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23 July 2002

Ex Parte

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Qwest Communications International, Inc. Colorado/Idaho/Iowa/Nebraska/North  
Dakota, WC Docket No. 02-148

Dear Ms. Dortch:

On July 10, 12 and 15, 2002, Qwest Communications, Inc., filed with the Commission ex parte submissions in the above-referenced docket. In these filings, Qwest purports to respond to several critical questions raised by the Department of Justice regarding Qwest's applications for 271 authorization in the states referenced above. The Commission should reject Qwest's inadequate responses. As explained further below, Qwest has failed to address serious gaps in the evidentiary showing it puts forth for these applications.

As an initial matter, the Commission should recognize the significance of the Qwest applications pending before it. These are Qwest's first applications for section 271 in-region, inter-LATA authorization. The standards to which Qwest's current applications are held thus bear serious repercussions for the entire Qwest service region. If the Commission does not hold Qwest's current applications to the high standards the Act requires, these applications hold the potential to close local markets to competition throughout Qwest's service territories. Thus, the Commission must not take these applications, and their concomitant dangers, lightly. The Commission must take every pain to ensure that these applications meet the strict requirements of section 271.

As discussed in detail below, Qwest has failed to meet its required burden in several critical areas:

- (1) loop pricing;
- (2) loop information and loop provisioning;
- (3) human error in OSS processes;
- (4) artificial completion notices;

- (5) new build policies;
- (6) bulk deloading policies; and
- (7) reliability of performance data.

### Loop Pricing

Qwest's pricing for the UNE high-frequency portion of the loop (UNE HFPL) in Colorado fails to satisfy the requirements of TELRIC, and therefore section 271. As explained in Covad's comments, section 271 requires that UNEs be priced in conformance with TELRIC.<sup>1</sup> Qwest's pricing for UNE HFPL cannot satisfy the requirements of TELRIC unless and until it is set to zero. Qwest has not even purported to provide TELRIC cost justification for its UNE HFPL pricing in Colorado, nor can it.<sup>2</sup> Qwest's pricing of UNE HFPL in Colorado thus represents a clear violation of TELRIC, and of section 271.

### Loop Makeup Information and Loop Provisioning

As discussed in Covad's comments, Qwest's applications exhibit manifold deficiencies in the area of loop qualification information. KPMG's testing of Qwest's provision of loop makeup information only examined whether CLECs were provided with the same information available to Qwest's retail personnel. As stated by the Commission on several occasions, the relevant inquiry is not whether such information is available merely to the incumbent's retail personnel. Rather, the relevant inquiry is whether such information exists anywhere in the incumbent's back office and can be accessed by any of the incumbent's personnel, regardless of whether they are retail or back-office personnel.<sup>3</sup> Thus, KPMG's testing of loop makeup information fails by its very terms, and leaves Qwest lacking the requisite showing for its 271 applications.<sup>4</sup> Qwest's ex parte submission attempts to get around this fundamental defect in Qwest's 271 showing by providing information about purported improvements in its pre-qualification tools and the underlying loop qualification database.<sup>5</sup> The Commission must not allow these submissions to divert its attention from the fundamental defects in Qwest's showing they fail to address. Qwest has put forth simply no evidence to demonstrate that competitors receive access to all of the loop makeup information available to Qwest's personnel in the same time and manner. In fact, what CLECs know is that Qwest's retail prequalification tool contains a pop-up screen that supplies missing

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<sup>1</sup> See Covad Comments at 5-13.

<sup>2</sup> In fact, Qwest fails to provide any cost justification for UNE HFPL rates anywhere else in its service region, or for the rates set forth in its federal retail DSL tariff filings.

<sup>3</sup> See *UNE Remand Order*, 15 FCC Rcd 3696, 3885, paras. 427-431; *SWBT Kansas/Oklahoma 271 Order* at paras. 121-29; *Verizon MA 271 Order* at para. 54.

<sup>4</sup> See Covad Comments at 14-15.

<sup>5</sup> See Qwest July 10, 2002 ex parte at 24-27.

loop qualification information – a functionality that does not appear to exist in any wholesale interface. What CLECs know is that Qwest conducted bulk MLT tests to populate its RLDT loop information database. What CLECs also know is that the MLT test captures over one hundred data points,<sup>6</sup> while Qwest’s database purports to provide only MLT loop lengths. What CLECs do not know is what Qwest did with the remaining in excess of one hundred data points. It strains credulity that Qwest would simply discard the information that would permit it to solicit every end user now qualified for xDSL service.

As detailed in Covad’s comments on these applications, the appropriate response to these defects in Qwest’s evidentiary showing is an immediate, comprehensive audit of Qwest’s OSS systems and processes.<sup>7</sup> Qwest’s past behavior alone, namely permitting outside plant personnel to “update” loop makeup information through sales referrals directly to Qwest’s retail DSL division, demonstrates the need for such an audit.<sup>8</sup> Auditing Qwest’s OSS is the only manner in which to ensure that Qwest meets its obligations to provide competitors with non-discriminatory access to the loop makeup information available to any of its personnel in both its retail and back office systems.

Qwest’s evidentiary showing creates serious doubts about Qwest’s provision of non-discriminatory access to loop makeup information. In the case of Qwest’s loop provisioning practices, there is no doubt that Qwest’s practices exhibit obvious instances of discrimination. For example, as detailed in Covad’s comments, Covad has repeatedly requested that Qwest provide a router test for end-to-end data continuity as part of its provisioning of line shared loops, yet Qwest has refused. Now, Qwest has decided that it will use a router test for the loops in its own retail line shared service, but continues to refuse providing Covad with such a test, even in face of poor performance on line shared loops.<sup>9</sup>

As Covad’s comments make clear, the best way to address the discriminatory processes inherent in Qwest’s line shared loop provisioning is to order Qwest to provide pre-order MLT testing of line shared loops.<sup>10</sup> As Covad’s pre-order MLT trial with Verizon illustrated, pre-order MLT testing is a technically feasible and efficient means of ensuring that CLECs are being provided with working line shared loops.<sup>11</sup> Additionally, Qwest should be required to provide Covad with access to the same type of router test

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<sup>6</sup> The entire listing of data points captured by an MLT can be found at [http://www.qwest.com/wholesale/downloads/2002/020617/AppE\\_0617.doc](http://www.qwest.com/wholesale/downloads/2002/020617/AppE_0617.doc)

<sup>7</sup> See Covad comments at 16-18.

<sup>8</sup> See Covad comments at 18.

<sup>9</sup> See Covad comments at 23 and fn. 33.

<sup>10</sup> See Covad Comments at 22-25.

<sup>11</sup> See Covad Comments at 23-24.

Qwest uses to provision its own retail line shared service, a functionality Covad has repeatedly sought unsuccessfully from Qwest.

Furthermore, Covad has recently learned that Qwest intends to impose on CLECs a “CopperMax” testing procedure for the provisioning of unbundled stand-alone loops.<sup>12</sup> While Covad welcomes any *genuine* effort to improve ILEC testing processes to ensure parity access to UNE loops for CLECs, the process Qwest seeks to impose unilaterally on Covad suffers from several potential points of failure, and could actually cause the quality of Qwest’s loop provisioning to Covad to deteriorate.<sup>13</sup> Of particular concern is that, while Qwest’s own standalone loops are to be provided dedicated connections to the CopperMax equipment, CLEC UNE loops will be cross-connected to the CopperMax equipment via jumper cables as they are provisioned, on an ad hoc basis. Qwest’s CopperMax testing process clearly creates additional points of failure for CLEC loops<sup>14</sup> and not for Qwest loops, but Qwest has refused to allow CLECs even to opt out of its CopperMax process. Instead, Qwest continues unilaterally to develop implementation of this process change with serious consequences for CLECs outside the confines of the change management process.

#### KPMG Findings of Human Error

As KPMG’s findings illustrate, Qwest’s OSS processes for CLECs are replete with human error.<sup>15</sup> Qwest urges the Commission to ignore KPMG’s finding of approximately a 15% rate of human error in Qwest’s OSS systems and processes, directing the Commission’s attention to Liberty’s aggregate results finding a 6% rate of human error in UNE loop orders.<sup>16</sup> As an initial matter, the Commission should recognize that neither of these two numbers, 6% vs. 15%, is an acceptable rate of human error in Qwest’s OSS systems and processes for CLECs. That aside, the Commission should reject Qwest’s characterization of Liberty’s data reconciliation as a more reliable indicator of the rate of human error than KPMG’s findings.

KPMG’s opinions and findings should be given greater weight for a number of reasons. KPMG was fully familiar with the data maintained and produced by both the P-CLEC and Qwest. Liberty, while familiar with the Qwest documentation, did not have any understanding of CLEC data or even of Covad’s business prior to the reconciliation.

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<sup>12</sup> See Ex. 1 (correspondence from Qwest to Covad re: CopperMax).

<sup>13</sup> See Ex. 2 (Covad response re: CopperMax).

<sup>14</sup> This is not speculation on Covad’s part. Previously, Verizon utilized the CopperMax testing capability and the addition of several points of failure to the Covad loops resulted in an increase in provisioning problems. In fact, the problems became so severe that Verizon ultimately ceased using the CopperMax testing capability.

<sup>15</sup> See Covad Comments at 39-42.

<sup>16</sup> See Qwest July 10 ex parte at 14-22.

For instance, Covad's primary contact at Liberty did not understand what line sharing is or what Covad ordered when it ordered a line shared loop. Furthermore, Liberty ignored many significant issues raised by Covad during the data reconciliation. For instance, Covad raised the issue of whether Qwest was correctly reporting PO-5, measuring FOC intervals. Disconnect orders are supposed to receive FOCs in 24 hours, yet the SIG and the Qwest "InfoBuddy" stated the interval for disconnects was three days. With respect to the PO-5 measure, Liberty also discounted Covad's calculation of the PO-5 interval where there was no LSRC from Qwest supporting Covad's calculation. The problem with Liberty's approach is that, for orders placed via the GUI as opposed to via EDI, an LSRC is never returned. Covad also raised the issue that LSRs were being rejected improperly, not because they were inaccurate or incomplete, but because there was a pending order to add a voice service. Covad indicated to Liberty that this was not an acceptable basis for LSR rejection under the PIDs, yet Liberty never responded to Covad's objection. Liberty, while using the SOC to measure loop delivery, never uncovered the fact that the SOC was being triggered by the FOC date and not by any work events. Finally, Liberty failed to confirm the efficacy of Qwest's proposed corrections to human error issues raised by Liberty's reconciliation effort.

Because of the manifold deficiencies in the Liberty data reconciliation, the Commission should grant greater weight to KPMG's findings on human error issues than the Liberty data reconciliation. In addition, the Commission should reject any characterization that the PO-20 measure serves as a check against human error in Qwest's systems and processes.<sup>17</sup> PO-20 does not address all of the issues identified by KPMG in its PID adequacy study, nor does it even begin to address the problem of human intervention and error for many of the UNE loop products ordered by Covad. More importantly, Qwest thus far has refused to meaningfully commit to including PO-20 into the CPAP, rendering PO-20 a paper tiger.<sup>18</sup>

### Fake SOCs

Qwest maintains that its new provisioning process (memorialized in a "job aid") for line sharing (placing orders into jeopardy status if not filled by 4:00 p.m.) will address CLEC concerns regarding erroneous SOCs for line sharing orders. In fact, however, Qwest's new job aid does nothing to address the underlying problem with erroneous SOCs. As explained in Covad's comments, the underlying problem is that Qwest generates SOCs automatically on the due date contained in the FOC sent to CLECs, without having them triggered by the completion of some work event.<sup>19</sup> As long as Qwest maintains this automated process for measuring loop delivery, it is inevitable that Qwest will continue to generate erroneous SOCs to CLECs. There is neither evidence

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<sup>17</sup> See Qwest July 10 ex parte at 23.

<sup>18</sup> Furthermore, as detailed in Covad's comments, Qwest's most recent proposal for inclusion of this measure in the CPAP is wholly inadequate. See Covad Comments at 41 and fn. 42.

<sup>19</sup> See Covad Comments at 25-28.

nor any assurance that the jeopardy process will preclude Qwest from sending SOCs that are triggered just by some other date.

The other failure in Qwest's proposed remedy for its fake SOC process lies in the fact that the underlying problem is generally discovered to be missing or bad cross-connects. Under Qwest's new job aid, the CO technician is supposed to place the order in jeopardy status if a problem is found on the line. Presumably, the jeopardy process would prevent the fake SOC from being issued, until and unless the line could be properly provisioned. What Qwest fails to explain is why a jeopardy would ever be issued where the CO technician performs a poor loop installation, resulting in a missing or bad cross-connection. In fact, in such a scenario, a jeopardy notice would never be placed on the order (assuming, naturally, that the CO technician is not knowingly providing a poor cross-connection). Instead, the CLEC (and the CLEC's customer) would be left to discover that the line simply did not work, in spite of the issuance of a SOC, when turning up the end user's service.

Qwest's new job aid suffers from other specific defects. First of all, Qwest has not explained what steps it has taken to make sure that its central office technicians will make complete use of its job aids. Making the job aid merely available to its technicians is insufficient. Qwest must make sure that its loop provisioning process entails the use of its job aid, and that technicians thoroughly follow through on each step. Second, Qwest's job aid suffers from the additional defect that, when problems are discovered in the line being provisioned, the central office technician is directed merely to jumper around the splitter and place the order in jeopardy status. The job aid contains no instructions directing the technician to engage in any sort of troubleshooting on the high-frequency portion of the line, unlike the voice portion.<sup>20</sup>

As indicated above, the only remedy for Qwest's discriminatory loop provisioning process is to require Qwest to provide pre-order access to MLT testing and a router test to CLECs similar to the one Qwest uses for its own retail service.

### New Build/Held Order Policy

Qwest's ex parte represents that it will include language implementing its 30 day held order process in the updated SGATs it will file throughout its service territory.<sup>21</sup> While the inclusion of contract language is of some comfort, any such comfort is small. Qwest's held order policy continues to improperly improve its PID performance without any corresponding improvement in its actual performance. In fact, because CLEC orders going into the "held" status are never provided a due date or a FOC, Qwest automatically positions itself to meet its OP-3 and OP-4 targets since due dates are only provided when,

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<sup>20</sup> See Qwest July 12 ex parte at 4 ("Step 5"). The job aid does direct the CO technician to troubleshoot failures in the voice portion of the circuit. Qwest does not explain why it fails to provide similar direction for the high-frequency portion of the loop being provisioned to CLECs.

<sup>21</sup> See Qwest ex parte at 35.

and by when, Qwest knows it is capable of filling a CLEC order. Furthermore, the current incarnation of Qwest's held order policy simply serves to mask Qwest's poor performance in meeting CLEC demand for UNEs under the OP-6 and OP-15 metrics.<sup>22</sup> That is, orders that are held under the policy never show up, and therefore there will be no reported performance showing that Qwest is snuffing out competitors simply by refusing to fill their orders. Qwest's held order policy thus allows it to demonstrate that it is meeting checklist compliance by excluding from its performance measures those orders that show it is not.

Qwest should be ordered to revise its held order policy in order to permit the Commission to accurately review and determine whether Qwest is providing unbundled loops consistent with CLEC demand. First, Qwest must be required to report on the number of orders held due to a lack of facilities and the duration of the hold (OP-15), and delays due to lack of facilities (OP-6), regardless of whether those orders are ever completed (i.e., measure all orders that go held due to a lack of facilities, regardless of whether the orders are completed, cancelled or rejected). Second, Qwest must also be required to report its performance on orders that are held but later filled, measuring that interval from the time the order is first submitted by the CLEC until the order is filled by Qwest (OP-3 and OP-4).

#### Bulk Deloading Program

Qwest's ex parte provides references to some of its testimony regarding its bulk deloading program.<sup>23</sup> What Qwest omits is its testimony before the Washington UTC in which one of its attorneys indicated that Qwest has not necessarily complied with all of its merger requirements for bulk deloading of Qwest loops, or with its descriptions of the bulk deloading. In the January 10, 2002, transcript of Qwest's testimony before the Washington UTC, it was clear that Qwest did not actually deload all loops except those for which excavation or construction would have been required.

#### Conditioned Loop Reporting

Qwest includes sections of Liberty's audit report discussing changes to Qwest's reporting of OP-3 and OP-4 for the sub-category of conditioned loops.<sup>24</sup> It is noteworthy that Liberty singled out the complexity of Qwest's coding changes in the course of its audit.<sup>25</sup> Liberty's inference from this complexity is that problems in Qwest's performance reporting could emerge as a result of these coding changes. Notably, Qwest has provided no response to this issue.

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<sup>22</sup> See Covad Comments at 37.

<sup>23</sup> See Qwest July 10 ex parte at 28.

<sup>24</sup> See Qwest July 10 ex parte at 38.

<sup>25</sup> See *id.* (section entitled "Recommendations").

Conclusion

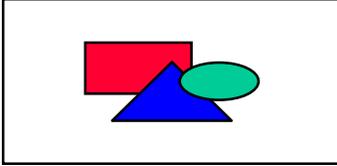
In spite of its recent submissions, Qwest's applications for 271 authorization in this docket fail to meet the requisite burden for demonstrating compliance with the requirements of the Act and the Commission's implementing rules. Unless and until Qwest carries this burden, its applications in this docket should be denied.

Respectfully submitted,

/s/ Praveen Goyal

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**Ex. 1 – Correspondence from Qwest to Covad re: CopperMax testing**



June 28, 2002

Michael Zulevic  
Covad Communications  
13769 N. Slazenger Dr.  
Oro Valley, AZ 85737  
mzulevic@covad.com

TO:Michael Zulevic

<b>Announcement Date:</b>	<b>June 28, 2002</b>
<b>Effective Date:</b>	<b>Immediately</b>
<b>Document Number:</b>	<b>NETW.06.28.02.F.01818.CopperMax_Meeting</b>
<b>Notification Category:</b>	<b>Network Notification</b>
<b>Target Audience:</b>	<b>CLECs, Resellers</b>
<b>Subject:</b>	<b>CopperMax Meeting</b>

Please join Qwest Wholesale Product and Network representatives on a conference bridge on July 12, 2002. The purpose of this conference call is to share information about Qwest's proposed use of the CopperMax System for Qwest testing on specific types of Unbundled Local Loops.

Logistics for this meeting are as follows:

**Date:** Friday, July 12, 2002

**Time:** 1:00 PM - 2:00 PM Mountain Time

**Call-in Details:** 1-877-550-8686, ID 2213337#

Qwest proposes using the CopperMax system to provide remote test access to Unbundled Loop 2-wire/4-wire non-loaded loops (DSL Capable), ISDN capable loops, ADSL compatible loops and xDSL-I capable loops, as well as Qwest DSL services. In order for the CopperMax System to be deployed on the previously mentioned products, the products must be on copper only facilities. Implementing the CopperMax system will provide Qwest the ability to remotely test specific Unbundled Local Loop types and Qwest DSL for a full complement of narrow-band and wide-band measurements with automated dialog and templates.

### **Agenda**

Introduction

What is CopperMax?

How is Qwest using CopperMax?

What are the benefits of CopperMax?

Open Discussion

Questions may be directed to Craig Suellentrop, Staff Advocate Policy & Law Manager, at 303-707-7084 or [csuelle@qwest.com](mailto:csuelle@qwest.com)

Sincerely,

Qwest

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process.

Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Chris Reed

Susan Earley

**Ex. 2 – Correspondence from Covad to Qwest in response re: CopperMax testing**

**From:** Michael Zulevic [mailto:mzulevic@covad.com]

**Sent:** Monday, July 15, 2002 1:04 PM

**To:** Michael Buck; csuelle@qwest.com; Matt White [mbwhite@qwest.com]

**Cc:** Wayne Hart; john\_sheehan@frontiercorp.com; Benventano, Dan; Terry Wicks; Hines, LeiLani; Susan Lorence; Baum, Carol; Zulevic, Mike; Woodcock, Beth; VanMeter, Sharon; Travis, Susan; Thompson, Jeffery; Stichter, Kathy; Spence, Barbara; Schultz, Judy; Routh, Mark; Rossi, Matt; Quintana, Becky; Priday, Tom; Prescott, Deborah; Powers, Lynne; Osborne-Miller, Donna; Nolan, Laurel; Menezes, Mitch; McDaniel, Paul; Littler, Bill; Lees, Marcia; Lee, Judy; Jennings-Fader, Mana; Jacobs, Teresa; Hydock, Mike; Heline, Mark; Gunderson, Peder; Green, Wendy; Doberneck, Megan; Dixon, Tom; Crain, Andrew; Clauson, Karen; Balvin, Liz; Bahner, Terry; Jim Maher

**Subject:** FW: Network Updates: Announcements: GN: CopperMax UNE Testing Mtg, Effective Immediately

**Importance:** High

Craig,

After participating in your conference call July 12,2002 on the CopperMax deployment and discussing the "pros and cons" internally at Covad, I have come to the conclusion that many questions remain unanswered and that no deployment on Covad UNE loops should take place until we are satisfied that the deployment is in the best interest of Covad. Covad is officially requesting that your planned deployment on Aug. 1, 2002 be postponed for Covad. Further, because Covad feels this deployment can have serious impacts upon CLECs, we are requesting that Qwest bring this deployment plan to Change Management as a Level 4 change request until the full impacts are totally understood by the CLEC community and we have agreed to the benefit of the deployment. The following are some of the concerns identified by Covad:

-ADDED COMPLEXITY DUE TO ADDITIONAL CROSS-CONNECTS REQUIRED

-ADDED "POTENTIAL" FAILURE POINTS DUE TO CROSS-CONNECTS

-ADDED "POTENTIAL" FAILURE POINTS DUE TO TEST EQUIPMENT IN CIRCUIT

-COPPERMAX TECHNICAL SPECIFICATIONS HAVE NOT YET BEEN MADE AVAILABLE TO CLEC COMMUNITY

-"ADVANTAGES" TO CLECS HAS NOT BEEN QUANTIFIED OR CLEARLY IDENTIFIED

-COVAD CURRENTLY HAS SIMILAR COLLOCATED TEST EQUIPMENT DEPLOYED ON UNE LOOPS AND HAS PROVIDED QWEST TECHNICIANS WITH REMOTE TEST ACCESS TO THIS EQUIPMENT (IVR) FOR PROVISIONING AND TROUBLE ISOLATION

-NO ASSURANCES OF ADVERSE INTERACTION BETWEEN COPPERMAX AND COVAD TEST EQUIPMENT

-ADDITIONAL LOOP LENGTH CREATED BY ADDING COPPERMAX TO THE CIRCUITS

-NO ASSURANCES RELATED TO FUTURE COST RECOVERY EFFORTS BY QWEST

-RETAIL PARITY ISSUES RELATED TO SOME OF THE ABOVE

Given that Covad's UNE loop provisioning and trouble isolation issues are much less significant than those associated with line shared orders, Covad does not want to take a chance of

experiencing greater problems with our UNE loop services, as some of the issues above are significant for line shared orders. Again, Covad does NOT wish to have any of it's UNE orders connected to the CopperMax until we are sure that we will benefit from this new capability.

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