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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH
SECTION 271 OF THE
TELECOMMUNICATIONS
ACT OF 1996

) Docket No. T-00000A-97-0238
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NOTICE OF FILING

Staff of the Arizona Corporation Commission, through its undersigned attorneys, hereby files its Proposed Findings of Fact and Conclusions of Law on Checklist Item 6, Unbundled Switching.

RESPECTFULLY SUBMITTED this 27th day of August 2001.

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Arizona Corporation Commission

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**IN THE MATTER OF QWEST CORPORATION'S
SECTION 271 APPLICATION**

ACC Docket No. T-00000A-97-0238

FINAL REPORT ON QWEST'S COMPLIANCE

With

**CHECKLIST ITEM: NO. 6 - UNBUNDLED LOCAL
SWITCHING**

AUGUST 27, 2001

I. FINDINGS OF FACT

A. PROCEDURAL HISTORY

1. On October 10, 2000, the first Workshop on Checklist Item No. 6 (Unbundled Local Switching) took place at Qwest's offices in Phoenix. Parties appearing at the Workshops included Qwest Corporation¹, AT&T, MCI WorldCom, Sprint, Electric Lightwave, Inc., e-spire, Eschelon Telecom, Inc. and Allegiance Telecom. Qwest relied upon its supplemental testimony submitted in July, 2000 and its second supplemental affidavit filed on September 21, 2000. Additional Comments were filed on September 21, 2000 by AT&T, WorldCom, e-spire, Eschelon and Z-Tel. ELI filed comments on September 22, 2000. Qwest filed Rebuttal Comments on September 29, 2000 and a supplemental rebuttal affidavit on October 31, 2000.

2. On April 9, 2001, an additional Workshop was conducted on Checklist Item 6.

3. The Parties resolved many issues at the two Workshops held on October 10, 2000 and April 9, 2001. Outstanding issues from the October 10, 2000 Workshop included commitments by the parties to address take back issues for resolution at the follow-up workshop held on April 9, 2001. At the conclusion of the April 9, 2001 workshop, a number of impasse issues remained to be resolved. Parties filing briefs on the impasse issues on May 18, 2001, included AT&T, MCIW, Covad and Qwest. Staff hereby files its Proposed Findings of Fact and Conclusions of Law.

B. DISCUSSION

1. Checklist Item No. 6

a. FCC Requirements

4. Section 271(c)(2)(B)(vi) of the Telecommunications Act of 1996 requires a section 271 applicant to provide or offer to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services."

5. Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to show that it offers "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."

¹ As of the date of this Report, U S WEST Communications, Inc. has merged with Qwest Corporation, which merger was approved by the Arizona Commission on June 30, 2000. Therefore, all references in this Report to U S WES T have been changed to Qwest.

6. Section 251(c)(3) establishes an incumbent LECs "duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] . . . and section 252."

7. In the *Second BellSouth Louisiana Order*,² the FCC required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.

8. In the *Second BellSouth Louisiana Order*, the FCC required BellSouth to permit competing carriers to purchase unbundled network elements, including unbundled switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.³

9. In the *Second BellSouth Louisiana Order*, the FCC also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.⁴ The ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching. *Id.* The FCC found that there is an overlap between the provision of unbundled local switching and the provision of the OSS billing function. *Id.*

10. In the *Second BellSouth Louisiana Order*, the FCC also stated that to comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality. *Id.* The FCC also stated that a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch. *Id.*

b. Background

11. Unbundled local switching includes line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.

² *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provisions of In-Region, Inter-LATA Services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order, 13 FCC Rcd 20599, at 20715 (1998) ("*Second BellSouth Louisiana Order*").

³ *Id.* at 20723, 20733-34.

⁴ *Id.* at 20723.

12. The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.

13. Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.

14. Given the demand for stand-alone unbundled local switching, the Arizona Technical Advisory Group (TAG) has not identified specific performance measurements for stand-alone unbundled switching. 5-Qwest-2 at p. 87. The Arizona Third Party Operation Support System (OSS) Test and Workshops have determined testing of unbundled switching as part of a UNE combination is more appropriate. Id. Therefore, the Cap Gemini Ernst & Young ("CGEY") OSS test will specifically review Qwest's ability to provide CLECs nondiscriminatory access to unbundled switching in conjunction with combinations of loop and transport unbundled network elements. Id.

c. Position of Qwest

15. On July 21, 2000, Qwest witness Karen A. Stewart provided testimony indicating that Qwest provides CLECs with access to unbundled switching. 5-Qwest-2 at p. 91.

16. Under Qwest's SGAT Section, 9.11.1.1, and Qwest's signed interconnection agreements, Qwest has a concrete legal obligation to provide unbundled local switching:

Unbundled Local Switching encompasses line-side and trunk-side facilities, plus the features, functions, and basic switching capabilities of the switch. The features, functions, and capabilities of the switch include the basic switching function, as well as the same basic capabilities that are available to Qwest end-users. Unbundled Local Switching also includes access to all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions. . .

5-Qwest-2 at p. 77.

17. Qwest's SGAT requires it to provide unbundled circuit switching that includes the line-side and trunk-side cards, plus the features, functions, and basic switching capabilities of the switch. 5-Qwest-2 at p. 79. Unbundled switching includes access to all vertical features that the switch is capable of providing, such as customized routing functions. Id. A CLEC can use a combination of a trunk-side port and custom routing to direct originating traffic to a dedicated trunk group such as a directory assistance trunk group. Id. Additionally, a CLEC may purchase unbundled switching in a manner that permits it to offer, and to bill for, exchange access and termination of local

traffic. 5-Qwest-2 at p. 79. Qwest's SGAT provides the CLEC with analog and digital line ports that include the following attributes:

- Telephone Number
- Directory Listing
- Dial Tone
- Signaling (loop or ground start)
- On/Off Hook Detection
- Audible and Power Ringing
- Automatic Message Accounting (AMA) Recording
- Access to 911, Operator Services and Directory Assistance
- Call Type Blocking Options (e.g. 900 services)

5-Qwest-2 at p. 79-80.

18. The FCC has also determined that an ILEC must meet the following requests for vertical services:

A BOC must activate any vertical feature or combination of vertical features requested by a competing carrier unless . . . (it) is not technically feasible.

A BOC can require a requesting carrier to submit a request for such a vertical feature through a predetermined process that gives a BOC an opportunity to ensure it is technically feasible.

19. Qwest's SGAT provides CLECs with both of these options: 1) A CLEC may order vertical features in association with unbundled switching, and 2) CLECs have access to all vertical features loaded in a Qwest switch, not just access to the features Qwest is providing its retail customers. 5-Qwest-2 at p. 80-81. Qwest's unbundling switching element also includes the option for the CLEC to order custom routing which will allow a CLEC to route its customers' calls to special trunk groups designated by the CLEC. Id.

20. Qwest also offers CLECs unbundled tandem switching which is contained in section 9.10.1 of the SGAT. 5-Qwest-2 at p. 82.

21. Unbundled switching is no longer a Section 251(c)(3) UNE in the top fifty metropolitan statistical areas (MSAs), in areas that are "Density Zone One," for businesses with four lines or more, when the ILEC offers Enhanced Extended Links (EELs). 5-Qwest-2 at p. 76. Two central offices in the Phoenix-Mesa MSA meet this definition. Id. Qwest has a concrete obligation to offer EELs in the two wire centers listed above and as a result, does not offer unbundled switching as a TELRIC priced UNE in those offices. Id.

22. Qwest does offer the FCC required combination of loop and transport, i.e. "EELs" that permits Qwest to withdraw unbundled switching as a UNE in the Phoenix MSA. 5-Qwest-2 at p. 77. To meet its checklist requirements, Qwest will offer stand-alone unbundled circuit switching to CLECs (at market based rates) in areas that are "Density Zone One" for use by businesses with four lines or more. 5-Qwest-2 at p. 78. As of July 1, 2000, no Arizona CLEC has ordered stand-alone unbundled switching. Id. Unbundled switching has had virtually no demand as an individual stand-alone UNE across the Qwest region. 5-Qwest-2 at p. 79. CLECs are primarily interested in unbundled local circuit switching as part of a UNE combination, or UNE-P. Id.

23. If demand for a Checklist Item is low or a BOC has received no requests for a Checklist Item, the FCC permits the BOC to submit testing results to demonstrate that it is ready to furnish the Checklist Item on demand. 5-Qwest-2 at p. 82. Qwest has conducted a "Bench Test" which demonstrates that Qwest can, upon CLEC request, provision and maintain unbundled transport and switching in a timely and nondiscriminatory manner. Id. The Bench Test tested: 1) the provision of unbundled switching, transport and Unbundled Customer Controlled Reconfiguration Element ("UCCRE") orders in Phoenix, Arizona as well as: 2) the repair and maintenance of these elements. 5-Qwest-2 at p. 83. In the Bench Test, actual orders were placed and completed for each unbundled element tested. Id.

24. The 1999 Bench Test did identify provisioning issues that needed to be addressed. 5-Qwest-2 at p. 85. As these errors were identified, the provisioning systems were corrected. Id. In all cases, after the error on the initial order was corrected, the initial and all subsequent orders were successfully processed through the Qwest systems. Id. According to Qwest, the Bench Test clearly demonstrates that the processes are in place for Qwest to successfully provision CLEC orders for unbundled transport and switching in a timely, accurate and non-discriminatory manner. 5-Qwest-2 at p. 86. Qwest argues that it also demonstrates that Qwest is able to install, repair/maintain and bill these elements. Id. According to Qwest, it further proves that Qwest can provision and install, within standard installation intervals, unbundled transport and switching when requested by a CLEC. Id.

d. Competitors' Position

25. In their July 22, 1999, preliminary statements of position on Qwest's compliance with all Checklist Items, AT&T stated that Qwest has failed to comply with the requirement to provide nondiscriminatory access to unbundled switching. AT&T Ex. 1 at p. 10. Qwest has failed to offer all of the features of the switch and has failed to offer vertical features at cost-based prices. Id. Qwest has also failed to offer all of the operations and systems capabilities of the switch to CLECs. Id. Qwest's refusal to offer unbundled loops and unbundled shared transport has been such a serious impediment to local competition that none of the CLECs in Arizona have yet ordered unbundled switching. Id. Finally, AT&T states that Qwest has failed to put forth any credible testing evidence of its ability to provide, maintain and repair unbundled switching for CLECs. AT&T Ex. 1 at p. 10.

26. MCIW also argued that Qwest has failed to comply with Checklist Item 6. MCIW states that Qwest has failed to provide the business processes for ordering unbundled switch elements and does not contemplate doing so until it issues its Technical Publication release in October 1999. Qwest has also refused to provide MCIMetro with code conversion. MCIW also stated that the monthly service reports it receives from Qwest are inadequate.

27. Other CLECs filing comments on July 22, 1999 included Cox, ELI, e-spire, Sprint and Rhythms. ELI stated it joined in the position statements filed by the other CLECs. Cox and e-spire both stated that they had inadequate information to determine whether Qwest is in compliance with Checklist Item 6. Sprint did not comment on Checklist Item 6 in that it has not yet attempted to obtain access to Qwest's unbundled local switching in Arizona. Rhythms did not provide comments on Checklist Item 6.

28. AT&T and MCIW filed additional Comments on Checklist Item 6 on September 21, 2000.

29. AT&T had numerous concerns relating to language contained in Qwest's SGAT. Specifically, Qwest suggests that SGAT Sections 9.10 and 9.11 are sufficient to demonstrate Qwest's compliance with the requirements to provide unbundled switching. AT&T 4-1 at p. 31. AT&T claims that Qwest's SGAT language focuses on unbundled switching as an element and does not actually address access to the element. Id. Access should be provided at both the DS0 level for copper loops and at the DS1 level for PBX Trunks, ISDN trunks, and Digital Loop Carrier. Id. Standard Digital Loop Carrier interfaces should be provided to the switch, including GR303 and GR008, or any other interface used by Qwest. Id. AT&T states that the SGAT must be amended to include the above types of access. Id.

30. Sections 9.11.1.8 and 9.11.1.9.2 presents Qwest's list of vertical features that are provided by the switch. AT&T 4-1 at p. 31. There is some issue with respect to which customer features are provided by the switch and which features are provide via AIN capabilities in the Qwest signaling network. AT&T 4-1 at p. 31-32. AT&T suggests that Qwest clarify which features are provided by the switch and which by AIN capabilities. Id. Section 9.11.1.9.2 also states that "Additional Vertical Features in each switch are available on an individual case basis." AT&T 4-1 at p. 32. Qwest must modify this provision to describe with more precision a definite process pursuant to which it will specify and make available the vertical features of a given switch. Id.

31. Section 9.11.2.1 states that a CLEC may purchase vertical features that are loaded but not activated on a switch, but only after it makes a request through the BFR process. AT&T 4-1 at p. 32. The BFR process is a lengthy and expensive process and Qwest should modify this provision to establish a simpler, more expeditious process for activation. Id.

32. In Section 9.11.2.5, Qwest attempts to describe the limited exception to the national unbundled local switching requirement established by the FCC. AT&T 4-1 at p. 33. Qwest imperfectly captures the FCC's exception and fails to create a workable solution to accommodating the exception. Id. First, the FCC has made clear that only those density zone 1 classifications "frozen" as of January 1, 1999, are appropriate to use in applying the unbundled switching exclusion. AT&T 4-1 at p. 33. Qwest must make conforming changes to confirm that the wire centers identified meet the FCC's requirement and if the identified wire centers include other density zones, make clear in its SGAT that customers in such density zones are not covered by the exclusion, even if their lines are located in the named wire centers. Id.

33. Second, the FCC has made clear that the exception to the local switching unbundling requirement only applies if CLECs have nondiscriminatory, cost-based access to the EEL. AT&T 4-1 at p. 33. Qwest needs to modify its EELs offering in order to comply with the FCC's requirements. Id.

34. Third, if a CLEC is currently serving a customer using a loop/switch combination, and the customer adds a fourth (or more lines), then a CLEC should be able to continue to serve that customer using loop/switch combinations. AT&T 4-1 at p. 34. This section of the SGAT should provide language to allow a CLEC to continue serving a customer under these circumstances. Id. This section should also contain a provision requiring that in no event may Qwest disconnect from service any CLEC customer before arranging for continued uninterrupted service. Id.

35. Fourth, there is no clarity regarding the terms "end-user", "customer", and "end user customer" which are apparently used interchangeably in Section 9.11.2.5. AT&T 4-1 at p. 34. Also, the phrase "located within the Wire Center" is ambiguous. Id. AT&T proposes language to the SGAT to clarify the exclusion. Id.

36. AT&T also believes that the restriction on unbundled switching should not apply in offices that have severe space or capacity limits. AT&T 4-1 at p. 35. If space in the Qwest office is insufficient for multiplexing, concentration or the additional equipment needed for providing transport facilities or Qwest has insufficient Interoffice Facilities ("IOF") to provide the transport capability for EELs, there should be no restriction on CLEC use of unbundled switching. Id. Also, the restriction should not apply where service is provided using Remote Switching Modules ("RSMs"). Id.

37. AT&T also asked that Qwest address two areas that are not currently contained in the SGAT. AT&T 4-1 at p. 36. First, the SGAT does not include provisions for unbundling the Centrex management and control features of the switch. Id. SGAT language must be included that will allow CLECs to control, manage and maintain their own Centrex services using the Qwest unbundled switch. Id. Second, the SGAT does not include any provisions notifying CLECs of changes to the switch, including generic software upgrades, etc. AT&T 4-1 at p. 36. The SGAT must be modified to provide for prompt and complete notification as well as a process for CLECs to avail themselves of new features, functions and capabilities. Id.

38. AT&T comments that in Section 9.10, Qwest's provisions imperfectly reflect its requirements to provide tandem switching. AT&T 4-1 at p. 36. SGAT Section 9.10 also provides Qwest's definition of tandem switching. Id. Qwest cannot avoid its obligation to provide access to all tandem switches simply by changing the name of the switches and attempting to limit the tandem switch's functions. Id. Qwest's tandem switching product refers nominally to "local tandem switching" and this should be clarified as to whether this offering intends to limit a CLECs access to all of Qwest's tandem switches. AT&T 4-1 at p. 36-37. AT&T states that all Qwest's references to "local tandem switches" be changed to "tandem switches" to more closely track the FCC's requirements. Id.

39. SGAT Section 9.10.1 does not fully conform to the requirements set for the by the FCC. AT&T 4-1 at p. 37. AT&T proposes that this section be revised to more closely reflect the FCC's orders. Id.

40. SGAT Section 9.10.2 is the provision in which Qwest sets forth certain terms and conditions for access to tandem switches. AT&T 4-1 at p. 37. Qwest requires "tandem to tandem connections" between Qwest and third party tandem providers. Id. AT&T does agree that "connections" must be made, but Qwest must provide more detail regarding what specific "connections" it deems are necessary, how they will be provided and by whom. Id.

41. Finally, AT&T proposes adding a section as 9.10.2.2. that tracks the FCC's Orders as follows:

9.10.2.2 The requirement to provide unbundled tandem switching includes: (i) trunk-connect facilities, including but not limited to the connection between trunk termination at a cross-connect panel and a switch trunk card; (ii) the base switching function of connecting trunks to trunks; and (iii) the functions that are centralized in tandem switches (as distinguished from separate end-office switches), including but not limited to call recording, the routing of calls to operator services, and signaling conversion features.

AT&T 4-1 at p. 37-38.

42. MCIW's primary concern was with SGAT Section 9.8.3 which states that UNE Rates apply unless the end-user to be served has four access lines or more and the lines are located in density zone 1 in the MSAs specified in the UNEs Local Switching Section. MCIW 4-1 at p. 19. *In the latter circumstances, market rates apply.* Id. MCIW's position is that all rates should be properly reflected in the SGAT and proposes that this section be revised to state, "In the latter circumstances, Qwest will charge market rates in accordance with Exhibit A." Id.

e. Qwest Response

43. In its September 29, 2000 written response, Qwest addressed AT&T's and MCIW's concerns. Qwest responded to the parties concerns on a section by section review of the SGAT.

44. With respect to Section 9.10.1.1 regarding the description of the local tandem switching element, AT&T wanted Qwest to clarify whether this offering intends to limit a CLEC's access to Qwest's local tandem switches. Qwest 4-1 at p. 32. AT&T also requested that all references to "local tandem switches" be changed to "tandem switches". Id. Qwest's unbundled tandem switching offering is limited to local tandems. Qwest 4-1 at p. 32. Qwest does not agree with AT&T's assertion that no FCC Order or rule on this issue distinguishes between local and other kinds of tandems. Id. Qwest does not accept AT&T's recommendation to expand section 9.10 to cover unbundling of access tandems. Id.

45. Regarding AT&T's concern over Qwest providing more detail regarding what specific "connections" it deems are necessary, how they will be provided and by whom, Qwest agrees to add a new section 9.10.2.2 as proposed by AT&T with the understanding that Qwest can unbundle access to call recording equipment only to the extent any such recording equipment is to be installed in a Qwest local tandem. Qwest 4-1 at p. 33.

46. AT&T had listed a number of concerns regarding section 9.11 - 1) that Qwest's SGAT language focuses on unbundled switching as an element and does not actually address access to the element; 2) access should be provided at both the DS0 level for copper loops and at the DS1 level for PBX Trunks, ISDN trunks, and Digital Loop Carrier; and 3) standard Digital Loop Carrier interfaces should be provided to the switch, including GR303 and GR008, or any other interface used by Qwest. Qwest 4-1 at p. 34. Qwest agrees that Unbundled Local Switching includes access to the line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. Qwest 4-1 at p. 34. This access encompasses all features, functions, and capabilities of the switch to include the DS1 level for PBX trunks and ISDN trunks. Id. Qwest does not conceptually disagree that a CLEC would have access to all digital loop carrier system interfaces. Id. Qwest is currently reviewing the technical feasibility and the practical application of this type of access and will present its findings on the feasibility study on providing unbundled TR303 access to the parties at the workshop. Id.

47. AT&T also expressed many other concerns over SGAT section 9.11. AT&T requested clarity on which features are provided by the central office switch and which by Advanced Intelligence Network ("AIN") capabilities, and why certain features are provided by AIN and not by the switch. Qwest 4-1 at p. 35. AT&T also wanted modification of this provision to describe with more precision the definite process pursuant to which it will describe the vertical features of a given switch. Id. Finally, AT&T recommended Qwest modify this provision to establish a simpler, more

expeditious BFR process. Id. The Qwest unbundled local switching UNE includes access to the Service Creation Environment ("SCE") and AIN database but does not include access to AIN features. Qwest 4-1 at p. 36. Qwest argues that this is consistent with the FCC Order that specifically stated ILECs are not required to unbundle AIN features. Id. Qwest agreed to provide information to CLECs who are converting Qwest retail customers to UNE-P, by USOC, all of the AIN features and to clarify that AIN features are not available with UNE-P configurations. Id. Qwest also agreed to expand the list of central office features identified in the SGAT. Id.

48. Regarding AT&T's concern on the FCC's Density Zone 1 classifications "frozen" as of January 1, 1999 and that the wire centers identified meet the FCC's requirement, Qwest asserts that the two Phoenix wire centers meet the FCC definition and are both in Zone 1 and do not include any end user customers outside of Zone 1 density area as defined by the FCC. Qwest 4-1 at p. 40.

49. To address AT&T's concern that there is no clarity regarding the terms "end-user", "customer", and "end user customer", Qwest agreed to modify Section 9.11.24 to consistently use the term end user customer throughout. Qwest 4-1 at p. 41.

50. With regard to clarification on if a CLEC is currently serving a customer using a loop/switch combination, and the customer adds a fourth (or more lines), then a CLEC should be able to continue to serve that customer using loop/switch combinations, Qwest does not agree. Qwest 4-1 at p. 40. Under the FCC unbundled switching exemption, Qwest need not offer unbundled switching in Zone 1 wire centers to a CLEC wanting to serve an end user customer with four or more lines in that wire center. Id.

51. Regarding AT&T's request for clarification on how the four or more lines for one customer in a Density Zone 1 central office is determined, the unbundled switching exemption refers to four or more lines for one end user customer served by a Zone 1 wire center with no reference to a per location requirement. Qwest 4-1 at p. 40. Qwest also agrees with AT&T's recommendation that there should be a transition period to assure no disconnection of service for any CLEC's end user customer previously served by Qwest unbundled switching. Id.

52. Qwest did agree to AT&T's last three subsections of proposed language and a portion of another regarding lines counted for exclusion, high frequency portion of the loop, end users considered in MDUs and ISDN-BRI but did not agree to their first three additions. Qwest 4-1 at p. 41.

53. Regarding AT&T's belief that the restriction on unbundled switching should not apply in offices that have severe space or capacity limits, Qwest does not agree. According to Qwest, the FCC made it clear that Qwest has no obligation to build unbundled dedicated transport so the suggestion to link the switching exemption with sufficient transport facilities is unfounded.⁵ Qwest 4-1 at p. 42.

⁵ See UNE Remand Order at para. 324.

54. Finally, regarding AT&T's two concerns over the SGAT not including provisions for unbundling the Centrex management and control features of the switch and no provisions notifying CLECs of changes to the switch, including generic software upgrades, etc., Qwest does not agree that Centrex Customer Management is a feature of the switch. Qwest 4-1 at p. 42. Qwest does agree to provide access to all central office based Centrex features and functions, plus Qwest agrees to add access to unbundled Centrex Customer Management System as a feature of unbundled local switching. Id. Qwest does not agree to add language to its SGAT regarding notification of generic software upgrades as, according to Qwest, the current network disclosure processes are more than adequate to notify CLECs of generic software upgrades. Id.

55. Eschelon also expressed many concerns over SGAT section 9.11. Specifically, Eschelon wanted Qwest to commit to document and make readily available a list of features, including Centrex features that Qwest is obligated to provide with unbundled switching. Qwest 4-1 at p. 35. Additionally, Eschelon recommended that the SGAT state that the use of the BFR process is only required when a feature is ordered for the first time, and Qwest does not offer it to its retail customers but the switch is capable of providing it. Id. Qwest provides two ways through the IRRG located at <http://www.uswest.com/wholesale/guides/index.html> for CLECs to determine the features available in an end user's serving central office: 1) using a pull down menu shown called "Tariff & Network Info" and following that to a new menu called "Interconnection Databases and finally selecting "Central Office Find"; and 2) selecting "Switch Features" when the CLLI code of the serving office is already known. Qwest 4-1 at p. 36. CLECs who use IMA can also determine "feature availability" through IMA. Id. Regarding the BFR process, Qwest also agrees that the traditional BFR process would only be invoked the first time a new feature is required for a given switch. Qwest 4-1 at p. 37. Qwest will augment the existing ICB process to handle requests for features where a technical feasibility assessment needs to be completed to assure compatibility before an order can be accepted. Id.

f. Workshops

56. On October 31, 2000, Qwest witness Karen Stewart filed a supplemental rebuttal affidavit to address a number of issues from the October 11-13 Workshops.

57. Qwest did not agree to AT&T's recommendation to expand Section 9.10 to cover unbundling of access tandems. Qwest 4-6 at p. 11. Qwest once again stated that it did not agree with AT&T's assertion that no FCC Order or rule on this issue distinguishes between local and other kinds of tandems. Id.

58. Qwest has revised the definition of local tandem switching in Section 9.10.1 to meet concerns expressed in the Workshop that the definition did not adequately track FCC requirements. Qwest 4-6 at p. 11. According to Qwest, the new language tracks the FCC's definition in paragraph 426 of the *First Competition Order*. Id.

59. To address the issue regarding how "four lines" or more will be calculated for the purposes of the unbundled switching exception in the top 50 MSAs, Qwest has modified the SGAT to provide CLECs with the following guidelines which Qwest feels capture the agreements reached at the Workshop:

- 9.11.2.5.2 This exclusion will be calculated using the number of DS0-equivalent access lines CLEC intends to serve an end user customer within a Wire Center specified above.
- 9.11.2.5.3 UNE-P is not available for end user customers with four or more access lines located within one of the Wire Centers specified above.
- 9.11.2.5.4 Only dial-tone lines shall be used in counting the exclusion. Private line type data lines, alarm or security lines, or any other type of non-dial-tone lines shall not be used in the count.
- 9.11.2.5.5 The high frequency portion of a loop shall not count as a second line.
- 9.11.2.5.6 End-users shall be considered individually in MDU buildings or any other multiple use or high-rise.

Qwest 4-6 at p. 12.

60. To address the discussion at the Workshop regarding how a CLEC can determine which features are available with unbundled switching, Qwest will list the three ways in which CLECs, through the IRRG, can determine the features available in an end user's serving central office at <http://www.uswest.com/wholesale/guides/index.html>. Qwest 4-6 at p. 12. Additionally, a CLEC who uses IMA can also determine "feature availability" through IMA. Id. at p. 13.

61. Regarding a discussion at the Workshop on feature packages, Qwest stated that it does provide CLECs access to individual features, and not feature packages, so that a CLEC is not required to purchase and/or activate any features it does not want to have on an individual customer's local exchange line. Qwest 4-6 at p. 14.

62. In addressing AT&T's concern over AIN features, Qwest states that all of its AIN features are proprietary and therefore, it is not required to provide access to AIN features. Qwest 4-6 at p. 14. Qwest has patents that have been issued by the United States Patent Office for AIN services and other applications have been filed with the patent office. Id. Qwest also has trademarks on several of the service names. Id. The AIN services that Qwest has developed are also unique in regard to their actual implementation (that is, the "code"). Id. at p. 15. Qwest has specified the requirements for all services based on its unique customer base, region, and in some cases, based on State PUC requirements. Id. In addition, the service implementations are also unique

because of the framework that Qwest has developed for the execution and support of AIN services. Id.

63. To address CLEC concerns of whether a process was in place for CLECs to access the AIN platform to design their own features, Qwest clarified that Section 9.14 of the SGAT sets forth the procedure, complete with timeframes. Qwest 4-6 at p. 15.

64. CLECs requested that Qwest develop a process for activating features in switches. Qwest 4-6 at p. 15. In response, Qwest has developed the Special Request Process ("SRP") for CLECs to use to activate features in the switch or to request that features be loaded into the switch. Id. SGAT Section 9.11.2.1 sets for the Special Request Process. Id.

65. AT&T had concerns that the SGAT focuses on unbundled switching as an *element* and does not actually address *access* to the element. Qwest 4-6 at p. 16. AT&T recommended that access should be provided at both the DS0 level for copper loops and at the DS1 level for PBX trunks, ISDN trunks, and Digital Loop Carrier. Id. AT&T further stated that standard Digital Loop Carrier interfaces should be provided to the switch, including GR303 and GR008, or any other interface used by Qwest. Id. Qwest agrees that Unbundled Local Switching includes access to the line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch and that this access encompasses all features, functions, and capabilities of the switch to include the DS1 level for PBX trunks, and ISDN trunks. Id.

66. Qwest does not agree with AT&T that a CLEC may continue to serve an end user customer in a Zone 1 density wire center with (UNE based) unbundled local switching if the customer adds a fourth line. Qwest 4-6 at p. 16. Under the FCC unbundled switching exemption, Qwest need not offer unbundled switching in Zone 1 wire centers to a CLEC wanting to serve an end user customer with four or more lines in that wire center. Id. Qwest does agree that it would be reasonable to agree to a transition period to assure no disconnection of service for any CLEC's end user customer previously served by Qwest unbundled switching. Id. at p. 17.

67. AT&T stated that it believes that the restriction on unbundled switching should not apply in offices that have severe space or capacity limitations. Qwest 4-6 at p. 17. AT&T stated that if space in the Qwest office is insufficient for multiplexing, concentration or the additional equipment needed for providing transport facilities, there should be no restriction on CLEC use of unbundled switching. Id. If Qwest has insufficient Interoffice Facilities to provide the transport capability for EELs, there should be no restriction on CLEC use of unbundled switching. Id. In addition, the restrictions should not apply where service is provided using Remote Switching Modules. Id. Qwest does not agree that the FCC's unbundled switching exemption is dependent upon capacity availability for other services in the two Phoenix wire centers. Id. According to Qwest, the FCC made it clear that Qwest has no obligation to build unbundled dedicated transport so the suggestion to link the switching exemption with sufficient transport facilities is unfounded. Id.

68. Finally, Qwest did agree to add language per CLECs request to Section 9.11.2.10 of the SGAT to indicate that Qwest will deliver to CLECs usage records necessary for billing. Qwest 4-6 at p. 18.

g. Disputed Issues

69. At the conclusion of the October 9, 2000 and April 10, 2001 Workshops, the parties were unable to agree on a number of issues that went to impasse involving unbundled local transport. Statements of Positions on the impasse issues were filed by AT&T, MCIW, Covad and Qwest on May 18, 2001.

DISPUTED ISSUE NO. 1: Whether Qwest must provide unbundled access to Advanced Intelligence Network ("AIN") features? (SW-1)

a. Summary of Qwest and CLEC Positions

70. AT&T argued that Qwest's reading of the FCC's *UNE Remand Order* regarding AIN platform is too broad and that the FCC disregarded its own standards for determining whether a network element is proprietary or necessary. AT&T May 18, 2001 Brief at p. 19. The FCC has made it clear that the ILEC must provide all features, functions and capabilities of the switch as part of the local switching element which "includes all vertical features that the switch is capable of providing including custom calling, CLASS features, and Centrex, as well as any technically feasible customized routing functions." *Id.* at p. 19-20. The FCC reaffirmed its definition of unbundled local switching in the *UNE Remand Order* and found that the CLECs would be impaired if the ILEC did not provide the unbundled switch with all the features. *Id.*

71. AT&T went on to state that Qwest has not demonstrated that its AIN features differentiate it from its competitors or is otherwise competitively significant. *Id.* at p. 23. It does not appear that Qwest's service appears in any way unique to warrant a finding that it should be classified as proprietary as defined by the FCC and appears to be no different than any other switch feature that Qwest is required to provide CLECs. *Id.*

72. AT&T also argued that lack of access to AIN features would jeopardize the goal of the 1996 Act to bring rapid competition to the greatest number of customers. *Id.* at p. 23. To recreate AIN features is a lengthy and expensive process, which can take several years to develop and implement. *Id.* at p. 24. AT&T's position is that the FCC's third circumstance has been met -- "lack of access to the proprietary element would jeopardize the goal of the 1996 Act to bring rapid competition to the greatest number of customers." *Id.*

73. Finally, AT&T argued that as a practical, economic and operational matter, CLECs are precluded from providing the service it seeks to offer. *Id.* at p. 24. It is impractical for a CLEC to have to provide its own AIN service software to enter a market because the CLEC would either have to write its own software or purchase it, assuming it is available. *Id.* This is not practical for a new market entrant. *Id.* AT&T

believes when properly analyzed based on the standards established by the FCC, the proper conclusion is that Qwest should be required to make its AIN service software available to CLECs that are using UNEs to provide telecommunications services. Id. at p. 25.

74. Qwest argued that with regard to this issue, the FCC has been clear: "Thus, we agree with Ameritech and BellSouth that AIN service software should not be unbundled." Qwest May 18, 2001 Brief at p. 36. Qwest also relied upon the following passage from the *UNE Remand Order*:

We agree with Ameritech that unbundling AIN service software such as "Privacy Manager" is not "necessary" within the meaning of the standard in section 251(d)(2)(A). In particular, a requesting carrier does not need to use an incumbent LEC's AIN service software to design, test, and implement a similar service of its own. (820) Because we are unbundling the incumbent LECs' AIN databases, SCE, SMS, and STPs, requesting carriers that provision their own switches or purchase unbundled switching from the incumbent will be able to use these databases to create their own AIN software solutions to provide services similar to Ameritech's "Privacy Manager." They therefore would not be precluded from providing service without access to it. Thus, we agree with Ameritech and BellSouth that AIN service software should not be unbundled.

UNE Remand Order at para. 821. Qwest does not provide access to its own AIN products with UNE-Switching. Id. The FCC has determined that an ILEC's AIN products do not have to be unbundled when ILECs make the AIN platform or database, Service Creation Environment (SCE), SMS, and STPs available for CLECs to develop their own AIN products. Id. As required by the *UNE Remand Order*, Qwest provides CLECs access to the components necessary to develop their own AIN products and features, specifically, the SCE, SMS, STPs, and AIN database. Id. at p. 37. In addition to Qwest's testimony, Qwest's SGAT establishes that Qwest offers each of the four required items to CLECs which allow CLECs to develop their own AIN products: AIN databases/platform (9.14.1.2 and 9.14.2.2); SCE (9.14.1.1); SMS (9.13.1.1); and STPs (9.13.1.1). Id. at p. 36-37. Id. Qwest complies with the necessary requirements and Qwest's AIN products are not required to be unbundled. Id.

75. Qwest stated that it has demonstrated that it is not obligated to unbundle its AIN features in that the FCC has held that AIN features do not have to be unbundled regardless of a determination of whether the AIN features are proprietary. Id. at p. 40. Additionally, Qwest has established that its AIN features are proprietary because they are covered by patents, pending patents, trademarks, copyright, trade secrets, and are otherwise proprietary to Qwest. Id.

b. Discussion and Staff Recommendation

76. The FCC has determined that an ILEC's AIN products do not have to be unbundled when ILECs make the AIN platform or database, Service Creation Environment (SCE), SMS, and STPs available for CLECs to develop their own AIN products. As required by the FCC's *UNE Remand Order*, Qwest provides CLECs access to the components necessary to develop their own AIN products and features. AT&T provided no cites to FCC Orders to support its position that the such AIN unbundling is required at this time. Staff believes AT&T provided no cites, because there aren't any at this point in time.

77. At the same time, Staff understands the concerns raised by AT&T. AT&T argues that lack of access to AIN features would jeopardize the goal of the 1996 Act to bring rapid competition to the greatest number of customers. AT&T also argues that to recreate AIN features is a lengthy and expensive process, which can take several years to develop and implement. Nonetheless, the FCC spent considerable time analyzing the same arguments which the Commission is today presented with. The FCC found that it was sufficient for the ILEC to make available the AIN platform or database, SCE, SMS and STPs for the CLECs to develop their own AIN products. Qwest has a legally binding obligation to do what is required under FCC Orders in its SGAT. Therefore, Staff believes that Qwest is meeting its obligations as defined under current FCC Orders.

78. Staff would encourage Qwest to undertake periodic reviews of its AIN products and features and to make a good faith concerted effort to make available as many AIN products as possible. Staff would recommend that Qwest include language in its SGAT to reflect this commitment.

DISPUTED ISSUE NO. 2: Whether Qwest is obligated to provide unbundled switching in wire centers in density zone 1 if all forms EEL access is not available? (SW-6)

a. Summary of Qwest and CLEC Positions

79. AT&T argued that the FCC has determined that unbundled local switching is a UNE that ILECs must make available. AT&T Brief at p. 25. The FCC did "find, however, that an exception to this rule is required under certain market circumstances. We find that, where incumbent LECs have provided nondiscriminatory, cost-based access to combinations of loop and transport unbundled network elements, known as the EEL, requesting carriers are not impaired without access to unbundled switching for end users with four or more lines within Density Zone 1 in the top 50 metropolitan statistical areas ("MSAs")." *Id.* at p. 26. Qwest argues that it does not have to provide unbundled switching if it *offers* the EEL in Density Zone 1 wire centers, whether or not an EEL is *available* from Qwest. *Id.* AT&T's position is that if an EEL is ordered by a CLEC and it cannot be provisioned by Qwest, Qwest must make the unbundled switching element available. *Id.* Qwest is not in compliance with Checklist Item 6 if Qwest does not make

unbundled switching available if an EEL is not available. Id. at p. 27. If unbundled switching is not made available to the CLECs when an EEL is not available, the FCC's Order is essentially negated. Id.

80. MCIW argued that Qwest's SGAT Section 9.11.2.5 provides that unbundled switching is not available in certain end offices when the end-user customer to be served has four access lines or more. MCIW May 18, 2001 Brief at p. 5. While the FCC rules provide that unbundled switching is not required to be provided in the situation described by Qwest – that decision was predicated upon a CLEC being able to obtain EEL connections from Qwest and using the EEL to connect end users to switching provided by the CLEC, themselves, or another carrier other than Qwest. Id. at p. 6. The ability of Qwest to deny unbundled switching or UNE-P in these situations should be conditioned upon Qwest's ability to provide the CLEC an EEL connection, upon request, for those certain end offices. Id. Lack of Qwest capacity has been a problem in the past and should not be allowed to result in the situation where competitors cannot serve an end user in these high volume end offices either through UNE-P or using EEL's since such a result would be an unreasonable roadblock to competition for customers in those offices. Id.

81. Qwest argued that the FCC's unbundled switching exemption is not dependent upon capacity availability for other services impacted Qwest wire centers. Qwest May 18, 2001 Brief at p. 41. The FCC, after a detailed analysis, determined that CLECs had adequate alternatives to unbundled switching in wire centers in density zone 1 of the top 50 MSAs and also did not limit its analysis to wire centers without exhaust issues. Id. The FCC did require ILECs to offer EELs in those wire centers, but it did not condition the switching exception on a CLEC specific/wire center specific analysis of facility exhaustion. Id.

b. Discussion and Staff Recommendation

82. Staff agrees with MCIW and AT&T. Qwest's argument that it does not have to provide unbundled switching if it *offers* the EEL in Density Zone one wire centers, whether or not an EEL is *available*, is specious at best. If available in the aggregate but not to the specific CLEC at the specific wire center, the availability does an individual CLEC no good.

83. Therefore, Staff agrees with AT&T and MCIW that if an EEL is ordered by a CLEC but it cannot be provisioned by Qwest, Qwest must make the unbundled switching element available in Density Zone one of the top fifty MSAs.

DISPUTED ISSUE NO. 3: How should lines be calculated for the purpose of the exception to providing unbundled switching at TELRIC rates in Zone 1 of the top 50 MSAs? (SW-9)

a. Summary of Qwest and CLEC Positions

84. AT&T argues that the SGAT is ambiguous regarding how lines should actually be counted, whether on per-wire center or per-location basis. AT&T Brief at p. 28. AT&T's position is that the line count should be done on a location-by-location basis. *Id.* The FCC noted that 3 lines or less "captures a significant portion of the mass market." *Id.* This market was identified as residential and small business market but this analysis is not definitive. *Id.* A location-by-location analysis is easiest for the CLEC to implement since the CLEC can determine how many lines are at a location. *Id.* A CLEC cannot always determine if an end user customer at a location has multiple locations on the same bill since that information may not be available to the CLEC. *Id.* at p. 29. This information is in the possession of Qwest; and Qwest has made no process available for the CLEC to obtain the information. *Id.* The SGAT language as proposed is ambiguous and is far from clear how the CLECs are to implement Qwest's proposal. *Id.* The more practical way to implement the FCC's "3 lines or less exception" to Qwest's obligation to provide the unbundled local switching network element is on a location basis. *Id.*

85. Qwest argued that AT&T's suggestion that Section 9.11.2.5 be modified to add language that provides counting a CLECs lines for purposes of applying the UNE-Switching exclusion be limited to single end user locations does not apply to single end user customers within Density Zone 1. Qwest Brief at p. 42. The exclusion is not broken into sub-elements at specific geographic locations or addresses within Density Zone 1. *Id.* On this point, Qwest relies upon the following passage from the FCC's *UNE Remand Order*:

We find that, where incumbent LECs have provided nondiscriminatory, cost-based access to combinations of loop and transport unbundled network elements, known as the enhanced extended link (EEL), requesting carriers are not impaired without access to unbundled switching for end users with four or more access lines within density zone 1 in the top 50 metropolitan statistical areas (MSAs).

b. Discussion and Staff Recommendation

85. There were actually two sub-issues raised in impasse issue 3. The first sub-issue is whether or not a line count is performed on a location-by-location basis as proposed by AT&T or whether Qwest's proposal to do it on a wire center basis is appropriate. The second sub-issue is how you treat a situation when a CLEC's end-user customer with three lines or fewer served by UNE-P or unbundled switching adds lines so that it has four or more lines.

86. On the first sub-issue, AT&T acknowledged that the FCC stated that ILECs do not have to provide Unbundled Local Switching to customers with four or more lines in Density Zone 1 wire centers if the ILEC makes the EEL available. Qwest's SGAT Section 9.11.2.5.2 reflects this obligation, stating "this exclusion will be calculated using the number of DS0-equivalent access lines CLEC intends to serve an end-user customer within a wire center specified above."

87. Staff, therefore, concurs with Qwest's position. The FCC did not disaggregate the exception down to the individual location level. AT&T supports its recommendation only with the argument that it would be easier for CLECs to account for the number of lines of each customer on a location basis rather than a wire center basis. AT&T also argued, however, that a CLEC cannot always determine if an end user customer at a location has multiple locations on the same bill since that information may not be available to the CLEC and is only available to Qwest. To the extent there is a need on the CLEC's part for information from Qwest to determine the appropriateness of the exemption, Qwest should be required to provide this information to the CLEC, and this obligation should be incorporated into its SGAT.

88. With regard to sub-issue 2, the question of pricing after a CLEC customer adds a fourth line in zone one of the top fifty MSAs is addressed under Checklist Item 2 as impasse issue 7 (UNE-P-10).

DISPUTED ISSUE NO. 4: Whether Qwest is required to provide unbundled access to switch interfaces such as GR-303 or TR-008? (SW-18)

a. Summary of Qwest and CLEC Positions

89. AT&T argued that it has requested that Qwest provide access to unbundled local switching using GR-303/TR-008 interfaces but that Qwest has declined stating it is not obligated to provide such an interface and based on operational concerns. AT&T Brief at p. 29. AT&T clarified its request that the CLEC be permitted to provide its own compatible remote terminal and then lease transport from Qwest or provides its own transport from the remote terminal back to Qwest's switch. Id. at p. 30. Qwest proposed SGAT language in another jurisdiction to permit what AT&T was requesting. Id. at p. 31. AT&T stated that it accepted Qwest's language and would agree to close this issue if that language is brought into Arizona. Id.

90. Covad stated that it concurred with the comments filed by AT&T and that the Commission should require Qwest to amend its SGAT to reflect this unbundling requirement. Covad May 18, 2001 Brief at p. 12.

91. Qwest stated in its comments that it has recently reached agreement with AT&T on this issue and has agreed to close it in Arizona. Qwest May 18, 2001 Brief at p. 42. Qwest believes that the settlement reached between the parties offers AT&T the functionality it sought while addressing the concerns of Qwest regarding concentration levels, network security, and network integrity. I. At p. 43. Based on the settlement,

Qwest is not briefing this issue and it is not submitted to the Commission for determination. Id.

b. Discussion and Staff Recommendation

92. Based on Qwest's agreement to add language proposed by Qwest in another jurisdiction, and AT&T and Covad's agreement to this, this issue is deemed closed subject to Qwest incorporating such language into its Arizona SGAT. AT&T clearly stated that it has accepted the SGAT wording proposed by Qwest and that this issue should be considered closed upon follow through by Qwest.

93. Therefore, Staff recommends that the language proposed by Qwest be incorporated into Qwest's Arizona SGAT, and that parties have the opportunity to review such language once the SGAT is modified.

g. Verification of Compliance

94. The parties resolved all outstanding issues regarding Qwest's compliance with Checklist Item 6, with the exception of the four impasse issues discussed above.

95. Qwest has also agreed to allow all CLECs to opt into the revised SGAT provisions resulting from these Workshops.

96. After considering the record herein and with resolution of the Impasse Issues as discussed above, Staff recommends that Qwest be found to comply with Checklist Item 6 which requires Qwest to provide or offer to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services." See 47 U.S.C. Section 271(c)(2)(B)(vi).

97. After considering the record herein and with resolution of the Impasse Issues as discussed above, Staff believes that Qwest has demonstrated that it complies with Sections 271(c)(2)(B)(ii) and 251(c)(3).

98. After considering the record herein and with resolution of the Impasse Issues as discussed above, Staff believes that Qwest has demonstrated that it also complies with the requirements contained in the FCC's *Second BellSouth Louisiana Order* which are discussed in Findings of Fact 7 through 10 above.

99. Qwest's compliance with Checklist Item 6 is dependent upon its satisfactory performance with regard to any relevant performance measurements in the Third Party OSS Test in Arizona.

II. CONCLUSIONS OF LAW

1. 47 U.S.C. Section 271 contains the general terms and conditions for BOC entry into the interLATA market.
2. Qwest is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. Sections 40-281 and 40-282 and the Arizona Commission has jurisdiction over Qwest.
3. Qwest is a Bell Operating Company as defined in 47 U.S.C. Section 153 and currently may only provide interLATA services originating in any of its in-region States (as defined in subsection (I)) if the FCC approves the application under 47 U.S.C. Section 271(d)(3).
4. The Arizona Commission is a "State Commission" as that term is defined in 47 U.S.C. Section 153(41).
5. Pursuant to 47 U.S.C. Section 271(d)(2)(B), before making any determination under this subsection, the FCC is required to consult with the State Commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).
6. In order to obtain Section 271 authorization, Qwest must, inter alia, meet the requirements of Section 271(c)(2)(B), the Competitive Checklist.
7. Section 271(c)(2)(B)(vi) of the Telecommunications Act of 1996 requires a section 271 applicant to provide or offer to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services."
8. Section 271(c)(2)(B)(ii) requires a Section 271 applicant to provide "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."
9. Section 251(c)(3) establishes an incumbent LECs "duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] . . . and section 252."
10. In the *Second BellSouth Louisiana Order*, the FCC clarified the obligations of a BOC with regard to the provision of nondiscriminatory access to unbundled local switching.

11. As a result of the proceedings and record herein, and subject to Qwest modifying its SGAT language consistent with the resolution of the impasse issues contained above, Qwest meets the requirements of Section 271(c)(2)(B)(vi) and provides or offers to provide local switching unbundled from transport, local loop transmission, or other services.

12. Qwest's compliance with Checklist Item 6 is contingent on its passing of any relevant performance measurements in the Third-Party OSS test now underway in Arizona.