

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE INVESTIGATION)
INTO QWEST CORPORATION'S)
COMPLIANCE WITH §271(C) OF THE)
TELECOMMUNICATIONS ACT OF 1996.)**

DOCKET NO. UT-003022

DIRECT TESTIMONY

OF

DAVID L. TEITZEL

ON BEHALF OF

QWEST CORPORATION

RE: PUBLIC INTEREST AND TRACK A

May 16, 2001

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1 **I. EXECUTIVE SUMMARY**

2 **Q. PLEASE PROVIDE A SUMMARY OF YOUR TESTIMONY.**

3 A. Section 271 of the Act requires Qwest Corporation (“Qwest”) to demonstrate
4 that it has entered into one or more interconnection agreements under which
5 facilities-based providers have entered the local exchange market and are
6 providing competitive local service in the state of Washington (“Track A”).¹ My
7 testimony will demonstrate that Qwest currently satisfies Track A requirements
8 in Washington.

9 The Act also requires Qwest to demonstrate that Qwest’s entry into the
10 interLATA long distance business in Washington is in the public interest.² As
11 discussed in this testimony, there is clear evidence in states in which the FCC
12 has granted the incumbent Local Exchange Carrier Section 271 relief that
13 competitive intensity in the local market is stimulated immediately following
14 relief, and consumers are thereby presented an expanded array of competitive
15 choices. A similar response can be anticipated in Qwest’s service territory, and
16 the public interest will thereby be served by Qwest’s entry into the interLATA
17 long distance market in Washington.

¹ Section 271(c)(1)(A).

² Section 271(d)(3)(C).

1 **Qwest Satisfies Track A of the Act**

2 Section 271 of the Act provides two options or "tracks" for meeting its
3 requirements. Track A is available when facilities-based competitors have
4 entered the local exchange market and are providing services to residential
5 and business customers. Track A requires Qwest to establish that competitors
6 are serving both business and residential customers over their own facilities.
7 Additionally, the FCC has stated that it will evaluate and consider the existence
8 of resale-based competition in determining whether Track A requirements are
9 met.³ CLECs are using their own facilities, Qwest's unbundled loops, and
10 resale to provide local service in Washington. The presence of successful
11 facilities-based competitors shows that Qwest has opened its markets to
12 competition and that competition has arrived in these specific markets. This
13 concentrated competitive activity has already resulted in significant losses of
14 both business and residential customers for Qwest within Washington. Over
15 18,000 residence and over 173,000 business access lines are currently served
16 by Qwest's competitors in Washington. About 126,000 of these access lines
17 are provided by facilities-based providers, with the remainder provided via
18 resale. Later in this testimony I will describe in more detail why the above
19 estimates of CLEC access lines are conservative (i.e., low).

³ Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29 (rel. January 22, 2001), n. 101 ("SBC-Kansas/Oklahoma Order").

1 All of the evidence presented in this testimony – existing interconnection
2 agreements, substantial network deployment by CLECs, and competitive
3 losses to both facilities-based providers and resellers demonstrate that Qwest
4 has satisfied the prerequisites of Track A and should be granted entry into the
5 interLATA market in Washington.

6 **Qwest’s Entry is in the Public Interest**

7 CLECs have entered the market in Washington in many areas of the state, but
8 often target the more concentrated business areas and select residential
9 communities.⁴ Thus, while many customers enjoy the opportunity to choose a
10 single local service carrier to provide all their telecommunications services,
11 many customers outside of the targeted communities do not have the same
12 choice. Full service, one-stop shopping is not available to all customers
13

⁴ In the Bell Atlantic New York and SBC Texas orders, the FCC determined that the concentration of competition in densely populated urban areas would not warrant a finding that the local telecommunications market was not open or that competition had not sufficiently taken hold. *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404 (rel. Dec. 22, 1999), ¶426 (hereinafter “BANY Order”); *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238 (rel. June 30, 2000), at ¶419 (“SBC-Texas Order”).

1 because Qwest is not yet allowed to offer in-region, interLATA long distance
2 services. These customers are located in geographic areas that competitors
3 have elected not to serve at this time. Until Qwest obtains Section 271
4 authority, these customers will continue to be denied the benefits of one-stop
5 shopping, a benefit which flows directly from the 1996 Telecommunications
6 Act.

7 Qwest is prepared to offer the benefits of one-stop shopping to customers
8 when the Washington Utilities and Transportation Commission ("Commission")
9 and, ultimately, the FCC approve Qwest's Section 271 application to provide
10 interLATA service in Washington. Such approval is the final step in fulfilling the
11 express purpose of the Act, the opening of all telecommunications markets to
12 all competitors, to the benefit of all consumers. As Senator Pressler stated
13 when the Act was signed into law, "This bill attempts to get everybody into
14 everybody else's business and let in new entrants." Later in this testimony, I
15 will explain how competitive options for all customers will occur only after
16 Qwest is allowed into the interLATA business.

17 In addressing the public interest standard, this testimony briefly discusses the
18 analysis conducted by the FCC to determine if a Regional Bell Operating
19 Company's entry into the interLATA long distance business is in the public
20 interest. Further, this testimony establishes that sufficient safeguards exist to
21 protect competitors and prevent Qwest from engaging in discriminatory actions.

1 These safeguards include the implementation of a Performance Assurance
2 Plan to prevent “backsliding” once the local markets are open as well as the
3 creation of a separate subsidiary, as required by Section 272 of the Act, which
4 will offer Qwest’s interLATA long distance services.

5 In light of the evidence presented, Qwest requests that the Commission issue a
6 finding that:

- 7 ♦ Qwest has satisfied the threshold requirements of Track A, and
- 8 ♦ It would be in the public interest to grant Qwest authority to enter the
9 interLATA long distance market in Washington.

10
11 **II. IDENTIFICATION OF WITNESS**

12 **Q. PLEASE STATE YOUR NAME, TITLE, AND ADDRESS.**

13 A. My name is David L. Teitzel. I am employed by Qwest Corporation (“Qwest”),
14 formerly known as U S WEST Communications, Inc., as Director-Product and
15 Market Issues. My business address is 1600 7th Avenue, Room 2904, Seattle,
16 Washington, 98191.

17 **Q. PLEASE REVIEW YOUR EDUCATION, WORK EXPERIENCE, AND PRESENT**
18 **RESPONSIBILITIES.**

19 A. I was awarded a Bachelor of Science degree from Washington State University
20 in 1974. Since then, I have been continuously employed by Qwest and its
21 predecessor company, U S WEST Communications, Inc. I have held a

1 number of management positions in various departments, including Regulatory
2 Affairs, Network, and Marketing. As a Marketing Product Manager, I was
3 responsible for product management of basic exchange (local), CENTREX,
4 and intraLATA long distance services. I have also served as a Market
5 Manager for Qwest Dex (formerly U S WEST Dex). I was named to the
6 Director-Product and Market Issues position in March 1998.

7 **III. PURPOSE OF TESTIMONY**

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

9 A. The purpose of my testimony is to support Qwest's Section 271 filing by:

- 10 ♦ describing the status of local exchange competition in the state of
11 Washington;
- 12 ♦ showing that Qwest has met the requirements of "Track A" as outlined in 47
13 U.S.C. §271(c)(1)(A) of the Telecommunications Act of 1996 ("the Act");
- 14 ♦ explaining why the public interest will be served by Qwest's entry into the
15 interLATA long distance market;
- 16 ♦ briefly describing the FCC's public interest analysis and the various
17 safeguards in place to ensure that competition in the interLATA market will
18 not be harmed by Qwest's entry into the interLATA long distance market;
19 and,
- 20 ♦ discussing the benefits of competition in all telecommunications markets.

21 **Q. PLEASE PROVIDE AN OVERVIEW OF YOUR TESTIMONY.**

22 A. First, I will describe the Track A requirements and the evidence which
23 establishes that Qwest has met those requirements, thus making it eligible for

1 entry into the interLATA long distance market in Washington. Second, I will
2 briefly describe the FCC's public interest analysis as well as safeguards in
3 place to ensure not only that the local markets will remain open after Qwest's
4 entry into the interLATA long distance business and that Qwest's entry into the
5 interLATA long distance business will raise no significant risk to competition in
6 the local exchange or long distance markets. Further, I will discuss the
7 benefits of competition in all telecommunications markets and why the public
8 interest would be served by Qwest's entry into the interLATA long distance
9 market. Finally, I will respond to the questions the Commission asked in the
10 Supplemental and Interpretative Policy Statement.

11 **IV. TRACK A REQUIREMENTS AND EVIDENCE**

12 **Q. WHAT IS THE PURPOSE OF THE TRACK A REQUIREMENTS?**

13 A. To secure Section 271 approval from the FCC and the Commission, Qwest
14 must first establish that one of two thresholds in Section 271, referred to as
15 "Track A" or "Track B," has been reached. Track A is available when, as in
16 Washington, facilities-based competitors have entered local
17 telecommunications markets in the state. Section 271 (c)(1)(B) - or Track B -
18 would be available if competitors were not seeking to compete with Qwest in
19 Washington. The Track A threshold, set forth in Section 271 (c)(1)(A), requires
20 that Qwest has entered into at least one interconnection agreement under
21 which at least one facilities-based competitive local exchange carrier ("CLEC")

1 is providing local exchange service to both residential and business
2 customers.⁵ A facilities-based provider is one that predominantly uses its own
3 facilities, including Qwest's UNEs or ancillary services, to provide local
4 exchange service.⁶ If no CLECs had entered into an interconnection
5 agreement with Qwest and no CLECs were providing local service to residence
6 and business customers, then Track B requirements would apply.

7 **Q. WHY IS QWEST MAKING A TRACK A FILING IN WASHINGTON?**

8 A. Qwest makes this Section 271 filing under Track A because competitors with
9 whom Qwest has approved interconnection agreements are providing facilities-
10 based local service to residential and business subscribers in various markets
11 in Washington.

12 **Q. WOULD YOU PLEASE EXPLAIN IN MORE DETAIL THE PREREQUISITES**
13 **QWEST MUST MEET TO SATISFY TRACK A REQUIREMENTS?**

14 A. Qwest files this Section 271 application under Track A because facilities-based
15 local service providers have already entered local markets in Washington.

16 Section 271(c)(1)(A) reads in its entirety:

17 PRESENCE OF A FACILITIES-BASED COMPETITOR.--A Bell operating
18 company (BOC)⁷ meets the requirements of this subparagraph if it has

⁵ SBC-Texas at ¶59.

⁶ SBC-Kansas/Oklahoma Order at ¶40-¶41.

⁷ Within the context of Section 271 requirements, "BOC" guidelines apply to Qwest.

1 entered into one or more binding agreements that have been approved
2 under section 252 specifying the terms and conditions under which the
3 Bell operating company is providing access and interconnection to its
4 network facilities for the network facilities of one or more unaffiliated
5 competing providers of telephone exchange service (as defined in
6 section 3(47)(A), but excluding exchange access) to residential and
7 business subscribers. For the purpose of this subparagraph, such
8 telephone exchange service may be offered by such competing
9 providers either exclusively over their own telephone exchange service
10 facilities or predominantly over their own telephone exchange service
11 facilities in combination with the resale of the telecommunications
12 services of another carrier. For the purpose of this subparagraph,
13 services provided pursuant to subpart K of part 22 of the Commission's
14 regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be
15 telephone exchange services.

16 **Q. HAS THE FCC SAID ANYTHING IN THE CONTEXT OF COMPLIANCE WITH**
17 **TRACK A ABOUT RESALE COMPETITION IN ITS RECENT 271 ORDERS?**

18 A. Yes. The FCC has clarified that in the context of Track A compliance, it will
19 evaluate and consider the existence of competitors' service to residential
20 customers through resale.⁸ In addition, the FCC said, "[I]f all other
21 requirements of Section 271 have been satisfied, it does not appear to be
22 consistent with congressional intent to exclude a BOC from the in-region,
23 interLATA market solely because the competitors' service to residential
24 customers is wholly through resale."⁹ Even though Washington has multiple
25 carriers providing facilities-based competition, the Commission should still
26 consider competition from resellers in evaluating the extent of competitive

⁸ SBC-Kansas/Oklahoma Order, n. 101.

⁹ SBC-Kansas/Oklahoma Order, n. 101 (citing BellSouth LA II, ¶48); see also BANY-Order at

1 presence and compliance with Track A. This is because resale residential
2 exchange service is available to CLECs at lower rates than UNE-P POTS
3 residential service. Because the two services offer substantially the same
4 functionality, CLECs have an economic incentive to choose resold residential
5 exchange service over UNE-P POTS residential exchange service.

6 **Q. DID THE FCC PROVIDE ANY FURTHER CLARIFICATION OF THE TRACK A**
7 **REQUIREMENTS?**

8 A. Yes. In its review of the Ameritech-Michigan Section 271 application, the FCC
9 divided the Track A requirement into four sub-parts.¹⁰ In that application, the
10 FCC found that Ameritech satisfied Track A. The FCC's four-part Track A
11 analysis consists of the following:

- 12 ♦ existence of one or more binding agreements that have been approved
13 under Section 252;
- 14 ♦ provision of access and interconnection with unaffiliated competing
15 providers of telephone exchange service;¹¹
- 16 ♦ provision by competitors of telephone exchange service to residential and
17 business subscribers somewhere in the state; and

¶427.

¹⁰ The FCC released its Memorandum Opinion and Order in CC Docket No. 97-137 (Ameritech-Michigan Order) on August 19, 1997. Although the FCC denied Ameritech's Section 271 Application, it found that Ameritech had fully satisfied the Track A requirement.

¹¹ It is also significant that the FCC recognized that Congress prohibited it from requiring any specific level of geographic penetration by a competing provider and imposing a geographic scope requirement. In other words, the Act prohibits imposition of a market share loss test. SBC-Texas at ¶419; BANY at ¶427.

1 Section 252 of the Act, 81 Qwest wireline interconnection agreements.¹³ The
2 FCC concluded in the Ameritech-Michigan order that agreements approved by
3 a state commission are “binding” and define the obligations of each party.¹⁴
4 Thus, these 81 Commission-approved interconnection agreements are binding
5 on Qwest.

6 **Q. DOES EVERY CHECKLIST ITEM HAVE TO APPEAR IN EACH**
7 **INTERCONNECTION AGREEMENT IN ORDER TO SATISFY THE TRACK A**
8 **REQUIREMENTS?**

9 A. No. In the Ameritech-Michigan decision, several parties argued that
10 Ameritech’s agreements did not satisfy Track A because not every checklist
11 element was contained within each approved agreement. The FCC dismissed
12 this argument and determined that Track A does not contain such a
13 requirement.¹⁵ Moreover, in addition to the Commission-approved
14 interconnection agreements, Qwest has submitted a comprehensive Statement
15 of Generally Available Terms (“SGAT”) in Washington that contains terms,
16 conditions, and prices applicable to the provision of all of the checklist items.
17 Qwest relies on all of these documents as the basis for its Section 271
18 application. Finally, the Commission has approved Qwest's resale tariff and

¹³ A “wireline” interconnection agreement generally refers to an agreement that covers facilities-based interconnection, purchase of UNEs and ancillary services, and resale of Qwest services. A “resale” interconnection agreement generally only provides for resale of Qwest services.

¹⁴ Ameritech-Michigan Order at ¶72.

¹⁵ Ameritech-Michigan Order at ¶72.

1 interconnection agreements with other CLECs which contain terms, conditions,
2 and prices applicable to the provision of network interconnection, access to
3 unbundled network elements, ancillary network services, and
4 telecommunications services available for resale in Washington.

5 **Q. HAS QWEST MET THE FIRST SUBPART REQUIREMENT OF TRACK A?**

6 A. Yes. Qwest has met the first subpart requirement of Track A because it has
7 entered into over 81 binding and approved interconnection agreements
8 pursuant to Section 252 of the Act in Washington. Additionally, Qwest also
9 relies on its SGAT filed in Washington to establish compliance with the Track A
10 requirements. Provisions in Qwest's SGAT are available to CLECs either as a
11 complete agreement or pursuant to "pick and choose" provisions in Section
12 272(l) of the Act.

13 **B. Unaffiliated Competing Providers**

14 **Q. THE NEXT PART OF THE FCC'S ANALYSIS DEALS WITH THE PROVISION**
15 **OF ACCESS AND INTERCONNECTION WITH UNAFFILIATED COMPETING**
16 **PROVIDERS OF TELEPHONE EXCHANGE SERVICE. WOULD YOU PLEASE**
17 **EXPLAIN HOW QWEST FULFILLS THIS REQUIREMENT?**

18 A. Qwest fulfills the next part of the FCC's analysis of Track A requirements
19 because it provides access and interconnection with unaffiliated competing
20 providers of telephone exchange service. Of its Commission-approved
21 interconnection agreements, 68 are with unaffiliated CLECs in the state of

1 Washington.¹⁶

2 The FCC determined that a CLEC qualifies as a “competing provider” so long
3 as it provides service “somewhere in the state.”¹⁷ Furthermore, the FCC found
4 that Track A does not impose minimum geographic scope requirements before
5 CLECs are deemed competing providers. No set market share losses are
6 required.¹⁸ The FCC rejected arguments that the majority of customers in the
7 state must have a choice of local service providers.¹⁹

8 Based upon the FCC's definition of a "competing provider," there are such
9 competitors providing local exchange service in Washington. Exhibit DLT-2C
10 lists the CLECs in Washington that are actively providing service “somewhere
11 in the state”. In addition, Exhibit DLT-2C indicates the type of service the
12 CLEC is purchasing from Qwest, including residential or business resale. For
13 purposes of this testimony, any CLEC purchasing a UNE is considered a
14 facilities-based provider. This is consistent with the FCC’s decision.²⁰

¹⁶ Larger CLECs can have multiple interconnection agreements.

¹⁷ Ameritech-Michigan Order at ¶76.

¹⁸ Ameritech-Michigan Order at ¶77.

¹⁹ Ameritech-Michigan Order at ¶77 and ¶78.

²⁰ Ameritech-Michigan Order at ¶94 - ¶101.

1 **Q. WOULD YOU PLEASE DESCRIBE SOME OF THE UNAFFILIATED**
2 **COMPETITORS WHO ARE PROVIDING LOCAL EXCHANGE SERVICE IN**
3 **WASHINGTON?**

4 A. Unaffiliated competing providers fall into two basic categories: facilities-based
5 competitors (both UNE-based and full facility-based), and resellers. In the
6 following sections, I'll discuss firms who fall into these two basic competitor
7 categories as well as some of the data local exchange carriers ("DLEC") who
8 are a subset of facilities-based competitors. I'll begin with facilities-based
9 competitors.

10 **1. Facilities-based Competitors**

11 **Q. WHAT IS A FACILITIES-BASED COMPETITOR?**

12 A. As I described earlier in this testimony, a facilities-based competitor is a carrier
13 that predominantly uses its own facilities, including Qwest's UNEs or ancillary
14 services, to provide local exchange service.

15 Under Commission-approved interconnection agreements, Qwest offers and
16 provides local interconnection trunks, unbundled loops, unbundled transport
17 and switching, unbundled directory assistance services and operator services,
18 911 service, collocation, poles, ducts, conduits, right-of-way, number portability,
19 and/or white page listings to facilities-based CLECs.

1 **Q. WHO ARE SOME OF THE FACILITIES-BASED COMPETITORS PROVIDING**
2 **SERVICE IN WASHINGTON?**

3 A. There are a number of facilities-based competitors currently providing service
4 in Washington. A profile of several of the larger facilities-based CLECs in
5 Washington follows:

6 **AT&T**

7 AT&T's \$11.3 billion takeover of Teleport Communications Group ("TCG") was
8 approved by the FCC on July 23, 1998, providing it with direct access to the
9 facilities-based local exchange and high capacity markets in Seattle and major
10 urban centers across the nation. Before the merger, TCG was majority-owned
11 by three cable companies – TCI, Comcast, and Cox. AT&T's purchase may be
12 seen as a stepping-stone to its entry into cable-provided local telephony.
13 AT&T has stated that the merger will enable it to sell all-in-one packages of
14 local, long distance, and data communications to businesses.²¹ In a press
15 release issued July 23, 1998, AT&T Chairman C. Michael Armstrong stated,
16 "Completion of this merger accelerates our entry into the \$21 billion business
17 local service market because we're reducing our dependence on the Bell
18 companies for direct connections to business. We're giving customers
19 simplicity, convenience, and choice. It's one-stop shopping for local and long

²¹ "AT&T's Teleport Takeover OK'd," *Arizona Republic*, July 24, 1998.

1 distance services, just for starters.”²² According to the New Paradigm
2 Resources Group, Inc., AT&T is the largest facilities-based CLEC, serving over
3 2.1 million access lines.²³

4 The AT&T/TCG merger allows the two companies to capitalize on the strengths
5 of each. Traditionally, TCG has directed its marketing efforts toward the large
6 business market and rapidly accumulated a list laden with Fortune 500
7 companies. Conversely, AT&T’s traditional strengths have been the small
8 business and consumer markets. With the merger, AT&T has reasserted its
9 influence among large business customers while TCG has expanded its focus
10 to include the small business market.

11 On October, 2000, AT&T’s board agreed to spin off its cable TV and wireless
12 business into separate companies over the next two years. With this breakup,
13 AT&T will be able to focus more on the local segment, further enhancing its
14 position since it will no longer be distracted by cable operations and long
15 distance take rates.²⁴

16 According to the New Paradigm Resources Group’s CLEC Report 2001TM,
17 AT&T has operational local voice networks in Bellingham, Seattle, and

²² “AT&T Completes TCG Merger; TCG Now Core of AT&T Local Services Network Unit,”
www.tcg.com/tcg/media/Prcurrent/afffinal.html, November 12, 1998.

²³ CLEC Report 2001, New Paradigm Resources Group, Inc., 2001, Chapter 9, CLEC Profiles.

²⁴ *Id* at Page 29.

1 Spokane, with a local voice network planned for Tacoma.²⁵ In Seattle, AT&T
2 has a fiber network in place, has at least 85 buildings on its network, and has
3 an operational Lucent 5ESS voice switch.²⁶ Further, AT&T has an operational
4 data network in Seattle capable of providing ATM, Frame Relay, and xDSL
5 services via two ATM/Frame Relay switches.²⁷ As of April 2000, AT&T had
6 over 210 total fiber miles in the Seattle/Tacoma metropolitan statistical area
7 (“MSA”).²⁸

8 AT&T Broadband is providing cable telephony in a number of locations
9 throughout Washington, including West Seattle, Tacoma, Issaquah, and
10 Vancouver. Exhibit DLT-3 is a marketing brochure received by a Qwest
11 customer in Issaquah in which AT&T is promoting the benefits of its digital local
12 telephone service to residences. In southwest Washington, at least 500,000
13 customers will have a choice of Qwest or AT&T for local telephone service.²⁹
14 AT&T has publicly stated that every Clark County home with access to its cable
15 service will have access to AT&T’s local phone service by the end of 2001.³⁰
16 Currently the phone service is available in a third of the 180,000 Clark County
17 homes that have access to cable service, primarily in the Vancouver, Camas,

²⁵ *Id* at Pages 19-23.

²⁶ *Id* at Page 22.

²⁷ *Id* at Page 26.

²⁸ April 2000 U S WEST MIDS Report, Seattle-Tacoma MSA “State of Competition”.

²⁹ www.wysiwyg://405/http://www.columbian.com/03092001/opinion/183002.htm, May 8, 2001.

³⁰ www.wysiwyg://398/http://www.columbian.com/09142000/business/149513.htm, May 8, 2001.

1 and Washougal areas.³¹ Further, AT&T is currently in the process of upgrading
2 its cable systems in Seattle, Kirkland, Bothell, Centralia, and Woodinville.³² It is
3 now also offering local digital telephone services in Kent in competition with
4 Qwest.³³ In Seattle, AT&T will be competing with Millennium Digital Media and
5 Western Integrated Networks (“WIN”), a company who recently received a
6 citywide cable franchise from the Seattle City Council.³⁴

7 **Electric Lightwave, Inc.**

8 Electric Lightwave, Inc. (“ELI”) was the first telecommunications company west
9 of the Mississippi to be authorized as an alternative local and long distance
10 telephone service provider.³⁵ It began its operations for interstate carrier
11 service in the early 1990’s in Washington and Oregon. Far from being a start-
12 up, however, ELI is a subsidiary of Citizens Utilities Company, a large utility
13 company and full-service telecommunications provider.³⁶ ELI’s corporate
14 headquarters are located in Vancouver.

31 *Id.*

32 www.seattlep-i.nwsourc.com/local/cable17.shtml, May 8, 2001.

33 www.seattlep-i.nwsourc.com/business/19305_tbrf19.shtml, May 8, 2001.

34 <http://seattlep-i.nwsourc.com/local/cabl131.shtml>, May 11, 2001.

35 www.eli.net/about/index.shtm, May 4, 2001.

36 www.onlineproxy.com/citizens/2001, April 13, 2001.

1 ELI competes directly with the ILECs, such as Qwest, in each of its facilities-
2 based markets.³⁷ One of its primary overall strategies is to establish several
3 communications networks in the western United States and become a regional
4 provider of communications services.³⁸ In a July 13, 2000, press release, ELI
5 announced completion of the last three segments of its \$131 million long haul
6 fiber optic network.³⁹ This construction will interconnect with existing long-haul
7 routes to Eugene, Phoenix, Spokane, and Seattle as well as with each of ELI's
8 extensive Metropolitan Area Networks ("MAN") cities, including Boise, Phoenix,
9 Portland, Sacramento, Salt Lake City, Seattle, and Spokane. It also allows ELI
10 to connect its owned and operated long-haul network to its national data
11 network.⁴⁰ According to Michael Petty, ELI's vice president of network planning
12 and engineering, "By completing the construction of our Western SONET ring,
13 we are now able to replace leased capacity lines with our own fiber and move
14 traffic to all points within our network. This significantly reduces our operating
15 costs. It also allows our customer's voice, video, data and Internet traffic to
16 travel over Electric Lightwave's ultra-high capacity network with unsurpassed
17 speed and reliability."⁴¹ At present, ELI serves 99 municipalities,⁴² enabling ELI

³⁷ www.onlineproxy.com/citizens/2001/ar/business-eli.html, May 4, 2001.

³⁸ This information was obtained from various sources including the Internet, magazine and newspaper articles, and studies performed by Quality Strategies.

³⁹ www.eli.net/media/releases/JULY13.00.shtm, May 4, 2001.

⁴⁰ *Id.*

⁴¹ *Id.*

1 to effectively market service to businesses operating in one or more of these
2 markets. It is a full service provider, offering integrated communications
3 service packages including local service, switched and dedicated long
4 distance, private networks, advanced data and Internet access services,
5 nationwide videoconferencing, and prepaid services to customers in Spokane,
6 Tacoma, and Seattle.⁴³ As of April 2000, ELI had almost 111 total fiber miles in
7 the Seattle-Tacoma metropolitan statistical area (“MSA”).⁴⁴

8 **Eschelon Telecom**

9 Eschelon Telecom (“Eschelon”), formerly Advanced Telecommunications, Inc.,
10 is an integrated communications provider of voice, data, and Internet services
11 operating primarily in the northwest and southwest United States. It focuses on
12 small to medium businesses, providing a comprehensive line of
13 telecommunications products and services, including local service. After
14 originally using leased facilities to provide service, Eschelon has recently been
15 installing its own switches and other facilities. According to its press release of
16 September 11, 2000, announcing completion of its network facilities installation
17 in Seattle, “This investment allows Eschelon to be one of the few competitive
18 local exchange carriers (CLECs) in Seattle able to offer voice, data and

⁴² *Id* at 20.

⁴³ www.eli.net/service/index.shtml, May 4, 2001.

⁴⁴ *Id* at 27.

1 Internet services over its own network facilities.”⁴⁵ Eschelon is also completing
2 a major investment in building facilities in Tacoma.⁴⁶ The network in Seattle
3 moves Eschelon towards its stated goal of expanding the company’s service
4 footprint to a total of 26 markets by the end of 2001. Eschelon’s planned 26-
5 market footprint includes cities in Minnesota, Washington, Oregon, Utah,
6 Arizona, Nevada, Idaho, Colorado, Montana, New Mexico, Nebraska, and
7 North Dakota.⁴⁷

8 In November 2000, Eschelon and Qwest signed an agreement for voice and
9 data communications services which ultimately benefits small and medium
10 business customers in Qwest’s service territories.⁴⁸ The five-year agreement
11 not only provides Eschelon with the ability to sell additional features and
12 information services that Qwest had not previously offered to CLECs such as
13 voice messaging and DSL services, but also allowed Eschelon to expand its
14 market coverage within Qwest’s 14-state region.⁴⁹

⁴⁵ “Eschelon Telecom, Inc. Completes Installation of Network Facilities in Seattle”, Source: www.businesswire.com/webbox/bw.091100/202554908.htm, May 4, 2001.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ “Qwest Communications and Eschelon Telecom Announce \$150 Million Wholesale Contract for Voice and Data Services”, Source: www.businesswire.com/webbox/bw.091100/202554908.htm, May 4, 2001.

⁴⁹ *Id.*

1 **Allegiance Telecom, Inc.**

2 Allegiance Telecom, Inc. (“Allegiance”) is a facilities-based competitive
3 exchange carrier that offers small to medium-sized business customers a
4 competitive one-stop shopping package of telecommunications services,
5 including local, long distance, and a full suite of Internet services.⁵⁰ Its
6 business plan covers 36 of the largest metropolitan areas in the United
7 States.⁵¹ At the end of the 1Q01, Allegiance has 29 markets operational,
8 including Seattle.⁵² According to price lists filed with the Commission,
9 Allegiance offers flat-rate basic local line service at a monthly recurring charge
10 of \$26.60 per line.⁵³

11 On April 24, 2001, Allegiance and Qwest announced the completion of
12 electronic bonding between their operations support systems (“OSS”) which will
13 reduce the time required to process customer orders for local telephone
14 service requests.⁵⁴ With electronic bonding, computers at different telephone
15 companies are able to communicate with each other in real-time, providing for
16 rapid sharing of customer information, service requests, and other data so that

50 www.algx.com/investor_relations/index.php, May 4, 2001.

51 *Id.*

52 www.algx.com/about_allegiance/in_the_news/1q01_results.php, May 4, 2001.

53 www.algx.com/customer_care/tarrifs.php, May 4, 2001.

54 www.algx.com/about_allegiance/in_the_news/qwest_bonding.php, May 4, 2001.

1 orders can be processed quicker and at a lower cost.⁵⁵ Electronic bonding also
2 makes its easier for business customers in the Allegiance markets – Denver,
3 Phoenix, Seattle, and Minneapolis/St. Paul – to switch from one local service
4 provider to another.⁵⁶

5 **Sprint**

6 Sprint Corporation (“Sprint”) is another CLEC providing local service to
7 residential and small business customers in the Seattle area. It began offering
8 its integrated communications system, Sprint IONsm, to residential and small
9 business customers in Seattle on November 11, 1999.⁵⁷ At the time of
10 introduction, the Sprint ION consumer service was priced at \$159.99 per month
11 and included unlimited high-speed Internet with five e-mail addresses and
12 instant access along with 2,200 minutes of calling (local, domestic long
13 distance, and intraLATA toll calls).⁵⁸ Sprint had over 80 total fiber miles in the
14 Seattle-Tacoma MSA as of April 2000.⁵⁹

55 *Id.*

56 *Id.*

57 “Sprint Begins Marketing Sprint Ionsm Services in Denver, Kansas City, & Seattle”, Source:
www.144.226.116.29/PR/CDA/PR_CDA_Press_Releases_Detail/1,1579,890,00.htm,
(www.sprint.com) May 4, 2001.

58 *Id.*

59 *Id* at 27.

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WorldCom

In September 1998, the FCC granted approval for a \$37 billion merger between WorldCom and MCI. WorldCom previously acquired Brooks Fiber in 1997, adding 44 local facilities-based networks to its portfolio.⁶⁰ Phoenix FiberLink, SkyTel Communications, Compuserve, and ANS are also part of the WorldCom family.⁶¹

Traditionally, WorldCom has targeted the large business segment for voice and data services, e.g., long distance, high capacity, data, and local exchange. WorldCom has an operational local voice network in Kirkland using a Lucent 5ESS voice switch.⁶² It also has an operational voice network in Seattle that serves at least 20 buildings with a Nortel DMS-500 voice switch.⁶³ Further, WorldCom has an operational data network in Seattle that can provide ATM

⁶⁰ This information was obtained from various sources including the Internet, magazine, and newspaper articles, as well as studies performed by Quality Strategies.

⁶¹ *Id.*

⁶² *Id* at 22, Pages 14-15.

⁶³ *Id.*

1 and Frame Relay services, Internet protocol, and xDSL as well as an on-net
2 data network in Kirkland capable of providing the same services as in Seattle.⁶⁴
3 As of April 2000, WorldCom had more than 370 total fiber miles in the Seattle-
4 Tacoma MSA.⁶⁵

5 WorldCom has made several announcements in the last year that would
6 appear to strengthen its product line. First, on May 14, 2000, WorldCom and
7 America Online, Inc. ("AOL") announced a multi-year consumer Internet
8 alliance under which WorldCom will market AOL to WorldCom's residential and
9 long distance customers, with free calling bonuses every month when they join
10 AOL.⁶⁶ On August 14, 2000, WorldCom announced it had filed its first round of
11 applications for licensing authority to offer broadband fixed wireless services in
12 more than 60 markets nationwide.⁶⁷ Finally, WorldCom's ability to offer web-
13 hosting and applications services have been strengthened with its acquisition
14 of Intermedia which gives WorldCom controlling interest in Digex, a leading
15 providing of these services.⁶⁸

64 *Id*, Pages 16-17.

65 *Id* at 27.

66 *Id*, Page 4.

67 *Id*, Page 4.

68 *Id*, Page 4.

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Teligent

Teligent is a facilities-based carrier that provides service in Seattle and advertises itself as a company that can bring any sized company the same communications power, services, and savings once reserved for only the largest companies.⁶⁹ Teligent offers business customers local and long distance phone service and Internet access on one bill at savings of up to 30% off local phone service.⁷⁰ Rather than using fiber-optic connections, Teligent delivers its fixed wireless service using digital microwave communications to send voice and data signals over very high radio frequencies.⁷¹ On June 27, 2000, Teligent moved into the government market when it announced it was providing toll-free “800” calling and support services to nearly two-thirds of the government and education agencies served by the Department of Information Services (“DIS”) in the state of Washington.⁷² The multi-year, multi-million dollar contract allows Teligent to provide toll-free services to more than 425 state and local government offices served by DIS.⁷³

⁶⁹ www.teligent.com/docs/aboutus/html, May 4, 2001.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² www.teligent.policy.net/proactive/, May 4, 2001.

⁷³ *Id.*

1 **XO Communications**

2 XO Communications (“XO”), formerly known as NEXTLINK, operates as a
3 facilities-based provider in Seattle and Spokane. During the 3rd and 4th
4 Quarters of 2000, XO launched fixed wireless capabilities in 17 markets
5 including Seattle.⁷⁴ XO has more than 570,000 metro and inter-city fiber miles
6 in operation and is also North America’s largest holder of fixed broadband
7 wireless spectrum, with licenses covering 95 percent of the population of the
8 30 largest U.S. cities.⁷⁵ XO aggressively markets data and voice services to
9 small and medium-sized business customers. Voice offerings include bundles
10 of local and long distance services targeted to small and medium-sized
11 business customers although the company is expanding its reach to serve
12 larger businesses as its network capacity increases. In September 2000, XO
13 began offering small and medium-sized business customers an integrated, flat-
14 rated package of local and long distance voice, Internet access, and web
15 hosting services.⁷⁶

⁷⁴ www.wysiwyg://178/http://xo.com/news/45.htm, May 7, 2001.

⁷⁵ www.wysiwyg://175/http://xo.com/news/51.htm, May 7, 2001.

⁷⁶ *Id* at 47.

1 **Q. YOU MENTIONED PREVIOUSLY THAT DATA LOCAL EXCHANGE**
2 **CARRIERS ARE A TYPE OF FACILITIES-BASED PROVIDER. WHAT ARE**
3 **DATA LOCAL EXCHANGE CARRIERS (“DLEC”)?**

4 A. DLECs are more recent entrants to the market who focus primarily on providing
5 data services over their local exchange networks. Qwest offers and provides
6 access and interconnection to these competitors under Commission-approved
7 interconnection agreements. These DLECs purchase mainly digital unbundled
8 local loops in line sharing arrangements from Qwest. The range of DLECs
9 providing service Washington include COVAD, Rhythms, and New Edge
10 Networks.

11 **2. Resellers**

12 **Q. THE OTHER CATEGORY OF UNAFFILIATED COMPETING PROVIDERS YOU**
13 **MENTIONED WAS RESELLERS. WOULD YOU DISCUSS THE RESELLERS**
14 **CURRENTLY OPERATING IN WASHINGTON?**

15 A. As the term implies, resellers provide service to their end-user customers using
16 telecommunications services they have purchased at a discount as defined in
17 Qwest’s resale tariffs. Resellers also have the option of purchasing services
18 directly from Qwest’s retail tariffs and price lists on a non-discounted basis.
19 Along with Eschelon and ELI, who also provide service on a resale basis, some
20 of the other resellers operating in Washington are as follows:

1 **McLeodUSA**

2 McLeodUSA (“McLeod”) is reselling residential and business services to
3 provide local service in Washington. Resale at discounted Qwest rates
4 enables competitors like McLeod to test market areas without substantial risk
5 and to establish a customer base prior to investing in the deployment of
6 facilities. McLeod has followed a path of growth as well as acquisition,
7 purchasing companies such as Splitrock Services and CapRock
8 Communications Corp. to capture managerial experience and established
9 infrastructure. The company has pursued a three-pronged approach that is
10 intended to enable fast and deep penetration in its chosen markets. First,
11 McLeod captures market share through ILEC facilities; second, it builds state-
12 of-the-art facilities; and, third, it switches to an on-net, on-switch strategy.
13 McLeod now offers local and long distance service in all of its markets, and is
14 beginning to offer DSL and high-speed data communications on a market-by-
15 market basis, focusing on integrating its voice and data services together
16 rather than treating each as a separate entity.⁷⁷ McLeod was approved to offer
17 service in Washington in January 1997.

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⁷⁷ CLEC Report 2001, New Paradigm Resources Group, Inc., 2001, Chapter 9, CLEC Profiles.

1 **FairPoint Communications**

2 FairPoint Communications (“FairPoint”) is primarily a reseller who also provides
3 services on a facilities-based basis. It offers an integrated suite of voice, data,
4 and Internet communications services targeted at small and medium-sized
5 businesses in select Tier III and Tier IV markets with populations between
6 10,000 and 100,000.⁷⁸ These markets are generally within a 200-mile radius of
7 the areas served by FairPoint’s traditional telephone companies and are, in
8 FairPoint’s estimation, under-served by incumbent telephone companies like
9 Qwest.⁷⁹ According to its website, FairPoint has offices in Bellingham,
10 Olympia, and Yakima.⁸⁰ FairPoint offers rates on basic local service, as well
11 as other products and services such as custom calling features, 10% lower
12 than that charged by the incumbent telephone companies. They also offer
13 services such as free bill analysis of a customer’s local and long distance
14 calling as well as consolidated billing of local and local distance services.⁸¹

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⁷⁸ www.wysiwyg://186/http://www.fairpoint.com/fairpoint/fairpoint_story.htm, May 9, 2001.

⁷⁹ <http://www.sec.gov/Archives/edgar/data/1062613/000091205701506364/a2042675z10-k405.txt>,
May 9, 2001.

⁸⁰ www.wysiwyg://215/http://www.fairpoint.com/fairpoint/contact_us.htm, May 9, 2001.

⁸¹ www.wysiwyg://191/http://www.fairpoint.com/fairpoint/local.htm, May 9, 2001.

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MetroNet Services Corporation

2 MetroNet Services Corporation (“MetroNet”) is a privately held company,
3 headquartered in Seattle, that has operated as a retail “rebill” of Qwest’s
4 Centrex service in Washington for almost 15 years. As a rebiller, MetroNet
5 purchases services from retail tariffs as the customer of record. The company
6 operates primarily in the Seattle and Tacoma areas and focuses on medium to
7 large businesses typically with 10 or more lines. In an April 14, 2000, filing with
8 the Commission, MetroNet stated they expect to become a reseller of local
9 exchange services in the future.⁸²

10 The fact that these facilities-based and resale competitors are operating in
11 Washington and providing local service to business and residence customers
12 demonstrates that the local market is open to competition.

13 **Q. IS THERE SUFFICIENT COMPETITION IN WASHINGTON TO SUPPORT**
14 **QWEST’S LONG DISTANCE ENTRY?**

15 A. Yes. While some competitors may assert that even more competition is
16 required before Qwest is granted interLATA relief, the FCC found that Track A
17 does not allow it to impose a geographic penetration test or a market share

⁸² Comments of MetroNet Services Corporation, Inc., *In the Matter of Registration, Competitive Classification, and Price Lists of Telecommunications Companies, Chapter 480-121 WAC*, Docket No. UT-991922. April 14, 2000, Page 1.

1 loss test.⁸³ These arguments must be summarily rejected for the same reasons
2 the FCC rejected them in its Ameritech-Michigan decision and other FCC
3 decisions.

4 Competing providers need only be in the market and operational. In other
5 words, they need only be accepting requests for service and providing service
6 for a fee.⁸⁴ In fact, in the Bell Atlantic-New York Order, the FCC specifically
7 declined to require Bell Atlantic to demonstrate that all New York end users
8 have a “realistic choice” between facilities-based local carriers.⁸⁵ Clearly the
9 activities of the competitive providers listed in Exhibit DLT-2C meet this
10 requirement.

11 **Q. PLEASE DESCRIBE OTHER EVIDENCE AVAILABLE TO QWEST THAT**
12 **DEMONSTRATES THE LEVEL OF CLEC ACTIVITY IN WASHINGTON.**

13 A. There is substantial evidence available about the extent of CLEC operations in
14 Washington. As stated above, Qwest conservatively estimates that CLECs
15 serve more than 190,000 residential and business access lines in Washington
16 as follows:

⁸³ Ameritech-Michigan Order at ¶76-¶77; BANY Order at ¶427; SBC-Texas Order at ¶419; SBC-Kansas/Oklahoma Order, n. 78; *In the Matter of Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, FCC 01-130, (rel. April 16, 2001), at ¶235 (hereinafter “Verizon-Massachusetts Order”).

⁸⁴ Ameritech-Michigan at ¶78.

- 1 ◆ Estimated Number of Residential Lines Served by CLECs – 18,000
- 2 ◆ Estimated Percentage of CLEC Residential Lines Provided Over CLEC's
- 3 Own Facilities/UNEs – 37%
- 4 ◆ Estimated Percentage of CLEC Residential Lines Provided by Resale –
- 5 63%
- 6 ◆ Estimated Number of Business Lines Served by CLECs – 174,000
- 7 ◆ Estimated Percentage of CLEC Business Lines Provided Over CLEC's
- 8 Own Facilities/UNEs – 69%
- 9 ◆ Estimated Percentage of CLEC Business Lines Provided by Resale –
- 10 31%⁸⁶

11 These estimates are based on the information available to Qwest regarding
12 competitive business activities in the state and are very conservative. These
13 lines represent local exchange voice grade service only and do not include any
14 data lines. Exhibit DLT-4C displays Qwest's estimates of the number of
15 access lines served in aggregate by CLECs in Washington as of March 31,
16 2001. These quantities are comprised of actual counts of unbundled loops in
17 service, resold access lines, and an estimate of the number lines provided by
18 CLECs on the CLEC's own facilities, including unbundled loops provided by
19 Qwest.

⁸⁵ BANY Order, n. 1312.

⁸⁶ There is likely more competition in the state of Washington than is indicated by Qwest's conservative estimates. For example, the Commission Staff, in the Competitive Classification proceeding (Docket No. UT-00883), investigated the extent of competition in the state by obtaining information from carriers not available to Qwest. Collection of this type of data is one way to assess the true extent of competition in Washington.

1 While Qwest has knowledge of the number of unbundled loops it provides to
2 CLECs, Qwest has no direct knowledge of the number of CLEC-owned loops.
3 To estimate the quantity of CLEC-owned loops, I have assumed that a ratio
4 exists of two ported numbers for each CLEC loop (both CLEC-owned and
5 Qwest-provided unbundled loops) in service. By dividing the number of ported
6 numbers by two, and subtracting the number of Qwest-provided unbundled
7 loops, I can estimate the quantity of CLEC-owned loops. This approach yields
8 a more conservative view of the total number of CLEC-owned loops currently in
9 service than estimates developed by using methods used by SBC and Verizon
10 in Section 271 applications they have presented.⁸⁷ This estimating process
11 does not take into account CLEC customers served by non-ported telephone
12 numbers and likely underestimates the actual number of CLEC access lines in
13 service.

14 Based on these conservative estimates, as of March 31, 2001, the CLECs
15 have captured over 18% of the business access line market and over 7% of
16 total access lines in Washington as follows:

- 17 ♦ Qwest/CLEC Residence Access Lines – 1,751,694
- 18 ♦ Qwest/CLEC Business Access Lines – 921,681

⁸⁷ In the joint affidavit of J. Gary Smith and Mark Johnson filed in October, 2000, with the FCC in support of Southwestern Bell's Section 271 application in Kansas and Oklahoma, CLEC access line estimates were developed on the assumption that a ratio of 2.75:1 exists for CLEC access lines per local interconnection trunk in service. Application of that same ratio to the number of Qwest local interconnection trunks in service as of March 31, 2001, results in an estimate of CLEC market share in Washington of approximately 14%. This is further evidence of the conservative nature of the market share estimates provided in my testimony.

1 ♦ Qwest/CLEC Total Access Lines – 2,673,375

2 ♦ CLEC Access Lines – 192,034

3 ♦ % CLEC Access Lines – 7.2%

4 **Q. DOES QWEST MAINTAIN A TRACKING PROCESS TO IDENTIFY**
5 **CUSTOMERS WHO HAVE LEFT QWEST FOR A COMPETITOR?**

6 A. Yes. When customer calls Qwest to disconnect service, he or she is asked the
7 reason that service is being disconnected. If the customer volunteers that
8 he/she is leaving Qwest for a competitor, or if a CLEC contacts Qwest on
9 behalf of the customer to transfer service, the account records are marked as a
10 competitive loss. Qwest maintains a record of the number of accounts and
11 associated access lines that customers have self-reported as having been lost
12 to competition or that have been transferred to a CLEC via Qwest's wholesale
13 channel.⁸⁸ However, customers do not always volunteer this information, and
14 the account loss totals therefore do not reflect the overall number of
15 competitive losses.

16 **Q. DURING 2000, HOW MANY QWEST ACCOUNTS AND ASSOCIATED**
17 **ACCESS LINES IN WASHINGTON WERE REPORTED AS BEING LOST TO**
18 **COMPETITION?**

19 A. In Washington, Qwest had the following reported residential and business

⁸⁸ No carrier-specific detail is retained; the account is simply noted as a competitive loss.

1 accounts and associated access lines that left Qwest during 2000 for
2 competitive alternatives:

- 3 ♦ Residential Accounts – 30,264
- 4 ♦ Residential Access Lines – 30,710
- 5 ♦ Business Accounts – 7,184
- 6 ♦ Business Access Lines – 21,825

7 This discussion shows that CLECs are actively serving residential and
8 business customers in Washington, and that this competitive activity is
9 occurring on both a resale and on a facilities basis.

10 C. Residential and Business Subscribers

11 **Q. EARLIER YOU SAID THAT THE THIRD TRACK A REQUIREMENT STATES**
12 **THAT AT LEAST ONE CLEC MUST BE PROVIDING LOCAL EXCHANGE**
13 **SERVICE TO RESIDENTIAL CUSTOMERS AND AT LEAST ONE PROVIDING**
14 **SERVICE TO BUSINESS CUSTOMERS. WOULD YOU EXPLAIN HOW**
15 **QWEST MEETS THIS PARTICULAR REQUIREMENT IN WASHINGTON?**

16 A. As discussed in the previous section and summarized in Exhibit DLT-2C,
17 CLECs are providing telephone exchange service to residential and business
18 subscribers in Washington. These CLECs often choose the largest, most
19 concentrated markets in Washington to offer local services to businesses and
20 selected residential customers over their own facilities or by using facilities

1 purchased from Qwest.⁸⁹ These areas are the most profitable and least costly
2 areas to serve and typically contain a high concentration of medium to large
3 businesses. However, I have provided evidence that CLECs also target
4 smaller communities in Washington, such as Bellingham, Centralia, and
5 Vancouver, when it is economically efficient for them to do so.

6 **Q. DOESN'T THE ACT REQUIRE RESIDENTIAL AND BUSINESS SERVICE TO**
7 **BE PROVIDED BY A SINGLE PROVIDER IN ORDER TO COMPLY WITH THE**
8 **TRACK A PREREQUISITES?**

9 A. No. Although our opponents may argue that no single carrier is providing
10 service to a substantial number of both business and residence subscribers,
11 the Act does not require residential and business service to be provided by a
12 single provider in order to comply with Track A prerequisites. The FCC has
13 already rejected this objection and stated:

14 "In our view, this amendment gave the BOCs greater flexibility in
15 complying with Section 271(c)(1)(A), by eliminating the requirements
16 that one carrier serve both residential and business customers, and
17 allowing instead, multiple carriers to serve such subscribers."⁹⁰

18 In its Ameritech-Michigan analysis, the FCC further noted that requiring a
19 single CLEC to serve both residential and business customers is not necessary

⁸⁹ Facilities purchased from Qwest can be defined as including unbundled network elements or resale.

⁹⁰ Ameritech-Michigan Order at ¶84.

1 to further Congress' objectives.⁹¹ In its recent Verizon-Massachusetts 271
2 order, the FCC reaffirmed its position concerning competition in the residential
3 market and the openness of the local market when it stated:

4 "Given an affirmative showing that a market is open and the
5 competitive checklist has been satisfied, low customer volumes in
6 and of themselves do not undermine that showing. Factors beyond
7 a BOC's control, such as individual competitive LEC entry
8 strategies, might explain a low residential base."⁹²

9 Even though it is not a requirement, Qwest does comply with the Track A
10 requirement because CLECs such as AT&T and Sprint provide facilities-based
11 telephone exchange service to both residential and business customers in
12 Washington.

13 **D. Service Primarily Over Their Own Facilities**

14 **Q. IN YOUR DEFINITION OF A FACILITIES-BASED PROVIDER YOU INCLUDE**
15 **USE OF QWEST'S UNBUNDLED NETWORK ELEMENTS OR ANCILLARY**
16 **SERVICES. WOULD YOU EXPLAIN THIS FURTHER?**

17 A. The fourth element of the FCC's Track A analysis requires competing providers
18 to offer telephone exchange service either exclusively or predominantly over
19 their own telephone exchange service facilities in combination with resale. As
20 explained above, many CLECs in Washington are providing local exchange
21 service primarily over their own facilities. In the Ameritech-Michigan analysis,

⁹¹ *Id.*

⁹² Verizon-Massachusetts Order at ¶235.

1 the FCC clarified that UNEs purchased from a BOC, like Qwest in Washington,
2 constitute facilities-based competition over a CLEC's own telephone exchange
3 service facilities for purposes of Track A.⁹³

4 According to the FCC, interpreting "own telephone exchange service facilities"
5 to include UNEs will further Congress' objective of opening the local exchange
6 market to competition.⁹⁴ Congress sought to ensure that CLECs would be able
7 to take advantage of any, or all three, of the entry strategies established by the
8 Act: 1) resale; 2) unbundled network elements; and 3) construction of their
9 own facilities, without disadvantaging one approach compared to another.⁹⁵ All
10 three methods are currently employed by CLECs in Washington as previously
11 addressed in resale testimony filed by Ms. Lori Simpson and UNE testimony
12 filed by Ms. Lori Simpson and Ms. Karen Stewart on behalf of Qwest in this
13 proceeding (Workshop #3).

14 In Ameritech-Michigan, the FCC determined that one or more CLECs offering
15 service exclusively or predominantly over their own facilities satisfied this
16 Track A sub-part requirement. The FCC went on to clarify that it need not
17 determine if other, or all, CLECs also offer service exclusively or predominantly
18 over their own facilities. In other words, once the sub-part was met for the first

⁹³ Ameritech-Michigan Order at ¶94.

⁹⁴ Ameritech-Michigan Order at ¶99.

⁹⁵ *Id.*

1 CLEC or combination of CLECs, the FCC determined there was no need to
2 determine if the requirement held for each and every CLEC.⁹⁶ A&T, ELI,
3 WorldCom, and others provide telephone exchange service either exclusively
4 or predominantly over their own facilities, in conjunction with unbundled
5 network elements, in Washington.

6 **Q. WHAT SPECIFIC EVIDENCE DOES QWEST HAVE TO SHOW THAT CLECS**
7 **ARE USING UNBUNDLED NETWORK ELEMENTS TO PROVIDE LOCAL**
8 **SERVICE IN WASHINGTON?**

9 A. As of March 31, 2001, Qwest was providing the following unbundled network
10 elements and other services to CLECs in Washington:

- 11 ♦ Total Number of Unbundled Loops in Service – 58,782
- 12 ♦ Number of CLECs Utilizing Unbundled Loops – 29
- 13 ♦ Total Number of Unbundled Interoffice Transport (“UDIT”) in Service – 236
- 14 ♦ Total Number of CLECs Utilizing UDITs – 11

15 As shown by this data, CLECs in Washington are actively utilizing unbundled
16 loops and other unbundled network elements to provide service to customers.
17 The FCC has ruled that use of unbundled network elements in providing retail
18 services represents a form of facilities-based competition.

⁹⁶ Ameritech-Michigan Order at ¶104.

1 **Q. WOULD YOU PLEASE SUMMARIZE WHAT ALL OF THIS INFORMATION**
2 **MEANS TO THE COMMISSION RELATIVE TO SECTION 271 AND THE**
3 **OPENING OF LOCAL MARKETS TO COMPETITION?**

4 A. Certainly. The preceding discussion has demonstrated that the four-part Track
5 A requirements are satisfied in Washington because: 1) Qwest has one or
6 more binding agreements with CLECs which have been approved under
7 Section 252 of the Act; 2) Qwest provides access and interconnection with
8 unaffiliated competing providers of telephone exchange service; 3) competitors
9 provide telephone exchange service to residential and business subscribers in
10 markets in Washington; and 4) competing providers offer telephone exchange
11 service either exclusively or predominantly over their own telephone services
12 facilities (which includes UNEs) in combination with the resale of the
13 telecommunications services of Qwest.

14 **V. PUBLIC INTEREST**

15 **Q. WHAT HAS THE FCC SAID IN ITS PREVIOUS ORDERS ABOUT HOW IT**
16 **ANALYZES WHETHER A BOC MEETS THE PUBLIC INTEREST**
17 **REQUIREMENTS OF THE ACT?**

18 A. The FCC orders granting 271 relief outline the following three-step analysis for
19 the public interest requirement:

20 ♦ determination that the local markets are open to competition,

- 1 ♦ identification of any unusual circumstances in the local exchange and long
2 distance markets that would make the BOC's entry into the long distance
3 market contrary to the public interest, and
- 4 ♦ assurance of future compliance by the BOC.

5 **A. Determination that the Local Markets are Open to Competition**

6 **1. Compliance with the 14-Point Checklist**

7 **Q. WOULD YOU PLEASE DISCUSS THE FIRST ASPECT OF THE FCC'S**
8 **PUBLIC INTEREST ANALYSIS THAT EVALUATES WHETHER THE LOCAL**
9 **MARKETS ARE OPEN TO COMPETITION?**

10 A. Yes. Based on previous FCC rulings in other 271 applications, compliance
11 with the competitive checklist, also known as the 14-point checklist "is, itself, a
12 strong indicator that long distance is consistent with the public interest."⁹⁷
13 Complying with the competitive checklist requirements, which embody the
14 critical elements of market entry under the Act, means that "barriers to
15 competitive entry in the local market have been removed and [that] the local
16 exchange market today is open to competition."⁹⁸ As the FCC points out, this
17 approach reflects the Commission's many years of experience that has shown
18 that consumer benefits flow from competitive telecommunications markets.⁹⁹
19 Each of the checklist items is being examined in separate workshop

⁹⁷ BANY Order at ¶422; SBC-Texas Order at ¶416.

⁹⁸ BANY Order at ¶426; SBC-Texas Order at ¶419.

⁹⁹ BANY Order at ¶422; SBC-Texas Order at ¶416.

1 proceedings where a rigorous analysis of checklist compliance has been, or is
2 being, conducted. Qwest will defer discussion of compliance with the
3 competitive checklist items to their respective workshops. Based on the record
4 created from all the checklist workshops, Qwest will demonstrate that it is in
5 compliance in Washington with the competitive checklist as outlined in the Act.
6 This will provide clear evidence that the local markets are open to competition
7 and that Qwest's entry into the interLATA long distance market is in the public
8 interest. Based on the FCC's analysis, compliance with the competitive
9 checklist means that the local market is open to competition. Therefore, Qwest
10 complies with the first element of the FCC's analysis.

11 **2. State-Specific Data Demonstrating the Local Market is Open to Competition**

12 **Q. WHAT SPECIFIC DATA DOES QWEST HAVE WHICH DEMONSTRATES**
13 **THAT THE LOCAL MARKETS IN WASHINGTON ARE OPEN TO**
14 **COMPETITION?**

15 A. The following facts demonstrate that Qwest has opened its local exchange
16 markets to competitors in Washington as intended by the Act:

- 17 ♦ Qwest has 81 Commission-approved wireline interconnection agreements
18 and 33 resale-only interconnection agreements between itself and its
19 competitors in Washington (as of March 31, 2001).¹⁰⁰
- 20 ♦ Qwest has 33 interconnection agreements pending Commission approval in
21 Washington (as of March 31, 2001).

¹⁰⁰ In addition, there are a total of 26 interconnection agreements with wireless, paging, and Extended Area Service ("EAS") providers in Washington.

- 1
- 2 ♦ Qwest has 69 competitors actively interconnecting with it in Washington (as
- 3 of March 31, 2001).¹⁰¹

- 4 ♦ Qwest has 40 competitors purchasing resold services at the Commission-
- 5 approved discount in Washington (as of March 31, 2001).

- 6
- 7 ♦ Qwest filed a Statement of Generally Available Terms (“SGAT”) on
- 8 March 22, 2000, in Washington that establishes Qwest has a specific,
- 9 concrete, and legal obligation to make the checklist items available upon
- 10 request.

- 11
- 12 ♦ Qwest estimates that 192,034 access lines are served by competitive
- 13 providers and 125,769 access lines are served on a facilities basis in
- 14 Washington.

- 15
- 16 ♦ 29 CLECs are interconnected with Qwest via 149,847 local interconnection
- 17 trunks in Washington (as of March 31, 2001).

- 18
- 19 ♦ In the month of March 2001, Qwest exchanged 1,228,425,986 minutes of
- 20 usage (“MOU”) between itself and CLECs over their local interconnection
- 21 trunks in Washington.

- 22
- 23 ♦ Qwest has provisioned 34,290 unbundled loops for 21 carriers in
- 24 Washington (as of March 31, 2001).

- 25
- 26 ♦ There are 40 carriers actively reselling Qwest’s services in Washington (as
- 27 of March 31, 2001). 23 carriers are reselling to residential customers and
- 28 36 carriers are reselling to business customers. A total of 36,928 local
- 29 exchange service access lines are being resold in Washington by these
- 30 carriers.

- 31
- 32 ♦ Qwest has 434 completed collocation arrangements with 33 CLECs in
- 33 Washington (as of March 31, 2001). 68 out of 113 Washington central
- 34 offices have completed collocation arrangements.

- 35

¹⁰¹ Number includes one (1) affiliated CLEC.

1 checklist.¹⁰² In fact, in the context of its public interest analysis, the FCC has
2 identified factors previously raised by CLECs that do not warrant denial of the
3 public interest standard as follows: 1) the low percentage of total access lines
4 served by CLECs; 2) the concentration of competition in densely populated
5 urban areas; 3) minimal competition for residential service; 4) modest facilities-
6 based investment; and 5) prices for local exchange service at maximum
7 permissible levels under the price caps.¹⁰³

8 **Q. DO CLECS ACTUALLY HAVE TO TAKE ADVANTAGE OF THE**
9 **OPPORTUNITY TO ENTER THE LOCAL EXCHANGE MARKET BEFORE**
10 **QWEST IS AWARDED 271 RELIEF?**

11 A. No. Rather than give consideration to such arguments from incumbent long
12 distance providers, Section 271 approval is conditioned “solely on whether the
13 applicant has opened the door for local entry through full checklist compliance,
14 not on whether competing LECs actually take advantage of the opportunity to
15 enter the market.”¹⁰⁴ Additionally, the FCC specifically declined to adopt a
16 market share or similar test for a BOC’s entry into the interLATA long distance
17 market.¹⁰⁵ Qwest will demonstrate that the markets are open to competition
18 through successful completion of the checklist workshops in Washington.

¹⁰² BANY Order at ¶428; SBC-Texas Order at ¶419.

¹⁰³ BANY Order at ¶426; SBC-Texas Order at ¶419.

¹⁰⁴ BANY Order at ¶427.

¹⁰⁵ BANY Order at ¶427; SBC-Texas Order at ¶419; Verizon-Massachusetts Order at ¶235.

1 Moreover, the current level of competition in Washington, as I have reviewed in
2 earlier sections of this testimony, are ample evidence that the Washington
3 market is open to competition, and many CLECs and DLECs have successfully
4 entered this market.

5 **C. Assurance of Future Compliance**

6 **Q. THE FINAL ASPECT OF THE FCC'S PUBLIC INTEREST ANALYSIS IS**
7 **ASSURANCE OF FUTURE COMPLIANCE. WOULD YOU EXPLAIN THIS**
8 **PORTION OF THE ANALYSIS IN MORE DETAIL?**

9 A. The FCC has repeatedly explained that one factor it may consider, as part of
10 its public interest analysis is whether a BOC would continue to satisfy the
11 requirements of Section 271 after entering the long distance market.¹⁰⁶ The
12 FCC has consistently looked at three factors to provide assurance of future
13 compliance:

- 14 ♦ acceptable Performance Assurance Plan ("PAP"),¹⁰⁷
- 15 ♦ the FCC's enforcement authority under Section 271(d)(6),¹⁰⁸ and
- 16 ♦ liability risk through antitrust and other private causes of action if the BOC
17 performs in an unlawfully discriminatory manner.¹⁰⁹

¹⁰⁶ BANY Order at ¶429; SBC-Texas Order at ¶420.

¹⁰⁷ BANY Order at ¶429-¶430; SBC-Texas Order at ¶420-¶421.

¹⁰⁸ BANY Order at ¶429-30; SBC-Texas Order at ¶421.

¹⁰⁹ *Id.*

1 **1. Acceptable Performance Assurance Plan**

2 **Q. WHAT IS A PERFORMANCE ASSURANCE PLAN?**

3 A. A performance assurance plan (“PAP”) is a performance monitoring and
4 enforcement mechanism that provides a BOC, such as a Qwest, with a
5 meaningful incentive to maintain a high level of performance after its 271
6 application is granted. It is designed as an anti-backsliding mechanism.

7 **Q. WOULD YOU DEFINE THE TERM “BACKSLIDING”?**

8 A. Yes. The theory behind backsliding is that once it enters the in-region,
9 interLATA long distance market, a BOC such as Qwest will have no incentive
10 to provide parity of service to CLECs. The purpose of the PAP is to provide
11 incentive for the BOC to ensure service quality is maintained and backsliding
12 does not occur.

13 **Q. DOES QWEST HAVE A PERFORMANCE ASSURANCE PLAN IN**
14 **WASHINGTON?**

15 A. Yes. Qwest does have a PAP for Washington. Qwest is currently working with
16 a number of parties in a series of Post Entry Performance Plan (“PEPP”)
17 collaborative workshops being held under the auspices of the Regional
18 Oversight Committee (“ROC”). The purpose of these workshops is to discuss
19 the adequacy of Qwest’s PAP, with the goal being to gain as much consensus
20 as possible. After the PEPP workshops are concluded, it will be up to the
21 Commission to issue a recommendation based on the record from those

1 workshops. Therefore, the details of the PAP and related comments should be
2 addressed in the PEPP workshops.

3 **Q. IS QWEST'S PLAN SUFFICIENT TO PASS MUSTER WITH THE FCC?**

4 A. While I am not an expert on the Qwest PAP, I do know that Qwest has
5 developed its plan by adopting the statistical testing and payment structure
6 elements of the SBC plans that have been reviewed and approved by the FCC
7 in SBC's Texas 271 applications in Texas, Kansas, and Oklahoma.

8 **2. Three Other Factors that the FCC Considers for Assurance of Future**
9 **Compliance**

10 **Q. DOES THE FCC SOLELY RELY ON THE PAP FOR ASSURANCE OF FUTURE**
11 **COMPLIANCE?**

12 A. No. The FCC has repeatedly held that "it is not necessary that a state
13 monitoring and enforcement mechanism alone provide full protection against
14 potential anti-competitive behavior by the incumbent."¹¹⁰

15 **Q. WHAT OTHER FACTORS HAS THE FCC CONSIDERED FOR ASSURANCE**
16 **OF FUTURE COMPLIANCE?**

17 A. While the FCC has considered other factors for assurance of future
18 compliance, it has determined that the most significant factor, other than the

¹¹⁰ BANY Order at ¶430 and ¶435; SBC-Texas Order at ¶421.

1 PAP, is the FCC's enforcement authority under section 271(d)(6).¹¹¹ The FCC
2 notes that Section 271(d)(6) already provides incentives for a BOC to ensure
3 continuing compliance with its Section 271 obligations.¹¹² If at any time after
4 the FCC approves a 271 application, it determines that a BOC has ceased to
5 meet any of the conditions required for such approval, Section 271(d)(6)
6 provides the FCC enforcement remedies including imposition of penalties,
7 suspension or revocation of 271 approval, and an expedited complaint
8 process. Finally, the FCC notes that the BOC risks liability through antitrust
9 and other private causes of action if it performs in an unlawfully discriminatory
10 manner.¹¹³ These factors provide the Commission additional assurance of
11 Qwest's future compliance.

12 D. Other Public Interest Considerations

13 **Q. BEYOND THE COMPONENTS OF THE FCC'S PUBLIC INTEREST**
14 **ANALYSIS, ARE THERE OTHER DATA THE WASHINGTON COMMISSION**
15 **SHOULD CONSIDER THAT SUPPORT QWEST'S CONTENTION THAT THE**
16 **LOCAL MARKETS ARE OPEN AND QWEST'S ENTRY INTO THE INTERLATA**
17 **LONG DISTANCE BUSINESS IS IN THE PUBLIC INTEREST?**

18 A. It is clear that Qwest has opened its local exchange markets to competitors as
19 required by the Act because there are many competitors who have chosen to

¹¹¹ *Id.*

¹¹² *Id.*

1 enter Washington local exchange markets and compete with Qwest for new
2 and existing customers. Many customers are enjoying the opportunity to
3 choose from among competing providers of local exchange and long distance
4 services. These customers can choose to get all of their telecommunications
5 services, local, long distance, and data services, from a single provider other
6 than Qwest. Alternatively, they can choose to spread their purchases among
7 several providers.

8 **Q. HOW DOES THIS COMPETITION IMPACT BOTH QWEST AND ITS**
9 **CUSTOMERS?**

10 A. This competition has implications for both Qwest and its customers.
11 Customers who make calls that cross Local Access and Transport Area
12 ("LATA") and/or state boundaries are prohibited from selecting Qwest to carry
13 these calls. Ironically, Qwest is the only local exchange carrier not allowed to
14 compete for such intrastate, interLATA business. Qwest should not be barred
15 from providing an additional choice to these customers. In fact, customers
16 should be afforded the benefits of expanded choices, as intended by Congress
17 when it drafted the Act.

1 **Q. IF THERE ARE ALREADY INTERLATA LONG DISTANCE PROVIDERS IN**
2 **WASHINGTON, WHAT PUBLIC INTEREST BENEFIT WILL BE SERVED IF**
3 **QWEST IS ALLOWED TO PROVIDE INTERLATA LONG DISTANCE**
4 **SERVICES?**

5 A. Unfortunately, there is another side to the competitors' entry strategies that is
6 not serving the public interest very well. Many customers do not have the
7 opportunity to choose a single provider for all of their telecommunications
8 needs in spite of the fact that the local exchange markets are fully open to
9 competitors. These customers are located in geographical areas that the
10 CLECs have decided are not attractive to serve at this time. Since Qwest
11 cannot yet provide interLATA long distance services, Qwest is precluded from
12 offering these customers the flexibility of one-stop shopping, even though no
13 other carrier appears to be willing to do so.

14 Upon receiving Section 271 approval, Qwest is poised to enter the interLATA
15 market to give all of its customers the opportunity to select a full service
16 provider of local and long distance services and enjoy one-stop shopping if the
17 customer so chooses. This additional level of service and choice is clearly in
18 the public interest. This proceeding initiates the actions that will ultimately lead
19 to Section 271 approval. The Commission should support and encourage
20 Qwest's interLATA entry to assure that all customers share in the benefits of
21 competition.

1 **Q. HAS THE COMMUNITY EXPRESSED AN OPINION AROUND THE BENEFITS**
2 **ITS BELIEVES WILL BE CREATED BY QWEST'S REENTRY INTO THE**
3 **INTERLATA LONG DISTANCE MARKET?**

4 A. Yes. Qwest has been active in explaining the benefits of open competition in
5 all markets to customers and business organizations in Washington. As a
6 result, Qwest has received copies of a number of letters to the Washington
7 State Attorney General supporting Qwest's reentry into the interLATA market.
8 An example of these letters, from the Grant County Economic Development
9 Council, is attached as Exhibit DLT-6. In the Grant County letter, the author
10 states: "We support Qwest's entry into the interLATA long distance business,
11 which we believe will better serve the public interest of our community and the
12 state of Washington by increasing not only the level of long-distance
13 competition, but also the amount of competition for other telecommunications
14 services, resulting in a healthier economy, more connected communities, and
15 more efficient and effective education and health care systems." Qwest agrees
16 with this conclusion and believes it was precisely Congress' intent when it
17 drafted the Telecommunications Act of 1996.

18 **Q. BUT ISN'T THE INTERLATA LONG DISTANCE MARKET ALREADY FULLY**
19 **COMPETITIVE AND THUS THERE IS LITTLE TO BE GAINED BY ALLOWING**
20 **ONE MORE COMPETITOR LIKE QWEST INTO THE MARKET?**

21 A. No. Although some of our opponents might say this, it is not the case. If there

1 were nothing to gain by Qwest's entry, the other long distance competitors
2 would be taking a neutral position regarding Qwest's 271 applications. In view
3 of their opposition, the competitors must consider Qwest a threat to their
4 market position and the profit margins they currently enjoy. These concerns
5 should confirm to the Commission that there are still significant gains to be had
6 for residence and business customers.

7 **Q. WHAT EVIDENCE CAN YOU PROVIDE THAT ILLUSTRATES THE DEGREE**
8 **TO WHICH THE WASHINGTON LONG DISTANCE MARKET IS**
9 **COMPETITIVE?**

10 A. A total of 589 providers are currently registered with the Commission as
11 providing long distance services in Washington.¹¹⁴ Each of these providers,
12 with the notable exception of Qwest, is now authorized to provide intraLATA
13 and interLATA long distance service in the state. With the advent of intraLATA
14 dialing parity, customers are free to presubscribe to the carrier of his or her
15 choice. As of March, 2001, the proportion of total access lines in Washington
16 presubscribed to Qwest for intraLATA long distance calling has declined to
17 approximately 50%, with the remainder choosing to be served by one of the
18 wide array of available providers. In view of the strong presence of
19 competition, the Commission has found this market to be fully competitive in
20 Washington.

¹¹⁴ www.wutc.wa.gov.

1 When Qwest enters the highly competitive interLATA market in Washington, it
2 will have no market share and will be contesting the existing range of
3 interLATA providers for a portion of the market. Qwest intends to do this by
4 delivering superior value to the customer through a combination of needs-
5 based packaging and competitive pricing. Qwest believes this heightened level
6 of competition in the interLATA market will elicit competitive responses from
7 current providers that will benefit consumers in general.

8 **Q. IS THERE ANY MARKET EXPERIENCE TO DEMONSTRATE THAT**
9 **COMPETITIVE BENEFITS ACTUALLY OCCUR WHEN THE INCUMBENT LEC**
10 **IS GRANTED APPROVAL TO ENTER THE INTERLATA MARKET?**

11 A. Actual market experience in New York where Verizon (formerly Bell Atlantic),
12 another BOC, has been permitted to provide interLATA long distance service
13 demonstrates that competitive pressures increase consumers' benefits. For
14 example, as a result of Verizon's entry into the interLATA long distance
15 business a little more than a year ago, residential long distance prices have
16 been reduced. According to the Telecommunications Research & Action
17 Center ("TRAC") – an independent consumer group that, among other things,
18 compiles information about long distance rates – there is a Verizon calling plan
19 in New York with rates lower than any AT&T, WorldCom, or Sprint New York
20 calling plan for all levels of customer usage except high volume callers (which

1 account for only 10 percent of the total number of customers in New York).¹¹⁵

2 In a study released September 6, 2000, TRAC found that savings for
3 consumers who switched to Verizon's long distance service was between more
4 than \$46 million and \$120 million.¹¹⁶ TRAC's most recent study, released May
5 8, 2001, updates the September, 2000, results and suggests New York
6 consumers will save up to \$700 million on long distance and local telephone
7 service.¹¹⁷ The study concludes that residential customers will save up to \$284
8 million a year after switching long distance companies and up to \$416 million a
9 year after switching local phone companies or between \$84 and \$324 of
10 savings a year for each New York phone customer.¹¹⁸ It is reasonable to
11 assume that consumers in Washington will experience similar benefits and
12 savings if Qwest is allowed to offer interLATA long distance services.

13 **Q. WHAT ARE THE RISKS IF QWEST IS NOT ALLOWED INTO THE INTERLATA**
14 **LONG DISTANCE MARKET?**

15 A. If Qwest is not afforded an opportunity to be a viable full service competitor,
16 there is a risk that customers will have a narrower range of service options,

¹¹⁵ Declaration of Maura C. Breen, *In the Matter of Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176 at ¶12-¶14 ("Verizon-Massachusetts Application").

¹¹⁶ *Id.*

¹¹⁷ "TRAC Estimates New York Consumers Save Up to \$700 Million a Year On Local and Long Distance", May 8, 2001 (<http://trac.policy.net/proactive/newsroom/release.vtml>).

¹¹⁸ *Id.*

1 particularly in those less competitive areas. Local exchange carriers that want
2 to be healthy, viable companies, need to offer what customers want: attractive
3 packaging of local service, intraLATA long distance and interLATA long
4 distance, calling features, data services, Internet connectivity, and other
5 choices.¹¹⁹ Qwest's competitors can do that today and have chosen to do so
6 only in certain markets.¹²⁰ All Qwest seeks is an opportunity to compete in the
7 same way. The public interest is not served if Qwest continues to be
8 prevented from: 1) entering the interLATA long distance markets; 2) packaging
9 services to meet customer needs; and 3) competing on par for its own high
10 margin customers wherever they are located.

11 **Q. IS THE LOCAL MARKET TRULY OPEN TO COMPETITION IF SOME**
12 **CUSTOMERS DON'T HAVE A CHOICE OF PROVIDERS?**

13 A. The lack of incentive of competitive providers to serve certain markets in no
14 way means that the local markets are not fully open. It merely means that
15 providers have elected not to use the options created by the Act. Competing
16 providers of local exchange service have demonstrated that they are only going
17 to offer their services to those customers that they find most profitable. Those
18 customers will be determined by their location and by their demand for
19 telecommunications services. The small customer, the customer who is

¹¹⁹ S. Schmelling, "Bundling Takes on New Meaning," *Telephony*, July 13, 1998, p. 20.

¹²⁰ Exhibit DLT-7 is an advertisement by XO Communications that appeared in the May 7, 2001, *Seattle Times* promoting the "one stop shopping" advantages of their service to Seattle-area customers.

1 expensive to serve, or the high-risk customer will not be offered a competing
2 local exchange service, other than perhaps the resale of Qwest's services.

3 The entry by AT&T, WorldCom, Sprint, XO Communications, McLeodUSA and
4 others into Qwest's local exchanges provides a clear view of the future.
5 Qwest's competitors are targeting customers who are most profitable to serve,
6 and will gladly let Qwest continue to provide exchange services to the low or
7 negative margin customer who is expensive to serve. If Qwest is prevented
8 from competing in the interLATA markets, its customer base will quickly
9 become limited to the high cost, low revenue exchange service customers no
10 one else wants to serve.

11 LATA restrictions apply only to Qwest and they are a constant and significant
12 barrier to efficiently meeting customer needs. Unfortunately, this often
13 adversely affects the most desirable sectors of the market, as well as any other
14 customer who needs to connect multiple locations that cross LATA or state
15 boundaries. Qwest faces these barriers every day. Many customers do not
16 understand why these LATA problems exist, and they often result in higher
17 costs for the customer.

18 **Q. WILL QWEST'S ENTRY INTO THE INTERLATA MARKET BENEFIT**
19 **CONSUMERS IN ANY OTHER WAY?**

20 A. As I discussed earlier in my testimony, Qwest plans to make one-stop
21 shopping available to all residential and business customers. As the

1 incumbent local service provider in Washington, Qwest already offers
2 consumers a wide array of local services. Being able to offer interLATA long
3 distance service will allow Qwest to combine those services with existing local
4 services to create integrated bundles or packages of service that customers
5 have been asking for. Qwest will be able to provide these packages not only to
6 customers in geographic areas currently targeted by competitive providers, but
7 to residential and rural customers who are often ignored by these same
8 providers.

9 Being able to offer consumers packages of service will allow Qwest to compete
10 on a level playing field with competitive providers who already offer customers
11 bundles of local and long distance services. Without the ability to offer bundled
12 services, including an interLATA long distance component, Qwest will be
13 significantly disadvantaged in its ability to compete in virtually all markets since
14 customers are increasingly demanding robust packages, not just stand-alone
15 offerings. Consumers in Washington will ultimately benefit by having not only a
16 choice of service providers but also more variety in packages from which to
17 chose. Further, as firms compete for customers, consumers should see
18 additional benefits due to lower prices and more package choices.

1 **Q. WHAT OTHER BENEFITS WILL THE WASHINGTON LOCAL MARKET**
2 **REALIZE FROM QWEST'S ENTRY INTO THE INTERLATA LONG DISTANCE**
3 **MARKET?**

4 A. Qwest's entry into the interLATA market will serve the public interest by
5 encouraging competition not only in the interLATA market, but the intraLATA
6 market and the local exchange markets as well. The market dynamics are
7 similar for everyone. If Qwest is allowed to aggressively compete in all market
8 segments, it will be much harder for national carriers like AT&T, WorldCom,
9 and Sprint, as well as other more regional interexchange carriers to ignore the
10 residential local exchange market.

11 **Q. WOULD YOU BE MORE SPECIFIC?**

12 A. Recent experience in New York has shown that competitive providers have
13 little interest in providing local services to a broad range of consumers unless
14 they are at risk of losing existing long distance customers.¹²¹ Qwest's entry into
15 the Washington interLATA long distance market will provide competitive
16 providers with the incentive to quickly expand their local service offerings in
17 order to protect their long distance business and the associated revenues.

18 In September 1999, following approval by the New York Public Service
19 Commission, Verizon filed with the FCC for authority to provide interLATA

¹²¹ Declaration of Maura Breen, Verizon-Massachusetts Application at ¶22-¶27.

1 services within the state of New York. Because the Section 271 process takes
2 months to complete, there was widespread knowledge within the industry
3 about Verizon's plans months in advance. There was also a widespread belief
4 that Verizon was going to receive FCC approval to enter the interLATA long
5 distance market some time during 1999. During this same timeframe there
6 was a surge of competitive activity by WorldCom and AT&T in New York. At
7 the end of 1998, WorldCom reported that it served 35,600 access lines in New
8 York; by September 1999 it had signed up 160,000 residential customers.¹²²
9 AT&T was also actively pursuing customers in 1999; it began offering its local
10 service to residential customers in August, 1999, and as of December 31,
11 1999, reportedly served almost 98,000 access lines.¹²³

12 This activity in the residential market shows that competitive providers were
13 positioning themselves to compete with Verizon once it received Section 271
14 approval. With Section 271 approval, Washington could expect a similar
15 competitive response by the large carriers such as AT&T and WorldCom.

¹²² "Carriers Ranked By Local Exchange Lines Served," from Competitive Analysis of Telecommunications in New York State, *New York Public Service website*, downloaded November 22, 1999. See also, Goodman, Peter "Long Distance Market Calls to Bell Atlantic; Bid in New York May Guide Local Phone Firms," *The Washington Post*, September 27, 1999.

¹²³ Goodman, Peter "Long Distance Market Calls to Bell Atlantic; Bid in New York May Guide Local Phone Firms," *The Washington Post*, September 27, 1999.

1 **Q. WHEN QWEST IS ALLOWED TO RE-ENTER THE INTERLATA LONG**
2 **DISTANCE MARKET, DOES QWEST INTEND TO UTILIZE ITS OWN**
3 **FACILITIES IN PROVIDING THIS SERVICE?**

4 A. Qwest currently has its own transmission and switching facilities in place to
5 serve much of the interLATA traffic it will carry when it is granted re-entry into
6 the interLATA long distance market. However, Qwest will purchase capacity
7 from other providers as necessary to support interLATA calling volumes
8 originating and terminating to specific geographic areas if its own network
9 capacity is not sufficient to transport these volumes. To the extent Qwest
10 utilizes wholesale services of other providers, those providers will receive
11 revenues flows that do not currently exist.

12 **Q. WHAT CONCLUSIONS CAN BE DRAWN FROM ALL OF THIS?**

13 A. It is essential that both the deliberations of the Commission and the FCC
14 reflect the realities of Washington, not a competitive model developed with the
15 densely populated eastern seaboard in mind. Many parts of Washington have
16 low population density and rural geography, making these areas difficult and
17 expensive to serve for any local telephone provider.¹²⁴ However, alternatives
18 do exist and the CLECs can serve these rural customers via resale. Qwest
19 should not be denied access to the interLATA markets simply because the

¹²⁴ In Oklahoma, another state with rural geography, the FCC granted SBC's 271 application even though the evidence showed that CLECs served as low as 5.5 percent of the total access lines in SBC's service territory. SBC-Kansas/Oklahoma Order at ¶5.

1 CLECs have chosen not to provide service.¹²⁵ Aggressive competition is
2 already occurring in many communities in Washington and the customers in
3 these areas represent a measurable portion of access line base. Qwest's
4 application to enter the interLATA business in Washington must be considered
5 in light of these realities. The very vitality of the process is at stake, as noted in
6 a statement by the current FCC Chairman Michael Powell:

7 "Cookie-cutter solutions that ignore the economic, regulatory and
8 technical context in which each applicant operates may unduly burden
9 BOCs or deprive new entrants of a fighting chance to compete for local
10 exchange customers, and I seriously question whether such national
11 solutions would be consistent with the state-by-state application process
12 contemplated by section 271. I am also concerned that if we do not
13 tailor checklist solutions to particular States or regions, we may overlook
14 small and mid-sized competitors, whose competitive activities and
15 successes all too often are drowned out by the chorus of larger
16 companies that constantly serenade those of us within the Beltway."¹²⁶

17 **Q. BASED ON ALL THESE FACTS, IS IT IN THE PUBLIC INTEREST TO KEEP**
18 **QWEST OUT OF THE INTERLATA LONG DISTANCE MARKET?**

19 **A.** No. It is not in the public interest to continue to keep Qwest out of the
20 interLATA markets in Washington. Qwest's competitors are taking advantage
21 of this restriction at a time when the telecommunications markets in
22 Washington are expanding. Unless the interLATA restriction is lifted, many
23 customers in Washington will not have the choices promised them when

¹²⁵ BANY Order at ¶427; SBC-Texas Order at ¶419.

¹²⁶ (FCC Press office called an "Essay" released by Powell on January 15, 1998, titled: WAKE UP CALL: FCC COMMISSIONER MICHAEL POWELL CALLS FOR NEW "COLLABORATIVE

1 Congress passed the Act in 1996. The Commission should find that the public
2 interest will be served if Qwest is allowed to compete on equal footing with
3 other full service providers.

4 VI. COMMISSION QUESTIONS

5 **Q. DOES THIS TESTIMONY PROVIDE ANSWERS TO THE QUESTIONS THE**
6 **COMMISSION ASKED IN THE SUPPLEMENTAL AND INTERPRETIVE**
7 **POLICY STATEMENT?**

8 A. Yes. In Appendix A, Section VII, the Commission asked thirteen (13) questions
9 regarding Public Interest.¹²⁷ My testimony addresses Questions 1 through 13. I
10 have also prepared Exhibit DLT-8 that is a matrix of the questions and the
11 location in my testimony and associated exhibits where the answers to those
12 questions can be located.

13 VII. Conclusion

14 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

15 A. Qwest has opened its local exchange markets to competition. The presence of
16 over 110 established interconnection agreements in Washington, as
17 contemplated in Track A requirements, is evidence of this. These agreements
18 have allowed CLECs to enter the local markets in Washington either on a

APPROACH" TO SECTION 271 APPLICATIONS).

¹²⁷ *In the Matter of the Investigation into U S WEST Communications, Inc.'s Compliance with §271(C) of the Telecommunications Act of 1996*, Docket No. UT-970300, Issued March 15, 2000.

1 resale basis or as facilities-based providers through interconnection and/or the
2 purchase of unbundled network elements. There are many CLECs who are
3 operating pursuant to Commission-approved agreements with Qwest and
4 providing service to a substantial number of businesses and select residential
5 customers in communities throughout Washington. The agreements provide
6 for cost-based pricing of access, interconnection, and unbundled network
7 elements and for wholesale discounts to reflect avoided costs.

8 Additionally, Qwest has established that granting its 271 application is in the
9 public interest. The next step in completing the competitive landscape in
10 Washington and enhancing the public interest is to fully open the interLATA
11 market by allowing Qwest to provide interLATA services. Qwest requests that
12 the Commission advise the FCC that it is in the public interest for Qwest to
13 enter the interLATA markets in Washington.

14 In the end, it is the customer who will be the beneficiary of the expanded array
15 of competitive choices resulting from Qwest's entry into the interLATA long
16 distance marketplace.

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

18 **A.** Yes, it does.

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE INVESTIGATION)
INTO QWEST CORPORATION'S)
COMPLIANCE WITH §271(C) OF THE)
TELECOMMUNICATIONS ACT OF 1996.)**

DOCKET NO. UT-003022

EXHIBITS

OF

DAVID L. TEITZEL

ON BEHALF OF

QWEST CORPORATION

RE: PUBLIC INTEREST AND TRACK A

May 16, 2001

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