

¶ 9; *see also New Jersey 271 Order* at App. C ¶ 27. For those OSS functions that have no retail analogue, Qwest offers CLECs access “sufficient to allow an efficient competitor a meaningful opportunity to compete.” *See* OSS Decl. at ¶ 9; *see also New Jersey 271 Order* at App. C ¶ 28. 55/

Qwest provides CLECs with access to its OSS so CLECs can formulate and place orders for network elements or resale services, install service to their customers, order maintenance and repair work, and bill customers. *See generally* OSS Decl. at Sections III-VII; *see also New Jersey 271 Order* at App. C ¶ 25.

Qwest also provides technical assistance to CLECs that use these functions. *See generally* OSS Decl. at Section VIII. In addition, Qwest provides documentation that enables CLECs to build an EDI interface and provides testing environments that enable CLECs to test their EDI interfaces. *See id.* These matters are discussed below in the section titled “Change Management and Technical Assistance.”

The Commission has held that “[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage.” *New Jersey 271 Order* at App. C ¶ 31. The FCC further has stated that it “looks at the totality of the circumstances and generally does not view individual performance disparities, particularly if they are isolated and slight, as dispositive of [checklist compliance].” *Id.* Qwest is providing CLECs with nondiscriminatory access to its OSS at commercial volumes, and has met or exceeded the overwhelming majority of the

55/ Qwest’s OSS uses virtually identical systems and processes throughout the company’s 14-state region. *See* OSS Declaration at ¶¶ 35-36. Differences among the systems and process in Qwest’s Western, Central and Eastern regions (due to operational differences among the legacy systems of the former Pacific Northwest Bell, Mountain Bell and Northeastern Bell) are imperceptible to CLECs and end users. A Regional Differences Assessment conducted by KPMG prior to commencement of its test of Qwest’s OSS confirmed that the Qwest’s OSS is materially consistent across the region. *Id.*

required standards or benchmarks for OSS over the past four months or longer in each of Montana, Utah, Washington and Wyoming. *See generally* OSS Decl. at Sections III(A), III(B), IV(A)(1), IV(A)(3), IV(B), VI(A)(1), VII(B), VIII(A)(2), VIII(B)(2) and VIII(C)(3); Williams Decl. at Section III(B)(2)(a). Those few instances where Qwest missed a PID properly may be viewed as aberrations from otherwise satisfactory performance, and thus do not reflect a pattern of performance. *Id.*

To support its commercial performance results, and to address those aspects of its OSS for which there are no assigned PIDs, Qwest subjected its OSS to testing by an independent third party (KPMG). KPMG's test, which was designed and executed under the ROC's supervision, is described more fully in the next section and in Section II of the OSS Declaration. The results of the Third Party Test support the conclusion that Qwest is providing -- and will continue to provide -- CLECs with pre-ordering, ordering, provisioning, maintenance and repair, and billing capabilities, as well as technical assistance, on a nondiscriminatory basis. As explained below, the few unresolved issues in the test do not adversely affect this conclusion.

2. The Third Party OSS Test and the ROC

The ROC was convened by 13 of the 14 states in the Qwest region (including all four of the application states) to test Qwest's OSS and ensure that it is available to CLECs on a nondiscriminatory basis. *See* OSS Decl. at ¶ 19. The ROC process was designed to facilitate collaboration among the states. It enabled them to pool their resources so that each state could benefit from a comprehensive approach to testing. *See id.*

To Qwest's knowledge, the ROC test was the most comprehensive and collaborative of all of the OSS tests conducted to date. Each aspect of the ROC test's development and execution was subject to input from numerous parties, including CLECs and state regulators. *See id.* at ¶¶ 23, 31. The ROC also kept the FCC and the Department of Justice

informed of the test's progress through regular briefings. The test itself was designed and executed in a thoughtful, deliberate and comprehensive manner to ensure that every party's views could be heard and receive adequate consideration. *See id.*

A key component of the ROC process was the formation of a TAG, which monitored and participated in every aspect of the test. *See* OSS Decl. at ¶ 23. The TAG assisted in every aspect of the test process. *See id.* at ¶¶ 31-32. The TAG was responsible for generating a Test Requirements Document ("TRD"), a Master Test Plan ("MTP"), and the PIDs described above. *See id.* at ¶¶ 26, 28 and 30. Every component of the test was designed, discussed, evaluated -- and often reevaluated -- in TAG meetings. *See id.* at Sections II(A) and II(B). Proposals to alter, revise and retest aspects of the test also were discussed, and often subject to approval, by the TAG. On the rare occasions when the TAG could not agree, disputes could be escalated to the Steering Committee, and, if necessary, to the Executive Committee, through an established a dispute resolution procedure. *See id.* at ¶ 32.

The ROC OSS test consisted of a series of transactional and operational evaluations that tested the five primary components of Qwest's OSS (pre-ordering, ordering, provisioning, maintenance and repair, and billing), the technical assistance Qwest offers CLECs, and Qwest's Change Management Plan. *See id.* at ¶¶ 40-41. KPMG and Hewlett Packard Consulting ("HP") together executed a total of 32 tests, consisting of 711 evaluation criteria. *See* Qwest OSS Evaluation Final Report, Version 2.0, May 28, 2002 ("*Final Report*"), Att. 5, App. F, Tabs 3-4. Of those 711 criteria, 685 had defined success measures and 26 were "diagnostic." *Id.* at 20-61. Qwest satisfied 645 of the 685 relevant criteria and did not satisfy only 11 (1.6%). *Id.* The remaining 29 criteria were deemed "unable to determine" or "not applicable." *Id.*

KPMG adopted a military-style, “test-until-you-pass” philosophy. *See id.* at 9.

When Qwest did not pass a test, an Observation or Exception identifying the problem was issued, and Qwest worked to resolve the problem before it was retested. A total of 242 Observations and 256 Exceptions were issued in the course of the test, and Qwest successfully resolved all but one Observation and 14 Exceptions. *See* OSS Decl. at ¶ 39, n.39. Yet even in the isolated instances where Qwest did not resolve the Observation or Exception (or where KPMG and HP were “unable to determine” whether Qwest passed a test criterion), there is sufficient evidence to demonstrate that Qwest nonetheless satisfies the applicable requirements of Section 271. At the completion of testing, KPMG issued a *Final Report* describing every aspect of the test process and KPMG’s findings and conclusions. *See id.* at ¶¶ 54-55.

In sum, the ROC OSS test was comprehensive, thorough, and collaboratively conducted. The State Authorities properly relied on the results of the test in concluding that Qwest’s OSS satisfies the requirements of Section 271. This Commission therefore should accord those conclusions substantial deference.

3. Qwest’s OSS Performance

a) Electronic and Manual Interfaces

Qwest provides an array of electronic gateways and manual processes through which CLECs can access and interact with Qwest’s OSS. *See* OSS Decl. at ¶¶ 58-66, 169-186, 410-432. The Commission has held that, in order to obtain Section 271 relief, a BOC must demonstrate that it has “developed sufficient electronic . . . and manual interfaces to allow [CLECs] equivalent access to all of the necessary OSS functions,” and that its OSS “is designed to accommodate both current demand and projected demand.” *New Jersey 271 Order* at App. C ¶ 30. Qwest unquestionably satisfies both requirements.

First, CLECs have timely access to all necessary OSS functions. Qwest makes available to CLECs two electronic gateways, IMA-EDI and the IMA-GUI, for pre-ordering and ordering via LSRs. *See* OSS Decl. at ¶¶ 59-65, 67-177. Qwest makes available to CLECs two additional electronic gateways, EXACT and TELIS, for ordering via ASRs. *Id.* at ¶¶ 178-186. Qwest provides CLECs with two electronic gateways, EB-TA and CEMR, for M&R activities. *Id.* at ¶¶ 411-426. In addition, CLECs can submit pre-ordering queries by telephone and fax, and orders and M&R requests by fax. *Id.* at ¶¶ 66, 176-177, 427.

Second, Qwest's gateways -- and, more generally, Qwest's OSS -- are capable of supporting both current and future demand. The electronic and manual interfaces discussed above have been proven to function successfully in a commercial setting. *See* OSS Decl. at ¶¶ 312-316, 356-360. During the period from June 2001 through May 2002, the following numbers of CLECs submitted commercial volumes of LSRs to Qwest through IMA-EDI and the IMA-GUI:

	MT	UT	WA	WY
IMA-EDI	5	11	15	6
IMA-GUI	24	23	53	11

See id. at ¶ 163, n.208; ¶ 170, n.219. For the same period in these four states, these CLECs submitted a total of 144,174 LSRs via IMA-EDI, 149,933 via IMA-GUI, and 21,217 by fax; and 19,032 ASRs via EXACT and TELIS. *See* OSS Decl. at ¶ 313-316. Over the past four months, Qwest has been making its IMA-EDI, IMA-GUI, EB-TA and CEMR gateways available to CLECs more than 99.25% of the time in each of the four application states, meeting -- and often exceeding -- the required benchmark. *See id.* at ¶¶ 164-168, 171, 175, 414-426; Williams Decl. at ¶ 91.

Finally, KPMG's *Final Report* confirmed that Qwest is capable of meeting current and projected demand. Qwest successfully satisfied every aspect of KPMG's POP Volume Performance Test, which was executed for pre-order and order transactions using normal volumes and included both a "Peak Test" and a "Stress Test," which measured Qwest's interface and systems performance at 150% and 250% of normal volumes, respectively. *See Final Report* at 258-266; OSS Decl. at ¶¶ 356-360. Qwest also successfully satisfied KPMG's System Scalability Test. *See Final Report* at 590-591.

b) Pre-ordering

The Commission has held that, in order to qualify for Section 271 relief, a BOC must demonstrate that "(i) it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies; (ii) [CLECs] successfully have built and are using application-to-application interfaces to perform pre-ordering functions and are able to integrate pre-ordering and ordering interfaces; and (iii) its pre-ordering systems provide reasonably prompt response times and are consistently available in a manner that affords competitors a meaningful opportunity to compete." *See New Jersey 271 Order* at App. C ¶ 33. Qwest meets each of these requirements.

Qwest provides CLECs with pre-ordering capabilities that meet all required Section 271 criteria. CLECs can perform the following pre-ordering transactions through Qwest's OSS interfaces: Address Validation; Customer Service Records; Service Availability; Reserve and Cancel Telephone Numbers; Facility Availability; Loop Qualification (for qualifying Qwest DSL for Resale and Unbundled Loop); (Raw Loop Data); Connecting Facility Assignment; Meet Point Query; Schedule and Cancel Appointments; and Access to Directory Listings. *See OSS Decl.* at ¶ 69.

Loop Qualification: Consistent with its policies promoting the deployment of broadband, the Commission has in the past paid particular attention to a BOC's ability to provide CLECs with complete and effective loop qualification information. The FCC has held that incumbent carriers must provide CLECs "with access to all of the same detailed information about the loop that is available to the incumbent[,], and in the same time frame, so that a [CLEC] can make an independent judgment at the pre-ordering stage about whether an end user loop is capable of supporting the advanced services equipment the [CLEC] intends to install." *New Jersey 271 Order* at App. C ¶ 35.

Through its IMA-EDI and IMA-GUI interfaces, Qwest offers CLECs three loop qualification tools that enable CLECs to access loop qualification information: Qwest DSL for Resale, Unbundled Loop Qualification, and the Raw Loop Data tool. *See* OSS Decl. at ¶ 106. These tools obtain their information from Qwest's Loop Qualification Database, which contains loop qualification information for all wire centers. *See id.* at ¶ 105.

The Qwest DSL for Resale portion of the Loop Qualification Tool is the same tool used by Qwest Retail to qualify loops. *See id.* at ¶107. It does so by telephone number or address so that CLECs can determine whether resale of Qwest DSL is available. *See id.* at ¶ 108. CLECs who use this tool receive a "Yes" or "No" response to indicate if the customer's loop qualifies for the Qwest Resale DSL service. *Id.* If a "No" response is issued, an explanation is provided, and, if a loop becomes available at a later date, the CLEC is notified. *Id.*

The Unbundled Loop Qualification portion of the Loop Qualification Tool is used to determine if loops that meet the defined technical requirements for the ADSL-compatible Loop product are available. *See id.* at ¶109. Information provided to CLECs using this tool

includes, but is not limited to, loops status, loop availability product codes, loop length, presence of pair gain, and presence of bridged tap or load coils. *See id.*

The Raw Loop Data tool provides CLECs with the necessary loop make-up information so they can make their own determination as to whether a loop qualifies for the types of DSL service they wish to provide using Qwest's two-wire or four-wire Non-Loaded Loop products. *See id.* at ¶ 110. The data supporting the Raw Loop Data tool is obtained from the same data source that Qwest uses to qualify its Retail DSL service. *See id.* at ¶ 112. CLECs can use this tool to obtain loop make-up information for all categories of Qwest working telephone numbers. *See id.* at ¶ 113. Raw loop data information also is available to CLECs by wire center on a batch basis. *See id.* at ¶ 115.

In the unlikely event that the Raw Loop Data tool – or the other Loop Qualification tools – provide incomplete or unclear loop make-up information (or if the CLEC identifies an inaccuracy) for a particular address or telephone number, CLECs can ask Qwest to perform a manual search of its back office records, systems and databases to obtain the necessary information. *See id.* at ¶ 116. This manual process option is memorialized in the Montana, Utah, Washington and Wyoming SGATs. *See id.* at n.131. It requires Qwest to electronically provide CLECs with the requested loop information identified during the manual search within 48 hours of receipt of the CLEC's request. *See id.*

Notably, Qwest satisfied all 11 of the applicable loop qualification test criteria during the Third Party Test. *See Final Report* at 126-132; OSS Decl. at ¶ 153-154.

Pre-order To Order Integration: The FCC has held that a BOC can demonstrate that CLECs have pre-order/order integration capability by showing that the BOC parses CSR information into identifiable fields for CLECs; or, if the BOC does not provide parsed pre-order

information, that CLECs can and have been able to integrate successfully. *See Georgia/Louisiana 271 Order* at ¶ 120. Qwest makes both of these showings. *See OSS Decl.* at ¶¶ 187-193.

CLECs have built and are using application-to-application interfaces that successfully integrate returned pre-order information into subsequent orders. Qwest parses CSR information into identifiable fields for CLECs. Qwest's EDI Disclosure Document sets out for each pre-order transaction the parsed elements returned, and identifies the LSR field to which a particular data element relates. *See id.* at ¶ 189. As part of the Third Party Test, HP successfully developed an EDI interface that integrated pre-order/order data, and did so using documentation and tools that are available to all CLECs. *See Final Report* at Appendices B, C; *OSS Decl.* at ¶ 190. During actual transaction testing, HP successfully processed thousands of LSRs by utilizing pre-order/order integration.

HP's experience is consistent with that of CLECs that also have successfully integrated pre-order/order data. New Access, a CLEC, has confirmed that it has been able to successfully integrate pre-order/order data through its EDI interface. *See id.* at ¶ 192. Similarly, both Telcordia and Nightfire, which design and construct EDI interfaces for CLECs, have stated that they have successfully been able to integrate pre-order/order data for their customers using Qwest's OSS. *See id.*

Pre-ordering Response Times: Qwest's commercial performance results demonstrate that the company provides CLECs with reasonably prompt responses to pre-order queries and thus affords CLECs a meaningful opportunity to compete. *See id.* at ¶¶ 72-76, 78-82, 86-90, 93-97, 99-103, 118-127, 129-133. In all four of the application states in each of the last four months, Qwest has met or exceeded each of the eight pre-ordering transaction types for

which performance benchmarks have been developed. *See id.*; Williams Decl. at ¶ 96.

Moreover, in all but a few instances over the last 12 months, Qwest's response times have been significantly faster than the required benchmarks. *See id.* Qwest also has consistently met the 0.5% benchmark for pre-order timeouts in each of the application states for each of the last 12 months. *See* OSS Decl. at ¶¶ 139-142. Although benchmarks have not been established for three pre-ordering transaction types (Connecting Facility Assignment, Meet Point Query, and Access to Directory Listings), Qwest's performance during the Third Party Test demonstrates that CLECs can access these functions on a nondiscriminatory basis. *See Final Report at 73-79.*

c) Ordering

Qwest's commercial performance and the results of the Third Party Test demonstrate that Qwest provides CLECs "with access to the OSS functions necessary for placing wholesale orders." *New Jersey 271 Order at App. C ¶ 36.* The FCC "looks primarily at the [BOC's] ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at [the BOC's] order flow-through rate" to determine whether the BOC provides CLECs with ordering capabilities in a nondiscriminatory manner. *Id.* Qwest meets the FCC's requirements in each of these areas. *See generally* OSS Decl. at Section IV.

Confirmation Notices: Qwest returns an FOC to a CLEC to inform the CLEC that its LSR is valid and that the service order associated with its LSR has been issued with an established due date. *See* OSS Decl. at ¶ 198. The PIDs used to assess Qwest's performance in this area evaluate FOCs in a variety of formats covering a wide range of product types and product groups. *See id.* at ¶¶ 200-202. The commercial performance data show that, with only minor exceptions, Qwest has returned FOCs to CLECs on a timely basis and in compliance with the applicable PID in each of the past four months in each of the application states. *See id.* at ¶¶ 204-219. The results of the Third Party Test corroborate the commercial data. KPMG found

that Qwest's systems provide timely FOCs in response to Resale, Unbundled Loop, LNP and UNE-P LSRs submitted via IMA-EDI and the IMA-GUI. *See Final Report* at 83-84, 85-88.

Although virtually all of the Observations and Exceptions identified in the course of the Third Party Test were closed/resolved before the test concluded, Exception 3061 -- noting that Qwest did not provide HP with confirmation notices for Resale PBX orders within the 95% benchmark of PO-5B -- was closed/unresolved. *See Final Report* at 86-87; OSS Decl. at ¶¶ 344-350. The commercial data show, however, that Qwest has consistently returned FOCs to CLECs in compliance with PO-5B, which includes Resale PBX orders, in each of the last four months in each of the application states. *See* OSS Decl. at ¶¶ 204, 208, 212, 216; Williams Decl. at ¶ 122. In fact, Qwest consistently has met PO-5B in nearly each of the last 12 months in each of these states. *Id.* These strong commercial performance results demonstrate that Qwest is satisfying (and, indeed, KPMG determined that Qwest satisfied) the applicable Third Party Test evaluation criterion, notwithstanding the closed/unresolved status of Exception 3061. *See Final Report* at 86-87.

Reject Notices: A valid LSR submitted by a CLEC travels from the applicable gateway or manual process through to the Service Order Processor ("SOP"). *See* OSS Decl. at ¶ 220. If the LSR submitted by the CLEC is missing information or contains incomplete, mismatched or unintelligible information, Qwest will, depending on the severity, issue a non-fatal or fatal error notice. *Id.* Fatal errors are rejected (though CLECs can correct them by submitting a new LSR). *Id.*

The commercial performance data show that, with the exception of one month in Wyoming, Qwest has provided reject notices to CLECs on a timely basis in compliance with the applicable PID in each of the last four months in each of the application states. *See id.* at ¶¶ 224-

236; Williams Decl. at ¶ 119. Moreover, in all but a few instances, Qwest's response times have been significantly faster than the benchmarks in each of these states for the last 12 months. *See id.* The results of the Third Party Test corroborate the commercial data. KPMG found that Qwest representatives provide timely LSR (automated and manual) rejections in response to LSRs submitted via IMA-EDI and the IMA-GUI. *See Final Report* at 84-85, 88-89.

Completion Notices: Once a CLEC-requested LSR has been fully processed, provisioned and completed in the SOP, Qwest issues an LSR-level Work Completion Notice to the CLEC to indicate that its entire service order has been completed. *See OSS Decl.* at ¶ 237. Qwest's Work Completion Notice is sometimes referred to as a Service Order Completion ("SOC"). *Id.*

Changes in business process have been implemented to ensure that fictitious SOCs are not issued for Line Sharing orders. *See id.* at ¶ 238; Line Sharing/Line Splitting Decl. at ¶ 32. Line Sharing orders not completed by 4:00 p.m. local time are placed in a jeopardy status. *See OSS Decl.* at ¶ 238. Steps are then taken to ensure that appropriate parts of the order are jeopardized; and, to monitor process compliance, reports are generated on a daily basis identifying Line Sharing orders that have been jeopardized. *See id.*

The PID evaluating SOC timeliness requires Qwest to provide Work Completion Notices to CLECs with six hours (subject to the hours of gateway availability) on average for orders placed via IMA-EDI and the IMA-GUI. *See id.* at ¶ 239. The commercial performance data show that, in each of the application stations, Qwest has provided Work Completion Notices to CLECs in compliance with this benchmark in the four application states in each of the past four months for the IMA-GUI, and, with only minor exception, in each of the past four months for IMA-EDI. *See id.* at ¶¶ 240-243. The results of the Third Party Test confirm that Qwest is

capable of returning Work Completion Notices to CLECs in a timely, nondiscriminatory manner.
See Final Report at 93-94.

Jeopardies: Occasionally, Qwest is unable to meet the commitment date of a particular LSR or ASR. When this happens, Qwest generates and transmits to the CLEC a Jeopardy Notice indicating that the order is in jeopardy of being fulfilled by the committed due date. *See OSS Decl. at ¶ 244.* CLECs also can receive Jeopardy Notices after receiving FOCs for certain LSRs. *See id. at ¶ 245.* This occurs under certain, limited scenarios, most of which are within the CLEC's control. *See id. at ¶¶ 245-246.* These scenarios – which are described more fully in the OSS Declaration – have been discussed with CLECs and documented under the Change Management Process. *See id. at ¶ 246.* CLECs therefore should have an understanding of how their orders will be processed – and what notices they can expect to receive – under these circumstances. *See id.*

The PIDs applicable to Jeopardy Notices evaluate two separate measures: (1) the average number of days Qwest provides Jeopardy Notices in advance of the order due date (PO-8); and (2) the percentage of late orders for which Qwest provides such advance notice (PO-9). *See id. at ¶ 248.* Both PIDs are used to evaluate four product groups: Non-Designed Services; Unbundled Loops; LIS Trunks; and UNE-P POTS. *Id. at ¶ 249.*

Qwest met the standard for providing Jeopardy Notices under PO-8 (when jeopardy conditions occurred) for each of these product groups in each of the application states over the last four months with only one exception. *See id. at ¶¶ 250, 252, 254, 255, 257, 259, 264, 265, 267, 269, 271, 273, 275, 277, 279, 280; Williams Decl. at ¶ 128.* On the one occasion when Qwest did not meet the parity standard (Utah for UNE-P), Qwest met the standard in that state in the three most recent months. *See OSS Decl. at ¶ 265.* Clearly, this one miss is minor

and does not negate a finding of overall compliance. *See New Jersey 271 Order* at ¶ 137 (“[i]solated cases of performance disparity . . . generally will not result in a finding of checklist noncompliance”).

Qwest also met the parity standard under PO-9 (when jeopardy notices were issued and parity comparisons were possible) for Non-Designed Services and UNE-P in the last four months in each of the application states. *See OSS Decl.* at ¶¶ 251, 256, 258, 266, 268, 274, 276, 281. For Unbundled Loops, Qwest met the parity standard under PO-9 (when jeopardy notices were issued and parity comparisons were possible) in each of the last four months in Montana, Washington and Wyoming. *See id.* at ¶¶ 253, 270, 278. For LIS Trunks, Qwest met the parity standard under PO-9 (when jeopardy notices were issued and parity comparisons were possible) in each of the last four months in Montana, Utah and Wyoming. *See id.* at ¶¶ 254, 264, 279.

Although Qwest did not meet the parity standard in certain months for Unbundled Loops in Utah and LIS Trunks in Washington, each miss is readily explainable, and, under the FCC’s “totality of circumstances” approach, does not prevent a finding of overall compliance. *See New Jersey 271 Order* at App. C ¶ 6; *OSS Decl.* at ¶¶ 260-263, 272. Although Qwest did not meet the parity standard for Unbundled Loops in Utah in the last four months, the volume of missed due date orders for Unbundled Loops was small relative to the total volume of Unbundled Loop orders. *See OSS Decl.* at ¶ 261. This is because Qwest’s performance under OP-3, which evaluates installation commitments met, was strong. *Id.* (citing *Access to UNEs Declaration at Section II(A)*). In other words, because Qwest met a high percentage of its installation commitments in Utah, few Jeopardy Notices had to be issued and evaluated under PO-9. *See id.* Notably, Qwest met the parity standard for PO-9 for all other products (when

applicable) over the last four months. *See id.* at ¶¶ 258, 264, 266. And, Qwest recently implemented an enhanced notification process which it expects will improve its ability to provide CLECs with timely jeopardy notices. *See id.* at ¶ 262.

In Washington, Qwest did not meet the parity standard for LIS Trunks in the last four months, but volumes for this product were especially low during this period and thus Qwest's performance does not reflect its capabilities. *See id.* at ¶ 272. Notably, Qwest met the parity standard for all other products in Washington over the last four months. *See id.*

Qwest's strong overall commercial performance in connection with Jeopardy Notices is confirmed by the results of the Third Party Test. In its *Final Report*, KPMG found that Qwest provides timely Jeopardy Notices for Unbundled Loops. *See Final Report* at 91-92. KPMG was "unable to determine" whether the same is true for Resale and UNE-P because, during the evaluation period, no jeopardy notices had to be issued for those products. *See Final Report* at 91; OSS Decl. at ¶¶ 320-323. Of course, that no jeopardy notices had to be issued for those products indicates that Qwest was able to provision these products and services in a timely manner. Notably, when Jeopardy Notices were issued (for Unbundled Loops), Qwest's Retail and Wholesale performance was generally comparable. *See OSS Decl.* at ¶¶ 252-253, 259, 269-270, 277-278.

KPMG determined that Qwest did not satisfy two evaluation criteria during the Third Party Test that pertained to Jeopardy Notices. *See id.* at ¶325. But these evaluation criteria related to Jeopardy Notices for Resale and UNE-P – the two products for which Qwest's commercial performance over the past four months has been near exemplary. *See id.* at ¶¶ 250-251, 255-256, 257-258, 265-266, 267-268, 273-274, 275-276, 280-281. Moreover, the data KPMG relied on in its finding pertained to orders processed a year ago. *See id.* at 326-327.

Surely, more recent commercial data is preferable. It proves that Qwest can meet (and indeed has met) the parity standard.

Flow-Through Rate: Flow-through identifies whether orders placed by CLECs are able to pass through the SOP without manual intervention. See OSS Decl. at ¶ 282-284. Although flow-through rates can sometimes be useful as an indicator of a BOC's ability to process CLEC orders, the FCC has stated that "it is inappropriate to consider order flow-through rates the sole indicia of parity" where record evidence of a BOC's ability to process CLEC orders in a timely manner exists. See *New York 271 Order*, 15 FCC Rcd at 4034-35 ¶¶ 161-163; see also *New Jersey 271 Order* at ¶ 131. Under this standard, Qwest's demonstrated ability to return order confirmation notices, reject notices, completion notices and jeopardies in a timely manner -- as described above -- can well be considered a more significant indicator of its performance than its flow-through rates.

In any case, Qwest's flow-through rates generally met the required PID benchmarks over the last four months. See OSS Decl. at ¶¶ 289-309. This is not surprising given Qwest's strong performance in each of the other order-related categories discussed above. The PIDs require that Qwest flow-through a certain percentage of flow-through eligible orders for four different product groups -- Resale, Unbundled Loops, LNP and UNE-P -- for orders received via IMA-EDI and the IMA-GUI. See *id.* at ¶¶ 285-288.

With few exceptions, Qwest met the required PID benchmarks for each of these product groups over the last four months in each of the application states. See *id.* at ¶¶ 289-309; *Williams Decl.* at ¶¶ 100-115. In the few instances in which Qwest did not meet the benchmark, the miss was an isolated occurrence, exceedingly minor, or was caused by CLEC-specific conduct, not by Qwest. See OSS Decl. at ¶¶ 290-292, 294, 296, 299, 301, 303-307, 309. The

FCC has held that “a BOC is not accountable for orders that fail to flow-through due to [CLEC]-caused errors.” *See, e.g., Georgia/Louisiana 271 Order* at ¶ 145. Instances in which Qwest missed the benchmark but where CLEC-specific flow-through rates vary (and are high for certain CLECs) therefore should be discounted.

The strength of Qwest’s overall commercial performance in the area of flow-through is confirmed by the results of the Third Party Test. In its *Final Report*, KPMG found that Qwest’s flow-through documentation is complete, accurate, clear and available to the CLEC community. *See Final Report* at 157-158; OSS Decl. at ¶¶ 353-355. Although the vast majority of the test criteria pertaining to flow-through were “diagnostic,” Qwest ultimately recorded excellent flow-through rates ranging from 83.57% to 100% for flow-through-eligible Resale, Unbundled Loop, LNP and UNE-P LSRs received via IMA-EDI and the IMA-GUI. *See Final Report* at 158-168; OSS Decl. at ¶ 355.

Qwest also satisfied all but one of the test criteria evaluating its ability to handle and process orders manually. *See Final Report* at 145-151. KPMG was “unable to determine” whether Qwest satisfied a single criterion, but the issue raised by this criterion was limited, and, given Qwest’s otherwise excellent performance, easily explainable. *See id.* at 145-146.

The details of why KPMG was “unable to determine” this criterion – as well as two related criteria – are described more fully in the OSS Declaration. *See* OSS Decl. at ¶¶ 328-330, 352, 389-391. Generally, concerns arose in connection with Qwest’s manual processing of orders. *See id.* (discussion of closed/unresolved Observation 3110). But these concerns were based on a mere eight LSRs that Qwest did not manually process correctly during the test. *See id.* at ¶¶ 328-331. The relatively small degree of error committed by Qwest on manually processed orders suggests that CLECs suffer no material competitive harm from them. *See id.* at

¶¶ 331-335. Qwest has – and continues to take – quality assurance measures directed at reducing the number of human errors in processing. *See id.* at ¶¶ 336-339. In addition, Qwest (together with the TAG) is in the process of developing a new PID to monitor Qwest’s manual processing of orders. *See id.* at ¶ 340. Although this PID may be modified over time through CLEC input in the context of the Long Term PID Administration forum, Qwest plans to begin reporting data under this measure with June results reported in July 2002. *See id.* at ¶ 341.

In the limited instances in which manual processing errors occur, CLECs have several (and will soon have more) resources to which they can turn to resolve issues that may arise. *See id.* at ¶ 342. For example, CLECs can track their orders through IMA tools provided by Qwest; contact the Qwest Help Desk; work with the Service Management Team assigned to them; and, through the Change Management Process, request system, product or process changes to improve their interaction with Qwest. *See id.* at ¶ 342. In short, to the extent manual processing errors have been committed by Qwest, they have not been at a level that affects CLECs in a materially competitive way.

d) Provisioning

Qwest provides CLECs with access to the same or comparable provisioning-related functions that it uses in connection with its Retail service. *See* OSS Decl. at ¶¶ 362-365. These functions, which include Status Updates, Service Order Status Inquiries, View Design Layout Record, and Loss and Completion Reports, are described in the OSS Declaration. *See id.* at ¶¶ 367-382.

The results of the Third Party Test confirm that Qwest is capable of provisioning CLEC orders in an accurate, timely and nondiscriminatory manner. *See Final Report* at 182-202; OSS Decl. at ¶¶ 385-405. KPMG found that Qwest accurately and expeditiously completes the provisioning of fourteen distinct service elements in connection with Resale, UNE-Loop and

UNE-P services. *See* OSS Decl. at ¶ 385. Further, KPMG noted that Qwest’s procedures, processes and the operational environment it uses to support coordinated provisioning with CLECs are fully functional. *See id.* at ¶ 404-405. KPMG also found that Qwest’s CLEC provisioning processes and systems operate at parity with its Retail operations. *See id.* at 401-403. 56/

In the few minor instances in which Qwest did not satisfy a test requirement, other evidence supports a finding that Qwest nonetheless meets the requirements of Section 271. For example, Qwest did not satisfy the two criteria evaluating whether it adheres to documented methods and procedure tasks when provisioning Unbundled Dark Fiber (“UDF”) and EELs. *See Final Report* at 186, 187-188; OSS Decl. at ¶¶ 392-394, 395-397. This resulted in one closed/unable to determine Exception (E3010) and one closed/unresolved Exception (E3104). *See id.* Yet KPMG also concluded that insufficient transactions were generated during the test to support a valid statistical analysis. *See id.* Furthermore, the test repeatedly demonstrated that Qwest adheres to documented methods and procedure tasks when provisioning other products. *See id.* The FCC has held that, in the absence of commercial data, it is sufficient to demonstrate that the BOC is “capable” of meeting a Section 271 criterion. *See New York 271 Order*, 15 FCC Rcd 4038-41 ¶¶ 166, 169. Qwest’s performance reasonably supports a conclusion that it is capable of adhering to documented methods and procedure tasks for UDF and EELs.

Qwest did not satisfy two other evaluation criteria (resulting in E3086), because, during the test, Qwest did not meet PID OP-4C when provisioning non-dispatch Business POTS

56/ Qwest’s commercial performance with respect to provisioning is discussed in the context of specific products and services. *See* Section III(B), above. Generally, the commercial performance data show that Qwest provisions CLEC orders “in substantially the same time and manner as its provisions orders for its own retail customer.” *See New Jersey 271 Order* at App. C ¶ 37.

in the Eastern Region and non-dispatch UNE-P in the Western, Central and Eastern Regions.

See Final Report at 196, 198-199; OSS Decl. at ¶¶ 398-400. But Qwest's commercial performance results for OP-4C demonstrate that CLECs have a meaningful opportunity to compete. *See Resale Declaration* at Section II(B); *Access to UNEs Declaration* at Section II(B). Qwest's actual commercial performance, which is "the most probative evidence that OSS functions are operationally ready," constitutes sufficient evidence that Qwest satisfies this criterion. The same can be said for three additional evaluation criteria which KPMG was "unable to determine" solely because, to Qwest's credit, no Pseudo-CLEC orders were delayed during the test. *See OSS Decl.* at ¶¶ 387-388. Once again, Qwest's actual commercial performance shows that KPMG's "unable to determine" designation for these three evaluation criteria do not accurately reflect Qwest's capabilities.

e) Maintenance and Repair

Qwest's maintenance and repair systems and processes permit CLECs to locate and diagnose trouble that their customers may experience when using the Qwest network. *See OSS Decl.* at ¶ 407. Qwest's systems and processes allow CLECs to efficiently communicate any trouble to Qwest so that, if appropriate, Qwest can repair service for CLECs and their end user customers. *See id.* at ¶ 407, n.586. Qwest assures CLECs substantially the same access to its maintenance and repair systems and functions as it provides to itself through a streamlined process to diagnose and correct trouble. *See id.* at ¶ 408.

The results of the Third Party Test demonstrate that Qwest is capable of providing CLECs with maintenance and repair service in a nondiscriminatory manner. *See Final Report* at 319-337, 344-345, 351-355, 363-385, 390-406, 658-667; OSS Decl. at ¶¶ 441-468. ^{57/} KPMG

^{57/} As with provisioning, Qwest's commercial performance with respect to most maintenance and repair activities is discussed in the context of specific products and services.

found that Qwest's CEMR gateway functioned as stated in the pertinent documentation, that its functionality is comparable for both Retail and Wholesale operations, and that CEMR response times for peak, stress and normal loads meet expectations. *See Final Report* at 319; OSS Decl. at ¶ 443. KPMG also found that Qwest's EB-TA gateway worked as defined by the Joint Implementation/Interconnection Agreement. *See Final Report* at 345; OSS Decl. at ¶ 448. KPMG further found that Qwest's trouble report processing -- *i.e.*, the quality and number of repairs Qwest made in the course of the test for the pseudo-CLEC -- largely satisfied the test criteria.

Four exceptions pertaining to maintenance and repair were closed/unresolved in the course of the KPMG test, but none of these Exceptions identifies a significant shortcoming in Qwest's OSS. *See* OSS Decl. at ¶¶ 442, 452. For instance, although E3055 correctly noted that Qwest included correct closeout codes for repairs completed to POTS Resale and UNE-P services 88.5% of the time on retest (falling short of KPMG's self-derived 95% benchmark), that figure rises to 96.7% if a trouble ticket's narrative field is used in conjunction with the closeout code to identify the type and/or location of the trouble, thus satisfying the benchmark. *See Final Report* at 353-354; OSS Decl. at ¶¶ 453-457.

Similarly, E3058, which was closed unresolved, can easily be dismissed. E3058 noted that Qwest successfully repaired 92.28% of the POTS Resale, UNE-P and UNE-L circuits submitted for repair, falling short of KPMG's self-derived 95% benchmark. *See Final Report* at 355; OSS Decl. at ¶ 458. Under PID MR-7, however, Qwest has shown that CLECs have a

See Section III(B), above. Suffice it to say here that the commercial data under the maintenance and repair-related PIDs that aggregate Qwest's performance for all products and services -- OP-2 and MR-2, both of which compare the percentage of Retail and Wholesale calls to the Interconnect Provisioning Center ("IRC") that are answered within 20 seconds -- show that

meaningful opportunity to compete in each of the application states. *See* OSS Decl. at ¶¶ 460-461. Qwest's strong commercial performance justifies a finding that Qwest can successfully repair POTS Resale, UNE-P and UNE-L circuits in a timely and nondiscriminatory manner. *See id.* at ¶ 461, n.660.

E3053 and E3107, both of which were closed/unresolved, also do not affect Qwest's satisfaction of Section 271. *See id.* at ¶¶ 444-446; 462-463. E3053 was closed unresolved because Qwest correctly closed out nine of 10 (90%) DS1 circuit trouble codes; KPMG's benchmark was 95%. *See Final Report* at 354-355; OSS Decl. at ¶ 462. This 90% performance in no way indicates that Qwest discriminates in providing access to its M&R functions. *See* OSS Decl. at ¶ 462. E3107 was closed/ unresolved because Qwest missed the 24-second benchmark for processing Non-Design Edit transactions through CEMR by an average of three seconds. *See Final Report* at 331-332; OSS Decl. at ¶ 444. In light of the relatively low volumes that Non-Design Edit transactions typically generate, the closed/unresolved status of E3107 is not inconsistent with a finding that Qwest satisfies Section 271. *See id.* at ¶¶ 445-446.

f) Billing

Qwest provides CLECs with nondiscriminatory access to its billing functions. *See* OSS Decl. at ¶ 478. Qwest also provides CLECs with complete and accurate reports on their service usage in the form of a Daily Usage File. *See id.* The bills generated out of Qwest's two primary billing systems – the Customer Records and Information System (“CRIS”) and Integrated Access Billing System (“IABS”) – support mechanized bill analysis by CLECs. *See id.* at ¶ 481, n.695, ¶ 492. From the CRIS billing system, Qwest provides bills in CRIS, ASCII, and BOS formats, each of which allow for bill auditing. *See id.* at ¶ 481, n.695. Similarly,

Qwest responds to CLEC calls to the IRC in a nondiscriminatory manner. *See* OSS Decl. at ¶¶ 428-432 (MR-2), 632-636 (OP-2).

Qwest provides bills from IABS that follow Telcordia's guidelines, which support mechanized analysis. *See id.* at ¶ 492.

A total of five PIDs are used to measure Qwest's ability to provide CLECs with complete and accurate billing information, as follows:

1. BI-1: Qwest's ability to provide recorded usage records on a timely basis.
2. BI-2: Qwest's ability to deliver invoices to CLECs on a timely basis.
3. BI-3: Qwest's ability to render accurate bills.
4. BI-4: Qwest's ability to render complete bills.
5. PO-7: Qwest's ability to make available electronic billing completion notices to CLECs on a timely basis.

See OSS Decl. at ¶ 511; Williams Decl. at ¶¶ 146-173.

Qwest's performance under each of these PIDs has been strong. For instance, with only one exception, Qwest provided CLECs with daily usage records on a timely basis in each of the application states over the last four months. *See* OSS Decl. at ¶¶ 515-518; Williams Decl. at ¶¶ 148-49. Qwest also delivered industry-standard electronically transmitted invoices to CLECs at parity with its Retail operations in each of these states over the last four months. *See* OSS Decl. at ¶¶ 521-524; Williams Decl. at ¶ 150. Additionally, with only one exception, Qwest delivered billing completion notices to CLECs via IMA-GUI at parity or better in each of these states over the last four months (as of this writing, no CLECs have elected to receive such notices via IMA-EDI). *See* OSS Decl. at ¶¶ 555-559; Williams Decl. at ¶¶ 171-73.

With a few exceptions, Qwest also rendered accurate bills to CLECs in each of the application states over the last four months. *See* OSS Decl. at ¶¶ 530-539; Williams Decl. at ¶¶ 151-59. Among the reasons for Qwest's strong performance was that the company undertook

an extensive and systematic analysis of its billing system in the Fall of 2001 to ensure that the rates loaded into its billing system corresponded to the published rates in Qwest's tariffs and interconnection agreements. *See* OSS Decl. at ¶ 526. On the few occasions on which Qwest did not meet the parity standard in a given state, Qwest missed the standard either by a narrow margin or because of a non-CLEC affecting reporting error that since has been corrected. *See id.* at ¶¶ 531-534, 536-537. These misses were limited and explainable, and, overall, the commercial data capturing Qwest's ability to render accurate bills to CLECs over the last four months in Montana, Utah, Washington, and Wyoming is good.

Qwest also has shown that it is capable of rendering complete and timely bills to CLECs. *See id.* at ¶¶ 543-551. In both Washington and Wyoming, Qwest met the parity standard for billing accuracy in three of the past four months, missing parity in May by less than one percent in Washington, and in March by just over one percent in Wyoming. *See id.* at ¶¶ 548-551. In Utah, Qwest met the parity standard in two of the past four months, missing the parity standard by less than just one percent in the two missed months. *See id.* at ¶¶ 546-547. Still, Qwest rendered complete and timely bills to CLECs over 95% of the time in Utah in each of the past four months. *See id.* at ¶ 546. Qwest met the parity standard in one of the past four months in Montana, but again, in the months that Qwest missed the standard, it did so by a relatively small margin. *See id.* at ¶¶ 543-545. Moreover, these misses were caused by an error that enhancements to Qwest's billing processes are expected to resolve, resulting in a significantly improved ability to meet the parity standard. *See id.*

In every instance, in the months Qwest did not meet the parity standard, Qwest identified the reason for the discrepancy and can explain why the discrepancy will not recur. *See id.* at ¶¶ 515, 526-529, 531-534, 536, 538, 541-542, 544-555, 547, 549, 551, 556-557. CLECs

today can – and do – receive complete and timely bills from Qwest. Qwest acknowledges the importance of providing CLECs with bills that include all charges associated with service orders on the first available bill but submits that the number of orders not included until a subsequent bill are of minimal impact to CLECs. *See id.* at ¶ 542. CLECs have the ability to determine whether their end-user service orders have been completed through work completion notices and loss and completion reports, and they are rarely negatively affected if a few service orders appear on subsequent bills. *See id.*

Qwest's billing systems were subject to extensive and exhaustive testing and retesting by KPMG. *See Final Report* at 407-419, 420-434, 435-454, 455-480, 668-678; OSS Decl. at ¶ 560. Overall, the Third Party Test demonstrated that Qwest provides timely and accurate billing information to CLECs on a nondiscriminatory basis. *See Final Report* at ¶¶ 413-418, 423-433, 441-454, 457-480, 671-678; OSS Decl. at ¶¶ 560-586. Qwest met all six of the test criteria evaluating whether usage record types, including access records, un-rated records and credit records, appear accurately on the DUF. *See Final Report* at ¶¶ 413-418; OSS Decl. at ¶ 561.

Qwest also satisfied nearly all of the test criteria examining the processes and related documentation that Qwest uses to create and transmit DUF files, accept DUF returns, and investigate potential errors. *See Final Report* at 423-433; OSS Decl. at ¶¶ 568-569. The two test criteria that KPMG was “unable to determine” pertained to the CCUR, an automated process for correcting usage data that, to date, no CLEC has signed up to use. *See Final Report* at 432-433; OSS Decl. at ¶¶ 570-571. Consequently, while KPMG verified the existence of CCUR, it was unable to evaluate its use. *See id.* Clearly, this should not prevent a finding of compliance.

With respect to the DUF test, the first two tests that KPMG initiated were cancelled due to problems in the test bed. *See* OSS Decl. at ¶ 566, n.812. Qwest developed a number of improvements to its billing systems after KPMG's three subsequent tests, as is appropriate in military-style testing, and Qwest subsequently passed in its Eastern and Western regions. *See id.* at ¶¶ 563-566. Qwest passed KPMG's fourth retest, limited to the Central region, following additional system enhancements. *See id.* at 566. The salient point here is that, by the conclusion of test, Qwest successfully passed the DUF test in all three regions. Significantly, the changes Qwest made to its billing system were on system-wide, automated processes, ensuring that the issues KPMG raised will not resurface.

KPMG also evaluated Qwest's ability to bill usage accurately on the appropriate bill, Qwest's operational processes in connection with its production and distribution of Wholesale bills, and the processes and documentation Qwest has developed and employed to support resellers and CLECs with billing-related claims, inquiries, problems, and issues. *See Final Report* at 435-454, 457-480, 671-678; OSS Decl. at ¶¶ 572, 575, 584. Qwest satisfied all but five of the test criteria pertaining to these tests, and not a single Observation or Exception was closed/unresolved or unable to determine (KPMG was "unable to determine" five test criteria because the circumstances necessary to evaluate them did not arise in the course of the test). *See Final Report* at 457-480, 671-678; OSS Decl. at ¶¶ 573, 576-583, 585-586. In short, the results of the Third Party Test confirm that Qwest's billing systems meet the requirements of Section 271.

D. Change Management and Technical Assistance

Qwest believes it has in place the most comprehensive, inclusive, and forward-looking change management plan in the nation. *See* Declaration of Dana L. Filip, Change