Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Performance Measurements and Standards for Interstate Special Access Services	)	CC Docket No. 01-321
	)	
Petition of U S West, Inc., for a Declaratory Ruling Preempting State Commission Proceedings to Regulate U S West's Provision Of Federally Tariffed Interstate Services	)	CC Docket No. 00-51
	)	
Petition of Association for Local Telecommunications Services for Declaratory Ruling	)	CC Docket Nos. 98-147, 96-98, 98-141
	)	
Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended	)	CC Docket No. 96-149
	)	
2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements	)	CC Docket No. 00-229
	)	
AT&T Corp. Petition to Establish Performance Standards, Reporting Requirements, and Self-Executing Remedies Need to Ensure Compliance by ILECs with Their Statutory Obligations Regarding Special Access Services	)	RM 10329

REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.

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TABLE OF CONTENTS

Page

I. INTRODUCTION AND SUMMARY 2

II. THE COMMENTS FAIL TO DEMONSTRATE THAT MARKET FORCES ARE INADEQUATE TO ENSURE THE PROVISION OF QUALITY SPECIAL ACCESS SERVICE 3

A. The Telecommunications Act And The Commission's Policies Require Maximum Reliance On Market Forces 3

B. The Comments Fail To Demonstrate Either The Absence Of Competition In The Special Access Market Or That Such Competition Cannot Ensure The Provision Of Quality Special Access Service 5

III. THE PROPOSALS FOR MANDATORY REPORTING, STANDARDS AND PENALTIES SHOULD NOT BE ADOPTED 9

A. The Measurements Proposed By Other Parties Should Be Modified And Made Voluntary 9

1. Specific Measurements 9

2. Measurements Adopted By The Commission Must Also Take Account Of Several Other Marketplace Realities 18

B. The Minimum Standards Proposed By Other Parties Are Unnecessary And In All Events Should Be Rejected Or Modified 21

1. Standards Cannot Be Meaningfully Adopted On The Basis Of The Record In This Proceeding 22

2. Qwest's Experience With Some Of The Standards Proposed By The Parties Indicates That They Are Unreasonable 23

C. The Fines And Other Penalties Proposed By Other Parties Should Not Be Adopted 25

IV. CONCLUSION 28

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REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.

Pursuant to the Federal Communications Commission's ("Commission" or "FCC") *Notice of Proposed Rulemaking,*[1] Qwest Communications International Inc. ("Qwest") hereby submits its Reply Comments in the above-captioned docket.

[1] *In the Matter of Performance Measurements and Standards for Interstate Special Access Services*, CC Docket No. 01-321, *et al.*, *Notice of Proposed Rulemaking*, FCC 01-339, rel. Nov.

I. INTRODUCTION AND SUMMARY

In its opening Comments, Qwest demonstrated that the 1996 Act and the Commission's policies express a clear preference for maximum reliance on market forces as opposed to detailed regulation. Many commenters seek to reverse this statutory mandate and have the Commission adopt intrusive and burdensome regulations governing the provisioning of one of the most competitive services currently offered by incumbent local exchange carriers ("ILEC") -- special access services. In the absence of compelling evidence that (1) problems exist in the provision of ILEC special access services, (2) which the market is incapable of remedying, federal regulatory intervention in this process would be counter to the express policies of this Commission. Recognizing that competition can be aided by the free flow of accurate information about special access provisioning and provisioning performance by all carriers, Qwest proposed that the Commission adopt non-binding measurement calculations which will enable carriers and customers to make reasoned decisions among special access providers.

Commenters suggesting heavy regulation of special access services fail to recognize the reality of market forces and the role of competition in the provisioning of special access services by ILECs and competitive local exchange carriers ("CLEC") alike. This failure is especially evident among commenters that propose standards and "enforcement" mechanisms to coerce compliance with those standards. The standards proposed by many commenters are not based on either reality or practicality, and the Commission has no significant experience with actual ILEC special access performance on which to base reasoned decision-making. Moreover, while the Commission clearly has the authority to hear and adjudicate complaints that an ILEC's special access provisioning violates the Communications Act's prohibition against unreasonable

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19, 2001) ("*Notice*"). *See also* 66 Fed. Reg. 63651 (Dec. 10, 2001); *Order*, DA 01-2911, rel. Dec. 17, 2001.

practices, the enforcement mechanisms proposed by many of the commenters go far beyond the Commission's authority and, in many instances, are simply unlawful.

In its initial Comments, Qwest proposed that the Commission adopt measurement and calculation guidelines which would permit the industry to speak a common language when making or evaluating claims concerning special access provisioning. A number of commenters have proposed measurements for special access that are more disaggregated than those proposed by Qwest. Qwest here focuses its comments on the measures submitted by the Joint Competitive Industry Group ("Joint Industry Group"),[2] some of which Qwest finds constitute reasonable special access measurements, others Qwest opposes. From its perspective as a CLEC, interexchange carrier ("IXC") and ILEC, Qwest submits its analysis of the measures it recommends as reasonable from the perspective of the entire industry and its varied customers.

II. THE COMMENTS FAIL TO DEMONSTRATE THAT MARKET FORCES ARE INADEQUATE TO ENSURE THE PROVISION OF QUALITY SPECIAL ACCESS SERVICE

A. The Telecommunications Act And The Commission's Policies Require Maximum Reliance On Market Forces

Qwest observed in its initial Comments that one of the chief statutory imperatives of the Telecommunications Act is the command that regulation be used as a substitute for competitive market forces only where necessary.[3] It is ironic that notwithstanding the dramatic growth in special access competition, commenters now seek to impose a regulatory regime on special access that is orders of magnitude beyond what existed when there was little, if any,

[2] Joint Competitive Industry Group Proposal, ILEC Performance Measurements & Standards in the Ordering, Provisioning, and Maintenance & Repair of Special Access Service, dated Jan. 18, 2002.

[3] Qwest Comments at 2.

competition.[4] The regulatory burdens proposed by many of the commenters cannot be minimized. Not only do many commenters propose detailed federal reporting of numerous aspects of ILEC special access provisioning,[5] they propose federal standards[6] and benchmarks[7] as well. Many also propose huge financial penalties,[8] in addition to such other punitive actions as government contract debarment, long distance restrictions and re-regulation of special access pricing in those geographic areas where the Commission has already determined that comprehensive price regulation is not necessary.[9] These proposals are the very antithesis of the scope and intent of the 1996 Act, as well as the Commission's procompetitive and deregulatory policies, and should be considered only under the most extreme circumstances. They clearly have no place in a debate about special access.

Qwest agrees with proposals for federal measurement tools. Such consistent measurements will permit the industry to exchange information about special access in an efficient and meaningful manner. But federally imposed performance standards are at best unnecessary, and at worst could disrupt competition. In a competitive market performance is a basis on which firms compete against one another. To design federal performance standards for

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[4] There is a significant inherent contradiction in this proceeding. Shoddy provisioning of special access services by ILECs would be certain to cost them customers and revenues, even in the very short run, as customers choose competitive alternatives. ILECs have a powerful economic incentive to provide quality special access services.

[5] ALTS at 9-10; AT&T at 23-26; Focal at 40-41; Time Warner at 53-57.

[6] ALTS at 13-16; AWS at 7-9; CompTel at 4-6; Cable & Wireless at 13-15; DirecTV at 3-6; Mpower at 16-19; Sprint at 6-9; WorldCom at 31-36.

[7] ALTS at 16-19; AT&T at 36-38; Time Warner at 17-21; WorldCom at 36-41.

[8] AWS at 14-18; Cable & Wireless at 15-18; DirecTV at 13-14; Focal at 9-22, 27-33; WorldCom at 46-54.

[9] WorldCom at 55-57. *See below* at 25-27 for a discussion of the legality of WorldCom's proposals.

special access provisioning that avoids adversely affecting the market, the Commission would need to strike a perfect balance between the unreasonably exacting and the unreasonably lax. The market is a far better regulator of provisioning than is the government, and the FCC should intervene only where the record indicates that it is truly necessary. This is true in the case of special access for three reasons:

- Government performance standards tend to become *de facto* minimum performance standards. The establishment of such standards can thwart competition by discouraging competitors from active competition in the area where federal standards have taken hold.

- Many commenters propose that these federal standards apply only to ILECs.[10] This type of asymmetrical regulation would itself impede competition by imposing regulatory burdens on some industry participants but not all.

- Given the regulatory lag associated with federal standards, such standards can be especially harmful when introduced into a market characterized by rapid innovation and technological change. In today's market, it is likely that federal standards could become outmoded long before they could be modified.

As is discussed in the next section, such a showing has not been made.

B. The Comments Fail To Demonstrate Either The Absence Of Competition In The Special Access Market Or That Such Competition Cannot Ensure The Provision Of Quality Special Access Service

As many commenters observe, evidence that has been incorporated into the record herein documents that users of special access have an increasing number of alternatives to ILEC special access service.[11] BellSouth has submitted yet another confirming study.[12] Qwest has also demonstrated that competitive fiber is generally available within one hundred or one thousand

[10] *See*, *e.g.*, AT&T at 3-4; ALTS at 2-4.

[11] SBC at 6-10; Verizon at 4-7. *And see* USTA at 4-6. *Also see* Competition for Special Access Service, High-Capacity Loops, and Interoffice Transport, submitted by the United States Telecom Association, prepared for BellSouth, SBC, Qwest and Verizon, dated Apr. 5, 2001.

feet of most buildings in metropolitan areas where it has sought forbearance from regulation as a dominant carrier, and that this availability is economically sufficient to provide customers with a meaningful choice of alternative suppliers if customers are dissatisfied with the quality or timely provisioning of ILEC service.[13]

Other commenters, including CLECs,[14] IXCs,[15] Internet service providers ("ISP")[16] and large end users,[17] assert that ILEC special access service is both vital to their operations and provisioned poorly. There is, however, very little analysis from these commenters that supports a finding that ILECs possess the kind of market power that would necessitate the detailed regulation they seek. Most commenters supporting performance standards and remedies for special access simply take the position that, if there were really special access competition, they would choose to use the services of competitors and would not be complaining to the FCC in this proceeding.[18]

These assertions, however, do not constitute, nor obviate the need for, evidence that can refute the affirmative evidence of competition in the record. Indeed, contrary to these

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[12] BellSouth at 8-16 and Attachment.

[13] Petition of U S WEST Communications, Inc. for Forbearance in the Seattle, WA, MSA, CC Docket No. 99-1, filed Dec. 30, 1998 at 25-27 and Attachment B to that Petition. Petition of U S WEST Communications, Inc. for Forbearance in the Phoenix, AZ, MSA, CC Docket No. 98-157, filed Aug. 24, 1998 at 25-27 and Attachment A to the Petition.

[14] Mpower at 8-9; Time Warner at 4-7.

[15] ASCENT at 2-5; AT&T at 3-4; WorldCom at 5-9.

[16] Cablevision Lightpath at 2-4; CompTel at 2-4.

[17] API at 2-4; Cable & Wireless at 3-5; AWS at 4-7; VoiceStream at 3-10. Qwest has not received pricing flexibility in any of its markets, but its unopposed petition for such relief is pending. The fact that some ILECs have raised the price of special access services by itself is irrelevant in demonstrating market power.

[18] Mpower at 8-9; Cable & Wireless at 3-5; Time Warner at 4-7; VoiceStream at 3-6; WorldCom at 9-12.

commenters' claims, it simply does not follow that there must be no competition simply because these commenters have requested detailed regulation. Competitors often seek the refuge of federal regulation (especially of other companies) instead of the rigor of the marketplace. Companies could see opportunities to disadvantage competitors through asymmetric regulation, or could see potential financial windfalls in the event federal penalties were imposed on their competitors. In any event, the mere fact that a party is demanding federal rules which would disadvantage its competitors is not evidence that there is a public interest need for such regulation.

Further, no one has contended, much less demonstrated, that any deficiencies in market forces cannot be righted by the Commission's Section 208 complaint process to ensure against unreasonable provisioning of special access services. The Commission clearly has jurisdiction to adjudicate complaints that carriers are engaging in "unreasonable practices" by failing to provision tariffed services in a reasonable and timely manner.[19] The Commission has frequently found that the availability of its complaint process precludes the need for the kind of regulation that some commenters propose here.[20] The Commission has recently indicated its intention to place increasing reliance on its complaint process to supplement market forces. It would, therefore be doubly ironic to impose a detailed regulatory scheme on an increasingly competitive

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[19] *See Elkhart Tel. Co. v. Southwestern Bell Tel. Col.*, 11 FCC Rcd. 1051 (Common Carrier Bureau 1995); *American Satellite Corp. v. Southwestern Bell*, 64 FCC 2d 503, 509-10 (1977). *See also The Associated Press*, 55 FCC 2d 220, 223 (1975); *IT&E Overseas, Inc.*, 7 FCC Rcd. 4023, 4025 (1992).

[20] *See In the Matter of Amendment of Rules Governing Procedures to be followed where Formal Complaints are filed against Common Carriers, Notice of Proposed Rulemaking,* 2 FCC Rcd. 90 text and n.1 (1997); *In the Rules Concerning Rates for Competitive Common Carrier Services, Order on Reconsideration of Fifth Report and Order*, 59 Rad. Reg. (P&F) 543 ¶ 2 (1985); *Fifth Report and Order*, 98 FCC 2d 1191, 1200 (1984).

service at a time when the Commission has generally stated its commitment to rely upon and even improve its complaint process.[21]

The failure of those seeking the imposition of burdensome regulation on ILEC special access provisioning to recognize the availability of the FCC's formal complaint processes is even more puzzling because of the existence of the Commission's "accelerated docket" rules. These procedures, which can enable the processing of a formal complaint from beginning to end in six months, would seem to be ideally suited to deal with complaints that a carrier was provisioning special access services in an unreasonably poor or discriminatory manner.[22] Certainly if any CLEC had brought such a complaint even in the recent past it would be resolved before any actual rules adopted in this docket could be implemented. The fact that those who seek establishment of federal standards and penalties for ILEC provision of special access have not availed themselves of the Commission's complaint process seriously undermines their contention that federal rules are necessary.

The bottom line is that the record does not even begin to contradict the fact that ILEC special access services are currently competitive and are becoming even more competitive each year.

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[21] *See id.* *See also* The Great Digital Divide and Broadband Migration, Remarks of Commissioner Michael Powell before the Progress and Freedom Foundation, Dec. 8, 2000 ("Our bureaucratic process is too slow to respond to the challenges of Internet time. One way to do so is to clear away the regulatory underbrush and to bring greater certainty and regulatory simplicity to the market. **We need a greater emphasis on enforcement, rather than 'by the grace of us' regulation**. We must avoid the temptation to 'shape' the development of markets and instead let the market mechanisms make those decisions.").

[22] 47 C.F.R. § 1.730.

III. THE PROPOSALS FOR MANDATORY REPORTING, STANDARDS AND PENALTIES SHOULD NOT BE ADOPTED

A. The Measurements Proposed By Other Parties Should Be Modified And Made Voluntary

Qwest continues to believe that mandatory measurements are unnecessary and deleterious, and that the measurements developed by the Commission should be tailored as information tools which will benefit, rather than hinder, the development of competition. Qwest suggested some measurements that could be useful to the industry in its initial Comments.[23] A number of commenting parties supported a series of measurements submitted in an ex parte statement by the Joint Industry Group.[24] Others supported a similar set of measurements suggested by WorldCom, which in turn supported the measurements proposed by the Joint Industry Group.[25] The Joint Industry Group's measurement proposals represent the vast majority of measurements suggested in the comments and are, to a large extent, an elaboration and disaggregation of the measurements that Qwest had suggested. Qwest believes that the Joint Industry Group's proposals present a good starting point for establishing measurement definitions applicable to the industry as a whole.

1. Specific Measurements

In this section, Qwest analyzes each of the measurements proposed by the Joint Industry Group and suggests improvements to the proposals. A point-by-point comparison of the Joint Industry Group's approach and the Qwest approach is appended as Attachment A. Attached as Attachment B are copies of each of the Joint Industry Group's proposals, recast along Qwest's

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[23] Qwest Comments at 9-10.

[24] AT&T at 25-26; Cable & Wireless at 13-15; Time Warner at 21-24; VoiceStream at 11-13; WorldCom at 31-36.

[25] API at 4-6; ASCENT at 9-10; Manhattan Telecom at 2-3.

recommended lines, in the format utilized by the Joint Industry Group. Because Qwest believes that minimum standards are inappropriate and insupportable, Qwest has eliminated any minimum standard from both of these Attachments. The measurements recommended by Qwest are based on Qwest's existing systems. This is an important factor, because modification to Qwest's systems to measure special access along the lines suggested by the Joint Industry Group would be expensive and time consuming. Qwest estimates that it would cost $500,000 per new item to be measured and take three to four months to make the systems modifications necessary to accommodate the Joint Industry Group's proposal. This estimate is based on the assumption that the information is being captured in Qwest's system today. If the information is not currently being captured, major system changes may be necessary, increasing the costs dramatically.

FOC Receipt (JIP SA-1) / (Attachment B, Qwest SA-1)

The Joint Industry Group proposes that the Commission measure the time between submission of an Access Service Request ("ASR") by a CLEC and the issuance of a Firm Order Confirmation ("FOC") by the ILEC, and report this time as a percentage of FOCs issued within a proposed national standard.[26]

Qwest agrees that the FOC data is meaningful, although not in the context of a national standard. Several changes are needed to bring this measurement in line with Qwest's process as outlined in the attached matrix (Attachment A) and Attachment B, Qwest-SA-1.

The Joint Industry Group proposes that the measurement be based on the ASR sent date to the FOC receipt date. However, Qwest submits that the measurement should be from the

[26] The national standard is proposed to be two business days for DS0 and DS1 service, and five business days for DS3 service. The performance standard is 98% for all cases, although OCn

application date to the notification date. If the application is received after 3 p.m., the start date should be the next business day and the stop date is the date the FOC is sent back to the customer.

In measuring FOC completion data, Qwest recommends that projects, and ICBs, be excluded. Projects and ICBs require engineering and installation intervals that are unique. The intervals are based upon the complexity of the Project or a specific case and could skew attempts to identify standard intervals for typical installations. A detailed description of this measurement presented in the same format used by the Joint Industry Group is attached as Attachment B, Qwest-SA-1.

FOC RECEIPT PAST DUE (JIP-SA-2)

The Joint Industry Group suggests measuring ASR requests outstanding (no FOC date) as of a date certain (end of the month). Business rules, exclusions and levels of disaggregation are the same as for JIP-SA-1.

Qwest does not make an equivalent measurement and recommends against the adoption of SA-2 because it would be redundant to the Joint Industry Group's JIP-SA-1 measurement. Therefore, Qwest does not submit an Attachment B Qwest-SA-2.

OFFERED VERSUS REQUESTED DUE DATE (JIP-SA-3)

The Joint Industry Group requests that a measure be established comparing requested due date with offered FOC date when the requested date is equal to or greater than the carrier's standard interval.

Qwest strongly opposes the adoption of this measure. While such a measurement might be meaningful if it were limited to those orders where the carrier has facilities actually available,

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and above are to be treated on an individual case basis. Qwest does not agree that a 98% number would reasonably establish a standard of "reasonableness" under the Act.

it produces no relevant data when the carrier's facilities are not available. Accordingly, Qwest does not include a reconfigured JIP-SA-3 as part of Attachment B.

ON TIME PERFORMANCE TO FOC DUE DATE (JIP-SA-4) / (QWEST-SA-4)

The Joint Industry Group requests that the percentage of ASRs that are filled by the FOC date be reported.

Qwest currently measures this information at the individual order level, not the ASR level, and agrees that it is meaningful if measured at that level. It would be time consuming and expensive for Qwest to modify its systems to measure at the ASR level, and Qwest submits that order measurement is equally valid. Several other changes need to be made to bring this measurement in line with Qwest's process as outlined in Attachment B, Qwest SA-4.

Moreover, the measurement of this activity on a per-project basis, as is proposed by the Joint Industry Group, is not realistic because, as Qwest understands the Joint Industry Group's position, a project requiring multiple circuit installations would be deemed to have missed a deadline or desired completion date in its entirety if a single circuit were deemed late. This would not be a realistic approach to measuring on-time performance, and it would not provide the type of data which customers would be best able to use.

The Joint Industry Group would also include all orders, including projects and ICBs. As stated previously, projects and ICBs require unique and individual attention and would skew any attempt at establishing a meaningful view of typical service installations. Qwest accordingly proposes that projects and ICBs be excluded from the measurement. Again, Qwest proposes measurement at the individual order level not an ASR level. *See* Qwest's Attachment B, Qwest-SA-4 for a detailed description of the measurement presented in the same format used by the Joint Industry Group.

DAYS LATE (JIP-SA-5) / (QWEST-SA-5)

The Joint Industry Group suggests that the average days late (difference between FOC and delivery) be measured, both in the aggregate and in a distributed manner.

Qwest currently measures this information at the individual order level not the ASR level, and agrees that it is meaningful. As is the case with measurement of on-time performance, it is important that days late be measured at the order level.

Qwest also notes that the Joint Industry Group suggests that the measure of days late takes account of the lack of carriers' facilities and be measured on a diagnostic basis only. Without proper account of the impact of the absence of carrier facilities, this measurement would be meaningless. The Commission has long recognized that carriers cannot be expected to have facilities readily in place to meet all possible demand instantaneously, especially in the case of high-capacity services and other services that are tailored to meet the needs of individual customers.[27] The proper measurement should include only those cases where carrier facilities are available. *See* Qwest's Attachment B, Qwest-SA-5 for a detailed description of the measurement presented in the same format used by the Joint Industry Group.

AVERAGE INTERVALS – REQUESTED/OFFERED/INSTALLED (JIP-SA-6) / (QWEST-SA-6)

The Joint Industry Group suggests three different methodologies for calculating the provisioning process: 1) Average Requested Interval; 2) Average Offered Interval; and 3) Average Installation Interval.

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[27] *See*, *e.g.*, *In the Matter of MTS and WATS Market Structure Phase III: Establishment of Physical Connections and Through Rates among Carriers, Report and Order,* 100 FCC 2d 860, 875 ¶¶ 48-49 (1985). *See*, *e.g.*, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Memorandum Opinion and Order*, 13 FCC Rcd. 4998, 5039 ¶ 78 and n.227 (1998).

1) Average Requested Interval -- Qwest does not have a comparable measure nor does it capture the information required to report this measure. Qwest opposes its adoption.

2) Average Offered Interval -- Qwest does not have a comparable measure and recommends against its adoption due to the fact that it would be redundant to the Joint Industry Group JIP-SA-4 measurement (commitments met).

3) Average Installation Interval -- Qwest currently measures this information at the individual order level not the ASR level, and agrees that it is meaningful at the order level.

As with several other measurements proposed by the Joint Industry Group, its recommendation is that the measurement be based on ASR sent and ASR completion date. Qwest's systems are currently designed to measure not by the ASR but by the Application date and the completion date. Qwest uses the application date as day zero unless it is a Saturday. If the application date is Saturday the following Monday becomes day zero. The day following the application date is day one.

The Joint Industry Group would also include all orders including projects and ICBs. Qwest recommends the exclusion of projects and ICBs because neither utilizes standard intervals.

Several changes need to be made to bring this in line with Qwest's process as outlined in the attached matrix (*see* Attachment A). *See* Qwest's Attachment B, Qwest-SA-6 for a detailed description of the measurement presented in the format used by the Joint Industry Group.

PAST DUE CIRCUITS (JIP-SA-7)

The Joint Industry Group recommends adoption of a measurement which takes a snapshot view of circuits not completed (past the FOC) as of the end of the reporting period.

Separate diagnostic measurements are suggested for ILEC facilities availability reasons, CLEC reasons and cancellations. Absence of ILEC facilities is not factored into the measurement.

Qwest currently measures this information for facility and non-facility reasons at the individual order level not the circuit level, and agrees that it is meaningful. Several changes need to be made to bring this measurement in line with Qwest's process as outlined in the attached matrix (*See* Attachment A). Again, Qwest proposes measurement at the individual order level not a circuit level.

One difficulty with this proposed measurement is that it could, as is the case with other measurements that fail to take account of the different processes that must be used when the carrier's facilities are not available, interfere with the carrier's *bona fide* efforts to fill such an order. Currently, Qwest holds customer orders that lack facilities for 30 days in order to match the customer's order with a subsequent facility availability (*i.e.*, an engineering job augmenting facilities or facilities freed due to churn). If facilities do not become available during this period, the order is rejected, and the customer is given the opportunity to place an order for special construction. Under the Joint Industry Group's proposal, carriers would not have the incentive to hold an order past the original FOC date ("unsolicited FOCs" are excluded from the measurements) because this action could negatively impact on the carrier's performance as measured under this standard. Other jurisdictions are currently investigating the ability to increase the amount of time an order is held to 60 days or longer. While Qwest does not agree from a systems standpoint that the 60-day standard is appropriate, the underlying logic is applicable. Matching customer orders with future engineering jobs or future facility availability is more cost effective for the customer, and constitutes an efficient use of resources for the carrier.

NEW INSTALLATION TROUBLE REPORT RATE (JIP-SA-8) / (QWEST-SA-8)

The Joint Industry Group suggests measurement of the rate of trouble reports on new circuits within thirty days of installation.

Qwest currently measures the inverse of this information at the individual order level, not the circuit level, and agrees that it is meaningful as measured by Qwest. Several changes need to be made to bring this measurement in line with Qwest's process as outlined in the attached matrix (*See* Attachment A). Qwest recommends that Test OK/Found OK troubles be excluded. Qwest proposes measurement at the individual order level not a circuit level. In addition, Qwest suggests that OCn and DS3 services be combined for the purposes of this measurement. (*See* Qwest's Attachment B, (Qwest-SA-8) for a detailed description of the measurement presented in the same format used by the Joint Industry Group.)

FAILURE RATE (JIP-SA-9) / (QWEST-SA-9)

The Joint Industry Group has proposed measuring the annualized number of trouble reports times the number of circuits. Proper exclusions are proposed for customer caused troubles and trouble tickets cancelled at the customer's request.

Qwest currently measures this information. Several changes need to be made to bring this in line with Qwest's process (s*ee* Attachment A).

Qwest recommends that Test OK/Found OK troubles be excluded. Once the carrier has tested the service and no trouble is found, there is nothing more the carrier can do. The fact that there may be another trouble reported on the same line does not mean that the genesis of the second trouble is the same as the one for which the first report was issued.

The Joint Industry Group also suggests this measurement be presented at two levels; below DS3 and DS3 and above which would include OCn service. Qwest's proposed

measurement would be separated by DS0, DS1 and DS3 and above (which would also include OCn services). *See* Qwest's Attachment B, (Qwest-SA-9) for a detailed description of the measurement presented in the same format used by the Joint Industry Group.

MEAN TIME TO RESTORE (JIP-SA-10) / (QWEST-SA-10)

The Joint Industry Group recommends measuring the mean time between submission of a trouble report and resolution of the trouble by the ILEC. Proper exclusions are included for trouble tickets cancelled at the customer's requests and which were the result of customer activity (in addition to other appropriate exclusions).

Qwest currently employs a similar measurement. Qwest would also recommend that Test OK/Found OK troubles also be excluded. Several changes need to be made to bring this measurement in line with Qwest's process as outlined in the attached matrix (Attachment A). *See* Qwest's Attachment B, (Qwest-SA-10) for a detailed description of the measurement presented in the same format used by the Joint Industry Group.

REPEAT TROUBLE REPORT (JIP-SA-11) / (QWEST-SA-11)

The Joint Industry Group proposes a measurement of the percentage of trouble reports for circuits that had a previous trouble report within the previous 30 days.

Qwest currently measures this information. Several changes need to be made to bring this measurement in line with Qwest's process as outlined in the attached matrix (*see* Attachment A). Qwest recommends that Test OK/Found OK troubles also be excluded. Qwest would also exclude trouble reports coded to Carrier action (IEC) and Customer Provided Equipment (CPE) as well as subsequent trouble reports of any trouble before the original report is closed. Qwest would also exclude any trouble reports on the day of installation before the installation work is reported complete. Qwest would include OCn services in with the DS3 services. *See* Qwest's

Attachment B, (Qwest-SA-11) for a detailed description of the measurement presented in the same format used by the Joint Industry Group.

2. Measurements Adopted By The Commission Must Also Take Account Of Several Other Marketplace Realities

Several comments in this proceeding have raised issues that deserve brief, but separate, treatment.

- *It Is Vital That Any Measurements Adopted In This Proceeding Apply To All Providers Of Special Access, Not Just ILECs.*

A number of commenters request that the Commission adopt measurements applicable only to ILECs, not to CLECs or other providers of special access services.[28] Of course, Qwest's suggestion that measurements consistent with those adopted by the Commission be strictly voluntary would moot this concern. But even if the measurements were not voluntary (or if they were to be filed with the Commission), it would make no sense to limit the measurements to ILECs. One of the chief benefits of FCC-adopted measurements would be that customers could compare among various providers of special access services. If measurement data were to be filed with the Commission, comparisons could be made at that level as well. But this benefit would disappear entirely if only a part of the industry were to use the measurement standards adopted by the Commission. There is no reason to exclude any provider of special access services from any rules adopted in this proceeding.[29]

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[28] DirecTV at 3-6; Focal at 2-4, 16-19, 37-38; ITTA at 9-11; NECA at 3-5; NTCA at 2-3; PaeTec at 2-3; Rural ILEC Coalition at 3-5; Small ITCs at 3-4. *But see* USTA at 6-7 arguing that ILECs should not be a target for discrimination for special access performance measurements, standards or reporting procedures. *Id.* at 12-14.

[29] Time Warner observes that measuring special access lines purchased from ILECs and then resold would not make sense. Time Warner at 21-24. Qwest agrees. CLECs and other competitive providers of special access should measure those circuits that they own or lease from entities other than ILECs, unless the specific circuit was already under the control of the CLEC and was available for use by a customer.

If the measurements under consideration are deemed too onerous for a CLEC, then the measurements are probably too onerous for adoption at all. Measurements of special access performance are not, as far as Qwest can determine, meant to be punitive in nature, and there is no basis for distinguishing among measuring carriers based on factors such as size or portative market power. Placing regulatory burdens such as measuring special access performance on some carriers but not others would create artificial regulatory advantages. By the same token, uniform regulatory obligations do not automatically translate into uniform regulatory burdens -- burdens will to some extent vary with the size of the carrier, with larger carriers assuming more significant burdens.

- *Wireless Projects Should Be Excluded From Measurements.*

Several commenters contend that the FCC's measurements (and standards) should include special access services provided to wireless carriers. Wireless carriers should not be measured as part of a carrier's overall performance because service to a wireless carrier is unique. A very high percentage of Qwest's service to wireless carriers requires special construction, and measuring such construction as part of overall service would skew the measurement results. Most requests for "Raw Land Wireless Cell Sites" and High Voltage Sites are unique.[30] These facilities are typically built from scratch and may require incurrence of special construction costs. Each request always requires site visits by Qwest field engineers and the customer's field engineers to ensure that the right equipment is utilized. A second site visit is always scheduled before the site is certified for test and turn-up. Each request is project managed on an ICB basis. Qwest attempts to complete each such request in 54 business days.

[30] Raw Land Wireless Cell Sites are those sites which are not developed. High Voltage Sites entail placement of an antenna close to high voltage towers.

This data should not be included with other more generalized data in measuring special access performance.

- *Any Measurements Must Take Account Of Force Majeure And Other Acts That Could Skew Overall Performance Results.*

Any performance measurements adopted by the Commission must have some limiting mechanism to avoid having valid measurements skewed by unique events outside the normal course of the carrier's business.

- *Any measurements must take account of situations where the carrier performing the measurement does not have facilities immediately available.*

Focal claims that the Commission should not take any account of facilities unavailability by ILECs, often contending that ILECs are falsely claiming that they do not have facilities available in order to avoid providing timely special access service.[31] Qwest has never claimed that special access facilities were unavailable when they were. The fact is that, especially in the case of special access services (which often involve advanced services that require new equipment), facilities will not always be available to meet a customer's request for service. In such cases, the customer and the carrier must determine how the situation should be approached, including whether it is economically feasible to construct the new facility at all. This analysis and negotiation takes time and is unique to each individual facility. It would make no sense to lump cases where a carrier does not have the facilities available together with those where facilities are in place in attempting to obtain a valid performance measurement. Measurements must focus on similar situations, and measurement standards for situations where facilities are not available should not be adopted at all -- much less included in the same measurement as is utilized to describe performance when facilities are already in place.

[31] Focal at 5-8, 44-45.

- *Any measurements the Commission establishes must take account of existing carrier systems and give all carriers sufficient time in which to bring their systems into compliance with the measuring requirements adopted in this docket.*

Qwest has proposed measurements that comport with Qwest's own measurement capabilities and systems. Even so, it would take Qwest several months to implement the proposed measurements that Qwest supports.[32] It would obviously take longer for other ILECs and CLECs to implement the measurements Qwest has proposed,[33] and it would take Qwest longer to adopt other measurement capabilities. It is vital that the Commission not attempt to implement a measurement structure before it is feasible for the industry to accommodate itself to the new structure. No new measurement requirements should be adopted which give the industry less than six months to implement after the adoption of rules by the Commission.

B. The Minimum Standards Proposed By Other Parties Are Unnecessary And In All Events Should Be Rejected Or Modified

Many of the commenting parties in the proceeding suggest that the Commission should adopt specific performance standards based upon the measurements which they support, generally the measurements set forth by the Joint Industry Group. For the reasons discussed in Qwest's opening Comments, and summarized in Part II.A. above, the imposition of standards is unnecessary and contrary to the deregulatory objectives of the 1996 Act and the Commission. Even if it were appropriate to adopt standards, however, those proposed by other parties to this proceeding are unrealistic and oppressive, and cannot be reasonably adopted on the basis of the record.

[32] Qwest's proposal has Qwest's CLEC operations using the same measurement tools as would be used by Qwest's ILEC operations.

[33] Although Qwest believes that its ILEC systems are similar to those of other ILECs.

1. Standards Cannot Be Meaningfully Adopted On The Basis Of The Record In This Proceeding

While parties are not shy about placing recommended standards on the record, no commenting party recommending standards has set forth any evidence to support the conclusion that the standards that they are proposing are reasonable or even remotely achievable. This is a failure of decisional significance. The standards for UNE provisioning established through negotiations in the various states were the result of months of give and take among ILECs, CLECs and state regulators.[34] The standards suggested by many of the commenting parties are based on nothing other than wishes and hopes, and have no basis in any realistic assessment of an ILEC's ability to actually perform.

It is absolutely critical that performance standards for any aspect of the telecommunications industry not be adopted unless there is a realistic expectation that the standards are reasonable and achievable. There is no record, and, more significantly, no experience upon which to base a conclusion that the standards proposed by the commenting parties meet either of these criteria. Standards in an area as complex as special access performance could not possibly be established upon less than a record documenting one year of actual experience. No such record exists. Accordingly, if the Commission were to adopt mandatory standards in this proceeding for special access provisioning, it could do so only upon a record supporting the necessity of such standards and after having established the relevant measurements (not standards) and reviewed their results for an appropriate and meaningful time period.

[34] There are many factors that influence UNE provisioning that are different from those involved with special access provisioning. It is not possible simply to transpose UNE measurements and standards into the special access world.

2. Qwest's Experience With Some Of The Standards Proposed By The Parties Indicates That They Are Unreasonable

Based on limited experience, Qwest is able to evaluate the feasibility of meeting some of the standards proposed by the Joint Industry Group. Qwest shares some pertinent information on several of these standards below.

FOC Receipt (JIP SA-1) / (Qwest SA-1)

The Joint Industry Group proposes that the Commission measure the time between submission of an ASR by a CLEC and the issuance of a FOC by the ILEC, and report this time as a percentage of FOCs issued within the national standard. The national standard is proposed to be two business days for DS0 and DS1 service, and five business days for DS3 service. The performance standard is 98% for all cases, although OCn and above are to be treated on an ICB basis.

The two-day turn-a-round for DS0 and DS1 is unreasonable. Qwest normally meets a 98% standard with a four-day turn a round for these services. Qwest's internal benchmark is 90% within 48 hours, or 72 hours if the order is received manually.

On Time Performance To FOC Due Date (JIP SA-4) / (Qwest SA-4)

The Joint Industry Groups requests that the percentage of ASRs that are filled by the FOC date be reported. This is a valid measurement. However, a standard of 98% is not realistic. If the Commission imposes any standard, it should not exceed 90% of the completion of orders instead of ASRs.

In addition, measurement of this activity on a per-project basis, as is proposed by the Joint Industry Group, is not realistic because, as we understand the Joint Industry Group's position, a project requiring multiple circuit installations would be deemed to have missed the deadline in its entirety if a single circuit were deemed late. This would not be a realistic or fair

standard, and it would not provide the type of data which customers would be best able to use. Qwest would also exclude dates missed for standard categories of customer and non-Qwest reasons. Since many DS3 services and OCn services require a project status or an ICB schedule, these should either be excluded from the count or at least include DS3 and OCn in the same count.

Past Due Circuits (JOINT INDUSTRY GROUP-SA-7) / (Qwest SA-7)

The Joint Industry Group recommends adoption of a measurement that takes a snapshot view of circuits not completed (past the FOC) as of the end of the reporting period, and suggests that a standard should be established that it is unreasonable for more than three percent of ASRs to be in this status. Separate diagnostic measurements are suggested for ILEC facilities reasons, CLEC reasons and cancellations. Absence of ILEC facilities is not factored into the measurement on which the proposed standard is based. So long as this measurement does not take account of situations where the carrier does not have facilities immediately available, any standard would be meaningless.

This measurement should be revised to reflect the unavailability of an ILEC's facilities, and to specify that it is diagnostic only.

New Installation Trouble Report Rate (JIP SA-8) / (Qwest SA-8)

The Joint Industry Group suggests measurement of the rate of trouble reports on new circuits within thirty days of installation. This measurement is reasonable and meaningful. However, the performance standard of one trouble report per 100 circuits installed is not reasonable, especially given the fact that trouble on a new circuit is not likely to arise in the first month after installation.

C. The Fines And Other Penalties Proposed By Other Parties Should Not Be Adopted

In Qwest's initial Comments, it was pointed out that the concept of self-executing damage awards and baseline forfeitures was beyond the authority of the Commission.[35] Simply stated, the Commission may not issue a binding order directing the payment of either damages or forfeitures without affording the affected carrier significant due process rights. Automatic damages or forfeiture assessments would not meet the statutory procedural rights established under Sections 407 and 504 of the Telecommunications Act.[36]

Several other "remedies" have been proposed by commenting parties which suffer from similar fatal legal flaws. That is, they seek to punish an ILEC who fails to meet Commission-established performance standards in a manner that is simply not legally permissible.

Treble Damages. WorldCom suggests that the Commission should award CLECs treble damages whenever an ILEC fails to meet a Commission-devised performance measure.[37] It has long been recognized that the Commission is without authority to levy treble damages.[38]

Debarment from Government Contracts. WorldCom and others request that the Commission take unspecified action to enforce the position that "[a]ny incumbent LEC that is in violation of the special access performance standards or benchmarks should also be prohibited from entering into government contracts."[39] As a preliminary matter, this proposal underscores that customers have a choice of suppliers of special access, and that the kind of regulation

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[35] Qwest Comments at 11-16.

[36] 47 U.S.C. §§ 407 and 504.

[37] *See*, *e.g.*, WorldCom at 46-54.

[38] *See Craig C. McCaw*, 10 FCC Rcd. 11786, 11801 n.73 (1995); US WEST Communications, Inc., 10 FCC Rcd. 12184, 12187 n.62 (1995).

[39] WorldCom at 54.

proposed by WorldCom and others is unnecessary. There is accordingly significant irony to this suggestion. WorldCom and others proposing adoption of federal standards for special access service contend that ILECs face no competition in their provision of special access services. If this were true, the government would have no competitive choices when purchasing ILEC special access services. In such a case, should an ILEC be debarred from contracting with the government because of failure to meet the performance standards enacted in this docket, the result would be that the government would be unable to purchase special access at all in the area served by the debarred ILEC.

In all events, WorldCom's proposal is profoundly anticompetitive and unlawful. Contrary to WorldCom's claim, 48 C.F.R. Section 9.406-2(b)(1)(i)(B), which permits a debarring official to institute debarment proceedings against a contractor for "a history of failure to perform, or of unsatisfactory performance of, one or more contracts," provides no authority for its proposal. Even if the FCC had debarment authority in matters involving government contracts (which it does not), this section allows a debarring official to consider a contractor's past performance under *government* contracts in reaching a debarment decision. It does not allow debarment of a contractor for performance under a *private* contract.

Finally, debarment is a very severe remedy in the government contract area. Accordingly, it is well settled that a prospective contractor may not be subjected to debarment without being afforded due process.[40] WorldCom's proposal does not include any procedures or other mechanisms that would provide the requisite due process.[41] WorldCom's government contract remedy is patently unlawful.

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[40] *Sloan v. HUD*, 231 F.3d 10, 14-15 (D.C. Cir. 2000); *Commercial Drapery Contractors, Inc. v. USA*, 133 F.3d 1, 6 (D.C. Cir. 1998).

[41] WorldCom at 46-54.

Suspension of Section 271 authority. WorldCom also recommends that an RBOC which has failed to meet the special access performance standards it recommends be prohibited from providing interLATA service, either by denial of a Section 271 application or by suspension of authority already granted.[42] This proposal, in addition to being nothing more than an anticompetitive effort to foreclose ILECs from competing with WorldCom and others to provide interLATA services, amounts to an addition to the competitive checklist established in Section 271(c)(2)(B) of the 1996 Act. Such additions are expressly prohibited under the 1996 Act itself.[43]

Revocation of Pricing Flexibility Permission. Finally, WorldCom argues that pricing flexibility grants pursuant to the Commission's *Pricing Flexibility Order* should be revoked or suspended if an ILEC's special access performance falls below the standards advocated in its comments.[44] WorldCom's argument is that, as pricing flexibility is based on a finding that competitive market forces (as judged based on collocation as a surrogate for an actual measurement of competition) have alleviated the need for in-depth regulation of an ILEC's special access prices, failure to meet the performance standards which WorldCom requests would negate that finding. This argument is the direct converse of the argument of other parties claiming that pricing flexibility and the findings on which pricing flexibility is based are unrelated to the market conditions that warrant the regulatory actions demanded in this docket.[45] If the Commission were to determine that the pricing flexibility rules should be modified or retracted, it would need to do so based on a record finding that ILEC prices were not being

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[42] *Id.*

[43] 47 U.S.C. § 271(d)(4).

[44] WorldCom at 53.

[45] *See*, *e.g.*, AT&T at 8-12.

sufficiently constrained by competition. The action could not be based on a failure of ILECs to provide special access services in accordance with the performance standards which WorldCom requests in this docket.

IV. CONCLUSION

Qwest agrees that the competitive marketplace can benefit from the existence of uniform performance measurements to be utilized by industry participants when comparing special access performance. Based upon measurement definitions prepared by the Joint Industry Group, Qwest has submitted meaningful and minimally burdensome measurements which the industry could adopt on a voluntary basis. However, there has been no reason shown on the record which would merit federal filing requirements by carriers, and proposals for federally imposed standards and penalties do not meet the test of lawfulness at all.

The special access market is currently marked by significant competition, competition which is growing. Intrusive federal regulatory intervention in this market at this time would fly in the face of the deregulatory focus of this Commission and the 1996 Act, and could well serve to interfere with the growth of current and future competitive market forces.

Respectfully submitted,

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Joint Parties Proposed Measurement	Qwest Proposed Comparable Measurement	NOTES:
• **ORDER STATUS MEASUREMENTS:**		
1. FOC Receipt (JIP SA-1)	(Qwest SA-1) Firm Order Confirmations (FOCs) On Time	• JIP proposes facilities check before FOC. Providers should only provide facility checks on specified loop types (i.e., DS1) with a 72-hour FOC interval. DS0 facilities are usually available, a facility check is not required. DS3 and OCN facilities are typically part of a project requiring investigation before an FOC can be assigned. • JIP proposes to include projects. Providers should exclude projects and ICBs because they require varying intervals based on the complexity of the project or ICB and facility availability. • JIP proposed 3 variations on the measurement. Percent Received within Standard, and two diagnostics providing FOC receipt distribution and ASRs withdrawn due to ILEC causes. Qwest only reports Percent on Time. • JIP measures from ASR sent date to FOC receipt date. Providers should measure Application date to notification date If the Application is received after 3 p.m. the start date should be the next day. The stop date is date FOC sent back. • JIP proposes measuring in business days.
2. FOC Receipt Past Due (JIP-SA-2)		• Duplicative. When FOC is issued it will be counted. If the FOC interval is greater than standard, it should count as a miss. If not, even if received after the end of the reporting period it should not be counted against performance. • Double penalty if held to standard on this measure as well as JIP-SA-1.
3. Offered Versus Requested Due Date (JIP-SA-3)		• Qwest does not measure this nor does Qwest have the systems or data in place to measure this.

• **PROVISIONING MEASUREMENTS:**		
4. On Time Performance To FOC Due Date (JIP-SA-4)	(Qwest SA –4) Installation Commitments Met	• JIP request that the percentage of ASRs that are filled by the FOC due date be reported. Providers should evaluate the extent to which orders are installed for customers by the scheduled due date. • JIP benchmarks is 98% completion of ASR's on time. • JIP proposes two measures one that counts CNR as met and a diagnostic measure that doesn't consider CNR, or reports CNR as miss. Providers should exclude orders with applicable due dates missed for standard categories of customer and non-provider reasons. • OCn should be included in DS3 measure. • JIP uses last due date. The applicable due date should be used, which is last due date requested by customer. • Qwest agrees projects should be included.
5. Average Delay Days on Missed Installation Orders (JIP SA-5)	(Qwest-SA-5) Delay Days	• JIP suggests that the average day's late (difference between FOC due date and circuit completion date) be measured, both in the aggregate and in a distributed manner. Providers should measure applicable average days late for non-facility reasons attributed to providers. Providers should also measure applicable average days late for facility reasons attributed to providers. • JIP suggest that the measure of days late take some account of the lack of ILEC facilities and be measured on a diagnostic basis only. Qwest agrees this should be a diagnostic measure. • Measure the average number of business days that service is delayed beyond the applicable due date for non-facility reason attributed to the service provider. • OCn should be included in the DS3 • JIP proposes measuring circuits. Providers should measure based on orders. There can be numerous circuits on an ASR. Only one circuit is included on an order. Therefore, a count of orders will produce a circuit count.

6. Average Intervals – Requested/Offered/Installed (JIP SA-6)	(Qwest-SA-6) – Installation Interval	• JIP suggest three different methodologies for calculating the provisioning process • 1. Average Requested Interval. Qwest does not currently measure this nor is information available. • 2. Average Offered Interval. This a redundant measurement with JIP SA –4 • 3. Average Installation Interval. Providers should evaluate the timeliness of installation of orders rather than ASRs for customers focusing on the average time to install service. • JIP measures the average interval in business days. Qwest agrees. • JIP measures between ASR sent date and ASR completion date. Providers should measure between the application date and completion date for service orders accepted and implemented. • JIP would count Intervals for each measured event in whole days. Qwest agrees. Providers should use the application date as day zero (unless on Saturday in which case the following Monday is day zero) the day following the application date is day one. • JIP includes all orders including projects. Providers should exclude orders with customer requested original due dates greater than the current standard interval. • OCn should be included in with DS3 measure. • JIP measures on ASRs. Providers should measure based on orders. • JIP proposes as diagnostic measure. Qwest agrees.

7. Past Due Circuits (JIP-SA-7)	(Qwest-SA-7) – Interval for Pending Orders Delayed Past Due Date	• JIP recommends adoption of a measurement, which takes a snapshot view of circuits not completed (more than 5 days past the FOC due date) as of the end of the reporting period. JIP proposes breakout for ILEC reasons, ILEC facility reasons, and for customer reasons. JIP also proposes to report as diagnostic a count of delays within 1-5, 6-10, 11-20, 21-30, 31-40, and > 40 days. This measure should only average the number of business days that pending orders are delayed beyond the applicable due date for reasons attributed to the provider and separately for facility reasons. • JIP recommends reporting cancellations for orders delayed past the FOC Due Date. Cancellations and orders missed for Customer reasons should be excluded. • JIP proposes measuring circuits on an ASR basis. If not all circuits on the ASR are complete, the ASR is not complete; leaving all circuits on the ASR counted as not complete. Measurement should be based on completion of orders. Only one circuit is provided per Order. A true count of circuit provision may then be obtained. • OCn should be included in with the DS3 measure. • JIP proposes benchmark of < 3% delayed > 5 days for ILEC reasons. This should be a diagnostic measurement and should stay that way to avoid a double penalty. • Carriers would be penalized in SA-6 and SA-7 in JIP's proposal.
8. New Installation Trouble Report Rate (JIP-SA-8)	(Qwest-SA-8) – New Service Installation Quality	• JIP suggest measurement of the rate of trouble reports on new circuits within thirty days of installation. Providers should measure the quality of ordering and installation of services by reporting the inverse of the JIP proposal. By focusing on the percentage of average monthly new installations that were free of trouble reports for thirty (30) calendar days after the initial installation. The report should include the percentage of new service installations that experienced a trouble report on the installation date after the order is reported as work completed. • JIP proposes measuring circuits. Providers should measure orders. Circuits are countable as Orders. • JIP would exclude trouble reports coded to Carrier action (IEC) and Customer Provided Equipment (CPE), information tickets, and misdirected calls or calls referred out to other departments. Qwest agrees. • OCn should be included with the DS3 measure.
MAINTENANCE & REPAIR MEASURMENTS:		

9. Failure Rate (JIP-SA-9)	(Qwest-SA-9) – Trouble Rate	• JIP proposes measuring the annualized number of trouble reports times the number of circuits. Providers should measure closed monthly trouble reports including trouble reports that are out of service and those that are only service-affecting and compare them to the number of lines in services. • JIP proposes two levels below DS3 and DS3 and above including OCn. Providers should measure DSO and DS1 separately and include OCn in DS3 in one measurement. • JIP excludes trouble report coded to Carrier action (IEC) and Customer Provided Equipment (CPE), information tickets, and misdirected calls or calls referred out to other departments. Qwest agrees.
10. Mean Time to Restore JIP-SA-10	(Qwest-SA-10) – Mean Time to Restore	• JIP measures comparable, including exclusion of customer caused delay time. Qwest agrees. • JIP proposes additional breakout of % greater than 24 hours. Qwest agrees. • JIP proposes separate reporting for troubles recorded as FOK/TOK for diagnostic purposes. FOK/TOK should be included in the measurement. • JIP excludes trouble reports coded to Carrier action (IEC) and Customer Provided Equipment (CPE), information tickets, and misdirected calls or calls referred out to other departments. Qwest agrees. • JIP proposes two levels: below DS3 and DS3 and above including OCn. Providers should report DSO and DS1 separately and include OCN in with the DS3 measurement. • JIP recommends measuring the mean time between submission of a trouble report and resolution of the trouble by the ILEC. Providers should measure the time actually taken to clear trouble reports between the date and time of receipt to date and time trouble is cleared.

11. Repeat Trouble Report (JIP-SA-11)	(Qwest-SA-11) – Repair Repeat Report Rate	• JIP proposes a measurement of the percentage of trouble reports for circuits, which had a previous trouble report within the previous thirty days. Providers should measure the percentage of trouble reports that are repeated within 30 days on end user lines and circuits. • Providers should exclude trouble reports also coded to Carrier action (IEC) and Customer Provided Equipment (CPE). Also, exclude subsequent trouble reports of any trouble before the original trouble report is closed and trouble reports on the day of installation before the installation work is reported complete. • OCn should be included in the DS3 measurement.

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

FOC RECEIPT (JIP-SA-1) FIRM ORDER CONFIRMATIONS (FOC) ON TIME (QWEST-SA-1)

Definition:

Monitors the timeliness with which Provider returns Firm Order Confirmation (FOC) to customers in response to ASRs received from customers, focusing on the degree to which FOCs are provided within specified intervals.

Exclusions:

1. ASRs involving individual case basis (ICB) handling based on quantities of lines, as specified in service request types, deemed to be projects.
2. ASR with customer-requested FOC arrangements different from standard FOC arrangements.
3. Hours on weekends and holidays.
4. Records with invalid product codes.
5. Records missing data essential to the calculation of the measurement.
6. Duplicate ASR numbers.
7. Records with invalid application or confirmation dates.
8. Disconnect ASRs.
9. Cancelled ASRs.
10. Records ASRs.
11. Incomplete or erroneous ASRs.

Business Rules:

Measures the percentage of Firm Order Confirmations (FOC) that are provided to customers within the intervals specified.
Includes all ASRs that are submitted through the specified interface or in the specified manner (e.g., facsimile) that receive an FOC during the reporting period.
ASRs are measured only in business days.

Levels of Disaggregation:

1. FOC provided for ASRs requesting Special Access.
2. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
Count of ASRs for which the original FOCs (FOC notification date and time)-(Application date and time) is within the intervals specified for the service category involved / (Total number of original FOC notifications transmitted for the service category in the reporting period) x 100.	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

ON TIME PERFORMANCE TO FOC DUE DATE (JIP-SA-4) INSTALLATION COMMITMENT MET (QWEST-SA-4)

Definition:

Evaluates the extent to which Provider installs services for customers by the scheduled due date.

Exclusions:

1. Disconnect, From (another form of disconnect) and record order types.
2. Due dates missed for standard categories of customer and non-Provider reasons.
3. Records involving official company services.
4. Records with invalid due dates or application dates.
5. Records with invalid completion dates.
6. Records with invalid product codes.
7. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures the percentage of orders for which the scheduled due date is met. All inward orders (Change, New, and Transfer order types) assigned a due date by Provider and which are completed/closed during the reporting period are measured. Change order types consist of all C order with I and T action coded line USOC's. Also, included are orders with customer-requested due dates longer that the standard interval and projects.

Completion date on or before the applicable due date recorded by Provider is counted as a met due date.

The applicable due date is the original due date or, if changed or delayed by the customer, the most recently revised due date, subject to the following: If Provider changes a due date for Provider reasons, the applicable due date is the customer initiated due date, if any, that is (a) subsequent to the original due date and (b) prior to a Provider initiated, changed due date, if any.

Levels of Disaggregation:

1. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Total orders completed in the reporting period on or before the applicable due date)/(Total orders completed in the reporting period) x 100.	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

DAYS LATE (JIP-SA-5) DELAY DAYS (QWEST-SA-5)

Definition:

Evaluates the extent Provider is late in installing services for customer, focusing on the average number of days that late orders are completed beyond the committed due date.

Exclusions:

1. Disconnect, From (another form of disconnect) and record order types.
2. Records involving official company services.
3. Records with invalid due dates or application dates.
4. Records with invalid completion dates.
5. Records with invalid product codes.
6. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures the average number of business days that service is delayed beyond the applicable due date for non-facility reasons attributed to Provider.
Measures the average number of business days that service is delayed beyond the applicable due date for facility reasons attributed to Provider.
Includes all inward orders (Change, New, and Transfer order types) assigned a due date by Provider and which are completed/closed during the reporting period are measured. Change order types consist of all C order with I and T action coded line USOC's.
The applicable due date is the original due date or, if changed or delayed by the customer, the most recently revised due date, subject to the following: If Provider changes a due date for Provider reasons, the applicable due date is the customer initiated due date, if any, that is (a) subsequent to the original due date and (b) prior to a Provider initiated, changed due date, if any.

Levels of Disaggregation:

1. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Actual completion date of late order for non-facility reasons)-(Applicable due date of late order)-(time intervals associated with customer initiated due date changes or delays occurring after the applicable due date)/(Total number of late orders for non-facility reasons completed in the reporting period). (Actual completion date of late order for facility reasons)-(Applicable due date of late order)-(time intervals associated with customer initiated due date changes or delays occurring after the applicable due date) / (Total number of late orders for facility reasons completed in the reporting period).	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

AVERAGE INTERVALS (JIP-SA-6) INSTALLATION INTERVALS (QWEST-SA-6)

Definition:

Evaluates the timeliness of Provider's installation of services for customer, focusing on the average time to install service.

Exclusions:

1. Disconnect, From (another form of disconnect) and record order types.
2. Records involving official company services.
3. Records with invalid due dates or application dates.
4. Records with invalid completion dates.
5. Records with invalid product codes.
6. Records missing data essential to the calculation of the measurement.
7. Orders with customer requested original due dates greater than the current standard interval.

Business Rules:

Measures the average interval (in business days) between the application date and the completion date for service orders accepted and implemented.
Includes all inward orders (Change, New, and Transfer order types) assigned a due date by Provider and which are completed/closed during the reporting period are measured. Change order types consist of all C order with I and T action coded line USOC's.
Intervals for each measured event are counted in whole days, the application date is day zero (unless Saturday the application date is the following Monday) the day following the application date is day one.
Saturday is counted as a business day when the service order is completed on Saturday.
The applicable due date is the original due date or, if changed or delayed by the customer, the most recently revised due date, subject to the following: If Provider changes a due date for Provider reasons, the applicable due date is the customer initiated due date, if any, that is (a) subsequent to the original due date and (b) prior to a Provider initiated, changed due date, if any.

Levels of Disaggregation:

1. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Order completion date)-(Order application date)-(Time interval between the original due date and the applicable date)-(Time intervals associated with customer initiated due date changes or delays occurring after the applicable due date)/(total number of orders completed in the reporting period). EXPLANATION: The average installation interval is derived by dividing the sum of installation intervals for all order (in business days) by total number of services orders completed in the reporting period.	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

PAST DUE CIRCUITS (JIP-SA-7) INTERVAL FOR PENDING ORDERS DELAYED PAST DUE DATE (QWEST-SA-7)

Definition:

Evaluates the extent to which Provider's pending orders are late, focusing on the average number of days the pending orders are delayed past the applicable due date as of the end of the reporting period.

Exclusions:

1. Disconnect, From (another form of disconnect) and record order types.
2. Records involving official company services.
3. Records with invalid completion dates.
4. Records with invalid product codes.
5. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures the average number of business days that pending orders are delayed beyond the applicable due date for reasons attributed to Provider. Includes all inward orders (Change, New, and Transfer order types) for which the applicable due date recorded by Provider has been missed.
Change order types consist of all C order with I and T action coded line USOC's.
Reports the number of pending orders that were delayed for Provider facility reasons.
The applicable due date is the original due date or, if changed or delayed by the customer, the most recently revised due date, subject to the following: If Provider changes a due date for Provider reasons, the applicable due date is the customer initiated due date, if any, that is (a) subsequent to the original due date and (b) prior to a Provider initiated, changed due date, if any.

Levels of Disaggregation:

1. Statewide level
2. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
((Last day of reporting period)-(Applicable due date of late pending order)-(Time intervals associated with customer initiated due date changes or delays occurring after the applicable due date))/(Total number of pending orders delayed for Provider reasons as of the last day of reporting period). Note: Count of pending orders that were delayed for Provider facility reasons.	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

NEW INSTALLATION TROUBLE REPORT RATE (JIP-SA-8) NEW SERVICE INSTALLATION QUALITY (QWEST-SA-8)

Definition:

Evaluates quality of ordering and installation of services, focusing on the percentage of average monthly new order installations that were free of trouble reports for thirty (30) calendar days following installation, including the percentage of new service installations that experienced a trouble report on the installation date after the order is reported as work completed.

Exclusions:

1. Trouble reports coded to trouble codes for Carrier Action (IEC) and Customer Provided Equipment (CPE).
2. Subsequent trouble reports of any trouble on the installed service before the original trouble report is closed.
3. Information tickets generated for internal Provider system/network monitoring purposes.
4. Trouble reports on the day of installation before the installation work is reported as completed.
5. Disconnect, From (another form of disconnect) and Record order types.
6. Records involving official company services.
7. Records with invalid due dates, application dates, or start dates
8. Records with invalid completion, cleared, or closed dates.
9. Records with invalid product codes.
10. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures the monthly average percentage of new installations that are free of trouble reports within 30 calendar days of initial installation. New installation orders used in calculating this performance indicator are all inward orders for the current and previous reporting periods.
All trouble reports closed within the reporting period, which were received within thirty days of the original installation of services including on the day the order is installed are measured.
Includes both out of service and service affecting trouble reports.

Levels of Disaggregation:

1. Statewide level
2. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
((Number of new installation orders completed in the prior + current months/2)-(Total number of new installation-related trouble reports closed in the reporting period within 30 calendar days of order completion including on the day the order is installed) / (number of new installation orders completed in the prior r+ current months/2) x 100	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

FAILURE RATE (JIP-SA-9) TROUBE RATE (QWEST-SA-9)

Definition:

Evaluates the overall rate of trouble reports as a percentage of the total installed base of the service or element.

Exclusions:

1. Trouble reports coded to trouble codes for Carrier Action (IEC) and Customer Provided Equipment (CPE).
2. Subsequent trouble reports of any trouble, on the installed service before the original trouble report is closed.
3. Information tickets generated for internal Provider system/network monitoring purposes.
4. Trouble reports on the day of installation before the installation work is reported as completed.
5. Records involving official company services.
6. Records with invalid trouble receipt dates
7. Records with invalid cleared, or closed dates.
8. Records with invalid product codes.
9. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures trouble reports by product and compares them to the number of lines in service.
Includes all trouble reports closed during the reporting period.
Includes all applicable trouble reports, including those that are out of service and those that are only service-affecting.

Levels of Disaggregation:

1. Statewide level
2. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Total number of trouble reports closed in the reporting period involving the specified service grouping) / (Total number of the specified services that are in service in the reporting period) x 100	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

MEAN TIME TO RESTORE (JIP-SA-10) MEAN TIME TO RESTORE (QWEST-SA-10)

Definition:

Evaluates timeliness or repair, focusing how long it takes to restore services to proper operation.

Exclusions:

1. Trouble reports coded to trouble codes for Carrier Action (IEC) and Customer Provided Equipment (CPE).
2. Subsequent trouble reports of any trouble, on the installed service before the original trouble report is closed.
3. Information tickets generated for internal Provider system/network monitoring purposes.
4. Trouble reports on the day of installation before the installation work is reported as completed.
5. Records involving official company services.
6. Records with invalid trouble receipt dates.
7. Records with invalid cleared, or closed dates.
8. Records with invalid product codes.
9. Records missing data essential to the calculation of the measurement.
10. Time delay due to no access.

Business Rules:

Measures the time actually taken to clear trouble reports
Includes all trouble reports closed during the reporting period.
Includes customer direct reports, customer-delayed reports, and test assist reports that result in a trouble report.
Time measured is from date and time of receipt to date and time trouble is cleared.

Levels of Disaggregation:

1. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Date and time trouble report cleared)-(Date and time trouble report opened)/(Total number of trouble reports closed in the reporting period)	By state

NATIONAL PERFORMANCE MEASUREMENTS

Metric Number: Name:

REPEAT TROUBLE REPORT RATE (JIP-SA-11) REPAIR REPEAT REPORT RATE (QWEST-SA-11)

Definition:

Evaluates the accuracy of repair actions, focusing on the number of repeated trouble reports received for the same trouble within a specified period (30 calendar days).

Exclusions:

1. Trouble reports coded to trouble codes for Carrier Action (IEC) and Customer Provided Equipment (CPE).
2. Subsequent trouble reports of any trouble, on the installed service before the original trouble report is closed.
3. Information tickets generated for internal Provider system/network monitoring purposes.
4. Trouble reports on the day of installation before the installation work is reported as completed.
5. Records involving official company services.
6. Records with invalid trouble receipt dates.
7. Records with invalid cleared, or closed dates.
8. Records with invalid product codes.
9. Records missing data essential to the calculation of the measurement.

Business Rules:

Measures the percentage of trouble reports that are repeated within 30 days on end user circuits.
Includes all trouble reports closed during the reporting period that are received within thirty days of the previous trouble report for the same service (regardless of whether the report is about the same type of trouble for that service).
In determining same service Provider will compare the end user circuit number of the trouble reports with reports received in the prior 30 days.
Includes report due to Provider network or system causes, customer-direct and custom-relayed reports.
The 30 days is from the date and time that the immediately-preceding trouble report is closed to the date and time that the next, or repeat trouble report is received (i.e. opened).

Levels of Disaggregation:

1. Statewide level
2. DS0, DS1 and DS3 + OCn

Calculation:	Report Structure/Geography:
(Total repeated trouble reports closed within the reporting period that were received within 30 calendar days of when the preceding initial trouble report closed) / (Total number of trouble reports closed in the reporting period) x 100	By state

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be filed with the FCC via its Electronic Comment Filing System, and a copy of the **REPLY COMMENTS** to be served, via email, on all parties listed below.*

Richard Grozier
Richard Grozier

February 12, 2002

*Parties wishing to receive a hard copy may contact Kelseau Powe in our Washington, DC office at 202-429-3114.

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