

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
**Qwest Communications** ) **WC Docket No. 02-148**  
**International Inc.** )  
 )  
Consolidated Application for Authority )  
to Provide In-Region, InterLATA Services in )  
Colorado, Idaho, Iowa, Nebraska )  
and North Dakota )

**ERRATA FILING OF THE IOWA OFFICE OF CONSUMER ADVOCATE,  
A DIVISION OF THE IOWA DEPARTMENT OF JUSTICE**

The Iowa Office of Consumer Advocate, a division of the Iowa Department of Justice ("OCA"), filed its Comments (including three attachments) in this docket on July 3, 2002, served the Comments on Qwest Communications International, Inc. and provided courtesy copies by email to the addresses set forth in the FCC's Public Notice.

It has come to our attention that some or all of the comments and attachments were not received due to an electronic error. Consequently, the Comments are being refiled electronically with this Errata.

Respectfully submitted,

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**COMMENTS OF THE IOWA OFFICE OF CONSUMER ADVOCATE,  
A DIVISION OF THE IOWA DEPARTMENT OF JUSTICE**

The Iowa Office of Consumer Advocate, a division of the Iowa Department of Justice ("OCA"), files the following comments in connection with the Consolidated Application for Authority to Provide In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota by Qwest Communications International, Inc.

**I. IOWA UNE RATES NOT PROPERLY ESTABLISHED.**

To be lawful under either federal or Iowa law, the rates Qwest charges for access to unbundled network elements (UNEs) and interconnection must be based on cost.<sup>1</sup> Under federal law, "cost" means the sum of TELRIC plus a reasonable allocation of forward-looking common costs,<sup>2</sup> with the TELRIC component "measured based on the

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<sup>1</sup> 47 U.S.C. § 252(d) (determinations by a state commission of the just and reasonable rates for interconnection and network elements shall be based on cost, nondiscriminatory, and may include a reasonable profit); Iowa Code § 476.101(4)(a)(1) (a local exchange carrier must provide unbundled essential facilities on reasonable, cost-based, tariffed terms and conditions).

<sup>2</sup> 47 CFR 51.505(a).

use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent's wire centers."<sup>3</sup> Any doubt about the lawfulness of the Commission's TELRIC methodology evaporated on May 13, 2002, when the United States Supreme Court issued its decision in *Verizon Communications Inc. v. FCC*.<sup>4</sup>

Qwest asserts that the Iowa Utilities Board ("IUB") conducted thorough pricing proceedings "that were intended to, and did, produce TELRIC-compliant rates," and that "as a result of the TELRIC-compliant state rate decisions, combined with the voluntary rate reductions implemented by Qwest, the rates in . . . Iowa . . . are certainly no higher than 'the range that a reasonable application of TELRIC principles would produce.'"<sup>5</sup>

Qwest's assertion is incorrect. As set out in more detail below, the IUB explicitly rejected TELRIC principles in favor of an alternative incremental cost methodology. As a result, a federal district court ruled the IUB's pricing approach was inconsistent with federal law and remanded the matter of Qwest's UNE prices to the IUB with direction to comply with the Commission's rules. In spite of the remand, the IUB has not determined whether Qwest's recently reduced UNE and interconnection rates are sufficiently close to what might result from *bona fide* application of TELRIC principles to Qwest's Iowa operations.

More specifically, in a proceeding commenced in 1996 and concluded in 1998, the IUB rejected the Commission's TELRIC methodology because the IUB rejected two

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<sup>3</sup> 47 C.F.R. 51.505(b)(1).

<sup>4</sup> 535 U.S. \_\_\_, 122 S.Ct. 1646 (2002) (Slip Op. at p. 52).

<sup>5</sup> Brief Of Qwest Communications International Inc. In Support of Consolidated Application For Authority To Provide In-region, InterLATA Services In Colorado, Idaho, Iowa, Nebraska and North Dakota, WC Docket No. 02-148 (June 13, 2002) at 162-3,167.

key assumptions.

[T]he Board finds it is inappropriate to determine UNE prices using TELRIC methodology because it incorporates two assumptions that are difficult to reconcile with the cost-based pricing requirements of 47 U.S.C. § 252(d)(1) and Iowa Code § 476.101(4)(a)(1). First, TELRIC produces a cost for network elements which assumes that U S West's existing technology will be instantaneously replaced. Second, TELRIC methodology assumes an optimal network that will never exist and which will produce services the current network cannot provide. Since neither of these things will ever happen, hypothetical TELRIC costs are unlikely to be actual costs U S West will incur to provide UNES.

As compared with TELRIC methodology, it is more appropriate to determine UNE prices using incremental costs. Incremental costs do not reflect the costs of an imaginary transition from the existing embedded network to a hypothetical forward-looking network. Likewise, incremental costs do not reflect services, elements, or capabilities U S West does not intend to provide in the foreseeable future.<sup>6</sup>

Upon review, the federal district court for the southern district of Iowa found the IUB's pricing approach inconsistent with the Commission's pricing rules.

These rules provide that the state commission, i.e., the Board, must establish the rates either pursuant to the forward-looking economic cost-based pricing methodology set forth in §§ 51.505 and 51.511, or consistent with the proxy ceilings and ranges set forth in § 51.513. *See* 47 CFR § 51.503. The forward-looking economic cost-based pricing methodology referenced in the first option is the sum of the total element long-run incremental cost ("TELRIC) of the element, as described in section 51.505(b), and a reasonable allocation of forward-looking common costs, as described in section 51.505(c). *See* 47 CFR § 51.505(a). The Board adopted neither the TELRIC option nor the proxy option in establishing rates for interconnection and access to unbundled elements. Indeed, the Board specifically rejected the TELRIC methodology because the Board was unwilling to accept two of its underlying assumptions. *See* Board's Final Decision and Order, at 13-14 (April 23, 1998), as modified by order on June 12, 1998. In its stead, the court adopted an incremental cost approach. *See id.* at 14-15. By adopting a pricing methodology other than those specified in the FCC's pricing rules, the Board's pricing approach is inconsistent with current federal law. Accordingly, this pricing issue will

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<sup>6</sup> *U S West Communications, Inc.*, Docket No. RPU-96-9, "Final Decision and Order," Iowa Utilities Board (April 23, 1998), slip op. at 14-15 (transcript citations omitted) (Attachment 1).

be remanded to the Board with direction to comply with the FCC's pricing rules.<sup>7</sup>

The IUB has yet to respond to the district court's remand order. While the IUB acknowledges its obligation to respond,<sup>8</sup> in 2001 the IUB rejected a CLEC's motion to establish lawful rates for all of Qwest's UNEs because of uncertainty about the legality of the Commission's TELRIC pricing rules.<sup>9</sup> More recently, and after the Supreme Court's decision in *Verizon Communications Inc. v. FCC*, the IUB approved Qwest's tariff transmittal proposing new, mostly lower, rates for certain unbundled network and interconnection elements. Approval was given despite objection, without a hearing, and in the complete absence of any demonstration that the proposed rates were cost-based.<sup>10</sup>

Thus, there has never been a TELRIC-compliant state rate decision in Iowa nor has any Iowa jurisdictional authority ever concluded that any of Qwest's UNE and interconnection rates fall within "the range that a reasonable application of TELRIC principles would produce." Qwest asks the Commission to be the very first governmental authority to conclude the Iowa rates are TELRIC-compliant, and to do so on the basis of

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<sup>7</sup> *U S West Communications, Inc. v. Thoms et al.*, Civil No. 4-97-CV-70082, "Memorandum Opinion, Ruling Granting AT&T's and MCI's Motion For Reconsideration and Order Amending Judgment," slip op. at 4 (S.D. Ia. April 19, 1999) (Attachment 2).

<sup>8</sup> *See U S West Communications, Inc.*, Docket No. RPU-00-1, "Order Granting Motion For Additional Time, Revising Procedural Schedule, and Providing Notice of Intent To Consider Remanded Issues," Iowa Utilities Board (June 22, 2000), slip op. at 1-2 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2000/0622\\_rpu001.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2000/0622_rpu001.pdf)).

<sup>9</sup> *Qwest Corporation*, Docket No. RPU-01-6, "Order Granting Intervention And Denying Request To Expand Scope of Proceeding," Iowa Utilities Board (September 19, 2001), slip op. at 5 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2001/0919\\_rpu016.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2001/0919_rpu016.pdf)).

<sup>10</sup> *Qwest Corporation*, Docket No. TF-02-202, "Order Approving Tariff," Iowa Utilities Board (June 7, 2002), slip op. at 3-4 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2002/0607\\_tf02202.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2002/0607_tf02202.pdf)).

evidence that was never presented to or considered by any Iowa authority. The Commission should decline.

### **PUBLIC INTEREST**

Before granting Qwest interLATA authority in Iowa, the Commission must find "the requested authorization is consistent with the public interest, convenience, and necessity."<sup>11</sup> The Supreme Court of the United States has:

characterized the public-interest standard of the Act as "a supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy."<sup>12</sup>

Likewise, the Supreme Court has rejected a "cramping" construction of the public interest requirement.<sup>13</sup> The Court rejects the notion the Commission is empowered to deal only with "technical impediments."<sup>14</sup> It observes "there is no evidence that Congress did not mean its broad language to carry the authority it expresses."<sup>15</sup> It describes the Commission's powers as "not niggardly but expansive."<sup>16</sup> Finally, and most pertinent, the Court requires "standards for judgment adequately related in their application to the problem to be solved."<sup>17</sup> For the reasons set out below, the Commission should deny Qwest's section 271 Application for Iowa as not being in the public interest.

**A. Lack of Local Competition:** The Commission has consistently taken the position in section 271 proceedings that competition in the local market need not to be

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<sup>11</sup> 47 U.S.C. § 271(d)(3)(C).

<sup>12</sup> *Federal Communications Comm'n v. WNCN Listeners Guild*, 450 U.S. 582, 593 (1981).

<sup>13</sup> *National Broadcasting Co. v. United States*, 319 U.S. 190, 220 (1943).

<sup>14</sup> *Id.* at 217.

<sup>15</sup> *Id.* at 218.

<sup>16</sup> *Id.* at 219.

<sup>17</sup> *Id.* at 220.

present to satisfy the public interest test. Rather, the Commission has held, it is enough if the door to competition is merely open. Whether any competitors have entered the arena isn't pertinent to the inquiry.<sup>18</sup>

It is submitted that, in order to carry out the congressional intent of promoting competition at the local level, the Commission should exercise its broad and expansive power to find that the public interest is satisfied only if significant competition in the local market has developed at the time of the BOC's section 271 application--not just that the door is open to such competition.

The words "public interest" in a regulatory statute "take their meaning from the purpose of the regulatory legislation."<sup>19</sup> The purpose of the Telecommunications Act of 1996 is "to eliminate the monopolies enjoyed by the inheritors of AT&T's local franchises . . . ." <sup>20</sup> In order to accomplish its purpose, "Congress . . . entrusted the . . . Commission . . . and the state public utility commissions with the task of overseeing the transition from the former regulatory regime to the Promised Land where competition reigns, consumers have a wide array of choice, and prices are low."<sup>21</sup>

In *Sprint*, appellants urged that "[w]ith a statute that proclaims competition as the congressional purpose, the Commission should pursue [appellants'] claim [of a price squeeze], or at the very least explain why the public interest does not require it to do

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<sup>18</sup> *New Jersey 271 Order*, \_\_\_ FCC at ¶¶ 166 - 168 (FCC Docket No. 02-67).

<sup>19</sup> *Sprint Communications Co., L.P. v. FCC*, 274 F.3d 549, 554 (D.C. Cir. 2001), quoting *NAACP v. Federal Power Comm'n*, 425 U.S. 662, 669 (1976).

<sup>20</sup> 535 U.S. \_\_\_, 122 S.Ct. 1646 (2002) (Slip Op. at p. 3).

<sup>21</sup> *Goldwasser v. Ameritech Corp.*, 222 F.3d 390, 391 (7<sup>th</sup> Cir. 2000).

so.”<sup>22</sup> The court agreed: “as the Act aims directly at stimulating competition, the public interest criterion may weigh more heavily towards addressing” the argument.<sup>23</sup>

The undisputed evidence is that “CLECs possess a small percentage of the total Iowa telecommunications market; an indicator that local competition is in its infancy in Iowa . . . .”<sup>24</sup> Even Qwest, in its Consolidated Application, acknowledges that CLEC’s have only “between 17.8 and 18.4 percent”<sup>25</sup> of the market. The IUB cited evidence in the record in another proceeding that Qwest’s market share in Iowa exceeded 85 percent.<sup>26</sup>

The fundamental flaw in the Commission’s refusal to require that significant competition be present in the local market as a condition to satisfying the public interest factor is its premise that allowing a near monopolist to engage in long distance service in competition with the two dominant long distance competitors,<sup>27</sup> will somehow drive those competitors, as well as other CLECs, to enter the local markets. The undisputed evidence in Iowa is that allowing Qwest to offer long distance service will simply result in Qwest eventually garnering most of that long distance business, as well as keeping its

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<sup>22</sup> *Sprint*, 274 F.3d at 554.

<sup>23</sup> *Sprint*, 274 F.3d at 555.

<sup>24</sup> *In Re: Cox Iowa Telecom, LLC v. Qwest Corporation*, IUB Docket No. FCU-02-1, Final Decision and Order, April 3, 2002, p. 9 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2002/0403\\_fcu021.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2002/0403_fcu021.pdf)).

<sup>25</sup> Qwest Consolidated Application, p. 177.

<sup>26</sup> *In Re: Cox Iowa Telecom, LLC v. Qwest Corporation*, IUB Docket No. FCU-02-1, Final Decision and Order, April 3, 2002, p. 8 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2002/0403\\_fcu021.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2002/0403_fcu021.pdf)).

<sup>27</sup> As of the date of the writing of these Comments, one of those competitors, WorldCom, has been accused by the SEC of fraud in connection with accounting procedures that allegedly understated expenses by \$3.8 billion. It has also admitted certain reserves were not properly accounted for and NASDAQ has delisted it. In Iowa, the state’s second largest ILEC has just filed a request with the IUB to disconnect WorldCom access services (*see In re: Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom*, Docket No. SPU-02-9, available at [www.state.ia.us/government/com/util/\\_private/Orders/2002/0702\\_spu0209.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2002/0702_spu0209.pdf)). Its continued viability as a long distance competitor would seem to be highly problematic, leaving only AT&T.

virtual monopoly in the local market.<sup>28</sup> Qwest will accomplish this because of the name recognition that it and its predecessors have built over the last 75 years and because, as the only provider of local service in Iowa in over 85 percent of the state, it is counting on its customers to find the convenience of having one carrier for both local and long distance service so great, they will switch from their current long distance carriers to Qwest.<sup>29</sup>

Qwest's assertion that allowing it to enter the long distance market will create increased competition in both the long distance and local markets is likewise based on the same faulty premise.<sup>30</sup> There is little doubt Qwest's entry into the interstate long distance market in Iowa will create increased competition in that market so that Iowa long distance consumers may see a decrease in long distance rates--in the short run. Given the economic advantages Qwest will have over its two largest long distance competitors, AT&T and WorldCom however, the likely consequence will be that Qwest will soon monopolize the long distance market in Iowa and any benefits customers might see as a result of competition will quickly disappear.<sup>31</sup>

Qwest likewise asserts that allowing it to compete in the long distance market will spur CLECs to enter the local market in order to offer the same desirable plateful of long distance and local service to their consumers that Qwest will be offering.<sup>32</sup> Qwest

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<sup>28</sup> Prefiled Direct Testimony of Dr. David S. Habr filed May 4, 2001 (Attachment 3), pp. 2-4 and 9 by the Office of Consumer Advocate in *In re: The Application of Qwest Corporation for InterLATA Authority in Iowa Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. INU-00-2, before the IUB, Opening Brief: Public Interest, dated July 25, 2001 (Habr Testimony).

<sup>29</sup> *Id.*

<sup>30</sup> Qwest Consolidated Application at pp.178-180.

<sup>31</sup> Habr Testimony, pp. 2-4 and 9.

<sup>32</sup> Qwest Consolidated Application at pp.178-180.

supports its assertion solely by citing statistics of what occurred in New York and Texas after the BOCs operating in those states were granted section 271 authority.<sup>33</sup> Neither model appears to have much relevance to Iowa. Qwest has already acknowledged that "[i]t is essential that . . . the deliberations of the . . . FCC reflect the realities of . . . [Iowa], not a competitive model developed with the densely populated eastern seaboard [New York] in mind."<sup>34</sup> As to the Texas statistics, the Southwest Regional Office of Consumers Union in Austin, Texas issued a report in 2001 entitled "Local Telephone Competition Still on Hold" in which it stated the promise of competition in the local phone market in Texas by that date was "all talk and no savings."<sup>35</sup> Or, more befitting to Texas, "all hat and no cattle."

Furthermore, a review of other state CLEC market share statistics compiled by the FCC in the reports cited by Qwest, belie Qwest's unsupported conclusion that granting section 271 authority in New York and Texas was the cause of the three percent and two percent increases, respectively in those states, in CLEC local competition between December 31, 2000 and June 30, 2001.<sup>36</sup> A review of those statistics reveal CLEC market shares likewise increased in a number of states where the BOC has not been granted section 271 authority during that same time period. *See, e.g.* increases in Arizona: 5% to 7%; District of Columbia: 9% to 12%; Illinois: 9% to 13%; Oregon: 3%

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<sup>33</sup> *Id.*

<sup>34</sup> Prefiled Direct Testimony of David L. Teitzel, filed May 30, 2001, p. 66, in *In re: The Application of Qwest Corporation for InterLATA Authority in Iowa Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. INU-00-2, before the IUB.

<sup>35</sup> The report may be found at [www.consumersunion.org/telecom/local.htm](http://www.consumersunion.org/telecom/local.htm).

<sup>36</sup> Qwest Consolidated Application at pp.179-180.

to 5%; Utah: 9% to 11%.<sup>37</sup> Qwest's assertion that CLEC market share increases in New York and Texas support its otherwise unsupported assertion that granting it section 271 authority will spur the otherwise dormant and low level of competition in the local market in Iowa should be rejected by the Commission.

Qwest has failed to provide the Commission with any evidence that would sustain its burden of proving its participation in the long distance market in Iowa would be in the public interest by achieving the congressional goal of significantly increasing local competition in order to drive down prices. Indeed, the evidence is to the contrary.

**B. Unfiled Agreements:** The IUB recently held that Qwest failed to file a number of interconnection agreements with several CLECs in violation of 47 U.S.C. §§ 251(c) and 252(a) - (i) and 199 IAC 38.7(4).<sup>38</sup> It further found those agreements gave those CLECs favorable terms that were not made available to other CLECs, as required.<sup>39</sup> Most disturbing of all was the IUB's finding that Qwest had entered into those interconnection agreements giving the CLECs favorable terms in exchange for the CLECs' promises to withdraw their opposition to the then pending proceeding before the IUB concerning the merger between U S WEST Communications, Inc. and Qwest.<sup>40</sup> In this regard, the IUB found that "[b]ecause the agreement was not filed in any state, Qwest

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<sup>37</sup> *Federal Communications Commission, Local Telephone Competition: Status as of December 31, 2000* (released May 2001) and *June 30, 2001* (released February 27, 2002).

<sup>38</sup> *In Re: AT&T Corporation v. Qwest Corporation*, IUB Docket No. FCU-02-2, Order Making Tentative Findings, Giving Notice for Purposes of Civil Penalties, and Granting Opportunity to Request Hearing, issued May 29, 2002, p. 21 (available at [www.state.ia.us/government/com/util/\\_private/Orders/2002/0529\\_fcu022.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2002/0529_fcu022.pdf)).

<sup>39</sup> *Id.*, pp. 10-16.

<sup>40</sup> *Id.*, at pp. 10 & 14.

was able to extend uniquely favorable treatment to McLeod, in return for which McLeod dropped its opposition to the Qwest - U S WEST merger."<sup>41</sup>

The Minnesota Department of Commerce has further alleged it has evidence Qwest entered into similar agreements with Eschelon and McLeod which provided that, in exchange for favorable treatment by Qwest, those companies would not participate in Qwest's section 271 proceedings before any state or the FCC.<sup>42</sup>

The dangers inherent in a party to a regulatory proceeding, whether before the IUB or the Commission, entering into agreements with potential opponents offering favorable contract terms in exchange for an agreement not to oppose that party's position are obvious. They are also well stated by the Minnesota Department of Commerce in its Opposition to Qwest's Petition for Declaratory Ruling now pending before the Commission.<sup>43</sup>

The Commission has noted:

the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will serve the public interest as Congress expected.<sup>44</sup>

Suffice it to say, the broad reach of the public interest dictates that Qwest's conduct in this regard be considered by the Commission as reflecting adversely on its Consolidated Application. Valuable evidence from these large CLECs that deal with

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<sup>41</sup> *Id.*, at p. 14.

<sup>42</sup> *In the Matter of Qwest Communications International, Inc.*, Petition for Declaratory Ruling On the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements Under Section 252(a)(1), FCC WC Docket No. 02-89, Comments of the Minnesota Department of Commerce in Opposition to Qwest's Petition For Declaratory Ruling, pp. 18-20 and 23-26.

<sup>43</sup> *Id.*

Qwest on a daily basis may not have been produced during the proceedings that Iowa and other Qwest states conducted in anticipation of Qwest's section 271 Application. That evidence might have impacted the IUB's conclusion that Qwest has complied with the section 271 requirements. The adverse consequences of that uncertainty should fall on Qwest--not on consumers.

## II. CONCLUSION

Qwest's Consolidated Application is fraught with unanswered questions that should be addressed before granting it permission to enter the interLATA long distance market in Iowa. In addition, it is submitted, it is an appropriate time for the Commission to abandon its policy position that simply opening the door to competition suffices to satisfy the public interest. The Commission's own statistics show that more than five years after Congress gave the Commission a mandate to develop competition in local telephone markets, that has not occurred to any significant extent. Even the Supreme Court has noted that "competition in fact has been slow to materialize in local-exchange retail markets (as of June 30, 2001, the incumbents retained a 91 percent share of the local-exchange markets . . . )."<sup>45</sup>

The BOCs have had over 75 years to build their infrastructures and customer bases. Requiring them to continue to stay out of the long distance market until CLECs enter in sufficient numbers to assure each BOC does not have the market power in a state to drive those CLECs out of the local and long distance markets is not unreasonable; it is sound antitrust policy. If no CLECs ever enter a state in sufficient numbers to prevent a

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<sup>44</sup> *New Jersey 271 Order*, \_\_\_ FCC at ¶ 166 (FCC Docket No. 02-67).

<sup>45</sup> 535 U.S. \_\_\_, 122 S.Ct. 1646 (2002) (Slip Op. at p. 50).

BOC from exercising its market power to exclude competitors, then it is not unfair to continue to prohibit that BOC from competing in the long distance market. The sure road to monopolization of both the long distance and local markets by the BOC is simply too great a price to pay to do otherwise.

The market power concerns that were behind the breakup of AT&T in 1983 are still present. The Commission's current approach is not sound public policy. The Commission has the broad discretion to require that significant competition be present to satisfy the public interest test. It should require such competition before there is a return to monopoly service by three or four regional companies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John R. Perkins', written over a horizontal line.

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**LIST OF ATTACHMENTS**

- Attachment 1      *U S West Communications, Inc.*, Docket No. RPU-96-9, “Final Decision and Order,” Iowa Utilities Board (April 23, 1998), slip op. at 14-15 (transcript citations omitted)
- Attachment 2      *U S West Communications, Inc. v. Thoms et al.*, Civil No. 4-97-CV-70082, “Memorandum Opinion, Ruling Granting AT&T’s and MCI’s Motion For Reconsideration and Order Amending Judgment,” slip op. at 4 (S.D. Ia. April 19, 1999)
- Attachment 3      Prefiled Direct Testimony of Dr. David S. Habr, filed May 4, 2001, pp. 2-4 and 9 filed by the Iowa Office of Consumer Advocate in *In re: The Application of Qwest Corporation for InterLATA Authority in Iowa Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. INU-00-2, before the Iowa Utilities Board