

BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

In the Matter of the Investigation Into	)	
	)	DOCKET NO. UT-003022
U S WEST COMMUNICATIONS, INC.'s <sup>1</sup>	)	
	)	DOCKET NO. UT-003040
Compliance With Section 271 of the	)	
Telecommunications Act of 1996	)	
_____	)	
	)	34th SUPPLEMENTAL ORDER;
In the Matter of	)	ORDER REGARDING QWEST'S
	)	DEMONSTRATION OF
U S WEST COMMUNICATIONS, INC.'s	)	COMPLIANCE WITH
	)	COMMISSION ORDERS
Statement of Generally Available Terms	)	
Pursuant to Section 252(f) of the	)	
Telecommunications Act of 1996	)	
_____	)	

**I. SYNOPSIS**

1     *In this Order, the Commission determines that Qwest's SGAT is, in part, in compliance with the Commission's orders arising from Workshops 1, 2, 3, and 4. The Commission orders Qwest to modify the SGAT where it finds the existing language is not compliant with Commission orders, and requests additional information concerning CLEC access to right-of-way agreements and compliance with section 272(e)(1).*

**II. BACKGROUND AND PROCEDURAL HISTORY**

2     This is a consolidated proceeding to consider the compliance of Qwest Corporation (Qwest), formerly known as U S WEST Communications, Inc., with the requirements of section 271 of the Telecommunications Act of 1996 (the Act)<sup>2</sup> and to review and consider approval of Qwest's Statement of Generally Available Terms and Conditions (SGAT) under section 252(f)(2) of the Act. The Commission is conducting its review in this proceeding through a series of workshops, comments by

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<sup>1</sup> Since the inception of this proceeding, U S WEST has merged and become known as Qwest Corporation. For consistency and ease of reference we will use the new name Qwest in this Order.

<sup>2</sup> Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § 151 *et seq.*

the parties, and the opportunity for oral argument to the Commission on contested issues.

- 3 Following each workshop, the administrative law judge entered initial orders with recommended decisions for each impasse issue addressed in the workshop. The parties presented oral argument before the Commission on any issues that continued to be contested following the initial order. The Commission issued final orders on these contested issues. Several parties subsequently petitioned for reconsideration of various topics addressed in the Commission's final orders, and the Commission has issued orders on reconsideration on those issues.
- 4 Workshop 1 addressed issues raised in regard to Checklist Items No. 3 (Poles, Ducts, and Rights-of-Way), 7(911/E911, Directory Assistance, and Operator Assistance), 8 (White Pages Listings), 9 (Numbering Administration), 10 (Databases and Associated Signaling), 12 (Dialing Parity), and 13 (Reciprocal Compensation). In connection with these checklist items, the administrative law judge entered an *Initial Draft Order* on August 8, 2000, and a *Revised Initial Order* on August 31, 2000. On June 11, 2001, the Commission entered its *Commission Order Addressing Workshop One Issues: Checklist Items No. 3, 7, 8, 9, 10, 12, and 13 (Workshop One Final Order)* and on February 8, 2002, entered its *25<sup>th</sup> Supplemental Order; Order Granting in Part and Denying in Part Petitions for Reconsideration of Workshop One Final Order (25<sup>th</sup> Supplemental Order)*.
- 5 Workshop 2 considered Checklist Items No. 1 (Interconnection and Collocation), 11 (Number Portability), and 14 (Resale). The orders entered concerning these checklist items included the *Initial Order Finding Noncompliance in the Areas of Interconnection, Number Portability and Resale (February 2001 Initial Order)*, entered on February 23, 2001; the *Eleventh Supplemental Order; Initial Order Finding Noncompliance on Collocation Issues*, entered March 30, 2001; the *Fifteenth Supplemental Order; Commission Order Addressing Workshop Two Issues: Checklist Items Nos. 1, 11, and 14 (15<sup>th</sup> Supplemental Order)*, entered August 17, 2001; and the *26<sup>th</sup> Supplemental Order; Order Denying Qwest's Petition for Reconsideration of the 15<sup>th</sup> Supplemental Order (26<sup>th</sup> Supplemental Order)*, entered February 8, 2002.
- 6 Workshop 3 addressed issues related to Checklist Items No. 2 (Unbundled Network Elements (UNEs)), 5 (Unbundled Transport), and 6 (Unbundled Local Switching). The orders entered concerning these checklist items were the *Thirteenth Supplemental Order, Initial Order (Workshop Three): Checklist Items No. 2, 5, and 6 (13<sup>th</sup> Supplemental Order)*, on July 24, 2001; the *Twenty-Fourth Supplemental Order, Commission Order Addressing Workshop Three Issues: Checklist Item Nos. 2, 5, and 6 (24<sup>th</sup> Supplemental Order)* on December 20, 2001; and the *31<sup>st</sup> Supplemental Order; Order Granting Qwest's Petition for Reconsideration of the 24<sup>th</sup> Supplemental Order and Granting and Denying Petitions for Reconsideration of the 28<sup>th</sup> Supplemental Order (31<sup>st</sup> Supplemental Order)* on April 12, 2002.

- 7 Workshop 4 considered issues related to Checklist Item No. 4 (Unbundled Loops), Emerging Services, General Terms and Conditions, Public Interest, Track A, and the requirements of section 272 of the Act, and provisions of the SGAT addressing these issues. The orders entered concerning Workshop 4 issues were the *Twentieth Supplemental Order; Initial Order (Workshop Four): Checklist Item No. 4; Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272 (20th Supplemental Order)*, on November 15, 2001; the *22<sup>nd</sup> Supplemental Order; Initial Order Concerning Dark Fiber Issue (Workshop Four)*, on November 28, 2001; the *Twenty-Eighth Supplemental Order; Commission Order Addressing Workshop Four Issues: Checklist Item No. 4 (Loops), Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272 (28<sup>th</sup> Supplemental Order)*, on March 12, 2002; and the *31<sup>st</sup> Supplemental Order, entered on April 12, 2002.*
- 8 In order to demonstrate its compliance with the resolution of the impasse issues specified in the above decisions, Qwest filed revisions to its SGAT on September 21, 2001, January 29, 2002, April 5, 2002, and April 19, 2002.
- 9 The Commission convened hearings on December 19, 2001, April 24 and 25, 2002, and May 14, 2002, to hear oral argument and consider the evidence filed by the parties concerning whether the SGATs Qwest filed were compliant with Commission orders.
- 10 This order identifies, for each checklist item, whether the changes Qwest has made in its various revised SGAT filings are compliant with Commission orders. Where the parties remain at impasse over SGAT language or an issue, the Commission discusses the issue, the parties' arguments on the issue, and either finds the language compliant or directs Qwest to make changes to the SGAT to be compliant with Commission orders. Where the Commission finds that Qwest's revisions to the SGAT are compliant, the SGAT revisions are identified in a chart listing the issue number as assigned during the workshop, the Commission order and ordering paragraph, the change required by the order, and the SGAT section or appendix that is compliant.
- 11 The orders discussed above addressed disputed issues from Workshops 1, 2, 3, and 4, and stated findings and conclusions on all material facts inquired into during the course of the workshops. Where the same issues are addressed below, the Commission restates and adopts the findings and conclusions entered in the orders, with the modifications discussed below.

### III. DISCUSSION

#### A. CHECKLIST ITEM NO. 1 – INTERCONNECTION AND COLLOCATION

##### 1. WA-I-5: CLEC Selection of the Point of Interconnection (POI); SGAT sections 7.1.2.1 and 7.3.2.1.1.

- 12 In the *February 2001 Initial Order*, the administrative law judge ordered Qwest to modify the SGAT to allow interconnection using entrance facilities and mid-span meets at any technically feasible point of interconnection (POI) chosen by the CLEC. *February 2001 Initial Order at ¶365(a) and (g)*. The Commission adopted this decision in paragraph 8 of the *15<sup>th</sup> Supplemental Order*.
- 13 **Qwest:** In the April 5, 2002, compliance filing, SGAT section 7.1.2 states that the CLEC shall establish one POI in Qwest’s territory. *Ex. 1503 at 58*. Sections 7.1.2.1 through 7.1.2.3 describe several interconnection arrangements that may be used. One of these is a Qwest-provided DS1 or DS3 facility. In SGAT section 7.1.2.1, Qwest describes this as an “entrance facility,” and then states that “Entrance facilities may not extend beyond the area served by the Qwest Serving Wire Center.”
- 14 According to Qwest, the rates for entrance facilities are flat-rated because they are presumed to be short in distance. Qwest objects to entrance facilities being used for longer-distance transport between the POI and the CLEC switch. *Tr. 6277-78*. Qwest acknowledges that it is obligated in other SGAT sections to provide interoffice transport between the wire center where the entrance facility is located, and the POI chosen by the CLEC. *Tr. 6280*. Qwest argued that including “Other Technically Feasible Methods of Interconnection” in SGAT section 7.1.2 encompassed the use of direct trunked transport for this purpose, and therefore no revision to section 7.1.2.1 was necessary.
- 15 **Joint CLECs:** During oral argument in response to the April 5 SGAT, the Joint CLECs expressed their concern that this language could be construed to prevent CLECs from designating a POI outside of the area served by a Qwest serving wire center. The CLECs ask either that the restrictions on entrance facilities be removed from the SGAT, or that access to POIs be allowed through Direct Trunked Transport as well as through entrance facilities. Either approach would allow CLECs to establish their POI at a Qwest tandem, rather than being limited to the area served by the Qwest wire center nearest to the CLEC switch.
- 16 **AT&T:** In pleadings filed after the oral argument, AT&T stated its objections to SGAT section 7.1.2.1 as unduly restricting the CLECs’ right to designate the POI. It also objected to Qwest’s pricing of the entrance facility and transport as two elements, arguing that the facility itself is identical and should be provided as one element. AT&T proposed revisions to section 7.1.2.1 to refer to direct trunked

transport, and to eliminate the sentence “Entrance facilities may not extend beyond the area served by the Qwest Serving Wire Center.” AT&T also suggested changes to section 7.3.2.1.1, which defines Direct Trunked Transport. AT&T’s changes would define Direct Trunked Transport as a facility that could extend from the CLEC POI to the CLEC switch, without connecting with an entrance facility at a Qwest serving wire center.

17 **Discussion and Decision:** Qwest’s entrance facility rates were developed based on Qwest’s defined use of the facilities. Therefore, Qwest’s restrictions on the scope of the entrance facility are reasonable. However, a CLEC should be entitled to locate its POI at a Qwest tandem if it so chooses, in which case Qwest’s SGAT section 7.2.2.1.4 requires use of Direct Trunked Transport as the interconnection method. Therefore, Qwest must amend its SGAT language to allow the use of direct trunked transport facilities to connect the Qwest serving wire center to the POI, if the POI is located at a Qwest tandem switch.

18 AT&T’s proposed changes to SGAT section 7.3.2.1.1 would define Direct Trunked Transport as a facility that could extend from the CLEC POI to the CLEC switch, without connecting with an entrance facility at a Qwest serving wire center. This arrangement is at odds with Qwest’s rate structure. Qwest’s language defines Direct Trunked Transport as “available between the Serving Wire Center of the POI and the terminating Party’s Tandem or End Office Switch(es).” This implies that the CLEC may be charged for two entrance facilities - one between its switch and a serving wire center, and another one between its POI and a serving wire center, and for Direct Trunked Transport between the two switches. In arguments, the Joint CLECs agreed that this arrangement was appropriate. *Tr. 6278281*. The only exception is when the POI is located at a tandem switch that includes a serving wire center, in which case direct trunked transport is the method of interconnection. Qwest must clarify the language in section 7.3.2.1.1 to address situations where the POI is at a tandem switch and entrance facilities charges would not apply between the POI and the Qwest serving wire center nearest to the CLEC switch.

**2. WA-I-5, Proportional Pricing of Facilities used for Interconnection and Access; Pricing of Spare Circuits on Such Facilities; SGAT section 7.3.1.1.2**

19 **(a) Proportional Pricing:** In paragraph 41 of the 26<sup>th</sup> *Supplemental Order*, the Commission ordered Qwest to modify section 7.3.1.1.2 of the SGAT to apply proportional rates to CLECs using facilities for both interconnection and special access.

20 **Qwest:** Qwest’s April 5, 2002, SGAT limits proportional pricing to situations where CLECs are purchasing trunks out of the intrastate access tariff. *Ex. 1503*, §7.3.1.1.2.1(e). Qwest states that the Commission does not have jurisdiction over the

rates charged for special access trunks as filed with the Federal Communications Commission (FCC), and that applying proportional pricing to the trunks when they are billed out of the FCC tariff would, in essence, be a reduction of the FCC tariff rate for that trunk. Qwest asserts that it cannot charge something other than the FCC tariff rate for the facility in question.

21 **AT&T, Covad, and Worldcom:** The CLECs object to Qwest's proposed language, and argue that proportional pricing should be applied to all trunks regardless of the tariff (interstate or intrastate) used for their purchase. The CLECs argue that allowing Qwest to restrict proportional pricing to intrastate trunks will essentially eliminate the CLECs' ability to avail themselves of it, since they are required to use the FCC tariff if 10 percent or more of the traffic is interstate. The CLECs assert that the proportional pricing scheme as reflected in the SGAT is essentially unworkable, because the carriers' rates change from interstate to intrastate based on percent interstate usage (PIU) of the trunk, and therefore the proportional pricing would only be available during months when interstate usage dropped below 10 percent.<sup>3</sup>

22 **Discussion and Decision:** We agree that this Commission may not assert jurisdiction over the pricing of interstate facilities, and cannot order Qwest to apply proportional pricing to those facilities. Therefore, we find Qwest's proposed SGAT language to be compliant with the 26<sup>th</sup> *Supplemental Order*.

23 **(b) Pricing of Spare Circuits:** The April 5 SGAT provides that spare DS-1 circuits on DS-3 facilities used for both interconnection and special access will be billed at the special access rates. *Ex. 1503, § 7.3.1.1.2.1(d)*.

24 **ELI/TWT:** The Joint CLECs argue that spare circuits should be priced in proportion to the circuits being used.

25 **Qwest:** Qwest asserted that no CLEC has argued this issue previously and that it was never raised during the proceedings in Workshop 2.

26 **Discussion and Decision:** Only the circuits used for interconnection should be priced at TELRIC rates. Spare circuits should be priced at the applicable special access rates, reflecting the underlying nature of the facilities being used. Qwest need not modify its SGAT provision.

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<sup>3</sup> During the April 25 hearing, the Commission asked AT&T as Bench Request No. 48 for information concerning the mechanism end-users use to change from the intrastate tariff to the interstate tariff, actual customer data on changes, and how AT&T would know how many lines that moved from the intrastate tariff to interstate tariff. *Tr. 7305-7*. The Commission received no response to this request.

### 3. Compliant SGAT Language

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For the issues identified in the table below, Qwest's SGAT and related documents are compliant with the Commission orders indicated in the table:

#### INTERCONNECTION

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-I-24	15 <sup>th</sup> Order at ¶152	State the specific geographic area used to calculate deposits for interconnection trunks.	Ex. 1292, 7.2.2.8.6 and 7.2.2.8.6.1
WA-I-37 WA-I-57	15 <sup>th</sup> Order at ¶154	Remove conditions in Section 7.2.2.9.6 which limit, depending on traffic volume, where the CLEC may interconnect.	Ex. 1292, 7.2.2.9.6 and 7.2.2.9.6.1
WA-I-43	15 <sup>th</sup> Order at ¶155	Remove all rate elements representing the cost of facilities on Qwest's side of the POI.	Ex. 1292, 7.1.2.2., 7.3.1.2.2, Exhibit A
WA-I-5	2/22/01 Initial Order at ¶365b	Apply rates for entrance facilities ordered in UT-003013.	Tariff Advice No. 3244T; SGAT Exhibit A.
WA-I-24	2/22/01 Initial Order at ¶365e	Guarantee availability of forecasted trunks for which CLECs pay a deposit.	Ex. 1292, 7.2.2.8.6.1.
WA-I-37 WA-I-57	2/22/01 Initial Order at ¶365g	May not limit CLECs to interconnection at the local tandem.	Ex. 1292, 7.1.2 and 7.2.2.9.6.1.
WA-I-68 WA-I-69	2/22/01 Initial Order at ¶365i	Remove references to phone-to-phone IP telephony.	Ex. 1292, 4.39, 4.57, 7.5.1 7.3.1.1.3.1 and 7.3.2.2.

#### COLLOCATION

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-1C-5	15 <sup>th</sup> Supp. Order at ¶156	Allow CLECs to request physical and virtual collocation without restrictions.	Ex. 1292, §§ 8.1.1.8, 8.2.7 and 8.4.6.

WA-1C-31/44	15th Supp. Order at ¶157	Include non-CLEC requested regeneration costs in indirect costs spread equitably to all users of its facilities, including itself.	Ex. 1292, 8.2.1.23.1.4; Ex. 1503, 8.2.1.23; Ex. 1668, Attachment A, 8.3.1.9
WA-1C-57	15th Supp. Order at ¶158	Remove 8.4.1.9 to eliminate provisioning exception based on volume of orders.	Ex. 1292, 8.4.1.9 deleted.
None	15th Supp. Order at ¶160	Modify 8.2.1.13 to make clear that Qwest will list all premises determined to be full following a specific CLEC request.	Ex. 1292, 8.2.1.13.
None	15th Supp. Order at ¶161	Modify 8.2.1.1.4.1 to include Joint CLEC's proposed language for recovery of grooming costs.	Ex. 1292, 8.2.1.14.1.
None	15th Supp. Order at ¶162	Modify 8.4.3.2 to remove ability to deny quote for physical collocation due to lack of entrance facilities.	Ex. 1292, 8.4.3.2.
None	15th Supp. Order at ¶163	Modify SGAT to reflect agreed-upon changes to SGAT set in Joint CLEC's Comments at 9 and 10.	Ex. 1292, 8.2.3.12, 8.3.1.11.1.2 and 8.4.7.1.1.
WA-1C-5	11th Supp. Order at ¶155b	Amend 8.1.1.8 and 8.2.7 to remove the word "physically" and amend any other SGAT sections that restrict or imply restrictions on remote collocation only to physical arrangements.	Ex. 1292, 8.1.1.8, 8.2.7 and 8.4.6.
WA-1C-9	11th Supp. Order at ¶155d	Amend 8.1.1.8.1 to include language proposed by AT&T allowing cross-connections to MTE/MDU directly to inside wiring and not pursuant to collocation requirements.	Ex. 1292, 8.1.1.8.1.
WA-1C-56	11th Supp. Order at ¶155e	Amend SGAT 8.4.1.7.4 to reflect space reservation fee of \$2000, that the amount is non-refundable, is applied against the collocation construction fee, and failure to use the reserved space in periods specified in section 8.4.1.7 will result in forfeiture of the \$2000.	Ex. 1292, 8.4.1.7.4.



WA-1C-56	11th Supp. Order at ¶155f	Delete SGAT 8.4.1.7.4(a-d).	Ex. 1292, 8.4.1.7.4(a-d) deleted.
None	11th Supp. Order at ¶155g	Amend SGAT 8.2.4.1 to provide standardized offerings for microwave collocation that conform to the tariffs Qwest must file in UT-003013.	Ex. 1292, 8.2.4.1 and 8.2.4.9.

## B. CHECKLIST ITEM NO. 2 – UNBUNDLED NETWORK ELEMENTS

### 1. WA-CL 2-15, WA-UNE-C-11, WA-EEL-5: Qwest's Obligation to Build

- 28 In the 24<sup>th</sup> *Supplemental Order*, the Commission required Qwest to revise its construction requirements in the SGAT to reflect the decision and requirements articulated in paragraph 267 of the 13<sup>th</sup> *Supplemental Order*. In the 13<sup>th</sup> *Supplemental Order*, the administrative law judge recommended that Qwest modify SGAT section 9.1.2 and appropriate subsections to reflect its obligation to provide access to UNEs at any location currently served by its network, including the construction of new facilities to any location currently served by Qwest when similar facilities to those locations are exhausted. The administrative law judge recommended that Qwest construct facilities for CLECs under terms and conditions similar to those it would use in constructing facilities for its own customers. 13<sup>th</sup> *Supplemental Order*, ¶80.
- 29 **Qwest:** In the April 5 SGAT, section 9.1.2.1 describes Qwest's obligations if facilities are not available. *Ex. 1503*. The section separately discusses facilities that Qwest would be required to build under POLR (Provider of Last Resort) or ETC (Eligible Telecommunications Carrier) obligations; services above the DS0 level or for local exchange quantities above POLR; and dedicated transport optical capacity. *Id.* In all cases, Qwest states that it would build for CLECs subject to the same terms and conditions under which it would build similar facilities for its retail customers. Qwest states that the language is necessary to spell out its various obligations to build facilities for retail customers, to ensure parity.
- 30 **AT&T:** AT&T objects to the SGAT language as being overly complicated and proposes modified SGAT language to remove the references to the different types of retail service for which parity is required. *Ex. 1516*. AT&T asserts that the terms POLR and ETC are not defined in the SGAT and that the CLEC employees taking orders will not know whether the distinctions affect their orders.
- 31 **Covad:** Covad does not provide voice service and has no need for the distinctions Qwest has included in section 9.1.2.1.

32 **Discussion and Decision:** The SGAT is a document used by CLECs to order wholesale telecommunications service. Including distinctions between retail services in section 9.1.2.1 is unnecessary and confusing. Further, if the definitions of POLR and ETC change at some point, CLEC ordering personnel may or may not be notified of such changes. Qwest must modify the SGAT to reflect AT&T's proposed modifications to SGAT sections 9.1.2.1, 9.1.2.1.3., 9.1.2.1.3.1, and 9.1.2.1.3.2, as reflected in Exhibit 1516.

33 AT&T also proposed changes to SGAT section 9.19, which sets out the terms and conditions for Qwest construction jobs for CLECs that Qwest is not obligated to build. In addition to modifications to clarify some of the Qwest wording, AT&T has deleted language that would allow Qwest to impose construction charges when CLECs elect to have Qwest build facilities in lieu of having their order held for lack of facilities. *Ex. 1517*. The deletion appears to overreach the intent of our previous orders. Therefore, Qwest must modify SGAT section 9.19 as reflected on Exhibit 1517, except that the phrase "or when CLEC elects to request construction in lieu of having an order held for lack of available facilities" should not be deleted.

## 2. WA-CL 2-15, WA-UNE-C-11, WA-EEL-5: Qwest's Obligation to Build/Disclosure of Retail Build Policies

34 Paragraph 21 of the 28<sup>th</sup> *Supplemental Order* required Qwest to make its retail building policies available for CLEC review, so CLECs can ensure that they are receiving the same terms and conditions for their construction requests as Qwest applies to its retail construction. Qwest added section 9.1.2.1.5 to the SGAT, which provides that: "Qwest will make its retail build policy available to CLEC upon written request. Upon receipt, CLEC will consider this information as confidential and conform to all aspects of Section 5.16 with respect to receipt of such information." *Ex. 1503 at 126*.

35 **AT&T:** AT&T proposes expanding the SGAT section to allow CLECs to also review "reports of Qwest's actual builds undertaken pursuant to that policy." *Ex. 1516*.

36 **Qwest:** Qwest objects to AT&T's suggestion as being beyond the scope of the Commission's order.

37 **Discussion and Decision:** During the hearing on April 24, the Commission issued Bench Request No. 47, requesting how many retail build policies Qwest has, where those build policies are located, and how often the policy or policies change. On May 15, 2002, Qwest filed its Response to Bench Request 47, stating that its retail build policy is included as a part of Qwest's overall obligation to build policy.<sup>4</sup> Qwest

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<sup>4</sup> Qwest's response to Bench Request No. 47 will be admitted as Exhibit 1183.

appended a copy of the policy, which is maintained by Qwest's Policy and Law Division. Qwest further explained that "a more detailed application of the policy" is included in Qwest's FCC and state tariffs which are accessible through a website. *Ex. 1183*. Qwest further stated that "the policy rarely changes," and usually only due to regulatory requirements. *Id.*

38 The build policy provided in response to Bench Request No. 47 is quite general. The policy itself is a document subservient to Qwest's obligations under tariff and SGATs under development in each state.<sup>5</sup> The tariff sections referenced in Qwest's response do not answer the question of how Qwest would determine whether to build if facilities are not available. Qwest must provide the Commission by June 11, 2002, with Qwest's specific operational criteria for determining whether to build retail facilities, with documentation if it exists. The information Qwest has provided is not sufficient to allow CLECs to determine whether the same terms and conditions would apply to their construction requests as Qwest applies to its retail construction requests. Until we receive Qwest's response, we will defer ruling on AT&T's request for Qwest to provide copies of the documentation for its actual builds.

### 3. Compliant SGAT Language

39 For the issues identified in the table below, Qwest's SGAT and related documents are compliant with the Commission orders indicated in the table:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-CL2-5b	24th Supp. Order, at ¶62	Qwest must revise SGAT section 9.1.2 to reflect the modified language stated in this Order at paragraph regarding retail service analogues.	Ex. 1503, 9.1.2
WA-CL2-11, WA-TR-6	13th Supp. Order, at ¶264	Qwest must not require CLECs to pay directly for regeneration required to provide UNEs. Qwest is entitled to recover regeneration costs indirectly across the pricing of all facilities, including its own.	Ex. 1503, 9.1.4, 9.6.2.3 and 9.1.10; Ex. 1668, 8.3.1.9 (Attachment A)
WA-CL2-18	13th Supp. Order, at ¶266	Qwest must provide either "light" or dark fiber, or must provide or modify electronics on fiber facilities, to provide additional capacity for UNEs in the same manner it would provide additional capacity for its own use.	Ex. 1503, 9.6.2.6

<sup>5</sup> Although the policy states that exceptions to the policy will be made if ordered by a state commission or court, it appears that, at least for Washington state, the build policy would need to be updated to reflect provisions in the Washington SGAT.

WA-CL2-6, WA-UNEC-4	13th Supp. Order, at ¶269	Qwest may prohibit the connection of EELs to tariffed services only to the extent set forth in the FCC's Supplemental Clarification Order.	Ex. 1503, 9.23.3.7.1
WA-EEL-15	13th Supp. Order, at ¶270	Qwest is not required to waive termination liability assessments (TLAs) when converting special access or private line circuits to EELs. However, Qwest must offer to CLECs its proposed waiver of TLAs as outlined in its brief.	Ex. 1503, 9.23.3.12
WA-UNEP- 5a	13th Supp. Order, at ¶272	Qwest must modify its SGAT to add limitations on its ability to market its services to CLEC customers during misdirected calls.	Ex. 1503, 9.23.3.17

### C. CHECKLIST ITEM NO. 3 – POLES, DUCTS, AND RIGHTS-OF-WAY

#### 1. WA-3-4: Terms and Conditions for Access to Right-of-Way Agreements; SGAT sections 10.8.2.27, Exhibit D.

40 This issue, over which the parties have been at impasse and in negotiations since the first workshop, concerns the terms and conditions under which Qwest will make available to CLECs copies of right-of-way (or right-of-access) agreements Qwest has entered into with private parties, particularly in multiple tenant environments.<sup>6</sup> The Commission's *Workshop One Final Order* found that Qwest's proposed SGAT language created burdens for CLECs in determining whether Qwest owns or controls a right-of-way and ordered Qwest to eliminate these terms from the SGAT. *Workshop One Final Order*, ¶87.

41 **Qwest:** In its September 21 SGAT, Qwest modified SGAT section 10.8.2.27, asserting that it was compliant with the Commission's *Workshop One Final Order*. *Ex. 1292*. During the December 19 hearing, Qwest stated that it had included additional language in the section from the Multi-state Proceeding, believing it was

<sup>6</sup> Section 271(c)(2)(B)(iii) requires that BOCs must provide "nondiscriminatory access to the poles, ducts, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224." The FCC has interpreted the term rights-of-way "in the context of buildings to include, at a minimum, defined areas such as ducts or conduits that are being used or have been specifically identified for use as part of the utility's transportation and distribution network." *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Fifth Report and Order and Memorandum Opinion and Order, CC Docket No. 96-98, FCC 00-366 ¶¶76, 82 (rel. Oct. 25, 2000).

non-controversial. *Tr.* 6256-57. In February, Qwest filed a pleading responding to AT&T's assertion on this issue, and discussing pleadings filed in Utah. *See Ex. 1508.*

42 **AT&T:** During the December 19 hearing, AT&T objected that Qwest had inappropriately included language in SGAT section 10.8.2.27 that had been required or adopted through similar proceedings in other states, and that there is no record in this proceeding concerning those provisions. *Tr.* 6249, 6952-53.

43 In January and February, AT&T filed several pleadings continuing the discussion over SGAT section 10.8.2.27, attaching proposed language and pleadings filed in Utah on the same issue. *See Exs. 1522, 1527.*

44 **Discussion and Decision:** A review of the pleadings filed with the Utah commission indicates that the parties have refined this issue further since the December 19 hearing in this proceeding. In particular, the parties appear to have reached an agreement on most of the language in section 10.8.2.27, with the exception of Qwest's proposed SGAT section 10.8.2.27.4, which limits the CLECs' use of information in right-of-way agreements in multiple tenant environments. *See Ex. 1508, Attachment C; see also Ex. 1522.* The Utah commission recently ordered Qwest to make certain changes to SGAT section 10.8.2.27 based upon pleadings filed with the Utah commission. The parties have not advised this Commission of the language required in Utah.

45 Qwest must modify SGAT section 10.8.2.27 to reflect AT&T's proposed language reflected on pages 3 and 4 of Exhibit 1522, except for changes related to section 10.8.2.27.4. The parties must file with the Commission by the close of business June 11, 2002, any additional agreement the parties have reached concerning section 10.8.2.27.4, as well as any language ordered by the Utah commission or any other state in Qwest's region, with any supporting documentation for why the language was adopted.

## 2. Compliant SGAT Language

46 For the issue identified in the table below, Qwest's SGAT and related documents are compliant with the Commission order indicated in the table:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-3-8	Workshop One Final Order, at ¶88	Modify SGAT concerning the response intervals to CLEC requests for access to multiple poles, ducts, conduits, and rights-of-way (45-days).	Ex. 1292, Section 2.1 and 2.2 of Exhibit D.

**D. CHECKLIST ITEM NO. 4 – UNBUNDLED LOOPS & EMERGING SERVICES****1. WA LOOP 3(a)/3(b): Access to LFACS and MLT – Access to Back Office Information, SGAT section 9.2.2.8.**

47 Based upon comments filed by AT&T, the Commission ordered in its 28<sup>th</sup> *Supplemental Order* that Qwest must modify its SGAT to include a procedure similar to that included in Attachment 25 of the Texas Plan (T2A) providing CLECs access to loop qualifying information that is “not accessible electronically.” 28<sup>th</sup> *Supplemental Order* at ¶34. In the 31<sup>st</sup> *Supplemental Order*, the Commission stated that “Based upon AT&T’s arguments that the *UNE Remand Order* establishes a parity standard for access to BOC loop information, and a review of provisions in the Texas model interconnection agreement, the 28<sup>th</sup> *Supplemental Order* required that Qwest modify its SGAT to allow CLECs access to Qwest’s back office loop qualification information in the same time and manner as Qwest retail operations.” 31<sup>st</sup> *Supplemental Order* at ¶21. The order also stated that “We are mindful of the FCC’s concern that CLECs obtain loop information in the same time and manner and the BOC’s retail operations,” citing to paragraph 431 of the *UNE Remand Order*. *Id.* at ¶28.

48 The Commission was scheduled to discuss the issue during hearings held the week of April 22, but deferred discussion of the issue to allow Qwest to file an SGAT compliant with the 31<sup>st</sup> *Supplemental Order*.

49 **Qwest:** In the April 5 SGAT, Qwest modified SGAT section 9.2.2.8 to include language providing for manual look-up of loop information. *See Ex. 1503, at 133*. In the April 19 SGAT, Qwest further modified SGAT section 9.2.2.8 by adding the sentence: “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.” *Ex. 1667, at 126-27*.

50 During the hearing held on May 14, Qwest asserted that the language in the April 5 SGAT was compliant with the 28<sup>th</sup> and 31<sup>st</sup> *Supplemental Orders*. Qwest also offered new language to include in section 9.2.2.8 to resolve AT&T’s concerns. *See Ex. 1669*.

51 **AT&T:** In response to Qwest’s April 5 SGAT, AT&T asserted that Qwest’s proposed revision to SGAT section 9.2.2.8 should offer the ability for CLECs to request a manual search of company records, “including engineering records and other back office systems and databases to determine actual loop information.” *See Ex. 1515 at 5*. AT&T also objected to Qwest “filtering” the information, i.e., providing the information by updating the data tool and requiring CLECs to view the data via the data tool. AT&T proposed alternative language for section 9.2.2.8. *Id.*

- 52 In response to Qwest's April 19 compliance filing, AT&T expressed concern about Qwest's proposed SGAT language concerning a retail parity standard. *Ex. 1670 at 2*. AT&T referred to the *UNE Remand Order*, as well as other FCC orders stating that CLECs must have access to information that exists anywhere in the BOC's back office and can be accessed by any of the BOC's personnel. *Id. at 3*.
- 53 During the May 14 hearing, AT&T asserted that CLECs should have direct, not mediated, access to Qwest's back office loop information, and reiterated the FCC's standard for access to loop information. AT&T argued that Qwest's SGAT language does not comport with the FCC's standards and should be revised. AT&T offered changes to Qwest's proposed language. *See Ex. 1672*.
- 54 **Covad:** Covad supported AT&T's comments on access to loop qualification information. *See Ex. 1530 at 4*. Covad asserted that it seeks access to Qwest's back office information when ordering and provisioning DSL service, when there appear to be problems with the accuracy of Qwest's loop qualification tools.
- 55 **Discussion and Decision:** Upon review, we find that the provisions of the 28<sup>th</sup> and 31<sup>st</sup> *Supplemental Orders* on this issue may have created confusion concerning Qwest's obligations to provide access to back office information. The Commission begins its discussion in the 28<sup>th</sup> *Supplemental Order* by noting that paragraph 430 of the *UNE Remand Order* "requires that Qwest provide access to loop qualification information that *exists anywhere within the incumbent's back office*." 28<sup>th</sup> *Supplemental Order at ¶34 (emphasis added)*. The 28<sup>th</sup> *Supplemental Order* then refers to provisions in Attachment 25 to the Texas Plan, which establishes terms and conditions for access to xDSL-Capable Loop offerings. That portion of the plan provides that SWBT will provide CLECs with access at parity with its own retail xDSL service, and allows CLECs to request back office information concerning loop make-up information for xDSL-capable loops. *T2A, Attachment 25, at 6-7*.
- 56 The reference to the Texas plan was intended to show that other states have allowed access to back office information. The Commission did not intend to limit CLEC access to loop information at parity only with Qwest's retail personnel. As AT&T stated during the hearing, the *UNE Remand Order* requires that CLECs have access to loop qualification information that may "be accessed by *any of the incumbent LEC's personnel*." *UNE Remand Order, ¶430 (emphasis added)*. However, we note that the *UNE Remand Order* also provides that the information must be provided to CLECs within the same time intervals as the information is provided to the incumbent's retail operations. *Id. at ¶431*.
- 57 The 31<sup>st</sup> *Supplemental Order* did not correctly state the parity standard, or Qwest's obligations to provide access to back office loop information. Qwest must provide CLECs access to all back office information pertaining to loop qualification

accessible to any Qwest personnel, within the same time intervals Qwest provides the information to its own retail personnel. Qwest must delete the phrase on page 126 of Exhibit 1667 stating “To ensure parity with Qwest retail operations.”

58 During the May hearings, we proposed certain modifications to Exhibits 1672 and 1503. We encouraged Qwest and AT&T to continue their discussion of mutually agreeable language for SGAT section 9.2.2.8. This clarification of Qwest’s obligations should further guide the parties’ efforts.

**2. WA LOOP 3(a)/3(b): Access to LFACS and MLT – Audit of Back Office Information, SGAT sections 9.2.2.8 and 18.1.1.**

59 In addition to requiring access to back office loop qualification information, the 28<sup>th</sup> *Supplemental Order* also required Qwest to “modify the SGAT to allow CLECs to audit the loop qualification tools provided to them to determine that the tools provide the same information, in the same time frame, to CLECs as Qwest’s internal data tools provide to its retail operations, and that Qwest provides all the information required by the FCC.” 28<sup>th</sup> *Supplemental Order* at ¶35. In the 31<sup>st</sup> *Supplemental Order*, the Commission stated “The only way we can ensure that the RDLT contains the same information available to Qwest’s retail operations is to allow competitors to . . . audit Qwest’s information, if it appears to be necessary to do so.”

60 Similar to the issue of access to back office loop qualification information, the Commission deferred discussion of this issue to the May hearing to allow Qwest to file an SGAT compliant with the 31<sup>st</sup> *Supplemental Order*.

61 **Qwest:** In the April 19 SGAT, Qwest modified SGAT section 18.1.1 to include the sentence: “The term “Audit” also applies to the investigation of network data bases supporting the Loop qualification tools.” *Ex. 1667, at 300*. As we discussed above, Qwest also modified section 9.2.2.8 to include the following: “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.” *Ex. 1667, at 126-27*.

62 During the hearing held on May 14, Qwest asserted that the language in the April 19 SGAT was compliant with what the Commission ordered in the 31<sup>st</sup> *Supplemental Order*. Qwest objected to language proposed by AT&T in Exhibit 1669, in particular arguing that the audit should be limited to information supporting or relating to the loop qualification tools, rather than applying more broadly to all back office information pertaining to loop information.

63 **AT&T:** In response to Qwest’s April 5 compliance filing, AT&T argued that Qwest did not include language in the SGAT relating to audits of loop qualification



information. *Ex. 1515 at 6*. AT&T proposed audit language to include in SGAT section 9.2.2.8. *Id. at 7*.

64 In response to Qwest's April 19 compliance filing, AT&T expressed concern about Qwest's proposed SGAT language concerning a retail parity standard for audits. *Ex. 1670 at 2*. AT&T further objected to limiting audits to information in the tools and databases that feed to loop qualification tools. *Id. at 4*. AT&T referred to the *UNE Remand Order*, as well as other FCC orders stating that CLECs must have access to information that exists anywhere in the BOC's back office and can be accessed by any of the BOC's personnel. *Id. at 3*.

65 During the May 14 hearing, AT&T reiterated its concern that CLECs should be able to audit back office information, not just the loop qualification tool and supporting data bases. AT&T argued that Qwest's SGAT language was too limiting and proposed different audit language for section 9.2.2.8. *See Ex. 1672*. AT&T agreed that its language was too broad and agreed that it was requesting the ability to audit back office data pertaining to loop information.

66 **Discussion and Decision:** As we have discussed above, the retail parity standard applies to the time interval during which information must be provided to CLECs, not the actual information to be provided. Given this, Qwest must delete the phrase in section 9.2.2.8 stating "To ensure parity with Qwest retail operations." *See Ex. 1667 at 126*. As to the question of whether CLECs may audit the loop qualification tools or back office information, we find that Qwest must allow CLECs to audit back office information pertaining to loop information. The 28<sup>th</sup> *Supplemental Order* provided that Qwest must allow CLECs to audit the loop qualification tools, but the 31<sup>st</sup> *Supplemental Order* specifically provided that CLECs must be able to audit back office loop information to ensure that Qwest's data tool contains the same information available to Qwest personnel. 28<sup>th</sup> *Supplemental Order at ¶35*; 31<sup>st</sup> *Supplemental Order at ¶28*.

67 Qwest must modify the sentence added to SGAT section 9.2.2.8 to read: "CLEC may request an audit of Qwest's company records, back office systems, and data bases pertaining to loop information pursuant to Section 18 of this Agreement." Qwest must also modify the second sentence of SGAT section 18.1.1 as follows: "The term "Audit" also applies to the investigation of company records, back office systems, and data bases pertaining to loop information."

### **3. Access to Spare Loop Information Where IDLC Systems are Deployed, SGAT section 9.2.2.8.**

68 In its April 5 SGAT, Qwest included a new section in the SGAT, section 9.2.2.1.3.1, which allows CLECs mediated access to Qwest information about spare copper loop facilities in areas where Qwest has deployed Integrated Digital Loop Carrier (IDLC)

systems. *See Ex. 1503 at 129*. In a footnote, Qwest indicated that the language was included pursuant to CLEC request. *Id., n.48*. AT&T objected to inclusion of the language asserting that it was not required by Commission orders, and was inconsistent with Commission orders. *Ex. 1515 at 4*.

69 This issue was discussed during the April compliance hearings, as well as during the May hearings, in conjunction with other loop qualification issues. *See Tr. 7235-42*.

70 **AT&T:** AT&T argues that the language in the second and third sentences of new section 9.2.2.1.3.1 is inconsistent with the Commission's directions concerning access to loop qualification information. *Ex. 1515 at 4*. During the April hearings, AT&T argued that the 28<sup>th</sup> *Supplemental Order* requires that CLECs have direct access to Qwest's back office information, not mediated access. *Tr. 7238-39*. If CLECs have the ability to request a manual record search there is no need for mediated access. *Id.* AT&T explained that the CLECs seek information from back office engineering records concerning spare facilities not connected to the switch to identify alternative methods for provisioning service when the customer is served by IDLC. *Tr. 7238*. AT&T states that they have not requested access on a mediated basis, and as such should not be required to pay for it. *Tr. 7242*.

71 In the May hearings, AT&T further argued that there is no need for the language if Qwest is entitled to mediate access and charge CLECs for the cost as a part of its OSS provisioning. However, AT&T agreed that Qwest is entitled to make information available through mediated access and that Qwest may charge CLECs for the cost of mediating access. AT&T also proposed language to resolve the dispute of access to spare loop information where Qwest has deployed IDLC systems. *See Ex. 1672*. AT&T proposes to move language concerning access to spare loop information when served by IDLC to section 9.2.2.8, and allow Qwest to provide mediated access after providing the information directly to the CLEC requesting it. *Id.*

72 **Qwest:** During the April hearing, Qwest argued that the language in section 9.2.2.1.3.1 was required by the Colorado hearing examiner, and is consistent with the requirements of the 28<sup>th</sup> *Supplemental Order*. *Tr. 7237*. Qwest insists that mediated access is an industry standard, and that nothing in the 28<sup>th</sup> *Supplemental Order* requires unmediated access. *Tr. 7237, 7241*.

73 During the May hearing, Qwest agreed that the SGAT did not properly reflect the origin of the language in section 9.2.2.1.3.1, and stated that it was recommended by the Multi-state Facilitator and then adopted by the Colorado hearing examiner. Qwest asserted that the language is appropriate as Qwest routinely provides mediated access to such information and may recover the costs from CLECs as a part of its OSS provisioning. Qwest stated, however, that it might be possible to remove the language.

74 **Discussion and Decision:** We note that the parties agreed to continue discussing appropriate language on the issue, but believe the following discussion will guide the parties' efforts. As we have stated above, CLECs must have access to back office information pertaining to loop qualification in the same manner as any Qwest employee. If Qwest employees have direct access to spare loop information, then CLECs must have the same access. Nothing precludes Qwest from providing mediated access to information after the information has been provided to CLECs in the same manner as it is provided to any Qwest employee. Qwest may recover from CLECs its reasonably incurred costs associated with OSS transition costs, consistent with the requirements of paragraphs 98 to 112 of the Commission's 17<sup>th</sup> *Supplemental Order* in the Generic Cost Proceeding, Docket No. UT-960369. Whether Qwest's proposed rates are reasonable will be determined in the Commission's ongoing cost docket, Docket UT-003013.

#### 4. WA LOOP 10-2: Spectrum Management – Deployment of Remote DSL, SGAT section 9.2.6.

75 Paragraph 43 of the 28<sup>th</sup> *Supplemental Order* noted that Qwest had already begun deploying remote DSL technology in Washington, and that the Commission could not require Qwest to seek prior approval. The order required Qwest to file a memorandum with the Commission specifying which of the FCC's requirements that Qwest has met for deploying remote DSL in Washington.

76 **Qwest:** On April 11, 2002, Qwest filed its Memorandum Regarding Remote Deployment of DSL. *See Ex. 1507*. Qwest asserts that there are no FCC or Commission rules on the issue, but that its deployment complies with the requirements of certain industry standards. *Id. at 2-3*. Qwest also asserts that it has successfully deployed remote DSL in Washington without interference to central office DSL services. *Id. at 3*.

77 During the May hearing, Qwest asserted that it has met the FCC's standards and has complied with paragraph 43 of the Commission's 28<sup>th</sup> *Supplemental Order*. Qwest asserted that until there is an established industry standard for deployment of remote DSL it may deploy remote DSL under the other two FCC requirements. Qwest objected to WorldCom's requests as going beyond what the Commission has ordered.

78 **AT&T:** AT&T asserts that Qwest did not provide any factual evidence to support its statements and cannot verify Qwest's statements, but concedes that the 28<sup>th</sup> *Supplemental Order* did not require Qwest to provide factual evidence. *Ex. 1671 at 3-4*.

79 **WorldCom:** WorldCom asserts that Qwest cannot claim to have met industry standards on deployment of remote DSL when there are no industry standards. *Ex. 1675 at 1*. Further, WorldCom asserts that Qwest cannot meet the FCC's standard

that the technology has been successfully deployed by any carrier without significantly degrading the performance of other services. *Id. at 2.* WorldCom asserts that in deploying remote DSLAMs in Washington, Qwest has deployed the technology in locations that would not interfere with its own or CLECs' central office based DSLs. *Id.* WorldCom does not believe this is sufficient to demonstrate the feasibility of Qwest's remote DSLAMs. *Id.* WorldCom requests that the Commission order Qwest to test its remote DSLAMs where another central office-based DSL capability has been deployed, and where the services of the remote and central office-based DSLAMs serve customers in the same binder group. *Id. at 3.*

80 During the May hearing, WorldCom explained that it had purchased Rhythms Networks' DSL equipment and wants to ensure that Qwest's deployment of remote DSL will not interfere with WorldCom's use of the Rhythms equipment. WorldCom suggested that, similar to SGAT section 9.2.6.4 which requires Qwest to replace T1 technology if it interferes with other services, the Commission should require that Qwest may not deploy remote DSL where it would interfere with existing CLEC equipment.

81 **Discussion and Decision:** Qwest has satisfied the requirement to file a memorandum concerning its deployment of remote DSL. We deny WorldCom's request for testing of deployment where other central office-based DSL has been deployed and where customers are served in the same binder group. SGAT section 9.2.6 already includes adequate protection for CLECs should Qwest deploy any technology that might interfere with CLEC equipment.

**5. WA-Loop 10-3: Spectrum Management/ "Known Disturber" Notification; SGAT section 9.2.6.7.**

82 Paragraph 116 of the 20<sup>th</sup> *Supplemental Order* requires Qwest to modify section 9.2.6.7 of the SGAT to provide more detail on Qwest's notification to CLECs of rejection of a CLEC request to deploy an advanced service technology. It also provided that CLECs could submit a denial to the Commission for resolution or follow the dispute resolution procedures in the SGAT.

83 **AT&T:** AT&T states that SGAT section 9.2.6.7 has been deleted from the SGAT through a consensus of Qwest and Worldcom, and asks for clarification from the Commission on whether the deletion is acceptable. *Ex. 1515 at 7.*

84 **Discussion and Decision:** The Commission has reviewed the deletion, noting that the language allowing Qwest to reject a CLEC order has been eliminated and the provision allowing CLECs to use the SGAT dispute resolution process for spectrum disputes has been moved to SGAT section 9.2.6.8. The removal of language allowing Qwest to reject a CLEC order eliminates a possible conflict with the language the Commission ordered to be added to section 9.2.6.8. That section states that Qwest

does not have the authority to unilaterally determine what technologies may be deployed. The deletion of SGAT section 9.2.6.7 and transfer of language to section 9.2.6.8 is acceptable.

**6. Issue WA-SB 4/5: LSRs for Ordering Subloops; Automation Status Report.**

85 Paragraph 263 of the 28<sup>th</sup> *Supplemental Order* required Qwest to file a status report on its progress in automating the LSR process for ordering subloops. Qwest filed its status report on April 11, 2002.

86 **Qwest:** In its status report, Qwest asserts that its subloop ordering process is fully automated and provides references to Qwest technical publications and product catalogs, or PCATs, where Qwest states the procedure is documented. *Ex. 1505.*

87 **AT&T:** In its comments and at the April hearings, AT&T asserted that Qwest's documentation is insufficient to allow CLECs to order subloops using an automated process. *Tr. 7165-67.* AT&T claims that Qwest's Technical Publication 77404 and its IMA manual must be updated to include the new ordering procedure. *Ex. 1515 at 10-11.*

88 **Discussion and Decision:** Qwest has met the Commission's requirement to file a status report on the LSR process for ordering subloops. However, given that there is some question of whether the process is fully automated, Qwest must continue to file status reports as required by the 28<sup>th</sup> *Supplemental Order*. During the April hearings, AT&T and Qwest agreed to hold further discussions regarding Qwest's documentation of the automated LSR procedure for ordering subloops. *Tr. 7184, 7186.* At the May hearings, the parties stated that they were continuing their discussions on this topic, and agreed to submit a status report by May 28, 2002.

**7. UNE-P Voice Service, SGAT section 9.23.3.11.7.**

89 Paragraph 705 of the 20<sup>th</sup> *Supplemental Order* requires Qwest to modify its SGAT to allow CLECs to order UNE-P voice service for Qwest's DSL customers. In the April 5 SGAT, Qwest included section 9.23.3.11.7 to comply with the 20<sup>th</sup> *Supplemental Order*. *Ex. 1503 at 231.* During the April hearing, the administrative law judge raised concern over the last sentence included in SGAT section 9.23.3.11.7, which states "Qwest DSL service provided to internet service providers and not provided directly to Qwest or CLEC's End User is not available with UNE-P combinations." *Tr. 7277.*

90 **Qwest:** Qwest asserted that it had complied with paragraph 705 of the 20<sup>th</sup> *Supplemental Order* and modified the SGAT to allow CLECs to order UNE-P voice service for Qwest's DSL customers. *Id.* Qwest explained that the last sentence of

section 9.23.3.11.7 is intended to protect against assigning a contract for service with an internet service provider (ISP) to another carrier with whom the ISP does not have an agreement. *Tr. 7278*. Qwest did not address this issue further in its May 10 filing concerning compliance issues. *See Ex. 1668*.

91 **Joint CLECs:** Given that the 20<sup>th</sup> *Supplemental Order* does not address ISPs, the Joint CLECs share the concern for why ISPs are referred to in the last sentence of section 9.23.3.11.7. *Tr. 7277-78*.

92 **Discussion and Decision:** Qwest has sufficiently explained the reasons for including in the SGAT the last sentence of section 9.23.3.11.7. Qwest has modified its SGAT in compliance with paragraph 705 of the 20<sup>th</sup> *Supplemental Order*.

## 8. Compliant SGAT Language

93 For the issues identified in the table below, Qwest's SGAT and related documents are compliant with the Commission orders indicated in the table:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-LOOP-2(a), 2(b)	28th Supp. Order, at ¶247	During investigation, and until the Commission resolves the issue, Qwest may not charge CLECs for removing load coil encumbrances of any type, or bridged taps not requiring construction or excavation, in the 47 COs that are the subject of Qwest's commitment in the <i>Merger Agreement</i> . Pending a decision in the cost docket, UT-003013, Qwest may charge for loop conditioning, if requested by a CLEC, in COs other than the 47 COs affected by the <i>Merger Agreement</i> .	Ex. 1500
WA-LOOP-12	28th Supp. Order, at ¶253	Qwest must comply with paragraph 132 of the <i>Initial Order</i> , except that Qwest is not required to convert interoffice facilities it needs to maintain adequate reserve facilities.	Ex. 1503, 9.1.2.1.3; Ex. 1668, Attachment C.

WA-DF-13	28th Supp. Order, at ¶255	Qwest must offer access to dark fiber at splice points under a rebuttable presumption that such access is technically feasible, consistent with the recommendation in paragraph 11 of the 22 <sup>nd</sup> Supplemental Order.	Ex. 1503, 9.7.2.2
WA-LS-4	28th Supp. Order, at ¶257	Qwest must modify SGAT Exhibit C to include a three-day interval for provisioning line sharing.	Ex. 1503, Exhibit C
WA-LS-6	28th Supp. Order, at ¶258	Qwest must replace SGAT section 9.4.1.1 with the language set forth above in paragraph 70 of the 28 <sup>th</sup> Supp. Order.	Ex. 1503, 9.4.1.1
WA-NID-1a	28th Supp. Order, at ¶259	Qwest must amend the SGAT to clarify that CLECs may either order the NID using SGAT section 9.5, and the subloop using section 9.3, or the NID/subloop combination using section 9.3. Qwest may amend the SGAT to prohibit CLECs from ordering subloops using SGAT section 9.5.	Ex. 1503, 9.3 and 9.5
WA-NID-2b	28th Supp. Order, at ¶260.	Qwest must amend SGAT sections 9.5.2.1 and 9.5.2.5 as set forth above in paragraph 80 of the 28 <sup>th</sup> Supp. Order.	Ex. 1503, 9.5.2.1 and 9.5.2.5
WA-SB-3	28th Supp. Order, at ¶262	Qwest must amend SGAT sections 9.3.3.5 and 9.3.5.4.1 to clearly identify the intervals for determining facility ownership, agreed to by the parties.	Ex. 1667, 9.3.3.5; Ex. 1668, Attachment E
WA-LOOP-1a	20th Supp. Order, at ¶693	Qwest must change SGAT section 9.2.2.3.1 and Exhibit C to include intervals for high capacity loops other than ICB, only when Qwest establishes intervals for retail customers.	Ex. 1503, 9.2.2.3.1

WA-LOOP-2a/2b	20th Supp. Order, at ¶695	Qwest must make its credit proposal in SGAT section 9.2.2.4.1 immediate and must not administer it through the billing dispute process.	Ex. 1668, Attachment F
WA-LOOP-10-1	20th Supp. Order, at ¶699	Qwest and CLECs must share information about spectrum management as required by 47 C.F.R. §§ 51.231(a), (b), and (c), but Qwest may require the use of NC/NCI codes in LSRs only if the FCC adopts their use. Qwest must modify the SGAT to ensure that Qwest protects any information provided by CLECs, and that the information is not disclosed for any other Qwest purposes, either individually or in the aggregate.	Ex. 1503, 9.2.6.2
WA-LOOP-2 WA-LOOP-3	20th Supp. Order, at ¶699(2)	Qwest must modify SGAT sections 9.2.6.2, 9.2.6.7, 9.2.6.8, 9.2.6.9, and 9.2.6.4 to reflect information sharing with respect to spectrum management, the determination of deployment of advanced services, and how to address known disturbers in Qwest's network.	Ex. 1503, 9.2.6.2, 9.2.6.9 and 9.2.6.4
WA-LS-3	20th Supp. Order, at ¶706	Qwest must modify SGAT section 9.4.2.3.1 to address CLEC requests to place certain splitters on the MDF.	Ex. 1668, Attachment I
WA-LSPLIT-3,4,5,6,9	20th Supp. Order, at ¶708	Qwest must modify its SGAT to allow line splitting on resold lines and other combinations to be offered through the SRP process.	Ex. 1668, Attachment J
	20th Supp. Order, at ¶716	Qwest must modify SGAT section 9.3.6.4.1 to reflect that it may not charge CLECs for Qwest's inventory costs.	Ex. 1503, 9.3.6.4.1 deleted



**E. CHECKLIST ITEM NO. 5 – UNBUNDLED TRANSPORT**

94

The parties raised no compliance issues relating to unbundled transport. Qwest's SGAT is compliant with Commission orders relating to Checklist Item No. 5, Unbundled Transport, as indicated in the table below:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-TR-2	13th Supp. Order, at ¶273	Qwest must eliminate any distinctions between UDIT and EUDIT.	Ex. 1503, 9.6.1.1, 9.6.2.3, 9.6.2.4, 9.6.2.5, 9.6.2.6, 9.6.2.7, 9.6.3.1, 9.6.3.2, 9.6.3.3, 9.6.3.4, 9.6.3.5, 9.6.3.5.1, 9.6.4.1.1 and 9.6.6.1
WA-TR-14	13th Supp. Order, at ¶274	Qwest must provision electronics at the CLEC end of unbundled dedicated transport if requested by the CLEC.	Ex. 1503, 9.1.2.1

**F. CHECKLIST ITEM NO. 6 – UNBUNDLED LOCAL SWITCHING**

95

The parties raised no compliance issues relating to unbundled local switching. Qwest's SGAT is compliant with Commission orders relating to Checklist Item No. 6, Unbundled Local Switching, as indicated in the table below:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-SW-7	13th Supp. Order, at ¶276	Qwest must provide CLECs unbundled local switching at UNE prices when EELs are not available.	Ex. 1503, 9.11.2.5.3
WA-SW-10a	13th Supp. Order, at ¶277	When determining whether the "four or more lines" exemption from providing unbundled local switching as a UNE applies, Qwest must count the lines by customer location, rather than by wire center.	Ex. 1503, 9.11.2.5

WA-SW-10b WA-UNEP- 12	13th Supp. Order, at ¶278	Qwest is not required to price unbundled local switching in Density Zone 1 wire centers at TELRIC rates.	Ex. 1503, 9.11.2.5.7
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**G. CHECKLIST ITEM NO. 7 – 911, E911, DIRECTORY ASSISTANCE, OPERATOR SERVICES**

- 96 In the *Workshop One Final Order* at paragraph 75, the Commission found Qwest in compliance with the FCC's requirements for this checklist item subject to Qwest's submittal of the audited results of performance testing. Qwest filed its performance results and the audited results of its performance measures on March 8, 2002, and April 5, 2002, together with testimony and exhibits. *See Ex. 1320, 1338.* An order addressing these performance results is pending.

**H. CHECKLIST ITEM NO. 8 – WHITE PAGES DIRECTORY LISTINGS**

- 97 In the *Workshop One Final Order* at paragraph 76, the Commission found Qwest in compliance with the FCC's requirements for this checklist item subject to Qwest's submittal of the audited results of performance testing. Qwest filed its performance results and the audited results of its performance measures on March 8, 2002, and April 5, 2002, together with testimony and exhibits. *See Ex. 1320, 1338.* An order addressing these performance results is pending.

**I. CHECKLIST ITEM NO. 9 – NUMBERING ADMINISTRATION**

- 98 In the *Workshop One Final Order* at paragraph 77, the Commission found Qwest in compliance with the FCC's requirements for this checklist item subject to Qwest's submittal of the audited results of performance testing. Qwest filed its performance results and the audited results of its performance measures on March 8, 2002, and April 5, 2002, together with testimony and exhibits. *See Ex. 1320, 1338.* An order addressing these performance results is pending.

**J. CHECKLIST ITEM NO. 10 – DATABASES AND ASSOCIATED SIGNALING**

- 99 In the *Workshop One Final Order* at paragraph 79, the Commission found Qwest in compliance with the FCC's requirements for this checklist item subject to Qwest's submittal of the audited results of performance testing. Qwest filed its performance results and the audited results of its performance measures on March 8, 2002, and April 5, 2002, together with testimony and exhibits. *See Ex. 1320, 1338.* An order addressing these performance results is pending.

**K. CHECKLIST ITEM NO. 11 – NUMBER PORTABILITY****1. Timing of CLEC Notice of Due Date Changes or Cancellations, SGAT sections 10.2.2.4 and 10.2.5.3.1.**

- 100 Paragraph 215 of the *February 2001 Initial Order* required Qwest to modify its SGAT to reflect that Qwest must wait until 11:59 p.m. of the day following the scheduled due date before disconnecting a customer's previous service, in order to prevent service outages to customers. The Commission adopted that requirement in paragraph 81 of the *15<sup>th</sup> Supplemental Order*. Qwest included such a modification in its September 21 SGAT. *See Ex. 1292*. Qwest also included the following sentence at the end of section 10.2.2.4: "If CLEC requests Qwest to do so by 8:00 p.m. (mountain time), Qwest will assure that the Qwest loop is not disconnected that day."
- 101 **Qwest:** During the December 19 hearing, Qwest asserted that there is a difference between the due date for porting a number and the "slippage," or exception that Qwest will not trigger the switch translations until 11:59 p.m. the day following the due date to avoid customers being disconnected. *Tr. 6317*. Qwest asserts that the concern is that customers not be disconnected, not AT&T completing its work late in the day. *Id.* First, Qwest asserts that the general rule is that CLECs must advise Qwest by 8:00 p.m. on the due date to avoid disconnection, and that the exception is the agreement not to port the 10-digit unconditional trigger until 11:59 p.m. on the business day following the due date. *Id.* Qwest also asserted that the sentence tracks the performance indicator definition, or PID, for number portability (OP-17). *Tr. 6318; Ex. 1508 at 5*. Qwest agreed that its product documentation did not refer to the 8:00 p.m. deadline. *Tr. 6320*.
- 102 In response to language that AT&T proposed to resolve the issue, Qwest agrees to incorporate the language as it was approved in Colorado, but does not agree to AT&T's additional modifications. *Ex. 1508 at 6*.
- 103 **AT&T:** AT&T objects to the last sentence in section 10.2.2.4 as conflicting with what the Commission ordered in paragraph 215 of the *February 2001 Initial Order*. Specifically, AT&T expressed concern that it may not be able to contact Qwest by 8:00 p.m. on the due date. *Tr. 6314*. Further, AT&T expressed concern that the language in sections 10.2.2.4 and 10.2.5.3.1 create confusion as to when the customer would be disconnected. *Tr. 6314-15*. AT&T also asserts that Qwest's product documentation provides that the CLEC need not notify Qwest until noon of the day following the due date if there is a problem. *Tr. 6315*.
- 104 Following the December 19 hearing, AT&T proposed that that the Commission adopt the SGAT language for section 10.2.5.3.1 that Qwest proposed in Colorado. *Ex. 1522 at 11*. AT&T requested that deleting the words "try to" would resolve all of AT&T's

concerns over this issue. *Id.* AT&T asserts that the revision is appropriate given the wording in Qwest’s product documentation in Exhibit 1298. *See Ex. 1522 at 12.*

105

**Discussion and Decision:** Qwest’s statement in section 10.2.2.4 that it will not “disconnect” a loop if the CLEC provides notice of a problem prior to 8:00 p.m. on the due date creates confusion and inconsistency with the provisions of 10.2.5.3.1 as set forth in Exhibit 1292. The language in section 10.2.2.4 states that Qwest may disconnect the number after 8:00 p.m. on the due date if it has not heard from the CLEC, while the language in section 10.2.5.3.1 implies that Qwest will not disconnect the number until after 11:59 p.m. of the day following the due date. Although Qwest asserts that the latter arrangement is the exception to the rule, the Commission’s order and the SGAT indicate that the 11:59 p.m. arrangement will occur for each number portability order in order to protect consumers from disconnection. Qwest may not disconnect the customer if then it has not heard from the CLEC prior to 8:00 p.m. on the due date.

106

We remain concerned about unintended disconnection of service. Qwest must modify SGAT section 10.2.5.3.1, as it appears in Qwest’s April 5 SGAT, by deleting the words “try to.” With this modification to the SGAT, the last sentence of 10.2.2.4 appears to be unnecessary and if retained may continue to create confusion when compared to section 10.2.5.3.1, and to Qwest’s product document. *See Ex. 1298.* In order to resolve any confusion or inconsistency within the SGAT, or with Qwest’s product documents, Qwest must modify section 10.2.2.4 by deleting the last sentence.

## 2. Compliant SGAT Language

107

For the issues identified in the table below, Qwest’s SGAT and related documents are compliant with the Commission orders indicated in the table:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-11-1/5/6/11	2/22/01 Initial Order at ¶366a	Extend the time that the 10-digit trigger and customer translations are removed until 11:59 pm of the day following the due date for number porting.	Ex. 1292, 10.2.5.3.1.
WA-11-4	2/22/01 Initial Order at ¶366c	Include AT&T's proposed due date intervals for provisioning LNP, including provisioning LNP within 3 business days when no unbundled loop is involved.	Ex. 1292, 10.2.5.2.

**L. CHECKLIST ITEM NO. 12 – DIALING PARITY**

108

In the *Workshop One Final Order* at paragraph 80, the Commission found Qwest in compliance with the FCC's requirements for this checklist item.

**M. CHECKLIST ITEM NO. 13 – RECIPROCAL COMPENSATION**

109

The parties raised no compliance issues relating to reciprocal compensation. Qwest's SGAT is compliant with Commission orders relating to Checklist Item No. 13, Reciprocal Compensation, as indicated in the table below:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-13-4	Initial Order, Workshop 1 at ¶330	Modify SGAT concerning InterLocal Calling Area Trunking.	Ex. 1292, 7.1.2.4; InterLCA proposal withdrawn in its entirety.
WA-13-2, WA-I-44	25 <sup>th</sup> Supp. Order on Reconsideration, Workshop 1 at ¶65	Qwest must modify SGAT section 7.3.4.2.1 to reflect that a terminating party need only demonstrate that its switch serves a geographic area comparable to that of Qwest's tandem switch to receive the tandem switching rate and tandem transmission rate in addition to the end office termination rate.	Ex. 1292, 7.3.4.2.1  Ex. 1292, p.11, Definitions: "Tandem Office Switches" definition modified to delete reference to functionality.
WA-13-2	25 <sup>th</sup> Supp. Order on Reconsideration, Workshop 1 at ¶66	Qwest must also modify SGAT section 4.1.1.2 to delete the word "actually."	Ex. 1292, "Actually" previously deleted. See Section 4; "Central Office Switch"; "Tandem Office Switches."

**N. CHECKLIST ITEM NO. 14 – RESALE**

110

The parties raised no compliance issues relating to resale. Qwest's SGAT is compliant with Commission orders relating to Checklist Item No. 14, Resale, as indicated in the table below:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
WA-14-4	15th Supp. Order at ¶165	Apply the wholesale discount to any monetary credits paid to resellers arising out of Qwest tariffs or price lists.	Ex. 1292, 6.2.3.1 and 6.2.3.2.
WA-14-4	2/23/01 Initial Order at ¶367(b)	Eliminate restriction on payment to CLECs if CLEC is not subject to the Commission's service quality requirements.	Ex. 1292, 6.2.3.1.c deleted.
WA-14-4	2/22/01 Initial Order at ¶367c	Eliminate restriction on paying service quality credits to CLECs only if they pass through the credits to end users.	Ex. 1292, 6.2.3.1.d deleted.
WA-14-4	2/22/01 Initial Order at ¶367d	Eliminate the provision precluding CLECs from receiving payment or credit for the same service quality incident from more than one service quality program.	Ex. 1292, 6.2.3.1.e and 6.2.3.1.f deleted.
WA-14-8	2/22/01 Initial Order at ¶367e	Include language prohibiting Qwest from using for marketing purposes any information received during a CLEC request for subscriber information or ordering.	Ex. 1292, 5.1.7.
WA-14-13	2/22/01 Initial Order at ¶367g	Include a provision allowing assignment of CSA contracts without termination liabilities or penalties.	Ex. 1292, 6.2.2.7.
WA-14-4	2/22/01 Initial Order at ¶368a	Do not apply SGAT to exclude resold services from the retail services covered under the Service Quality Performance Program approved in the merger between U S WEST and Qwest.	Ex. 1292, 6.2.3.1.

WA-14-13	2/22/01 Initial Order at ¶368c	Correct the way Qwest offers rebates to Centrex customers.	Qwest filed contract amendment memorializing customer credit program on June 6, 2001. On “No Action” agenda on June 27, 2001. See Attachment D to agenda.
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### O. SGAT GENERAL TERMS AND CONDITIONS

111

The parties raised no compliance issues relating to SGAT general terms and conditions. Qwest’s SGAT is compliant with Commission orders relating to SGAT general terms and conditions, as indicated in the table below:

Issue No.	Order and Paragraph	Change Required by the Order	SGAT Section or Other Reference
None	15th Supp. Order at ¶9	Commission approves SGAT language on pick and choose.	Ex. 1292, 1.8.2
WA-G-4	28th Supp. Order, at ¶264	Qwest must delete language in SGAT section 2.1 as required in paragraph 322 of the <i>Initial Order</i> .	Ex. 1503, 2.1
WA-G-13	28th Supp. Order at ¶265	Qwest must modify SGAT section 5.8.1 to allow “other damages” to be limited to the annual charges under the agreement.	Ex. 1503, 5.8.1
WA-G-13	28th Supp. Order, at ¶266	Qwest must modify SGAT section 5.8.4 consistent with the recommendations in paragraph 374 of the <i>Initial Order</i> .	Ex. 1503, 5.8.4
WA-G-13	28th Supp. Order at ¶267	Qwest must modify the language in SGAT section 5.9.1.2 as described in paragraph 121 of the 28 <sup>th</sup> Supp. Order.	Ex. 1503, 5.9.1.2
WA-G-22	28th Supp. Order, at ¶268	Qwest must modify SGAT sections 18.1.1 and 18.1.2 to expand the scope of audits as recommended in paragraph 446 of the <i>Initial Order</i> .	Ex. 1503, 18.1.1 and 18.1.2

WA-G-2	20th Supp. Order, at ¶718	Qwest must file new product offerings with the Commission as SGAT amendments at the time they are offered to CLECs.	Ex. 1503, 1.7.1.1 and 1.7.1.2
WA-G-3	20th Supp. Order, at ¶719	Qwest must modify SGAT section 1.8 to include the following language:  Nothing in this SGAT shall preclude a CLEC from opting into specific provisions of an agreement or of an entire agreement, solely because such provision or agreement itself resulted from an opting in by a CLEC that is a party to it.	Ex. 1503, 1.8.2.1
WA-G-4	20th Supp. Order, at ¶720	Qwest must delete all language in SGAT section 2.1 beginning with the fourth sentence that begins, “Unless the context shall otherwise require.”	Ex. 1503, 2.1
WA-G-5	20th Supp. Order, at ¶721	Qwest must modify SGAT section 2.2 to retain the last sentence of the section and delete all text after “this Agreement” in the fourth to last sentence.	Ex. 1503, 2.2

## P. SECTION 272 ISSUES

112 Qwest’s obligations under section 272 are not set forth in the SGAT. The issues discussed below are the last remaining impasse issues concerning Qwest’s compliance with section 272.

### 1. Merger of LCI into QCC

113 Paragraph 154 of the 28<sup>th</sup> *Supplemental Order* required Qwest to provide the Commission with details of the merger of LCI into QCC to allow the Commission to assess the effect of the merger on QCC. AT&T had requested this information to determine whether QCC complies with section 272 requirements since the merger with LCI. 28<sup>th</sup> *Supplemental Order* at ¶147.

114 **Qwest:** Qwest filed its Supplemental Report of Qwest Corporation Regarding Section 272 on April 11, 2002, providing the Merger Agreement between the two companies, details on the timing of the merger, and organizational changes due to the merger. *See Ex. 1504*. Qwest stated that 2,300 LCI employees were transferred to QCC, and that the merger had no financial impact on QCC as “LCI’s financial results were already consolidated with those of QCC prior to the merger.” *Id. at 2-3*.



Further, Qwest asserts that section 272 and FCC rules do not apply to the relationship between QCC and its non-BOC affiliates. *Id.*

- 115 During the May hearing, Qwest asserted that it has complied with the Commission's order. Citing to the FCC's *BellSouth Louisiana II Order*,<sup>7</sup> Qwest asserts that, as an affiliate to QCC, LCI is not required to comply with section 272. Qwest asserted that LCI no longer exists and reviewing any past transactions would not provide any benefit as to whether QCC and Qwest are currently compliant with section 272. Qwest asserted that any past transaction between LCI and the BOC that is continuing would now be disclosed as LCI has become QCC.
- 116 **AT&T:** AT&T expresses concern that none of Qwest's section 272 documentation refers to LCI or documents transactions between LCI and QCC or the BOC. *Ex. 1671 at 2.* AT&T argues that LCI was "indistinguishable" from QCC, and that by failing to document transactions with LCI, Qwest "deprives the Commission and the parties with any ability to determine whether QCC and the BOC conducted transactions with or through LCI" that were not allowed between QCC and the BOC. *Id. at 2-3.* AT&T requests that the Commission order Qwest to disclose any transactions between LCI and QCC or the BOC, and condition approval of section 272 compliance upon a review of the transactions. *Id. at 3.*
- 117 During the May hearing, AT&T asserted that by failing to disclose any transactions between LCI and QCC, Qwest is attempting to bypass the section 272 requirements. AT&T is concerned that LCI could have been used for long distance activities and that there are no transactions recorded between LCI and QCC or LCI and the BOC.
- 118 **Discussion and Decision:** We find Qwest's reference to paragraph 338 of the *BellSouth Louisiana II Order* to be dispositive of this issue. In that order, the FCC stated that "our rules require only public disclosures of transactions between the BOC and its section 272 affiliate," not transactions between the section 272 affiliate and other nonregulated affiliates. *BellSouth Louisiana II Order at ¶338.* The FCC further stated that transactions between the long distance affiliate and other nonregulated affiliates are properly the subject of biennial audits. *Id.* Qwest has met the requirements of paragraph 154 and 273 of the 28<sup>th</sup> *Supplemental Order*, and need not file with the Commission any additional information regarding LCI and its relationship with QCC.

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<sup>7</sup> *In the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, CC Docket No. 98-121, FCC 98-271, ¶338 (rel. Oct. 13, 1998) (*BellSouth Louisiana II Order*).

## 2. Compliance with Section 272(e)(1)

119 In its petition for reconsideration of the Commission’s decision in the 28<sup>th</sup> *Supplemental Order* that Qwest has complied with section 272, AT&T argued that the Commission should modify its decision to require Qwest to demonstrate that it is complying with section 272(e)(1). *AT&T’s Petition for Reconsideration of Issues Relating to Section 272 and Emerging Services in the Twenty-Eighth Supplemental Order Addressing Workshop Four Issues at 2 (AT&T’s Petition for Reconsideration)*. That section of the Act provides that a BOC “shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates.” 47 U.S.C. §272(e)(1).

120 In paragraph 51 of the 31<sup>st</sup> *Supplemental Order*, the Commission required Qwest to “provide evidence, now, that it has a process in place to provide its data regarding intervals to CLECs post-271 approval,” consistent with paragraphs 242 and 243 of the FCC’s *Non-Accounting Safeguards Order*.<sup>8</sup> The 31<sup>st</sup> *Supplemental Order* also stated that the FCC has required in previous 271 applications, that BOCs provide such evidence in the form of a commitment by the BOC to “provide accurate data regarding actual service intervals so that unaffiliated parties can evaluate the performance [the BOC] provides itself and its affiliates and compare such performance to the service quality [provided to] competing carriers.”<sup>9</sup>

121 **Qwest:** On April 19, 2002, Qwest filed with the Commission a description of the “procedure it will use after receiving section 271 approval to format and make available to other carriers the data necessary to verify its compliance with Section 272(e)(1).” *Ex. 1665 at 3*. Qwest has committed to provide certain information about its provisioning of special access services, and states that it will update the information monthly and post it on the Qwest 272 website. *Id. at 4*. Qwest asserts

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<sup>8</sup> *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489 (rel. December 24, 1996) (*Non-Accounting Safeguards Order*).

<sup>9</sup> *In the Matter of Application of 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*, Memorandum Opinion and Order, CC Docket No. 99-295, FCC 99-404, n.1200 (rel. Dec. 22, 1999)(*Bell Atlantic New York Order*); *In the Matter of 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, n. 816 (rel. June 30, 2000); *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 Authorizations to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-9, FCC 01-130, ¶230, n.746 (rel. April 16, 2001).

that the procedures are consistent with those the FCC has proposed but not yet adopted. *Id.*

122 During the May hearing, Qwest asserted that the information it proposes to make available is more than what was required in the *Bell Atlantic New York Order*, and consistent with what Verizon and SBC have provided in biennial audits. Qwest also asserted that the PIDs and QPAP measurements reflect exchange access in the local market, whereas the measures proposed in this case are for the long distance market.

123 **AT&T:** AT&T asserts that Qwest has not complied with the Commission's order. AT&T argues that Qwest has provided no evidence, but only representations "that it would report minimal information in a standardized format" that addresses the areas of performance in the Bell Atlantic application for New York. *Ex. 1670 at 5*. AT&T further objects to Qwest's claim that it can report on special access provisioning and repair for its section 272 affiliate and unaffiliated entities when it has asserted at other times in this proceeding that it cannot measure special access services separately from other comparable retail services. *Id. at 6*. AT&T requests that the Commission order 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 services provided to Qwest's end user customers." *Id. at 7*.

124 During the May hearing, AT&T asserted that it was not sure how Qwest would be able to make the information in its chart available, given that Qwest has asserted that it is impossible to disaggregate the information on special access circuits. AT&T argued that Qwest has stated at other times in the proceeding that the measures reflect performance in the long distance market, while now Qwest asserts that they reflect the local exchange market.

125 **Discussion and Decision:** In the *BellSouth Louisiana II Order*, the FCC expressed its desire that BellSouth "submit in future applications specific performance standards for measuring its compliance with the requirements of section 272(e)(1)."<sup>10</sup> Upon review of information concerning section 272(e)(1) compliance filed by both BellSouth<sup>11</sup> and Verizon<sup>12</sup> in recently-approved section 271 applications, the

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<sup>10</sup> *BellSouth Louisiana II Order*, ¶¶348-50.

<sup>11</sup> *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, FCC 01-269 (rel. September 19, 2001); Declaration of Susan C. Browning at 20-21, and Attachments 14 and 15.

<sup>12</sup> *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, CC Docket 02-35, FCC 02-147 (rel. May 15, 2002); Joint Affidavit of John A. Ruscilli and Cynthia K. Cox at 53-54, and Exhibit JAR/CKC-7.

information provided by the BOCs included performance standards being used to determine intervals, as well as definitions of the terms used in the standards and descriptions of how intervals will be calculated and measured. Qwest's chart does not include this level of information. Qwest must modify its chart to provide information similar to that provided by Verizon for Pennsylvania and BellSouth for Georgia and Louisiana, i.e., by including more detail about how the section 272(e)(1) measures are defined and calculated.

126 We disagree with AT&T that the reporting measures for section 272(e)(1) should necessarily be consistent with the PIDs developed in the ROC process and used in the QPAP. However, to the extent that Qwest's ordering processes for long distance exchange access and telephone exchange access are the same as those for exchange access in the local market, then Qwest must reflect in its chart that the definitions and calculations used in the reporting measures required under section 272(e)(1) are consistent with the applicable PIDs for exchange access in the local market.

127 Qwest's witness has testified in this proceeding that Qwest cannot separate out performance data concerning the provisioning of special access circuits to itself and its affiliates and providing the same circuits to competitors. *Tr.* 6985. However, in its showing of compliance with the requirements of section 272(e)(1), Qwest has provided a chart stating that it will provide data regarding intervals for provisioning access circuits to itself and to competitors post-271 approval, as well as a commitment to provide accurate data regarding actual service intervals for provisioning special access circuits. Given this apparent contradiction, Qwest must address the seeming inconsistencies in its statements in order to give this Commission confidence that it will be able to demonstrate its compliance with section 272(e)(1), in particular, how Qwest will disaggregate its data as required by the FCC.

### 3. Compliant Language

128 For the issue identified in the table below, Qwest has modified its procedures to be compliant with the Commission order indicated in the table:

Issue No.	Order and Paragraph	Change Required by the Order	Exhibit Reference
None	20th Supp. Order at ¶737	Qwest must remove from its confidentiality agreement a restriction prohibiting parties who review detailed billing information related to Qwest's agreements with section 272 affiliates information from disclosing possible violations of section 272 requirements to regulators.	Restriction removed; Ex. 1173, Ex. 1175

#### IV. FINDINGS OF FACT

- 129 Having discussed above in detail the oral and documentary evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues at impasse between the parties and the reasons and bases for those findings and conclusions, the Commission now makes and enters the following summary of those facts. Those portions of the preceding detailed discussion that state findings pertaining to the ultimate findings stated below are incorporated into the ultimate findings by reference.
- 130 (1) Qwest's entrance facility rates were developed based on Qwest's defined use of the facilities.
- 131 (2) AT&T's proposed changes to SGAT section 7.3.2.1.1 would define Direct Trunked Transport as a facility that could extend from the CLEC point of interconnection (POI) to the CLEC switch, without connecting with an entrance facility at a Qwest serving wire center.
- 132 (3) The percent of interstate use (PIU) factor is used to determine whether special access facilities are billed using a carrier's interstate tariff or its intrastate tariff. If the PIU is 10% or more, carriers must charge the rates in the interstate tariff for the facility.
- 133 (4) The terms Provider of Last Resort and Eligible Telecommunications Carrier describe distinctions among types of retail voice telecommunications services.
- 134 (5) The SGAT is a document used by CLECs to order wholesale telecommunications services.
- 135 (6) AT&T's proposed change to SGAT section 9.19 would allow CLECs to review reports of actual Qwest construction projects undertaken pursuant to its retail build policy.
- 136 (7) AT&T's proposed changes to SGAT section 9.19 included deleting language concerning construction charges applicable when CLECs choose to request special construction of held orders.
- 137 (8) Qwest and AT&T have reached an agreement on most of the language in SGAT section 10.8.2.27, with the exception of Qwest's proposed SGAT section 10.8.2.27.4, which limits the CLECs' use of information in right-of-way agreements in multiple tenant environments.

- 138 (9) In the April 19 SGAT, Qwest added the following sentence to SGAT section 9.2.2.8: “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.”
- 139 (10) In the April 19 SGAT, Qwest included the following sentence in SGAT section 18.1.1: “The term “Audit” also applies to the investigation of network data bases supporting the Loop qualification tools.”
- 140 (11) Exhibit 1507 describes Qwest’s deployment of remote DSL services in Washington.
- 141 (12) SGAT section 9.2.6.7 was deleted based on an agreement by the parties. The provision therein allowing CLECs to use the SGAT dispute resolution process for spectrum disputes has been moved to SGAT section 9.2.6.8.
- 142 (13) Paragraph 263 of the 28<sup>th</sup> *Supplemental Order* required Qwest to file a status report on its progress in automating the LSR process for ordering subloops. Qwest filed its status report on April 11, 2002.
- 143 (14) At the April hearings, AT&T and Qwest agreed to hold further discussions regarding Qwest’s documentation of the automated LSR procedure for ordering subloops. At the May hearings, the parties stated that they were continuing their discussions on this topic, and agreed to submit a status report by May 28, 2002.
- 144 (15) In its September 21 SGAT, Qwest included the following sentence at the end of SGAT section 10.2.2.4: “If CLEC requests Qwest to do so by 8:00 p.m. (mountain time), Qwest will assure that the Qwest loop is not disconnected that day.”
- 145 (16) The FCC requires public disclosure of transactions only between the BOC and its section 272 affiliate.
- 146 (17) Section 272(e)(1) of the Act provides that a BOC shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates.

- 147 (18) With respect to requests from unaffiliated entities for exchange access or telephone exchange service, the FCC's *Non-Accounting Safeguards Order* requires BOCs to provide evidence of compliance with 272(e)(1) in the form of a commitment by the BOC to provide accurate data regarding actual service intervals so that unaffiliated parties can evaluate the performance the BOC provides itself and its affiliates and compare such performance to the service quality provided to competing carriers.
- 148 (19) The FCC has encouraged BOCs to provide specific performance standards for measuring compliance with the requirements of section 272(e)(1).<sup>13</sup>
- 149 (20) Information concerning section 272(e)(1) compliance provided by Verizon for its Pennsylvania section 271 application and BellSouth for its Georgia/Louisiana section 271 application included performance standards used to determine intervals, as well as definitions of the terms used in the standards and descriptions of how the intervals will be calculated and measured.
- 150 (21) Qwest has testified in this proceeding that it cannot disaggregate the use of retail special access circuits by carriers from other retail use of such circuits.

## V. CONCLUSIONS OF LAW

- 151 Having discussed above in detail all matters material to this decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 152 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and the parties to the proceeding.
- 153 (2) Qwest's restrictions on the scope of the entrance facility are reasonable given that Qwest developed its entrance facility rates based on the defined use of the facilities.
- 154 (3) Qwest must allow CLECs to locate their points of interconnection (POI) at Qwest's tandem switch. If a CLEC chooses to locate its POI at a Qwest tandem switch, SGAT section 7.2.2.1.4 requires the CLEC to use Direct Trunked Transport as the interconnection method.

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<sup>13</sup> *BellSouth Louisiana II Order*, ¶¶348-50.

- 155 (4) AT&T's proposed changes to SGAT section 7.3.2.1.1 would eliminate any use of an entrance facility and create an arrangement that is at odds with Qwest's rate structure.
- 156 (5) The Commission does not assert its jurisdiction over the rate terms and pricing of interstate facilities under an FCC tariff.
- 157 (6) Where facilities are used for both special access and interconnection, Qwest may price only the circuits used for interconnection at TELRIC rates. Any spare circuits should be priced at the applicable special access rates, reflecting the underlying nature of the facilities being used.
- 158 (7) It is unnecessary and confusing to include in SGAT section 9.1.2.1 distinctions between retail services.
- 159 (8) AT&T's proposed changes to SGAT section 9.19, deleting language concerning construction charges, goes beyond the intent of the Commission's orders concerning Qwest's build policy.
- 160 (9) The information Qwest has provided in response to Bench Request No. 47 is not sufficient to determine whether the same terms and conditions would apply to CLEC construction requests as Qwest applies to its retail construction requests.
- 161 (10) The provisions of the 28<sup>th</sup> and 31<sup>st</sup> *Supplemental Orders* concerning access to loop qualification tools may have created confusion concerning Qwest's obligations to provide access to back office information.
- 162 (11) Consistent with paragraphs 430 and 431 of the FCC's *UNE Remand Order*, Qwest must provide CLECs with access to all back office information pertaining to loop qualification accessible to any Qwest personnel, within the same time intervals Qwest provides the information to its own retail personnel. If Qwest employees have direct access to spare loop information, then CLECs must have the same access.
- 163 (12) Qwest must allow CLECs to audit back office information pertaining to loop information.
- 164 (13) Qwest may provide mediated access to loop qualification information only after the information has been provided to CLECs in the same manner as it is provided to any Qwest employee.



- 165 (14) Qwest may recover from CLECs its reasonably incurred costs associated with OSS transition costs, consistent with the requirements of paragraphs 98 to 112 of the Commission's *17<sup>th</sup> Supplemental Order* in the Generic Cost Proceeding, Docket No. UT-960369. Whether Qwest's proposed rates are reasonable will be determined in the Commission's ongoing cost docket, Docket UT-003013.
- 166 (15) Qwest has satisfied the requirement in the *28<sup>th</sup> Supplemental Order* to file a memorandum concerning its deployment of remote DSL.
- 167 (16) SGAT section 9.2.6 includes adequate protection for CLECs should Qwest deploy any technology that might interfere with CLEC equipment.
- 168 (17) Qwest has sufficiently explained the reasons for including in the SGAT the last sentence of section 9.23.3.11.7 concerning Qwest DSL service to Internet Service Providers. Qwest has modified its SGAT in compliance with paragraph 705 of the *20<sup>th</sup> Supplemental Order*.
- 169 (18) Qwest may not disconnect a customer if they have not heard from the CLEC prior to 8:00 p.m. on the number portability due date.
- 170 (19) Qwest's proposed language in SGAT section 10.2.2.4 is inconsistent with the modified language in section 10.2.5.3.1. Such confusion does not provide clear direction to either CLECs or Qwest in the ordering and provisioning process, nor does it protect consumers from loss of service.
- 171 (20) Qwest has met the requirements of paragraph 154 and 273 of the *28<sup>th</sup> Supplemental Order*, and need not file with the Commission any additional information regarding LCI and its relationship with QCC.
- 172 (21) The chart Qwest has provided to demonstrate compliance with section 272(e)(1) does not include information concerning how section 272(e)(1) measures are defined or calculated.
- 173 (22) Reporting measurements Qwest uses to demonstrate compliance with section 272(e)(1) do not need to be consistent with the PIDs developed in the ROC process.
- 174 (23) Qwest's chart demonstrating section 272(e)(1) compliance appears to conflict with testimony given in this proceeding concerning Qwest's ability to provide disaggregated data concerning provisioning of special access circuits to itself and to competitors.

- 175 (24) Qwest's most recent SGAT, filed on April 19, 2002, is compliant with Commission orders concerning Checklist Items No. 5 (Unbundled Transport), 6 (Unbundled Local Switching), 7 (911/E911, Directory Assistance, and Operator Assistance), 8 (White Pages Directory Listings), 9 (Numbering Administration), 10 (Databases and Associated Signaling), 12 (Dialing Parity), 13 (Reciprocal Compensation), and 14 (Resale), and SGAT General Terms and Conditions.

## VI. ORDER

176 THE COMMISSION ORDERS That to comply with section 252(f) and to secure a recommendation that its SGAT establishes obligations as required by section 271(c)(2)(B), Qwest must modify its SGAT consistent with the following order:

- 177 (1) Qwest must amend its SGAT language to allow the use of Direct Trunked Transport facilities to connect a Qwest serving wire center to the POI, if the POI is located at a Qwest tandem switch.
- 178 (2) Qwest must clarify the language in SGAT section 7.3.2.1.1 to address situations where the POI is at a tandem switch, and entrance facilities charges would not apply between the POI and the Qwest serving wire center nearest to the CLEC switch.
- 179 (3) Qwest must modify the SGAT to reflect AT&T's proposed modifications to SGAT sections 9.1.2.1, 9.1.2.1.3., 9.1.2.1.3.1, and 9.1.2.1.3.2, as shown in Exhibit 1516.
- 180 (4) Qwest must modify SGAT section 9.19 as reflected in Exhibit 1517, except that the following phrase should not be deleted: "or when CLEC elects to request construction in lieu of having an order held for lack of available facilities."
- 181 (5) Qwest must provide the Commission by June 11, 2002, with Qwest's specific operational criteria for determining whether to build retail facilities, with documentation if it exists.
- 182 (6) Qwest must modify SGAT section 10.8.2.27 to reflect AT&T's proposed language set forth in Exhibit 1522, except for changes related to section 10.8.2.27.4.
- 183 (7) The parties must file with the Commission by June 11, 2002, any additional agreement the parties have reached concerning SGAT section 10.8.2.27.4 since February 2002, as well as any language ordered by the Utah commission

or any other state in Qwest's region, with supporting documentation for why the language was adopted.

- 184 (8) Qwest must delete the following phrase from SGAT section 9.2.2.8: "To ensure parity with Qwest retail operations."
- 185 (9) Qwest must modify the sentence added to section 9.2.2.8 of the April 19 SGAT to read: "CLEC may request an audit of Qwest's company records, back office systems and data bases pertaining to loop information pursuant to Section 18 of this Agreement." Qwest must also modify the second sentence of section 18.1.1 of the April 19 SGAT as follows: "The term "Audit" also applies to the investigation of company records, back office systems and data bases pertaining to loop information."
- 186 (10) We deny WorldCom's request for testing of Qwest's deployment of remote DSL where other central office-based DSL has been deployed and where customers are served in the same binder group.
- 187 (11) Qwest must modify SGAT section 10.2.5.3.1, as it appears in Qwest's April 5 SGAT, by deleting the words "try to."
- 188 (12) In order to resolve any confusion or inconsistency within the SGAT, or with Qwest's product documents, Qwest must modify SGAT section 10.2.2.4 by deleting the last sentence: "If CLEC requests Qwest to do so by 8:00 p.m. (mountain time), Qwest will assure that the Qwest loop is not disconnected that day."
- 189 (13) Qwest must modify its chart demonstrating section 272(e)(1) compliance by including information similar to that provided by Verizon in Pennsylvania and BellSouth for Georgia and Louisiana, i.e., by describing how the section 272(e)(1) measures are defined and calculated. Qwest must file a modified chart and any necessary explanation of the chart with the Commission by June 11, 2002.
- 190 (14) If Qwest's ordering processes for long distance exchange access and telephone exchange access are the same as those for exchange access in the local market, Qwest must reflect in its chart that the definitions and calculations used in the reporting measures required under section 272(e)(1) are consistent with the applicable PIDs for exchange access in the local market.
- 191 (15) When filing a revised chart compliant with this order, Qwest must address the seeming inconsistencies in its statements in order to give this Commission confidence that it will be able to demonstrate its compliance with section

272(e)(1), and specifically how Qwest will disaggregate its data as required by the FCC.

192 (16) Qwest must file an SGAT compliant with this order by June 11, 2002.

DATED at Olympia, Washington and effective this      day of May, 2002

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner