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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Qwest Tariff FCC No. 1) WCB Docket No. 02-117
Transmittal No. 120)
)

AT&T CORP. OPPOSITION TO DIRECT CASE

Pursuant to the Commission's May 23, 2002 *Designation Order*,^{1/} AT&T Corp. ("AT&T") hereby files its opposition to the direct case filed by Qwest Corporation ("Qwest") in the above-captioned matter.^{2/} For the reasons set forth herein, AT&T urges the Commission to find that Qwest has not met its burden to demonstrate that certain of its purported thousands-block number pooling costs are eligible for exogenous cost recovery. As such, the Commission should disallow recovery of those costs.

INTRODUCTION AND SUMMARY

Although AT&T believes that the Commission's decision to allow incumbent local exchange carriers ("ILECs") to recover pooling costs through access charges is unfair and anticompetitive, its concerns were somewhat alleviated by the *Third NRO Order's* insistence that the amounts involved in any such recovery would be minimal, if there were any at all.^{3/} Yet, Qwest has filed revisions to its access tariffs to recover number pooling costs, which, even with

^{1/} *In the Matter of Qwest Tariff FCC No. 1 Transmittal No. 120*, WCB Docket No. 02-117, Order Designating Issues for Investigation, DA 02-1245 (rel. May 23, 2002) ("*Designation Order*").

^{2/} *In the Matter of Qwest Tariff FCC No. 1 Transmittal No. 120*, WCB Docket No. 02-117, Direct Case of Qwest Corporation (filed June 10, 2002) ("Qwest Direct Case").

^{3/} *In the Matter of Numbering Resource Optimization*, 17 FCC Rcd 252, ¶¶ 25, 38-41 (2001) ("*Third NRO Order*").

the reductions included in the Qwest Direct Case, total approximately \$92 million -- certainly not minimal. Indeed, Qwest's claims of exogenous adjustments are particularly striking given the Commission's presumption that no additional recovery for thousands-block number pooling is justified.^{4/} As the Commission made abundantly clear, the presumption could be rebutted only if "extraordinary" pooling implementation costs meet a stringent three-part test and exceed all the savings generated through pooling. Specifically, only those costs that: 1) would not have been incurred "but for" pooling; 2) are incurred "for the provision of" number pooling; and 3) are "new costs" are eligible for cost recovery.^{5/}

As a result of Qwest's attempts to recover costs not properly attributable to number pooling, the Commission designated Qwest's proposed tariff for investigation. In response, Qwest now claims that it "has lowered significantly the amount of costs which it seeks to recover in order to minimize disputes."^{6/} These reductions, however, have not cured the problems inherent in the tariff; the Qwest Direct Case makes clear that Qwest continues to include costs that plainly are ineligible for recovery.

First, Qwest's claimed switching costs appear to be significantly overstated. They are unreasonably high compared to other carriers, and they include costs that do not satisfy the "but for" or "in the provision of" standards.

Second, the Qwest Direct Case confirms that Qwest is attempting to recover network support costs that are excessive and ineligible for recovery under the Commission's three-part test.

^{4/} *Third NRO Order* ¶ 39.

^{5/} *Third NRO Order* ¶ 43.

^{6/} Qwest Direct Case at 2.

Third, in violation of the Commission's explicit direction, Qwest purports to recover general numbering administration costs -- for which Qwest has already been compensated via price caps -- under the guise of Operations Support Systems ("OSS") costs.

Finally, Qwest has failed to demonstrate that thousands-block pooling results in a net cost increase rather than a net cost reduction.

Accordingly, the Commission should disallow those thousands-block number pooling costs, which, under the Commission's strict three-part test, are ineligible for cost recovery.

I. QWEST FAILS TO EXPLAIN WHY ITS NUMBER POOLING COSTS GREATLY EXCEED THOSE PROPOSED BY OTHER ILECS.

Qwest's claimed thousands-block number pooling costs are far higher than those filed by other ILECs. The *Designation Order* expressly noted this fact, and questioned whether the discrepancies were due to inefficiencies in Qwest's network^{7/} or due to the inclusion of costs that are not related to number pooling.^{8/} In fact, even taking into account the Qwest Direct Case's recalculations, Qwest's proposed recovery is still almost 3.5 times greater than Verizon's and SBC's average per-line costs and two times higher than the costs claimed in BellSouth's recently effective tariff.^{9/}

^{7/} *Designation Order* ¶ 2 (noting that Qwest uses AXE-10 switches and "that the costs claimed for upgrading AXE 10s are very much higher than those for other switch types").

^{8/} *Designation Order* ¶ 8.

^{9/} Qwest and its predecessor, U S WEST, have a history of claiming costs that are far out of proportion those of other carriers. For example, in reviewing the ILECs' local number portability ("LNP") tariffs, the Commission found that the fact that U S WEST's LNP cost claims were so much higher than those of the other ILECs was grounds to suspect U S WEST had inflated its claims. *See Long-Term Number Portability Tariff Filings, U S West Communications, Inc.*, 14 FCC Rcd 11983, ¶¶ 7, 9, 21 (1999) (noting that U S WEST had "not met its burden in explaining why it presents such large, unexplained variations in the level of its actual and forecasted costs"); *FCC Investigation Produces Lower Number Portability Charges for Customers of U S West Communications, Inc.*, News Release, 1999 FCC LEXIS 3656 (rel. July 9, 1999) (indicating that, as a result of the Commission's investigation of U S WEST's LNP tariff, "the amount consumers will pay for local number portability [was] reduced by almost

Moreover, Qwest's claimed costs are significantly higher than the costs of other non-ILEC carriers, such as AT&T, for those upgrades that all service providers were required to make in order to implement thousands-block number pooling. For instance, Qwest's Type 1 and Type 2 OSS costs appear to be twice as high as AT&T's costs. Because number pooling affected all service providers' systems, and other service providers' claimed costs are of a magnitude much less than Qwest's, it is questionable that all of Qwest's claimed costs were indeed incurred "for the provision of" the mandatory work required to support thousands-block number pooling.

In response to the Commission's request for an explanation of the differences in its cost claims versus those of other ILECs, Qwest first asserts that responding to the Commission's questions concerning Qwest's failure to upgrade its switches "would be entirely speculative and would add nothing" to the investigation.^{10/} With regard to the Commission's inquiries about Qwest's higher network support costs, Qwest states that "[t]he fact that Qwest's network support costs may exceed those of other carriers (on a per-line or some other basis) is not sufficient reason to reject or disallow a portion of these costs."^{11/} Incredibly, Qwest goes on to argue that it "cannot comment on the reasonableness or unreasonableness of the network support costs of other carriers."^{12/} These general statements fail to address the *Designation Order's* fundamental questions -- why did Qwest, alone among the ILECs, incur thousands-block number pooling costs of the magnitude the instant tariff claims? Accordingly, Qwest has failed to carry its burden of proof under 47 U.S.C. § 204(a)(1) that its proposed charges are lawful.

\$900 million"); *see also Long-Term Number Portability Tariff Filings*, 14 FCC Rcd 11883, ¶ 95 (1999) (finding overhead costs claimed by Pacific and Southwestern Bell unreasonably high).

^{10/} Qwest Direct Case at 6, n.16.

^{11/} Qwest Direct Case at 8, n.21.

^{12/} Qwest Direct Case at 8, n.21.

II. THE COMMISSION SHOULD DISALLOW MANY OF QWEST'S PURPORTED SWITCHING COSTS.

Although Qwest does not make a serious attempt to justify the gross divergence between the costs claimed in its tariff and the pooling costs of other ILECs, it is apparent that its switching costs are significantly overstated. Indeed, notwithstanding Qwest's removal in the Direct Case of a substantial portion of its previously claimed switching costs, many of the remaining claims are flatly inconsistent with the Commission's three-part test. The Commission should reject Qwest's continued attempts to recover those switching costs ineligible for thousands-block number pooling cost recovery.

A. Long Distance Carriers Should Not Be Required To Pay for Qwest's Failure To Replace its Outdated AXE-10 Switches.

In the *Designation Order*, the Commission recognized that Qwest's claimed switching costs are significantly higher than those of other carriers that had filed pooling tariffs, and it surmised that these higher costs may result from Qwest's use of AXE-10 switches, which are not widely used in the industry.^{13/} Specifically, the Commission directed Qwest to "explain its rationale for its decision not to replace or upgrade" its AXE-10 switches and to estimate what the number pooling switch upgrade costs would have been had Qwest replaced the AXE-10 switches with newer switches.^{14/}

Rather than respond to the Commission's questions about its decision not to replace or upgrade the AXE-10 switches, Qwest offers its opinion that "[a]ny answer to this question would be entirely speculative and would add nothing to this Direct Case."^{15/} As a threshold matter, it is

^{13/} *Designation Order* ¶ 5. In fact, as Qwest indicates, Ericsson no longer manufactures the switch and Qwest is Ericsson's only customer in the United States. See Qwest Direct Case at 7.

^{14/} *Designation Order* ¶ 5.

^{15/} Qwest Direct Case at 6, n.16.

unlikely the Commission would have requested the information from Qwest had it not thought the data would be valuable to its decision-making. Thus, Qwest's failure to respond to the Commission's express inquiries should be taken to mean that it has no justification for its exorbitant AXE-10 switch upgrade costs, and the costs should be disallowed. Nor should the Commission accept Qwest's non-responsive statement that its upgrade costs were high because it was required to comply with the Commission's numbering mandates.^{16/} Obviously, all carriers are required to abide by the Commission's rules. In this situation, however, Qwest is attempting to force AT&T, in effect, to pay for Qwest's failure to modernize its network.

In any event, it is impossible to determine exactly to which AXE-10 switches Qwest's claimed costs relate. Qwest asserts that its costs include only those switches in areas where pooling is being implemented, but then goes on to state that its AXE-10 switches are deployed primarily in rural areas.^{17/} Thus, it is unclear whether Qwest is paying for generic upgrades to its AXE-10 switches on a per-switch basis or, as is usual, on a network buy-out basis. The Commission specifically asked Qwest to explain "whether number pooling is being implemented in all areas served by switches for which it claims upgrade costs,"^{18/} but Qwest merely answered "yes" without further explanation.^{19/} Without Qwest's specificity on the total number of AXE-10 switches, the total number of pooling areas, the total number of AXE-10s upgraded, and the cost basis (either per-switch or network buy-out), neither AT&T nor the Commission can discern whether Qwest's costs are legitimately recoverable. Because Qwest has failed to provide the

^{16/} Qwest Direct Case at 7 (noting that the use of the AXE-10 switches "result[s] in higher software development costs in satisfying regulatory mandates").

^{17/} Qwest Direct Case at 5, n.17.

^{18/} *Designation Order* ¶ 4.

^{19/} Qwest Direct Case at 5 ("the answer is yes").

necessary information, the Commission should reject Qwest's claimed costs for upgrades to its AXE-10 switches.

In addition, the Commission should reject Qwest's cost claim for an upgrade that assists with grouping numbers -- those native to a switch, those ported to a switch, and those pooled to a switch.^{20/} This claim does not meet the Commission's "but for" or "in the provision of" tests because this requirement is necessary even in the absence of pooling. In particular, LNP requires carriers to combine ported numbers and non-ported numbers regardless of whether pooling has been deployed.

B. Qwest's Modifications to its DMS Switches and Databases Would Be Necessary in the Absence of Pooling.

Qwest attempts to recoup significant amounts for modifications to its DMS switches and associated databases notwithstanding the fact that these modifications fail to satisfy the "but for" or "in the provision of" standards. Qwest contends that these modifications are needed to enable grouping arrangements to function when the numbers assigned to the group are from more than one Numbering Plan Area ("NPA"), and it asserts that, without this feature in place, numbers from more than one NPA cannot be assigned to the same group.^{21/} Qwest fails to acknowledge, however, that, while pooling may increase the likelihood of the need to form a group of numbers across NPAs, such situations occur as a result of area code overlays. Similarly, Qwest's argument that a DMS switch upgrade is necessary to enable the sharing of numbers in multiple locations fails because this feature is used to comply with the Commission's general number management guidelines.^{22/} These expenses are not solely "for the provision of" pooling and

^{20/} Qwest Direct Case, Workpaper 1a at 5 (Reference Number 19).

^{21/} Qwest Direct Case, Workpaper 1a at 3 (Reference Number 10).

^{22/} Qwest Direct Case, Workpaper 1a at 3 (Reference Number 11).

would have been incurred regardless of number pooling. Therefore, they are ineligible for exogenous treatment.

In addition, Qwest claims that it must upgrade its DMS switches to provide solutions to two problems it says are associated with number pooling.^{23/} The first problem, Qwest explains, is that numbers native, ported, or pooled to a particular switch cannot be combined into the same grouping arrangement.^{24/} According to Qwest, the second problem this upgrade addresses is the need to conform to T1S1.6 Technical Requirements, which were endorsed by the Commission.^{25/}

Although AT&T agrees that pooling drives the portion of the upgrade addressing the T1S1.6 requirements, the remainder of the upgrade does not meet the Commission's "but for" and "for the provision of" standards. Indeed, this feature could apply in the absence of pooling when a carrier uses LNP technology to share telephone numbers between switches in order to meet per-rate center number management guidelines or utilization thresholds. Further, there may be a need to combine native and ported numbers, which would require the use of this feature. Thus, if Qwest is permitted to recover its costs for this upgrade at all, it should be required to exclude the portion that was not required "but for" pooling.

Qwest also attempts to recover several switching database costs without providing *any* supporting data for such costs. For instance, Qwest claims costs for additional database capacity to stored pooled records, but it has not explained why it believes thousands-block number pooling will increase query volume.^{26/} Indeed, the codes in question are likely to be queried for LNP reasons, regardless of whether pooling is implemented. Moreover, Qwest's assertion that it

^{23/} Qwest Direct Case, Workpaper 1a at 4 (Reference Number 15).

^{24/} Qwest Direct Case, Workpaper 1a at 4 (Reference Number 15).

^{25/} Qwest Direct Case, Workpaper 1a at 4 (Reference Number 15).

requires more database capacity is undercut by its admission that it has implemented Efficient Data Representation (“EDR”) in its network to facilitate the efficient implementation of pooling.^{27/} Thousands-block number pooling requires negligible additional database capacity when used in conjunction with EDR. In the absence of quantitative analysis to the contrary -- which Qwest has not provided -- Qwest’s claims regarding the necessity for greater database volume are unsupported and, thus, should be rejected.

III. QWEST’S ATTEMPTS TO RECOVER EXORBITANT NETWORK SUPPORT COSTS SHOULD BE REJECTED.

AT&T wholeheartedly agrees with the Commission that Qwest’s purported network support costs greatly exceed those of other carriers.^{28/} Qwest, however, completely ignores the Commission’s request for further information regarding the apparent excessiveness of these costs, and instead baldly claims that its costs “are reasonable.”^{29/} Indeed, Qwest makes upward adjustments to three of its claimed network support costs.^{30/} Moreover, many of Qwest’s purported personnel costs fail the Commission’s three-part test. While AT&T agrees with Qwest that network support personnel are required to implement number pooling,^{31/} the excessive costs claimed by Qwest should be disallowed.

^{26/} Qwest Direct Case, Workpaper 1a at 7 (Reference Numbers 48 and 50); Qwest Direct Case, Workpaper 1 at 1 (Reference Numbers 48 and 50).

^{27/} Qwest Direct Case, Workpaper 1a at 7 (Reference Number 49).

^{28/} *Designation Order* ¶ 8.

^{29/} Qwest Direct Case at 4.

^{30/} Qwest Direct Case at 4.

^{31/} Qwest Direct Case at 8.

For example, Qwest claims more than \$2.5 million for consultants and other testers to assist with trouble conditions.^{32/} Repair and maintenance functions, however, are an “incidental consequence” of number pooling and, thus, are not recoverable.^{33/} Moreover, Qwest’s personnel requirements are lavish in comparison to the number of NPAs in which it is implementing pooling. In fact, in 2001, Qwest deployed pooling in only seven NPA complexes, but required the equivalent of seventeen employees to do so.^{34/} In subsequent years, Qwest seeks to recover its costs for the equivalent of nine employees for these tasks.^{35/} With a year of experience in the pooling environment, there is no reason Qwest should require nine employees for these tasks. This employee to NPA ratio appears to be an extravagant and unnecessary use of resources. Moreover, based only on the bare statement that it has “refined its network cost estimates,” Qwest’s current figures represent an *upward adjustment* from its original tariff filing.^{36/}

Qwest further contends that it should recover almost \$8 million for employees that merely prepared and evaluated the contamination levels within thousands-blocks of numbers.^{37/} Indeed, Qwest inexplicably claims it must recover for the equivalent of 24.5 employees in 2000 for those evaluations, yet Qwest did not implement number pooling in any NPA that year.^{38/} Moreover, Qwest asserts that it required a total of 51.8 employees in 2001 for completing

^{32/} Qwest Direct Case, Workpaper 1a at 9 (Reference Number 30); Qwest Direct Case, Chart 4d (Reference Number 30).

^{33/} *Third NRO Order* ¶¶ 44-45.

^{34/} Qwest Direct Case, Workpaper 1a at 9 (Reference Number 30); Qwest Direct Case, Chart 4d (Reference Number 30).

^{35/} Qwest Direct Case, Chart 4a (Reference Number 30).

^{36/} Qwest Direct Case at 5, n.9.

^{37/} Qwest Direct Case, Workpaper 1a at 10 (Reference Number 33); Qwest Direct Case, Chart 4d (Reference Number 33).

^{38/} Qwest Direct Case, Chart 4a (Reference Number 33).

contamination evaluations when it only implemented pooling in 7 NPA complexes that year.^{39/} That results in more than seven employees per NPA dedicated to checking and evaluating contamination levels. By contrast, AT&T implemented pooling in 100 NPAs over the last ten months, but only used a staff of *four* employees to evaluate contamination levels throughout the entire country, not merely a fourteen-state region. Accordingly, the Commission should disallow these inflated costs, as they are not proper for exogenous treatment.

Several of Qwest's purported network support costs also fail to satisfy the Commission's three-part test and, therefore, are ineligible for recovery. For example, Qwest claims almost \$500,000 for seven employees needed to generate its Number Resource and Utilization Forecasting ("NRUF") report for August 2000.^{40/} Amazingly, the work functions listed for these seven positions do not even mention number pooling.^{41/} The NRUF reporting requirement is a Commission requirement separate and apart from pooling and, therefore, no exogenous cost recovery is possible. Similarly, Qwest seeks to recover \$1.5 million for a project management team that will participate in internal audits.^{42/} Because these audits of number pooling processes will likely examine numbering practices in general, the need for this audit verification process is required without the existence of number pooling. Internal audits plainly are not "for the provision of" thousands-block number pooling and would exist "but for" pooling. These costs should be disallowed because they are general numbering expenses and, as such, do not meet the Commission's three-part test.

^{39/} Qwest Direct Case, Chart 4a (Reference Number 33).

^{40/} Qwest Direct Case, Workpaper 1a at 11 (Reference Number 35); Qwest Direct Case, Chart 4a (Reference Number 35); Qwest Direct Case, Chart 4d (Reference Number 35).

^{41/} Qwest Direct Case, Workpaper 1a at 11 (Reference Number 35); Qwest Direct Case, Chart 4a (Reference Number 35).

As discussed in more detail below, the inclusion of these expenses is another attempt by Qwest to foist a portion of its general numbering administration costs onto other carriers. These costs do not meet the Commission's "but for" and "for the provision of" standards, and AT&T and other long distance carriers should not be forced to pay for Qwest's compliance with requirements that are merely a cost of doing business.

IV. QWEST HAS NOT MET THE HIGH HURDLE NECESSARY TO RECOVER ITS CLAIMED OSS COSTS.

The Commission made clear in the *Designation Order* that "the burden is upon Qwest to overcome the presumption that specific OSS costs claimed are not part of number administration costs for which Qwest is already compensated under price caps."^{43/} Qwest has not met that burden because Qwest's claimed OSS costs do not result from the implementation of thousands-block number pooling. Although Qwest alleges that it does not seek to recover OSS costs that violate the Commission's mandates and that "its revised OSS costs represent a very conservative estimate of the OSS costs necessary to implement number pooling,"^{44/} the costs contained in the Qwest Direct Case cannot be reconciled with the Commission's requirements.

In adopting the three-part test, the Commission made clear that ILECs may not seek to recover their costs to modify systems that, while potentially *affected* by number pooling, are not used to provide that service.^{45/} In this regard, the Commission expressly noted that recovery for numbering administration expenses were already included in basic ILEC compensation.^{46/}

^{42/} Qwest Direct Case, Workpaper 1a at 8 (Reference Number 28); Qwest Direct Case, Chart 4d (Reference Number 28).

^{43/} *Designation Order* ¶ 14.

^{44/} Qwest Direct Case at 10.

^{45/} *Third NRO Order* ¶ 39.

^{46/} *Third NRO Order* ¶ 39.

Qwest seeks to recover costs associated with ordinary number administration under the guise of OSS modification costs in direct contravention of the Commission's clear rulings. As such, the Commission should disallow these costs. Further, even if Qwest were permitted to recover these costs -- which AT&T submits it should not -- the amount claimed far exceeds the amounts required by other ILECs and carriers such as AT&T to perform the same functions. As explained above, Qwest has failed to demonstrate why its costs significantly exceed those proposed by other carriers and its request therefore should be rejected.

A. The Commission Should Reject Qwest's Attempts To Claim Ordinary Numbering Functions as OSS Costs.

A significant number of Qwest's purported OSS costs are not a direct result of the mandatory upgrades and enhancements required for support of thousands-block number pooling. For example, \$4.6 million of Qwest's Category 1 OSS costs (as detailed in Projects 1, 3, 4, 24, 42, 49, 53, 54, and 58)^{47/} are plainly allocated to common number administration functions and are ineligible for recovery under the Commission's mandates. Indeed, Qwest acknowledges that these OSS enhancements are necessary to create its NRUF reports, to categorize numbers in accordance with the Commission's definitions, to identify and track reserved numbers, to intra-service provider port contaminated numbers, and to generally track telephone number usage.^{48/}

These functions, while necessary to meet Commission number administration requirements, are not functions needed "for the provision of" the Commission's pooling mandates and are not specific to thousands-block number pooling. Nor, are these costs "new costs" as required by the Commission's three-part test. Most of the Commission's requirements

^{47/} Qwest Direct Case, Workpaper 2a at 2-3, 9-11 (Projects 1, 3, 4, 24, 42, 49, 53, 54, and 58).

^{48/} Qwest Direct Case, Workpaper 2a at 2-3, 9-11 (Projects 1, 3, 4, 24, 42, 49, 53, 54, and 58).

necessitating the implementation of these functions were in place significantly before the Commission's rollout of number pooling. Thus, while these items may be related to number pooling, and while they might even make number pooling more effective as a conservation method, they would exist independent of number pooling. In fact, all code-holders, regardless of whether or not they are pooling capable, must manage their number resources in accordance with the Commission's number classification system and file semi-annual NRUF reports. The recovery of these functions is "already included in basic LEC compensation," and they do not, through any interpretation of the Commission's rules, constitute extraordinary expenses for which exogenous recovery is available.

In addition, some or all of these costs were already incurred for LNP implementation. For example, Project 24 provides for intra-service provider porting -- an available option since the implementation of LNP.^{49/} Similarly, in Project 53, Qwest attempts to recover for enhancements to its Automatic Provisioning Infrastructure Layer ("APRIL") system, which are "used to activate all types of services on all types of network elements."^{50/} Qwest itself notes that the APRIL system is used for both number pooling and number portability.^{51/} These enhancement costs fail the Commission's three-part test because Qwest has not demonstrated that they would not have been incurred "but for" the implementation of pooling and that they are needed "for the provision of" number pooling. Moreover, because the systems were deployed for number portability as well as pooling, these costs cannot legitimately be claimed as "new costs." As such, the Commission should find these costs are ineligible for recovery.

^{49/} Qwest Direct Case, Workpaper 2a at 6 (Project 24).

^{50/} Qwest Direct Case, Workpaper 2a at 10-11 (Project 53).

^{51/} Qwest Direct Case, Workpaper 2a at 10-11 (Project 53).

B. Qwest's NPAC-Related Costs Are Not Directly Related to Pooling.

Qwest seeks improperly to recover costs associated with its use of its Advanced Service Management System (“ASMS”) database (Project 50).^{52/} Qwest’s ASMS database serves as its regional copy of the Number Portability Administration Center (“NPAC”) database, and Qwest uses it to synchronize the numbering databases to coordinate first porting, and then pooling, of numbers. Although Qwest claims that upgrades to its ASMS database are necessary to reflect changes that were implemented in the NPAC,^{53/} rather than being related to number pooling, these are technology upgrades to ensure Qwest’s system reliability and availability.

Accordingly, the costs incurred for the upgrades do not satisfy the Commission’s “but for” and “in the provision of” tests.^{54/} Moreover, Qwest’s contention that its ASMS database must be expanded to handle higher volumes of traffic because number pooling allegedly results in an increase in porting message traffic fails to account for Qwest’s use of EDR.^{55/} As noted above with regard to Qwest’s switching claims, EDR is a single database record representing a block of numbers, rather than an individual telephone number record. As such, EDR technology minimizes storage requirements and network capacity concerns, and significantly reduces the effects of pooling on the NPAC. Similarly, in Project 62, Qwest attempts to recover NPAC query charges that are not related to OSS development in connection with pooling.^{56/} Rather,

^{52/} Qwest Direct Case, Workpaper 2a at 10 (Project 50).

^{53/} Qwest Direct Case, Workpaper 2a at 10 (Project 50).

^{54/} In addition, there is some question as to whether the costs for ASMS upgrades are “new costs” under the Commission’s criteria. Qwest has not specified whether it actually has to pay its software vendor any additional fees for the upgrades beyond the annual maintenance fee it already incurs in connection with LNP.

^{55/} Qwest Direct Case, Workpaper 2a at 10 (Project 50).

^{56/} Qwest Direct Case, Workpaper 2a at 12 (Project 62).

these charges are for help-desk functions that are not incurred “but for” the implementation of pooling. Consequently, the Commission should disallow these costs.

C. Qwest’s Enhancements to Its OSS LNP Processes Fail the Commission’s Three-Part Test.

In Project 31, Qwest seeks to recover its costs for enhancing its OSS to provide proper call routing on pooled numbers that are subsequently ported.^{57/} Qwest neglects to explain, however, that its existing Local Routing Number (“LRN”) technology ensures that proper call routing takes place on pooled numbers, including those that are subsequently ported. Indeed, because of the existing LRN technology in place in AT&T’s OSS, AT&T was not required to implement this enhancement to provide proper call routing for pooled numbers. Accordingly, this enhancement is not necessary “for the provision of” thousands-block number pooling and should be rejected by the Commission.

D. Qwest’s Category 2 OSS Projects Are Ineligible for Recovery.

The vast majority of Qwest’s Category 2 OSS costs (as described in Projects 2, 5, 6, 15, 16, 17, 19, 21, 22, 28, 29, 39, 41, 44, 47, and 51)^{58/} appear to be redundant and excessive, and fail to satisfy the Commission’s three-part test. For example, Qwest’s Category 2 OSS costs include an exorbitant allocation -- \$615,000 of the total \$2 million in this category -- to the auto-population of two fields across various ordering systems.^{59/} These costs do not seem justified for the auto-population of two systems. Moreover, in Project 41, Qwest seeks to recover costs associated with interoperability testing, which is designed to test each scenario supported by

^{57/} Qwest Direct Case, Workpaper 2a at 6 (Project 31).

^{58/} Qwest Direct Case, Workpaper 2a at 2-6, 8-10 (Projects 2, 5, 6, 15, 16, 17, 19, 21, 22, 28, 29, 39, 41, 44, 47, and 51).

^{59/} Qwest Direct Case, Workpaper 2 at 1-3 (Projects 6, 15, 16, 17, 19, 21, 22, 28, 29, 44, 47, and 51); Qwest Direct Case, Workpaper 2a at 3-6, 9-10 (Projects 6, 15, 16, 17, 19, 21, 22, 28, 29, 44, 47, and 51).

number pooling.^{60/} This testing, however, was likely done as part of thousands-block number pooling development and, thus, the costs were most likely included in the auto-population categories.

More importantly, it is clear that Qwest is double-recovering for many of its OSS costs. For instance, there is significant overlap between Projects 16, 17, and 19 and, in fact, Qwest uses the same sentence to describe each project.^{61/} In addition, there appears to be substantial similarities between Projects 2, 5, and 39, which cover the analysis and architecture work required to determine what system enhancements are needed and to implement those changes to Qwest's internal systems.^{62/} Accordingly, the Commission should reject Qwest's attempts to double or triple recover its number pooling costs.

E. Qwest's Attempt to Recover Consultant Costs as an OSS Cost Should Be Rejected.

While Qwest touts the fact that it reduced its Telcordia consultant costs by 20 percent,^{63/} it defies logic to qualify such a cost as a technology update to its OSS in the first place. Indeed, even Qwest's description of this item fails to mention any system that was impacted or any new technology that was implemented.^{64/} Rather, Qwest's description merely states that this cost was for a consultant assisting "with processing Telcordia Number Pooling contracts and tracking Number Pooling Telcordia deliverables."^{65/} Therefore, the Commission should reject Qwest's attempts to recover these consultant fees as a necessary upgrade to its OSS.

^{60/} Qwest Direct Case, Workpaper 2a at 8 (Project 41).

^{61/} Qwest Direct Case, Workpaper 2a at 4-5 (Projects 16, 17, and 19).

^{62/} Qwest Direct Case, Workpaper 2a at 2-3, 8 (Projects 2, 5, and 39).

^{63/} Qwest Direct Case, Workpaper 2a at 11 (Project 55).

^{64/} Qwest Direct Case, Workpaper 2a at 11 (Project 55).

^{65/} Qwest Direct Case, Workpaper 2a at 11 (Project 55).

V. QWEST HAS NOT PROPERLY ACCOUNTED FOR COST SAVINGS DUE TO POOLING OR ELIMINATED COSTS THAT WERE INCURRED PRIOR TO THE POOLING MANDATE.

Apart from the deficiencies identified above, Qwest has not made a credible showing that it will experience a net cost increase rather than a cost reduction as a result of implementing thousands-block number pooling, as required under the Commission's *Third NRO Order* and the *Designation Order*.^{66/} Specifically, Qwest has not demonstrated that the costs for which it seeks exogenous treatment "exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay other or numbering relief that would otherwise have been required in the absence of pooling."^{67/} Yet, per the Commission's ruling, only costs that constitute a *net increase* qualify for exogenous price cap treatment.^{68/} Moreover, Qwest improperly attempts to recover thousands-block number pooling costs that were incurred *before* the Commission's number pooling mandates were effective. There is no basis, either legal or technical, to support recovery of these costs.

A. Qwest Significantly Understates Its Costs Savings.

Qwest "found" almost \$2.6 million in additional cost savings, for a total of nearly \$4.4 million, since filing its original tariff,^{69/} but Qwest still fails to take into account the potential savings resulting from pooling. Although Qwest's choice to use a five-year timeframe for calculating the amount of money it will save through delayed area code relief measures is far more appropriate than the two-year deadline it initially -- and arbitrarily -- imposed, it continues to ignore that number pooling is not intended to be simply a short-term fix to the number exhaust

^{66/} *Third NRO Order* ¶ 40; *Designation Order* ¶ 17.

^{67/} *Third NRO Order* ¶ 40.

^{68/} *Third NRO Order* ¶ 40.

^{69/} Qwest Direct Case at 11.

problem. Carriers will reap the benefits of costs savings for many years to come, and Qwest's failure to take this into account significantly understates the savings that it will achieve as a result of implementing thousands-block number pooling.

In addition, Qwest has not acknowledged the significant savings it will enjoy in terms of reduced trunking and switching costs as a direct result of the implementation of pooling. Specifically, once Qwest is able to acquire numbers in thousands-blocks instead of in blocks of 10,000, it will no longer have to serve as the default for the routing of all traffic associated with an entire NXX code. The lower volume of traffic traversing Qwest's network will translate into lower network costs.

Moreover, as the Commission recognizes, Qwest has never provided any support for its figures regarding the cost of area code relief -- and thus the savings from delayed area code relief. Indeed, in response to the Commission's explicit instruction to "provide a detailed listing of costs associated with each area code relief action taken during the past five years,"^{70/} Qwest states that it has not "tracked the specific costs of past area code splits/overlays" and, thus, cannot provide the Commission with the information it seeks.^{71/} Nevertheless, in the Qwest Direct Case, Qwest uses its own estimates of the cost of area code relief to calculate its savings with no explanation whatsoever of how those costs were derived.^{72/}

Finally, Qwest's tariff is deficient because it has not excluded any savings associated with the delay in exhaust of the North American Numbering Plan ("NANP") facilitated by

^{70/} *Designation Order* ¶ 17.

^{71/} Qwest Direct Case at 11.

^{72/} Qwest Direct Case, Chart 2b. Qwest notes that it "averaged these costs across NPAs based on the type of area code relief (split v. overlay) most likely to be ordered by the state and by the number of switches serving the respective area code among other things." Qwest Direct Case at n.29. This explanation, however, does not address the Commission's inquiry because it provides no justification for Qwest's claimed costs for the implementation of area code relief.

pooling. Simply because these savings are not easily calculated is no reason to disregard them entirely. In fact, the North American Numbering Council (“NANC”) estimates that, with the implementation of thousands-block number pooling, exhaust of the NANP is not likely to occur before 2025 to 2034, an extension of approximately 18 to 20 years.^{73/} As AT&T demonstrated previously, this delay in capital expenditures will result in savings of \$19 billion to \$64 billion for the industry, with Qwest’s share of NANP expansion savings estimated in the range of \$430 million to \$1.4 billion^{74/} -- amounts significantly more than the meager \$4.4 million Qwest now argues will be saved through pooling. Had Qwest properly netted the eligible costs of thousands-block number pooling implementation against its tremendous overall cost saving benefits, it is evident that it would not be entitled to any exogenous adjustment whatsoever.

B. Qwest Improperly Seeks To Recover Costs Incurred Before the Commission’s Pooling Mandates Were In Effect.

The Commission expressly held that costs incurred prior to the implementation of national thousands-block number pooling are *not* eligible for exogenous treatment.^{75/} It would be unlawful, therefore, for Qwest to recover costs that were incurred before the Commission even ordered the method of numbering resource optimization carriers must implement -- as it turned out, thousands-block number pooling -- and specified the technological standards and requirements that would be necessary to effectuate the Commission’s mandate. Yet, Qwest is seeking to recover materially significant alleged expenditures made months prior to the effective

^{73/} *Third NRO Order* at n.2.

^{74/} *BellSouth Telecommunications, Transmittal No. 632; Qwest Corporation, Transmittal No. 120*, Petition of AT&T Corp., at Exhibit 3 (filed Mar. 25, 2002).

^{75/} *Third NRO Order* ¶ 46 (“Costs are not ‘new,’ and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered through the number portability end-user charge or query charge”).

date of the Commission's decision mandating thousands-block number pooling and specifying the standards and requirements that would be required for implementation.

In the *First NRO NPRM*, the Commission sought comment on whether alternative numbering resource optimization methodologies should be pursued, while only tentatively concluding to implement thousands-block pooling.^{76/} The *First NRO Order* established, for the first time, thousands-block number pooling as a mandatory nationwide requirement.^{77/} The Commission also sought comment in the *First NRO NPRM* on a variety of mutually exclusive technical requirements for pooling, but importantly, did not tentatively conclude or adopt any method.^{78/} Again, the *First NRO Order* adopted, for the first time, the technical standards and requirements that carriers must follow for the newly-mandated thousands-block number pooling.^{79/} Therefore, mid-year 2000 was the first time that carriers actually had a mandate to implement thousands-block pooling and were apprised of the technical requirements for implementation.^{80/}

^{76/} *In the Matter of Numbering Resource Optimization*, 14 FCC Rcd 10322, ¶ 142 (1999) (“*First NRO NPRM*”); *First NRO Order* ¶ 116 (“As part of our inquiry, we considered (1) thousands-block number pooling; (2) individual telephone number (ITN) pooling; (3) and unassigned number porting (UNP) as possible number pooling strategies for implementation on a nationwide basis”); *see also id.* ¶ 119 (citing consideration of non-regulatory incentive-based mechanisms).

^{77/} *First NRO Order* ¶ 122.

^{78/} *First NRO NPRM* ¶ 178 (“We [seek] comment on whether we should adopt the T1S1.6 proposed technical requirements . . . or, in the alternative, whether we should direct the NANC to recommend technical standards . . . In addition, we [seek] comment on whether there are any technical issues . . . that have not been identified . . .”).

^{79/} *First NRO Order* ¶¶ 181-83. In fact, the Industry Numbering Committee (“INC”) Thousand Block Pooling Administration Guidelines were modified by Commission mandate such that INC “fast tracked” the Pooling Guidelines update schedule so that they would be completed by June 20, 2000.

^{80/} The *First NRO Order* appeared in the Federal Register on June 16, 2000. *See* Numbering Resource Optimization, 65 Fed. Reg. 37,703 (2000). The rules adopted in the *First NRO Order*

Under Section 61.45(d) of the Commission’s rules, Qwest may not claim exogenous treatment for costs before they are “required” or “permitted by” Commission rule.^{81/} As the Commission’s *First NRO Order* unambiguously establishes, pre-national implementation and state-mandated thousands-block pooling costs are specifically excluded from the national recovery mechanism.^{82/} Moreover, recovery under the national thousands-block pooling mechanism is entirely inappropriate for expenditures that ILECs made before the technical requirements for pooling were established by the Commission.

The most reasonable date on which the Commission should allow recovery to begin is the date the National Thousands-Block Pooling Administrator was appointed, June 18, 2001.^{83/} Although the Commission may have ordered thousands-block pooling in the *First NRO Order*, it plainly did not anticipate that carriers would start to incur costs until the administrator was appointed. Specifically, in the *First NRO Order*, the Commission stated: “We believe based on the readiness of thousand block number pooling standards and technical requirements, that thousands-block number pooling can be implemented on a national level within nine months of the selection a national thousands-block number Pooling Administrator.”^{84/} The selection of the Administrator, therefore, should be construed as the beginning of a Commission mandate or the

(with the exception of one non-pooling related rule that was pending OMB approval) became effective July 17, 2000. *See id.*

^{81/} 47 C.F.R. § 61.45(d).

^{82/} *First NRO Order* ¶ 219 (“We find that it is reasonable to bar recovery of costs incurred by incumbent LECs prior to number pooling implementation and conclude that permitting embedded investments to be eligible thousands-block number pooling costs would permit recovery of costs that are already subject to recovery through standard mechanisms.”).

^{83/} *Federal Communications Commission’s Common Carrier Bureau Selects NeuStar, Inc. as National Thousands-Block Number Pooling Administrator*, CC Docket No. 99-200, News Release (rel. June 18, 2001) (“NeuStar News Release”).

^{84/} *First NRO Order* ¶ 156.

implicit date on which Commission rule “permitted” the potential of cost recovery.^{85/}

Alternatively, the absolute earliest date recovery could be allowed by the Commission is July 17, 2000, the effective date of the pooling mandates adopted in the *First NRO Order*.^{86/} In fact, BellSouth, whose thousands-block number pooling cost recovery tariff was recently allowed to go into effect, cited mid-year 2000 as the appropriate date to begin allowing exogenous cost recovery for thousands-block number pooling.^{87/} Consequently, any thousands-block number pooling costs Qwest incurred prior to the effective date of the pooling mandate are *not* eligible for exogenous cost treatment and should be removed from its tariff.

^{85/} NeuStar News Release (stating that the rollout of national pooling would commence in March 2002).

^{86/} See 65 Fed. Reg. 37,703 (2000). The NANC estimated that all required preliminary tasks and thousands-block number pooling implementation could be achieved within ten to nineteen months from a Commission Order. *See First NRO NPRM* ¶ 158. Nineteen months from mid-2000 was January 2002, which in turn was three months prior to the mandated commencement of national thousands-block number pooling. Qwest (then U S WEST) was an active participant on the NANC when these estimates were created.

^{87/} BellSouth asserts that proper cost recovery begins mid-year 2000 “after the Commission announced that [] pooling would be mandatory.” Reply of BellSouth Telecommunications, Inc., *In the Matter of Bell South Tariff FCC No. 1 Transmittal No. 629*, ¶ 7 (filed May 7, 2002). Notably, however, BellSouth’s standard mid-year accounting convention fails to exclude costs that BellSouth incurred before the Commission’s mandate became effective.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Commission reject Qwest's purported thousands-block number pooling costs as set forth herein. In most cases, Qwest's costs are excessive and redundant, and fail to satisfy the Commission's three-part test. Accordingly, Qwest's claimed pooling costs are ineligible for exogenous treatment.

Respectfully submitted,

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June 24, 2002

WDC 316094v5

CERTIFICATE OF SERVICE

I, Angela Collins, hereby certify that on this 24th day of June 2002, I caused copies of the foregoing "AT&T Corp. Opposition to Direct Case" to be sent to the following via electronic mail:

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