

130. As part of its OSS obligations, Qwest is required to give carriers the ability to integrate pre-ordering and ordering functions – that is, the ability “to transfer pre-ordering information (such as a customer’s address or existing features) electronically into the carrier’s own back office systems and back into the BOC’s ordering interface.” *Georgia/Louisiana 271 Order*, ¶ 119; *Texas 271 Order*, ¶ 152. Without the ability to fully integrate pre-ordering and ordering functions, a CLEC is placed at a severe competitive disadvantage, because it “would be forced to re-enter pre-ordering information manually into an ordering interface, which leads to additional costs and delays, as well as greater risk of error.” *Id.*: *New York 271 Order*, ¶ 137.

131. In determining whether a BOC has adequately provided CLECs with the ability to integrate pre-ordering and ordering functions, the Commission does not simply inquire whether it is possible to transfer information from pre-ordering to ordering interfaces. Rather, the Commission analyzes “whether the BOC enables *successful* integration by determining if competing carriers may, or have been able to, automatically populate information supplied by the BOC’s pre-ordering systems onto an order that will not be rejected by the BOC’s ordering systems.” *Georgia/Louisiana 271 Order*, ¶ 119 (emphasis in original).

132. Qwest has not shown that it enables CLECs to integrate its EDI pre-ordering and ordering interfaces successfully, notwithstanding its claim to the contrary. *See* Application at 123; OSS Decl., ¶¶ 189-192. Qwest supports its claim by citing the third-party testing conducted by Hewlett-Packard during the ROC test, and letters presented by Telcordia, Nightfire, and New Access. *Id.* & Exhs. LN-OSS-13 – LN-OSS-15. HP, Telcordia, and Nightfire, however, are not CLECs. They are companies with extensive expertise in highly

technical computer systems projects. Qwest itself states that Telcordia and Nightfire “design and construct EDI interfaces for CLECs.” Application at 123.

133. The undated, three-sentence letter from New Access that Qwest cites also provides no support for its claim. *See id.*; OSS Decl., Exh. LN-OSS-15.⁸⁶ The letter does not describe who developed the alleged integration capability used by New Access, when New Access began to auto-populate LSRs, and the extent to which New Access auto-populates LSRs. Moreover, the claim of New Access that it uses EDI pre-ordering data to populate EDI order translations is inconsistent with Qwest’s exhibit regarding the CLECs’ use of its test environment, which states that * * * * *
* * * * * OSS Decl., Exh. LN-OSS-70 at 3-4.⁸⁷ In any event, the Commission has never previously found a letter from a single CLEC, written in vague and highly conclusory terms,

⁸⁶ Although the letter from New Qwest has a fax date of June 19, 2002, the letter itself contains no date. Qwest did not cite, or include, the New Access letter when it filed its first, five-State *Qwest I* application on June 13, 2002. Indeed, Qwest did not even advise CLECs of the New Access letter until late June, when it filed comments in the Section 271 proceedings in Arizona, after the period for conducting discovery had ended.

⁸⁷ Based on limited informal conversations that AT&T recently had with New Access, it is AT&T’s understanding that New Access uses Qwest’s EDI interface only to submit suspend/restore or disconnect orders, and that the only pre-ordering functions that New Access uses are the address validation function and retrieval of a customer service record (“CSR”). New Access indicated that to AT&T that it was advised by Qwest to integrate only the address validation function in order to populate address information into the LSR, because that function would be a more reliable source of address information. New Access further indicated that it submits relatively low volumes of such orders to Qwest, and required approximately one and one-half years to develop the limited integration capability that it has managed to achieve.

to be a sufficient basis for concluding that CLECs “have been able to successfully integrate both pre-ordering and ordering.”⁸⁸

134. HP’s ROC third-party testing also fails to show that CLECs can successfully integrate EDI pre-ordering and ordering functions. HP’s reports on its integration testing make clear that it would be extremely difficult, if not impossible, for a CLEC to achieve successful integration:

*The integration process is highly dependent on the internal application systems(s), EDI, translator telecom expertise and integration experience of the CLEC. With that stated, HPC does not feel that [there] are any issues that would prohibit a CLEC from integrating Qwest data with their internal application system(s). This does not mean that there are not issues that would have to be resolved between Qwest and the CLECs, but simply that these issues are not insurmountable.*⁸⁹

135. HP’s findings show that CLECs would be required to employ a variety of outside systems analysts, programmers and developers (employed by sophisticated companies such as HP) in order to have any prospect of achieving integration successfully. The prospects of such success are dubious at best.

136. AT&T, which has significant technical expertise, has experienced significant problems in attempting to populate pre-ordering data electronically into an LSR from Qwest’s EDI pre-ordering interface. RBOCs such as Verizon and BellSouth have designed their

⁸⁸ See, e.g., *Georgia/Louisiana 271 Order* ¶ 123 (finding that four CLECs had stated that they were able to integrate successfully); *Texas 271 Order* ¶¶ 154-155 & n.417 (finding that as many as three CLECs had integrated successfully, one of which had been submitting orders for at least ten months).

⁸⁹ See OSS Decl., Exh. LN-OSS-10 at 40 and Exh. LN-OSS-11 at 39 (emphasis added).

parsed CSR so that the information in the service and equipment ("S&E") section of the CSR is based on the end-user's telephone number ("TN"). Thus, in the S&E section of the parsed CSRs of these RBOCs, the telephone number is followed by the line-based features associated with the TN, including the primary interexchange carrier ("PIC") code, the local PIC ("LPIC") code, the line class code, and features. The CLEC's systems therefore "know" what information follows the TN, and where the information is (since the number of digits for each entry are defined in the RBOC's parsing rules). This design enables the CLEC to locate the data and populate the local service request ("LSR") in an efficient manner, since the LSR is also TN-oriented.

137. By contrast, although Qwest maintains the TN orientation for LSRs, Qwest has grouped information in the S&E section of the CSR based on the universal service ordering codes ("USOCs") for the various products and services ordered by the customer. Each USOC on Qwest's parsed CSR is followed by a string of data which contains the telephone number associated with the USOC. CLECs using Qwest's parsed CSR must parse the data in the S&E section to determine the applicable TN as well as the line-based features associated with that particular TN. Thus, for example, the CLEC would be required first to locate all USOCs, then to locate the TN field identifier ("FID"), and then to search separately for the 7-digit (or 10-digit) number that is the customer's TN, the four-digit number that constitutes the PIC associated with that TN, the digits for the intraLATA carrier PIC, the digits for the line class code, and each line-based feature. Because customers commonly order more than one feature, the parsed CSR typically contains several strings of data (one for each USOC), with each USOC containing a separate telephone reference. As a result, the time and resources that the CLEC would be required to devote to searching for the correct TN and line-based features outweigh any benefits

that might be obtained from using the parsed CSR – particularly where, as in AT&T’s case, the CLEC intends to offer local exchange service on a mass-market basis.

138. Because Qwest’s illogical and cumbersome orientation of its parsed CSR precludes CLECs from using computer-based engineering to efficiently auto-populate the S&E data into the LSR, and because Qwest has not published any business rules for parsing pre-ordering data,⁹⁰ AT&T simply displays the pages of the data in the S&E section and *manually* populates it into the LSR. In short, Qwest’s failure to use the telephone number as the reference point for the S&E section of the CSR precludes AT&T from successfully, and fully, integrating pre-ordering and ordering functions.

139. In addition to its failure to enable CLECs to integrate pre-ordering and ordering functions successfully, Qwest has failed to meet its obligation to enable CLECs using EDI as their ordering interface to integrate data from pre-ordering interfaces into their own back-end systems. Qwest uses the address information in its PREMIS database to validate the address information on LSRs submitted by CLECs. However, for migration orders, CLECs who use the EDI pre-ordering and ordering interfaces use the customer service record (“CSR”) as the source of the address information that they include on the LSR.⁹¹ The address information for the CSR

⁹⁰ See, e.g., transcript of proceedings held April 17, 2002, in Arizona Corporation Commission Docket No. T-00000A-97-0238, *In the Matter of US WEST Communications, Inc.’s Compliance With § 271 of the Telecommunications Act of 1996*, at 17-20, 23-26, 30 (testimony by Hewlett-Packard that Qwest has provided no documentation that would specifically advise CLECs on how to parse or integrate, and that a CLEC “would struggle as far as trying to build an interface based upon Qwest’s documentation”).

⁹¹ Because a customer on a migration order is already a retail customer of Qwest, a CLEC can simply use the address information on the customer’s CSR to populate the migration order. A

is derived from Qwest's CRIS database. Address information for the same customer may be different, or shown differently, in CRIS and PREMIS. If a CLEC populates its service request using address information from the CSR provided by Qwest, its order will be rejected when the customer's address on the CSR (from CRIS) is different from the customer's address stored in PREMIS.

140. The order rejections resulting from "mismatches" in the address information in CRIS and PREMIS deny parity of access to CLECs. Order rejections delay service to the customer and increase a CLEC's costs, since a CLEC must send a supplemental order to Qwest once it has been advised that the LSR has been rejected. These problems are not experienced by Qwest's retail operations, which use interfaces that will not even allow a representative to release an order into the downstream provisioning systems unless and until the address on the order is correct according to Qwest's databases. Nor are these problems experienced in the regions of other RBOCs such as Verizon (which has ensured that the address information in its databases is identical) or SWBT (which has programmed its systems to process an LSR as long as the address information on the LSR is a "near-match" to the information in its database that validates address information on the LSR).

141. Because of the frequency of order rejections resulting from the CRIS/PREMIS "mismatches," AT&T has found it necessary to obtain address information based on telephone number ("TNAVQ") for migration orders by using the address validation function of

CLEC would need to use the address validation function only when the customer was new (*i.e.*, had not previously been a Qwest retail customer).

Qwest's GUI pre-ordering interface.⁹² However, the use of the GUI (which is not integratable with a CLEC's back-office systems) requires AT&T to enter the same order information twice – once into the LSR and once into AT&T's own systems – in order for AT&T to store the data in its own systems. This “double data entry” is itself a denial of parity, because it increases the likelihood that the CLECs will experience additional costs, delays, and human errors not experienced by Qwest's retail operations, which use fully integrated systems. *See, e.g., Second Louisiana 271 Order* ¶ 96.

2. Qwest Does Not Provide Parity of Access To Loop Qualification Information.

142. In its *UNE Remand Order* and subsequent decisions, the Commission has held that, to the extent that a BOC has compiled loop qualification information for itself, “it is obligated to provide requesting competitors with nondiscriminatory access to loop information within the same time frame whether it is accessed manually or electronically.” *Georgia/Louisiana 271 Order*, ¶ 114. That obligation applies whenever “such information exists anywhere in [the BOC's] back office and can be accessed by any of [the BOC's] personnel,” regardless of whether the BOC's retail operations have access to such data. *Kansas/Oklahoma 271 Order*, ¶ 121; *Georgia/Louisiana 271 Order*, App. D, ¶ 35. The BOC may not “filter or digest” the underlying information, or provide only information that is useful in the provision of a particular type of DSL that the BOC itself offers. *Id.*

⁹² AT&T cannot currently use the address validation function of the EDI pre-ordering interface, because its own systems were designed to obtain and use CSRs as the source of service address information on migration orders.

143. CLECs need nondiscriminatory access to loop qualification in order to determine whether a particular loop is capable of supporting the advanced service that they seek to provide. They also need such information to determine whether (1) the BOC has spare facilities, including “fragments” of loops, that the CLEC may need to provide such service, and (2) they can provision service to areas that are served by IDLC loops.⁹³

144. Qwest, however, has not provided CLECs with access to its LFACS database and all other sources of loop qualification information available to Qwest itself. In its Application, Qwest asserts that its Raw Loop Data tool provides CLECs “with the necessary loop make-up information to allow them to make a determination of whether a loop qualifies for the specific DSL service they wish to provide utilizing Qwest’s two-wire or four-wire Non-Loaded Loop products.” OSS Decl., ¶ 110. Qwest, however, has admitted that not all loop qualification information is included in the Raw Loop Data tool. For example, the Raw Loop Data tool does not contain information on loop conditioning and spare facilities that are not connected to the Qwest switch.⁹⁴ Qwest’s witness previously testified in Colorado that information on spare

⁹³ Qwest has stated to the CLECs that unbundling IDLC loops is not always technically feasible and, even when technically feasible, is difficult and time-consuming. Thus, CLECs need access to loop qualification information to enable them to determine, in areas where IDLC has been deployed, what spare copper facilities are available (including loop fragments) and whether they can provision service in those areas. Such information will then enable them to determine whether the expected benefits of marketing in that geographic area outweigh the risk that they might encounter delays in provisioning due to IDLC issues. Qwest’s retail arm is not required to make such determinations, because Qwest does not need to unbundle IDLC to provide service over IDLC to its retail customers.

⁹⁴ See transcript of proceedings held in Colorado PUC Docket No. 97I-198T (Workshop 5), on April 18, 2001, at 25-53 (Attachment 13 hereto) and on May 25, 2001, at 74-77 (Qwest’s Application in WC Docket No. 02-148, Appendix K, Vol. 1, Tab 756). Qwest acknowledges that the Raw Loop Data tool returns information only “on fully connected spare facilities and spare

facilities is available to Qwest's engineers.⁹⁵ Furthermore, Qwest admits in its Application that when its own databases indicate that a customer's loop does not qualify for the CLEC's "flavor of DSL," the Raw Loop Data tool may erroneously advise the CLEC that the loop can serve the customer as intended by the CLEC. *Id.*, ¶ 111 (stating that such errors are possible because Qwest's Loop Qualification Tool "uses a proprietary algorithm [but] the Raw Loop Data tool does not"). Under the Commission's rulings, however, Qwest is required to provide CLECs with access to the same information available to Qwest itself.

145. The failure of Qwest to include all loop qualification information in its Raw Loop Data tool, by itself, suggests that Qwest is improperly "filtering" information from its databases before putting data into the Raw Loop data tool. Qwest certainly has not shown that it does not perform such filtering. For example, Qwest's application describes LFACS only in general terms (as the "primary data source for the LQDB") without describing its precise contents. *See* OSS Decl., ¶ 112. Thus, CLECs and the Commission have no way of determining whether Qwest is engaging in the "filtering" that, as the Commission's previous orders have recognized, denies nondiscriminatory access.

146. Qwest states that the data supporting the Raw Loop Data tool is obtained from "the same data source that Qwest uses to qualify its Retail DSL Service." OSS Decl., ¶ 112.

loop segments." OSS Decl., ¶ 115. The RLDT does *not* return spare facility information concerning loops, and loop elements such as distribution or feeder, that are not attached to the switch. Yet such information is the type of spare facility information with which AT&T has been concerned.

⁹⁵ Transcript of proceedings held in Colorado PUC Docket No. 97-198T on May 25, 2001, at 74.

As previously stated, however, Qwest has not given CLECs direct access to LFACS, which it describes as “the primary source for the Loop Qualification Database” – which, in turn, is one of the sources of the data supporting the RLDT. *Id.*⁹⁶ By contrast, Qwest employees have access to LFACS to obtain loop information, as demonstrated by the process that Qwest used in the “FOC trial” that it conducted in Colorado in 2001.⁹⁷ Step 3 of that process indicates that Qwest accesses LFACS when it receives an accurate LSR to attempt to assign pairs not in need of conditioning, and to create a design of the loop.⁹⁸ Because Qwest employees have direct access to LFACS,⁹⁹ Qwest is denying parity of access to CLECs.¹⁰⁰

⁹⁶ The Loop Qualification Database covers only loops connected to a switch. By contrast, LFACS contains information regarding all facilities, even those not connected to a switch, but does not contain some of the information available through the RLDT, such as the results of an MLT. It is for that reason that CLECs need access to LFACS and any other Qwest database that contains loop plant or spare facilities information.

⁹⁷ In 2001, Qwest was frequently assigning due dates on firm order confirmation notices on orders for loops without first determining whether facilities were actually available on those dates. As a result, whenever Qwest subsequently discovered that facilities were not available on the assigned due date, it rescheduled the due date – inconveniencing both the CLECs and their customers. In response to CLEC complaints, Qwest agreed that it would verify the availability of facilities before assigning due dates, and would send FOCs within 72 hours to give Qwest sufficient time to ensure that the assigned due date would not change. Qwest then conducted the “FOC trial” to determine whether the new procedure worked as intended.

⁹⁸ See “Qwest Colorado xDSL Loop FOC Trial,” at 3 (attached hereto as Attachment 14). Step 3 of the FOC trial process document indicates that Qwest accesses LFACS in these circumstances “because LFACS may reveal information not available through the RLDT, especially with regard to loops not connected to a switch. . . . [LFACS] contains information for all facilities, even those not connected to a switch, but does not contain some of the information available through the RLDT, such as the results of the MLT.” *Id.* at 3 n.2.

⁹⁹ Despite previous denials by Qwest that its retail service representatives have access to LFACS, the supporting documents for KPMG’s test on the loop qualification process suggest that the retail representatives can access LFACS directly. Although the Commission’s decisions make clear that Qwest’s obligations do not depend on whether these representatives actually have direct

147. Contrary to the suggestion made by Qwest, the KPMG test does not show that it is meeting the Commission's requirements with respect to loop qualification information. *See* Application at 122; OSS Decl., ¶¶ 150, 153-154. KPMG's loop qualification process evaluation (Test 12.7) did not evaluate whether CLECs had the access to the same loop qualification information that Qwest itself has. *See* KPMG Final Report at 129-136.

148. In addition to denying CLECs access to all of its systems with loop qualification information, until recently Qwest did not offer to conduct a manual search of engineering records. Qwest recently implemented a manual process after the Washington UTC ordered Qwest to include specific language in its SGAT committing itself to such a process. *See* OSS Decl., ¶ 116 & n.131. Qwest has also made this process applicable to Montana, Utah, and Wyoming by including the same language in its SGATs for those States. *Id.* Because the manual process is in its infancy, it is premature to conclude that it will work effectively. Even if the process is properly implemented, Qwest's failure to provide CLECs with equivalent access to all back-office loop qualification information accessible to any Qwest personnel is discriminatory.

access, Qwest's failure to meet those obligations is even more egregious if, in fact, its retail operations have direct access to data that Qwest is denying to CLECs.

¹⁰⁰ Qwest has previously contended that it cannot provide access to LFACS or certain other databases containing loop qualification information because they contain information proprietary to Qwest, other CLECs or end-user customers. However, there is no reason why CLECs cannot be given access to these databases subject to restrictions on the dissemination of information obtained from the databases (for example, restrictions prohibiting the use of such information to gather information on competing carriers). At least two other RBOCs, Verizon and BellSouth, have provided, or agreed to provide, CLECs with direct access to LFACS. *See Georgia/Louisiana Order*, ¶ 116 (stating that BellSouth has agreed to provide CLECs access to LFACS to verify connecting facilities assignments in a future release). Clearly, these RBOCs

3. Qwest Does Not Permit CLECs To Perform or Request a Pre-Order Mechanized Loop Test, Even Though Qwest Can – and Does – Perform Such Testing in Its Retail Operations.

149. Mechanized loop testing (“MLT”) enables a CLEC to test an actual loop and retrieve information regarding the loop length and other characteristics of the loop critical to the provisioning of DSL service. MLT capability is another key component of loop qualification. A CLEC needs the ability to perform an MLT, or have an MLT performed on its behalf, *before* the loop is provisioned in order to verify that the loop can support the services that the CLEC intends to provide over that loop facility. In addition, an MLT would allow a CLEC to verify the presence of digital loop carriers or other facilities – which is valuable information for assessing whether the loop is capable of providing the services the CLEC needs to offer.

150. The ability to perform a pre-order MLT is particularly necessary in view of the above-described failure of Qwest to provide nondiscriminatory access to loop qualification information. Even if Qwest ultimately agrees to provide parity of access to that information, however, CLECs will need the ability to conduct MLTs before actual provisioning.

151. Qwest has acknowledged that the loop qualification information in its databases is not always accurate.¹⁰¹ As previously indicated, Qwest’s current application

were able to develop a procedure to protect against improper dissemination of proprietary information.

¹⁰¹ See transcript of proceedings held on July 11, 2001, in Washington Utilities and Transportation Commission Docket No. UT-003022, at 4341-4342 (attached hereto as Attachment 15) (admission by Qwest witness that Qwest found “a fairly high reject rate using straight LFACS data”).

acknowledges that CLECs may receive information erroneously advising them that a particular loop could serve customers with the CLEC's "flavor" of DSL. OSS Decl., ¶ 111.

152. CLECs therefore need to conduct a pre-order MLT to verify the accuracy of that information. If the information cannot be so validated, and proves inaccurate (for example, if the information incorrectly indicates that the CLEC can provide advanced services over the loop in question), the CLEC risks the possibility that it will advise its customer incorrectly of the availability of advanced services. If the information incorrectly indicates that the CLEC can provide the requested service, the CLEC will later be required to advise the customer that it cannot do so – and the customer is likely to blame the problem on the CLEC. Conversely, if the available loop qualification information incorrectly indicates that the CLEC *cannot* provide the advanced services requested by the customer, the customer will not receive all of the service that it requested, and the CLEC will not receive all of the revenue that it would have collected had the information been correct. By contrast, the ability to perform a pre-order MLT would enable the CLEC to verify whether it can, in fact, provide advanced services to the customer.

153. Qwest has conceded that it has performed pre-order MLTs in its retail operations in the areas where it determined that it would operate its "Megabit" service. Qwest did so because it was encountering loop accuracy issues with LFACS.¹⁰² As part of a "bulk deloading" process for certain predefined wire centers in each State, Qwest conducted MLTs on the copper loops in those wire centers and then conditioned any loop in these wire centers that had load coils or bridge taps. *See* OSS Decl., ¶ 105 (describing Qwest's bulk MLT tests).

154. Qwest therefore can conduct, and has conducted, pre-order MLTs in its own retail operations. Qwest has conceded that it has the ability to perform MLTs on its switch-based services.¹⁰³ In view of these capabilities, it is clear that Qwest can perform MLTs in any wire centers it desires.

155. Qwest, however, has not provided CLECs with the ability to perform – or to have performed for it – pre-order MLTs.¹⁰⁴ Qwest has refused to perform such MLTs for CLECs or to allow the CLECs to perform the MLTs themselves. This is plainly a denial of nondiscriminatory access to OSS (and to loops), since Qwest has performed such tests on copper loops connected to its switch.¹⁰⁵

¹⁰² See, e.g., Transcript of July 11, 2001, proceedings before Washington UTC, *supra*, at 4341-4342.

¹⁰³ Transcript of proceedings held April 18, 2001, before Colorado PUC, *supra*, at 248. (Attachment 13 hereto).

¹⁰⁴ Qwest's application does not address the issue of pre-order MLTs, other than to note that the PSC of Utah and the Washington UTC have ruled that "Qwest need not make pre-order MLT available to CLECs for loop qualification information," due to Qwest's implementation of the above-described manual process for providing loop qualification information to CLECs that is not otherwise available through the loop qualification tools. OSS Decl., ¶ 117. As previously stated, however, Qwest cannot show that the manual search process is effective, since it was implemented only recently. Moreover, for the reasons stated herein, even with the implementation of a manual search process, a pre-order MLT is still required to enable CLECs to verify the loop qualification information that Qwest provides (whether electronically or manually).

¹⁰⁵ By contrast, at least one other RBOC, Verizon, has agreed that upon request for manual loop qualification by a CLEC, the CLEC may request that Verizon perform an MLT on the loop. If the MLT does not provide adequate information, Verizon's engineers will examine paper records to determine the length and capability of the loop. *Massachusetts 271 Order*, ¶ 58.

4. Qwest Denies Nondiscriminatory Access To Due Dates.

156. Parity of access cannot exist if CLECs do not have the same degree of confidence as the BOC's retail operations that the due date (installation date) that they promise to their customers based on the BOC's pre-ordering systems will be the actual date on which the order is provisioned.¹⁰⁶ Qwest, however, does not provide parity of access to due dates.

157. Qwest's own performance data for PID PO-15 (Due Date Changes) show that Qwest changes due dates more frequently for LSRs from CLECs than for orders submitted by its own retail operations. On a regionwide basis, Qwest changed due dates for between 7 percent and 12 percent of CLEC orders per month from June 2001 to May 2002. During the same period, Qwest changed the due date on its retail orders only 2 to 7 percent of the time. Generally, the rate of changes in due dates was two to three times higher for CLEC orders than for Qwest's orders.¹⁰⁷ This lack of parity has continued into 2002. For each month from February through May 2002, Qwest has changed due dates more frequently for CLEC orders in all but one of the four States that are the subject of its current application. In the remaining State

¹⁰⁶ See *Second Louisiana 271 Order*, ¶ 104; *South Carolina 271 Order*, ¶ 167.

¹⁰⁷ Regional Commercial Performance Results at 73. In 2002, changes in due dates have been approximately twice as frequent for CLEC orders as for Qwest's retail orders. Qwest reported that the number of due date changes per order in PO-15 for CLEC orders were .06 for January, .07 for February, .08 for March, .08 for April, and .07 for May. During the same period, the number of due date changes for Qwest's retail orders was .04 in January, February, and May, and .03 in March and April. *Id.*

(Montana), Qwest changed due dates more frequently for CLEC orders in three of those four months.¹⁰⁸

158. The higher rate of due date changes for CLEC orders results largely from Qwest's failure to verify that facilities are available after it receives an order from a CLEC. All too often, Qwest simply assigns the due date requested by the CLEC without verifying whether facilities are available on that date – and subsequently changes the date once it determines that facilities are not available. Once Qwest changes the due date and notifies the CLEC, the CLEC must advise the customer – which is likely to blame the delay in provisioning on the CLEC (and might even cancel its order). These problems are not experienced by Qwest's retail operations, which are able to determine, while a customer on the line, the actual due dates that are available. In such circumstances, parity of access cannot be said to exist.

B. Ordering and Provisioning

159. A BOC must demonstrate its ability to provide CLECs with nondiscriminatory access to the OSS functions for placing wholesale orders. In determining whether the BOC has met this obligation, the Commission “looks primarily at the applicant's ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at its order flow-through rate.”¹⁰⁹

¹⁰⁸ See Montana Statewide Performance Summary, Feb.-May 2002, at 7; Utah Statewide Performance Summary, Feb.-May 2002, at 9; Washington Statewide Performance Summary, Feb.-May 2002, at 9; Wyoming Statewide Performance Summary, Feb.-May 2002, at 7. In May, the rate of changes in due dates on CLEC orders was more than three times that for Qwest's retail orders in Washington State, and more than twice that for Qwest's retail orders in Utah. *Id.*

¹⁰⁹ *Georgia/Louisiana 271 Order*, App. D., ¶ 36; *Texas 271 Order*, ¶ 170.

160. A BOC also is required to “provision competing carriers’ orders for resale and UNE-P services in substantially the same time and manner as it provisions orders for its own retail customers.”¹¹⁰ In determining whether the BOC has met this obligation, the Commission “examines a BOC’s provisioning processes, as well as its performance with respect to provisioning timeliness (i.e., missed due dates and average installation intervals) and provisioning quality (i.e., service problems experienced at the provisioning stage).¹¹¹

161. Qwest, however, does not provide CLECs with nondiscriminatory access to ordering and provisioning functions. Qwest’s systems are plagued by high rates of order rejections and manual processing (including high rates of manual errors by Qwest personnel). Furthermore, Qwest does not provide accurate, timely, and complete order status notices to CLECs. As KPMG found in its third-party testing, Qwest also does not provision UNE-P and resale orders with the same degree of timeliness as it does in its own retail operations, and has failed to show that it can adequately provision dark fiber and EELs. Finally, Qwest also fails to update customer service records in a timely manner after provisioning orders, thereby impeding the CLECs’ ability to submit additional orders for their customers.

1. Qwest’s Ordering and Provisioning Capabilities Are Plagued By High Rates of Order Rejections, Manual Processing, and Manual Errors.

162. Parity requires that CLEC orders be able to flow through Qwest’s systems without rejection or manual intervention to the same extent as orders submitted by Qwest’s retail operations. Whether the CLEC’s order is rejected or falls out for manual processing after passing

¹¹⁰ *Georgia/Louisiana 271 Order*, App. D, ¶ 37; *New York 271 Order*, ¶ 193.

through the gateway to Qwest's systems, provisioning of the service requested in the order is likely to be delayed, and the risk of erroneous provisioning increases.¹¹²

163. Qwest's retail operations use highly automated systems that advise representatives of errors or problems in orders even before they are (or can be) released into Qwest's legacy systems. Consequently, parity is possible only if rejection and manual processing of CLEC orders are the rare exception, not the rule. In Qwest's systems, however, precisely the opposite is true.

a. Qwest's High Rates of Order Rejections and Manual Processing

164. Qwest's rejection rates – which Qwest does not even mention in its Application or supporting declarations -- are commercially unreasonable by any standard. In May 2002, 30.72 percent of all LSRs submitted via Qwest's GUI interface, and 22.24 percent of all LSRs submitted via its EDI interface, were rejected electronically ("auto-rejected"). During the same month, an additional 4.05 percent of LSRs submitted via the GUI, and 7.62 percent of

¹¹¹ *Id.*

¹¹² Manual processing of LSRs not only can delay the provisioning of the service requested by the CLEC's customer, but also can preclude the CLEC from fulfilling its customer's request, even if no errors are committed in manual processing. For example, as part of the carrier-to-carrier testing that AT&T conducted with Qwest in Minnesota, AT&T would send an LSR to Qwest for migration of a line from Qwest to AT&T service – and would then send a supplemental order to cancel the initial migration order. (This procedure is the so-called "cold feet" scenario, where the customer initially signs up for a CLEC's local service but then changes its mind.) Because the supplemental orders fell out for manual processing, Qwest sometimes provisioned the service requested in the original LSR (but then cancelled) – even though Qwest takes two or more days to migrate a customer to a CLEC. Clearly, the cause of the error was the delay in the manual processing of the supplemental order.

orders submitted via EDI, were manually rejected.¹¹³ In short, approximately one-third of all LSRs submitted electronically were rejected in May.

165. The May rejection rates represent little or no improvement over Qwest's past performance. During the last six months, "auto-rejected" rates have ranged from 29 to 32 percent for the GUI interface, and from 22 to 24 percent for the EDI interface.¹¹⁴

166. The rejection of such a high percentage of customers inflicts a substantial burden on CLECs and consumers. Order rejections delay provisioning of service to the customer, because a CLEC must submit a supplemental order after it receives a rejection notice. The preparation of these supplemental orders also increases a CLECs' costs.

167. Qwest cannot simply attribute the high rejection rates to "CLEC errors," because Qwest's system design and ordering requirements increase the likelihood of rejections.¹¹⁵ For example, unlike other RBOCs, such as BellSouth, Qwest does not offer migration by

¹¹³ Regional Commercial Performance Results at 58-59 (PO-4A-1, PO-4A-2, PO-4B-1, PO-4B-2). An order is "rejected manually" when it falls out for manual processing and the Qwest representative handling the order returns a rejection notice to the CLEC (because the order contains a "fatal error") rather than re-type the order into Qwest's systems for transmission to the legacy systems.

¹¹⁴ Regional Commercial Performance Results at 58-59 (PO-4A-2 and PO-4B-2). Similarly, during the same period the percentage of orders "rejected manually" ranged from 3.61 percent to 4.7 percent on the GUI, and from 5.24 percent to 8.48 percent on the EDI interface. *Id.* at 57-58 (PO-4A-1 and PO-4B-1).

¹¹⁵ KPMG's own testing found that orders were being rejected at rates consistent with those in Qwest's reported data. *See* KPMG Final Report at 81-82 (Evaluation Criteria 12-5-5 and 12-5-6).

telephone number, which would virtually eliminate address-related rejections on such orders.¹¹⁶

Similarly, unlike other RBOCs, Qwest requires CLECs to include on the LSR not simply the features that the customer would like to take from the CLEC, but also the features that the customer is currently taking from Qwest. Finally, the likelihood of order rejections is increased due to the above-described failure of Qwest either to enable CLECs to achieve full and successful integration of pre-ordering and ordering functions, or to ensure that the address information in its CRIS and PREMIS databases is identical.

168. The problems created by the unreasonably high rejection rates are compounded by the poor flow-through rates for non-rejected orders. Qwest uses two measures of flow-through: PO-2A, which measures the percentage of *all* electronically-submitted LSRs that flow from the specified electronic gateway to the Service Order Processor without manual intervention; and PO-2B, which measures the percentage of all LSRs that Qwest has *designed* to flow through that actually flow through to the SOP without manual intervention. OSS Decl., ¶ 286.

169. Qwest's Application discusses only its performance under PO-2B, while describing PO-2A only as "a diagnostic measure to provide information to help address potential issues that might be raised by PO-2B." *Id.* PO-2A, however, is a valuable indicator of Qwest's performance because it reflects the CLECs' actual flow-through experience when they submit LSRs electronically.

¹¹⁶ See *Georgia/Louisiana 271 Order*, ¶ 122; *Texas 271 Order*, ¶ 160 (noting that "TN migration" was implemented to substantially reduce, and perhaps virtually eliminate, address-related errors).

170. The flow-through rates reported under PO-2A have been deficient in the Qwest region as a whole and in each of the four States that are the subject of Qwest's application here. In May 2002, for example, the total flow-through rates for resale, loops, UNE-P, and local number portability ("LNP") orders, by interface, in the Qwest region were as follows:

	PO-2A Rate (Total Flow-Through)
Resale (GUI)	72.30%
Resale (EDI)	74.70%
Loops (GUI)	38.13%
Loops (EDI)	60.61%
LNP (GUI)	60.14%
LNP (EDI)	69.55%
UNE-P POTS (GUI)	54.04%
UNE-P POTS (EDI)	67.34% ¹¹⁷

Thus, in May more than 25 percent of resale orders, 40 percent of orders for unbundled loops, 30 percent of orders for LNP, and 40 percent of orders for UNE-P POTS in Qwest's region fell out for manual intervention after they were electronically submitted. The low flow-through rate for UNE-P orders is particularly striking, because the flow-through rates for such relatively simple orders should have been extremely high – particularly since the volumes of UNE-P orders submitted in May were modest (slightly more than 16,000 LSRs).¹¹⁸

171. Although these rates are regionwide, the State-specific PO-2A rates for the four States covered by Qwest's application are no better. In Montana, the range of flow-through

¹¹⁷ Regional Commercial Performance Data at 53-56 (PO-2A-1 and PO-2A-2).

¹¹⁸ Regional Commercial Performance Data at 56 (PO-2A-1).

	Range of Rates	May 2002 Rate
Resale (GUI)	63.99% - 70.48%	70.48%
Resale (EDI)	4.35% - 50.00%	50.00%
Loops (GUI)	9.40% -27.69%	20.03%
Loops (EDI)	40.18% - 54.26%	54.26%
LNP (GUI)	46.89% - 55.05%	49.51%
LNP (EDI)	64.18% - 78.85%	75.43%
UNE-P POTS (GUI)	45.28% - 61.60%	59.06%
UNE-P POTS (EDI)	47.50% - 71.74%	71.74% ¹²¹

174. In Wyoming, the range of PO-2A rates for these categories during the last four months of reported data, and the May 2002 rates for each category, are as follows:

	Range of Rates	May 2002 Rate
Resale (GUI)	46.15% - 63.44%	60.27%
Resale (EDI)	4.08% - 9.09%	4.08%
Loops (GUI)	0% - 0% (no more than 9 LSRs per month)	0.00%
Loops (EDI)	60.71% - 80.43%	60.71%
LNP (GUI)	no data reported	no data reported
LNP (EDI)	no data reported	no data reported
UNE-P POTS (GUI)	46.88% - 92.31%	68.57%
UNE-P POTS (EDI)	36.47% - 54.17% ¹²²	54.17% ¹²²

175. These low flow-through rates mean that an extraordinarily – and unacceptably – high percentage of electronically submitted LSRs fall out for manual processing.¹²³

¹²¹ Washington Statewide Performance Summary, February –May 2002, at 5.

¹²² Wyoming Statewide Performance Summary, February – May 2002, at 5.

¹²³ Qwest cannot validly attribute the high rates of manual fall-out to “CLEC errors.” Beginning with March 2002 data, the flow-through rates reported by Qwest have excluded all orders that fall out for manual processing due to CLEC errors.

Based on the PO-2A data, the average percentage of all LSRs that were manually processed in the five States that are the subject of Qwest's Application in May 2002 as follows:

State	Percentage of Total LSRs Manually Processed
Montana	29.5%
Utah	50.7%
Washington	39.5%
Wyoming	53.4%

176. The total flow-through rates for the orders submitted by the "pseudo-CLEC" during KPMG's third-party test were similarly low. Only 51.86 percent of the pseudo-CLEC's orders submitted via the EDI interface, and only 50.45 percent of its order transactions submitted through the GUI interface, flowed through to the SOP.¹²⁴ Thus, nearly 50 percent of the pseudo-CLECs orders fell out for manual processing.

177. Finally, Qwest's performance has been deficient even under the flow-through PID on which it relies. Qwest's own application acknowledges that it has missed the applicable benchmark on numerous occasions during the last four months in Montana, Utah, Washington, and Wyoming.¹²⁵

¹²⁴ KPMG Final Report at 162, 167-168 (Evaluation Criteria 13-1-2 and 13-1-7).

¹²⁵ See OSS Decl., ¶¶ 290-292, 294, 296, 299, 301, 305-307, 309. Qwest repeatedly cites "low volumes of orders" and "CLEC errors" as the causes of its failure to meet the benchmarks. *Id.* Qwest's reliance on "low volumes," however, amounts to an admission by Qwest that it cannot show through commercial experience that its flow-through performance is adequate. Qwest's reliance on "CLEC error" as the cause of deficient flow-through rates in months such as April and May 2002 (*see, e.g.*, OSS Decl., ¶ 301) is misplaced, since the reported flow-through data for those months does not include orders with such errors.

b. Qwest's High Rate of Errors In Manual Processing of CLEC Orders

178. The low flow-through rates for LSRs deny CLECs a meaningful opportunity to compete, because manual processing can delay the provisioning of a CLEC's order until a date later than that for a Qwest retail customer who ordered the same service at the same time. The problem of low flow-through rates, however, is compounded by the high rate of errors committed by Qwest's representatives in manually handling CLEC orders.

179. According to Qwest's reported data under PO-2A (total flow-through), in May 2002 Qwest manually processed, and re-entered into its downstream systems, approximately 9,500 LSRs that had been electronically submitted by CLECs for service in Montana, Utah, Washington, and Wyoming. Moreover, according to Qwest's reported data for PO-3 (rejection notice intervals), during May Qwest representatives manually rejected more than 2,100 LSRs from those four States. Because Qwest thus manually handles nearly 12,000 LSRs per month from these four States alone (in addition to tens of thousands of additional orders from the other nine States in the Qwest region), it is critical that Qwest's service order personnel properly and accurately process them.

180. In its third-party testing, KPMG found that Qwest personnel did not know how to properly treat CLEC orders and that the rate of errors committed by these representatives in processing CLEC orders was excessive. Thus, in its Final Report KPMG expressed its concern about the accuracy of manual processing by Qwest:

Numerous problems were encountered, during the course of testing, with manually handled orders. Manually handled orders are those that are either submitted manually, or are submitted

electronically and fall out for manual handling, either by design, or through error. Qwest attributed the problems encountered in this area to human error on the part of Qwest representatives who process manual orders. Qwest initiated re-training programs to address these issues.

One of the evaluation criteria for the POP Manual Order Processing evaluation received a result of Unable to Determine as a result of Qwest's decision to take a Closed/Unresolved on Observation 3110, which is related to the issue of human error in manual order handling as it related to the accuracy of information recorded for use in PID calculations.

The ROC Steering Committee was sufficiently concerned about the ability of regulators to monitor Qwest's performance in the area of manual order handling, on a going-forward basis, that the ROC Steering Committee directed KPMG Consulting to conduct an Adequacy Study of the PIDs related to manual order handling. The results of that review can be found on the ROC OSS Repository Web site previously mentioned.

All but one of the evaluation criteria for the Order Flow Through evaluation were governed by Diagnostic PIDs. *The Diagnostic results of the Flow Through test should be examined closely in light of the number of problems encountered in the area of manually handled orders during the course of the test.*¹²⁶

181. As the KPMG Report indicates, in the course of its testing KPMG found that in manually processing LSRs, Qwest's personnel were making numerous errors that affected the due dates assigned to KPMG's pseudo-CLEC (sometimes resulting in a due date later than that requested by the pseudo-CLEC). These errors also resulted in the improper exclusion of some orders from, and the improper inclusion of some orders in, Qwest's reported performance data. In addition, the human errors caused Qwest personnel to calculate provisioning intervals inaccurately.

¹²⁶ KPMG Final Report at 14-15 (§ 6.3.1.1) (emphasis added).

182. KPMG discovered these problems through the transmission of transactions by its pseudo-CLEC and through its communications with Qwest's help desk during its tests on pre-ordering, ordering, and provisioning. These problems caused KPMG and HP to issue numerous exceptions and observations. In analyzing Qwest's responses to the exceptions and observations, KPMG noticed that Qwest frequently attributed the problems to human error or lack of proper training of its personnel. In fact, Qwest cited human error and/or inadequate training as the reasons for the problems found in 75 of the exceptions and observations issued – and, of Qwest's 75 responses, 49 promised training measures that directly impacted Qwest's centers where manual processing is conducted.

183. As a result of Qwest's frequent citation of manual errors and inadequate training in its responses, KPMG issued Observation 3086 on January 29, 2002, finding that it had “identified a pattern in Qwest's Observation and Exception responses that refer to the need for additional training and/or training enhancements.”¹²⁷ Despite Qwest's promises to conduct additional training, KPMG stated its belief that “the adequacy of Qwest's ISC and SDC training programs may be insufficient,” and that such inadequacy “may impede a CLEC's ability to obtain consistent and effective assistance, thereby negatively impacting its ability to conduct business operations.”¹²⁸

¹²⁷ KPMG Observation 3086, dated January 29, 2002, at 1.

¹²⁸ *Id.* at 1-2. Qwest's Interconnect Service Center (“ISC”) is responsible for manual processing of CLECs orders. The manual processing is performed by a Qwest Service Delivery Coordinator (“SDC”). See OSS Decl., ¶ 351; KPMG Final Report at 141-142 (§ 2.1.3).

rates for the last four months for the categories, and the May 2002 rate for each category, were as follows:

	Range of Rates	May 2002 Rate
Resale (GUI)	74.89% - 79.21%	79.21%
Resale (EDI)	0% - 33.33%	33.33%
Loops (GUI)	14.04% - 72.04%	49.10%
Loops (EDI)	53.85% - 88.46%	60.61%
LNP (GUI)	28.00% - 37.31%	37.31%
LNP (EDI)	not reported	not reported
UNE-P POTS (GUI)	52.86% - 72.46%	64/44%
UNE-P POTS (EDI)	54.45% - 68.83%	60.77% ¹¹⁹

172. In Utah, the range of PO-2A rates for these categories during the last four months, and the May 2002 rates for each category, are as follows:

	Range of Rates	May 2002 Rate
Resale (GUI)	73.27% - 81.19%%	73.27%
Resale (EDI)	6.25% - 42.11%	6.25%
Loops (GUI)	19.87% - 25.45%	25.45%
Loops (EDI)	45.33% - 54.97%	49.48%
LNP (GUI)	2.68% - 11.59%	8.11%
LNP (EDI)	47.54% - 59.47%	52.42%
UNE-P POTS (GUI)	58.76% - 65.97%	65.97%
UNE-P POTS (EDI)	50.94% - 65.10%	65.10% ¹²⁰

173. In Washington, the range of PO-2A rates for these categories for the last four months of reported data, and the May 2002 rates for each category, are as follows:

¹¹⁹ Montana Statewide Performance Summary, February – May 2002, at 5.

¹²⁰ Utah Statewide Performance Summary, February – May 2002, at 5.

184. In response to the manual error problems found by KPMG, the ROC Steering Committee “expressed a strong desire to see that adequate performance measures are in place to monitor manual order handling on a going-forward basis.”¹²⁹ Thus, as KPMG states in its Final Report, the Committee directed KPMG to conduct a study of the adequacy of actual – and proposed – performance measures related to manual order handling. As described below, KPMG’s study found that sufficient measures were not in place to measure the extent of manual errors by Qwest.

185. KPMG closed Observation 3086 on April 12, 2002. However, contrary to Qwest’s suggestion, KPMG’s decision did not constitute a finding that Qwest had corrected its manual error problem, or that Qwest’s “documented quality initiatives” taken in response to Observation 3086 were, in fact, effective. *See, e.g.*, OSS Decl., ¶¶ 338, 649.¹³⁰ The concerns about manual errors that KPMG expressed in its Final Report belie Qwest’s assertion.

186. Qwest is equally wrong in suggesting that KPMG closed Observation 3086 because “[m]ost of the Observations and Exceptions were closed by either HP or KPMG after conducting further transactional and other relevant testing.” *Id.* ¶ 655. KPMG made clear in its

¹²⁹ KPMG Consulting, “Qwest Manual Order Entry Performance Indicator Description – Adequacy Study,” dated April 11, 2002 (“KPMG Adequacy Study”), dated April 30, 2002. (OSS Decl., Exh. LN-OSS-29).

¹³⁰ Qwest supports its position by quoting a statement in the discussion of Evaluation Criterion 12.8-2 in KPMG’s Final Report that “Qwest’s training, continuous improvement measures, and new quality initiatives adequately addressed the identified issues.” OSS Decl., ¶ 671. Qwest’s quotation is highly selective, because KPMG then proceeded to discuss subsequent problems in manual handling that resulted in KPMG’s finding that it was unable to determine whether Qwest met Evaluation Criterion 12.8-2 – which involved the issue of whether Qwest “defined,

closure report on Observation 3086 – and thereafter – that it did not conduct the additional transaction testing, or make the additional calls to the Qwest help desk, that would have been required to determine whether the various “training and quality assurance measures” purportedly implemented by Qwest had eliminated the manual error problem. Instead, in its final response on Observation 3086 KPMG stated that it simply “conducted interviews with Qwest training staff and ISC managers, on-site observations at several ISC locations, and reviewed supporting documentation to verify the training and quality assurance procedures described by Qwest are in place and are followed.”¹³¹ In its report to the ROC Steering Committee issued the same month, KPMG confirmed that it had made no determination as to the actual effectiveness of Qwest’s newly-implemented training improvements.¹³²

documented, and followed” procedures for manually processing electronically submitted orders that fail to flow through. KPMG Final Report at 149-150 (Evaluation Criterion 12.8-2).

¹³¹ KPMG Observation 3086, Second Supplemental Response dated April 12, 2002, at 18. KPMG has testified that the ROC Steering Committee decided that it should conduct no further transaction testing to resolve the issues raised in Exception 3086, even though KPMG’s normal practice in such circumstances would have been to perform additional testing. CPUC June 10 transcript at 152-155.

¹³² In its Adequacy Study (which was originally issued less than three weeks after it closed Observation 3086 then revised to make clear that the decision not to conduct further transaction retesting was made by the ROC Steering Committee), KPMG stated:

KPMG Consulting conducted a review of Qwest’s enhanced rep training, and became satisfied that, *if properly executed*, the revised training regime *could* operate to reduce the likelihood of rep error. However, due to a decision by the ROC Steering Committee, *no transaction retesting was performed of the changes and improvements made by Qwest. Therefore, KPMG Consulting was not able to determine if the changes made by Qwest were effective in actually reducing the number of rep errors.*

187. Testing conducted by KPMG *after* it closed Observation 3086 revealed further evidence that the human errors made by Qwest's order processing personnel had not been reduced to appropriate levels. In conducting retesting of Exception 3120 – which had identified a number of data integrity issues involving Qwest's calculation of its performance data – KPMG found that discrepancies existed between Qwest's calculation of the provisioning intervals (reported as OP-4) and the calculation performed by KPMG, because Qwest was assigning incorrect application dates to orders that it was manually processing.¹³³ Although KPMG closed Exception 3120 (because the particular system problems identified in that exception had ultimately passed the test), it opened Observation 3110 on May 23, 2002, because of manual errors that it had identified during the retesting of Exception 3120. During that retesting, KPMG identified errors on two of nine orders that were manually processed but should have flowed through without human intervention, and on at least 3 of 18 line sharing orders manually handled by Qwest personnel.¹³⁴

See KPMG Consulting, "Qwest Manual Order Entry – Performance Indicator Description – Adequacy Study," dated June 11, 2002, at 1 (attached hereto as Attachment 16). *See also* OSS Decl., Exh. LN-OSS-29 at 1 (original Adequacy Study dated April 30, 2002).

¹³³ The application date is essentially the point at which Qwest "starts the clock" for the provisioning of orders. Qwest uses the application date and time as the basis for its assignments of due dates and its calculation of provisioning intervals. Thus, incorrect calculation of an application date can affect such PIDs as Commitments Met (OP-3), Installation Intervals (OP-4), and Delayed Days (OP-6). Incorrect calculation of application dates and times also can result in the assignment of a later due date to a CLEC's customer than should have been the case.

¹³⁴ KPMG Observation 3110, Second Response dated May 28, 2002, at 1-3. In the retesting that it performed for purposes of Exception 3120, KPMG found that eight LSRs fell out for manual processing even though, in KPMG's view, the orders should have flowed through. One of those orders was manually assigned an incorrect application date. KPMG further found that, even leaving aside these eight orders, a Qwest representative had improperly – and incorrectly –

188. As a result of the unacceptable error rate that it found in these manually processed orders, KPMG – due to Qwest’s refusal to agree to a retest – reviewed historical results for the non-flow-through orders that had been submitted by its pseudo-CLEC after February 1, 2002, to determine Qwest’s performance in manually processing orders.¹³⁵ KPMG found that of the 49 manually processed orders that it reviewed, seven (or 14.3 percent) contained human errors that could result in miscalculation of the PIDs.¹³⁶ Thus, when these 49 orders are combined with the 27 manually handled orders that KPMG previously reviewed (four of which contained manual errors), KPMG found that Qwest made manual errors on 12 (or more than 15 percent) of the 76 orders which it reviewed. Although KPMG concluded that “the only way to properly address this observation is to conduct a retest that focuses on orders that drop out for

modified the application date manually on a separate order that had flowed through. *See* KPMG Exception 3109, First Response dated May 28, 2002, at 1; KPMG Observation 3110, Second Response dated May 28, 2002, at 1-2. Of the 18 manually handled line sharing orders, three had typographical errors on the service orders referenced on the FOC. KPMG Observation 3110, Second Response at 3.

¹³⁵ Initially, Qwest stated that in lieu of a retest it would be willing to take an “unable to determine” finding on the criteria in KPMG’s Final Report associated with the problem of human error on manually processed orders. Qwest ultimately agreed to KPMG’s suggestion that KPMG review orders from previous retests that did not flow through in lieu of a retest, provided that the review “did not interfere with the May 28, 2002 date for publishing the final report.” KPMG Observation 3110, Second Response at 3.

¹³⁶ Although KPMG reviewed 109 orders for purposes of its analysis, it concluded that 60 orders should be excluded because they contained system algorithm problem. Of the 49 orders that remained, and that were reviewed for manual errors, seven were found to have manual errors. KPMG Observation 3110, Second Response at 3-4.

manual handling,” Qwest refused to agree to a retest. Consequently, KPMG recommended that the Observation be closed as “unresolved.”¹³⁷

189. Because Observation 3110 was closed as unresolved, KPMG found that it was “unable to determine” whether Qwest met Evaluation Criterion 12.8-2 – which involved the issue of whether “Procedures for processing electronically submitted non-flow-through orders are defined, documented, and followed.” KPMG Final Report at 149-150. KPMG also cited its retesting in Observation 3110 as the basis for its finding that it was unable to determine whether Qwest satisfied Test Criterion 14-1-44 – which involved the issue of whether Qwest’s performance results for ordering and provisioning performance results were consistent with KPMG’s data for its pseudo-CLEC. *Id.* at 205-206.¹³⁸ In view of KPMG’s findings and concerns regarding errors in manual processing, and its inability to conclude that Qwest’s reported data (including data on flow-through) are reliable, Qwest cannot show that it providing nondiscriminatory access.

¹³⁷ KPMG Observation 3110, Second Response at 4. Although KPMG suggested that further testing was necessary because the volume of orders that it reviewed was “limited,” KPMG made determinations of whether Qwest had satisfied other test criteria associated with manual processing on the basis of smaller volumes. *See, e.g.*, KPMG Final Report at 88, 90-91, Evaluation Criteria 12-7-7 (47 orders) and 12-8-1 (23 samples). KPMG has recently acknowledged that the volumes of transactions it retested with respect to this observation are sufficient to allow statistically significant conclusions to be reached. *See* CPUC June 10 transcript at 155-156.

¹³⁸ The unresolved status of Observation 3110 also was the basis for KPMG’s determination that it was unable to determine whether Qwest satisfied Evaluation Criterion 12-11-4 – *i.e.*, whether Qwest-produced measures of pre-order/order performance results for HPC transactions are consistent with KPMG-produced HPC measures. In its comments on this criterion, KPMG cited the absence of “further retesting specifically designed to assess the impact of human error on the accuracy and completeness of Qwest’s PID reporting.” KPMG Final Report at 99-100.

190. Qwest suggests that KPMG's findings in Observation 3110 are of little competitive significance, asserting that KPMG found errors only on "a mere LSR and later seven LSRs," that the error rate was within a "reasonable tolerance level," and that the "majority of CLEC orders are now processed on a flow-through basis." See OSS Decl., ¶¶ 329-331, 336-337. In the first place, Qwest's account of KPMG's testing is incomplete and misleading, because it fails to mention the 18 line sharing orders reviewed by KPMG – of which three had manual errors.¹³⁹ As previously stated, KPMG evaluated a total of 76 orders, of which 12 contained human errors.

191. Moreover, Qwest's attempt to disparage the KPMG test as involving only "a handful of orders," and "a mere eight orders," is disingenuous. Despite KPMG's suggestion, Qwest *twice* refused to agree to further retesting, which would have enabled KPMG to expand the universe of tested orders. Having limited the scope of KPMG's testing, Qwest is in no position to criticize the test volumes as inadequate.¹⁴⁰

¹³⁹ Unlike Qwest's current application, its previous 5-State application (*Qwest I*) acknowledged the 18 line sharing orders reviewed by KPMG, including the three orders with errors. Although Qwest's prior application suggested that KPMG had found errors only on one (rather than two) of the nine orders that should not have been the subject of human intervention, it acknowledged that even before considering the 109 historical orders of its pseudo-CLEC that had been manually processed, "Qwest ultimately confirmed that, for four of these orders, the discrepancies were due to human error in manual order writing." See Declaration of Lynn M.V. Notarianni and Christie L. Doherty in WC Docket No. 02-148, ¶ 352.

¹⁴⁰ Qwest's assertion that "KPMG at no time determined that Qwest does not consistently manually process orders correctly" is a red herring. See OSS Decl., ¶ 330. The salient point is that KPMG did not determine that Qwest *is* consistently manually processing orders correctly. Indeed, the concerns expressed by KPMG in its Final Report about the accuracy of manual processing by Qwest (including KPMG's finding that it was unable to conclude that Qwest was adhering to its procedures for manually processing orders), as well as the unresolved status of Observation 3110, belie Qwest's assertion.

192. Finally, Qwest's assertions that the error rate found by KPMG was "within a reasonable tolerance level," and that a "majority" of LSRs flow through, are without merit. In closing Observation 3110 as unresolved, KPMG plainly recognized that Qwest's manual error rate – which was more than 15 percent in the retesting – is unacceptably high.¹⁴¹ As Qwest itself effectively acknowledges when it asserts only that "a majority" of LSRs flow through, the percentage of LSRs that are manually processed is extremely high, exceeding 50 percent for some types of orders. Notwithstanding Qwest's assertion that "CLECs do not suffer competitive harm" from the "limited human errors that can be made during manual processing" (OSS Decl., ¶ 343), CLECs cannot compete effectively in the marketplace when Qwest is manually processing substantial volumes of LSRs and committing errors on more than 15 percent of them – with the ensuing risks of delays and errors in provisioning.¹⁴²

¹⁴¹ In view of KPMG's decision to close Observation 3110 as unresolved, and the concerns that KPMG expressed in its Final Report regarding the accuracy of Qwest's manual processing, Qwest's assertion that the KPMG test supports "the notion that Qwest can manually process orders correctly" is flatly wrong. *See* OSS Decl., ¶ 343. Nor can Qwest reasonably rely on the Liberty data reconciliation process as support for its position. *Id.* As discussed in the Declaration of John Finnegan on Performance Data and Assurance Plans, Liberty found numerous manual errors by Qwest, but failed to verify thereafter whether Qwest had corrected the problems. Moreover, the issue here is not whether Qwest *can* manually process orders correctly, but whether it *currently* does so – and the evidence shows that it does not.

¹⁴² Qwest also suggests that the problems noted in Observation 3110 are being addressed by the "quality assurance measures" that it has implemented, or will implement in the future, to reduce the potential for human error. *See* OSS Decl., ¶¶ 337-340. Qwest, however, provides no evidence that these measures have reduced the extent of human error (other than its self-serving data on "application date accuracy," "orders rejected in error," and "service order mismatches," discussed below). Moreover, one of the "quality assurance measures" that Qwest cites – IMA edits – have obviously had no effect on Qwest's error rate, since those edits prevent orders with fatal edits from being processed at all by Qwest's systems – either electronically or manually. *Id.*, ¶ 337. Qwest's promises of future improvements, such as flow-through enhancements that Qwest plans to implement and the service order detail notice to be provided beginning with the

193. The concerns of KPMG regarding Qwest's errors in manual processing of orders are particularly relevant here because there has previously been no PID in Qwest's region for service order accuracy – the percentage of manually processed LSRs that are entered correctly by Qwest's representatives into its systems for downstream processing. Nor is there currently a PID in Qwest's region regarding the accuracy of rejection notices manually returned by Qwest. Thus, at the time of its application Qwest had not regularly reported data on the accuracy of its performance in re-keying a manually processed order into its systems (if its representative decides that the order should continue to provisioning) or in returning a rejection notice on an order that falls out for manual processing and that the service representative decides to reject.¹⁴³

194. In its Adequacy Study, KPMG found the current absence of such performance measurements to be so significant that it expressly recommended that Qwest be required to establish new PIDs for both service order accuracy and the accuracy of rejection notices. *See* OSS Decl., Exh. LN-OSS-29 at 3, 5-6. Although Qwest agreed to develop a PID for service order accuracy, it declined to develop a PID for errors in rejection notices – even though, like errors in manually processed LSRs that Qwest re-enters into its systems for provisioning, errors in rejection notices can cause delays in the installation of the service

implementation of IMA 10.1 scheduled for August, are irrelevant to the issue of whether it currently complies with Section 271. *See id.*, ¶¶ 337, 342; *Michigan 271 Order*, ¶¶ 55, 179.

¹⁴³ Qwest argues that even where manual errors occur, CLECs have “several resources to which they can turn and will soon have more,” including its help desk, the service management team assigned to a particular CLEC or CLECs, and the change management process. OSS Decl., ¶ 342. Effective competition, however, requires that manual errors not occur in the first place. Once such errors occur, it is unlikely that the help desk or the other “resources” cited by Qwest

requested by the customer (with resulting customer dissatisfaction), thereby impeding a CLEC's ability to compete.¹⁴⁴

195. Qwest recently proposed a new PID (PO-20) for service order accuracy to the CLECs, and stated in its application that it would begin reporting data for this PID with June results, to be reported in July 2002. OSS Decl., ¶¶ 340-341.¹⁴⁵ However, as Qwest acknowledges, that reporting will begin "before the PID is finalized." *Id.*, ¶ 341. Qwest also fails to mention that the PID has not been "finalized" because the CLECs have objected to Qwest's proposed definition of the PID as inadequate in scope. For example, as proposed by Qwest, PO-20 would not evaluate whether the Qwest representative correctly re-entered the universal service ordering codes ("USOCs") and field identifiers ("FIDs") that identify the different services and features which CLECS provide to their customers. USOCs and FIDs are used on virtually every

will be able to prevent any delays or provisioning errors caused by errors in manual processing, since a CLEC will probably not learn of such effects until after they have occurred.

¹⁴⁴ See Qwest's Response to KPMG's Manual Order Entry PID Adequacy Study of April 30, 2002 (OSS Decl., Exh. LN-OSS-30) at 9, 11. For example, if the Qwest service representative enters the wrong error code on the rejection notice, the CLEC will not know the actual reason why its order was rejected, and will not make the correction to the order that is actually required. As a result, the LSR is likely to be rejected again when it is resubmitted, thereby delaying the installation of the customer's service even further.

¹⁴⁵ The performance data that Qwest reported for June 2002 indicates that its manual order accuracy rate in June under PO-20 was only 90.25 percent for UNE-P and resale POTS orders, and 96.46 percent for orders for unbundled loops. Thus, even under Qwest's unduly narrow definition of manual order accuracy, it committed errors on nearly 10 percent of manually processed orders for UNE-P and resale POTS, and 5 percent of manually processed orders for unbundled loops.

LSR submitted by a CLEC.¹⁴⁶ Without the inclusion of these commonly-used codes, any measure of service order accuracy would be incomplete.

196. Rather than develop an adequate PID for service order accuracy, Qwest has included in its Application “internal numbers” purporting to show that, “based on application dates, it accurately processed between 96% and 99% of manual orders for Resale POTS, UNE-P POTS, UNE-P POTS, Resale and UNE-P POTS, and Unbundled Loops.” See OSS Decl., ¶ 332 & Exh. LN-OSS-26. However, Qwest’s data on “application date accuracy” provide no meaningful indication of the overall accuracy of its manual processing. Although application dates are certainly important to CLECs, the accuracy rates reported by Qwest are undoubtedly vastly overstated, because they omit any errors committed by Qwest on *other* fields of a service order, including codes (such as USOCs) that CLECs use on virtually every LSR. Errors in those fields could result in provisioning delays (or provisioning errors), even if the application date is calculated correctly.

197. Qwest itself has agreed to include in its new service order accuracy PID (PO-20) a number of fields in addition to the application date. Thus, Qwest’s data on “application data accuracy” give a highly incomplete and misleading picture of its performance in processing orders accurately, even assuming that its data are accurate as stated.¹⁴⁷

¹⁴⁶ The Commission has specifically listed USOCs and FIDs as examples of the ordering codes that CLECs “need to place orders through the system efficiently” – and that the BOC is required to provide to CLECs as part of its OSS obligations. *Michigan 271 Order*, ¶ 137 n.336.

¹⁴⁷ Qwest’s assertion that the Liberty data reconciliation process suggests that “CLECs receive shorter dates, not longer ones, when orders are processed manually” finds no support in Liberty’s Disposition Report for Observation 1033, which is the sole basis that Qwest cites for its assertion.

198. Qwest also contends that its “internal” data indicates that it “currently rejects less than one percent of all manually processed orders” erroneously. OSS Decl., ¶ 333. Qwest’s self-serving internal data should be given no weight. Qwest’s calculation represents the percentage of manual LSRs that eventually receive a firm order confirmation (“FOC”) after initially being issued a rejection notice. *Id.*, ¶ 333 n.479 & Exh. LN-OSS-27. This methodology is plainly an improper measure of the percentage of manual orders that Qwest erroneously rejected, because it includes even those orders that Qwest *properly* rejected. Under Qwest’s business rules, if Qwest returns a rejection notice on a LSR for a “fatal error,” and the CLEC resubmits the original LSR with the appropriate corrections (and the LSR is otherwise complete and accurate), Qwest will send a FOC to the CLEC. Because CLECs commonly receive a FOC after resubmitting an LSR in response to a rejection notice, Qwest’s percentage of manual LSRs “FOC’d after reject” reveals nothing about the extent to which the rejections were erroneous.¹⁴⁸

199. Qwest also suggests that its commercial performance with respect to PID OP-5 (which measures troubles reported on new service within 30 days of installation) reflects a low rate of manual errors on CLEC orders, because the OP-5 data shows that its performance has

See OSS Decl., ¶ 332 & n.477. Liberty’s report contains no language from which such a “suggestion” could reasonably be inferred. Indeed, given the delays inherent in manual processing, it would be illogical to suggest that a CLEC will receive a “shorter due date” when its LSR is processed manually, rather than electronically. Finally, as discussed in the Declaration of John Finnegan on Performance Data and Assurance Plans, the Liberty disposition report on Observation 1033 would not reliably support Qwest’s position in any event, because Liberty never verified whether Qwest had fixed the problems that led to the numerous application date errors that it had originally identified in that observation.

been better for CLEC customers than resale customers over the last four months. *Id.*, ¶ 335.

Once again, Qwest is wrong. Data on the percentage of troubles reported within 30 days are not a reliable indicator of provisioning accuracy, because they include all troubles reported during that period, regardless of whether they were caused by errors in provisioning. Moreover, this metric would not capture situations where provisioning errors occurred but the customer did not report the trouble (for example, when a customer failed to receive a product or feature that it ordered because the Qwest representative did not include it on the service order, but decided to go without the product or feature rather than complain).¹⁴⁹

200. Qwest cites the results of the KPMG test on provisioning accuracy and manual order processing as evidence that any manual processing errors do not cause improperly installed services. *Id.*, ¶ 334. KPMG's discussion of the provisioning accuracy tests, however, does not indicate the extent to which manually processed orders (as opposed to orders that flowed through) were considered in that test. Qwest's interpretation of the KPMG test on manual processing is equally flawed, because it is inconsistent with the concerns that KPMG expressed in the Final Report regarding the extent of human errors committed by Qwest. More importantly, in its test on manual processing KPMG found that it was unable to make a determination as to one criterion which was directly relevant to the accuracy of Qwest's manual processing – Evaluation

¹⁴⁸ Indeed, since Qwest's own business rules contemplate the transmission of a FOC after resubmission of an adequate LSR sent in response to a rejection notice, Qwest's calculation that less than 1 percent of manual LSRs receive a FOC after a rejection notice is inherently suspect.

¹⁴⁹ Qwest asserts that such instances are "rare," citing its "internal" data on "service order mismatches." OSS Decl., ¶ 335. However, as discussed in the Declaration of John Finnegan on Performance Data and Assurance Plans, Qwest's data are unreliable.

Criterion 12.8-2, which evaluated whether Qwest was following its procedures for processing non-flow-through orders.¹⁵⁰

2. Qwest Does Not Provide Timely, Accurate, and Complete Status Notices.

201. Ordering and provisioning notices are the means by which Qwest advises CLECs of certain events in the reordering and provisioning process. FOCs advise CLEC that Qwest has accepted a service order and provides CLECs with a committed due date. Rejection notices advise CLECs that a particular order is defective and must be corrected. Jeopardy notices advise CLECs that Qwest cannot meet a confirmed due date. Completion notices advise CLECs that the ordered service has been provisioned.

202. The Commission has consistently held that receipt of all of these notices, on a timely basis, is critical to a CLEC's ability to compete. In its recent *New Jersey 271 Order*, the Commission reiterated that the timely receipt of status notices is "an important aspect of a

¹⁵⁰ See ¶ 189, *supra*; OSS Decl., ¶ 334 n.483 (mentioning Evaluation Criterion 12.8-2 as the one evaluation criterion that Qwest did not satisfy, but failing to describe the criterion). During briefings of the Commission and the Department of Justice regarding the ROC test on June 20, 2002, Qwest advanced other reasons for its position that AT&T's concerns regarding the adverse impacts caused by manual processing of orders are unfounded. See *ex parte* letter from Linda L. Oliver and Yaron Dari to Marlene H. Dortch in WC Docket No. 02-148, dated June 21, 2002, Qwest table entitled "Manual Processing." The various reasons that Qwest advanced for its position, however, miss the mark. For example, Qwest asserted that the possibility that manual processing would cause longer provisioning intervals was *de minimis* because it processes 98 percent of manual orders on the same day. *Id.* However, at hearings last month before the Colorado PUC, Qwest's own witness acknowledged that it was "certainly a potential" that an LSR submitted to Qwest would not be manually processed until the next day, and that the representative could use that day – rather than the date of submission – as the application date, on which due dates and provisioning intervals are based. See transcript of proceedings held June 12, 2002, in Colorado PUC Docket No. 02M-260T, at 145 (testimony of Chris Viveros) (attached hereto as Attachment 17).

competing carrier's ability to serve its customers at the same level of quality as a BOC." *New Jersey 271 Order*, ¶ 93.¹⁵¹

203. Qwest, however, does not provide accurate, complete, and timely status notices. For example, Qwest does not consistently provide jeopardy notices to CLECs: Qwest has erroneously sent status notices out of sequence; and Qwest's rejection notices have been inaccurate. Each of these problems is described below.

204. **Jeopardy Notices.** The Commission has recognized that the inability of a CLEC to meet the due date described in the FOC (and given by the customer to its customer) "is likely to have a significant competitive impact on new entrants' ability to compete." *South Carolina 271 Order*, ¶ 130. If the BOC fails to meet the due date but does not advise the CLEC, the CLEC will likely learn of the problem only when it is contacted by its irate customer – and will have no information with which to respond. Thus, the Commission has stated that timely jeopardy notices are "critical" to a CLEC that has previously received a committed due date. *Second Louisiana 271 Order*, ¶ 131.

205. In its third-party testing, KPMG found that Qwest had *not* satisfied Evaluation Criteria 12-9-4 and 12-9-5, which examined whether "Qwest systems or representatives provide timely jeopardy notices" for resale and UNE-P orders, respectively. KPMG Final Report at 92-93. The relevant measurement for these criteria was PID PO-9

¹⁵¹ See also, e.g., *Texas 271 Order*, ¶¶ 171, 174, 187; *New York 271 Order*, ¶ 159; *Second Louisiana 271 Order*, ¶ 154; *South Carolina 271 Order*, ¶¶ 117, 122, 130.

(Timely Jeopardy Notice). KPMG found that Qwest failed to provide jeopardy notices that should have been received for 8 missed resale orders, and 11 missed UNE-P orders. *Id.*

206. Qwest argues that the findings made by KPMG are based on a small number of orders and “outdated” data, and that its own reported performance data for the last four months demonstrates its ability to provide jeopardy notices in a timely manner. OSS Decl., ¶¶ 324-327. For the reasons described in the accompanying Declaration of John Finnegan on Performance Data and Assurance Plans, however, Qwest’s criticisms of KPMG’s findings are inconsistent with its reliance on findings of KPMG that Qwest satisfied certain test criteria that are based on equally “miniscule” volumes.

207. Moreover, Qwest’s own application admits that it has not consistently provided jeopardy notices to CLECs at parity with its retail operations in the four States for which it seeks Section 271 authority. OSS Decl., ¶¶ 260-263. As discussed in the Finnegan Declaration, Qwest’s explanations for this deficiency are without merit.

208. **Out-of-Sequence Status Notices.** During its third-party evaluation of Qwest’s OSS in 2001 in Arizona, Cap Gemini Ernst & Young issued a number of “incident work orders” (“IWOs”) finding deficiencies in Qwest’s processes for providing FOCs and jeopardy notices. After conducting an analysis of the IWOs and its performance data, Qwest issued a White Paper concluding that “Qwest uses the FOC and jeopardy notices appropriately.”¹⁵²

¹⁵² Qwest White Paper – “Firm Order Confirmation Evaluation Results,” Version 1.0, dated August 6, 2001, at 18 (attached hereto as Attachment 18).

209. Qwest's conclusion was erroneous. At the time of its White Paper, and thereafter, AT&T submitted a number of LSRs for which it received a FOC – and then received a rejection notice. This procedure was clearly improper. A CLEC should receive a FOC only if its order is accepted by Qwest's systems. If the order has fatal errors that require rejection, a rejection notice should be issued. That AT&T was receiving *both* a FOC *and* a subsequent rejection notice for the same LSR demonstrated that Qwest's systems were fundamentally flawed.¹⁵³

210. When AT&T brought this problem to Qwest's attention, Qwest explained that it issued a rejection notice because it detected errors in the LSR that would have caused a rejection notice to be issued in the first place – even though a FOC had already been sent to AT&T. Qwest's provision of a FOC followed by a rejection notice, however, left AT&T uncertain about the actual status of the order.¹⁵⁴ The confusion was compounded by Qwest's requirement that CLECs respond (either by telephone or by submission of a supplemental order) to a rejection notice within four hours if they wish to have the problem resolved and the LSR

¹⁵³ A CLEC should receive both a FOC and a rejection notice for the same LSR only when the original LSR was initially rejected, and the CLEC then submitted a supplemental LSR for which a FOC was returned. In that situation, however, the CLEC would receive the rejection notice first, and then the FOC – not vice versa.

¹⁵⁴ Qwest has also created confusion among CLECs by issuing unclear documentation on the FOC processes. During its third-party testing of Qwest's OSS in Arizona, Cap Gemini Ernst & Young found the documentation to be so vague that it recommended that "Qwest update their wholesale website with clear standards and business rules pertaining to CLECs' use of the FOC. These standards should clearly articulate how a CLEC is to differentiate a FOC, Jeopardy notice, Reject notices, and any/all notifiers." CG&E Final Report of the Qwest OSS Test, issued May 3, 2002, Recommendation 8 (at 29).

processed. If AT&T received a rejection notice after a FOC, and did not respond within the four-hour period, Qwest would cancel its service orders and reject the LSR.

211. In response to AT&T's complaints about this problem, Qwest simply created a "workaround" that is partially manual in nature. Since February 2002, in lieu of sending a rejection notice, Qwest has programmed its systems to identify LSRs for which a FOC has already been sent but for which a rejection notice should have been sent. A Qwest representative then manually sends a *jeopardy* notice to AT&T.¹⁵⁵ As under the previous process, upon receiving the manual jeopardy, AT&T has only four hours to respond to the notice before Qwest cancels the order in its system. Although AT&T agreed to this procedure as an interim solution, it did so in reliance on Qwest's assurance that Qwest would implement a systems change that would fully eliminate the problem. However, Qwest has not scheduled implementation of this automated solution until the third quarter of 2002.

212. Qwest rationalizes that although it transmits jeopardy notices after sending a FOC where it missed an error on the original LSR, CLECs nonetheless "have an understanding of how their orders will be processed." OSS Decl., ¶ 246. Qwest misses the point. Qwest's cumbersome "workaround" reflects the inability of its systems to return accurate notices on an automated basis to CLECs. The "workaround" requires CLECs to expend time and resources to resolve the issues raised by the jeopardy notice, and makes it likely that service to the customer will not be provided on the due date on the FOC. These problems do not occur in Qwest's retail

¹⁵⁵ See OSS Decl., ¶ 245 (admitting that Qwest sends out jeopardy notice when an SDC "happens to overlook a CLEC error on the initial LSR (but submits the service order so that a FOC issues)

operations, which have automated, real-time access to order status information. This is clearly a denial of parity.

213. **Erroneous Rejection Notices.** During the carrier-to-carrier testing that AT&T conducted with Qwest in Minnesota, Qwest frequently sent rejection notices that were erroneous. In the first phase of the carrier-to-carrier testing, AT&T determined that 57.10 percent of the LSRs that Qwest rejected were rejected in error. In the second phase of the testing, AT&T determined that 89.73 of the LSRs that Qwest rejected were rejected in error. In a number of cases, AT&T was receiving rejection notices, only to determine that there were no errors in the LSR. In other cases, AT&T determined that the order was rejected because of problems with Qwest's own systems, not because of any errors in the LSRs themselves.

214. Qwest's provision of erroneous rejection notices not only further manifests the deficiencies in its electronic OSS, but burdens both CLECs and consumers. CLECs receiving an erroneous rejection notice must expend time and resources to investigate the cause of the rejection – only to find that the rejection notice never should have been sent at all. Due to the time required to investigate and resolve the matter, provisioning of service to the customer may be postponed beyond what should have been the original due date, requiring the CLEC to contact its customer to rearrange the installation appointment. This puts CLECs at a distinct competitive disadvantage with Qwest's retail operations, whose orders are not rejected once they are released into Qwest's systems.

and the error is detected during the provisioning stage (resulting in a Jeopardy Notice being sent)").

3. Qwest's Provisioning of UNE-P and Business Services for Installations That Do Not Require a Dispatch Is Discriminatory.

215. In November 2001, KPMG issued Exception 3086, which found that Qwest did not install non-dispatch orders for UNE-P and resale for its pseudo-CLEC within a time period that was at parity with that for Qwest's retail orders. Even after retesting, KPMG found that Qwest's installation intervals for business resale orders and UNE-P orders were not at parity with those for Qwest's retail orders throughout its 14-State region. At Qwest's request, KPMG closed this exception as "unresolved" on April 22, 2002.¹⁵⁶

216. Because the problems that it found in Exception 3086 had not been resolved, KPMG found that Qwest had not satisfied Evaluation Criteria 14-1-34 and 14-1-36, which examined whether Qwest met the parity standard for installation intervals for business resale and UNE-P orders. *See* KPMG Final Report at 201-202. KPMG's finding simply confirms that discriminatory practices produce discriminatory results. Qwest has established a standard interval of three business days for virtually all UNE-P POTS orders.¹⁵⁷ By contrast, many retail POTS orders that require no dispatch may have a standard interval of the next business day. Thus, it is not surprising that KPMG found that in some of Qwest's regions, the installation

¹⁵⁶ KPMG Exception 3086, Disposition Report dated April 22, 2002.

¹⁵⁷ Qwest Communications, Service Interval Guide for Resale and Interconnection Services, dated April 18, 2002, at 10-11.

intervals for CLEC orders exceeded those for Qwest's orders by more than one day in some cases. *Id.*¹⁵⁸

217. The Commission has recognized that parity in installation intervals is critical to a CLEC's ability to compete because "it is likely, in a competitive marketplace, that customer decisions increasingly will be influenced by which carrier is able to offer them service most swiftly."¹⁵⁹ Customers are not likely to retain a CLEC as their carrier if they must wait longer to receive service from the CLEC than from Qwest. Given KPMG's findings that Qwest has not satisfied the parity requirement, and the unreliability of Qwest's reported data on installation intervals, Qwest cannot show that it provides nondiscriminatory access.

4. Qwest Does Not Adequately Provide Dark Fiber and EELs To CLECs.

218. Under the Commission's decisions, Qwest is required to provide dark fiber and (under certain conditions) Enhanced Extended Loops ("EELs") as unbundled network elements. In its testing, however, KPMG found that Qwest does not adequately provision dark fibers and EELs – thereby impeding the CLECs' ability to compete.¹⁶⁰

¹⁵⁸ Qwest suggests that because KPMG found that only Qwest's performance in its Eastern region did not satisfy Evaluation Criterion 14-1-34, that criterion is irrelevant here. OSS Decl., ¶ 398. Qwest, however, cannot consistently assert that its OSS are regionwide while attempting to explain away adverse findings by KPMG by suggesting that the OSS vary "significantly" from region to region. *Id.*

¹⁵⁹ *Second Louisiana 271 Order*, ¶ 125. See also *South Carolina 271 Order*, ¶ 132

¹⁶⁰ In addition to failing to adhere to its own methods and procedures for implementation of dark fiber and EELS (the deficiency noted by KPMG), Qwest fails to adequately provide dark fiber and EELs in other respects, which are described in the accompanying Declaration of Kenneth Wilson.

219. **Dark Fiber.** Because unbundled dark fiber is a complex service where testing cannot be accomplished in a test environment without access to actual network facilities, the ROC OSS Technical Advisory Group agreed that KPMG would test Qwest's ability to provision dark fiber by reviewing Qwest's installation of dark fiber for commercial CLECs. KPMG's review included an assessment of the extent to which Qwest's technicians actually adhere to Qwest's documented methods and procedures when installing dark fiber.

220. In its Final Report, KPMG found that Qwest had *not* satisfied Test Criterion 14-1-10 – whether “Qwest provisions Unbundled Dark Fiber by adhering to documented method and procedure tasks.” In its initial testing, KPMG found that Qwest provisioned *none* of the 23 dark fiber orders according to its methods and procedures, which require the Qwest technician to populate WFA (Work Force Administration) logs with the core test results (continuity testing, light loss and interoffice fiber parameters), for each dark fiber installation. During retesting, Qwest's performance was still inadequate. In observing the installation of unbundled fiber orders, KPMG found that Qwest technicians completed only 32 of 50 (64 percent) work steps correctly – far short of the 95 benchmark established for the test. *See* KPMG Final Report at 190 (Test Criterion 14-1-10).

221. The failure of Qwest to adhere to its methods and procedures for dark fiber installation denies CLECs a meaningful opportunity to compete. As KPMG stated, “Failure to adhere to documented Methods and Procedures could result in unnecessary delays to provision

the fiber to the CLEC, could increase a CLEC's operating costs due to the added time required to properly provision the fiber, and could decrease the customer satisfaction due to the delays."¹⁶¹

222. **EELs.** KPMG also found that Qwest did not adequately install EELs, which are a combination of the unbundled loop and unbundled dedicated transport. During initial testing, KPMG observed the performance of 79 tasks by Qwest technicians in the installation of 11 EELs. KPMG determined that Qwest performed only 87 percent of the tasks in accordance with Qwest's documented methods and procedures – below the 95 percent benchmark established for the test. On retesting, Qwest's performance was even *worse*. Of the 15 tasks reviewed by KPMG during retesting in connection with the provisioning two EEL orders, Qwest performed only 60 percent correctly.¹⁶²

¹⁶¹ KPMG Exception 3010, Disposition Report dated February 20, 2002, at 1. Qwest asserts that recent updates to its documentation and process changes during the course of KPMG's assessment demonstrate its ability to provision dark fiber on an unbundled basis. OSS Decl., ¶¶ 393-394. Qwest, however, misses the point. The problem noted by KPMG was not Qwest's documentation, but Qwest's failure to *adhere* to that documentation. Because "there is virtually no [dark fiber] order activity in the commercial setting" (*id.*), KPMG's findings are the only reliable evidence of record regarding Qwest's performance.

¹⁶² KPMG observed only two EEL orders during retesting because those were the only EEL test bed orders available during the retesting period. KPMG Exception 3104, Disposition Report at 2. Qwest asserts that KPMG's findings of "not satisfied" with respect to EELs and dark fiber in Test Criteria 14-1-10 and 14-1-14 were the result of "low commercial activity." OSS Decl., ¶¶ 392, 395. KPMG, however, clearly found the volumes of orders tested to be sufficient to warrant a finding of "not satisfied" – rather than a finding of "unable to determine," which is made when order activity is insufficient to support a conclusion as to whether the criterion has been satisfied. *See* KPMG Final Report at 12 (§ 6.1). Furthermore, KPMG suspended its testing for purposes of these criteria only because the TAG agreed that, because of the time deadline imposed on KPMG for submission of its draft Final Report, KPMG would render a decision on these criteria based on the data available to it sixty days prior to the then-scheduled submission date.

223. Because of the deficiencies identified in its testing, KPMG found that Qwest had not satisfied Evaluation Criterion 14-1-14 – whether “Qwest provisions EEL circuits by adhering to documented method and procedure tasks.” KPMG Report at 191-192. The failure of Qwest to adhere to its documented methods and procedures in installing EEL circuits impedes a CLEC’s ability to compete, because it may lead to the inconsistent or delayed delivery of EELs to CLECs, with resulting customer dissatisfaction. It also increases a CLEC’s operating costs, due to the resources that a CLEC is required to investigate installation problems.¹⁶³

224. Qwest’s own performance data show either that it is unable to provision EELs and dark fiber on a nondiscriminatory basis, or, for some states, that there is simply no data on which one can draw any meaningful conclusions about Qwest’s performance. As stated in the Finnegan Declaration on Performance Data and Assurance Plans, Qwest has failed to consistently meet the applicable benchmark for commitments met for EELs in the four States involved here.

5. The Unduly Lengthy Times That Qwest Takes To Update Customer Service Record Information Denies CLECs a Meaningful Opportunity To Compete.

225. Whenever AT&T submits a UNE-P order to Qwest, Qwest must update the customer service code (“CUS Code”) in the customer service record (“CSR”) before Qwest’s systems will process another order on the same account. For example, if AT&T submits a UNE-P order, Qwest completes the order and one day later AT&T submits a new order to add a feature that the customer forgot to include on the original order, the new order will be rejected if it does

¹⁶³ KPMG Exception 3104, Second Response dated January 25, 2002, at 2.

not contain the updated CUS Code. Thus, AT&T must wait for Qwest to update the CUS code before subsequent orders can be submitted on the same account without rejection.

226. Qwest, however, takes an unreasonably long time to update CUS Codes on UNE-P orders. During AT&T's carrier-to-carrier testing of UNE-P orders with Qwest, and while AT&T worked with the Qwest account team to develop its UNE-P product, Qwest advised AT&T that it takes 3 to 5 business days to update CSRs.¹⁶⁴

227. The 3-to-5 day interval for updating CUS Codes imposes a substantial burden on AT&T and its customers. For example, when they initially requested service from AT&T, some of AT&T's business customers forgot to include in their request certain features that were important to their operations. In such circumstances, the customer was forced to wait 3 to 5 days before AT&T could submit a new LSR for that feature – and an additional 3 days before the feature could be installed. In short, the customer was required to wait as long as an additional 8 days for the installation of a feature.

228. The delay in updating CUS Codes also imposes costs on CLECs, because Qwest does not automatically notify CLECs when the updating has occurred. Instead, CLECs must continuously check Qwest's databases via the OSS interfaces to determine whether, and when, the CUS Code was updated. If they do not conduct such a check, they risk rejection of any subsequent order for the customer. This problem does not occur in the regions served by other

¹⁶⁴ Qwest also advised KPMG that "Updates to CSRs may take up to thirty days to post." KPMG Exception 3028, Qwest Initial Response dated September 19, 2001 (Issue 2). In fact, within recent months, as well as during the Minnesota UNE-P test that AT&T conducted with KPMG, Qwest has taken up to 30 days to update CUS Codes on the CSRs of some of AT&T's UNE-P orders that request complex services or changes to directory listings.

RBOCs, which update CUS Codes automatically (and typically take no more than 24 hours to update a CSR).

229. In January 2002, AT&T learned that Qwest offered a “workaround” for this problem. AT&T learned of the workaround only when it reviewed the “Frequently Asked Questions” page of Qwest’s website, because it had not been previously advised of this solution by Qwest, despite its numerous complaints to Qwest during the Minnesota test about this problem. The workaround, which AT&T has implemented, requires AT&T’s personnel to mark an LSR for manual processing by Qwest and include the number of the original LSR in the remarks section of the new order. Although Qwest’s workaround eliminates the risk of order rejections caused by delays in updating the CUS Code, it requires AT&T to expend costs and resources that are not incurred in Qwest’s retail operations, which have systems that update the CSR automatically and expeditiously.

230. Because of the need for a system that expeditiously updates CUS Codes, AT&T submitted a change request for such a solution on February 8, 2002, as part of the Change Management Process. Several other CLECs have joined in AT&T’s change request. The change request has been discussed at the CMP Systems meetings held in March, April, and May 2001. Qwest has asserted that implementing this change request would be a costly and substantial undertaking, but that it has some alternative ideas that, if implemented, would shorten the updating process to some extent. However, Qwest has indicated that it will be unable to update its systems to allow CSRs to be updated within 24 hours. Thus, the current lack of parity is likely to persist for the foreseeable future.

C. Maintenance and Repair

231. As part of its obligations to provide nondiscriminatory access to OSS functions, Qwest is required to provide CLECs with nondiscriminatory access to its maintenance and repair systems.¹⁶⁵ Without such access, “a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC’s network as a problem with the competing carrier’s own network.”¹⁶⁶

232. In several respects, however, Qwest fails to provide parity of access to maintenance and repair functions. First, as described in the Declaration of John Finnegan on Performance Data and Assurance Plans, repeat trouble report rates for CLEC customers served by the UNE platform where the repair required no dispatch have been substantially worse than the rates for Qwest’s own retail customers. Similarly, repeat trouble report rates for UNE-P Centrex repairs have generally been much higher than those for Qwest’s own customers. By itself, the disparity in these rates – which the Commission has described as an indication of the quality of the maintenance and repair work performed by a BOC – denies CLECs a meaningful opportunity to compete, because it creates greater customer dissatisfaction problems for the CLEC than for Qwest.¹⁶⁷

233. Second, Qwest does not process transactions to edit (modify) trouble reports in a timely manner. In its Final Report, KPMG concluded that Qwest had not satisfied

¹⁶⁵ *Georgia/Louisiana 271 Order*, App. D, ¶ 38; *New York 271 Order*, ¶ 212.

¹⁶⁶ *New Jersey 271 Order*, App. C, ¶ 38; *New York 271 Order*, ¶ 196.

Evaluation Criterion 16-3-5 – whether “Modify a trouble report transactions are processed within the guidelines established by the ROC TAG benchmark.” Although the benchmark for this test was 24 seconds (and was agreed to by Qwest), Qwest returned non-design edit transactions within 27 seconds. KPMG concluded that this disparity was statistically significant.¹⁶⁸ KPMG further found that such lengthy processing times “could cause repair delays for CLECs, and may require additional resources to research the issue, thus potentially increasing operating costs,” and causing customer dissatisfaction if unnecessary delays occur.¹⁶⁹

234. Third, Qwest does not maintain accurate repair records for CLECs.

KPMG found that Qwest did not satisfy its Evaluation Criterion 18-6-1 – whether “Close out codes for out-of-service and service affecting wholesale, UNE-P, resale, and Centrex 21 troubles indicated in Qwest’s systems, and that may or may not require the dispatch of a technician, are

¹⁶⁷ See *New York 271 Order*, ¶ 222 (“A competing carrier’s customer may become dissatisfied if the customer experiences frequent service problems, especially repeated troubles”).

¹⁶⁸ KPMG Exception 3107, dated January 17, 2002; KPMG Final Report at 337-338 (Evaluation Criterion 16-3-5). Qwest argues that the “not satisfied” finding is not significant, because the non-design edit transactions are “extremely low volume” in nature, and Qwest’s “three independent tests” of such truncations show that it meets the 24-second benchmark. OSS Decl., ¶¶ 444-446. Qwest, however, offers no data or other basis to support its claim that non-design transactions constitute less than 1 percent of total CLEC transaction volumes. *Id.*, ¶ 445. Moreover, like KPMG, this Commission should reject Qwest’s attempt to substitute its internally-developed “independent tests” for truly independent third-party testing. Qwest requested that KPMG’s Exception 3107 be closed nearly a month before OSS testing was scheduled for completion. Rather than allow KPMG to conduct retesting during this period, Qwest chose to conduct its own internal testing. KPMG correctly found Qwest’s testing data insufficient to satisfy the exception, because Qwest’s approach was flatly inconsistent with the test methodology that the ROC TAG (including Qwest) had agreed to. KPMG Exception 3107, Disposition Report dated February 26, 2002.

¹⁶⁹ KPMG Exception 3107, Second Supplemental Response dated February 12, 2002, at 2.

consistent with the troubles placed on the line.” KPMG Final Report at 358-359 (Evaluation Criterion 18-6-1).

235. KPMG specifically concluded that a high percentage of close-out codes assigned by Qwest’s personnel trouble reports were incorrect. Close-out codes (disposition and cause codes, or “D/C” codes) are intended to designate the party who caused the trouble to occur (*i.e.*, the CLEC, the customer, Qwest, or some other party) and the cause of the trouble. As KPMG noted, “[i]ncorrect closeout codes could distort performance results that are reported to regulatory agencies and others.”¹⁷⁰

236. During its initial test, KPMG found that Qwest was assigning more than 38 percent of close-out codes incorrectly.¹⁷¹ After Qwest claimed that it had instituted corrective action and KPMG conducted a retest, KPMG found that Qwest personnel were still applying these codes incorrectly to more than 11 percent of trouble reports. Qwest’s performance on both tests failed to meet the 95 percent accuracy benchmark to which it had agreed.¹⁷²

237. Inaccurate close-out codes can inhibit Qwest’s ability to detect consistent problems reported by CLECs, and thus prevent Qwest from being able to repair troubles even before they are reported by CLECs. As a result, CLECs’ customers may experience problems

¹⁷⁰ KPMG Exception 3055, Disposition Report dated February 7, 2002, at 2.

¹⁷¹ KPMG Exception 3055, dated September 26, 2001, at 1.

¹⁷² Qwest’s deficient performance was separately confirmed by Liberty Consulting, which found similar problems in the entry of close-out codes by Qwest’s personnel. Liberty Observation 1028, Disposition Report dated March 1, 2002, at 1.

that could have otherwise been avoided – and those customers will blame the CLEC for the problem.¹⁷³

238. Third, Qwest's rate of successful repairs is deficient. KPMG found that Qwest did not satisfy Evaluation Criterion 18-7-1 – whether “Out of service and service affecting wholesale UNE-P, resale, and Centrex 21 troubles that may or may not require the dispatch of a technician are successfully repaired.” KPMG Report at 360 (Evaluation Criterion 18-7-1). Successful repairs of troubles by Qwest are critical to the satisfaction of CLEC customers. A failure by Qwest to repair a trouble successfully on its first attempt will require a second visit to the customer – which likely will blame the CLEC, not Qwest, for the unsuccessful repair.

239. KPMG, however, found that Qwest failed to meet its benchmark that 95 percent of repairs be correct. *Id.* Qwest's argument that KPMG should have used a different

¹⁷³ KPMG Exception 3055, *supra*, at 1. Qwest asserts that KPMG did not recognize “the primacy of accurate narrative fields in closing out trouble tickets (rather than rely solely on coding number)”, and that it has implemented measures since KPMG's testing to ensure correct entry of close-out codes. OSS Decl., ¶¶ 456-457. Qwest's response is disingenuous, because Qwest chose to request that KPMG's exception be closed, rather than allow further retesting (in the course of which Qwest could have made its argument about narrative fields to KPMG and KPMG could have tested the effectiveness of Qwest's remedial measures). In any event, KPMG has testified that it found Qwest's “primacy” argument to be unpersuasive for a number of reasons, including the difficulty of “parsing” the remarks filed of the trouble ticket. KPMG also pointed out that Qwest's “primacy” argument was unsupported by its own methods and procedures and its own PIDs. See transcript of proceedings held June 6, 2002, in Washington Utilities and Transportation Commission Docket Nos. UT-3022 and UT-003040, at 8152-8160 (attached hereto as Attachment 19).

measure (OSS Decl., ¶¶ 458-461) simply fails to address why Qwest's repairs were unsuccessful nearly 10 percent of the time. KPMG Final Report at 360 (Evaluation Criterion 18-7-1).¹⁷⁴

D. Billing

240. Qwest's OSS obligations include the obligation to provide CLECs with nondiscriminatory access to its billing functions, in order to enable them to provide accurate and timely bills to their customers.¹⁷⁵ As the Commission reiterated in its recent *New Jersey 271 Order*, this obligation extends to both Daily Usage Files ("DUFs") and wholesale bills:

BOCs must provide two essential billing functions: (1) complete, accurate and timely reports on the service usage of competing carriers' customers, which Verizon records in the DUF; and (2) complete, accurate, and timely wholesale bills. Service usage reports are issued to competitive LECs that purchase unbundled switching and measure the types and amounts of incumbent LEC services that a competitive LEC's end user-customers use, typically measured in minutes of use, for a specific period of time (usually one day). An incumbent LEC issues wholesale bills to competitive LECs to collect compensation for the wholesale inputs, such as UNEs, purchased by competitive LECs from the incumbent LEC, to provide service to their end users. These bills are usually generated on a monthly basis, and allow competitors to monitor the costs of providing service.¹⁷⁶

¹⁷⁴ Qwest attempts to explain away the findings by KPMG by assuming that the technicians who performed the repairs "have significant repair experience and followed the applicable business rules and practices," and that some of the problems "could be due to inaccurate telephone numbers or circuit ids provided by KPMG." OSS Decl., ¶ 459. Qwest, however, provides absolutely no evidence to support these assumptions. Thus, the percentage of accurate repairs that Qwest calculates from its "research" on the basis of its speculative statements is not reliable. *Id.*

¹⁷⁵ *New Jersey 271 Order*, ¶ 121; *Georgia/Louisiana 271 Order*, App. D, ¶ 39; *Second Louisiana 271 Order*, ¶ 158.

¹⁷⁶ *New Jersey 271 Order*, ¶ 121 (citing, *inter alia*, *Pennsylvania 271 Order*, ¶ 13).

241. Qwest, however, has not shown – and cannot show – that it provides nondiscriminatory access to its billing systems. Qwest’s DUFs have not been shown to be either accurate or complete. In addition, Qwest has not provided the readable, auditable and accurate wholesale bills that are required to meet the requirements of Section 271.

242. **Daily Usage Files.** Daily usage files measure the types and amounts of Qwest’s services that are used by the CLEC’s end-user customer, typically measures in minutes of use. They include not only details regarding local calls, but also switched access records from and to UNE switch ports. OSS Decl., ¶ 499. Unless a CLEC receives complete and accurate DUFs, it cannot properly bill customers for use-related features or bill interexchange carriers for access charges.¹⁷⁷ Thus, the Commission has stated that a BOC is “obligated to provide competitors with complete and accurate reports on the service usage of competitors’ customers in the same manner that [the BOC] provides to itself,” because CLECs would otherwise be “at a competitive disadvantage.”¹⁷⁸

243. KPMG’s third-party testing included an assessment of Qwest’s ability to transmit complete and accurate DUFs to CLECs. Qwest failed that test *five separate times* before it finally passed, on the sixth try.¹⁷⁹ On the first test, KPMG found that Qwest’s systems

¹⁷⁷ For example, a CLEC would need accurate and complete DUFs to bill Qwest for access charges if a Qwest retail customer who selected Qwest as its intraLATA carrier made an intraLATA call to one of the CLEC’s end-user customers.

¹⁷⁸ *Second Louisiana 271 Order*, ¶¶ 158, 160.

¹⁷⁹ KPMG Final Report at 15 (“After six attempts, KPMG Consulting was finally able to determine that Qwest’s Daily Usage Feed (DUF) files were both accurate and consistent with industry guidelines”). Similarly, in Arizona Qwest repeatedly failed Cap Gemini’s DUF testing

were losing 31 percent of the pseudo-CLEC's DUF records. Even on the sixth retest, Qwest barely met KPMG's benchmark for DUF completeness and accuracy.¹⁸⁰ This constant series of failures, by themselves, call into serious question the reliability of the systems used by Qwest to transmit DUFs.¹⁸¹

244. Moreover, the experience of KPMG's DUF testing indicates that Qwest does not have adequate processes in place to ensure that DUF production is both accurate and complete (and, conversely, to recognize when the DUF files that it is generating are incomplete or erroneous). It appears that in test after test, Qwest learned that the DUFs received by KPMG's the pseudo-CLEC were incomplete and inaccurate only after KPMG brought the problem to Qwest's attention – even when Qwest was not transmitting more than 30 percent of the DUFs.

until it passed. Because of its concern with Qwest's difficulty in passing these tests, the Staff of the Arizona Corporation Commission has recommended that, as a condition of approval of its Section 271 application, Qwest be required to test its DUF provisioning to CLECs within 12 months (with ACC Staff oversight) "to ensure accurate and timely delivery of these records." ACC Docket No. T-000000A-97-0238, Supplemental Report and Staff Recommendation on Qwest's Compliance With Checklist Item No. 2, Access To Unbundled Network Elements – Operational Support System Requirements, dated May 1, 2002, at 23.

¹⁸⁰ KPMG Final Report at 422-424 (Evaluation Criterion 19.6-1-3), 432-433 (Evaluation Criterion 19.6-1-5). During its testing, KPMG used a benchmark of 95 percent for accuracy and completeness of the DUFs. On the sixth test, Qwest returned 95.7 percent of DUF records that the pseudo-CLEC expected to receive. *Id.*

¹⁸¹ In an apparent response to the discussion in KPMG's Final Report to its repeated failures of the DUF test, Qwest asserts that "the first two tests that KPMG initiated were cancelled due to problems in the test bed." Application at 140; *see also* OSS Decl., ¶ 566 n.812 & Exh. CLD-OSS-43 at 1. The above-quoted language from KPMG's Final Report, however, makes clear that KPMG considered the first two tests to be valid tests. Even if Qwest's history of the KPMG test is correct (and it is not), the fact remains that Qwest failed the KPMG test three times before it ultimately passed. Thus, the "salient point" is not that Qwest ultimately managed to pass the test

Qwest itself has conceded that the problems with DUFs noted by KPMG “are embedded in automated systems, rather than in manual processes.”¹⁸²

245. Qwest’s Application provides no data showing that its DUFs are accurate and complete. In addition, Qwest’s reported monthly performance data do not include data regarding the accuracy and completeness of DUFs. However, AT&T’s experience shows that Qwest has not provided complete and accurate DUFs.

246. AT&T began to provide local exchange service through Qwest’s UNE platform to enhance its offering of local service in Colorado in November 2001, and in Arizona and Washington in December 2001. Qwest, however, failed to provide *any* ADUFs for two of those States to AT&T until April 2002. Without these files, AT&T was unable to bill other carriers for access charges.

247. AT&T’s inability to receive complete and accurate DUFs in the commercial context is simply a continuation of its previous experience in submitting UNE-P orders as part of its carrier-to-carrier testing with Qwest in Minnesota in 2001. In Phase I of the test (which lasted from May to early November 2001), AT&T received only 48.92 percent of the access daily usage files (“ADUFs”), and 83.98 percent of the optional daily usage files (“ODUFs”), that Qwest was required to send. Almost 10 percent of the ADUFs received by

(see Application at 140), but that its record of numerous failures calls the reliability of its systems into serious question.

¹⁸² KPMG Final Report at 432-435 (Evaluation Criteria 19.6-1-5 and 19.6-1-6). KPMG was unable to determine whether Qwest even had adequate processes in place for *correcting*

AT&T had errors, and 3.74 percent of the ADUF records received were not even AT&T customer records.

248. The DUF records that Qwest provided in Phase II of the test (which lasted from November 19 to December 7, 2001) also were often incomplete or inaccurate. AT&T received only 60.45 percent of the ADUFs, and 54.77 percent of the ODUFs, that Qwest was supposed to provide. Of the ADUFs that Qwest did return, 30.83 percent had errors. Finally, 6.90 percent of ADUF records, and 2.52 percent of ODUF records, that AT&T received were not AT&T customer records. Such poor performance clearly denies CLECs a meaningful opportunity to compete.¹⁸³

249. **Wholesale Bills.** The Commission has held that “Wholesale bills are essential” to CLECs, because CLECs “must monitor the costs they incur in providing services to their customers.”¹⁸⁴ Thus, any applicant for Section 271 authority “must demonstrate that it can

inaccurate DUFs in a timely manner and for enabling CLECs readily to obtain status on DUF return requests. *Id.* at 440-442 (Evaluation Criteria 19.6-1-17 and 19.6-19).

¹⁸³ Qwest has also breached its obligation to provide nondiscriminatory access to billing functions by entering into unfiled agreements with certain CLECs (such as Eschelon) to pay them certain specified amounts when DUFs are inaccurate until Qwest implemented a mechanized process for providing DUFs to CLECs. For example, Qwest’s process with Eschelon required Qwest to credit Eschelon \$13.00 per UNE-P line per month in the event that Qwest failed to provide Eschelon with accurate DUFs until a mechanized process was in place. Although the payments were subject to a true-up after Qwest implemented a mechanized system, until that time Eschelon was receiving sizeable payments that other CLECs were not receiving, even though all of them were experiencing the same problems with the accuracy of the DUFs provided by Qwest.

¹⁸⁴ See *Pennsylvania 271 Order*, ¶ 13.

produce a readable, auditable and accurate wholesale bill in order to satisfy its nondiscrimination requirements under checklist item 2.”¹⁸⁵

250. The Commission has also recognized that provision of adequate wholesale bills by a BOC is critical to a CLEC’s ability to compete:

Inaccurate or untimely wholesale bills can impede a competitive LEC’s ability to compete in many ways. First, a competitive LEC must spend additional monetary resources reconciling bills and pursuing bill corrections. Second, a competitive LEC must show improper overcharges as current debts on its balance sheet until the charges are resolved, which can jeopardize its ability to attract investment capital. Third, competitive LECs must operate with a diminished capacity to monitor, predict and adjust expenses and prices in response to competition. Fourth, competitive LECs may lose revenue because they generally cannot, as a practical matter, back-bill end users in response to an untimely wholesale bill from an incumbent LEC. Accurate and timely wholesale bills in both retail and BOS BDT formats thus represent a crucial component of OSS.

Pennsylvania 271 Order, ¶ 23. The effects of untimely or inaccurate wholesale bills “can prove especially acute for many competitors because wholesale inputs purchased from incumbent LECs often comprise the single largest cost element of providing service to their end users.” *Id.*, ¶ 23 n.75.

251. Qwest, however, has not met its obligation to provide auditable, readable, and accurate wholesale bills. First, Qwest’s bills are not auditable, because they are not provided in the electronic, mechanized Carrier Access Billing System (“CABS”) Bill Output Specifications (“BOS”) Bill Data Tape (“BDT”) format. CABS is the industry standard system for generating

¹⁸⁵ *Pennsylvania 271 Order*, ¶ 22. See also *New Jersey 271 Order*, ¶ 124; *Pennsylvania 271 Order*, ¶ 13 (pursuant to checklist item 2, BOCs must provide CLECs with “complete, accurate,

electronic bills. The “BOS BDT” format, which is also an industry standard, allows a CLEC to use computer software to electronically (and thus readily) audit the data in the electronic bill.¹⁸⁶

252. Qwest does not use the industry standard CABS billing system to generate bills for the UNE platform. Instead, Qwest uses the Customer Record Information System (“CRIS”).¹⁸⁷ CRIS is not an industry standard system, but varies substantially from ILEC to ILEC. In fact, as Qwest effectively admits, Qwest’s three billing centers provide CRIS bills in differing levels of detail – which prevents a CLEC from designing a system even to handle Qwest CRIS bills.¹⁸⁸

253. Furthermore, Qwest generates electronic bills in its proprietary format, rather than in the industry standard (BOS BDT) format. Because Qwest uses a non-industry-standard format, a CLEC cannot use commercially available computer software to verify the accuracy and completeness of the UNE-P bill. Thus, before it could audit the data on a CRIS bill, a CLEC would be required to develop the necessary software – an undertaking that would be expensive and time-consuming. It does not appear that any CLEC has done so.

and timely wholesale bills”).

¹⁸⁶ As the Commission recently stated, “a BOS BDT bill appears in the industry-standard Billing Output Specification (BOS) Bill Data Tape (BDT) format that permits a wholesale carrier to use computer software to readily audit the data.” *New Jersey 271 Order*, ¶ 122 n.148.

¹⁸⁷ Although Qwest states that it uses CRIS to bill “certain UNEs” (OSS Decl., ¶ 474), in reality Qwest uses CRIS to bill *all* UNEs, with the exception of UDITS, DS1 trunks, and frame relay. *See id.*, ¶ 485.

¹⁸⁸ *Cf.* OSS Decl., ¶ 483 n.698 (stating that “in Qwest’s Central and Eastern regions, monthly itemizations at the sub-account level are not as detailed on the EDI bill”).

254. Qwest asserts that its CRIS bills have been in a format “compatible with commercially available software.” OSS Decl., ¶ 498. As discussed in further detail below, this is incorrect. Although Qwest and the CLECs have held numerous discussions of billing issues in TAG meetings, Qwest never asserted in those meetings that CLECs could verify CRIS bills with currently-available software. A review of a wide variety of internet web sites of billing vendor and software solutions has found no software that could be used for this purpose.

255. As a practical matter, because CRIS bills have been issued in a proprietary format that precludes their verification, AT&T has been unable to audit the accuracy of Qwest’s wholesale bills for UNE-P. Although AT&T has also received wholesale bills from Qwest in paper form, a paper bill for a single month consists of thousands of pages. Auditing all of these documents would be unmanageable and prohibitively expensive, given the substantial manpower and resources that would be required to complete the task. Yet the need for electronic billing will become even more critical for AT&T as it attracts increasing volumes of customers in the Qwest region.

256. There is no reason why Qwest cannot implement CABS bills in BOS BDT format for all order types. Qwest itself already uses a variation of CABS, the Integrated Access Billing System (“IABS”), to bill CLECs for Resale Frame Relay, LIS, UDIT, CCSAC, E911, and recurring charges for collocation and Dark Fiber. OSS Decl., ¶ 502.

257. AT&T has requested CABS BOS BDT billing from Qwest since 1996. In fact, the Oregon Public Utility Commission and the Minnesota Public Utilities Commission

ordered Qwest to provide CABS billing as part of the AT&T-Qwest interconnection agreement. Nonetheless, Qwest has not yet implemented CABS billing for UNE-P services.

258. Because Qwest still had not implemented CABS as the billing system for UNE-P, AT&T submitted a change request seeking implementation of CABS billing on September 6, 2001. Initially, Qwest rejected the CR on the ground that it was similar to a change request filed by Rhythms in January 2001. However, after AT&T learned that Qwest would only implement a CABS CSR in response to Rhythm's request (a "fix" that would be of no benefit to AT&T), AT&T insisted that its change request be reinstated. After AT&T escalated this issue in January 2002, Qwest responded that it would implement CABS in July 2002 – but only in a few States.

259. Qwest finally agreed that it would implement CABS billing for UNE-P on July 1, 2002 in all 14 States in its region. *See* OSS Decl., ¶ 481 n.694. That, however, did not happen. Although the bills generated since July 1, 2002, are now in BOS BDT format, they are still generated by Qwest's CRIS system – not by CABS. Qwest's use of CRIS thus continues to preclude CLECs from designing a single system to handle and audit the CRIS bills, given the differences in the level of detail in the bills provided by each center. Moreover, Qwest has advised CLECs that the new CRIS bills will not be subject to CABS BOS edits, which ensure that all fields on the bill are populated correctly.¹⁸⁹ The lack of such edits increases the likelihood that the bill will be inaccurate, because the CRIS source data will simply be mapped to a CABS format without the benefit of the CABS BOS editing process.

260. In the short time since its implementation, the CRIS BOS BDT bill has already proven to be severely flawed. When AT&T received its first three such bills during the week of July 15, AT&T was unable to load or process them, because Qwest used suffix codes that were inconsistent with industry standards for BOS electronic bills.¹⁹⁰ Qwest then admitted that it had erred and resubmitted the three bills (for Washington, Arizona, and Colorado) with the correct codes during the week of July 22, 2002.

261. Even the three bills resubmitted by Qwest were seriously defective. Each resubmitted bill was out of balance (*i.e.*, the total amount listed as due on the bill was inconsistent with the sum of the individualized charges), lacked some usage records, and provided detail records for taxes that were incorrectly coded. The bills also contained misformatted details for “other charges and credits” and for adjustments, with invalid “date from” and “date through” entries. Moreover, because the three bills were not provided by the same billing center, the problems in the Washington bill (which was issued by the billing center in Qwest’s Western region) were somewhat different from those in the bills for Arizona and Colorado (which were

¹⁸⁹ See Memorandum to Bill Difference Distribution Group from Catriona Dowling (Qwest), dated July 11, 2002 (attached hereto as Attachment 24).

¹⁹⁰ BOS electronic bills are required to be formatted consistently with the Telcordia industry standards. Under those standards, the bill must begin with a 100101 (header record) and end with a 109999 (trailer record) with accurate suffix indicators in each that specify the content of subsequent billing records. The accurate population of the “record identification suffix” and “suffix record indicator” data elements on all records is very important. Qwest, however, did not populate the suffix record indicator correctly on the last 109999 record to indicate that it was the last record for the bill. Because AT&T programmed its systems according to industry standards, it was unable to process the bill because it appeared to be incomplete.

issued by the billing center for Qwest's central region).¹⁹¹ This new problem has been referred to Qwest's technical group. Even if these problems are resolved, however, experience to date with the new CRIS BOS bill illustrates that it will take some time before all deficiencies in the bill have been determined and fixed.¹⁹²

262. In its Application, Qwest asserts that its electronic CRIS bills are auditable, because the various formats that it offers (including EDI and ASCII) are compatible with, and can be loaded into, publicly available software -- including spreadsheet programs -- "to mechanize their validation steps." See Application at 136; OSS Decl., ¶ 481 & Exh. CLD-OSS-39 at 1, 3. Qwest is incorrect. A CLEC would be required to program the spreadsheet or database application in order to validate the correct columns and rows of the bill against the controls that it has in its own systems. Using programs such as Microsoft Excel or Lotus 1-2-3, as Qwest suggests, is unrealistic. See *id.*, Exh. CLD-OSS-39 at 3. Due to limitations on file sizes that are imposed by spreadsheet software, CLECs serving large volumes of customers would likely be unable to load their bills into such software -- and, if they attempted to do so, their systems would

¹⁹¹ Although the usage amounts and tax amounts in all three bills were out of balance, the amounts in the Washington bill (but not the Arizona and Colorado bills) for other charges and credits were also out of balance.

¹⁹² See *Pennsylvania 271 Order* ¶ 19 (noting that nine months after Verizon first introduced its BOS BDT bill, and even after Verizon suspended such billing for four months to allow for system corrections, Verizon and the CLECs still identified "a number of problems that required correction"). Although AT&T conducted testing of the bill with Qwest during June 2002 (OSS Decl., ¶ 481 n.694) prior to its implementation, Qwest limited the testing to a single bill file consisting of 14 usage records and 38 recurring charge records. The bill contained no records for other charges and credits, adjustments, or taxes. Because it desired more thorough testing, AT&T requested that Qwest provide a BOS BDT version of a previously issued paper bill prior to the scheduled July 1 implementation date. Qwest, however, refused to do so.

probably “crash,” with the possible loss of data. Even such programs as Microsoft Access would not be sufficient to enable a CLEC to audit a CRIS bill, because the CLEC could audit the bill only if it developed its own software to do so – a time-consuming and expensive task.¹⁹³

Although Qwest suggests that CLECs can load the ASCII format or EDI bill in other “database programs” or “database applications” (e.g., OSS Decl., Exh. CLD-OSS-39 at 3), the fact that Qwest has not specifically identified such programs or applications (even after years of state Section 271 proceedings) confirms the lack of merit in its claim of verifiability.¹⁹⁴

263. Even if currently-available commercial software could be used to verify the accuracy of CRIS bills (and it cannot), Qwest’s CRIS bills for UNE-P lack sufficient detail to permit such a verification. For example, CRIS bills for UNE-P contain summarized volumes of services and their respective USOCs, but no summarized costs with which to calculate a unit price for the recurring charges. As a result, the CLEC cannot determine whether the price being charged for each USOC is proper and consistent with its interconnection agreement with Qwest, or ascertain the time period for which the USOCs are being charged. Moreover, the CRIS bills

¹⁹³ Qwest’s assertion that its CRIS bills conform to the industry standards established by Telcordia is misleading. OSS Decl., Exh. CLD-OSS-39 at 3 n.9. Only Qwest’s *paper* CRIS bills conform to the Telcordia standards; its *electronic* CRIS bills do not. Because of their sheer bulk, the paper bills are inauditable regardless of whether they comply with industry standards.

¹⁹⁴ Similarly, only in *ex parte* letters that it recently filed in connection with its *Qwest I* application did Qwest identify particular companies that provide services or offer software systems which purportedly can be used to audit CRIS bills (in EDI or ASCII Format). See *ex parte* letter from Yaron Dori (Qwest) to Marlene H. Dortch in WC Docket No. 02-148, dated July 25, 2002. The belated nature of Qwest’s identification is, by itself, reason for rejecting the credibility of its claim. Furthermore, although AT&T has had only a limited opportunity to investigate the companies identified by Qwest, the web sites of the identified companies indicate that CLECs would be required to reformat the bills into spreadsheets or other form in order to audit them (in contrast to CABS bills, which require no such reformatting).

summarize the minutes of use for network usage, but provide no details about the end-user's local calls. Due to this lack of detail, a CLEC receiving a CRIS bill is unable to verify whether the billing amounts for end-user calls equate to the call details provided on the DUF.¹⁹⁵

264. Contrary to Qwest's assertion, the KPMG test does not support its claim that its bills are auditable. *See* OSS Decl., Exh. CLD-OSS-39 at 5-6; *see also* Application at 140. In the Colorado hearing from which Qwest selectively quotes KPMG's testimony, KPMG testified that it did *not* evaluate the auditability of Qwest's wholesale bills.¹⁹⁶

265. Second, Qwest's wholesale bills are not accurate. In its testing, KPMG found that Qwest repeatedly provided erroneous bills. As a result, KPMG concluded that it was unable to conclude that Qwest's wholesale billing processes were satisfactory:

¹⁹⁵ Qwest's CRIS bills suffer from this lack of detail, regardless of whether they are in paper form or electronic form. Thus, even if Qwest fulfills its promise to implement a fully automated process in September to ensure that CRIS paper and electronic bills match (OSS Decl., ¶ 483 n.698), those systems will not cure the problems that preclude CRIS bills from being verified.

¹⁹⁶ *See* Application at Attachment 5, Appendix K, Testimony of Michael W. Weeks, Colorado PUC proceeding, Docket No. 02M-260T, June 10, 2002, at 168-169 ("Q: As we discussed last week, KPMG did not evaluate, as a part of this test, the auditability of wholesale bills? A: No. We validated the accuracy of wholesale bills delivered to the pseudo-CLEC. We did not design a test that would have developed a conclusion that says bills are auditable or not by a CLEC. . . . We didn't have test criteria targeted at measuring auditability. . . . There's no evaluation criteria for – no conclusions about auditability in the report"). Similarly, in the vendors' conference cited by Qwest, KPMG acknowledged that a CLEC could not "take a record of a call as [KPMG] did, find a DUF and then find that call detail record on the UNE-P bill." OSS Decl., Exh. CLD-OSS-39, Att. 11 at 82. During its test, KPMG used a controlled testing process which ensured that all calls made by the end-users of its pseudo-CLEC were precisely recorded so that each such call could be verified. Unlike KPMG, however, a CLEC does not have the ability to control the number, types, durations, or frequency of calls made by or to its end-users. Only if the CLEC had such an ability could it audit the type of review suggested in the KPMG testimony cited by Qwest. *Id.*, Att. 11 at 81-82.

KPMG Consulting's repeated receipt of erroneous bills suggests that, while Qwest's manual process to catch errors may be adequate, Qwest does not adhere to its defined process.

During final retesting of bill accuracy, KPMG Consulting did receive correct bills. However, KPMG Consulting is not able to conclusively determine whether these bills are correct because of the bill creation process, or because of adherence to Qwest's defined post-production quality assurance processes. Therefore, KPMG Consulting must assign an Unable to Determine result for Qwest's adherence to its post-production quality assurance process.¹⁹⁷

266. Even before Qwest began providing its flawed CRIS BOS BDT bills (described above) in July 2002, Qwest's wholesale bills to AT&T have also been inaccurate. When it conducted a manual review of Qwest's bills in early 2002, AT&T found a number of errors and deficiencies, including:

- The inclusion of charges for directory advertising, which should not appear on UNE-P bills;
- The billing of long-distance charges on an individual call basis, rather than on the minutes-of-use basis that should be used in the UNE-P environment;
- The inclusion of long-distance charges when the interexchange carrier selected by the customer is other than AT&T (which believed that Qwest should be charging the customers directly in such circumstances);
- Failure to include an explanation or definition of special service charges, 800 service line charges, and "business privilege charges" that Qwest was including in the bill;
- Lack of details of balance transfers, which AT&T needs in order to validate the expenses; and
- Failure to provide details of debit and/or credit adjustments at the account level.

¹⁹⁷ KPMG Final Report at 467-469 (Evaluation Criterion 20.7-1-4).

- The billing of pay-per-use charges such as “call forwarding” and “three-way calling,” which AT&T believed were already included in the cost of the recurring expense.

In addition, these discrepancies were not consistent across Qwest’s three regions; some discrepancies appeared in bills involving activity in one region, but not in another.¹⁹⁸

267. AT&T has been engaged in discussions about these problems with Qwest over the last several months. Although some progress has been made, most of the above-described problems remain.¹⁹⁹ Thus, for example, Qwest’s wholesale bills to AT&T: (1) still list directory advertising charges (although Qwest has begun the process of crediting the invalid charges and has implemented changes to prevent future orders for directory advertising from posting to the UNE-P bills); (2) still include long-distance charges of interexchange carriers other than AT&T (although Qwest has acknowledged that such charges are erroneous and has agreed to allow AT&T to claim the charges at a summary level, rather than to file claims at the end-user number level, which is extremely time-consuming); and (3) still bill long-distance charges on an individual call basis, rather than on a minutes-of-use basis. In addition, Qwest still has not defined or explained the 800 service line charges on the bills.²⁰⁰

¹⁹⁸ See letter from Timothy Boykin (AT&T) to Scott Schipper (Qwest), dated March 12, 2002 (attached hereto as Attachment 20).

¹⁹⁹ It appears that Qwest now bills originating and terminating usage on a minutes-of-use basis, and has offered an explanation of special service charges and 800 service line charges.

²⁰⁰ Although Qwest finally acknowledged that it had erred in billing AT&T for pay-per-use charges, and has agreed to correct its systems and issue adjustments for all previous billings, the matter took approximately six months to resolve. Qwest initially rejected AT&T’s claim that the billing was improper, and changed its position only after AT&T escalated the issue.

268. Qwest's own performance data on billing accuracy and billing completeness confirm that it has failed to provide accurate and complete wholesale bills. *See* OSS Decl., ¶¶ 525-550. As discussed in the accompanying Declaration of John Finnegan on Performance Data and Assurance Plans, Qwest has violated the parity standard for these PIDs in numerous instances, and the various explanations that it offers for its substandard performance do not withstand scrutiny.

CONCLUSION

269. Qwest's description of its OSS performance as "strong" (Application at 3) is unfounded and premature. Qwest is currently not providing nondiscriminatory access to its OSS, as both the KPMG test (even with its flaws) and Qwest's own commercial data confirm. Parity of access cannot be said to exist when Qwest's systems reject almost one-third of CLEC orders, and a substantial percentage of the remaining orders fall out for manual processing; when Qwest makes numerous errors on the orders that it manually processes; when Qwest fails to return complete and timely status notices; and when Qwest cannot show that it has adhered to an effective change management process or established a stable test environment that mirrors, but is separate from, production. Until these and other deficiencies in its OSS are cured, Qwest will not be in compliance with its OSS obligations.

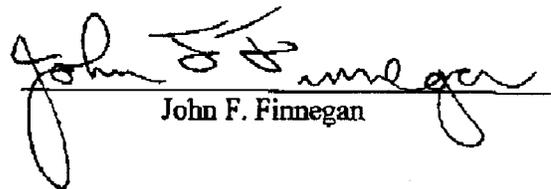
I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on August 1, 2002

/s/ Mitchell H. Menezes
Mitchell H. Menezes

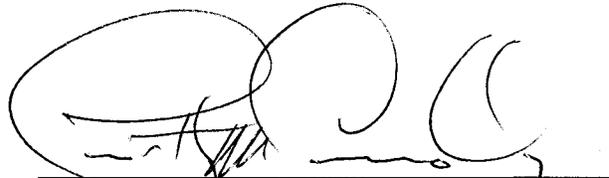
I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on August 1, 2002


John F. Finnegan

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on August 1, 2002



Timothy M. Connolly