Exhibit _____ MEA T-1

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the	)	
	)	
Continued Costing and Pricing of Unbundled	)	Docket No. UT-003013
Network Elements, Transport and	)	Part B
Termination	)	

RESPONSE TESTIMONY OF

MARK E. ARGENBRIGHT

ON BEHALF OF

WORLDCOM, INC.

October 23, 2000

Exhibit _____ MEA T-1

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS.

A. My name is Mark E. Argenbright. My business address is 6 Concourse Parkway, Suite 3200, Atlanta, GA 30328.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION WITH YOUR EMPLOYER.

A. I am employed by WorldCom, Inc. ("WCom") in the Law and Public Policy group and hold the position of Sr. Staff Specialist, State Regulatory Policy. In my current position I assist in the development and coordination of WCom's regulatory and public policy initiatives for the company's domestic operations. These responsibilities require that I work closely with our state regulatory groups across the various states, including Washington.

Q. PLEASE DESCRIBE YOUR TELECOMMUNICATIONS BACKGROUND AND EDUCATION.

A. WithinWCom, I held the position of Senior Manager, Regulatory Analysis and was responsible for performing regulatory analysis in support of a wide range of the company's activities. Prior to that, I was employed by the Anchorage Telephone Utility (now known as Alaska Communications Systems) as a Senior Regulatory Analyst and American Network, Inc. as a

Tariff Specialist. I have worked in the telecommunications industry for sixteen years, with the majority of my positions in the area of regulatory affairs. I received a Bachelor of Science Degree in Business Administration from the University of Montana in 1980.

Q. Have you previously testified?

A. Yes, I have testified on several occasions before various state regulatory agencies including the Washington Utilities and Transportation Commission. In Washington, I recently provided testimony addressing reciprocal compensation and certain interconnection issues in Consolidated Docket Nos. UT-003022 and UT-003040, concerning the investigation of Qwest's compliance with section 271 of the Telecommunications Act of 1996 (the "Act") and the review of its Statement of Generally Available Terms ("SGAT").

Q. WHAT IS THE PURPOSE OF YOUR RESPONSIVE TESTIMONY?

A. The purpose of my testimony is to respond to Qwest's and Verizon's testimony regarding inter-carrier compensation for traffic terminated to Internet Service Providers ("ISP").. I will discuss the Declaratory Ruling issued by the FCC in 1999 and Qwest's incorrect interpretations of that decision. I will then describe how the proposed "solutions" advanced by Qwest are not consistent with the economic and policy underpinnings of the FCC's First Report and Order and, contrary to Verizon's position, how any perceived problems, real or imagined, can

and should be resolved in this proceeding through the consideration of proper pricing for reciprocal compensation applicable to ALL local terminating traffic. Finally, I will address other secondary issues that have been raised by the parties to this proceeding.

Q. WOULD YOU PLEASE SUMMARIZE YOUR RESPONSIVE TESTIMONY?

A. Yes. First, the jurisdictional analysis relied on by Qwest and Verizon is incorrect from both a legal and network functionality standpoint. Qwest's and Verizon's effort to characterize calls to ISPs as interstate is not supported by the current state of the law nor does it stand-up to a close review of the network functions involved in processing such traffic. Second, the concept of cost causation advanced by Qwest does not overcome the fact that ISPs are end users, not interexchange carriers.Therefore there is no justification for changing the existing inter-carrier compensation mechanism allowing reciprocal compensation for ISP traffic

Qwest and Verizon claim that continued application of reciprocal compensation to ISP-bound traffic will result in an increase in retail local exchange rates. However, this alleged impact goes unquantified and fails to recognize that increasing traffic to the Internet is not the result of CLEC entry into the local

market.

Finally, a wholesale change to the existing inter-carrier compensation mechanism is not warranted. The only real question that need be resolved is that of the proper pricing for reciprocal compensation. Notwithstanding Qwest's and Verizon's arguments, if the rates for terminating local traffic (both ISP and non-ISP) are based on forward looking economic cost the proper incentives are sent to the market.

Q. WOULD YOU PLEASE BRIEFLY DESCRIBE WORLDCOM'S POSITION REGARDING CONTINUING THE ESTABLISHED RECIPROCAL COMPENSATION MECHANISM APPLICABLE TO TRAFFIC THAT TERMINATES TO INFORMATION SERVICE PROVIDERS?

A. Yes. WorldCom urges the Commission to continue the current practice of compensating local exchange carriers (both ILECs and CLECs) for the use of their networks to terminate ISP-bound traffic that originates on the network of another carrier through reciprocal compensation. Accordingly, in opposition to the suggestions of Qwest and Verizon:

> There should be no distinction made between traffic that terminates to ISP end users and other end users, as WorldCom does not make such

distinctions in its end user tariffs, and handles all end user traffic utilizing the same network and switches.

All traffic that does not involve interexchange carriers should be treated as local for inter-carrier compensation purposes; in accordance with the way Qwest and Verizon provide services to ISP end users out of their local exchange and general exchange tariffs.

The appropriate inter-carrier compensation mechanism for such traffic should be reciprocal, symmetrical compensation.

The appropriate inter-carrier compensation rate levels should be determined based on forward-looking economic costs. .

Q. DOES THE JURISDICTIONAL ANALYSIS OF ISP TRAFFIC ADVANCED BY QWEST AND VERIZON SUPPORT ANY NEED FOR A CHANGE TO THE EXISTING INTER-CARRIER COMPENSATION MECHANISM?

A. No. Both the Qwest and Verizon witnesses continue to assert that calls originating with one local exchange carrier and terminating to an ISP end user served by another local exchange carrier are interstate in nature. From this erroneous jurisdictional analysis, they argue that reciprocal compensation is not due because such traffic is "non-local" in nature. This position is inconsistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit[1], which vacated the FCC Declaratory ruling upon which Qwest's, and

[1] *Bell Atlantic Telephone Company v. Federal Communications Commission and United State of America*, Case No. 99-1094 (Bell Atlantic, hereinafter), slip opinion issued March 24, 2000.

Verizon's witnesses attempt to rely.

Dr. Taylor indicates his belief that an "end to end analysis of Internet calls clearly demonstrates that they are interstate." [page 8, ln 6-7, Direct Testimony] Dr. Taylor then utilizes this incorrect assertion to support his position that, "From a jurisdictional perspective, the proper model of interconnection that applies to ISP-bound calls is not that between an originating ILEC and a terminating CLEC, but that between an originating ILEC and an interexchange carrier ("IXC")." [page 4, ln 6-9, Direct Testimony]

This too is inconsistent with the D.C. Circuit's decision, which noted that the FCC, in the Declaratory Ruling, had "brushed aside" the statutory language and its own regulations and instead employed an "end-to-end analysis that it has traditionally used for jurisdictional purposes…"[2] The D.C. Circuit vacated this ruling for "want of reasoned decisionmaking."[3] It held that the FCC failed to "provide an explanation why this [jurisdictional] inquiry is relevant to discerning whether a call to an ISP" is subject to reciprocal compensation under the Act.[4] In fact, the D.C. Circuit concluded that using a jurisdictional analysis yields

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[2] *Bell Atlantic*, 206 F.3d at 4 (internal quotation marks omitted).
[3] Id. at 3.
[4] *Bell Atlantic*, 206 F.3d at 5.

"intuitively backwards results."[5] The D.C. Circuit further rejected the FCC's efforts to apply its "end-to-end" jurisdictional precedent to the reciprocal compensation context. Expressly addressing the pre-1996 Act precedents that the FCC relied upon for its end-to-end analysis in the Declaratory Ruling, the D.C. Circuit concluded that those decisions are "not on point."[6]

Therefore, notwithstanding the Qwest and Verizon witnesses' various arguments that traffic which CLECs terminate to their ISP customers is "not local traffic," there is no jurisdictional basis for the Commission to create a novel and distinct traffic type for purposes of intercarrier compensation. Rather, the currently operating compensation structure, which distinguishes only between "local" and "access" traffic – remains the appropriate intercarrier compensation structure.[7]

Q. IS QWEST'S ASSERTION THAT ACCESS CHARGES SHOULD APPLY TO ISP-BOUND CALLS CONSISTENT WITH THE NATURE OF THAT TRAFFIC?

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[5] Id. at 6.

[6] Id.

[7] The Commission reached this conclusion in Phase II of this proceeding stating "The FCC currently exempts ISP-bound traffic from access charges, so the resolution most consistent with existing FCC rules is to require reciprocal compensation." [footnote omitted] Docket No. UT-960369, et al., 17th Supplemental Order: Interim Order Determining Prices issued September 23, 1999.

A. No. Dial-up calls to ISPs are not exchange access under the terms of the 1996 Act. As defined in the 1996 Act, "exchange access" requires that the access be "for the purpose of the origination and termination of telephone toll services."[8] ISP-bound traffic cannot fall within the 1996 Act's definition of exchange access because calls to ISPs do not connect to the local network "for the purpose" of the

[8] 47 U.S.C. § 153(16).

origination or termination of telephone toll services. Rather, ISPs provide "information services," which the FCC has held are "mutually exclusive," under the 1996 Act's definitions, from telecommunications service. The mutual exclusivity of these services forecloses any determination that ISP-bound traffic is exchange access as defined in the Act.

Q. WHAT IMPACT DOES A "FUNCTIONAL" ANALYSIS OF ISP-BOUND TRAFFIC HAVE ON THE APPLICABILITY OF RECIPROCAL COMPENSATION?

A. When the functions performed in processing calls to ISPs are analyzed, particularly with regard to where the call is terminated, it is clear that the carrier which is providing the transport and termination functions for the carrier on whose network the traffic originates must be allowed to apply reciprocal compensation for the services it provides.

As discussed above, Dr. Taylor asserts that an end-to-end analysis of ISP traffic would result in the determination that ISP traffic is interstate in nature. This is based on Dr. Taylor's apparent view that 1) the vacated FCC Declaratory Order is nonetheless correct and 2) ISP traffic simply "may transit the switch of the carrier serving the ISP, but the call is then delivered to the Internet web site which, as the

FCC noted, may be located outside the state in which the call originated." [page 7-8, ln 20, ln 1-2, Direct Testimony] Additionally, Mr. Brotherson states, "From a network perspective, the routing of an ISP call is very similar to the routing of a long distance call. Both types of calls involve two local exchange carriers that are jointly providing access to an interstate service." [page 11, ln 16-19, Direct Testimony]

From a functionality standpoint Dr. Taylor's argument that calls from Qwest's end users to ISP end users served by CLECs actually terminate somewhere on the Internet has flaws. As Dr. Taylor is most likely aware, telecommunications networks utilize common signaling protocols to establish the set-up and completion of calls. If in fact calls from ILEC end users to ISP end users served by CLECs terminated somewhere on the Internet, then the ILEC's switches would receive notice of call completion from some entity other than the CLEC—presumably from an ISP. However, it is the CLEC that provides the ILEC with the information that the call has been completed. It is noteworthy that on this point the Texas Public Utility Commission found that:

> ISP-bound calls act like any other local call from the customer's perspective, from the standpoint of the switching functions performed by GTESW, and <u>from the standpoint of the switching functions that are performed by any other carrier involved in handling the call. [emphasis</u>

added][9]

In addition, if calls to ISPs do not terminate within the local calling area, it would follow that each time the ILEC's customer visits a different website, the unknown entity providing the ILEC the "mythical terminating function" would have to notify the ILEC that the call was delivered to another end user. Thus it would follow that the terminating point in the call would be every content provider that the customer visits while surfing the Internet. In reality, it is the CLEC that provides the ILEC notice of call completion when the call is delivered to its end users, which is the ISP. Again on point, the Texas Commission found that:

> GTESW provides exchange services to its end-user customers within what its tariff describes as the "exchange area" typically at flat-rate charges. From the standpoint of this local service, there is no difference between a typical local exchange call and a typical dial access connection to an Internet information destination; both are provided at a flat rate. The GTESW local switch and the MFS local switch act in exactly the same ways for each kind of call. [10]

Thus, contrary to Dr. Taylor's and Mr. Brotherson's arguments, it is technologically unsupportable to assert that a call to an ISP terminates at some

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[9] *Complaint of MFS Communications Company, Inc. Against GTE Southwest, Incorporated Regarding GTE's Nonpayment of Reciprocal Compensation.* Public Utility Commission of Texas Order P.U.C. Docket No. 21706.

[10] *Complaint of MFS Communications Company, Inc. Against GTE Southwest, Incorporated Regarding GTE's Nonpayment of Reciprocal Compensation.* Public Utility Commission of Texas Order P.U.C. Docket No. 21706.

point beyond the ISP. What this means is that the practical application of the definition of telephone exchange service fits far more logically with calls to ISPs discussed above than does the definition of exchange access service.

Q. DOES THIS ANALYSIS HAVE ANY BEARING ON EXHIBIT LBB-5 PRESENTED IN MR. BROTHERSON'S TESTIMONY?

A. Yes. Mr. Brotherson's Exhibit LBB-5 purports to show an analogy between the network utilized for delivery of traffic to an IXC and the network utilized for delivering traffic to an ISP. Mr. Brotherson's diagram is misleading because it suggests that ISPs should somehow be in a similar position as IXCs who, as carriers, are responsible for compensating the LECs for both origination and termination of a call.

However, pursuant to long-standing FCC policy, ISPs have not been classified as carriers. Rather, ISPs are treated as end users and thus unlike IXCs are not subject to exchange access arrangements. Viewed more accurately, Mr. Brotherson's Exhibit LBB-5 depicts the position of an ISP or any other *end user* in the network. Thus, Mr. Brotherson's diagram fails to support the conclusion that ISPs should be treated like IXCs.

If in contrast to Mr. Brotherson's approach, the focus is on the function performed by the CLEC as opposed to the position of the ISP in the network, the conclusion is inevitable that traffic terminated to an ISP should be treated like traffic terminated to any other end-user . When a call comes from Qwest's network to the CLEC's ISP customer, the CLEC transports the call from the point of interconnection and terminates the call to the ISP in exactly the same way as it would to any other end use customer.. The definition of call termination previously established by the FCC is "the switching of traffic that is subject to section 251(b)(5) at the terminating carrier's end office switch (or equivalent facility) and delivery of that traffic from that switch to the called party's premises."[11] The testimonies of Dr. Taylor and Mr. Brotherson, including Exhibit LBB-5, do not overcome the fact that the CLEC terminates the telecommunications to the end user's/ISP's premises. The act of "termination" is precisely what the U.S. Court of Appeals for the Fifth Circuit focused on in its review of the Texas Public Utility Commission's decision in the Time Warner reciprocal compensation dispute. In its decision issued March 30, 2000, the court cited the above referenced definition of "termination" by the FCC, concluding:

> So, under the foregoing definition, "termination" occurs when Time Warner switches the call at its facility and delivers the call to "the called party's premises," which is the ISP's local facility. Under this usage, the

[11] First Report and Order, ¶ 1040.

call indeed "terminates" at the ISP's premises.[12]

Notwithstanding Qwest's attempts to confuse the issue, it is this function of "terminating" the call to the ISP which gives rise to the need for reciprocal inter-carrier compensation.[13]

Q. DOES DR. TAYLOR'S "COST CAUSER" ARGUMENT SUPPORT THE APPLICATION OF AN INTERCARRIER COMPENSATION ARRANGEMENT FOR ISP TRAFFIC THAT IS ANALOGOUS TO THE ACCESS CHARGES PAID WITH RESPECT TO TOLL TRAFFIC?

A. No. Even if the D.C. Circuit Court of Appeals had not vacated the FCC's jurisdictional determination as to the ISP traffic, the compensation structure applicable to exchange access service cannot not applied to ISPs because they are not interexchange carriers. IXC's pay local exchange carriers for originating and terminating traffic to their toll customers who reside on the local exchange carrier's network. The exchange access model cannot be applied to ISPs because 1) they do not provide toll services, and 2) they do not pay access charges for their use of carriers' local networks.

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[12] Southwestern Bell Telephone Co. v. Public Utility Commission of Texas, U.S. Court of Appeals for the Fifth Circuit case No. 98-50787, slip opinion issued March 30, 2000.

[13] Compensation for the transport function on the CLEC's side of the point of interconnection is also appropriate.

The testimony by the Qwest witnesses attempts to remove the significance of these two facts by asserting that the ISPs are "cost causers" which, in Qwest's view, apparently renders the ISPs status as end users moot and makes the access model applicable. However, the reality is that the status of an ISP is no different than any other business customer who utilizes telecommunications as an input in providing its goods and services to the public. That is, the ISP is similarly situated with other business customers – such as credit card verification services or electronic banking services. On precisely this point the Court of Appeals' Opinion noted:

> Although ISPs use telecommunications to provide information service, they are not themselves telecommunications providers (as are long distance carriers).
>
> In this regard an ISP appears, as MCI WorldCom argued, no different from many businesses, such as "pizza delivery firms, travel reservation agencies, credit card verifications firms, or taxicab companies," which use a variety of communication services to provide their goods or services to their customers. Of course, the ISP's origination of telecommunications as a result of the user's call is instantaneous (although perhaps no more so than a credit card verification system or a bank account information service). But this does not imply that the original communications does not "terminate" at the ISP.[14]

The logical application of Dr. Taylor's "cost causation" analysis, because it ignores the significance of "end user status," would impact more than just calls to

[14] *Bell Atlantic*, slip op. at 10 (citations omitted).

ISPs. Virtually **any** end user could be accused of "causing" the originating party to place a local call (e.g., the call to the day care center was *caused* by the parent's subscription to their child care service) thereby creating a "cost" for the originating carrier through the use of its network.[15]

Just as the "end to end analysis" does not support a change based on a purported interstate jurisdiction of ISP-bound traffic, neither does Dr. Taylor's cost causation analysis support the idea that such traffic should be subject to the access charge mechanism, or an analogous régime. This analysis fails for similar reasons as the jurisdictional analysis; fundamentally, it ignores the status of an ISP as an end user and not a carrier.

Q. ARE THERE ANY OTHER NEGATIVE CONSEQUENCES ASSOCIATED WITH DR. TAYLOR'S COST CAUSER ANALYSIS?

A. Yes. Dr. Taylor's recommendation stemming from the cost causation analysis would have the Commission abandon the historical and heretofore accepted concept that it is the responsibility of the carrier on whose network traffic originates to compensate the carrier that provides the network that performs the transport and termination functions for such traffic. Qwest would have the

[15] A possible exception may be in the instance of unsolicited telemarketing calls.

Commission reject this mechanism in favor of a polar opposite concept in which the terminating carrier would be responsible for compensating the originating carrier with regard to a single traffic type – calls to ISPs. This too is simply an attempt to create a third category of traffic which could be used by Qwest to not only avoid compensating the CLEC for the use of its network for the transport and termination functions provided in conjunction with ISP traffic but to actually seek compensation for utilizing the CLEC's network.

The appropriate assignment of responsibility for payment of intercarrier compensation with respect to ISP-bound traffic must remain with the originating carrier. The appropriate level of inter-carrier compensation must continue to be based on the forward looking economic cost established for Qwest and Verizon. Only if these two requirements are maintained will the proper incentives be available in the market.

Q. PLEASE ELABORATE ON THE "PROPER INCENTIVES" THAT YOU REFERENCE ABOVE.

A. When a CLEC terminates traffic that would otherwise have terminated to a customer on Qwest's network, it relieves Qwest of the cost of performing that same call termination(s) – both in terms of capital assets and operations and

maintenance (O&M) expense. Specifically, the CLEC performs a function – using its own capital for switches and fiber rings and its own operating expenses to operate and maintain those assets – which relieves Qwest of the need to perform that same function. It is important for the Commission to recognize this fact, and acknowledge that payment from Qwest to CLECs in an amount equal to the cost it avoids by not having to perform such transport and termination functions is financially neutral to Qwest.[16]

If we change from a static to a dynamic analysis, the result is the same. Looking at the matter dynamically, we can assume that certain types of calls placed by Qwest's end users – i.e., 7- and 10- digit calls to ISPs—have grown more rapidly than other types of calls. Absent entry by third parties, these increasing traffic demands on Qwest's network would create significant pressure on its engineers to augment existing switching and transport capacity to handle the additional call terminations demanded by its end users. Such capacity demands would, of

[16] This narrow analysis focuses solely on the question of whose network terminates traffic. A broader analysis would suggest that Qwest and Verizon suffer competitive losses by losing the additional margin or profit on the services it would otherwise sell to ISPs. Such competitive losses – real or potential – provide an incentive to Qwest to attack its competitors' ability to provide service to ISP customers. I believe it would be beneficial for the Commission to ask as an overarching question whether it is more preferable for Qwest and Verizon to serve virtually all ISPs as part of its customer mix than for CLECs to provide service to a customer mix which also includes ISPs.

course, require outlays by Qwest in capital investment and O&M expense. The fact of other carriers risking their own capital investment to enter Washington markets has relieved Qwest of at least a portion of the capital and expense outlays it otherwise would have faced.

Q. QWEST ALLEGES A MISMATCH BETWEEN ITS LOCAL SERVICE REVENUES AND THE MONEY IT PAYS IN RECIPROCAL COMPENSATION. DOES YOUR PREVIOUS ANSWER HAVE BEARING ON THAT ALLEGATION?

A. Yes it does. Qwest would have this Commission believe that the alleged mismatch is a result of CLEC entry into the Washington telecommunications marketplace. That argument is fundamentally flawed in that it assumes that CLEC market entry is the principal "cause" of changes in the nature and volume of end users' traffic. Obviously, it is not CLEC entry which has created the phenomena of increasing traffic volumes and longer holding times. Rather, those are due to the growth of the Internet, and corresponding changes in the ways end users utilize their local telecommunications services.

There is another significant flaw in Qwest's logic – which is that there is only one class of customer—ISPs – which has high inbound traffic volumes. That is simply not the case, and represents an extremely flimsy basis for a modification to the existing reciprocal inter-carrier compensation mechanism previously set by this Commission.

To the extent that increasing traffic volumes and a shift toward longer holding times is taking place, Qwest would experience a "mismatch" between the flat-rate local service compensation it receives from end users on the one hand, and its increasing switching and transport costs on the other hand, with or without CLEC market entry.

Absent CLEC entry, the effect of any such "mismatch" would have been observed only internally to Qwest. The fact that it would have been an internal cost accounting issue rather than one involving inter-company compensation makes it no less real. That is, if it were solely an internal cost accounting issue, the relief Qwest would be seeking in this proceeding would be to raise end users' local rates to eliminate the "mismatch."

Q. DOES QWEST PROVIDE ANY QUANTIFIABLE SUPPORT FOR THE ALLEGED DISPARITY BETWEEN THE REVENUE IT RECEIVES FROM ITS RETAIL LOCAL SERVICE CUSTOMERS AND THE RECIPROCAL COMPENSATION IT PAYS TO OTHER CARRIERS FOR TERMINATING THE TRAFFIC ORIGINATED BY THOSE LOCAL CUSTOMERS?

A. No. Dr. Taylor simply asserts that "…it would be naïve to think that the originating ILEC's subscriber fully compensates that ILEC for the end-to-end cost of the ISP-bound call." [page 23, ln 10-12, Direct Testimony] Based on this

general assertion, Dr. Taylor concludes that ILEC's should not be required to compensate CLECs for the transport and termination of calls to ISPs. Further, apparently because this disparity is of such a significant level, the ISP should be required to pay the ILEC usage charges "analogous to carrier access charges paid by IXCs, i.e., the ILEC-IXC interconnection regime should apply." [page 24, ln 2-3, Direct Testimony] Dr. Taylor, based on this general assertion (with support from the faulty end-to-end analysis), then concludes that, "Only such a payment would close the gap between the full cost of the call up to the ISP and the local call charge that is assessed to the end-user by the originating ILEC." [page 24, ln 3-5, Direct Testimony].

As I stated earlier, changes in the nature and volume of originated traffic on Qwest's network could create a mismatch between retail local service revenues and network costs (again, regardless of CLEC entry). Qwest's witnesses present no evidence that such a mismatch is of such a magnitude that application of access charges (whether on the end user, ISP or CLEC) is required to "close the gap." If Qwest were asking this Commission for approval to raise retail rates based on this alleged disparity, their burden of proof for such a request would be significantly more than what has been offered here. It is also telling that Qwest, in fact, has not made such a request. The current reciprocal compensation mechanism, which was originally demanded by Qwest, has been in place for several years now. To the extent a mismatch of such magnitude exists, its effects have been impacting Qwest for quite some time now. Instead, Qwest has continued to average the cost of its high volume users (a category of customers that is larger than just those that place calls to

ISPs) over all its users. This alone would lead one to believe that the disparity, if it exists at all, is of a minor level.

Q. CAN YOU PROVIDE SOME ESTIMATION AS TO THE ADDITIONAL COST THE OBLIGATION TO PAY RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC REPRESENTS FOR THE ILECS?

A. Yes. A report released by Nielsen//NetRatings entitled *Home Internet Access Reaches Critical Mass In The U.S., According To Nielsen//NetRatings* (released August 17, 2000) provides some data with which a basic calculation can be made to estimate the potential retail revenue shortfall. The report indicates that "Internet usage has reached critical mass in the U.S., with 52 percent of the home population having Internet access and 32 percent of the home population surfing the Web in July." The report goes on to show the average on line time (at home) for all Internet users was 9 hours and 41 minutes per month for July 2000.

The table below calculates an estimated reciprocal compensation expense to the ILECs based on these facts and an assumed average reciprocal compensation rate of $0.0025 per minute. Additionally, it assumes that all the ISP-bound traffic originates from ILEC end users and terminates to CLEC served ISP end users.

Line #	Description	Unit
(1)	Average number of minutes of Internet usage	
	per line / per month	581
(2)	Reciprocal Compensation	
	Estimated average per minute rate	$0.0025
(3)	Average Monthly ILEC Reciprocal Compensation	
	"Expense" per access line with Internet access	$1.45
(4)	Percentage of U.S. access lines with	
	Internet access	52%
(5)	Average Monthly ILEC Reciprocal Compensation	
	"Expense" per access line (for total U.S. lines)	$0.76
References		
Line 1	Nielsen//NetRatings	
Line 2	Assumption	
Line 3	Calculation: (1)*(2)	
Line 4	Nielsen//NetRatings	
Line 5	Calculation: (3)*(4)	

Of course this analysis is extremely conservative in that it assumes that all dial-up Internet traffic is terminated by CLECs. In reality, Qwest and other ILECs acquire ISP end user customers as well as offer the services of their own affiliated ISP and therefore terminate a considerable amount of the Internet dial-up traffic on their own networks (essentially trading the reciprocal compensation obligation for their own network costs). Based on this, the above estimated impact is probably overstated by 50 percent or more.

This information sheds a very different light on this issue than the Commission would be led to believe based on the analysis presented by Qwest.

Q. PLEASE EXPLAIN YOUR UNDERSTANDING OF QWEST'S PROPOSED APPLICATION OF THE TANDEM SWITCHING RATE ELEMENT COMPONENT OF RECIPROCAL COMPENSATION WHEN THE INTERCONNECTION TRUNK CARRYING THE TRAFFIC IS A DIRECT TRUNK BETWEEN THE CLEC SWITCH AND THE QWEST END OFFICE.

A. As Mr. Brotherson states, "Qwest believes it is inappropriate to pay tandem switching rates when a CLEC has a direct trunked LIS group to a Qwest end office." [page 24, ln 24-25, Direct Testimony] What Qwest is seeking is to limit a CLEC's reciprocal compensation charge for transport and termination of local traffic originating from an ILEC end user and terminating to a CLEC end user when that traffic is delivered over direct trunks. Because Qwest only charges the CLEC the end office rate for traffic the CLEC delivers to Qwest over such direct trunks, Mr. Brotherson asserts that the principal of symmetry requires that the CLEC charge the same rate.

Q. DO YOU AGREE WITH THIS DETERMINATION?

A. No. Simply, the principal of symmetry is not governed by the type of interconnection trunks established between the two carriers' switches. Because the Local Interconnection Service ("LIS") trunks are "paid for" (whether by compensating the carrier providing the actual circuit(s) or by self provisioning) by the carrier(s) utilizing them, the appropriate consideration is the status or functionality of the networks on either end of the LIS trunks.

The CLEC deploys a local network with few or even a single switch combined with fiber rings whereby the ILEC has a network architecture consisting of tandem switches with multiple subtending end offices. As the FCC has specified,

> Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate. [17]

A LIS terminating at an ILEC's end office switch rather than at the ILEC's tandem switch does nothing to change the fact that the CLEC's switch is, for the purposes of reciprocal compensation, to be treated as a tandem.[18] In contrast,

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[17] FCC's First Report and Order, ¶ 1090

[18] *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between MFS Communications Company, Inc. and US WEST Communications, Inc. Pursuant to*

where the functionality available for traffic delivered to the ILEC *does* change dependent on whether or not the LIS is connected to an ILEC tandem switch or an ILEC end office switch, the functionality available on the CLEC switch remains a tandem.

Only in the event that a CLEC were to deploy an actual subtending end office in its network and the LIS were established between that end office and the ILEC end office would symmetry dictate that reciprocal compensation would be at the end office level for traffic going in either direction. Just as if, in this same example, the hypothetical CLEC end office had a LIS established between it and the ILEC tandem, symmetry would dictate that traffic coming from the CLEC to the ILEC would be compensated at the "tandem level" (tandem switching, transport and end office switching) and traffic from the ILEC to the CLEC would be compensated at the end office switching rate.

Contrary to Qwest's arguments, applying reciprocal compensation rate elements to traffic delivered to a CLEC based on LIS trunks and the functions provided by the ILEC's network is not consistent with the concept of symmetry and therefore

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47 USC Section 252. Washington Utilities and Transportation Commission Final Order in Docket No. UT-960323.

should be rejected by the Commission.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Qwest and Verizon have not presented any evidence justifying a change in the Commission's previous determination that reciprocal compensation should be paid for traffic terminated to an ISP. Nor have they demonstrated a need to modify previous Commission rulings that CLECs whose switch is determined to serve and area comparable to the ILECs tandem switch are entitled to a rate equal to the rates paid to the ILEC when a call is switched via the tandem.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A, Yes.