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November 5, 2001

VIA HAND-DELIVERY

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission  
**DOCKETED**

NOV 05 2001

Re: *Qwest Corporation's Compliance with § 271 of  
Telecommunications Act of 1996  
Docket No. T-00000A-97-0238*

DOCKETED BY *mal*

Dear Sir/Madam:

With this letter, I enclose for filing an original and 10 copies of Covad Communications Company's Combined Response to Qwest Corporation's Performance Data Filings and Submission of Data Regarding Qwest's Commercial Performance for Covad in the State of Arizona, on behalf of Covad Communications. Electronic copies of this filing were previously provided to all parties on the mailing list.

If you have any questions, please feel free to call me at (602) 530-8514.

Very truly yours,

**GALLAGHER & KENNEDY, P.A.**

By *Todd C. Wiley*  
Todd C. Wiley

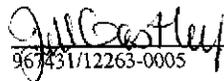
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Docket Control  
November 5, 2001  
Page 2

Original and 10 copies filed this 5<sup>th</sup> day  
of November, 2001 with Docket Control

COPY of the foregoing mailed  
this 5<sup>th</sup> day of November, 2001 to:

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967431/12263-0005

BEFORE THE ARIZONA CORPORATION COMMISSION

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Chairman

JIM IRVIN

Commissioner

WILLIAM A. MUNDELL

Commissioner

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IN THE MATTER OF U S WEST )  
 COMMUNICATIONS, INC.'S )  
 COMPLIANCE WITH SECTION 271 OF )  
 THE TELECOMMUNICATIONS ACT ) DOCKET NO. T-00000A-97-0238  
 OF 1996 )  
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**COVAD COMMUNICATIONS COMPANY'S COMBINED RESPONSE TO  
 QWEST CORPORATION'S PERFORMANCE DATA FILINGS AND  
 SUBMISSION OF DATA REGARDING QWEST'S COMMERCIAL  
 PERFORMANCE FOR COVAD IN THE STATE OF ARIZONA**

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Covad Communications Company ("Covad") respectfully submits the following Combined Response to Qwest Corporation's Performance Data Filing and Submission of Data Regarding Qwest's Commercial Performance for Covad in the State of Arizona.

**I. INTRODUCTION**

The Commission cannot forward to the Federal Communications Commission (the "FCC") an affirmative endorsement of Qwest's application for relief pursuant to Section 271 of the Telecommunications Act of 1996 (the "Act") unless and until Qwest demonstrates to the Commission that it satisfies, in both paper and practice, the competitive checklist,<sup>1</sup> and that the Arizona local services market is fully and irreversibly

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<sup>1</sup> *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, Mem. Op. and Order, CC Docket No. 00-65, ¶52 (Jun. 30, 2000) ("SBC Texas 271 Order").*

open<sup>2</sup> to competition. Careful review and critical scrutiny of Qwest's and CLECs' performance data thus is both appropriate and necessary to permit the Commission to determine whether Qwest has fulfilled these absolute prerequisites to Section 271 relief.

As Qwest was fully aware at the time it served its performance data on the parties to this docket on September 6, 2001, and then again on September 21, 2001 and October 15, 2001, the adequacy of certain PIDs, as well as the input data for those PIDs and the attendant results reported thereunder, were challenged by CLECs. Indeed, Qwest tacitly conceded that there was merit to the CLECs' challenge, agreeing to a region-wide data reconciliation process conducted under the auspices of Liberty Consulting Group. Thus, because a process was underway to address the competing claims of CLECs and Qwest with respect to performance data, it was both premature and inappropriate first for Qwest to submit such unreconciled data, and then to assert that such data conclusively demonstrates that it is provisioning orders in a Section 271-sufficient manner.

Significantly, the bulk of all three of Qwest's Data Filings are simple, yet less than straightforward, regurgitations of the data depicted in the PID Performance Results. *See, e.g.*, Qwest Performance Results (Aggregated), Arizona (September 2000-August 2001), attached to the 10/15/01 Data Filing as Exhibit 1. Rather than providing a complete picture of the performance data, Qwest opts to provide only snapshot performance pictures of those PIDs under which its performance apparently is best. The Commission should not endorse Qwest's scattershot approach to the review of

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<sup>2</sup> *In the Matter of 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*, Mem. Op. and Order, CC Docket No. 99-295, FCC 99-404 (Dec. 22, 1999), ¶423 ("BANY 271 Order").

performance data, and instead should undertake an exacting review of all of Qwest's reported performance.

Covad plainly has serious concerns regarding the reliability and accuracy of Qwest's performance data filing. Accordingly, Covad submits (1) Covad's comments on the Liberty Performance Measure Audit; (2) its data regarding Qwest's commercial performance for Covad in the State of Arizona; (3) data pertaining to Qwest's cooperative testing performance in Arizona, and (4) comments regarding the performance data provided by Qwest during the data reconciliation. Covad further anticipates submitting both the results of the Liberty data reconciliation process once it concludes, and updated data on PIDs and cooperative testing as it becomes available.

## **II. PROCEDURAL AND LEGAL BACKGROUND**

### **A. Procedural Background**

From the outset of the OSS checklist item workshops, CLECs regularly and repeatedly have complained that Qwest's actual commercial performance in the State of Arizona has been far from optimal. Although several parties submitted performance data during the course of a number of these OSS checklist item workshops, the data issues were never formally and finally resolved. Rather, the Commission's ultimate conclusion regarding Qwest's actual commercial performance was deferred until such time as OSS testing was concluded and data workshops were convened.

Where data has been provided or testimony given regarding Qwest's actual commercial performance, a significant issue of dispute between Qwest, on the one hand, and CLECs, on the other, was whose data reflected more accurately the CLECs' commercial experience in Arizona. In order to resolve those types of issues and to minimize the burden placed on state commissions with responsibility for discerning

whether Qwest's actual commercial performance complies with its obligations under Section 271, the Regional Oversight Committee authorized the retention of Liberty Consulting Group to undertake a data reconciliation of Qwest and CLEC data for any PID, any sub-measure, any state and any time period. To manage this undertaking, the ROC approved a number of key milestones: (1) production of all data by all parties on or before September 28, 2001; and (2) exchange of comments on or before October 15, 2001 (now deferred to November 1, 2001); and (3) completion of the Liberty reconciliation and production of a report thereon on or before October 31, 2001 (now November 19, 2001).

While Qwest complained, without basis, that two of the three CLECs participating in the audit had expanded the scope of the data to be audited after the September 28, 2001 deadline, in fact it was Qwest itself that completely ignored the agreed-upon deadlines. Covad did not receive from Qwest most of the data for the PIDs, states and months it had identified until Friday, October 19, 2001, when Qwest provided some of the data for the states, PIDs and months identified by Covad (Qwest refused to provide the remainder).<sup>3</sup> Qwest's untimely "data dump" thus places Covad at a significant disadvantage in the reconciliation process because it has been deprived of three weeks' worth of work time in which to review and evaluate Qwest's data. Covad thus expressly reserves its right to provide additional comments regarding Qwest's data during the course of the review of the performance data, scheduled to take place during the November 27-30, 2001 Functionality Report workshop.

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<sup>3</sup> Qwest failed and refused to provide any data to Covad for the MR PIDs it identified for reconciliation. Further Qwest failed and refused to provide the underlying data for Covad's 2-wire non-loaded shared loops for OP-4 as well as for either non-loaded and line shared loops for OP-5.

## B. Applicable Legal Principles

### 1. Legal Standards

A necessary prerequisite to the approval of Qwest's application to provide inter-LATA long distance service is proof that Qwest has "fully implemented" the § 271 competitive checklist, thereby presumptively opening its local telecommunications markets to competition.<sup>4</sup> Qwest thus must provide "actual evidence demonstrating its present compliance with the statutory conditions for entry,"<sup>5</sup> which require, among other things, that Qwest provide nondiscriminatory access to unbundled network elements,<sup>6</sup> such as unbundled loops. Promises of future performance are irrelevant to whether Qwest currently is satisfying its obligations under Section 271; Qwest must demonstrate *current* compliance with the statutory conditions for entry.<sup>7</sup>

This Commission is charged with the critical function of determining to a reasonable degree of certainty that Arizona's local markets are open to competition.<sup>8</sup> Because the FCC relies heavily upon a state's rigorous factual investigation, review and analysis of Qwest's compliance, or not, with a particular checklist item, this Commission's review of the performance data before it may not be undertaken lightly. To the contrary, before approving Qwest's request for § 271 relief, the Commission must ensure that Qwest has provided sufficient evidence to prove, by a preponderance of the evidence, that it has fully implemented<sup>9</sup> each checklist item. The ultimate burden of proof

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<sup>4</sup> *In the Matter of the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, CC Docket Nos. 96-978 & 95-185 (Rel. Aug. 8, 1996), ¶ 3 ("Local Competition Order").

<sup>5</sup> *BANY 271 Order*, ¶ 37.

<sup>6</sup> 47 U.S.C. § 271(a)(2)(B)(ii).

<sup>7</sup> *BANY 271 Order*, ¶ 37.

<sup>8</sup> 47 U.S.C. § 271(d)(2)(B).

<sup>9</sup> *BANY 271 Order*, ¶ 44.

as to its commercial performance on all checklist items lies with Qwest, even if "no party files comments challenging compliance with a particular requirement."<sup>10</sup>

**2. Scope of the Commission's Review.**

**a. Qwest's Performance Under Each PID Must Be Independently and Separately Reviewed.**

**i. FCC Orders Mandate PID-by-PID Review.**

The critical issue this Commission must address in connection with the performance data provided by the parties is whether Qwest's current commercial performance is sufficient to satisfy its obligations under Section 271 of the Act. While Qwest conveniently characterizes this issue as whether its "*overall performance*" under the PIDs satisfies each checklist item (Qwest 9/6/01 Data Filing, p. 17; Qwest 10/15/01 Data Filing, p. 8), it is incumbent on the Commission to review Qwest's performance *on a PID-by-PID basis*. Any less strict scrutiny would be inconsistent with FCC orders, as well as result in a fundamental disservice to CLECs and Arizona consumers alike.

Qwest is obligated to demonstrate "as thoroughly as possible that it satisfies each checklist item" and thus, for each checklist item, must establish a *prima facie* case of checklist compliance.<sup>11</sup> Because the most probative evidence of checklist compliance is actual commercial usage, a key element in determining compliance is the data detailing a BOC's performance under the applicable performance measures.<sup>12</sup> While performance data differences under separate performance measurements may not necessarily be cognizable under the Act, that fact does not mean that the Commission may ignore a particular measure. To the contrary, the FCC has made clear from its earliest Section 271 order that a BOC's performance under *each* measure must be reviewed. It is only after

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<sup>10</sup> *Id.*, ¶ 47.

<sup>11</sup> *Id.*, ¶¶ 48-49.

<sup>12</sup> *Id.*, ¶ 53.

such review that the Commission (and later, the FCC) can determine whether any performance deficiency impacts checklist compliance:

There may be multiple performance measures associated with a particular checklist item, and an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist. Other measures may tell a different story, and provide us with a more complete picture of the quality of service being provided. Thus, whether we are applying the “substantially the same time and manner” standard or the “meaningful opportunity to compete” standard, we will examine whether the differences in the measured performance are large enough to be deemed discriminatory under the statute.<sup>13</sup>

The FCC’s early statements regarding the importance of data reported under each performance measure and the appropriate role of the state commission in reviewing that data are not mere recital. The FCC has emphasized the importance of individualized performance measurement data in subsequent Section 271 orders:

*SBC Texas 271 Order:*

In past orders we have encouraged BOCs to provide performance data in their section 271 applications to demonstrate that they are providing nondiscriminatory access to unbundled network elements to requesting carriers. . . . Performance measurements are an especially effective means of providing us with evidence of the quality and timeliness of the access provided by a BOC to requesting carriers.

A number of state commissions, including Texas, have established a collaborative process through which they have developed, in conjunction with the incumbent and competing carriers, a set of measures, or metrics, for reporting of performance in various areas. Through such collaborative processes, Texas has also adopted performance standards for certain functions, typically where there can be no comparable measure based on the incumbent LEC’s retail performance. We strongly encourage this type of process, because it allows the technical details that determine how the metrics are defined and measured to be worked out with the participation of all concerned parties.

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<sup>13</sup> *Id.*, ¶ 60.

[I]n making our evaluation we will examine whether the state commission has adopted a retail analogue or a benchmark to measure BOC performance and then review the particular level of performance the state has required.<sup>14</sup>

*Verizon Massachusetts 271 Order:*

[W]here, as here, these standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same time and manner, or in a way that provides them a meaningful opportunity to compete . . . to the extent there is no statistically significant difference between Verizon's provision of service to competing carriers and its own retail customers, we generally need not look any further. Likewise, if Verizon's provision of service to competing carriers satisfies the performance benchmark, our analysis is usually done. Otherwise, we will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met. Thus, we will examine the explanations that Verizon and others provide about whether these data accurately depict the quality of Verizon's performance. We also may examine how many months a variation in performance has existed and what the recent trend has been. We may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, we may conclude that the differences are not meaningful in terms of statutory compliance.<sup>15</sup>

Contrary to these express FCC directives, Qwest intends to present only a snapshot of its performance under those PIDs for which its performance apparently is best. Indeed, throughout its three Data Filing, Qwest intersperses PIDs for certain types of products under certain checklist items but does not include other, highly relevant PIDs, for those same products for the same checklist item. For example, in its September 6,

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<sup>14</sup> *SBC Texas 271 Order*, ¶¶ 53-58.

<sup>15</sup> *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*, Mem. Op. and Order, CC Docket No. 01-8, FCC 01-130, 41454 & 58 (Apr. 16, 2001), ¶ 13 (*Verizon Massachusetts 271 Order*).

2001 Data Filing, in Checklist Item 4, Qwest discusses its OP-3 through OP-5 performance for 2-wire non-loaded loops, but does not include any reference whatsoever to OP-6B, which measures delay days due to lack of facilities. Similarly, in all three of its Data Filings, while Qwest touts its purported ability to clear certain troubles on 2-wire non-loaded loops within the time periods specified in MR-3, but fails to describe the mean time to restore service (MR-6) on those loops. Conversely, Qwest includes both MR-3 and MR-6 in all three of its Data Filings when discussing ISDN loops, which account for only a fraction of the loops provisioned in the State of Arizona.

Because Qwest's approach to its data performance is inconsistent with the process envisioned and ordered by the FCC, it must be required to present evidence on each and every PID and then permit the Commission to determine whether that performance is sufficient.

**ii. Failure to Conduct a PID-by-PID Review Will Subvert the Parties' Understandings and Agreements When Negotiating the PIDs.**

The parties negotiated each PID on the basis, and with the understanding, that (1) the PID in question may meet the standards set by the FCC in determining whether a BOC's performance is non-discriminatory within the meaning of the Act; and (2) Qwest would meet each PID and be held accountable for each and every time it failed to make an agreed upon performance standard. (See Qwest 10/15/01 Data Filing, pp. 2 and 9/6/01 Data Filing, pp. 12 and 16). Qwest, however, blithely seeks to ignore, avoid and undue the parties' hard work, negotiations and agreements. Qwest's cavalier disregard of its obligations should not be countenanced in light of the circumstances under which the PIDs were negotiated:

where, as here, these [performance] standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same

time and manner, or in a way that provides them a meaningful opportunity to compete.<sup>16</sup>

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For example, where a state develops a performance benchmark with input from affected competitors and the BOC, such a standard may well reflect what competitors in the marketplace feel they need in order to have a meaningful opportunity to compete.<sup>17</sup>

Consistent with FCC orders and the parties' expectations and understandings regarding the development, application, effect and function of the PIDs, the Commission should review Qwest's performance on a PID-by-PID basis.

Tellingly, Qwest's newfound interest in the concept of overall performance is due to the fact that it is unwilling or unable to meet the standards to which it previously agreed, as is evidenced by the data Qwest itself provided in connection with its Data Filings. Qwest's current failure to meet its performance obligations, however, does not provide it with an excuse or an opportunity to ignore that particular performance measure. To the contrary, Qwest should be measured on each PID, with the Commission (and later the FCC) retaining sole authority to determine whether such failure of performance is legally significant.

**iii. Failure to Conduct a PID-by-PID Review Raises the Possibility of Discrimination Between Qwest and a CLEC and Among CLECs.**

A failure to review Qwest's performance on a PID-by-PID basis raises the disturbing possibility of discrimination between CLECs. More specifically, each CLEC has a different business plan and an unique mode of market entry. Because of these differences, the PIDs currently contained in the Qwest Performance Assurance Plan for Arizona (the "QPAP") impact differently each CLEC. Stated another way, a particular PID may be more or less important to a CLEC because of the impact that PID has on the CLEC's core business needs and requirements. For example, voice CLECs, such as

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<sup>16</sup> *Verizon Massachusetts 271 Order*, ¶ 13.

<sup>17</sup> *SBC Texas 271 Order*, ¶ 55.

AT&T or WCom, likely rank OP-8 (number portability timeliness) of primary importance, whereas a data CLEC, like Covad, could care less about Qwest's OP-8 performance.

In light of the differences between CLEC businesses and the consequent differences in the ranking of importance for each PID, it is imperative that the Commission review Qwest's performance under each PID to determine whether it satisfies the Section 271 requirements. Put simply, fundamental fairness requires that each PID be reviewed separately and independently to ensure that no one CLEC, or group of CLECs with similar businesses and business plans, receives discriminatory treatment as between Qwest and the CLEC or among CLECs.

### **III. DATA VALIDATION ISSUES**

#### **A. Qwest's Actual Data Collection And Processes Have Not Yet Been Validated.**

##### **1. The Liberty Performance Measure Audit Suffers from Fundamental Flaws that Make Its Conclusions Unreliable.**

###### **a. Generally Applicable Deficiencies**

The argument that Qwest is "successfully providing each checklist item in commercial settings" necessarily requires the Commission's acceptance of the contention that the Liberty Performance Measure Audit (the "PMA") (attached to Qwest's 10/16/01 Data Filing as Exhibit 3) concluded that Qwest's performance data is "accurate and reliable." (Qwest Data Filing, 10/15/01, p. 6). That contention, however, is grounded in a shaky and suspect foundation.

First, the comments contained in the Liberty PMA appear to undercut the ultimate conclusion reached; namely, that Qwest accurately reports its performance data. The ROC OSS testing as well as the OSS testing taking place in Arizona are "military style" tests, in which a "passing" grade will not be given until the test is completed without

problem. Despite that agreed-upon procedure, the Liberty PMA appears to give Qwest a “pass” even as it identifies numerous existing problems and includes an unambiguous requirement for further improvement, change, ongoing monitoring, and auditing.

More specifically, more than half of the recommendations Liberty has provided for the performance measures include the requirement of further action in one of four ways: (1) Qwest should make changes to its processes for handling information; (2) Qwest should improve internal documentation; (3) there should be further testing and recalculations; or (4) it will be necessary to develop an audit process to ensure the accuracy of trouble reports. Indeed, Liberty points out multiple flaws in Qwest’s measurement of performance and recommends extensive future monitoring procedures following the conclusion of the OSS testing. Absent the ability on the part of the Commission to implement the post-entry monitoring regime identified by Liberty, the Commission necessarily can anticipate numerous problems in the implementation of, and reporting under, the QPAP and associated PIDs after Qwest receives Section 271 relief in this state.

Second, even setting aside the issue of whether Liberty complied with the agreed-upon testing criteria, as set forth more fully in Covad’s comments on the PMA, attached hereto as Exhibit 1, careful analysis of the PMA suggests that it is replete with flaws that render the PMA a fundamentally unreliable tool in determining whether Qwest’s PIDs are designed to accurately and appropriately measure Qwest’s actual commercial performance in Arizona.

**Scope of the Audit.** The scope of the PMA focused on Qwest’s data and reporting processes, while the performance measurement definitions were left to the

TAG. While the restriction on scope may have been necessary due to time constraints, it resulted in a missed, yet critical, opportunity to audit the link between the performance and the measurement. Consequently, it is uncertain whether issues arising out of the measurements will ever be fully resolved, which likely will result in ongoing questions by CLECs regarding Qwest's data and performance measurement processes. For instance, as long as customers perceive sub-standard performance, and that performance is not reflected in the measurement, the numbers will be questioned. It is only when Qwest's PID results improve and customers perceive the improvement that the measurements will be trusted. For this more positive scenario to occur, the link between the metric and the business process must be audited. It is unfair to place Qwest in a position where its must improve customer service, but not reap the benefit because such improvements will either not be reflected in the metrics or customers will not believe in the results reported under the metrics. *Exhibit 1*, p. 1.

**Sample Data Sets.** Liberty selected states as sample data sources for Qwest data. In the metrics reviewed by Covad, the states selected are small volume states such as Montana, Idaho, and New Mexico. Almost none of the audit samples or recalculations reviewed were for larger volume states, such as Arizona, Washington, or Colorado. Statistically, the smaller the sample size, the less likely the conclusions made from that sample will be reflected in the overall data environment. Additionally, by avoiding states with known performance issues, it would be impossible to compare perceived performance issues with measurements, denying Liberty and Qwest an opportunity for meaningful performance analysis. *Id.*

**Criteria Established for Validation.** While Liberty stated they are satisfied with the validity of the measurements, the standards for validation are not evident in the audit documentation. Metric systems should be validated at the data, production, and business levels. Liberty documentation describes the audit in each of these key areas, but fails to fully identify the standards applied to determine a valid versus an invalid measurement. Without validation standards, the acceptance of the measurement thus becomes the opinion of Liberty Consulting. This renders Liberty and Qwest open to further debate regarding the validity of the PIDs. *Id.*

While all three of these points are critical, none is more important in connection with the Commission's review of Qwest's performance data than the fact that, while Liberty audited the Qwest performance measures and calculations, it specifically did not review all of the underlying data (or inputs) in order to determine whether Qwest is categorizing/including/excluding etc. orders properly. In other words, although Qwest's calculations under the performance measures may be correct, there has been neither a review nor a validation of the data inputs and associated business processes into each of the PIDs. Thus, as Covad included in its comments on the Liberty PMA, the source, collection and manipulation for the reporting of the data under the PIDs remains suspect, thereby directly impacting the accuracy and reliability of the performance reported by Qwest thereunder. *See Exhibit 1.*

**b. Deficiencies in Specific PIDs for Which Covad Sought Reconciliation**

The concerns articulated by Covad regarding the PMA generally repeat themselves frequently and in connection with those PIDs (PO-5, OP-4, OP-5, MR-3 and MR-6) Covad considers to be the most important for its business purposes.

**i. PO-5 (Firm Order Confirmations (FOCs) On Time)**

Exclusions. The exclusions incorporated into this metric resulted in a greater than 30% difference in the denominators between Covad and Qwest numbers. While this difference likely will be addressed in the reconciliation process, the possibility exists that the 30% exclusion is part of a process – in other words, the exclusions are the rule rather than the exception. If this percentage were applied to a quality metric of the Qwest process, the third standard deviation would calculate to 90% of the process. If the measurement is accurately linked to the process, it reflects a process that is non-standard and out of control. *Id.*, pp. 1-2.

Sample Data Set. In the audit of the PO-5 measurement, Liberty selected Idaho as the sample data environment. From Covad's perspective, Idaho is effectively a 0% sample size. Additionally, the expansive rural areas in Idaho result in a substantially smaller data sample than would be possible by selecting Washington, Colorado, or Arizona. In fact, it has been past practice at US West / Qwest to use "The Big Six" (Washington, Oregon, Colorado, Arizona, Minnesota, and Utah) when collecting sample data for internal measures. This practice also was evident in former US West attempts to categorize markets by volume and value (Gold, Silver, and Bronze). *Id.*, p. 2. It is therefore questionable to use the smaller states for data samples, particularly considering the several different impacts on the overall study, such as:

1. A smaller sample has less likelihood of capturing all of the issues in the overall data environment.
2. The nature of the data sample (Idaho) may not address all of the issues around broadband technologies (i.e., advanced telecommunications services) and other non-POTs services.

3. The smaller data sample does not reflect the strains that may occur in the OSS from larger volume states like Arizona. *Id.*

**ii. OP-4 (Installation Interval)**

Sample data set. The small sample size used in evaluating each sub-metric again is an issue with this measurement. While both New Mexico and Montana were audited, the states were never combined on a single metric. The effective result is a sample size that may be statistically insignificant, and not reflective of the volumes of orders in other states, such as Arizona, specifically, or the Qwest region more generally. *Id.*

**iii. OP-5 (New Service Installation Quality)**

Averaged denominator. This measurement, while in the same master-set of metrics as OP-4, uses a completely different method of development. Averages are used in the derivation of the denominator, and the reason for this is not identified in the audit documentation. While it is understood that multiple trouble tickets could appear on a single order, thus skewing the results, Qwest already has compensated for this issue in the calculation by setting limits on the numerator. *Id.* The end result of averaging will be the false appearance of stable performance.

**iv. MR-3 (Out of Service Cleared within 24 Hours) and MR-6 (Mean time to Restore)**

Differing denominators. As an initial matter, a different master data set is used for the calculation of related metrics. In this case, MR-6 (MTTR) is the master set for all the other MR measurements. The Liberty audit does not make the link between these measurements, thus pointing again to the issue previously identified regarding the scope of the audit. *Id.*

Sample data set. The sample size for the data tracking portion of the audit of these measurements is identified as 170 trouble tickets for retail and wholesale. Additionally, Liberty recalculated the measurements using Iowa, New Mexico, and Washington. While Washington has a substantial order volume, combining this with Iowa and New Mexico again raises the issue of audit sample size. In fact, the sample size selected for data tracking is only 6.7% of the data recalculated in only three states for one month. *Id.*, p. 3.

Business processes. The audit describes a process of collecting raw data from a detail data file created as "...the result of the initial query where Qwest's programming rules are applied. Most exclusions occur at this point in the calculation process..." It is later in the process that business rules are applied. The definition of "raw data" is the source data. From the description of the process, it appears that the business rules are applied at two different points. This calls into question the validity of the application of the business rules as part of the process. *Id.*

In light of these pointed concerns, it is not reasonable for the Commission to assume that Qwest's reported data performance is "bullet proof." Rather, it is clear that such data must be reviewed with a skeptical eye and with the understanding that, at no point, has any independent third party/neutral audited the link between Qwest's data collection and its reported performance.

#### **IV. PERFORMANCE DATA**

##### **A. Legal Principles Applicable to the Commission's Review of the Parties' Performance Data.**

The FCC has provided guidance regarding the caliber of commercial performance a BOC must achieve in order to satisfy the statutory conditions for entry into the long

distance market. Stated succinctly, a BOC must demonstrate that the service quality it provides to itself does not differ in any statistically significant manner from the service quality it provides to its CLEC customers, as demonstrated by data reported under agreed-upon performance measures.<sup>18</sup> While continued improvement suggests that any provisioning problems are being resolved, a deterioration in service quality suggests that provisioning problems exist and thus that the BOC is not in checklist compliance. Consequently, “disparity with respect to one performance measure may support a finding of statutory noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.”<sup>19</sup>

#### **B. Preparation of Covad’s Data**

In preparing its data for the performance data workshop, Covad first compiled data for the months of April/May through July, 2001 for unbundled 2-wire non-loaded loops and line shared loops for the PO-5, OP-4 and OP-5 measurements. Covad also reviewed May-July 2001 data for unbundled 2-wire non-loaded loops for the MR-3 and MR-6 metrics. Covad then applied the business and other rules contained in the PIDs for those measures for which Covad sought reconciliation and, finally, generated its performance results accordingly. Following the generation of the performance data results, Covad went back over the data to determine whether there were any anomalies in the data and, where appropriate, corrected such anomalies.

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<sup>18</sup> *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc. and Verizon Select Services, Inc. for Authorization to Provide In-Region, Inter LATA Services in Connecticut*, CC Docket No. 01-100, FCC 01-269 (Sept. 19, 2001), ¶ 8.

<sup>19</sup> *Id.*, ¶ 9.

Contemporaneous with this project, Covad agreed to participate in the Liberty data reconciliation process. It is Covad's expectation that the reconciliation process will facilitate a better understanding on the part of both Qwest and Covad as to the origin and basis for the differences between the parties' data and performance results. However, until such time as that process is complete, no weight may be given to Qwest's data nor may the Commission assume that Qwest's data is "more valid" than Covad's data. To the contrary, Qwest bears the burden of proof as to all components of its Section 271 case and, until the parties' data differences are fully reconciled and explained by an independent and neutral third party auditor—not by Qwest, that burden has not been met.

As it currently stands, in addition to the erratic, inconsistent and substandard performance self-reported by Qwest for the State of Arizona, the picture from Covad's perspective is even more grim. This picture, painted according to the very terms, conditions and exclusions identified in the PIDs, demonstrates that Qwest is not in compliance with its obligations under Section 271 of the Act.

**C. The Performance Data Demonstrates That Qwest Is *Not* Performing In A Commercially Acceptable Manner And That Qwest Is *Not* In Compliance With Its Obligations Under Section 271.**

Contrary to Qwest's unverified representations, and regardless of whether the Commission looks at Qwest's aggregated/Covad-specific, or Covad's own performance data, Qwest regularly fails to meet the applicable benchmark or parity PID standard. Critically, Qwest's failure of performance often comes in the context of those PIDs that most directly impact Covad's core business and, as a consequence, Covad's relationship with its end user customer at a time when that end user is first forming an impression about Covad. It is under these circumstances, where Qwest fails to meet its parity

obligation and/or to provide CLECs with a meaningful opportunity to compete, that the opportunity for Arizona consumers to reap the benefits of the Act – better quality of service and competitive choice – is completely stymied and the possibility of a competitive Arizona local market significantly lessened.

Qwest apparently does not dispute the picture painted by the performance results, opting instead to distract the Commission with the more positive picture painted by its piecemeal reported performance. Far from the rosy picture painted by Qwest's fragmented data filings, however, the "whole picture" demonstrates that Qwest has failed to provide the minimally acceptable local service performance required by Section 271 of the Act. Accordingly, Qwest cannot be found in checklist compliance until its performance – and particularly its performance in the areas of advanced services like line sharing – has improved significantly and remains at an acceptable level of quality for at least three months.

Covad sets forth below the performance data for the PO-5, OP-4, OP-5, MR-3 and MR-6 PIDs. Where applicable, Covad first discusses Qwest's aggregated CLEC performance, then Qwest's Covad-specific reported performance and, finally, lays out the performance results compiled by Covad itself.

1. **PO-5A (1 and 2), PO-5B (1 and 2) and PO-5 (Aggregated): Firm Order Confirmations on Time (Fully Electronic LSRs and Electronic/Manual LSRs Submitted Via IMA and EDI) for Non-Loaded and Line Shared Loops.**

PO-5 measures, on a monthly basis, the timeliness of the Firm Order Confirmation – or FOCs – returned by Qwest to Covad. Under PO-5, Qwest is obligated to return a FOC on time for 95% of the orders submitted by Covad. As currently defined in the PIDs, PO-5 obligates Qwest to return a FOC for 2-wire non-loaded and line shared

loops in 24 hours, a standard Qwest rarely meets in the aggregate. Additionally, pursuant to a separate side agreement between Qwest and Covad, Qwest has 72 hours (excluding hours on weekends and holidays) to return a FOC and is obligated to provide a timely FOC on 90% of the orders submitted by Covad. Even with that more generous "side agreement" interval, Qwest's FOC performance is extraordinarily poor, as reflected by both Qwest's and Covad's performance data.

Qwest's Aggregated CLEC Data for Fully Electronic LSRs for Unbundled Loops (PO-5A-1(b) and PO-5A-2(b)). For unbundled loops, Qwest's own reported data for the last 12 months shows that, for fully electronic LSRs received via IMA, Qwest failed to meet the 95% benchmark in no fewer than three months. 10/15/01 Data Filing, Exhibit 1, p. 32. (PO-5A-1(b)) In the same twelve month period, for fully electronic LSRs received via EDI, Qwest failed to meet the 95% benchmark no fewer than four months. *Id.* (PO-5A-2(b)).

Qwest's Covad-Specific Data for Electronic/Manual LSRs (PO-5B-1(b) and PO-5B-2(b)). The irregularity and suspect nature of Qwest's Arizona FOC delivery performance is equally, if not even more, evident when reviewing Qwest's reported performance for Covad for electronic/manually submitted LSRs. *See* Excerpts from Qwest Performance Results for Covad Communications Company, Arizona, August 2000-July 2001, dated August 3, 2001, attached hereto as *Exhibit 2*.<sup>20</sup> For example, in connection with unbundled loops, Qwest's own reported data for the last 12 months shows that, for electronic/manual LSRs (PO-5B-1(b) and 5B-2(b)), Qwest failed to meet the 95% benchmark for Covad's IMA GUI orders in four out of the eleven months

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<sup>20</sup> The data contained in Exhibit 2 is confidential and is filed under seal.

reported, and for Covad's IMA EDI orders, in five out of the nine months reported. *Id.*, pp. 13-14 (PO-5B-1(b) and -2(b)).

Additionally, Qwest's reported data for Covad is problematic for a wholly separate, yet equally important, reason. When looking at OP-5A-1 and A-2 (fully electronic GUI and EDI LSRs), Qwest reports no Covad orders in those categories until, all of a sudden, in June 2001 orders start appearing. And the number of orders that do appear are significant; for OP-5A-1 (IMA GUI), [CONFIDENTIAL] orders suddenly qualify for this category in July 2001. For OP-5A-2 (IMA EDI), [CONFIDENTIAL] orders qualify in June 2001, and then double to [CONFIDENTIAL] orders in July 2001. *Id.*, pp. 11-12. Because of the sudden appearance and dramatic quantity of orders, the Commission should carefully scrutinize Qwest's data.

Covad's Performance Data (PO-5 aggregated). A review of Covad's PO-5 data underscores the fact that Qwest's FOC return performance is flatly unacceptable. Specifically, for unbundled 2-wire non-loaded loops, Qwest returned a FOC within 72 hours [CONFIDENTIAL] the time in April 2001; [CONFIDENTIAL] of the time in May 2001; [CONFIDENTIAL] of the time in June; and [CONFIDENTIAL] of the time in July 2001, for an average timely 72 hour FOC a paltry [CONFIDENTIAL] of the time for unbundled 2-wire non-loaded loops. *See* Covad's Summary of Performance Data, attached hereto as *Exhibit 3*, p. 1.<sup>21</sup>

Although Qwest's FOC performance for line shared loops was somewhat better than for the unbundled loops, it nonetheless remained substandard and is insufficient to show that it is performing adequately for Covad. More particularly, Qwest returned a

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<sup>21</sup> The information contained in Exhibit 3 is confidential and filed under seal.

FOC within 72 hours [CONFIDENTIAL] of the time in April 2001; [CONFIDENTIAL] of the time in May 2001; [CONFIDENTIAL] of the time in June 2001; and [CONFIDENTIAL] of the time in July 2001, for an average timely 72 hour FOC only [CONFIDENTIAL] of the time for line shared loops. *See Id.* Thus, Qwest not only fails to meet the 90% benchmark to which it agreed in all four months reviewed, but also it plainly fails to provide adequate wholesale service to Covad in connection with FOC receipt.

**2. PO-8B and PO-9B: Jeopardy Notification Interval and Timely Jeopardy Notices for Unbundled Loops.**

PO-8 “evaluates the timeliness of jeopardy notifications, focusing on how far in advance of original due dates [as measured in days] jeopardy notifications are provided to CLECs.” To accomplish this evaluation, Qwest measures the “average time lapsed between the date the customer is first notified of an order jeopardy event and the original due date of the order.” PO-8’s companion measurement is PO-9, which “measures the extent to which Qwest notifies customers in advance of jeopardized due dates.” To determine the PO-9 measurement, Qwest measures the percentage of “late orders for which advance jeopardy notification [measured on a percentage basis], is provided.”

Qwest’s Aggregated CLEC Data. Qwest’s jeopardy notification performance is highly suspect when viewed from the perspective of whether Qwest has provided CLECs with a meaningful opportunity to compete. Specifically, in the twelve months reported in Qwest’s October 15 Data Filing, Qwest provided itself with far earlier notice of a jeopardy on an unbundled loop order in *ten of the twelve months* reported. 10/15/01 Data Filing, Exhibit 1, p. 39. (PO-8B). And where the due date on an unbundled loop order was pushed back, Qwest notified CLECs in advance of the slippage on, *at most, 31.68%*

*of the orders* in any given month, and was unable to provide any notice at all on any order placed in one of the months reported. *Id.* (PO-9B). Tellingly, Qwest's provision of a jeopardy notice to CLECs has deteriorated continually in the last four months reported, whereas Qwest provided itself notice of a jeopardy more frequently than it did CLECs in seven of the last twelve months. *Id.*

Qwest's Covad-Specific Data. Qwest's jeopardy notification performance for Covad individually does nothing to dispel the obvious conclusion that Qwest has failed to provide Covad with a meaningful opportunity to compete in Arizona. In the eleven months reported by Qwest for Covad in the State of Arizona, Qwest provided itself with far earlier notice of a jeopardy on an unbundled loop order in *ten of the eleven months* reported. *Exhibit 2*, p. 18. (PO-8B). And where the due date on an unbundled loop order was pushed back, Qwest notified Covad in advance of the slippage on, *at most*, [CONFIDENTIAL] *of the orders* in any given month, and was unable to provide [CONFIDENTIAL] order placed in the three most recent months reported. *Id.*, p. 19 (PO-9B). Indeed, Qwest's provision of a jeopardy notice to Covad has deteriorated continually in the last three months reported, whereas Qwest provided itself timely notice of a jeopardy more frequently than it did Covad in eight of the last twelve months. *Id.* (PO-9B).

Because jeopardy notices are crucial to Covad's ability to manage its relationship with its end users customers, Qwest's inability to permit Covad to communicate and reschedule the installation date before the end user customer already has taken time off from work to be available for the installation [CONFIDENTIAL] of the time, *at best*, clearly demonstrates that Covad is placed at a distinct competitive disadvantage. Under

these circumstances, Qwest cannot be found in compliance with its obligations under Section 271.

3. **PO-15 (Number of Due Date Changes per Order).**

While PO-15 is a diagnostic ROC measure, the reported results thereunder are particularly illustrative of the difficulties Covad faces when attempting to provide, in competition with Qwest, xDSL service to end user customers. More specifically, following receipt of a FOC, Covad informs its partner/ISP of the FOC date and the ISP, in turn, informs the end-user (the ultimate customer) of the loop delivery date to which Qwest has committed. Because the end-user must take time off from work to provide access to the Qwest technician, Qwest's failure to meet its firm order commitment results in a rescheduling of the FOC and the end-user taking additional time off from work. Multiple FOCs on any given order necessarily compounds this problem, results in obvious end-user frustration, and damages Covad's reputation and credibility.

Qwest's Covad-Specific Data. In every single one of the months reported under PO-15, Covad had more due date changes on its order than Qwest did on its orders. Exhibit 2, p. 20 (PO-15). Set against this context, it is clear that Qwest's PO-15 performance does not permit Covad a meaningful opportunity to compete and, in fact, places Covad at an insurmountable competitive disadvantage.

4. **OP-4 and OP-3: Installation Intervals and Installation Commitments Met for Unbundled and Line Shared Loops.**

OP-4 "evaluates the timeliness of Qwest's installation of services for customers, focusing on the average time to install service." In other words, Qwest commits to meeting, in the aggregate of all orders placed by a CLEC, the particular interval specified for any given product. Under OP-4, Qwest is obligated to provision an unbundled 2-wire

non-loaded loop within six days; and, for line shared loops, as currently proposed by Qwest, it is obligated to install a line shared loop within 3.3 days. Under OP-3, Qwest is committed to delivering 90% of all unbundled loops ordered by Covad within six business days and 90% of all line shared loops within 3.3 business days. While Qwest's current unbundled loop performance is encouraging, its line shared loop performance is demonstrably insufficient to satisfy its Section 271 obligations.

**a. Line Sharing**

Qwest's Covad-Specific Data. A key indicator of Qwest's statutorily inadequate commercial performance in the State of Arizona is its line shared loop delivery performance. Specifically, in four of the eight months reported under OP-3A (dispatches within MSA) – or 50% of the time -- Qwest failed to meet the 90% benchmark when provisioning line shared loops for Covad. *Exhibit 2*, p. 22. Moreover, these failures of performance are not historical anomalies; Qwest's most recent reported month's performance was its poorest performance since December of 2000. *Id.* Even more egregiously, for line shared loops requiring dispatches outside the MSA (OP-3B), Qwest never met the 90% benchmark in the only month reported. *Id.*, p. 23.

Turning to OP-4 (installation interval), Qwest was equally far wide of the currently agreed upon average installation interval of 3.3 days. In every one of the eight months reported for OP-4A (dispatches within MSA), Qwest failed to meet the agreed upon benchmark of 3.3 days in Zone 1 from anywhere from [CONFIDENTIAL] days up to almost [CONFIDENTIAL] days. *Id.*, p. 30. For OP-4B (dispatches outside the MSA), the average interval was [CONFIDENTIAL], *Id.*, p. 31, and Qwest failed to meet

the benchmark in the sole month reported. For OP-4C (no dispatches) Qwest again failed to make the installation interval in any of the months reported. *Id.*, p. 33.

Covad's Performance Data. The poor results reported by Qwest itself take on added dimensions of deficiency when Covad's data is reviewed. For line shared loops, Qwest installed such loops, on average, in [CONFIDENTIAL] days in May, [CONFIDENTIAL] days in June, and [CONFIDENTIAL] days in July, for an average installation interval of [CONFIDENTIAL] days. *Exhibit 3*, p. 2. Thus, Qwest not only failed to meet the installation interval benchmark to which it agreed, but also it plainly fails to provide adequate wholesale service to Covad in connection with the installation of line shared loops.

Using the data underlying Covad's OP-4 measurement, Qwest met the 3.3 day benchmark only [CONFIDENTIAL] of the time in May 2001; [CONFIDENTIAL] of the time in June 2001, and [CONFIDENTIAL] of the time in July of 2001 – a far cry from the 90% benchmark contained in OP-3.

Qwest's consistent, chronic and repeated poor performance in provisioning line shared loops for Covad's end user customers amply demonstrates why Qwest cannot be found to be in compliance with its obligations under Section 271. The FCC has required ILECs to provide CLECs unbundled access to the high frequency portion of the loop in order to facilitate line sharing pursuant to its authority to identify a minimum list of network elements that must be unbundled on a nationwide basis.<sup>22</sup> In the *Line Sharing Order*, the FCC concluded that “*lack of access to high frequency portion of the local loop*

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<sup>22</sup> *Deployment of Wireline Services Offering Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CC Docket No. 98-147 and Fourth Report and Order in CC Docket 96-98, 14 F.C.C.R. 20912, 20915 (1999) (“*Line Sharing Order*”).

*materially diminishes the ability of CLECs to provide certain types of advanced services to residential and small business users, delays broad facilities based market entry, and materially limits the scope and quality of competitor service offerings.” Line Sharing Order, 14 F.C.C.R. at 20916. The FCC recognized that line sharing “is vital to the development of competition in the advanced services market, especially for residential and small business users.” Id.*

It is a truism that poor performance impedes and, potentially eliminates, the development of competition in the xDSL market for residential and small business users. Qwest’s poor performance thus harms not only Covad, by impairing and impeding its ability to compete, but also deprives Arizona residential consumers and small businesses of the intended benefits of the 1996 Act – competitive options and quality of service choices. Qwest’s poor line sharing performance, standing alone, demonstrates that Qwest cannot be found to be in compliance with its obligations under Section 271 of the Act.

**b. Unbundled Loops**

Covad’s Performance Data. For unbundled 2-wire non-loaded loops, Qwest installed such loops, on average, in [CONFIDENTIAL] days for May, [CONFIDENTIAL] days in June and [CONFIDENTIAL] days in July, for an average installation interval of [CONFIDENTIAL]. Exhibit 3, p. 2. Covad remains hopeful that Qwest can sustain its unbundled loop delivery performance, and eagerly anticipates reviewing with the Commission additional data for the months following July 2001.

**5. OP-5 (New Service Quality) for Unbundled and Line Shared Loops.**

OP-5 “evaluates quality of ordering and installation of services, focusing on (A) the average monthly extent that new order installations were free of trouble reports for thirty (30) calendar days following installation and (B) the percentage of new service installations that experienced a trouble report during the period from the installation date to the date the order is posted complete.” In other words, OP-5 measures whether Qwest provisions loops that are delivered, and remain, free of troubles in the first, critical thirty days of service for an end user customer. Under OP-5, Qwest is obligated to provide trouble free 2-wire non-loaded and line shared loops at parity with the comparable loops/services installed by Qwest for its own end user customers.

Although Qwest’s OP-5 performance appears adequate at first glance, closer review suggests that there may be a significant issue with regard to Qwest’s ability to provision correctly non-loaded and line shared loops for Covad. More particularly, in certain areas, Qwest’s OP-5 performance is plainly inadequate while, in others, although facially adequate, that level of performance is declining. For those areas in which Qwest’s performance is declining, the Commission may not render any judgment as to whether Qwest’s OP-5 performance is satisfactory unless and until additional data is submitted demonstrating that the decline is reversed and Qwest consistently is providing adequate new service installation quality.

**a. Unbundled Loops**

Qwest’s Aggregated CLEC Data. In five of the twelve months reported, Qwest enjoyed a higher percentage of trouble free newly installed loops than did CLECs, to Qwest’s obvious financial and competitive advantage. 10/15/01 Data Filing, Exhibit 1, p. 66 (OP-5).

Qwest's Covad-Specific Data. In *all twelve months reported*, Qwest enjoyed a higher percentage of trouble free newly installed unbundled loops than did Covad, to Qwest's obvious financial and competitive advantage. *Exhibit 2*, p. 39 (OP-5). Compounding the disparity in new service quality is the fact that the percentage of loops Qwest delivers to Covad that are, and remain, trouble free has *declined* in the most recent month reported. *Id.*

Covad's Performance Data. The disturbing trend first seen in Qwest's own reported new service quality for Covad non-loaded loop installations is fully reflected in Covad's own performance data. More specifically, in the three months reviewed by Covad, one fact is prominent – Qwest's new service quality is *declining*. More specifically, for 2-wire non-loaded loops, [CONFIDENTIAL] were trouble free in May, [CONFIDENTIAL] were trouble free in June and [CONFIDENTIAL] were trouble free in July – a [CONFIDENTIAL] percent drop in the space of three months. *Exhibit 3*, p. 3. Equally troubling is the fact that Qwest's new service quality for Covad loops is not at parity with Qwest. With respect to 2-wire non-loaded loop performance, in May, Qwest's new service quality for itself was [CONFIDENTIAL] (compared to Covad's [CONFIDENTIAL]), in June, it was [CONFIDENTIAL] (compared to Covad's [CONFIDENTIAL]), and in July, it was [CONFIDENTIAL] (compared to Covad's [CONFIDENTIAL]). *Exhibit 2*, p. 39.

**b. Line Shared Loops**

Qwest's Covad-Specific Performance Data. While Qwest's overall new service quality for line shared loops is fairly high, it is important to note that that quality has *declined* in every month reported since March 2001. *Exhibit 2*, p. 38 (OP-5).

Covad's Performance Data. The frank decline in Qwest's new service installation quality for Covad's line shared loops is evident in Covad's own data. Indeed, in the three months reviewed by Covad, one fact is prominent – Qwest's new service quality is *declining*. For Covad's line shared loops, [CONFIDENTIAL] were trouble free in May, [CONFIDENTIAL] were trouble free in June, and only [CONFIDENTIAL] were trouble free in July – a four percent drop in a three month time period. *Exhibit 3*, p. 3.

**6. MR-3: Out of Service Cleared within 24 Hours for Non-Loaded Loops.**

MR-3 “evaluates timeliness of repair for specified services, focusing on cases where the out-of-service cases were closed within the standard estimate for specified services.” In other words, under MR-3, one looks at the percentage of out of service trouble reports that are cleared within 24 hours of Qwest's receipt of a trouble ticket. For purposes of this measure, for 2-wire non-loaded loops, Qwest is obligated to clear OOS reports at parity with clearance of its own OOS reports for ISDN-BRI. While Qwest recently proposed a standard for clearance of OOS Reports for line shared loops (parity with Res and Bus POTS), at the time Covad prepared its data, no standard was proposed so Covad did not include line shared loops in this metric.

**a. Unbundled Loops.**

Covad Performance Data. The data reported under this metric is damning to Qwest's attempt to prove checklist compliance. For instance, during the three months

reviewed by Covad, Qwest cleared Covad OOS reports for 2-wire non-loaded loops within 24 hours [CONFIDENTIAL] of the time in May, [CONFIDENTIAL] of the time in June, and [CONFIDENTIAL] of the time in July. *Exhibit 3*, p. 4. By contrast, for the parity measure of ISDN-BRI, Qwest cleared its own OOS reports within 24 hours [CONFIDENTIAL] of the time for May, [CONFIDENTIAL] of the time in June and [CONFIDENTIAL] of the time in July. *Exhibit 2*, p. 67. Consequently, it is abundantly clear that Qwest is not clearing Covad's OOS reports at parity on a regular basis and thus cannot be deemed in compliance with the statutory conditions for entry.

**7. MR-6: Mean Time to Restore for Unbundled and Line Shared Loops.**

MR-6 "evaluates timeliness of repair, focusing on how long it takes to restore service to proper operation." For purposes of this measure, for 2-wire non-loaded loops, Qwest is obligated to restore service to proper operation at parity with restoration of its own ISDN-BRI service. While Qwest recently proposed a standard for line shared loops (parity with Res and Bus POTS), at the time Covad prepared its data, no standard was proposed so Covad did not include line shared loops in this metric.

Covad's Performance Data. Like MR-3, the data reported under MR-6 fully demonstrates that Qwest has a long way to go before it may be found in checklist compliance. Specifically, during the three months reviewed by Covad, for 2-wire non-loaded loops, it took Qwest, on average, [CONFIDENTIAL] hours to clear Covad trouble reports for May, [CONFIDENTIAL] hours to clear Covad trouble reports in June, and [CONFIDENTIAL] hours to clear Covad trouble reports in July. *See Exhibit 3*, p. 5. By contrast, for the parity measure of ISDN-BRI in Zone 1, Qwest cleared, on average, its own trouble reports in [CONFIDENTIAL] hours for May,

[CONFIDENTIAL] hours for June. See Exhibit 2, p. 83. Thus, it is abundantly clear that Qwest is not restoring service on Covad's loops at parity and thus cannot be deemed in compliance with its Section 271 obligations.

**8. Cooperative Testing on Unbundled Loops.**

Covad attaches hereto as Exhibit 4 additional data regarding Qwest's performance of cooperative testing in the State of Arizona. As Exhibit 4 shows, Qwest continues to fail to perform cooperative testing in a manner sufficient to satisfy Section 271 (despite an agreement to do so), cooperatively testing only a mere [CONFIDENTIAL] of Covad's loops in May, [CONFIDENTIAL] of the loops in June, [CONFIDENTIAL] of the loops in July, [CONFIDENTIAL] of the loops in August, and [CONFIDENTIAL] of Covad's xDSL UNE loops in September. Qwest thus continues to fail to take the steps necessary to ensure the delivery of a "good" loop, capable of supporting xDSL services. Qwest cannot be found to be in compliance with Section 271.

**V. DEFICIENCIES IN QWEST'S DATA**

As the Commission is aware, Qwest and several CLECs have been participating in a region-wide data reconciliation process undertaken by Liberty Consulting Group. Although Covad looked at the reconciliation process as a means to resolve performance data differences, more importantly, Covad saw the reconciliation as an opportunity not only to "synch up" its data collection and reporting rules and processes with Qwest's rules and processes in order to avoid, in the future, further performance data discrepancies, but also to undertake the critical -- yet as of the date of this filing -- missing, exacting review of the link between the data itself and the processes applied to that data in order to provide performance results under the PIDs. Unfortunately for Qwest, Covad uncovered numerous errors, flaws and deficiencies in Qwest's data and business processes that render Qwest's performance results fundamentally unreliable and

inaccurate. A complete copy of Covad's comments on Qwest's data for Arizona is attached hereto as Exhibit 5. Until Qwest corrects these problems with its data collection and business processes, its performance data may not be deemed reliable by the Commission and thus should be rejected.

**A. Background on the Qwest-Covad Data Reconciliation**

Covad initially requested verification of ten PIDs for 2 wire non-loaded loops and line shared loops, as well as LSRs processed via IMA and EDI for the month of June 2001. Subsequent communications between Covad/Liberty/Qwest just four days later resulted in a revision of the reconciliation request to encompass the PO-5, OP-4, OP-5, MR-3, and MR-6 PIDs for 2 wire non-loaded loops and line sharing for May, June, and July 2001. Covad promptly and timely provided all data on September 28, 2001 for its UNE and line shared loop orders for the months and PIDs identified.

After a purportedly close examination of Covad's data submission, Qwest unilaterally limited its analysis to the OP-4 and PO-5 metrics, thereby refusing to reconcile OP-5, MR-3 and MR-6 with Covad. This limitation was based on Qwest's apparent inability (or unwillingness) to (1) provide the underlying data for OP-5; and (2) perform a table join to connect PONs with the trouble ticket numbers contained in Qwest's data environment.

With respect to the issue purportedly flowing from the reporting of Covad's data on the basis of PONs rather than trouble ticket number, as an initial matter, Covad was unaware of any requirement that it provide its data in the form of trouble tickets because, historically, PONs were the agreed upon standard for comparison that Qwest and Covad had utilized in every single previous data conference and reconciliation effort (i.e., numerous SLA data reconciliations; the Colorado xDSL FOC trial; and the Washington cooperative testing reconciliation). All of the data currently and in the past provided by

Covad to Qwest, and most of the data provided by Qwest to Covad in this process contains PONs. Further, Covad explained to Qwest that reconciliation on the basis of trouble tickets could prove problematic because of differences in the trouble ticket number assigned by Qwest and Covad respectively when a trouble ticket is opened. Therefore, in order to alleviate whatever issue PON use created for Qwest, Covad provided a description of the table join in an e-mail communication to Qwest. Sample code for that table join is provided in Exhibit 5. Qwest, however, refused to even attempt the table join, despite the obvious ease and simplicity of doing so.

**B. Data Issues for Specific PIDs for Which Covad Sought Reconciliation.**

**1. Qwest's PO-5 Data Cannot Be Relied Upon Because The Data Itself as Well as the Reported Results Change Depending Upon the Date On Which the Data Is Pulled.**

Covad compared the raw data for Arizona that Qwest provided to Covad on Friday, October 19, 2001 in connection with the Liberty data reconciliation to the data in the Arizona PID corollary (the published PID performance results for Covad, excerpts from which are attached hereto as Exhibit 2). As a result of that review, Covad determined that the data *changed* in both quantity and outcome depending on the date on which the data was pulled – despite the fact that, in both instances, the data was represented to be correct, accurate and final. More specifically, with regard to the denominator for PO-5, Covad counted [CONFIDENTIAL] orders in the raw data provided by Qwest to Covad for Arizona for June 2001 for the Liberty reconciliation. The published PID performance results for June 2001, however, shows a total denominator count of [CONFIDENTIAL] orders. The comparison is set forth in Exhibit 5.

This data differential shows an obvious discrepancy between the data provided by Qwest to Covad in connection with the Liberty reconciliation on October 19, 2001 and the data published earlier by Qwest on August 3, 2001 when providing the Covad-specific PID performance results for June 2001 to Covad. In other words, even after Qwest published its PID performance results for Covad on August 3, 2001, *see Exhibit 2*, thus ostensibly representing those results to be final, accurate and correct, Qwest nonetheless corrected or changed its data and adjusted its results at some point in the future, as reflected by the Qwest October 19, 2001 reconciliation data. *See Exhibit 5*. Consequently, if Qwest “corrects” its data after publishing its results, the data it does report not only is inaccurate, but unreliable as well.

Compounding the profoundly troubling data correction process Qwest apparently utilizes is the fact that its calculations are also prone to error. Pursuant to a side agreement between the parties (the Service Level Agreement or “SLA”), Qwest delivers FOCs for Covad’s unbundled loops in 72 hours. Looking again at June 2001, the data provided by Qwest during the reconciliation process shows [CONFIDENTIAL] FOCs delivered in more than 48 hours (CNT72, CNT96, and CNT120 fields have [CONFIDENTIAL] flags, resulting in a count of [CONFIDENTIAL]). *Id.* In other words, [CONFIDENTIAL] FOCs were delivered by Qwest to Covad in 48 hours or less. *Id.* Assuming, therefore, that a flag indicates a yes, Qwest should be reporting for June 2001 in the PID performance results for Covad [CONFIDENTIAL] on-time delivery of FOCs to Covad in the specified month (June). However, Qwest’s reported PID performance results show an aggregated total of [CONFIDENTIAL] successful

delivery. See Exhibit 2. This indicates the likely existence of an error in the calculation of the numerator from the data provided. See Exhibit 5 for the comparison.

These problems with Qwest's data and business processes are not isolated examples. For instance:

1. A field in the Qwest data is tagged "GOOD\_FOC". This field contains a "0" [CONFIDENTIAL] times in Arizona in May, [CONFIDENTIAL] times in June, and [CONFIDENTIAL] in July thus indicating a "Bad FOC" for those [CONFIDENTIAL] total orders in which the flag is a "0." However, [CONFIDENTIAL] of the orders flagged as "Bad FOC" show intervals greater than 48 hours. See Exhibit 5.
2. Qwest identified [CONFIDENTIAL] orders in PO-5 that were rejected LSRs. The Reject field in all three months provided, however, shows no orders rejected. Id.
3. PONs [CONFIDENTIAL] have an INS date (30APR) prior to the SOAPPDT (01MAY). This suggests that the order was installed prior to the service order being received. Id.
4. There are several orders ([CONFIDENTIAL] in May) that do not have product identification in the IMAPROD field. The absence of data in this field may impact disaggregation of the measurement. Id.

**2. Qwest's OP-4 Data Cannot Be Relied Upon Because The Data Itself as Well as the Reported Results Change Depending Upon the Date Upon Which the Data Is Pulled.**

Just like PO-5, Qwest's OP-4 data and associated performance results are fundamentally unreliable because both the actual data numbers and the performance results change depending on when the data is pulled by Qwest. More specifically, the data provided by Qwest to Covad and Liberty on October 19, 2001 for the reconciliation is not the same as the data reported by Qwest in its August 3, 2001 published PID performance results for Covad. The comparison is set forth in Exhibit 5. This could be the result of a step in the PID production process that has not been identified by Qwest, or

could be a result of two separate data pulls impacted by a degradation of the data environment. Regardless of the source, the difference in the purportedly same set of data pulled at two separate times is particularly troubling and casts doubt on the validity of Qwest's reported performance.

This concern is further reinforced by additional analysis of Covad's line sharing orders for May. The difference between the Qwest data provided in connection with the Liberty reconciliation and the Qwest reported PID performance results (i.e., [CONFIDENTIAL] line shared orders in May 2001) is exactly same as the difference identified between the Qwest reconciliation data totals and the Covad performance data totals (i.e., [CONFIDENTIAL] line shared orders in May 2001). *Id.* The error was created when Qwest applied the same number of orders reported by Qwest [CONFIDENTIAL] for which there was not a match to the field in the executive summary for Covad and Qwest matches. Instead of [CONFIDENTIAL], the field showing Covad-Qwest matches should have been [CONFIDENTIAL]. This indicates an error *in the data* provided for this metric by Qwest. *Id.*

**3. Because Qwest Is Unwilling or Unable to Provide the Underlying Data for Reconciliation of OP-5, Qwest's Should Results Should Be Rejected as Unreliable Until Such Time as the OP-5 Underlying Data Can Be Produced to CLECs.**

Perhaps even more egregiously than its "after-the-fact" data manipulation is the fact that Qwest cannot or will not provide the underlying data for OP-5 (New Service Installation Quality). According to Qwest, this is due to the nature of OP-5 data, which is developed based on information from several different sources, rendering an order-by-order accounting impossible. Attached hereto as *Exhibit 6* is an excerpt from Qwest's executive summary for Covad which was provided during the Liberty reconciliation

process. Attached hereto as Exhibit 7 is Liberty's data request confirming Qwest's inability to provide the underlying data for OP-5 and thus to reconcile that performance measure. Unless and until Qwest provides the underlying data and reconciles the OP-5 results with Covad, Qwest's OP-5 performance results should be rejected.

Setting aside the extraordinarily troubling concern that Qwest effectively had deprived CLECs of any ability to reconcile this critical performance measure, Covad simply does not understand how or why Qwest is unable to provide the data for this measure. According to the Liberty Audit on Qwest's Performance Measures (PMA, p. 58, Section C.3, attached to Qwest's 10/15/01 Data Filing as Exhibit 3), "**Data for new service installation quality exists in the "ad hoc" files created by SAS programs for customer records management, and trouble reports from MTAS and WFAC. The program *iordcnt.sas* processes the CRM *ad hoc* to count instances of new service installation. The program *mtasicnt.sas* and *wfacicnt.sas* process the MTAS and WFAC *ad hoc* files to count instances of trouble reports. Another program called *speccalc.sas* creates the two-month average of service orders.**" Additionally, Liberty identifies in its audit process an, "**...independent replication of the programming steps through spreadsheet logical and conditional programming.**" This suggests the existence of underlying data files, at least at the time of the Liberty audit. Therefore, it is unclear to Covad why, at this juncture, such files purportedly no longer exist.

## VI. CONCLUSION

The Texas Commission recently stated that "proper provisioning is essential to providing equal opportunity for competition in the xDSL market"<sup>23</sup> because "[d]elays in provisioning serve to degrade the CLEC, and not the ILEC, in the mind of the customer at a time when the customer is forming first impressions about the CLEC."<sup>24</sup> Here, as demonstrated by the performance data from both Qwest and Covad, Qwest is not providing Covad with a meaningful or equal opportunity to compete in the Arizona market. That failure is fatal to Qwest's application for Section 271 relief. Accordingly, the Commission must reject Qwest's application for Section 271 relief at this time.

Dated this 31<sup>st</sup> day of October, 2001.

Respectfully submitted,

COVAD COMMUNICATIONS COMPANY

By:



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<sup>23</sup> *Petition of Covad Communications Company and Rhythms Links, Inc. against Southwestern Bell Telephone Company for Post-Interconnection Dispute Resolution and Arbitration Under the Telecommunications Act of 1996 Regarding Rates, Terms and Conditions and Related Arrangements for Line Sharing, Public Utility Commission of Texas, Docket Nos. 22168 and 22469 (June 2001) ("Texas Arbitration Decision"), p. 135.*

<sup>24</sup> *Id.*

## CERTIFICATE OF SERVICE

I, Adrienne Anderson, hereby certify that an original and ten (10) copies of the *Covad Communications Company's Combined Response to Qwest Corporation's Performance Data Filings and Submission of Data Regarding Qwest's Commercial Performance for Covad in the State of Arizona*, docket no. T-00000A-97-0238, were sent for filing via overnight delivery on this 31st day of October, 2001, to the following:

Arizona Corporation Commission  
Docket Control-Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007-2996

and a true and correct copy of *Covad Communications Company's Combined Response to Qwest Corporation's Performance Data Filings and Submission of Data Regarding Qwest's Commercial Performance for Covad in the State of Arizona* was served electronically this 31st day of October, 2001, on the following:

Jerry Rudibaugh  
Hearing Officer  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Maureen Scott  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

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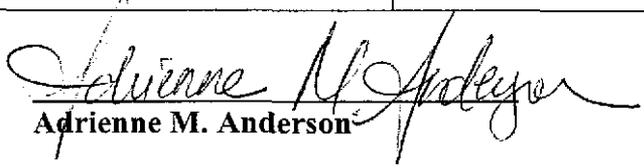
and a true and correct copy of *Covad Communications Company's Combined Response to Qwest Corporation's Performance Data Filings and Submission of Data Regarding Qwest's Commercial Performance for Covad in the State of Arizona* was sent via electronic mail; on this 31st day of October, 2001, to the following:

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**Adrienne M. Anderson**

# **EXHIBIT 1**

## **Covad Comments on Liberty Audit**

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### **Summary**

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Covad Communications greatly appreciates the evident time and effort that went into the Liberty audit. However, the process Liberty employed to review the PIDs and the actual documentation for the audit of the PIDs has created some questions regarding the scope of the audit, the process for selecting sample data sets, and the criteria established for validation.

Scope of the Audit: The scope of Liberty's audit focused on Qwest's data and reporting processes, while the performance measurement definitions were left to the ROC TAG. While the restriction on scope may have been necessary due to time constraints, it resulted in a missed, yet critical, opportunity to audit the link between the performance and the measurement. Consequently, it is uncertain whether issues arising out of the measurements will ever be fully resolved, which likely will result in ongoing questions by CLECs regarding Qwest's data and performance measurement processes. For instance, as long as customers perceive sub-standard performance, and that performance is not reflected in the measurement, the numbers will be questioned. It is only when Qwest's PID results improve and customers perceive the improvement that the measurements will be trusted. For this more positive scenario to occur, the link between the metric and the business process must be audited. It is unfair to place Qwest in a position where its must improve customer service, but not reap the benefit because such improvements will either not be reflected in the metrics or customers will not believe in the results reported under the metrics.

Sample Data Sets: Liberty selected states as sample data sources for Qwest data. In the metrics reviewed by Covad (see below), the states selected are small volume states such as Montana, Idaho, and New Mexico. Almost none of the audit samples or recalculations we reviewed were for states such as Arizona, Washington, or Colorado. Statistically, the smaller the sample size, the less likely the conclusions made from that sample will be reflected in the overall data environment. Additionally, by avoiding states with known performance issues, it would be impossible to compare perceived performance issues with measurements, denying Liberty and Qwest an opportunity for meaningful performance analysis.

Criteria Established for Validation: While Liberty stated they are satisfied with the validity of the measurements, the standards for validation are not evident in the audit documentation. Metric systems should be validated at the data, production, and business levels. Liberty documentation describes the audit in each of these key areas, but fails to fully identify the standards applied to determine a valid versus an invalid measurement. Without validation standards, the acceptance of the measurement thus becomes the opinion of Liberty Consulting. This renders Liberty and Qwest open to further debate regarding the validity of the PIDs.

### **Specific Issues – Measurements:**

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#### **PO-5**

Exclusions: The exclusions incorporated into this metric resulted in a greater than 30% difference in the denominators between Covad and Qwest numbers. While this difference will be addressed in the reconciliation process, the possibility exists that the 30% exclusion is part of a process – in other words, the exclusions are the rule rather than the exception. If this percentage were applied to a quality metric of the Qwest process, the third standard deviation would calculate to 90% of the process. If the measurement is accurately linked to the process, it reflects a process that is non-standard and out of control.

Rather than being accurately linked to the process, we suspect, in fact, that the metric and process are not accurately linked. Consequently, the long-term impact on Qwest will be the inability to improve performance reported under the measurement by improving their FOC process, a result that likely will be unacceptable to Qwest.

**Sample Data Set:** In the audit of the PO-5 measurement, Liberty selected Idaho as the sample data environment. From Covad's perspective, Idaho is effectively a 0% sample size. Additionally, the expansive rural areas in Idaho result in a substantially smaller data sample than would be possible by selecting Washington, Colorado, or Arizona. In fact, it has been past practice at US West / Qwest to use "The Big Six" (Washington, Oregon, Colorado, Arizona, Minnesota, and Utah) when collecting sample data for internal measures. This practice was even evident in former US West attempts to categorize markets by volume and value (Gold, Silver, and Bronze). It is therefore questionable to use the smaller states for data samples, particularly considering the several different impacts on the overall study, such as:

1. A smaller sample has less likelihood of capturing all of the issues in the overall data environment.
2. The nature of the data sample (Idaho) may not address all of the issues around broadband technologies (i.e., advanced telecommunications services) and other non-POTs services.
3. The smaller data sample does not reflect the strains that may occur in the OSS from larger volume states like Washington

#### **OP-4**

The small sample size used in evaluating each sub-metric again is an issue with this measurement. While both New Mexico and Montana were audited, the states were never combined on a single metric. The effective result is a sample size that may be statistically insignificant, and certainly does not reflect the volumes of orders in other states specifically or the Qwest region more generally.

#### **OP-5**

This measurement, while in the same master-set of metrics as OP-4, uses a completely different method of development. Averages are used in the derivation of the denominator, and the reason for this is not identified in the audit documentation. While it is understood that multiple trouble tickets could appear on a single order, thus skewing the results, Qwest already has compensated for this issue in the calculation by setting limits on the numerator.

The end result of averaging will be the false appearance of stable performance. Additionally, using a different denominator than used in other metrics in the same suite of performance metrics creates issues in managing the process, such as confusion in process area impacted by changes, or the inability to identify process errors. This points again to the restricted scope of the audit that excludes the link between process and measurement. It would be difficult to effectively use this measurement in conjunction with other metrics in the OP performance measure suite to complete valuable process measurement.

#### **MR-3, MR-5, MR-6**

As an initial matter, it should be noted again that a different master data set is used for the calculation of related metrics. In this case, MR-6 (MTTR) is the master set for all the other MR measurements. The Liberty audit does not make the link between these measurements, thus pointing again to the issue previously identified regarding the scope of the audit.

The sample size for the data tracking portion of the audit of these measurements is identified as 170 trouble tickets for retail and wholesale. Additionally, Liberty recalculated the measurements using Iowa, New Mexico, and Washington. While Washington has a substantial order volume, combining this with Iowa and New Mexico again raises the issue of audit sample size. In fact, the sample size selected for data tracking is only 6.7% of the data recalculated in only three states for one month.

The audit describes a process of collecting raw data from a detail data file created as "...the result of the initial query where Qwest's programming rules are applied. Most exclusions occur at this point in the calculation process..." It is later in the process that business rules are applied. The definition of the raw data is the source data. From the description of the process, it seems the business rules are applied at two different points. This calls into question the validity of the application of the business rules as part of the process. Though this may be an error in the description of the process, it again identifies the concern around the application of the business rules, and the accuracy of the metrics in reflecting the business process.

### **Conclusion:**

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Liberty has done an excellent job of reviewing the metrics production process utilized by Qwest in creating the PID reports. However, three key issues identified by Covad demonstrate conclusively the need for a more detailed audit.

First, it is necessary to expand the scope of the audit to determine the effectiveness of the alignment between business process, and performance measure. Auditing this link will benefit Qwest, as the result will be the ability to effectively track performance success, and identify areas for improvement. By auditing and ensuring an effective link between process and measurements, Qwest will have a set of tools it can use now and in the future to effectively manage its wholesale customer support.

Second, a re-evaluation of the existing metrics should be conducted, using "The Big Six" states as sample environments. This will more effectively identify issues in the metrics production and validation process, and help identify possible issues in the OSS environment.

Lastly, Liberty should recommend, and Qwest should consider, exception tracking as a method of validation, i.e., separately tracking the orders and issues that are excluded from the calculations, and identifying each item through a separate report. This will provide a data source for validation, and will help expedite any further reconciliation efforts now and in the future. In addition, it will help ensure that internal calculations constitute an accurate reflection of the business process, reducing the need for further audits and reconciliation efforts.

**EXHIBIT 2**  
**(CONFIDENTIAL)**

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**Qwest**<sup>®</sup>  
*Performance Results*

***Covad Communications Co.***  
***Arizona***  
***September 2000 - August 2001***

**August 3, 2001**

**EXHIBIT 3**  
**(CONFIDENTIAL)**

**EXHIBIT 4**  
**(CONFIDENTIAL)**

**EXHIBIT 5**  
**(CONFIDENTIAL)**

## Covad Comments on Qwest Provided Data (Arizona only)

### **Introduction:**

Covad initially requested verification of ten PIDs for 2 wire non-loaded loops and line shared loops, as well as LSRs processed via IMA and EDI for the month of June 2001. Subsequent communications between Covad/Liberty/Qwest just four days later resulted in a revision of the reconciliation request to encompass the PO-5, OP-4, OP-5, MR-3, and MR-6 PIDs for 2 wire non-loaded loops and line sharing for May, June, and July 2001. Covad promptly and timely provided all data on September 28, 2001 for its UNE and line shared loop orders for the months and PIDs identified.

After a purportedly close examination of Covad's data submission, Qwest unilaterally limited its analysis to the OP-4 and PO-5 metrics, thereby refusing to reconcile OP-5, MR-3 and MR-6 with Covad. This limitation was based on Qwest's apparent inability (or unwillingness) to (1) provide the underlying data for OP-5; and (2) perform a table join to connect PONs with the trouble ticket numbers contained in Qwest's data environment.

Setting aside the extraordinarily troubling concern created by Qwest's "inability" to provide the underlying data for OP-5, Covad is perplexed by Qwest's comments that Covad is not working collaboratively. With respect to the use of PONs, first, Covad used PONs as reference numbers because that was the agreed upon standard for comparison Qwest and Covad have utilized in every single previous data conference and reconciliation effort (i.e., numerous SLA data reconciliations; the Colorado xDSL FOC trial; and the Washington cooperative testing reconciliation). All of the data currently and in the past provided by Covad to Qwest, and most of the data provided by Qwest to Covad in this process contains PONs. Second, Covad informed Mr. Mark Reynolds of Qwest via email that working off of a trouble ticket basis would create problems since the trouble ticket number contained in Covad's data environment may differ from the trouble ticket number utilized by Qwest in its data environment. Therefore, in order to alleviate whatever issue PON use created for Qwest, Covad provided a description of the table join in an e-mail communication from Megan Doberneck to Mark Reynolds, and sample code for that table join is provided later in these Comments.

Qwest also stated in its executive summary that "[e]ven with the PO-5 and OP-4 PIDs, it was necessary for Qwest to develop common reference points of Covad's data submissions in order to cross-compare the Covad information with the Qwest service order information that is used to post data to the metrics. None of the data sets submitted by Covad contained information that could be used for validating or investigating possible errors." Of course, Qwest never indicated at any point prior to providing its "executive summary" that PONs were an insufficient basis upon which to reconcile the parties' data, nor did Qwest state that the parties' past practice with respect to use of PONs for purposes of data reconciliation was not acceptable during this round of data reconciliation. The data provided by Covad contains the raw data, as well as a full set of calculations and the numerator and denominator for the measures. The data also provides

the completed performance calculations from the Covad perspective. Additionally, the data for PO-5 and OP-4 contains PONs, the agreed reference number.

Ultimately, at no point did Qwest or Liberty request that data be provided in a particular format or according to a particular formula. If there was a specific format required by Qwest and/or Liberty for the purpose of the reconciliation, it would have been far better for Qwest to inform CLECs of its requirements and to provide the required format to the CLECs prior to the start of the reconciliation process. This is the only way to ensure Qwest gets everything it wants from the CLECs.

### **PO-5 Performance Indicator**

Covad is using a two-step process for reconciliation of Qwest and Covad data. Step one requires a calculation of the measurement from the data provided by Qwest to Covad and Liberty in connection with the reconciliation process. The results of this calculation are then compared to Qwest's published PIDs performance reports for Covad because, presumably, the two data sets should be identical. The second step is to compare the calculation and the raw data to the Covad calculation and raw data.

The purpose of step one is to ensure Covad is correctly calculating the measures from the data provided. This is necessary for two reasons. First, Qwest has not provided separate calculations of the data; and second, Qwest has failed to provide field definitions requested by Covad. In order, therefore, to review in any meaningful fashion Qwest's data, Covad had to determine that it could duplicate Qwest's measurement calculations.

The purpose of step two is to undertake the actual reconciliation of Covad and Qwest data. It should be noted, however, that if Covad can not reconcile Qwest raw data to the associated PID, step two of the reconciliation can not take place.

#### **Step One:**

Covad has compared the raw data for Arizona Qwest provided to Covad on Friday, October 19, 2001 to the data in the Arizona PID corollary. Qwest uses a flag field for counts; a "1" in the flag field indicates "yes", and "0" in the flag field stands for "no." The following issues and discrepancies have been identified:

1. With regard to the denominator for this measure, Covad counted [CONFIDENTIAL] orders in the raw data provided by Qwest to Covad for Arizona for June 2001 for PO-5. The published PID performance results for June 2001, however, shows a total denominator count of [CONFIDENTIAL] orders. This data differential shows an obvious discrepancy between the data provided by Qwest to Covad in connection with the Liberty reconciliation on October 19, 2001 and the data published earlier by Qwest on August 3, 2001 when providing the Covad-specific PID performance results for June 2001 to Covad.

2. Pursuant to a side agreement between the parties (the Service Level Agreement or "SLA"), Qwest delivers FOCs for Covad's unbundled loops in 72 hours. Looking again at June 2001, the data provided by Qwest shows no FOCs delivered in more than 48 hours (CNT72, CNT96, and CNT120 fields have no flags, resulting in a count of 0). In other words, all FOCs were delivered by Qwest to Covad in 48 hours or less. Covad believes this must be the case because if Qwest is using negative flags (1=no, 0=yes), all of Qwest's orders would be counted over 48 hours. Assuming, therefore, that a flag indicates a yes, Qwest should be reporting for June 2001 100% on-time delivery of FOCs to Covad in the specified month (June). However, Qwest's reported PID performance results show an aggregated total of [CONFIDENTIAL] % successful delivery. This indicates the likely existence of an error in the calculation of the numerator from the data provided.
3. A field in the Qwest data is tagged "GOOD\_FOC". This field contains a "0" [CONFIDENTIAL] times in Arizona in May, [CONFIDENTIAL] times in June, and [CONFIDENTIAL] in July thus indicating a "Bad FOC" for those ten total orders in which the flag is a "0." Although, via an email from Megan Doberneck to Brent Levy on October 26, 2001, Covad requested that Qwest define the criteria for a good FOC and a bad FOC in order to undertake further reconciliation, Qwest has provided no response. It should be noted, however, that none of the orders flagged as "Bad FOC" show intervals greater than 48 hours.
4. Qwest identified [CONFIDENTIAL] orders in PO-5 that were rejected LSRs. The Reject field in all three months provided, however, shows no orders rejected. A better understanding of the process for populating this field may help identify the basis and origin for the discrepancy.
5. PONs [CONFIDENTIAL] and [CONFIDENTIAL] have an INS date (30APR) prior to the SOAPPDT (01MAY). This suggests that the order was installed prior to the service order being received. Again, Covad requested that Qwest clarify the definition of "INSDATE" via an October 26, 2001 email from Megan Doberneck to Brent Levy, but Qwest has not provided any response.
6. There are several orders (CONFIDENTIAL) that do not have product identification in the IMAPROD field. The absence of data in this field may impact disaggregation of the measurement.

#### **Step Two:**

In light of the issues identified above, it appears that neither the numerator nor denominators for the June PID performance results that were published and provided by Qwest to Covad on August 3, 2001 were calculated from the same data set provided by

Qwest to Covad in connection with the Liberty data reconciliation. Further, it appears that the numerator for the June reported PID performance results were incorrectly calculated. Because the data Qwest provided in connection with the Liberty reconciliation does not match up with the data contained in the published PID performance results for Covad, there is no way to check the calculations or to complete step two of the reconciliation.

**OP - 4 Performance Indicator**

Covad is using a two-step process for reconciliation of Qwest and Covad data. Step one requires a calculation of the measurement from the data provided by Qwest to Covad and Liberty in connection with the reconciliation process. The results of this calculation are then compared to Qwest’s published PIDs performance reports for Covad because, presumably, the two data sets should be identical. The second step is to compare the calculation and the raw data to the Covad calculation and raw data.

The purpose of step one is to ensure Covad is correctly calculating the measures from the data provided. This is necessary for two reasons. First, Qwest has not provided separate calculations of the data; and second, Qwest has failed to provide field definitions requested by Covad. In order, therefore, to review in any meaningful fashion Qwest’s data, Covad had to determine that it could duplicate Qwest’s measurement calculations.

The purpose of step two is to undertake the actual reconciliation of Covad and Qwest data. It should be noted, however, that if Covad can not reconcile Qwest raw data to the associated PID, step two of the reconciliation can not take place.

The following table displays the results of Qwest’s cross match between Covad and Qwest data sets as set forth in the Qwest Executive Summary for Arizona:

**CHART ONE**

Service	Month	Orders Qwest And Covad match (1)	Orders Qwest report Covad does not (2)	Orders Covad report Qwest does not (3)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

CONFIDENTIAL

Based on this table, Qwest identifies Covad's denominator count in its executive summary as:

**CHART TWO**

Service	Month	Orders Qwest and Covad match (1)	Orders Covad Reports Qwest does not (3)	Total orders reported by Covad (1+3)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

**CONFIDENTIAL**

In the data provided by Covad to Qwest and Liberty in connection with the reconciliation, Covad reported the following denominator count:

**CHART THREE**

Service	Month	Orders reported by Covad
2 W NL Loop	May 2001	
2 W NL Loop	June 2001	
2 W NL Loop	July 2001	
Line Share	May 2001	
Line Share	June 2001	
Line Share	July 2001	

**CONFIDENTIAL**

As this comparison demonstrates, Qwest added [CONFIDENTIAL] orders to the Covad total for line shared loops for May 2001 (Chart Two, line 4 – Chart Three, line 4). Since (1) this is the only discrepancy between the Covad and Qwest data on this point, and (2) the data source used for the calculation is the same for all the OP-4 data, PIDs, submeasures and products, it appears that Qwest has made an error in comparison for the month of May in line share orders in its executive summary.

**Step One:**

Using the same methodology as described above to determine Qwest's numerator and denominator counts as reflected in the data provided by Qwest in connection with the reconciliation and set forth in the executive summary:

**CHART FOUR**

Service	Month	Orders Qwest and Covad match (1)	Orders Qwest reports Covad does not (2)	Total orders reported by Qwest (OP-4 Denominator = 1+2)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

**CONFIDENTIAL**

The numbers provided in the Qwest data and executive summary, however, do not match with the data reported by in the published PID performance results provided by Qwest to Covad for the months of May, June, and July of 2001.

**CHART FIVE**

Service	Month	Total orders reported by Qwest in summary for Reconcile (1)	Orders Qwest reports in May, June, and July PIDs (2)	Difference (1-2)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

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Chart Five demonstrates that the executive summary data provided for the reconciliation is not the same as the data reported by Qwest in its published PID performance results for Covad. This could be the result of a step in the PID production process that has not been identified by Qwest, or could be a result of two separate data pulls impacted by a degradation of the data environment. Regardless of the source, the difference in the purportedly same set of data pulled at two separate times is particularly troubling and, in Covad's mind, casts doubt on the validity of Qwest's reported performance.

This concern is further reinforced by additional analysis of Covad's line sharing orders for May. The difference between the Qwest data provided in connection with the Liberty reconciliation and the Qwest reported PID performance results (i.e., [CONFIDENTIAL]\_ line shared orders in May 2001, see Chart Five) is exactly same as the difference identified between the Qwest reconciliation data totals and the Covad performance data

totals (i.e., CONFIDENTIAL) line shared orders in May 2001. See Charts Two and Three). This indicates an error in the data provided for this metric by Qwest.

Looking again, therefore, at the line shared loop orders for May, Covad calculated the Qwest denominator based on the data Qwest provided to Covad during the reconciliation and the data contained in the published Qwest PID performance results for Covad. The result:

**CHART SIX**

Service	Month	Total orders reported by Qwest in summary for Reconcile (1)	Orders Qwest reports in May, June, and July PIDs (2)	Difference (1-2)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

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Chart Six shows an error in the Qwest executive summary. While the June and July line shared data calculations contained in the executive summary appear to be accurate vis-à-vis the data provided by Qwest during the reconciliation (see Charts Five and Six), the disparity remains between the Qwest reconciliation data and the Qwest published PID performance results for Covad. In order to correct for Qwest's errors, the table for the executive summary should be as follows:

**CHART SEVEN**

Service	Month	Orders Qwest and Covad match (1)	Orders Qwest reports Covad does not (2)	Total orders reported by Qwest (OP-4 Denominator = 1+2)
2 W NL Loop	May 2001			
2 W NL Loop	June 2001			
2 W NL Loop	July 2001			
Line Share	May 2001			
Line Share	June 2001			
Line Share	July 2001			

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Summarizing its analysis as a result of step one, Covad has identified the following errors:

1. Qwest's executive summary does not reflect the raw data provided during the course of the reconciliation process. Specifically, the May 2001 line shared loop orders that Covad and Qwest reported in their reconciliation data is over reported in the executive summary. The difference is [CONFIDENTIAL] orders, and that difference created a disparity in the total orders calculations. The error was created when Qwest applied the same number of orders reported by Qwest [CONFIDENTIAL] for which there was not a match to the field in the executive summary for Covad and Qwest matches. Instead of [CONFIDENTIAL], the field showing Covad-Qwest matches should have been [CONFIDENTIAL].
2. The date pulled by Qwest for the purpose of the Liberty reconciliation does not match the data provided in the monthly PIDs. This could be the result of a step in the PID production process that has not been identified by Qwest, or could be a result of two separate data pulls impacted by a degradation of the data environment.

**Step Two:**

In light of the issues identified above, Qwest's reconciliation data does not add up to the data contained in Qwest's published PID performance results for Covad for the months of May, June, and July of 2001. Accordingly, Covad has no method to validate its calculations of Qwest data and compare those to the Covad calculations. We have requested clarifying information from Qwest (definitions, descriptions, etc.) but Qwest has failed and refused to provided that information thus far. However, Covad has attempted to duplicate the numbers in the PID for May line share orders as an example:

**CHART EIGHT**

	Numerator	Denominator	Interval
Data Contained in PID Performance Results for Covad	CONFIDENTIAL		
Raw Data Supplied during Liberty Reconciliation Process			

The numerator was calculated from the raw data provided by Qwest to Covad in connection with the reconciliation using the following calculation:

D\_SOCD (Service Order Complete Date) – D\_APPDT (Application Date) and converting the difference into business days. Again, the numbers, which are derived

from Qwest's reconciliation data, do not add up to the same number of orders reported in Qwest's PID performance results for Covad.

The denominator was calculated using a total of the field LINE\_CNT (Line Count).

Qwest has not provided raw data for any product other than Line Share for the OP-4 metric thus apparently refusing to reconcile OP-4 for non-loaded loops. In addition, in reviewing the data for May line shared orders, several of the orders Qwest has listed as reported by Covad have product codes as RES (Residential) and have CLEC\_ID as USW.

### OP - 5 Performance Indicator

Qwest states that it cannot provide the underlying data for OP-5 (New Service Installation Quality). According to Qwest, this is due to the nature of OP-5 data, which is developed based on information from several different sources, rendering an order-by-order accounting impossible.

Setting aside the extraordinarily troubling concern that Qwest effectively had deprived CLECs of any ability to reconcile this critical performance measure, Covad simply does not understand how or why Qwest is unable to provide the data for this measure. According to the Liberty Audit on Qwest's Performance Measures (PMA, p. 58, Section C.3), **"Data for new service installation quality exists in the "ad hoc" files created by SAS programs for customer records management, and trouble reports from MTAS and WFAC. The program *iordcnt.sas* processes the CRM *ad hoc* to count instances of new service installation. The program *mtasicnt.sas* and *wfacicnt.sas* process the MTAS and WFAC *ad hoc* files to count instances of trouble reports. Another program called *speccalc.sas* creates the two-month average of service orders."** Additionally, Liberty identifies in its audit process an, **"...independent replication of the programming steps through spreadsheet logical and conditional programming."** This suggests the existence of underlying data files, at least at the time of the Liberty audit. Therefore, it is unclear to Covad why, at this juncture, such files purportedly no longer exist.

A file from *speccalc.sas* likely would help Covad and Qwest reconcile the denominators in the parties' respective OP-5 calculations. A file from *iordcnt.sas* likely would help Covad and Qwest identify orders that both code as new installs, further helping to resolve the numerator differential. Output files from the other programs would help to reconcile the numerator.

Each of these files is a SAS program, and the output of the programs could be, and often is, a SAS data set. As such, these data sets can be merged using something similar to the following code:

```
DATA x;  
  MERGE a b;  
  BY CKT_ID;
```

RUN;

Covad has identified the files listed by Qwest in the OP-5 section of the executive summary and has attempted to duplicate the calculation as described below.

**Step One:**

The first challenge encountered by Covad in attempting to correlate the OP-5 summary sheets to Qwest's reported PID performance results for Covad was to determine what filters and fields were being used by Qwest to calculate totals. In order to accurately complete the calculation, the dispatch field should be filtered to "A" only. Additionally, the field called "ENTY\_CLS" must be filtered to "MA" to provide the correct count. This will provide the aggregate of dispatched and non-dispatched orders for the product type, as is reflected in the PID performance results for Covad. Covad was able to accurately match the denominator provided by Qwest in the summary sheet to the reported PID performance results denominator using the above filters and process.

Covad also was able to match the numerator calculations from the OP-4 summary files to the reported PID performance results for Covad, based on the process described by Qwest, and the exceptions previously identified.

Unfortunately, Qwest provided only enough summary files to calculate the month of June. It is impossible to complete any additional work on step one for the reconciliation process. Additionally, as discussed in connection with OP-4, the fact that Qwest's "current" data, as reflected in the OP-4 summary files, does not match its "old" data from the August 2001 published PID performance results impacts the validity of this step of the reconciliation.

**Step Two:**

Covad has provided the summary and raw data for the reconciliation for April through July of 2001 to facilitate the reconciliation. Based on that data and the business rules supplied by Qwest, Covad arrived at the following calculations for the June OP-5 PID:

**CHART NINE**

	I
Numerator	
Denominator	
Results	

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The differences between the Covad numbers and the Qwest numbers are identified:

	Covad Numerator	Qwest Numerator	Difference	Covad Denominator	Qwest Denominator	Difference
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UBL_2W_N	
L	
Line Share	

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Without the source data it is impossible to advance further through the reconciliation.

**MR - 3, MR - 6 Performance Indicators**

Qwest stated that it is unable to reconcile the MR data because of “Covad’s refusal, or inability, to provide any relevant data sets for comparison of the MR-3 and MR-6 performance measures.”

Qwest’s statement notwithstanding, Qwest provided a data set (without PONs) that could, in fact, be used to quickly, easily and reliably calculate the total number of trouble tickets closed in the reporting period (which is the denominator for all of the MR measures for which Covad sought reconciliation). The files provided by Qwest to Covad on or about October 19<sup>th</sup> (entitled Covad8\_UBL and Covad8\_LINE) contain trouble ticket data and CKTID field, both of which are unique fields in the Qwest data environment. These files could be merged, using something similar to the previously identified code, to a file with PONs, creating the cross-reference necessary for the reconciliation.

Again it should be noted that the PON has been the agreed data point for cross-reference between Covad and Qwest. It is unclear why Qwest is no longer capable of using this data point. However, due to Qwest’s inability to complete the necessary table join, Covad can not proceed further with the reconciliation process.

**Conclusions**

PO-5: Key points in Qwest’s October 2001 reconciliation data do not add up to its reported data and performance results in August 2001 under the PIDs. Several fields in the Qwest data, such as “GOOD\_FOC” and “REJECT” will require better definition. GOOD\_FOC requires a business definition to determine what Qwest is calling a bad FOC, and the REJECTS field calculation is not accurately reflected in Qwest’s summary, indicating a possible misunderstanding in the reject category.

OP-4: Key points in Qwest’s October 2001 reconciliation data do not add up to its reported data and performance results in August 2001 under the PIDs. Further, Qwest’s executive summary calculations do not add up to the underlying raw data provided by Qwest to Liberty and Covad.

OP-5: Qwest has refused to provide detailed data. The summary data matches up with the data and performance results reported by Qwest under the PIDs, but inaccurate calculations in OP-4 call into question the summary of OP-5. The absence of raw data makes further reconciliation impossible.

MR-X: Limited data provided by Qwest. Efforts to reconcile the data may result in invalid calculations and further convolute our efforts toward understanding how Qwest measures itself.

**EXHIBIT 6**  
**(CONFIDENTIAL)**

**EXHIBIT 7**

## **Data Request Arizona (Qwest)**

October 31, 2001

Data Requests for Qwest – Set 5

Please provide the response to P. Hlavac, B. Antonuk, J. Sharpe, and W. Waltrip

This is Liberty's fifth reconciliation data request to Qwest. Please contact Paul Hlavac at 847-446-6240 with any questions.

1. Please confirm that Qwest is unable to provide the individual records that make up the numerator and denominator of OP-5 for Covad. Liberty assumes that no reconciliation will be possible without these data.