BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation Into U S WEST COMMUNICATIONS, INC.'s Compliance with Section 271 of the Telecommunications Act of 1996.	Docket Nos. UT-003022 and UT-003040 POST-WORKSHOP BRIEF OF COVAD COMMUNICATIONS, INC. ON DISPUTED COLLOCATION ISSUES

In this brief, Covad Communications, Inc. ("Covad") addresses Qwest Corporation's ("Qwest") failure to meet the collocation requirements of Section 271 Checklist Item 1. Covad acknowledges that Qwest has made progress toward compliance with Checklist Item 1. However, Qwest continues to unlawfully limit the forms of collocation, assess improper charges, impair CLEC access to collocation equipment, limit CLEC collocation requests, mismanage the collocation space acceptance process, and engage in other prohibited practices. For these reasons, Qwest has not met its burden to show that its practices and proposed SGAT comply with state and federal law. Until Qwest resolves these deficiencies, this Commission should not approve Qwest's Section 271 application.

A. THE COMMISSION SHOULD NOT GRANT QWEST'S SECTION 271 APPLICATION

1. Qwest bears the burden to show that it has met the requirements for Section 271 approval

Section 271 of the 1996 Telecommunications Act ("Act") requires Qwest to provide "interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of this title." 47 U.S.C. § 271(c)(2)(B)(i); *See* First Report and Order, *In the Matter of Local Competition Provisions in the Telecommunications Act of 1996,* 11 FCC Rcd. 15499 ¶ 173

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(1996) ("Local Competition Order"). Section 251(c)(2) requires incumbent LECs to provide interconnection "at any technically feasible point . . . that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party . . . on rates, terms, and conditions that are just reasonable and nondiscriminatory." 47 U.S.C. § 251(c)(2)(B), (C), (D).

Collocation is one method of interconnection. 47 U.S.C. § 251(c)(6). Under the Act, incumbent LECs must:

> [P]rovide, on rates, terms, and conditions that are *just, reasonable, and nondiscriminatory*, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

47 U.S.C. § 251(c)(6) (emphasis added). The FCC and this Commission have issued orders and promulgated rules that define just, reasonable, and nondiscriminatory collocation. *See e.g.* 47 C.F.R. §§ 321, 323; WAC 480-120-560. Meeting these requirements is an "essential prerequisite to demonstrating compliance with item 1 of the competitive checklist." Memorandum Opinion and Order, *In the Matter of Application by SBC Communications Inc.*, 15 FCC Rcd. 18354 ¶ 64 (2000)("SBC 271 Order").

An ILEC bears "the burden of proving that all of the requirements for authorization to provide in-region, InterLATA services are satisfied." Memorandum Opinion and Order, *In the Matter of Application of BellSouth Corporation,* 13 FCC Rcd. 539 ¶ 37 (1997)("BellSouth 271 Order"). "[T]he ultimate burden of proof with respect to factual issues remains at all times with the BOC, even if no party opposes the BOC's application." *Id.* So, Qwest must prove that it complies with state and federal laws on collocation before the Commission may grant its Section 271 application.

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2. Qwest has not met its burden

Qwest has circulated a proposed SGAT which allegedly demonstrates its compliance with Section 271. Ex. 273. As explained below, the SGAT does not satisfy Qwest's burden of proof.

a. Qwest has improperly limited the number of currently available forms of collocation to eight "standard types" (WA-1C-2)

A CLEC is entitled to "any technically feasible method of obtaining interconnection," which includes "[p]hysical collocation and virtual collocation at the premises of an incumbent LEC." 47 C.F.R. § 51.321(a), (b)(1). "Incumbent LECs must prove to the appropriate state commission that a particular interconnection or access point is not technically feasible" if they do not want to provide it. Local Competition Order ¶ 198. In this case, the SGAT violates these provisions by stating that "[t]here are currently eight (8) standard types of Collocation available pursuant to this agreement . . ." Ex. 273, § 8.1.1. Obviously, a CLEC cannot obtain "any technically feasible" form of collocation if a CLEC may only choose from eight pre-approved types. Qwest also improperly requires CLECs to request other forms of collocation "through the BFR process." *Id.* This in effect places the burden on CLECs to prove that a form of collocation is acceptable, when Qwest actually bears the burden. *See* Local Competition Order ¶ 198. Moreover, the BFR process as presently configured would create unacceptable collocation delays and a possible need for the Commission to arbitrate disputes.

To correct this problem, SGAT § 8.1.1 must state that "all collocation forms are available, including but not limited to eight (8) standard types." Qwest must state that, under the BFR process, it bears the burden to prove that a CLEC cannot employ a requested form of collocation. Qwest should make a requested form of collocation immediately available while it prepares any necessary SGAT amendments.

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b. The definition of shared physical collocation improperly omits cageless shared collocation (WA-1C-3)

"Shared cage [sic] and cageless collocation arrangements must be part of an incumbent LEC's physical collocation offerings." SBC 271 Order ¶ 80. Further, "[i]ncumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or similar structure . . ." 47 C.F.R. § 51.323(k)(2). Yet the SGAT permits only "[s]hared *caged* physical collocation," not shared cageless physical collocation. Ex. 273, § 8.1.1.4 (emphasis added). Qwest argues that the FCC does not require cageless, because it only established specific rules for shared caged collocation. TR 1500, l. 18; *see* 47 C.F.R. § 51.323(k)(1). This is a misinterpretation of the FCC's rules. To the contrary, "the Commission revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings." SBC 271 Order ¶ 64. Section (k)(1) thus does not relieve Qwest of its unqualified obligations under (k)(2) to provide cageless collocation in any unused space.

Qwest also has not demonstrated that shared cageless collocation is not technically feasible. "[T]he term 'technically feasible' refers solely to technical or operational concerns, rather than economic, space or site considerations." Local Competition Order ¶ 198. "Feasible is defined as "capable of being accomplished or brought about; possible." *Id.* ¶ 202. "The 1996 Telecommunications Act bars consideration of costs in determining technically feasible points of interconnection or access." *Id.* ¶ 199. In this case, Qwest complains that it currently offers cageless on "a single bay basis," and thus Qwest would need to "reprogram [the computer system] and change the way that they process the billing." TR 1501, ll. 13-19. Yet, Qwest's objection acknowledges that reprogramming the billing system *is* a technically feasible solution. Further, Covad proposed a reasonable alternative at the workshop, whereby the cageless space owner would handle billing matters for the other virtually collocated CLECs. TR 1501, ll. 20-24. Note that Covad would only rebill the sharing CLEC *for the space only*, not

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other elements such as UNEs. Qwest must always maintain an independent relationship with the collocating CLEC.

c. Qwest's definition of shared collocation improperly prohibits shared virtual collocation (WA-IC-3)

Qwest must provide both "physical collocation and virtual collocation to requesting telecommunications carriers." 47 C.F.R. § 51.323(a). The SGAT violates this rule by permitting only "[s]hared caged *physical* collocation," which effectively prohibits shared virtual collocation. Ex. 273, § 8.1.1.4 (emphasis added). Qwest has not shown that shared virtual collocation is not technically feasible, so it must provide it.

Qwest should also permit shared collocation because it is efficient. "The ability to share collocation arrangements is crucial to efficient use of space at any Qwest premise. It also increases the efficiency and flexibility of deploying a new entrant's network." Ex. 395 at 7, ll. 16-23 (Zulevic). Shared collocation would be very difficult using physical collocation only, as the SGAT would require. It would involve duplication of facilities, numerous separate boxes to accommodate each competitor, and supporting infrastructure. TR 2298, l. 7 to 2299, l. 2. To prevent this inefficiency, the SGAT must state that both physical and virtual shared collocation are available.

d. Qwest improperly prohibits virtual remote collocation (WA-1C-5, 63)

As stated above, an ILEC must provide "physical collocation and virtual collocation to requesting telecommunications carriers." 47 C.F.R. § 51.323(a). Yet, the SGAT states that remote collocation only "allows CLECs to physically collocate equipment in or adjacent to a Qwest Remote Premises. . . ." Ex. 273, ¶ 8.1.1.8. By stating "physically" only, this section effectively prohibits remote virtual collocation. Again, Qwest has not demonstrated that virtual remote collocation is not "technically feasible," so FCC rules require Qwest to provide it. 47 C.F.R. § 51.321(a).

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Public policy also supports the use of virtual remote collocation, because it is more efficient and will facilitate development of competition. For example, a CLEC must collocate a DSLAM in a remote terminal to serve loops in locations that are distant from the central office ("CO"). A DSLAM can serve approximately 2,000 loops. TR 2300, ll. 4-7. So, there would be capacity to serve 12,000 loops under Qwest's Model (Ex. 466), in which six CLECs have collocated DSLAMs. These DSLAMs would serve, on average, only 350 loops. TR 2299, l. 25-2300, l. 7. This excess capacity is a tremendous waste of resources and a barrier to competitive entry. In fact, it is so inefficient that under Qwest's Model it is unlikely that competition will ever develop for most customers served by fiber-fed loops. *See* TR 2309, ll. 12-18 Inefficiency could be further reduced through a form of virtual collocation called "card-by-card" collocation, in which Qwest provides one line card in a remotely located DSLAM to another carrier. *See* TR 1505, l. 17 to 1506, l. 2. Using this method, many companies could use a single DSLAM to provide DSL to the same 350 loops, without the extra capacity. This is an "efficient and cost-effective means for a CLEC to collocate in a DSLAM . . .[I]t might be the only way that, effectively, a CLEC can collocate equipment out in the field to accomplish providing competition to large neighborhoods for DSL services." TR 2309, ll. 12-18. This approach is "the only way that you're going to see true competitive services – emerging services in those remote terminal areas." TR 2299, ll. 3-8.

Covad realizes that the parties will likely need to address other details of Covad's proposed card-by-card collocation before the Commission will be in a position to make a final determination on the proposal. Covad plans to do so in the emerging services workshop. In the meantime, however, there are other forms of virtual collocation that are no different for Remote Premises than Central Offices. Were the Commission to permit Qwest to prohibit remote virtual collocation at this stage of the proceeding, not only would the clearly permissible types of collocation be foreclosed, but so would card by card collocation, before it has been fully evaluated.

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Qwest's SGAT should be modified to state that both physical and virtual remote collocation are available.

e. Qwest has not provided reliable, 24-hour, 7 day a week access to CLEC collocation arrangements (WA-IC-7)

FCC regulations state that "[a]n incumbent LEC must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees entry into the incumbent LEC's premises." 47 C.F.R. § 51.323(i). Qwest has not met this requirement. For example, CLEC technicians are supposed to be able to access collocation arrangements in Qwest central offices using an electronic card. This card serves as a photo identification card and releases the door lock for entry when "swiped" through the card reader by the door of the central office. Occasionally, the card fails to open the door. As Mr. Zulevic explained:

> This has happened to me on two occasions in the past two months, and has delayed Covad technicians in responding to customer service problems on a number of occasions. We have been fortunate in that we have not encountered this problem during a major service outage, but a solution needs to be found before it happens. In most cases, access is restored by simply having Qwest re-enter the authorization into the Qwest security system. This resolution, however, can often take several days to accomplish.

Ex. 395 at 5, ll. 10-22 (Zulevic). These delays, no matter how brief, can be disastrous for CLECs and their customers, who are unable to conduct business during an outage.

At the hearing, Qwest alleged that there are no access problems, because technicians may call Qwest's 800 assistance number 24 hours a day. However, Covad witness Glen Walker explained the problems with this procedure. After the CLEC calls the number:

> [Qwest must] find somebody dispatched on their – down their call out list . . . and [it] may be three to four to five hours before anybody ever shows up at the site. The other problem that you run into is when your card does not work at a location, you call the 800 number, you hit a recorder. You may be three, four, five days before you get a call back off of that recorder. . . .

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TR 1917, ll. 9-18. This is unacceptable. To comply with the FCC's regulations, Qwest needs to include procedures in Section 8.2.1.18 that permit immediate resolution of entry problems. For example, the 800 number should connect the CLEC technician with a Qwest employee, who can immediately activate the card reader from a remote location after the technician has confirmed their identity. As Mr. Walker explained at the hearing, "that's exactly what they do downstream, you know, three or four or five days later, they go back and make sure that somebody is typed in." TR 1918, ll. 4-6. The only difference is that the remote activation would be immediate rather than extensively delayed.

f. CLECs must not suffer if Qwest fails to design the network efficiently (WA-1C-28)

Section 8.2.3.4 requires Qwest to "design the floor space in the most efficient manner possible within each Premises that will constitute CLEC's leased space." Ex. 273. Similarly, Section 8.2.1.23 provides that "Qwest shall design and engineer the most efficient route and cable racking for the connection between the CLEC's equipment in its collocated spaces to the collocated equipment of another CLEC located in the same Qwest Premises; or to CLEC's own non-contiguous Collocation space." *Id.* While Covad agrees generally with this principle, CLECs need additional protection in case Qwest does not meet this goal. This is because efficient network design is so critical to CLECs. DSL provides one example:

> DSL equipment is extremely distance sensitive. As such, the more cable required within the central office, the shorter the distance our service can reach into the local network, thus reducing the number of subscribers qualifying for our service. This situation is most detrimental in large metropolitan central office buildings where collocation arrangements are often engineered by Qwest into the top floor. Such is the case at Seattle East, Seattle Cherry and the Renton central office buildings.

Ex. 395 at 15, l. 23 to 18, l. 2 (Zulevic). Additionally, when Qwest places collocation arrangements in distant parts of the central office, Qwest charges CLECs for transport cable, ladder racking, power cable and other distance sensitive costs. As Mr. Zulevic explained, "[t]hese costs could have been substantially reduced had Qwest agreed to construct these

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collocation arrangements closer to the unbundled network elements CLECs need to access in order to provide service." *Id.* at 15, ll. 5-9.

Because CLECs have almost no control over the design of the central office, it is highly discriminatory for Qwest to pass these costs and burdens onto CLECs. Also, Qwest's refusal to consult with CLECs to promote efficient network design suggests that it has little intention of taking its obligations under these sections seriously. TR 1929, ll. 8-16. The only way to protect CLECs is to modify Section 8.2.3.4 and 8.2.1.23 to state that if Qwest places a CLEC in an inefficient location, Qwest must bear the cost of that decision by waiving charges for additional cabling and related equipment.

g. Qwest may not assess a channel regeneration charge unless CLECs deliberately design their network to require it (WA-1C-31)

The FCC has stated that ". . . we require the LEC to provide the repeaters needed [for regeneration] without imposing any additional costs on the interconnectors." Second Report and Order, *In the Matter of Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection,* 12 FCC Rcd. 18730 ¶ 110 (1997) ("Physical Collocation Order").[1] Yet, the SGAT states that a channel regeneration charge is "[r]equired when the distance from the leased physical space (for Caged or Cageless Physical Collocation) or from the collocated equipment (for Virtual Collocation) to the Qwest network is of sufficient length to require regeneration." Ex. 273 § 8.3.1.9. This charge is an "additional cost" and is therefore prohibited. Nevertheless, Qwest believes that CLECs should pay for regeneration because they "have an opportunity to review the planned space allocation and, if available, could request an alternative location." Ex. 294 at 56, ll. 12-13 (Bumgarner). In fact, CLECs have "no real control" over where they are placed in the central office and thus no way to affect whether regeneration is necessary.

[1] According to Mr. Zulevic, "[e]ngineering (ANSI) standards require regeneration of a digital signal when the cabling distance between the CLEC collocation arrangement and the Qwest cross-connect bay exceeds 655 feet for a DS1 and 450 feet for a DS3." *See* Ex. 395 at 17, ll. 11-13 (Zulevic).

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TR 2047, l. 14. "[I]n most cases, regeneration is required because of the location Qwest has chosen for construction of collocation arrangements." Ex. 395 at 17, ll. 16-18 (Zulevic). For example, Mr. Walker described the current situation at Bellevue Sherwood CO, where Covad has a cage, the original DSLAM, and a second DSLAM. TR 2053, ll. 2-3. Due to space limitations beyond Covad's control, any future growth will probably be moved to a different floor. *Id.* at l. 6.

Qwest further argues that the *Physical Collocation Order's* prohibition of regeneration charges was overturned by the Eighth Circuit in the *Iowa Utilities Board v. FCC* case. Ex. 294 at 56, ll. 9-10; *See Iowa Utilities Board v. FCC*, 219 F.3d, 744, 765 (D.C. Cir. 2000). This is incorrect, because the Eighth Circuit's decision involved rules that did not address channel regeneration. *Iowa Utilities Board,* 219 F.3d 765. Qwest also argues that the *Physical Collocation Order* only "required that LECs allow for a physical collocation arrangement that does not require repeaters." Ex. 294 at 56, ll. 24-25. Actually, the FCC stated that "repeaters should not be needed," because LECs can and should design collocation space in a manner that does not require regeneration. *Physical Collocation Order* ¶ 117.

In fact, Qwest can design central offices so that regeneration is not necessary. Covad witness Glen Walker described how Qwest solved the need for regeneration at Seattle 01 CO by changing the engineering of the Seattle 06 CO, which is across the street:

> OC48s [fiber optic carrier systems] were placed between the two offices on the second floor and over on I believe it was the eighth floor of 06, and so that serves a regeneration purpose, and that 's something that Qwest has done and built and put into place in order to physically make whole Seattle 01 a viable location for collocation.

TR 2053, ll. 17-23. Because Qwest can design a CO to eliminate the need for regeneration, it is clearly only required due to business decisions made by Qwest or inefficient construction of collocation arrangements. CLECs should not be penalized for these decisions. Further, there is no incentive for Qwest to design its central offices efficiently if the CLEC is forced to pay this charge. *See* TR 2056, l. 20 to 2057, l. 6. So, the SGAT should indicate that a channel

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regeneration charge applies only when a CLEC makes a deliberate decision to design its network in a way that requires regeneration.

h. Space availability reports (WA-1C-33)

Covad accepts Qwest's language in Section 8.2.1.9.2 regarding reports on space, power and transport capability.

i. Early access to collocation arrangements (WA-1C-38)

Covad accepts Qwest's language in Section 8.2.3.7 regarding early access to collocation arrangements.

j. Efficient ordering quantities (WA-1C-46)

Covad accepts Qwest's language in Section 8.3.1.11.3 regarding ordering quantities of DS1 terminations. Ex. 273.

k. Qwest must expedite minor collocation request changes (WA-1C-50)

Covad accepts in part Qwest's proposed Section 8.4.1.2, which states that CLECs may submit nonmaterial changes to their applications. Ex. 273. These changes "shall be implemented with the original Collocation order within the original applicable intervals." *Id.* Covad asks for clarification in the SGAT that Qwest will not require payment of any new fees for nonmaterial changes.

Qwest and Covad reached agreement on this issue during the Arizona 271 proceeding. Covad agrees to adopt the Arizona approach in Washington, subject to approval of the final SGAT language.

l. Qwest must provision collocation within the FCC's timelines regardless whether CLECs submit a forecast (WA-1C-51,52)

It is well settled that "an incumbent LEC must complete provisioning of a requested physical collocation arrangement within 90 days after receiving an application that meets the incumbent LEC's established collocation standards." 47 C.F.R. § 51.323(l)(2). The FCC makes no mention, and certainly no requirement, of a forecast or any other qualification.

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Yet, Qwest seeks to require CLECs to submit an annual forecast, updated quarterly, to obtain the 90-day interval established by the FCC. *See, e.g.*, 8.4.2.4; 8.4.3. Although the FCC's rule permits Qwest to set certain standards for an application, a "forecast" does not qualify as a component of the application, and Qwest has not established otherwise. As Mr. Zulevic explained, "this policy is totally unacceptable in that it effectively circumvents the FCC's rules." Ex. 395 at 9, l. 26 to 10, l. 2 (Zulavic). Required forecasting means that Qwest's 90-day commitment is "illusory." TR 1478, l. 4-8. This Commission must act to ensure that Qwest follows the FCC's competitive safeguards.

To the contrary, however, Qwest witness Margaret Bumgarner argues that "the FCC permits Qwest to propose [that] the order be in accordance with the CLEC's Collocation Forecast," citing the FCC's Advanced Service Order on Reconsideration. Ex. 293 at 10, l. 20 to 11, l. 1 (Bumgarner). Order on Reconsideration, *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd. 17806, ¶ 31 (2000) ("Advanced Services Reconsiderations"). This assertion is misleading, at best. In fact, the FCC stated that the 90-day interval applies unless the state PUC determines otherwise:

> An incumbent LEC also may require a competitive LEC to forecast its physical collocation demands. *Absent state action requiring forecasts*, a requesting carrier's failure to submit a timely forecast *will not relieve the incumbent LEC of its obligation to comply with the time limits set forth in this section*. Similarly, an incumbent LEC may penalize an inaccurate collocation forecast by lengthening a collocation interval only if the state commission affirmatively authorizes such action.

Advanced Services Reconsideration ¶ 39. Because the WUTC has not required forecasting, the FCC requires Qwest to follow the mandated 90-day interval. Indeed, as discussed below, this Commission has set even shorter provisioning intervals than the 90 days required by the FCC.

Qwest has conceded that the FCC's intervals may not be conditioned upon a forecast by requesting a waiver of the FCC's new rules "on alternative standards that provide for a ten-day application processing and either a 45-day or a 90-day provisioning interval when the requesting carrier has provided a collocation forecast to Qwest at least 60 days prior to

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submitting its physical collocation application." *In the Matter of Deployment of Wireline Services*, 2000 FCC LEXIS 5944 ¶ 19 (2000). This would be "an interim measure" while Qwest appeals the new FCC rules. *Id.* Qwest would not need to seek a waiver to condition compliance with the FCC's provisioning intervals on CLEC forecasting if this was already permitted under the current FCC rules.

In an attempt to side-step its provisioning obligations, Qwest witness Bumgarner claims that "[t]he Washington rules are also framed that way, requiring that there be a forecast made to get the interval that's stated in the Washington rules." TR 2094, l. 3-5. To the extent she was referring to the 90 day interval, she was incorrect. The Washington rule states:

> (b) If the ordered collocation space *was included in a periodic forecast* submitted by the CLEC to the ILEC at least three months in advance of the order, the ILEC must complete construction of, and deliver, the ordered collocation space and related facilities *within forty-five calendar days* after the CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote.
>
> (c) If the ordered collocation space *was not included in a periodic forecast* submitted by the CLEC to the ILEC at least three months in advance of the order, *the Commission declines to apply the forty-five calendar day interval* in (3)(b) and the national standards adopted by the FCC shall apply.

WAC 480-120-560(3)(b) and (c) (emphasis added). Contrary to Qwest's misrepresentations, the Washington rule *shortens* the interval to 45 days when a forecast is submitted, but defers to the FCC's 90-day interval where no forecast is provided. Accordingly, pursuant to state and federal law, the interval is *never* longer than 90 days, with or without a forecast.

Qwest alleges it needs forecasts to spread out the workload in the event that several CLECs request collocation at once. However, this claim is exaggerated:

> [T]he intervals already have the ability to spread out the workload built into them. After an application is put in, there's a 10-day period for a feasibility study. Now, the feasibility study, in point of fact, is someone sitting and looking at information on terminals or calling up a central office to talk to someone. It's not the case that it requires someone 10 days of physical work to do; it's someone doing a few minutes of work within 10 days.

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TR 2217, l. 9 to 19. The same applies to the 25 day quote period. As a result, "this whole interval has built into it time to distribute this load." TR 2218, ll. 9-10.

Qwest's proposed forecasting requirement is simply an effort to elongate its provisioning interval by making CLECs "preorder" collocation. No matter how desirable this result might be to Qwest, it is plainly prohibited by both state and federal law. For the reasons articulated above and by AT&T, this Commission should (1) deny Qwest's request to make its collocation interval contingent upon the submission of a forecast and (2) reject any SGAT language requiring such a submission. Covad further supports and incorporates the arguments set forth in the brief of AT&T and Worldcom on this issue.

m. Qwest must restore the original provisioning interval if a tour reveals space in a CO previously designated as out of space (WA-IC-52, 59, 60, 61, and 62).

Section 8.2.1.11 permits CLECs to tour a CO if Qwest denied a request based on space availability. Ex. 273. However, Qwest will not restore the original construction interval if the CLEC discovers during the tour that space is actually available. This is discriminatory, because it is far too easy for Qwest simply to deny a collocation request without performing a full analysis of the available space. Where a tour reveals adequate space after a denial, the interval should revert back to the original as if the mistake had never happened. As Covad witness Michael Zulevic explained, "[t]his will insure that Qwest does everything in its power to accurately evaluate the availability of space prior to a denial." Ex. 395 at 11, ll. 10-13 (Zulevic).

Qwest and Covad reached agreement on this issue during the Arizona 271 proceeding. Covad agrees to adopt the Arizona approach in Washington, subject to approval of the final SGAT language.

n. Qwest may not limit the number of collocation requests by a CLEC (WA-1C-57)

SGAT Section 8.4.1.8 provides that collocation intervals are based on "a maximum of five (5) Collocation Applications per CLEC per week per state." Ex. 273. This is

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Qwest's "best estimate of how many applications it can handle, based on how many CLECs we've been dealing with with [sic] the collocation applications and the number per CLEC." TR 2221, ll. 18-22. This anecdotal evidence is insufficient proof of Qwest's capacity to handle requests. Further, Qwest's commitment to "accept more than five (5) Applications from CLEC per week per state, depending on the volume of Applications pending from other CLECs" gives Qwest too much discretion and will impair the CLECs ability to adequately plan ahead. This is discriminatory, and the Commission should order Qwest to eliminate this section.

o. The construction interval for connections between separate CLEC connections is excessive (WA-1C-64)

The construction interval for connection of separate CLEC collocation arrangements or CLEC to CLEC connections that require a new rack is 90 days. Ex. 273, § 8.4.7.4. This is far too long. These connections never require power or transport facilities, which might justify a long interval. They generally require no more effort than building a cageless collocation, which has an interval of 45 days. Ex. 273, § 8.4.3.4.1. So, a 45-day interval should apply for all these connections, even if additional cable racking is required.

Qwest agreed in the Arizona 271 proceeding to adopt a 60-day interval for builds requiring new cable rack installation. As a compromise, Covad agrees to adopt this approach in Washington, subject to approval of the SGAT's final form.

p. Qwest must verify collocation space completion before the CLEC acceptance meeting (WA-1C-66)

Covad accepts Qwest's proposal in Section 8.4.1.11 to "conduct an inspection with CLEC of the Collocation space, scheduled by mutual agreement to occur at least five (5) business days prior to completion of construction of the Collocation space." Ex. 273. However, this step alone will not solve the problems with collocation space acceptance. Mr. Zulevic explained that, under the current process:

> The Qwest State InterConnection Manager (SICM) notifies the CLEC when the collocation arrangement will be completed and schedules a meet at that location for acceptance. Unfortunately, this is about the only

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> consistent part of the process. Each Qwest state SICM seems to follow a different process. In only one Qwest state has this process resembled a business transaction. In all others, it is very informal and lacking in proper documentation.

Ex. 395 at 14, ll. 7-12 (Zulevic). Clearly, there is still a need to standardize and improve this procedure.

The solution is that Qwest should employ a checklist that enables the SICM to verify that the collocation is complete before scheduling the acceptance meeting. Ex. 395 at 15, ll. 4-9. The list will verify that Qwest has installed all transmission cables, power cables, A/C outlets, lighting, cable racking, and iron work, and that Qwest is ready to install the power fuses. *Id*. at 14, ll. 15-24. Next, the SICM must confirm access to the building. For example, if the building is equipped with a "swipe card" access system, the SICM must verify that the CLEC's card will provide access. Finally, the SICM should provide the CLEC with all the information necessary to begin providing service from this collocation. This includes Connecting Facility Assignments (CFA or APOT), verification that the Qwest Operational Support Systems are ready to accept orders for the location, documentation listing all connecting frame locations, fuse bay locations, and related information.

The SICM should note the status of these items as "acceptable" or "not acceptable." *See* Ex. 395 at 15, ll. 4-5 (Zulevic). Any deviation from the ordered collocation arrangement must be noted with a proposed correction date. Once this checklist is completed, both the Qwest SICM and the CLEC representative should sign and date the document, with each party receiving a completed copy.

This would substantially improve the acceptance process. As Mr. Zulevic testified, "Qwest's current process doesn't provide this information until well after the acceptance walk through. It is provided as a 'completion package' by the CLEC account manager. Placing an office in service has been delayed by as much as a month due to not having this information available." Ex. 395 at 14, l. 24 to 15, l. 2 (Zulevic) A checklist will ensure that this information

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is available in a timely manner. Otherwise, the pre-acceptance meeting will simply uncover deficiencies that should have been resolved earlier in the process.

Qwest and Covad reached agreement on this issue during the Arizona 271 proceeding. Covad agrees to adopt the Arizona approach in Washington, subject to approval of the final SGAT language.

q. Qwest must remove obsolete equipment at its own cost (no issue number)

Covad accepts Qwest's language in Section 8.2.1.14.1 agreeing to remove obsolete equipment at its own cost. Ex. 273.

r. ATM collocation (no issue number)

Covad accepts Qwest's language in Section 8.2.1.2.2 regarding ATM collocation. Ex. 273.

s. Queue for "no space" central offices (no issue number)

Covad accepts Qwest's language in Section 8.2.1.10.1 regarding waiting lists in "no space" COs. Ex. 273.

II. CONCLUSION

Qwest has failed meet its burden of demonstrating compliance with Section 271(c)(2)(B)(i) of the Telecommunications Act. Qwest will not meet this burden until it implements the changes outlined in this brief. Accordingly, the Commission should recommend denial of Qwest's application at this time.

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