

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

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IN THE MATTER OF THE)	
INVESTIGATION INTO)	
U S WEST COMMUNICATIONS,)	DOCKET NO. 97I-198T
INC.'S COMPLIANCE WITH)	
§ 271(C) OF THE TELECOMMUNICATIONS)	
ACT OF 1996)	

**JOINT CLEC COMMENT RESPONDING TO
QWEST'S ADDITIONAL "EVIDENCE" REGARDING ITS
CHANGE MANAGEMENT PROCESS**

Pursuant to Dec. No. R02-453-I, AT&T Communications of the Mountain States, Inc., TCG Colorado, Covad Communications Company, and WorldCom, Inc., on behalf of its regulated subsidiaries (collectively "Joint CLECs") hereby submit these Responsive Comments regarding Qwest's Change Management Process ("CMP").¹ For the reasons stated below, the Joint CLECs assert, again, that the "evidence" proffered by Qwest fails to demonstrate that Qwest's CMP complies with the Federal Communications Commission's ("FCC's) requirements. As a consequence, this Commission cannot point the FCC to conclusive evidence upon which it can base a determination that Qwest provides an "efficient competitor a meaningful opportunity to compete." At best, this Commission would be asking the FCC to rely on draft documents, incomplete third party testing (including some flat-out failures to pass third party tests) and promises to perform rather than adherence. This type of evidence has not been sufficient for the FCC in the past; it's doubtful it would accept it now.

¹ Qwest's CMP was previously known as the Co-Provider Industry Change Management Process or "CICMP."

INTRODUCTION

Although the Comments accurately recite the legal requirements that Qwest's CMP must meet, its newly submitted "evidence" slides right past the goal of addressing the very real deficiencies in its proof. Instead of offering proof that the deficiencies have been cured, Qwest drops voluminous documents that were not at issue into the record;² it summarily dismisses as insignificant the third party tester's Observations, Exceptions and tests it has failed to pass³ (even going so far as to revert back to the old interoperability test as apparently a substitute for an adequate SATE that mirrors the production environment),⁴ and it refuses to take to completion the redesign priority list that, by agreement of the redesign teams, constitute the remaining real "core" provisions for the CMP document that must still be concluded.

In essence what Qwest is asking this Commission and others to do is "pass us on promises to fix failures and finish later—that's good enough." That, however, is not good enough. Qwest either meets its legal obligations or it does not—in the case of CMP—it does not.

As stated innumerable times, the FCC's five criteria required of change management plans are:

- (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers;
- (2) that competing carriers had substantial input in the design and continued operation of the change management process;
- (3) that the change management plan defines a procedure for the timely resolution of change management disputes;
- (4)

² See e.g., Qwest Exhibit I, to its April 26th Comment. Exhibit I in particular contains EDI manuals and other documents that KPMG has reviewed and are not the subject of the existing deficiencies in Qwest's case.

³ "Milestones" measuring things like acknowledging receipt of a Change Request ("CR") are not substitutes for actual adherence to the redesigned CMP plan as judged by an independent tester.

⁴ Qwest's interoperability testing pre-dates SATE and, in fact, gave rise to the need for SATE because, by its own admission, Qwest's interoperability testing was insufficient. The Joint CLECs will discuss interoperability testing in more detail below.

the availability of a stable testing environment that mirrors production; and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.⁵

In addition to proving that it meets the five criteria, Qwest must also demonstrate a pattern of compliance or adherence to its plan over time.⁶

The deficiencies in Qwest's, previous and new, CMP evidence fall into four categories: (1) the information relating to the remaining real "core" CMP documentation is not yet clearly organized and readily accessible; it's not even complete; (2) Qwest does not provide a stable testing environment that mirrors production; (3) Qwest has not demonstrated a pattern of compliance or adherence to its CMP over time; and (4) by Qwest's own admission, its product/process work related to the consistency between the core technical publications and PCAT is incomplete. The Joint CLECs will, in an effort not to burden the record, briefly address these four deficiencies in light of Qwest's new "evidence."

I. BECAUSE QWEST HAS NOT COMPLETED THE CMP DOCUMENT SUCH THAT IT CONTAINS THE REAL CORE PROVISIONS, IT CANNOT MEET THE FCC'S FIRST CRITERIA.

As previously noted in the Joint CLEC brief filed on or about April 8th, the CLECs and Qwest during CMP redesign assembled a priority list of issues to address and place into the redesigned CMP document. This priority list was attached to the Joint CLEC's brief and it is now attached to Ms. Schultz's affidavit, which is attached to Qwest's recently filed Comments. This priority list forms what the CLECs and Qwest

⁵ *In the Matter of 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*, Memorandum Opinion and Order, CC Docket No. 00-65, FCC 00-238 (Rel. June 30, 2000) at ¶ 108 (hereinafter "**SWBT Texas 271 Order**").

⁶ *Id.*

agreed should be addressed before all other redesign issues. It, along with the Master Redlined version of the CMP document, contains the remaining real “core” provisions necessary to form an adequate CMP plan for the FCC’s purposes. While the parties have all agreed to conceptual resolution of the issues on the priority list, Qwest must still complete the “language drafting” related to resolution of those issues and place that language in its CMP document, the Master Redlined document. Until that task is complete, Qwest cannot demonstrate that its CMP is reflected in a single document, as required by the FCC nor that its “information relating to the change management process is clearly organized and readily accessible.”

In its zeal to rush to the FCC, Qwest would like this Commission to brush aside the final steps necessary to finishing the task of producing a single document with the real core provisions of Qwest’s CMP. This is astounding since it is likely that the task of finishing the language and placing it in the CMP document will be concluded no later than sometime in June 2002. Prior to completing this task, if Qwest has its way, the Commission will be forced to examine and rule upon a draft CMP document; one that does not contain all of the “core” requirements. Considering that the FCC is not particularly interested in drafts, and that the CMP document forms the basis for what Qwest must adhere to over time, it is hard to imagine how one could conclude that Qwest meets the FCC’s criteria based upon such a draft. Therefore, the Commission should simply demand that Qwest finish the job and then submit the CMP document for review.

Given the fact that the ROC Final OSS Test Report is not scheduled to be issued before May 28, 2002, and that the Commission has stated it will hold a hearing on the ROC OSS test until that final ROC OSS test report is issued, requiring Qwest to complete

the remaining core language in its Master Redlined document will not delay this Commission's efforts to complete its review in June 2002.

II. BECAUSE QWEST DOES NOT PROVIDE A STABLE TESTING ENVIRONMENT THAT MIRRORS PRODUCTION, IT CANNOT MEET THE FCC'S FOURTH CRITERIA.

Instead of addressing the deficiencies in its SATE, Qwest's new "evidence" is an attempt to revert back in time to use of the "interoperability test"⁷ as some kind of substitute for SATE. The interoperability test is and was an inferior testing environment. KPMG pointed out, and Qwest admits,⁸ that the interoperability test's shortcomings were problematic; in fact, it is fair to say that the failings of the interoperability test gave rise to the need for SATE.⁹

KPMG examined Qwest's interoperability test and issued Exception 3029, which is attached hereto at **Exhibit B**. Exception 3029 states, among other things, "Qwest's Interconnect Mediated Access (IMA) Electronic Data Interchange (EDI) Interoperability Testing environment does not offer Co-Providers with sufficient testing capabilities."¹⁰ KPMG noted further that "the interoperability test environment does not provide the testing capabilities for a CLEC to sufficiently test the IMA EDI interface prior to connecting to Qwest's production systems ...,"¹¹ and it went on to list the various limitations associated with interoperability testing. In short, the Exception made clear that the limitations associated with interoperability testing could "hinder" a CLEC's ability to test.¹²

⁷ See generally, Qwest April 26th Comment at 53 – 68 and the Affidavit of Ms. Lynn Notarianni.

⁸ See Qwest's White Paper, attached hereto as **Exhibit A**, at 4.

⁹ *Id.*

¹⁰ Exception 3029 at 1.

¹¹ Exception 3029 Disposition Report 3/14/02 at 1, attached hereto as **Exhibit C**.

¹² *Id.*

Furthermore, on March 14, 2002, KPMG stated in its Exception Disposition Report for Exception 3029, in pertinent part, that:

Qwest indicated in its December 21, 2001 response that it would begin allowing CLECs to use a combination of Interop and SATE to test EDI transactions during an implementation of IMA. By asserting that CLECs may use a combination of the environments for EDI implementation, KPMG Consulting believes that each of the issues raised in this Exception is addressed by SATE functionality and its proposed enhancements. The issues of manual handling of post order responses and lack of flow through capabilities in SATE are further documented and addressed in Exception 3077.¹³

A review of this Exception and Qwest's responses reflect that KPMG envisioned that a functional SATE would relieve the problems associated with the interoperability test. Finally, Qwest has made no improvements to its interoperability test, but rather it has focused on upgrading its documentation.¹⁴ Clearly, reference to the interoperability test is not a substitute for a fully functional SATE, and such test—even in combination with SATE—does not meet the FCC's fourth criteria.

Turning now to the outstanding Exceptions related to SATE itself, the Joint CLECs offer the Affidavit of Mr. Timothy M. Connolly, attached hereto as **Exhibit E**. Mr. Connolly, an expert in technology platforms for communications carriers with experience in other RBOC OSS testing environments, provides greater detail regarding Qwest's SATE and its deficiencies along with a discussion of the third party tester's findings. In short, Mr. Connolly concludes that Qwest's SATE fails to pass the FCC's criteria and it fails the third party tester's examination of several key areas that are also seen as criteria, which the FCC has embraced in its prior § 271 orders.

¹³ *Id.* at 3,

¹⁴ Qwest March 25, 2002, Response to Exception 3029, attached hereto as **Exhibit D**.

Finally, recall that Exceptions 3077 and 3095—discussed extensively in the Joint CLEC Brief of April 8th—were closed by KPMG as “unresolved.” The status of these Exceptions is unchanged. Importantly, KPMG has made additional comments regarding these Exceptions. For example, on April 15, 2002, KPMG stated in regard to Exception 3077:¹⁵

Summary of KPMG Consulting’s Retest Activities and Results:

- (1) *SATE does not generate post-order responses in the same manner as they are created in the production environment.*

With the implementation of VICKI, KPMG Consulting acknowledged that Qwest provided CLECs with a method for receiving automated responses, but noted that VICKI had certain limitations. One of the identified issues was that VICKI does not support “real world scenario testing.” Without this capability, KPMG Consulting does not believe that VICKI provides CLECs an understanding of how different types of transactions will react in the production environment. Although VICKI helps CLECs to understand the EDI mapping structure and to determine if their systems can accept certain types of responses for the orders submitted, by design, it does not support complete interface testing capabilities. KPMG Consulting considers the real world scenario testing an essential element to a complete EDI testing environment.

- (2) *Flow through orders are not supported in SATE*

Based on the proposed flow through enhancements, KPMG Consulting acknowledged that Qwest plans to address the issue of flow through capabilities within SATE. However, until the proposed enhancements are fully implemented, KPMG Consulting does not believe that the current test environment provides a CLEC with an accurate representation of the production environment’s flow through capabilities. Based on its review and the timeline for implementation, KPMG Consulting was unable to assess this proposed SATE enhancement.

- (3) *The volume of order responses supported in SATE is restricted due to manual response handling.*

KPMG Consulting acknowledged that the VICKI and flow through enhancements would diminish Qwest’s use of human resources to support the test environment. By minimizing reliance on manual handling, Qwest could release the restrictions on the number of

¹⁵ Exception 3077 Disposition Report (4/15/02), attached hereto as **Exhibit F**.

post order transactions that a CLEC could receive. KPMG also noted that Qwest had revised the documentation to remove any references to response generation limits and considers this issue to be resolved.

- (4) *The data contained within the order responses is not consistent, and may not mirror the data that would be found in production responses.*

KPMG Consulting provided Qwest documentation and EDI transaction responses that indicated that post order response data may not be consistent with production. Qwest stated that manual handling caused many of the discrepancies and that the proposed SATE enhancements should rectify that issue. Qwest also affirmed that known differences are documented in the SATE Data Document. KPMG Consulting believes that documentation of known differences does not substitute for a test environment that mirrors the transactional behavior of the production environment.

KPMG Consulting was only able to observe limited commercial activity for SATE and only prior to the implementation of the VICKI and flow through enhancements. KPMG Consulting was unable to determine whether or not SATE produced consistent post order responses that accurately reflected the behavior and content expected for the same transactions in the production environment.

KPMG Consulting recommends that Exception 3077 be closed unresolved.

Like Exception 3077, KPMG has had additional comments regarding Exception

3095.¹⁶ Relevant excerpts include the following:

Summary of KPMG Consulting's Retest Activities and Results:

KPMG Consulting acknowledged that Qwest had worked in collaboration with the CLEC community when initially developing SATE and setting up user group meetings to enhance SATE. Although Qwest committed to working with CLECs, KPMG Consulting noted that the test environment does not precisely and accurately reflect the offerings of either the production environment or of a new release of the production environment. Additionally, the process for adding new functionality to SATE is onerous and untimely for a CLEC expecting to test unsupported functionality during its EDI implementation. KPMG Consulting cited examples of new SATE functionality requests from CLECs to show that CLECs may need to test products that are not included in the current version of SATE. KPMG Consulting also indicated that the Bona Fide

¹⁶ Exception 3095 – Disposition Report (4/11/02) at 2 - 3, attached hereto as **Exhibit G**.

Request process proposed by Qwest through the Redesign process would not be finalized or available until the Redesign efforts had been completed.

KPMG Consulting stated that the use of the Interoperability environment for testing products not currently supported in SATE did not sufficiently address the issues raised in this Exception. Several limitations had been identified regarding the Interoperability environment in Exception 3029. Additionally, Qwest had stated that it would only invest resources to further develop SATE, and that SATE would overcome the deficiencies of Interop as a testing environment. Based on these facts, KPMG Consulting did not believe that Interop provided CLECs with a suitable alternative for testing products not supported in SATE.

KPMG Consulting reviewed Qwest's April 5, 2002 supplemental response and data items, and acknowledges the request to close this Exception and categorize it as "Closed/Unresolved".

KPMG Consulting recommends that Exception 3095 be closed unresolved.

Similarly, KPMG discussed SATE in its draft final report and noted instances where SATE tests are "Not Satisfied."¹⁷ Clearly, Qwest cannot yet pass the stable, stand-alone test requirement of the FCC.

III. BECAUSE QWEST CANNOT DEMONSTRATE A "PATTERN OF COMPLIANCE" TO ITS CORE CMP PROCESS, IT CANNOT MEET THE FCC'S FINAL REQUIREMENT.

"As part of this demonstration, the [FCC] will give substantial consideration to the existence of an adequate change management process and *evidence* that the [RBOC] *adhered to this process over time.*"¹⁸ This requirement forms a fundamental problem for Qwest. Because its CMP is new, there has been little opportunity to actually adhere to the process. As a consequence, examples of its lack of adherence and KPMG's

¹⁷ KPMG Draft Final Report, Version 1.0 (April 19, 2002); excerpts attached hereto as **Exhibit H**.

¹⁸ *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co, 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*, Memorandum Opinion and Order, CC Docket No. 01-194, FCC 01-338 (Rel. Nov. 16, 2001) at ¶ 40. (emphasis added).

unresolved or undetermined Exceptions must carry special weight. For example, the third party Exceptions regarding CMP, unlike other ROC Exceptions, when prematurely closed at Qwest's request means that there is absolutely no observation of any compliance whatsoever. Unlike the other ROC Exceptions and Observations, this is not a "re-test" scenario wherein Qwest accomplished some portion of the required task, this is a complete lack of evidence with problems identified and not fixed.

Here again, Qwest attempts to minimize the CLEC examples of non-compliance and KPMG's Exceptions, but offers nothing new to demonstrate actual compliance over time. While it vaguely cites to accomplishing administrative "milestones," such as the milestone where Qwest acknowledges receipt of a CR, Qwest's milestones, that were contained in the previous evidence produced by Qwest,¹⁹ did not then and do not now present a substitute for third party review or demonstrated adherence to the requirements contained in the CMP document over time. Moreover, Qwest failed to produce the evidence it relies upon to attribute to itself, for example, 98 % compliance to unidentified milestones.²⁰ As a result the milestones should be disregarded, and the Commission should focus on the evidence that does exist.

In that vein, the Joint CLECs will first review the current status of the outstanding Exceptions regarding CMP and then they will address their examples of non-adherence that Qwest would otherwise sweep under the rug.

¹⁹ Colorado En Banc Hearing Transcript, Docket No. 97I-198T (Feb. 26 - 28, 2002) at 177 – 180 & 209 – 213.

²⁰ Given that there is a Motion pending to either strike the milestone discussion or have Qwest produce the data upon which it relies, the Joint CLECs reserve the right to supplement these comments based upon the outcome of that Motion.

A. Outstanding Exceptions.

1. Neither Describing them as Insignificant or Summarily Dismissing the Outstanding Exceptions Negates their Importance or Diminishes the Problems They Pose For Qwest's Burden of Proof.

In their Brief filed April 8, 2002, the Joint CLECs identified 3 Exceptions that KPMG closed as either “unresolved” or “inconclusive,” namely Exceptions 3094, 3110 and 3111. At Qwest’s request, Exceptions 3094 and 3110 are now undergoing limited re-testing as is evidenced by Exception Response for Exception 3094 (including Appendix D) attached as **Exhibit I**. Likewise, as stated in Qwest’s Supplemental Response to Exception 3110 issued by Qwest on April 25, 2002, Qwest has requested limited re-testing as stated below:

Issue #6 Lack of Adequate Tracking and Verification

During the O/E Focus Call on March 21, 2002, Qwest confirmed that CMP managers do not employ a centralized mechanism to track and ensure that documentation release intervals are being followed for all upcoming software releases. KPMG Consulting reviewed Qwest internal process documents and verified that software and product/process documentation teams have procedures to prepare documents and distribute them in accordance with the intervals specified in the *Master Redlined CLEC-Qwest CMP Redesign Framework*. Due to the recent implementation of these process changes, KPMG Consulting has not been able to observe adherence to the documented process for notification interval management. Since Qwest has requested that KPMG Consulting conduct no further testing, KPMG Consulting will not be able to determine if Qwest’s documented processes provide the ability to perform adequate tracking or verification for adherence to the documentation release intervals.

KPMG Consulting recommends that Exception 3110 be closed as inconclusive.

Qwest Response to KPMG Disposition (04/25/2002):

KPMG Consulting indicated in its 03/22/02 response that due to the schedule of the test, it would not be possible to determine if Qwest’s documented processes provide the ability to perform adequate tracking and adherence to the documentation release intervals in *Master Redlined*

CLEC-Qwest CMP Redesign Framework. The notification cycle for the next major release (IMA Release 10.0) is underway for the June 17, 2002 implementation date. The Draft 10.0 EDI Disclosure Document was issued April 4, 2002 with the comment period ending April 23, 2002. The Final 10.0 EDI Disclosure Document is due to be issued May 3, 2002. Qwest believes KPMG Consulting is now in a position to observe adherence to the documentation release intervals with the conclusion of the comment and response period ending on May 3, 2002. Qwest requests that KPMG Consulting review the documents issued through May 3, 2002 and reconsider the disposition of this exception.

Attachment(s): None

Obviously, Qwest is concerned that KPMG has never observed any compliance whatsoever, and it seeks a limited opportunity to remedy that situation. This Commission deserves an opportunity to review KPMG's findings after the re-test before making any determination as to whether Qwest complies.

With respect to Exception 3094, Qwest asserts that its CMP provisions addressing product and process changes is more complete and comprehensive than any other CMP in the country. There is no evidence in this record to support this assertion except Qwest's conclusory statements. In fact, SBC has a fairly well documented product/process plan, which is certainly consistent with Qwest's efforts.²¹ Furthermore, Qwest asserts that resolving this Exception is not required for FCC approval. What Qwest fails to acknowledge is that the FCC has stated clearly that it will review each CMP plan on its own merits,²² and unlike other RBOCs, Qwest's own conduct, its SGAT and the attendant workshops spawned the need for the product/process portion of CMP. This is just another closing link in the chain of this proceeding.

²¹ See e.g., CLEC User Forum Guidelines and Non-OSS Change Management Process found in *SBC Competitive Local Exchange Carrier (CLEC) 13-State Interface Change Management Process, Version 1.1* dated 12/12/2000.

²² *SWBT Texas 271 Order* at ¶ 114.

As with Exception 3110, Exception 3111 remains closed “inconclusive.” Qwest challenges KPMG’s closing this Exception by stating “the issues KPMG raised did not prevent KPMG from observing Qwest’s adherence to the various aspects of the prioritization and packaging process.”²³ The Joint CLECs and KPMG clearly disagree with Qwest’s assertion. Other than asserting the opposite of KPMG’s belief, Qwest has offered nothing new in its subsequent filing.

Accordingly, it is still premature for this Commission to approve Qwest’s CMP at this time based upon the status of these three Exceptions. The Joint CLECs request that the Commission, here again, order Qwest to finish the job by allowing KPMG to conclude its testing or re-testing as the case may be before attempting to judge Qwest’s redesigned CMP.

B. Actual Evidence of Non-Compliance.

1. Qwest Fails to Adhere to its Notification of Retail Changes/Retail Parity Process.

As the Joint CLECs discussed in their April 8 brief, the parties to the redesign effort purportedly agreed upon a method by which Qwest ensured that notice of product and process changes on the retail side (*e.g.*, new products, etc.), which also impacted wholesale customers, would be communicated to those wholesale customers. The Joint CLECs pointed out, by reference to a recent, egregious example, that Qwest had failed to adhere to that agreement. Specifically, the Joint CLECs described Qwest’s failure to notify its wholesale customers of its “newfound” ability to provision ISDN loops where there was integrated pair gain on the line.

²³ See, Qwest April 26th Comment at 28.

In its April 26 brief, Qwest attempts to distract the Commission from its failure to provide notice of its new provisioning ability and product by claiming that it can and has been provisioning ISDN loops where IPG is present for CLEC customers for three years. Setting aside these purported “facts,” which will be discussed below, the issue is whether Qwest provided notice to CLECs of the ability to provision ISDN loops where IPG is present. The facts demonstrate conclusively that Qwest *did not*. As Qwest admitted during the redesign session, it could not locate a single notice that it provided to CLECs regarding the ability to provision ISDN loops over IPG.²⁴ Further, Qwest affirmatively represented to many CLECs (and not just Covad and New Edge, as Qwest insinuates) that it could not provision such loops, and did so as recently as mid-March 2002.²⁵ Qwest witnesses also represented, under oath, during the Colorado loop workshops in 2001 that it could not provision ISDN loops where IPG was present.²⁶

Moreover, Qwest’s supposed actual provisioning of ISDN over IPG loops does not resolve the harm inflicted by its failure to provide notice. In the absence of notice, CLECs affirmatively decided not to place orders where Qwest represented that IPG was present on an ISDN loop.²⁷ Further, CLECs would not actively market and pursue business in areas where IPG typically is found or deployed since the understanding was that service could not be provided in those areas; thus, CLECs lost business that they otherwise might have obtained.

As to Qwest’s purported provisioning of ISDN-IPG loops, there is absolutely no way CLECs could ever determine that Qwest was actually doing or has done so. First,

²⁴ See **Exhibit J** (minutes of redesign meeting regarding retail parity); see also Letter from P. Bewick to R. Gifford, attached hereto as **Exhibit K**.

²⁵ Exhibit J (minutes).

²⁶ *Id.*

²⁷ Exhibit K (Bewick letter).

just because IPG appears on the raw loop data tool (“RLDT”) does not mean that the loop was provisioned even though IPG existed. As Jean Liston, Qwest’s loop witness, admitted during the Colorado loop workshops, Qwest is able to “provision around” “bad” loops through assignment of a different facility, hair pinning or line and station transfers. Further, as Covad pointed out in its brief on the FOC trial and the RLDT, the RLDT is replete with examples of “false positives” (loops should be provisioned successfully but are not) and “false negatives” (loops should not be provisioned but are successfully closed) that prevent CLECs from confidently relying on the loop make up information provided by Qwest.

Second, Qwest’s loop assignment and provisioning processes are not visible to CLECs. Therefore, CLECs have no idea of the makeup of the loop actually provisioned.

Third, the claim that Qwest is and has been provisioning these loops since 1999 is subject to healthy skepticism. Specifically, according to Mr. Hubbard, Qwest has been provisioning ISDN-IPG loops for, at least, Covad and New Edge, since 1999. Of course, Mr. Hubbard then states that the “INA solution” which facilitated Qwest’s ability to provision ISDN-IPG loops was not developed until mid-2000. The ability to provision ISDN-IPG loops prior to development of the solution necessarily causes one to question Qwest’s claim.

At the end of the day, the simple fact is that Qwest failed to provide notice of a retail change as it was required to do. Qwest fails to demonstrate an ability to adhere to the CMP processes.

2. Qwest Fails to Adhere to its Timing of Notification of CLEC-Impacting Changes Process.

A key issue upon which the parties reached conceptual agreement in the CMP redesign is the timing of the advance notice provided by Qwest for Qwest-initiated product and process changes. Each type or category of Qwest-initiated product or process change is designated as a specific level of change, with Level 1 product and process changes requiring the least amount of notice, going up through Level 4 changes, which require the most advance notice as well as the submission of a change request. As pointed out by the Joint CLECs in their April 8 brief, Qwest failed to adhere to notification of the product and process notice requirements when issuing a notice on April 4, 2002 of same day implementation of an NC/NCI code change -- a Level 3 change, which means it has a significant impact on CLECs' business procedures and therefore must be noticed at least thirty-one days in advance.²⁸ Thus, despite the supposed implementation of product and process the notice requirements on April 1, Qwest already disregarded them a mere three days later, thereby failing to demonstrate that it can and will comply with the agreed-upon process for notification of Qwest-initiated product and process changes.

Qwest again seeks to avoid the consequence of its failure, claiming that CLECs did in fact receive notice of these changes.²⁹ Qwest's argument is misplaced. First, as set forth in the attached listing of CMP notices provided on March 4 (the date on which Qwest claims CLECs were alerted to the code changes) and the notices themselves, there is not a single notice that clearly states that Qwest is changing NC/NCI codes.³⁰ While

²⁸ See Exhibit I to April 8, 2002 Joint CLEC Brief on CMP.

²⁹ Qwest also argues that there was no NC/NCI code change. That argument is disingenuous, to say the least. While Qwest is correct that the notice informed CLECs of outdated NC/NCI codes, the notice also required that CLECs cease using those particular NC/NCI codes and to commence using a new set of NC/NCI codes. Thus, CLECs were required to change the NC/NCI codes used for ordering the same UNEs.

³⁰ See **Exhibit L**.

notification of such changes may be tucked away somewhere in the notices Qwest did issue on March 4, innocuous, unclear or mislabeled notices really are no notice at all. Further, the supposed March 4 notice pursuant to which Qwest claims CLECs were informed of the code changes was issued as a *systems* notification, even though the parties agreed that NC/NCI code changes are *process* changes.³¹ While Qwest may claim “notice is notice,” the reality of the matter is that different departments handle systems and product/process changes; notification to one group of people does not constitute notice to another group of people. Qwest thus cannot “explain away” its failure to comply with the redesign agreement.

3. Although the Failure to Lift the Freeze on Local Service Issue Has Proceeded through CMP, No Effective Process Exists.

As stated in their April 8th Brief, the Joint CLECs do not agree with Qwest that AT&T’s experience dealing with Qwest’s local service freeze indicates that Qwest’s CMP process is functioning well. To the contrary, this experience has highlighted continuing material deficiencies in Qwest’s CMP. This example demonstrates that Qwest implemented the availability of the local service freeze without first establishing a clear, functioning process for removal of the local service freeze when end users seek to change local carriers. AT&T repeatedly encountered individuals at Qwest, who AT&T is supposed to contact to resolve service issues (Qwest’s help desk and escalation contacts), who had no idea how to help. As AT&T has worked to resolve issues with Qwest, AT&T has found that Qwest has not provided appropriate subject matter experts to problem solve at meetings. This has prolonged resolution of the issues and makes clear

³¹ Covad informed Qwest that it believes another issue must be resolved in the redesign before it can be Section 271 compliant as a result of the recent NC/NCI code problem. Specifically, the parties must agree to a method by which notice of changes that have cross-functional impact will be provided.

that Qwest does not yet have an adequate process to address the adverse impacts that can arise when Qwest implements a change in systems and processes. In addition, the interim exception process to the CMP, invoked by AT&T, has not aided in bringing the local service freeze issues to a prompt resolution. A CMP process that functions in this way is anticompetitive and denies CLEC's a meaningful opportunity to compete. It is important to note that two of the priority issues that remain open in CMP Redesign relate directly to the problems experienced with the local service freeze: (i) V.c, What is the process when a CLEC-impacting change occurs, but was not expected?; (ii) Covad Issue #2, the exception process.

4. Qwest Has Not Adhered to the Production Support Process.

Qwest failed to observe the redesigned CMP Production Support³² process in connection with Incident Work Orders 2127 and 2128, attached as Exhibits C and C (a) to the Joint CLEC Brief filed on April 8, 2002. The fact that certain systems deficiencies are identified as part of an IWO does not excuse Qwest's obligation to adhere to the CMP Production Support process. Either Qwest or a CLEC may report troubles to the Qwest IT Wholesale Systems Help Desk. When Qwest became aware of these systems problems, Qwest should have opened an IT Trouble Ticket and notified CLECs of the trouble and its changes in status. The Production Support process has at least two purposes: (i) to resolve the trouble and (ii) to communicate with the CLEC community about the trouble and its resolution. The communication aspect occurs through "Event Notifications." In these cases, Qwest did not issue such notifications.

IV. BECAUSE QWEST CANNOT DEMONSTRATE THAT IT ADHERES TO ITS PRODUCT/PROCESS CMP PLAN AND BECAUSE ITS TECHNICAL

³² Section 12, Draft CMP Document, attached as Exhibit D to the Joint CLEC Brief filed on April 8, 2002.

PUBLICATIONS ARE NOT CONSISTENT WITH ITS SGAT, IT CANNOT PROVE THAT IT COMPLIES WITH ITS SGAT.

The Joint CLECs applaud Qwest's efforts to make its technical publications and its PCAT consistent with the SGAT. Again, this is important if the Commission is to have any assurance that Qwest's field personnel actually do what the SGAT says they do. The job, however, is not quite done as evidenced by Mr. Hubbard's recent affidavit.³³ Here again, Qwest is almost at the finish line, but rather than actually crossing the finish line, it wants to come up short and still win the race. The Commission should reject this approach, and demand that Qwest complete its revisions to technical publication 77391 on UNE Switching.

CONCLUSION

Even after its latest filing, Qwest still cannot prove that it has accomplished the first five criteria, let alone that it has adhered to an adequate plan over time. And again Qwest laments that its gone over and above what other regional bell operating companies ("RBOCs") have done, while never once acknowledging that its CMP has had to undergo complete reconstruction because Qwest failed to timely revise its process before it filed the § 271 proceeding. Little wonder then, that Qwest's § 271 CMP review contains the matters long since addressed by other RBOCs before their applications hit the FCC.

In fairness to the parties that have to use Qwest CMP system and compete against Qwest in this local market, this Commission should not approve Qwest's CMP until Qwest completes the job of redesign³⁴ and actually meets, with credible proof, the FCC's requirements.

³³ Qwest Hubbard Affidavit at 5 - 6.

³⁴ The CLECs cooperated with Qwest to develop the list of priority redesign issues that should be address and resolved with the resolutions placed in the CMP document. The priority list is now attached to Ms.

Respectfully submitted this 3rd day of May, 2002.

Schultz's new affidavit. Even after distilling out the important issues from a list of over a hundred redesign needs and engaging in Herculean efforts to address the priorities, Qwest refuses to simply finish the job. Instead it attacks CLECs accusing them of unreasonably demanding "perfection" and holding Qwest to higher standards. Absurd.

**AT&T COMMUNICATIONS
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AND AT&T LOCAL SERVICES ON
BEHALF OF TCG COLORADO**

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