

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
INTO QWEST CORPORATION'S)
COMPLIANCE WITH SECTION 272 OF THE) DOCKET NO. UT- 003022
TELECOMMUNICATIONS ACT OF 1996)**

REBUTTAL TESTIMONY

OF

JUDITH L. BRUNSTING

ON BEHALF OF

QWEST COMMUNICATIONS CORPORATION

REGARDING 272 ISSUES

JUNE 21, 2001

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1

I. BACKGROUND

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Judith L. Brunsting. My business address is 198 Inverness
4 Drive West, 2nd Floor, Englewood, Colorado 80112.

5

6 **Q. WHO ARE YOU EMPLOYED BY AND WHAT ARE YOUR**
7 **RESPONSIBILITIES?**

8 A. I am employed by Qwest Communications Corporation ("QCC" also
9 known as the "272 Affiliate") as a Senior Director, 272 Business
10 Development. In this capacity, I am responsible for implementing
11 requirements and coordinating activities associated with Section 272.

12

13 **Q. DID YOU FILE TESTIMONY IN THIS PROCEEDING?**

14 A. Yes. I filed direct testimony regarding the 272 Affiliate's Section 272
15 compliance efforts with the Washington Commission on August 7, 2000,
16 supplemental direct testimony on August 24, 2000 and supplemental
17 direct testimony on May 16, 2001.

18

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II. PURPOSE OF REBUTTAL TESTIMONY

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Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

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A. The purpose of my rebuttal testimony is to respond to the June 7, 2001

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Affidavit of AT&T Corporation witness ("AT&T") Cory W. Skluzak. Mr.

5

Skluzak concludes that the 272 Affiliate has failed to demonstrate that it

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will comply with the obligations of Section 272. I intend to continue to

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show that the 272 Affiliate is prepared to satisfy Section 272 requirements

8

once the BOC obtains Section 271 authority. Based on specific concerns

9

the affidavit raises, I will provide supplemental information relating to the

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272 Affiliate's understanding of Section 272 and its compliance efforts.

11

12

Q. WOULD YOU PLEASE SUMMARIZE MR. SKLUZAK'S AFFIDAVIT

13

ADDRESSING 272?

14

A. Yes. Mr. Skluzak alleges that the 272 Affiliate has failed to demonstrate

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that it will comply with the following specific obligations under Section 272.

16

First, he alleges that the evidence presented does not reflect that the 272

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Affiliate's books, records, and accounts are maintained separate from that

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of the BOC, as required by Section 272 (b)(2). Second, the 272 Affiliate

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does not have true separation of employees, officers, and directors from

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the BOC as required by Section 272 (b)(3). Lastly, the 272 Affiliate fails to

1 provide detailed marketing plans contemplated by the Joint Marketing
2 requirement of Section 272(g).

3 Mr. Skluzak fails to understand the 272 record created and the
4 requirements of Section 272. He also does not recognize the business
5 processes and controls the 272 Affiliate has in place to now comply with
6 these safeguards, nor does he give appropriate recognition to the
7 transition period required to make the new 272 Affiliate compliant.

8 **III. SUMMARY OF RESPONSE**

9 **Q. PLEASE PROVIDE A SUMMARY OF YOUR RESPONSE TO CORY W.**
10 **SKLUZAK'S AFFIDAVIT.**

11 A. My rebuttal testimony will demonstrate that the 272 Affiliate will satisfy all
12 of the relevant requirements of Section 272, and the related rules directed
13 by the FCC, following the BOC's receipt of in-region, interLATA authority
14 in Washington. QCC is the separate 272 Affiliate that will offer originating
15 interLATA services in Washington upon approval.

16 The 272 Affiliate will: operate independently from the BOC; maintain
17 separate books, records, and accounts; have its own directors, officers,
18 and employees; and conduct all transactions with the BOC on an arm's
19 length basis, with all such transactions reduced to writing and available for
20 public inspection. The 272 Affiliate understands its obligations relative to

1 Section 272(g), and is prepared to comply with the joint marketing
2 requirements.

3 Before discussing the facts showing that the 272 Affiliate is prepared to
4 satisfy Section 272, it is important to distinguish the difference between
5 Section 272 and Section 271 satisfaction. Section 271 sets forth the
6 requirements that must be satisfied before the BOC can enter the in-
7 region, interLATA market. Section 272 defines how the BOC or any
8 affiliate of the BOC must operate when offering such interLATA services
9 once the BOC receives Section 271 authority. Thus, there is no specific
10 requirements that the 272 Affiliate meet Section 272 obligations now;
11 rather it must only demonstrate that it will comply with the requirements of
12 Section 272.¹ The 272 Affiliate must present evidence that it is prepared
13 to operate under the terms of Section 272 once the BOC is granted
14 authorization to provide in-region, interLATA services in the state of
15 Washington. In essence, the Commission must make a “predictive
16 judgment” about whether Section 272 satisfaction appears likely. The
17

¹ *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. December 22, 1999), ¶403 (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), ¶394 (hereinafter “SBC-Texas Order”).

1 FCC has recognized this distinction in its Section 271 decisions.² As
2 demonstrated below, the 272 Affiliate continues to be prepared to be in
3 compliance with Section 272.

4 **IV. SECTION 272(b)(2) SEPARATE BOOKS, RECORDS**

5 **AND ACCOUNTS**

6 **Q. ARE THE 272 AFFILIATE'S BOOKS, RECORDS, AND ACCOUNTS**
7 **MAINTAINED PURSUANT TO THE FCC RULES AND SEPARATE**
8 **FROM QWEST?**

9 A. The books, records, and accounts of both Qwest Long Distance and the
10 272 Affiliate are maintained pursuant to the FCC Rules and separate from
11 the BOC. As I demonstrated in my testimony in Confidential Exhibit JLB-
12 19C, filed May 16, 2001, the 272 Affiliate has established and maintains a
13 separate Chart of Accounts. To further amplify the separateness,
14 Confidential Exhibit JLB-26C provides an updated version of the 272
15 Affiliate's Chart of Accounts. The 272 Affiliate will maintain a separate set
16 of financials from those of the BOC for internal and corporate use. The
17 272 Affiliate also maintains expenditure controls and policies. Further, the
18 ledger system of the 272 Affiliate is separate from the BOC's ledger

² *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121 (rel. October 13, 1998), ¶321 ("requires a predictive judgment regarding the future behavior of the BOC.") (hereinafter "BellSouth-LA II Order"); BANY Order at ¶402; SBC-Texas Order at ¶395.

1 system. Finally, the 272 Affiliate is certified to do business and provide
2 telecommunications services separate from that of the BOC.

3 **Q. PLEASE ACCOUNT FOR THE PREPARATION, POSTING, BILLING**
4 **AND PAYMENT OF TRANSACTIONS BETWEEN JULY 1, 2000 AND**
5 **APRIL, 2001.**

6 A. There were a number of activities that occurred between July 1, 2000 and
7 April, 2001 that impacted the preparation, posting, billing, and payment of
8 transactions between Qwest Long Distance, QCC, and the BOC. During
9 the period from July 1, 2000 through April, 2001 a merger occurred
10 followed by a reorganization of the new company. New plans were
11 created, organizations consolidated and duplicate functions eliminated. In
12 mid-January, 2001, a new 272 Affiliate was identified. The identification of
13 affiliate transactions between the BOC and the new 272 Affiliate was
14 completed at the end of March, 2001. A focused effort then followed by
15 creating agreements, posting transactions, billing, and payment. The
16 transactions between July 1, 2000 and April, 2001 were not concluded,
17 posted, or billed in a timely manner. However, timeliness did not deter
18 activities from being completed. The carrying out of transactional
19 documentation, posting, and billing for the transition period was completed
20 in April-May, 2001.

21

1 **Q. DOES QWEST LONG DISTANCE USE ACCRUAL ACCOUNTING?**
2 **ARE EXPENSES REFLECTED IN THE YEAR THEY WERE**
3 **INCURRED?**

4 A. Qwest Long Distance utilizes accrual accounting for its transactions
5 between affiliates. Therefore, the transactions between the BOC and
6 Qwest Long Distance that involve accruals are accounted for and included
7 in the general ledger.

8 **Q. ARE THERE REFERENCES IN THE 272 AFFILIATE'S CHART OF**
9 **ACCOUNTS THAT REFLECT THE CONSOLIDATION OF THE 272**
10 **AFFILIATE AND QWEST LONG DISTANCE?**

11 A. The Chart of Accounts for the 272 Affiliate and Qwest Long Distance are
12 separate and unique. The 272 Affiliate and Qwest Long Distance have
13 not merged at this time. AT&T made an incorrect assumption that a
14 specific set of accounts reflected in the 272 Affiliate's Chart of Accounts
15 were for Qwest Long Distance when in fact the accounts referenced
16 happened to be for a separate pre-merger Qwest subsidiary.

17 The 272 Affiliate and Qwest Long Distance maintain Charts of Accounts
18 that are separate from the BOC's Chart of Accounts as reflected by the
19 Brunsting Direct Testimony Confidential Exhibit JLB-4 filed on August 7,
20 2000 and the Brunsting Supplemental Direct Testimony Confidential
21 Exhibit JLB-19C, filed on May 16, 2001.

1 **Q. DO THE 272 AFFILIATE AND THE BOC SHARE ACCOUNTING**
2 **SYSTEMS AND PROCESSES? WHAT ARE THE FINANCIAL**
3 **CONTROLS IN PLACE?**

4 A. No, the 272 Affiliate and the BOC do not share accounting systems. The
5 272 Affiliate’s General Ledger is maintained on the PeopleSoft FRED
6 system that is the Classic Qwest General Ledger Package. The server for
7 operating this system and the data is maintained on hardware located at
8 facilities in Arlington, Virginia. The BOC’s General Ledger is maintained
9 on the PeopleSoft PROFIT system, which is the Classic U S WEST
10 General Ledger Package. The server for operating this system and data
11 is maintained on hardware located at the Zuni facility in Denver.

12 Therefore, the 272 Affiliate and the BOC maintain separate accounting
13 software located at different locations.

14 Security measures and other internal controls restrict access to the books
15 and records of the 272 Affiliate. The systems contain various “edits” to
16 control appropriate classification of expense. Additionally, the books are
17 subject to audits from Qwest’s Internal Audit organizations and are also
18 part of quarterly reviews and annual financial audits conducted by an
19 external auditor. Consolidation, for external reporting purposes, takes
20 place using a separate financial reporting tool.

1 **Q. DOES THE FCC REQUIRE AN AUDIT OF SECTION 272 PRIOR TO 271**
2 **APPROVAL?**

3 A. No. The FCC does not require an audit for Section 272 compliance prior
4 to 271 approval. However, Qwest Communications International Inc.'s
5 consolidated financial statements as contained in the Form 10-K filed with
6 the Securities and Exchange Commission, are audited annually. These
7 financial statements include consolidated results of the 272 Affiliate.

8 In addition, transactions between all Qwest affiliates and the BOC are
9 audited annually as part of the annual Joint Cost or CAM audit referred to
10 in the testimony of Ms. Marie Schwartz. Section 272(d) of the Act does
11 not require an "opening" audit and the FCC, in its Accounting Safeguards
12 Order "...required the first audit of the BOC compliance with Section 272
13 to begin at the close of the first full year of operations. The next audit will
14 begin two years later and will cover the operations of the previous two
15 years. This schedule should assure an operational period with adequate
16 information and data to audit."³ Further, the FCC has not required any of
17 the other BOCs who have received Section 271 authority to conduct an
18 "opening" audit prior to reentry into the in-region, interLATA long distance
19 business.

³ In the Matter of Implementation of the Telecommunications Act of 1996, Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket 96-150, Report and Order, FCC 96-490, released December 24, 1996, para. 203.

1 **Q. PLEASE DESCRIBE THE PURPOSE OF THE BIENNIAL AUDIT**
2 **REQUIREMENT OF 272(d) AND HOW THE 272 AFFILIATE WILL**
3 **COMPLY WITH THAT REQUIREMENT.**

4 A. The purpose of the Biennial Audit is to determine whether the BOC and its
5 separate subsidiaries are complying with the accounting and structural
6 safeguards of Section 272 after receipt of Section 272 approval and to
7 report the results to the FCC and state regulatory agencies.

8 The 272 Affiliate will provide access to its financial accounts and records
9 to verify that all transactions conducted between the BOC and 272 Affiliate
10 meet the specific requirements of Section 272(d).

11 **Q. MR. SKLUZAK HAS MADE A NUMBER OF SPECIFIC ALLEGATIONS**
12 **THROUGHOUT HIS AFFIDAVIT. PLEASE PROVIDE AN**
13 **EXPLANATION AND ADDITIONAL DETAIL OR INFORMATION TO**
14 **RESPOND TO THE SPECIFIC EXAMPLES IN PARAGRAPH 37 IN MR.**
15 **SKLUZAK'S AFFIDAVIT DATED JUNE 7, 2001.**

16 A. I have divided my response into subsections to correspond to the
17 subsections in paragraph 37 of Mr. Skluzak in his Affidavit on behalf of
18 AT&T dated June 7, 2001.

19 a. In paragraph 37(a), the transaction for work performed by Qwest
20 Consumer Services for Qwest Long Distance from January through

1 December 1999 was issued in December 1999 to Qwest Long
2 Distance. Qwest Long Distance accrued the expenses in the same
3 month, December 1999, and subsequently paid the charges in
4 January 2000. Late charges were not applied to the bill because
5 payment was made in January 2000 when the bill was due. The
6 charges were associated with printing and mail costs per card,
7 which according to Work Order MMLD039 (Card Services – Section
8 4 Pricing), “will be adjusted to reflect the ratio of revenues earned
9 from the card between USWLD (QLD) and USWC (QC) for the
10 year. This ratio will be adjusted and trued up at the end of each
11 calendar year.”

12 As shown in Confidential Exhibit JLB-27C, a bill (page 1) was
13 received by Qwest Long Distance, authorization for payment was
14 prepared by Qwest Long Distance (page 2), the accrual posted
15 (page 3), the general ledger transaction for the accrual posted
16 (pages 4 to 6) and the Work Order for the Card Services (pages 7
17 to 11) referenced.

- 18 b. In paragraph 37(b), transactions between QC and Qwest Long
19 Distance are “not” the only affiliate transactions involving payments.
20 Since the merger between Qwest and U S WEST there have been
21 no non-cash transactions. Prior to the merger a non-cash

1 transaction between U S WEST Long Distance (QLD) and U S
2 WEST Communications (which is now QC) for 23 MacIntosh
3 computers, 30 monitors, 9 printers, and 1-12 port controller
4 occurred. This transaction was posted to the website. If non-cash
5 transactions occur in the future they will be handled in the same
6 way, disclosed and posted.

7 Qwest Long Distance and the 272 Affiliate have processes in place
8 that requires the disclosure and posting of transactions not
9 involving the exchange of money.

10 c. In paragraph 37(c), the 272 Affiliate and Qwest Long Distance have
11 provided their Chart of Accounts showing that the accounts are
12 different. The Chart of Accounts for the 272 Affiliate does not
13 reflect accounts from Qwest Long Distance.

14 Qwest Long Distance inadvertently moved transactions after
15 January 1, 2001 to the "Terminated Transactions" section of the
16 Section 272 website area. The transactions have now been moved
17 back to the "Current Transactions" section of the website and are
18 able to be viewed.

19 d. In paragraph 37(d), Mr. Skluzak brings up a number of issues in
20 this statement concerning financial transactions, finance functions
21 and payroll services, and tries to make them appear that they are

1 linked and therefore suspect. For example, he has ignored Ms.
2 Schwartz's discussion about the fact that the FCC does not require
3 the 272 Affiliate and the BOC to have physically separate financial
4 systems. Ms. Schwartz has explained the numerous processes
5 and safeguards in place to prevent Qwest Long Distance and the
6 272 Affiliate from having access to QC's financial data and
7 information.

8 All three affiliates use modules of PeopleSoft. Qwest Long
9 Distance and QC use separate versions of PeopleSoft PROFIT
10 located on a server in Denver, Colorado. The usage of PROFIT
11 has security measures and protections to keep the information
12 separate. The 272 Affiliate uses PeopleSoft FRED, which is
13 located in Arlington, Virginia.

14 The 272 Affiliate and QC have correctly and appropriately followed
15 the rules and places in writing, posted to the Internet, and made
16 publicly available services provided between the separate
17 companies.

18 e. In paragraph 37(d), the reference to reversing a 1999 transaction
19 was correctly stated as "Billed in error USWC carrier should have
20 been billed." QLD received a bill for charges associated with the
21 Utah Equal Access Conversion. QLD, using existing processes,

1 disputed the charges and worked with QC to determine the
2 appropriate billed department. The bill was subsequently cancelled
3 and QLD did not remit payment. Per existing processes, QC
4 booked or accrued the revenue at the time the bill was rendered
5 and thus needed to reverse the charges. Accordingly, it was the
6 reversal noted by a QC employee that Mr. Skluzak saw on the
7 posted “true-up” section of the website. The employees performing
8 the functions identified in this example were QLD if accounting was
9 performed in QLD, or QC if the accounting was conducted for QC.
10 Please see Confidential Exhibit JLB-28C, pages 1 to 4.

11 QLD followed internal controls and processes for bill dispute and
12 understands its separate books, records and accounts
13 requirements.

- 14 f. In paragraph 37(f), QLD’s present and historical record has and can
15 show that the necessary accounting safeguards are in place and
16 operational to show compliance with 272(b)(2) and (5). The
17 Biennial Audit which will occur within 12 months of the first state
18 entry into long distance will provide the sufficient operational data to
19 show compliance with Section 272.

20 **Q. WOULD YOU NOW DISCUSS RESPONSES TO PARAGRAPH 39 OF**
21 **MR. SKLUZAK’S AFFIDAVIT DATED JUNE 7, 2001.**

1 A. QCC and QLD use accrual accounting for their affiliate billable
2 transactions, one example to point to is Confidential Exhibit JLB-27C,
3 page 3 and pages 4 to 6 showing the accrual for a bill, and the general
4 ledger transactions which followed. Accrual accounting is followed by
5 both entities. The period from July, 2000 through March 26, 2001
6 coincides with the merger and transition periods referenced in Ms.
7 Schwartz and Ms. Brunsting's testimonies. QCC was not identified as
8 operational until March, 2001 at which time accruals for affiliate
9 transactions occurred.

10 **Q. PLEASE DISCUSS YOUR RESPONSE TO PARAGRAPH 63(d) OF MR.**
11 **SKLUZAK'S AFFIDAVIT DATED JUNE 7, 2001.**

12 A. With paragraph 63(d), it is difficult to determine which transaction Mr.
13 Skluzak is referring to without further detail. It appears he is referring to
14 the transaction I previously explained in response to paragraph 37 of Mr.
15 Skluzak's affidavit.

16 **Q. PLEASE DISCUSS RESPONSES TO PARAGRAPH 78(a) OF MR.**
17 **SKLUZAK'S AFFIDAVIT DATED JUNE 7, 2001.**

18 A. In response to paragraph 78(a), QLD pays bills in a timely manner or it
19 disputes the transaction following the conditions and terms of the written
20 agreement. The transaction amounts are accrued in the appropriate time

1 period as evidenced by an example month of December 1999. Please
2 see Confidential Exhibit JLB-29C, pages 1 to 5 in reference to this.

3 **Q. NOW PLEASE DISCUSS YOUR RESPONSE TO PARAGRAPHS 79(A),**
4 **(B), AND (C) OF MR. SKLUZAK'S AFFIDAVIT DATED JUNE 7, 2001.**

5 A. I have divided my answer into subsections to correspond with the
6 subsections under 79(a), (b), and (c) of Mr. Skluzak's June 7, 2001
7 affidavit for ease and clarity purposes.

8 a. As shown on Confidential Exhibit JLB-30C, page 1, QLD disputed
9 this bill in question for the months of July, August, and December
10 (noted on Affiliate Invoice Review, this is in error and should be
11 September) due to lack of compliance with the billing agreement
12 terms. The Affiliate Invoice Review Checksheet supports the
13 process of validating the billing received. Per the billing terms in
14 the Master Services Agreement "the billing company may not
15 render a bill for services more than ninety (90) days after those
16 services have been provided unless both companies have agreed
17 in advance to a longer billing period."

18 On June 10, 1999 a QLD employee notified QC that QLD would like
19 to be billed quarterly for Fraud Referrals (Confidential Exhibit JLB-
20 30C, page 2). QLD received a bill for July 1999 through December
21 1999 on January 20, 2000 (pages 3 to 4). Payment for October,

1 November, and December 1999 was made because those charges
2 were billed in a manner consistent with the work order.

3 b. In regards to paragraph 79(b), the bills (Confidential Exhibit JLB-
4 31C, pages 1 to 2) for the services referenced were in dispute
5 because it appeared there were no work orders in place so these
6 services could be provided. QLD subsequently discovered the
7 work order filed under a different exhibit. Although the bills were in
8 dispute, QLD did accrue for the amount billed with one of the
9 invoices, no accrual appears to have been made for the smaller
10 amount associated with the invoice. Authorization for payment was
11 presented on October 30, 2000 (page 1). QLD is working with QC
12 to determine the amount of the late charges that should be billed
13 and a bill for the late charges will be issued shortly.

14 QLD has controls and processes in place for service received, bill
15 disputes, accruals and payments. QLD did not accrue for a portion
16 of the charges referenced. The 272 Affiliate is reviewing processes
17 in place to identify accruals as described in this example.

18 c. In reference to paragraph 79(c), QLD did accrue (Confidential
19 Exhibit JLB-32C, pages 1 and 2) for the charges discussed in this
20 section of Mr. Skluzak's testimony while the charges were being
21 disputed. QLD is working with QC to determine the amount of late

1 charges that should have been billed and a bill for the late charges
2 will be issued shortly.

3 QLD has processes in place for bill dispute, accrual accounting and
4 bill payment. QLD will be billed shortly for late charges.

5 **Q. PLEASE PROVIDE YOUR RESPONSE TO PARAGRAPH 99 OF MR.**
6 **SKLUZAK'S AFFIDAVIT DATED JUNE 7, 2001.**

7 A. In response to paragraph 99, the billing of affiliated transactions for the
8 period July, 2000 until April, 2001 did not occur as QCC was not a
9 designated 272 Affiliate until March 26, 2001. The decision to identify
10 QCC as the 272 Affiliate was completed mid January 2001, however, a
11 transition period occurred to show readiness for 272(c) compliance.

12 **V. SECTION 272(b)(3) SEPARATE OFFICERS,**
13 **DIRECTORS AND EMPLOYEES**

14 **Q. PLEASE CLARIFY THE REQUIREMENTS FOR SEPARATE OFFICERS**
15 **AND DIRECTORS AND HOW THE 272 AFFILIATE COMPLIES WITH**
16 **272(b)(3).**

17 A. The requirement for separate officers, directors, and employees means
18 that the same person may not simultaneously serve as an officer, director,

1 or employee of both the BOC and the Section 272 Affiliate.⁴ The 272
2 Affiliate has no officers, directors, or employees who are also officers,
3 directors, or employees of the affiliated BOC.

4 The FCC concluded Section 272(b)(3) does not preclude the parent
5 company of the BOC and the Section 272 Affiliate from performing
6 functions for both the BOC and Section 272 Affiliate as AT&T alleges.

7 Supplemental Direct Testimony of Judith L. Brunsting, Exhibits JLB-20T
8 and JLB-21T, filed May 16, 2001 provides the detailed list of officers and
9 directors for the 272 Affiliate and the BOC.

10 **Q. PLEASE CLARIFY THE ROLE OF MS. ROBIN SZELIGA, EXECUTIVE**
11 **VICE PRESIDENT AND CHIEF FINANCIAL OFFICER OF QCI.**

12 A. Ms. Robin Szeliga is Vice President and Chief Financial Officer of QCI.
13 Ms. Szeliga is also an officer of the 272 Affiliate, QLD, and QSC. Ms.
14 Szeliga holds no officer, director or employee position with the BOC. The
15 separate affiliate cannot share officers, directors or employees with the
16 BOC and, as shown, Ms. Szeliga is not a shared officer. See Exhibit JLB-
17 33 for an updated 272 Affiliate's Officers and Directors list.

18

⁴ In the Matter of Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended., CC Docket 96-149, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489, released December 24, 1996, para. 178.

1 **Q. WHAT IS AUGUSTINE CRUCIOTTI'S CURRENT**
2 **EMPLOYEE/OFFICER/DIRECTOR STATUS AND IS HE AN**
3 **OFFICER/DIRECTOR/EMPLOYEE OF BOTH QWEST CORPORATION**
4 **AND QCC?**

5 A. Augustine Cruciotti is currently an employee and officer of QSC and a
6 Director of the BOC. He is not an employee, officer, or director of the 272
7 Affiliate.

8 Between July, 2000 and December 15, 2000 he was an officer and
9 employee of QCC. During this timeframe QCC was not identified as the
10 272 Affiliate.

11 **Q. PLEASE DESCRIBE THE POLICIES IN PLACE TO RESTRICT THE**
12 **MOVEMENT OF INFORMATION AS A RESULT OF EMPLOYEES**
13 **MOVING BETWEEN ENTITIES.**

14 A. Several policies and guidelines are in place to restrict the sharing of
15 information with employees moving between entities. First, upon
16 acceptance of a position the employee is required to sign a non-disclosure
17 statement to prevent the sharing of non-public information between the
18 companies. Second, employees are required to annually review the Code
19 of Conduct that provides guidelines governing the relationship and
20 business transactions between the various affiliates of Qwest. Lastly,
21 upon departing, the employee reviews and must sign an acknowledgment

1 form stating that the employee no longer has access to Qwest assets or
2 may no longer disclose Qwest information after their departure date. This
3 includes Qwest information assets. See Exhibit JLB-34 for the Qwest
4 Offer Letter and Exhibit JLB-35 for the Qwest Exit Checklist.

5 In addition, 272 Compliance training is conducted as new employees join
6 the 272 Affiliate or any other Qwest entity. The training and Code of
7 Conduct emphasize that conduct will not be tolerated for violations of
8 these policies or guidelines. Employees who violate these policies or
9 guidelines are subject to disciplinary action up to and including termination
10 from employment.

11 **Q. CAN THE 272 AFFILIATE CONTRACT TO RECEIVE SERVICE FROM**
12 **BOC EMPLOYEES WITHOUT VIOLATING SECTION 272(B)(3)?**

13 A. Yes. The 272 Affiliate can contract to use BOC employees without
14 violating Section 272(b)(3). The requested service needs to be placed in
15 writing, made publicly available, and posted to the Internet. The offering
16 of the service by the BOC to the 272 Affiliate would be available to other
17 IXC's under equal terms and conditions.

18 Qwest is implementing a policy prohibiting the loan or 100% use of an
19 employee, by the BOC or 272 Affiliate, for more than four months out of
20 any twelve month period. If a 272 Affiliate or BOC employee were to
21 provide service for 3 months of 100% of their time, the service would be

1 agreed to between QCC and QC, reduced to writing, posted to the
2 internet, and made publicly available.

3 **Q. DOES SECTION 272(b)(3) PRECLUDE THE PARENT COMPANY OF**
4 **THE BOC AND THE SECTION 272 AFFILIATE FROM PERFORMING**
5 **FUNCTIONS FOR BOTH THE BOC AND SECTION 272 AFFILIATE?**

6 A. No. The FCC concluded in its Non-Accounting Safeguards Order⁵ that
7 Section 272(b)(3) does not preclude the parent company of the BOC and
8 the 272 Affiliate from performing functions for both. The Order went on to
9 conclude that an affiliate of the BOC, such as a service affiliate, could
10 provide services to both a BOC and the 272 Affiliate. The required
11 separateness of officers, directors, and employees extends only to the
12 relationship between the BOC and the 272 Affiliate, and does not preclude
13 the BOC and the 272 Affiliate from purchasing common services from
14 another affiliate.

15 **VI. SECTION 272(b)(5) – AFFILIATE TRANSACTIONS**

16 **Q. IS ADDITIONAL TRANSACTION INFORMATION AVAILABLE FOR**
17 **SERVICES OR ASSETS PROVIDED BY QWEST LONG DISTANCE TO**
18 **THE BOC?**

⁵ In the Matter of Implementation of the Non-Accounting Safeguards of Section 271 and Section 272 of the communications Act of 1934, as amended, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, released December 24, 1996, para. 182.

1 A. Qwest Long Distance and the 272 Affiliate have attempted to provide any
2 and all information on transactions for services or assets that have been
3 requested. The 272 Affiliate has recently made transactional detail
4 available and is preparing to release financial statement information. As
5 we move forward, future requests for information will be responded to with
6 the most current available information.

7 **Q. WHAT IS THE STATUS OF THE DETAIL OF PAYMENTS MADE BY**
8 **THE 272 AFFILIATE TO QWEST AND FINANCIAL INFORMATION FOR**
9 **2001 AS REQUESTED BY MR. SKLUZAK?**

10 A. The bill for services rendered by the BOC on behalf of the 272 Affiliate
11 through April, 2001 was delivered to the 272 Affiliate's Accounts Payable
12 on May 2, 2001. The authorization for payment will be processed for
13 funds to be disbursed on the 18th business day or May 24, 2001. Detail of
14 payments processed in this cycle will be available shortly after that time.
15 For future periods, detail of payments will be available on or about the last
16 business day of the month. Additional financial information, specifically
17 the 272 Affiliate's consolidated balance sheet for December, 2000, and
18 first quarter, 2001, are available as of May 22, 2001 and attached hereto
19 as Confidential Exhibit JLB-36C. Thereafter the balance sheet information
20 will be available quarterly.

1 **Q. WILL THE SUPPORTING DOCUMENTATION OF THE 272**
2 **AFFILIATE'S PAYMENT FOR SERVICES PROVIDE DETAIL IN**
3 **COMPLIANCE WITH 272?**

4 A. Yes, the first Authorization for Payment ("AFP") for services provided to
5 the 272 Affiliate from the BOC will be processed in May. The detail
6 supporting the billing and subsequent payment will be consistent with
7 requirements of Section 272.

8 **Q. ARE TRANSACTIONS BETWEEN QWEST LD AND QC POSTED**
9 **AFTER JANUARY 1, 2001?**

10 A. Yes. The transactions between Qwest LD and QC after January 1, 2001
11 were inadvertently moved to the "Terminated Transactions" section of the
12 Section 272 website area. The transactions have now been moved back
13 to the "Current Transactions" section of the website.

14 **Q. DOES THE 272 AFFILIATE RECEIVE EXTENDED PAYMENT TERMS?**

15 A. No. The 272 Affiliate has a process in place for prompt billing, bill
16 payment, disputing bills and dispute resolution. The process in place,
17 effective with May business, is as follows:

18 1) Bills will be submitted to the BOC Billing organization prior to the
19 second work day of the month following the month in which the
20 service is rendered.

- 1 2) Settlement of cash for affiliate bills rendered prior to the second
2 work day is transacted on the 18th business day.
- 3 3) Disputes that cannot be resolved through consultation and
4 negotiation will be handled as described in the Services Agreement
5 between the 272 Affiliate and the BOC, which is posted to the
6 Internet.

7 **Q. IS THE SEPARATENESS OF EMPLOYEES COMPROMISED BY**
8 **CREATING A TRANSACTION WHERE THE EMPLOYEE OF THE BOC**
9 **PROVIDES SERVICES FOR THE 272 AFFILIATE?**

10 A. No. Again, the BOC and the 272 Affiliate cannot share employees. If the
11 BOC provides specific services to the 272 Affiliate, Section 272(b)(5)
12 requires that the transaction be reduced to writing, and made publicly
13 available on the Internet. The 272 Affiliate understands that the BOC may
14 not discriminate in favor of the 272 Affiliate in the provision or
15 procurements of goods, services, facilities, or information.

16 The provision of service by the BOC to the 272 Affiliate must also be
17 accounted for in accordance with the FCC's affiliate transaction rules.
18 Therefore, BOC employees providing a service to the 272 Affiliate which
19 has been reduced to writing, posted to the Internet and provided to others
20 under the nondiscrimination requirements of 272(c) are transaction

1 tracking mechanisms and provide disclosure of the transaction as a
2 means to ensure compliance with Section 272.

3 **VII. SECTION 272 (c) - NON-DISCRIMINATION**
4 **SAFEGUARDS OF SECTION 272**

5 **Q. IS THE 272 AFFILIATE REPRESENTED ON THE COMPLIANCE**
6 **OVERSIGHT TEAM?**

7 A. No, the 272 Affiliate is neither represented nor a member of the BOC
8 Compliance Oversight Team. Additionally, QLD was neither represented
9 nor a member of the BOC Compliance Oversight Team.

10 **VIII. SECTION 272(e) – FULFILLMENT OF CERTAIN REQUESTS**

11 **Q. WHAT PRICING SUPPORT SHOULD THE 272 AFFILIATE BE**
12 **REQUIRED TO FILE WITH SERVICES IT INTRODUCES, UPON 271**
13 **APPROVAL, IN THE STATES AND AT THE FCC?**

14 A. Within the requirements of Section 272, no requirement or mention is
15 made of pricing support that the long distance affiliate should be required
16 to produce as it introduces products or services in the marketplace. The
17 suggestion of pricing support upon entry into the interLATA business is
18 beyond the scope of this proceeding and an additional unnecessary
19 burden to a new entrant in an already competitive marketplace.

20

1 **IX. SECTION 272(g) – JOINT MARKETING REQUIREMENTS**

2 **Q. HOW WILL THE 272 AFFILIATE COMPLY WITH THE JOINT**
3 **MARKETING REQUIREMENTS?**

4 A. The 272 Affiliate understands its obligations under previous FCC 271
5 orders⁶ relative to Section 272, and is prepared to follow the joint
6 marketing rules. It is important to note, however, that the FCC stated in its
7 Non-Accounting Safeguards Order that “no regulations are necessary to
8 implement section 272(g)(1).”⁷

9 Specifically, there are three general provisions contained within Section
10 272(g) of the Act and the 272 Affiliate will abide by them:

- 11 1) If the Long Distance affiliate markets the BOC’s telephone
12 exchange service it must do so in a nondiscriminatory manner;
- 13 2) The BOC may not market the Long Distance Affiliate’s interLATA
14 services until the BOC receives authority to offer interLATA
15 services pursuant to Section 271 of the Act; and

⁶ In the Matter of 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, released December 22, 1999, para. 419-421. And In the Matter of Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance, CC Docket No. 00-65, released June 30, 2000, para. 414-415.

⁷ *Non-Accounting Safeguards Order*, 11 FCC Rcd at 22,043-44, at ¶286.

1 3) Once the BOC has received authority to offer interLATA long
2 distance service in a particular state, it may jointly market such
3 services within its Long Distance Affiliate.

4 As required by Section 272, the 272 Affiliate and the BOC will not engage
5 in joint marketing except through an agreement that is reached on an
6 arm's length basis, reduced to writing, and made publicly available on the
7 Internet as required by Section 272(b)(5). To the extent that the BOC
8 allows the 272 Affiliate to market the BOC's telephone exchange services,
9 such a posting would allow others the opportunity to similarly market and
10 sell the BOC's telephone exchange services, consistent with Section
11 272(g)(1). Further, the 272 Affiliate will not market or sell in-region,
12 interLATA services with the BOC until the BOC is authorized to provide
13 interLATA service in Washington by the FCC. Finally, the 272 Affiliate
14 understands that joint marketing activities outlined in 272(g) shall not be
15 considered to violate the nondiscrimination requirements of Section
16 272(c). The 272 Affiliate and the BOC may provide marketing for each
17 other, provided that such services are conducted pursuant to an arm's-
18 length transaction, consistent with the requirements of Section 272(b)(5).

19 **Q. IS BOC PARTICIPATION IN PRODUCT DESIGN, PLANNING AND/OR**
20 **DEVELOPMENT OF A SECTION 272 AFFILIATE'S SERVICES**
21 **CONSIDERED A PART OF JOINT MARKETING AND THEREFORE**

1 2001, created new opportunities for the BOC and the 272 Affiliate. During
2 this timeframe work processes were identified, employees trained and
3 new organizational structures formed.

4 At the same time processes were retained, employees changed positions
5 and organizational groups consolidated. The identification of work efforts
6 to create Section 272 awareness and compliance were quickly enacted.

7 The evidence presented does reflect separate books, records, and
8 accounts. Officer, director and employee lists reflect no sharing of
9 employees between the 272 Affiliate and the BOC. Processes and
10 controls continue to be improved to increase accuracy and timeliness of
11 recording transactions. Employee awareness efforts to insure compliance
12 are in place.

13 I have demonstrated with additional information and improved processes
14 that the 272 Affiliate has provided sufficient evidence to show Section 272
15 compliance now and in the future.

16 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

17 **A. Yes, it does.**