

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Petition of) Docket No. UT-030614
QWEST CORPORATION)
)
For Competitive Classification of Basic)
Business Exchange Telecommunications)
Services)
)

DIRECT TESTIMONY

OF

R. NEIL COWAN

ON BEHALF OF

**AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.,
AT&T LOCAL SERVICES ON BEHALF OF TCG SEATTLE, AND TCG
OREGON (COLLECTIVELY "AT&T")**

August 13, 2003

REDACTED VERSION

1

I. INTRODUCTION

2 **Q. PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT, AND**
3 **BUSINESS ADDRESS.**

4 A. My name is R. Neil Cowan. I am employed by AT&T as a Supervisor for Local
5 Services and Access Management in the Network System Division for the
6 company's Western Region. My business address is 1875 Lawrence Street,
7 Denver, Colorado 80202.

8 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

9 A. In my official capacity, I analyze and report on local exchange companies' access
10 tariffs. I also perform analysis on intrastate access pricing and access costing
11 methodologies for advocacy purposes. In addition, I am responsible for managing
12 certain interstate and intrastate special access contracts between AT&T and Sprint
13 Local Telephone Companies. I have participated on special teams within AT&T
14 responsible for analyzing interstate switched access tariff filings for price-cap and
15 rate of return ILECs. I have also performed analysis on the administration and
16 implementation of State Universal Service Funds in Idaho, Iowa, Minnesota,
17 Nebraska, and Oregon.

18 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND**
19 **AND WORK EXPERIENCE.**

20 A. I have a Bachelor of Arts degree in History from Colorado State University
21 graduating summa cum laude. I am currently pursuing a Masters of Business
22 Administration from the University of Colorado at Denver specializing in

1 accounting. I plan to sit for the CPA examination upon completion of my Masters
2 Degree.

3 Since graduating from Colorado State University in 1994, I have been employed
4 mainly in managerial capacities. From July 1994 to January 1995, I worked for
5 Citicorp Retail Services as a retail credit analyst. From October 1994 through
6 February 1996, I worked as a unit manager for Credit Management Services in the
7 corporate collections industry. In April 1996 through May 1997, I worked as a
8 manager for the Hertz Corporation where I performed various operational and
9 financial duties. From June 1997 through October 1999, I worked as an Account
10 Coordinator for the Xerox Corporation. In this capacity, I managed the operations
11 and billing for mid-sized production facility for AT&T. In November 1999, I
12 obtained my present position with AT&T.

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

14 A. The purpose of my testimony is to examine the quality of Qwest's evidence
15 supporting its Petition and recommend to the Washington Utilities and
16 Transportation Commission ("Commission") adoption of AT&T's position based
17 upon my analysis of the evidence. In short, it is Qwest's burden of proof in this
18 proceeding to establish the existence of "effective competition" for basic business
19 services in every location where it seeks relief. Upon closer scrutiny of Qwest's
20 evidence, I must conclude that Qwest has failed to meet its burden, and the
21 Commission should therefore deny Qwest's Petition.

22 The past eight years have made clear that local competition develops slowly, and,
23 it is, as shown by Qwest's reliance upon certain data in this proceeding, heavily

1 dependent upon the incumbent permitting entrants to lease network facilities to
2 compete. At the very same time that Qwest seeks greater flexibility to respond to
3 UNE-based competition, it is also working to eliminate its unbundling obligations
4 that give rise to that competition and this Petition.¹ Therefore, AT&T
5 recommends that the Commission carefully scrutinize Qwest's sweeping claims
6 regarding competition; when it does AT&T is confident it will conclude that
7 Qwest has failed to prove that it faces effective competition for basic business
8 services throughout the State of Washington.

9 **II. QWEST'S PETITION AND EVIDENCE GENERALLY**

10 **Q. ARE YOU FAMILIAR WITH QWEST'S PETITION FOR COMPETITIVE**
11 **CLASSIFICATION?**

12 A. Yes, I have reviewed Qwest's Petition for Competitive Classification along with
13 the testimony of Qwest's witnesses. Qwest identifies in both its Petition and in
14 the testimony of Mr. Reynolds the basic business exchange services for which it
15 seeks competitive classification.² The list includes, among other things, basic flat
16 rated business service, basic measured business services, CUSTOMCHOICE,
17 Foreign Exchange ("FX") Service, Centrex services, Private Branch Exchange
18 ("PBX") services and numerous features. Qwest claims it needs to compete "on

¹ As the Commission is well aware, once the FCC publishes its Triennial Review Order, it is likely that Qwest will seek to convince this Commission that it should eliminate UNE-P as a wholesale offering.

² Petition for Competitive Classification at Attachment A; Mark S. Reynolds Direct Testimony at Exh. MSR-2.

1 more equal terms and conditions with its competitors.”³ In fact, Qwest already
2 has a tremendous advantage over all its competitors by being, not only the market
3 dominant provider, but also the sole, in most cases, wholesale provider of loop
4 and other essential facilities.

5 **Q. HAVE YOU DRAWN ANY CONCLUSIONS FROM YOUR REVIEW?**

6 A. Yes. Through its Petition Qwest is essentially seeking competitive classification
7 or near deregulation of its basic business exchange services on a statewide basis.

8 However, Qwest has failed to meet its burden of proof that its basic business
9 exchange services in fact face “effective competition” on a statewide basis.

10 Moreover, if Qwest seeks and obtains the right to withdraw its unbundled network
11 element platform offering during the Triennial Review process, it will undercut
12 the very competition it relies upon here to make its case for competition.

13 **Q. WHAT IS THE STANDARD THAT QWEST MUST MEET?**

14 A. By statute, Qwest must meet the following standard:

15 The commission may classify a telecommunications service
16 provided by a telecommunications company as a competitive
17 telecommunications service if the service is subject to effective
18 competition. Effective competition means that customers of the
19 service have reasonably available alternatives and that the service
20 is not provided to a significant captive customer base. In
21 determining whether a service is competitive, factors that the
22 commission shall consider include but are not limited to:

23 (a) The number and size of alternative providers of services;

24 (b) The extent to which services are available from alternative
25 providers in the relevant market;

³ Mark S. Reynolds Direct Testimony at 5.

1 (c) The ability of alternative providers to make functionally
2 equivalent or substitute services readily available at
3 competitive rates, terms, and conditions; and

4 (d) Other indicators of market power, which may include
5 market share, growth in market share, ease of entry, and the
6 affiliation of providers of services.⁴

7 If the Commission determines that Qwest's services meet this standard, then
8 Qwest will be free to provide such services under a price list based upon ten days
9 notice.

10 **Q. UNDER SUBPART (d) OF THE STATUTE, ARE THERE "OTHER**
11 **INDICATORS OF MARKET POWER" THAT AT&T RECOMMENDS**
12 **THE COMMISSION CONSIDER IN THIS PROCEEDING?**

13 A. Yes. In this context, AT&T believes it is appropriate to consider whether the
14 alleged "effective competition" is stable competition within specifically identified
15 geographic areas. That is, by its own admission, Qwest's evidence of alleged
16 "effective competition" is largely reliant upon Qwest's tracking of competitive
17 local exchange carrier's ("CLEC") wholesale use of UNE loops, UNE-P and
18 resold lines provided by Qwest.⁵ Based upon these services, Qwest claims it
19 faces statewide competition for its basic business services. Setting aside for a
20 moment that CLECs are not providing any basic business services in certain areas
21 within this State, Qwest—as the sole wholesale supplier of these essential
22 facilities—can engage in price manipulations, poor wholesale service quality,
23 delayed service provisioning and myriad other acts aimed at destroying the
24 competition. Not only is Qwest the market's dominant retail provider, but in

⁴ RCW 80.36.330(1).

1 many places it is the sole wholesale supplier. Should Qwest cease providing
2 UNE-L, UNE-P or resale in any given area, it could wipe out competition
3 completely. This “dominant retail provider, sole wholesale supplier” relationship
4 makes competition inherently unstable, and therefore not particularly “effective”
5 over the long run. As a consequence, AT&T recommends that the Commission
6 consider whether there exists at least two facilities-based competitors coupled
7 with a sufficiently stable supply of UNE-L, UNE-P and resale over the long run
8 before it finds competition in any given geographic area is “effective.”

9 **III. FACTORS REQUIRED TO DEMONSTRATE EFFECTIVE**
10 **COMPETITION FOR BASIC BUSINESS SERVICES IN WASHINGTON**

11 **Q. IN ITS WITNESS’ TESTIMONY, QWEST REFERENCES THE**
12 **“RELEVANT MARKET.”⁶ WHAT IS THE RELEVANT MARKET IN**
13 **THE CONTEXT OF THIS PROCEEDING?**

14 **A.** While Qwest’s Petition and testimony is somewhat unclear in the precise scope of
15 the market, it would appear that Qwest has defined the relevant market as the
16 basic business services market not limited to any specific geographic area (*e.g.*,
17 within Qwest’s territory), but rather over the entire state.⁷ The difficulty with
18 such a definition is that Qwest has failed to identify specifically where it actually
19 faces quantifiable “effective competition.” Instead, Qwest asks the Commission
20 to take it on faith that the existence of resale or UNE competition somewhere in

⁵ Petition for Competitive Classification at 4, ln. 6; David L. Teitzel Direct Testimony at 3.

⁶ Mark S. Reynolds Direct Testimony at 8.

⁷ Petition for Competitive Classification at 1, ln. 16; *but cf.* David L. Teitzel Direct Testimony at 6 (discussing only competition within Qwest’s service territory).

1 the State is equivalent to the existence of competitors everywhere. Qwest
2 essentially equates opening the local market to competition, as is the standard for
3 § 271 relief, to “effective competition” everywhere.⁸

4 **Q. IS IT IMPORTANT TO REVIEW LOCAL MARKET CONDITIONS IN**
5 **SPECIFIC GEOGRAPHIC AREAS FOR BASIC BUSINESS SERVICES**
6 **TO DETERMINE QWEST COMPETITIVE CLASSIFICATION?**

7 A. Yes. As Staff’s analysis purports to show, actual competitive alternatives may
8 exist in some places and not others.⁹ Staff’s aggregated CLEC data for basic
9 business access lines shows that in large exchanges [REDACTED]

10 [REDACTED]
11 CLECs have made some gains in market share primarily using Qwest wholesale
12 services. However, in many other exchanges there exists little, if any, CLEC
13 presence [REDACTED]

14 [REDACTED]¹⁰

15 Clearly Staff recognizes that “effective competition” should be judged on a wire-
16 center-by-wire-center or exchange-by-exchange basis and not statewide as Qwest
17 does. Moreover, competitive classification would shift consumer protection from
18 the Commission to the marketplace. The more competition there is in a precisely
19 defined market, the more appropriate deregulation becomes. Conversely, where
20 competition cannot be expected to provide an effective constraint on the
21 incumbent’s behavior, then regulation by the Commission is a necessity, and by

⁸ See David L. Teitzel Direct Testimony at 2-3.

⁹ CLEC aggregated line-count data provided by WUTC Staff or basic business services.

¹⁰ *Id.*

1 extension, one must wonder how Qwest would prove “effective competition”

2 existed under such circumstances.

3 **Q. HAVE YOU REVIEWED THE COMPETITIVE LANDSCAPE FOR**
4 **BASIC BUSINESS SERVICES IN WASHINGTON?**

5 A. Yes. I reviewed the alleged competitive conditions in Washington as presented in
6 Qwest’s Petition, the Direct Testimony and the numerous data responses
7 generated in this proceeding. My review has made clear a few points concerning
8 competition and the factors required for its proof:

- 9 • Qwest’s overstatement of the number of alternative providers
10 of basic business services and its failure to identify the
11 geographic scope of such offerings leads to false conclusions
12 regarding the state of competition for basic business services.
- 13 • Along with growing CLEC market share, there are other
14 reasons why Qwest’s market share has declined.
- 15 • Competition for the core of the traditional wireline phone
16 market – in this particular case basic business services –
17 depends upon stable access to the network element
18 combination known as UNE-P.

19 I will tie each of these observations to the relevant factors required under the
20 statute.

21 **Q. WITH RESPECT TO YOUR FIRST POINT, WHAT FACTOR DOES**
22 **THAT RELATE TO?**

23 A. It relates to the first three factors regarding number and size of alternative
24 providers; the alternative services available in relevant markets; and the
25 functionally equivalent or substitute services from alternative providers.

1 **Q. DO YOU AGREE WITH QWEST’S ARGUMENTS REGARDING THE**
2 **NUMBER OF ALTERNATIVE SERVICE PROVIDERS?**

3 A. No, I believe Qwest has overstated the number of alternative providers and it has
4 not, other than in cursory fashion, even considered their respective sizes. Qwest’s
5 Petition states that there were 161 CLECs registered with the Commission as of
6 March 3, 2003.¹¹ I recently inspected this same web site and found that as of
7 July 29, 2003, there were only 149 registered CLECs. In fact, closer examination
8 of the first 25 entities listed produced the following results:

- 9 • 14 appear to be currently operating.
- 10 • 5 provided services other than basic business services, these
11 services included web hosting, professional answering services,
12 number portability solutions, order processing, and pre-paid
13 residential phone service.
- 14 • The remaining 6 companies do not appear to be in operation.¹²

15 Qwest’s implication that all 161 CLECs are competitors of Qwest for basic
16 business services is simply misleading. In addition it appears that Qwest counted
17 itself or an affiliate among the registered CLECs.¹³ Thus, the mere fact that some
18 number of competitive providers reside on the Commission’s web site is—in and
19 of itself—inconclusive and not a reliable measure of the number of real
20 alternative providers offering competing basic business services.

¹¹ Qwest Petition for Competitive Classification at 3 (citing Commission web site www.wutc.wa.gov).

¹² To determine if companies were operating or not, web-based searches were conducted using Google and Yahoo web search engines. Qwest Dex was also utilized to determine if companies had a phone listing.

¹³ Of the 149 entities listed by the WUTC, Qwest Communications Corporation and USLD Communications, Inc. were listed.

1 **Q. HAS QWEST EXAMINED ANY OTHER INDICIA THAT MIGHT**
2 **REVEAL THE NUMBER OF REAL ALTERNATIVE PROVIDERS?**

3 A. Well, Qwest has offered up the number of interconnection agreements it has with
4 CLECs as “an indicator of the number of alternative providers.”¹⁴ But here again,
5 the number of agreements is only an indication of the number of agreements, not
6 the number of alternative basic business providers in any given area.

7 **Q. WHAT IS THE APPROPRIATE NUMBER OF ALTERNATIVE SERVICE**
8 **PROVIDERS?**

9 A. As an initial matter only those providers actually in business and offering the
10 same or similar services as Qwest’s basic business services and features should be
11 considered, and not—as Qwest implies—all CLECs with interconnection
12 agreements or registrations. Of the relevant subset, the Commission should
13 consider where precisely those CLECs are operating and the location of the
14 customer bases that actually enjoy such competition. Thus, for factors (a) and (b)
15 the Commission should consider only real alternative providers, their respective
16 sizes and the locations in which they actually offer service. Unfortunately, Qwest
17 has failed to provide this information.

18 **Q. WHAT EFFECT DOES THIS OVERSTATEMENT HAVE ON QWEST’S**
19 **PETITION?**

20 A. Overstating the number of basic business service competitors and ignoring the
21 relevant market leads to overstatement of the alternative providers for these
22 services. Failing to examine the places where competition is actually occurring

¹⁴ Direct Testimony of Mark S. Reynolds at 7.

1 and instead relying on potential competition based upon the § 271 standard of
2 open markets, does not meet the requirements of “effective competition.”¹⁵
3 Relying upon such data can only lead to conclusions that are false and misleading.

4 **Q. HOW DOES QWEST ATTEMPT TO PROVIDE SUPPORTING DATA**
5 **CONCERNING ALTERNATIVE SERVICES OR FUNCTIONAL**
6 **EQUIVALENTS, AND IS IT SUCCESSFUL IN ITS SUPPORT?**

7 No, it is not successful in its support. In the direct testimony of Mr. Reynolds, he
8 makes the comparison between Qwest and CLECs for basic business retail
9 offerings. He provides a matrix identifying only 32 companies’ price lists to that
10 of Qwest’s for certain, but not all, the basic business services for which Qwest
11 seeks competitive classification.¹⁶ The 32 companies is a dramatic drop from the
12 161 registered CLECs and the 152 approved interconnection agreements cited as
13 indicia of alternative providers. Moreover, the 32 providers identified don’t even
14 offer a one-for-one comparison of all the services in all the locations that Qwest
15 wants reclassified.

16 **Q. LET’S TURN TO YOUR SECOND POINT REGARDING CLEC AND**
17 **QWEST MARKET SHARE RESPECTIVELY. WHAT FACTOR, IF ANY,**
18 **DOES THAT POINT RELATE TO?**

19 A. It relates to factor (d) and the various market share and market growth
20 considerations.

¹⁵ See e.g., *id.* at 9-10 (Mr. Reynolds suggesting that because Qwest offers UNEs over the entirety of its facilities throughout its territory, “CLEC services are available everywhere.” Similarly, he states that resale affords CLECs the ability to “reach every single business customer that Qwest now serves.”).

¹⁶ *Id.* at Exhibit MSR-4.

1 **Q. DOES QWEST OFFER ALLEGED ESTIMATES OF ALTERNATIVE**
2 **PROVIDERS' GROWTH IN MARKET SHARE?**

3 A. Yes, Mr. Reynolds claims that CLECs are realizing “positive” growth in a
4 comparison of year-end 2001 to 2002.¹⁷ He also offers, from a proprietary exhibit
5 MSR-5C, filed with his direct testimony, the suggestion that the number of
6 CLECs submitting Local Service Requests (“LSRs”) and the number of LSRs
7 processed by Qwest somehow demonstrates growth. His exhibit implies that
8 because ■■■ CLECs submitted LSRs,¹⁸ this allegedly indicates the number of
9 CLECs that have purchased wholesale services from Qwest in order to provision
10 apparently some type of business service. The truth of the matter is that LSRs
11 maybe submitted and amended and resubmitted. It may take Qwest months and
12 months to process and provision certain LSRs. Moreover, CLECs may request
13 any number of local services, not just basic business services (*e.g.*, they may
14 request interconnection trunks, 911 trunks and other facilities that have little or
15 nothing to do with demonstrating actual growth in the provision of competing
16 basic business services throughout the State. In short, this “evidence” requires a
17 tremendous leap of faith and logic to believe it is a good measure of growth in
18 market share of competitive, truly alternative basic business services.

¹⁷ *Id.* at 13.

¹⁸ *Id.* at Revised Exhibit MSR-5C.

1 **Q. WHAT ABOUT THE OTHER ALLEGED MEASURES CONTAINED IN**
2 **MSR-5C; DO ANY OF THEM REVEAL THE TRUE LEVEL OF**
3 **EFFECTIVE COMPETITION IN THE RELEVANT MARKET?**

4 A. No. The alleged increase in the number of interconnection agreements does not
5 reveal whether Qwest has counted amendments to existing agreements or new
6 agreements replacing expiring agreements. And, as noted above, the number of
7 agreements does not reveal the true number of alternative providers offering
8 functionally equivalent basic business services in any specific geographic area.
9 Likewise, the “quantity” of UNE-Ps, whatever that term quantity means (*i.e.*,
10 orders only, provisioned and operable platforms in use, etc.) does not reveal or
11 support Qwest’s implication that such platforms are used to actually provide the
12 basic business services at issue here.

13 **Q. YOU MENTIONED IN REGARD TO YOUR SECOND POINT THAT**
14 **THERE MAY BE OTHER REASONS THAT QWEST MAY**
15 **EXPERIENCE A DECLINE IN BASIC BUSINESS SERVICE LINES.**
16 **WHAT ARE SOME OF THOSE REASONS?**

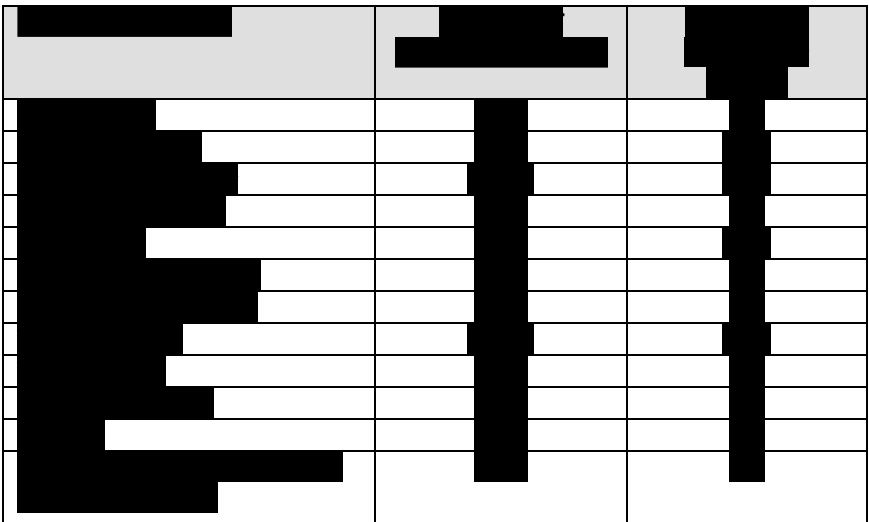
17 A. Qwest’s Petition purports to show that there has been growth in CLEC market
18 share for basic business services. At the same time Qwest claims that it has
19 experienced reductions in market share for these same services. While there may
20 be some growth in CLEC market share for some unidentified basic business
21 services, such growth does not constitute the only reason Qwest has lost market
22 share.

1 There are a whole host of reasons why Qwest experienced reductions in the
2 number of basic business services it sells. For example, Qwest's business
3 customers may have succumbed to the economic downturn and simply gone out
4 of business or they may have attempted to cut costs by reducing their
5 telecommunications costs. Moreover, some of the more fortunate customers may
6 migrate away from their existing service to a different, and perhaps more
7 advanced service, with Qwest. Whether it is due to "up-selling" the customer, or
8 a customer's needs changing, Qwest has had existing relationships with customers
9 to facilitate a customer's change in service, and Qwest could certainly record that
10 as a loss of sale of basic business services while neglecting to mention that the
11 customer had migrated to a more advanced business service not at issue in this
12 proceeding. In fact, Qwest's data responses support these possibilities. As
13 produced by Qwest, disconnect reasons may vary from abandoned service to a
14 customer's downsizing to a customer moving locations.¹⁹ In the following table, I
15 have extracted disconnect orders greater than 1000 that Qwest has compiled from
16 July 2002 through June 2003.²⁰

¹⁹ Data presented from Qwest Data Response to PC 03-025, Confidential Attachment A.

²⁰ *Id.*

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While competitive disconnect orders may be the largest category of disconnects, it is interesting to note another category of disconnect orders relates to disconnections based upon price. According to this same source, disconnect orders based upon price were only [REDACTED] for the same period [REDACTED] [REDACTED].²¹ Thus, Qwest's purported need for rapid pricing flexibility seems to be overstated as well.

Q. ARE THE VARIOUS REASONS FOR DISCONNECT IMPORTANT TO DEVELOPING AN OVERALL UNDERSTANDING OF THE COMPETITIVE ENVIRONMENT FOR BASIC BUSINESS SERVICES?

A. Yes. One should not draw the direct correlation between growth in CLEC market share and a decline in Qwest's market share for basic business services. There are other valid reasons why Qwest would experience reductions to the number of basic business service lines, some of which benefit Qwest.

²¹ *Id.*

1 **IV. OTHER INDICATORS OF EFFECTIVE COMPETITION**

2 **Q. IN ITS PETITION AND TESTIMONY, QWEST ASSERTS THAT THE**
3 **TRIENNIAL REVIEW WILL NOT AFFECT THE VALIDITY OF ITS**
4 **REQUEST FOR COMPETITIVE CLASSIFICATION. DO YOU AGREE**
5 **WITH THIS POSITION?**

6 **A.** No, absolutely not. Qwest admits that this Petition is reliant upon the claim of
7 effective competition allegedly existing through CLEC use of UNE loops, UNE-P
8 and resale.²² When the Triennial Review proceedings begin, AT&T fully expects
9 Qwest to oppose the continuation of UNE-P by arguing that it is unnecessary for
10 competition, yet here Qwest relies upon it to prove competition. It seems Qwest
11 wants to have it both ways.

12 **Q. IS THERE AN IMPACT ON COMPETITION FOR BASIC BUSINESS**
13 **SERVICES IF UNE-P IS WITHDRAWN?**

14 **A.** Yes, I believe it is fair to conclude that the competition Qwest faces via UNE-P
15 provisioned basic business services will, at least initially and in some cases
16 forever, disappear. Moreover, the fact that UNE-P may or may not be allowed in
17 the future creates uncertainty in the CLECs' business plans and as a practical
18 matter diminishes competition through that medium. That said, the Commission
19 should either strike all the data related to UNE-P and rely solely upon what Qwest
20 is willing to continue provisioning (*i.e.*, UNE loop and resale) or disallow
21 Qwest's request for competitive classification unless it continues to provision all

²² Mark S. Reynolds Direct Testimony at 7-8.

1 the UNE options it relies upon in this proceeding. Qwest shouldn't be allowed to
2 have its cake and eat it too.

3 **Q. HOW IMPORTANT IS UNE-P TO THE PROVISION OF COMPETITIVE**
4 **BUSINESS SERVICES?**

5 A. UNE-P is an important way for competitors to enter markets that serve business
6 customers; it makes ease of market entry more realistic than would sole reliance
7 upon facilities based competition. In fact, as of December 31, 2002, Qwest shows
8 that UNE-P is used by CLECs [REDACTED] of the time as compared to Unbundled
9 Loops [REDACTED] and resold lines [REDACTED]. Qwest employs the total amount of
10 CLEC UNE-P lines to demonstrate the alleged growth in CLEC market share.
11 Continued availability of UNE-P will only allow competitors to make additional
12 gains into the business services market, and provide the benefits of competition to
13 business service consumers.

14 **Q. WHAT WOULD THE LACK OF UNE-P MEAN, IF ANYTHING TO**
15 **CLEC MARKET ENTRY?**

16 A. Removing, or altering, the existing structure of UNE-P as a way CLECs can
17 provide competitive services to business consumers will make competitive entry
18 more difficult, and—as I noted above—will likely discourage competition.

19 **Q. GIVEN THE UNSTABLE NATURE OF THE UNE-P PRODUCT'S**
20 **EXISTENCE SHOULD THE COMMISSION BASE ITS DECISION OF**
21 **QWEST'S COMPETITIVE CLASSIFICATION ON SUCH A PRODUCT?**

22 A. No, as I mentioned above, Qwest should not be allowed to rely upon data that it
23 faces roughly [REDACTED] of its basic business competition from CLECs employing

1 UNE-P when that competition could disappear shortly. An alternative to simply
2 denying competitive classification in geographic areas where the Commission
3 actually found Qwest faced effective competition for basic business services
4 might be for the Commission to condition Qwest's classification upon the
5 continued existence of the UNE-P product in those areas.

6 **Q. ASSUMING FOR ARGUMENT'S SAKE THAT THE COMMISSION**
7 **FINDS QWEST FACES EFFECTIVE COMPETITION FOR BASIC**
8 **BUSINESS SERVICES IN SOME GEOGRAPHIC LOCATIONS, ARE**
9 **THERE ANY OTHER CONDITIONS AT&T BELIEVES ARE**
10 **NECESSARY FOR THE COMMISSION TO IMPOSE UPON QWEST?**

11 A. For competition to be "effective" it must be sustainable for the long term. From
12 AT&T's perspective stability in the wholesale provisioning of UNEs, including
13 and especially UNE-P (and correct pricing—which is not the subject of this
14 proceeding), creates one of the greatest incentives to foster the growth of
15 competition and sustain it. While stability is important, the quality and timeliness
16 of such provisioning is also important to maintaining competition. Provisioning
17 quality is judged, in large measure, by the various performance indicators
18 contained in Qwest's Performance Assurance Plan ("PAP"). And to the extent
19 that Qwest fails to meet these performance requirements, it can and does do harm
20 to the CLEC communities' ability to compete.

21 Because Qwest is the sole CLEC supplier of UNE loop, UNE-P and resale
22 products in the self-same markets it competes with CLECs, the Commission

1 should consider imposing the following conditions upon Qwest if it reclassifies
2 any of Qwest's basic business services:

- 3 • reclassify Qwest services only in geographic locations where it has
4 actually proven it faces effective competition;
- 5 • require Qwest to provide UNE loop, UNE-P and resale obligations,
6 unchallenged by Qwest during Triennial Review or in any proceeding
7 thereafter for a period of ten years and removed only upon a showing of
8 effective competition without the provision of such wholesale services;
- 9 • require that Qwest meet all its PAP requirements in any consecutive three
10 month period or lose its competitive classification in those areas wherein it
11 has failed; and
- 12 • require that Qwest establish pricing floors for each basic business service
13 that is reclassified.

14 **V. CONCLUSION**

15 **Q. DO YOU HAVE ANY FINAL THOUGHTS YOU WOULD LIKE TO**
16 **SHARE WITH THE COMMISSION?**

17 A. Yes. In the context of this proceeding I would urge the Commission to take a
18 strong look at whether Qwest is in fact facing effective, stable competition for its
19 basic business services in each of its wire-centers or by specific geographic area.
20 Prematurely releasing the market dominant carrier/supplier to compete with
21 nascent CLECs could dismantle competition instead of encouraging its growth.
22 AT&T highly recommends that the Commission simply deny Qwest's Petition
23 because it has failed to meet its burden of proof.

24 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

25 A. Yes it does.