Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of **Colorado,** Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming	)	WC Docket No. 02-314

MEMORANDUM OPINION AND ORDER

Adopted December 20,2002 **Released: December 23,2002**

By the Commission: Commissioner **Copps** issuing a statement; and Commissioner Adelstein not participating.

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I. INTRODUCTION

1. On September 30,2002, Qwest Communications International, Inc. filed this multi-state application on behalf of itself and its subsidiaries, Qwest Corporation and Qwest LD Corporation (collectively "Qwest") pursuant *to* section 271 of the Communications Act of 1934, as amended,[1] for authority to provide in-region, interLATA service in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming ("Qwest III").[2] Previously, Qwest had filed two multistate applications for in-region, interLATA authority involving those states: (1) on June 13,2002 for the states of Colorado, Idaho, Iowa, Nebraska, and North Dakota ("Qwest I"); and (2) on July 12,2002, for the states of Montana, Utah, Washington, and Wyoming ("Qwest II"). In this Order, we grant Qwest's application for the nine states that are the subject of its September 30,2002 application, based on our conclusion that Qwest has taken the statutorily required steps to open its local exchange markets in these states to competition.

2. Approval of this application, the first one granted for states in the Qwest region, would not have been possible without the extraordinary dedication and creativity displayed by the Colorado Public Utilities Commission ("Colorado Commission"), the Idaho Public Utilities Commission, ("Idaho Commission"), the Iowa Utilities Board ("Iowa Board'), the Montana Public Service Commission ("Montana Commission"), the Nebraska Public Service Commission ("Nebraska Commission"), the North Dakota Public Service Commission ("North Dakota Commission"), the Public Service Commission of Utah ("Utah Commission"), the Washington Utilities and Transportation Commission ("Washington Commission"), and the Wyoming Public Service Commission ("Wyoming Commission") (collectively "state commissions" or "commissions of the nine application states"). We recognize their outstanding commitment to the section 271 process and commend their hard work in bringing the benefits of competition to consumers in their states.

3. The Colorado Commission, Idaho Commission, Iowa Board, Montana Commission, Nebraska Commission, North Dakota Commission, Utah Commission, Washington Commission, and the Wyoming Commission each devoted a significant portion of their resources to this process over a number of years. These states, as well as others in the

[1] We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and other statutes, as "the Communications Act" or "the Act." See 47 U.S.C. §§ 151 *et seq.* We refer to the Telecommunications Act of 1996 as "the 1996 Act". See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

[2] For the numerous *ex parte* filings Qwest has made in the instant application, we use Qwest's date references set forth in Index of Ex *Parte* Submissions and Errata, Attach. 6, Qwest III Application (Qwest *Ex* Parte Index) and Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314, Attach. 1-6 (dated Dec. 6,2002) (Qwest Dec.6 Ex Porte Letter).

Qwest region, also undertook unprecedented steps to pool resources and work collaboratively in addressing section 271 issues. In particular, the Regional Oversight Committee ("ROC"), a group of state regulatory commissions in the Qwest region, including all nine states covered by *this* application, worked together on the design and execution of regional operations support systems **("OSS")** testing. In addition, Idaho, Iowa, Montana, North Dakota, **Utah** and Wyoming worked with a number of other states in the Multistate Collaborative Process ("MCP") to address other section 271 issues. Moreover, in a number of instances, regulators in these states have been able to build on the work done by their fellow commissioners in other states to address issues such **as** pricing, for example, in an efficient manner through individual state proceedings.

4. We also commend Qwest for its extensive work in opening its local exchange markets to competition and bringing this application to fruition. In particular, we recognize the work that Qwest has undertaken in conjunction with the ROC to develop, upgrade and test its **OSS** and processes in a collaborative manner with competitive local exchange carriers ("LECs"). Approval of this application would not have been possible without these undertakings by Qwest in cooperation with state regulators. Notwithstanding these positive efforts, a number of troubling allegations have been raised in the record regarding such things as the existence of confidential unfiled agreements, accounting issues, and provision of in-region long-distance services without section 271 authorization. As discussed below, we approve these applications for the reasons herein. We anticipate that any past violations of the statute or our **rules** will be addressed expeditiously through enforcement processes at the Commission or at the State Commissions.

5. The outstanding work of the state commissions in conjunction with Qwest's extensive efforts to open its local exchange network to competition has resulted in competitive entry in each of these states. Qwest estimates that competitive LECs serve approximately 23 percent of all lines in Colorado, including 59,013 UNE-loops and 84,780 UNE-platform lines? Qwest estimates that competitive LECs serve approximately 11 percent of all lines in Idaho, including about 5,606 UNE-loops and 10,515 UNE-platform lines? In Iowa, Qwest estimates that competitive LECs serve approximately 18 percent of all lines, including 37,427 UNE-loops and 98,878 UNE-platform lines? Qwest estimates that competitive LECs serve approximately 6 percent of all lines in Montana, including 3,111 stand alone UNE-loops and 5,085 UNE-platform lines.[6] Qwest estimates that competitive LECs serve approximately 32 percent of all lines in Nebraska, including 17,775 UNE-loops and 4,055 UNE-platform lines.' Qwest estimates that competitive LECs serve approximately 22 percent of lines in North Dakota, including 15,247

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[3] Qwest III Application App. A, Tab 1, Declaration of David L. Teitzel (Qwest **111** Teitzel Decl.) at paras. **15,** 30.

[4] ***Id, cf.*** Idaho Commission Qwest III Hall Aff. at para. **14** (estimating that competing LECs now serve 2.3 percent of residential lines and **13.4** percent of business lines in Idaho).

[5] Qwest III Teitzel Decl. at paras. 15, 30.

[6] ***Id.***

[7] ***Id.***

UNE-loops and 20,078 UNE-platform lines.* Qwest estimates that competitive LECs serve approximately 23 percent of all lines in Utah, including about 28,137 stand alone UNE-loops and 17,667 UNE-platform lines? In Washington, Qwest estimates that competitive LECs serve approximately 19 percent of all lines, including 59,207 stand alone UNE-loops and 52,346 UNE-platform lines." Qwest estimates that competitive LECs serve approximately 12 percent of all lines in Wyoming, including 427 stand alone UNE-loops and 26,613 UNE-platform lines."

6. We are confident that the hard work of the state commissions in conjunction with Qwest to ensure that the local exchange markets in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming are open to competition will benefit consumers by making increased competition in all telecommunications service markets possible in these states. We are also confident that the state commissions, as they address allegations of past violations of the statute and consider any future problems that may develop, will continue to ensure that Qwest meets its statutory obligations.

II. BACKGROUND

7. In the 1996 amendments to the Communications Act, Congress required that the Bell Operating Companies ("BOCs") demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long distance service. Congress provided for Commission review of BOC applications to provide such service in consultation with the affected state and the Attorney General."

8. In our examination of this application, we rely heavily on both the individual and collaborative work done by the state commissions. The collaborative ROC process used to address OSS issues, the MCP process used by several of the states to address other section 271

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[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] The Commission has summarized the relevant statutory framework in prior orders. *See, e.g., Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc.. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma,* CC Docket *No.* 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237, 624142. paras. 7-10 (2001) *(SWBT Kansas/Oklahoma Order), affd in part, remanded in part sub nom. Sprint Communications Co. v. FCC,* 274 F.3d 549 (D.C. Cir. 2001); *Application hy SBC Communications Inc., Southwestern Bell Tel. Co. and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Teras,* CC Docket *No.* 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359-61, paras. 8-11 (2000) *(SWBT Teras Order); Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York,* CC Docket *No.* 99-295, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3961-63, paras. 17-20 (1999) *(Bell Atlantic New York Order), aff'd, AT&T Corp v. FCC,* 220 F.3d 607 (D.C. Cir. 2000).

issues, as well as the individual state proceedings were open to participation by all interested parties and provide a sound foundation for our review of this application. As the Commission has previously recognized, state proceedings such as these fulfill a vitally important role in the section 271 process.[13] We summarize these proceedings in more detail below.

9. ***Regional Oversight Committee and OSS Development and Testing.*** In *1999,* the ROC initiated a collaborative process to design and execute a third-party OSS test to ensure that Qwest's wholesale support systems would be available to competitive LECs in an open and non-discriminatory manner.[14] The ROC used an open process, with the opportunity for broad participation by interested parties, to design a collaborative governing structure, determine the overall scope of the test, select third-party testers,[15] and design a Master Test Plan ("MTP") and Performance Indicator Definitions ("PIDs").

10. In July 2000, the ROC selected KPMG Consulting, Inc. ("KPMG") and Hewlett-Packard Consulting ("HP") to conduct the third-party tests of Qwest's OSS.[16] KPMG was chosen as the test administrator, and HP was selected to serve as a "pseudo-CLEC" in the testing process.[17] The ROC also created a Technical Advisory Group ("TAG") consisting of representatives of the ROC, state commission staff, test vendors, competitive LECs, industry associations, consumer groups, and Qwest.[18] The TAG provided technical assistance and subject matter planning for the OSS test and assisted in reviewing the results of the test.[19] The TAG also sought comment and reached agreement on the performance measurements, or PIDs, to be used

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[13] *See, e.g., Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut,* CC Docket No. 01-100, Memorandum Opinion and Order, 16 FCC Rcd 14147, 14149, para. 3 (2001) (*Verizon Connecticut Order*); *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts,* CC Docket No. 01-9, Memorandum Opinion and Order, 16 FCC Rcd 8988, 8990. para. 2 (2001) (*Verizon Massachusetts Order*).

[14] Qwest I Application App. A, Tab 10, Declaration of Lynn M.V. Notarianni and Christie L. Doherty (Qwest I Notarianni/Doherty Decl.) at para. 19.

[15] Qwest 1 Application App. A, Tab 34, Declaration of Michael J. Williams (Qwest I Michaels Decl.) at paras. 47-53. In establishing a management structure for the test, the ROC created an Executive Committee, comprised of seven state commissioners, as well as a Steering Committee comprised of various commission staff members from each participating state commission. The Steering Committee oversaw the test process, assisted in developing and implementing the test, and was the first point of escalation for resolving test issues. The Executive Committee reviewed the overall progress of the test and made final decisions on any escalated test issues.

[16] *Id.*

[17] Qwest 1 Notarianni/Doherty Decl. at para. 27

[18] *Id.* at para. 23

[19] *Id.*

to measure Qwest's commercial performance.[20] Through collaborative workshops held in mid-2000, KF'MG, with the assistance of the TAG, developed the MTP which set forth the comprehensive plan for how Qwest's OSS would be evaluated."

11. As a prelude to the OSS testing, KF'MG conducted a "Regional Differences Assessment" to determine whether Qwest's systems were the same region-wide, and to identify any variations from state to state. **As** a result of this testing, KF'MG and the ROC concluded that Qwest's processes and systems were generally "materially consistent across Qwest's local service region,"[22] and that a regional test could be conducted in a manner that would produce meaningful results.[23]

12. The OSS testing conducted under the auspices of the ROC was broad-based and comprehensive. Throughout the course of the test, KF'MG and HP issued 256 "Exceptions" and 242 "Observations" that documented issues of concern.[24] **As** the result of repeated iterations of Qwest's documentation, systems and processes as well as substantial retesting, Qwest was able to improve its wholesale support systems until only one "Observation" and 14 "Exceptions" were designated "closed /unresolved" by the conclusion of the test.'' KPMG and HP issued Qwest's OSS Evaluation Final Report ("KPMG Final Report") addressing Qwest's OSS testing performance on May 28,2002.

13. The ROC also retained Liberty Consulting ("Liberty") to conduct an audit of Qwest's performance data. In order to verify the integrity of Qwest commercial data, Liberty performed a data reconciliation of Qwest and competing carrier data.[26] On September 25, 2001,

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[20] Id. at para. 30

[21] *Id.* at para. 28

[22] Qwest I Notarianni/Doherty Decl. at paras. 35-36. The exceptions to this finding were that Qwest utilizes three different service order processors and billing systems. None of the commenters has alleged that this regional approach was inappropriate, or that any Qwest OSS feature is too dissimilar to permit such a region-wide evaluation. Department of Justice Qwest I Evaluation at 7.

[23] Qwest I Notarianni/Doherty Decl. at paras. 35-36 & Exhibit 4 (KPMG Regional Differences Assessment (Oct. 5,2000)).

[24] Qwest I Notarianni/Doherty Decl. at paras. 37-39.

[25] Id. at para. 39 n.39

[26] Qwest I Application Att. 5, App. D, Liberty Report. The Iowa Board states that the Liberty data reconciliation process was a long and arduous undertaking by all participants and provided adequate assurance that Qwest's performance reporting is accurate and reliable. Iowa Board Comments at 17. The process involved the ROC TAG reviewing the exceptions and observations that Liberty filed relating to the data reconciliation audit, and noting the changes Qwest implemented, before accepting Liberty's recommendation to close all of the issues. *Id.*; see *also* Qwest Application App. C, Vol. 1, Tab 16, IUB Conditional Statement Regarding Data Reconciliation of Performance Measures in the ROC OSS Test.

Liberty validated each PID measure and concluded that the commercial data were both accurate and reliable?'

14. ***Multistate Collaborative Process.*** The Idaho Commission, Iowa Board, Montana Commission, North Dakota Commission, Utah Commission, and Wyoming Commission also worked with **a** number of other states through the MCP to address competitive checklist items, section 272 Track **A** requirements, and public interest issues, including post-entry performance assurance issues.[28] The MCP included numerous collaborative workshops in which competitive LECs, Qwest and state commission staff considered and developed recommendations concerning many difficult issues. Nebraska also reviewed the MCP record, although it was not initially involved in the MCP, and it held hearings to address a number of section 271 and 272 issues.

15. ***Individual State Commission Proceedings.*** Each of the nine states also conducted independent proceedings to address section 271 issues. The Colorado Commission adopted the performance measures developed through the ROC, developed its own Performance Assurance Plan, and addressed a variety of other section 271 issues. The Colorado Commission also conducted extensive pricing proceedings to establish wholesale rates for unbundled network elements ("UNEs"). Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, and Washington also adopted the performance measurements and standards developed through the ROC and the Qwest Performance Assurance Plan ("QPAP").[29] Each of these states also conducted arbitrations or other proceedings to establish initial UNE rates and subsequently accepted Qwest's adjustment of core UNE rates using the new Colorado rates as benchmarks.[30] **As** in the prior Qwest section 271 applications, each **of** the commissions of application states, with the exception of the Montana Commission," endorses Qwest's current application.

A. Department of Justice Evaluation

16. The Department **of** Justice "recommends approval of Qwest's application" for Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming, if

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[27] Qwest I Notarianni/Doherty Decl. at para. 27. The Colorado Commission also concluded that Liberty Consulting's data reconciliation demonstrated that Qwest's performance reporting was correct and reliably reflected Qwest's actual performance. Colorado Commission Comments at **41**

[28] See Qwest I Brief at 7; see *also* Department of Justice Evaluation at 8.

[29] The Montana Commission adopted the QPAP after review and modification. See Department of Justice Qwest II Evaluation at 5.

[30] See Department of Justice Qwest I Evaluation at 8-10; Department of Justice Qwest II Evaluation at 5-6.

[31] The Montana Commission urges us to deny Qwest's application **as** it pertains to the state of Montana due to a state issue, as discussed more fully below.

the Commission is able to assure itself that the concerns raised by Justice in its Evaluation have been resolved.'* In particular, the Department of Justice states that:

> With respect to most of the issues about which the Department previously had expressed concern, Qwest's re-filed application demonstrates improvement. **The** Department reiterates its deference to the Commission's determination whether Qwest's pricing is appropriately cost-based and whether Qwest complies with Section **272.** Moreover, the Department urges the Commission to evaluate carefully the allegations pertaining to Qwest's withholding of full information from regulators."

The Department also stated that it "finds the record has improved with respect to the other issues about which it previously had expressed reservations: manual order processing, the provision of electronically auditable wholesale bills, and the testing of line-sharing orders."[34] Each **of** the issues raised **by** the Department is fully addressed by the Commission in this Order.

B. Primary Issues in Dispute

17. **As** in recent section 271 orders, we will not repeat here the analytical framework and particular **legal** showing required to establish checklist compliance with every checklist item. Rather, we rely on the legal and analytical precedent established in prior section 271 orders, and we attach comprehensive appendices containing performance data and the statutory framework for evaluating section 271 applications.[35] Our conclusions in this Order are based on

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[32] Department of Justice Qwest 111 Evaluation at 10. Section 271(d)(2)(A) requires us *to* give "substantial weight" to the Department's evaluation.

[33] ***Id.*** The Department's statement concerning "allegations pertaining to Qwest's withholding of full information from regulators'' refers to allegations that "Qwest personnel 'diminish[ed] the visibility' of certain information [regarding a mechanized loop test ("MLT")] to Commission staff who were visiting the Qwest CLEC Coordination Center." Id at 4. We address the allegations below in our discussion of Qwest's compliance with checklist item 2.

[34] *Id.* at 4.

[35] ***See Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long*** Distance), ***NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions). Verizon Global Networks Inc., and VerizonSelect Services Inc., for Authorization to Provide In-Region. InterLATA Services in Rhode Island,*** CC Docket No. 01-324, Memorandum Opinion and Order, 17 FCC Rcd 3300, Apps. B, C. and D (2002) ***(Verizon Rhode Island Order); Joint Application by SBC Communications Inc., Sourhwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Arkansas and Missouri,*** CC Docket No. 01-194, Memorandum Opinion and Order, 16 FCC Rcd 20719, Apps. B, C, and D (2001) (***SBC Arkansas/Missouri Order); Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc.,*** and ***Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania,*** CC Docket No. 01-138, Memorandum Opinion and Order, 16 FCC Rcd 17419, Apps. B and C (2001) ***(Verizon Pennsylvania Order).***

performance data as reported in monthly performance reports reflecting service in the most recent months before filing (June 2002 through September 2002).

18. In this application, we frequently rely on Qwest's performance in Colorado to supplement our analysis of the commercial readiness of Qwest's OSS in Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming, as well as to make determinations with respect to other checklist items. The Commission has previously found that performance data based on low volumes of orders or other transactions is not as reliable an indicator of checklist compliance as performance based on larger numbers of observations.[36] Therefore, the Commission has previously relied on current higher volumes from an "anchor state" in a prior, successful section 271 application." For some of the performance data associated with this section 271 application, the volume of commercial activity in any one of the nine application states is often too low to rely upon. In this instance, the Commission is faced with a section 271 application covering multiple states from a BOC that has yet to receive approval in any state. Because the Commission has not previously approved a Qwest section 271 application that could provide an anchor state, we shall draw conclusions about Qwest's performance in a particular application state based on the performance in another application state. We note, however, that convincing commercial evidence of discriminatory treatment in a certain applicant state cannot be trumped by convincing evidence of satisfactory treatment in another.[38] Because Qwest uses the same provisioning and maintenance and repair processes in the nine states included in this application, and given the significantly higher volumes in Colorado, we find that it is appropriate to look to Qwest's performance in Colorado even though Colorado is a state included in the current application."

19. We begin our analysis of Qwest's application with the threshold question of whether it qualifies for consideration under section 271(c)(1)(A) (Track A). We then discuss the checklist item that is most in controversy -- checklist item two (unbundled network elements, or UNEs).[40] Next, we address Qwest's compliance with other checklist items: one

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36 Appendix K, para. 11

37 Appendix K, para. 14.

38 Appendix K, para. 13.

39 KPMG, in its Regional Differences Assessment (RDA), found that Qwest's order management, provisioning, maintenance and repair, and competitive LEC relationship management and infrastructure are materially consistent across the three regions. *See* Qwest I Notarianni/Doherty Decl. at para. 36. We also note that it is appropriate to look to Qwest's performance in Colorado as performance objectives for all nine states (among others) were set by the Regional Oversight Committee for both provisioning and maintenance and repair of unbundled loops. See Qwest I Application App A, Tab 14, Declaration of William M. Campbell (Qwest I Campbell Loops Decl.) at para. 5.

40 We note that the United States Court of Appeals for the District of Columbia Circuit recently opined in two relevant Commission decisions, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (UNE *Remand Order)* and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order in CC Doc. No. 98-147 and Fourth Report and Order in CC Doc. No. 96-98, 14 FCC Rcd 20912 (1999) *(Line*
(continued.. ..)

(interconnection), four (unbundled local loops), five (transport), six (switching), seven (E911/Operator Services/Directory Assistance) (OS/DA), ten (databases and signaling), eleven (number portability), and fourteen (resale). The remaining checklist items are discussed briefly, as the Commission found no significant patterns of performance problems with regard to these checklist items, and they received little to no attention from commenting parties."' Finally, we discuss whether Qwest's requested authorization to provide in-region, long distance will be carried out in accordance with the requirements **of** section 272 and whether such authorization is consistent with the public interest.

III. COMPLIANCE WITH SECTION 271(c)(1)(A)

20. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, the BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B).[42] To meet **the** requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."" In addition, the Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier."[44] The Commission has concluded that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers," and that

(Continued from previous page)
Sharing Order). USTA v. FCC, 290 F.3d **415** (D. C. Cir. 2002. The court's decision addressed both our UNE rules and our line sharing rules. The Commission is currently reviewing its UNE rules, ***Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,*** 16 FCC Rcd 22781 (2001) ***(Triennial Review Notice).*** Further, the court stated that "the ***Line Sharing Order*** must be vacated and remanded." ***USTA v. FCC,*** 290 F.3d at 429. The court also stated that it "grant[ed] the petitions for review[] and remand[ed] the ***Line Sharing Order*** and the ***Local Competition Order*** to the Commission for further consideration in accordance with the principles outlined." ***Id.*** at 430. On July 8,2002, the Commission, among others, tiled petitions for rehearing and suggestion for rehearing en banc with the D.C. Circuit regarding that opinion. On September 4,2002, the D.C. Circuit denied petitions for rehearing filed by the Commission and others. See ***Order,*** Nos. 00-1012 and 00-1015 (D.C. Circuit, filed Sept. 4,2002).

41 We note that, in its comments, AT&T lists without elaboration various performance metrics missed by Qwest for particular months. See AT&T Qwest III Comments App., Tab F, Declaration of John F. Finnegan (AT&T Qwest III Finnegan Decl.). Because AT&T neither provides specific evidence regarding these missed metrics, nor demonstrates any harm or discrimination resulting from the misses. we do not find that the missed metrics listed by AT&T alter our conclusion that Qwest complies with all of the checklist items.

42 47 U.S.C. § 271(c)(1); Appendix K at paras. 15-16

43 ***Id.***

44 47 U.S.C. § 271(d)(3)(A).

45 ***Applicafion of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan,*** CC Docket No. 97-137, Memorandum Opinion and Order, 12 FCC Rcd 20543, 20585, para. 85 (1997) ***(Ameritech Michigan Order); see also Application of BellSouth*** (continued.. ..)

unbundled network elements are a competing provider's "own telephone exchange service facilities" for purposes of section 271(c)(1)(A).[46] The Commission has further held that a BOC must show that at least one "competing provider" constitutes "an actual commercial alternative to *the* BOC,"[47] which a BOC can do by demonstrating that the provider serves "more than a *de minimis* number" of subscribers.[48] The Commission has held that Track A does not require any particular level of market penetration, and the D.C. Circuit has affirmed that the Act "imposes no volume requirements for satisfaction of Track A."[49]

21. We conclude, as did the state commissions, that Qwest satisfies the requirements of Track A.[50] With respect to these states, Qwest relies on interconnection agreements with Alltel (FKA Aliant Midwest), AT&T, AT&T Communications of the Mountain States, AT&T Communications of the Pacific Northwest, Consolidated Communications Networks, Cox Iowa Telcom, Cox Nebraska Telecom, FiberComm, Goldfield Access Networks, IdeaOne Telecom

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Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Louisiana, CC Docket No. *98-121*, Memorandum Opinion and Order, *13* FCC Rcd *20599, 20633-35*, paras. *46-48* (1998)(*Second BellSouth Louisiana Order*).

46 *Ameritech Michigan Order*, 12 FCC Rcd at *20598*, para. 101

47 *Application by SBC Communications Inc., Pursuant io Section 271 of the Communications Aci of 1934, as amended, To Provide In-Region. InterLATA Services in Oklahoma*, CC Docket No. *97-121*, Memorandum Opinion and Order, 12 FCC Rcd *8685,8695*, para. 14 *(1997)*(*SWBT Oklahoma Order*).

48 *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at *6257*, para. *42; see also Ameritech Michigan Order* 12 FCC Rcd at *20585*, para. *78*.

49 *Sprint v. FCC*, *274* F.3d at *553-54; see* also *SBC Communications Inc. v. FCC*, 138 F.3d 410, *416* (D.C. Cir. *1998)* ("Track A does not indicate just how much competition a provider must offer in either the business or residential markets before it is deemed a 'competing' provider.").

50 Qwest II Application App. A, Tab 1, Declaration of Rick Hays (Qwest II Hays Decl.) at para. *74;* Qwest II Application App. A, Tab *2*, Declaration of Robin L. Riggs (Qwest II Riggs Decl.) at pan. 27; Qwest II Application App. A, Tab 3, Declaration of Kirk R. Nelson (Qwest II Nelson Decl.) at paras. *4446*. Qwest II Application App A, Tab 4, Declaration of Michael A. Cehallos (Qwest II Cehallos Decl.) at para. 33; Qwest I Application App. A, Tab 1, Declaration of Paul R. McDaniel (Qwest I McDaniel Decl.) at paras. *70-71;* Qwest I Application App. A, Tab 2, Declaration of Jim Schmit (Qwest I Schmit Decl.) at para. *21;* Qwest I Application App. A, Tab 3, Declaration of Max A. Phillips (Qwest I Phillips Decl.) at para. *69;* Qwest I Application App A. Tab 4. Declaration of Timothy Sandos (Qwest I Sandos Decl.) at para. *61;* Qwest I Application App. A, Tab 5, Declaration of Scott A. Macintosh (Qwest I Macintosh Decl.) at para. *22;* Qwest I Application App. C, Tab 5, Qwest I Idaho PUC Decision Regarding Track A. Public Interest, and Section *272* at *5-7;* Qwest I Application App C, Tab *2*. Nebraska Commission Recommendation on Checklist Items 3, 7, 8, 9, 10, 11, 12 and *14* at *56;* Lener from Hance Haney. Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-148, 02-189 at *1-3* (dated August *1,2002)*(Qwest Aug. 1 *Ex Parte* Lener); Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. *02-148*, Anach. at 1-3 (dated July *9,2002)* (Qwest July *9 Ex Parte* Letter) Montana Commission Qwest II Comments at *11-12;* Utah Commission Qwest II Comments at 5; Washington Commission Qwest *II* Comments at *7-8;* Wyoming Commission Qwest III Comments at *5-6;* Wyoming Commission Qwest I1 Comments at *6;* Colorado Commission Qwest I Comments at *2* and *10-12;* Iowa Board Qwest I Comments at *17-19;* North Dakota Commission Qwest I Comments at *6*, North Dakota Commission Qwest I Comments, App. at 148-54.

Group, Integra Telecomm of Utah, Laurens Municipal Broadband Communications Utility, Mid-Rivers Telephone Cooperative, Montana Wireless, Project Mutual Telephone Cooperative, Rainier Cable, Silver Star Telephone, Spencer Municipal Communication Utility, Sunwest Communications, Time Warner Telecomm of Washington, XO Communications Idaho, XO Utah, and XO Washington in support of its Track A showing?'

22. In Colorado, we find that AT&T Communications of the Mountain States and Sunwest Communications each serve more than a *de minimis* number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[52] AT&T provides telephone exchange service to residential and business subscribers predominantly through its own facilities, while Sunwest Communications provides telephone exchange service to residential and business subscribers predominantly through UNE loops.[53]

23. In Idaho, we find that Project Mutual Telephone Cooperative and XO Communications Idaho each serve more than a *de minimis* number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[54] Specifically, Project Mutual Cooperative provides telephone exchange services to both residential and business subscribers through its own facilities, while XO provides telephone exchange services to business subscribers predominantly through its own facilities?'

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[51] Qwest III Teitzel Decl. at paras. 4-13; Qwest II Application App. L, Interconnection Agreements – Montana, Attach. 5; Qwest II Application App. L, Interconnection Agreements – Utah, Attach. 5; Qwest II Application App. L, Interconnection Agreements – Washington, Attach. 5; Qwest II Application App. L, Interconnection Agreements – Wyoming, Attach. 5; Qwest I Application at 15; Qwest I Application App. L, Interconnection Agreements – Colorado, Attach. 5; Qwest I Application App. L, Interconnection Agreements – Idaho, Attach. 5; Qwest I Application App. L, Interconnection Agreements – Iowa, Attach. 5; Qwest I Application App. L, Interconnection Agreements – Nebraska, Attach. 5; Qwest I Application App. L, Interconnection Agreements – North Dakota, Attach. 5.

[52] Qwest III Teitzel Decl. at paras. 19, 22, 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-CO-1 (citing confidential information); Qwest Aug. 1 *Ex* Porte Letter at 1-3; Qwest July 9 Ex Porte Letter, Attach. at 1-3. Qwest estimates that competing LECs now serve approximately 22.9 percent of the access lines in Colorado. Qwest III Teitzel Decl. at para. 30.

[53] Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-CO-1 (citing confidential information).

[54] Qwest III Teitzel Decl. at paras. 19, 22, 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-ID-1 (citing confidential information); Qwest I Application App. C, Book 1, Vol. 1, Tab 5, Idaho PUC Decision Regarding Track A, Public Interest, and 272 Standards at 5-7; Idaho Commission Qwest III Comments, Carolee Hall Affidavit (Idaho Commission Qwest III Hall Aff.) at para. 7; Qwest Aug. 1 *Ex Parte* Letter at 1-3; Qwest July 9 Ex Porte Letter, Attach. at 1-3; Qwest III Reply at 68-69. While the Idaho Commission asserts that there are some errors in Qwest's Track A figures for Idaho, Qwest continues to meet the requirements of Track A in Idaho. The Idaho Commission includes Project Mutual Telephone and XO Idaho among their list of competitive LECs that provide local Exchange service to customers in Idaho. The Idaho Commission estimates that competing LECs now serve 2.3 percent of residential lines and 13.4 percent of business lines in Idaho. Qwest estimates that competing LECs serve approximately 10.9 percent of the access lines in Idaho. Qwest III Teitzel Decl. at para. 30; Idaho Commission Qwest III Comments at 3; Idaho Commission Qwest III Hall Aff. at para. 7.

[55] Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-ID-1 (citing confidential information).

24. In Iowa, we find that Cox Iowa Telcom, FiberComm, Goldfield Access Networks, Laurens Municipal Broadband Communications Utility, and Spencer Municipal Communication Utility each serve more than a ***de minimis*** number **of** end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[56] Specifically, we find that FiberComm and Goldfield Access provide telephone exchange services to both residential and business subscribers using UNE loops, while Cox Iowa Telcom, Laurens Municipal Broadband Communications Utility, and Spencer Municipal Communications Utility provide telephone exchange services to both residential and business subscribers using their own facilities.[57]

25. In Montana, we find that Mid-Rivers Telephone Cooperative and Montana Wireless each serve more than a ***de minimis*** number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[58] Montana Wireless provides telephone exchange services to both residential and business customers predominantly through UNE loops, while Mid-Rivers Telephone Cooperative provides telephone exchange service to residential and business subscribers predominantly through its **own** facilities."

26. In Nebraska, we find that Alltel (FKA Aliant Midwest) and Cox Nebraska Telecom each serve more than a ***de minimis*** number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[60] Specifically, we find that Alltel provides telephone exchange service to both residential and business customers over UNE loops and Cox Communications provides telephone exchange services to both residential and business subscribers using its own facilities!'

27. In North Dakota, we find that AT&T, Consolidated Communications Networks, and IdeaOne Telecom Group each serve more than a ***de minimis*** number of residential and business customers predominantly over their own facilities and represent "actual commercial

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[56] Qwest III Teitzel Decl. at paras. 19, 22, 30; Qwest III Teitzel Decl, Ex. DLT-Track A Supp.-IA-1 (citing confidential information); Qwest Aug. 1 *Ex **Parte*** Letter at 1-3; Qwest July 9 *Ex **Parte*** Letter, Attach. at 1-3; Qwest I Iowa Board Reply at 1-3. Qwest estimates that competing LECs now serve approximately 17.6 percent of access lines in Iowa. Qwest III Teitzel Decl. at para. 30.

[57] Qwest III Teitzel Decl, Ex. DLT-Track A Supp. -IA-1 (citing confidential information)

[58] Qwest III Teitzel Decl at paras. 19, 22, 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-MT-1 (citing confidential information); Qwest II Reply Comments at **4-5;** Qwest Aug. 1 *Ex Parte* Letter at 1-3; Qwest July 9 *Ex **Parte*** Letter, Attach. at 1-3. Qwest estimates that competing LECs in Montana now serve approximately 6.2 percent of access lines in Montana. Qwest III Teitzel Decl. at 20.

[59] Qwest III Teitzel Decl., Ex. DLT-Track **A** Supp.-MT-1 (citing confidential information)

[60] Qwest III Teitzel Decl. at paras. 19, 23 , 30; Qwest III Teitzel Decl., Ex. DLT-Track A-Supp.-NE-1 (citing confidential information); Qwest I Application, App C, Key Recommendations, Recommendations of the Nebraska Public Service Commission, Book 1, Vol 1, Tab 2, Nebraska PSC Factual Findings and Partial Verification, at 56; Qwest Aug. 1 *Ex Parte* Letter at **1-3;** Qwest July 9 *Ex* Parte Letter, Attach. at **1-3.** Qwest estimates that competing LECs now serve approximately 32.2 percent of access lines in Nebraska. Qwest III Teitzel Decl. at para. **30.**

[61] Qwest III Teitzel Decl., Ex. DLT-Track A-Supp.-NE-1 (citing confidential information).

alternatives" to Qwest.[62] Specifically, AT&T provides telephone exchange service to business subscribers using its own facilities, while Consolidated Communications and IdeaOne Telecom Group provide telephone exchange service to both residential and business subscribers predominantly through UNE loops.[63]

28. In Utah, we find that AT&T of the Mountain States, Integra Telecom **of** Utah, and XO Utah each serve more than a ***de minimis*** number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[64] Specifically, AT&T, Integra, and XO provide telephone exchange services to both residential and business subscribers through their own facilities and UNE loops.[65]

29. In Washington, we find that AT&T Communications of the Pacific Northwest, Rainier Cable, Time Warner Telecom of Washington, and XO Washington each serve more than a ***de minimis*** number of end users predominantly over their own facilities and represent "actual commercial alternatives" to Qwest.[66] Specifically, we find that AT&T provides telephone exchange services to both residential and business subscribers using its own facilities, UNE loops and UNE-P, while XO provides telephone exchange services to residential and business subscribers predominantly using UNE loops and its own facilities?' Rainier Cable and Time Warner provide telephone exchange services to both residential and business subscribers using their own facilities.[68]

30. In Wyoming, we find that Silver Star Telephone Company serves more than a ***de minimis*** number of end users predominantly over its own facilities and represents an "actual

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62 Qwest III Teitzel Decl. at paras. **19,** 22, 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-ND-1 (citing confidential information); Qwest Aug. 1 *Ex* Parte Letter at 1-3; Qwest July **9** Ex *Parte* Letter, Attach. at 1-3. Qwest estimates that competing LECs now serve approximately 21.8 percent of access lines in North Dakota. Qwest 111 Teitzel Decl. at para. **30.**

63 Qwest 111 Teitzel Decl. at paras. **19, 22,** 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-ND-1 (citing confidential information).

64 Qwest III Teitzel Decl. at paras. 19, 22, 30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-UT-1 (citing confidential information); Qwest Aug. 1 *Ex* Parte Letter at **1-3;** Qwest July **9** *Ex Parte* Letter, Attach. at 1-3. Qwest estimates that competing LECs now serve approximately 22.6 percent of access lines in **Utah.** Qwest III Teitzel Decl. at para. 30.

65 Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-UT-1 (citing confidential information)

66 Qwest III Teitzel Decl. at paras. 19, 22, 30; Qwest III Teitzel Decl, Ex. DLT-Track A Supp.-WA-1 (citing confidential information); Qwest Aug. 1 Ex *Parte* Letter at **1-3;** Qwest July **9** *Ex Parte* Letter, Attach. at 1-3. Qwest estimates that competing LECs now serve approximately **19.1** percent of access lines in Washington. Qwest III Teitzel Decl. at para. **30.**

67 Qwest 111 Teitzel Decl, Ex. DLT-Track A Supp.-WA-1 (citing confidential information)

68 Id.

commercial alternative" to Qwest.[69] Specifically, we find that Silver Star Telephone provides telephone exchange services to both residential and business subscribers using its own facilities."'

31. AT&T, Sprint, Integra, and OneEighty contend that the level of competition is insufficient or *de minimis* in the nine application states.[71] In addition, AT&T and Sprint criticize Qwest's methodology for estimating the facilities of competitive LECs that rely on their own facilities rather than UNE loops, UNE-P, or resold lines. Specifically, AT&T and Sprint argue that Qwest overestimates *the number* of competitive LEC lines by basing its estimate on local interconnection service trunk lines," and AT&T also criticizes Qwest's use of E-91 1 listings as an alternative method of estimating full facilities-based access lines.[73] We address these criticisms in *turn.*

32. First, we reject the argument put forth by Integra, Sprint, and AT&T that Qwest should fail Track **A** in each of the nine states because only a limited number or a small percentage of access lines are currently served by competing LECs." As we have noted in previous section 271 orders, Congress specifically declined to adopt a market share or other similar test for BOC entry into long distance.[75] And, as stated above, we find that there is an actual commercial alternative in each of the nine states serving more than a *de minimis* number of customers. Second, we disagree that Qwest's methodology for estimating competitive LECs' facilities-based lines is unreliable. In its application, Qwest estimates the number of residential and business customers receiving facilities-based service from competing LECs in each state by using three different methodologies to derive the estimated range of facilities-based access lines.[76] These methodologies have been used in previous section 271 applications that have been

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69 Qwest III Teitzel Decl. at paras. 19, 22.30; Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-WY-1 (citing confidential information); Qwest Aug. 1 *Ex Parte* Letter at 1-3; Qwest July 9 *Ex Parte* Letter, Attach. at 1-3. Qwest estimates that competing LECs now serve approximately 11.6 percent of access lines in Wyoming. Qwest III Teitzel Decl. at para. *30;* Wyoming Commission Qwest III Comments at 5-6.

70 Qwest III Teitzel Decl., Ex. DLT-Track A Supp.-WY-1 (citing confidential information).

71 AT&T Qwest II Comments at 147, 149-50; AT&T Qwest I Comments at 133-37; Integra Qwest III Comments at 7-8 (specifically in North Dakota); OneEighty Qwest II Comments at 6-7 (specifically in Montana); and Sprint Qwest III Comments at 2-3 (specifically in Idaho, Iowa, Montana, Utah, Washington, Wyoming).

72 This method estimates the number of competitive LEC owned lines and stand alone UNE loops by multiplying the number of local interconnection service trunks by 2.75. We do not rely on this methodology in this application. AT&T Qwest II Comments at 148-49; AT&T Qwest I Comments at 134-135; Sprint Qwest III Comments at 3; Sprint Qwest II Comments at 12-13; Sprint Qwest I Comments at 11-13.

73 AT&T Qwest II Comments at 148-49; AT&T Qwest I Comments at 134-135

74 AT&T Qwest II Comments at 147, 149-50; AT&T Qwest I Comments at 133-37; Integra Qwest 111 Comments at 7-8 (specifically in North Dakota); Sprint Qwest II Comments at 10-11; Sprint Qwest I Comments at 10-11.

75 *See, e.g., Ameritech Michigan Order,* 12 FCC Rcd at 20585, para. 77; *Sprint v. FCC,* 214 F.3d at 553-54.

76 The first method sums E-911 wireline listings and UNE-P lines. Qwest reports E-911 wireline listings within Qwest's territory. The E-91 1 figures contain UNE loops and competitive LEC owned facilities within Qwest's territory, but do not contain access lines provided by independent LECs that have overbuilt into Qwest's territory or (continued...)

approved by the Commission." While carriers may differ in their protocol for when to report a phone number into the E-911 database? no commenter, including AT&T, has criticized Qwest's method of counting the number of white pages listings contained in its Listing Service System to estimate a competitive LEC's facilities-based access lines." Qwest's Listing Service System is likely to yield a lower estimate of a competitive LEC's access lines than the E-911 methodology. We recognize that these methodologies necessarily produce estimates and may be inexact, but we find them to be reasonable and note that the carriers we rely upon have not argued that Qwest's estimate of their customers is significantly incorrect."

IV. PRIMARY CHECKLIST ISSUE IN DISPUTE

A. Checklist Item 2 – Unbundled Network Elements

33. Checklist item 2 of section 271 states that a BOC must provide "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act.[81] Based on the record, we find that Qwest has satisfied the requirements of checklist item 2. In this section, we address those aspects of this checklist item that raised significant issues concerning whether Qwest's performance demonstrates compliance with the Act: (1) Operations Support Systems (OSS), particularly pre-ordering, ordering, billing,

(Continued from previous page)

wireless phone numbers. The second method estimates the number of competitive-LEC owned lines and stand alone UNE loops by multiplying the number of local interconnection service trunks by 2.75. We do not rely on this methodology in this application. The third method estimates the number of competitive-LEC access lines by counting the number of white page listings in Qwest's Listing Service System. This database is updated daily to reflect additions, deletions, and changes in residential and business white page listings. Qwest only reports white page listings for competitive LECs serving customers in Qwest's territory. This method likely underestimates the number of access lines as residential customers may not list their primary or secondary lines and businesses may only list a main number. Qwest 11 Application App. A, Tab 5, Declaration of David L. Teitzel (Qwest II Teitzel Decl.) at paras. 33-41; Qwest II Reply Comments at 6; Qwest I Application App A, Tab 6, Declaration of David L. Teitzel (Qwest I Teitzel Decl.) at paras. 33-43; Qwest Aug. 1 Ex *Parte* Letter at 1-3; Qwest July 9 Ex Parte Letter, Attach. at 1-3; Department of Justice Qwest II Evaluation at 8, n.32.

[77] See, *e.g.*, BellSouth GALA II Application, Supplemental Affidavit of Elizabeth A. Stockdale at para. 8 (estimating facilities-based lines by summing E-911 and UNE-P lines); SBC Texas II Application, Affidavit of John S. Habeeb, App A at para. 24 (estimating facilities-based lines by multiplying the number of local service interconnection trunks by 2.75); Verizon Maine Application, Declaration of John A. Torre at para. 16 (estimating facilities-based lines by summing E-911 and directory listings).

[78] Qwest II Reply Comments at 6; AT&T Qwest II Comments at 148.

[79] This database is updated daily to reflect additions, deletions, and changes in residential and business white page listings for competitive LECs providing service within Qwest's region. Qwest II Teitzel Decl. at para. 39.

[80] *See Sprint v. FCC*, 274 F.3d at 562 (finding it was reasonable for the Commission to rely on the applicant's estimates for a competitive LEC's lines if the competitive LEC itself did not object to the estimate). Although Sprint disputes the access lines that Qwest attributes to it for purposes of establishing Track A compliance, the Commission has not relied upon the estimates for Sprint in any of the nine application states. Sprint Qwest II Comments at 12; Sprint Qwest 1 Comments at 12.

[81] 47 U.S.C. § 271(c)(2)(B)(ii).

maintenance and repair, and change management; (2) provisioning of UNE combinations; and (3) UNE pricing. Aside from OSS, other UNEs that Qwest must make available under section 251(c)(3) are also listed as separate items on the competitive checklist, and are addressed below in separate sections for various checklist items, as are any provisioning issues that may be in dispute.[82]

1. OSS

34. Under checklist item 2, a BOC must demonstrate that it provides non-discriminatory access to the five OSS functions: (1) pre-ordering; (2) ordering; (3) provisioning; (4) maintenance and repair; and (5) billing." In addition, a BOC must show that it provides non-discriminatory access to UNEs and that it has an adequate change management process in place to accommodate changes made to its systems." We find that Qwest provides non-discriminatory access to its OSS. Consistent with prior Commission orders, we do not address each OSS element in detail where our review of the record satisfies us there is little or no dispute that Qwest meets the nondiscrimination requirements?' Rather, we focus our discussion on those issues in controversy, which in this instance primarily involve certain elements of Qwest's pre-ordering, ordering, billing, and change management systems and processes. We also specifically address issues related to flow-through.

a. Relevance of Qwest's Regionwide OSS

35. Consistent with our precedent, Qwest relies in this application on evidence concerning its regionwide OSS.[86] Specifically, Qwest asserts that its OSS in the nine application states is the same as its OSS in the entire thirteen-state region that participated in the ROC test?' The thirteen participating states in Qwest's local service region initiated a collaborative process

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[82] See 47 U.S.C. § 271(c)(2)(B). For example, unbundled loops, transport, and switching are listed separately as checklist items iv, v, and vi.

[83] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York,* 15 FCC Rcd 3953, 3989, para. 82 (1999) *(Bell Atlantic New York Order), aff'd, AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000). The Commission has defined OSS as the various systems, databases, and personnel used by incumbent LECs to provide service to their customers. *See Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region. InterLATA Services in Texas,* Memorandum Opinion and Order, 15 FCC Rcd 18354, 18396-97, para. 92 (2000) *(SWBT Texas Order).*

[84] See *Bell Atlantic New York Order,* 15 FCC Rcd at 3999, para. 102 and n.277 (citations omitted)

[85] *See Application of Verizon New York Inc., Verizon Long Distance, Veriron Enterprise Solutions, Verizon Global Networks Inc. and Veriron Select Services, Inc. for Authorization to Provide In-Region, InterLATA Services in Connecticut,* 16 FCC Rcd 14147, 14151, para. 9 (2001) *(Verizon Connecticut Order).*

[86] *See, e.g., SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6254, para. 36.

[87] Qwest I Notarianni/Doherty Decl. at para. 63

to design an overall plan for ensuring that Qwest's OSS and related databases and personnel are available to competing LECs in an open and nondiscriminatory manner.[88]

36. To support its claim that its OSS is the same across all states, Qwest relies on the comprehensive KPMG test. KPMG, in addition to administering the overall test, performed a regional differences assessment (RDA).[89] KPMG's RDA, released on October 5,2000, found that Qwest's order management, provisioning, maintenance and repair, and competing LEC relationship management and infrastructure are materially consistent across the three regions.[90] Although KPMG found that Qwest's CRIS billing and service order processors (SOPs) differ by region, it noted that Qwest has standardized most of its processes across these regions?' Moreover, KPMG made certain adjustments to its test. Specifically, KPMG designed and scaled the third-party test to represent the environment of the thirteen states to ensure their ability to use the results in individual state proceedings.[92] Where differences within Qwest's local service regions existed (such as the CRIS billing and SOP differences), the test was modified, as appropriate, to address these regional and state differences to ensure that the ROC Third Party Test would provide a valid basis upon which each of the thirteen participating ROC states could base their respective recommendations to the Commission regarding Qwest's section 271 applications.[93] KPMG's test transaction volumes were set at levels and distributed in such a way as to produce statistically valid results given the identified differences among the regions.*

37. In reaching our conclusion that Qwest has demonstrated it provides nondiscriminatory access to its OSS, we rely on detailed evidence provided by Qwest in this proceeding. We base this determination on Qwest's actual performance in the nine application states. In cases of low volume, where state-specific data may thus be unreliable,[95] as discussed above, we look to Qwest's performance in Colorado to supplement our analysis.% However, as the Commission has previously stated, evidence of satisfactory performance in another state

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88 *id.* at para. *19.*

89 Id. at para. 35.

90 *Id.* at para. 36, and Exhibit LN-OSS-4 (KPMG'sRDA)

91 *id.*

92 *id.* at para. 33.

93 *id.* at paras. 33, 35.

94 *Id.*

95 As the Commission has found in previous section 271 applications, performance data based on low volumes of orders or other transactions is not as reliable an indicator of checklist compliance as performance based on larger numbers of observations. It is thus not possible to place the same evidentiary weight upon – and draw the same types of conclusions from – performance data where volumes are low. as for data based on more robust activity. *See, e.g., SWBT Kansas/Oklahoma Order,* 16 FCC Rcd at 6254, para. 36.

96 *See* Introduction above.

cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the application states." Also consistent with our past practice, we note that in the course of our review, we look for patterns of systemic performance disparities that have resulted in competitive harm or that have otherwise denied new entrants a meaningful opportunity to compete.[98] Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance."

b. Pre-Ordering

38. As explained in previous orders, pre-ordering includes gathering and verifying the information necessary to place a new service order.[100] Given that pre-ordering represents the first exposure that a prospective customer has to a competing carrier, inferior access to the incumbent's OSS may render the competing carrier less efficient or responsive than the incumbent."" The applicable standard is whether the BOC provides access *to* its OSS that allows competitors to perform pre-ordering functions in substantially the same time and manner as the BOC's retail operations.'" For those pre-order functions that lack a retail analogue, the BOC must provide access that affords an efficient competitor a meaningful opportunity to compete.'"

39. Based upon the evidence in the record, we find that Qwest demonstrates that it provides nondiscriminatory access to its OSS preordering functions. Specifically, as discussed below, we conclude that Qwest has shown that it provides nondiscriminatory access to *its pre-*

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97 *See SWBT Kansas/Oklahoma Order,* 16 FCC Rcd at 6254, para. 36.

98 *See Verizon Massachusetts Order,* 16 FCC Rcd at 9055-56, para. 122.

99 *Id.*

100 *Bell Atlantic New York Order,* 15 FCC Rcd at 4014, para. 129; *Application of BellSouth Corporation. et al., Pursuant to Section 271 of the CommunicationsAct of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina,* CC Docket No. 97-208, Memorandum Opinion and Order, 13 FCC Rcd 539,589, para. 91 (1997) *(BellSouth South Carolina Order); see also Second BellSouth Louisiana Order,* 13 FCC Rcd at 20599-60, para. 94 (referring to "pre-ordering and ordering" collectively as "the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof'). In prior orders, the Commission has identified the following five pre-ordering functions: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; and (5) services and feature information. *Id; Application by BellSouth Corporation, et al. Pursuant to Section 271 of the CommunicationsAct of 1934, as amended, to Provide In-Region, InterLATA Services in Louisiana,* CC Docket No. 97-231, Memorandum Opinion and Order, 13 FCC Rcd 6245, 6274, para. 47 (1998) *(First BellSouth Louisiana Order).*

101 *Bell Atlantic New York Order,* 15 FCC Rcd at 4014, para. 129 (citing *Second BellSouth Louisiana Order,* 13 FCC Rcd at 20669). *See also* App. K at paras. 33-34.

102 *Bell Atlantic New York Order* 15 FCC Rcd at 4014, para. 129 (citing *BellSouth South Carolina Order,* 13 FCC Rcd at 619; *Second BellSouth Louisiana Order,* 13 FCC Rcd at 20655; *Ameritech Michigan Order,* 12 FCC Rcd at 20618-19).

103 *Id*

ordering functions because competing carriers can: successfully build and use application-to-application interfaces that perform pre-ordering functions; consistently gain access to the OSS; receive timely responses to submitted pre-order information requests; and integrate pre-ordering and ordering interfaces.[104] Additionally, Qwest has shown that competitors have access *to* information to determine whether loop facilities are qualified to support xDSL advanced technologies.[105]

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[104] *Id* at 4013-14, para, 128. We reject AT&T's argument that informational issues related to the multiple UNE rate zones in Montana and Wyoming cause competitive LECs to be at a competitive disadvantage in those states. See AT&T Qwest II Comments at 53. The record shows that Qwest provides competing LECs with the necessary information to determine a potential customer's rate zone. Qwest's OSS, through both the GUI and EDI, includes an address validation tool, which provides competing LECs with customer addresses and associated rate zones. Also, Qwest's retail marketing agents do not have access to the inquiries placed by competing LECs by means of the GUI or EDI. See Qwest II Reply, App. A, Tab 8, Declaration of Jerrold L. Thompson (Qwest II Thompson Reply Decl.) at para. 55. We also reject WorldCom's assertion that Qwest does not provide the information needed to program its system in Idaho. WorldCom asserts that different universal service order codes (USOCs) are required in the northern pan of Idaho than in the southern part of the state and that Qwest has been unable to direct WorldCom to the common language location identifiers (CLLI) that define the geographic boundaries between the regions. *See* WorldCom Qwest III Comments at 13. The record shows that Qwest has provided this information to WorldCom in response to WorldCom's request. See Qwest III Reply, App. A, Tab 17, Reply Declaration of Lynn M. V. Notarianni and Christie L. Doherty (Qwest III Notarianni/Doherty Reply Decl.) at para. 86. We also reject WorldCom's assertion that Qwest's EDI documentation errors rise to the level of checklist non-compliance. See WorldCom Qwest III Comments at 12-13; WorldCom Nov. 6 Ex *Parte* Lener at *9* Lener from Lori Wright, WorldCom, to Marlene H. Dortch, Secretary, Federal Communications Commission. WC Docket No. 02-314 (filed on Dec. 2,2002) at 1 (WorldCom Dec. 2 *Ex Parte* Letter). For example, WorldCom argues that Qwest is unclear in how competing LECs should treat community names in ordering through EDI. Worldcorn Nov. 6 Ex Parte Lener at 9. The record shows that using the pre-order address validation query will ensure that the order will pass all address validation edits. See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 22.2002) at 3-4 (Qwest Nov. 22e Ex *Parte* Letter). We note that many of the EDI problems addressed by WorldCom in its Dec. 2 Ex *Parte* Lener have been closed. See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 3,2002) at 2 (Qwest Dec. 3c Ex *Parte* Lener). Additionally, we note that that many of the EDI problems addressed by WorldCom in its Dec. 2 ex parte letter are in regard to Qwest's most recent EDI release, EDI version 11.0 (which was available to competing LECs starting Nov. 18,2002). See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 6,2002) (Qwest Dec. 6b Ex *Parte* Lener). We note that Qwest's change management process utilizes an extensive help-desk ticket and notification process to handle errors that may occur when implementing new software. Qwest Dec. 3c Ex *Parte* Lener at 1. We take further comfort, although we do not rely on it, in Qwest's commitment to resolve WorldCom's Trouble Ticket 6090995 through a new patch that will be available to competing LECs on December 20,2002. See Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 17, 2002) at 1 (Qwest Dec. 17 Ex *Parte* Lener on Trouble Ticket 6090995).

[105] *See e.g., Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc. for Authorization to Provide In-Region, InterLATA Services in Massachusetts,* 16 FCC Rcd 8988,9013, para. 50 (2001) (*Verizon Massachusetts Order).*

(i) Pre-Ordering Functionality

40. The record shows that Qwest offers requesting carriers access to an application-to-application interface that enables them to perform the same pre-ordering functions that Qwest provides for its retail operations. Pre-ordering functionality is provided through Qwest's two electronic interfaces: Interconnect Mediated Access-Electronic Data Interexchange (IMA-EDI or EDI), and Interconnect Mediated Access-Graphical User Interface (IMA-GUI or GUI).[106] Competitive LECs may use either of these interfaces to submit orders for end users throughout Qwest's region.[107] Using these interfaces, competing carriers gain access to pre-ordering information, including address validation;[108] customer service records (CSR); service availability; facility availability; loop qualification (for qualifying Qwest DSL for resale and unbundled loop): raw loop data; connecting facility assignment (CFA); meet point query; and access to directory listings.[109]

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[106] The Application shows that both interfaces are real-time, electronic interfaces, allowing competitive LECs to access pre-ordering, ordering, and provisioning OSS functions. The notable differences in the two interfaces are that EDI is a computer-to-computer interface, whereas GUI is human-to-computer. EDI also provides electronic access directly from a competitor's systems to Qwest's interfaces, and, thus, enables competitive LECs to integrate their own OSS with the Qwest electronic interface (in addition to integrating EDI's pre-ordering functions with its ordering functions), whereas GUI allows competitors to obtain electronic access to Qwest's OSS pre-ordering, ordering, and provisioning functionality without having to develop their own software. *See* Qwest I Notarianni/Doherty Decl. at paras. 59-65. We do not consider the Web GUI's functionality because it is a human-to-application interface. *Bell Atlantic New York Order,* 15 FCC Rcd at 4016-17, para. 133, n.385. However we observe that the GUI provides an economically efficient pre-ordering interface for low-volume carriers and new entrants. *See id.*

[107] As of the time of its application, Qwest reports that 22 competing LECs use IMA-EDI and 172 competing LECs use IMA-GUI in Qwest's 14 state region to complete pre-order transactions. *See* Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 15, 2002) (Qwest Nov. 15d *Ex Parte* Letter) at 1; Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch. Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 9, 2002) at 1 (Qwest Dec. 9 *Ex Parte* Letter).

[108] Competitors use this function to determine if a customer's address matches the address in Qwest's *OSS,* and this tool is used to create a list of validated addresses that can be used to generate other pre-ordering and ordering transactions. In addition to the Address Validation query, Qwest maintains a website with files called the "Street Address Guide Area Data Files," which contain address information organized by state. Competitive LECs can access and search these files by using standard text search tools or by downloading the files to their own site and integrating the data into their own systems. *See* Qwest I Notarianni/Doherty Decl. at paras. 70-71.

[109] *Id.* In addition, KPMG found that Qwest satisfied its requirements for pre-ordering functionality by successfully processing 14 pre-order transaction types. KPMG Final Report at 73 (Table 12-7: Evaluation Criteria and Results) (Test 12-2-1) (Qwest Systems Provide Required Pre-ordering Functionality). KPMG tested the following transactions: validate customer address; obtain customer service record; reserve telephone numbers; determine product and feature availability; perform facility availability check; schedule appointment; obtain loop qualification information; validate customer CFA; obtain directory listings information for an existing UNE-L customer; obtain design layout record validate meet point; cancel an appointment or reserved telephone number. *Id.* at 65 (Table 12-1)(Pre-order Test Scenarios).

41. KPMG tested the functionality of Qwest's EDI interface, and concluded that it performed pre-order functions in a satisfactory manner.'" KPMG states that the Qwest business rules detail the **form,** field, and value information required to submit valid pre-order inquiries."' For example, KPMG tested Qwest's ability to process various pre-order transactions.[112] In addition, KPMG's comparison of Qwest's retail and wholesale pre-order transactions showed functional equivalence.[113] Given that competitors have the ability to and actually are using application-to-application interfaces to complete pre-order transactions, and that Qwest's functions have been successfully tested, we conclude that Qwest provides adequate pre-order functionality.

42. Eschelon is the only commenter to raise issue with Qwest's pre-ordering functionality, alleging that a customer configuration information system (called Qhost) is sometimes disabled without notice when ordering resold DSL services.[114] We find, however, that these outages do not warrant a finding of checklist noncompliance, as Qhost is not part of the OSS system that we examine for purposes of this application. The record shows that Qhost is used by ISPs, including Qwest's **own** ISP, Qwest.net,[115] to obtain customer configuration information.[116] Competitive carriers, on the other hand, use IMA to order Qwest resold DSL services, and there is no evidence to suggest that there are functionality issues with IMA.[117]

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110 KPMG Final Report at 70-72.

111 Id.

112 Id. at 73 (Test 12-2-1) (Qwest ,stems Provide Require e-ordering Functionality).

113 KPMG compared the following pre-order transactions: validate customer address; obtain customer service record; reserve telephone numbers; determine product and feature availability; perform facility availability check; schedule appointment; obtain loop qualification information; and cancel an appointment or reserved TN. KPMG Final Report at **97** (Test 12-11-3) (Pre-Order and Order Capabilities **Are** Functionally Equivalent for Both Retail and Wholesale Services).

114 Eschelon Qwest I Comments at 12. Eschelon asserts that the Qhost system suffered from outages on June 28, July 1, and July 2,2002.

115 Qwest offers DSL lntemet services to subscribers under the Qwest.net brand name, and Qwest.net utilizes QHost in the same manner and receives the same services that are provided to all ISP and Business DSL Hosts, including Eschelon. See Letter from Hance Haney, Executive Director - Federal Regulatory, **Qwest,** Executive Director-Federal Regulatory, to Marlene Dortch, Secretary, Federal Communications Commission, Docket **Nos.** 02-148 and 02-189 (filed Sept. 6,2002) (Qwest Sept. 6 Ex *Parte* Letter) at 1.

116 **Qwest** I Reply, App. A, Tab 5, Declaration of **Lynn** M. V. Notarianni and Christie L. Doherty (Qwest I Notarianni/Doherty Reply Decl.) at para. 303. The record also shows that when Qhost is unavailable, users can obtain the same information by calling Qwest representatives at the phone number cited on the Qhost website. See ***id***

117 *Id.*

(ii) Response Times and Availability

43. We find that Qwest demonstrates that it provides requesting carriers access to pre-ordering functionality in substantially the same time that it provides access to its retail operations. As expressed in past decisions, in order to compete effectively in the local exchange market, competitors must be able to perform pre-ordering functions and interact with their customers as quickly and efficiently as the incumbent.[118] Our finding of compliance in this area is principally based upon Qwest's commercial performance. Metric PO-1 measures the time it takes Qwest to respond *to* various requests for pre-order information, and, depending on the interface and function, the benchmark varies from 10 to 25 seconds."' The commercial data show that Qwest has met every benchmark for GUI and EDI in this area for each of the past 4 months.[120]

44. Qwest also demonstrates that both of its interfaces are available in a manner that affords an efficient competitor a meaningful opportunity to compete. As discussed in previous orders, an available pre-ordering interface is required for competing carriers to market their services and serve their customers, and the unavailability of an interface could directly and negatively affect a carrier's customer interaction."' Qwest's commercial data show that Qwest's interfaces were generally available as scheduled.[122]

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[118] *See Bell Atlantic New York Order,* 15 FCC Rcd 4025, para. 145 (citing *BellSouth South Carolina Order,* 13 FCC Rcd at 625, 634-36; *Ameritech Michigan Order,* 12 FCC Rcd at 20616).

[119] For both the IMA-GUI and IMA-EDI interfaces, the metric tracks the time it takes Qwest to schedule appointments, inquire about service availability time, conduct facility checks. validate addresses. retrieve customer service records, and make telephone number reservation. Qwest explains that it separately tracks cenain functions for the GUI interface, such as submitting responses, responding to submissions. and when applicable, accepting transactions. Qwest I Williams Decl. at paras. 96-99.

[120] See, *e.g.*, GA-I (Gateway Availability-IMA-GUI) with a standard of 99.25% for scheduled availability; GA-2 (Gateway Availability-IMA-EDI) with a standard of 99.25% for scheduled availability; PO-1 (Pre-order/Order Response Times) with standard response times ranging from 10 to 25 seconds: PO-3 (LSR Rejection Notice Interval) with standard response times ranging from 18 seconds for electronically submitted orders to ≤ 24 work week clock hours for faxed orders; and PO-5 (FOCs provided on Time) with standards ranging from 85% of all LIS trunk orders returned within 8 business days to 95% of all orders for resold services returned within 20 minutes. Our conclusion is also supported by the findings of the third-party tester. KPMG's test showed that for both the GUI and EDI interfaces, Qwest response times were satisfactory for a full range of pre-order transactions. For the performance of the GUI interface, *see* KPMG Final Report at 74-76 (IMA GUI Pre-Order Timeliness).

[121] *Bell Atlantic New York Order,* 15 FCC Rcd at 4029-30, para. 154 (citing *BellSouth South* Carolina *Order,* 12 FCC Rcd at 637-38, para. 180).

[122] See GA-I through GA-4, GA-6, and GA-7

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(iii) Pre-Ordering and Ordering Integration

45. Consistent with state commissions examining this issue,[123] we conclude that Qwest demonstrates that its EDI interface allows competing carriers to integrate pre-ordering information into Qwest's ordering interface, as well as into the carriers' back office systems. The Commission has previously stated that the inability to integrate may place competitors at a disadvantage and significantly impact a carrier's ability to serve its customers in a timely and efficient manner.[124] In order to demonstrate compliance with checklist item 2, the BOC must enable competing carriers to transfer pre-ordering information (such as customer billing address or existing features) electronically into the carrier's own back office systems, and then transfer this information back to the BOC's ordering interface. Without an integrated system, a competing carrier would be forced to re-enter pre-ordering information manually into an ordering interface, leading to additional costs, delays, and a greater risk of error.[125]. Thus, a BOC has enabled successful integration if competing carriers may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form that will not be rejected by the BOC's *OSS* systems.[126]

46. The Commission has held that the ability to "parse" pre-order information successfully (*i.e.*, to divide electronic data into designated fields) is a necessary component of successful integration.[127] Our prior orders dictate that a BOC can demonstrate the ability of competitive LECs to integrate pre-ordering and ordering functions if the BOC parses the customer record information into identifiable fields for the competing carriers."' Also, if the BOC does not provide parsed pre-order information, the BOC can demonstrate that competing carriers can or have been able *to* successfully integrate by parsing the information themselves.[129]

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[123] *See, e.g.,* Colorado Commission Qwest I Reply at 40; Iowa Board Qwest I Reply at 5-6; Wyoming Commission Qwest II Comments at 6.

[124] *See Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana.* CC Docket No. 02-35, Memorandum Opinion and Order, 17 FCC Rcd 9018,9078, para. 119 (2002) *(BellSouth Georgia/Louisiana Order); SWBT Texas Order,* 15 FCC Rcd at 18428-29, para. 152; *Bell Atlantic New York Order,* 15 FCC Rcd at 4019-20, para. 137.

[125] *See Bell Atlantic New York Order* 15 FCC Rcd at 4019, para. 137 (citing *Second BellSouth Louisiana Order,* 13 FCC Rcd at 20661,20666,20676-77; *First BellSouth Louisiana Order,* 13 FCC Rcd at 6276-71; *BellSouth South Carolina Order,* 13 FCC Rcd at 602, 623-24, 629).

[126] *Id*

[127] *SWBT Texas Order,* 15 FCC Rcd at 18429, para. 153. "Parsed" pre-ordering information is electronic data that are divided into fields that can be electronically transferred into other fields used in the pre-ordering and ordering process.

[128] *Bell Atlantic New York Order,* 15 FCC Rcd at 4019, para. 137.

[129] A BOC that does not provide parsed pre-order information must demonstrate that competing carriers "may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order (continued.. ..)

47. As the Commission has explained, absent sufficient and reliable data on commercial usage,"' we will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC's OSS.[131] In this instance, we base our conclusion that integration is achievable on evidence that Qwest parses pre-order information, as well as HP's ability to successfully integrate.[132]

48. ***Pursing.*** The record demonstrates that Qwest provides competitors with the necessary documentation and support to successfully integrate pre-ordering and ordering functions.[133] This information includes developer worksheets. which specify field lengths, field characteristics, and any conditions related to the usage of specific fields for specified products."' In addition, Qwest provides training and documentation to assist competitors in developing and implementing integration capability."' Qwest's **IMA** system is based on local service ordering guidelines[136] (LSOG) for pre-order and order transactions, including rules for parsing information

(Continued from previous page)

form .. that will not be rejected by the BOC's OSS systems." ***SWBT Texas Order,*** 15 FCC Rcd at **18428-29,** para. 152. Regardless of whether an applicant parses, the record must show that competitors are able to successfully integrate.

130 The record contains several sources of commercial usage evidence. First, the record indicates that New Access, a competitive LEC operating in Colorado, Iowa, Nebraska and North Dakota, has affirmed that it has achieved pre-orderiorder integration through its IMA-EDI interface as of June **2002.** See Qwest I Notarianni/Doherty Reply Decl., Ex. LN-17 (Qwest July **25** Ex *Parte* on Pre-Order/Order Integration). Moreover, the application contains letters from two software designers, Telcordia Technologies and NightFire Software, Inc., both of which explain that they have successfully developed pre-orderiorder integration programs for competitive LECs that are actively submitting LSRs to Qwest via its EDI interface. See Qwest I Notarianni/Doherty Decl., Exs. LN-OSS-12 (Jan. **28,2002** Letter from Telcordia Technologies), and LN-OSS-13 (May **22,2002** Letter from NightFire).

131 ***See*** *SWBT* ***Teras Order,*** 15 FCC Rcd at **18399,** para. **98** (citing ***Bell Atlantic New York Order,*** **15** FCC Rcd at **3992,** para. **88.)** See ***also*** App. K at para. **31.**

132 See Qwest I Notarianni/Doherty Decl., Exhibit LN-OSS-11 (***Hewlett-Packard's PreOrder to Order Integration Report. 271 Test Generator, Arizona Corporation Commission,*** Final Version ***5.0).*** See ***generally*** Letter from Sumeet Seam, Attorney for Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. **02-148** and **02-189** (filed Aug. **8,2002)** (Qwest Aug. 8c Ex ***Parte*** Letter).

133 Letter from Sumeet Seam, Anomey for Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, Docket 02-148 (filed July **25,2002)** (Qwest July 25b Ex ***Parte*** Letter) at 5-7. See ***also*** HP's August ***6*** Ex ***Parte*** Letter, Exhibit C (Colorado En *Banc* Hearing 6/10/02, Transcript Excerpt) at **11-12;** Qwest August 8c Ex ***Parte*** Letter at 5.

134 See Qwest July 25b Ex ***Parte*** Letter at 5-7. Qwest states that its own "IMA Development, Systems Test and Regression Test" teams used these same worksheets to develop, test and implement IMA in its first implementation on January 1, **1997,** and have continued to use them for enhancements to IMA. See *id.* at ***5.***

135 Qwest I Notarianni/Doherty Reply Decl. at para. 140.

136 The Alliance for Telecommunications Industry Solutions (ATIS) publishes and maintains the LSOGs. The LSOG is the standard for ordering and provisioning. As explained by HP, "a provider (ILEC) may interpret these guidelines when creating specifications that define how a CLEC should order and provision service from the ILEC." See KPMG Final Report, App. HP-B (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI*** *Release 7.0*) at 2.

on pre-order transactions.[137] Qwest provides, among other things, address validation and CSR information that is parsed into identifiable fields for competitors, which separates the parsed elements returned for each pre-order transaction, and identifies the LSR field to which the particular data element relates.[138] According to the record, Qwest implementation teams are available to competitive LECs for all aspects of the EDI certification process."' We find that by providing competing LECs the tools necessary to integrate, in particular a parsed CSR, that Qwest has satisfied the Commission's standard for integration as articulated in the *Bell Atlantic New York Order.'"*

49. *Third-Party Test.* The test results from HP, acting as a pseudo-competitor LEC, bolster our conclusions with respect to integration. As explained in the *SWBT Texas Order,* a persuasive third-party test provides an objective means by which to evaluate *a* BOC's *OSS* readiness."' HP successfully developed an EDI interface that integrated pre-order/order data,"' and HP was able to develop pre-order/order integration capabilities using such generally available tools and documents as the developer worksheets and access to staff from Qwest's EDI implementation teams.[143] In particular, the record indicates that HP successfully integrated with both Qwest's EDI release 7.0[144] and EDI release 8.0.[145] HP's test results affirm that Qwest's IMA

[137] Qwest I NotarianniiDoherty Reply Decl. at para. 140. Qwest explains that by adhering to the LSOG guidelines, its pre-order transactions are defined and parsed to the extent that the pre-order information is required to submit an order. *See id.* Qwest also explains that "OBF did not publish a document to describe how to map between pre-order and order information due to a belief that the care taken in defining and naming the fields is readily comprehensible for CLECs. For example, if the LSR required the population of an address field called Street Address Number (SANO), then the preorder address validation transaction requires the parsing and returning of the same field (SANO), so that it can be readily identified and populated on the LSR." See *id.*

[138] Qwest I Application at 116; Qwest I Notarianni/Doherty Decl. at para. 197, Exhibit LN-OSS-5 (Developer Worksheets-PreOrder); Qwest July 25b Ex *Parte* Letter at 5-7.

[139] *Id*

[140] *See Bell Atlantic New York Order,* 15 FCC Rcd at 4019-4021, paras. 137-139. *See also* Qwest August 8c *Ex Parte* Letter at 1-3.

[141] *See SWBT Texas Order,* 15 FCC Rcd at 18399-400, para. 98 (citing Bell *Atlantic* New *York Order,* 15 FCC Rcd at 3992, para. 89).

[142] Qwest I Notarianni/Doherty Decl. at para. 198.

[143] *Id. See* also Letter 6-om Geoff May, Hewlett-Packard. to Marlene Dortch, Secretary, Federal Communications Commission, Docket 02-148 (filed Aug. 6, 2002) (HP August *6* Ex *Porte* Letter). Hewlett-Packard states that each individual data element is defmed in the Qwest IMA EDI disclosure documentation with the associated business rules and format characteristics. *See id.* at 2.

[144] Qwest I Notarianni/Doherty Decl. at para. 198 and Exhibit LN-OSS-9 (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release 7.0, Version 1.0, April 19, 2002*). *See* Exhibit LN-OSS-9 at 40. HP achieved integration with EDI 7.0 adhering to LSOG Issue 3.

[145] Qwest I Notarianni/Doherty Decl. at para. I98 and Exhibit LN-OSS-I0 (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release 8.0. Version 1.0, April 19, 2002*). HP achieved integration with EDI 8.0 adhering to LSOG Issue 5.

EDI interface provides competitors with pre-order, order, and post-order information in a parsed or fielded format.'" For both releases, HP tested thirty-four separate products and transactions.[147] In addition, for the EDI 7.0 test, HP tested data integration for three different types of transactions: pre-order to pre-order transactions involving address-related data;'" pre-order to order transactions involving address-related data;[149] and pre-order to order transactions involving CSR information for the ordering of both resold POTS and UNE-platform POTS." For both of its reports, HP concluded that it "does not feel that [there] are any issues that would prohibit a CLEC from integrating Qwest data with their internal application system(s)."[151] The record also indicates that in a separate test, HP was able to confirm that Qwest provides competitors with the tools required to successfully develop an integrated EDI interface, and it also confirmed that competitors have the ability to integrate pre-order responses with order transactions.[152] Utilizing

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146 HP August 6 *Ex Parte* Letter.

147 *See* KPMG Final Report, Appendices HP-B (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release 7.0)* at 2, and HP-C (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release* 8.0) at 2. In both tests, HP tested the following 34 products and transactions: address validation; appointment availability; appointment selection; cancellation; connecting facility assignment; customer service; design layout record; facility availability; meet point; raw loop data; service availability; telephone number availability; telephone number selection; centrex 21; centrex plus; DID in only trunks; ISDN-PRI resale availability: ISDN-PRI resale trunk; listing only; local number portability; PBX; POTS; private line; shared loop; unbundled loop distribution loop; unbundled loop; unbundled loop with number portability; UNE-C Private Line; UNE-platform POTS; completion; firm order completion; jeopardy/non-fatal/fatal; LSR status; and status change inquiry-auto push. *See id* HP explains that it successfully developed and implemented integration of the data from an Address Validation Response (AVR) into other transactions, and that its data entry application retained address information that it received from Qwest, and then used it to populate address-related fields in a number of pre-order queries, including: address validation query; customer service record query; facility availability query; service availability query; telephone number availability query; raw loop data query; and meet point query. See *also* HP August 6, 2002 *Ex Parte* Letter at 2. HP also reports that it was able to integrate address information into such order related forms as local service request, end user, resale private line, and directory listing. See *id.*

148 KPMG Final Report, App. HP-B (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release 7.0)* at 38 (Table 5.1 – PCG Pre-Order to Pre-Order Integration).

149 *Id* at 39 (Table 5.2 – PCG Pre-Order to Order Integration); HP August 6 *Ex Parte* Letter at 1

150 *Id.*

151 KPMG Final Report, App. HP-B (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA-EDI Release 7.0)* at 40, and App. HP-C (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report. Analysis of Qwest IMA-EDI Release* 8.0) at 39. In both repons, HP observes that "this does not mean that there are not issues that would have to be resolved between Qwest and the CLEC, but simply that these issues are not insurmountable." See *id.*

152 See Qwest I Notarianni/Doherty Decl. at paras. 199-200 and Exhibit LN-OSS-I I (*Hewlett-Packard's Pre-Order to Order Integration Report, 271 Test Generator, Arizona Corporation Commission, Final Version 5.0*). In its summary of how well Qwest's fields conform to LSOG 3 and LSOG 5, HP concludes that "the data definitions . . . between PreOrder and Order elements . . . do not require translation, or reconfiguration of the data elements when integrating PreOrder transactions into Order transactions. Therefore, HPC's assessment is that CLECs can utilize (continued....)

its integrated IMA-EDI interface, HP states that it submitted a total of 889 UNE-platform retest orders from January 2002 to April 2002.[153] Only 12.15 percent of these orders were rejected, and HP explained that these rejected orders were attributable to **issues** unrelated to any pre-order/order integration problems.'"

50. We are not persuaded by the allegations made by AT&T and WorldCom that the evidence does not support a showing **of** carriers' ability to integrate pre-ordering/ordering functions. Generally, AT&T and WorldCom make three arguments. First, the commenters dispute the reliability of the commercial **evidence.**[155] Second, AT&T and WorldCom question the conclusions from HP's test results. Lastly, these commenters cite to their own experience with Qwest's OSS, which allegedly demonstrates the inability to integrate. As an initial matter, given that we do not base our finding of integration upon either the New Access or vendor letters that the commenters dispute, and instead rely on Qwest's provision **of** a parsed CSR and HP's successful integration results, we need not address carriers' arguments challenging the validity of these letters.

51. Turning to the HP test results, we do not agree with WorldCom's contention that during the HP test of Qwest's ability to integrate, HP found inconsistencies between pre-order and order requirements that undermine its conclusion that integration is achievable.'" The inconsistencies HP discussed in its two reports examining the field lengths of both EDI 7.0 and EDI **8.0 do** not evidence an inability to integrate.[157] **For** both EDI 7.0 and **8.0,** KPMG found that

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Qwest's EDI PreOrder transactions to submit an Order without data manipulation." ***See*** Exhibit LN-OSS-II at 33-34.

[153] Qwest I Notarianni/Doherty Reply Decl. at para. **138**; Letter from Sumeet Seam, Attorney for Qwest, **to** Marlene H. Dortch, Secretary, Federal Communications Commission, Docket 02-148 (filed July 29,2002) (Qwest July 29a ***Ex Parte*** Letter) at ***3.***

[154] ***See*** Qwest July 29a ***Ex Porte*** Letter at ***3.*** In correspondence dated July 26,2002, from Don Perry of Hewlett-Packard Services, Consulting & Integration Division, to the ROC TAG Members, HP explains that "as described in the HP Final Report, HP integrated the address information from the pre-order transaction into the End User form. Issues not related to pre-order/order integration generated these 108 FATAL (caps in original) rejects." ***See id*** at ***5.***

[155] AT&T and WorldCom argue that there is little evidence to support New Access' successful integration. ***See*** AT&T Qwest I Reply at 26-27; WorldCom Qwest I Lichtenberg Reply Decl. at para. 21.

[156] WorldCom states that these shortcomings included inconsistent business rules, inconsistent valid values, inconsistent data types, and failure to return information at the pre-order stage for several industry standard fields. ***See*** WorldCom Qwest I Comments, Sherry Lichtenberg Decl. (WorldCom Qwest 1 Lichtenberg Decl.) at para. 21

[157] ***See*** KF'MG Final Report, Appendices HP-B (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0***), and HP-C (***Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA ED1 Release 8.0***). HP explains that in creating these reports, it "took the Qwest documentation, [and] the IMA EDI disclosure documentation, which is the official Qwest documentation for that interface [, and] compared the Qwest documentation against itself so that if [for example], you had a field that was part of an address and it was used in four or five different transactions, [HP] compared across Qwest transactions looking for consistency and format and ability to be integrated. [HP] also compared Qwest documentation against industry publications . . . ." ***See also*** HP **August** 6 Ex ***Parte*** Letter, Exhibit **A** (Colorado ***En Banc*** Hearing 6/10/02, Transcript Excerpt) at 6-7.

only a minimal number of Qwest's pre-ordering and ordering data fields differed from the LSOG standard to such a degree that the discrepancy could disrupt, or "impact," the exchange of data. Moreover, because KPMG's **report** provides detailed information about the impacting data fields' names, form with which the data field is used, and the field's LSOG analogue, competitors can readily identify the impacting data fields. For example, HP's report for EDI 7.0 found that of the 275 data fields that *are* used to perform pre-order functions, only 11 were identified as impacting,"' and of the **413** fields used for order functions, only **34** were considered to be impacting."' In its report for EDI 8.0, HP found that of the 274 data fields that are used to perform pre-order functions, only 16 were considered to be **impacting,**[160] and of the 255 fields used for order functions, only **37** were considered to be impacting.[161] These results *are* compelling because they constitute objective evidence that quantifies the high degree to which Qwest's data fields conform to the industry **standard.**[162] That is, were a competitor to use industry guidelines ***to*** model its pre-ordering and ordering data fields for use with EDI **7.0,** only 4 percent of its pre-ordering fields and 8 percent of its ordering fields would have different configurations than Qwest's system. **As** explained by HP, "the degree to which ILECs and CLECs conform to the LSOG guidelines has a direct impact on the internal application systems

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158 ***See*** KF'MG Final Report, App. HP-B (***Hewlett-Packard's Pre-Order/Order Integrarion Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0***) at 16, (Table 4.10 - Pre-Order Data Integration Issues). For a detailed description of the integration issue associated with each data field, see KPMG Final Report. App. HP-B at 8-15, (Table 4.6 (Generic lntegration Issues); Table 4.7 (Field Length Variations Across Qwest Pre-Order Forms): and Table 4.8 (Field Length Variations Between Qwest and LSOG)).

159 See KF'MG Final Report, App. HP-B ((***Hewlett-Packard's Pre-Order/Order Integrarion Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0***) at **31,** (Table 4.24 – Order Data Integration Issues). For a detailed description of the integration issue associated with each data field, see KPMG Final Report, App. HP-B at 21-30, (Table 4.20 (Generic Integration Issues); Table 4.2 l (Field Length Variations Across Qwest Order Forms); and Table 4.22 (Field Length Variations Between Qwest and LSOG)).

160 See KPMG Final Report, App. HP-C (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 8.0***) at 16, (Table 4.10 -Pre-Order Data Integration Issues). For a detailed description of the integration issue associated with each data field, see KPMG Final Report, App. HP-C at 8-15, (Table 4.6 (Generic Integration Issues); Table 4.7 (Field Length Variations Across Qwest Pre-Order Forms); and Table **4.8** (Field Length Variations Between Qwest and LSOG)).

161 ***See*** KPMG Final Report, App. HP-C (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report. Analysis of Qwest IMA EDI Release 8.0***) at 32, (Table 4.24 – Order Data Integration Issues). For a detailed description of the integration issue associated with each data field, see KPMG Final Report, App. HP-C at 21-31, (Table 4.20 (Generic Integration Issues); Table 4.21 (Field Length Variations Across Qwest Order Forms); and Table 4.22 (Field Length Variations Between Qwest and LSOG)).

162 Qwest I Notarianni/Doherty Reply Decl. at para. 140. The record shows that Qwest's legacy system required deviations from the LSOGs for some fields, but these deviations were evaluated to ensure conformity with the integration criteria. For example, Qwest states that "if there is a Qwest-specific field constraint on the order form and that specific field is available in a pre-order transaction, that field is parsed in the pre-order transaction in such a way that it can be readily used by the CLEC on the order. For example, if the billing name field in the OBF guidelines is 50 characters long, but Qwest's legacy systems limit the billing name to 30 characters, Qwest limited the billing name to 30 characters in order to ensure that the information can be processed through its legacy systems and provides documentation accordingly." ***See id.***

of both parties. The closer each company conforms to the other, the easier it is for the CLEC and ILEC that are exchanging data to build and maintain their respective internal application systems."[163] Moreover, we have previously noted that for both reports, HP concluded that there are not any issues that would prohibit a competitive LEC from integrating Qwest data with their internal application system(s).[164]

52. We also reject WorldCom's allegations that Qwest's July 25 and July 26 *Ex* ***Parte*** letters understate the pseudo-competitive LEC's actual reject rates by reporting only the percentage of fatal rejections, and not the percentage of both fatal and non-fatal rejections,"[165] and that HP's overall order reject rate as reported in the KPMG Final Report was over 30 percent.[166] WorldCom's comments would have merit if the commercial measurements that track rejection rates made this distinction. However, PO-4, which measures Qwest rejection rates and was established through a collaborative process with Qwest and its competitors, does not account for non-fatal errors. Thus, contrary to WorldCom's comments, HP's rejection rate is accurately reported. To the extent that WorldCom believes that the business rules should be changed so that PO-4 counts non-fatal rejections, it should make its request at the state level. Moreover, HP explains that these orders were not rejected due to integration problems. In regard to WorldCom's comments about HP's overall order rejection rate as reported in the KPMG report, it is true that this rate is higher than the commercial average.[167] However, KPMG's report includes rejected orders that were not necessarily linked to integration problems, but could have been the result of test bed issues,[168] test case design issues, and interface design issues.[169] HP also states that LSR reject rates can vary by competitive LEC for numerous reasons, such as use of documented ordering processes and training; experience of customer service representative or turnover of service center staff; use of incumbent LEC or competitive LEC data entry applications and the degree of integration of these applications; adherence to business processes and rules; and validation of account and order information.[170] Thus, given the number of non-integration related factors that account for the pseudo competitive LEC's rejection rate, we do not find that the results in this area signify that underlying integration problems exist.

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[163] *See* KMPG Final Report, App. HP-B *(Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0)* at 2; KPMG Final Report, App. HP-C *(Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 8.0)* at 2.

[164] See KPMG Final Report, Appendices HP-B *(Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report. Analysis of Qwest IMA EDI Release 7.0)* at 40, and HP-C *(Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 8.0)* at 39.

[165] WorldCom Qwest I Lichtenberg Reply Decl. at para. 19.

[166] *Id.* at para. 20

[167] *See* KPMG Final Report at 81 (Test 12-5-6)

[168] For an explanation of "test bed," see KPMG Final Report at 10.

[169] See HP August 15 *Ex Parte* Letter at 1-2.

[170] *See id*

53. Lastly, we reject AT&T and WorldCom's comments that HP's test confirms that although it is possible for a competitive LEC to integrate, it would be unreasonably difficult.[171] HP subsequently clarified that due to clerical oversight, one of its statements was misstated, and that its report should have stated that "integration would be challenging for an information technology team ***not experienced*** in EDI development."[172] HP also explains that a high degree of difficulty is endemic to EDI development, and it clarified that competitors need appropriate EDI development experience in order to successfully integrate.[173] We find nothing in HP's statements to suggest that integrating with Qwest's system is any more difficult than other BOC regions or that it otherwise presents a barrier to entry. Accordingly, consistent with the Department of Justice's finding, we accept HP's conclusions that integration is possible,"[174] and we find that such evidence is reliable and probative of competitors' integration abilities.[175]

54. ***Other Alleged Deficiencies.*** We find insufficient evidence in the record to support AT&T's assertions that the failure to provide a field that identifies telephone numbers for a customer's account in the service and equipment section **of** the CSR is a competitive barrier.[176] On the contrary, Qwest's application and the third-party test indicate that Qwest does, in fact, return working telephone numbers parsed on the CSR.[177] During its analysis **of** EDI **7.0,** HP

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171 WorldCom Qwest I Comments at 8. WorldCom asserts that the following quote is taken from the HP Report: "a CSR to LSR parsing would be a very challenging and complex undertaking for a CLEC with an Information Technology team experienced in EDI development." ***See id*** AT&T states that HP's test confirms that competitors would find it unreasonably difficult, if not impossible, to integrate. ***See*** AT&T Qwest I Comments at 39; AT&T Qwest I Comments, Joint Declaration of John F. Finnegan, Timothy M. Connolly, and Mitchell H. Menezes (AT&T Qwest I Finnegan/Connolly/Menezes Decl.) at para. 123.

172 Letter from Geoff May, Hewlen-Packard, to Marlene Dortch, Secretary, Federal Communications Commission, Docket 02-148 (filed July 31,2002) (HP July **31** *Ex Parte* Letter) at 1 (emphasis provided). Hewlen-Packard explains that "upon review of these paragraphs, HP has determined that an inadvertent typographical error occurred in the final paragraph of Section **5.3** CSR to LSR Parsing Analysis (page 37 of LN-OSS-11). This paragraph was intended to be identical to the statement in the Executive Summary Section 1.3 CSR to LSR Parsing Analysis (page 9 of LN-OSS-I1), however, the word ***"nor"*** was omitted in error in the first sentence of the last paragraph on page 37 of LN-OSS-11." ***See id.***

173 HP August 6 *Ex Parte* Letter, Exhibit C (Colorado *En Banc* Hearing 6/10/02, Transcript Excerpt) at 19.

174 ***See*** Department of Justice Qwest I Evaluation at 15.

175 ***See BellSouth Georgia/Louisiana Order,*** 17 FCC Rcd at 9083, para. **128**

176 AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 123, n.83. In its reply comments, AT&T argues that Qwest's failure to use the telephone number **as** the reference point for the service and equipment **(S&E)** section of the CSR prohibits competitors from integrating. AT&T contends that using the telephone number **as** the reference point assists competitors in locating the necessary data and populating orders. Unlike the other BOCs, AT&T argues that Qwest groups the S&E information based upon its USOC code, which is followed by a string of data. AT&T asserts that this data does not necessarily contain the telephone number associated with the USOC. Consequently, AT&T concludes that competitors have to devote too much time and resources to searching for the correct telephone number and line-based features to make using the parsed CSR worthwhile, especially for competitive LECs that intend to offer mass-marketed local exchange service. ***See*** AT&T Qwest I Reply at 25-26.

177 Qwest I Notarianni/Doherty Reply Decl. at para. **139,** and Qwest I Notarianni/Doherty Decl., Exhibit LN-OSS-5 (Developer Worksheets -- PreOrder) at 28.

successfully mapped from a CSR such data as the TN, PIC, LPIC, and USOC fields, and automatically populated these fields into an LSR.[178] Thus, the evidence shows that the format and organization of Qwest's CSR allows competitors to automatically populate LSRs. The standard for integration is not that a competitor must be able to integrate the system that it uses in another BOC region with the applicant's system; rather, only that competitors have access to a BOC's *OSS* in substantially the same time and manner as the BOC provides to its retail operations.[179] HP's test results prove this ability, and, therefore, AT&T's issue is not the result of discriminatory action. Additionally, the record indicates that AT&T neither addressed this issue before any state commission, nor did it request a CSR format change via the change management process.

55. We also reject commenters' arguments that Qwest provides insufficient documentation or specifications about how to integrate.'" This allegation is refuted by HP's explicit finding to the contrary, and by the integration materials that Qwest makes available to competitors. **As** described above, HP's integration report expressly states that Qwest makes the following documents available to competitors: ***EDI Implementation Guidelines for Interconnect Mediated Access,"'*** and ***IMA EDI Disclosure Document,***[182] both of which are downloadable from the web.[183]

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178 KPMG Final Report, App. HP-B (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release*** 7.0) at 39, (Table 5.2 – PCG Pre-Order to Order Integration).

179 See App. K at paras. 34-35.

180 *See* AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 124; WorldCom Qwest III Comments at 12-13 (arguing that Qwest makes development of interfaces far too difficult). WorldCom also argues that there are unresolved inconsistencies between the Local Service Ordering Guide (LSOG) and the Developer Worksheets which make it difficult for competing LECs to use EDI. See Letter from Lori Wright, WorldCom, to Marlene Dortch, Secretary. Federal Communications Commission, WC Docket No. 02-314 (tiled Nov. 6,2002) at 9-10. For example, WorldCom states that the Developer Worksheets are unclear on whether community names in the customer's address should be spelled out or abbreviated. ***Id.*** at 9. The record shows that WorldCom submitted a change request (CR) on Sept. 30,2002 pursuant to Qwest's change management process (CMP). See Letter from Hance Haney, Executive Director -Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 22,2002) at 2-5 (Qwest Nov. 22e ***Ex Parte*** Letter). WorldCom's CR will be addressed at the next CMP meeting. ***Id.*** at 3. Additionally, we note that Qwest convenes a documentation review board to review each change made to either the LSOG or the Developer Worksheets to ensure that consistent changes are made to both documents. ***Id.*** at 2. Finally, we note Qwest has responded to WorldCom's request for clarification on community names, and Qwest plans to make a change to the Developer Worksheets for IMA Release 12.0 that will more clearly specify when abbreviations should be used. ***Id.*** at 4.

181 ***EDI Implementation Guidelines for Interconnect Mediated Access*** provides competitors with information necessary to implement EDI processing with Qwest, and defines both the implementation process and the technical guidelines required to achieve implementation. KPMG Final Report, App. HP-B (***Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release*** 7.0) at 4.

182 The ***IMA EDI Disclosure Document*** defines EDI business model/processes; developer worksheets (business rules for pre-order, order and post-order; and EDI trading partner access information (data mapping examples, (continued....)

56. Similarly, we find that the address verification inconsistencies that AT&T complains exist in the PREMIS and Customer Record Information System (CFUS) databases do not rise to the level of checklist noncompliance.'" First, the record indicates that both Qwest's retail and wholesale customers are affected by the database inconsistencies.[185] The record shows that Qwest's process for migrating customers for both wholesale and retail requires that the service request contain a valid PREMIS address or the service request will not be created. Any other method of address validation, whether obtained through conversation with the customer or through another source such as CRIS, may cause the LSR to be rejected.'" The inconsistency between the PREMIS and CRIS databases appears to be a common phenomenon in other BOC regions,'" and the Commission has never required BOCs to eliminate the inconsistencies. Although we recognize that "TN migration"[188] would address the problems resulting from the inconsistency, the Commission has never imposed this requirement.[189] We note that Qwest first

(Continued from previous page)
enveloping and general guidelines). KF'MG Final Report, App. HP-B (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0)* at 4.

[183] In addition, Qwest provides competitors with its technical publications, as well as its listing of USOCs and FIDS, all of which are also available online at its website. Moreover, as noted above, Qwest has a team of integration experts with whom competitors can speak as they develop integrated interfaces. KPMG Final Report, App. HP-B (*Hewlett-Packard's Pre-Order/Order Integration Field Comparison Report, Analysis of Qwest IMA EDI Release 7.0)* at 4.

[184] See AT&T Qwest I Comments at 40; AT&T Qwest I Finnegan/Connolly/Menezes Decl. at paras. 137-38; AT&T Qwest I Reply at 27-28. AT&T explains that it has found it necessary to obtain address information for migration orders by using the address validation tool found in Qwest's GUI interface. AT&T Qwest I Comments at 28. AT&T states that using this approach causes double data entry because entries must he made to both the LSR and its own back office systems. AT&T also asserts that the CRIS/PREMIS address "mismatch" problem is unique to the Qwest region. See *id.* at 28, n. *56.* Similarly, WorldCom argues that Qwest is the only BOC to require a pre-order address query in order to keep an order from rejecting. WorldCom Qwest III Comments at 6.

[185] See Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189 (filed Aug. 13, 2002), Attach. at 1 (Qwest August 13f Ex *Parte* Letter).

[186] *Id.*

[187] *See, e.g., SWBT Texas Order* 15 FCC Rcd at 18431-32, paras. 157, n.427; at 18442-43, para. 177; at 18580 (App. B) at para. 15. We have stated that the mismatch between the PREMIS and CRIS databases is not a problem related to parsing. Instead, it is an internal database problem. An internal database inconsistency is not fatal to an applicant, for the inconsistency may affect the BOC's retail operations as well as its wholesale customers. See *id* at 18580 (App. B) at para. 15.

[188] TN migration means that a carrier can place an order using only the customer's telephone number.

[189] Nor, contrary to WorldCom's suggestion, does the Commission find it appropriate to mandate migration by telephone number. See WorldCom Qwest I Comments at *5-6;* WorldCom Qwest I Lichtenberg Decl. at paras. 13-18; WorldCom Qwest I Lichtenberg Reply at paras. 5. WorldCom alleges that its high reject rate is being caused by Qwest's requirement that a customer's address be provided on CSR queries. It explains that, although it recently submitted a change request for Qwest to allow migration by name and telephone number, Qwest should have been aware of its importance to competitive LECs, as it was discussed in both the *SWBT Texas Order* and the *BellSouth Georgia/Louisiana Order. See* WorldCom Qwest I Lichtenberg Decl. at para. 18.

received a request to implement TN migration from WorldCom on June 13, 2002.[190] The competitive LEC community must prioritize this change for inclusion in a future IMA release, and it is likely that this agreed-upon change will be available with the IMA 12.0 Release scheduled to be issued on April 7, 2003.[191] We further note that Qwest's reject rates are similar to those approved in previous section 271 applications,[192] and we expect Qwest will commit resources to prevent any problems until the permanent fix is implemented in April.

57. We also find that Qwest's return of multiple CSRs in response to CSR inquiries does not pose a barrier to competition.[193] IMA returns multiple CSRs when it encounters more than one customer account in "live" status. This situation happens when a customer requests a billing change, the final bill is still pending, and – consequently – the account remains in "live" status until the final bill is issued.[194] Since this situation is limited to only those accounts that are in between billing cycles, there are only limited chances of this problem occurring. For example, during the months of June through September 2002, multiple CSRs were returned for 3.4 to 5.2

190 Qwest I Notarianni/Doherty Reply Decl. at para. 145.

191 Id See *also* Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, Executive Director-Federal Regulatory, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 02-148 and 02-189 (filed Aug. 13,2002) (Qwest August 13a *Ex Parte* Letter) at 2-3. Qwest explains that the change request, SCR061302 (Migrate UNE-platform Customers by TN), was prioritized as number nineteen on the priority list for IMA 12.0 implementation. The following steps are required before this change can be implemented. First, Qwest must define the business and functional specifications, and the specifications will be completed on a per CR basis, in priority order. During this phase, Qwest will discuss any CRs that have affinities (similarities in functions or software components) with the competitive LECs. Qwest will also present any complexities, changes in CR size, or other concerns that may arise during this phase. Also during this phase, competing LECs can modify or add new CRs with a request that they be added to the list of release candidates. On November 21, 2002, Qwest began the next phase in the process: presenting packaging options – the different combinations of proposed CRs. Due to affinities in candidates, or resource constraints, some CRs may be not implemented by Qwest while new options will completed. If more than one option is available, a vote will be taken. The option with the largest number of votes will continue through the design phase of the development cycle. On December 19,2002, participants agreed to a final list of the CRs, which include both SCR061302-01 (Migrate UNE-platform by TN) and SCR060702-01 (Migrating Customers Using the Conversion As Specified Activity Type). These change requests are scheduled for inclusion in IMA 12.0, scheduled to be made available to competing LECs on April 7,2003. See Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed December 19,2002) at 1 (Qwest Dec. 19 *Ex Parte* Letter on CRs). In August 2002, WorldCom escalated its request for both "migrate by TN" and "migrate as specified," but other competitive LECs voted against this request. See WorldCom Qwest III Comments at 10; Qwest I11 Appl., Addendum, Tab 2, at 2. As Qwest requires these change requests to be approved unanimously, they were not adopted after some competing LECs opposed the change. Qwest III Appl., Addendum, Tab 2, at 3. Although WorldCom argues that Qwest forced this result (see WorldCom Qwest III Comments at 10-11), we conclude that Qwest followed the documented change management procedures.

192 See discussion of reject rates in the Ordering section below.

193 See WorldCom Qwest I Reply at 3; WorldCom Qwest I Lichtenberg Reply Decl. at paras. 8-10. WorldCom states that this problem occurs in approximately 10% of the cases, and that its partner in the Qwest region, Z-Tel, has had to develop the capacity to display multiple CSRs. See *id.*

194 See Qwest August 13a Ex *Porte* Letter at 3

percent of the CSR requests made via IMA EDI 8.0; 2.7 to 5.8 percent for IMA EDI 9.0; and 0 to 4.8 percent for IMA EDI 10.0.[195] The results for IMA GUI 10.0 show that 4.0 to 4.4 percent of CSR requests produced multiple CSRs.[196] The record also shows that when multiple CSRs are returned, competitors can deduce from the returned CSR fields which CSR is the correct CSR.[197] Given the low incidence of *the* problem and the fact that competitors can work around it, we find that competitive LECs that receive multiple CSRs in these limited circumstances are nonetheless able to submit a complete and accurate conversion LSR.

58. Notwithstanding WorldCom's assertions to the contrary, we do not find it competitively significant that Qwest requires carriers to include a customer's existing services and other pieces of information in order to process an order.[198] The record shows that in 1997 Qwest did not have these requirements, and allowed competitors to submit service requests to convert customers "as specified." However, due to missing feature problems that consistently developed after migration, Qwest, in response to requests from competing carriers, modified its process to require a positive identification of the action to be taken for each existing feature.'" Given that competitors asked for the elimination of the process for which WorldCom now requests re-implementation, we cannot find that WorldCom's issue is problematic for all competitors in the Qwest region. Moreover, we are heartened by the evidence showing that Z-Tel recently submitted a change request allowing "as specified" conversions,[200] and that this change is being implemented in two phases. First, effective August 15.2002. Qwest eliminated the requirement that competitors must list the existing account's unwanted features on its LSRs.[201] The second phase, which is yet to be implemented, will eliminate the requirement that a

[195] See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest. to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 02-314 (filed Nov. 15, 2002) (Qwest Nov. 15b Ex Parte Letter) Attach. A at 1.

[196] *Id.*

[197] See Letter from Hance Haney, Executive Director - Federal Regulatory. Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 02-148 and 02-189 (filed Sept. 9, 2002) (Qwest Sept. 9c Ex Parte Letter) at 1. Qwest's IMA User's Guide provides that when a competitor receives multiple CSRs, a list of the accounts is returned. For each account, the following fields are provided: listed name; account status: billing telephone number; customer code; and several address fields (*e.g.*, house number. street name and city). *Id.* Using this information, competitive LECs determine the correct CSR. Even if information docs nor produce the correct CSR, the record shows that competitive LECs can also review the full CSR for each account. *Id.* A competing LEC can use a variety of fields returned on the full CSR to resolve the multiple match (*e.g.*, the reseller ID to determine account ownership or the billing tab to determine billing responsibility). *Id.*

[198] See WorldCom Qwest I Comments at 6; WorldCom Qwest I Reply at 3-4; WorldCom Lichtenberg Reply Decl. at paras. 11-12. WorldCom asserts that these requirements do not exist in other BOC regions. WorldCom has listed eight differences in the ordering practices in the Qwest region versus the other BOC regions. including the need to submit both existing feature information as well as feature identifiers (FIDs), which include such details about features as the "forward to" number if the customer has call forwarding. WorldCom Qwest III Comments at 4.

[199] See Qwest I Notarianni/Doherty Reply Decl. at para. 146. See *also* Qwest August 13d, 2002 *Ex* Parte Letter at 17.

[200] See *id;* Qwest I Notarianni/Doherty Reply Decl., Exhibit CLD-22 (Change Request SCR060702).

competing LEC differentiate between features that are being retained and features that will be added. As this phase requires system changes, the competitive LECs are in the process of prioritizing this change, and it is anticipated that this agreed-upon change will be available with the release of EDI 12.0, anticipated to be issued on April 7, 2003.[202]

59. We reject WorldCom's allegation that Qwest takes too long to update CSR information.[203] The record indicates that Qwest updates the vast majority of CSRs within 3 to 5 days, and that this interval is the same for both wholesale and retail accounts.[204] In addition, contrary to WorldCom's contention, the record also shows that a supplemental order can be submitted without the CSR being first updated."' Thus, given that parity exists, we conclude that there is no evidence of discrimination.

60. We also reject WorldCom's arguments that separate directory listing inquiries must be done only in the Qwest region and that only in the Qwest region does the competing LEC need to access the CSR when submitting supplemental orders."' Our requirement is that the BOC provide nondiscriminatory access to unbundled network elements at rates, terms, and conditions that are just, reasonable, and nondiscriminatory, which is not necessarily identical in every BOC region.[207]

(iv) Access to Loop Qualification Information

61. Based on the evidence in the record, we find that Qwest provides competitive LECs with access to loop qualification information in a manner consistent with the requirements of the *UNE Remand Order*.[208] Specifically, we find that Qwest provides competitors with access

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201 *See* Qwest Aug 13f *Ex Parte* Letter at 2.

202 *Id.* For an explanation of how the change management process operates, seen. 191, below

203 WorldCom Qwest I Lichtenherg Reply Decl. at para. 11

204 Qwest I Notarianni/Doherty Qwest I Reply Decl. at para. 147. See *also* Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 22,2002) at 1 (Qwest Nov. 22a *Ex Parte* Letter).

205 *Id*

206 WorldCom Qwest III Comments at 6-8.

207 See App. K at para. 26

208 *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 *FCC* Rcd 3696 (1999) (UNE *Remand* Order). The Commission's rules require Qwest to provide competitors all available information in its databases or internal records, in the same time intervals that it is available to any Qwest personnel, regardless of whether Qwest retail personnel have access to such information. UNE *Remand Order*, 15 FCC Rcd at 3885-87, paras. 427-31.

to all of the same detailed information about the loop that is available to itself and in substantially the same timeframe as any of its own personnel could obtain it.[209]

62. Currently, Qwest provides carriers with various methods to obtain loop make-up information.[210] Qwest offers two primary loop qualification tools'" through its EDI and GUI interfaces -- Unbundled Loop Qualification Tool (LQT)[212] and the Raw Loop Data Tool (RLDT).[213] These tools provide loop qualification information based upon, but not limited to, customer address or telephone numbers. The record shows that these tools provide the underlying information only,[214] and once a competitor obtains loop make-up information, it can apply its own DSL qualification algorithm to the underlying make-up information to make a determination of loop suitability?" These tools provide information on more than 90 percent of Qwest's loops.[216] In addition, Qwest states that it has implemented a manual process to permit

[209] *Verizon Massachusetts Order,* 16 FCC Rcd at 9016-17, para. 54. *See also* App. K at para. 35.

[210] *See* Qwest I Application at 115; Qwest I Notarianni/Doherty Decl. at para. 109.

[211] Qwest I Notarianni/Doherty Reply Decl. at para. 41 and Exhibit LN-1 (Data Elements in Loop Qualification Tools). Qwest also offers a third tool, the DSL for Resale tool. This tool "qualifies working loops by telephone number or address so that a CLEC can determine whether resale of Qwest DSL is available. This tool accesses the QCity/QServ database, which is the same loop qualification tool used by Qwest's Retail representatives." The tool "provides the capacity for a CLEC to request automatic re-qualification of the telephone number that received a 'No' response on a periodic basis to determine if there has been a change in qualification status. If a loop becomes available at a latter date, the CLEC is notified." *See* Qwest I Notarianni/Doherty Decl. at para. 110.

[212] The LQT "is used to determine if loops that meet the technical requirements defined for the ADSL-compatible loop product are available. This tool returns two levels of data to the CLEC. First, the query returns a loop qualification tab, which provides loop status (whether facilities qualify or not, whether a construction job, a bona fide request, or conditioning is required, and if the loop is too long), a loop qualification message that contains some loop information (*i.e.*, the telephone number or circuit; loop length; bridge tap length; the type of facility; the load type, if any; and the insertion loss calculated at 196 kilohertz frequency with 135 ohm terminations), and finally the loop product availability code to indicate which products are available. The second set of data provided is behind the loop data tab. This information is based upon LSOG 5 guidelines, and it details 12 different data points and descriptive values to assist the CLEC in qualifying loops. Some of the data points included are loop length, pair gain presence, presence of bridged tap or load coils, loop composition and remote switching unit indicator." *See* Qwest I Notarianni/Doherty Decl. at para. 111.

[213] The Raw Loop Data tool is able to provide "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. This tool provides information about loop make-up characteristics, including: address, telephone number or circuit ID, CLLI code, terminal ID, Load Coils, Bridged Tap, Wire Gauge, and Cable and Pair make up. A CLEC may request loop make-up information for up to 24 loops or telephone numbers per query." *See* Qwest I Notarianni/Doherty Decl. at para. 112. There are two types of RLDT: a web-based version and an IMA-based version. *See* Qwest III Notarianni/Doherty Reply Decl. at para. 17.

[214] *See* Qwest I Application at 115.

[215] *See* Qwest I Notarianni/Doherty Reply Decl. at para. 41

[216] *See id.* at para. 109, n. 133. *See also* Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Donch, Secretary, Federal Communications Commission, Docket Nos. 02-148 and 02-189 (filed Aug. 13, 2002) (Qwest August 13d *Ex Porte* Letter) at 8.

competitive LECs to obtain loop make-up information within 48 hours in the event the automated tools provide incomplete information.[217] Thus, competitors can request loop make-up information either through Qwest's mechanized tools, or request that Qwest perform a manual search of its paper records to determine whether a loop is capable of supporting advanced technologies.[218]

63. Qwest has shown that both its RLDT as well as its Unbundled Loop Qualification Tool use the same underlying database as Qwest retail.[219] Competing LECs, as well as Qwest retail, access information on loop make-up from the Loop Qualification Database (LQDB) which is generated from the information that resides in the Loop Facilities Assignment & Control System (LFACS)?" The RLDT, using information from LFACS, returns loop qualification information to competing LECs, including loop length, presence of bridged taps and load coils, and whether there is a digital loop carrier all the way to the customer drop.[221] Information on loop length can be obtained **from** the LQDB in one of two ways: the "Makeup Information" field or the "MLT Distance" field. The information in the "Makeup Information" field contains information on loop length from engineering records."' The information contained in the LQDB is refreshed each day for approximately *60* wire centers. Over a period of approximately one month, all of Qwest wire centers are refreshed. As part of the refresh process, the MLT Distance information in the RLDT is also refreshed.[223] Qwest considers the information contained in the "Makeup Information" field to be more accurate.[224]

64. Commercial performance data indicate that Qwest is meeting its requirements to provide loop qualification information in a timely and accurate fashion. Qwest has met **or** exceeded the pre-order response time benchmarks ($\leq$ 20 seconds) in all nine states in the past

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217 Qwest I Notarianni/Doherty Decl. at para. 117

218 See SWBT *Kansas/Oklahoma* Order, 16 FCC Rcd at **6293-94,** para. 122

219 See Qwest Nov. 7d *Ex* Parte Lener at App. A

220 ***Id.*** at Anach., **14.**

221 ***Id.*** at Anach., 4-5.

222 During 2001, Qwest added feeder and distribution loop make-up information to the LFACS database. This information is returned by the RLDT under the "Makeup Description" field of the RLDT. ***Id.*** at 40-41

223 Qwest III Notarianni/Doherty Reply Decl. at paras. 4042. Qwest uses the Mediacc's Automated Loop Testing (MALT) process to extract MLT distance. ***Id*** 37-42. MALT is an application that performs a mechanized MLT on telephone numbers, but returns only limited information, including loop length in feet. When the MLT distance is returned for the telephone number that was identified as the specific serving terminal during the MALT application, it is applied to all loops in that serving terminal, adjusting the MLT distance based on a number of factors, such as the wire-center and the distance band, to account for inherent inaccuracies of MLT distance values. ***Id*** at para. 42. LFACS refreshes the loop make-up information in LQDB by wire center on a rolling monthly basis. In other words, some of the wire centers are updated in each nightly refresh run, with the entire set of wire centers completing within a 30 day calendar period. Qwest Nov. 7d *Ex* Parte Lener Anach. at 6-7.

224 Qwest III Notarianni/Doherty Reply Decl. at 41

four months for providing competitive LECs with access to Unbundled Loop Qualification information, as well as making Qwest DSL for Resale available.[225] KPMG also conducted a "Loop Qualification Process Evaluation."[226] This test covered 11 separate evaluation criteria,[227] and Qwest satisfied them all. Generally, the test found that Qwest's retail and wholesale processes were consistent for providing pre-order loop qualification information, assembling pre-order responses, escalating problems, and providing thorough and capable management."*

65. We reject the arguments made by Covad and AT&T that Qwest's processes for providing loop make-up information violate our *UNE Remand Order?"* First, both commenters generally state that the RLDT's information is unreliable and inaccurate, and that competitors do not have equal access to all of Qwest's loop qualification information. Second, these commenters raise issues surrounding MLT testing. Specifically, they ask for access to

[225] Qwest I Notarianni/Doherty Decl. at paras. 118-129. See *also* PO-IA-7 (Pre-Order Resp. Times, Loop Qual Tools, Avg Sec), requiring ≤ 20 seconds between query and response for pre-order transactions relating to the loop qualifications tools submitted via GUI ; PO-1B-7(Pre-Order Resp. Times, Loop Qual Tools, Avg Sec), requiring ≤ 20 seconds between query and response for pre-order transactions relating to the loop qualifications tools submitted via EDI; PO-IA-8 (Pre-Order Resp. Times, Resale of Qwest DSL Qual, Avg Sec.), requiring ≤ 20 seconds between query and response for pre-order transactions relating to Resale of Qwest DSL submitted via GUI; and PO-IB-8 (Pre-Order Resp. Times, Resale of Qwest DSL Qual, Avg Sec.), requiring ≤ 20 seconds between query and response for pre-order transactions relating to Resale of Qwest DSL submitted via EDI.

[226] KPMG Final Report at 120. KPMG described the evaluation as "a review of the Digital Subscriber Line (DSL) loop qualification processes and procedures developed and employed by Qwest to support both retail and wholesale customers. Operational analysis techniques were used to determine if parity exists in the design, implementation, and use of Qwest's loop qualification process. Additionally, the Loop Qualification Evaluation assessed remedial options available for both the retail and wholesale processes.'' *Id.* (footnote omitted) During this evaluation, KPMG did not place substantial reliance upon information provided by competitive LECs. See Letter from Peter Rohrbach, Attorney for Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148 (filed Aug. 27,2002) (Qwest August 27e Ex *Parte* Letter).

[227] The 11 evaluation criteria were: 1) End-user information that is required prior to the submission of a loop qualification is the same for wholesale and retail orders (Test 12.7-1-1); 2) Loop qualification query process is consistent for retail and wholesale customers (Test 12.7-1-2); 3) Processes and procedures are defined for addressing errors regarding loop qualifications in the retail and wholesale environments (Test 12.7-1-3); 4) Qwest's internal process flow used for loop qualification is consistent for retail and wholesale customers (Test 12.7-1-4); 5) Qwest contact information is readily available for retail and wholesale customers (Test 12.7-1-5); 6) The customer receives confirmation of the completion of a loop qualification, or can access the status of loop qualifications (Test 12.7-1-6); 7) Systems and processes are in place to allow wholesale and retail loop qualification queries to be performed using the customer address (Test 12.7-1-7); 8) Loop qualification response types that are provided are consistent between retail and wholesale customers (Test 12.7-1-8); 9) The escalation process for loop qualifications is consistent for retail and wholesale customers (Test 12.7-1-9); 10) The capacity management process for loop qualification is consistent for retail and wholesale customers (Test 12.7-1-10); and 11) Loop qualification performance measurement processes are consistent for retail and wholesale operations (Test 12.7-1-11). See KPMG Final Report at 126-132.

[228] KPMG Final Report at 125-132 (Test 12.7) (Loop Qualification Process Evaluation).

[229] See *generally* AT&T Qwest I Comments at 39-40; AT&T Qwest III Comments at 50-57; AT&T Qwest I Finnegan/Connolly/Menezes Decl. at paras. 125-129; Covad Qwest I Comments at 13-22; Covad Qwest III Comments at 5-21.

mechanized loop testing (MLT) at the pre-order stage to correct alleged deficiencies in the RLDT. Further, commenters argue that the fact that Qwest conducts mechanized loop testing (MLT) at the provisioning stage indicates that critical information about the characteristics of these loops is being withheld from competing LECs.[230] Third, commenters maintain that Qwest has not discharged its duty to act in absolute truth and candor before this Commission because it diminished the visibility of MLT at the provisioning stage during regulators' visits. We address these objections in turn.

66. ***Reliability and Accuracy of the RLDT's Loop Qualification Information.*** Covad states that it tested the accuracy of the RLDT in Colorado and found a number of failures."' Moreover, Covad argues that the RLDT produces "false positive" and "false negative" responses.[232] Covad also states that the RLDT returns varying degrees of information depending on the type of validation method used,"' and that it receives inconsistent information about loops where pair gain is on the line. AT&T states that the RLDT does not contain information on loop conditioning and spare facilities that are not connected to the Qwest switch.[234] Similarly, Covad states that Qwest regularly skipped updating loop qualification information for the databases that supply the RLDT and other wholesale loop qualification tools.[235]

67. In addition, AT&T argues that Qwest is using its LFACS database and all other information sources without allowing competitors to do the same.[236] It also contends that Qwest does not share information that its engineers possess concerning the availability of spare facilities not connected to the Qwest switch.[237] In a similar vein, Covad states that Qwest is not sharing information that it generated when it conducted a region-wide, bulk manual loop test.[238] It also maintains that Qwest's manual, "Employee Training of LFAC Updates," states that outside plant workers may provide new "outside plant" information to either Qwest retail or to the database, implying that Qwest is bending the rules by not mandating that all new information go to the

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230 AT&T Qwest III Comments at 53-57; Covad Qwest III Comments at IS-21. WorldCom Nov. 6 Ex *Porte* Letter at 13.

231 *See* Covad Qwest I Comments at 19-20.

232 Id.

233 Id. at 21.

234 AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 127; AT&T Qwest I Reply at 28.

235 *See* Covad Qwest I Comments at 18.

236 See AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 128 & n.89

237 Id. at paras. 127-128

238 *See* Covad Qwest I Comments at 19; Letter from Praveen Goyal, Senior Counsel for Government and Regulatory Affairs, Covad Communications Company, to Marlene H. Dortch, Secretary, Federal Communications Commission, WCB Docket No. 02-148 at 2-3 (filed July 23,2002) (Covad July 23 Ex *Porte* Letter).

database.[239] Covad also maintains that Qwest has another, entirely separate, process for updating loop make-up information that apparently is provided only for, and to provision, Qwest retail orders.[240] Covad argues that the technicians dispatched to either provision or repair Qwest retail DSL loops send their form to the Load Resource and Allocation Center (LRAC) which has no responsibility for updating LFACS.[241]

68. We reject these claims for the following reasons. As an initial matter, KPMG testing found that Qwest provided loop qualification information in a nondiscriminatory manner.[242] Specifically, the record expressly shows that both retail and wholesale personnel obtain information from the LFACS database,[243] and we find no evidence that Qwest has denied competitors' access to the information in LFACS.[244] KPMG investigated the databases to which

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239 *See* Covad Qwest I Comments at 18-19; Covad Qwest I Reply at 11.

240 Covad Qwest III Reply at 9-11. Additionally, Covad argues that evidence in the Minnesota hearings showed that: (1) Qwest reminded its retail employees that loop qualification information might be inaccurate and that additional steps are required to confirm whether the loop can support xDSL; and (2) unlike competing LECs, Qwest employees can access information that will determine whether loops are incorrectly statused in LFACS. *See* Letter from Praveen Goyal, Covad, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 21, 2002) at 2-3 (Covad Nov. 21 *Ex Parte* Letter). The Minnesota hearings showed that Qwest employs an 11-step process in order to identify alternate facilities to provision loop requests for both retail and wholesale orders for any loop order that is not automatically assigned through LFACS. See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 6, 2002) at 3-5 (Qwest Dec. 6 Ex *Parte* Letter on loop qualification issues). Qwest does not conduct a MLT as part of this 11-step process. Id at 4. For these loops that do not flow through the LFACS database, Qwest uses a manual process conducted by the Loop Provisioning Center (LPC). *Id.* Status updates that are generated by this process are incorporated into LFACS. Id. Additionally, the record shows that if the QCity tool used by Qwest retail DSL representatives shows that the customer does not qualify for Qwest retail DSL, the Qwest retail representative will request a manual investigation of the loop using exactly the same manual process available to competing LECs. Id. at 5-6.

241 Id. at 9-10.

242 According to its Final Report, KPMG examined the DSL loop qualification processes and procedures developed and employed by Qwest to support both retail and wholesale customers, and found no evidence of discrimination. Specifically, it examined the following methods that wholesale customers can use to obtain loop qualification information: IMA tools (Qwest DSL Qualification Tool; ADSL Unbundled Loop Qualification Tool; and the RLDT); Website tools; telephone inquiry; and email or fax. It found non-discriminatory access to all these tools. See KPMG Final Report at 122 (Test 12.7) (Loop Qualification Process Evaluation). Moreover, a comparison of Figure 12.7-1 (Qwest Retail Loop Qualification Query Process) to Figures 12.7-2 (Wholesale Loop Qualification System Process) and 12.7-3 (Unbundled ADSL Loop Qualification Process) illustrates that both retail and wholesale customers have access to the same information sources. *See id.* at 121, 123-24.

243 See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 02-148 and 02-189 (filed Sept. 6, 2002) (Qwest September 6 *Ex* Parte Letter) at 1.

244 Additionally, Covad argues that KPMG did not evaluate Qwest's procedures for providing all loop qualification information. *See* Covad Qwest I Comments at 14-15; Covad July 23 *Ex Parte* Letter at 2; Covad Qwest I Reply at 8. However, Covad's comments appear misplaced. For example, KPMG found that the loop qualification process is consistent for retail and wholesale customers. See KPMG Final Report at 127 (Test 12.7-1-2) (Loop (continued.. ..)

competitors had access, and reported that they have access to LFACS and all other sources of loop make-up information in the same manner as Qwest retail representatives.[245] Although this access is not "direct," we have never required that BOCs allow direct interaction with LFACS.[246] Indeed, we do not find it reasonable to require each competitive LEC, placing orders in multiple jurisdictions, to learn the back office ordering system used by each BOC, which is what "direct access" would require?" We also note that evidence in the record indicates that AT&T unsuccessfully raised these same issues in the Colorado section 271 proceeding and the Multi-State proceeding.[248]

69. To the extent the RLDT does contain inaccurate or incomplete information, the Commission has previously held that any inaccuracies or omissions in a BOC's database are not discriminatory to the extent they are provided in the exact same form to both retail and wholesale customers.[249] Moreover, the Commission has declined to require incumbent LECs to catalogue, inventory, and make available to competitors loop qualification information through automated OSS even when it has no such information available to itself?

70. Moreover, RLDT is not the only source of loop qualification information available to competitors. To the extent that competitors believe that information is inaccurate or not complete, Qwest will perform a manual search of its back office records, systems and databases.'" For these reasons, we cannot find that the RLDT's alleged unreliability denies competitors a meaningful opportunity to compete. Although Covad and AT&T state that it is

(Continued from previous page)
Qualification Query Process is Consistent for Retail and Wholesale Customers). KPMG found that wholesale customers can determine whether a loop qualifies for DSL service by e-mailing or faxing an inquiry, and that during its evaluation, it observed that wholesale representatives used various loop qualification tools, including additional process documentation. *See* KPMG Final Report at 127. *See also* Qwest August 13a *Ex Parte* Letter at 8.

245 *See* KPMG Final Report at 124 (Test 12.7) (Loop Qualification Process Evaluation).

246 Competing LECs do not directly access LFACS; instead, they access RLDT which contains information from LFACS. Similarly, Qwest retail representatives use QCity/QServ to access the information in LFACS.

247 *See* Qwest I Notarianni/Doherty Reply Decl. at para. 55.

248 *Id.* at para. 56.

249 *See Verizon Massachusetts Order,* 16 FCC Rcd at 9024, para. 66.

250 *UNE Remand Order,* 15 FCC Rcd at 3886, para. 429

251 Qwest I Notarianni/Doherty Reply Decl. at para.70. As stated above, in addition to the automated loop qualification tools available to competing LECs, Qwest also provides competing LECs a mechanism to request a manual look-up of loop make-up data should the competing LEC find that the response the tools return is incomplete or inconsistent, or if the competing LEC questions the accuracy of the information returned. *See* Letter from R. Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 7,2002) (Qwest Nov. 7 *Ex Parte* Letter) Attach. at 12 (citing SGAT § 9.2.2.8.6). To date, Qwest has only received five manual look-up requests (from one competing LEC) since Qwest implemented this manual process in June 2002. Qwest Nov. 7d *Ex Parte* Letter Attach. at 13.

premature to conclude that Qwest will adequately process manual requests for loop information,[252] they do not present any evidence to undermine Qwest's claims surrounding its manual loop qualification process. We do not find that speculation about Qwest's ability to perform in the future warrants a finding of checklist noncompliance today.

71. Covad additionally asserts that it should be allowed to audit Qwest's loop qualification information to ensure parity of access and information in the future.[253] Specifically, Covad states that it should be allowed to ascertain what loop information is accessible to any Qwest employee, not just Qwest retail representatives, and that the audit right should extend to Qwest's paper records, including engineering records, back office systems and databases.[254] We note that Qwest already permits audits of its loop qualification databases in its SGAT, should a competing LEC feel the need to validate that the information being returned by the tools is comparable to the information available to Qwest.[255] Notably, Qwest has not received any such audit requests to date.[256] Given that the record indicates that Qwest's current automated and manual processes are adequate for providing access to loop qualification information in its possession, we see no need to consider expanding competitors' audit rights in the manner Covad suggests.

72. We also are not persuaded that Qwest is failing to disclose engineering information about spare facilities, given that AT&T provides no supporting evidence for its conclusory statements. Similarly, we are not persuaded that language in an employee manual giving outside plant workers the option of providing new loop information to either retail representatives or to the database demonstrates that Qwest is providing more information about its loops to its retail representatives. We also disagree with Covad's assertion that Qwest has failed to share information from the region-wide MLT. Notably, the North Dakota Commission conducted an investigation into this issue, and concluded that Qwest made the results of the test available to competitors.[257] Therefore, we conclude that there is no credible evidence to support a finding that Qwest is denying competitors' parity of access to its loop qualification information.

73. Lastly, we reject Covad's claims that competitors have to wait until the LFACS database is updated, up to 30 days after the voice is turned on, to pre-qualify a new Qwest voice customer that wants Covad data services.[258] The record shows that Qwest provides competitors the ability to pre-qualify a data customer as soon as the voice service is turned up for the

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[252] *See* AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 129.

[253] *See* Covad Qwest I Comments at 16-22; Covad July 23 *Ex Parte* Letter at *3;* Covad Qwest 111 Reply at 22-26.

[254] *See* Covad Qwest I Comments at 18.

[255] See Qwest Nov. 7d *Ex Parte Letter at* Attach., 12. (citing SGAT §§ 9.2.2.8 and 18)

[256] *Id.*

[257] *See* North Dakota Commission Qwest I Comments, Section 271 Consultative Report at 131

[258] *See* Covad Qwest I Comments at 19-20.

customer.[259] Although in the past it may have taken longer, Qwest implemented a capability in August 2001 to permit competitors to access loop qualification information as soon as a customer's voice service was activated.[260] Specifically, this capability provides that each time LQDB receives a query for loop make-up information or qualification, it sends a query to LFACS to determine if there has been a change to LFACS for the queried telephone number or address.[261] During the third-party test, KPMG observed Qwest's use of this capability.[262]

74. ***Issues Surrounding MLT.*** The record shows that Qwest uses MLT in two ways: First, using the MALT process described above, Qwest populates the MLT loop length field in the RLDT.[263] This information is refreshed periodically.[264] Loop length information is necessary for competitors to determine whether the loop is capable of supporting the advanced services they wish to offer and is available from the RLDT. Second, Qwest uses MLT during the provisioning process (as well as maintenance and repair) to ensure that the intended loop is in working order.[265] During the provisioning process, the information received from MLT is used to guarantee the quality of the loop, not to determine whether the high-frequency portion of the loop is capable of supporting the advanced services that competitors want to provide.[266] The

[259] See Letter from Yaron Dori, Attorney for Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, Docket Nos. 02-148 and 02-189 (filed Aug. 16,2002) (Qwest August 16c Ex *Parte* Letter) at 6-8.

[260] Qwest added this functionality with the 8.0 IMA Release in August 2001. Id. at 6-7.

[261] Id A change to LFACS can occur when new service has been installed or existing service has been moved or changed. If a change has occurred and there is new or changed data in LFACS, the new or changed data in LFACS is populated in LQDB and provided in the response. The "recent changes" check assures that newly installed service will be immediately added to LQDB. Id at 6-7.

[262] In sections 2.1.2 and 2.1.3 of the Test 12.7 Final Report, KPMG reported that "the LQDB . . . is updated with revised LFACS data on a nightly basis. [The LFACS and LQDB) databases are synchronized each month. As part of the loop qualification query process, the LQDB also queries a 'recent changes' field in the LFACS database. If this query indicates that the LFACS information has been updated, the new LFACS information is populated into the LQDB, and is used as the basis for the loop qualification query." See KPMG Final Report at 121-22.

[263] See n.223 above

[264] Qwest 111 Notarianni/Doherty Reply Decl. at para. 42

[265] Qwest Nov. 7d Ex Parte Letter, Attach. at 1-8. A MLT returns information regarding whether certain faults exist on a line, which should be resolved by submission of a repair ticket. Faults such as tip and ring imbalance, ground conditions, foreign voltages, and open conditions may also be resolved through the repair process. See Qwest Dec. 6 Ex *Porte* Letter at 9-10.

[266] Id at 3-4. This information is cut and pasted in the circuit notes section of the Work Force Administrator (WFA). Qwest III Reply, Reply Declarations Book 1, Tab 5, Declaration of Mary Pat Chesier at paras. 6-8 (Qwest III Chesier Reply Decl.). Qwest has, and will continue to, put into place measures to ensure that access to WFA is limited to those Qwest personnel who perform or support provisioning and repair functions. Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 22,2002) at 1-2 (Qwest Nov. 22f *Ex Parte* Letter). The limited amount of information pasted into WFA is not loop qualification information and Qwest has never used it for loop qualification purposes. Id. Qwest retains this information only to keep a record of the loop conversion transaction. Id.

information provided by MLT that is required to qualify a loop for DSL service (*e.g.*, whether the line is capable of supporting ADSL or whether there is a digital loop carrier (DLC) all the way to the customer drop) is already provided in the RLDT.[267]

75. Commenters raise a host of issues related to Qwest's use of MLT. First, they allege that Qwest should be required to provide pre-order access to MLT so that competing LECs can verify that the loop can support the service that they intend to provide. Second, commenters contend that Qwest is violating the *UNE Remand Order* because Qwest is not providing competing LECs with nondiscriminatory access to the same detailed information about the loop that is available to the BOC through the MLT. Third, according to certain parties, the fact that Qwest does not share information about the MLT results with competing LECs is a violation of the *UNE Remand Order* because the information provided by MLT is more accurate than the information provided by Qwest in its databases. Finally, these commenters maintain that Qwest should be required to provide "post-order/pre-delivery" MLTs to competing LECs so that competitors can verify that the loop provided by Qwest is capable of supporting the advanced services they wish to offer over it. We address these arguments below.

76. We disagree with AT&T and Covad that they should be allowed to perform a pre-order MLT to verify that the loop can support the services that they intend to provide.[268] The Commission has never required pre-order access to MLT, and we decline to do so here, as several of Qwest's state commissions have also declined to do.[269] Specifically, the Commission has recognized that "MLT information is merely a small subset of . . . information . . . . [and that] the inability of competitors to access this subset of information on a pre-order basis is not fatal to

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267 Qwest Nov. 7d *Ex Parte* Letter at 4

268 See AT&T Qwest 1 Comments at 40, AT&T Qwest I Finnegan/Connolly/Menezes Decl. at paras. 130-132; Covad Qwest I Comments at 22-25; Covad July 23 *Ex Parte* Letter at 3; Covad Qwest 1 Reply at 12-14. Both commenters state that a MLT would allow competitors to verify the presence of digital loop carriers. Covad also argues that MLT will provide information regarding loop characteristics in the outside plant, such as "loop length, grounds, opens, foreign voltage'' which would be helpful to Covad in determining whether a particular loop is capable of supporting xDSL service at the time it is ordered. See Covad Qwest III Reply at 18-19.

269 We note competing LECs efforts to expand pre-order MLT access in many other venues. See North Dakota Qwest I Comments, Section 271 Consultative Report, at 131. AT&T requested that the North Dakota Commission require Qwest to perform a pre-order MLT. That agency declined, agreeing with the facilitator who examined the issue, concluding that "Qwest has not performed MLT for itself, except in one, broad scale program, the results of which are made available to C[ompeting] LECs," and observing that "Qwest has reason to discourage such testing because it disrupts service when it takes place." Id. North Dakota agreed with the conclusion that "Qwest's approach to making loop qualification infomation available to competing LECs does not require allowing MLT in order to provide C[ompeting] LECs nondiscriminatory treatment and a meaningful opportunity to compete," and that Qwest should not be required to make the test available unless it begins to use it for itself or affiliates. Id. See *also* Colorado Commission Qwest I Reply at 22. The Colorado Commission explains that Qwest ran a MLT on its copper loops, provided the resulting data into its RLDT, and a Colorado hearing examiner determined that Qwest was not required to do more. Colorado states that Covad raised the issue of providing a MLT again, and the Commission determined that a pre-order MLT is not required, and that Qwest does not provide one for its own retail services. Id.

[a BOC's section 271] application."[270] Further, Qwest itself does not perform MLT at the pre-order stage?" The fact that Qwest performs MLT testing on wholesale orders at the provisioning stage, in order to ensure that a loop is in working order before turning it over, does not mean that Qwest should be required to perform a MLT on every loop at the pre-ordering stage and provide such information to competing LECs. Accordingly, we do not find that Qwest's failure to provide a pre-order MLT warrants a finding of checklist non-compliance.

77. Second, we reject AT&T and Covad's argument that the fact that competing LECs do not have access to the information from MLTs run during the provisioning process means that Qwest is in violation of the *UNE* Remand Order." Qwest performs the MLT when provisioning **loops** as a diagnostic test to determine the functionality of the loop to ensure Qwest is turning over a quality circuit to competing LECs.[273] Although the MLT reveals information concerning the loop, we disagree with commenters that this information is "loop qualification information" as the Commission has defined it. Specifically, pursuant to the *UNE* ***Remand Order,*** incumbent LECs are obligated to provide competitors with information concerning whether "the loop is capable of supporting *the* ***advanced*** services *equipment* the requesting carrier intends to install."'" Accordingly, loop qualification information is information concerning whether the loop *can* be used to provide advanced services. This is separate and distinct from information that may indicate whether a particular loop is in working order **or** needs to be repaired. The record indicates that the loop information produced by the MLT identified by Covad and

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[270] *Verizon Massachusetts Order,* 16 FCC Rcd at 9023-24, para. *65*

[271] See. *e.g.*, Letter from David Lawson, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 6,2002) at 2 (AT&T Dec. 6 Ex *Parte* Letter); Letter from Praveen Goyal, Covad, to Marlene H. Dortch, Secretary, Federal Communications Commission. WC Docket No. 02-314 (tiled Nov. 21, 2002) at 1-4 (Covad Nov. 21 Ex *Parte* Letter).

[272] AT&T Dec. 6 Ex Parte Letter at 2; Covad Nov. 4 Ex Parte Letter at 2-3; Covad Nov. 21 Ex Parte Letter at 1-4. As stated above, Qwest uses MLT before provisioning any analog loop convening from Quest dial tone to a competing LEC unbundled loop for both basic and coordinated installations. Qwest Nov. *7 Ex Parte* Letter at 15.

[273] ***Id.*** at ***2.***

[274] *UNE* ***Remand Order,*** 15 **FCC** Rcd 3885 at para. 427 (emphasis added)

> For example, the incumbent **LEC** must provide to requesting carriers *the* following: (1) the composition of the loop material, including. but not limited to. fiber optics, copper; (2) the existence, location and type of any electronic or other equipment **on** the loop, including but not limited to, digital **loop** carrier or other remote concentration devices, feeder/distribution interfaces. bridge taps. load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) ***of*** the loop; and (5) the electrical parameters of the loop, ***which may determine the suitability of the loop for various technologies.***

Id. (emphasis added). ***See also*** 47 C.F.R. §5 1.5 (Pre-ordering and Ordering)

AT&T[275] is not "loop qualification" information as the Commission has defined it nor is it necessary for loop qualification. To the extent Qwest obtains loop characteristics from its MLT at the provisioning stage that is, in fact, loop qualification information, we find that such information, such as loop length or DLC, is already available to competitors through RLDT.[276]

78. Third, we disagree with AT&T and Covad that Qwest has access to superior loop qualification information because it has access to the results of the MLT done at the provisioning or repair stage.[277] To the contrary, the record reveals that, through the RLDT, competitors have access to more accurate loop qualification information than what is derived through the MLT. According to Qwest, 93.7 percent of loops in the RLDT have actual loop lengths from engineering records, whereas the MLT derives only estimated loop lengths.[278] Moreover, retail

[275] See, *e.g.*, Letter from Michael Hunseder, Counsel for AT&T, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 7, 2002), Attached Suppl. Decl. of Kenneth Wilson at para. 17 (AT&T Nov. 7 Ex Parte Letter); Covad Nov. 4 Ex *Parte* Letter at 3-4; see also Qwest Nov. 7 Ex Parte Letter at 3-4.

[276] Qwest Nov. 7d Ex Parte Letter, Attach. at 3-4. We note that Qwest's MLT capabilities are not as advanced as those of other BOCs. All other BOCs are using LC 2.0 which allows for possible DSL-specific testing (load coils, bridged taps, wideband noise) if new generation test equipment is also installed. In contrast, Qwest is using MLT LoopCare LC 1.0. See *id.* at 3. Accordingly, Qwest is not able to derive as accurate and detailed loop information as other BOCs. For example, although Qwest's MLT indicates that a digital loop carrier's equipment is present, it does not provide equipment details. In contrast, the RLDT provides information about the presence, location, type of digital loop carrier on the loop, as well as information about the presence of pair gain. See Qwest Nov. 7d Ex Parte Letter, Attach. at 1-7.

[277] See, *e.g.*, AT&T Nov. 7 Ex Parte Letter, Wilson Suppl. Decl. at paras. 18-19. AT&T and Covad allege that a MLT will show actual and current characteristics for the loop as of the date of the test, and that this information is more accurate than the information provided by Qwest through its RLDT. AT&T Nov. 7 Ex Parte Letter, Wilson Supp. Decl. at para. 17; Covad Nov. 4 *Ex Parte* Letter at 3; Covad Nov. 21 Ex *Parte* Letter at 3.. Specifically, commenters allege that MLT can provide data regarding loop qualification information like bridge taps, presence of DLC, or pair gain. AT&T Nov. 7 Ex *Parte* Letter, Wilson Decl. at para. 17; Covad Nov. 4 Ex *Parte* Letter at 3; Covad Nov. 21 *Ex Parte* Letter at 3. Based on the record before us, we disagree. As noted, the record shows that Qwest's MLT capabilities are not as advanced as those of other BOCs and does not provide information on load coils, bridged taps or wideband noise. Qwest Nov. 7d Ex *Parte* Letter at 3. See also n.276 above. As far as the presence of DLC is concerned, we note that Qwest's "Pair Gain Type" field of the RLDT will indicate if DLC is present on the line, and if so, will identify the type of DLC for each segment of the loop. Qwest Nov. 7d Ex *Parte* Letter at 5. This information is more accurate and easier to use than the MLT results of whether there is a DLC all the way to the customer drop, which requires technical interpretation of the MLT result. *Id.* Given that Qwest's MLT does not provide additional information that would be useful for loop qualification, we conclude that Qwest has adequately demonstrated that it meets the requirements of the *UNE Remand Order.* The record shows that the "Makeup Field" in the RLDT contains current information, as the information is updated in a variety of different ways. See Qwest Dec. 6 Ex *Parte* Letter at 11-12. Additionally. AT&T contends that since the information obtained from provisioning MLTs is retained by Qwest, the *UNE Remand Order* requires that the information be shared with competing LECs. AT&T Dec. 6 Ex *Parte* Letter at 4. Given our conclusion that this information is not necessary for loop qualification purposes, it is inconsequential that this information is retained by Qwest in its back office systems.

[278] Qwest Nov. 15f *Ex Parte* Letter at 2. We note that the information in the RLDT comes from information in the LQDB.

employees "use the QServ tool that informs them if Qwest DSL is available at a specific address or telephone number, [and this tool provides] far less information than is provided to competing LECs through the loop qualification tools as competing LECs receive specific detailed information on loop makeup and length of the loop."[279] We also disagree that Qwest does not provide all loop qualification information in its possession to competitors. As discussed above, we find that the information necessary for competing LECs to determine whether a loop is capable of supporting the advanced services the competing LEC wishes to offer over the loop are already contained in the RLDT.[280] For example, although Qwest also uses MLT on a regular basis as part of the MALT process, all loop length information derived from this process is inserted into LFACS and is made available to competitors in a nondiscriminatory manner.[281] In addition, Qwest shows that of the loops in the RLDT, less than 5 percent of those that are capable of having MLT-generated loop length information are missing this information.[282]

79. Finally, we reject Covad's argument that the Commission should order Qwest to provide competing LECs with access to "pre-delivery" MLTs after Covad has ordered the loop, but before it has accepted the loop, to assure quality of the loop.[283] The Commission has no such requirement, and we do not impose one here. Covad argues that Qwest should perform MLTs on line-shared loops prior to loop delivery to ensure that a loop that is capable of line-shared ADSL

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[279] *Id.*

[280] See paras. 63-72 above. See *also* n.277 above. Using its own parameters for the type of DSL service it wishes to offer, a competing LEC can use the data returned through the RLDT to determine if the requested loop meets the technical parameters of the DSL service the competing LEC wishes to offer. See Qwest Nov. 7d *Ex Parte* Letter at 8.

[281] See Qwest I *Notarianni/Doherty* Reply Decl. at para. 46.

[282] Qwest Nov. 15f *Ex Porte* Letter at 2. The record shows that 68.3% of loops in the RLDT currently contain MLT-generated loop length information. Id. Roughly 30 percent of loops are incapable of having MLT-generated loop lengths because they are connected to pair gain, are unbundled loops, are spare loops, or are in wire centers that do not have MLT capabilities. Id. Although Qwest does not update the RLDT (through updates to the LQDB) with the provisioning MLT-generated loop length information, Qwest states that the individually MLT-generated loop length information is not significantly different from the loop length information generated using the MALT process. Id at 6.

[283] Covad argues that the information returned from an MLT would be useful to Covad at the post-order/pre-delivery stage. See Covad Qwest III Reply at 21-22. Similarly, AT&T argues that once Qwest runs the MLT test, that information must be made available to competing LECs. AT&T Dec. 6 *Ex Parte* Letter at 3. AT&T argues that such information about the capabilities of the loop gives Qwest an advantage, for example, in winback situations where Qwest is competing with the competing LEC currently serving a customer to obtain the customer's business. Id. As discussed above, however, we find that the information obtained by the provisioning MLT is not loop qualification information. Even if the information was loop qualification information, the record shows that Qwest retail personnel do not have access to this information. See Qwest Nov. 22f Ex *Porte* at 1-2. Qwest has presented sworn testimony that Qwest retail personnel use QCity/QServ to determine whether a loop is capable of supporting Qwest's DSL offering, and use the same manual look-up process available to competing LECs when information on a particular loop is not returned by QCity/QServ. See Qwest Dec. 6 Ex *Parte* Letter at 5-7. Therefore, it is not credible that this information gives Qwest a competitive advantage over competing LECs.

service is being turned over to competing LECs.[284] Although Qwest does not perform MLTs as part of the provisioning process for line-shared loops, it has several processes in place to ensure that the high-frequency portion of the loop is operational before turning it over.[285] In any event, Covad is raising issues related to loop quality rather than loop qualification.[286] Qwest is required to provide line-shared loops that do not contain ground faults or other problems that would prevent line a from being used for advanced services, and we decline to dictate their business practices or to how they accomplish this. Significantly, we note Qwest's satisfactory commercial performance on provisioning quality of line-shared loops.[287] We also note that Qwest's line-sharing provisioning quality is an element of the PAP for the nine application states. Qwest will be subject to penalties if the quality of loops they provide for line-sharing deteriorates.[288]

80. *Allegations of Luck of Candor.* Finally, we are not persuaded by allegations that Qwest's actions during visits to its wholesale provisioning facility by Commission staff warrant denial of these section 271 applications. AT&T has provided a declaration from a former Qwest service representative that alleges Qwest misled the Commission, particularly during a visit by Commission staff to Qwest's Omaha wholesale provisioning facility, about Qwest's use of the MLT in the hot cut process. The declarant, Edward Stemple, alleges that "Qwest supervisors instructed the service representatives who were to be observed by the FCC to perform the cutover process without performing MLTs," even though "my co-workers and I were instructed to run an MLT for each line" in the normal course.[289] The Stemple declaration also includes as an attachment an e-mail message from "the head of [the Omaha facility]" to Qwest employees working there that states that "we made an effort to diminish the visibility to MLT during these visits for the sole purpose of protecting access to our legacy systems.""

[284] Covad Qwest III Reply at 21.

[285] *See* Qwest Nov. 15f *Ex Parte* Letter at 3-4. Additionally, Qwest notes that MLT results during line shared loop provisioning will provide negligible information. *Id.* at 4. Faults identified through a MLT performed during the provisioning process would most likely have caused degradation to the voice frequency and have generated a trouble report from the end user customer prior to the line shared loop being provisioned. *Id* Funhermore, Qwest performs quality assurance testing on two aspects of line shared loops during testing. First. central office wiring is tested to assure a viable data path exists between the physical demarcation with the competing LEC and the loop. Id. This test today is performed using an LSVT test set. *Id.* Qwest also checks that there are no load coils on the line prior to provisioning line-shared loops. Id. As an additional step to assure line shared loops are properly provisioned, beginning in the first Quarter of 2003, Qwest will provide router testing for requesting competing LECs. Id.

[286] See para. 14 above.

[287] *See* Provisioning section below, addressing OP-3 and OP-4. *See also* OP-5 (New Service Installation Quality) for line sharing.

[288] See Public Interest Section, below

[289] AT&T Qwest 111 Comments Tab A, Declaration of Edward F. Stemple at para. 1 (AT&T Qwest III Stemple Decl.).

[290] *Id*

81. Commenters argue that Qwest's attempts to hide MLT testing from regulators, as well as Qwest's use of MLT in the provisioning process, indicates the Commission cannot be confident that Qwest provides competitors with access to all of the loop makeup information accessible by any Qwest personnel in Qwest's back office systems.[291] We disagree. As discussed above, we find that Qwest satisfies the ***UNE Remand*** requirement for access to loop qualification.

82. In addition, commenters raise the issue of Qwest's candor on the issue of MLT in this proceeding.[292] Commenters allege that Qwest appears to have – at the very least – "diminish[ed] the visibility" of a particular step in its Omaha routine to protect the position Qwest has taken before state and federal regulators.[293] Moreover, the Department of Justice expresses concern that Qwest sought to limit the information available to regulatory decision-makers and recommends that the Commission assure itself that it has full and accurate information with regard to this allegation.[294]

83. We find that the evidence presented by AT&T's declarant, even if true, does not directly contradict any statements made by Qwest in this proceeding's record. Qwest readily acknowledges that it performs the MLT as a part of its loop provisioning process.[295] Mr. Stemple's allegations about Qwest's use of the MLT concern neither the appropriateness of using the MLT at the pre-ordering stage, which is an issue raised by Covad, nor whether the information gathered and used in the provisioning-stage MLT is in fact loop qualification information, as alleged by AT&T. Mr. Sternple's allegations, while of potential concern, do not implicate issues that *are* significantin the record, nor do they have a bearing on our finding of Qwest's compliance with this checklist item. Based on the record before us, we have sufficient information pertaining to Qwest's use of the MLT that enables us to find that Qwest's loop qualification processes are nondiscriminatory. We take very seriously allegations that a carrier

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291 AT&T Qwest III Comments at 51-58; Covad Qwest 111 Reply at 5-14; see also Letter from Praveen Goyal, Covad, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 at 2-4 (filed Nov. 4,2002) (Covad Nov. 4 *Ex* Parte Letter).

292 See, *e.g.*, Department of Justice Qwest III Evaluation at 4-5; AT&T Qwest III Comments at 3-5; Covad Qwest III Reply at 3-4; TouchAmerica Qwest III Reply at 4-7; AT&T Nov. 7 Ex Parte Letter at 2-3.

293 AT&T Qwest III Stemple Decl., Attach. 1. The Qwest e-mail message from Mary Pat Chesier attached to AT&T's Stemple declaration also includes the following statement:

> CLECs have specifically asked for access to MLT. We believe this is a part of our legacy system we want to keep proprietary. As a result we don't want to bring attention to it in front of the FCC as they may have a tendency to respond to CLEC requests in a manner which may be unfavorable to us.

Id.

294 Department of Justice Qwest III Evaluation at 4-5.

295 Letter from R. Steven Davis, Qwest, to Marlene Dortch, Federal Communications Commission, WC Docket No. 02-314 at 5 (filed Oct. 21,2002) (Qwest Oct. 21 Ex Parte Letter).

has willfully and intentionally taken steps to limit regulators' access to relevant information. Accordingly, we have examined particularly closely Qwest's use of the MLT process. Although we find that Qwest meets the statutory standard, we caution carriers against withholding information and will not hesitate to take action against carriers that do so.

c. Ordering

84. In this section, we address Qwest's ability to provide competing carriers with access to the OSS functions necessary for placing wholesale and resale orders. We find that Qwest demonstrates, based on the evidence in the record, that it provides nondiscriminatory access to its ordering systems.[296] Specifically, we conclude that Qwest shows that its system is able to process manually handled orders accurately.

85. We disagree with commenters' allegations that Qwest relies too heavily on manual processing.[297] The Commission has looked to order flow-through as a potential indicator of a wide range of problems that underlie a determination of whether a BOC provides nondiscriminatory access to its OSS. Although flow-through levels may be a useful diagnostic tool, even when these levels are not high, this is not necessarily fatal to a BOC's application. A BOC may still demonstrate compliance with checklist item 2 if other evidence shows that there is nondiscriminatory access to OSS.[298] In the following discussion, we address the OSS ordering issues that the Commission previously has found relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner: a BOC's ability to return timely status notices such as firm order confirmation, reject, jeopardy, and service order completion notices, to process manually handled orders accurately, and to scale its system.[299]

86. As an initial matter, we disagree with Eschelon's contention that Qwest improperly included the performance of UNE-Star orders with UNE-platform orders in its

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[296] See Colorado Commission Qwest I Comments at 2-3 (maintaining that the ROC OSS test demonstrates that Qwest's OSS meets the competitive checklist criteria after reviewing areas in which Qwest fell short of a passing grade); Idaho Qwest I Commission Comments at 6 (recognizing that while some areas still need improvement, the overall record demonstrates that competing LECs have nondiscriminatory access to Qwest's OSS); Iowa Board Comments at 32; Montana Commission Qwest II Comments at 19-22; Nebraska Qwest I Commission Comments at 8; North Dakota Qwest I Commission Comments at 203; Utah Commission Qwest II Comments at 5; Wyoming Commission Qwest II Comments at 6; Washington Commission Qwest II Comments at 12-14.

[297] See AT&T Qwest I Comments at 40-42; Covad Qwest I Comments at 39-41; Eschelon Qwest I Comments at 6; Eschelon Qwest III Comments at 20-27; WorldCom Qwest I Comments at 10-12; WorldCom Qwest I Reply at 3-4; WorldCom Qwest I Reply, Lichtenberg Decl. at paras. 11-12, 18. WorldCom Qwest III Comments at 4-6; WorldCom Qwest III Comments, Lichtenberg Decl. at para. 10. *See also* Department of Justice Qwest III Evaluation at 5-6. Eschelon also contends that errors are created in the flow-through service order process. *See* Eschelon Qwest III Comments at 31-34.

[298] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4035, para. 162.

[299] See *Bell Atlantic New York Order*, 15 FCC Rcd at 4035, para. 163; *SWBT Texas Order*, 15 FCC Rcd at 18443-44, para. 179; *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9092, para. 143.

performance metrics.[300] Eschelon contends that UNE-Star orders should be categorized as resale products in the performance metrics because, according to Eschelon, they are ordered, provisioned, and billed through the existing resale processes.[301] Contrary to Eschelon's contention, we note that UNE-Star has characteristics of both resale and UNE-platform orders.[302] The process of migrating customers from Qwest retail to resale is not substantially different from the process of migrating customers from Qwest retail to UNE-platform, as well.[303] Indeed, the categorization of UNE-Star orders was apparently confusing to Qwest itself? Qwest originally classified UNE-Star as resale orders, but notified competing LECs in the Summary of Notes published with Qwest's October 2001 commercial performance results that it would re-categorize UNE-Star orders as WE-platform orders in November 2001 (and retroactively to January 2001).[305] Competing LECs, including Eschelon, have thus been on notice for almost a year that Qwest reports its UNE-Star performance in the UNE-platform category. Moreover, Eschelon provides no evidence that Qwest's performance varies between resale and UNE-platform orders. In fact, an examination of Qwest's performance data shows that there are no significant performance disparities between UNE-platform performance as filed and after excluding UNE-Star orders."' In the absence of evidence that significant performance disparities exist between resale and UNE-platform orders, or that Qwest has violated the agreed-upon performance reporting process, we find that the categorization of UNE-Star orders as UNE-platform orders does not warrant a finding of checklist noncompliance.

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300 Letter from Karen Clauson, Senior Director of Interconnection. Eschelon Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189, at 12 (tiled Sept. 4, 2002) (Eschelon Sept. 4 Ex *Parte* Letter). UNE-Star is a product, unique to Qwest, that combines elements of resale orders and UNE-platform orders. Parties have also referred to UNE-Star as UNE-E or UNE-Eschelon or UNE-McLeod or UNE-M. These products have been purchased by Eschelon and McLeod, although they are available to other carriers as well. *See also* Eschelon Qwest III Comments at 44-47.

301 Eschelon Qwest III Comments at 44-47. Additionally, we are troubled by the allegations of this offering as an unfiled agreement, and we note that, to the extent any past discrimination existed, affected entities may initiate enforcement action through state commission enforcement processes or this Commission in the context of a section 208 complaint proceeding. See Public Interest Section, Unfiled Agreements below.

302 *See* Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189 (filed Sept. 9, 2002) at 1 (Qwest Sept. 9d Ex *Parte* Letter).

303 Id. Qwest explains that the processes use the same LSR forms, with all the same fields being populated. Id.

304 Qwest 111 Reply, App. A, Tab 15, Reply Declaration of Michael G. Williams at para. 48 (Qwest III Williams Reply Decl.).

305 Qwest III Reply at 52-53; Qwest III Williams Reply Decl. at paras. 47-48

306 *See* Qwest III Appl. at Tab 1 (Breakout of UNE-P Star Performance Data: Tab 15) (citing confidential version) (showing the difference between performance results for UNE-platform orders including and excluding UNE-Star orders for OP-3 (Installation Commitments Met), OP-4 (Install Intervals, Avg Days), OP-5 (New Installation Quality), and MR-8 (Trouble Rate) for resale and UNE-platform orders).

(i) Order Confirmation and Reject Notices

87. We conclude that Qwest provides competing carriers with order confirmation and reject notices in a timely and nondiscriminatory manner?" Specifically, we find that Qwest has demonstrated that it provides mechanically processed firm order confirmations (FOCs) and reject notices in a timely manner?" Qwest has also demonstrated that it provides timely FOC and reject notices for those orders that are electronically submitted but require manual processing.[309] Moreover, Qwest processes manually-submitted orders in a timely manner?"

88. Given Qwest's strong commercial performance on FOC timeliness, we reject Covad's arguments that Qwest does not send reliable and accurate FOCs.[311] Covad questions Qwest's ability to return accurate and timely FOC notices based on the Liberty audit, which showed that two-thirds of Covad's orders were omitted from the denominator of the FOC timeliness metric.[312] Liberty concluded, however, that the exclusions for Qwest's FOC timeliness metric, including the exclusion of Covad's orders, were consistent with the description of this

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[307] See Iowa Board Qwest I Reply at 9 (stating that issues raised by AT&T on order status notices will be reviewed at the six-month review). The KPMG Final Test shows that overall 99% of orders either received a FOC or error response notice (in the form of a reject notice or non-fatal error notice). The breakdown by type of order shows a similar pattern, with at least 98% of each order type receiving either a FOC or error notice. See KPMG Final Test Table 12-15 at 118. We reject arguments from AT&T that the reject timeliness metric (PO-3) is flawed because it does not include orders that are held for lack of facilities for 30 days and then rejected. See AT&T Qwest I Reply at 43. We find that concerns raised by AT&T about the specifics of a performance measure are more appropriately addressed by the state commissions. We expect that the state commissions will scrutinize the increasing levels of held orders, such as line-sharing orders in Colorado and Washington.

[308] See PO-5A (Firm Order Confirmations On Time – Fully Electronic LSRs) with a standard of 95% of FOCs returned within 20 minutes; PO-3A-2 (LSR Rejection Notice Interval – LSRs Submitted Via IMA-GUI and Auto-Rejected); and PO-3B-2 (LSR Rejection Notice Interval – LSRs Received Via EDI and Auto-Rejected) with standards of ≤ 18 seconds. See also Qwest I Williams Decl. at paras. 117-123; Qwest I Notarianni/Doherty Decl. at paras. 206-250; Department of Justice Qwest I Evaluation at 18; and KPMG Final Report at 83–90.

[309] See PO-5B (Firm Order Confirmations On Time – Electronic/Manual LSRs) with a standard of 90% of FOCs returned within 24 hours, 48 hours or 72 hours, depending on product type; PO-3A-1 (LSR Rejection Notice Interval – LSRs Submitted Via IMA-GUI and Rejected Manually); and PO-3B-1 (LSR Rejection Notice Interval – LSRs Submitted Via EDI and Rejected Manually) with a standard of ≤ 12 business hours. Qwest has consistently met the standards set for these metrics for all nine application states.

[310] See PO-5C (Firm Order Confirmations On Time – Manual) with a standard of 90% of FOCs returned within 48, 72, or 96 hours, depending on product type; and PO-3C (LSR Rejection Notice Interval – LSRs Received Via Facsimile) with a standard of ≤ 24 work week clock hours (work week clock hours are 24 hours per day Monday through Friday). See Letter from R. Hance Haney, Executive Director-Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148.02-189, (filed Aug. 13, 2002) at 1 (Qwest Aug. 13d *Ex* Parte Letter).

[311] Covad Qwest I Comments at 43-44 (stating that the Liberty audit showed that two-thirds of Covad's orders were omitted from the denominator of PO-5); see also Covad Qwest I Reply at 19.

[312] Covad Qwest I Comments at 43; Covad Qwest I Reply at 19.

performance metric (*i.e.*, business rules).[313] Without more specific evidence that Qwest is inappropriately excluding Covad orders from this measure, we find that Qwest's performance on FOC timeliness satisfies the requirement of the checklist.

89. We also reject allegations that Qwest's overall reject rates indicate systemic *OSS* problems.[314] The Commission has previously found that high reject rates are not necessarily such an indication.)" We note that Qwest's reject rates are within the range the Commission has previously found to be acceptable.[316] Notably, the Department of Justice points out that reject rates in the ***BellSouth Georgia/Louisiana Order*** were similar to those in the Qwest region?''

[313] Liberty Audit at 38 (stating conclusions regarding PO-5 data reconciliation).

[314] See AT&T Qwest I Comments at 9, AT&T Qwest I Finnegan/Connolly/Menezes Decl. at 149 (stating that Qwest's system rejects nearly one-half of all competing LEC orders and that the high rejection rates inflict a substantial burden because service is delayed and resubmission of orders is costly); WorldCom Qwest I Comments at 10; WorldCom Qwest I Reply at 5; WorldCom Qwest I Lichtenberg Reply at para. 2 (indicating that WorldCom's reject rates for its "Neighborhood products" offered through its partner Z-Tel are 11.4% in the SWBT region and 14.1% in the BellSouth region for the same time period, while its reject rate in the Qwest system is over 30%); Eschelon Qwest I Comments at 4 (arguing that it now receives automatic reject messages when migrating customers under IMA release 10.0 that it did not have receive with an earlier IMA release). Qwest tracks information on reject rates, although there is no performance benchmark for these metrics. Qwest's commercial performance for June to September shows that an average of 31% of LSRs submitted over the GUI and an average of 22% of LSRs submitted over EDI were automatically rejected. See PO-4A-2 (LSRs received via GUI and auto-rejected) and PO-4B-2 (LSRs received via EDI and auto-rejected). For manual rejects, Qwest's commercial data show that from lune to September, an average of 3% of LSRs submitted over the GUI and 5% of LSRs submitted over EDI were manually rejected, See PO-4A-1 (LSRs received via GUI and manually rejected) and PO-4B-1 (LSRs received via EDI and manually rejected). The third-party test also showed similar reject rates, with 20 to 25 percent of LSRs submitted through the GUI rejected, and 32 to 40 percent of LSRs submitted through EDI rejected, depending upon the service order processor (SOP) into which the LSR flowed. See KPMG Final Report Table 12-16 at 119. There are three SOPs corresponding to the three predecessor BOC companies that now make up Qwest: Qwest's Western Region covering Washington and Oregon, corresponding to Pacific Northwest Bell; the Central Region covering Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming, corresponding to Mountain Bell; and the Eastern Region covering Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, corresponding to Northwestern Bell. Although KPMG found that the SOPs differ, it noted that Qwest has standardized most of its processes across these three regions. *See* Qwest I Appl. Notarianni/Doherty Decl. at paras. 34-36. Of those reject notices received by KPMG, 16% of the EDI reject notices were manual rejects and 84% were auto-rejects: 34% of the GUI reject notices were manual rejects and 66% were auto-rejects. See KPMG Final Report Table 12-12 at 112. Because these reject rates are designed to monitor the error rate of competing LEC submissions, the rate includes rejects due to competing LEC error. Additionally, we find that Qwest has shown that the reject notice problem raised by Eschelon regarding new reject notices associated with IMA release 10.0 was corrected on July 10, 2002. See Eschelon Qwest I Comments at 4-6. Qwest states that it distributed a notification to all wholesale customers on July 10, 2002, informing competing LECs that the problem had been corrected. See Qwest I Notarianni/Doherty Reply Decl. at para. 149.

[315] *See. e.g.*, ***Bell Atlantic New York Order,*** 15 FCC Rcd at 4044-45, para. 175; ***BellSouth Georgia/Louisiana Order,*** 17 FCC Rcd at 9091, para. 142.

[316] Bell Atlantic reported UNE average reject rates between 27 and 34% during the relevant months of its New York section 271 application. ***See Bell*** Atlantic ***New York Order,*** 15 FCC Rcd at 4044, para. 175, n.552.

[317] See Department of Justice Qwest I Evaluation at 15, n.61. We reject WorldCom's allegations that the Department of Justice was erroneously stating that reject rates in the ***BellSouth Georgia/Louisiana Order*** were (continued.. ..)

Furthermore, Qwest has shown that reject rates vary by competing LEC.[318] Because the record demonstrates that a number of competing LECs experience low reject rates, we conclude that it is inappropriate to attribute the wide range of reject rates entirely to Qwest.[319] Although we do not rely on it, we note that Qwest has said that it is likely that TN migration, as well as a simplified version of "migration as specified" that does not require competing LECs to list the customer's current features, will be available with the IMA 12.0 release in April 2003.[320] We believe, as we have observed in other orders, that these changes should reduce the reject rates experienced by competing LECs.[321]

90. Finally, we disagree with WorldCom's assertion that there was no third-party evaluation of Qwest's ability to identify multiple errors on an LSR.[322] The record shows that the issue of identifying and testing multiple errors was addressed as part of the Vendor Technical Conference held on May 15, 2002.[323] At that conference, HP confirmed that its test showed that returned error messages reflected all errors included on the LSR.[324] In the absence of any commercial evidence that Qwest does not return all error messages, we find that Qwest has shown that it is providing reject messages with all errors.

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similar to reject rates in the Qwest region for the instant application. WorldCom argues that reject rates for UNE-platform orders that are electronically submitted but fall out for manual handling are much higher in the Qwest region than in Georgia/Louisiana. See WorldCom Qwest I Lichtenberg Reply at para. 17. We have not required the reject rates for a particular product type to be identical across BOC regions. See *Bell Atlantic New York* Order, 15 FCC Rcd 4044, para. 175, n.552.

318 Qwest I Notarianni/Doherty Reply Decl. at paras. 100-109.

319 Qwest has submitted manual and automatic reject rates for competing LECs with the highest volume of orders in the nine application states submitting orders through both GUI and EDI. Those rates show a wide range, demonstrating that competing LECs with the highest volumes are able to submit orders with automatic reject rates as low as 0% and 1% and manual reject rates as low as 9% and 13%, for orders submitted via GUI and EDI respectively. See Letter from Hance Haney, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 5,2002) at Attach (Qwest Dec. 5a *Ex Parte* Letter) (citing confidential version). Qwest does not track reject rates by the type of service ordered however, we note that many of Qwest's markets have few competitors, making it difficult to make meaningful comparisons within the different services being ordered.

320 See discussion above on TN migration and migration as specified. WorldCom contends that its high reject rate is being caused by the current lack of TN migration and "migration as specified. See, *e.g.*, WorldCom Qwest I Lichtenberg Decl. at para. 18.

321 *See SWBT Texas Order*, 15 FCC Rcd at 18443, para. 178. See *also* Qwest III Reply at 35.

322 WorldCom Qwest I Comments at 15; WorldCom Qwest I Lichtenberg Decl. at para. 56.

323 Qwest I Reply at 38.

324 *Id.* (citing to a transcript of ROC OSS 271 Vendor Technical Conference #3 at 153-154).

(ii) Jeopardy notices

91. We find that Qwest has shown that it sends timely and accurate jeopardy notices. Qwest measures the timeliness and accuracy of its jeopardy notices through two metrics: (1) the percent of late orders for which a jeopardy notice was actually sent, and **(2)** how far in advance of the due date a jeopardy notice was sent, regardless of whether the due date was actually missed.[325]

92. With regard to the first measure, the record shows that Qwest provides timely jeopardy notices for non-designed services, Link Interface Shelf (LIS) trunks, and UNE-platform POTS orders.[326] The record shows, however, that Qwest has failed to provide timely jeopardy notices for unbundled loops.[327] We find that Qwest's performance on unbundled loop jeopardy notices is not competitively significant because the volume of orders for unbundled loops for which Qwest actually missed the due date is very low, compared to the total volume of unbundled loop orders.[328] Given that Qwest's jeopardy performance problem affects so small a percentage of orders, we do not find that the performance disparity with respect to timely jeopardy notices for loops is an indication of a systemic problem with Qwest's OSS.[329] We also take into consideration that jeopardy notice metrics are included in Qwest's Performance Assurance Plan (PAP), which we discuss below.[330] If this situation deteriorates, we will not hesitate to take appropriate enforcement action pursuant to section **271**(d)(6).[331]

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[325] See descriptions of PO-9 (Timely Jeopardy Notices) and PO-8 (Jeopardy Notice Interval) in ROC **271** Working PID Version 5.0 at 19-20.

[326] See PO-9A (Timely Jeopardy Notices – Non-Designed Services); PO-9C (Timely Jeopardy Notices – LIS Trunks); and PO-9D (Timely Jeopardy Notices – UNE-platform POTS).

[327] See PO-9B (Timely Jeopardy Notices – Unbundled Loops) which shows the four-month average from June to September for competing LECs as **15%, 3%, 16%, 40%, 41%, 45%, 33%. 23%,** and **50%** versus Qwest performance of 22%, **28%, 30%. 36%, 24%, 36%, 35%, 16%,** and 20% in Colorado, Idaho. Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming, respectively. See also Colorado Commission Qwest I Comments, App. A at 65, Idaho Qwest I Commission at **8** (acknowledging that Qwest's performance is not at parity for this issue); Iowa Qwest I Board Reply at 9 (stating that issues raised by AT&T on order status notices will be reviewed in the six-month review). Both the Colorado and the Idaho Commissions noted that Qwest was not meeting parity for jeopardy notices and that they expect Qwest to continue **to** work to improve its performance in this area. Both commissions note jeopardy notice performance metrics are in the PAP. See Colorado Commission Qwest I Comments at **37;** Idaho Qwest I Commission Comments at **8.**

[328] Qwest I Williams Decl. at para. **135;** Letter from Hance Haney, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. **02-314** (filed Dec. **3,2002)** at Attach. (Qwest Dec. 3d ***Ex** Parte* Letter).

[Tt9] We also note that in June 2002 Qwest installed an enhanced notification process in order to provide automated jeopardy notices for non-design, unbundled loops, and UNE-platform orders. See Qwest I Notarianni/Doherty Reply Decl. at para. 131. We note that performance in August and September shows an improvement from the previous months. See PO-9B (Timely Jeopardy Notices, UBLs and LNP) for the nine application states.

[330] See below Section VI.B. (Public Interest – Assurance of Future Compliance).

[331] **47** U.S.C. § 271(d)(6)

93. Although Qwest's performance under the second measure, jeopardy notice interval, shows performance disparities in Colorado and Iowa, we find that these performance disparities do not indicate discriminatory access to jeopardy notices for competing LECs.[332] Specifically, Qwest has provided jeopardy notices closer to the due date for non-designed services in Colorado, and unbundled loops in Iowa than for analogous retail services.[333] We note, however, that the number of jeopardy notices sent in both Colorado and Iowa is low relative to average volume of competing LEC orders for non-designed services or unbundled loop orders processed by Qwest in those states."' Given the small number of orders affected by these performance disparities, we conclude that these performance disparities do not warrant a finding of checklist noncompliance.

94. We disagree with WorldCom that our conclusion is undermined by commenters' references to third-party test results concerning Qwest's ability to provide jeopardy notices for resale and UNE-platform.[335] The KPMG test yielded inconclusive or negative results since only a small number of jeopardy notices was sent to KPMG.[336] The number of jeopardy notices sent to KPMG was small due to the fact that Qwest met 99 percent of its resale and UNE-platform due date commitments during the test.[337] Therefore, we reject commenters' arguments that the jeopardy notice interval and jeopardy timeliness metrics discussed above do not capture Qwest's true performance because KPMG issued "fail" or "unable to determine" decisions for these metrics.[338]

95. Jeopardy and reject notices after FOC. We reject contentions that the fact that Qwest sometimes sends jeopardy notices (or reject notices) after a FOC for incomplete or missing LSR information is an indication of underlying OSS problems.[339] Commenters claim

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332 See PO-8 (Jeopardy Notice Interval). This metric measures the average number of days lapsed between the date the customer is first notified of an order jeopardy event and the original due date of the order. It includes all orders that received jeopardy notices (with some exclusions), unlike PO-9 discussed above, which only tracks jeopardy notices in which the original due date was missed. See ROC 271 Working PID Version 5.0 at 19-20.

333 See PO-8A (Jeopardy Notice Interval - Non-Designed Services) for Colorado reporting 3.14, 3.85, 2.43, and 1.73 days for competing LECs versus 6.08, 5.7, 5.99, and 5.68 for Qwest retail service for June through September and PO-8B (Jeopardy Notice Interval—UBL and LNPs) in Iowa, showing 3.91, 2.78, 3.67, and 5.1 ldays for competing LECs versus 5.54, 5.26, 5.44, and 5.91 days for Qwest retail service for June through September.

334 See Letter from Hance Haney, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 4,2002) at Attach. (Qwest Dec. 4c Ex Parte Letter). We note that PO-9 tracks only timely jeopardy notices for missed due dates caused by Qwest. See exclusions under PO-9 Timely Jeopardy Notices, ROC 271 Working PID Version 5.0 at 20.

335 WorldCom Qwest I Comments at 14

336 KPMG Final Report Table V-2 at 690-692.

337 Qwest I Notarianni/Doherty Reply Decl. at para. 132.

338 Id.; see *also* KPMG Final Repon Table V-2 at 690-692.

339 AT&T Qwest I Finnegan/Connolly/Menezes Decl. at paras. 183-187; WorldCom Qwest 1 Comments at 13; WorldCom Qwest I Reply at 9; WorldCom Qwest I Lichtenberg Reply Decl. at para. 51; WorldCom Nov. 6 Ex Parte (continued.. ..)

that jeopardy notices are supposed to inform a competing LEC that the date for completing the order has changed from what the BOC originally promised on the FOC.[340] Qwest explains that it adopted the current process in response to competing LEC requests.[341] Under the current process, Qwest sends a jeopardy notice instead of a reject notice after a FOC.[342] The competing LEC then has the opportunity to supplement the order, thus avoiding the significant delay which would occur if the competing LEC had to resubmit the order. Given that Qwest modified its processes to accommodate competing carriers and Qwest's modification appears to benefit competing carriers, we are not persuaded by these two commenters' claims.

96. *Other FOC Issues.* We are also not persuaded by Covad's allegations that Qwest sends erroneous and unreliable FOCs.[343] Specifically, Covad states that on numerous orders, after receiving an initial FOC with a committed due date, Qwest sends Covad a second FOC with a new committed due date.[344] The record shows that for some of the unbundled loop products that Covad orders, Qwest sends – at Covad's request – a second FOC with a new due date to Covad when Qwest finds that facilities are unavailable.[345] The record further shows that for line-sharing products, multiple FOCs are often returned if, during the conditioning evaluation, Qwest determines that bridge taps and load coils need to be removed, since there is a fifteen-day standard interval for removing bridge taps and load coils.[346] If Qwest can complete the work early, the competing LEC receives an additional FOC with an improved due date.[347] In light of

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Letter at 11. In addition, AT&T argues that Qwest frequently assigns due dates requested by competing LECs without checking its systems to determine whether facilities are available on those dates. AT&T Comments at 43. The due date issue raised by AT&T is addressed below at para. 113. The record shows that some of these jeopardy notices are due to competing LEC errors, such as duplicate LSRs being sent very close together. Some of the jeopardy notices were sent in error to competing LECs who were legitimately using an older version of IMA which had different ordering rules than the updated version. The record shows that Qwest has since clarified with its customer care personnel that competing LECs can use ordering guidelines with older versions of IMA. See Qwest I Notarianni/Doherty Reply Decl. at paras. 127-129 and Letter from R. Hance Haney, Executive Director-Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189, (filed Aug. 15,2002) at 1 (Qwest Aug. 15b *Ex Parte* Letter).

340 WorldCom Qwest I Comments at 13

341 Qwest I Notarianni/Doherty Reply Decl. at para. 127.

342 *Id.*

343 Covad Qwest I Comments at 28.

344 Id. Covad states that Qwest does not have the incentive to provide accurate due dates since the metric that tracks due date changes is not included in the PAP.

345 Qwest I Notarianni/Doherty Reply Decl. at para. 121.

346 *Id.* at paras. 120-125.

347 *Id*

these explanations, we do not conclude that multiple FOCs sent by Qwest is an indication of discriminatory access to OSS.[348]

(iii) Service Order Completion Notices

97. Based on the evidence in the record, we find that Qwest is providing timely and accurate service order completion notices (SOCs).[349] We reject commenters' arguments that we should find checklist non-compliance because Qwest has issued SOCs prior to the actual completion of line-sharing and UNE-platform orders.[350] For line-sharing orders, the record shows that Qwest has identified the problem, and has taken the necessary steps to control and correct it.[351] For SOC notices sent for UNE-platform orders, the record shows that in limited situations, Qwest may complete a service order though the order is in jeopardy status.[352] Given

[348] We note that Covad also argued in the Qwest I docket that it experienced more due date changes than Qwest experienced on its own. *See* Covad Qwest I Comments at 28. However, in this docket. Covad does not argue that it is currently experiencing more due date changes than Qwest.

[349] *See* PO-6A (Work Completion Notification Timeliness – All Products ordered through IMA-GUI) and PO-6B (Work Completion Notification Timeliness – All Products ordered through IMA-EDI) with a benchmark of 6 hours. This metric measures the difference between the time that the last of the service orders that comprise the competing LEC's LSR is completed in the SOP and the date and time the completion notification was transmitted (or was made available for orders submitted through the GUI) to competing LECs.

[350] Covad Qwest I Comments at 26; WorldCom Qwest I Comments at 25; WorldCom Qwest III Comments at 15: WorldCom Qwest III Lichtenberg Decl. at para. 37-40; Eschelon Qwest 111 Comments at 17-20. The Department of Justice also noted concerns regarding SOC notifiers provided by Qwest. *See* Department of Justice Qwest III Evaluation at 5, n.22.

[351] The record shows that in January 2002, Qwest introduced additional controls, provided retraining for its technicians, and instituted a compliance checklist for these orders in the provisioning stage in an effort to ensure process adherence. Subsequently, in response to another request by Covad, Qwest began providing each central office manager with a daily report of line-sharing orders that were not completed by the assigned due date and did not receive a jeopardy code. Qwest also initiated a cross check, effective July I I, 2002, to the existing process to prevent line-sharing orders from completing prior to the installation work being properly preformed by the technician. This measure calls for identification of all line-sharing orders that are not complete by 4:00 pm local time. Inquiries into the provisioning status of the order result in either completion of the order or positive jeopardy notice to the competitor that the order may not complete on the desired completion date. Qwest I Stewart Reply Decl. at paras. 34-36; Qwest III Reply, App. A, Tab 2, Reply Declaration of Karen A. Stewart (Qwest 111 Stewart Reply) at 4. Qwest explains that the fix that was put in place in July 2002 will prevent the final service order from completing in the SOP. Since a SOC is generated by the last service order completing in the SOP, no SOC should be generated until the work is complete. *See* Letter from R. Hance Haney, Executive Director-Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189 at 1 (filed Aug. 30,2002) (Qwest Aug. 30c *Ex Parte* Letter). *See also* Qwest III Stewart Reply Decl. at paras. 3-4.

[352] Qwest III Reply, App. A. Tab 17, Reply Declaration of Lynn MV Notarianni and Christy Doherty (Qwest 111 Notarianni/Doherty Reply Decl.) at para. 107. Qwest notes that this issue impacts less than 0.73% of service orders processed for both retail and wholesale. Qwest plans to fix the problem by the first quarter of 2003. Id WorldCom also expressed concerns regarding double billing and repair issues that may stem from these "fake SOCs." *See* WorldCom Qwest 111 Comments at 15; WorldCom Qwest III Lichtenberg Decl. at para. 40. The record shows that double billing and repair issues do not arise because Qwest updates its billing and repair systems to reflect any (continued....)

that this problem affects only a ***de minimis*** number of orders,[353] we decline to find that this issue warrants a finding of non-checklist compliance. If this problem should increase in scope, however, we will not hesitate to take enforcement action under our section 271(d)(6) authority.'"

(iv) Processing of Manually Handled Orders

98. Based on the evidence in the record, we find that Qwest's orders are manually processed in an accurate fashion. Accuracy of manual processing **is** relevant to our analysis because the Commission has previously found that the timeliness and accuracy of manual processing is a more important indicator of nondiscriminatory access to OSS than the quantity of orders that are manually handled.[355] We **look** primarily to two metrics *to* determine Qwest's ability to accurately process orders – PO-20 and OP-5++.[356] PO-20 currently compares the LSR and service order fields for the customer's address, PON number, and due date of the order?" OP-5++ measures the troubles reported by competing LEC calls to service delivery centers due to LSR/service order mismatches **for** both manually and electronically processed service orders.[358] The record shows that the PO-20 accuracy rate for both unbundled Ioop orders and POTS orders (WE-platform and resale) orders that *are* manually handled ranged from 90 percent to **97** percent from June to September 2002, which is in the range that the Commission has accepted in previous successful section 271 applications.[359] Qwest's order accuracy measured under OP-5++ shows that Qwest's accuracy rate under OP-5++ was over 99 percent in most states in July, August, and September.[360] In addition to the commercial data, we also rely on third-party tests

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change in account ownership at the time that it completes the service order. Qwest III Notarianni/Doherty Reply Decl. at para. 108.

[353] See Letter from Hance Haney, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 18,2002) at 1 (Qwest Nov. 18b *Ex Parte* Letter).

[354] 47 U.S.C. § 271(d)(6). We note WorldCom's concern that if the volume of new UNE-platform orders increase, Qwest may increases the number of SOCs it sends for work that is not completed. See WorldCom Nov. 6 *Ex Parte* Letter at 11. We rely on competing LECs to inform the Commission in the future if this problem increases.

[355] See ***Bell Atlantic New York Order,*** 15 FCC Rcd at 4034-35, para. 162, ***SWBT Teras Order,*** 15 FCC Rcd at 18443-44, para. 179, and ***BellSouth Georgia/Louisiana Order,*** 17 FCC Rcd 9092, para. 143.

[356] This metric "Service Order Accuracy – via Call Center Data" was formerly known as OP-5++. See Qwest III Brief App., Tab I at 8. For purposes of the instant application, we will refer to it as OP-5++.

[357] See Qwest III Reply App. Tab 1, Exhibit 1-1 at 2.

[358] ***Id.,*** Exhibit 1-4 at 1.

[359] See PO-20 (Manual Service Order Accuracy, UNE-platform and Resale POTS) with (90.25%, 90.58, 92.78%, 96.88%), PO-20 (Manual Service Order Accuracy, UBL) with (96.46%, 95.20%. 95.16%, 94.42%) for June to September, 2002. See *also* ***Bell Atlantic New York Order,*** 15 FCC Rcd at 4043-44, paras. 173-174, nn.545, 548; ***Verizon Massachusetts Order.*** 16 FCC Rcd at 9032, para. **81,** n.251; and ***Georgia/Louisiana Order,*** 17 FCC Rcd at 9103, para. 159, n.577.

[360] See OP-5++ (Service Order Accuracy – Call Center Data) reporting 99 percent or higher in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, and Washington for July, August and September, and 97 percent, 99 percent, and 95 percent in Wyoming in July, August, and September. In order to use the results of OP-5++ as a (continued....)

that indicate Qwest provisioned switch features accurately.'" These tests found that Qwest correctly provisioned switch features 99.1 percent of the time and that post-order CSR records contained the correct field inputs 97.2 percent of the time.'"*

99. We are further assured of Qwest's accuracy in manually processing orders by the results of AT&T's UNE-platform trial in Minnesota.[363] Specifically, during this trial AT&T submitted thousands of LSRs for UNE-platform orders and verified that Qwest provisioned exactly what it had ordered on the LSR, including the features on the LSR.[364] AT&T's UNE-platform trial was conducted in two phases: Phase 1 captured data from June to October 2001, and Phase 2 captured data in mid-November and December 2001.[365] We note that, although AT&T conducted this trial only in Minnesota, the results reflect Qwest's ability to accurately process orders across its region because LSRs are centrally processed by the same personnel, in the same ISC, using the same systems and processes, regardless of the state.)'' During this UNE-platform trial, AT&T found that Qwest's accuracy rate ranged from 97.81 to 99.49 percent.[367]

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check on the accuracy of Qwest's manually handled orders, Qwest submitted the results of OP-5++ disaggregated into manually processed and electronically processed orders. See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 21,2002) at 1-2 (Qwest Nov. 21b Ex *Parte* Letter). This disaggregation shows the accuracy of manually processed orders ranges between 98 percent and 100 percent in each of the nine states in the instant application between July and September, 2002, except for Wyoming. Id We note that the accuracy of Wyoming's manually processed orders ranges from 92.5 percent to 97.9 percent in this time period. Id. However, the volume of orders processed in Wyoming is very small relative to the volumes processed in Colorado or Iowa. Id.

361 See KPMG Final Test at 182-183, 186-87 (Tests 14-1-3 and 14-1-12). Eschelon argues that Qwest commits errors when performing switch translations. Eschelon Qwest III Comments at 27-33: *see also* Letter from Karen Clauson, Eschelon, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Dec. 4.2002) at 1-2 (Eschelon Dec. 4 Ex *Parte* Letter) (arguing that 13% of their recent UNE-platform orders bad errors). The errors described by Eschelon are captured by OP-5++. Qwest III Notarianni/Doherty Reply Decl. at 59-61. The disaggregation of OP-5++ described in the preceding footnote shows electronic order accuracy ranging from 99.5% to 100% in the nine-state region from July to September. 2002. Qwest Nov. 21b Ex Parte Letter at 3. Given the high accuracy rates demonstrated by this disaggregation of OP-5++. we do not find that the flow-through errors described by Eschelon rise to the level of checklist noncompliance.

362 *Id.*

363 See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 18.2002) at 1 (Qwest Nov. 18e Ex *Parte* Letter); Letter from Hance Haney, Executive Director - Federal Regulator).. Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Nov. 22,2002) at (Qwest Nov. 22b *Ex Parte* Letter).

364 Qwest Nov. 18e Ex *Parte* Letter at 2. AT&T even made test calls to determine if the order was provisioned correctly, including whether all of the features ordered were provisioned accurately. *Id.*

365 Qwest Nov. 22b Ex *Parte* Letter at 2.

366 Qwest Nov. 18e Ex *Parte* Letter at 2. Qwest's Interconnect Service Centers (ISCs), which Qwest used to process the WE-platform orders in the Minnesota trial, operate on a regional basis. Id

361 *Id.* at 1-2.

Significantly, Qwest's accuracy rate for manually-processed orders alone ranges from 96.93 to 98.46 percent.[368]

100. In addition, Qwest's recent actions give us further assurance that it will continue to improve in this area. For example, Qwest released a system enhancement as part of IMA 10.1 on August 17, 2002.[369] Qwest states that this enhancement addresses two of the most common errors that Qwest has found to affect its service order accuracy.[370] The system change implements edits at the point the FOC is being created by the service delivery coordinator (SDC)?" First, the fix will require the purchase order number on the service order to match the LSR.[372] Second, the system flags for the SDC any differences between the due date on the LSR and the due date on the service order.

101. In reaching our conclusions, we note that the Department of Justice observed that the record demonstrates improvement with respect to manual order processing.[373] The Department of Justice also stated that "Qwest's fulfillment of its commitments to maintain as well as improve the accuracy of its service order processing deserves close monitoring, and its continued collection and reporting on this process will be critical to ensure the adequacy of its post-entry performance."[374] With respect to this observation, we note that Qwest filed a commitment to incorporate PO-20, one of its service order accuracy metrics, into its **PAP** on a regionwide basis?" Although we do not rely on this commitment, we find that Qwest's

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368 ***Id.*** This trial included two phases of testing: Phase One tested 1,215 UNE-platform orders that flowed through electronically and 4335 UNE-platform orders that were manually processed; Phase Two tested 1,079 electronically processed UNE-platform orders and 518 manually processed UNE-platform orders. Qwest Nov. 22b Ex *Parte* Letter at 2.

369 Qwest Aug. 8 Ex Parte Letter at 5.

310 ***Id***

371 Id. Qwest explains that the system retrieves all service orders that contain the purchase order number (PON) for which the SDC is creating the FOC. The system will display the service order numbers and their associated due dates. The SDC can then select the correct order to associate with each line on the FOC. If the SDC does not see all the orders he/she has created for this LSR, the SDC will go back into the SOP and review and correct the order(s) that does not have the appropriate PON. This will allow the SDC to continue with the creation of the FOC.

372 ***Id.***

373 Department of Justice Qwest III Evaluation at 4.

314 ***Id.*** at 6.

375 ***See*** Letter from Yaron Dori, Counsel for Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148, 02-189, at 1-2 (filed Aug. 9,2002) (Qwest Aug. 9b Ex *Parte* Letter) (advising the Commission that it will file requests with the regulatory authorities in each of the nine states for which Qwest has pending section 271 applications asking that each authority include PO-20 in its PAP). Qwest has proposed to include these payments as a Tier 2 measure, which means that the payments will be made to the states rather than to competing LECs. See ***id*** at 2. ***See*** also Letter from Mace J. Rosenstein, Counsel, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 02-148 and 02-189 at 1-2 (dated August 20m, 2002) (Qwest Aug. 20m Ex Parte Letter). We expect that if the existing metric on service order (continued.. ..)

obligation to make payments on PO-20, based on a benchmark of 95 percent accuracy, which will become effective at the same time as the PAP, responds to the concerns expressed in the record that competing LECs and regulators will have an ongoing process to monitor and maintain adequate performance on manually handled orders.[376]

102. We find, consistent with past orders, that the commercial data are more probative than third-party test results.[377] Therefore, we disagree with commenters that argue, based on KPMG's findings, that Qwest commits excessive errors while manually processing competing LEC orders.[378] Specifically, commenters argue that Qwest cited human errors and/or inadequate training as a source of various problems noted in 75 exceptions and observations that KPMG issued during the ROC test.[379] We are not persuaded because KPMG's findings were based on Qwest's handling of a small number of LSRs.[380]

103. We reject Covad's arguments that PO-20 is inadequate because it does not include all product types.[381] As stated above, we find that, for purposes of the instant analysis, PO-20 and the metric formerly known as OP-5++ provide us with sufficient information to assess Qwest's accuracy. We find Covad's arguments regarding the product types included by Qwest in this metric are more appropriately addressed by the state commissions, as they are in a better position to make an assessment about the specifics of this metric, including the possible addition of other products. We also reject arguments that PO-20 is a "paper tiger."[382] We note Qwest's expressed willingness to include PO-20 in the PAP and begin payments, based on a 95 percent benchmark, with the other metrics included in the PAP.[383]

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accuracy, PO-20, proves not to be adequate for Qwest to maintain a high degree of service order accuracy, then a collaboration between Qwest, the state commissions, and the competing LECs will lead to appropriate changes in the metric.

376 Qwest will face penalties for its failure to meet specified performance benchmarks, which increase depending on the severity of its error rate. *Id.* We find that this potential for performance penalties will give Qwest the incentive to continue to provision orders accurately as volumes increase.

377 See Bell Atlantic New York Order, 15 FCC Rcd at 3993, para. 89.

378 AT&T Qwest I Comments at 41-42; Covad Qwest I Comments at 39-42; WorldCom Qwest I Comments at I I-12. As we do not rely on the Liberty audit for accuracy of manual handled orders, we do not address AT&T's argument that relying on the results of the Liberty data reconciliation for accuracy of manually handled orders is flawed because Liberty failed to confirm that Qwest's reported measures actually eliminated or reduced the rate of human error to acceptable levels. See AT&T Qwest I Finnegan Decl. at paras. 38-77.

379 See AT&T Qwest I Comments at 41-42; AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. 163

380 Qwest I Reply at 34-35

381 Covad Qwest I Comments at 41-42.

382 Id at 41

383 See Qwest Aug. 9b Ex *Parte* Letter at 1-2

104, We also disagree with commenters that claim that PO-20 is inadequate to determine service order accuracy because it does not capture manual processing errors where certain features requested on the LSRs are not provisioned.[384] Although PO-20 as currently measured does not include discrepancies between service and equipment fields between LSRs and service orders, as discussed above, Qwest now captures those discrepancies through OP-5++.[385] As discussed above, PO-20 coupled with OP-5++ provide us with a sufficient picture of Qwest's performance to determine Qwest is processing LSRs accurately.[386] Moreover, we note Qwest's expressed willingness to add additional fields to PO-20.[387] Specifically, Qwest has acknowledged that PO-20, as currently reported, is a starting point, and it plans to include additional fields, eliminate sampling, and mechanize data collection.[388] We find that the Long-term PID Administration (LTPA) process is the appropriate forum to address whether these fields are best included in PO-20, or continue to be measured through OP-5++.[389]

105. Finally, we reject commenters' claims that problems with OP-5 discovered through CapGemini's data reconciliation with Eschelon in Arizona rise to the level of checklist non-compliance.[390] Although Cap Gemini found that Qwest did not calculate OP-5 correctly,

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384 AT&T Qwest I Finnegan/Connolly/Menezes Decl. at para. **173;** Covad Qwest I Comments at **41-42.** Eschelon Qwest III Comments at **35.**

385 See Qwest III Reply App., Tab 1, at *8.* See *also* Qwest Nov. 13 *Ex* Porte Letter at **1-2.**

386 See above, para. **98.**

387 See Qwest I Notarianni/Doherty Reply Decl. at para. **91.**

388 Id.

389 We note that the Department of Justice took no position on whether the relevant data should be included in a revised **PO-20,** a revised OP-5++, or some other metric. See Department of Justice Qwest III Evaluation at **6.** n.28. We also reject arguments that OP-5++ is inadequate to determine service order accuracy since potential service order errors, corrected before provisioning, are not counted in OP-5++. See Eschelon Qwest 111 Comments at **25-27.** These errors include errors found by competing LECs through their use of Qwest's pending service order notifiers (PSONs). Id. Eschelon argues that as competing LECs use the PSON data to identify errors before their due date, even fewer of these service order error will be reflected in Qwest's metrics, indicating that Qwest's performance has improved when competing LECs are performing quality control for Qwest. *Id.* Qwest has submitted evidence that shows that the error rate *for* manually handled orders was **4.49%** from Sept. **15,2002** to Oct. **15,2002.** See Letter from Hance Haney, Executive Director -Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. **02-314** (filed Dec. **5,2002)** at 1 (Qwest Dec. 5c Ex *Parte* Letter). We agree that not including these errors discovered by competing LECs prior to the provisioning process will reduce Qwest's incentive to improve its performance. However, as we have stated previously, we find that issues related to the exact definition of the performance metrics is best left to the state commissions.

390 See Eschelon Qwest 111 Reply Comments at **1-2;** WorldCom Nov. **6** Ex Parte Letter at 10-11. The CapGemini data reconciliation showed that 1.6% of Eschelon UNE-platform customers experienced a loss of dial tone for an extended period of time. See WorldCom Nov. **6** Ex *Parte* Letter at 10 (citing the CapGemini Report at **30,3940).** During August and September, Qwest tracked the incidence of this problem and found that of almost **32,000** orders processed by Qwest, only **26** experienced a **loss** of dial tone severe enough to warrant **a** call to the ISC. See Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, **to** Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. **02-314** (filed Nov. **22,2002)** at **2** (Qwest Nov. 22d Ex *Parte* Letter). We also note, although we do not rely on it. that Qwest has identified the problem and plans to implement a fix on (continued....)

CapGemini's analysis of OP-5 indicated that Qwest's performance on OP-5 for competing LECs is in parity with Qwest's retail performance.[391] Although we do not rely on it, we take additional comfort in the fact that many of the issues raised by CapGemini can be explained by historical limitations in the legacy Loop Maintenance Operation System (LMOS) that will be eliminated by a December systems release.'" Given the totality of the circumstances, we do not find that the Qwest errors in OP-5 that CapGemini identified rise to the level of checklist non-compliance.

(v) Order Flow-Through Rate

106. We conclude, as did the commissions of the nine application states,"' that Qwest's OSS are capable of flowing through UNE orders in a manner that affords competing carriers a meaningful opportunity to compete.[394] We also conclude that Qwest is capable of flowing through resale orders in substantially the same time and manner as it does for its own

(Continued from previous page)

December 29,2002. *Id* at 2. Additionally, commenters argued that some manual processing errors are not captured by any metric. Covad Qwest I Comments at 42 (stating that Qwest's reporting of OP-5 cannot be deemed accurate and reliable); Eschelon Qwest III Reply Comments at 1-2. We also note that Covad has claimed that OP-5 does not capture all of the troubles they report. *See* Covad Sept. 6 *Ex Porte* Letter at 1-2. However, Covad's issues regarding trouble tickets not included in OP-5 appear to be resolved. *See* Letter from Yaron Dori, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Oct. 2, 2002) at 1-4 (Qwest Oct. 2 *Ex Parte* Letter).

391 Cap Gemini claims that OP-5 (at least as far as Eschelon is concerned) shows new installation quality between 87.37% and 8826% for competing LECs, versus 86.84% for Qwest retail customers. *See* Eschelon Qwest III Reply, attaching CGE&Y's Data Reconciliation Report, Draft Version 2.0, dated Oct. 24, 2002 (CapGemini Report) at 4. We also note that Eschelon disputes CapGemini's final calculation, claiming that CapGemini miscalculated the trouble rate for competing LECs, as CapGemini included conversions of existing Eschelon UNE-Star customers to UNE-platform, which were handled as a special project. *See* Eschelon Nov. 12 *Ex Parfe* Letter at 2. The record shows that the business rules do not exclude conversion involving the same competing LEC. *See* Letter from Hance Haney, Executive Director - Federal Regulatory, Qwest, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (tiled Nov. 19,2002) at 5-6 (Qwest Nov. 19b *Ex Parte* Letter).

392 Additional issues raised by CapGemini relate to interpretations of the business rules for OP-5, such as whether service order errors should be included in OP-5. Qwest Nov. 13 *Ex Parte* Letter at 1-2. We find that disputes about the exact definitions of performance metrics are best addressed through the states and the LTPA process. In any event, as discussed above, Qwest now bas a metric which captures those ordering-related troubles reported via calls to service delivery centers, OP-5++.

393 *See* Colorado Commission Qwest I Comments at 2; Iowa Board Qwest I Comments at 32; Idaho Commission Qwest I Comments at *6;* Montana Commission Qwest II Comments at 19-22; Nebraska Qwest 1 Commission Comments at 8; Utah Commission Qwest II Comments at 1; Washington Commission Qwest II Comments at 14; Wyoming Commission Qwest II Comments at *6.*

394 Qwest's commercial data show, on the average, modest flow-through rates both for orders eligible for electronic flow-through as well as overall flow-through. *See* Qwest PO-2B-1 (Electronic Flow-Through for Eligible Resale LSRs Received Via GUI), and PO-2B-2 (Electronic Flow-Through for All Eligible **LSRs** Received Via EDI). These metrics have different standards, depending on the product type. The standards are escalating upward. By January 2003, the standards will be 95% for resale, LNP, and UNE-platform, and *85%* for unbundled loops. *See also* PO-2A-1 (Electronic Flow-through for all LSRs Received via GUI) and PO-2A-2 (Electronic Flow-through for All LSRs Received Via EDI). These metrics are diagnostic only.

retail customer orders.[395] We note at the outset that the Commission has used flow-through rates as a potential indicator of a wide range of problems that underlie a determination of whether a BOC has provided nondiscriminatory access to OSS.[396] The Commission has not relied upon flow-through rates as the sole indicator of nondiscrimination, however, and thus has not limited its analysis of a BOC's ordering process to a review of its flow-through performance data. Instead, the Commission has held that factors such as a BOC's overall ability to return timely order confirmation and reject notices, accurately process manually handled orders, and scale its system are relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner.[397]

107. As discussed above, Qwest demonstrates that it provides timely and accurate status notifications. In addition, the evidence demonstrates that Qwest accurately processes both manual and mechanized orders.[398] Moreover, as discussed more fully below, we find that Qwest scales its system as volumes increase, and demonstrates its ability to continue to do *so* at reasonably foreseeable volumes. As a result, in this application, flow-through has significantly less value as an indication of the capability of Qwest's OSS.

108. Our determination that Qwest is able to scale its systems is based on third-party tests that show that Qwest is able to process orders at projected future transaction volumes.'" KPMG examined Qwest's system responses and the timeliness of Qwest's EDI and GUI pre-order and order responses.[400] The test used projected transaction volumes simulating peak (150 percent of normal) and stress (250 percent of normal) transaction volume conditions." We reject commenters' contentions that Qwest has not proven that it can scale its system.[402] Although we recognize that there has not been significant commercial usage of Qwest's system,

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395 See Qwest PO-2B-I (Electronic Flow-Through for Eligible Resale LSRs Received Via GUI) showing four-month average flow-through rates ranging from 60 to 83% with a regional average of 74%, and PO-2B-2 (Electronic Flow-Through for Eligible Resale LSRs Received Via EDI), showing four-month average flow-through rates ranging from 35% to 92%, with a regional average of *80%.*

396 *See Bell Atlantic New York Order,* 15 FCC Rcd at 4035, para. 162.

397 See *id.* at 4035, para. 163, *SWBT Texas Order* 15 FCC Rcd at 18444, para. 179; and *BellSouth Georgia/Louisiana Order* 17 FCC Rcd at 9092, para. 143.

398 *See supra* paras. 98-99 & n.361.

399 See KPMG Final Report at 252-299 (Test 15: POP Volume Performance Test)

400 Id

401 *Id*

402 Eschelon Qwest III Comments at 4647 (arguing that the standard process for UNE-platform orders has not been "stress tested because Eschelon's orders were UNE-Star, not UNE-platform orders); WorldCom Qwest I Comments at 1; WorldCom Qwest I Lichtenberg Decl. at paras. 4, 6 (stating that while successful section 271 applicants *in* the past have relied upon both a third-party test of OSS and commercial activity in at least one state in their region, Qwest has almost no commercial experience *in* processing UNE-platform migration orders).

in the absence of such evidence, we look to third-party tests.[403] In the instant case, these tests have demonstrated that Qwest is able to timely and accurately return FOC and reject notices.[404]

109. Commenters express three specific concerns regarding OSS flow-through rates. First, competing LECs contend that low total flow-through rates are evidence that Qwest has failed to provide nondiscriminatory access to OSS.[405] Second, commenters complain that commercial experience indicates Qwest's "achieved flow-through rate, for orders designed to flow through, is too low?" Finally, commenters contend that, on conversions from Centrex to WE-platform or resale POTS, the LSR generates multiple service orders, some of which flow through, but with other portions falling out for manual handling.[407]

110. With respect to the first argument, we disagree with commenters that we should reject Qwest's application based on its average flow-through rates or because some kinds of orders are not designed to flow-through.[408] Although Qwest's commercial data show low

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403 *See Bell Atlantic New York* Order, 15 FCC Rcd at **3992,** para. **89;** *SWBT* Teras Order, 15 FCC Rcd at **18399,** para. **98.**

4M KPMG Final Test at 252-299.

405 See AT&T Qwest I Comments at **41;** AT&T Qwest I Comments, Finnegan Decl. at paras. **135–139,** 158; Covad Qwest 1 Comments at **40-41;** WorldCom Comments at 10-11. Total flow-through (PO-2A) measures the percentage of orders that pass through an incumbent's ordering systems without the need for manual intervention. Achieved flow-through (PO-2B) measures the percentage of orders that are designed to pass through an incumbent's ordering system electronically that actually flow-through without the need for manual handling. For example, Qwest's commercial data shows, total flow-through rates of **46-64%** for UNE-platform POTS, **44-69%** for unbundled loops, and **65-78%** for resale orders in Colorado. States with smaller volumes of transactions show flow-through rates as low as 0% for certain order types. See Letter from Christopher L. Killion, Counsel for Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. **02-148** (filed Aug. **19,2002)** at Attach. **1-5** (Qwest Aug. 19e *Ex Parte* Letter) (citing confidential version).

406 WorldCom Qwest I Comments at 10-11

407 Eschelon Qwest I Comments at **6.** This problem has caused some end-user customers to be out of service for several hours, as the disconnect portion of the order is the part of the LSR that flows through, while the new switch translation will fall to manual handling.

408 See WorldCom Qwest I Comments at 11; see also Eschelon Qwest I Comments at **4-5** (stating that since the 10.0 release on June **17,2002,** Eschelon cannot electronically submit CLEC-to-CLEC migration orders). Specifically, WorldCom argues that KPMG's test revealed problems with Qwest's flow-through. It points out that KPMG's commercial test resulted in less than **52%** of orders submitted through EDI flowing through to the SOP. WorldCom also argues that Qwest has not designed to flow through some order types – such as supplemental orders to change due dates or features – that are important and should flow through. WorldCom Qwest 1 Comments at 10. AT&T states that Qwest unilaterally decides which products are eligible for flow through. AT&T Qwest I Comments, Finnegan Decl at para. 138. Eschelon expresses similar concerns, particularly with regard to its conversion of certain Centrex numbers to either UNE-platform or resale that it says fail to flow through. See Eschelon Qwest I Comments at **6.** Touch America argues that the low total flow-through numbers increase the amount of manual handling, which "permits Qwest the opportunity to make mischief by revising information at will, creating new rules of the game, and obfuscating explanations upon inquiry." See Touch America Qwest I Reply at 15-16. We note that Qwest has a change management process (CMP) that controls the process and speed with which changes to the ordering system are introduced. Qwest has articulated a commitment to continue to analyze LSRs that (continued.. .)