SUMMARY

These Comments mark the first time that the new Qwest Communications International, Inc. ("Qwest"), following its merger with U S WEST, Inc., has weighed in on any significant issues involving local competition. With this merger Qwest became a unique entity in the telecommunications landscape. Qwest is now a large interexchange carrier, competitive local exchange carrier ("CLEC"), and data local exchange carrier ("DLEC"), while simultaneously being a Bell operating company and large incumbent local exchange carrier ("incumbent LEC"). As such, Qwest is both a major purchaser and provider of collocation. Accordingly, Qwest is in the unique position of having to balance the need and desire of a CLEC for collocation space for its own uses with the totally lawful desire of an incumbent LEC to make use of its own private property for its own uses. The balancing of these competing interests within Qwest as a whole, is very much like the balancing that the Commission will undertake in adopting rules that best meet the goals and aims of the Telecommunications of 1996 (the "Act").

Qwest has attempted to reflect this balancing in these comments. The central points in the comments are summarized as follows.

In terms of redefining the "necessary" standard of section 251(c)(6), Qwest submits that a particular piece of equipment is "necessary" for interconnection or access to unbundled network elements ("UNEs") when that equipment is actually used for one or both of those purposes and collocation is necessary for the equipment to be used in a competitively meaningful fashion. In other words, the necessary

part of the equation applies to the collocation of the equipment, not to the equipment itself.

It is also Qwest's view that if the primary purpose for collocating a given piece of equipment is interconnection or access to UNEs, then the CLECs should be permitted to collocate the equipment even if the equipment is multi-functional, and performs other reasonable ancillary functions that do not constitute interconnection or UNE-access functions. Moreover, once a CLEC lawfully obtains a collocation arrangement—i.e., by placing equipment that is both necessary to and actually used for interconnection or access to UNEs—then the CLEC should be allowed to deploy all reasonable ancillary functions of that equipment. This standard should apply even if the ancillary functions involve services not strictly defined as telecommunications service (although, functions totally unrelated to telecommunications should be prohibited).

Similarly, although a CLEC should not be allowed to collocate for the sole purpose of obtaining a cross-connection with another CLEC, once a CLEC lawfully obtains a collocation arrangement, it should be allowed to cross-connect to other collocators.

With respect to points of entry to incumbent LEC central offices, Qwest submits that the incumbent should be required to designate the appropriate point of entry for CLECs. Similarly, Qwest believes that incumbents should have the discretion to select the actual physical location of a CLEC's collocation space. The incumbent must act reasonably in doing so, however, and may not intentionally

place CLECs in a difficult to use or isolated space when more suitable space is available.

Qwest also supports physical collocation of CLECs at remote incumbent LEC premises, and, as an incumbent, offers several products to accommodate such requests. Where space is not sufficient to allow a CLEC to occupy an entire shelf in a remote terminal, then space is also not sufficient for a virtual remote collocation. Lastly, Qwest does not support the collocation of a single line card (as opposed to an entire shelf) at this time because a number of technological issues make it unworkable; should these technological issue be resolved, however, the Commission should revisit the issue, consistent with the requirements of the Act and the evolving marketplace.

With regard to the deployment of new network architectures, Qwest believes that the loop is properly defined as the physical transmission path between Qwest central offices and the customer premises. Qwest believes that dense wavelength division multiplexing should be treated as an additional capability of the loop and not as capacity of the fiber loop itself. Additionally, it is Qwest's position that unbundled dedicated transport should not be considered part of the loop—it is simply the provision of bandwidth between two offices.

With regard to the retirement of copper facilities, in many cases, any overlay of fiber does not mean that existing copper is abandoned—it is often converted to distribution facilities, and not retired at the time of the fiber placement. Further,

Qwest does not support the concept of state or federal approval of the retirement of obsolete loop plant.

Finally, Qwest submits that it is technically feasible for carriers to access the subloop by collocating at the remote terminal, and the Commission should require incumbent LECs to allow carriers to access the subloop at the remote terminal.

Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	
And	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.

Qwest Communications International Inc.[1] ("Qwest") hereby submits its Comments in response to the Federal Communications Commission's ("FCC" or "Commission") *Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147* ("*Second Further Notice*") and *Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98* ("*Fifth Further Notice*"), released August 10, 2000. In the comments that follow, Qwest sets forth responses to a number of the Commission's questions in these dockets, in addition to specifying the principles underlying Qwest's approach which should guide the Commission in revisiting its collocation rules.

[1] On June 30, 2000, U S WEST, Inc. merged with and into Qwest Communications International Inc. U S WEST, Inc. was the parent and sole shareholder of U S WEST Communications, Inc. U S WEST Communications, Inc. was renamed Qwest Corporation on July 6, 2000.

I. INTRODUCTION

On June 30, 2000, Qwest Communications International Inc. merged with U S WEST, Inc. With this merger Qwest, which already was a large interexchange carrier and competitive local exchange carrier ("CLEC"), acquired U S WEST Communications, Inc. (later renamed Qwest Corporation), a Bell operating company and incumbent local exchange carrier ("incumbent LEC") in its fourteen state region. The resulting merged entity stands unique on the United States regulatory landscape. Qwest is both a major incumbent LEC and a major CLEC, and now approaches this Commission as simultaneously a major seller and purchaser of collocation space. Hence, Qwest is in the unique position of having to balance the need and desire of a CLEC for collocation space for its own uses, and the totally lawful desire of an incumbent LEC to make use of its own private property for its own uses. In a very real sense, this Commission can make no decision in this docket which is a total victory for Qwest, because the unmitigated self interest of an incumbent LEC and a CLEC would, if not checked by the counterweight which Qwest's ownership structure now provides, lead to positions which by their very nature were contradictory. The balancing of the two interests within Qwest proper is very much like the balancing which the Commission itself must undertake in determining a proper regulatory structure which can best meet the goals and aims of the 1996 Telecommunications Act.

We attempt to reflect this balancing in these comments. The Commission will note that many of the results which Qwest has reached herein differ somewhat from what either of the pre-merger parts of Qwest had advocated in the past.

Where such shifts have occurred, it has been a result of our ability to perceive a somewhat larger picture and the necessity to examine sympathetically a larger number of options than required by the pre-merger operations of either company. We set forth in this introduction some basic principles which have guided our analysis and which can form a backdrop for further analysis by the Commission itself.

A. Proper Interpretation of the "Necessary" Standard Need not Impede Advancement of the Act's Goals and Objectives.

The Commission's original rules fared badly in court because the Commission attempted to define the word "necessary" in the Act as meaning only "useful," a word which carries a far less rigorous meaning than does "necessary." Obviously Qwest is not going to suggest that the Commission repeat its efforts to create a new definition of "necessary" in this docket. However, it is important to state early on that proper definition of the term "necessary" does not carry the dire consequences which obviously concerned some at the time the initial collocation rules were adopted. We view a piece of equipment as being "necessary" for interconnection or access to network elements when that equipment is actually used for one or both of those purposes and collocation is necessary for the equipment to be used in a competitively meaningful fashion. In other words, the necessary part of the equation applies to the collocation of the equipment, not to the equipment itself. If significant efficiencies can be obtained in using the equipment at a collocated site which would not be available elsewhere, and the equipment is actually used for interconnection or access to network elements, then it would seem to meet the

"necessary" test under Section 251(c)(6) of the Act. Qwest notes that the test it proposes was not intended to make it more difficult for CLECs to collocate their equipment in incumbent LEC premises. The following types of equipment would apparently meet this standard: transmission equipment, including multiplexers; ATM switches; DSLAMs; routers and concentrators; frame relay switches; and Ethernet switches.

B. Rules or Policies which Serve as a Primary Purpose to Reduce the Value of the Collocation Product are not Mandated by the Act.

Much of the focus of the two Notices in the Collocation Order is on how a CLEC can lawfully use equipment which is collocated on an incumbent LEC's property. Can the CLEC connect the equipment with the equipment of another CLEC?[2] Can the CLEC use functions in equipment which do not meet the "necessary" test of Section 251(c)(6) of the Act, even though the equipment provides many functions which are necessary for interconnection or access to unbundled elements?[3] Qwest submits that too much focus on the actual use of equipment collocated on the premises of an incumbent LEC is not productive. Obviously some examination is necessary to determine whether a CLEC can enlist the government to require the incumbent LEC to permit collocation at all. Unless the equipment is actually used for interconnection or access to elements, then the Commission has no power to require that it be collocated, whether the "necessary" test is met or not. But once it has been determined that a particular piece of equipment does indeed

[2] *Second Further Notice* at ¶¶ 88-92.

meet the standard of Section 251(c)(6) for collocation, there seems to be little justification for limiting the other natural and beneficial uses to which the CLEC could put the equipment. We suggest the following test: If the equipment is used primarily for interconnection and/or access to elements, and meets the necessary standard under Section 251(c)(6), there is no reason to limit or prohibit other functionalities which the equipment can efficiently and profitably perform. This analysis would also apply to the connection of the equipment of two CLECs in a single premise. If the equipment is lawfully collocated and is performing the interconnection and access functions which enabled it to gain its collocation rights, there is no reason to prohibit cross connection between two pieces of CLEC equipment both lawfully on the premises.

We recognize that this test, taken to *reductio ad absurdem,* could produce anomalous results. It is not our intention to support a rule which would permit a combination multiplexer and microwave oven that could be placed in collocation space and used to cook breakfast. We suggest that the test be based on whether the "primary" function of the equipment is to interconnect to the incumbent LEC network or to access network elements. "Primary" is itself a word which may have multiple meanings, but we know too little about how new equipment will be structured or configured in the future to establish more precision at this time. The Commission should not try to anticipate every circumstance which may arise in the future; if technology or the market evolves in such a way that problems arise under

[3] *Second Further Notice* at ¶ 74.

the existing collocation rules, the Commission should revisit the rules at that time upon a complete record. We submit that the Commission should simply set forth the guideline that equipment with the primary functionality and use of interconnecting with the incumbent LEC network or accessing network elements in a manner that meets the necessary test of Section 251(c)(6) may lawfully be collocated and may lawfully perform other reasonable ancillary functions that the equipment is designed to perform.[4] In this regard, the Commission could reasonably establish a rebuttable presumption that equipment with functionalities that enable interconnection or access to UNEs are permissible, regardless of other functionalities. State regulatory authorities should be entrusted with making actual determinations under the above test in circumstances where an incumbent LEC seeks to exclude a particular piece of equipment by demonstrating that it does not meet the "necessary" test.

C. The Commission Should not Devise Pricing Rules That Motivate Incumbent LECs to Seek to Avoid Collocation.

As a final introductory observation, we submit that it is important that the Commission look at establishing a mandatory collocation structure which is truly compensatory for incumbent LECs. If the Commission truly wants incumbent LECs to treat collocation as a business opportunity, it cannot have rules in place which make collocation a money-losing proposition for incumbent LECs. Currently

[4] As a general principle, the Commission should not attempt to direct the course of new technology development. Technological growth better takes place in conformance to market direction.

the rules as applied by states often prevent reasonable compensation for collocation property—a problem which can be dramatically exacerbated by requirements for reconditioning and power modifications. Despite the fact that much of the shortfall in collocation pricing should be recoverable from the Federal Government, recovery remains uncertain and may well be opposed by the Department of Justice in some instances. In the context of this docket, it is important that the Commission reaffirm its clear expectation that state arbitrators establishing collocation prices will make these prices as fully compensatory as possible, and that incumbent LECs will be able to obtain full recovery of costs expended for adding and reconditioning space as well as for making costly power modifications.

D. Qwest Plays A Significant Role As Both An In-Region Provider of Collocation, and as an Out-of-Region Purchaser of Collocation.

As an incumbent, Qwest has provided 2,086 collocation arrangements to 70 different CLECs in 540 different wire centers. Through their collocation arrangements at these wire centers, CLECs have access to 14,190,908 of Qwest's retail access lines. These wire centers account for over 83% of all of Qwest's retail access lines.

Out of region, Qwest has collocated in over 400 wire centers in the Verizon, SBC, and GTE territories to support its CLEC and DLEC initiatives.

II. COMMENTS ON THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 98-147

A. Meaning of "Necessary" under Section 251(c)(6)

In the *Second Further Notice*, as a response to the D.C. Circuit's conclusion that the Commission's definition of "necessary" in the context of collocation "seem[ed] overly broad and disconnected from the statutory purpose enunciated in § 251(c)(6),"[5] the Commission sought comment on the meaning of "necessary" under section 251(c)(6).[6] Specifically, the Commission sought comment on whether the definition of "necessary" should require that an incumbent LEC permit physical collocation of equipment having capabilities beyond what is necessary for interconnection and access to UNEs, such as the collocation of multi-functional equipment.[7] Finally, the Commission inquired whether it must adopt a definition of "necessary" for purposes of section 251(c)(6) that is similar to the definition of "necessary" that the Commission adopted pursuant to section 251(c)(3) for determining which network elements must be unbundled.[8]

Qwest generally agrees with the D.C. Circuit that CLECs only have a right to "collocate any equipment that is *required* or *indispensable* to achieve

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[5] *GTE Service Corp. v. FCC*, 205 F.3d 416, 422 (D.C. Cir. 2000) (affirming in part and remanding in part *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd. 4761 (1999) ("*Advanced Services First Report and Order*")).

[6] *Second Further Notice* at ¶ 73.

[7] *Second Further Notice* at ¶ 74.

[8] *Second Further Notice* at ¶ 75.

interconnection or access to unbundled network elements."[9] This should not, however, necessarily preclude CLECs from collocating equipment that performs other additional functions beyond interconnection or access to UNEs. As is discussed above, the "necessary" part of the equation refers to the collocation itself, not to the equipment. For equipment to be lawfully subject to mandatory collocation its primary purpose must be for interconnection or access to UNEs. If it passes this test, it is subject to collocation if collocation itself brings about significant economies which are necessary for competition. For instance, if the primary purpose and use of a given piece of equipment is for interconnection or access to UNEs, then the CLEC should be allowed to collocate the equipment even if the equipment performs other reasonable ancillary functions that do not constitute interconnection or UNE-access functions.

A rule that would preclude CLECs from deploying any or all of the additional functions of such multi-functional equipment could place CLECs at a material competitive disadvantage by forcing them to place prohibited equipment elsewhere and backhaul traffic for switching and other functions, and in some cases require the purchase of duplicate equipment.[10] Although restrictions on functionality would not prevent CLECs from offering services of the same quality as an absolute matter,

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[9] *See GTE v. FCC*, 205 F.3d at 422 (emphasis added).

[10] Of course, to be able to obtain collocation of this multi-functional equipment in the first instance, the collocation of the equipment must otherwise meet the "necessary" standard. Moreover, Qwest does not intend to suggest that disparities in cost alone between the incumbent and a CLEC would suffice to meet the "necessary" or "impairment" standard; rather, an efficient CLEC's ability to compete must be materially impaired.

such restrictions could, as a practical matter disrupt services and competition because the failure to utilize all the power of new equipment would artificially impose inefficiencies on some CLECs. Because price is one of the most important factors to consumers in judging the overall quality of competing services, restrictions on functionality could require competitors to provide service of a significantly lower quality if the added functionality affected price. Accordingly, as long as the primary function of a given piece of equipment is for interconnection and access to UNEs, CLECs should be allowed to deploy all other reasonable functions of such equipment.

This test should apply regardless of whether the additional functions involve services not strictly defined as telecommunications services.. The distinction between telecommunications and non-telecommunications services in the marketplace is blurring, and carriers must be able to offer a variety of services, including voice, video, fax, and Internet service, in order to be competitive. Of course, functions totally unrelated to telecommunications should continue to be prohibited.

Qwest does not believe that the standard suggested above would need to evolve as manufacturers develop equipment having additional capabilities. As long as the primary function and use of the equipment is for interconnection or access to UNEs, then the CLEC should be allowed to collocate the equipment—regardless of any additional or ancillary functions that the equipment may perform.

In response to the Commission's query whether the deployment of equipment that provides no functionalities other than those directly related to, required for, or indispensable to interconnection or access to unbundled network elements would consume more or less space in the incumbent's premises than would equipment that has multiple functions,[11] it is Qwest's experience that there is no necessary correlation between functionality and size. Moreover, there is no reason to conclude that newer equipment with multiple functions will require more space than older, single-function equipment used solely for interconnection or access to UNEs—though it may require more power or HVAC. In fact, given that a newer piece of equipment might be both multi-functional *and* smaller than its predecessor, there is no reason to believe that the approach recommended here will result in more rapid space exhaustion. If actual experience later contradicts this conclusion, the Commission can deal with it upon a more complete record at that time.

Moreover, Qwest believes that limiting CLECs to the use of outdated equipment or otherwise restricting a CLEC's use of multi-functional equipment collocated on incumbent LEC premises would hurt the efficiencies of both incumbent LEC and CLEC and, therefore, competition. There does not appear to be a good reason to adopt rules that motivate or direct this result.

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[11] *Second Further Notice* at ¶ 80.

B. Removal of Obsolete Equipment

In the *Second Further Notice*, the Commission noted that rule 51.321(i)[12] requires incumbent LECs to remove obsolete unused equipment from their premises in certain circumstances in order to increase the space available for collocation, and invited comment on whether it must preclude collocators, including incumbent LEC affiliates, from deploying state-of-the-art equipment in the space made available through the operation of this rule.[13] Qwest sees nothing in this that should operate to prevent the deployment of advanced technologies; indeed, its opposite is true. Unless there is a plan for incumbent LEC use of this space, Qwest believes that such reclaimed space should be made available to collocators (including incumbent LEC affiliates) on a first-come, first-served and non-discriminatory basis. As stated above, such collocators should be allowed to collocate equipment, the primary function and use of which is interconnection or access to UNEs, and which otherwise meets the requirements of section 251(c)(6). .

C. Functionality of Equipment CLECs Seek to Collocate.

In the *Second Further Notice*, the Commission sought comment from CLECs on the particular functionalities of the equipment they seek to collocate and an explanation of how each functionality is necessary for interconnection, access to unbundled network elements, or both.[14] Qwest believes that to be able to compete outside of Qwest's 14-state-incumbent LEC region as a CLEC/DLEC, it will need to

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[12] 47 C.F.R. § 51.321(i).

[13] *Second Further Notice* at ¶ 77.

capitalize on all of the network efficiencies that will derive from state of the art equipment that integrates functionalities in one unit and pushes optical-type architecture outward in the network from the central office. The incumbent LECs will be permitted to install and fully utilize such equipment and CLECs must be able to do so as well, subject to the provisions of the Act. If CLECs were prohibited from collocating and fully utilizing such equipment, CLECs would be forced to backhaul traffic to their own hubs to perform those functions, thereby decreasing the efficiency of their networks and placing them at a needless competitive disadvantage to the incumbent LEC.

Presently, as a CLEC, Qwest is working with vendors on next generation transport technology that will integrate ATM functions, ethernet functions, and SONET functions all in the same "box." In order to capitalize on the dark fiber UNE, Qwest will need to collocate multi-functional equipment in central offices to perform transport and other functions for Qwest's fiber network. Such multi-functional equipment is currently located at Qwest's own hub sites. The aggregation and switching functions that presently occur at the Qwest hubs will have to occur at the incumbent LEC CO. Dark fiber is the limiting factor and the electronics must be available at central offices to maximize its network efficiency.

While current xDSL technology is used primarily for interconnection with conditioned loops to provide broadband, the next generation DSLAMs will have additional functionalities, potentially including switching functions. ATM

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[14] *Second Further Notice* at ¶ 81.

technology is also moving toward combinations of ATM functionalities and SONET functionalities, which would allow traffic on the network side of a DSLAM to go directly onto an optical-type architecture instead of coming onto the network side of the DSLAM as DS1 or DS3. This makes the network more efficient by pushing the optical-type architecture outward on the network and saving transport costs by avoiding the need to backhaul traffic to Qwestlink sites. Finally, Ethernet technology, which is used in LAN-type environments, often involves multi-functional equipment that is used for interconnection but is also used for aggregating and switching functions.

D. Line Cards

In the *Second Further Notice*, the Commission sought comment on whether line cards are equipment necessary for interconnection or access to unbundled network elements.[15] As an incumbent LEC, Qwest has permitted CLECs to place their DSLAMs in a Qwest central office as part of the line sharing architecture. Specifically, CLECs may place a splitter either in their cage or in a shared splitter bay in the central office. Although next generation line cards support several functionalities and may be the electronic device that delivers a copper pair to the switch, it would be premature to require line card collocation on a general basis since implementation issues such as equipment interoperability have not been resolved. While it does not seem likely that line card collocation will prove feasible in the circuit switching world, the Commission should stand ready to revisit line

[15] *Second Further Notice* at ¶ 82.

card collocation in conjunction with technologies other than circuit switching, consistent with the Act and the changing marketplace.

E. Limitations on Services Provided by a Collocator

The Commission also sought comment on how any limitation placed on the telecommunications services a collocator may provide would further the purpose behind section 251(c)(6) and the goals of the Act, or would otherwise be just, reasonable, and nondiscriminatory and satisfy sections 251(c)(2) and (3).[16] Qwest does not believe that any limitation (other than technical feasiblity) placed on the telecommunications services that a collocator provides with its equipment out of its collocation space would be just and reasonable. Once a collocator lawfully obtains a collocation arrangement (i.e., by placing equipment that is necessary and used for interconnection or access to UNEs), no restrictions (other than technical feasibility) should be placed on the telecommunications services provided by the collocator. Moreover, if a piece of collocated equipment is primarily used for interconnection or access to UNEs (i.e., for telecommunications services), Qwest sees no reason to prohibit ancillary use of the equipment for non-telecommunications services such as the provision of enhanced services. If the collocator were to stop using the functionality of the equipment that is necessary and actually used for interconnection or access to UNEs—i.e., if the CLEC were to stop using the functionality upon which the necessary test for collocation was met—then the CLEC would no longer be entitled to remain in the collocation space.

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[16] *Second Further Notice* at ¶ 83.

F. Cross Connections between Collocators

In the *Second Further Notice*, the Commission sought comment on whether section 251(c)(6) encompasses cross-connects between collocators such that a cross-connect between collocators is deemed "necessary for interconnection or access to unbundled network elements" within the meaning of section 251(c)(6), and if so, whether section 251(c)(6) encompasses both direct interconnection (i.e., direct physical links between the collocators' facilities or equipment) and indirect interconnection (i.e., links through the incumbent's facilities or equipment).[17]

As suggested above, as long as the primary purpose of the collocated equipment meets the "necessary" standard, then other functions of the equipment or purposes accomplished by the collocation should be permissible, subject to a reasonableness standard. Accordingly, Qwest does not believe that it would be just and reasonable to deny a collocator, who otherwise meets the "necessary" standard, additional incidental (and reasonable) uses of the collocation space, such as cross-connects to other CLECs that are otherwise lawfully collocated in that central office. Qwest believes that it would not be just and reasonable to prohibit a CLEC from cross-connecting with other CLECs when those CLECs have otherwise legitimately obtained collocation under the Act (i.e., for interconnection or access to UNEs).

The Act, however, does not allow a CLEC to obtain collocation from an incumbent LEC for the *sole or primary purpose* of cross-connecting to other CLECs. Indeed, cross-connecting to other CLECs does not equate to interconnection with

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[17] *Second Further Notice* at ¶ 88.

the [incumbent] local exchange carrier's network,"[18] or access to the unbundled network elements of the incumbent LEC;[19] nor can it be argued that cross-connects are necessary to access the UNEs of, or achieve interconnection with, the incumbent LEC as required by section 251(c)(6).[20] Where a CLEC does not otherwise meet the standards set forth in that provision, there can be no justification (or authority) for requiring the incumbent LEC to permit such cross-connects.

The Commission further sought comment concerning whether the time intervals necessary for provisioning and constructing cross-connects would vary depending upon whether they are constructed by an incumbent LEC or a competitive LEC.[21] Qwest agrees with the suggestion in the *Second Further Notice* that time intervals for provisioning some parts would vary between incumbent LEC and CLEC. This is based of the fact that each may use different vendors to purchase products like cable and termination blocks. Intervals are also affected by varying shipping intervals. Qwest is currently considering a number of options, including the possibility of standard intervals, which would be based in part on whether cable racking already exists in the path for the cross-connect. The Commission also inquired whether there are any circumstances in which it should require that an incumbent LEC permit collocators to construct their own cross

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[18] 47 U.S.C. § 251(c)(2).

[19] 47 U.S.C. § 251(c)(3).

[20] This might not always be true, however. For example if a CLEC-to-CLEC cross-connection enables one CLEC to access UNES through the facilities of the second CLEC, this might meet the statutory test.

[21] *Second Further Notice* at ¶ 90.

connections as opposed to obtaining them from the incumbent[22]. Such construction would invariably implicate security and safety concerns, and we submit that the Commission cannot require incumbents to permit CLECs to construct their own cross-connections. The use of approved vendors contracted by the CLECs would be a reasonable option, however. After a CLEC's collocation application, and feasibility studies and quote are completed, Qwest engineering, upon receipt of 50% down payment, would determine the cable path, issuing a job to place cable racking if needed. The requesting CLEC would then be responsible for contracting with a Qwest-approved vendor to place any needed racking and the equipment cabling. In either case, the cable must enter Qwest cable racking space and travel through fire stopped floor holes. Given these considerations, only approved vendors should install/construct cross-connections, and the incumbent LEC should control the path of any racking or cable to be used or placed.

G. Points of Entry into Incumbent LEC Central Offices

The Commission sought comment on whether incumbent LECs should exercise exclusive discretion over determining which manholes will act as a point of entry for collocated carriers, whether it is technically feasible for incumbent LECs to designate one or two points of entry into the central office, and whether the Commission may require incumbent LECs to permit cross-connecting collocators to utilize the same point of entry into the central office.[23]

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[22] *Second Further Notice* at ¶ 91.

[23] *Second Further Notice* at ¶ 92.