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Arizona Corporation Commission
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IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH § 271 OF THE TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

WORLDCOM'S CLOSING BRIEF ON DISPUTED ISSUES REGARDING CHECKLIST ITEM 1 ON INTERCONNECTION & COLLOCATION

WorldCom, Inc., on behalf of its regulated subsidiaries, ("WCom") submits this brief addressing the remaining disputed issues from workshop two. WCom also concurs in the arguments raised in the brief filed by AT&T Communications of the Mountain States, Inc. and AT&T Local Services on behalf of TCG Phoenix (collectively "AT&T") also addressing the remaining disputed issues from workshop two. WCom incorporates those arguments, including the descriptions of Qwest Corporation's ("Qwest") legal obligations under federal and state law, rules and regulations as if fully stated here. This

brief will address certain disputed issues that remain relating to § 271 Checklist 1 Items on Interconnection and Collocation that were specifically raised by WCom.

All references to Qwest's Statement of Generally Available Terms ("SGAT") are the "SGAT lite" version filed on March 14, 2001, which WCom believes contains the most current language for Interconnection and Collocation, found generally in Sections 7 and 8, respectively of the SGAT lite.

I. INTERCONNECTION

A. Section 7.1.2.3. Mid-Span Meets Point of Interconnection ("POI").

In the Supplemental testimony of Thomas T. Priday (2 WorldCom-2), WCom proposed mid-span meet language on pages 3 and 4 of that testimony. Specifically, WCom proposed the following language be added to Qwest's SGAT:

> 7.1.2.3 Mid-Span Meet POI. A Mid Span Meet POI is a negotiated Point of Interface, limited to the Interconnection of facilities between one Party's switch and the other Party's switch. The actual physical Point of Interface and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI. These Mid Span Meet POIs will consist of facilities used for the provisioning of one or two way local/IntraLATA and Jointly Provided Switched Access interconnection trunks, as well as miscellaneous trunks such as HVCI, OS/DA , 911 and including any dedicated DS1, DS3 transport trunk groups used to provision originating CLEC traffic.
>
> > 7.1.2.3.1 The Mid-Span Fiber Meet architecture requires each party to own its equipment on its side of the Point of Interconnection (POI) and then share the investment of the fiber between the parties as agreed. CLECs may designate Mid-Span Fiber Meet as the target architecture, except in scenarios where it is not technically feasible or where the parties otherwise agree. CLEC will not be bound to the target architecture where embedded investment is sufficient to meet forecasted needs for a particular location
> >
> > 7.1.2.3.2 In a Mid-Span Fiber Meet the Parties agree to establish technical interface specifications for Fiber Meet arrangements that permit the successful interconnection and

completion of traffic routed over the facilities that interconnect at the Fiber Meet. The CLEC is responsible for providing at its location the Fiber Optic Terminal ("FOT") equipment, multiplexing, and fiber required to terminate the optical signal provided by Qwest. Qwest is responsible for providing corresponding FOT(s), multiplexing, and fiber required to terminate the optical signal provided by CLEC.

7.1.2.3.3 The parties shall, wholly at their own expense, procure, install, and maintain the FOT(s) in each of their locations where the Parties establish a Fiber Meet with capacity sufficient to provision and maintain all trunk groups. The parties shall mutually agree on the capacity of the FOT(s) to be utilized based on equivalent DS1s or DS3s. Each Party will also agree upon the optical frequency and wavelength necessary to implement the interconnection.

7.1.2.3.4 There are four basic Fiber Meet design options. The option selected must be mutually agreeable to both Parties. Additional arrangements may be mutually developed and agreed to by the Parties pursuant to the requirements of this section.

Design One: CLEC's fiber cable (four fibers) and Qwest's fiber cable (four fibers) are connected at an economically and technically feasible point between the CLEC and Qwest locations. This interconnection point would be at a mutually agreeable location approximately midway between the two. The Parties' fiber cables would be terminated and then cross-connected on a fiber termination panel as discussed below under the Fiber Termination Point options section. Each Party would supply a fiber optic terminal at their respective end. Either party may lease fiber from the other party, or from a third party, to fulfill its obligation to share the investment in the fiber. The POI would be at the fiber termination panel at the mid-point meet.

Design Two: CLEC will provide fiber cable to the last entrance (or Qwest designated) manhole at the Qwest tandem or end office switch. Qwest shall make all necessary preparations to receive and to allow and enable CLEC to deliver fiber optic facilities into that manhole. CLEC will provide a sufficient length of Optical Fire Resistant (OFR) cable for Qwest to pull the fiber cable through the Qwest cable vault and terminate on the Qwest fiber distribution frame

(FDF) in Qwest's office. CLEC shall deliver and maintain such strands wholly at its own expense up to the POI. Qwest shall take the fiber from the manhole and terminate it inside Qwest's office on the FDF at Qwest's expense. Each Party will supply a fiber optic terminal at its respective end. The Parties will agree what remuneration, if any, CLEC will receive for providing the majority of the fiber optic cable. In this case the POI shall be at the Qwest designated manhole location.

Design Three: Qwest will provide fiber cable to the last entrance (or CLEC designated) manhole at the CLEC location. CLEC shall make all necessary preparations to receive and to allow and enable Qwest to deliver fiber optic facilities into that manhole. Qwest will provide a sufficient length of Optical Fire Resistant (OFR) cable for CLEC to run the fiber cable from the manhole and terminate on the CLEC fiber distribution frame (FDF) in CLEC's location. Qwest shall deliver and maintain such strands wholly at its own expense up to the POI. CLEC shall take the fiber from the manhole and terminate it inside CLEC's office on the FDF at CLEC's expense. Each Party will supply a FOT at its respective end. The Parties will agree what remuneration, if any, Qwest will receive for providing the majority of the fiber optic cable. In this case the POI shall be at the CLEC designated manhole location.

Design Four: Both CLEC and Qwest each provide two fibers between their locations. This design may be considered where existing fibers are available or near each Party's location. Both CLEC and Qwest will provide fiber cable to the last entrance manhole (unless both parties designate otherwise) at the other's respective locations. Both CLEC and Qwest will provide a sufficient length of Optical Fire Resistant (OFR) cable for the other to run the fiber cable from the manhole and terminate on each parties respective fiber distribution frame (FDF) in each parties respective location. Each party shall deliver and maintain such strands wholly at its own expense up to the POI. Each party shall take the fiber from the manhole and terminate it inside each party's respective office on the FDF at each party's respective

> expense. Both parties will work cooperatively to terminate each other's fiber in order to provision this joint point-to-point SONET system. Both parties will work cooperatively to determine the appropriate technical handoff for purposes of demarcation and fault isolation.

Qwest opposes striking the prohibition to use mid-span meet for access to unbundled network elements ("UNEs"). A mid-span meet POI that is used by competitive local exchange carrier ("CLEC") and Qwest for interconnection, to the extent there is capacity available, should be available to a CLEC and Qwest to provide other types of local connections contained in the SGAT, such as ancillary trunks, E911 trunks, and connections to UNEs for the reasons argued by AT&T in its brief addressing this section of the SGAT. WCom agrees that CLECs should pay the appropriate charges that are approved and ultimately will be contained in the SGAT for that type of connection, calculated to the meet point to the extent that them mid-span meet POI is used to access ancillary trunks, E911 or UNEs.

WCom's proposed language addresses four designs for a mid-span meet POI. The first design is a standard meet point arrangement. The second design addresses the circumstances where the CLEC provides fiber to a Qwest building and Qwest takes the fiber into its building and terminals within the building. The third design addresses the opposite circumstances from the second design. The fourth design addresses the circumstances where the CLEC and Qwest each provide 2 fibers (or half of the facilities from point A to point B), where each already has fiber to each building, and parties want to take advantage of those facilities. The fourth design is really a point-to-point connection, and is not limited to use of SONET technology. SONET is a particular type of protocol. In addition, this fourth design proposed by WCom provides for needed redundancy to protect both CLEC and Qwest customers from network outages. Qwest's

standard wholesale mid-span product offering fails to provide that redundancy and, therefore, is an inferior product.

Consistent with Qwest's duty under the Act to provide interconnection at any technically feasible point, § 7.1.2.3 should be broadened to encompass all technically feasible types of meet point arrangements as described in WCom's proposed mid-span meet POI language.

WCom also objects to the language in SGAT § 7.1.2.3 that prohibits the use of mid-span meet arrangements to access unbundled network elements. As noted by AT&T, a mid-span meet arrangement, like other methods of interconnection, consists of facilities used to carry traffic between the ILEC's network and that of the CLEC. These same facilities (essentially the fiber optic pipe running between two locations) are identical to facilities purchased as dedicated trunks, and thus, they are capable of carrying traffic of end-users served through unbundled network elements as well as providing interconnection. In order to allow competitors to make the most efficient use of a mid-span meet, Qwest's SGAT should be revised to eliminate the prohibition against using mid-span arrangements to access unbundled elements. Moreover, the FCC expressly supports the use of such trunks for access to UNEs.[1]

During the workshop, Qwest claimed that the FCC prohibited the use of a mid-span arrangements or interconnection trunks for access to unbundled elements in ¶ 553 of the *First Report and Order*. Qwest is incorrect. The FCC's concern in ¶ 553 of the *First Report and Order* was not to prohibit the use of mid-span meet arrangements for access to UNEs, but rather its ¶ 553 clarifies that when a meet point arrangement is used for access

[1] *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order and Fourth further Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238 (Rel. Nov. 5, 1999) at ¶ 221 [hereinafter "***UNE Remand Order***"].

to UNEs the CLEC should bear 100 % of the economic costs associated with that use. As the FCC stated in ¶ 553:

> In a meet point arrangement each party pays its portion of the costs to build out the facilities to the meet point. We believe that although the Commission has authority to require incumbent LECs to provide meet point arrangements upon request, such an arrangement only makes sense for interconnection pursuant to section 251(d)(2) but not for unbundled access under section 251(c)(3). New entrants will request interconnection pursuant to section 251(c)(2) for the purpose of exchanging traffic with incumbent LECs. In this situation, the incumbent and the new entrant are co-carriers and each gains value from the interconnection arrangement. Under these circumstances, it is reasonable to require each party to bear a reasonable portion of the economic costs of the arrangement. In an access arrangement pursuant to section 251(c)(3), however, the interconnection point will be a part of the new entrant's network and will be used to carry traffic from one element in the new entrant's network to another. *We conclude that in a section 251(c)(3) access situation, the new entrant should pay all of the economic costs of a meet point arrangement.*[2]

It is clear from the last sentence of this passage that the FCC did recognize that a meet point arrangement could be used for access to UNEs. To the extent the CLEC, however, uses the facilities associated with the meet point arrangement for such access, it must pay the UNE rate for using that portion of the facility that is the ILEC's. AT&T does not deny that CLECs should pay a fair price for the portion of the connecting trunks to the meet point arrangement that are used for access to UNEs.

Thus, WCom recommends that Qwest be required to delete the prohibition against using meet point arrangements for access to UNEs from SGAT § 7.1.2.3. To do otherwise would be to deny CLECs the most efficient means of transport for both interconnection trunks and access to UNEs.

[2] *First Report and Order*, ¶ 553. (Emphasis added.)

B. Qwest's Repeated Refusals to Permit CLECs to Choose the Most Efficient Means of Interconnection is not Compliant with § 271 of the Act; This Refusal is Evident in its Single Point Of Interconnection Proposal.

Qwest is also unwilling to permit CLECs to choose the most efficient point of interconnection as required by the Act and FCC regulations. For example, while Qwest purports to allow a single point of interconnection per LATA,[3] its Single Point of Presence ("SPOP") product designed to implement this policy, unlawfully restricts the CLECs' ability to interconnect at any technically feasible point in Qwest's network.[4] This is just one example of Qwest's SGAT representing one thing, while in practice, Qwest's *present* policy is not consistent with the SGAT or the Act.

The SPOP product dictates to the CLEC that its POI will be its point of presence ("POP") and not Qwest's wire center (as has been traditionally considered the CLEC POI) or any other point the CLEC would choose.[5] This conduct unlawfully limits the CLECs' ability to interconnect at the place of its choosing. Furthermore, the SPOP product—like §7.2.2.9.6 of the SGAT discussed in more detail below—impedes interconnection at the access tandem, among other places, to cases where a local tandem is not available to get to an end office.[6] Moreover, among its other failings, the SPOP product wrongfully requires CLECs to choose between utilizing the SPOP in the LATA product offering or interconnecting at multiple points in Qwest's network. By limiting the CLECs' ability to design interconnection to meet their own needs for efficiency, the SPOP product violates §251(c)(2) and the FCC's implementing regulations.

As the FCC stated in its *First Report and Order*, "[t]he interconnection obligation of section 251 (c)(2) . . . allows competing carriers *to choose* the most efficient points at

[3] SGAT § 7.1.2; *see also*, Freeberg Rebuttal Affidavit at p. 12.
[4] AZ Exhibit 2 ATT 24.
[5] "For the purposes of this product, point of interconnect (POI) is defined as the wholesale customer's physical presence, and not the Qwest serving wire center (SWC) as has traditionally been the case with interconnecting carriers." AZ Exhibit 2 ATT 24 at p. 1.
[6] AZ Exhibit 2, ATT 24 at pp. 1 – 2.

which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic."[7] This means that, in contrast to Qwest's practice of narrowly prescribing the means by which CLECs may obtain interconnection, the Act allows interconnection and access to unbundled elements at any technically feasible point by any technically feasible means.

In addition to its violation of the Act, the SPOP product offering contradicts the SGAT and current interconnection agreements in other ways. CLECs have experienced difficulties with Qwest's personnel in the field that employ these product offerings or policies to the exclusion of all else, including interconnection agreements that otherwise permit the type of interconnection the SPOP product disallows. Thus, it appears that if a CLEC wants to enjoy the right to a single POI per LATA, it can do so only if it surrenders other rights it has under its interconnection agreement and under the Act. Qwest's performance for purposes of § 271 must be judged as much by what the SGAT says as by what Qwest actually does.

Finally, this discussion is only one example of Qwest attempting to unilaterally dictate CLEC actions that are addressed in the SGAT or interconnection agreements. After the Arizona workshops closed on these issues, in Washington, XO Communications introduced three Qwest publications issued on or about February 27, 2001, by Qwest entitled "Collocation Cancellation Policy 3-15-01," "Collocation Decommissioning Policy 3-15-01,"and "Collocation Change of Responsibility Policy 3-15-01". Each of these documents contained language to the effect: "This policy will be effective regardless of whether it is explicitly stated in a particular Interconnection Agreement." (Emphasis supplied.) Documents such as these demonstrate the need for a full discussion of

[7] *First Report and Order,* ¶ 172. (Emphasis added.)

documents referenced in the SGAT over which Qwest may have control.[8] Moreover, even if Qwest corrects the three documents at issue, Qwest must conform its internal documents and documents it provides to CLECs to the language approved for its SGAT.

WCom has consistently raised its concern over the relationship of Qwest publications or documents that are incorporated by reference into the SGAT. [See, Direct Testimony of Thomas T. Priday, (2 WorldCom-1) at page 34, filed August 3, 2000.] WCom raised this concern in its brief addressing dark fiber issues. As was stated there, WCom is particularly concerned that Qwest may change internal documents referenced in the SGAT, thereby, attempting to unilaterally modify the SGAT, because Qwest documents are incorporated by reference.

To alleviate that concern, Qwest agreed to add Section 2.3 to the SGAT which essentially states that where there is a conflict between the SGAT and any internal Qwest document referenced in the SGAT, such as technical publications or the IRRG, that the SGAT would control and prevail over those internal Qwest publications.

In addition, in other workshops, Qwest agreed that all revisions to technical publications, the IRRG, methods and procedures ("M&Ps") and similar internal documents or standards would be subject to a change management process known as the Co-Provider Industry Change Management Process ("CICMP") through which CLECs would have the opportunity to participate in any modifications to such documents.

While Section 2.3 may address Qwest documents that are in conflict with the SGAT terms and conditions, WCom is also very concerned about Qwest documents that may not directly conflict with SGAT terms and conditions, but rather purportedly add

[8] On March 21, 2001, WCom received revised versions of these three policies. In the revised versions, Qwest changed the language cited above to read: "If terms and conditions for collocation cancellation are included in the Co-Providers' Interconnection Agreement, and those terms differ from those set forth in this policy, then the terms of the Interconnection Agreement will prevail." Absent an ICA, Qwest retains unilateral control of such policy statements.

undesirable terms and conditions not contained in the SGAT that Qwest intends to impose on CLECs, such as those found in the Qwest's SPOP proposal.

Because WCom has raised this issue in workshop two and because sections of the SGAT, incorporates by reference certain technical publications,[9] WCom has stated its understanding of the agreements reached with Qwest during the workshops, and requests that these agreed upon changes be included in Qwest's SGAT here in Arizona and be addressed in detail in the workshop for general terms and conditions. Further, WCom requests Qwest's efforts to impose upon CLECs, for example, conditions found in the three documents provided in Washington also be addressed in that workshop.

Accordingly, until such time as Qwest recasts its underlying product offerings and its SGAT to eliminate restrictions on the CLECs' ability to designate whatever the point or points of interconnection they deem to be most efficient, Qwest cannot be found to be in compliance with Checklist Item No. 1.

C. SGAT § 7.2.2.8 – Qwest's Policies and SGAT Provisions on CLEC Interconnection Forecasting and Deposits.

As described in the Testimony of Thomas T. Priday (2 WorldCom-1 at Page 11, Line 22 through Page 12, Line 9 and 2 WorldCom-2 at Page 6, Line 4 through Page 11, Line 13), WCom has had concerns about Qwest's LIS trunking forecasting requirements described in Section 7.2.2.8. Qwest offers general language regarding forecasting. It has been WCom's experience that such general language does not adequately describe or outline the extensive process Qwest imposes on CLECs for forecasting. On their face, the forecasting requirements Qwest outlined in the SGAT seem standard, but in practice such a process has lead to miscommunication and inaccuracies between Qwest and various CLECs.

[9] See, Section 7.2.2.5 of the SGAT referencing Technical Publication 77398, for example.

WCom's existing Interconnection Agreements have language that is similar to that which Qwest has proposed in the SGAT. WCom has previously complied by generic language to provide specific quarterly forecasts according to a process only referenced by Qwest in the Interconnection Agreement. In practice, WCom's forecasting groups have spent several years redesigning and modifying WCom's industry standard methodology of forecasting to accommodate Qwest's peculiar requirements. Qwest continues to take the position that although WCom is meeting the plain language of the Interconnection Agreement in providing forecasts, WCom may be exposed to potential business risk of insufficient capacity if WCom does not continue to submit quarterly forecasts according to Qwest's peculiar requirements.

WCom is concerned that the broad language and references to Qwest's forecasting "processes" do not represent the true burden of the obligation Qwest imposes on CLECs for forecasting. Such a burden is anti-competitive, and goes against the purpose of providing forecasts in the spirit of cooperation and true joint planning. WCom does not support the forecasting provisions in various sections of the SGAT because, in addition to clarity problems, the provisions lack uniformity. While WCom is sympathetic to how business units may differ slightly in the content of forecasting, other ILECs do not have the peculiarity that exists in Qwest among business units, and within the industry. Qwest compartmentalizes processes within various business units so CLECs must mirror each process individually, rather than implement a consistent forecasting process across the board. While WCom has dedicated resources to be in compliance with Qwest's various methods of forecasting, it has not seen reciprocal action taken by Qwest to utilize these reports in proactive and accurate capacity planning. WCom's practical experience is that Qwest imposes hurdles to competition by tying up CLEC resources in fruitless forecasting processes.

WCom objects to Qwest's forecasting requirements for LIS trunks. Qwest provides contradictory language for forecasting. Section 7.2.2.8.1 provides that parties, *"shall work in good faith to define a mutually agreed upon forecast of LIS trunking."* The SGAT does not require Qwest to provide its relevant trunk forecasts to CLECs. Absent some sense of where Qwest will augment its network based upon all forecasts received by Qwest, CLECs cannot plan where to target marketing activities.

In Section 7.2.2.8.3, Qwest requires both Parties to utilize the *"standard forecast timelines as defined in the standard Qwest LIS Trunk Forecast Forms for growth planning."* Additionally, Parties are required in 7.2.2.8.4 to utilize the Forecast Cycle outlined in the Qwest LIS Trunk Forecast Forms. The "standard" Trunk Forecast Forms and the "standard" forecast timelines are not standard, but unique to Qwest and an unnecessary hurdle to accurate and cooperative business planning. (See, 2 WorldCom-3, Redacted Qwest LIS Trunk Forecast Form provided by WCom for Arizona needs.)

Qwest's standard process for LIS trunking forecasts calls for a very specific format for projecting capacity that is not industry standard. Unlike SBC, GTE, and other ILECs which require *total or cumulative* trunks to track forecasting (See, 2 WorldCom-4, Redacted Ameritech Forecast Form provided by WCom) , Qwest utilizes a system that wants only the *net* growth LIS trunks. WCom has previously worked in good faith in order to provide the modified data Qwest requires, but has encountered system and administrative nightmares when it comes to tracking actual growth under Qwest's process. Because Qwest wants only the plus/minus number of trunks from the existing usage at a specific point in time, capacity growth that was not projected in that forecast period, but utilized by the CLEC within that period, is not accounted for in actual trunk forecast. Rather, CLEC is forced to "true up" such growth by providing inflated forecast numbers in the next round of forecasting. When WCom experiences unanticipated growth, as is frequent in LIS trunking, it must consistently provide forecasts that are not accurate, but

rather are representative of past growth. This leads to heightened opportunity for error in forecasting. "True up" growth is not tracked in standard systems, and must be done manually. Despite the additional time and resources required by WCom to report through such a system, Qwest has not agreed to allow WCom to provide forecasts using the industry standard gross total trunk format.

An additional issue stems from Qwest's standard forecast process for LIS trunking. Section 7.2.2.8.4 alludes to a forecast cycle that includes a 6-month network build. It is WCom's experience that Qwest anticipates the network build by "freezing" the submitted forecasts for a 6-month period. Qwest has refused to accept modifications and updates (even via standard quarterly forecasts) during such a frozen period. Subsequently, WCom must again "true up" what it had forecasted within the quarterly reports during the frozen forecast period on the next non-frozen quarter. This means, in some cases, WCom will be forecasting growth that had already occurred as long as 6 months earlier, if the capacity need was not known prior to the "freeze." While WCom does not dispute the need for Qwest to take a "snapshot in time" to analyze capacity needs, the six-month frozen period is too long, and results only in gross inaccuracies. WCom in some cases has experienced 40-70% growth in certain trunk groups within a 6-month period. Such growth is not always foreseeable in the 6-month period prior to the growth, but may be available for the quarterly forecasts. When faced with a business risk of not having capacity in place for a large customer and due to Qwest's ongoing facility shortages throughout the region, WCom may overestimate needed trunks 6 months out, hoping to better size the needs in the quarterly reports.

Conversely, Qwest's standard frozen forecast process does not allow CLECs to downsize potential trunking needs through quarterly forecasts. Because forecasts are frozen 6 months prior, Qwest may be working off of inflated capacity needs from CLECs, where such needs would in other ILECs be right-sized through the quarterly forecast.

Tying the CLEC to frozen estimates, when correct numbers are available, is an inefficient use of capacity. Furthermore, WCom is convinced that a key cause of the underutilization of Qwest's LIS trunks is due to the requirements imposed by Qwest as part of its own LIS forecasting process. Attached to this brief as Exhibit A is WCom's proposal regarding forecasting.

Section 7.2.2.8.6 creates a process for forecasting that Qwest imposes on CLECs. WCom also objects to the deposit proposal for trunk forecasting and under-utilization. The capacity and provisioning difficulty Qwest has encountered frequently is due largely in part to their inefficient methodology for utilizing forecasts. WCom stands ready to provide accurate forecasts on a quarterly basis for trunk utilization. Qwest has rejected the accurate forecasts in favor of a frozen/true up system that has proven to be contrary to good business practice. CLECs are not bound legally or by practice to put a deposit down to ensure Qwest properly plans utilizing CLEC forecasts. Qwest has also said on the record that they do not build to meet 100% of the CLEC forecasted needs. Instead, Qwest uses the CLEC forecasts as only one of various inputs it to the construction and planning cycle. CLECs should not have to pay to receive assurance from Qwest that their needs will be met. The deposit system places a disproportional obligation and risk on the CLEC for trunk forecasting.

As argued above, the deposit requirement does not account for the 6 month freeze within the forecast, or net true-ups inherent in Qwest's forecast system. WCom also requests language accounting for how the deposit will be held, tracked, and reciprocated. Any exchange of money to be held by Qwest for any amount of time should have an interest provision, as well as more specific language on how the amount will be refunded with proper utilization. WCom objects to the addition of monetary exchange relating to forecasting without the specific requirements of forecasts incorporated into the SGAT. Finally, WCom asks for Qwest's mutual obligation. Will Qwest pay CLEC a similar

amount of money, or a sum proportionate to WCom's business risk, if Qwest fails to meet a CLEC forecasted need? Qwest has made no such offer in response to WCom's supplemental testimony. Accordingly, Sections 7.2.2.8.6 and 7.2.2.8.6.1 should be deleted from the SGAT in their entirety.

Ultimately WCom believes that providing timely, and real, forecasts for the quarterly requirements will result in a more accurate target for Qwest's capacity planning and more efficient trunk utilization. Such a goal can be met without obligating CLEC to provide a deposit in addition to a forecast. However, there are no provisions reflecting what occurs if Qwest fails to meet the capacity requirements. Qwest has not demonstrated why it desires quarterly forecasts with 2-year trunking requirements as opposed to semi-annual with a 1-year requirement, for example. WCom prefers semi-annual forecasts. Moreover, meaningful and effective forecasting should be a two-way process. CLECs should not be required to go through the very time-consuming process to provide forecasts to Qwest without specific reciprocal obligations upon Qwest. Qwest has failed to inform the parties how it will use the CLEC forecasts, and what it will report to CLECs regarding the construction of facilities. If forecasts are provided to Qwest, what assurance will the CLECs have that facilities will be available when the actual orders are placed? Will Qwest notify the CLECs when they will not be constructing facilities to meet CLEC forecasts?

D. SGAT §§ 7.5.4 and 7.6.3 – Qwest's Attempt to Charge for Call Records for Transit

Sections 7.5.4 and 7.6.3 concern the provision of Category 11-01-XX and 11-50-XX records sent in an EMR mechanized format. WCom and Qwest have not charged each other in the past for such call records. WCom's unrebutted testimony is that the cost to provide and store this data exceeds the benefit either party derives, which is why the parties have not charged each other in the past. WCom is exchanging on average 3 million

call records per month that would result in revenue to Qwest of $7,500 per month. There has been no showing by Qwest that the exchange of this information is out of balance. Given the reciprocal nature of this activity, WorldCom questions whether the cost associated with tracking and assessing such a charge is justified in view of the minimal cost associated with performing the database query to retrieve the 11-01-XX and 11-50-XX records and transmit them in an EMR mechanized format. [See, Supplemental Testimony of Thomas T. Priday, (2 WorldCom-2) at Page 11, Lines 14 through 21.]

E. SGAT § 4.11.2 – Qwest's Definition of "Tandem Office Switches" Violates § 271 of the Act.

WCom has previously addressed this issue in workshops addressing reciprocal compensation and in its Closing Comments dated February 8, 2000, addressing both Checklist Item Nos. 3 and 13 and incorporates those comments by reference here. However, generally WCom stated that the existing End Office ("EO") definition is too restrictive in the SGAT and proposed changes to that definition. In addition, WCom argued that the tandem definition found in Section 4.11.2 should be changed so that a CLEC switch could be classified as a tandem. The CLEC tandem should be able to charge both the EO switching, tandem switching and related tandem transmission. Where CLEC switches cover a comparable geographic area as Qwest's tandem switches, the reciprocal compensation rate for all local traffic terminated by that CLEC should include both the end office and the tandem switching rate as set forth by the FCC in 47 C.F.R. §51.711.

II. COLLOCATION

A. Qwest is Creating Allegedly "New" Products or Policies that, by Their Individual Terms and Conditions, Undermine Qwest's Actual Compliance with Its Obligations Under the Act, the SGAT and Interconnection Agreements.

As stated by AT&T in its brief, there are essentially two issues in dispute here. First, § 8.1.1 identifies eight standard types of collocation that are offered by Qwest. The section provides further, "other types of collocation may be requested through the BFR process." The *bona fide* request process, in the experience of both AT&T and WCom among others, is that it has proven to create unwarranted delay in the CLECs' ability to serve customers thereby creating enormous operational delays and impeding competition.[10]

Second, Qwest is "productizing" its collocation offerings by issuing policy statements further defining how the collocation product is to be accomplished. Within these policy statements Qwest demands that the CLECs subscribe to these policies regardless of what the SGAT or the interconnection agreements state.[11] Frequently the policies are contrary to the SGAT and interconnection agreements. In fact, Qwest has been known to demand that a CLEC sign just such a policy before Qwest will turn over provisioned collocation space that the CLEC has already paid for.[12] This second issue was discussed in the Interconnection Section of this brief under Section I.B. In fact, the three referenced publications that were issued on or about February 27, 2001, related to Collocation Policies.

As has been discussed in WCom's briefs addressing dark fiber issues and addressing line sharing and packet switching, WCom is very concerned that Qwest is

[10] *See* 10/24//01 OR Tr. at pp. 304 – 305; *see also* 2/7/01 OR Tr. at pp. 168 – 182.
[11] *See* Exhibit A-3, attached to AT&T brief.
[12] 1/23/01 CO Tr. at pp. 117 - 19.

using a variety of ways to unilaterally change or "interpret" language found in its SGAT by incorporating documents into the SGAT by reference or issuing policy notices that elaborate on CLEC obligations not contained in Qwest's SGAT. Moreover, as was discussed in the WCom briefs, Qwest is imposing processes, such as the BFR process and the ICB process, upon CLECs to obtain services. The requirement to use such processes from WCom's perspective only hurts consumers and interposes uncertainly and delay for CLECs trying to serve customers as WCom discussed in its brief addressing line sharing filed March 26, 2001. WCom will not repeat those arguments here, but incorporates them by reference.

WCom agrees with AT&T that to the extent that Qwest is relying on its SGAT as proof of its compliance with the competitive checklist under § 271, it can only be found to have satisfied the checklist if it is also shown that Qwest is *presently* providing service consistent with the provisions of the SGAT. The Collocation Policies and Performance Requirements set forth in Arizona Exhibit 2 ATT 20 and those in Exhibit A attached to AT&T's brief are inconsistent with the terms of the SGAT. As a consequence, Qwest should not be found to be in compliance with Checklist Item 1 until such time as it demonstrates that its collocation polices and performance requirements are, in fact, consistent with its SGAT and interconnection agreements.

B. Qwest Has Created Numerous Unnecessary Exceptions to Its Compliance with Timely Collocation Provisioning Intervals Such that It Creates Barriers to the CLECs' Right to Timely Collocation Under the Act.

WCom agrees with AT&T arguments concerning Qwest's attempts to extend the FCC mandated collocation intervals. In accordance with FCC Order, Qwest should provide collocation within the intervals outlined by the FCC, which require, among other things, that within 10 calendar days after receiving an application, Qwest must inform the

CLEC whether its application meets collocation standards.[13] Then, Qwest must complete physical collocation arrangements within 90 calendar days after receiving an application that meets the collocation standards.[14] Furthermore, Qwest must finish construction and turn functioning space over to the CLEC within the 90-day interval.[15] Longer intervals must be submitted to the state commissions for approval.[16] Qwest has, through its SGAT, proposed longer intervals in certain circumstances. Qwest has failed to adequately demonstrate that its longer intervals should be approved.

The FCC has set national standards for the provisioning intervals of physical collocation, but has not done so for virtual collocation.[17] However, the FCC has declared that "intervals significantly longer than 90 days generally will impede competitive LECs' ability to compete effectively."[18]

As stated by AT&T, there are four SGAT sections that create unwarranted exceptions to Qwest's obligations to provide timely and reasonable collocation for CLECs within the 90-day intervals. They are: (1) § 8.4.1.9 (formerly 8.4.1.8) imposing excessive limitations on the number of collocation applications a CLEC may submit to Qwest; (2) §8.4.2.4.3 & .4 imposing outrageously long provisioning intervals for virtual collocation; (3) § 8.4.3.4.3 & .4 again imposing excessive provisioning intervals on physical collocation; and (4) § 8.4.4.4.3 & .4 also imposing excessive provisioning intervals on ICDF collocation orders.

The Intervals for Physical Collocation are too broad thereby allowing Qwest to sidestep its FCC obligations to complete physical collocation within 90 days. These

[13] 47 C.F.R. § 51.323(l)(1).
[14] 47 C.F.R. § 51.323(l)(2).
[15] *See, Order on Reconsideration* at ¶ 30.
[16] *Order on Reconsideration* at ¶ 29.
[17] *Id.* at ¶ 32.
[18] *Id.* at ¶ 29.

intervals must be construed strictly. Qwest needs to face penalties for not being able to meet that 90-day deadline, not just count on loose language and a lack of negotiating power by CLECs to escape its legal responsibility to adhere to the deadlines.

For the reasons stated in AT&T's brief, WCom supports the SGAT modifications proposed by AT&T. WCom also addressed and opposed the collocation intervals proposed by Qwest in its SGAT. (See, 2 WorldCom-1, at Page 38, Line 35 through Page 40, Line 23 and 2WorldCom-2, at Page 19, Lines 1 through 5.)

C. Qwest's SGAT Arbitrarily Increases the Expense of Collocation for the CLEC in Developing and Defining Certain Collocation Rate Elements and by Leaving Other Rates to Be Determined on an Individual Case Basis ("ICB").

As AT&T stated, channel regeneration expenses and adjacent collocation rates established on an ICB serve to increase expenses incurred by CLECs and impose unnecessary delay and uncertainty for CLECs thereby becoming barriers to entry for CLECs. As argued earlier and in WCom's line sharing and packet switching brief, Qwest should be required to develop a set of standard adjacent and remote collocation offerings, incorporating collocation rate elements to the extent possible. This is consistent with the FCC's expectation that Qwest has created specific and concrete terms under which it provides interconnection, collocation and its other wholesale offerings.

Both remote and adjacent collocation are likely to become more and more frequent requests as wire centers become more congested and as digital loop carrier systems are more frequently deployed requiring carriers to access the loop at the Fiber Distribution Interface ("FDI"). Allowing Qwest to price these two types of collocation on an ICB leads to delay, unjust pricing and potential discrimination.

D. Qwest's Space Reservation Policies Favor Qwest over the CLEC.

WCom's testimony also addressed the fact that Qwest and CLECs do not have similar obligations under Section 8.4.1.7 and Section 8.2.1.16.[19] When comparing Section 8.2.1.16 (Qwest right to reserve floor space) with Section 8.4.1.7, Qwest does not have similar obligations to those imposed on CLECs in Section 8.4.1.7. Qwest will not prepare Collocation Space Reservation Application Forms, pay nonrecurring charges, or forfeit nonrecurring deposits if it doesn't use space. This is a discriminatory application of the SGAT.

WCom also considers the cancellation forfeiture found in Section 8.4.1.7.4, concerning Reservation/Deposits for Collocation, to be disproportionate with the reservation policy. Qwest did not contend that the forfeiture was a payment for the actual damages to Qwest. Rather, Qwest acknowledged that the deposit is not intended to cover Qwest's cost, but to be a hurdle to prevent warehousing of space and loss of opportunity costs.

Qwest further advised that the non-recurring charge to accompany the collocation application is the price of collocation requested, including all relevant charges under Section 8.3 of Exhibit A. Qwest acknowledged that the average collocation price is $100,000, thus significant CLEC dollars would be at stake. Qwest advised that for this fee, it will mark Qwest records, ascertain if power is available, and if infrastructure is required, it will build infrastructure.

For these reasons, Section 8.4.1.7.4 should be deleted.

[19] See, Supplemental Testimony of Thomas T. Priday, 2 WorldCom-2, at Page 17, Line 21 through Page 18, Line 22.

CONCLUSION

For the foregoing reasons, WCom requests that the Commission find Qwest is not in compliance with its § 271 obligations found in Checklist Item 1 concerning interconnection and collocation. In addition, should the Commission ultimately find Qwest in compliance with its legal obligations, the Commission must await the outcome of the OSS performance testing to make any final decision in relation to recommending Qwest's compliance, or lack thereof, to the FCC concerning interconnection and collocation.

Dated: March 28, 2001

LEWIS AND ROCA LLP

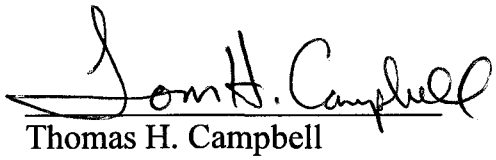

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EXHIBIT A

WORLDCOM'S
LIS FORECASTING PROPOSAL

WorldCom has expended a good deal of energy over the past year in an effort to resolve the LIS forecasting issues at the business table with Qwest. WCom proposes two alternatives to this impasse issue.

Current Forecast Process

It may be helpful to provide a brief overview of Qwest's current forecast process. Qwest's current forecasting for Local Interconnection Service (LIS) trunks imposes a forecast freeze period of anywhere from 6 – 9 months. For example, when Qwest and WorldCom meet during the first quarter (typically in January or February), the ***first*** quarter that Qwest will allow any forecast submission from WCom is the ***fourth*** quarter of the year. Certainly the most accurate portion of any forecast is the most immediate periods of time. The further out in the future, the less accurate any forecast will be. The moment a forecast is submitted, it becomes out of date due to the ever-changing needs of the telecom market. These changes can be either an increase or decrease to what local facilities are needed.

An example will help to illustrate this issue. As noted in the following example, when the parties meet during the first quarter of the year, Qwest will not allow any forecast submission or change to prior forecasts to the three shaded boxes. On Line A, WorldCom *would like to communicate to Qwest* that our needs have changed from prior quarters. WCom now knows that it will need additional 24 DS-0 level equivalents during the 2nd Quarter and 48 DS-0 equivalents during the 3rd Quarter of the year. In fact, WorldCom will place with Qwest, and hopefully Qwest will provision these orders during the 2nd and 3rd Quarters. However, Qwest's cumbersome LIS forecast process will not allow for this submission by WorldCom. The CLECs are told that this additional need must be "plugged" in the first "unfrozen" quarter. (See Line B below which is the current Qwest forecast requirement.) In other words, Qwest tells WCom that we should "plug" 72 DS-0s in the fourth quarter – when our need is actually in the 2nd and 3rd quarters of the year and WCom knows that fact when the forecast is submitted in January or February.

Line	Trunk Group	Current Circuits in Service	# of Circuits on Firm Orders	Total # in Service and On Order	1st Quarter 2001	2nd Quarter 2001	3rd Quarter 2001	4th Quarter 2001
A	VAILAZSODSO	96	24	120	0	24	48	0
B	VAILAZSODSO	96	24	120	0	0	0	72

WorldCom Proposed Alternatives

WorldCom strongly recommends that Qwest eliminate the 6 – 9 month freeze, go to a semi-annual process, and allow for a cumulative (rather than an incremental) forecast process. In a spirit of compromise, WCom is willing to continue a quarterly process, but recommends two possible solutions to this impasse issue. Both alternatives would be a better solution to the current cumbersome and inaccurate LIS forecast process.

Option #1: Eliminate 6-Month Freeze and Retain Net Forecast Format

WCom's first proposal would eliminate the six-month or greater freeze and allow CLECs to submit the ***net change*** or ***incremental forecast*** by quarter of DS-0 equivalents. An example of this proposal is highlighted below.

Line	Trunk Group	Circuits in Service	# of Circuits on Firm Orders	Total # in Service and On Order	1st Quarter 2001	2nd Quarter 2001	3rd Quarter 2001	4th Quarter 2001
C	VAILAZSODSO	96	24	120	0	24	48	0

The advantage of this first option is that CLECs could more accurately communicate to Qwest what the projected LIS needs are and when they will be needed. Qwest would then be better able to know when actual LIS trunk orders will be placed and need to be provisioned.

Option #2: Submit a Cumulative Forecast while Retaining the 6-Month Freeze

A second WCom proposed option would be for Qwest to change the LIS trunk forecast from a ***net change*** submission to a ***cumulative*** submission while retaining the 6 month freeze. This would allow CLECs to communicate the number of trunks that would need to be in service at the end of the quarter as noted below.

Line	Trunk Group	Circuits in Service	# of Circuits on Firm Orders	Total # in Service and On Order	1st Quarter 2001	2nd Quarter 2001	3rd Quarter 2001	4th Quarter 2001
D	VAILAZSODSO	96	24	120	Frozen	Frozen	Frozen	192

With Option #2, Qwest's network planning organization would presumably be tracking actual CLEC orders placed during the frozen period and, thus, could calculate the ***additional*** trunks needed to arrive at the cumulative unfrozen quarter total at any point in time. The above approach would be beneficial to both Qwest and CLECs and result in a more accurate forecast.