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

) DOCKET NO. T-00000A-97-0238  
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**RESPONSE OF STAFF TO QWEST'S COMMENTS ON STAFF'S  
FINAL REPORT ON CHECKLIST ITEM 1**

**I. INTRODUCTION**

In its Comments on Staff's Final Report, Qwest seeks reversal of two interconnection issues (ratcheting and call transit records) and one collocation issue (provisioning intervals). Qwest also seeks slight modification of two interconnection issues (indemnification and interconnection at the access tandem). Staff files the following response to Qwest's Comments on Staff's Final Report.

**II. DISCUSSION**

**A. Interconnection Disputed Issue No. 10: Ratcheting (SGAT Section 7.2.2.9.3.2)**

Qwest filed comments on this issue because it does not agree with the position adopted by Staff in its Final Report. This issue deals with whether the FCC's prohibition on ratcheting of Federally or State tariffed special access rates down to lower UNE rates for loop-transport combinations unless certain requirements are met as specified in the FCC' *Supplemental Order Clarification*<sup>1</sup> also applies to interconnection or LIS trunks. Qwest's position is that the prohibition on converting special access to loop-transport

<sup>1</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification (rel. June 2, 2000)(*"Supplemental Order Clarification"*).

1 combinations applies to LIS trunks as well. Staff's interpretation of this series of FCC  
2 Orders in its Final Report, was that the prohibition only applies to loop-transport  
3 combinations.

4 Qwest argues that Staff's conclusion is based primarily on the incorrect  
5 assumption that Qwest agreed to similar language in the State of Washington. Qwest  
6 Comments at p. 2. Qwest also argues that Staff is confused as to the difference between  
7 commingling and ratcheting. Id. Qwest states that it specifically allows commingling  
8 which is the placement of multiple types of traffic on the same special access circuit. Id.  
9 Qwest states that it has never agreed to "ratcheting" which involves charging lower UNE  
10 rates instead of Federal or State tariffed rates based on the percent of traffic that is local.  
11 Qwest argues that only Arizona and Washington State have decided to allow  
12 "ratcheting". Qwest Comments at p. 3. Qwest also states that adoption of Staff's  
13 position would have the potential to undermine the effectiveness of the current pricing  
14 mechanism for special access, and that this would require a more comprehensive review  
15 of all Qwest pricing policies and their effect on universal service than has been  
16 accomplished in this proceeding. Qwest Comments at p. 5. Qwest concludes that the  
17 Staff's approach conflicts with, and reaches well beyond, what the FCC has required.  
18 Qwest Comments at p. 6.

19 Staff disagrees with Qwest. First, as already indicated Staff's revised conclusion  
20 is not based primarily on the assumption that Qwest agreed to similar language in the  
21 State of Washington. While Staff agrees with the Washington Commission's findings on  
22 this issue, Staff's conclusion was also based upon its reading of relevant FCC Orders and  
23 its belief that the FCC's primary concern identified therein regarding ratcheting appeared  
24 related to an IXC's ability to obtain lower rates for UNE based loop-transport  
25 combinations in place of Federally or State tariffed rates for special access service.  
26 According to the FCC, this could result in IXC's using the incumbent's network without  
27 paying their assigned share of the incumbent's costs normally recovered through access  
28

1 charges. This is apparent from the following passage from the FCC's *Supplemental*  
2 *Clarification Order* (para. 7):

3 For example, in the absence of completed implementation of access  
4 charge reform, allowing the use of combinations of unbundled network  
5 elements for special access could undercut universal service by inducing  
6 IXCs to abandon switched access for unbundled network element-based  
7 special access on an enormous scale. [footnote omitted]. In the words of  
8 one incumbent LEC, this would amount to a "roundabout termination" of  
9 the access charge regime, prior to the actual elimination of the implicit  
10 universal service subsidies contained in access charges, and would require  
11 it to bear the expense of providing local dialtone service without a viable  
12 means of recovering the costs of universal service.

13 Staff is not suggesting that IXCs be allowed to use loop-transport in place of  
14 tariffed rates for special access service, except as specified in the FCC's *Supplemental*  
15 *Clarification Order*. Qwest has a separate section in its SGAT which already addresses  
16 this issue. The provisions of the SGAT at issue here relate to interconnection or LIS  
17 trunks and do not deal with the conversion of special access circuits to loop-transport  
18 combinations (otherwise known as enhanced extended loops ("EELS")) which was the  
19 subject of the FCC's *Supplemental Order Clarification*, upon which Qwest relies. Staff  
20 does not believe that the FCC's *Supplemental Order Clarification* applies to LIS trunks,  
21 and agrees with the Washington Commission that to extend the prohibition to LIS trunks,  
22 would "require a CLEC to choose between its right to interconnect at any technically  
23 feasible location and its right to obtain facilities at TELRIC rates." Washington  
24 Commission Order at p. 5.

25 Contrary to Qwest's assertions, Staff fully understands the difference between  
26 co-mingling and ratcheting as those terms are used in FCC Orders. Staff supports  
27 Qwest's agreement to allow co-mingling access and interconnection trunks and believes  
28 that this is reasonable and appropriate under current FCC Orders. Co-mingling of traffic  
will promote efficient use of the existing network. Staff also believes that it is  
appropriate, where interconnection or LIS trunks are co-mingled with access circuits, for  
the rates to reflect the type of trunk utilized (i.e., rates would reflect percent local/

1 interconnection traffic versus special access/toll traffic). The Commission should reject  
2 Qwest's attempt to extend the prohibition on ratcheting to LIS trunks.

3 **B. Interconnection Disputed Issue No. 15: Reciprocal Charges for Call**  
4 **Records (SGAT Sections 7.5.4 and 7.6.3)**

5 Qwest is unclear of the distinction (records processed versus transmitted) made by  
6 Staff for reciprocal call record change charges. Qwest Comments at p. 6. Staff  
7 recommended this change due to comments submitted by WorldCom. Staff does not  
8 object to Qwest's proposal to consider this issue in the Arizona Wholesale Pricing  
9 Docket since this is a cost issue. *Id.* This would allow parties to more fully develop the  
10 record with their respective positions on this issue.

11 **C. Interconnection Disputed Issue No. 1: Indemnification (SGAT**  
12 **Section 7.1.1.1.2)**

13 Staff does not oppose Qwest's suggestion to defer resolution of this issue until it  
14 considers the indemnification language in the SGAT. Qwest Comments at p. 7. As  
15 Qwest notes in its Comments, this will occur when the report on General Terms and  
16 Conditions comes before the Commission. *Id.*

17 **D. Collocation Disputed Issue No. 4: Collocation Intervals (SGAT**  
18 **Sections 8.4.1.9, 8.4.2.4.3, 8.4.2.4.4, 8.4.3.4.3, 8.4.3.4.4, 8.4.4.4.3 and**  
19 **8.4.4.4.4.**

20 Qwest takes issue with the requirement that it meet the national standard 90-day  
21 interval established by the FCC when a CLEC does not provide a forecast. Qwest states  
22 that it never agreed to adhere to this standard when a CLEC does not provide a forecast  
23 and that pursuant to the FCC's *Amended Order*<sup>2</sup> released November 7, 2000, that it was  
24 granted a waiver by the FCC and is not required to adhere to the national standard.

25 In its *Order on Reconsideration* released August 10, 2000<sup>3</sup>, the FCC adopted a

26  
27 <sup>2</sup> *In the Matter of Deployment of Wireline Services Offering Advanced*  
28 *Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and  
Order (rel. November 7, 2000)(*"Amended Order"*).

<sup>3</sup> *In the Matters of Deployment of Wireline Services Offering Advanced*  
*Telecommunications Capability and Implementation of the Local Competition Provisions*

1 national standard of 10 days for application processing. In addition, it adopted a  
2 national standard of ninety (90) days for provisioning physical collocation arrangements.

3 In its *Reconsideration Order* adopting these standards the FCC stated in part:

4 US West has agreed throughout virtually all of its region to  
5 provide cageless collocation space within forty-five days  
6 after receiving a requesting telecommunications carrier's  
7 deposit when space and power are available, and within  
8 ninety days after receiving that deposit when space and  
9 power are not available. We view these commitments as  
10 very positive development

11 The FCC concluded in its *Reconsideration Order* that an ILEC should be able to  
12 complete a technically feasible physical collocation arrangement, whether caged or  
13 cageless, no later than ninety days after receiving an acceptable collocation application,  
14 where space, whether conditioned or unconditioned, is available in the incumbent LEC  
15 premises and the State Commission does not set a different interval or the incumbent  
16 and requesting carrier have not agreed to a different interval.

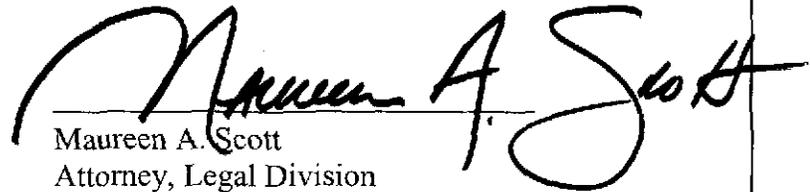
17 Qwest, along with SBC and Verizon subsequently requested conditional waivers  
18 of certain aspects of the collocation *Reconsideration Order*. The Chief of the Common  
19 Carrier Bureau addressed those waiver requests in the *Amended Order* released  
20 November 7, 2000. In lieu of application of the national standards, Qwest proposed a  
21 twenty-day application processing interval and provisioning intervals ranging from  
22 ninety to 240 days when the requesting carrier has not provided a collocation forecast  
23 within that timeframe. The FCC found in its *Amended Order* that Qwest should be  
24 allowed to increase the provisioning interval for a proposed physical collocation  
25 arrangement no more than 60 calendar days in the event a CLEC fails to timely and  
26 accurately forecast the arrangement unless the State Commission specifically approves a  
27 longer interval. The FCC also found that for purposes of Qwest's interim plan, a  
28 maximum of 150 calendar days should apply in the absence of a forecast. (60-day

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of the *Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, Order on  
*Reconsideration and Second Further Notice of Proposed Rulemaking* in CC Docket No.  
98-147 and *Fifth Further Notice of Proposed Rulemaking* in CC Docket No. 96-98 (rel.  
August 10, 2000)(“*Reconsideration Order*”).

1 forecast period plus 90-day provisioning period). Staff's Final Report did not fully  
2 account for the FCC waiver obtained by Qwest. Therefore, Staff has modified its Report  
3 to more fully take into account the interim waiver granted to Qwest by the FCC.  
4 However, when the waiver is applied, Staff believes that the FCC's Order requires Qwest  
5 to minimize application of the 60-day interim extension and that where it can provide  
6 the collocation space in 90 days, even where previously unforecasted, (for instance  
7 where space is available and no special conditioning is required) Qwest must do so. See  
8 attached revised findings from Staff's Final Report.

9 RESPECTFULLY submitted this 6<sup>th</sup> day of December, 2001.

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12 

13 Maureen A. Scott  
14 Attorney, Legal Division  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007  
18 Telephone: (602) 542-6022  
19 Facsimile: (602) 542-4870  
20 e-mail: [maureenscott@cc.state.az.us](mailto:maureenscott@cc.state.az.us)

21 Original and **ten** copies of the foregoing  
22 were filed this 6<sup>th</sup> day of December  
23 2001, with:

24 Docket Control  
25 Arizona Corporation Commission  
26 1200 West Washington Street  
27 Phoenix, AZ 85007

28 Copies of the foregoing were mailed and/or  
hand-delivered this 6<sup>th</sup> day of December  
2001, to:

circumstances where a CLEC's indiscriminate use of batch collocation orders makes it impossible for Qwest to meet established provisioning intervals. Id.

424. As the FCC recognized in its decision in the BellSouth Louisiana II proceedings, Qwest should only be required to prepare for **reasonably foreseeable** volumes. Id. at p. 50. Second BellSouth Louisiana Order at ¶ 54 (Oct. 1998).

**b. Discussion and Staff Recommendation**

425. This issue can be broken down into two parts: (1) Qwest's reliance on forecasts in determining the appropriate length of its intervals, and (2) the need for additional time to provision collocation where a high volume of applications is received in a short period of time.

426. The FCC issued its Order on Reconsideration, which addressed issues raised in response to its Collocation Order and established a national 90-day default interval for provisioning physical collocation. The FCC subsequently released an Amended Order, which clarified its earlier decision and established interim standards that apply specifically to Qwest in place of the 90-day default interval, during the pendency of the FCC's ongoing reconsideration of its Order on Reconsideration. This would allow interim standards for longer intervals up to 150 days when no CLEC forecast is provided. In its Proposed Findings of Fact and Conclusions of Law, Staff recommended that Qwest be required to meet the 90-day interval if space is available and there is no specific power or HVAC facilities required, despite the fact that no CLEC forecast had been provided. If power or HVAC is required, Qwest may employ longer FCC approved intervals, up to a maximum of 150 days.

427. Staff believes that Qwest should be required to therefore modify its SGAT to provide for the national standard 90 day collocation provisioning standard for physical collocation. Qwest's SGAT should reflect that its CLEC forecasting requirements will be reasonable, seek only that information which is absolutely necessary and comparable to what other RBOCs require, and will not impose burdensome informational requirements on the CLECs. Qwest's SGAT should reflect the addition of 60 days as an interim national standard only in instances where no CLEC forecast was provided, and only if absolutely necessary, meaning that it is impossible for Qwest to provision the collocation in the standard 90 day period. In cases where space is available and no specific power or HVAC facilities are required, Qwest should be able to meet the 90 day deadline and its SGAT should reflect this fact. If Qwest requires longer than the approved FCC intervals, Qwest's SGAT should reflect that it must receive Arizona Commission approval for a waiver.

428. Regarding the need for additional time when high volumes of orders are received, Staff recommended that Qwest's intervals for collocations be increased by 10 days for every 10 (or fraction thereof) additional applications. Staff also recommended that no relief should be allowed unless the number of collocation orders in a given month exceeds 10 orders per week times the number of Arizona CLECs per month. If that maximum number is hit, Qwest must receive relief from the Arizona Commission.

1 Charles Steese  
 Andrew Crain  
 2 QWEST Communications, Inc.  
 1801 California Street, #5100  
 3 Denver, Colorado 80202

4 Maureen Arnold  
 QWEST Communications, Inc.  
 5 3033 N. Third Street, Room 1010  
 Phoenix, Arizona 85012

6 Michael M. Grant  
 7 GALLAGHER AND KENNEDY  
 2575 E. Camelback Road  
 8 Phoenix, Arizona 85016-9225

9 Timothy Berg  
 FENNEMORE CRAIG  
 10 3003 N. Central Ave., Suite 2600  
 Phoenix, Arizona 85016

11 Nigel Bates  
 12 ELECTRIC LIGHTWAVE, INC.  
 4400 NE 77<sup>th</sup> Avenue  
 13 Vancouver, Washington 98662

14 Brian Thomas, VP Reg. - West  
 Time Warner Telecom, Inc.  
 15 520 SW 6<sup>th</sup> Avenue, Suite 300  
 Portland, Oregon 97204

16 Richard P. Kolb, VP-Reg. Affairs  
 OnePoint Communications  
 17 Two Conway Park  
 18 150 Field Drive, Suite 300  
 Lake Forest, Illinois 60045

19 Eric S. Heath  
 20 SPRINT COMMUNICATIONS CO.  
 100 Spear Street, Suite 930  
 21 San Francisco, CA 94105

22 Thomas H. Campbell  
 LEWIS & ROCA  
 23 40 N. Central Avenue  
 Phoenix, Arizona 85007

24 Andrew O. Isar  
 25 TRI  
 4312 92<sup>nd</sup> Avenue, N.W.  
 26 Gig Harbor, Washington 98335

27  
 28

Michael W. Patten  
 Roshka Heyman & DeWulf  
 One Arizona Center  
 400 East Van Buren, Suite 800  
 Phoenix, Arizona 85004

Charles Kallenbach  
 AMERICAN COMMUNICATIONS  
 SERVICES INC  
 131 National Business Parkway  
 Annapolis Junction, Maryland 20701

Thomas F. Dixon  
 MCI TELECOMMUNICATIONS CORP  
 707 17th Street, #3900  
 Denver, Colorado 80202

Kevin Chapman, SBC  
 Director-Regulatory Relations  
 5800 Northwest Parkway  
 Suite 125, Room I-S-20  
 San Antonio, TX 78249

Richard S. Wolters  
 AT&T & TCG  
 1875 Lawrence Street, Room 1575  
 Denver, Colorado 80202

Joyce Hundley  
 UNITED STATES DEPARTMENT OF  
 JUSTICE  
 Antitrust Division  
 1401 H Street NW, Suite 8000  
 Washington, DC 20530

Joan Burke  
 OSBORN MALEDON  
 2929 N. Central Avenue, 21st Floor  
 P.O. Box 36379  
 Phoenix, Arizona 85067-6379

Scott S. Wakefield, Chief Counsel  
 RUCO  
 2828 N. Central Avenue, Suite 1200  
 Phoenix, Arizona 85004

Lyndon J. Godfrey  
 Vice President - Government Affairs  
 AT&T  
 111 West Monroe St., Suite 1201  
 Phoenix, Arizona 85004

1 Daniel Waggoner  
DAVIS WRIGHT TREMAINE  
2 2600 Century Square  
1501 Fourth Avenue  
3 Seattle, WA 98101-1688

4 Raymond S. Heyman  
Randall H. Warner  
5 ROSHKA HEYMAN & DeWULF  
One Arizona Center  
6 400 East Van Buren, Suite 800  
Phoenix, Arizona 85004

7 Diane Bacon, Legislative Director  
8 COMMUNICATIONS WORKERS OF  
AMERICA  
9 5818 North 7<sup>th</sup> Street, Suite 206  
Phoenix, Arizona 85014-5811

10 Gena Doyscher  
11 GLOBAL CROSSING LOCAL  
SERVICES, INC.  
12 1221 Nicollet Mall  
Minneapolis, MN 55403-2420

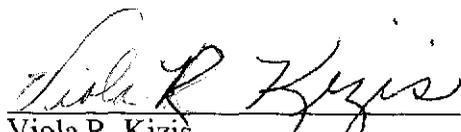
13 Karen L. Clauson  
14 ESCHELON TELECOM, INC.  
730 Second Avenue South, Suite 1200  
15 Minneapolis, MN 55402

16 Mark P. Trincherro  
Davis, Wright Tremaine  
17 1300 SW Fifth Avenue, Suite 2300  
Portland, OR 97201

18 Traci Grundon  
19 Davis, Wright & Tremaine LLP  
1300 S.W. Fifth Avenue  
20 Portland, OR 97201

21 Garry Appel, Esq.  
22 TESS Communications, Inc.  
1917 Market Street  
23 Denver, CO 80202

24 Todd C. Wiley Esq. for  
COVAD Communications Co.  
25 GALLAGHER AND KENNEDY  
2575 East Camelback Road  
26 Phoenix, Arizona 85016-9225

27   
28 Viola R. Kizis  
Assistant to Maureen A. Scott

Bradley Carroll, Esq.  
COX ARIZONA TELCOM, L.L.C.  
20401 North 29 Avenue  
Phoenix, AZ 85027

Mark N. Rogers  
EXCELL AGENT SERVICES, L.L.C.  
2175 W. 14<sup>th</sup> Street  
Tempe, AZ 85281

Barbara P. Shever  
LEC Relations Mgr.-Industry Policy  
Z-Tel Communications, Inc.  
601 S. Harbour Island Blvd., Suite 220  
Tampa, FL 33602

Jonathan E. Canis  
Michael B. Hazzard  
Kelly Drye & Warren L.L.P.  
1200 19<sup>th</sup> Street, NW, Fifth Floor  
Washington, D.C. 20036

Ms. Andrea P. Harris  
Sr. Manager, Reg.  
ALLEGIANCE TELECOM, INC.  
2101 Webster, Suite 1580  
Oakland, California 94612

Dennis D. Ahlers, Sr. Attorney  
Eschelon Telecom, Inc.  
730 Second Ave. South, Ste 1200  
Minneapolis, MN 55402

K. Megan Doberneck, Esq. for  
COVAD Communications Co.  
7901 Lowry Blvd  
Denver, CO 80230