

Finally, the commenters ignored that the Commission places more emphasis on results under the “achieved flow-through measure,” in this case, PO-2B. *New Jersey Section 271 Order* ¶ 132. Qwest’s performance under PO-2B has been strong. In Colorado and Iowa, Qwest met the benchmarks under PO-2B-1 (GUI interface) in each of the last six months, and met the benchmarks under PO-2B-2 (EDI interface) in at least five of those months. Qwest’s performance in the other states was nearly as good. With one minor exception, the only benchmarks that Qwest missed more than once in the last six months were PO-2B-1 for POTS resale in North Dakota and Nebraska, and PO-2B-1 for LNP in North Dakota, but in each case Qwest’s six month average was above the benchmark. Williams Reply Decl. ¶ 46.

With regard to jeopardy notifications, disparities between wholesale and retail performance under PO-8, the average jeopardy notice interval, have not been statistically significant, in part because the volume of wholesale notices has been very low. With two minor exceptions, Qwest met the parity standard for each PO-8 submetric in each of the last six months. 20/

Qwest’s performance under three of the four submetrics for PO-9, the percentage of timely jeopardy notices, has also been good. Qwest met the parity standard for interconnection trunks (PO-9C) in every month. Qwest achieved parity for non-designed services (PO-9A) in five of the last six months in North Dakota, and in every month in the other states. Qwest also met the parity standard for UNE-P POTS (PO-9D) in every month with reported data in Idaho, Iowa, Nebraska, and North Dakota, and in four of the last six month in Colorado. *Id.* ¶ 48.

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20/ *Id.* ¶ 47. The first exception was in Idaho for non-designed services (PO-8A), but Qwest achieved parity in four of the five months with reported data. The other exception was in

Under PO-9B, which applies to unbundled loops and local number portability, Qwest achieved parity in five of the last six months in Idaho and Nebraska. Qwest's performance in the other three states has been problematic. *Id.* ¶ 49. In those states, the volume of unbundled loop missed-due-date orders for wholesale was very small relative to the volume of orders because Qwest's performance under OP-3, which measures installation commitments met, was very strong. For example, in June there were 135 CLEC jeopardy notices reported under PO-9B in Colorado, but Qwest installed roughly 5,000 loops and met more than 98% of its installation commitments to CLECs. 21/ If Qwest had given timely jeopardy notices for 23 more CLEC orders, or 0.45% of all loops provisioned in June, Qwest would have achieved parity under PO-9B. Viewed in context, as part of Qwest's overall loop performance and overall performance under checklist item 2, as it relates to OSS, the disparities under PO-9B are not competitively significant and do not, by themselves, warrant denial of Qwest's application.

For billing, Qwest consistently met the performance standards for metrics BI-1A, BI-1B, BI-2, and PO-7 in each state. 22/ Qwest met the parity standard for billing accuracy, metric BI-3A, in every month in Colorado and Idaho, and in five of the last six months in North Dakota. In Iowa, Qwest missed the parity standard twice, but CLEC bills were more than 99%

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Colorado for non-designed services, but Qwest achieved parity in three of the last four reported months.

21/ *Id.* Qwest met 99% of its CLEC installation commitments for 4,315 analog loops, 99% for 138 2-wire non-loaded loops, 100% for 15 4-wire non-loaded loops, 89% for 72 DS1 loops, 94% for 101 ISDN capable loops, 100% for 20 ADSL qualified loops, 91.87% for 182 conditioned loops, and 98.7% for 323 line shared loops.

22/ *Id.* 50. In North Dakota, Qwest missed the parity standard under PO-7A-C (GUI interface) twice in the last six months, but the 6-month CLEC average bill completion notification timeliness was higher than retail.

accurate and the 6-month CLEC average was higher than retail. In Nebraska, the 6-month CLEC average was only 0.77% short of parity with retail. *Id.*

Qwest met the parity standard for BI-4A, billing completeness, in every month in Nebraska and in five of the last six months in North Dakota, where the 6-month CLEC average was higher than retail. Qwest had multiple misses in the other three states, but the 6-month CLEC average was 97% in Colorado and Idaho and 94% in Iowa, in each case within 1% of retail. *Id.* ¶ 51. Viewed as a whole, these results demonstrate that Qwest is providing nondiscriminatory access to its OSS.

*UNE-P.* Qwest's performance in provisioning UNE-P POTS, UNE-P Centrex, and UNE-P Centrex 21 to CLECs has been strong. For installations, the only trouble spot has been metric OP-4, the average interval, for non-dispatch installations. Qwest missed the parity standard for that metric more than once for UNE-P POTS in Nebraska, Iowa, and North Dakota, but in the latter two states the 6-month averages were at parity, and in Nebraska the CLEC interval was less than three days, and shorter than retail, in the last two months. Qwest also missed the parity standard more than once for UNE-P Centrex in Colorado and UNE-P Centrex 21 in Iowa. *Id.* ¶ 52. In the *New Jersey* order, however, the Commission confirmed that it views the percentage of installation commitments met is a "more reliable indicator of provisioning timeliness." *New Jersey 271 Order* ¶ 138. Qwest's performance in meeting installation commitments, as measured by metric OP-3, has been outstanding. With two very minor exceptions, for each type of UNE-P, Qwest achieved parity in every month under OP-3 in each state, with percentages generally in the 95-100% range. 23/

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23/ The only exceptions were (1) UNE-P Centrex 21, no dispatch, in Colorado, where Qwest met parity in five of six months and the 6-month CLEC average (98.64%) was higher than retail;

CLEC trouble rates for UNE-P averaged about 1% across all states and products.

For UNE-P POTS, CLEC trouble rates were at parity with retail in five of six months in North Dakota, where the six-month CLEC average (1.04%) was only 0.06% above retail, and in every month in the other states. Although there were more disparities for UNE-P Centrex in Colorado, Idaho, and Iowa, the six-month average differences between wholesale and retail were only 0.74%, 0.51%, and 0.50%, respectively. Similarly, although there were multiple disparities for UNE-P Centrex 21 in Colorado and North Dakota, the six-month CLEC averages were within 0.11% and 0.48% of retail. Williams Reply Decl. at ¶ 53. These small disparities are not competitively significant.

Qwest's performance in clearing out of service reports within 24 hours (MR-3), clearing all troubles within 48 hours (MR-4), and its mean repair intervals (MR-6) was excellent. Qwest did not miss parity more than once in any state for any product. Repeat trouble rates (MR-7) likewise have generally been at parity, in part due to very low CLEC volumes. *Id.* ¶ 54. The only exceptions were the repeat trouble rates for UNE-P POTS in Iowa, where CLEC volumes were low and Qwest achieved parity in three of the last four months, and Colorado, where the difference between wholesale and retail in each month is only a handful of repeat troubles.

*Item 4, Unbundled Loops.* No commenter seriously questioned Qwest's unbundled loop performance. For analog and 2-wire non-loaded loops, which account for the vast majority of CLEC loops provisioned, Qwest met the applicable performance standards for each metric in each state in virtually every month. *Id.* ¶ 55. The few exceptions, all of which occurred in Nebraska, are not competitively significant. For analog loops, Qwest missed the

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and (2) UNE-P POTS, no dispatch, in North Dakota, where Qwest met parity five times and the

parity standard for installation commitments met twice, but achieved parity in the last four months and met more than 99% of its commitments to CLECs in May and June. *Id.* Qwest also missed the six day benchmark for average installation intervals twice, but Qwest met the benchmark in the last four months, and the six-month CLEC average was 5.48 days. *Id.* For 2-wire non-loaded loops, the CLEC trouble rate in Nebraska was not at parity with retail in two months, but the six-month CLEC average was less than 1%, and only 0.26% above retail. 24/

Covad argues that Qwest's line sharing repair performance is unacceptable.

Covad Comments at 31. To begin with, Covad ignores Qwest's installation performance, which is quite good. In each state with results, Qwest did not miss a single installation performance standard more than once in the last six months. Although CLEC volumes were low, Qwest likewise did not miss any repair performance standards more than once in Idaho, Iowa, or Nebraska. Williams Reply Decl. ¶ 56. The only trouble spot is Colorado, where Qwest's performance was not bad. The CLEC trouble rate was at parity with retail in the last four months, and the six-month CLEC average (1.40%) was lower than retail. Over the past six months, Qwest cleared more than 95% of all CLEC troubles within 48 hours. The repeat trouble rate for dispatch repairs was at parity from March through June, and the repeat trouble rate for non-dispatch repairs was at parity in four of the last five months. *Id.* Mean repair intervals were longer for CLECs, but Qwest expects the gap to close when it implements its plan to designate

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6-month CLEC average was 98.79%, only 0.25% short of retail.

24/ *Id.* Qwest also had multiple misses for non-designed analog loops in Colorado under OP-3 and OP-4, but the CLEC volume was extremely low because nearly all analog loops fall into the designed category. For example, in June Qwest met 99% of its installation commitments for 4,315 designed analog loops, and did not install any non-designed analog loops.

all line sharing trouble reports as “out of service,” which will give them the highest priority in the repair cue. 25/

*Items 5-13.* No commenters expressed concerns about Qwest’s commercial performance with respect to any of these checklist items. The only performance standard that Qwest missed more than once in any state was the trouble rate for UDIT above DS1 (checklist item 5) in Colorado, which was at parity in the last three reported months. Williams Reply Decl. ¶ 57. For all of these checklist items, Qwest’s performance as a whole is excellent.

*Item 14 - Resale.* AT&T alleges that provisioning intervals for CLEC resale orders are longer than retail intervals. AT&T Comments at 43. The facts belie that assertion. For all 12 resale products that Qwest tracks, instances of statistically significant performance disparities have been few and far between. The only metrics as to which Qwest missed parity more than once in the last six months were (1) new service installation quality for business resale in North Dakota, but Qwest achieved parity in three of the last four months; 26/ (2) average installation interval for Centrex 21 resale in Colorado, Iowa, and Nebraska, but wholesale volumes were low in each state, and the percentages of installation commitments met (OP-3) were at parity in every month; 27/ and (3) new service installation quality for DS1 resale in Colorado, where there were only nine CLEC installations in the last six months. *Id.*

On the repair side, Qwest’s performance was equally strong. The only problematic metric was MR-8, but in nearly every instance of multiple disparities, the difference

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25/ See Reply Declaration of Karen Stewart ¶¶ 44-50. Qwest will notify CLECs of this change by the end of July through the Change Management Process.

26/ Williams Reply Decl. ¶ 58.

27/ Qwest met 100% of its installation commitments to CLECs in Colorado and Iowa, and nearly 100% in Nebraska. *Id.*

between wholesale and retail was not competitively significant. In Colorado, retail trouble rates were lower than wholesale by a statistically significant margin more than once for residence, Centrex, and DSO, but in each case the six-month CLEC average trouble rate was within 0.30% of retail. *Id.* ¶ 59. In Nebraska, there were multiple disparities for business and PBX, but the six-month average differences between wholesale and retail were 0.25% and 0.20%, respectively. *Id.* In North Dakota, the six-month average difference between wholesale and retail business trouble rates was only 0.37%. 28/ These small differences do not put CLECs at a significant competitive disadvantage. 29/

Overall, Qwest's commercial performance clearly satisfies the requirements of Section 271. The performance results demonstrate that Qwest is providing interconnection and access to unbundled network elements in a nondiscriminatory fashion to CLECs.

**D. Qwest's Held Order Policy Does Not Skew The Performance Results**

Covad asserts that Qwest's new build policy masks Qwest's delays in filling competitors' orders, because competitors' held orders are excluded from several provisioning metrics. Covad Comments at 36-38. AT&T likewise complains that the policy has a profound impact on several metrics. AT&T Comments, Finnegan Decl. ¶¶ 118-19. The facts belie these claims.

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28/ *Id.* The trouble rate for Centrex resale in North Dakota was also higher than retail, but there were only 13 CLEC lines in service.

29/ The only resale service with wholesale trouble rates that are significantly higher than retail is DS1. In Colorado, Idaho, and North Dakota, CLEC trouble rates were roughly 2% higher, on average, than retail. Colorado Commercial Performance Results at 406; Idaho Commercial Performance Results at 382; North Dakota Commercial Performance Results at 315. DS1 resale, however, is a complex service that represents a tiny fraction of CLEC resale lines in service.

To begin with, the number of CLEC orders delayed due to lack of facilities is extremely small. A snapshot review of Qwest internal regional data for May 2002 showed that more than 99% of CLEC inward orders for unbundled loops were fulfilled. Williams Reply Decl. ¶ 62. AT&T's hypothetical assumption that 10% of all orders cannot be filled due to a lack of facilities is a gross exaggeration. AT&T Comments, Finnegan Decl. ¶¶ 120-21. AT&T and the other commenters know how many of their orders have been delayed due to lack of facilities. It is telling that none of them adduced any evidence of their experience.

Although commenters would like to hold Qwest accountable, in its provisioning performance results, for CLEC requests that require Qwest to build new facilities, that position is legally untenable. Qwest generally is not required to build new facilities for CLECs. <sup>30/</sup> Thus, it is perfectly reasonable to cancel orders that would require new construction. Although the commenters dispute Qwest's view on the "obligation" to build, the Commission has made clear that it will not deny a Section 271 application based on disputes over the precise scope of a BOC's obligation to build, if any. *Pennsylvania 271 Order*, 16 FCC Rcd at 17469-70 ¶ 91

Nonetheless, to allay CLEC concerns about its held order policy, Qwest added to its Montana SGAT an 11-step process, applicable to all UNEs, that includes a 30 business day hold period. Qwest is in the process of incorporating this language, which Covad approved, into the SGATs of every state in its region. *See Stewart Reply Decl.* at 3. During the 30 day that period, the order is reported under OP-15, Interval for Pending Orders Delayed Past Due Date,

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<sup>30/</sup> As part of its retail obligations, Qwest may have an obligation to build under Provider of Last Resort ("POLR") or Eligible Telecommunications Carrier ("ETC") obligations. In those cases, Qwest allows CLECs to step into the shoes of retail customers.

until a new due date is established. 31/ If during that 30 day period facilities become available, the order will be assigned a due date, completed, and reported in the appropriate installation metrics, including, OP-3, OP-4, and OP-6.

**E. Metric OP-5 Accurately Tracks Qwest's Installation Quality**

Covad questions the accuracy and reliability of Qwest's New Service Installation Quality measurement (OP-5). In particular, Covad asserts that because the underlying data for OP-5 "can never be reconciled," results under the metric are inherently suspect. Covad Comments at 42. This is a gross misrepresentation of the facts. In the course of the data reconciliation work, Covad requested that Liberty perform reconciliation not of metric OP-5, as defined and approved by the ROC TAG, but rather reconciliation of an installation quality metric Covad itself proposed. Williams Reply Decl. ¶ 67.

OP-5 captures installation quality consistent with the TAG's defined methodology. The metric was developed through extensive discussion during the ROC and Arizona workshops. The measurement was also addressed during TAG meetings and the Liberty Consulting PMA. The parties specifically discussed concepts about ordering and installation quality, and reached consensus on an OP-5 definition that captures all situations that generate trouble reports (received within 30 calendar days following installation of inward lines), whether triggered by ordering issues or by installation errors. Liberty audited Qwest's implementation of OP-5 and found that the metric generates accurate and reliable results. 32/

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31/ See Williams Reply Decl. ¶ 64. AT&T's assertion that OP-15 has a parity standard is wrong. The ROC TAG, after extensive discussion and consideration, agreed to designate OP-15 as a diagnostic metric. *Id.*

32/ See Attachment 5, Appendix D, Liberty PMA Final Report. To the extent OP-5 has any deficiencies, it tends to understate Qwest's performance, which favors CLECs. See Williams Reply Decl. at ¶¶ 69-71.

**F. Qwest Properly Categorized Eschelon's UNE-Star Lines As UNE-P**

Eschelon asserts that "Qwest is already reporting Eschelon's UNE-E/UNE-Star lines as UNE-P lines" in Qwest's performance results. Eschelon Comments at 28. They further contend that Qwest failed to provide the requisite notice for this change, which occurred "in approximately November of 2001." *Id.*

"UNE-Star" is an informal name given to various forms of UNE-P combinations offered to CLECs. The product title, "UNE-Star," does not appear in the PIDs. UNE-Star refers to services offered on a UNE-P basis that include business POTS-type, Centrex-type, and Centrex 21-type services. 33/

Performance measurement reporting changes are not within scope of CMP and are not governed by CMP guidelines requiring advance notification. 34/ Nonetheless, Qwest documents changes in results reports in a monthly "Summary of Notes" published shortly after each month's performance results are posted on Qwest's external website. *See* [www.qwest.com/wholesale/results/roc.html](http://www.qwest.com/wholesale/results/roc.html). Qwest notified CLECs of the change in results reporting from business lines to UNE-P in the Summary of Notes published with October 2001 results. Williams Reply Decl. ¶¶ 76-78.

**G. The Commission Should Reject AT&T's Request for Additional PIDs**

AT&T argues that the Commission should require Qwest to add additional PIDs, as recommended by KPMG. AT&T Comments, Finnegan Declaration on Performance Data and

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33/ Centrex services involve dedicated common blocks and network access registers (NARs), whereas Centrex 21 services involve shared common blocks and NARs. *See* Williams Reply Decl. ¶ 74.

34/ CMP deals with operational processes, whereas PID issues are regulatory in nature and are dealt with in different forums, such as the TAG meetings during the OSS test and long term PID administration meetings. Williams Reply Decl. ¶ 75.

Assurance Plans at 44-48. This argument has no merit. The Commission confronted an identical concern raised by AT&T in New York. There, the Commission held that “[w]e disagree with commenters who suggest that additional metrics must be added . . . , and note that the New York Commission has indicated that it will consider adding new metrics, if necessary, in the future.” *New York Section 271 Order* ¶439. The Commission should do the same here.

In any event, Qwest is committed to the long term PID administration process, which is beginning to take shape, *see Williams Reply Decl.* ¶ 81, and is prepared to address any proposed new metrics through that process. Moreover, Qwest has continued to develop and propose new metrics on its own. In June, Qwest began reporting results under diagnostic metric PO-20, which relates to new service order accuracy. Qwest also plans to propose a new billing metric, BI-5, which will measure the promptness with which Qwest acknowledges and resolves CLEC billing adjustment claims processed in the Service Delivery Center. These new metrics demonstrate Qwest’s continuing commitment to refine the PIDs to more accurately and meaningfully measure Qwest’s performance.

#### **IV. QWEST PROVIDES NONDISCRIMINATORY ACCESS TO ITS OPERATIONS SUPPORT SYSTEMS**

##### **A. The State Regulatory Authorities Uniformly Agree that Qwest’s OSS Satisfies Section 271**

The State Authorities are unanimous in their praise for the ROC OSS Test and agree that Qwest’s OSS satisfies the requirements of Section 271. For example, the CPUC notes that Qwest’s OSS Test was “the most comprehensive test to date of a BOC’s OSS,” and states that “Qwest provides CLECs with just, reasonable, and nondiscriminatory access to its systems, databases and personnel . . . in accordance with the Act and FCC rules.” CPUC Evaluation at 36, 44. Similarly, the IUB states that “the ROC test of Qwest’s OSS evaluated every aspect of

Qwest's OSS that affects local competition," and concluded that the "[t]est results reported and analyzed in the *Final Report* conclusively demonstrate that Qwest is capable of providing CLECs with non-discriminatory access to its OSS consistent with the requirements of Section 271." IUB Consultation and Evaluation at 32, 33. The Nebraska PSC states, meanwhile, that "[a]fter carefully examining the results of the ROC OSS Test [it found] that Qwest's OSS was adequate to meet the relevant checklist requirements." NPSC Comments at 7. *See also* NDPSC Comments at 203; IPUC Consultation at 6.

That Qwest did not satisfy some of the evaluation criteria in the ROC OSS Test does not affect the State Authorities' conclusions. For example, the IPUC states that such issues do not negate an overall finding that Qwest's OSS satisfies Section 271. IPUC Consultation at 6. This view is echoed by the CPUC, which notes that "[w]here the test shows Qwest not meeting the relevant standard, the [CPUC] is convinced that the deviation is . . . trivial for competitive purposes." CPUC Evaluation at 44-45. "Taken as a whole," the CPUC notes, "Qwest's OSS meets the competitive checklist criteria." *Id.*

The Department of Justice agrees with the State Authorities. For example, the Department acknowledges that, with respect to the ROC OSS Test, "[a] thorough, detailed, and open process was used to set up the collaborative governing structure, determine the overall scope of the test, select third-party testers, and design the Master Test Plan and [PIDs]." DOJ Evaluation at 6. The Department further confirms that the overall record in this proceeding could "justify the granting of long distance authority in Colorado, Idaho, Iowa, Nebraska and North Dakota." *Id.* at 2.

**B. Recent Commercial Performance Results Confirm that Qwest Provides CLECs with Non-Discriminatory Access to its OSS**

Qwest's commercial performance in May and June confirms that it continues to provide CLECs with non-discriminatory access to its OSS. Qwest satisfied the overwhelming majority of OSS-related PIDs in May and June. *See* OSS Reply Decl. ¶ 4. More specifically, Qwest satisfied every pre-ordering PID, and the vast majority of ordering and billing PIDs, in those months. *Id.* The few instances in which Qwest did not meet a PID standard or benchmark are easily explainable and do not affect a finding of overall compliance. *See id.* ¶¶ 5-40.

**C. The Commenters Attempt to Distort Qwest's Strong OSS Record**

**1. Pre-Ordering**

Qwest provides CLECs with access to pre-order functions in substantially the same time and manner as Qwest, or, for functions that lack a retail analogue, in a manner that affords CLECs a meaningful opportunity to compete. *See* OSS Decl. ¶¶ 56-159. For the most part, CLECs raise only one issue in connection with Qwest's pre-ordering capabilities: loop qualification. As explained below, however, the CLECs' claims are not supported by the facts and, in any case, do not detract from a finding of Section 271 compliance. Indeed, CLECs' claims regarding Qwest's loop qualification tools are not new: all were raised in the state Section 271 proceedings, and all were rejected by the State Authorities.

Qwest provides CLECs with detailed loop make up information from its back office systems and databases, including LFACS. OSS Reply Decl. ¶ 41. Contrary to the CLECs' suggestions, Qwest does not restrict CLECs to the information available only to Qwest's retail representatives. Rather, Qwest provides CLECs with underlying loop make-up information that permits CLECs to determine whether the loop will support the CLEC's DSL service. *See* OSS Reply Decl. ¶ 42. Indeed, Covad stated in another proceeding that the Raw Loop Data Tool

provides all categories of information Covad requires in order to determine whether it can provide DSL service. 35/ See OSS Reply Decl. ¶ 41 n.55; Reply Exhibit LN-2.

AT&T claims that Qwest deprives CLECs of necessary back office information relating to spare loop facilities to determine if CLECs can serve areas with integrated digital loop carrier (IDLC). 36/ Qwest's loop qualification tools and web-based Wire Center Raw Loop Data tool provide detailed information regarding the presence of pair gain devices. OSS Reply Decl. ¶ 65. Furthermore, since an August 2001 enhancement, Qwest's Raw Loop Data Tool has provided information on spare facilities, including those that are not connected to the switch, even though the Commission has stated that such information is not a condition of Section 271 relief. 37/ *Kansas/Oklahoma 271 Order* ¶ 128. Regardless, Qwest will agree to incorporate an audit provision, based on language approved by the Washington Utilities Transportation Commission, to assure CLECs that Qwest provides all requisite loop qualification information. See OSS Reply Decl. ¶ 68.

Covad's sole remaining complaint regarding Qwest's tools is that the Raw Loop Data Tool at times returns inaccurate information. See Covad Comments at 19-20. Covad's allegations, however, are based on data that are more than a year old and do not reflect the numerous enhancements to the loop qualification tools described in the OSS Reply Declaration.

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35/ Covad's claim that KPMG's test did not examine Qwest's back office systems and databases is rendered moot by Covad's admission that the Raw Loop Data Tool currently provides all categories of information Covad needs to qualify loops for its DSL service.

36/ AT&T also claims that Qwest's tools do not return information on "loop conditioning." AT&T Comments, Finnegan/Connelly/Menezes Declaration ¶ 127. This claim is curious since the Raw Loop Data Tool and Loop Qualification Tool together return detailed information on the presence, type and location of bridged taps and load coils.

37/ The material AT&T cites to support its claim that Qwest does not provide spare facility information, see AT&T Comments, Finnegan/Connelly/Menezes Declaration ¶ 128, pre-dates this enhancement.

Among other improvements, Qwest now provides loop make-up information for non-listed and non-published numbers, has incorporated a "recent changes" feature that returns the most current LFACS information in response to a query, and has significantly revamped the Loop Qualification Tool to return loop make-up information in a user-friendly format based on LSOG 5 guidelines. Covad's Comments ignore these and other enhancements Qwest has made that address many of Covad's stated concerns. Covad also ignores Qwest's manual process, *see* OSS Decl. ¶ 70, whereby CLECs can request that Qwest investigate incomplete, unclear, or potentially inaccurate results.

This Commission previously has addressed allegations similar to Covad's and has found that alleged inaccuracies in a BOC's loop qualification information are not evidence of discrimination where the BOC relies upon the same data source as CLECs. *See Kansas/Oklahoma 271 Order* ¶ 126; *Massachusetts 271 Order* ¶ 66. As KPMG confirmed, the data source underlying the Retail and Wholesale loop qualification tools is the same. *See Final Report* at 124. 38/ Thus, Qwest meets Commission requirements for providing access to loop make-up information.

AT&T and Covad claim that Qwest must create the functionality for CLECs to perform mechanized loop tests ("MLTs") as a pre-order functionality. The Commission's previous Section 271 decisions do not mandate the performance of MLTs on a pre-order basis as a condition of compliance with the *UNE Remand Order*, and none of the State Authorities has required Qwest to create this functionality. Contrary to the CLECs' allegations, a pre-order MLT will provide neither more complete nor more accurate loop make-up information. *See* OSS Reply Decl ¶ 45.

## 2. Ordering

As explained in Section IV of Qwest's opening OSS Declaration, Qwest provides CLECs with nondiscriminatory access to the OSS functions necessary for placing wholesale orders. *See* OSS Decl. ¶¶ 160-375. This is because Qwest provides CLECs with accurate and timely order confirmation, rejection, completion and jeopardy notices, and flows-through wholesale orders at parity with retail. *See id.* The CLECs in their comments attempt to discredit Qwest's abilities by mischaracterizing the company's performance and exaggerating deficiencies. As explained more fully below, none of these claims withstands scrutiny.

### a) **Qwest's Manual Processing Errors are Within an Acceptable Range and Do Not Affect CLECs' Ability to Compete in the Local Market**

AT&T, Covad and WorldCom all claim that Qwest commits excessive errors while manually processing CLEC orders. *See* AT&T Comments at 41-41 and Finnegan/Connolly/Menezes Decl. ¶ 160-174; Covad Comments at 39-42; WorldCom Comments at 11-12 and Lichtenberg Decl. ¶¶ 39-45. AT&T even makes the unsubstantiated assertion that Qwest commits errors on up to 15 percent of its manually processed orders. *See* AT&T Comments at 42 and Finnegan/Connolly/Menezes Decl. ¶ 168. But, other than a few anecdotes, the only evidence AT&T and the other CLECs offer to support their claim is a single Observation (O3110) that was closed/unresolved in the Third Party Test based on a mere eight manual processing errors. *See id.*

During the Third Party Test, Qwest 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 evaluation criterion 12-11-4, but the

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38 Covad suggests that Qwest's Retail DSL tool has the functionality to "update" loop make up information. It does not. *See* OSS Reply Decl. ¶ 58 n. 64.

issue raised by this criterion was limited, and, given Qwest's otherwise excellent performance during the test, easily explainable. *See id.* at 145-146.

The details of why KPMG was "unable to determine" this criterion – as well as two related criteria – were described in Qwest's opening OSS Declaration and are elaborated on in its OSS Reply Declaration. *See* OSS Reply Decl. ¶¶ 76-79; OSS Decl. ¶¶ 351-352.

Generally, concerns arose in connection with Qwest's manual processing of orders. *See id.* But these concerns were based on a mere eight LSRs that Qwest did not manually process correctly during the test. *See id.* The relatively small degree of error committed by Qwest on manually processed orders suggests that CLECs suffer no material competitive harm from them. *See* OSS Reply Decl. ¶¶ 80-82. Surely, these numbers provide no basis for AT&T's sweeping generalizations. *See* AT&T Comments at 42 and Finnegan/Connolly/Menezes Decl. ¶ 168.

The CPUC found "that the human errors uncovered by KPMG [in the Third Party Test] do not constitute a fatal flaw to Qwest's application." CPUC Evaluation at 39. Indeed, the CPUC recognized that any evidence of manual processing errors presented thus far "is not so great as to throw the entire Qwest OSS out of compliance." *See id.* The IPUC also supports approval on this point, stating that "[t]he combined efforts of KPMG and Liberty provide reasonable assurances that Qwest's performance reporting was accurate at the conclusion of the test." IPUC Consultation at 7-8.

Qwest has – and continues to take – quality assurance measures directed at reducing the number of human errors in processing. *See* OSS Reply Decl. ¶¶ 88-89. 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.* ¶¶ 90-92. Although this PID may be modified over time through CLEC input in the context of the Long Term PID Administration forum, Qwest began

reporting data under this measure with June results reported in July 2002. *See id.* ¶ 92. In the PID Qwest submitted to the Long Term PID Administration forum, Qwest proposed later phases that would include additional fields, elimination of sampling, and mechanized data collection. *See id.* ¶ 91. The development of this PID has given the State Authorities further comfort that the manual processing issue does not preclude a finding that Qwest is compliance with Section 271. *See, e.g.*, IPUC Consultation at 7 (“The [Idaho PUC] . . . is confident the long term Section 271 effort can develop metrics that will adequately measure Qwest’s reporting in this area”); CPUC Evaluation at 39. The June results for PO-20 confirm that Qwest can manually process orders with limited human error. *See* OSS Reply Decl. ¶ 39.

Commercial data demonstrate that CLECs are not suffering any material impact from manual processing errors, and CLEC commenters present no evidence that they have been harmed by the level of human error in Qwest’s region. Instead, they offer only surmise as to how they *could* be harmed by human error. In hearings before the State Authorities, AT&T claimed that human error had three potential impacts on CLECs: (1) longer than expected due dates, (2) erroneous rejects, and (3) improperly installed services. *See* Attachment 5, Appendix P, Colorado OSS hearing, June 10, 2002 at 156, lines 11-24.

The evidence in the record, however, demonstrates that CLECs are not experiencing any of these potential impacts in Qwest’s region. First, with regard to longer-than-expected due dates, Liberty reviewed more than 2000 unbundled loop orders, and while Liberty did find that Qwest made human errors while populating application dates on service orders, those errors were found on fewer than 0.5% of the LSRs reviewed; significantly, *not a single error resulted in the CLEC receiving a longer-than-expected due date.* *See* Performance Measures Reply Decl. ¶ 25. Furthermore, KPMG specifically reviewed whether Qwest properly

assigned due dates requested by the Pseudo-CLEC, and found that Qwest had satisfied that test criterion. *See Final Report* at 82 (Evaluation Criterion 12-5-8). Finally, these test results are confirmed by Qwest's tracking of internal data, which demonstrate that Qwest properly assigned application dates on 96% to 99.5% of manually-processed orders. *See OSS Reply Decl.* ¶ 82.

Meanwhile, Qwest's data demonstrate that it erroneously rejects less than one percent of manually processed orders. *See OSS Reply Decl.* ¶ 83.

With regard to AT&T's third claim, improperly-installed services, both the OSS test and Qwest's PID results demonstrate that CLECs are not experiencing a problem in Qwest's region. KPMG found that Qwest had satisfied the test criteria relating to (1) whether the features and other elements requested on LSRs were correctly populated on the resulting CSRs and (2) whether the features requested on LSRs were properly installed in the switch. *See Final Report* at 182-187 (Evaluation Criteria 14-7-12, 12-1-2, 12-1-3 and 12-1-4). Furthermore, Qwest's OP-5 results demonstrate that Qwest consistently installs service for CLECs with as-high or higher quality than the services it installs for its end-users. *See Qwest July 2 Ex Parte on May Performance Results; Qwest July 23 Ex Parte on June performance Results; see also OSS Reply Decl.* ¶ 85.

In the few instances in which manual processing errors do occur, CLECs have several (and soon will have more) resources to which they can turn to resolve issues that may arise. *See OSS Reply Decl.* ¶ 93. 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.* 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.

**b) Qwest Rejects LSRs Only When Appropriate**

AT&T claims that Qwest rejects nearly one-third of all electronically-submitted CLEC orders. *See* AT&T Comments at 40, 43 and Finnegan/Connolly/ Menezes Decl. ¶¶147-149. But AT&T can support its assertion only by identifying aberrational or aggregate PO-4 results that do not take into account the fact that rejections are often the product of CLEC error. *See* OSS Reply Decl. ¶ 95.

PO-4 is a diagnostic PID designed to help Qwest and CLECs identify potential problems with electronic and manual CLEC LSR submissions. *See id.* ¶ 97. Because PO-4 results are reported for all CLECs combined, aggregate reject rates are sometimes artificially inflated by CLECs that submit high volumes of LSRs incorrectly (resulting in their rejection). *See id.* ¶ 96. On a CLEC-specific basis, Qwest's PO-4 results show that some CLECs are capable of achieving low reject rates. *See id.* ¶ 100-109. This proves that Qwest is capable of achieving low reject rates when CLEC LSRs are submitted correctly.

WorldCom contends that KPMG did not assess Qwest's ability to identify multiple errors in an LSR. *See* WorldCom at 15 and Lichtenberg Decl. ¶ 56. Contrary to WorldCom's assertion, however, the issue of identifying and testing multiple errors was addressed as part of the Vendor Technical Conference held on May 15, 2002. Transcript of ROC OSS 271 Vendor Technical Conference #3 at 153-154 (Question 11). At the conference, WorldCom asked HP: "Did HP's evaluation, which found that accurate and clear error messages were returned on resale orders, include instances where multiple error messages were returned for one LSR, so that HP confirmed that the returned error messages reflected all errors included on the LSR. [sic]" *Id.* HP answered in the affirmative. *Id.* at 154. Although HP did not submit

LSRs with multiple orders intentionally, in the course of transaction testing HP encountered multiple unplanned errors in LSRs which allowed it to assess and validate Qwest's response and processes.

**c) LSRs Can Successfully Flow-Through Qwest's OSS**

AT&T and WorldCom claim that an excessive number of LSRs that are electronically submitted to Qwest fall out for manual processing. AT&T Comments at 41; WorldCom Comments at 10. WorldCom argues in particular that Qwest's flow-through rate for UNE-P orders has been poor. WorldCom Comments at 11 and Lichtenberg Decl. ¶37. But Qwest's commercial performance results under PO-2B show that, in January through June, Qwest flowed through a high rate of flow-through-eligible orders for all CLECs in the aggregate. *See* OSS Reply Decl. ¶¶ 110; OSS Decl. ¶¶ 309-331. The Justice Department found that "Qwest's flow-through of eligible orders generally meets the relevant benchmarks of 70 to 90 percent and has done so from January through May of this year." *See* DOJ Evaluation at 17. In fact, Qwest's flow-through rates have increased steadily over time and were at their highest levels in the past two months. OSS Reply Decl. ¶ 110.

CLEC-specific performance results further support the conclusion that Qwest is capable of achieving high PO-2B flow-through rates for all products, including UNE-P. *See* OSS Reply Decl. ¶ 111. Over the past six months, CLECs have achieved monthly flow-through rates for UNE-P under PO-2B ranging from 0% to 100%. *See id.* ¶¶ 111-112. When a CLEC's flow-through rate has been low, Qwest has analyzed the cause and has offered the CLEC additional training. *See* OSS Decl. at n.419. Qwest's CLEC-specific performance results show that low aggregate flow-through rates, to the extent they exist, stem from deficiencies in CLEC systems, not Qwest's, and thus should not affect a finding of Section 271 compliance. Indeed,

the FCC has held that “a BOC is not accountable for orders that fail to flow-through due to [CLEC]-caused errors.” *Georgia/Louisiana 271 Order* ¶ 145.

AT&T argues that Qwest’s performance with respect to flow-through of *all* orders, not just *flow-through-eligible* orders, is a more accurate barometer of Qwest’s flow-through capabilities and that Qwest’s flow-through rates for all orders under PO-2A are deficient. AT&T Comments, Finnegan/Connolly/Menezes Decl. ¶¶ 151-152. But during the negotiations on Qwest’s PIDs, AT&T agreed that PO-2A, which measures overall flow-through, should be diagnostic, and that a benchmark should apply only to PO-2B, which measures flow-through only on eligible orders. *See* Attachment 5, Appendix P, Colorado OSS Hearing Transcript, June 10, 2002, at 128.

Furthermore, Qwest’s CLEC-specific flow-through rates under PO-2A are comparable to those of BOCs that have received Section 271 relief. *Compare* Colorado Commercial Performance Results at 52-55 (flow-through rates in June under PO-2A-2 of 48% to 75% for resale, unbundled loops, LNP and UNE-P) *with* *New York 271 Order* at n.512 and 569 (flow-through rates for resale of 45% to 54% and for UNEs of 59% to 63%); *Massachusetts 271 Order* ¶ 49 (total flow-through rates of 54% to 67%); *Rhode Island 271 Order* at Appendix B (flow-through rates for resale of 42% to 56% and for UNEs of 60% to 79%); *Maine 271 Order* at Appendix B (flow-through rates for resale of 40% to 64%); *Vermont 271 Order* at Appendix B (flow-through rates for resale of 43% to 51% and for UNEs of 45% to 58%); *New Jersey 271 Order* at Appendix B (flow-through rates for resale of 79% to 82% and for UNEs of 35% to 54%).

Moreover, CLEC-specific flow-through rates under PO-2A show that Qwest is capable of achieving even higher flow-through rates. *See* OSS Reply Decl. ¶¶ 113-119. That

some CLECs have been able to achieve high flow-through rates under PO-2A demonstrates that low aggregate performance levels to the extent they exist may be attributable to the CLEC, not Qwest. FCC precedent mandates that Qwest not be held accountable for such CLEC deficiencies. *Georgia/Louisiana 271 Order* ¶ 145.

**d) Qwest's FOCs are Reliable**

Covad claims that Qwest discriminates by sending them “fake FOCs.” *See Covad Comments* at 28-31. Covad bases this claim on Qwest's CLEC-specific results for PID PO-15 (Number of Due Date Changes). *See id.* at 28-29. But a significant percentage of due date changes are improvements in the due date, which helps CLECs. *See OSS Decl.* ¶ 123. In May, under PO-15, nearly 30% of all due date changes in connection with service orders completed prior to (or on) the original due date related to changes to earlier, CLEC-approved due dates. *See OSS Decl.* ¶ 125, n.139.

Covad contends that Qwest transmits multiple FOCs to CLECs because Qwest “is not doing the preliminary work necessary” prior to sending the FOC. *Covad Comments* at 29. This is not true. Qwest uses a FOC to communicate that it has received the CLEC request, issued an internal service order, and assigned a due date to the request. *See OSS Reply Decl.* ¶ 120. In certain instances, Covad has elected to receive multiple FOCs (rather than jeopardy notices, as do other CLECs). *See id.* ¶ 121. In other instances, Qwest issues multiple FOCs to reflect the varying status of an order. *See id.* ¶ 123. But in all cases, the issuance of multiple FOCs is based on agreed-upon business rules. *See id.* Furthermore, Qwest's provisioning measures, such as Commitments Met (OP-3), are measured from the due date contained on the first FOC sent by Qwest. Qwest is performing consistently at a very high level under OP-3. The commercial data demonstrate that Qwest is consistently meeting the due date on the first FOC

sent, and that CLECs can rely on the due dates set forth on Qwest's FOCs. There is no Section 271 deficiency here.

**e) Qwest Provides Timely Jeopardy Notices to CLECs**

WorldCom claims that Qwest issues jeopardy notices inappropriately after issuing a FOC. *See* WorldCom Comments at 25 and Nielson Decl. ¶ 4. But the limited circumstances in which Qwest sends a jeopardy notice after a FOC were discussed with, and agreed to by, CLECs. *See* OSS Decl. ¶¶ 127-128. Notably, most of the scenarios in which jeopardy notices are sent after FOCs are within the CLECs' control. *See id.* ¶ 129. This issue is not Section 271-affecting.

Recent and historical commercial performance shows that, contrary to AT&T's and WorldCom's claims, Qwest provides timely jeopardy notices to CLECs. *See id.* ¶ 130. Moreover, Qwest's performance for installations commitments met (OP-3) demonstrates that few jeopardy notices must be sent relative to total orders. *See id.* The ROC OSS Test supports this evidence, and the few "not satisfied" evaluation criteria do not affect this conclusion. *See id.* ¶ 132. The Colorado and Idaho PUCs recently agreed, stating in their comments that Qwest's performance in connection with jeopardy notices is satisfactory. *See id.* ¶¶ 134-136.

**f) CLECs Can Successfully Integrate Pre-Order/Order Information Using Qwest's OSS**

WorldCom and AT&T argue that Qwest does not offer sufficient proof that CLECs can successfully integrate pre-ordering and ordering information. WorldCom Comments at 7; AT&T Comments at 39. But Qwest already has presented considerable evidence that it offers CLECs this capability. *See* OSS Decl. ¶¶ 195-201. This evidence includes actual commercial usage through affirmations from two EDI service providers – Telcordia and Nightfire – that provide CLECs the capability to integrate through IMA-EDI interfaces. It also

includes confirmation from HP that CLECs have the ability to integrate pre-order responses with order transactions. *See* OSS Decl. ¶¶ 199-200, Exhibit LN-OSS-12 (Telcordia Letter), Exhibit LN-OSS-13 (Nightfire Letter); LN-OSS-11 (HP Pre-Order to Order Integration Report, Version 5.0, April 15, 2002) at 10.

AT&T claims that the affirmations by Telcordia and Nightfire are immaterial because they are not CLECs; rather, they are companies that design EDI interfaces. AT&T Comments at 39 and Finnegan/Connolly/ Menezes Decl. ¶ 122. But that is precisely the point. Because CLECs use the integration capability developed by Telcordia and Nightfire, this information demonstrates that CLECs can, in fact, integrate pre-order and order information. OSS Reply Decl. ¶ 137. Meanwhile, New Access, a CLEC that operates in Colorado, Iowa, Nebraska and North Dakota, confirms that it performs pre-order/order integration through its IMA-EDI interface. *See* OSS Reply Decl. ¶ 137; Reply Exhibit LN-15 (New Access Letter). Taken as a whole, this evidence is similar to, but more compelling than, the evidence relied on by the FCC when it approved SBC's application for interLATA authority in Texas. *See Texas 271 Order* ¶¶ 154-56 (SBC submitted letters from two CLECs and a Telcordia analysis of integration).

WorldCom attempts to associate the rejection of a high percentage of its orders with difficulties in integration. WorldCom Comments at 7. But WorldCom lacks evidence to support this claim. Actual commercial usage and independent third-party testing demonstrate that CLECs that have developed integrated interfaces can achieve low rates of rejected LSRs. OSS Reply Decl ¶¶ 137-138; Confidential Reply Exhibit LN-18 (CLEC-Specific Reject Rates). AT&T submits that it has experienced problems in attempting to populate pre-ordering data electronically into an LSR. AT&T Comments, Finnegan/Connolly/Menezes Decl. ¶ 124. The

evidence indicates, however, that AT&T can successfully integrate pre-order/order information. OSS Reply Decl. ¶ 139; Confidential Reply Exhibit LN-18 (CLEC-Specific Reject Rates).

AT&T and WorldCom further claim that HP found that it is difficult for CLECs to integrate pre-order/order information successfully through IMA-EDI. AT&T Comments, Finnegan/Connolly/Menezes Decl. ¶ 123; WorldCom Comments at 8. This completely mischaracterizes HP's findings. For both LSOG 3 and LSOG 5, HP found that "CLECs can utilize Qwest's EDI PreOrder transactions to automatically populate an order without data manipulation." See LN-OSS-11 (HP Pre-Order to Order Integration Report, Version 5.0, April 15, 2002) at 10. This is a clear endorsement of Qwest's pre-order/order integration capabilities. In fact, during the ROC OSS Test, HP developed an EDI interface that was integrated between pre-order and order, and HP used that integration capability to submit LSRs. See Attachment 5, Appendix P, Colorado OSS Hearing, June 10, 2002, at 89-97.

WorldCom blatantly mischaracterizes HP's Report as providing that "a CSR to LSR parsing would be a very challenging and complex undertaking for a CLEC with an Information Technology team experienced in EDI development." See WorldCom Comments at 8. But HP's report, properly quoted, states that "a CSR to LSR parsing would be a very challenging and complex undertaking for a CLEC with an Information Technology team *that was not* experienced in EDI development." See LN-OSS-11 (HP Pre-Order to Order Integration Report, Version 5.0, April 15, 2002) at 9; OSS Reply Decl. ¶ 140.

WorldCom also asserts that the parsing capability that Qwest offers through IMA-EDI is deficient. WorldCom Comments at 7-8, Lichtenberg Decl. ¶ 21. Once again, this claim is belied by the facts. Qwest has demonstrated that it offers ample parsing capability to CLECs by providing, in its Developer Worksheets, a comprehensive list of the data elements that