-15 results point to a problem with the reliability of Qwest's due date commitment process and also raise questions about the accuracy of Qwest's OP-3 Commitments Met and potentially OP-4 Installation Interval results.

Qwest's results show that Qwest made due date changes for CLEC resale orders at a rate that was greater than for its retail customers by a statistically significant amount in all twelve months of reported data.[52] Generally, Qwest changes the due date on CLEC orders two to three times more often than it changes due dates for its retail customers. In the latest month of reported results, Qwest changed the due date seven times out of every hundred orders.[53] Qwest-caused due date changes can result in a customer dissatisfaction with the CLEC in that the CLEC's customer will be inconvenienced by the due date change and will likely attribute the cause to the CLEC. Qwest-caused due date changes will also increase a CLEC's costs. The CLEC must spend additional time and effort to conform its order records to the new due date.

[52] Ex. 1338, p. 72.
[53] Id.

4. Unbundled Network Element Platform ("UNE-P)

a. OP-4 Installation Interval - No Dispatches (UNE-P)

The unbundled network element platform ("UNE-P") is a service that CLECs use in significant quantities in Washington. A CLEC that does serve its customers with the use of the UNE-P service will generally migrate its customer from Qwest's service to the CLECs. In those cases, Qwest will almost always install the service without the need to dispatch a technician.

For this competitively significant service, Qwest has provided discriminatory service to CLECs in two of the last four months.[54] Over the entire two-month period, Qwest took over 15% more time to install services for CLECs as compared to similarly situated retail customers.

b. OP-5 New Service Installation Quality (UNE-P)

Qwest's performance results show that Qwest does not install UNE-P services for CLECs with the same care as it does for similarly situated retail customers. In two of the last five months Qwest's rate of trouble free installations was lower by a statistically significant amount when compared to similarly situated customers.[55]

c. MR-7 Repeat Report Rate – No Dispatches (UNE-P)

Qwest's performance results show that CLECs experience more repeat troubles on UNE-P services for repairs that do not require a dispatch than similarly situated retail customers in four of the last five months of reported data.[56] The MR-7 measurement is intended to be an indicator of whether Qwest is able to repair a reported trouble right the

[54] Ex. 1338, p. 83.
[55] Id.

first time. If Qwest does not repair the service right the first time, a repeat trouble report can occur within thirty days of the first trouble report. How well Qwest does in correctly repairing troubles the first time is what the MR-7 measurement is all about. Qwest's reported results show that Qwest is not repairing CLEC residential resale services with the same attention as it does for its own retail customers.

B. <u>Checklist Item 4 – Unbundled Loop</u>

Although Qwest shows in its performance charts that its performance with respect to unbundled loops clearly satisfies its legal requirements in most cases,[57] the reality is that there is either not enough activity in Washington to allow the Commission to draw a fair conclusion about Qwest's performance information, or Qwest is failing to satisfy its legal obligations. In reviewing Qwest's installation data for unbundled loops where a dispatch is required or not, Qwest has almost no data to report in Washington.[58] When you review installation performance in Interval Zones One and Two, where Qwest has much more performance information, Qwest's performance often shows statistically worse performance for CLECs than for Qwest's own retail customers. In looking at Qwest's Installation Intervals in Zone One (OP-4D), Qwest's performance has shown discrimination in 11 of the last 12 months.[59]

This is also not a case where Qwest can argue that the distinction is meaningless given that CLECs in general in this category are experiencing intervals that are often more than 20% longer than are Qwest's retail customers.[60] In looking at how much longer CLEC customers wait for service if there is a delay in service due to facility

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[56] Ex. 1338, p. 89.
[57] Ex. 1342, pp. 11-13.
[58] Ex. 1338, pp. 108-110.
[59] <u>Id.</u>, p. 110.

reasons, Qwest has little data for the last 6 months, but where there is data, it sometimes shows statistically significantly worse treatment for CLECs.[61] Similarly, CLEC customers often experience longer installation intervals when ordering unbundled loops in Interval Zone Two. Although Qwest's results do not show the distinction to be statistically significantly different as often as in Zone One, this seems to be more attributable to volume than reality. CLECs still seem to be experiencing intervals that are 20-30% longer than are Qwest customers.[62] For days delayed for non-facility reasons, CLEC customers in Zone Two experience much longer intervals, even though the volume makes the differences often not statistically significant.[63]

In reviewing installation results for 4-wire unbundled loops, Qwest shows almost no data over the past 6 months in the state of Washington.[64] Nevertheless, Qwest gives itself a pass for purposes of its 271 commitments.[65]

C. Checklist Item 11 – Number Portability

Qwest is showing significant difficulty in restoring LNP troubles. Although Qwest only reports data for the last 5 months, the CLEC time of repair has been approximately double that received by Qwest customers in 4 of those 5 months.[66] The differences are substantial, increasing the time from 6-7 hours for retail customers to 10-14 hours for CLEC customers.[67] Nevertheless, because of the differences in volume between retail and wholesale customers, the difference is only statistically significant in

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[60] Id.
[61] See OP-6B-4, Id., p. 111.
[62] See Id., p. 11.
[63] Id., pp. 112.
[64] Id., p.127-28.
[65] Ex. 1342, p.11.
[66] See MR-12, Ex. 1338, p. 212.
[67] Id.

one month, even though CLEC repair time is more than double retail in other months.[68] This is one area where Qwest's performance does not support passing of the checklist item, but the Commission needs to look behind Qwest's blue charts to determine this.

D. Checklist Item 14 – Resale

Resale is another area that the Commission should look carefully at before deciding whether Qwest satisfies its section 271 non-discrimination obligations. For installation intervals, a category critical to an emerging competitive market where CLECs are trying to win customers away from Qwest, Qwest is consistently treating CLECs worse. For example, for residential resale installation where no dispatch occurs (which is the majority of resale orders), CLECs' treatment has been statistically significantly worse in 10 of the last 12 months.[69] Although some of this statistical difference is due to differences in volumes, it is still the case that it often takes at least one day longer for CLEC service to be installed.[70] This can be significant when carriers are competing for customers. Similarly for business resale service, where a dispatch is required within an MSA, even though the differences are not statistically significant, CLEC customers have experienced 10-20% service differentials within 2 of the last 5 months.[71] These differences, in such significant areas, should be looked at carefully by the Commission.

IV. CONCLUSION

AT&T does not believe the Commission can find that Qwest currently complies with Checklist Items 2, 4, 11 and 14. In addition, AT&T encourages the Commission to

[68] Id.
[69] See OP-4C, Ex. 1338, p. 216.
[70] Id.
[71] See OP-3A, Ex. 1338, p. 225.

look carefully at both Liberty and KPMG findings before basing any conclusion on Qwest's current data.

Respectfully submitted on May 6, 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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