

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into

U S WEST COMMUNICATIONS, INC.'s

Compliance with Section 271 of the
Telecommunications Act of 1996.

Docket No. UT-003022

**DIRECT TESTIMONY OF
DAYNA D. GARVIN**

**ON BEHALF OF
WORLDCOM, INC.**

**ADDRESSING
REGARDING CHECKLIST ITEMS 2, 5 AND 6
UNE-P, EELS, SWITCHING AND TRANSPORT**

FEBRUARY 12, 2001

(Corrected)

1 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS?**

2 **A.** My name is Dayna D. Garvin. I am employed by WORLDCOM, Inc. (WCOM).

3 My position is Senior Manager Carrier Agreements, West Telco Line Cost

4 Management. My business address is 2678 Bishop Drive Suite 200, San Ramon,

5 CA 94596.

6 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR WCOM.**

7 **A.** As Senior Manager Carrier Agreements I manage negotiations for eight (8) of the

8 SBC states and 14 U S West (now Qwest) states for Brooks, MCI Metro Access

9 Transmission Services, LCC, and Metropolitan Fiber Systems. I handle issues

10 that arise under our interconnection agreements (“ICA”) with SBC and Qwest. I

11 am responsible for analyzing and assessing the impact of regulatory decisions in

12 cost cases, rate cases and rulemakings upon our ICAs.

13 **Q. PLEASE DESCRIBE YOUR RELEVANT EXPERIENCE.**

14 **A.** I spent 11 years with Pacific Bell in San Francisco, CA in both the Sales and

15 Marketing departments. My last job at Pacific Bell was Director of Access

16 Product Marketing, Industry Markets, responsible for planning Access

17 Restructure for Pacific Bell. In 1996, I went to work for Metropolitan Fiber

18 Systems (MFS) in Chicago as an independent consultant working on local

19 collocation issues. In 1997 I went to work for MFS, in San Francisco as

20 Director, Local Services Delivery negotiating right of way for MFS local network

21 expansion, and implementing the MFS local interconnection agreements with

22 Pacific Bell. I have been with MFS, now MCIW, for the past 3 years and now

1 have responsibility for Local Contract Negotiations for the Western Region with
2 SWBT, PacBell, SNET and US WEST. I attended the University of Southern
3 California and graduated with a Bachelor of Science in Education from the
4 University of Hawaii.

5 **Q. HAS WCOM ENTERED INTO INTERCONNECTION AGREEMENTS**
6 **WITH QWEST AND IS WCOM PROVIDING LOCAL SERVICE IN THE**
7 **QWEST TERRITORY?**

8 A. Yes, WCom and Qwest have entered into interconnection agreements as
9 contemplated by the Telecommunications Act of 1996 in eight states, including
10 Washington. WCom, through its MCImetro, MFS, and Brooks Fiber operating
11 companies, has constructed and is operating local networks and is serving
12 customers with facilities-based local services in eight cities in Qwest territory,
13 including Seattle, Washington.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. The purpose of my testimony is to assist this Commission in making its
16 recommendations to the Federal Communications Commission (“FCC”)
17 regarding Qwest’s application to provide interLATA and interstate long distance
18 service. Specifically I will testify regarding Checklist Item 2 (of the 14-point
19 checklist resulting from Section 271 of the Act) concerning provision of
20 Unbundled Network Elements, Checklist Item 5 concerning Unbundled Dedicated
21 Transport, and Checklist Item 6 concerning Unbundled Local Switching. I will

1 also address the corresponding sections of the Washington SGAT filed by Qwest
2 as part of its 271 review.

3 **Q. WHAT HAS BEEN WCOM’S EXPERIENCE WITH QWEST’S**
4 **PROVISIONING OF UNBUNDLED NETWORK ELEMENTS?**

5 A. WCom’s experience has been an arduous one. In particular, Qwest has avoided
6 prompt compliance with the clear requirements in existing WCom contracts to
7 provide combined elements for either loop-transport combinations (defined by the
8 FCC as Enhanced Extended Link or “EELs”) or full service port and loop
9 combinations (frequently referred to as Unbundled Network Elements Platform or
10 “UNE-P”). These contracts have been in effect now for over three years.

11 Most recently, in April 2000, WCom attempted to place an order for
12 combinations of elements in Washington, Minnesota, and Colorado but was then
13 told by the Qwest account team that WCOM must amend its current
14 interconnection agreements in order for Qwest to process WCOM’s orders. This
15 is despite having language in approved and effective state interconnection
16 agreements that specifically requires Qwest to provide WCom with combinations
17 of unbundled network elements.

18 On April 27, 2000, WCom placed an order for UNE-P service via Qwest’s
19 IMA system for the state of Washington. Qwest rejected WCom’s orders,
20 referring the orders to the Qwest account team. WCom was again informed that it
21 would have to amend its current interconnection agreement *plus* WCom must
22 create new Billing Account Numbers (“BANs”) for this service. WCom did create

1 the BANs as instructed, but WCom’s orders were again rejected. Further attempts
2 to place UNE-P orders in Washington and Minnesota were also rejected.

3 During this time, Qwest submitted its standard Qwest UNE-P amendment
4 to WCom for consideration. It is WCom’s position that a contract amendment is
5 not necessary for Qwest to process WCom’s orders for combinations of network
6 elements.

7 While Qwest’s prior activity in this area has been extremely uncooperative
8 and could be characterized as anti-competitive, within the past 90 days Qwest’s
9 rhetoric has changed. I attribute this to the influence of the Qwest merger and an
10 increased interest on the part of the new Qwest to achieve 271 approval at the state
11 level and at the FCC. This change in tone is welcome, but must be followed by
12 actual changes in performance and delivery in order to be accepted as proof of
13 actual change.

14 In light of the change in tone, I have agreed to initiate discussions to
15 attempt to develop a mutually agreed-upon amendment to add terms and
16 conditions for combined network elements to the existing WCom interconnect
17 agreements. We have agreed to set aside certain issues on which it is clear the
18 companies disagree and attempt to develop an amendment that addresses at least
19 those terms and conditions where agreement can be reached. So far, progress in
20 this effort appears promising. If successful, once this amendment is finalized,
21 WCom again intends to submit test orders for UNE-P and other combinations in
22 order to test and evaluate the ordering, installation, maintenance and billing

1 performance by Qwest in delivering this type of service. Similar testing was
2 performed by WCom with SBC in Texas prior to our launch of residential service
3 using SBC-provided UNE-P connections and was instrumental in identifying and
4 correcting numerous problems in SBC ordering and provisions processes as well
5 as the OSS interfaces the companies use.

6 In addition to an unnecessary contract amendment, Qwest requires
7 WCom, as well as other CLECs, to complete a lengthy product questionnaire
8 before Qwest will process its UNE combinations orders. Although WCom does
9 not object to providing billing and other relevant information necessary for Qwest
10 to process WCom orders, the questionnaire serves as another roadblock to Qwest
11 actually provisioning combinations of unbundled network elements. The Qwest
12 product questionnaire is unnecessary lengthy, the current version is some 43
13 pages long, and much of the information requested is duplicative or appears to be
14 marketing sensitive. By way of comparison, the SBC questionnaire is only nine
15 pages long.

16 As part of the ordering process, Qwest requires CLECs to obtain a billing
17 account number. After CLECs obtain the appropriate billing account number, the
18 associated billing rates will then be loaded into Qwest's billing systems. Qwest
19 has informed WCom that it can expect to wait *three to four weeks* for Qwest to
20 load the appropriate rates into the Qwest billing system before it may place an
21 order. This is an unreasonably long period of time and only serves only to stall
22 competition by delaying CLEC orders.

1 Qwest has also repeatedly refused to convert the local customer
2 connections ordered by WCom to EEL's – a simple loop and transport
3 combination. As a result Qwest has improperly charged WCom interstate special
4 access charges that are far in excess of the state approved rates for UNE
5 combinations. This overcharge by Qwest has now accumulated to approximately
6 \$16,000,000 of which a portion is for Washington connections, and remains a
7 disputed issue between the companies.

8 In summary, WCom's overall experience attempting to obtain Qwest
9 unbundled network elements has been marked by unreasonable requests regarding
10 contract amendments, unnecessary delay, and repeated refusal to provision
11 WCom's orders that Qwest is required to provide under existing contracts.
12 Clearly, Qwest so far has failed to meet its 271 burden regarding the provisioning
13 unbundled network elements.

14 **Q. CONCERNING THE ROLE OF THE QWEST SGAT IN WCOM'S**
15 **BUSINESS PLANS, IS IT WCOM'S INTENTION TO OPERATE IN**
16 **WASHINGTON UNDER THE TERMS OF THE QWEST SGAT?**

17 A. No. As I mentioned earlier in my testimony, WCom has negotiated and arbitrated
18 Interconnection Agreements with Qwest in Washington under the terms of the
19 Act that have been subsequently approved by this Commission. It is WCom's
20 intent to continue to operate under its own contract, separate and apart from the
21 SGAT, in the future. However, WCom recognizes the role of the SGAT in

1 providing terms and conditions available to carriers who elect not to negotiate
2 their own contract terms.

3 WCom has experience operating as a competitive local service provider in
4 numerous states across the country, including seven states served by Qwest, and
5 hopes that this Commission finds our comments and participation in these
6 proceedings helpful. In addition, I am hopeful that progress with Qwest in these
7 workshops will make it easier for WCom and Qwest to reach agreement in our
8 own future contract negotiations in this state and others

9 **Q. HOW HAVE YOU STRUCTURED YOUR COMMENTS ON THE QWEST**
10 **SGAT FOR WASHINGTON?**

11 A. WCom has participated in Arizona workshops on Checklist Items 2, 5, and 6 with
12 Qwest and other industry participants. As a result of those workshops Qwest
13 agreed to change a number of the terms in its Arizona SGAT and on October 31,
14 2000, filed changes to its Arizona SGAT incorporating the changes with which
15 Qwest agreed. Updates to Section 9 of the Washington SGAT filed by Qwest on
16 October 27, 2000, appear to be very similar to the corresponding Arizona
17 document. I also understand that it is Qwest's intent to include any agreed upon
18 changes to the Arizona SGAT in this proceeding. As a result, I intend to limit my
19 comments in this testimony to those issues that I believe are still open issues
20 between WCom and Qwest following the progress made in the Arizona
21 workshops. In addition, I will point out where there appears to be a remaining

1 difference in Section 9 of the SGAT between the Arizona and Washington filings
2 for Section 9.

3 **Q. SECTION 9.6 OF THE WASHINGTON SGAT PROVIDES FOR**
4 **UNBUNDLED DEDICATED INTEROFFICE TRANSPORT (UDIT). CAN**
5 **YOU DESCRIBE ANY REMAINING CONCERNS WCOM HAS WITH**
6 **THAT PORTION OF THE SGAT?**

7 A. Yes. As a fundamental concern, the FCC rules require Qwest to provide
8 Unbundled Dedicated Transport as an unbundled network element. However
9 Qwest has created two different services, one Qwest calls UDIT and the other
10 EUDIT. These are described in Section 9.6 of the SGAT, on pages 3 through 8.
11 WCom believes it inappropriate and unnecessarily confusing for Qwest to try to
12 create such a distinction.

13 **Q. DO YOU KNOW WHY QWEST HAS DEPARTED FROM THE FCC**
14 **DEFINITION OF REQUIRED ELEMENTS?**

15 A. It is not totally clear. However, in the Arizona workshops, Qwest indicated that
16 the reason was one of pricing. UDIT, Qwest stated, was unbundled dedicated
17 transport that connects between two Qwest central offices and is proposed to have
18 a distance sensitive price structure. EUDIT, on the other hand, is proposed to
19 have a non-distance sensitive rate structure that Qwest describes as similar to the
20 “entrance facility” or “channel termination” contained in its access or private line
21 tariffs.

1 **Q. DOES THIS DIFFERENCE IN RATE STRUCTURE JUSTIFY CREATING**
2 **THESE TERMS THAT DEPART FROM THE FCC DEFINITION OF**
3 **REQUIRED ELEMENTS?**

4 A. No. Qwest’s own examples of the Access and Private Line Tariffs prove that it is
5 not. Both of these types of tariffs include products that may include either
6 distance sensitive or non-distance sensitive rate elements, or both. For example, a
7 dedicated special access service may include both a flat rated “entrance facility”
8 element and a distance sensitive “transport” rate element in the total price for the
9 service. CLECs have challenged this proposed rate structure. However, even if
10 Qwest’s proposed rates structure for the elements of Unbundled Dedicated
11 Transport were accepted, there should be no problem describing the different rate
12 elements that would apply without attempting to create separate service
13 classifications, just as has been done for other types of unbundled elements
14 elsewhere in this SGAT.

15 **Q. DOES THE DISTINCTION BETWEEN EUDIT AND UDOT PRESENT**
16 **OTHER PROBLEMS FOR CLECS?**

17 A. Yes. The FCC requirement is clear that CLECs can order Unbundled Dedicated
18 Transport between certain, specified points. In Paragraph 322 of the FCC 319
19 Order, dedicated transport is defined as, “incumbent LEC transmission facilities
20 dedicated to a particular customer or carrier that provide telecommunications
21 between wire centers owned by incumbent LECs or requesting

1 telecommunications carriers or between switches owned by incumbent LECs or
2 requesting telecommunications carriers.”

3 If Qwest is allowed to create its proposed distinctions between EUDIT and
4 UDIT, confusion may result when trying to implement or enforce the
5 requirements of the SGAT in this area. For example, Qwest may use this
6 distinction to interpret a request for unbundled transport between a requesting
7 CLECs wire center and a distant telecommunication carrier’s wire center as three
8 different services, requiring three different orders. One order would be classified
9 as a EUDIT between the requesting CLEC and the Qwest office serving that
10 CLEC. The second order would be defined as a UDIT between that first Qwest
11 office and a distant office serving the other telecommunications carrier. The third
12 order would be defined as a EUDIT between the second Qwest office and the
13 telecommunications carrier’s office. Qwest could then require multiple orders
14 from the requesting CLEC, and would attempt to charge multiple ordering
15 charges for what should be a single service.

16 Clearly this is not what the FCC contemplated when requiring Qwest to
17 provide Unbundled Dedicated Transport. The Qwest SGAT should be changed to
18 eliminate the artificial distinction suggested between EUDIT and UDIT to avoid
19 the potential for requiring such a daisy chain of orders.

20 If there is remaining disagreement over the rate structure it should be
21 addressed in the description of the rate elements contained in this Section of the

1 SGAT. Pricing levels for these rate elements should be addressed in the
2 appropriate pricing proceedings.

3 **Q. DOES WCOM HAVE OTHER ISSUES WITH THIS SECTION ON**
4 **UNBUNDLED DEDICATED TRANSPORT?**

5 A. Yes. There is an issue with paragraph 9.6.1.1 that should state that unbundled
6 transport is available in DS1 through OC-192 bandwidths, or any other
7 bandwidths that may become available in the Qwest network. The FCC in
8 Paragraph 323 of the 319 Order modifies its rules “to clarify that the incumbent
9 LEC must unbundle DS1 through OC192 dedicated transport offerings and such
10 higher capacities as evolve over time.” The SGAT should be changed to include
11 this requirement.

12 Finally for this section, I’m concerned that while the Arizona SGAT
13 contains provisions for rearrangement of Unbundled Dedicated Transport in
14 paragraph 9.6.3.9 and three additional paragraphs in Section 9.6.6 Rearrangement,
15 those provisions appear absent from Washington. I would like Qwest to explain
16 that difference, as the missing paragraphs seem relevant to Washington.

17 **Q. PLEASE DESCRIBE WCOM CONCERNS WITH SECTION 9.10 LOCAL**
18 **TANDEM SWITCHING.**

19 A. In paragraph 9.10.1.1 and also in paragraph 9.10.2.2 Qwest uses the phrase
20 “centralized in local tandem switches” when referring to functions of the Tandem
21 Switching unbundled element. I am concerned that this may be interpreted to
22 exclude legitimate tandem switching features that should be included in this

1 unbundled element should Qwest decide to provide those features using an
2 adjunct device to the switch.

3 Frequently, carriers may elect to provide certain switching features within
4 the fabric of the switch itself, or by using a physically separate device, referred to
5 as an adjunct processor. Examples of this would include call recording or call
6 routing functions, which WCom has sometimes performed in its network using
7 adjunct devices.

8 Qwest language in these sections should be clarified to indicate that
9 Tandem Switching features, whether performed physically within the tandem
10 switch or in a physically separate adjunct device associated with the Tandem
11 Switch be included within the Tandem Switching unbundled element.

12 **Q. DOES WCOM HAVE OTHER CONCERNS WITH UNBUNDLED**
13 **SWITCHING?**

14 A. Yes. At paragraph 9.11.2.5 Qwest provides that Unbundled Switching is not
15 available in certain end offices when the end-user customer to be served has four
16 access lines or more. In a subsequent paragraph, at 9.11.2.5.3, Qwest provides
17 that UNE-P (which uses Unbundled Switching) is also not available in the
18 conditions outlined in that paragraph.

19 While the FCC rules provide that Unbundled Switching is not required to
20 be provided in the situation described by Qwest – that decision was predicated
21 upon a CLEC being able to obtain EEL connections from Qwest and using the
22 EEL to connect end users to switching provided by the CLEC, themselves, or

1 another carrier other than Qwest. Thus the ability of Qwest to deny Unbundled
2 Switching or UNE-P in these situations should be conditioned upon Qwest's
3 ability to provide the CLEC an EEL connection, upon request, for those certain
4 end offices. Lack of Qwest capacity has been a problem in the past and should
5 not be allowed to result in the situation where competitors cannot serve an end
6 user in these high volume end offices either through UNE-P or using EEL's.
7 Such a result would be an unreasonable roadblock to competition for customers in
8 those offices.

9 **Q. ARE THERE FURTHER ISSUES REGARDING AVAILABILITY OF**
10 **UNBUNDLED SWITCHING AND UNE-P IN THE 5 CENTRAL OFFICES**
11 **NAMED IN THE QWEST SGAT AT PARAGRAPH 9.11.2.5.1?**

12 A. Yes. In the case of UNE-P, Qwest offers this service to CLECs who seek to serve
13 customers with fewer than four access lines located in those central offices. If the
14 end user adds a fourth line, Qwest will not provide UNE-P and in that instance the
15 CLEC must convert the customer to some other service. Quite a bit of discussion
16 was held in the Arizona workshop on this issue, designed to develop terms for this
17 transition that would not unduly impact the end user. While Qwest has
18 recognized the need for cooperating in such a transition, no specific terms were
19 proposed.

20 Qwest has stated that it is willing, as a carrier seeking to obtain 271
21 approval, to continue offering unbundled switching in these end offices, but at

1 market-based rates rather than forward looking rates (UNE pricing). This is
2 documented at paragraph 9.11.3.1 of the Qwest SGAT.

3 WCom proposes that UNE-P also be available in the situation described
4 above, when an end user has four or more lines, but with market based rates
5 applied to the Unbundled Switching element of the combination. While this
6 would not be an economical way for WCom to provide local service to this
7 customer in the long run, it would provide a smooth transition mechanism,
8 avoiding disruption to the customer's existing service until WCOM could
9 coordinate conversion to another local service product.

10 **Q. PLEASE DESCRIBE WCOM CONCERNS WITH SECTION 9.19**
11 **CONSTRUCTION CHARGES.**

12 A. In this section, Qwest agrees to construct network capacity, facilities, or space for
13 access to or use of unbundled loops, ancillary and finished services, only upon
14 Qwest determination of the acceptability of an individual financial assessment,
15 which Qwest performs. Qwest should not be able to make this unilateral decision
16 without the ability of the CLEC to challenge the decision should Qwest decide
17 that the financial assessment does not make the project acceptable to Qwest.
18 WCom recommends that specific provisions be added to allow the CLEC to
19 challenge Qwest if the decision is made not to construct, along with appropriate
20 dispute resolution procedures.

21 In addition, construction should not be limited to unbundled loops. For
22 example, construction may be required in some cases to satisfy CLEC

1 requirements for unbundled transport or switching, or other services contained in
2 the SGAT. Qwest should be required to treat construction for capacity required
3 for CLEC requirements on parity with construction for capacity Qwest would
4 undertake for its own network or own end user customer requirements.

5 It is also unclear, in Section 9.19, why Qwest references terms for
6 construction for ancillary and finished services. As this Section of the SGAT
7 deals with unbundled elements, that reference seems out of place and Qwest
8 should remove reference to ancillary and finished services or explain why it is
9 required here.

10 **Q. CLECS RAISED SOME CONCERNS REGARDING QWEST’S USE OF**
11 **SPECIFIC PRODUCT NAMES IN THE ARIZONA SGAT. QWEST HAS**
12 **DONE SO IN THE WASHINGTON SGAT, SEE, FOR EXAMPLE,**
13 **SECTION 9.23.2. WHAT IS WCOM’S CONCERN HERE?**

14 A. Qwest has resolved WCom’s initial concern by making it clear that the list of
15 UNE combinations for which Qwest has designated product names is not the
16 exclusive list of combinations available under the SGAT. Rather Qwest has
17 agreed to provide any combination required by existing rules. However, it is clear
18 from the discussions that the list of available UNE products may expand as other
19 carriers request different types of combinations and Qwest creates products for
20 those combinations Qwest anticipates will generate sufficient demand.

21 This creates a problem, as the addition of new products would require
22 constant amendment of the SGAT and each CLEC contract. WCom suggests that

1 Qwest insert a statement in this section of the SGAT that provides CLECs may
2 obtain any additional UNE Combinations that are offered by Qwest in the future,
3 as a standard product, without the need for contract amendment for each and
4 every new product.

5 **Q. ARE THERE SPECIFIC PROVISIONS THAT YOU FIND MISSING IN**
6 **THE UNE-COMBINATION SECTION OF THE WASHINGTON SGAT?**

7 A. Yes. In reviewing the SGAT I find no provisions that allow line sharing and line
8 splitting with UNE-P products. This would be necessary to allow WCom end
9 users, served via Qwest UNE-P, to obtain DSL-type products and services from
10 WCOM, other DLECs, or from Qwest.

11 While I raise that issue in this testimony, I would suggest that the issue is
12 debated in the context of the line-sharing and line-splitting discussions that will
13 take place in the Advanced Services portion of these workshops.

14 **Q. TURNING TO THE SUBJECT OF EELS, PLEASE DESCRIBE ANY**
15 **CONCERNS WCOM HAS WITH QWEST PROVISIONS FOR THAT**
16 **TYPE OF COMBINED NETWORK ELEMENT.**

17 A. At paragraph 9.23.3.7.2.7 Qwest indicates it will not provision an EEL
18 combination (that is a combination of loop and transport elements) or convert
19 Private Line/Special Access to an EEL if Qwest records indicate that service “will
20 be connected directly to a tariffed service”. While the FCC provides that an EEL
21 must meet the local use restrictions contained in the applicable FCC Order (and
22 included in this SGAT) there is no limitation on connecting that qualifying EEL

1 to any tariffed service, directly or indirectly. This section of the SGAT should be
2 removed.

3 **Q. DO YOU HAVE COMMENTS ON THE ORDERING PROVISIONS FOR**
4 **EELS CONTAINED IN THE SGAT STARTING AT PARAGRAPH**
5 **9.23.3.8.1?**

6 A. Yes. Qwest proposes that new EEL connections (what Qwest calls EEL-P)
7 should be ordered using the ASR process, yet conversions of existing special
8 access to an EEL (what Qwest calls EEL-C) should be ordered using the LSR
9 process. These are two different ordering procedures, using different forms and
10 subject to different industry standards. This creates an unnecessarily confusing
11 and burdensome process for the CLEC. This will be particularly confusing if a
12 change to an EEL is requested after the EEL is initially provided. Qwest requires
13 that any changes to EELs be ordered using the same type of form (LSR or ASR)
14 that was used to order the initial EEL-C or EEL-P. This will create the need for
15 an additional layer of complexity in record keeping by both Qwest and the CLECs
16 to determine what form was used to order an initial EEL when any future change
17 is required.

18 In addition, WCom has been told in negotiations with Qwest that its
19 current LSR process is unable to support EEL-C orders. WCom recommends that
20 Qwest be required to adopt a single process for the ordering of EEL combinations.
21 In addition, until Qwest is able to accept orders for EEL-C, any conversions may

1 be requested by the CLEC using a simple spread sheet that includes the necessary
2 pertinent data such as circuit ID, billing information, and so forth.

3 **Q. PLEASE DESCRIBE WCOM CONCERNS WITH TERMS IN**
4 **PARAGRAPH 9.23.3.11.2 OF THE WASHINGTON SGAT CONCERNING**
5 **BRANDING OF OPERATOR SERVICES AND DIRECTORY**
6 **ASSISTANCE PROVIDED BY QWEST TO THE CLEC.**

7 A. I believe that Qwest and WCom are in agreement that, where technically feasible,
8 Qwest will brand with “CLEC’s name, its choice of name, or no name.”
9 However, the SGAT language does not make that clear in this paragraph.
10 WCOM recommends that the SGAT language be changed to include the specific
11 reference to “CLEC’s name, its choice of name, or no name.”

12 **Q. WHAT IS THE DISPUTE CONCERNING PAYMENT OF**
13 **TERMINATION LIABILITIES BY NON-PARTIES; THOSE NOT BOUND**
14 **BY THE TERMS OF THIS SGAT?**

15 A. Qwest provides, in paragraph 9.23.3.12 of the SGAT, that non-parties to the
16 SGAT (end user customers or reseller customer of Qwest) who have separate
17 contract or tariff obligations to Qwest providing for termination liability, must pay
18 those termination liabilities in full before any combination of elements presently
19 used by the non-party will be available for conversion into a UNE combination
20 requested by the CLEC.

21 This creates two obvious problems. First, the contract or tariff between
22 Qwest and its end user customer or reseller customer is a matter to be enforced

1 under that contract or tariff. Qwest should not be allowed to attempt to enforce
2 those contracts or tariffs with third parties through provisions of this SGAT.
3 Second, contracts or tariffs such as those described by Qwest typically do not
4 impose a termination liability until the service is actually disconnected. That
5 would not happen until the time of the conversion to a UNE-combination.
6 Further, even once the service is cancelled, these end user contracts and tariffs
7 typically provide a period for Qwest to calculate and submit its bill for any
8 applicable termination liability and a subsequent period by which the bill must be
9 paid. (Of course, additional time may be involved if there is any dispute between
10 the end user customer and Qwest concerning the accuracy of the bill).

11 Obviously, attempting to condition the conversion of service to a
12 competitive carrier on this full billing and payment cycle playing itself out would
13 be detrimental to the CLEC and to the end user customer who wishes to have a
14 choice of providers. This provision should be stricken from the SGAT.

15 **Q. THE ISSUE OF QWEST BILLING A CLEC FOR SOME ELEMENTS OF**
16 **A COMBINATION, BEFORE ALL ELEMENTS WERE PROVISIONED**
17 **WAS DISCUSSED IN ARIZONA AND SUBSEQUENT CHANGES WERE**
18 **MADE BY QWEST IN PARAGRAPH 9.23.3.13. WERE THOSE**
19 **CHANGES SUFFICIENT?**

20 A. Not quite. Qwest did agree that it would not begin billing for some elements of a
21 Combination until all requested elements of that Combination were provided,
22 except in the case where it is not technically feasible to provision a UNE until a

1 later date. WCom would find that exception acceptable if, in addition, it were
2 conditioned on the CLEC agreeing to accept just those elements that could be
3 provisioned at that time. Otherwise, Qwest should be willing to delay
4 provisioning and billing of the elements until it was technically feasible to
5 provision all elements of the Combination.

6 **Q. DOES WCOM CONTINUE TO HAVE CONCERNS WITH QWEST**
7 **PROVISIONS REGARDING CONTACT BY QWEST TO CLEC**
8 **CUSTOMERS CONTAINED IN PARAGRAPH 9.33.3.17?**

9 A. Yes. While this was debated in Arizona it appears that Qwest has not yet agreed
10 to resolve WCom's concerns in this area.

11 **Q. CAN YOU DESCRIBE THOSE CONCERNS MORE FULLY AND ALSO**
12 **WHAT WCOM'S PROPOSED SOLUTION WOULD BE?**

13 A. Certainly. This paragraph properly provides that the CLEC is responsible for
14 interaction with its end user customer. Also, in the event the CLEC end user
15 customer contacts Qwest regarding the CLEC service, Qwest will instruct the end
16 user to contact the CLEC. So far, so good. However, Qwest then adds the broad
17 statement that "nothing in this Agreement shall be deemed to prohibit Qwest from
18 discussing its products and services with CLEC's end user customers who call
19 Qwest."

20 WCom recognizes that it would be fully appropriate for Qwest to discuss
21 its products and services with a WCom end user customer who called Qwest to
22 inquire about such products and services. However, it would be equally

1 inappropriate for Qwest to take the opportunity to try to convince a WCom
2 customer to convert to Qwest service when Qwest personnel were interacting with
3 the WCOM customer on behalf of WCOM or when the WCom customer called
4 Qwest (likely in error) regarding WCom service.

5 As an example, if the Qwest installer who is provisioning unbundled loops
6 for WCom at our end user customer's premises tried to convince the end user
7 customer that they would be better off ordering directly from Qwest; that would
8 be highly inappropriate. Similarly, it would be improper for a Qwest service
9 representative to try to convince a WCom end user customer to convert to Qwest
10 service if the customer called Qwest in error to request repair service or a billing
11 credit on their WCom local service.

12 WCom would recommend that the phrase "and requests information
13 regarding Qwest products and services" be added to the end of the last sentence in
14 SGAT paragraph 9.23.3.17.

15 **Q. CAN YOU DESCRIBE THE WCOM CONCERN WITH QWEST DATA**
16 **REQUIREMENTS SPECIFIED IN THE ORDERING PROVISIONS**
17 **RELATED TO UNE COMBINATIONS CONTAINED IN PARAGRAPH**
18 **9.23.5.5?**

19 A. Yes. Qwest proposes that the CLEC must provide Qwest with complete end user
20 customer listing information for Directory Listings and 911 Emergency Services
21 for all end-user customers served by UNE combinations. While this is
22 appropriate for new service, it would be unnecessary and possibly dangerous in

1 the situation where an end user customer wishes to change service providers but
2 make no change in their listing service. Particularly in the case of 911 Emergency
3 Services, if there is no need to make a change in the 911 listing for an end user
4 customer who is simply changing their carrier, the risk of error in updating the
5 listing information with no actual changes should be avoided.

6 WCom recommends that this paragraph of the SGAT be modified by
7 adding the following sentence. “However, for migration of customers ‘as is’,
8 Qwest will make no change in existing Directory Assistance, Directory Listings,
9 and 911 Emergency Services unless requested to do so by the CLEC.”

10 **Q. DO YOU HAVE ANY OTHER POINT YOU WOULD WISH TO RAISE**
11 **CONCERNING THIS SECTION OF THE SGAT?**

12 A. Yes. While it is clear that much progress has been made between the CLECs and
13 Qwest to improve the terms and conditions for provision of Unbundled Elements
14 and Combinations, I would like to point out that even the best of terms are
15 insufficient to allow competitive choices for end user customers without pricing
16 that provides for economic competition. WCom is particularly concerned with
17 the level of prices proposed by Qwest in Washington for both the non-recurring
18 and monthly recurring charges associated with UNE-P combinations. We believe
19 that successful competition and choices for end user customers will not
20 materialize without reductions in those price levels. WCom will continue to
21 advocate lower Qwest prices in the appropriate regulatory proceedings and in our
22 individual negotiations with Qwest. While I recognize that pricing will not be

1 decided in this specific workshop, I felt it important to raise this issue as part of
2 my testimony as it will have a direct impact on the success of UNE-Combinations
3 as an effective competitive offering and, I believe, will play a direct role in
4 affecting the eventual FCC decision regarding Qwest's 271 request.

5 **Q. DOES THAT CONCLUDE YOUR TESTIMONY AT THIS TIME?**

6 **A. Yes, thank you.**