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BEFORE THE ARIZONA CORPORATION COMMISSION

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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**

AT&T'S POST WORKSHOP BRIEF
ON LOOPS, LINE SPLITTING, AND NID

TABLE OF CONTENTS

I. INTRODUCTION....1
II. ARGUMENT....3
A. Unbundled Loops 3
1. Legal Requirements....3
2. Disputed Issues on Loops....7
a. The provision of fiber and high capacity (OC-n) loops on an ICB basis (Loop – 2(b))....7
b. Qwest should revise certain of its Loop intervals (Loop - 4....8
c. Access to Loops Served Using IDLC (Loop – 4(b))....12
d. Obligation to Build (Loop – 6)....16
e. Qwest must refund conditioning charges when Qwest's performance causes the end user to abandon the CLEC/DLEC (Loop 8(b) and (c))....21
f. Spectrum Management (Loop 9)....23
g. Installation hours definition (Loop – 10(c))....28
h. Reciprocity of trouble isolation charges and specifics of Qwest's charges (Loop - 14)....28
i Qwest must allow CLECs to perform or request a pre-order MLT (Loop - 24)....29
j. Qwest should redesignate interoffice facilities where loop facilities are at exhaust (Loop - 25)....32
k. Qwest is not making address validation adequately available....33
l. Miscellaneous Issues....34
B. Line Splitting. 34
1. Legal Requirements....34
2. Disputed Issues on Line Splitting....35
a. Qwest should be required to provide access to outboard splitters on a line-at-a-time, or shelf-at-a-time basis. (Line Splitting – 4)....41
b. Qwest's policy decision to discontinue xDSL services to a customer when the customer chooses a CLEC for voice service is anticompetitive and a barrier to entry (Line Splitting - 6)....47
c. Customer of Record. (Line Splitting – 14)....49
C. Network Interface Device (NID) 51
1. Legal Requirements....51
2. Disputed Issues on NIDs....52
a. Qwest Must Make the NID Available on a Stand-Alone Basis (NID – 1)....52
b. Should Qwest make a NID available on a standalone basis where Qwest facilities extend beyond a terminal?....57
c. Qwest should be required to remove its connections from protectors when CLECs access the protector (NID – 4)....59
d. Where CLEC has its own protector in place, but can only gain access to the customer by access through the Qwest protector, the CLEC should not be required to pay to access the protector (NID – 9)....62

e. Qwest should be required to give CLECs access to cross connect fields of the NID other than the protector field and the inside wire side of the NID (NID – 10).....63

III. CHECKLIST ITEM 11 - LOCAL NUMBER PORTABILITY 65

A. General Description of Local Number Portability and the Relevant Legal Standard for Checklist Item 11.....65

B. Disputed Issues: As a Legal and Practical Matter, the SGAT Reveals Qwest's Lack of Compliance with Its § 271 Local Number Portability Obligations in the Following Ways.....66

1. ISSUE LNP 1(b) and 2 - Coordination of Qwest Disconnect with CLEC-Provided Loops and Disconnect Time Should be Moved to 11:59 of the Day Following the Due Date.....67

2. Issue 1(b) – Coordination of Qwest Disconnect with Unbundled Loops.....76

AT&T Communications of the Mountain States, Inc. and AT&T Local Services on behalf of TCG Phoenix, (collectively, "AT&T") file their Post Workshop Brief on checklist item 4 (loops), including line splitting and Network Interface Device ("NID").

I. INTRODUCTION

The United States Congress conditioned Qwest Corporation's (formerly known as U S WEST Communications, Inc., hereinafter "Qwest") entrance into the in-region interLATA long distance market on Qwest's compliance with 47 U.S.C. § 271. To be in compliance with section 271, Qwest must "support its application with actual evidence demonstrating its *present* compliance with the statutory conditions for entry."[1]

As AT&T has previously stated in its Comments in this proceeding, the states involved in this Section 271 investigation are charged with the important task of ensuring that their state's local telecommunications markets are open to competition and that Qwest is complying with its obligations under both the state and federal law. Although the Federal Communications Commission ("FCC") is the final decision-maker on Qwest's compliance with its section 271 obligations, the FCC looks to the state commissions for rigorous factual investigations upon which the FCC may base its conclusions.

To conduct a rigorous investigation, one must understand both the legal standards that Qwest is held to and investigate Qwest's actual implementation of those standards. Permitting Qwest to compete in the interLATA long distance market before it has fully

[1] *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, FCC 99-404 (Rel. Dec. 22, 1999), ¶ 37 ("*BANY 271 Order*").

and fairly complied with its obligations under section 271 will discourage, if not destroy, competition in both the local and long distance markets in the states.

Many local competitors, including AT&T, have invested heavily on the promise of open, fair competition in the local exchange market. AT&T requests that the commissions, through rigorous investigation of Qwest's claims in this proceeding, ensure that the nascent local competitors realize that promise. To that end, AT&T respectfully submits this Brief addressing the topic of loops, line splitting, and network interface device ("NID").

Through these workshops, the Arizona Corporation Commission ("Commission") is conducting its investigation of both Qwest's Statements of Generally Available Terms ("SGAT") and Qwest's actual compliance, or lack thereof, with the checklist items contained in 47 U.S.C. § 271(c)(2)(B). With respect to the SGAT review, a "State commission may not approve such statement unless such statement complies with [section 252(d)] and [section 251] and the regulations thereunder." 47 U.S.C. § 252(f). Furthermore, a state commission may establish or enforce other requirements of state law in its review of the SGAT. *Id.*

To demonstrate compliance with the requirements of section 271's competitive checklist, Qwest must show that "it has 'fully implemented the competitive checklist [item]... .'"[2] Thus, Qwest must plead, with appropriate supporting evidence, the facts necessary to demonstrate it has complied with the particular requirements of the checklist item under consideration.[3] Qwest must prove each element by a preponderance of the

[2] *BANY 271 Order*, ¶ 44.
[3] *Id.*, ¶ 49.

evidence.[4] Furthermore, the FCC has stated that the most probative evidence is commercial usage along with performance measures providing evidence of quality and timeliness of the performance under consideration. Finally, as with any application, the "ultimate burden of proof that its application satisfies all the requirements of section 271, even if no party files comments challenging its compliance with a particular requirement[,]" rests upon Qwest.[5]

II. ARGUMENT

A. Unbundled Loops

1. Legal Requirements.

Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services."[6] The FCC has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises.[7] This definition includes different types of loops, including "two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and

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[4] *Id.*, ¶ 48.
[5] *Id.*, ¶ 47.
[6] 47 U.S.C. § 271(c)(2)(B)(iv).
[7] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, FCC 99-325, (Rel. August 8, 1996), ¶ 380 ("*Local Competition Order*"); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order, FCC 99-238, (Rel. Nov. 5, 1999), ¶¶ 166 - 167, n. 301. ("*UNE Remand Order*") (retaining definition of the local loop from the Local Competition First Report and Order, but replacing the phrase "network interconnection device" with "demarcation point," and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

DS1-level signals."[8]

In order to establish that it is "providing" unbundled local loops in compliance with section 271(c)(2)(B)(iv), Qwest must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality.[9]

Qwest claims that the sheer volume of loops provisioned in its region is indicia that it is in compliance with Checklist Item 4. However, for Arizona, Qwest fails to present evidence that the number of unbundled loops provisioned by Qwest for CLECs is significant. The evidence presented by Qwest hardly constitutes the "sheer volumes" that Qwest claims. In addition, Qwest fails to indicate how many loops were requested by CLECs but not provisioned due to difficulties encountered by CLECs in ordering and provisioning the UNE Loop from Qwest or with related services, such as number portability. The level of quality for loop provisioning, not claims of "sheer volume," is central to the determination of whether this checklist item is met.[10]

Qwest must also demonstrate that it provides nondiscriminatory access to unbundled loops.[11] Specifically, Qwest must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the

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[8] *Local Competition Order*, ¶ 380; *UNE Remand Order*, ¶¶ 166 - 167.
[9] *BANY 271 Order*, ¶ 269; *Application of BellSouth Corporation Pursuant to Section 271 of the Communications Act of 1934, As Amended, To Provide In-Region InterLATA Services in Louisiana*, CC Docket No. 98-121, FCC 98-271, (Rel. Oct. 13, 1998), ¶ 54 ("*BellSouth Second Louisiana 271 Order*").
[10] *In the Matter of 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, CC Docket No. 00-65, FCC 00-238, ¶ 247 (Rel. June 30, 2000) ("*SBC Texas 271 Order*").
[11] *BANY 271 Order*, ¶ 269; *BellSouth Second Louisiana 271 Order*, ¶ 185.

loop facility to support the particular functionality requested.[12] In order to provide the requested loop functionality, such as the ability to deliver ISDN or xDSL services, Qwest may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities, with the competing carrier bearing the cost of such conditioning.[13] Qwest must provide competitors with access to unbundled loops regardless of whether Qwest uses integrated digital loop carrier (IDLC) technology or similar remote concentration devices for the particular loops sought by the competitor. Again, the costs associated with providing access to such facilities may be recovered from competing carriers.[14]

In the *UNE Remand Order*, the FCC concluded that "LECs must provide access to unbundled loops, including high-capacity loops, nationwide" and that "requesting carriers are impaired without access to loops, and that loops include high-capacity lines, dark fiber, line conditioning, and certain inside wire."[15]

Accordingly, the FCC redefined the "local loop," stating that:

> The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC. The local loop network element includes all features, functions, and capabilities of such transmission facility. Those features, functions, and capabilities include, but are not limited to, dark fiber, attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and line conditioning. The local loop includes, but is not limited to, DS1, DS3, fiber, and other high capacity loops.[16]

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[12] *BANY 271 Order*, ¶ 271; *BellSouth Second Louisiana 271 Order*, ¶ 187.
[13] *BANY 271 Order*, ¶ 271.
[14] *Local Competition Order*, ¶ 384.
[15] *UNE Remand Order*, ¶ 165.
[16] 47 C.F.R. § 319(a)(1).

The FCC stated that its intent in adopting this definition is to "ensure that the loop definition will apply to new as well as current technologies..."[17]

Thus, the termination of the loop must be clearly defined as is required by the FCC in the *UNE Remand Order*. Moreover, the FCC concluded that defining the termination point as the demarcation point is preferable to the NID "because, in some cases, the NID does not mark the end of the incumbent's control of the loop facility."[18] Citing Section 68.3 of its rules, the FCC determined that:

> the demarcation point is defined by control; it is not a fixed location on the network, but rather a point where an incumbent's and a property owner's responsibilities meet. The demarcation point is often, but not always, located at the minimum point of entry (MPOE), which is the closest practicable point to where the wire crosses a property line or enters a building. In multiunit premises, there may be either a single demarcation point for the entire building or separate demarcation points for each tenant, located at any of several locations, depending on the date the inside wire was installed, the local carrier's reasonable and nondiscriminatory practices, and the property owner's preferences. Thus, depending on the circumstances, the demarcation point may be located at the NID, outside the NID, or inside the NID.

In addition, Qwest must provide high capacity loops, including "DS1, DS3, fiber, and other high capacity loops."[19] The FCC determined that "high-capacity loops retain the essential characteristic of the loop: they transmit a signal from the central office to the subscriber, or vice versa."[20]

The FCC concluded, the definition of the loop includes "attached electronics including multiplexing equipment used to derive the loop transmission capacity" because

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[17] *UNE Remand Order*, ¶ 167.
[18] *Id.*, ¶ 168.
[19] 47 C.F.R. § 51.319(a)(1)
[20] *UNE Remand Order*, ¶ 176.

the definition of a network element is not limited to facilities, but includes features, functions, and capabilities.[21]

Further, the expanded definition requires the RBOC to provide all types of loops, including, DS1 and DS3 loops and fiber loops, which would include OC3 and OC12 loops, at a minimum.

In addition, because the FCC drafted its definition to specifically encompass new technologies, the SGAT must allow CLECs to obtain other "fiber" and "high capacity" loops as new technology emerges.

2. Disputed Issues on Loops.

Qwest's provisioning on unbundled loops and its SGAT are insufficient to demonstrate compliance. There are numerous examples of evidence that Qwest's performance is unsatisfactory in provisioning unbundled loops and where Qwest policy positions are contrary to the Act, FCC Orders and will deter the development of competition. Until Qwest's performance and its position of the disputed issues are brought into compliance with the Act and FCC Orders, Qwest cannot be deemed to be in compliance with Checklist Item 4.

a. <u>The provision of fiber and high capacity (OC-n) loops on an ICB basis (Loop – 2(b)).</u>

Qwest agreed, during the course of its unbundled loops workshops, to offer OC-n loops to requesting CLECs on an ICB basis. While AT&T is pleased that Qwest has agreed to offer these loops, AT&T has concerns regarding the ICB process which it will address in the general terms and conditions workshop.

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[21] *Id.*, ¶ 175.

b. Qwest should revise certain of its Loop intervals (Loop - 4.

A number of the standard intervals set forth in Exhibit C for Unbundled Loops should be revised. Specifically, the standard intervals for 1(a) -2/4 Wire Analog Loops, 1(b) 2/4 Wire Non-Loaded Loops, 1DS-1 Loops, and 1(h) Repair Intervals for Basic 2-Wire Analog are too long to provide the CLEC a meaningful opportunity to compete and should be revised.[22]

The standard interval is the interval in which Qwest is committing to provide a particular UNE to the CLEC.[23] It is the interval which the CLEC will rely upon in providing its retail customer when the CLEC will be able to provision service to that customer.[24] It is the interval which the CLEC uses for calculating its due date for submission of its order to Qwest and in designing and provisioning other components and facilities that make up the service that the CLEC is provisioning to its retail customer.

AT&T recommends the following revisions to Exhibit C:

(a) Established Service Intervals 2/4 Wire Analog (Voice Grade):

a)	1-8 lines	~~5~~ 3 business days
b)	9-16 lines	~~6~~ 4 business days
c)	17-24 lines	~~7~~ 5 business days
d)	25 or more	ICB

[22] AT&T proposed revisions to Interval 1(c) as well. However, Qwest has agreed to reduce these intervals and the new intervals proposed by Qwest are acceptable to AT&T. See AZ Transcript (05/16/01), pp. 1668-69.
[23] AZ Transcript (05/16/01), p. 1638-39.
[24] *Id.*

(b) Established Service Intervals for 2/4 Wire Non-Loaded Loops, Basic Rate ISDN Capable Loops, and ADSL Compatible Loops that do not require conditioning:

a)	1-8 lines	~~5~~ 3 business days
b)	9-16 lines	6 business days
c)	17-24 lines	7 business days
d)	25 or more	ICB

(d) Established Service Intervals for existing DS-1 Capable Loops, DS1 Capable Feeder Loop, 2-Wire Analog Distribution Loop:

a)	1 – ~~24~~ 8 lines	~~9~~ 5 business days
b)	9 - 16 lines	6 business days
c)	17 – 24lines	7 business days
~~b~~d)	25 or More	ICB

(h) Established Repair Intervals for Basic 2-wire Analog Loops, Line Sharing and Line Splitting:

~~24~~ 12 Hours OSS
48 Hours AS

The rationale for these revisions is as follows. For Intervals 1(a) and 1(b), conversions for these loops require simple jumpering and migration work. There is no reason why this work should take more than three days.

Qwest has already responded to AT&T's proposal on 1(a) by offering Quick Loop, which is loop conversion without number portability and indicated that it was

examining extending Quick Loop to loops with number portability.[25] However, Qwest made no commitment to do so.[26] The availability of Quick Loop for loops with number portability would resolve AT&T 's issues with 1(a) and should be required. Based upon the record, the large percentage of customer conversions involve number porting. Therefore, the Quick Loop offering is not very useful in meeting CLEC's needs if it is unavailable with number porting.

With respect to Interval 1(d), DS-1 loops, in the initial filing made by Qwest witness Karen Stewart in this workshop, Qwest proposed the very intervals AT&T is requesting.[27] Qwest now claims that it lengthened these intervals because those are the intervals that exist on the retail side and, therefore, the intervals in Exhibit C are parity.[28] Qwest also claims that these are the intervals that Qwest can meet.[29] Qwest notified CLECs of these changes to the standard intervals for DS-1s in the ROC process, but did not seek the approval or agreement of the ROC participants for these changes. Nor were these changes discussed by the ROC or TAG participants.

AT&T objects to Qwest revised intervals. AT&T is the largest purchaser of DS-1s from Qwest on the "retail" side.[30] Qwest arbitrarily and unilaterally changed the intervals offered to retail customers in the last year.[31] For years prior to that, Qwest provided DS-1s pursuant to the intervals AT&T is proposing here, although it did not do so in a timely fashion.[32] As has been the case on the local service, Qwest has failed to

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[25] *Id.*, p.1663.
[26] *Id.*, p. 1667.
[27] *Id.*, p. 1669.
[28] *Id.*, pp. 1670-71.
[29] *Id.*, pp. 1674 - 75.
[30] *Id.*, p. 1673.
[31] *Id.*
[32] *Id.*, p. 1671 - 73.

build facilities to meet customer needs in a timely manner and AT&T filed service quality complaints to attempt to resolve this issue.[33] Qwest's response was not to improve its service, but rather to change its provisioning commitment to its retail customers by lengthening the intervals.[34] It now uses those retail intervals that it arbitrarily altered to argue parity. In AT&T's view, the solution to poor service is not to change the intervals. Moreover, poor service on the retail side should not be used to drive parity decision of the wholesale side. Qwest should be required to establish an appropriate interval and meet that interval. BellSouth UNE Interval Table reflects a 5-day interval for 2 and 4 wire analog loops.[35] Qwest should be required to revise its DS-1 intervals.

As for 1(h), AT&T believes that an 18-hour interval on repair is more than sufficient given Qwest performance on mean time to restore. For its retail customers Qwest's mean time to restore is 10 hours.[36] That is the parity figure that should be used as the basis for establishing the wholesale service interval. Thus, the 12-hour interval proposed by AT&T is clearly appropriate and should be reduced to a 10-hour interval to be at parity with retail. If Qwest is not required to do better than a 24-hour interval on the wholesale side, CLECs will never be able to come close to matching the 10-hour repair time that its retail customers receive.

In addition, Qwest's mean time to restore on the wholesale side is currently

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[33] *Id.*
[34] *Id.*
[35] BellSouth UNE Interval Table, Issue 4B – February 2001, (Attachment A). Qwest has argued that the BellSouth interval is actually longer than portrayed, but the assumptions it relies upon only applies for LSR submitted manually or that require manual intervention.
[36] AZ Transcript (05/16/01), pp. 1687 - 90.

running at 4 hours, so it is clear that AT&T's proposal is realistic.[37]

Qwest argues that it has service quality obligations on the retail side under state commission rules that establish a 24-hour repair interval.[38] That is not the measure of parity. Parity is measured based upon the service Qwest provides to its retail customers, itself or its affiliates, not the standard established by state commissions. That is the only measure that will provide CLECs with a meaningful opportunity to compete, particularly where Qwest is performing better than the standard.

The retail service quality standards established by the state commissions may also be relevant to the assessment of whether the wholesale service intervals are appropriate where the standard interval proposed by Qwest impairs the CLEC's ability to meet any retail service quality standards imposed on the CLEC by state commissions. However, in Arizona, there are no service quality intervals imposed on CLECs, so the principle issue in Arizona is whether the CLEC has a meaningful opportunity to compete and for the intervals set forth above, CLEC would not. Accordingly, AT&T urges that the intervals addressed above be revised.

c. <u>Access to Loops Served Using IDLC (Loop – 4(b)).</u>

Section 9.2.2.2 describes the analog loops Qwest intends to offer on an unbundled basis. Initially, the last sentence of this section contained a limitation that UNE loops would be provided "to the extent possible." This was included to limit Qwest's obligation to provided loops that are served using Integrated Digital Loop Carrier ("IDLC").

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[37] Id., pp. 1689 - 90.
[38] Id., pp. 1690, 1692.

In the *Bell South Second Louisiana Order* and the *SBC Texas Order*, the FCC states that "[t]he BOC must provide competitors with access to unbundled loops regardless of whether the BOC uses [IDLC] technology . . ."[39] Qwest's SGAT, as initially filed, was not consistent with this requirement.

Qwest contends that the FCC has acknowledged the difficulty of provisioning loops that are served off of IDLC. That is true; however, the FCC has never altered the ILEC's obligation to provide IDLC loops.

Since the filing of testimony in these workshops, Qwest has made considerable progress in the steps it will take in provisioning IDLC loops. Specifically, during the course of the workshops, Qwest proposed new SGAT language to Section 9.2.2.2.1 and introduced numerous exhibits that outline Qwest processes for provisioning loops that use IDLC technology.[40] In addition, in Arizona, Qwest altered its position that hairpinning would be limited to 3 loops per central office and agreed to provision more than the three loops per central office on an interim basis.[41] Qwest also stated that a decision will be made to place a Central Office terminal when the number of hairpinned loops exceeds three loops.

With this commitment and Qwest's commitment to revise its technical publications within 45 days of the conclusion of the Colorado workshop on these issues, AT&T issues surrounding IDLC provisioning processes are resolved. However, it should be made clear in the order issued on this checklist item that Qwest remains obligated to provision loops served by IDLC and the ultimate objective of the steps outlined in the

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[39] *BellSouth Second Louisiana 271 Order*, ¶ 187, *SBC Texas 271 Order*, ¶ 248.
[40] *See* AZ Transcript (05/16/01), pp. 1478 – 95 and 5 Qwest 39 - 42.
[41] *Id.*, pp. 1486 - 87.

workshop and to be addressed in the technical publication is to ensure that CLEC/DLECs have access to unbundled loops served using IDLC.

In addition, AT&T requests direct access to Qwest's LFACs database, and access to any other database or source that contains information regarding Qwest's loop plant.[42] AT&T particularly seeks the ability to learn whether spare facilities, include "fragments" of loops, be made available by Qwest. The provision of services in areas where Qwest has deployed IDLC demonstrates why access to this information is necessary.

Qwest testified that unbundling IDLC loops is difficult and can take a significant amount of time.[43] Furthermore, xDSL services cannot be provided over unbundled IDLC loops. As such, CLECs need the ability to understand, in those areas where IDLC has been deployed, what spare copper facilities are available, including loop fragments, to determine whether to actively market to that area. A CLEC may determine that it is too risky to market to that area and then face delays in provisioning due to IDLC issues.[44]

This particular issue is not faced by Qwest's retail arm, because Qwest does not need to unbundled IDLC to provision service over IDLC. As such, the analysis should not be whether CLECs are receiving parity treatment, but rather whether CLECs are provided a meaningful opportunity to compete.

Ms. Liston's discussion of the loop qualification information provided by Qwest to CLECs during the workshop was limited to a parity analysis. She asserted that the information that a CLEC can obtain is equal to that available to Qwest's retail arm. Ms.

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[42] *Id.*, pp. 1478 - 1489.
[43] *See generally* discussion of IDLC unbundling in May 1, 2001 Multistate Transcript (Attachment B), p. 211.
[44] Multistate Transcript (05/01/01), p. 86.

Liston later said "There's nothing in the FCC rules that said that Qwest has to give you information about our entire network in any different fashion than we do for retail."[45] Qwest also asserted that the ROC is testing parity, to determine whether wholesale has access to the same information as retail.[46] Qwest's interpretation of the FCC's requirements misses the mark entirely.

As discussed above regarding MLT access, Qwest must provide carriers with the same underlying information that Qwest has in any of its own databases or internal records.[47] The relevant inquiry is not whether Qwest's retail arm "has access to such underlying information but whether such information exists anywhere in [Qwest's] back office and can be accessed by any of [Qwest's] personnel."[48]

Qwest's witness testified that the processes Qwest currently offers to CLECs only provide information on spare loop facilities that are "connected through to that customer."[49] AT&T asserts that information regarding all spare facilities, including fragments, is necessary to have a meaningful opportunity to compete. AT&T believes that Qwest maintains records of spare facilities, including loop fragments, somewhere in its back office. If LFACs is where this information is maintained, Qwest should provide CLECs with access to LFACs. If that information is in TIRKs, some other database, to which Qwest alluded in the Colorado workshop,[50] or in engineering records, Qwest must provide access to that information in a non-discriminatory manner.[51]

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[45] *Id.*, p. 82.
[46] Multistate Transcript (05/01/01), p. 20.
[47] *BellSouth Kansas/Oklahoma 271 Order*, ¶ 121; *Massachusetts Verizon 271 Order*, ¶ 54; *UNE Remand Order*, ¶ 427.
[48] *Id.*; *UNE Remand Order*, ¶ 430.
[49] Multistate Transcript (05/01/01), p. 22.
[50] *See* Attachment C, Transcript from May 25, 2001 Colorado Unbundled Loops Workshop.
[51] *BellSouth Kansas/Oklahoma 271 Order*, ¶ 121; *Massachusetts Verizon 271 Order*, ¶ 54.

As a final excuse for not allowing CLEC access to its database, Qwest asserts that it cannot provide access to LFACs because it contains information proprietary to Qwest, other CLECs or end user customers.[52] AT&T would support a provision that would restrict CLEC use of information contained in LFACs, or other databases that may be made available, for proper purposes and not for gathering competitive information of competing carriers or specific to end users. Furthermore, AT&T is certain that accommodation can be made to ensure no improper access to or use of proprietary information results from CLEC access to LFACs. Verizon and Southwestern Bell provide access to LFACs, apparently finding some solution to the proprietary information issue.[53]

By denying competing carriers access to loop qualification information as required by the *UNE Remand Order*, Qwest fails to meet its obligation to provide a competitor a meaningful opportunity to compete.

d. Obligation to Build (Loop – 6).

The SGAT states that Qwest will provide CLECs access to UNEs, including loops, "provided that facilities are available."[54] In Section 9.2.4.3.1.2.4 of the SGAT, Qwest states that "if appropriate facilities are not available to fill CLEC's order, and a facility build that would satisfy CLEC's order is not scheduled and funded, Qwest will send CLEC a rejection notice and cancel the order." Also, in the section of the SGAT regarding construction, it is clear that Qwest will not build UNEs unless it believes, based

[52] Multistate Transcript (05/01/01), p. 98.
[53] *BellSouth Kansas/Oklahoma 271 Order*, ¶ 122; *Massachusetts Verizon 271 Order*, ¶ 57.
[54] SGAT §§ 9.23.1.4, 9.23.1.5, 9.23.1.6 and 9.23.3.7.2.12.8. There are other sections that incorporate the notion that Qwest does not have to build UNEs, for example, SGAT §§ 9.1.2.1 and 9.19.

on "an individual financial assessment," that it is in *Qwest's* interests to do so.[55] It is AT&T's position that Qwest must build loops, and other UNEs, for CLECs under the same terms and conditions that Qwest would build network elements for itself (or its retail customers) at cost-based rates.

The FCC has stated that:

> [t]he duty to provide unbundled network elements on "terms, and conditions that are just, unreasonable, and nondiscriminatory" means, at a minimum, that whatever those terms and conditions are, they must be offered equally to all requesting carriers, and where applicable, they must be equal to the terms and conditions under which the incumbent LEC provisions such elements to itself.[56]

The FCC's rules also require that the ILEC provision network elements to CLECs on terms and conditions no less favorable than the terms and conditions under which the ILEC provides such elements to itself.[57]

In its *Local Competition Order*, the FCC does not explicitly state that ILECs do not have to build network elements, except for unbundled interoffice facilities, but rather concludes:

> Rural Telephone Coalition contends that incumbent LECs should not be required to construct new facilities to accommodate new entrants. We have considered the economic impact of our rules in this section on small incumbent LECs. In this section, for example, we expressly limit the provision of unbundled interoffice facilities to existing incumbent LEC facilities. We also note that section 251(f) of the 1996 Act provide relief for certain small LECs from our regulations under section 251.[58]

In its order, the FCC recognized the economic impact on small ILECs of having to build transport. It explicitly held all ILECs need not build transport; however, it made

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[55] SGAT § 9.19.
[56] *Local Competition Order*, ¶ 315. In an accompanying footnote, the FCC stated that "[t]he term 'provisioning' includes installation." *Id.*, n. 684.
[57] 47 C.F.R. § 313(b).
[58] *Id.*, ¶ 451. *See also, UNE Remand Order*, ¶ 324.

clear that for all other network elements, section 251(f) provides the relief for *rural* ILECs from any economic impact imposed on the *rural* ILECs as a result of having to build network elements for CLECs.[59] Therefore, although it explicitly limited an ILEC's obligation to provide interoffice facilities to existing facilities, the FCC made no explicit limitations for the other network elements, whether for rural or non-rural ILECs, and no such limitation can be inferred.

Furthermore, the FCC has held that the ILECs have an obligation to replace UNEs that are being provided to CLECs.[60] An obligation to replace UNEs is essentially the same thing as an obligation to build UNEs. Finally, the FCC's rules also require that the ILEC provision network elements to CLECs on terms and conditions no less favorable than the terms and conditions under which the ILEC provide such elements to itself.[61]

Accordingly, an ILEC must build loops and other network elements for CLECs (except interoffice facilities) under the same terms and conditions that the ILEC would build the facilities for itself, at cost-based rates under section 251(d). Any other holding would be discriminatory and prevent the CLECs from having a meaningful opportunity to compete.[62] Any other holding would allow Qwest to deny a CLEC's request for a UNE and then build the network element for itself to provide the service to the same

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[59] Section 251(f) applies only to rural ILECs; therefore, ILECs such as Qwest cannot seek exemption from it obligation to build under section 251(f).
[60] *Local Competition Order*, ¶ 268; 47 C.F.R. § 51.309(c).
[61] 47 C.F.R. § 313(b).
[62] *Local Competition Order*, ¶ 315. Qwest relies on language in an Eighth Circuit opinion, that an ILECs obligation requires that it provide access only to its "existing network -- not to a yet unbuilt superior one." *Iowa Utils Bd. v. FCC*, 130 F.3d 753, 813 (8th Cir. 1998). Qwest's reliance on this language is misplaced. The Eighth Circuit in this portion of its decision was reviewing the FCC's rules that required ILECs to provide *superior* interconnection and access to network elements. It struck down these rules (47 C.F.R. §§ 51.305(a)(4) and 51.311(c). Any discussion of these rules and decision to vacate these rules cannot be extended to an ILEC's duties under section 251(c)(3) or other rules not vacated by the Eighth Circuit.

customer.[63] If Qwest refuses to build a network element for a CLEC and subsequently provides the service to the same customer, it can easily be concluded that Qwest discriminated against the CLEC because Qwest built the facility on *some* terms and conditions, terms and conditions that should have been provided to the CLEC.[64]

In a recently issued policy statement, Qwest has agreed to build DS0 loops if Qwest has an obligation to build under its provider-of-last-resort obligations.[65] This offer is limited to the "first voice grade line per address." Qwest's offer does not go far enough and does not comply with the Act and the FCC's rules. In this same policy statement, Qwest has altered its policy on held orders. Specifically Qwest has now determined that orders that are currently in held status will be rejected if there are no facilities and no current construction jobs planned. For new services orders placed by CLECs, if no facilities are available and no construction jobs are planned, the LSR will be rejected, rather than place the order in a held order status.

Numerous CLEC expressed concerns with this new policy. First, Qwest's unilateral decision to reject previously held orders and to reject future orders for no facilities available is problematic on several levels. The policy appears to be primarily designed to alleviate Qwest's PID performance, creating the false perception that Qwest is provisioning network elements, and as relevant here, loops, at a quantity that CLECs may demand. Clearly, that would not be the case as Qwest would be rejecting and not

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[63] This is the likely result of Qwest's position. An end-user customer that is advised by a CLEC that facilities are not available is going to try to obtain the facilities from another carrier. If Qwest will not build the facilities for any CLEC, the customer will eventually wind up at Qwest, leaving Qwest to build the facilities on any terms it wishes.

[64] Once again, it should be noted that Qwest is fully compensated under section 252(c) for its costs. Arguably, its profits may not be as high as those it receives under its retail tariffs.

[65] *See* Attachment D and 5 Covad 4.

counting CLEC demand in its PID data.

Second, AT&T does not believe that Qwest has invoked a similar policy for its retail customers. Therefore, Qwest is discriminating against its wholesale customers in refusing to keep track of CLEC held orders and failing to take those held orders into account in developing its construction plans.

Third, CLECs questioned the Qwest ability to get in queue for new facilities ahead of CLECs on the basis that Qwest will always possess superior and advanced knowledge regarding its own build plans. While Qwest agreed to add a provision to the SGAT that would provide CLECs with notice of major facilities build that states as follows:

> Qwest will provide CLEC notification of major loop facility builds through the ICONN database. This notification shall include the identification of any funded outside plant engineering job that exceeds $100,000 in total cost, the estimated ready for service date, the number of pair or fibers added, and the location of the new facilities (e.g., distribution Area for copper distribution, route number for copper feeder, and termination CLLI codes for fiber). CLEC acknowledges that Qwest does not warrant or guarantee the estimated ready for service dates. CLEC also acknowledges that funded Qwest outside plant engineering jobs may be modifies or cancelled at any time.

However, this proposed SGAT revision does not completely alleviate CLEC concerns that Qwest will be able to give its customer preferential treatment in the design, development and access to future facilities builds initiated by Qwest.

Accordingly, the language "provided that facilities are available" should be stricken from SGAT sections 9.2.4.3.1.2.4, 9.23.1.4, 9.23.1.5, 9.23.1.6 and 9.23.3.7.2.12.8 and any other conforming changes required to remove any limitation of Qwest obligation to build and that permit Qwest to reject LSRs for no facilities available, rather than allowing such orders to go held. Furthermore, SGAT section 9.19 should be

amended. The first sentence of this section should be amended to read: "Qwest will conduct an ~~individual financial~~ assessment of any request which requires construction of network capacity, facilities, or space for access to or use of unbundled loops." The Commission should also make clear that under section 9.1.2 of the SGAT and related provisions, Qwest is obligated to build UNEs, except dedicated transport, on a nondiscriminatory basis at cost-based rates under section 252(d).

e. Qwest must refund conditioning charges when Qwest's performance causes the end user to abandon the CLEC/DLEC (Loop 8(b) and (c)).

Loop 8(b) concerns the legitimacy of Qwest's imposition of a charge for conditioning unbundled loops. Specifically, AT&T disputed this charge on the grounds that Qwest is already recovering the cost of conditioning in its UNE loop charge. This issues was deferred to the cost case.

With respect to Loop 8(c), AT&T and other CLECs have raised concern regarding the quality and timeliness of delivery of conditioned unbundled loops.[66] Under the terms of Qwest's SGAT, the CLEC end users' experience could be adversely affected by Qwest poor performance, causing the end user to abandon the CLEC, and the CLEC would still be obligated to pay the conditioning charges.

Initially, AT&T proposed language that would refund the CLEC a pro rata portion of the conditioning charges if the customer migrated away from the CLEC within a certain period after the service was requested, irrespective of Qwest's fault. As a result of discussions in workshops and AT&T refining its position, AT&T now proposes the

[66] *See*, AZ Transcript (05/16/01), pp. 1542 - 44.

following language, which could be a new Section 9.2.2.4.1 in the SGAT:

> 9.2.2.4.1 If CLEC's end user customer, for which CLEC has ordered x-DSL capable Unbundled Loops from Qwest, (i) never receives x-DSL service from CLEC, (ii) suffers unreasonable delay in provisioning, or (iii) experiences poor quality of service, in any case due to Qwest's fault, Qwest shall refund or credit to CLEC the conditioning charges associated with the service requested. This refund or credit is in addition to any other remedy available to CLEC.

This language would ensure that Qwest is compensated when it performs the loop conditioning in a timely manner and delivers a quality loop, as contracted for by the CLECs. If Qwest fails to do so, the CLEC should not have to bear the conditioning cost. This acts as an incentive for Qwest to perform and works toward making the CLEC whole. Arguably, even with this type of provision, the CLEC cannot be made whole if Qwest does not perform and causes a bad end user experience. Not only will the CLEC lose future revenue, but its reputation will be damaged. Customers do not care that it is Qwest rather than the CLEC who causes their bad experience. From the customers' perspective, the experience with the CLEC was bad.

Qwest raised issue with this proposal, stating that it should be addressed as a billing dispute.[67] This would enable Qwest to collect payment for a service when it performed badly, and force the CLECs to pursue dispute resolution for each line that is misprovisioned. Dispute resolution is not a quick process. According to Qwest's SGAT, a billing dispute would take in excess of 2 months just to get in front of a decision maker.[68] Arbitration will likely take several months to complete. This process is untenable for refund of conditioning charges, especially when Qwest purports to hold the

[67] *Id.*, p. 1532.
[68] SGAT Sections 5.4.4 and 5.18.

funds while the dispute is pending and would be incented to keep that money as long as possible.

Some claims for conditioning charge refund may end up in dispute resolution, but there should be an obligation up front that Qwest will refund the conditioning charge if Qwest fails to perform. AT&T believes that many cases of fault are clear-cut and not subject to debate.[69] In those cases, this provision would be a quick and efficient mechanism to address the problem.

Qwest has suggested that CLECs should enter into termination liability agreements with end user customers to compensate for the conditioning cost if the customer leaves after requesting CLEC xDSL service. This is unacceptable and side-steps the real issue, which is Qwest's failure to perform.

AT&T requests that its proposed language be added. This provision would help to ensure that CLECs have a meaningful opportunity to compete consistent with the intent of the Act.

f. <u>Spectrum Management (Loop 9).</u>

Spectrum compatibility refers generally to the ability of loop technology to reside and operate in the same or an adjacent "binder group" as another loop technology.[70] The FCC has stated that the continuing development of spectrum compatibility standards should help to minimize crosstalk, the noise caused by extraneous signals combining with the intended signal and that such noise can result in the degradation of the intended

[69] AZ Transcript (05/16/01), p. 1535.
[70] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order, CC Docket No. 98-147, FCC 99-355, ¶ 178 (Rel. Dec. 9, 1999) ("*Line Sharing Order*").

signal.[71] Spectrum compatibility is achieved when energy that transfers into a loop pair, from services and transmission system technologies on other pairs in the same cable, does not cause an unacceptable degradation of performance.[72] Spectrum management refers to loop plant administration, such as binder group management, and other deployment practices that are designed to result in spectrum compatibility, preventing harmful interference between services and technologies that use pairs in the same cable.[73]

AT&T supports the revised SGAT language proposed by Rhythms regarding Spectrum Management. Rhythms proposed language best reflects competitively neutral spectrum management practices, is consistent with FCC Orders and advances the goals of Section 706 of the Act to "encourage the deployment on a reasonable and timely basis of advance telecommunications capability to all Americans."[74]

The problems posed by Qwest's SGAT language and its spectrum management position are several fold. First, Qwest opposes SGAT language that would explicitly require Qwest to convert its T-1s to alternative technology where its facilities are causing interference. The FCC has clearly determined that T-1s are "known disturbers" and has established an exception to the first-in-time rule for T-1s. Specifically, in the *Line Sharing Reconsideration Order*, the FCC stated:

> We also reject Bell Atlantic's argument that the Commission's decision to permit newly deployed technologies to prevail against "known disturbers" in interference disputes is inconsistent with its "first-in-time" precedent. We find that the *Line Sharing Order* provides a limited exception to our "first-in-time" interference precedent that is reasonable based on the intent of section 706 of the Act and our policy goal, supported by the record, that deployment of innovative technologies that will result in less interference

[71] *Id.*
[72] *Line Sharing Order*, ¶ 178.
[73] *Id.*
[74] 47 U.S.C. § 157.

> should not be disadvantaged by favoring known disturbers like AMI T1. As we stated in the *Line Sharing Order,* any approach to resolving interference disputes that favors incumbent LEC services in a manner that automatically trumps, without further consideration, innovative services offered by new entrants is neither consistent with section 706 nor with the Commission's goals as set out in the *Advanced Services First Report and Order.* With respect to known disturbers, we sought to ensure that "noisier" technologies that are at or near the end of their useful life cycles do not perpetually preclude deployment of newer, more efficient and spectrally compatible technologies.[75]

The FCC left to state commissions to determine the disposition of known disturbers in the network.[76] The FCC declined to order a nationwide sunset period for known disturbers, but concluded that states are better equipped to take an objective view of the disposition of known disturbers because ILECs have a vested interest in their own substantial base of known disturbers.[77] The FCC did, however, encourage carriers to discontinue deployment of known disturbers and emphasized that carriers should replace known disturbers with new and less interfering technologies.[78]

That is precisely what Rhythms is proposing here. They have not suggested a complete sunsetting of T-1s and hDSL technology. Rather, Rhythms has proposed a less onerous and invasive solution that would merely require Qwest to replace T-1s and hDSL technology where the facilities are causing interference.[79] Qwest acknowledges that T-1s are known disturbers, but Qwest seeks to place limiting language on its obligation to change out T-1s. Qwest contends that it is not always possible to replace T-1s with

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[75] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability,* Third Report and Order on Reconsideration, CC Docket No. 98-147, FCC 01-26, ¶ 54 (Rel. Jan. 19, 2001) ("*Line Sharing Reconsideration Order*").
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] Multistate Transcript (05/01/01), pp. 254, 258 - 59.

alternative technology.[80] Rhythms disputed this.[81] The best way to resolve this dispute is to adopt the Rhythms proposed language, but permit Qwest, if no alternative technology exists in a particular case, to seek a waiver of the requirement from the state commission.

As for the placement of T-1s in the future, Rhythms proposes SGAT language that would explicitly state that all providers have an obligation to comply with the industry standards and detail what that would require. Qwest contends that its SGAT language is sufficient. However, Qwest's language does not reflect any obligation on Qwest's part to not deploy facilities that interfere with advanced services. Rhythms language more clearly describes the requirements that must be met by all carriers in managing spectrum and articulates what is impermissible. In addition, Rhythms language is more consistent with the goals of Section 706 of the Act.

Second, Rhythms claimed that Qwest was placing T-1s on binder groups where Rhythms circuits reside and that the T-1s were causing interference sufficient to put Rhythms customers out of service.[82] While Qwest's witnesses professed confusion as to how this could be occurring, Qwest own employees were telling Rhythm this was the case.[83] The bottom line is that no carrier should be placing known disturbers in binder groups that could cause interference. Rhythms proposed SGAT language that would require all carriers to follow spectrum management guidelines.

Similarly, this same proposed SGAT language and the adoption of a spectrum management policy that assumes that DSL is present in binder groups would eliminate

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[80] *Id.*, p. 298.
[81] *Id.*, pp. 254, 299.
[82] Multistate Transcript (05/01/01), pp. 233, 235, 265 - 66.
[83] *Id.*, pp. 282 - 83, 265 - 66.

the need to provide NC/NCI codes to Qwest.[84] Qwest contends that such information is necessary in order for Qwest to engage in binder group management.[85] The information Qwest's seeks is competitive information and, if all carriers are required to not deploy facilities that will cause interference, there is no need for the disclosure except where required to resolve disputes. In any event, industry standards bodies have now adopted provisions that reject the disclosure of this information.[86] In the *Line Sharing Order*, the FCC set the minimum ground rules at that time to "enable the industry, through its standards-setting bodies, to develop spectrum compatibility standards and spectrum management practices on a continuously ongoing basis, with our assumption of the standards-setting function only in extreme cases where industry standards bodies continue to fail in upholding the general policies that underlie spectrum compatibility standards and spectrum management rules and practices."[87]

Finally, Rhythms proposes that Qwest be required to follow spectrum management guidelines in remote deployment of DSL and not remotely place facilities that will interfere with DSL services. Qwest claims it shouldn't be required to do so because the industry rules are not yet in place.[88] Qwest's position is anticompetitive, is contrary to the Act and FCC orders and is contrary to the goals of Section 706 of the Act. Qwest's position is essentially that it should be permitted to place known disturbers in remote deployments now, even though it knows that such facilities will have to be dealt with later in order for advanced services to be provisioned in those areas. Qwest's

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[84] *Id.*, p. 290.
[85] *Id.*, pp. 247, 302.
[86] Multistate Transcript (05/01/01), p. 304.
[87] *Line Sharing Order*, ¶ 179.
[88] Multistate Transcript (05/01/01), p. 89.

argument makes no sense. Qwest should be more proactive. It should be required to comply with spectrum management guidelines now, even for remote deployment. In fact, the FCC encouraged carriers to discontinue deployment of known disturbers and emphasized that carriers should replace known disturbers with new and less interfering technologies.[89] It makes no sense to have one rule for central office facilities and another for remote facilities.

During the workshop, there was also discussion about Section 9.2.6.5. The parties came to agreement on the language of this section, except for the cross reference to the Section that describes what action must be taken by the carrier to bring its facilities into compliance. The appropriate cross-reference will be determined by resolution of the above disputed spectrum management issues.

g. Installation hours definition (Loop – 10(c)).

This issue was distilled to a discussion of the appropriate definition of installation hours, and whether they should be based on switch time, customer's local time or some other standard. This issue was deferred to the general terms and conditions workshop. AT&T also questions whether it is appropriate to have different, presumably higher, rates after 5:00. It is not clear that Qwest personnel are paid a higher rate just because they work non-standard hours. AT&T will raise the appropriateness of differing rates for "out-of-hours" work in state-specific UNE cost cases.

h. Reciprocity of trouble isolation charges and specifics of Qwest's charges (Loop - 14).

The issue regarding reciprocity of trouble isolation charges is closed by Qwest's latest revision to this language as reflected in the "frozen" SGAT. However, AT&T

[89] Multistate Transcript (05/02/01), p. 89.

requests that Qwest add back the language that permitted the CLEC's access for testing purposes at the NID for testing, in addition to the Demarcation Point, in the third sentence of Section 9.2.5.1. The Demarcation Point may not have the facilities necessary to perform tests on the unbundled loop.

In addition, it is AT&T's position that Qwest already recovers the cost of trouble isolation in its unbundled loop rates.[90] This assertion is based on the models used by both AT&T and Qwest in Qwest's rate cases, which models contained a right to recover for this cost in the underlying loop rates. If so, the language found in the beginning of Section 9.2.5.2 and Section 9.2.5.3 is inappropriate, and should be deleted. In the alternative, the Maintenance of Service charge should be $0. AT&T will raise this issue in the UNE cost cases as appropriate and expects that Qwest will conform its state-specific SGAT to commission findings in those cases.

i. <u>Qwest must allow CLECs to perform or request a pre-order MLT (Loop -24).</u>

Mechanized loop testing (MLT) enables a carrier to test an actual loop and retrieve information regarding the loop length and performance metrics. A CLEC needs the ability to perform, or to have performed on its behalf, an MLT before provisioning of that loop in order to verify that the loop can support the services the CLEC intends to provide over that loop facility.

Qwest claims that an MLT test cannot be done by a CLEC or on the CLEC's behalf because the test is invasive and may affect another provider's customer's service.[91] While the test can only be done when the loop is connected to Qwest's switch, and

[90] *See* AZ Transcript (05/16/01), pp. 1628 - 1630.
[91] *Id.*, p. 1756.

therefore must be performed prior to the unbundling of the loop, the record and the Verizon Massachusetts Order do not support Qwest's position.

Qwest has conceded that it has the ability to perform MLT on its switched based services.[92] Indeed, Qwest performed an MLT on every copper loop in its network in order to obtain information for the provisioning of its Megabit service. The information was then made available to CLECs as part of the loop qualification tools.[93] Thus, it is clear that Qwest had and has the ability to run MLT for its services on a pre-order basis if it desire. It chose, for its own retail purposes, how and where to run the MLT for Megabit. Under the SGAT, CLECs do not have that same ability. Accordingly, Qwest is not providing loops at parity to CLECs. In addition, these facts demonstrate that the danger or duration of an end-user's service interruption is insignificant in relation to the value of the information generated by the test, thus rebutting Qwest's alleged concerns regarding impact on the customer.

Qwest's claim that MLT is only performed for repair purposes[94] is also rebutted by Qwest's performance of MLT on all of its copper loops to generate loop qualification data to populate its databases, which Qwest uses for its own Megabit service.

Contrary to Qwest's statement during the workshop that there were no other RBOCs that permitted CLECs to perform MLT,[95] at least one other incumbent carrier recognized the need for this test and includes it as one way for CLECs to obtain loop qualification information prior to provisioning the unbundled loop.

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[92] *Id.*, p. 1758.
[93] *Id.*, pp. 1760, 1763 - 67.
[94] *Id.*, p. 1760.
[95] *Id.*, p. 1757.

Verizon offers competing carriers manual loop qualification as one of four methods of obtaining loop make-up information. Upon request for manual loop qualification by a competing carrier, Verizon personnel examine the Verizon databases (LiveWire and LFACS) and then perform what Verizon calls a mechanized line test on the loop to verify the actual loop length. If this test does not provide adequate information, Verizon engineers examine paper records to determine loop length, whether or not the loop is qualified and, if not, why.[96] According to the *Massachusetts Verizon 271 Order*, Verizon "has begun implementing access to manual loop qualification as a pre-order function . . . with complete implementation expected in October 2001."[97]

The *UNE Remand Order* requires Qwest to provide requesting carriers with access to the same detailed information about the loop that is available to itself, in the same timeframe, "so that a requesting carrier could make an independent judgment at the pre-ordering stage about whether a requested end user loop is capable of supporting the advanced services equipment the requesting carrier intends to install."[98] Incumbent carriers must provide competitors with access to "the same underlying information that it has in any of its own databases or internal records."[99] The relevant inquiry is not whether Qwest's retail arm "has access to such underlying information but whether such

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[96] *In the Matter of 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*, Memorandum Opinion and Order, CC Docket No. 01-8, FCC 01-130, ¶ 58 (Rel. April 16, 2001) ("*Massachusetts Verizon 271 Order*").
[97] *Id.*, ¶ 58.
[98] *Massachusetts Verizon 271 Order*, ¶ 54. See also *UNE Remand Order*, ¶ 427.
[99] *Massachusetts Verizon 271 Order*, ¶ 54; *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29, ¶ 121 (Rel. Jan 22, 2001) ("*BellSouth Kansas/Oklahoma 271 Order*").

information exists anywhere in [Qwest's] back office and can be accessed by any of [Qwest's] personnel."[100]

Qwest has the ability to perform an MLT on a copper loop connected to its switch at any time, and can perform this test to obtain loop qualification information prior to provisioning Megabit. Indeed, as described above, Qwest performed thousands of MLTs on its copper loops for the purpose of obtaining loop qualification information to populate its databases. AT&T requests access to the same information to which Qwest personnel have access, which includes the ability to perform and MLT prior to the provisioning an unbundled loop. This access is consistent with and required by the UNE Remand Order.[101] Qwest's failure to provide this access is discriminatory.

j. Qwest should redesignate interoffice facilities where loop facilities are at exhaust (Loop - 25).

This issue concerns whether Qwest must redesignate fiber spans between Qwest offices as loops facilities if Qwest's distribution facilities in that area are at exhaust. Qwest's designates fiber spans between Qwest offices as interoffice facilities. AT&T contends that if the distribution facilities are at exhaust between two Qwest offices and Qwest receives orders for UNE loops that could be filled by redesignating those facilities to distribution facilities, Qwest should be required to do so to meet CLEC demand.[102] Given Qwest refusal to build facilities to meet CLEC demand, this requirement makes sense. It also will eliminate any incentive for Qwest to improperly designate facilities as interoffice in order to reserve such facilities for Qwest's own use.

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[100] *Massachusetts Verizon 271 Order*, ¶ 54; *BellSouth Kansas/Oklahoma 271 Order*, ¶ 121. *See also UNE Remand Order*, ¶ 430.
[101] *UNE Remand Order*, ¶ 427.
[102] AZ Transcript (05/17/01), pp. 1770 - 72.

Qwest claims that it would not redesignate facilities for itself, so it will not do so for CLECs.[103] Qwest asserted that the interoffice facilities are contiguous between offices but had to concede that there might be situations where the fiber spans between offices might run to distribution panels in the manholes between the offices and that there were splice boxes in the manholes.[104]

Qwest presented no evidence that it was Qwest's policy to not redesignate interoffice facilities as distribution facilities. So Qwest certainly has the discretion to do so if the need arises. Moreover, AT&T is only requesting such redesignation if facilities are at exhaust in order to meet CLEC demand for UNEs, rather than denying the CLEC the ability to serve its customers. AT&T's proposal is efficient and pro-competitive and should be adopted.

k. <u>Qwest is not making address validation adequately available.</u>

AT&T has had problems confirming addresses in Qwest pre-ordering and ordering interfaces. AT&T and Qwest have exchanged information on sample orders where AT&T encountered these problems. Qwest has acknowledged that AT&T's order logs confirm that AT&T encountered problems, but they do not concede that it is a problem with Qwest's system. During the Multistate workshop on June 8, 2001, AT&T agreed to determine whether this issue would be tested as part of the ROC and Arizona OSS testing process. AT&T has attempted to do so. While it is unclear whether all of the potential sources of the address validation problem will be tested by the ROC and Arizona OSS tests, it does appear that some address validation issues may surface and be

[103] *Id.*, p. 1770.
[104] *Id.*, pp. 1770 - 72.

addressed during the course of the test. At least one potential cause of address validation problems has already surfaced in the ROC test and is the basis for an observation.[105] Accordingly, AT&T agrees to defer this issue to the ROC and Arizona OSS test. If, however, AT&T is still encountering address validation problems that have not surfaced during the course of either test, AT&T reserves the right to raise this issue again at the conclusion of the OSS tests.

l. Miscellaneous Issues.

Several disputed issues were closed, subject to review of Qwest's revised technical publications. In these instances, Qwest agreed to provide revised the technical publication within 45 days of the conclusion of the workshop (June 17, 2001) and other parties would have 30 days to review these revisions. Specifically, the Loop 3(d), Loop 4(b) issue regarding availability of loops on IDLC, and Loop 27 were closed subject to such review.

B. Line Splitting.

1. Legal Requirements.

Line splitting is the ability for different carriers to provide voice and data services over a single loop. The FCC has determined that incumbent LECs have a current obligation to provide competing carriers with the ability to engage in line splitting arrangements.[106] The FCC's rules require incumbent LECs to provide requesting carriers with access to unbundled loops in a manner that allows the requesting carrier "to provide any telecommunications service that can be offered by means of that network

[105] *See* Memorandum Regarding Observation 2030, dated 6/14/01. (Attachment E).
[106] *Line Sharing Reconsideration Order*, ¶ 18.

element."[107] As a result, incumbent LECs have an obligation to permit competing carriers to engage in line splitting over any loop or loop combination.

In addition, Qwest is required to provide to CLECs all the functionalities and capabilities of the loop, including electronics attached to the loop.[108] The splitter is an example of such electronics that is included within the loop unbundled network element.

2. Disputed Issues on Line Splitting.

As AT&T demonstrates below, Qwest fails to comply with the Act and applicable FCC Orders with regard to line splitting. Therefore, the Commission should find that Qwest has failed to satisfy its Section 271 obligations. In failing to comply with its obligations to provide nondiscriminatory access to line splitting, Qwest has failed to comply with checklist items 2 (unbundled network elements) and 4 (local loop transmission).

Qwest should be required to provide line splitting on all forms of loops and Qwest differentiation between UNE-P splitting and Loop Splitting ignores this obligation (Line Splitting – 1).

In its initial testimony on line splitting, Qwest proposed to make line splitting available only for loops provided via its UNE-Platform ("UNE-P") POTS offering.[109] AT&T objected to this. In the workshop, Qwest expanded its line splitting offer to include UNE loops.[110] AT&T agrees that Qwest must do so, however, it is AT&T's position that Qwest's offer is insufficient to constitute compliance with Section 271 for

[107] 47 C.F.R. § 51.307(c).
[108] *UNE Remand Order*, ¶ 175.
[109] *See* SGAT Section 9.21.
[110] *See* SGAT Section 9.24.

several reasons.

Qwest's attempt to differentiate UNE-P line splitting and Loop Splitting demonstrates the fundamental dispute between Qwest and CLECs/DLECs. Qwest has asserted that its obligation to provide line splitting under the FCC's Orders is limited to UNE-P line splitting, citing to the FCC's *Line Sharing Reconsideration Order*. In the *Line Sharing Reconsideration Order*, AT&T and WCom sought reconsideration of the FCC's initial *Line Sharing Order* to clarify that RBOCs must permit line splitting on UNE-P. In its Reconsideration Order, the FCC confirmed that line splitting must be made available on UNE-P.[111] However, the FCC went on to confirm that the requirement to provide line sharing and line splitting applies to the entire loop.[112] Thus, Qwest's attempt to use terminology to limit its line splitting obligation by the terminology it uses to define its offerings cannot undermine its obligation to provide line splitting on all loops.

In addition, while Qwest has added new SGAT language to address line splitting with UNE loops, it has acknowledged that the actual provisioning of its offer will need to be worked through by the industry and Qwest has made not commitment as to a date by which it will actually allow CLECs to engage in line splitting on UNE loops. While AT&T appreciates the movement made by Qwest, the FCC has been clear that paper promises are insufficient to demonstrate compliance with Section 271.[113] That is all Qwest has done with respect to line splitting on UNE loops. Moreover, the FCC has

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[111] *Line Sharing Reconsideration Order*, ¶ 16.
[112] *Id.*, ¶¶ 10, 18.
[113] *Application 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, FCC 97-298 (Rel. Aug. 19, 1997), ¶ 55 ("*Ameritech Michigan Order*").

made clear that the CLECs ability to engage in line splitting is part and parcel with the access the CLEC obtains when it leases a UNE. That is, CLECS are entitled to use the full features, functions and capabilities of the UNE, without limitations imposed by ILECs. Thus, there is no reason to delay the availability of line splitting on UNE loops and Qwest's delay in doing so is an improper limitation on the use of the UNE loop by the CLEC.

For these same reasons, Qwest must make available line splitting on EELs and other combinations that utilize the loop. Specifically, with respect to line splitting, the FCC stated in the *Line Sharing Reconsideration Order*:

> We find that incumbent LECs have a current obligation to provide competing carriers with the ability to engage in line splitting arrangements. The Commission's existing rules require incumbent LECs to provide competing carriers with access to unbundled loops in a manner that allows the competing carrier "to provide any telecommunications service that can be offered by means of that network element." Our rules also state that "[a]n incumbent LEC shall not impose limitations, restrictions, or requirements on ... the use of unbundled network elements that would impair the ability of" a competing carrier "to offer a telecommunications service in the manner" that the competing carrier "intends." We further note that the definition of "network element" in the Act does not restrict the services that may be offered by a competing carrier, and expressly includes "features, functions, and capabilities that are provided by means of such facility or equipment." As a result, independent of the unbundling obligations associated with the high frequency portion of the loop that are described in the Line Sharing Order, incumbent LECs must allow competing carriers to offer both voice and data service over a single unbundled loop. This obligation extends to situations where a competing carrier seeks to provide combined voice and data services on the same loop, or where two competing carriers join to provide voice and data services through line splitting.[114]

The FCC concluded that requiring RBOCs to provide line splitting:

> will further speed the deployment of competition in the advanced services market by making it possible for competing carriers to provide voice and

[114] *Line Sharing Reconsideration Order*, ¶ 18.

> data service offerings on the same line. As we found in the Line Sharing Order, these offerings are especially attractive to residential and small business customers. At present, end users receiving voice service from competing carriers via the UNE-platform may be unable to get xDSL service from a competing carrier without migrating their voice service back to the incumbent LEC. Line splitting, however, increases consumer choices by making it possible for carriers to compete effectively with the combined voice and data services that are already available from incumbent LECs and through line sharing arrangements. In addition, line splitting provides voice carriers who do not wish to provide xDSL service at this time to develop partnerships with data carriers and thereby offer end users voice and data services on the same line. Furthermore, as the New York Public Service Commission has found, the availability of line splitting may increase the likelihood that competing carriers will make investments in facilities that will help solidify competing carrier market share.[115]

The FCC makes no distinction in the manner in which the loop is delivered to the CLEC in its line splitting requirement. Rather, the FCC confirms that CLECs should have broad access to use all the features and functionalities of the loop and that ILECs may not impose any limitations on the use of the loop by the CLEC.[116] Thus, Qwest's refusal to allow CLECs to use the full functionality of the loop for purposes of line splitting is an improper limitation on the CLECs use of the loop. Qwest should be required to permit line splitting on all loops and loop combinations.

Qwest claims that it will allow EEL splitting via the special request process ("SRP").[117] While this process has only just been proposed by Qwest in the General Terms and Conditions workshop, the special request process is similar to the bona fide request process, except technical feasibility has already been established. Qwest claims that this process applies when, from Qwest's perspective, there is insufficient demand to

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[115] *Id.*, ¶ 23.
[116] *Id.*, ¶ 27.
[117] AZ Transcript (05/15/01), pp, 1130 - 31.

justify Qwest creating a product.[118] Thus, Qwest concedes by its agreement to use SRP that there is no issue regarding whether it is technical feasible to provide EEL splitting. By proposing the use of the SRP process, Qwest is conceding there is no issue that it is technically feasible to provide EEL splitting. Rather, Qwest is simply refusing to make EEL splitting generally and readily available as a standard offering.

Qwest's assertions are flawed for several reasons. First, the SRP is a time consuming process, with an undefined time-table. Forcing the CLECs to use SRP to obtain line splitting on EELs would impose unnecessary and inappropriate delays. Second, Qwest's justification for its refusal to create a product is flawed. Qwest claims there has been no demand for EEL splitting. At least one reason for this is that the FCC's line splitting obligation is new and CLECs/DLECs have simply not had sufficient opportunity to request all forms of line splitting, including EEL splitting. In addition, absent an available product, there is no product for a CLEC/DLEC to request and the use of the SRP process just to determine if the line splitting can be provided will be a disincentive to CLECs/DLECs requesting EEL splitting. Therefore, Qwest's assertion will become a self-fulfilling prophecy. Finally, nor can Qwest rely upon on any claim that there have been very few EELs ordered to justify its refusal to generally offer EELs. Until recently, CLECs had to order EELs as private lines and there have been significant problems encountered in converting those private lines to EELs. Thus, Qwest rationale does not provide a sound basis for Qwest's refusal to develop a standard offering for EEL splitting, particularly given the FCC's unambiguous requirement that Qwest must permit line splitting on all loops.

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[118] *Id.*

As a practical matter, there is no material difference between Qwest permitting line splitting on UNE-P, UNE Loops or EELs. In any of these cases, the underlying loop facilities are being leased by the CLEC and the CLEC should be allowed to use the full features and functions of the loop as they choose. Moreover, splitting of the UNE loop and the EEL loop both involve splitting the line at the central office and should not require any different work by Qwest.[119]

The consequence of this Qwest policy, coupled with Qwest refusal to provide its Megabit service where a CLEC is providing the underlying voice service means that customers that are served by CLECs using EELs will not have access to obtain DSL service. Qwest's policies are anticompetitive, and a barrier to the competition that the FCC was attempting to enhance with its line splitting directives. Specifically, the FCC concluded that this requirements would further speed the deployment of competition in the advanced services market by making it possible for competing carriers to provide voice and data service offerings on the same line and that line splitting would increase consumer choices by making it possible for carriers to compete effectively with the combined voice and data services that are already available from incumbent LECs and through line sharing arrangements.

Qwest must make line splitting available on all loops, including all loop combinations, as a standard offering, on an unlimited basis. CLECs/DLECs must not be forced to use the time consuming SRP process to implement line splitting. Accordingly Qwest should revise Section 9.21 of its SGAT to clearly set forth it obligation to provide line splitting on all loops and loop combinations. In addition, the SGAT should be

[119] AZ Transcript (03/08/01), pp. 742 - 43.

revised to clearly state that Qwest will offer EEL splitting as a standard offering and to state the terms and conditions of such an offering. Until Qwest does so, it cannot comply with Checklist Item 4.

a. Qwest should be required to provide access to outboard splitters on a line-at-a-time, or shelf-at-a-time basis. (Line Splitting – 4)

AT&T contends that Qwest should be required to provide access to outboard splitters that it places in its central offices and remote terminals and make them available on a line-at-a-time or shelf-at-a-time basis.[120] Qwest objects to such a requirement. There is no legitimate legal, technical or operational justification for Qwest's refusal. Qwest should be required to modify its SGAT to state that, to the extent Qwest deploys in its network splitters that are not integrated with the DSLAM and are capable of being provided to DLECs on a line-at-a-time or a shelf-at-a-time basis, that Qwest will provide DLECs with access to such splitters.

Qwest does not dispute that it is technically feasible for Qwest to provide access to outboard splitters on a line-at-a-time basis.[121] Rather, Qwest contends that it does not currently use outboard splitters in its central offices.[122] Based on discussions in the Colorado workshop, there is some dispute as to the accuracy of this claim.[123] However, that dispute can clearly not be resolved here, nor does it need to be for reasons described below. Qwest also stated that Qwest has not deployed remote terminals, although recent press announcements indicate Qwest has plans to do so.[124] Qwest states, however, that

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[120] *See* AT&T and TCG Phoenix's Supplemental Comments (9/29/00) pp. 2 - 5.
[121] AZ Transcript (03/08/01), pp. 780 - 81.
[122] *Id.*, p. 781.
[123] May 22, 2001 Colorado Transcript, pp. 140 - 45, 149 - 50. (Attachment F).
[124] *Id.*, p. 96. *See* Denver Post Article, (Qwest Plans Major Expansion of DSL). (Attachment G).

even if it uses outboard splitters in its network, it will not commit to providing access to such splitters on any basis.

Qwest relies on the SBC Texas 271 Order to support its position. The SBC Texas 271 Order does not in any way alter the conclusion that the ILEC should be required to provide access to outboard splitters owned by Qwest on a line-at-a-time basis. In that Order, the FCC noted that it had not yet exercised its rulemaking authority to require ILECs to provide access to splitters, and therefore, it would not require SBC as a condition of obtaining Section 271 approval, to provide access to splitters.[125] The FCC specifically declined to comment on the requirement that an ILEC provide access to an ILEC-owned splitter on the grounds that it was considering this issue in response to AT&T's petition for reconsideration of the *UNE Remand Order*.[126] The FCC decision with regard to SBC's application on this issue was set at a particular point in time. As all participants know, the law is constantly evolving in this area. The FCC intends to address this ILEC obligation again in its reconsideration of the *UNE Remand Order*. The SBC decision is therefore not dispositive of what the FCC may decide at the point in time when Qwest is before the FCC with its application for Section 271 relief, nor is it dispositive as to what state commissions may order to promote the development of competition and the broader availability of advance services.

The FCC's decision to not impose a requirement on ILECs to provide access to ILEC-owned splitters in its review of the SBC Section 271 Application should not deter any state commission from imposing such a requirement on Qwest. It is clear that the

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[125] *SBC Texas 271 Order*, ¶ 328.
[126] *Id.*

state commissions are free to establish additional procompetitive requirements consistent with the national framework established by the Act, and the FCC's implementing rules and orders, under its own authority. For example, Section 251(d)(3) of the Act allows state commissions to enforce regulations, orders or policies that "establish access and interconnection obligations of local exchange carriers."[127]

That is precisely what the Texas Public Utilities Commission in a recent arbitration decision.[128] There, concluding that the FCC's BellSouth Texas 271 Order did not prevent the Texas Commission from doing so, the PUC affirmed an arbitrators' recommended decision, which required Southwestern Bell to provide splitters on a line-at-a-time basis. Specifically, the Arbitrator stated:

> Although, as noted by SWBT, the FCC has to date, not required ILECs to provide the splitter in either a line sharing or line splitting context, the Arbitrators believe this Commission has the authority to do so on this record. The FCC has clearly stated that its requirements are the minimum necessary, and that state commissions are free to establish additional requirements, beyond those established by the FCC, where consistent.[129] Indeed, in the *SWBT Texas 271 Order*, the FCC acknowledged that line splitting, a recent development, would be subject to potential arbitration before the Texas Commission. The Arbitrators, therefore, believe on this record that it is sound public policy to require SWBT to provide AT&T with a UNE loop that is fully capable of supporting any xDSL service.[130]

Then, citing prior rulings of the FCC, the Arbitrators' Award acknowledged that a CLEC purchasing UNEs or combinations of UNEs is entitled to "all capabilities of the

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[127] 47 U.S.C. § 251(d)(3).

[128] *Order Approving Revised Arbitration Award, Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas*, Docket No. 22315 (March 14, 2001), pp. 7 - 9. (Attachment H).

[129] *UNE Remand Order* ¶¶ 154 - 60; *Line Sharing Order* ¶¶ 223 - 25.

[130] *Revised Arbitration Award, Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas*, Docket No. 22315 (Rel. Sept. 27, 2000). p. 16 ("*Texas Arbitration Award*"). (Attachment I).

loop including the low and high-frequency spectrum portions of the loop . . . ."[131] The decision also emphasized the FCC's prior rulings that ILECs must afford CLECs access to "all of the UNE's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element, specifically including DSL services. The decision further found (1) that "excluding the splitter from the definition of the loop would limit its functionality," (2) that "it is technically feasible for SWBT to furnish and install splitters to [enable CLECs to] gain access to the high frequency portion of the loop when purchased in combination with a switch port," and (3) that it is "inaccurate from a technical standpoint to analogize splitters to DSLAMs."[132]

Finally, the Texas decision noted that SWBT's effort to require LECs to collocate in order to gain access to the high-frequency portion of the loop "(1) unnecessarily increases the degree of coordination and manual work and accordingly increases both the likelihood and duration of service interruptions; (2) introduces unnecessary delays for space application, collocation construction and splitter installation; and (3) unnecessarily wastes central office and frame space."[133] Thus, the arbitrators found that SWBT's approach "significantly prohibits UNE-P providers from achieving commercial volumes."[134] Conversely, they found that requiring the ILEC to provide the splitter not only advances competition but also "promotes more rapid deployment of advanced

[131] *Texas Arbitration Award*, p. 15.
[132] *Id.*, pp. 17 - 19.
[133] *Id.*, p. 19.
[134] *Id.*

services to a broader cross section of consumers, as required by Section 706" of the Act.[135]

Qwest has asserted that the Texas Commission's decision is somehow based solely upon the notion that SWBT was allowing its affiliate line-at-a-time access to its splitters. However, a straight-forward reading the Texas order indicates that that was not the principle rationale in their ruling.

Deployment of Qwest-owned splitters on a line-at-a-time basis will also serve to advance competition for DSL service and bundles of voice and data service, and as such, is very much in the public interest. As AT&T discussed in its comments relating to the Emerging Services workshop, there are several significant benefits to Qwest providing access to outboard splitters. When data CLECs share an ILEC-owned splitter, switching a voice customer's data provider among such providers is much simpler and conserves valuable resources.

When changing a customer's data provider in the line-at-a-time option, the only re-wiring that needs to occur is replacement of the cross-connect between the frame appearance of the high frequency output of the splitter and the original data provider's POT bay frame appearance with a cross-connect from the same splitter frame appearance to the frame appearance of the new data provider's POT Bay. In such a case, the connection of the outside plant facility to the ILEC-owned splitter and the connection of the voice output from the ILEC-owned splitter to the switch remain in place. By contrast, when splitters are owned by individual data CLECs and not shared, additional rewiring

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[135] *Id.*

and resources are required and the voice service must be disconnected unless the ILEC takes the additional steps and time required for back tapping.

Access to Qwest owned splitters also yields benefits when a customer terminates individual services, allows for efficient usage of splitters and racks within central offices where space is already scarce, and promotes competition among data CLECs because voice providers and ISPs encounter fewer barriers to switching from one provider to another.

Requiring Qwest to deploy splitters on a line-at-a-time basis also promotes the ability of CLECs to offer a bundle of voice and data service in competition with Qwest. One of the procompetitive aspects of UNE-P is that it allows a voice CLEC to enter the market and compete with Qwest without having to obtain collocation space. Access to Qwest-owned splitters on a line-at-a-time basis eliminates the need for UNE-P providers to secure collocation arrangements, and thus provides similar benefits to the expansion of DSL with UNE-P. For example, by having access to splitters, UNE-P providers can effectively partner with any data CLEC that has deployed a DSLAM in the central office, and are not limited to those that have already deployed their own splitters or lack space for additional splitters. By making it less difficult for UNE providers to access the high frequency portion of the loop, this impediment to competition may be avoided.

Accordingly, Qwest should be required to modify its SGAT to state that, to the extent Qwest deploys in its network splitters that are not integrated with the DSLAM and such splitters are capable of being provided to DLECs on a line-at-a-time or a shelf-at-a-time basis, Qwest will provide DLECs with access to such splitters. This will defer to another forum any debate surrounding whether Qwest does, in fact, deploy such splitters

in the network, while at the same time, establishing the appropriate standard for when such access should be afforded. As the Texas Public Utilities Commission recently confirmed, the Act and the FCC Rules require ILECs to supply splitters and such access is pro-competitive and will enhance the deployment of advanced services.

b. Qwest's policy decision to discontinue xDSL services to a customer when the customer chooses a CLEC for voice service is anticompetitive and a barrier to entry (Line Splitting - 6).

Qwest has made a "policy" decision to disconnect Megabit service from a customer that decides to change to a CLEC for local voice service.[136] Such "policy" is nothing more than a retaliatory, anticompetitive act.

End users in many areas can subscribe to Megabit DSL service from Qwest. Qwest already has hundreds of thousands of Megabit customers and is adding thousands every week. Qwest has more DSL lines than any other ILEC.[137]

Qwest has decided to terminate Megabit service if a customer switches local carriers. In doing so, Qwest has decided to walk away from a lucrative business on a loop that has already been conditioned for DSL and a customer that has already been provisioned and put into service. The *only* reason for Qwest to make this policy decision is to discourage its current monopoly-based customers from switching their local service to a competing local exchange carrier. This Qwest policy is a clear barrier to entry and is anticompetitive. Customers with Megabit will be reluctant to switch local providers, knowing that their Megabit service will be terminated.[138] To avoid this barrier,

[136] AZ Transcript (03/08/01), p. 804.
[137] AT&T and TCG Phoenix' Supplemental Comments (9/29/00), pp. 8 - 9.
[138] AZ Transcript (05/01 /01), pp. 814 - 15.

customers should have the option to maintain Megabit or to switch to an alternative DSL provider. The choice of having Megabit should not be eliminated.

Qwest justifies this position, not with technical reasons, but simply by stating that it is not required to do so based on the FCC's preliminary determination in the Southwestern Bell Texas 271 proceeding and the FCC's reference to the issue in the *Line Sharing Reconsideration Order*. Again, these orders are not dispositive. State commissions are not required to reach the same conclusion that Qwest has. In fact, such finding is contrary to the Act and FCC rules that prohibit barriers to entry into the local exchange market.[139]

Contrary to Qwest's argument, in the *Line Sharing Reconsideration Order,* the FCC did not conclusively determine that incumbent LECs were not required to continue to provide DSL services when the customer switches to a CLEC for voice service.[140] Rather, the FCC narrowly found that Qwest's disconnecting its DSL services to a customer who chooses a CLEC for voice service did not violate the FCC's *Line Sharing Order,* and, therefore, was not a proper matter for consideration in the Motion for Reconsideration.[141] The FCC did not consider, however, whether such conduct violates the Act, including Section 201 and 202 of the Act.[142] Further, the FCC instructed:

> To the extent that AT&T believes that specific incumbent behavior constrains competition in a manner inconsistent with the Commission's rules and/or the Act itself, we encourage AT&T to pursue enforcement action.[143]

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[139] 47 U.S.C. §253.
[140] *Line Sharing Reconsideration Order*, ¶ 26.
[141] *Id.*
[142] *Id.*
[143] *Id.*

Similarly, the SBC Texas 271 Order does not compel a different result. Here again, the FCC simply concluded that it had not made a definitive ruling on this issue and, therefore, its rules could not serve as a basis for concluding Section 271 noncompliance.

Accordingly, the Commission should require Qwest to change this "policy" decision and provide consumers with a choice of whether they want to continue their DSL services with Qwest when they switch to the voice services of another carrier. This ruling is necessary to level the playing field and encourage the development of competition in the advanced services market. To hold otherwise would be to allow Qwest, the incumbent, to maintain its monopoly control over services available by virtue of the local loop.

c. Customer of Record. (Line Splitting – 14).

Qwest should be required to modify Sections 9.21.7.3 and 9.24.7.3 of its SGAT to fairly allocate liability for determination of customer of record.

Qwest, AT&T and other CLECs have agreed on a mechanism to permit an agent for a CLEC to interface with Qwest on line splitting and "loop splitting" matters.[144] Such a mechanism will allow cooperating CLECs to designate one point of contact for ordering unbundled loop facilities for both high frequency and low frequency applications.

A number of mechanisms to designate the appropriate agent would have been acceptable to CLECs, including express notification to Qwest that CLEC has chosen a specific other carrier as its agent. Qwest opted to utilize a mechanism that creates a

[144] *See* SGAT Sections 9.21.7 and 9.24.7.

presumption that any carrier who had access to a CLEC's security devices (secureIDs, passwords, etc.) would be deemed an "authorized agent" of CLEC. This mechanism, although not perfect, has the advantage of minimizing the amount of unnecessary Qwest process and procedure that could delay or frustrate order, maintenance or repair of shared facilities.

The mechanism agreed to by the parties, however, does create the risk that an unauthorized person could use the CLEC's security devices inappropriately. The parties sought to manage this risk by including SGAT Sections 9.21.7.3 and 9.24.7.3, which are identical. The last sentence of these sections should make clear that Qwest shall not be held harmless where it has culpability for the unauthorized use of a CLECs security devices.

The dispute between AT&T and Qwest is fairly discrete. The last sentence of Sections 9.21.7.3 and 9.24.7.3 as proposed by Qwest, requires a demonstration that the third person "wrongfully" used the security devices and that Qwest acted "willfully" or "negligently." AT&T maintains that only a showing of Qwest's willfulness or negligence is appropriate and that AT&T need not demonstrate that the third party also "wrongfully' used the security devices. Accordingly, AT&T proposes that the word "wrongfully" be stricken from these sections.

The require the CLEC to demonstrate that the third party was also "wrongful" in its use of the security devices adds an additional burden to CLECs attempts to fairly assess liability for harm. It is a fair and ordinary business practice to except the willful and negligent acts of a party from any "hold harmless" provision without any additional limitation. Here it is especially appropriate not to further insulate Qwest from liability

because requiring an additional demonstration of a third part's wrongfulness reduces the incentives and pressures on Qwest not to act willfully or negligently.

Qwest may argue that the concept is needed to suggest that the actions must be "bad." AT&T maintains that the only "bad" actions relevant are those of Qwest's and are subsumed in the concept of "willfulness." To require an additional demonstration of "bad" actions—whether Qwest's or a third party's—eviscerates the concept of liability based on Qwest's negligence.

Qwest may also argue that an assessment of the third party's wrongfulness is also appropriate because Qwest should not be liable if the third party's actions had a neutral or even beneficial effect on CLEC. Such an assertion is nonsense because it ignores the fact that if the CLEC suffers no harm (presumably because the third party's actions were not wrongful in that they did not result in any harm or were beneficial), there would be no liability to hold Qwest harmless from anyway.

C. Network Interface Device (NID)

1. Legal Requirements.

Section 271(c)(1)(B)(ii) 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). In its recent *UNE Remand Order*, the FCC on remand identified the list of network elements that Qwest must provide pursuant to section 251(c)(3).

The FCC redefined the NID to " include all features, functions, and capabilities of the facilities used to connect the loop distribution plant to the customer premises wiring, regardless of the particular design of the NID mechanism."[145] Specifically, the FCC

[145] *UNE Remand Order*, ¶ 233.

defined the NID to include "any means of interconnection of end-user customer premises wiring to the incumbent LEC's distribution plant, such as a cross connect device used for that purpose."[146] The FCC also requires that "an incumbent LEC shall permit a requesting telecommunications carrier to connect its own loop facilities to on-premises wiring through the incumbent LEC's network interface device, or at any other technically feasible point."[147]

In addition, the FCC's definition encompasses "smart NIDs" which are devices used on PBX trunks and DS1 loops that give some maintenance monitoring for the loop. Qwest must also make available the full features and functions of the NID, such as termination devices for ISDN loops.

2. Disputed Issues on NIDs.

a. <u>Qwest Must Make the NID Available on a Stand-Alone Basis (NID – 1).</u>

In the First Report and Order, the FCC defined the network interface device ("NID") as a cross-connect device used to connect loop facilities to inside wiring.[148] Subsequently, in the UNE Remand Order, the FCC broadened its definition "to include all the features, functions and capabilities of the facilities used to connect loop distribution plant to the customer premises wiring, regardless of the particular design of the NID mechanism."[149] The FCC's definition is flexible and technology-neutral, and it is intended to be as broad as possible.[150] Accordingly, access to unbundled NID is a

[146] 47 C.F.R. § 51.319(b).
[147] *Id.*
[148] *First Report and Order*, ¶ 392, n. 852.
[149] *UNE Remand Order*, ¶ 233.
[150] *Id.*, ¶ 234.

requirement of Sections 251 and 252 of the Act, and the NID is an element enumerated in the FCCs national list of UNEs.

The FCC has determined that "lack of unbundled access to the incumbent's NID impairs the ability of requesting carriers to provide the services they seek to offer."[151] Consequently, a demonstration that an RBOC is providing access to unbundled NIDs is included as a condition of an RBOC's entry into the intraLATA long distance market.[152] In short, Qwest must provide CLECs with nondiscriminatory access to unbundled UNEs, including NIDs, in order to satisfy the FCC's 14-point 271 checklist.

Both during the course of the workshops in Arizona and in other jurisdictions, Qwest, AT&T and certain other parties resolved a number of issues related to NIDs. In these workshops, issues that were not resolved were sharpened and the resulting disputes refined. Although the parties made progress, the several issues remaining in dispute between AT&T and Qwest render Qwest's SGAT non-compliant with the 271 14-point checklist. Absent adequate resolution of the issues as described herein, Qwest's application must be deemed non-compliant.

As an initial matter, AT&T is compelled to address basic issue of the definition of the NID. The parties engaged in an extended discussion of this issue at the workshop. The parties failed to reach a resolution of this general issue at the workshop. Although the issues addressed at the workshop and labeled NID 1 and NID 2 relate to this general issue, AT&T believes that the issue warrants a broader discussion and resolution.

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[151] *Id.*, ¶ 232.

[152] 47 U.S.C. 271(c)(1)(B)(ii): Qwest must provide "[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1) [of the Act]."

As a general matter, Qwest must demonstrate that its definition of the NID—and by extension, its "product"—is lawful. Failure to demonstrate that such definition is lawful fatally flaws Qwests 271 application. Accordingly, AT&T's suggested resolution of the issues described below is premised on the adoption of a lawful framework for access to the NID.

The FCC has provided specific guidance on this issue. Its guidance makes clear that access to the physical devices that might be described as a NID are less important than access to the functions constituting the NID. The FCC has made clear that the NID "structure" and "function" are distinct, concluding that "[a]lthough the physical structure of the NID is widely available, it is access to the function, rather than the hardware itself, that competitors rely upon."[153] Indeed, in broadening of the definition of the NID, the FCC in the UNE Remand Order appears to intend to move away from a formalistic definition and address more substantive and conceptual issues. The FCC's intent is made even clearer because it expressly states that its definition of the NID will apply to "new technologies, as well as current technologies."[154] By anticipating that an ILEC must unbundled as yet undesigned "NIDs", the FCC could not have meant to limit Qwest's obligation merely to a rote description of access to present NIDs.

As has been often observed in these proceedings, Qwest has chosen to demonstrate that it has met its requirements under the Act through "product" offerings. In some instances, Qwest's "products" were sufficiently tailored to the Act and FCC's rules to reflect the law. In other instances, Qwest's "products" were inadequately defined

[153] *UNE Remand Order*, ¶ 232.
[154] *Id.*, ¶ 234 (emphasis added).

or included an unauthorized gloss on the requirements of the Act or FCC rules. In the latter instances, Qwest's "products" are not compliant with Qwest's legal obligations, and Qwest must modify its product definitions. Only through such modifications can Qwest be deemed to have fully complied with law and satisfied the 14-point competitive checklist.

Qwest's NID product definition is found at Section 9.5.1 of the SGAT. Qwest asserts that the NID definition reflects merely the FCC's language.[155] However, Qwest clearly intends for its definition of a NID to provide access to a terminal only when such terminal constitutes the demarcation between a customer's inside wire and Qwest's network.[156] Qwest proposal suggests a narrower application of the NID than the FCC's expansive definition.

Qwest testimony suggests that Qwest adopts the definition of NID created by the FCC in the First Report and Order.[157] As explained, the FCC deliberately expanded that definition in the UNE Remand Order. The FCC expanded the definition to ensure that the NID is defined as broadly as possible to include the function of the NID—rather than merely the device sometimes described as the NID—and all possible varieties of network components that provide the NID function—including as yet undeveloped technologies.

Qwest argues that either its NID or subloop products provides a CLEC any conceivable access.[158] Qwest's assertion is untested. And the CLEC's experience has

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[155] Qwest curiously introduces part of the FCC's definition with the phrase "*The NID carries with it* all features, [etc.]" Section 9.5.1 (emphasis added). The modification itself, which does not precisely track the FCC's definition, introduces some interpretive uncertainty as to how Qwest intends on the FCC's definition to be incorporated.
[156] AZ Transcript (05/15/01), pp. 1366 - 68.
[157] *First Report and Order*, ¶ 392, n. 852.
[158] AZ Transcript (05/15/01), pp. 1366 - 68.

shown that access to the components or functions of a NID is portentously more cumbersome than first revealed. More generally, CLEC's have continually found Qwest's products rigid and frustrating, brokering no deviation from the strictest application of Qwest's product terms and conditions.

Accordingly, this matter is more than academic. AT&T and other CLECs have witnessed Qwest closely circumscribing NID access. By focusing on an operational guide to access of specific hardware, CLEC experience suggests that Qwest will reject access to other kinds network components or configurations that are functionally a NID. Insisting on a set operational guide is insufficient to address CLECs concerns about access to NIDs. Qwest itself has stated that there are hundreds of variations of [NID] terminals out there. Although CLECs need the assurance of specific rules applicable to all NIDs, CLECs should not be forced to risk Qwest's application of such specific rules to limit "access to the function, rather than the hardware" of a NID.

These concerns are especially acute with respect to MTE terminals, some of which Qwest considers NID "hardware." The FCC has noted in the FCC made a clear determination that incumbent LECs such as Qwest have used the MTE chokepoint as a means to severely inhibit competition. In the MTE Order the FCC found that "incumbent LECs are using their control over on-premises wiring to frustrate competitive access in multitenant buildings."[159] Further, FCC found "that incumbent LECs possess market

[159] *In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets*, WT Docket No. 99-217; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98; Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network, CC Docket 88-57; First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57. (Rel. Oct. 25, 2000) ("*MTE Order*") ¶ 6.

power to the extent their facilities are important to the provision of local telecommunications services in MTEs."[160] Finally, the FCC recognized that "[i]n the absence of effective regulation, they therefore have the ability and incentive to deny reasonable access to these facilities to competing carriers."[161]

Without a clear statement that Qwest is indeed required to provide access to he NID to the full extent of the FCC's order, CLEC's risk problematic interpretive disputes with Qwest. These disputes may require initiation of the Bona Fide Request process, Dispute Resolution or, possibly, arbitration under the Act. Although CLECs may accept that specific operational issues must be decided between the parties at an implementation level, CLECs find it unacceptable to have to litigate every form of access not specifically provided under a "product" definition when the law is so expansive.

Accordingly, AT&T does not advocate that Qwest eliminate the operational guidance found in most of Section 9.5 of the SGAT. Such language is appropriate to make clear certain kinds of permissible access. Rather, AT&T requests that the arbitrator order that Qwest's product definition of a NID is as expansive as the FCC's definition, notwithstanding that operational guidance of the SGAT anticipates a peculiar form of access.

b. Should Qwest make a NID available on a standalone basis where Qwest facilities extend beyond a terminal?

The issue of whether Qwest should make the NID available to CLECs on a standalone basis in all instances is closely related to the definition discussed above. The law requires Qwest to offer the NID to CLECs in all instances. However, Qwest has

[160] *MTE Order* ¶ 11.
[161] *Id.*

maintained that where Qwest owns the on-premises wiring, Qwest will not offer the NID "product" to CLECs. In such instances, Qwest maintains, the NID is only available as a component of Qwest's subloop product.[162]

The application of the definition of NID may extend beyond the physical terminal Qwest restrictively identifies as the NID. Indeed the functions and features of the NID may extend to certain "downstream" network components that may include some wiring, adjacent protectors and other equipment. Qwest itself admits that terminating equipment has a variety of configurations.[163] AT&T seeks to ensure that all components of the NID—including all features and functions of the NID—are made available to CLECs.

This is precisely what applicable law requires. The FCC's definition of the NID "include[s] all the features functions and capabilities of the facilities used to connect loop distribution plant to the customer premises wiring, regardless of the particular design of the NID mechanism."[164] It bears repeating: the FCC made clear that "[a]lthough the physical structure of the NID is widely available, it is access to the function, rather than the hardware itself, that competitors rely upon."[165] Accordingly, all components of the NID must be made available to CLECs, not merely the NID "terminal."

Qwest spuriously asserts that CLECs desire to obtain subloop for free.[166] CLECs do not desire to circumvent the intent of the Act or the FCC rules in the manner Qwest suggests. CLEC's maintain that all network components that constitute the NID—which, according to the FCC's definition is not merely limited to the terminal—must be offered

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[162] AZ Transcript (05/15/01), pp. 1366 - 68.
[163] *Id.*, p. 77.
[164] *UNE Remand Order*, ¶ 233.
[165] *Id.*, ¶ 232.
[166] AZ Transcript (05/15/01), pp. 1336, 1440.

to CLECs as a NID. AT&T has already allowed in "on-premises wiring" is a variety of subloop access, and has provided a specific definition of on-premises wiring in its subloop proposal.[167] AT&T proposes that a fair and lawful rate be paid by CLECs for access to on premises wiring. Moreover, AT&T assumes that the applicable cost cases will include all components of the NID when setting appropriate prices. Accordingly, Qwest's assertions are unfounded.

On the contrary, however, CLEC's are justifiably concerned that Qwest attach charges in addition to those associated with access to the "NID" (as Qwest defines it) or, worse, denies access to components of the NID altogether.

c. Qwest should be required to remove its connections from protectors when CLECs access the protector (NID – 4).

This issue involves whether CLECs can request that Qwest remove its connections from the protector field at a NID. CLECs may request Qwest to do so to free capacity on the NID so that the CLEC can provide service to the customer. Failure to free such capacity may make the NID, or connections within the NID, inaccessible to the CLEC. AT&T located the Bell System policies that its witness referenced in the workshop and those policies explicitly permit such "capping off"[168]

Qwest is refusing to modify its SGAT to require it to remove its connections from the protectors, apparently relying on excerpts from the National Electrical Safety Code and the National Electrical Code as evidence as to why AT&T request is inappropriate.[169]

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[167] *See* AT&T's Brief On Disputed Issues Relating To Packet Switching, Line Sharing, Dark Fiber, And Subloop, dated April 30, 2001, Attachment 1, Section 9.3.3.1.
[168] *See* Attachment J, Late-filed Exhibit 5 AT&T 19.
[169] *See* 5 Qwest 35 and 5 Qwest 36.

Neither of the cited provisions are dispositive on this issue. Section 315A of the National Electrical Safety Code addresses the need for protection where a "communications apparatus is handled by other than qualified persons."[170] That is not the case here. We are talking about situations where company technicians that are qualified persons, capping off loop facilities. Similarly, Section 800-30(a) of the National Electric Code is not applicable. This section applies circuits that run partly or entirely in aerial wire or aerial cable not confined within a block or circuits, aerial or underground, located within the block containing the building served so as to be exposed to accidental contact with electric light or power conductors operating at over 300 volts to ground. A block is defined in Section 800-2 as square or portion of a city, town, or village enclosed by streets and including the alleys so enclosed, but not any street. "Exposed" has three definitions in the Code. In Article 100 – Definitions, exposed (as applied to live parts) is defined as capable of being inadvertently touched or approached nearer than a safe distance by a person and it is applied to parts that are not suitably guarded, isolated, or insulated. Also in Article 100, exposed (as applied to wiring methods) is defined as on or attached to the surface or behind panels designed to allow access. Finally, in Section 800-2 Definitions, exposed is defined as a circuit that is in such a position that, in case of failure of supports and insulation, contact with another circuit may result.

A capped circuit is not exposed under any of these definitions. Based upon the first definition, when the conductors are capped, the wire cannot be inadvertently touched. For purposes of the second definition, a capped circuit is not attached directly

[170] 5 Qwest 35.

to the structure, it is attached to a standoff that is an insulator. Finally, based upon the third definition, the circuit is doubly insulated and so it cannot come in contact with another circuit even if one insulating sheathe is compromised.

When a communications circuit actually interfaces with inside wire at a building, then it is "exposed" and must have a protector under the National Electric Code.

In essence, paragraph 800-30(a) requires Qwest to have a protector on a pole in the block for each circuit. Not all circuits actually connect to premises. Spare facilities exist in the loop plant that are not "dropped" to buildings. The reference to electric light or power conductors at over 300 volts is referring to the fact that telephone wires typically coexist on power poles with high voltage lines. Workmen must be protected from accidental contact with communications circuits that have become connected to high voltage power lines or lighting. If Qwest does not have such protectors on all circuits in the block, they are in violation of the National Electrical Code. All cables must have such protection as there is no assurance that any particular circuit actually terminates in a protector at a building. There is no exposure to voltages over 300 volts at buildings (with the exception of industrial facilities that are covered by other sections) as the voltage that is available to such buildings is at maximum 220 V. Thus, this section of the National Electrical Code is not germane to AT&T's proposal.

Accordingly, AT&T proposes resolving this issue by modifying the sentence, at the end of Section 9.5.2.1 as follows "At no time should either Party remove the other Party's <u>loop</u> facilities from the other Party's NID <u>without appropriately capping off the other Party's loop facilities</u>." (New material underscored.)

d. **Where CLEC has its own protector in place, but can only gain access to the customer by access through the Qwest protector, the CLEC should not be required to pay to access the protector (NID – 9)**

Qwest's SGAT requires a CLEC to pay Qwest for access to Qwest's protector fields, although access to other features or functions of the NID is essentially free.[171]

In certain circumstances, Qwest has installed the NID in such a way that access is not possible to the inside wire, except via the protector field. For example, AT&T testified that Qwest has informed AT&T of instances where the NID is hermetically sealed.[172] There also may be circumstances where the lead on the inside wire is too short to access from the CLEC NID.[173] Or Qwest has installed the NID in such a way that it has made it impossible or very difficult to access the customer's inside wire.[174] Therefore, it may be that the only feasible or convenient access to the NID is through or in association with a protector field. This means, essentially, that AT&T has no other way to access the NID without accessing the protector. In this circumstance, the CLEC has installed its own NID and is utilizing the protector functions of its own NID, but cannot get access to the customer.

Qwest objected to AT&T's request, claiming that it is not Qwest's problem that the CLEC cannot obtain access to the inside wire of the customer.[175] That is a matter between the CLEC and the customers.

Qwest's objection lacks legal basis. In fact, the FCC's rulings on the NID have

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[171] SGAT Section 9.5.3.
[172] AZ Transcript (05/15/01), p. 1246.
[173] *Id.*
[174] *Id.*, p. 1248.
[175] *Id.*, p. 1247.

largely been designed to ensure that the CLEC has access to the customer, including the inside wire of the customer.[176] That is all AT&T is seeking. Moreover, it makes little sense to force CLECs to pay for such access when Qwest is not charging for access to other functionalities of the NID. In this circumstance, the CLEC has no interest in the protector's functionalities, since they would be using the protector in their own NID, but it has no other viable means of access to the customer. As a result, access to the protector of field of Qwest's NID is a cost the CLEC would be forced to bear even though the CLEC is unable to avoid such costs. Therefore, it is improper to charge CLECs for access to the protector field under these circumstances.

Accordingly, AT&T proposes that this issue be resolved by including in Section 9.5.2.5 of the SGAT the following statement after the first sentence: "No charge for this functionality shall apply to a CLEC that supplies its own electrical protection for its facilities."

e. Qwest should be required to give CLECs access to cross connect fields of the NID other than the protector field and the inside wire side of the NID (NID – 10).

On NIDs in larger buildings, such as MTEs, there are multiple cross-connect blocks, in addition to the protector field and the premises wiring field.[177] AT&T contends that these multiple cross-connect blocks are all part of the NID and that CLECs should get access to these cross-connect blocks as part of the access to the full features and functionalities of the NID.

[176] See *UNE Remand Order*, ¶ 231.
[177] AZ Transcript (05/15/01), pp. 1438 - 44.

Qwest objects to AT&T's request and instead seeks to limit CLEC access to the protector field and the inside wire block on the NID.[178] Qwest contends that access to the cross-connection panels of the NID are accessible terminals and, therefore, are subloops not NIDs.[179]

Qwest's proposed limitation on access to the NID is contrary to the *UNE Remand Order*. Specifically, the FCC clearly defined the NID to include "all features, functions, and capabilities of the facilities used to connect the loop distribution plant to the customer premises wiring regardless of the particular design of the NID mechanism."[180] The FCC intended it definition to be very broad. This definition, applied broadly, unequivocally encompasses all cross-connect panels in the NID. There is absolutely no attempt by the FCC to limit the CLECs access to the protector field and the inside wire panel of the NID.

Access to these cross-connect panels could be critical to the CLEC gaining access to the customer, as contemplated by the FCC. There may be instances where the inside wiring isn't long enough to reach beyond these other cross connect blocks, or the inside wire block may not be accessible or conducive to the CLEC's wiring.[181]

Accordingly, Qwest should be required to give CLECs full access to the NID, including the various cross-connect panels of the NID, as is required in the UNE Remand Order.

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[178] *Id.*, pp. 1438 - 44.
[179] *Id.*, p. 1440.
[180] *UNE Remand Order*, ¶ 233.
[181] AZ Transcript (05/15/01), pp. 1444 - 45.

III. CHECKLIST ITEM 11 - LOCAL NUMBER PORTABILITY

A. General Description of Local Number Portability and the Relevant Legal Standard for Checklist Item 11.

Number portability is the ability of users of telecommunications services "to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."[182] In its initial order on number portability, the FCC noted that number portability is essential to meaningful competition in the provision of local exchange services and affirmed that number portability provides consumers flexibility in the way they use their telecommunications services and promotes the development of competition among alternative providers of telephone and other telecommunications services.[183]

Conversely, the FCC recognized that:

> a lack of number portability likely would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. Business customers, in particular, may be reluctant to incur the administrative, marketing, and goodwill costs associated with changing telephone numbers. As indicated above, several studies show that customers are reluctant to switch carriers if they are required to change telephone numbers. To the extent that customers are reluctant to change service providers due to the absence of number portability, demand for services provided by new entrants will be depressed. This could well discourage entry by new service providers and thereby frustrate the pro-competitive goals of the 1996 Act.[184]

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[182] 47 U.S.C. § 153(30).

[183] *In the Matter of Telephone Number Portability,* First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 96-286, ¶ 28 (Rel. July 2, 1996) ("*First Number Portability Order*").

[184] *Id.,* ¶ 31 (citations omitted).

Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the FCC pursuant to § 251.[185] Section 251(b)(2) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."[186] In order to prevent the cost of number portability from thwarting local competition, Congress enacted § 51(e)(2), which requires that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[187]

Pursuant to these statutory provisions, the FCC requires that RBOCs provide number portability in a manner that allows users to retain existing telephone numbers "without impairment in quality, reliability, or convenience."[188] In addition, the FCC requires the RBOC to demonstrate that it can coordinate number portability with loop cutovers in a reasonable amount of time and with minimum service disruption.

B. Disputed Issues: As a Legal and Practical Matter, the SGAT Reveals Qwest's Lack of Compliance with Its § 271 Local Number Portability Obligations in the Following Ways.

To satisfy Checklist Item 11, Qwest must demonstrate that it provides LNP with minimum service disruptions and without impairment of quality. Qwest's performance

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[185] 47 U.S.C. § 271(c)(2)(B)(xii).
[186] *Id.*, § 251(b)(2).
[187] *Id.*, § 251(e)(2); *see also Application of BellSouth Corporation pursuant to Section 271 of the Communications Act of 1934, as amended, to provide in region-inter LATA services in Louisiana,* CC Docket No. 98-121, FCC 98-271, ¶ 274 (Rel. Oct. 13, 1998) ("*BellSouth Second Louisiana 271 Order*"); *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702-04 (1998) ("*Third Number Portability Order*"); *In the Matter of Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, ¶¶ 1, 6-9 (Rel. June. 23, 1999) ("*Fourth Number Portability Order*").
[188] *BellSouth Second Louisiana 271 Order,* ¶ 276.

demonstrates Qwest is not providing nondiscriminatory access to LNP with minimum service disruptions and without impairment of quality. In addition, Qwest's processes do not ensure that CLEC's will obtain LNP in this manner and that Qwest's SGAT must be revised to provide such assurances. As discussed in more detail below, Qwest has now proposed that it will initiate a mechanized process that will delay the disconnect of its loop from its switch to 11:59 p.m. of the day following the CLEC's scheduled customer conversion. While AT&T commends Qwest for the movement it has made on this issue and AT&T is hopeful that this process change will resolve this issue ultimately, Qwest proposal is now merely a paper promise. Until the process is, in fact, implemented and the parties have sufficient experience that the process will in fact resolve the problems that AT&T and Cox have encountered, Qwest cannot be deemed to be providing nondiscriminatory access to local number portability with minimum service disruptions and without impairment of quality. This situation is no different from the OSS testing process where Qwest encounters a performance problem that results in the development of an exception that must be fixed before Qwest passes. The same is true here.

1. ISSUE LNP 1(b) and 2 - Coordination of Qwest Disconnect with CLEC-Provided Loops and Disconnect Time Should be Moved to 11:59 of the Day Following the Due Date.

In its testimony and the workshops, AT&T raised concerns regarding Qwest's coordination of customer conversions using CLEC-provided loops and number porting. Specifically, AT&T raised concerns regarding §§ 10.2.2.4.1 and 10.2.5.3 of the SGAT.

AT&T raised concerns regarding Qwest's failing to provide proper coordination of number porting for CLEC-provided loops. In porting numbers, Qwest sets the trigger,

which the CLEC activates in order to effect the port of the numbers.[189] In addition, the disconnect of the Qwest loop via the removal of the translations from the Qwest switch is set in advance to occur at 8 p.m. on the day the port trigger is set to be activated.[190] According to Qwest, in order to guarantee that Qwest will stop the disconnect from occurring, the CLEC must provide Qwest with 4 hours advance notice and a supplemental order must be sent from the CLEC to Qwest to stop the disconnect and change the date of the port.[191] As long as the CLEC notifies Qwest by 8:00 p.m., there should be no inbound or outbound service problem. The evidence presented by AT&T belies this statement. AT&T is experiencing disconnects on orders it has tried to halt throughout the day, with the highest percentage occurring during the 5-8 p.m. period.[192]

When AT&T provides a new loop to a customer, either via its cable telephony or fixed wireless facilities, and requests that the customer be ported for this new physical loop, if Qwest disconnects its loop before the new CLEC loop is in place, the customer will lose telephone service.[193] There are numerous reasons why the disconnect may occur before the port: to name a few, customers don't keep their install appointments, the installers could be delayed, or there could be installation problems.[194] Whatever the reasons, to avoid customer service outages, coordination must occur on these conversions and some verification process needs to exist to ensure that the port has been activated by the CLEC before Qwest disconnects its loop.

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[189] AZ Transcript (03/08/01), p. 888.
[190] *Id.*, p. 891. Qwest has revised this time frame to move the disconnect time to 11:59 p.m. on the due date. AT&T will address this proposal later in this brief.
[191] *Id.*
[192] *See* 5 ATT 16, Utah Broadband Port Cancellation Data.
[193] 5 ATT 1, Affidavit of Kenneth L. Wilson Regarding Local Number Portability, p. 53.
[194] AZ Transcript (03/08/01), pp. 937 - 938.

Coordination of cutovers – whether it be for a Qwest-provided loop or a CLEC-provided loop – is critical to ensuring that the port is completed without interruption of the customer's service. Qwest's LNP process does not provide sufficient protections against customer service outages. Qwest's own testimony highlights the problem. While Qwest attributes the problem to two CLECs and their processes, AT&T and Cox presented testimony that Qwest's processes have caused customers to lose dial tone. SGAT revisions must be made to provide CLECs with the assurance that their customers will not loose dial tone when switching service from Qwest to the CLEC.

Qwest refuses to put forth the SGAT language that would put teeth behind such coordination for CLEC-provided loops.

The FCC has stressed the importance of such coordination, stating:

> a BOC must be able to deliver within a reasonable timeframe and with a minimum of service disruption, unbundled loops of the same quality as the loops the BOC uses to provide service to its own customers. In the context of checklist item (xi), we interpret this to mean that the BOC must demonstrate that it can coordinate number portability with loop cutovers in a reasonable amount of time and with minimum service disruption.[195]

In addition, in the context of hot cut loop conversion, the FCC has stressed the importance of proper hot cuts to avoid customer service outages and the impact that the failure to provision proper hot cuts will have on competition:

> The ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.[196] Moreover, the failure to provision hot cut loops effectively has a particularly significant adverse impact on mass market competition because they are a critical component of

[195] *BellSouth Second Louisiana 271 Order,* ¶ 279. (Footnotes omitted.)
[196] *BANY 271 Order,* ¶ 299.

competing carriers' efforts to provide service to the small- and medium-sized business markets.[197]

This same logic applies equally to all coordinated cutovers for LNP with Unbundled Loops or CLEC-provided loops. Clearly, the objective should be, as is reflected in the FCC LNP standards, to avoid customer service outages. Otherwise, the service outages will reflect adversely on the CLEC and will negatively impact the CLEC's ability to obtain and retain customers. Customers blame the CLEC when they encounter problems with their service when they convert to a CLEC. It is not uncommon for customers who have encountered service disruptions when switching from the incumbent LEC to the CLEC to return to the incumbent LEC. Therefore, from a competitive standpoint, smooth conversions are critical to competition.

This is not a hypothetical issue. Both Cox Communications and AT&T raised concerns regarding the impact that Qwest's disconnect process is having on their provision of service to residential customers, particularly where the CLEC is providing that service using its own loops. Cox, the other CLEC that Qwest acknowledges is providing local service over its own loops, raised concerns about the coordination of ports for its loops with the removal on the translations from the Qwest switch in the fall of 1999 in the Nebraska Section 271 proceeding and requested that Qwest delay its disconnect until the day after the Cox scheduled install.[198] Cox in Arizona, appeared at the workshop and again raised concerns regarding Qwest's LNP performance in

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[197] *In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone 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 Texas*, Memorandum Opinion and Order, CC Docket No. 00-65, FCC 00-238, ¶ 256 (Rel.. June 30, 2000). ("*SBC Texas 271 Order*").

[198] *See* AZ Transcript (03/08/01), p. 948.

coordinating its disconnect with the Cox install[199] and requested that Qwest's disconnect be delayed until the day following the scheduled install of Cox's service. AT&T has raised this same concern throughout these Section 271 LNP workshops.

Qwest responded that if a CLEC wishes to coordinate LNP with CLEC-provided loops, the CLEC must order the managed cut process that is set forth in § 10.2.5.3. The managed cut process set forth in § 10.2.5.3 is designed to manage the cutover of large business customer conversions.[200] The managed cutover process, while acceptable for large business conversions, would be unwieldy, costly and an implementation nightmare if applied to the mass-market. In order to ensure that residential cutovers were coordinated, AT&T would have to subject every conversion to the managed cut process. Not only would this impose significant cost on every conversion, but given the number of AT&T residential conversions in Qwest's region, there is simply not enough manpower in either AT&T or Qwest to accomplish the conversions.[201] Nor does devoting such manpower to what should be a simple, automated process make much sense. As discussed above, this proposal is contrary to the FCC's requirements, is discriminatory, is completely unacceptable and is, frankly, impossible to implement in a mass-market entry context.

Qwest has also sought to shift the responsibility for these customer outages to the CLECs, claiming that there are two CLECs that are "problem carriers." These carriers are AT&T and Cox -- the only two CLECs that are providing service to the residential mass market in Qwest's region and they are the only CLECs using their own facilities to

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[199] *Id.*, pp. 901 - 906, 915 - 970.
[200] *Id.*, pp. 938 - 939.
[201] *Id.*

provide residential local service to residential customers in Qwest' region.[202] To the extent CLECs other than Cox and AT&T are porting numbers, they are providing service to business customers using UNE loops (for which Qwest concedes that it provides coordination) or they are using the managed cut process that is set forth in Section 10.2.5.3. As discussed above, the managed cut process set forth in Section 10.2.5.3 is properly designed to manage the cutover of large business customer conversions and AT&T is and other CLECs are likely using the managed cut process for such conversions.

During the workshops, AT&T proposed numerous revisions to Qwest's SGAT to prevent disruption of the customer's service during the course of an LNP conversion -- changes that would ensure that Qwest would not disconnect its loop by removing the translations from the Qwest switch before confirming that the CLEC loop has been installed and the port has been activated.

AT&T has proposed numerous revisions to Qwest's SGAT to prevent disruption of the customer's service during the course of an LNP conversion -- changes that would ensure that Qwest would not disconnect its loop by removing the translations from the Qwest switch before confirming that the CLEC loop has been installed and the port has been activated. Specifically, AT&T proposed that Qwest adopt an automated process that would launch a query or a test call to determine if the CLEC had activated the port, suggested that mechanized loop testing (MLT) could be used to determine whether the CLEC loop had been ported and, as an initial step, proposed SGAT revisions that would require Qwest to set the disconnect for the day after the port is scheduled. Finally, AT&T

[202] *Id.*; 5 ATT 1. p. 53.

proposed that BellSouth uses an automated process similar to one of the solutions that AT&T initially recommended in the multistate workshop.[203] Specifically, BellSouth does not remove the translations from its switch until it receives a broadcast message from the number portability database (NPAC) that the port to the CLEC has occurred. This procedure has virtually eliminated any issues surrounding premature disconnection of the ILEC loop prior to the conversion of the customer to the CLEC-provided loop. This is the process that both AT&T and Cox employ when it ports customers back to Qwest or to other CLECs and one which AT&T believes should ultimately be adopted by Qwest.

During the course of the other state workshops, the only proposed resolution Qwest offered was to move the disconnect time back to 11:59 p.m. on the day of the CLEC's install, which means that the CLEC must provide notice to Qwest by 8:00 p.m. on the day of the disconnect. While AT&T agreed that Qwest's proposal was an improvement from the 8 p.m. time frame, it is still insufficient to protect customers from losing dial tone. Indeed, AT&T presented evidence that demonstrates that Qwest is having difficulty stopping its disconnect even when it receives notice in the morning of the day of the port.[204] Alternatively, Qwest asserted that if the CLEC wants some assurances that its customer will not be out of service, the CLEC must employ the manpower intensive, time consuming and costly managed cut process. AT&T opposed this proposal as an ineffective and cost prohibitive means of addressing conversions for residential, mass market customers.

As for the BellSouth/AT&T/Cox solution, Qwest merely say they have a different

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[203] *See* 5 ATT 15.
[204] *See* 5 ATT 16, Broadband Port Cancellation Data.

number portability database than BellSouth and that Qwest has over 64 back office systems, without saying that these facts play any role in their ability to implement this solution or what would be required to implement this solution.

Since the close of the multistate workshops, Qwest has proposed a mechanized solution that would delay the disconnect of its loop until 11:59 p.m. of the day after the port is scheduled (even though Qwest had previously asserted that it was not technically feasible to delay the disconnect to 11:59 p.m. of the day following the due date.).[205] Qwest made this proposal for the first time on May 17, 2001 in the LNP workshop in Arizona. As indicated by Qwest witness, Ms. Bumgarner, this mechanized solution is still under development.[206] As she stated, the requirements for the process were still being written and testing was expected to commence by the end of the following week.[207] Very few details were available regarding the mechanics of how this new process will be implemented or if it can be implemented as promised.

AT&T recommends that the mechanized process proposed by Qwest in Arizona should be implemented in the Arizona on an interim basis. AT&T believes that the BellSouth/AT&T/Cox solution described above will ultimately be the best long-term solution to this concern. In addition, AT&T recommends that Qwest should be obligated to undertake prompt and reasonable efforts, in consultation with any CLECs who wish to participate, to determine whether there are low-cost means for automating coordination activities under either the day-of or the day-after alternatives. This is what Facilitator Antonuk recommended in the Multistate proceeding. After completion of such study and

[205] AZ Transcript (05/17/01), pp. 1799 - 1800.
[206] *Id.* p. 1801.
[207] *Id.*

analysis, any party should be free to recommend any changes in the SGAT provisions it considered to be appropriate.

However, until Qwest demonstrates satisfactory performance in provisioning LNP, Qwest should not be deemed to be in compliance with Checklist 11. Qwest's promised solution, while welcomed by AT&T, is too new and untested to determine that it will, in fact, solve the problems encountered by AT&T and Cox. The FCC has been clear that paper promises are insufficient to demonstrate compliance with Section 271.[208]

Moreover, it would be insufficient to simply award Qwest conditional compliance with Checklist 11, subject to satisfactory completion of the results of any OSS testing that may relate to this item as Mr. Antonuk suggests. There is currently no ROC performance measure that assesses Qwest's performance in coordinating the disconnect of its loop with the CLECs port. While AT&T and Cox have proposed a new PID to address this issue, Qwest has not agreed to the PID, the PID has not been approved and is not currently part of the OSS test.

It is ultimately Qwest's burden to demonstrate that it satisfies § 271. To do so, Qwest must demonstrate that its processes will ensure the provision of LNP with minimum service disruptions and without impairment of quality. Until Qwest demonstrates that its processes are fixed and it makes revisions to its SGAT to cure these deficiencies, Qwest has not and cannot fulfill the requirements of Checklist Item 11.

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[208] *Application 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, FCC 97-298 (Rel. Aug. 19, 1997), ¶ 55 ("*Ameritech Michigan Order*").

The Arizona Commissions should conclude likewise that Qwest is not in compliance with Section 271 until it amends its SGAT to require coordination of LNP with CLEC-provided loops.

2. Issue 1(b) – Coordination of Qwest Disconnect with Unbundled Loops.

In its testimony and the workshops, AT&T also raised concerns regarding Qwest's coordination of customer conversions using UNE loops. Specifically, AT&T raised concerns regarding §§ 10.2.2.4.1 of the SGAT.

With respect to § 10.2.2.4.1, LNP with Unbundled Loops (i.e., Qwest loops leased to CLECs as unbundled network elements), AT&T testified that it has experienced some problems with premature disconnect of the Qwest loop before the loop has been ported to AT&T.[209] When AT&T requests a loop and a number port from Qwest to serve a customer, the cutover of the loop from the Qwest switch to the AT&T switch must be concurrent with the porting of the number. If the number is ported before the loop is cutover, the customer's service is disconnected. The Qwest switch effectively stops providing service to the customer's line before the AT&T switch has dial tone available for the line. The customer will lose dial tone and will be unable to place or receive calls. This problem can be corrected by ensuring that there is proper coordination during the LNP conversion.

AT&T proposed revisions to § 10.2.2.4 to cure this deficiency. Specifically, AT&T proposed:

> 10.2.2.4 Qwest will coordinate LNP with Unbundled Loop cutovers in a reasonable amount of time and with minimum service disruption, pursuant to Unbundled Loop provisions identified in Section 9 of this

[209] 5 ATT 1, pp. 53 - 55.

Agreement. CLEC will coordinate with Qwest for the transfer of the Qwest Unbundled Loop coincident with the transfer of the customer's telephone service to Qwest in a reasonable amount of time and with minimum service disruption. ~~For coordination with loops not associated with Qwest's Unbundled Loop offering, the CLEC may order the LNP Managed Cut, as described in Section 10.2.5.4.~~ Qwest will ensure that the end user's loop will not be disconnected prior to confirmation that the CLEC loop, either CLEC-provided or Unbundled Loop, has been successfully installed.[210]

Qwest rejected this proposed revision. This section should be revised in order for Qwest to be providing nondiscriminatory access to LNP as is required by Checklist Item No. 11.

Respectfully submitted this 14th day of June, 2001.

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC. AND AT&T LOCAL SERVICES ON BEHALF OF TCG PHOENIX

By: Rebecca B. DeCook by DRF

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[210] 5 ATT 9. This Section also includes changes that are consistent with Qwest's proposed resolution of Issue 1 (b) above.

CERTIFICATE OF SERVICE

I certify that the original and 10 copies of AT&T's Post Workshop Brief on Loops, Line Splitting, and NID in Docket No. T-00000A-97-0238 were sent by overnight delivery on June 14, 2001 to:

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Phoenix, AZ 85007

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CG-INTL-001
Issue 4B-February 2001
CHAPTER 5.0 - Unbundled Network Elements

5.1 Unbundled Network Elements

The Unbundled Network Elements Interval Table consists of the following Terms and Definitions:

Term	Definition
Product	BellSouth product or service.
Quantity	Number of lines, trunks, circuits, or points
Standard Interval	The number of days required for provisioning of the requested service type. This is the number of days from the time the service order is entered into the service order processing system until the order is completed.
Targeted LSR Processing Interval	The number of days from receipt of request to processing Local Service Request (LSR).

Assumptions

1. These tables apply to all applicable ACT Types except ACT=D.
2. ACT=D Desired Due Date (DDD) should reflect the day that the CLEC is requesting service to be disconnected. Billing will be stopped as of the DDD.
3. For LSRs submitted electronically and qualifying for flow through/electronic processing, the targeted LSR processing interval will be the same business day.
4. (*) Following Product means - Product requires a Service Inquiry which is required before submitting the LSR to the LCSC.
5. When targeted LSR processing interval is not indicated and the LSR is submitted manually or electronically and requires manual intervention, the LSR will be processed as follows: (a) LSR submitted before 10:00 am - targeted for same business day; (b) LSR submitted after 10:00 am - targeted for next business day.
6. The Before and After 10.00 am time indication is based on the time zone of the Center receiving the LSR
7 Negotiated - The BellSouth Project Manager will negotiate with the New Service Provider, for all targeted intervals

DDD Calculation

1 For LSRs submitted electronically and qualifying for flow through/electronic processing, the CLEC should reflect the Standard Interval as the Desired Due Date (DDD)
2 For LSRs submitted manually or electronically that require manual intervention and no targeted LSR

processing interval is indicated on the chart: (a) LSR submitted before 10:00 am - use standard interval for DDD, (b) LSR submitted after 10 00 am - add one day to standard interval to calculate DDD.

3. When an targeted LSR processing interval is listed on the chart it should be added to the Standard interval when calculating the DDD.
4. In all cases, a due date later than the standard interval can be selected as the DDD.

UNE Interval Table

Product	Quantity	Standard Interval	Targeted LSR Processing Interval
Unbundled Loops			
2 Wire analog voice grade loop non-designed (SL1)	1-5	4 business days	See Assumption # 5
	6-14	6 business days	3 business days
	15+	Negotiated	Negotiated
2 Wire analog voice grade loop designed (SL2)	1-5	5 business days	See Assumption # 5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
4 Wire analog voice grade loop	1-5	5 business days	See Assumption # 5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
2 Wire ISDN digital loop	1-5	10 business days	See Assumption # 5
	6-14	12 business days	3 business days
	15+	Negotiated	Negotiated
Unbunded Digital Channel (UDC)	1-5	10 business days	See Assumption # 5
	6-14	12 business days	3 business days
	15+	Negotiated	Negotiated

4 Wire 2 4, 4.8, 9.6, 19.2, 56 OR 64 Kbps digital loop	1-5	5 business days	See Assumption # 5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
DS1 Loop	1-5	5 business days	See Assumption #5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
Dark Fiber	1+	Negotiated	Negotiated
Line Sharing	1-4 TNs	3 business days	See Assumption #5
	5-9 TNs	5 business days	See Assumption #5
	10 +	Negotiated	Negotiated
ADSL-2 Wire asymmetrical digital subscriber line loop*	1-5	5 business days	See Assumption #5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
HDSL-2 Wire & 4 Wire high bit rate digital subscriber line loop*	1-5	5 business days	See Assumption #5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
Unbundled Copper Loop*	1-5	5 business days	See Assumption #5
	6-14	7 business days	3 business days
	15+	Negotiated	Negotiated
Unbundled Network Terminating Wire*	1+	Negotiated	Negotiated
Loop Concentration (inside plant)			

Unbundled Loop Concentration (ULC) System*	1	Negotiated	Negotiated
Sub Loops (outside plant)			
Unbundled Sub-loop Distribution*	1+	Negotiated	Negotiated
Unbundled Sub-loop - INC*	1+	Negotiated	Negotiated
Network Interface Device (NID)			
NID to NID cross connect	1-5	5 business days	See Assumptions #5
	6-10	7 business days	3 business days
	11+	10 business days	5 business days
NID	1-5	5 business days	See Assumptions #5
	6-10	7 business days	3 business days
	11+	10 business days	5 business days
Non Channelized Transport			
Local Channel DS1*	1	23 business days	7 business days
Local Channel DS3 / STS1*	1	Negotiate	Negotiated
Local Loop DS1	1	23 business days	7 business days
	2 +	Negotiated	Negotiated
Local Loop DS3 /STS1*	1 +	Negotiated	Negotiated
Dedicated interoffice 2 wire / 4 wire voice grade	1-5	5 business days	See Assumptions #5
	6-14	7 business days	3 business days
	15 +	Negotiated	Negotiated
Dedicated interoffice DS0 IOF and loop	1-5	5 business days	See Assumptions #5
	6-14	7 business days	3 business days
	15 +	Negotiated	Negotiated

1 BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

2 Docket No. 70000-TA-00-599

3 In the Matter of the Application of US West Corporation
Regarding 271 of the Federal Telecommunications Act of
4 1996, Wyoming's Participation in a Multi-State Section
271 Process, and Approval of Its Statement of Generally
5 Available.

6 ---

7 BEFORE THE NEW MEXICO REGULATION COMMISSION

8 Utility Case No. 3269

9 IN THE MATTER OF Qwest Corporation's Section 271
Application and Motion for Alternative Procedure to
10 Manage the Section 271 Process

11 ---

12 WORKSHOP 6

13 Pursuant to continuation, Technical Workshop 6

14 was held at 8:00 a.m., May 1, 2001, at 3333 Quebec,

15 Denver, Colorado, before Facilitators John Antonuk and

16 Bill Binek.

17 APPEARANCES

18 (As noted in the transcript.)

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1 in a position to do the test results as hard copy.
2 MR. WILSON: Why? It seems like that
3 would be a natural thing, so we would have a record of
4 what the test showed.
5 MS. LISTON: There is several things,
6 and, you know, at this point, the implementers who are
7 the ones that are working with that information are not
8 in a position where they are going to be sending
9 E-mails through to the CLEC. They -- if you think
10 about other things that we have in place with
11 electronic information, and results, it has to do with,
12 basically, with the order flow information, and we can
13 set up some electronic interfaces where you are going
14 to send out those notifications. We don't have the
15 process in place to do for our implementers where we're
16 going to do an electronic E-mail. They will have to
17 somehow know who it is that they have to send the
18 E-mail message to, what the address is. It's going to
19 vary by -- it may vary by the company, by every state.
20 It may vary by the tester. And we just don't see that
21 that additional burden is something that we should take
22 on. We don't have the wherewithal to figure out how do
23 you wind up managing how you are sending these E-mails
24 and knowing who to send the E-mails to for test
25 results.

1 sure you can market to a community that is served by
2 IDLC with unbundled loops, then yesterday I heard you
3 say we have to unbundle them. We acknowledged that.
4 Now you're saying you need more information because
5 you might not be able to actually use the -- get to
6 customers who are served by IDLC. You say, but that
7 almost never happens. So, what is it?
8 MR. WILSON: It's an issue of, how
9 do you do it?
10 The problem is, Qwest, when they're
11 marketing to a neighborhood, you don't have to stop and
12 look to see -- as Ms. Liston said, yesterday we could
13 look in the data base to see if it was IDLC. Your
14 agents don't have to do that.
15 MR. STEESE: Why would you have to do
16 that?
17 MR. WILSON: If you're going to market
18 to a neighborhood or community, you have to know, can
19 you freely advertise your product and be assured of not
20 having orders put on hold for six months?
21 MR. STEESE: What I'm hearing you say
22 is, we have to unbundle IDLC. So if those customers
23 are served by IDLC we must unbundle. Then there's the
24 one time when all these things have to happen and one
25 of them is space exhaust. How are we going to serve

1 LFAC system, the order will come in and will look for
2 facilities that meet those needs. Both the wholesale
3 and retail process is the same; order comes in, goes
4 through the assignment process, and we look for
5 creation of that loop. There's nothing in the FCC
6 rules that said that Qwest has to give you information
7 about our entire network in any different fashion than
8 we do for retail. In retail when the order comes in,
9 it goes through the assignment process, the assignments
10 are made, and then the loop is created, so to speak,
11 in wholesale; you place the order, it goes through the
12 assignment process, and the loop is created. We do it
13 in the same fashion, we do it in the same time, and
14 that's what the FCC requires.
15 MR. STEESE: The problem is your retail
16 agents don't have this integrated digital loop carrier
17 problem we do. They have no such problem.
18 MS. LISTON: It's still going to have
19 to go through the assignment process to look for to
20 create a loop that's going to make it work. There's no
21 way -- giving you information in terms of F1 or F2 is
22 not going to answer the information in terms of whether
23 or not we're going to be able to create the total loop.
24 The requirement from the FCC says that we do the
25 process in parity, we do it the same way. We give

1 mediated access through IMA.

2 MS. DeCOOK: I don't mean the precise

3 form of access. I mean the information that's on the

4 data base. It's important for the CLECs to have the

5 same access to that information that you have.

6 MR. STEESE: Thank you for that

7 clarification.

8 MS. LISTON: The only reason I

9 hesitated was to make sure in terms of the wording.

10 What the OSS test will do, it will

11 evaluate the parity issue that the information that

12 wholesale has is the same information as retail has.

13 If you ask the same question in resale as you ask in

14 wholesale you'll get the same answer and that's part

15 of the test. There's a test requirement to make sure

16 that's the case, and also that the data bases used are

17 the same data bases directly or indirectly, and then

18 finally to make sure that the information in those data

19 bases that feeds the two systems, for lack of a better

20 word, are updated in the same time frame.

21 MS. DeCOOK: Did you confirm as to

22 whether on the retail side of the house for purposes

23 of ordering the Qwest folks have access to LFAC?

24 MS. LISTON: I did check on that.

25 For purposes of ordering, the retail Qwest reps do not

workshop asked, where do you get information to loops not connected to a switch? Why don't I frame it that way and hand it to Ms. Liston.

MS. LISTON: If it was loop not connected to switch, another way we could talk about it is that it's spare. The information on spare facilities -- again, facility check is the tool that the Qwest retail uses to see if there's spare facilities, and there's a mirror tool in wholesale IMA for facility check and it's called facility availability. Those two tools mirror each other. So in terms of whether or not there are spare facilities, those are the two tools that are used both in wholesale and retail for the validation of spare facilities.

MS. DeCOOK: Are all the spare facilities identified in that data base that's used for the facility check or is there just a subset of spare that's reflected there?

MS. LISTON: When you talk about spare, it's hard to talk through all the possibilities, because if you think about it, what is in the data bases are stuff that we can identify as being connected through to that customer. So it may be that it's a primary line and has been left intact and the customer

extent that kind of competitive information is stuff that many people view as highly proprietary.

Within the Qwest rules we have to protect proprietary information. It would have the information associated with nonpubs and nonlists in there, in addition to the other CLECs' network information. We don't believe it's appropriate to reveal that data base that has proprietary information in it.

MR. ANTONUK: Other issues beside proprietary and competitive information?

MS. LISTON: Only other concern that I have with the LFAC is one that I mentioned earlier and that is, if you look at the overall functionality of the LFAC data base, it is literally a one-at-a-time loop assignment process. It's built so that you capture that loop information you're looking to actually create it each time. It's not built as a query system. It says can you tell me if there's spare facility here. It would an overall assignment process.

MR. ANTONUK: If you wanted to use it for Mr. Wilson's purposes you would have to structure a whole complex set of queries that was useable?

MS. LISTON: Totally. It's a different set of functionality than LFAC has today because LFAC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
Docket No 97I-198T - Workshop 5

* * *

IN THE MATTER OF THE INVESTIGATION OF US WEST COMMUNICATIONS, INC 'S COMPLIANCE WITH SS 271(c) OF THE TELECOMMUNICATIONS ACT OF 1996

Pursuant to continuation, the Technical Workshop 5 was held at 8:35 a m , May 25, 2001, at 3898 Wadsworth Bouldevard, Lakewood, Colorado, before Facilitators Hagood Bellinger and John Schultz

APPEARANCES

(As noted in the transcript)

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PROCEEDINGS

MR. BELLINGER Why don't we go ahead and start

Let me review the agenda we had in mind this morning to try to finish things up. We were going to review the AT&T OIF concern, interoffice facility We had several Qwest take-backs, then we were going to do the FOC trial and loop 24 that goes with that, then we were going to take SunWest comments, assuming they come, and then we're going to do the briefing schedule.

MR. STEESE: If it's acceptable, if we could start with the xDSO FOC trial.

Would that be acceptable to the group?

MR. BELLINGER: Okay We'll do that

MR STEESE On this particular issue -- with respect to the trial, if you'll recall last time, Ms Liston went into some detail about what our current data showed as of that point in time Since the last workshop we've completed the trial and Qwest has put forward its views with respect to what the data showed We did make available to CLECs that participated in the trial individual data so they could verify themselves whether they thought our data was accurate. We had two CLECs that contacted us, three that came this week, asking for that data, and we have

provided that

The only CLEC that has come forward to us to date challenging the data is Covad. Ms Doberneck and I have had conversations since Friday of last week, exchanging e-mails, trying to get the Covad data to us, and because of the situation where their data expert had a death in the family we did not get that data until Wednesday afternoon

We had hoped we could turn it around relatively quickly, but there were many orders, I don't know if I can say the number, so many orders that made it impossible for Qwest to get through it in a day

As a result, Covad and Qwest have committed to working together over the next short period of time and we don't have a defined time frame in place yet for us to meet to have our data experts meet, if necessary, to have the lawyers present to make sure we all understand what the issues are, if any, to see if we can't go through and come to agreement as to what the data shows.

What Qwest has done with respect to this trial, and we did inform Covad of this, is, every single order that came in we maintained a separate file on it and we printed screens of every single thing we did along the way. We have a copy of the FOC, we have

a copy of the screen prints from the raw loop data tool, we have a file on each individual order that should allow the data verification process to work fairly efficiently

There are -- however, because of the numbers, there's 14 boxes of documents. It is a fairly substantial amount of documentation. Because of that, it's not clear to me how quickly we're going to be able to get through this.

What Ms. Doberneck and I have talked about off the record is declaring the FOC trial at impasse for now, supplement the record with written documentation, whether it be we both agree here's the data or we disagree here's the Qwest view, here's the Covad view, and if we are at that point then we'll each brief this issue in the ordinary course Qwest is committed to trying to get this done in the next couple of weeks This might be presumptuous, but it appears to Covad as well We would recommend that that portion of this issue be dealt with in that fashion.

I would say, however, that Covad's issues to date have been with respect to how promptly we are returning FOCs and whether or not we are meeting our OP-3, OP-4 -- our commitments -- installation commitments. They've not questioned our data to date

1) get my companies right. SBC is not providing direct
2) access to LFACs. They are providing some mediated
3) access. And, again, it is strictly for raw loop data
makeup, is what we have been told. And Sunbell is also
5) not --
6) MS. SACILOTTO: SouthBell.
7) MS. LISTON: BellSouth.
8) MS. DeCOOK One of those.
9) MS. LISTON One of those does not have
10) any kind of direct access to LFACs. They are not
11) providing LFACs -- not providing access to LFACs to the
12) CLECs. Qwest has also made its commitment, and we have
13) system upgrades that are in progress to upgrade the
14) loop qual database to include spare facilities. I have
15) not received the release date on when that will be
16) available. We have discussed that there are abilities
17) -- that there are different ways we can currently use,
18) using the current tools, like the aDSL tool, to get to
19) spare facility information, but there has been a
20) commitment that we will be adding additional
21) information into the raw loop data tool for spare
22) facilities.
23) So Qwest believes, in terms of what we
24) are providing is the raw loop data from LFACs. It is
25) available in both fashions to the CLECs. And from what

1) we can tell, speaking to the other ILECs, they are
2) providing mediated access strictly for raw loop data
3) information. And it appears that it sounds very
4) similar to what we have been doing for quite a while.
5) MR. WILSON: Is there any capability in
6) LFACs that Qwest uses to get reports on spare
7) facilities?
8) MR. HUBBARD: I think we talked about
9) that the other day, Ken. And to get spare facilities a
10) user would use another database that LFACs actually
11) feeds into.
12) MR. WILSON: Which is what?
13) MR. HUBBARD: The LEIS, L-E-I-S, and
14) LEAD, L-E-A-D, two other different systems. They are
15) engineering tools only. And LFACs provides feed into
16) it, provides work orders and stuff. That's where the
17) engineers get their accounts, if you will.
18) MR. WILSON: Oh, so, these two databases
19) or systems use the LFACs information to allow an
engineer to look at spare facilities. Is that how it
works?
22) MR. HUBBARD: That's kind of the way that
23) it works, yeah. LFACs feeds the number of work orders
24) into the system, if you will, by account. So, that's
25) where an engineer would go to look.

1) MR. WILSON: So, for instance, if you
2) wanted to see how much integrated digital loop carrier
3) was out there, or how much spare copper was available,
4) in an area where there was IDLC, you can use LEIS or
5) LEAD to do that?
6) MR HUBBARD: An engineer -- that's an
7) engineering tool that engineers would use. I don't
8) know everything that LFACs has in it. I am sure a lot
9) of information that LFACs -- and all of the information
10) is in the raw loop data tool. And I haven't pulled it,
11) so I don't know what exactly LFACs feeds into; that
12) Jean can address that more, or she already has
13) addressed it several times.
14) MS. LISTON: And I think, Ken, what's
15) important to realize is that the pieces that Jeff is
16) talking about are kind of subsets within the LFACs
17) database, LEIS and LEAD. The information is stored in
18) that whole module. Whether we call it LFACs or whether
19) we call it the subpieces within the LEIS and LEAD, it
20) is the data that's presented and provided, then, into
21) the raw loop data tool.
22) What the upgrade to the raw loop data
23) tool is working through is how to capture the spare
24) facility information and bring it forward, in some
25) fashion or meaningful representation, into the raw loop

1) data tool. I have not seen the specs on how that's
2) going to be accomplished. We have some real concerns,
3) when you look, about how you do it, because, again,
4) we're talking about spare facilities, but it's
5) piece-parts. We're not talking about, you know, we
6) don't necessarily always have finished loops or
7) end-to-end connects.
8) MR. WILSON: And I think this interest
9) from the CLECs stems from an ability to look and see in
10) a neighborhood how much spare facilities there were of
11) what type. So that you could know if you could market
12) either loops, where there's IDLC, or advanced services,
13) where there's digital loop carrier. And maybe one
14) avenue would be to get access to these other two
15) systems, LEIS and LEAD, rather than LFACs, since you
16) have said that LFACs is not immediately usable to make
17) queries about spare facilities.
18) MS LISTON: I guess what I am trying to
19) say, Ken, in terms of spare facility information, Qwest
20) is going to be incorporating that information into the
21) tools that are available to the CLECs. We're putting
22) raw loop information -- I mean we're putting spare
23) facility information into the raw loop data tools We
24) have got a platform built to do that. And to go to
25) another avenue for a tool, that's an engineering tool,

ATTACHMENT D

QWEST POSITION STATEMENT ON BUILD REQUIREMENT FOR UNBUNDLED LOOPS

Effective:

May 1, 2001

Introduction:

In an effort to provide more clarity around Qwest's position concerning construction of facilities for Wholesale, Qwest is pleased to offer the construction of facilities to meet your DS0 Voice Grade Unbundled Loop requests, pending certain conditions. This document is intended to provide the necessary information to make it easier to do business with us.

Network Build Position for the Unbundled Loop (UBL) Product:

When the CLEC submits a request for an UBL the request will follow the normal assignments process for assignable facilities that fit the criteria necessary for the service requested.

At times, it is necessary to perform additional work, on existing copper facilities, to make facilities available to fill the request. If cable capacity is available, Qwest will complete incremental facility work in order to effect complete facilities to the customer premises. This work includes but is not limited: placement of a drop, addition of a Network Interface Device, addition of Cards to an existing Subscriber Loop Carrier Systems at the Central Office and Remote Terminal, addition of Central Office Tie Pairs, and addition of Field Cross Jumpers. This process will not include the splicing of dark fiber. This work may require additional time to make the facility ready to complete an order.

Available Facilities:

All Services: If available facilities (facilities that fit the parameters required by the service requested on the order) are identified, the order will be provisioned. The order will be completed on the requested Due Date but no sooner than the standard interval for the service requested.

If available facilities are not readily identified through the normal assignment process, but facilities can be made ready by the requested due date, (i.e. LST cuts). The order will be completed on the requested Due Date but no sooner than the standard interval for the service requested.

If the facilities require additional time to make ready, as described above, Qwest will use the process defined Delayed Order Section below.

If there are no facilities available that fit the criteria necessary for the service requested, the order will fall to the following process.

No Available Facilities:

All Services: Qwest will follow the steps identified in the Available Facilities section above to determine if there are available facilities (facilities that fit the parameters required by the service requested). As mentioned, Qwest will follow the normal assignment process to free potential facilities that may not currently be readily available (including authorized load coil and bridge tap removal) if necessary.

During the normal assignment process, if no available facilities (facilities that fit the parameters required by the service requested) are identified for the service requested, Qwest will look for existing Engineering Job Orders that could fill the request in the future. See information in the Delayed Order, Qwest Delays Section below.

NOTE: This process will be applied across the board in each State where Qwest has a presence. Exceptions will be made ONLY if ordered by a State Commission or a Court or to comply with Contract Obligations.

Updated May 11, 2001

QWEST POSITION STATEMENT ON BUILD REQUIREMENT FOR UNBUNDLED LOOPS

If the assignment process identifies no planned Engineering Job Order, requests will fall to the following process.

No Available Facilities/No Planned Engineering Job:

DS0 – Analog (Voice Grade): When the CLEC submits a request for a DS0 – Analog (Voice Grade) only UBL, and that loop is considered Primary Service (as defined in the Qualifying Requests Section below) the normal assignment process will be followed in it's entirety. If no facilities can be found, and there is No Planned Engineering Job, an Engineering Job Order will be initiated to ensure the delivery of primary service to that end-user.

As soon as it is determined that facilities are not available, the CLEC will receive a Jeopardy Notice identifying that Facilities are not available. The CLEC may choose to cancel their order at this point with no Cancellation Charges.

Qualifying Requests: Qwest will construct facilities for UBL that are in alignment with its Eligible Telecommunications Carrier (ETC) obligation to provide basic local exchange service in the retail markets. This means that Qwest will construct facilities to satisfy the primary DS0 - Analog (voice grade) lines for UBL as Qwest constructs these facilities for it's own end-users.

The Primary services identified above are specific to the set number of lines per address. Address is defined as the specific Unit (Loc).

When the CLEC submits a request for a DS0 – Analog (Voice Grade) only UBL, and that loop is considered Secondary Service (as defined in the Qualifying Requests Section above) the normal assignment process will be followed in it's entirety. If no facilities can be found, and there is No Planned Engineering Job, the LSR will be rejeced (the CLEC will receive a Reject Notice) and the Order will be cancelled. The CLEC now has the opportunity to request construction by filing the proper request through their Account Team.

DS0 DSL Services/DS0 ISDN Services/DS1/DS3 requests: When the CLEC submits a request for a DSL, ISDN, DS1 or DS3 service, the normal assignment process will be followed in its entirety. If no facilities can be found, and there is No Planned Engineering Job, the LSR will be rejected (the CLEC will receive a Reject Notice) and the Order will be cancelled. The CLEC now has the opportunity to request construction by filing the proper request through their Account Team.

Delayed Orders:

Qwest Delays: In some cases, in order to modify facilities to make them ready for assignment, the CLEC request must be Delayed. The Delayed status of a job allows mechanical flow to the departments responsible for the additional work necessary and route the job to the correct work groups. Addition of incremental elements includes but is not limited to: placement of a drop, addition of a Network Interface Device (NID), Card existing Subscriber Loop Carrier (SLC) Systems at the Central Office and Remote Terminal, addition of Central Office Tie Pairs, Field Cross Jumpers. This position will not include the splicing of dark fiber.

Qwest will initiate a Delay when attempting to resolve a facility issue to free or modify facilities to satisfy an order. Delay time varies depending on the specific work group(s) involved.

NOTE: This process will be applied across the board in each State where Qwest has a presence. Exceptions will be made ONLY if ordered by a State Commission or a Court or to comply with Contract Obligations.

Updated: May 11, 2001

QWEST POSITION STATEMENT ON BUILD REQUIREMENT FOR UNBUNDLED LOOPS

If the facilities require additional time to make ready, the CLEC will receive a Jeopardy Notice stating that the order will be delayed until the facilities can be readied for service. Once the facilities are readied, Qwest will notify the CLEC of the new Due Date when the service will be completed. The CLEC may choose to cancel their order at this point with no Cancellation Charges. On the assigned Due Date, or on the later Requested Due Date received on a complete and accurate SUP, the service will be completed.

Qwest will initiate a Delay when attempting to Complete an Engineering Job to modify or constuct the facilities requestd by the CLEC.

If an Engineering Job currently exists, Qwest will include the facilities necessary in the CLEC's request in that Engineering job. When this happens, the CLEC will receive a Jeopardy Notice.

- If an Engineering Job has already been completed, within 72 hours the CLEC will be contacted with a new due date.
- If an Engineering Job is currently under development, the CLEC will be notified of the new Due Date at the completion of the Engineering work.

Qwest will initiate a delay to develop the necessary Engineering Job to construct facilities for Primary DS0 – Analog (Voice Grade) service (or as required by State Ruling). As soon as an Engineering Job is completed and a Ready For Service (RFS) Date is determined, Qwest will notify the CLEC of the new Due Date when the service will be completed. On the assigned Due Date, or on the later Requested Due Date received on a complete and accurate SUP, the service will be completed.

Existing Requests in Qwest Delayed Status: Within 30 business days, Qwest will begin reviewing requests currently in the Qwest delayed status. Each request will be individually reviewed to determine if there are available facilities (facilities that fit the parameters required by the service requested). This review process will include all of the steps previously identified in this document.

- If facilities are identified, Qwest will notify the CLEC of the new Due Date.
- If it is determined that there are no available facilities (facilities that fit the parameters required by the service requested) and no planned Engineering Job Orders that will satisfy this request, the LSR will be rejected (the CLEC will receive a Reject Notice) and the Service Order will be cancelled. The CLEC now has the opportunity to request construction by filing the proper request through their Account Team.

CLEC Delays: If a CLEC is unable to accept an UBL as originally specified on the Requested Due Date, the CLEC may request that the Order be Delayed. When a CLEC initiates a Delay for any reason, a 30 business day clock will begin. Within the 30 day period, the CLEC will receive an e-mail or fax notice stating "This is to advise you that PON _____ has not been completed due to customer reasons. We will hold this order for 30 days from (add 29 business days to the date the order was held for CLEC reasons). If billing is not accepted and begins within this 30 day period, the order shall be cancelled." The CLEC will have the time identified to accept billing on the circuit or the LSR will be rejected (the CLEC will receive a Reject Notice) and the Service Order will be cancelled. Qwest cannot accept a SUP beyond the first 30 business days for an existing order.

If tests show that the circuit meets the requirements of the service requested by the CLEC and the CLEC will not accept the circuit, the dispute must be resolved between the Qwest tester and the CLEC within the 30 business day period. To resolve the dispute, the CLEC would issue a SUP to re-schedule testing. The notification process defined in the paragraph

NOTE: This process will be applied across the board in each State where Qwest has a presence. Exceptions will be made ONLY if ordered by a State Commission or a Court or to comply with Contract Obligations.

Updated: May 11, 2001

QWEST POSITION STATEMENT
ON BUILD REQUIREMENT
FOR UNBUNDLED LOOPS

above will apply. If a SUP is not received within the 30 business day period, the LSR will be rejected (the CLEC will receive a Reject Notice) and the Service Order will be cancelled.

The CLEC can release the request by submitting a SUP to the order with a future Due Date . Qwest will apply the new Due Date to the order and will allow the order to flow. Qwest cannot accept a SUPbeyond the first 30 business days for an existing order.

If the CLEC fails to release the request prior to the 30 business day interval, on the 31st day, the LSR will be rejected (the CLEC will receive a Reject Notice) and the Service Order will be cancelled.

Existing Requests in the CLEC Delay Status: Within 30 business days, Qwest will begin reviewing requests currently in CLEC delay status. The notification process defined above will apply. If the request is not addressed by the CLEC the LSR will be rejected (the CLEC will receive a Reject Notice) and the Service Order will be cancelled.

NOTE: This process will be applied across the board in each State where Qwest has a presence. Exceptions will be made ONLY if ordered by a State Commission or a Court or to comply with Contract Obligations.

Updated: May 11, 2001

MEMORANDUM

DATE: 6/14/2001

TO: ROC TAG

FROM: Liz Gragert, Hewlett-Packard Consulting

RE: Qwest Supplemental Response to Observation 2030

Summary

The Interconnect Mediated Access (IMA) Graphical User Interface (GUI) and IMA Electronic Data Interchange (EDI) interfaces are not integrated and do not share data. There is no compatibility between IMA GUI and IMA EDI for pre-order and order activity.

Discussion

As documented in this Observation, a co-provider cannot submit Local Service Request (LSR) pre-order information via one electronic interface and then use the response obtained to submit an LSR order through the other. In addition, once a co-provider submits an order via a mechanized path, it must submit all transactions for that order via the same OSS gateway. This eliminates the ability of a co-provider to initiate pre-order transactions using IMA GUI while still developing its IMA EDI interface, and then process the orders using the IMA EDI interface once it is completed and certified. Further, if a co-provider experiences an EDI-impacting defect, it will be unable to process or supplement EDI-originated orders through IMA GUI.

In its response, Qwest acknowledged that its IMA GUI and IMA EDI processors are not integrated, but stated that it does not consider it a problem. In support of this position, Qwest stated that it had discussed this issue extensively with the co-provider community in a Co-Provider Industry Change Management Process (CICMP) meeting, and that a system enhancement change request, CR #4455257, had been issued to address the possibility of integrating the functionality of the interfaces. Qwest stated that the co-providers decided that such integration would not provide enough business value to make it worth pursuing, and retracted the CR.

Recommendation

HP disagrees with Qwest that this issue does not represent a problem for co-providers attempting to enter the market in Qwest territories. The lack of integration between IMA GUI and EDI requires a co-provider that plans to use EDI for ordering to also commit the resources and expense to developing its EDI interface for pre-ordering.

HP believes that this lack of integration will delay co-providers from implementing their market strategies and serving end customers. By requiring co-providers to operate in a single environment, co-providers cannot customize their market entry to meet their business needs; nor do they have the potential to implement a jump-start strategy to quickly serve their end customers. Consequently, without an integrated GUI pre-order

and EDI order, the co-provider is forced to endure a longer software development effort to support their go to market strategy.

The information provided in the following Qwest Communicator exemplifies the significant impact to the co-provider community caused by the lack of integration between the IMA GUI and EDI interfaces.

> *This* Communicator *is to inform you that Co-Providers ordering via IMA EDI Release 5.0 or 6.0 should not use the IMA GUI for address validations. The IMA GUI is currently operating Release 7.0, which uses the LSOG 3 format for addresses. This format is different than the format used in Release 5.0 and 6.0. Orders populated with addresses validated in the IMA GUI will have the incorrect format and will be rejected. IMA EDI orders should be populated with addresses validated using IMA EDI.*

This notification was distributed to the co-provider community in the following e-mail:

Subject: Address Validations via the IMA GUI
Date: Tue, 24 Apr 2001 15:31:26 -0600
From: Theresa Hubis <thubis@uswest.com>
Organization: U S WEST Information Technologies, Inc.
Attachment: Address Validations via IMA GUI 0424011.doc

Further, in Qwest's response, CR #4455257 was identified as having been retracted by the co-provider community. However, the current CR log available on the Qwest CICMP website, and the CR document itself, indicate that the CR is currently open and under consideration.

HP recommends that this Observation remain open pending clarification from Qwest as to the status of this CR. HP also requests that Qwest provide an explanation as to how co-providers, in the absence of this integration, may be able to simplify their ordering processes to reduce order entry error and the level of manual work required to process orders.

Qwest Supplemental Response (May 16, 2001):

CICMP CR # 4455257 was canceled by the originating CLEC, Verizon Avenue. The Qwest Wholesale CICMP web site has been updated to reflect the current status of this Change Request. In the CICMP, the CLEC community gave this change request a low priority, based on the fact that, in order for the functionality to be useful, a CLEC would have to be on the same version of the IMA EDI interface as the current IMA GUI interface. In recognizing that the CLECs choose to delay their implementation of the IMA EDI interface for several months after the IMA GUI has been implemented, the CLEC community felt that this request didn't have enough business value to pursue doing the development work.

Due to the industry standards that are implemented in each IMA releases, each version of IMA maintains a separate database. Therefore, Qwest does not recommend that a co-provider perform a pre-order function in one release and the subsequent order function in a different release. They would be using two separate databases and could potentially cause themselves problems. For the same reason, in order for a CLEC to be

able to take advantage of doing the pre-order in the IMA GUI and the order in the IMA EDI, they would have to be on the same version of the EDI interface as the current GUI interface. In light of the fact that the CLECs choose to delay the implementation of their EDI interface for several months after the GUI has been implemented, they typically don't implement the EDI version until the same version of the GUI is being replaced.

HP requested that Qwest provide an explanation as to how a co-provider may be able to simplify their ordering process to reduce order entry error and level of manual work required to process orders. By migrating to the most recent version of EDI, the co-provider could simplify the ordering process by using the IMA GUI for pre-order processes and EDI for ordering processes. Additionally, the Qwest Flowthrough Analysis Team provides feedback to the GUI and EDI training teams to help each co-provider reduce the errors in the LSR submission process.

HP Supplemental Recommendation (6/14/2001):

HP has reviewed the attached CR#4455257 in response to Qwest's statement that the CR had been updated to reflect the originating co-provider's decision to cancel the request. The following excerpt from the CR form documents the Status, Evaluation, and Implementation Comments related to the request:

01/26/00 Submitted CR
01/26/00 Logged and validated CR. Status New – To be industry evaluated. Sent email to Karl Brosnan with CR # and Status. Also, requested Karl to work with Kevin Cassidy and Kathy Scherrer from One Point to assign CICMP roles prior to next industry team meeting.
02/02/00 Sent email to Karl on CR form update to version 04.
02/16/00 Evaluated – To be reviewed
02/18/00 Sent email to Karl on CR status.
02/25/00 Status changed to Reviewed – Under Consideration
03/06/00 Sent email to Karl on CR status change.
05/14/01 Status changed to "Canceled – Co-Provider"
05/15/01 Sent email to Karl Brosnan and Rick Wright on CR status change

HP notes that there is a fourteen-month gap between the status change from "Under Consideration" to "Canceled – Co-Provider." Additionally, HP realizes the status change to cancel occurred only two days prior to the release of Qwest's supplemental response to this Observation. This documentation does not provide adequate information surrounding the cause of the change in status of the CR.

Further, HP understands that a co-provider cannot implement a new IMA EDI Release prior to the receipt of a complete set of business rules and EDI mapping specifications. In its supplemental response, Qwest indicated that:

> *In light of the fact that the CLECs choose to delay the implementation of their EDI interface for several months after the GUI has been implemented, they typically don't implement the EDI version until the same version of the GUI is being replaced.*

This statement does not represent an accurate account of the difficulty a co-provider encounters due to the existing Qwest change management process, which does not provide detailed business rule and EDI mapping specifications until two weeks after the production implementation of a new IMA EDI Release. The integration of IMA EDI and

IMA GUI functionality remains unfeasible given the co-provider's inability to support the implementation of the same IMA Release within both the EDI and GUI environments. Until Qwest modifies its change management process to provide final detailed business rules and EDI mapping specifications for IMA EDI Releases in advance of the production implementation of the release, a co-provider does not have the opportunity to develop its EDI interface on a schedule consistent with Qwest's production implementation of the concurrent IMA GUI Release.

HP recommends that Qwest address these change management issues, as they relate to a co-provider's ability to implement IMA EDI Releases simultaneously with the implementation of IMA GUI Releases, in conjunction with the change management issues documented in Exception 2003.

HP also recommends that this Observation remain open pending further investigation of the steps taken within CICMP that prompted the change in status of CR#4455257. Specifically, HP requests that Qwest provide any information and documentation from CICMP meetings that reflects the co-providers' ranking of this CR and the change in status from "Under Consideration" to "Canceled."

1) BEFORE THE PUBLIC UTILITIES COMMISSION
2) OF THE STATE OF COLORADO
3) Docket No 97I-198T - Workshop

* * *

IN THE MATTER OF THE INVESTIGATION OF US WEST
6) COMMUNICATIONS, INC 'S COMPLIANCE WITH SS 271(c)
7) OF THE TELECOMMUNICATIONS ACT OF 1996
8) ----------
9) Pursuant to continuation, the Technical Workshop 5
10) was held at 8:40 a m May 22, 2001, at 3898 Wadsworth
11) Boulevard, Lakewood, Colorado, before Facilitators
12) Hagood Bellinger and John Schultz
13) APPEARANCES
14) (As noted in the transcript)
15)
16)
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23)
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ATTACHMENT F

1) staff
2) MS QUINTANA Becky Quintana,
3) Commission staff
4) With us this morning we have three
5) interns that are helping out the Commission this summer
6) with the 271 process I'll let them represent
7) themselves
8) MR EMANUEL Jim Emanuel
9) MR PETERS Adam Peters
10) MR JEZIERSKI: Stan Jezierski
11) MR WENDLING. Warren Wendling of
12) staff
13) MS JENNINGS-FADER. Mana
14) Jennings-Fader, Commission counsel
15) MR. NICHOLS: Robert Nichols, Covad and
16) rhythms and PacWest and XO
17) MR. BELLINGER· If I could get the
18) witnesses here to identify themselves and swear them
19) in Give your names.
20) MR. ZULEVIC. Mike Zulevic, Covad
21) MS. BEWICK· Penny Bewick, New Edge
22) Networks
23) MS. HINES: Lealani Hines, WorldCom.
24) MR WILSON· Ken Wilson, AT&T.
25) MR. McDANIEL: Paul McDaniel, Qwest.

1) PROCEEDINGS
2) MR BELLINGER: Let's get started.
3) I'd like to welcome everybody to the last week on the
4) loop workshop, Loop Workshop 5.
5) Let's start with introductions. I'm
6) Hagood Bellinger with DCI.
7) MR SCHULTZ. John Schultz with DCI.
8) MR ZULEVIC Mike Zulevic, Covad.
9) MS. BEWICK: Penny Bewick, New Edge
10) Network.
11) MS HINES: Lealani Hines, WorldCom.
12) MR. DIXON: Tom Dixon, WorldCom.
13) MR. WILSON: Ken Wilson, AT&T.
14) MR. SEKICH. Dominick Sekich, AT&T
15) Becky DeCook is with us, will join us shortly
16) MS. YOUNG Barb Young, Sprint
17) MR McDANIEL. Paul McDaniel, Qwest
18) MR. PAPPAS. Dennis Pappas, Qwest.
19) MS LISTON: Jean Liston, Qwest.
20) MR. BECK Steve Beck, Qwest
21) MR HUBBARD· Jeff Hubbard, Qwest.
22) MR DINWIDDIE Cliff Dinwiddie, Qwest
23) MS STILES Bridget Stiles, Commission
24) staff
25) MR. EPLEY John Epley, Commission

1) MR PAPPAS: Dennis Pappas, Qwest
2) MS. LISTON Jean Liston, Qwest
3) MR. HUBBARD· Jeff Hubbard, Qwest.
4) MS QUINTANA: Becky Quintana, staff.
5) MR. WENDLING: Warren Wendling, staff
6) (The above identified self-identified
7) witnesses were sworn or affirmed to state the whole
8) truth)
9) MR BELLINGER. I assume everybody has
10) a copy of the agenda Any comments on the agenda?
11) MS JENNINGS-FADER: I have a request
12) for an addition to the agenda. At some point, and I'm
13) not sure where, maybe first thing tomorrow morning or
14) Thursday morning or something, I'd like to have Qwest
15) do a report on a couple of items and then also give a
16) reaction to a request.
17) The first thing is, I'd like Qwest to
18) present to this group a status on the ROC OSS testing
19) I'd like to know what's going on, I'd like to know what
20) is happening with respect to the testing that's had to
21) be stopped, what the status is of that, I'd like a
22) general indication of when the testing will be
23) completed. It's my understanding that at present the
24) process is scheduled to be done the first of October.
25) I'd like to know how realistic that is.

1) that a CLEC or DLEC leases an unbundled loop, that
2) really is for them to work through They basically
3) have -- I don't want to use the word, "ownership," but
they have kind of control over that loop and what
happens to it.
6) So, you know, to the extent that Covad
7) leased a two-wire nonloaded loop, you have control over
8) the entire loop If you elect to allow a voice
9) provider to share it with you, that's your business,
10) not our business Because you may want to try doing it
11) yourself, or you may want to partner with one or two
12) providers. So, an awful lot of agreement of what has
13) to work out has to be done jointly between CLECs, DLECs
14) and Qwest, but Qwest plays a fairly minor role in the
15) whole process. So it's not that we're not agreeing to
16) do it. It's not that we're not doing it It's just we
17) haven't finalized what the product is going to look
18) like. It's not a point where we'll be putting
19) intervals on the table.
20) MS. DOBERNECK: Megan Doberneck with
21) Covad. Do you know if there's a time by which Qwest
22) contemplates completing the industry discussion with
23) regard to defining this loop-splitting product?
24) MS. LISTON: I know there was a meeting
25) scheduled. It was last week, I believe, this past week

1) was the industry meeting I have not gotten my status
2) report on what the -- on how that meeting went and how
3) much process was made in the first meeting. So, we'll
4) talk off-line, make sure I have got the latest status
5) from that meeting And then probably, right after the
6) break, I can bring the status report back in on how
7) much progress we did make in the first loop-splitting
8) meeting
9) MS. DOBERNECK. Just so we're clear, I
10) mean, our interest is not in rushing the process to
11) completion in order to get a product that doesn't work.
12) To have some real definite deadlines imposed, because
13) now these, kind of -- because it's an industry forum,
14) there's always a lot of discussion. If there's no
15) deadline imposed, it's difficult to get people
16) together It's difficult to reach consensus. And I
17) think we all operate best when we know we have to get
18) something done by X, Y or Z time.
19) So, you know, we would also be interested
20) in kind of what we can -- what you can obtain with
regard to that kind of information.
MR. BELLINGER Okay So your argument
23) is, understanding loop-splitting is realized, you are
24) concerned about product development Is that your
25) concern?

1) MR. ZULEVIC Yes, that's my primary
2) concern, as well as having a definite deadline for when
3) it's going to be available We did get, in discovery,
4) as to who are we looking at partnering with, and so
5) forth, but until we actually know what we can do, we
6) can't really actively pursue any partnerships with
7) anyone to provide these types of services.
8) MR. BELLINGER When would Qwest be
9) looking to provide a date for loop-splitting?
10) MS. LISTON In terms of an
11) implementation date?
12) MR BELLINGER Yeah
13) MS. LISTON We can't do an
14) implementation date yet until we know how we're going
15) to define the product Because, you know, based on the
16) product definition will impact what kind of system
17) changes need to be made. So we really need to have
18) that first round of decision-making done on how the
19) product will be defined. That once we had a product
20) defined, then we can bring it to our systems people to
21) say, okay, now what it's going to take to implement
22) this little puppy.
23) MR. BELLINGER: Do you have a target date
24) you can offer?
25) MS. LISTON: I don't have a target date

1) right now.
2) MR. BELLINGER: Okay. Should we go to
3) the issue list? Can you make that an issue, if it
4) wasn't previously.
5) MS. LISTON. There is an issue on when
6) will Qwest provide loop-splitting. It's No. 6.
7) MR. BELLINGER: Okay Well, I would note
8) that when we get there then. Okay.
9) MS. LISTON: I stand corrected. This is
10) just will we, not when will we. But we can expand it.
11) MR. BELLINGER: Okay. Let's go to
12) Line-Splitting-1.
13) MS LISTON: Line-Splitting-1 has to do
14) with access to the POT splitters And it's on the
15) one-by-one basis. If there's outboard splitters --
16) Qwest currently does not provide outboard splitters I
17) know we have had quite a bit of discussion on this in
18) the line-sharing environment, and in other
19) jurisdictions. We have, if I remember correctly, we
20) have gone to impasse on this issue, on both
21) line-sharing, and in other jurisdictions, for
22) line-splitting.
23) MR. BELLINGER: So you wanted to take
24) this to impasse as stated?
25) MS LISTON Yes

1) MR. BELLINGER· All right. Any comments
2) by CLECs?
3) MR WILSON Two comments from AT&T
AT&T feels that Qwest should provide line-at-a-time
5) splitters when Qwest provides splitters to itself that
6) are not integrated with the DSLAM. And I understand,
7) now, from more discussion on the particular splitters
8) and DSLAMs that Qwest uses, that while the splitters
9) are not built onto the same board as the DSLAM, they
10) are hard-wired to the DSLAM in Qwest's implementation,
11) at least that was the representation that Mr Orrel
12) made in Arizona.
13) But, be that as it may, AT&T still feels
14) that the SGAT should allow CLECs to order splitters a
15) line at a time when splitters are provisioned by Qwest
16) such that they would need to do jumpering themselves in
17) order to access the splitters
18) MR. HUBBARD I can respond to that On
19) our D-SLAMs and our splitters, they are
20) amphenol-connected to each other, on the back plain of
21) both the DSLAM and the splitters. There is no wire
22) connection. I went out and looked at a bunch of them
23) since we have been in Arizona. So, there is absolutely
24) no means to access those. They are all
25) amphenol-connected They are not hard-wired, as

1) Mr Orrel -- or wire-wrapped, as we talked about.
2) MR WILSON· Okay. So it's
3) connecterized.
4) MR. HUBBARD Connecterized
5) MR. WILSON: There would be like a shelf.
6) Splitters would be connecterized to the DSLAM Is that
7) what you are saying?
8) MR. HUBBARD· Yes. On a one-to-one
9) basis, yes
10) MR WILSON. Like, you mean, like a shelf
11) of splitters to a DSLAM or individual splitters?
12) MR. HUBBARD: No. Shelf.
13) MR WILSON: Shelf So, do you know how
14) many splitters are on the shelf?
15) MR HUBBARD· I didn't count them when I
16) was out there I don't -- no, I don't. My
17) understanding is they are on a one-to-one basis for
18) one -- basically one port of this DSLAM, there's one
19) splitter assigned. There's no extra ones
20) MR. BELLINGER. Covad, do you have any
comments on that?
MR. ZULEVIC I have a question about
23) your proposed architecture for remote deployment of
24) DSLAMs
25) MR BELLINGER Is that part of this?

1) MR ZULEVIC· Well, it is, in that we're
2) talking about splitters, and whether or not they should
3) be provided on a port-at-a-time basis Do those
4) splitters that you will be deploying, are they outboard
5) type of splitters? Are they also, as you represented,
6) your CO-based DSLAM, an integrated type or hard-wired
7) splitter?
8) MR. HUBBARD Mike, I haven't seen any of
9) the actual installs in the field. The pictures I have
10) seen, and the drawings I have seen, they are
11) amphenol-connected together, the same as in the Central
12) Office. That's my understanding of it There's no
13) actual appearance of wires.
14) MR. ZULEVIC Now, I would just like to
15) add that, to the extent that Qwest does deploy outboard
16) type of splitters, we would agree with the AT&T
17) position that we should be able to have access to those
18) on a port-at-a-time basis, whether they be located in
19) the Central Office or whether they are at the remote
20) terminal.
21) MR. BELLINGER: But the issue is -- let
22) me clarify this issue. You don't provide outboard
23) splitters, am I right?
24) MR. HUBBARD: Yes. That is our
25) contention We do not provide outboard splitters. All

1) of the splitters are on a one-to-one basis One port
2) DSLAM for one splitter. We don't have extras in there
3) MR. BELLINGER: Okay
4) MR. ZULEVIC: Well, so we're saying that
5) you don't have the ability to provide them technically
6) on a one-at-a-time basis because of the way it's
7) configured.
8) MR. HUBBARD: That is correct.
9) MR. WILSON: But theoretically you could
10) provide a shelf at a time if it's connecterized.
11) MR. HUBBARD· You could do anything
12) theoretically I mean --
13) MR. WILSON· Well, I mean practically I
14) mean, you could lease the existing splitters you have a
15) shelf at a time if the CLEC had a connector of the same
16) type
17) MR. HUBBARD· Theoretically, you would
18) strand any availability out of the DSLAM to provide
19) service if you did that.
20) MR WILSON Well, if you provision a
21) shelf more than you would -- I mean, it's just --
22) that's just a provisioning question In other words,
23) if you don't order more shelves of DSLAMs, then that's
24) true If you order another shelf of splitters, that's
25) not true

1) MR. HUBBARD I guess that's a true
2) statement, Ken. I don't know Do you have a question
3) in there?
MR. WILSON: No. I was just, given that
we initially -- my initial understanding was that the
6) splitter was built onto the same board. Now, that's
7) not true We have come to where the splitters are on
8) one shelf and DSLAMs on another shelf, and they are
9) connecterized between the two. It leads to maybe not a
10) port at a time, but a shelf at a time, such that if a
11) CLEC had enough volume -- say if there are 24 splitters
12) on a shelf, if you are running 24 orders a day, for
13) instance, it would be a shelf of splitters a day
14) MR. BELLINGER Okay I think we are
15) pretty much at impasse. I don't know if there's
16) anything to add
17) MS DOBERNECK: Actually, I just -- I
18) don't have a question I had one thing to add
19) Getting back to this outboard splitter, the
20) unintegrated DSLAM splitter. And the reason it
21) matters, from our perspective, is that there is a
22) recent order that came out of the Texas PUC, in the
23) SWBT/AT&T arbitration, in which the commission made
24) clear that where you have a standalone splitter or
25) splitter that is not integrated with the DSLAM, that

1) before. and as you know, it's Qwest position that is
2) directly contrary to what the FCC has said in its order
3) that the line-splitter is not part of the loop, not
4) part of the feature/functionality of the loop. They
5) were asked to decide that directly, and they have said
6) "no" on a couple of occasions.
7) MS DOBERNECK. I think the Texas PUC
8) obviously would disagree. They specifically address
9) that order and they make the distinction, and they
10) recognize what the order says, and yet, nonetheless,
11) include appropriately, we believe, that the outboard
12) splitter should be made available to CLECs So, I
13) mean, if that is your position, that this decision is
14) wrong, then I guess we remain at impasse, but I think
15) it's pretty clear
16) MS. LISTON I think, if I remember
17) right, on that Texas order, there was an -- if I
18) remember all of the pieces correctly, they were in a
19) situation where the ILEC basically had an affiliate,
20) and within their affiliate company, they were doing
21) line-at-a-time-POT splitters. And the Texas order
22) addressed this issue that said, if you are doing it
23) with your affiliate on line at a time, you will also be
24) doing it with CLECs line at a time. And that was my
25) understanding within the Texas order, that had to do

1) that is -- that you have to -- that that splitter
2) functionality is included in the definition of the
3) loop, that has to be made available to CLECs
4) So, I understand your position saying we
5) own -- have integrated DSLAMs out there. I think, to
6) the extent they are deployed in the future or something
7) arises where it's an outboard splitter, as Mike was
8) talking about, there's a legal obligation on the part
9) of Qwest to make that available.
10) MR. HUBBARD: I think that is basically a
11) different type of marketing that's done in Texas that
12) we are not doing, where they were actually using a --
13) selling a port at a time as a product, and then were
14) ordered to basically, then, unbundle that. And Qwest
15) does not have that as a product.
16) MS. DOBERNECK· I guess I am confused,
17) then, because the language of this particular order is
18) fairly clear. I mean, it is limited to standalone
19) splitters, but the distinction the PUC -- Texas PUC
raises is that the standalone splitter is independent
from a splitter that has been incorporated into a
22) DSLAM So, I, you know, I think that's pretty
23) consistent with what we're advocating here
24) MR BECK I understand where we're going
25) with that, maybe We've talked about this order

1) with, there had been a provision made already for the
2) equivalent of selling line at a time to their own
3) affiliate company. And that was part of the decision
4) from the Texas -- within the Texas ruling, was because
5) they were doing it within their affiliate, that that
6) was my understanding, also, as part of the order, was
7) included -- that was part -- that was part of what went
8) into the decision-making.
9) MS. DOBERNECK: Well, it's not reflected
10) in the order I am looking at, which is not to say that
11) you are not correct, but certainly what you are
12) describing is not part of the discussion of this
13) particular order. And I think it's probably -- we
14) would obviously consider it to be a standalone, and it
15) says what it says.
16) MR BECK I think this does go into the
17) briefs. Unless we have something more factual on this
18) issue, we should move on
19) MR BELLINGER. I think we're briefing it
20) right now
21) MR DIXON You asked if there are any
22) other comments. WorldCom addresses, in their
23) testimony, 5-WorldCom-13, beginning on page 19, for
24) several paragraphs thereafter -- I won't go through
25) that again. It's in the record We're ready to move

1) on
2) MR WILSON· I have one more --
3) MR. BELLINGER Okay.
MR. WILSON: -- technical comment. I
guess, again, my new understanding of how the Qwest
6) splitters and DSLAMs are configured, it would be my
7) opinion that they are indeed outboard from the DSLAM
8) The fact that they are connecterized is not a technical
9) impediment. It will be easy to break out the splitters
10) by merely attaching an amphenol plug to the splitter
11) shelf, and running it to the cross-connect, and
12) breaking it out, making splitters available line at a
13) time.
14) MR. BELLINGER: Okay
15) MR. ZULEVIC: If I can just also briefly
16) add to this. I totally agree with what Ken just said.
17) It's my understanding of the Cisco 6100 platform, it
18) gives you that flexibility in that you can offer
19) different flavors of DSL off of that same basic
20) equipment, depending on what types of cards, and so
21) forth, you put in. And that if you're offering the
22) aDSL type of product, then you would order enough of
23) the shelves of the splitters to be able to accommodate
24) what you are offering.
25) So, I would also like to say that the

1) splitters that we currently have in place, upon a
2) virtual basis, with Qwest, are also connecterized using
3) the same type of amphenol connecter that you just
4) characterized your splitters as requiring. So, I would
5) totally agree that that would definitely look like an
6) outboard splitter application, even though you may
7) dedicate those on port -- on amphenol at a time, or
8) shelf at a time, directly to your DSL products.
9) MR. BELLINGER: Okay. I think we've got
10) it on record.
11) MS. QUINTANA: Just a question. There
12) seems to be a second part of this Line-Splitting-1
13) issue on the COIL, that's the location of the splitter
14) in relation to the MDF was raised by WorldCom, it says.
15) Should we make that a separate issue? It doesn't seem
16) to be part of this impasse issue, and is it still an
17) issue?
18) MR DIXON. Yes. That's part of the
19) testimony This is Tom Dixon. That's part of the
testimony to which I was referring. And I don't
believe we're alone. I just think --
MR. BELLINGER: Want to make that a
23) separate --
24) MR. DIXON: I don't know I don't care
25) if it's separate or not. I would be happy to, for your

1) convenience.
2) MR BELLINGER· I am going to leave it
3) like it is, unless --
4) MS LISTON: Should we just make it A and
5) B?
6) MR. BELLINGER: We can do that You vote
7) for A and B. Fine with me. A and B. So, following
8) the comma on the last sentence -- no, I guess the last
9) sentence
10) MS JENNINGS-FADER: Starting with,
11) "WorldCom also states. "
12) MR BELLINGER Yes
13) MS JENNINGS-FADER: So, Tom, following
14) up now on now having split, as it were,
15) Line-Splitting-1 into two pieces, thereby demonstrating
16) line-splitting, the second part that starts
17) "WorldCom" -- so we had a discussion about that aspect
18) of this particular issue, and if not, do we need to
19) have a discussion on the record about that. And,
20) finally, is that piece also at impasse?
21) MR DIXON: Mana.
22) MS. JENNINGS-FADER: Yes.
23) MR. DIXON: Aside from going through this
24) orally, we have addressed it on page 19 of our
25) testimony, which is 5-WorldCom-13. We address it under

1) Section 9.21 2.1.6. And our point is strictly
2) discussing where a splitter should be located. I don't
3) know that it's necessary to elaborate on that. We have
4) provided language for that particular section that
5) addresses the location of the splitter. So, we don't
6) have anything else to say, other than I could read into
7) the record, but it's already there.
8) MS. JENNINGS-FADER: Thank you, as much
9) as I enjoy your reading.
10) MR. BECK: Is the concept there, I think,
11) an extension, then, of the first issue? I understood
12) it to be, if we have available space on an existing
13) splitter, will we unbundle it line at a time
14) MR. BELLINGER: Or even provide it
15) MR. BECK Right. And I think B is --
16) MR. BELLINGER: Location.
17) MR BECK: It implies we would have to
18) actually build it for you. You are not accessing a
19) feature/functionality of an existing loop. You want us
20) to add a feature/functionality to the loop.
21) MR BELLINGER. Okay
22) MR BECK Otherwise you can take the
23) splitter where it sits
24) MR. BELLINGER. Otherwise what?
25) MR. BECK: You would take the existing

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Page 1 of 1

Qwest plans major expansion of DSL

Service aims to be in 6 million homes by '02

By Kris Hudson
Denver Post Business Writer

Qwest Communications International on Tuesday announced plans to extend the reach of its high-speed Internet access to another 2.5 million homes by the end of next year.

If Qwest follows through on the plan, the company would expand the number of homes in 11 states that can order the high-speed service, called digital subscriber line or DSL, to a total of 6 million by the end of 2002.

Qwest claimed 306,000 DSL customers at the end of the first quarter, with projections to add another 200,000 paying DSL customers by the end of this year.

Qwest has factored in the cost of expanding its DSL service in its capital-spending budgets for 2001 and 2002. Nonetheless, the company declined to reveal those figures on Tuesday.

"It's a fivefold increase this year as opposed to what U S West spent in all of 2000 for DSL services," said Murray Smith, Qwest's vice president of DSL services.

Qwest has slated expansion of its DSL network in Colorado, Arizona, Iowa, Idaho, Minnesota, Montana, Nebraska, New Mexico, Oregon, Utah and Washington. In Colorado, the company plans to extend DSL availability this year to 214,000 homes and businesses in Boulder County, Colorado Springs, Larimer County, Aurora, Brighton, Broomfield, Castle Rock, Golden, Littleton, Parker, Thornton and Westminster.

The company intends to achieve the expansion through installing "remote terminals" in neighborhoods. The most common consumer variety of DSL service extends only to homes that are within roughly 3 miles of the switching office from which it is supplied.

The remote terminals — similar in size and appearance to street-side power transformers — house the computer equipment needed to deliver DSL, thereby saving Qwest the expense of building additional switching centers. Lucent Technologies initially will provide Qwest with most of the terminals it needs for the DSL expansion.

U S West, which Qwest bought

Please see QWEST on 3C

Qwest plans major DSL expansion

QWEST from Page 1C

last year, and fellow Baby Bell SBC Communications Corp. are widely considered the most aggressive Baby Bells in expanding DSL service. They have to be, considering the popularity of Internet access over cable lines. AT&T Broadband alone has 1.3 million customers for its cable-modem Internet service.

Qwest has always had the challenge of dealing with the largest geographic area of any of the remaining (Baby Bells), choosing among mostly second- and third-tier cities for its rollouts," said Will Gordon, vice president of telecommunications management consulting firm Adventis in San Francisco.

"The numbers would suggest it's not very aggressive, but for Qwest it's probably very expensive relative to rolling out DSL in Manhattan, L.A. or Chicago, where they'd have the benefit of (population) density."

PUC DOCKET NO. 22315

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PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR ARBITRATION WITH AT&T COMMUNICATIONS OF TEXAS, L.P., TCG DALLAS, AND TELEPORT COMMUNICATIONS, INC. PURSUANT TO SECTION 252(b)(1) OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996	§ § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

ORDER APPROVING REVISED ARBITRATION AWARD

This Order approves the Revised Arbitration Award[1] (Revised Award) with the attached decision point list (DPL) issued in this proceeding on September 27, 2000, and incorporates both herein for all purposes. Further, this Order approves the clarifications and modifications made to the Revised Award by the Commission at its February 8, 2001, Open Meeting.

Pursuant to Section 252(b)(1) of the Federal Telecommunications Act of 1996 (FTA)[2] and P.U.C. Procedural Rule § 22.305, Southwestern Bell Telephone Company (SWBT) filed a petition requesting that the Public Utility Commission of Texas (Commission) arbitrate the unresolved issues in the successor Interconnection Agreement (IA) between SWBT and AT&T Communications of Texas, L.P., TCG Dallas, and Teleport Communications, Inc. (collectively AT&T). The Commission finds that the Revised Award, including the clarifications and modifications discussed in greater detail in the sections that follow, is consistent with the requirements of § 252 of the FTA.

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[1] The Arbitrators issued an initial Arbitration Award on September 13, 2000. The Revised Arbitration Award supersedes the initial Arbitration Award.

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 100 Stat. 56, codified at 47 U.S.C. §§ 251, et seq.

I. Procedural History

On March 23, 2000, SWBT filed its petition to resolve outstanding issues related to the jointly-filed IA with AT&T. On July 31 and August 1, 2000, the Arbitrators conducted a hearing on the merits. On September 13, 2000, the Arbitrators issued their initial Award and DPL. The Arbitrators deferred the decision on Physical Network Interconnection Issues One and Four until after the Commission issued an order in the SWBT/MCI Worldcom Arbitration.[3] The Revised Award issued on September 27, 2000 addresses those two issues.[4] On December 12, 2000, AT&T and SWBT filed their comments regarding the Revised Award. On December 21, 2000, the Arbitrators issued Order No. 6 outlining additional issues yet to be addressed in this proceeding; however, as part of a procedural schedule filed jointly by SWBT and AT&T on January 4, 2001, the parties requested that, if the parties were unable to settle these matters, they would instead file a separate petition later. Consequently, none of these issues were presented for consideration in this docket. On January 19 and February 1, 2001, the Arbitrators filed their comments and provided recommendations relating to the issues that continue to be contested by the parties. The Commission considered the Revised Award at its Open Meeting on February 8, 2001.

II. Modifications to the Revised Arbitration Award

A. Points of Interconnection

An investigation into points of interconnection (POIs) is an essential part of the analysis of the issue of interconnection. Section 252(c)(2) of the FTA states that incumbent local exchange carriers (ILECs) must provide interconnection within their networks at "any technically feasible point." In its recent *MCIW Order*, the Commission

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[3] *Petition of Southwestern Bell Telephone Company for Arbitration with MCI Worldcom, Inc. Pursuant to Section 252(b)(1) of the Federal Telecommunications Act of 1996,* Docket No. 21791(September 20, 2000) (MCIW Order).

[4] Issue No. One is addressed in the text of the Revised Arbitration Award, while Issue No. 4 is addressed in the DPL.

agreed with the FCC that " a competitive LEC has the option to interconnect at only one technically feasible point in each LATA" and that "the incumbent LEC is relieved of its obligation to provide interconnection at a particular point in its network only if it proves to the state public utility commission that interconnection at that point is technically infeasible."[5] The Revised Award is consistent with the FCC Orders and the *MCIW Order* in that it concludes that technical feasibility is the basis for determining whether a particular POI is appropriate. Accordingly, this Order affirms the Arbitrators' decision with respect to the requirement of technical feasibility. Further, the Commission is also compelled to address SWBT's concerns regarding cost recovery and the definition of local traffic.

As part of its analysis in the *MCIW Order*, the Commission also reviewed issues related to network integrity, consistent with FCC precedent. As noted in the *MCIW Order* "the *First Report and Order* also recognizes that states may go beyond national rules and 'impose additional pro-competitive interconnection requirements, as long as such requirements are otherwise consistent with the 1996 Act and the FCC's regulations.'"[6] In particular, the Commission determined that it was reasonable to require additional points of interconnection (POIs) to avoid network or tandem exhaust.[7] The Parties are therefore encouraged to negotiate additional POIs when a *de minimis* traffic threshold is reached.[8]

Despite SWBT's concern regarding the impact of the Arbitrators' POI decision on the definition of local traffic[9], the Commission affirms its previous definition of local

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[5] *MCIW Order* at 4, fn. 16.

[6] *Id.* at 4.

[7] *Id.*

[8] *Id.* at 6. The Commission required MCIW and SWBT to negotiate additional POIs when MCIW's traffic usage exceeds a traffic level equal to twenty-four DS1s. Similarly, the parties in this proceeding are encouraged to negotiate the level of *de minimis* traffic threshold or arbitrate the issue in a future proceeding.

[9] SWBT Comments at 22-24.

traffic as established in Docket No. 21982.[10] In that docket, for the purposes of the application of reciprocal compensation, the PUC defined local traffic as "calls that originate from and terminate to an end-user within a mandatory single or multi-exchange local calling area, including the mandatory EAS/ELCS areas comprised of SWBT exchanges and the mandatory EAS/ELCS areas comprised of SWBT exchanges and exchanges of independent ILECs."[11] In Docket No. 21982, the Commission specifically found that CLECs were not precluded from establishing their own local calling areas or prices for purposes of *retail* telephone service offerings.[12]

While costs are not an appropriate consideration in the provisioning of POIs, the costs may be taken into account after technical feasibility is established (i.e. in determining the amount the CLEC will have to pay for its proposed interconnection plan).[13] The Commission finds, therefore, that costs related to POIs may be taken into consideration in this docket, given that technical feasibility has been established. Again, the Commission notes that section 252(c)(2) of the FTA requires ILECs to provide interconnection within their networks at "any technically feasible point at "rates, terms, and conditions that are just, reasonable, and nondiscriminatory." In providing interconnection, a company incurs transport costs. In the context of reciprocal compensation rates or the interconnection rates for local calls, of which local transport rates are a component, the rate is based upon a 14-mile estimate for interoffice transport.[14]

But where the assumption of 14 miles as a standard distance for local transport does not reflect the actual (longer) distance of local transport, the reciprocal

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[10] *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996,* Docket No. 21982, Revised Arbitration Award at 18 (August 31, 2000) (Docket No. 21982).

[11] *Id.* The local traffic definition is based on an ILEC's exchanges. Because the parties arbitrating the issue of reciprocal compensation in Docket No. 21982 consisted of SWBT and interconnecting CLECs, the definition of local traffic in question is based on the exchange(s) comprising the SWBT local calling area.

[12] *Id.*

[13] Arbitrators' Comments at 14 (Jan. 19, 2001).

[14] Docket No. 21982 at 40, fn. 153.

compensation rates may not be just, reasonable and non-discriminatory, as required by FTA §251(c)(2)(D). In general, the costs incurred by SWBT to build facilities to the POI are recovered, in part,[15] through the reciprocal compensation rates charged to AT&T for local calls that terminate to SWBT customers. Similarly, AT&T charges SWBT reciprocal compensation rates for calls terminated to AT&T customers. For a call that originates and terminates within the local calling area (a local call) but that is transported across the local calling area boundary to a POI designated by AT&T[16] in the LATA, local transport may extend beyond 14 miles. Consequently, the transport costs associated with transport to the AT&T designated POI may not properly compensate SWBT for each and every call.

In concluding that it was appropriate for a CLEC to select the POI in an ILEC's network, the FCC reasoned that because CLECs usually must compensate -ILECs for the additional costs incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect.[17] The Commission concurs with this determination and acknowledges the importance of sending the appropriate price signals to ensure that CLECs make economically efficient decisions about where to interconnect.[18]

The Commission finds that the reciprocal compensation rates using 14 miles as the general rule for local transport is appropriate, but that an alternate compensation mechanism must be established to address local traffic sent to a distant POI beyond the 14-mile limit. However, the Commission finds that a *de minimis* threshold for local transport must be reached before a new rate is established. Consequently, the Commission concludes that until the *de minimis* traffic threshold is reached, reciprocal compensation rates will apply to all calls regardless of whether the local call was

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[15] Portions of the facilities costs are also recovered through SWBT's retail local rates.

[16] AT&T Comments at 23-24.

[17] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-96, *First Report and Order*, FCC No. 96-325 at ¶ 209.

[18] Open Meeting Tr. at 138 (February 8, 2001).

transported within the local calling area boundary or was transported across the local calling area boundary to the POI designated by AT&T. However, after the *de minimis* traffic threshold is reached, cost recovery and compensation mechanisms will vary depending on whether the local call crossed local calling area boundaries.

The reciprocal compensation rates established in Docket No. 21982 shall continue to apply to all local calls that are transported within the local calling area. For calls that originate and terminate within the local calling area but that are transported across the local calling area boundary, the reciprocal compensation rates, specifically the local transport rates, will apply to the last 14 miles of the call on the terminating end of the call, regardless of whether SWBT or AT&T terminates the call. In addition, each carrier will be responsible for the transport costs for the first 14 miles of a local call originated by its own end use customer. The remaining additional transport costs, beyond the 14 miles, incurred by both SWBT and AT&T in hauling the traffic to the AT&T designated POI in the LATA will be borne by AT&T, the cost causer.

The Commission determines that the interconnection rates to be paid by AT&T to recover the additional costs incurred by SWBT in transporting the call to the AT&T designated POI should be cost-based. In the event the parties cannot reach an agreement, such rates should be addressed in a subsequent arbitration proceeding. The Commission believes that this compensation mechanism strikes a reasonable balance between a CLEC's right to designate the point of interconnection on the ILEC's network and the need to provide the appropriate incentives to the CLEC to make economically efficient decisions about where to interconnect. The Commission finds that requiring the cost causer to absorb additional costs incurred as a result of the siting of a POI, after a reasonable minimum traffic threshold is reached, is sound public policy and is consistent with the FCC's *First Report and Order* and § FTA 251. In addition, both parties shall negotiate the architecture in each location that will seek to mutually minimize and

equalize investment.[19] Parties are therefore encouraged to facilitate agreements that are also "economically feasible" once technical feasibility has been established.

B. Line Splitting

The Commission affirms the Revised Award and finds it appropriate to conclude that the splitter is to be included in the definition of the local loop. The Revised Award is premised upon "AT&T purchasing all capabilities of the loop including the low and high frequency spectrum portion of the loop when it purchases the unbundled loop in combination with the switch port or the unbundled network element platform (UNE-P)."[20] The Arbitrators found that "line splitting was necessary to gain access to the high frequency portion of the loop in order to allow AT&T to take advantage of the full functions, features, and capabilities of the loop."[21] Consequently, the Revised Award states that "excluding the splitter from the definition of the loop would limit its functionality."[22]

The Commission agrees with the Arbitrators' conclusion that, "there is no technical distinction between line sharing and line splitting, as the splitter provides access to the same functionality of the loop in both contexts."[23] Consequently, the Commission finds that it is discriminatory for SWBT to provide access to the splitter in a line sharing context while not providing the splitter in a line splitting context.[24] The Commission also determines that it is discriminatory for SWBT to disallow pre-wiring.

SWBT's proposal requiring CLECs to collocate in order to line split, significantly prohibits UNE-P providers from achieving commercial volume, not only because

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[19] *MCIW Order* at 5.

[20] Revised Award at 18.

[21] *Id.* at 20.

[22] *Id.*

[23] *Id.* at 21.

[24] *See Id.*

collocation is required but also because SWBT does not propose to prewire, or allow the CLEC to prewire, from the intermediate distribution frame (IDF) to the CLEC's splitter.[25]

After the issuance of the Revised Award and the subsequent comments of the parties, the FCC issued a decision addressing line splitting.[26] The decision clarified that "existing [FCC] rules support the availability of line splitting."[27] The FCC determined that "independent of the unbundling obligations associated with the high frequency portion of the loop that are described in the *Line Sharing Order*,[28] incumbent LECs must allow competing carriers [individually or in combination] to offer both voice and data service over a single unbundled loop."[29] However, the FCC denied AT&T's "request that the Commission clarify that ILECs must continue to provide xDSL services in the event customers choose to obtain voice service from a competing carrier on the same line because we find that the *Line Sharing Order* contained no such requirement."[30]

Consequently, the FCC determined that an ILEC has an "obligation to permit competing carriers to engage in line splitting using the UNE-platform where the competing carrier purchases the entire loop and provides its own splitter."[31] The FCC notes that this arrangement was contemplated in both the *Texas 271 Order* and the *Line Sharing Order*.[32] However, the FCC noted that the issues of "splitter ownership" and

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[25] *Id.* at 22.

[26] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC No. 01-26, CC Docket No. 98-147, CC Docket No. 96-98, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in Docket No. 96-98 (rel. Jan. 19, 2001).

[27] *Id.* at ¶ 16.

[28] *Deployment of Wireline Services Offering Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in Docket No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

[29] FCC Line Splitting Order at ¶ 18.

[30] *Id.* at ¶ 16.

[31] *Id.* at ¶ 19.

[32] *Id.* at fn. 33.

whether or not the splitter should be included in the definition of the loop are deferred to upcoming proceedings due to the complexity of the issue.[33]

The Commission finds sufficient evidence in the record to conclude it appropriate to consider the splitter a part of the loop. The Commission clarifies that this finding applies only to "stand-alone" splitters, as requested by AT&T in this docket.[34] This does not apply to a splitter that has been incorporated into a DSLAM. Further, because the parties did not address the cost of a loop that includes a splitter,[35] a separate rate must be established for a loop that includes the use of the splitter.[36] Therefore, the Commission determines that it is appropriate for the parties to address this issue in a subsequent arbitration proceeding if an agreement cannot be reached between the parties as to the appropriate compensation mechanism.

C. Third Party Intellectual Property Rights

The Revised Award concludes that AT&T does not have the obligation to indemnify SWBT against damages resulting from claims that AT&T has violated the intellectual property (IP) rights of third parties for the use of those rights. Further, the Commission agrees with the Arbitrators that the language proposed by SWBT requiring AT&T to indemnify SWBT for uses of IP rights should be rejected as overly broad. However, the Commission determines that, consistent with the FCC's *Third Party*

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[33] *Deployment of Wireline Services Offering Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration, CC Docket No. 98-147; Fourth Report and Order on Reconsideration, CC Docket No. 96-98; Third Further Notice of Proposed Rulemaking, CC Docket No. 98-147; Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 at ¶ 19 (Jan. 19, 2001).

[34] AT&T Comments at 8.

[35] Open Meeting Tr. at 142 (February 8, 2001).

[36] *See Petition of MFS Communications Company, Inc. for Arbitration of Pricing of Unbundled Loops Agreement Between MFS Communications Company, Inc. and Southwestern Bell Telephone Company*, Docket No. 16189, *et al*, Award and Appendix D at 35 (Nov. 8, 1996) (First Mega-Arbitration Award) (in which the splitter was not included as a cost model input); and *See also Petition of MFS Communications Company, Inc. for Arbitration of Pricing of Unbundled Loops Agreement Between MFS Communications Company, Inc. and Southwestern Bell Telephone Company*, Docket No. 16189, *et al.* Award and Appendix B (Dec. 19, 1997)(Second Mega-Arbitration Award) (proceeding did not to include rates for splitter while approving rates for UNEs and services necessary for interconnection).

Intellectual Property Rights Order, [37] AT&T is required to indemnify SWBT for the use of rights beyond the coextensive rights obtained by SWBT. As such, the language should provide:

> GTC Section 7.3.6. AT&T agrees to release, indemnify and hold SWBT harmless from and against all Damages arising out of, caused by, or relating to any Claim that AT&T's interconnection with SWBT's network, or AT&T's use of SWBT's network elements, or unbundling and/or combining of SWBT's network elements (including combining with AT&T's network elements) or AT&T's use of other functions, facilities, products or services furnished under this Agreement violates or infringes upon any third party IP rights or constitutes a breach of contract rights of third parties, *to the extent AT&T's use of said IP rights are beyond the coextensive rights obtained by SWBT on behalf of AT&T.*

III. Commission Findings

1. The Commission's approval and review of the Revised Arbitration Award is consistent with FTA § 252(b). Section 252(b)(1) provides that if an incumbent local exchange carrier (ILEC) and competitive local exchange carriers (CLECs) cannot successfully negotiate rates, terms and conditions in an interconnection agreement, either of the negotiating parties "may petition a State commission to arbitrate any open issues."

2. The Commission is the state regulatory body responsible for arbitrating interconnection agreements approved pursuant to the FTA.

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[37] *In the Matter of Petition of MCI for Declaratory Ruling that New Entrants Need Not Obtain Separate License or Right-to-Use Agreements Before Purchasing Unbundled Elements and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Memorandum Opinion and Order, FCC No. 00-139, CCBPol. 97-4 and CC Docket No. 96-98 (rel. Apr. 27, 2000) (*Third Party Intellectual Property Rights Order*).

3. The Commission has reviewed the Revised Arbitration Award and the pleadings and comments filed by SWBT, AT&T, and the Arbitrators.

4. The Commission finds the Revised Arbitration Award, as modified herein, is consistent with the requirements of § 252 of the FTA.

5. The Commission finds the Revised Arbitration Award and its modifications are consistent with Subchapter Q of the Commission's procedural rules.

IV. Ordering Paragraphs

1. The Revised Award and specific language in the parties' Interconnection Agreements implementing the Award are approved, as modified and clarified by this Order and consistent with the Arbitrators' comments as identified in Staff's memorandum of February 8, 2001.

2. The Commission, for good cause, waives the 20 day filing requirement under P.U.C. PROC. R. 22.323, and orders all parties to file revised, signed interconnection agreements that have been modified in accordance with the rulings in this Order within ten (10) days from the date of this Order. Additionally, all parties shall file affidavits attesting that the amended agreements comply with this Order and with the Revised Arbitration Award as clarified and modified by the Commission.

SIGNED AT AUSTIN, TEXAS the 14th day of March 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

PAT WOOD, III, CHAIRMAN

JUDY WALSH, COMMISSIONER

BRETT A. PERLMAN, COMMISSIONER

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DOCKET NO. 22315

PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR ARBITRATION WITH AT&T COMMUNICATIONS OF TEXAS, L.P. TCG DALLAS, AND TELEPORT COMMUNICATIONS, INC. PURSUANT TO SECTION 252(B)(1) OF THE FEDERAL COMMUNICATIONS ACT OF 1996	§ § § § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

REVISED ARBITRATION AWARD

I. SUMMARY OF PROCEEDINGS

A. Procedural History

On March 23, 2000, Southwestern Bell Telephone Company (SWBT) filed a Petition for Arbitration with AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications, Inc. (collectively AT&T) pursuant to Section 252(b)(1) of the federal Telecommunications Act of 1996 (FTA) and P.U.C. PROC. R. 22.305. The hearing on the merits was held on July 31 and August 1, 2000.

This arbitration proceeding has been conducted in accordance with the Commission's rules and FTA Section 252(c). On May 31, 2000, the parties filed a joint decision point list (DPL), which was amended by agreement on August 4, 2000.[1] The scope of the issues addressed in this arbitration proceeding is limited to those issues identified in the DPL. By agreement, the parties extended the deadline for issuance of this Award until September 13, 2000.

The initial Arbitration Award was issued on September 13, 2000. The Arbitrators deferred the decision on Physical Network Interconnection Issues One and Four until after the

[1] Parties Ex. No. 3, Revised Decision Point List.

III. DSL ISSUES

DPL Issue Nos. 1-4, 6 and 7

1. **(SWBT's version) Should SWBT be required to provide access to the HFS portion of the loop as part of the UNE platform, even though SWBT is not the voice provider in such circumstances?**

1. **(AT&T's version) Should SWBT be required to provide access to the HFS portion of the loop to a UNE-P voice provider?**

4. **(SWBT's version) Should SWBT be obligated to support AT&T's transactions with other carriers to provide voice and data over a single loop?**

4. **(AT&T's version) Should SWBT be obligated to interact with AT&T's authorized agents as if they were AT&T?**

6. **(SWBT's version) What should happen in the event an end user disconnects service on a loop over which SWBT and an advanced services provider are currently providing voice and data services, and AT&T seeks to acquire the loop?**

6. **(AT&T's version) Where a customer wants to drop SBC voice and continue with voice & data, how may AT&T convert a SWBT retail voice customer (POTS) to AT&T-provided voice service and DSL service using a single unbundled loop/switch port combination leased from SWBT?**

7. **(SWBT's version) Should SWBT or AT&T own the splitter needed for line sharing, and where should it be located?**

7. **(AT&T's version) Should SWBT be required to own the splitter needed for line splitting and where should it be located?**

SWBT's Position

Relying upon the FCC's *Line Sharing Order*,[79] SWBT asserts that it is not obligated to provide line sharing "to requesting carriers that are purchasing a combination of network elements known as the platform."[80] SWBT adds that in the FCC's *Line Sharing Order*, the FCC specifically stated that line sharing was not required where the incumbent LEC was not the voice provider, and gave as an example, the UNE platform.[81] SWBT states that, as AT&T defines it,

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[79] Deployment of Wireline Services Offering Advanced Telecommunications Capability, *Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No.* 96-98, CC Docket 98-147 (Rel. Dec. 9, 1999) ("*Line Sharing Order*").

[80] SWBT Post Hearing Brief at 37; *Line Sharing Order* at para. 72.

[81] SWBT Post Hearing Brief at 37.

UNE-P is the SWBT-combined loop and switch.[82] Therefore, SWBT states that, by definition, it is impossible to offer both voice and data services over UNE-P, inasmuch as the switch and loop must be disconnected, and reconnected through a splitter, in order to access both the voice and the high frequency portion of the loop.[83]

SWBT describes how AT&T can access the high frequency portion of the loop: first, after arranging for collocation space for the splitter and DSLAM, AT&T would connect this equipment to collocation cabling arrangements; second, AT&T would need to access loop makeup information; third, AT&T would order an unbundled xDSL-capable loop, and any necessary unbundled switching and shared transport from SWBT to be connected to its collocation arrangement; and fourth, AT&T would combine the unbundled xDSL-capable loop with a collocated splitter of integrated splitter and DSLAM.[84] After these steps are completed, AT&T would then disconnect its UNE-P.[85]

SWBT opposes AT&T's proposal that SWBT own the splitter because it imposes upon SWBT significant additional obligations that are not necessary for AT&T to use UNEs to provide service to its customers.[86] SWBT further explains its concerns:

> [A]lthough AT&T can share the use of a single UNE loop with a data provider under terms offered by SWBT, AT&T wants to shift to SWBT the burden of coordinating the shared use of a loop even though AT&T can perform this function for itself. AT&T's proposals would require SWBT to coordinate the activities of three carriers, SWBT, AT&T, and the data provider. This proposal would also put SWBT in the role of coordinating maintenance issues with two other carriers. In addition, AT&T's proposal requires SWBT to separate currently combined UNES and recombine these UNEs with other facilities that are not UNEs, i.e., SWBT-owned splitter as discussed below.[87]

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[82] SWBT Ex. No. 10, Direct Testimony of Carol Chapman at 5.

[83] SWBT's Post-Hearing Reply Brief at 20.

[84] SWBT Ex. No. 10, Direct Testimony of Carol Chapman at 6.

[85] *Id.*

[86] *Id.*

[87] *Id.* at 6-7.

SWBT acknowledges that it has agreed to provide the splitter in the case of line sharing, but SWBT argues that it makes no sense for SWBT to provide the splitter when SWBT is not the voice provider.[88]

From a legal standpoint, SWBT asserts that the FCC's *Line Sharing Order* and the *SWBT Texas 271 Order* support SWBT's position. SWBT avers that in the *Line Sharing Order*, the FCC held that CLECs are not entitled to access the high frequency portion of the loop unless the ILEC remains the voice provider to that customer.[89] SWBT further asserts that the FCC restated its position in the *SWBT Texas 271 Order*.[90]

> We reject AT&T's argument that we should deny this application on the basis of SWBT's decision to deny its xDSL service to customers who choose to obtain their voice service from a competitor that is using the UNE-P carrier loop. Under our rules, the incumbent LEC has no obligation to provide xDSL service over this UNE-P carrier loop. In the *Line Sharing Order*, the Commission unbundled the high frequency portion of the loop when the incumbent LEC provides voice service, but did not unbundle the low frequency portion of the loop and did not obligate incumbent LECs to provide xDSL service under the circumstances AT&T describes.[91]

AT&T's Position

AT&T complains that it is discriminatory for SWBT to provide the splitter to data CLECs who are content to let SWBT continue providing the customer with voice service while not also providing it to UNE-P providers who keep the voice customer.[92] AT&T states that SWBT's position will seriously constrain competition for both voice and data services in Texas:

> SWBT's control over the local loop and unique ability to offer voice/DSL packages has already propelled it to a dominant market position, with 9 out of 10

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[88] *Id.* at 7.

[89] SWBT's Post-Hearing Brief at 37. The FCC stated in part: "Accordingly, we conclude that incumbent LECs must make available to competitive carriers only the high frequency portion of the loop network element on loops on which the incumbent LEC is also providing analog voice service. . . . Similarly, incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform." *Line Sharing Order* at para. 72.

[90] SWBT's Post-Hearing Brief at 37.

[91] *SWBT Texas 271 Order* at para. 330.

[92] Initial Post-Hearing Brief of AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications of Houston, Inc. at 43.

> DSL customers in Texas receiving service from SBC, and with projections of 300,000 customers by years end. *See* Turner Direct, at 29-30. SBC's policy of denying CLECs the ability to offer a competing voice/DSL package to residential customers using the UNE-platform will secure that dominant position indefinitely, because UNE-P is the only vehicle that AT&T and others CLECs currently have to offer voice services for residential customers on a scale that could provide meaningful competition with SWBT and other ILECs.[93]

AT&T maintains, and SWBT admits,[94] that it is technically feasible for SWBT to condition UNE-P loops by adding a splitter, which would allow a UNE-P provider to offer both voice and data services.[95] Given that it is technically feasible, AT&T further maintains that SWBT is obliged by law to add a splitter.[96] AT&T argues that the splitter is part of the unbundled loop element and is subject to the unbundling requirements of prior FCC orders. AT&T notes that the FTA defines "network element" to include the "features, functions and capabilities that are provided by means of such facility or equipment."[97] AT&T asserts that the *Line Sharing Order* defined the high frequency portion of the loop as a capability of the loop.[98]

In addition, AT&T asserts that the "impair" standard is met on this record, because CLECs would be severely impaired in their ability to provide both voice and data services if this Commission were to accept SWBT's view that it is not legally required to provide splitter-equipped loops with UNE-P.[99] Relying on the *UNE Remand Order*,[100] AT&T alleges that the Commission need not reach the "impair" analysis. AT&T asserts that the splitter is properly considered part of the loop because it constitutes "attached electronics" necessary to allow

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[93] *Id.* at 44.

[94] Arbitration Hearing Tr. at 293-94 (Aug. 1, 2000).

[95] AT&T Ex. No. 11, Direct Testimony of Steven E. Turner at 8, 10-11.

[96] *Id.* at 45.

[97] *Id.* at 48 (quoting 47 U.S.C. § 153(29)); AT&T Ex. No. 11, Direct Testimony of Steven E. Turner at 9.

[98] Initial Post-Hearing Brief of AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications of Houston, Inc. at 48.

[99] *Id.* at 46.

[100] 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 (Rel. Nov. 5, 1999) ("*UNE Remand Order*").

CLECs to take advantage of the full functions, features, and capabilities of the loop.[101] AT&T further maintains that adding a splitter to the loop is analogous in relevant technical respects to adding or removing loop electronics, such as bridge taps, load coils or conditioners.[102] In fact, splitters and load coils are composed of the same type of electronics: inductors.[103] AT&T further analogizes to SWBT's willingness to condition an 8db loop to a 5db loop: "This 'enhancement' of the loop is accomplished by SWBT disconnecting the cross-connect between the loop and the switch-port, and cross-connecting over to a conditioner. Similarly, adding a splitter is necessary to provide voice service when a customer also requests advanced data service over the same line. . . ."[104]

AT&T argues that there are significant disadvantages to SWBT's "disconnect UNE-P approach."[105] In order to add DSL for an existing UNE-P customer, AT&T would be required to dismantle the customer's existing loop/switch connection and order an unbundled DSL-capable loop and an unbundled switch port combined with shared transport, which will be connected to its collocation arrangement.[106] AT&T urges that SWBT's proposal would greatly increase the risk that CLEC customers would experience loss of voice service while switching to the CLEC voice/DSL service.

Arbitrators' Decision

The Arbitrators agree with AT&T that it is purchasing all capabilities of the loop including the low and high frequency spectrum portion of the loop when it purchases the unbundled loop in combination with the switch port or the unbundled network element platform (UNE-P).[107] As noted by AT&T, in the FCC's *Line Sharing Order* the FCC defined the high

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[101] Initial Post-Hearing Brief of AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications of Houston, Inc. at 46.

[102] AT&T Ex. No. 11, Direct Testimony of Steven E. Turner at 16 (June 16, 2000); AT&T Ex. No. 12, Rebuttal Testimony of Steven E. Turner at 7.

[103] Arbitration Hearing Tr. at 330 (Aug. 1, 2000).

[104] Initial Post-Hearing Brief of AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications of Houston, Inc. at 47 (citing to Arbitration Hearing Tr. at 330).

[105] Initial Post-Hearing Brief of AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications of Houston, Inc. at 52-55.

[106] *Id.* at 52.

[107] A SWBT-combined UNE-P has an existing cross-connect jumper wire between SWBT's cable pair and the central office equipment. Arbitration Hearing Tr. at 255 (Aug. 1, 2000).

frequency portion of the loop as a capability of the loop.[108] In order to gain access to the high frequency portion of the UNE loop, line splitting is required.[109] Such line splitting is accomplished by means of passive electronic equipment referred to as splitters.[110] A splitter is a device that splits the low and high frequency portion of the loop.[111]

Although, as noted by SWBT, the FCC has to date, not required ILECs to provide the splitter in either a line sharing or line splitting context, the Arbitrators believe this Commission has the authority to do so on this record. The FCC has clearly stated that its requirements are the minimum necessary, and that state commissions are free to establish additional requirements, beyond those established by the FCC, where consistent.[112] Indeed, in the *SWBT Texas 271 Order*, the FCC acknowledged that line splitting, a recent development, would be subject to potential arbitration before the Texas Commission.[113] The Arbitrators, therefore, believe on this record that it is sound public policy to require SWBT to provide AT&T with a UNE loop that is fully capable of supporting any xDSL service.

AT&T has opted into Attachment 6 of the T2A; the Arbitrators note that Attachment 6 allows AT&T to use one or more Network Elements to provide any technically feasible feature, function, or capability of such Network Element. Attachment 6 of the T2A further allows AT&T access to the loop. The FCC has previously stated that an ILEC must provide a requesting telecommunications carrier access to UNEs, along with all of the UNE's features, functions, and capabilities, "in a manner that allow the requesting telecommunications carrier to provide **any** telecommunications service that can be offered by means of that network element."[114] The FCC has held on numerous occasions that this duty applies to a CLECs' use of unbundled loops to provide DSL services.[115] The FCC reiterated in the *UNE Remand Order* that the loop includes

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[108] *Line Sharing Order* at para. 17; Arbitration Hearing Tr. at 257 (Aug. 1, 2000).

[109] Arbitration Hearing Tr. at 349, 359-60 (Aug. 1, 2000).

[110] *Id.* at 328.

[111] *Id.* at 257-58.

[112] *UNE Remand Order* at paras. 154-60; *Line Sharing Order* at paras. 223-25.

[113] *SWBT Texas 271 Order* at para. 329.

[114] 47 C.F.R. § 51.307 (emphasis added).

[115] *See, e.g., First Report and Order* at paras. 380, 382; *UNE Remand Order* at paras. 166-67.

"attached electronics" if such electronics are necessary to fully access the loops features, functions and capabilities in order to provide service to end users.[116]

The Arbitrators find that line splitting is necessary to gain access to the high frequency portion of the loop in order to allow AT&T to take advantage of the full functions, features, and capabilities of the loop. The Arbitrators find, consistent with the *UNE Remand Order*, that excluding the splitter from the definition of the loop would limit its functionality.[117] The Arbitrators further find that it is technically feasible for SWBT to furnish and install splitters to gain access to the high frequency portion of the UNE loop when purchased in combination with the switch port.

The Arbitrators recognize that the FCC specifically rejected DSLAMs as part of the "attached electronics" of the loop because of its determination that DSLAMS are used solely to provide advanced services.[118] Accordingly, the Arbitrators believe it would be inaccurate from a technical standpoint to analogize splitters to DSLAMs.[119] As noted above, a splitter is a passive device necessary to access both the voice and data portions of the loop in order to provide an end use customer with both voice and xDSL service. By contrast, a DSLAM is used primarily for the routing and packetizing of data.[120] The Arbitrators note that adding a splitter to the UNE-loop is no different than adding a circuit-enhancing device to the loop at the central office. As AT&T stated in the hearing, when SWBT is conditioning a loop to minimize loss, i.e., 8 db to 5 db, SWBT disconnects the cross-connect between the loop and port and inserts an enhancer, similar to a splitter.[121] As AT&T witness Steven Turner testified:

> It is indisputable that bridge taps are routinely installed in the ILEC's loop plant, and that the FCC has expressly recognized the right of a purchaser of a loop element to insist that bridged taps be removed, even where the ILEC does not

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[116] *UNE Remand Order* at para. 175.

[117] *Id.*

[118] *Id.*

[119] The FCC is currently addressing the issue of whether equipment that is multifunctional (i.e. used for both voice and date) should be included in the definition of a loop. Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket NO. 96-98*, at para. 122, CC Docket No. 98-147 and CC Docket No. 96098 (Rel. Aug. 10, 2000).

[120] *UNE Remand Order* at paras. 303-04.

[121] Arbitration Hearing Tr. at 334-35 (Aug. 1, 2000).

> ordinarily perform such removals for itself, because it is not providing advanced services to those customers. It is likewise indisputable that load coils – which in fact are nothing but low-pass filters – may be part of a loop, and the FCC has expressly recognized the right of a purchaser of a loop element to insist that load coils be removed.[122]

In Texas, SWBT has voluntarily agreed to provide data CLECs with a splitter when SWBT is the voice provider,[123] a situation known as line sharing.[124] A data CLEC is, therefore, not required to collocate in order to access a splitter,[125] although a data CLEC would need to collocate its DSLAM on SWBT's premises.[126] Instead, SWBT places the splitter in a common area constructed by SWBT.[127] The data CLEC can access the common area to do tests.[128]

The Arbitrators find that based upon the evidence in this record there is no technical distinction between line sharing and line splitting, as the splitter provides access to the same functionality of the loop in both contexts. The Arbitrators agree with AT&T that it is discriminatory for SWBT to provide the splitter in a line sharing context while not providing the splitter in a line splitting context. The Arbitrators believe that SWBT's policy will have the effect of severely limiting the number of data CLECs with which a UNE-P provider can partner in order to offer advanced services. Many data CLECs are relying upon SWBT to provide the splitter.[129] Although SWBT indicated in the hearing that some data CLECs are providing their own splitters, SWBT could not substantiate the number or percentage of data CLECs providing their own splitters.[130] Given the demand for advanced services, this could prove to be crippling

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[122] AT&T Ex. 11, Direct Testimony of Steven E. Turner at 16.

[123] Arbitration Hearing Tr. at 286 (Aug. 1, 2000).

[124] *Id.* at 253-54. *See also, Petition of IP Communications Corporation to Establish Expedited Public Utility Commission of Texas Oversight Concerning Line Sharing Issues*, Docket No. 22168 and *Petition of Covad Communications Company and Rhythms Links, Inc Against Southwestern Bell Telephone Company and GTE Southwest Inc. for Post-Interconnection Dispute Resolution and Arbitration Under the Telecommunications Act of 1996 Regarding Rates, Terms, Conditions and Related Arrangements for Line Sharing,* Docket No. 22469, Interim Arbitration Award (June 6, 2000).

[125] Arbitration Hearing Tr. at 350 (Aug. 1, 2000).

[126] *Id.*

[127] *Id.* at 354.

[128] *Id* at 354-55.

[129] *Id* at 352-53.

[130] *Id.* at 351-52.

from a competitive standpoint, especially if ASI, SWBT's DSL affiliate, has no obligation to continue providing advanced services to a customer who is using AT&T as its voice provider.

As noted above, the Arbitrators in this case find that SWBT is required to provide the splitter in order to allow AT&T to access the full functionality of the loop. Although not dispositive in this case, the Arbitrators also believe that this decision will promote more rapid deployment of advanced services to a broader cross section of customers, as required by Section 706 of the FTA. The evidence in this case shows that SWBT's proposal requiring UNE-P CLECs to collocate in order to gain access to the high frequency portion of the loop, (1) unnecessarily increases the degree of coordination and manual work and accordingly increases both the likelihood and duration of service interruptions; (2) introduces unnecessary delays for space application, collocation construction, and splitter installation; and (3) unnecessarily wastes central office and frame space.[131] Thus, the Arbitrators believe that SWBT's proposal significantly prohibits UNE-P providers from achieving commercial volume, not only because collocation is required but also because SWBT does not propose to prewire, or allow the CLEC to prewire, from the intermediate distribution frame (IDF) to the CLEC's splitter. Arbitrators presented with a scenario where the CLEC is not required to collocate and the ILEC is offering to prewire (or allow the CLEC to prewire) from the IDF to the CLEC splitter may very well reach a different conclusion than the Arbitrators reached in this case.

The Arbitrators further note that data CLECs that are exempt from 911 obligations under the Texas commission's waiver granted during certification will be required to maintain cross-connects for the voice portion if SWBT's proposal requiring the UNE-P provider to collocate its splitters at DLEC's collocation cage is adopted. From a public policy standpoint, the Arbitrators find this outcome problematic.

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[131] AT&T Ex. 11, Direct Testimony of Steven E. Turner at 22.

SIGNED AT AUSTIN, TEXAS THE 27th day of September 2000.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON
ARBITRATOR

NARA V. SRINIVASA
ARBITRATOR

DROP AND BLOCK WIRE—DISCONTINUANCE OF SERVICE

1. GENERAL

1.01 This section outlines methods for disposing of drop wire at customer building and pole on discontinuance of service.

2. STATION PROTECTOR OR CONNECTING BLOCK LEFT IN PLACE

2.01 Where station protector or connecting block is not to be removed, do not disconnect the outside drop at the customer building.

3. STATION PROTECTOR OR CONNECTING BLOCK REMOVED AND DROP WIRE LEFT IN PLACE

3.01 Where drop loop terminates on station protector or connecting block inside the subscriber building, disconnect the drop at station protector or connecting block and pull it out of the building entrance hole. Secure wire as shown in Fig. 1.

3.02 Where drop wire is terminated in a station protector located on outside of building proceed as follows:

(1) Disconnect drop, ground, and station wires at the protector.

(2) Tape and secure wire as shown in (Fig. 2).

3.03 Where station protector or connecting block is used as a bridging point for two or more party-line stations and one station is to be disconnected, disconnect only the associated station wiring at the bridging point. Secure the free end of wire in one of the following ways:

(a) Lay free end of wire back on itself about the nearest ring and secure to supporting wire with friction tape.

(b) Tape the free end of wire with friction tape and secure with inside wiring nails or staples. If all the party-line stations are to be disconnected at the same time, dispose of the drop loop i the manner outlined in 3.01 and 3.02 for singl station installations.

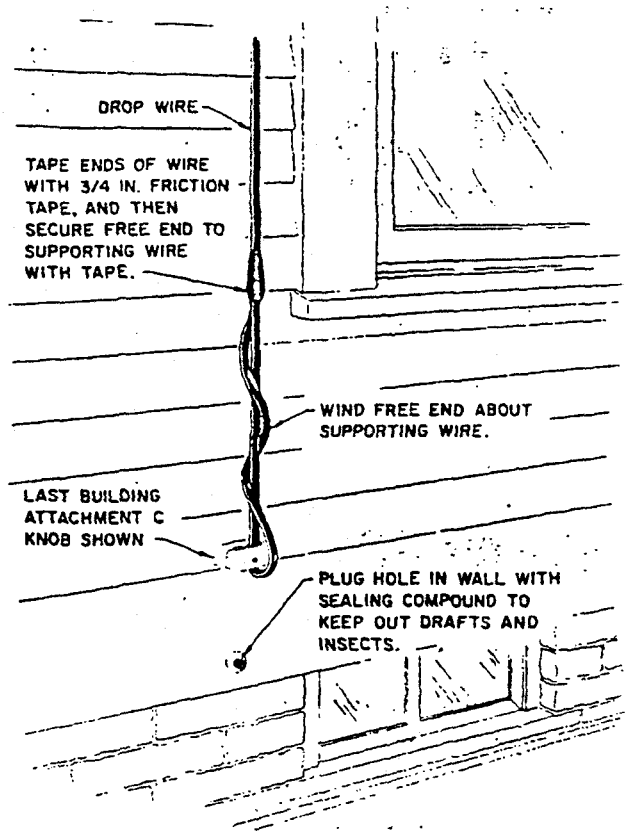

Fig. 1—Terminating Drop Wire When Protector i Removed

4. STATION EQUIPMENT TO BE REMOVED BUT N ACCESS TO STATION PROTECTOR OR CONNECTIN BLOCK

4.01 Cut drop wire at entrance hole. Serve an tape the free end as shown in Fig. 1.

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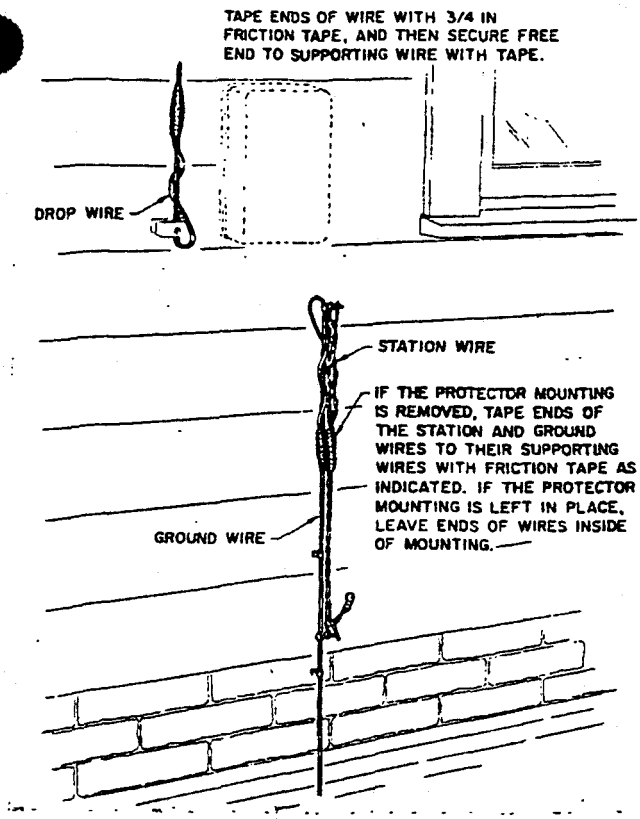

Fig. 2—*Terminating Drop and Station Wiring When Protector is Removed*

5. DROP AND BLOCK WIRE DISCONNECTS AT POLE

5.01 Suitable tags, locally provided, are wrapped around the ends of disconnected drops as a means of identifying each drop in connection with plant orders to restore service. The tag should indicate the address of the customer served and other pertinent information as determined by local service practices.

5.02 The top nuts of the binding posts which are vacated by disconnected drops, should be turned down fingertight.

5.03 Where a cable pair becomes spare on disconnecting a drop and it appears in a cross connecting terminal in the cable run, the associated cross connection should be removed in accordance with local instructions.

6. PLACING B DROP WIRE CAP ON END OF DISCONNECTED DROP WIRE

6.01 Fig. 3 shows the procedure for placing the B Drop Wire Cap.

7. DISCONNECTING DROP WIRE AT DISTRIBUTION CABLE TERMINALS

7.01 ***Pole Mounted Terminals:*** Dispose of connected drop as follows:

(1) Pull the free end of wire out of the terminal.

(2) Lay wire back on itself at the first ring below the terminal, tag and cap the free end and then secure the free end to the supporing part of the wire (Fig. 4).

7.02 ***Strand and Sheath Mounted Terminals:*** Dispose of disconnected wire at 49-, N-, and T-type terminals as follows:

(1) Pull free end of wire out of the terminal.

(2) Lay wire back on itself at the wiring ring, which will allow the free end to fall outside the terminal wiring rings.

(3) Tag and cap the wire end and secure it to the supporting part of the wire as shown in Fig. 5.

7.03 ***Wall Mounted Terminals:***

(a) Vertically Mounted Terminals: Dispose of disconnected drop in the manner described in 7.01 for pole-mounted terminals.

(b) Horizontally Mounted Terminals: Dispose of disconnected drops in the manner described in 7.02 for strand mounted terminals. The completed operation is shown in Fig. 6.

8. DISCONNECTING DROP WIRE AT WIRE TERMINALS

8.01 ***Party Line Taps in Drop Wire Runs Along a Lead:*** Pull the free end of wire out of the wire terminal, tag and cap it and secure to the supporting part of the drop as shown in Fig. 7. If the party line extending beyond the wire terminal pole is disconnected, treat its free end at

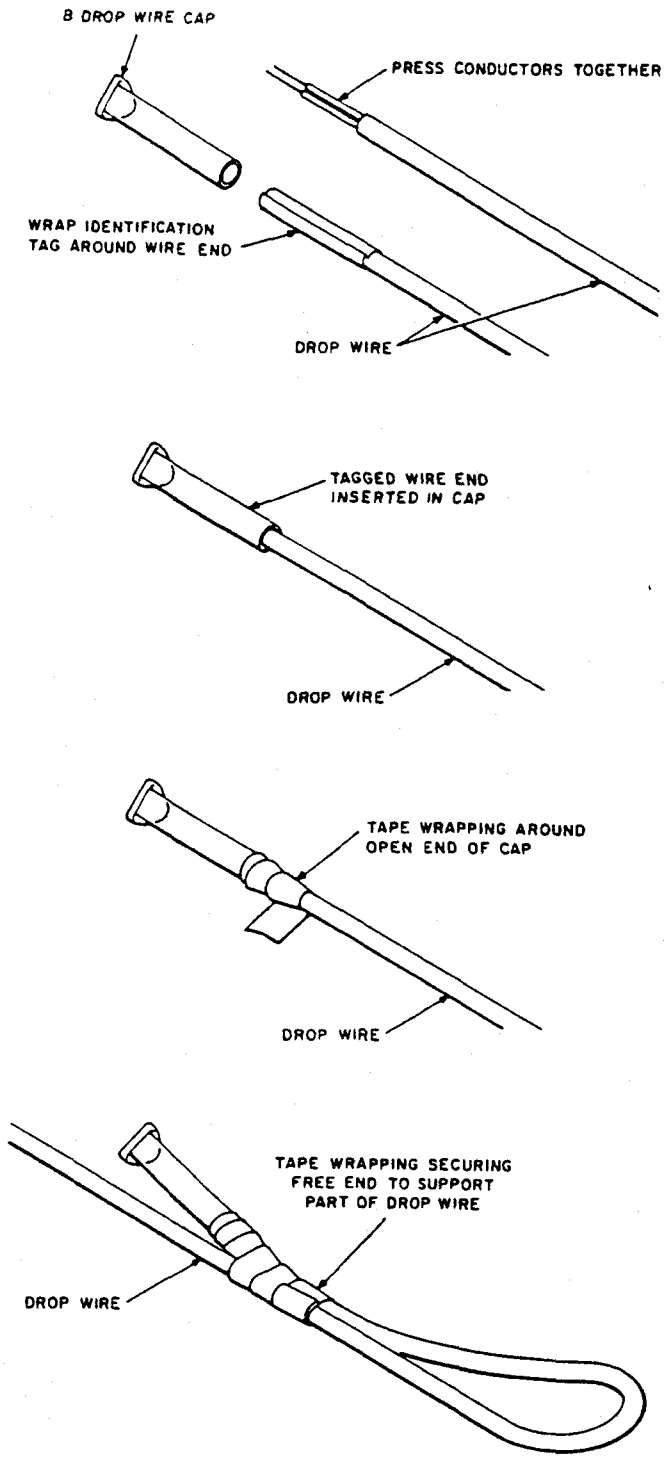

Fig. 3—Disposition of Disconnected Drop Wire

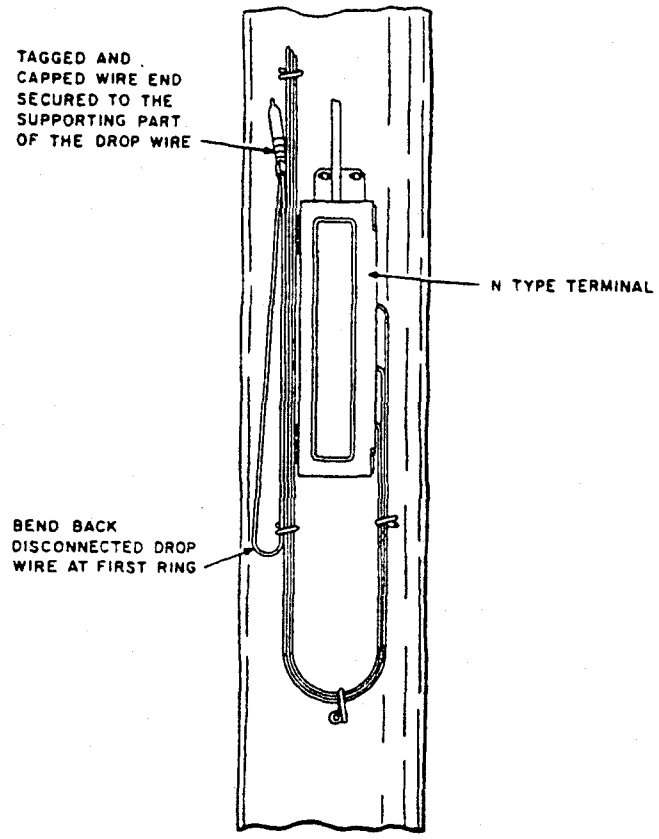

Fig. 4—N-Type Terminal, Pole Mounted

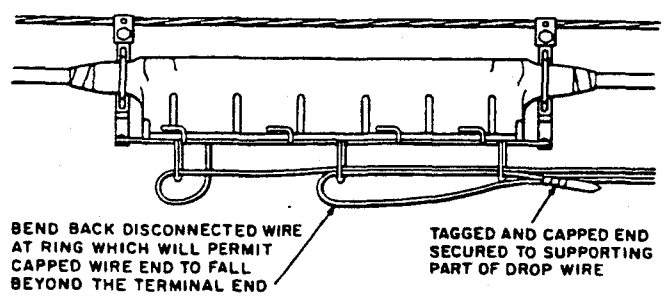

Fig. 5—49-Type Terminal, Strand Mounted

this point the same as for the intermediate party line.

8.02 *Drops from Open Wire Lines:* Pull disconnected drop from the wire terminal mounted on the crossarm or pole. Lay wire back on itself at drive ring located below the wire terminal, tag and cap the free end and secure it

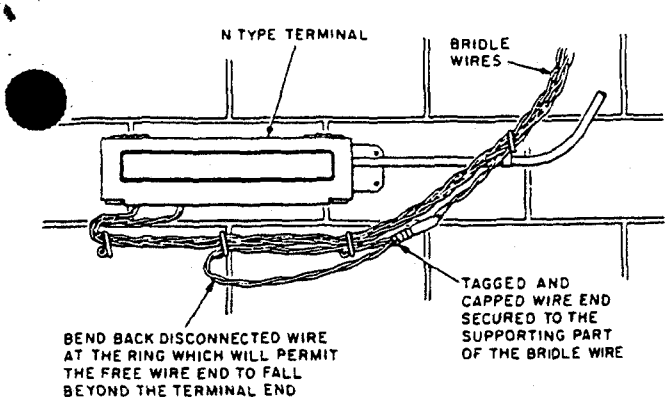

Fig. 6—N-Type Terminal Wall Mounted

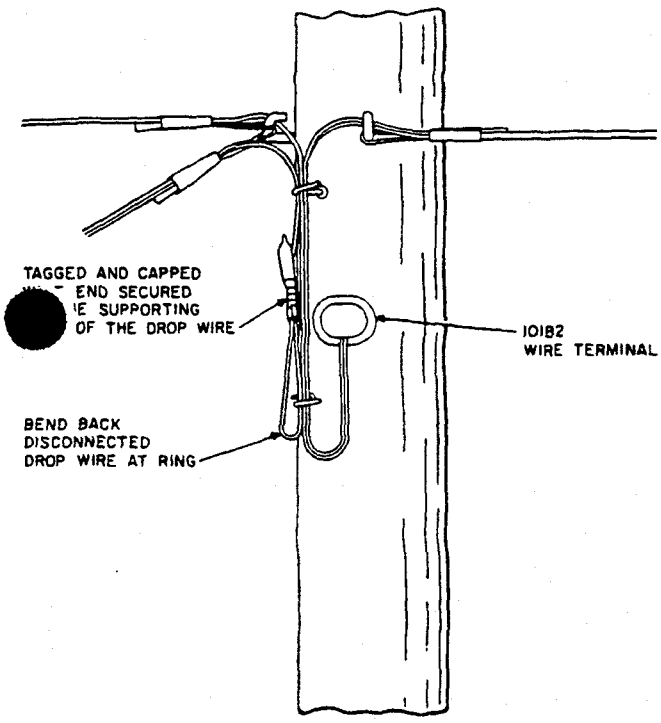

Fig. 7—101-Type Wire Terminal, Pole Mounted

to the supporting part of the drop as shown in Fig. 8.

9. DISCONNECTING DROP WIRE AT 116-TYPE PROTECTOR

9.01 Where, for purposes of protection, a drop wire is connected ***through*** a 116-type protector to a cable distribution terminal, disconnect the

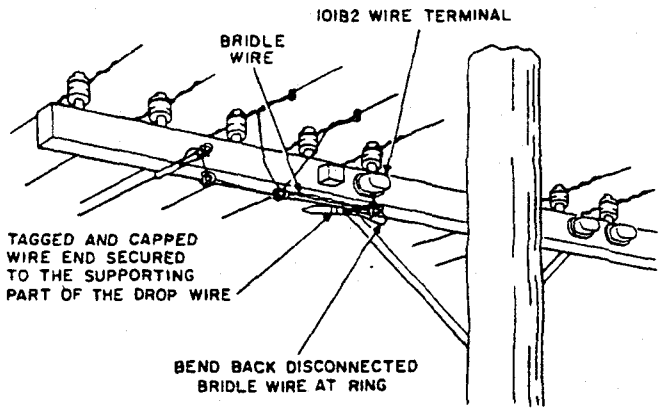

Fig. 8—Wire Terminal Mounted on Crossarm

bridle cross connection wire at the cable terminal. Pull the free end of the bridle wire out of the terminal and tag, cap, and support it as described in Part 7.

10. DISCONNECTING DROP WIRE AT CROSS CONNECTING TERMINALS

10.01 Disconnect the drop wire and tag and cap the end. Bend the wire back on itself and secure the free end ***inside*** the terminal.

11. TAPING END OF DISCONNECTED DROP WIRE

11.01 Where B drop wire caps are not available, wire ends may be taped with friction tape.