Arizona Corporation Commission
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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC., Complainant, v. QWEST CORPORATION, Respondent.	DOCKET NO. UT-020388

DIRECT TESTIMONY

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 23, 2002

EXHIBIT
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Qwest 1
Admitted

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.

A. My name is Scott A. McIntyre. I am employed by Qwest Corporation ("Qwest") as Director - Product and Market Issues. My business address is 1600 7th Avenue, Room 3009, Seattle, Washington, 98191.

Q. PLEASE REVIEW YOUR WORK EXPERIENCE, PRESENT RESPONSIBILITIES AND EDUCATION.

A. I earned a Bachelor of Science degree in Electrical Engineering at the University of Washington in 1974. I have worked for Qwest (formerly U S WEST Communications, Inc., and before that, Pacific Northwest Bell) since 1970. In the past 32 years, I have held many positions that have given me a broad understanding of the telecommunications business. I have experience in the installation and repair of local residence and business telephone services. I also have experience in analyzing and planning new central office equipment and interoffice network facilities. I have performed cost analyses on many aspects of the business and analyzed departmental budgets in great detail. From 1987 to 1999, I managed private line voice and data products. This included the development, pricing and marketing for a wide range of products serving business customers across Qwest's fourteen-state region.

1 Since July 1999, I have been in my current position, representing Qwest on issues
2 involving various services. I also represent Qwest on issues concerning competition
3 and performance measures. This wide range of experience has provided me with an
4 understanding of how services are provided, and the pricing and marketing
5 necessary for these services to be successful.
6
7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE**
8 **TELECOMMUNICATIONS REGULATORY COMMISSIONS?**
9 A. Yes. I provided testimony in Docket UT-991292, AT&T's complaint against
10 U S WEST regarding provision of access services. In addition, I have served as an
11 expert witness in various dockets in Oregon, Arizona, Colorado, New Mexico,
12 Utah, Wyoming, Nebraska, Iowa, and Minnesota.
13
14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**
15 A. The purpose of my testimony is to address representations by AT&T Broadband
16 ("AT&T") in this proceeding, through the testimony of Jonathon Wolf, concerning
17 the manner in which Qwest is administering local service freezes. I will explain the
18 processes and procedures Qwest follows in adding and removing local service
19 freezes in response to issues raised by AT&T, and will demonstrate that Qwest is in
20 full compliance with the Washington Administrative Code ("WAC") and FCC
21 rules. In addition, I will describe local service freeze process improvements
22 instituted by Qwest to be responsive to the needs of its wholesale and retail

customers. Based on the information provided herein, I request the Commission reinforce that the continued availability of local service freezes ("LSFs") is in the best interest of Washington consumers and dismiss AT&T's complaint.

II. THE WUTC AND THE FCC HAVE ALREADY REJECTED ARGUMENTS THAT A LSF IS ANTI-COMPETITIVE

Q. AT&T RECOMMENDS THAT LSFs BE PROHIBITED "UNTIL EFFECTIVE COMPETITION HAS DEVELOPED IN LOCAL EXCHANGE MARKETS IN WASHINGTON" (DIRECT TESTIMONY OF JONATHAN WOLF, PAGE 11, LINES 22 to 25). PLEASE COMMENT.

A. Qwest's offering of LSF for its Washington customers is in full compliance with Washington Utilities and Transportation Commission (WUTC) and FCC rules. AT&T's argument that LSFs should be prohibited until such time that "effective" local competition develops must fail, in light of both the WUTC's and the FCC's decisions, orders, and rules, which establish stringent standards for the solicitation, implementation, and lifting of LSFs.[1]

The process by which a freeze may be imposed and removed is for the protection of the customer, not to create confusion or delay any change from one provider to another. The WUTC and FCC rules specifically prohibit the imposition of LSF unless the carrier obtains appropriate verification. Thus, so long as Qwest complies with the rules, as it has, its offer of LSF cannot be detrimental to competition.

Q. HAS THE FCC REJECTED CLAIMS THAT PREFERRED CARRIER FREEZES ARE "ANTI-COMPETITIVE"?

A. Yes. In a Further Notice of Proposed Rulemaking released in 1997, the FCC "sought comment on whether it should adopt rules to address preferred carrier freeze practices."[2] Numerous parties filed comments, including incumbent LECs, CLECs, state commissions, and consumer groups.[3] In its Second Report and Order, the FCC concluded that preferred carrier freezes are lawful and actually "enhance competition":

> [W]e recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming....The record demonstrates that LECs increasingly have made available preferred carrier freezes to their customers as a means of preventing unauthorized conversion of carrier selections. The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent. Indeed, the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their accounts. Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain control over their carrier selection.[4] (Emphasis added)

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[1] 47 C.F.R. § 64.1100 et seq., WAC 480-120-139
[2] FCC Further Notice of Proposed Rulemaking, CC Docket No. 94-129, ¶1.
[3] Second Report and Order and Further Notice of Proposed Rulemaking, (Second Report), CC Docket No. 94-129, App. C.
[4] Id., ¶114. See also Id. at ¶81.

1 In its Order, the FCC carefully "balance[d] several factors, including consumer
2 protection, the need to foster competition in all markets, and [its] desire to afford
3 carrier flexibility in offering their customers innovative services such as preferred
4 carrier freeze programs. Moreover, in so doing...[the FCC] facilitate[s] customer
5 choice of preferred carrier selections and adopt[s] and promote[s] procedures that
6 prevent fraud."[5] The FCC concluded that the most effective way to ensure that
7 preferred carrier freezes are used to protect consumers, rather than as a barrier to
8 competition, was not to prohibit them, but "to ensure that subscribers fully
9 understand the nature of the freeze including how to remove a freeze if they choose
10 to employ one."[6] The FCC designed its preferred carrier freeze rules "to ensure the
11 fair and efficient use of preferred carrier freezes for intrastate and interstate services
12 to protect customer choice and, correspondingly, to promote competition."[7]
13
14 **Q. HAS THE WUTC ALSO REJECTED ARGUMENTS THAT PREFERRED**
15 **CARRIER FREEZES ARE "ANTI-COMPETITIVE"?**
16 A. Yes. In formulating preferred carrier freeze rules, the WUTC considered comments
17 from various parties. As indicated in its Order adopting these rules, the WUTC

[5] Id., ¶113.
[6] Id., ¶121.
[7] Id., ¶118.

1 heard from participants in the docket who maintained that the requirement (that
2 companies offer a preferred carrier freeze) would promote anti-competitive
3 behavior. Others argued that the rules would present a barrier to entry and effective
4 competition. Still others posited that the rules would allow incumbent companies
5 the opportunity to mislead customers. **The Commission rejected these**
6 **arguments.**[8] It is under the auspices of the Commission's rules, as well as the
7 FCC's rules, that Qwest is offering the LSF option. AT&T's inference that LSFs
8 are anti-competitive should not be afforded any credibility in this proceeding, as
9 these arguments have already been heard and acted upon by this Commission and
10 the FCC. To attempt to revisit this issue now, in the form of a Complaint
11 proceeding, is inappropriate.
12
13 **Q. DO THE WASHINGTON AND FCC RULES WHICH ADDRESS THE**
14 **MEANS BY WHICH CUSTOMERS MAY BE INFORMED OF PREFERRED**
15 **CARRIER FREEZES ENSURE THAT THEY DO NOT IMPEDE**
16 **COMPETITION?**
17 A. Yes. In addition to rejecting CLEC claims that preferred carrier freezes should be
18 banned, the FCC likewise rejected requests that it prohibit the "solicitation" of
19 orders for freezes: "[w]e decline those suggestions that we prohibit LECs from
20 taking affirmative steps to make consumers aware of preferred carrier freezes
21 because we believe that preferred carrier freezes are a useful tool in preventing

[8] See Order Amending and Adopting Rules Permanently re WAC 480-120-139, Docket No. UT-980675,

1 slamming.[9] The FCC adopted a number of specific rules governing the solicitation
2 of orders for preferred carrier freezes, and **"decline[d]" the suggestions of CLECs**
3 **that it "prohibit incumbent LECs from soliciting or implementing preferred**
4 **carrier freezes for local exchange or intraLATA services until competition**
5 **develops in a LEC's service area.**[10] The FCC reiterated its expectation that its
6 rules governing the solicitation and implementation of preferred carrier freezes "will
7 reduce customer confusion and thereby reduce the likelihood that LECs will be able
8 to shield their customers from competition," and that it "remain[ed] convinced of
9 the value of preferred carrier freezes as an anti-slamming tool."[11]
10
11 Likewise, the WUTC reinforced the requirement that companies notify customers of
12 the preferred carrier freeze option when it adopted its rules: "The Commission
13 believes that the availability of a carrier freeze is not an effective consumer
14 protection tool if consumers are not aware that it exists. The Commission believes
15 that if the only consumers who find out about this option are customers who have
16 already been slammed, the value is diminished considerably, since damage has
17 already been done. Further, the Commission believes the purpose of a carrier freeze

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January 20, 2000, Page 3.
[9] Id., ¶124. See also Id. at ¶81 ("With the advent of competition in the provision of local exchange and intraLATA toll services, ... we anticipate an even greater incidence of slamming generally if effective rules are not put into place. State commissions are already receiving complaints concerning local service slamming.")
[10] Id., ¶135.
[11] Id., ¶136.

is to allow consumers the choice of protecting themselves from the slamming before it occurs."[12]

III. QWEST HAS IMPLEMENTED LSF IN ACCORDANCE WITH STATE AND FEDERAL REQUIREMENTS.

Q. WHAT SPECIFIC REQUIREMENTS DID THE COMMISSION MANDATE IN WAC 480-120-139 RELATIVE TO ADDING PREFERRED CARRIER FREEZES TO A CUSTOMER'S ACCOUNT?

A. WAC 480-120-139(5) outlines the following requirements for local exchange carriers ("LEC's") offering preferred carrier freezes:

- All local exchange companies must offer preferred carrier freezes.
- Such freezes must be offered on a non-discriminatory basis to all customers.
- In offering or soliciting such freezes, LECs must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA/intrastate Toll, interLATA/interstate Toll, and international Toll)
- The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

WAC 480-120-139(5)(c) specifies that before a freeze can be added to a customer's account, the request must first be confirmed through written authorization from the

[12] Order Amending and Adopting Rules Permanently (re WAC 480-120-139), Docket No. UT-980675, January 20, 200, Page 3.

customer, or by use of an automated, electronic telephone menu system from the telephone number for which the freeze is requested, or through the use of an independent third party verifier. Confirmation is to be obtained from the customer for each service sold.

Q. WHAT REQUIREMENTS WERE PLACED ON LECS FOR REMOVING A PREFERRED CARRIER FREEZE?

A. WAC 480-120-139(5)(d) indicates that LECs must obtain a written and signed authorization from the customer, stating his or her intent to lift the freeze. Alternatively, the customer may provide oral authorization to lift the freeze and such authorization may occur via a three-way call with the customer and another LEC. Oral authorization must include appropriate verification data. LECs are not allowed to change a customer's preferred carrier until the customer removes the freeze.[13]

Q. DID THE FCC MANDATE SPECIFIC STANDARDS WITH WHICH ALL TELECOMMUNICATIONS CARRIERS OFFERING LSF MUST COMPLY?

A. Yes. FCC rules specify:

[13] WAC 480-120-139(5)(e).

1 • An LSF must be offered on a non-discriminatory basis to all customers
2 regardless of carrier selection. 47 C.F.R. §64.1190(b).
3 • All LSF solicitations must include clear and neutral language, describing what a
4 freeze is and what services are subject to LSF. 47 C.F.R. §64.1190(d)(1)(i).
5 • The offer must clearly distinguish among the services to which any freeze is
6 applied (i.e., local, intraLATA, interLATA and international services), and a
7 separate authorization is required for each. 47 C.F.R. §64.1190(c).
8 • Any solicitation must also explain the procedures for lifting the freeze and that the
9 carrier cannot be changed unless the subscriber lifts the freeze. 47 C.F.R.
10 §64.1190(d)(1)(ii); see also, 47 C.F.R. §64.1150(a).
11
12 **Q. DO THE FCC RULES ENSURE THAT THE CUSTOMER'S SELECTION**
13 **OF A CARRIER FREEZE IS VERIFIED?**
14 A. Yes. The customer's decision to establish an LSF must be verified in accordance
15 with 47 C.F.R. §64.1190(d)(2)(i) through (iii) and 47 C.F.R. §64.1190(d)(3)(ii)(A)
16 through (D). The FCC requires that any written or electronically signed
17 authorization from the customer must: (1) be in clear and legible format; (2) include
18 certain customer information; and (3) include a specific request for each service to
19 be frozen. 47 C.F.R. §64.1190(d)(3)(ii)(A) through (D). Electronic authorization
20 must be initiated from the customer's telephone number to receive the LSF and
21 include specific authorization data, via automatic number identification or recorded,
22 oral verification. 47 C.F.R. §64.1190(d)(2)(ii) and (iii). Oral LSF verification may

1 only occur through a qualified, independent third party, who receives no financial
2 incentives and operates in a physically separate location. 47 C.F.R.
3 §64.1190(d)(2)(iii). Again, these mandated procedures ensure that an LSF cannot
4 be established unless a customer clearly wants and chooses to initiate such a freeze.
5
6 The verification process does not include the carrier's marketing or advertising; it
7 simply clearly verifies the customer's decision.[14]
8
9 **Q. DO FEDERAL RULES ALSO ESTABLISH METHODS FOR LIFTING A**
10 **PREFERRED CARRIER FREEZE?**
11 A. Yes. The FCC designed the methods for lifting a freeze to be "simple, easily
12 understandable, but secure," in order to avoid concerns about untimely lifting of
13 freezes.[15] These methods allow a customer to lift an LSF by either: (1) calling
14 Qwest directly; (2) calling Qwest while the new carrier is on the line; or (3)
15 providing written or electronically signed authorization. 47 C.F.R. §1190(e)(1) and
16 (2). Nothing in the LSF prohibits or even limits the customer's ability to change his
17 or her preferred provider; it simply ensures that the customer, not another carrier,
18 makes that choice. Importantly, the three-way call allows the new carrier to conduct
19 the conference call to lift the freeze during the initial telemarketing session with the

[14] Second Report, at ¶72.
[15] Id., ¶127

customer.[16] Also, the call to lift the freeze simply requests information to ascertain the identity of the customer and his or her intention to lift the freeze.[17]

Q. DOES QWEST'S LSF PROGRAM COMPLY WITH WAC 480-120-139(5) AND THE FCC RULES CITED ABOVE?

A. Yes, Qwest complies fully with these rules in administering its LSF program, as explained in more detail in the testimony that follows.

IV. QWEST HAS PROVIDED ADEQUATE NOTICE TO CLECS AND RETAIL CUSTOMERS CONCERNING LSF

Q. WHEN DID QWEST IMPLEMENT LOCAL SERVICE FREEZES IN WASHINGTON?

A. Qwest began offering local service freezes in Washington in March, 2001.

Q. MR. WOLF CONTENDS THAT AT&T FIRST BECAME AWARE THAT QWEST WAS OFFERING LSFs IN FEBRUARY 2002 (DIRECT TESTIMONY OF JONATHAN WOLF, PAGE 6, LINES 2 to 5). WHEN WERE COMPETITIVE LOCAL EXCHANGE CARRIERS ("CLECs"), INCLUDING AT&T, FIRST INFORMED OF QWEST'S INTENT TO COMPLY WITH THE WUTC'S DIRECTIVE TO OFFER LSFs?

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[16] Id., ¶129.
[17] Id., ¶132.

1 A. On March 2, 2001, Qwest provided notification to all CLECs, including AT&T,
2 concerning the implementation process for the state of Washington. Employees at
3 AT&T who were sent the notification included: Carla Dickinson
4 (cdickinson@att.com – see page 2 of Exhibit SAM-2), dosborne@att.com (see page
5 2 of Exhibit SAM-2), martinsu@att.com (see page 4 of Exhibit SAM-2) , and Pam
6 Benjamin (pbenjamin@att.com – see page 4 of Exhibit SAM-2). The notification is
7 attached as Exhibit SAM-2. Prior to that, AT&T Communications of the Pacific
8 Northwest filed a Petition for Waiver of WAC 480-120-139(5) which was approved
9 by the WUTC on April 26, 2000 (Docket UT-000441). As part of the Petition of
10 AT&T for Extension of Waiver filed on March 7, 2001, AT&T included a copy of
11 the March 2, 2001 Notice. Thus, by its own admission, AT&T was well aware that
12 Qwest was offering LSF to its Washington customers prior to February 2002.
13
14 **Q. MR. WOLF RECOMMENDS THAT THE COMMISSION ENSURE THAT**
15 **CUSTOMERS ARE FULLY AND ACCURATELY INFORMED BEFORE**
16 **THEY AUTHORIZE A LOCAL SERVICE FREEZE (DIRECT**
17 **TESTIMONY OF JONATHAN WOLF AT PAGE 12, LINES 18 to 19).**
18 **HASN'T THE WUTC ALREADY TAKEN THE STEPS NECESSARY TO**
19 **ENSURE THAT CUSTOMERS ARE MAKING AN INFORMED**
20 **DECISION?**
21 A. Indeed, the WUTC requires that all carrier-provided material is to include "an
22 explanation, in clear and neutral language, of what a preferred carrier freeze is, and

1 what services may be subject to a freeze; a description of the specific procedures to
2 lift a preferred carrier freeze; an explanation that the customer will be unable to
3 make a change in carrier selection unless he or she lifts the freeze; and an
4 explanation of any charges incurred for implementing or lifting a preferred carrier
5 freeze."[18]
6
7 **Q. HAS QWEST COMPLIED WITH THESE COMMISSION**
8 **REQUIREMENTS?**
9 A. Yes. Exhibit SAM-3 is a copy of a mailing that was distributed to Qwest residential
10 and business customers in Washington in August 2001. Exhibit SAM-4 is a copy of
11 a bill insert that was sent to Washington residential customers in January 2002.
12 Exhibit SAM-5 is a direct mail piece that was sent in April 2002. These mailings
13 fully explain local service freezes, and meet the Commission-established parameters
14 outlined above, in addition to FCC requirements.
15
16 Customers are also informed of local service freeze, local long distance freeze, and
17 interLATA long distance freeze options when they contact Qwest business offices
18 to order new service, move existing service to a new location, or add new lines.[19]
19 The script used by Qwest service representatives when offering a freeze is as
20 follows:

[18] WAC 480-120-139(5)(b)

> We offer free protection to ensure that your provider of local service, long distance service and local long distance service cannot be changed unless you contact us directly, even if another carrier gives us a written or a third party verified order. You may remove this protection from your account at any time by contacting Qwest directly with a verbal, written or electronically signed authorization. Would you be interested in setting that up now?

If the customer indicates to the Qwest service representative that they would like the freeze(s) added to their account, the service representative will advise the customer as to the purpose and nature of the third party verifier ("TPV"). Once that discussion takes place, the customer will be transferred to the TPV. Customers will also have the option of completing a written Letter of Authorization ("LOA") in lieu of third party verification. Businesses with many lines to be transferred typically use the written method of verification, as do some residential customers who want a written record of the transaction. In fact, Qwest's policy is that a written LOA must be completed on any business accounts with more than sixty lines. This is done to reduce the potential for error on multi-line accounts. Exhibit SAM-6 contains a copy of Qwest's LOA form.

The processes Qwest has established comply fully with federal and state requirements designed to ensure that customers are making a fully informed decision when requesting that a local service freeze be added to their account. Contrary to AT&T's suggestions, no further Commission oversight is necessary.

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[19] Customers who contact the business office for the sole purpose of establishing a carrier freeze will be advised as to the purpose of third party verification and will then be transferred directly to the independent

1

2 **V. QWEST HAS WORKED COOPERATIVELY WITH AT&T TO RESOLVE**
3 **UNIQUE IMPLEMENTATION ISSUES**

4 **Q. MR. WOLF OUTLINES A PROBLEM WHEREIN AT&T ORDERS FOR**
5 **LOCAL NUMBER PORTABILITY ("LNP") WERE REJECTED**
6 **BEGINNING IN FEBRUARY 2002. CAN YOU PROVIDE INFORMATION**
7 **AS TO THE NATURE OF THIS PROBLEM?**

8 A. Yes. It is quite possible that AT&T may have begun experiencing more rejections
9 during the week of February 25, 2002 than AT&T had experienced in the past. This
10 may have been due in part to a backlog of orders to add a local freeze that were
11 worked by Qwest's vendor in mid-February. Qwest's arrangement with this vendor
12 was that freeze orders would be processed real-time. However, Qwest discovered in
13 early February 2002 that this vendor was significantly behind in issuing orders
14 applying freezes to customer accounts. A concerted effort was expended to get the
15 orders issued, beginning February 16. By February 22, all backlogged orders had
16 been worked.[20] As a high volume of orders establishing local service freezes were
17 issued in a short amount of time, it is quite possible that CLECs attempting to
18 process LNP orders were prevented from doing so, as AT&T described, and the
19 incidents of rejection may have appeared higher during that time period. However,

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third party verifier.
[20] Qwest no longer employs that particular vendor as a third party verifier for adding local service freezes to Qwest customer accounts.

1 the protection afforded by LSFs was working, in that carriers were prevented from
2 changing a customer's account without the end user first removing the freeze.
3
4 Furthermore, as indicated previously, Qwest has offered local service freezes in
5 Washington in accordance with the requirements of WAC 480-120-139 for some
6 time and did not begin doing so in February 2002, as AT&T contends.
7
8 **Q. MR. WOLF MAINTAINS THAT QWEST'S PROCESSES TO REMOVE A**
9 **LSF FRUSTRATE CUSTOMER CHOICE AND MAY BE USED BY QWEST**
10 **TO WIN BACK CUSTOMERS (DIRECT TESTIMONY OF JONATHAN**
11 **WOLF AT PAGE 13, LINES 9 to 13). DO YOU AGREE?**
12 A. No. Qwest adheres to the WUTC and FCC rules regarding lifting of freezes. As
13 stated previously, WAC 480-120-139(5)(d) indicates that LECs must obtain a
14 written and signed authorization from the customer, stating his or her intent to lift
15 the freeze. Alternatively, the customer may provide oral authorization to lift the
16 freeze and such authorization may occur via a three-way call with the customer and
17 another LEC. Oral authorization must include appropriate verification data.
18
19 Similarly, FCC rules specify that a customer may lift an LSF by either: (1) calling
20 Qwest directly; (2) calling Qwest while the new carrier is on the line; or (3)
21 providing written or electronically signed authorization. 47 C.F.R. §1190(e)(1) and
22 (2).

1

2 Qwest will accept a customer request to remove a freeze via any of the means
3 outlined above. Qwest has established a form designed to make it easy for
4 customers to request in writing that a freeze should be removed from their account
5 (see Exhibit SAM-7). Qwest has also set up an email address that customers can
6 use to request that a freeze be added or removed from their account,[21] and it has
7 developed electronic forms that customers can populate and send via the Internet to
8 have a freeze added or removed.[22]

9

10 For those customers who desire to lift their freeze orally, Qwest has contracted with
11 an independent third party vendor to handle all oral LSF removals. Customers may
12 contact the Qwest business office, in which case the service representative will
13 transfer them immediately to the third party vendor upon learning of the desire to
14 lift the freeze. No win-back or retention efforts will be made. CLECs have been
15 informed of the telephone number dedicated to this third party vendor to be used for

[21] FreezeIT@qwest.com
[22] See http://www.qwest.com/residential/customerService/loa_lift_form.html for an example of the form to lift a freeze available to Washington residential customers.

1 freeze removals, and may completely bypass a Qwest representative by dialing the
2 number with the customer on the line and requesting that the freeze be removed.
3 The third party vendor is not authorized to conduct win back or any retention
4 marketing.
5
6 In sum, Qwest has established a myriad of ways for customers to remove freezes –
7 all of which comply with this Commission's and the FCC's rules. AT&T's
8 complaint concerning the processes Qwest customers may use to remove a freeze
9 paints an inaccurate and incomplete picture and as such, the complaint is baseless.
10
11 **Q. MR. WOLF RECOMMENDS THAT CUSTOMERS WHO AUTHORIZE A**
12 **LOCAL SERVICE FREEZE DO SO SEPARATELY FROM ANY LONG**
13 **DISTANCE PROVIDER FREEZE (DIRECT TESTIMONY OF JONATHAN**
14 **WOLF AT PAGE 12, LINES 21 to 25). DO YOU AGREE?**
15 A. Yes. In fact, this is how Qwest has always administered local service freezes. Once
16 the customer has indicated they are interested in placing a freeze on their account,
17 they are advised of the purpose and the nature of the third party verifier (TPV).
18 Once that discussion has taken place, the customer is transferred to the TPV where a
19 representative explains why they are involved in the customer's decision. They
20 request the customer's billing telephone number, the billing name on the account,
21 the billing address, and identification of the person to whom they are speaking. The
22 TPV representative confirms that there is no charge for establishing a freeze, or for

lifting a freeze. The customer is then asked to identify the specific service(s) for which they want a freeze (i.e., local service, local long distance, out-of-state long distance). The customer must separately identify each service and is required to confirm that each service is the service for which a freeze has been authorized or requested. The customer is then asked to state each telephone number to which the freeze is to apply. If the customer has identified multiple services or multiple telephone numbers, the TPV representative is to repeat each service and each associated number and confirm that for each, a freeze is authorized or requested.

As indicated previously, customers also have the option of completing a written Letter of Authorization (LOA) in lieu of third party verification. The LOA form, attached as Exhibit SAM-6, provides a place for the customer to separately mark, and therefore separately authorize, each specific service, identified on the form as Local Service (LEF), Local Long Distance or Toll Service (LPIC), and Long Distance Service (PIC) for which a freeze is desired.

These procedures comply fully with the requirements outlined in WAC 480-120-139(5).

Q. AT&T MAINTAINS THAT SOME CUSTOMERS DESIRING TO SWITCH TO AT&T DID NOT AUTHORIZE A LOCAL SERVICE FREEZE BE PLACED ON THEIR ACCOUNT. PLEASE COMMENT.

1 A. Mr. Wolf's testimony contains broad allegations with very little specifics to back
2 them up. For example, on page 10, lines 9 to 10 of Mr. Wolf's testimony, AT&T
3 claims that 95% of the 234 "affected customers" deny authorizing a local service
4 freeze be placed on their account. AT&T has provided no specifics, and did not
5 even provide sufficient information in its direct case to allow Qwest to verify these
6 allegations, or even identify any of the 234 customers. Thus, Qwest cannot provide
7 a more specific response. However, Qwest has worked diligently with AT&T to
8 resolve problems and will continue to do so when it is provided with adequate
9 information.
10
11 **Q. IS IT POSSIBLE THAT THERE HAVE BEEN MISCOMMUNICATIONS**
12 **AND MISUNDERSTANDINGS BETWEEN CONSUMERS AND QWEST**
13 **SERVICE REPRESENTATIVES PERTAINING TO LOCAL SERVICE**
14 **FREEZES?**
15 A. Yes, this is possible, and may explain why some consumers who called in to
16 Qwest's business offices to determine whether a local service freeze had been
17 applied to their account were told it had when the customer did not recall
18 authorizing one, as AT&T supposedly found. I am aware that, despite repeated
19 instruction and training on local service freeze implementation, Qwest service
20 representatives may have confused a customer's request pertaining to the relatively
21 new local service freeze with long distance freezes which have been in place for
22 years. This may have led to inaccurate information being provided to the customer

(e.g., the customer who was allegedly told that it would cost $5.00 to remove a freeze – the $5.00 applies to changing presubscribed long distance carriers). However, again, since no specifics were provided in AT&T's testimony, it is difficult to respond with any certainty.

Q. AT&T CONTENDS THAT QWEST DOES NOT HAVE PROCESSES IN PLACE IN ITS RETAIL OFFICES TO LIFT LOCAL SERVICE FREEZES (DIRECT TESTIMONY OF JONATHAN WOLF AT PAGE 8, LINES 25 to 26). IS THIS ACCURATE?

A. No. Confidential Exhibit SAM-C8 contains examples of "communicators" that have been distributed to Qwest's service representatives over time, informing them on the proper procedures to add and remove local service freezes. In addition, Confidential Exhibit SAM-C9 contains the methods provided to Qwest retail channels concerning administration of local service freezes, including processes to be followed when removing a local service freeze at a customer's request. As is apparent from the communicators included in Confidential Exhibit SAM-C8, Qwest has taken steps to improve these processes as necessary. A specific example is the communicator dated May 3, 2002 which indicates Qwest retail service representatives will no longer be involved in the lifting of a freeze, other than to transfer the customer to the third party vendor who is handling all freeze removals for Qwest, as explained previously. Qwest has well-defined processes in place for adding, as well as removing, local service freezes on retail customers' accounts

Q. HAS QWEST ALREADY TAKEN STEPS TO ADDRESS CONCERNS RAISED IN THIS PROCEEDING BY AT&T RELATIVE TO THE LIFTING OF LOCAL SERVICE FREEZES FROM RETAIL CUSTOMERS' ACCOUNTS?

A. Yes. Prior to filing its complaint with this Commission, AT&T approached Qwest through the Wholesale Change Management Process (CMP), with a formal request to address several issues surrounding removal of LSFs. AT&T first submitted a Change Request (CR) through the CMP on March 8, 2002. At AT&T's request, Qwest expedited the CR through the CMP process and has responded to AT&T's issues in a conscientious, forthright manner. Many of these same issues were raised in AT&T's complaint in the immediate proceeding, despite the fact that Qwest has already taken steps to improve existing processes and address AT&T's concerns. Following are specific examples of problems AT&T raised through the CMP, the cite to the same issue raised in Mr. Wolf's testimony, and a description of steps Qwest has taken to resolve the issue:

<u>LSRs Were Rejected After the Freeze Was Removed</u> (Direct Testimony of Jonathan Wolf at page 7, lines 20 to 22)

Qwest Resolution: This is a systems issue wherein the customer service record is not updated for 2 to 3 days after a freeze is removed. To work around the constraint, Qwest has implemented a process by which CLECs, including AT&T,

may obtain an order number during the three-way call with the end user to remove the freeze. The CLEC may enter the order number on its LSR, in which case Qwest will process the LSR on the same day the LSF is removed. LSRs submitted without the order number will be worked the day following the request for the removal of the LSF. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)

Three Way Call with End User Took Too Long (Removed (Direct Testimony of Jonathan Wolf at page 8, lines 10 to 12)

Qwest Resolution: On March 20, 2002, Qwest established a permanent, dedicated telephone number to which all freeze removal requests may be directed. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10) The number, 1-877-719-4294, was originally designed as a temporary measure to expedite removal orders for CLECs, in response to complaints from AT&T. Qwest has now staffed the number with sufficient personnel so that any CLEC, with the end user on the line, may call to remove the LSF without going through regular Qwest business offices. In April, 92% of the calls directed to this number were answered in twenty seconds or less.

Staff manning this number are fully trained to deal specifically with local service freeze removals. Not only will this result in faster processing times, but because this specialized staff is devoted solely to processing freeze removals, it will

alleviate any confusion which may have resulted when going through Qwest sales channels, where service representatives handle hundreds of products for fourteen different states.

Qwest Should Have Escalation Procedures in Place (Direct Testimony of Jonathan Wolf at page 16, lines 19 to 20)

Qwest Resolution: Qwest has established a point of contact for CLEC LSF escalations in its Interconnect Service Center. The Service Delivery Coordinators at that number have been trained to assist with LSF-related issues. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)

It has only been a little over two months since these issues were first brought to Qwest's attention. Qwest has listened to AT&T's concerns, investigated them, developed solutions, and implemented them. As some of them involved multiple cross-functional systems, this was not an easy task to accomplish in such a short amount of time. These examples demonstrate that much can be accomplished by entities working cooperatively to resolve issues, rather than unnecessarily imposing upon the regulatory process. Qwest suggests that the Commission consider the steps the company has already taken to address AT&T's concerns through the CMP when evaluating the validity of the complaint.

1 **Q. WERE THERE SOME REQUESTS SUBMITTED BY AT&T THROUGH**
2 **THE CMP AND REPEATED IN MR. WOLF'S TESTIMONY WHICH**
3 **WERE NOT RESOLVED AS AT&T REQUESTED?**
4 A. Yes. For instance, on page 13, lines 19 to 22 of Mr. Wolf's testimony, he
5 recommends that Qwest should take customer calls to remove a LSF on evenings
6 and Saturdays. AT&T raised this same issue through the CMP. As indicated to
7 AT&T in Qwest's response to AT&T's CR, Qwest has made a business decision as
8 to the hours it will receive calls from customers to affect a freeze removal. In
9 Washington, those hours are Monday through Friday, from 5 a.m. to 7 p.m. With
10 these lengthy hours of operation, there has not been a demand for Saturday hours,
11 nor has it been deemed an efficient use of company resources. Therefore, Qwest
12 has not agreed to make personnel available during Saturdays to remove freezes as
13 AT&T has requested. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's
14 Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)
15
16 **Q. AT&T MAINTAINS THAT QWEST SHOULD REMOVE THE LSF**
17 **IMMEDIATELY WHILE THE CUSTOMER IS ON THE LINE (DIRECT**
18 **TESTIMONY OF JONATHAN WOLF AT PAGE 13, LINES 22 to 23). IS**
19 **THIS POSSIBLE?**
20 A. No, it is not. An order is issued immediately while the customer is on the line, but
21 it takes time for the order to be processed and to update the various systems and

customer records. The freeze will be removed the same day the removal request is received and the customer will be notified of this during the call.

VI. CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Washington consumers have a right to avail themselves of the protection that exists to prevent slamming from happening to them – for all aspects of their telecommunications services, i.e., local, local long distance, and interLATA long distance. Qwest has done its part to effect methods and procedures that conform to WUTC and FCC rules. Qwest has made a good faith effort to respond to its wholesale and retail customers and improve existing processes where necessary, yet many of the concerns raised by Mr. Wolf in his testimony are the same concerns AT&T has already raised – and had resolved - through the Wholesale Change Management Process. AT&T's complaint in this docket should be seen for what it is – a dialog of broad, unsubstantiated allegations against Qwest concerning issues that have already been resolved or that are simply frivolous. As such, the complaint should be dismissed.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC., Complainant, v. QWEST CORPORATION, Respondent.	DOCKET NO. UT-020388

EXHIBITS

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 23, 2002

EXHIBITS OF SCOTT A. MCINTYRE

DOCUMENT	EXHIBIT NUMBER
CLEC Notification	SAM-2
August 2001 Customer Mailing	SAM-3
January 2002 Bill Insert	SAM-4
April 2002 Customer Mailing	SAM-5
Letter of Authorization Form	SAM-6
Request to Lift Freeze Form	SAM-7
Multi Channel Communicator – LSF Processes *CONFIDENTIAL*	SAM-C8
Local Service Freeze - Methods *CONFIDENTIAL*	SAM-C9
April 11, 2002 Letter to AT&T from Qwest re Qwest Change Request Response – CR #PC 030802-1	SAM-10

ATTACHMENT I

X-Accept-Language: en
MIME-Version: 1.0
To: "Byron.Dowding" <Byron.Dowding@alltel.com>, jayala <jayala@rhythms.net>, tmontemayer <tmontemayer@manciss.com>, "liz.balvin" <liz.balvin@wcom.com>, "tony.marksi" <tony.marksi@cox.com>, "rob.reynolds" <rob.reynolds@cox.com>, "terry.wicks" <terry.wicks@algx.com>, sdunlap <sdunlap@aftia.com>, "frank.thornton" <frank.thornton@cox.com>, jwithington <jwithington@dsl.net>, roferris <roferris@usa.capgemini.com>, "Tami.M.Swenson" <launch-now.notify@escne.accenture.com>, heada <heada@simpsonhousing.com>, jrl856 <jrl856@sbc.com>, kpedersen <kpedersen@northpoint.net>, flpowers <flpowers@eschelon.com>, klclauson <klclauson@eschelon.com>, "Ann.Belcher" <Ann.Belcher@gxs.ge.com>, tracyp <tracyp@z-tel.com>, dhahn <dhahn@uswest.com>, tlawson <tlawson@uswest.com>, jamoor2 <jamoor1@uswest.com>, jrixe <jrixe@uswest.com>, clwarr1 <clwarr1@uswest.com>, swillgu <swillgu@uswest.com>, scowley <scowley@uswest.com>, lsolive <lsolive@uswest.com>, jvilks <jvilks@uswest.com>, dschlos <dschlos@uswest.com>, csamphy <csamphy@uswest.com>, chalper <chalper@uswest.com>, vcaywoo <vcaywoo@uswest.com>, jbarkle <jbarkle@uswest.com>, cpokran <cpokran@qwest.com>, Henry Rodighiero <hrodigh@uswest.com>, lkjohn3 <lkjohn3@qwest.com>, Louise_C_00 <Louise_C_00@hotmail.com>, "sandra.k.evans" <sandra.k.evans@mail.sprint.com>, cmohrfeld <cmohrfeld@mcleoduca.com>, JohnHinds <JohnHinds@aftia.com>, jljohnson <jljohnson@eschelon.com>, cwalter <cwalter@mcleoduca.com>, ldavidov <ldavidov@dset.com>, eodell <eodell@dset.com>, jjohn <jjohn@quintessent.net>, KGillette-Hoskins <KGillette-Hoskins@quintessent.net>, ted_washington <ted_washington@icycom.com>, mw9133 <mw9133@sbc.com>, cicmp <cicmp@z-tel.com>, kwineing <kwineing@covad.com>, ss3469 <ss3469@mcmail.sbc.com>, qwestossm <qwestossm@qrng.com>, dhahn <dhahn@uswest.com>, tlawson <tlawson@uswest.com>, jamoor2 <jamoor2@uswest.com>, jrixe <jrixe@uswest.com>, clwarr1 <clwarr1@uswest.com>, swillgu <swillgu@uswest.com>, scowley <scowley@uswest.com>, lsolive <lsolive@uswest.com>, jvilks <jvilks@uswest.com>, dschlos <dschlos@uswest.com>, csamphy <csamphy@uswest.com>, chalper <chalper@uswest.com>, vcaywoo <vcaywoo@uswest.com>, jbarkle <jbarkle@uswest.com>, cpokran <cpokran@qwest.com>, Henry Rodighiero <hrodigh@uswest.com>, lkjohn3 <lkjohn3@qwest.com>
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Subject: [Fwd: [Fwd: Local Service Freeze - Methods for Co-providers]]
Content-Type: multipart/mixed; boundary="----------12EE6D0669482C7F873F7AAA"

Return-Path: <mrouth@uswest.com>
Received: from egate-co4.uswc.uswest.com ([131.115.25.51]) by
netmail9.uswc.uswest.com (Netscape Messaging Server 3.61) with ESMTP
id AAA4754; Fri, 2 Mar 2001 13:23:30 -0700
Received: from uswest.com (localhost [127.0.0.1]) by
egate-co4.uswc.uswest.com (8.10.0/8.10.0) with ESMTP id f22XLu229866; Fri, 2
Mar 2001 13:21:56 -0700 (MST)
Message ID: <3AA0C0E4.DD64CCFA@uswest.com>
Date: Fri, 02 Mar 2001 13:21:56 -0700
From: Mark Routh <mrouth@uswest.com>
Organization: DTIS
X-Mailer: Mozilla 4.51 [en] (WinNT; U)
X-Accept-Language: en
MIME-Version: 1.0
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, tmontemayor <tmontemayor@manciss.com> , tnbailey <tnbailey@attcomm.com>

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, "Tonya.Hall" <Tonya.Hall@espire.net> , tpfenne <tpfenne@uswest.com>
, Tracy Pledger <tracyp@z-tel.com> , tsewald <tsewald@dal.dset.com> ,
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, Vicki Stedman <vstedma@uswest.com> , vicky
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, vsakal <vsakal@uswest.com>, wcampit <wcampit@uswest.com> , wdmarkert
<wdmarkert@eschelon.com> , Wendy Croen <wcroen@uswest.com>, wmcamb
<wmcamb@uswest.com> , wsmalle <wsmalle@uswest.com> , yvonnegamble
<yvonnegamble@ownersphere.com>
Subject: [Fwd: Local Service Freeze - Methods for Co-providers]
Content-Type: multipart/mixed; boundary="----------EDDJBF69DF413F53267AE9FB"
X-Mozilla-Status2: 00000000

Return-Path: <amcna@uswest.com>
Received: from egate-co2.uswc.uswest.com ([151.115.214.10]) by
netmail4.uswc.uswest.com (Netscape Messaging Server 3.61) with ESMTP
id AAA5E21 for <mrouth@netmail4.uswc.uswest.com>: Fri, 2 Mar 2001
12:57:36 -0700
Received: from notes.uswc.uswest.com (localhost [127.0.0.1]) by
egate-co2.uswc.uswest.com (8.10.0/8.10.0) with SMTP id f22JvYV24347; Fri, 2
Mar 2001 12:57:34 -0700 (MST)
Received: by notes.uswc.uswest.com(Lotus SMTP MTA v4.6.5 (863.2 5-20-1999))
id 00256A03.007363JF ; Fri, 2 Mar 2001 13:00:20 -0800
X-Lotus-FromDomain: USWEST
From: "Susan McNa" <amcna@uswest.com>
To: thubis@uswest.com, jxalle5@qwest.com, mrouth@uswest.com, "Matthew Russi"
<mrossi@notes.uswc.uswest.com>, "Martha Phails"
<mphails@notes.uswc.uswest.com>, "Coleen Austin"
<cjausti@notes.uswc.uswest.com>, "Paulette Mauck"
<phauck@notes.uswc.uswest.com>, "Mary Riffle"
<mriffle@notes.uswc.uswest.com>
cc: "Merna Thane" <mthane@notes.uswc.uswest.com>
Message-ID: <88256A03.007357E1.00@notes.uswc.uswest.com>
Date: Fri, 2 Mar 2001 12:58:27 -0700
Subject: Local Service Freeze - Methods for Co-providers
Mime-Version: 1.0
Content-type: text/plain; charset=us-ascii
Content-Disposition: inline

There is a change in the date for the mechanical process --- it will be
effective April 23, 2001 rather than approximately April 15, 2001. The date
has
been changed in the methods that follow.
---------- Forwarded by Susan McNa/COMPLEX/USWEST/US on 03/02/2001
12:53 PM ----------

Susan McNa
03/02/2001 07:55 AM

To: thubis@uswest.com, jxalle5@qwest.com, mrouth@uswest.com, Matthew Rossi/GROUPWARE/USWEST/US@USWEST, Martha Phelps/GROUPWARE/USWEST/US@USWEST, Colleen Austin/GROUPWARE/USWEST/US@USWEST, Paulette Hauck/GROUPWARE/USWEST/US@USWEST, Mary Riffle/GROUPWARE/USWEST/US@USWEST
cc: Merna Thane/COMPLEX/USWEST/US@USWEST

Subject: Local Service Freeze - Methods for Co-providers

The following methods bulletin should be distributed to co-providers and account teams.

---------- Forwarded by Susan McNa/COMPLEX/USWEST/US on 03/02/2001 07:48 AM ----------

Merna Thane
02/28/2001 03:27 PM

To: Susan McNa/COMPLEX/USWEST/US@USWEST
cc:

Subject: Local Service Freeze - Methods for Co-providers

LOCAL SERVICE FREEZE METHODS FOR CO-PROVIDERS

BACKGROUND

Out of concern for slamming issues, the Washington Transportation and Utilities Commission has mandated that a local service freeze process be implemented in Washington state effective March 10, 2001. This service is being made available beginning March 1, 2001 through Qwest Interconnect Services, on the basis of an end-user request to their co-provider. The process will be manual until approximately April 23, 2001, when it will become mechanized through IMA.

ESTABLISHING A FREEZE UPON END-USER REQUEST (LOA IN PLACE)

1. Fax an LSR requesting a freeze on designated lines to Wholesale Interconnect Services.
   The request is required to be in the Remarks section of the LSR.

6

2. Qwest Wholesale will issue an order on the account to add LEFV (Local Exchange Freeze - Voice) behind each line requested. A permanent Remark: LEFV will also be placed on the account.

The end-user need not request all lines to be frozen. The LEFV entry will appear only behind those lines that are included in the request.

REJECTION OF A FREEZE REQUEST

If a request is made on an account and the lines in question are already frozen to another co-provider, the LSR will be rejected back to the requesting co-provider.

The requesting co-provider must instruct the end-user to call their old Local Service Provider (LSP) and have the freeze removed, afterwhich a request to freeze can be received and processed. Allow sufficient time for the freeze to be removed before resubmitting a request.

REMOVING A FREEZE UPON END-USER REQUEST

1. Fax an LSR to Wholesale Interconnect Services requesting unfreezing of designated lines.

The request is required to be in the Remarks section of the LSR.

2. Qwest Wholesale will issue an order on the account to remove LEFV behind lines requested to be unfrozen. The permanent Remark: LEFV will also be removed.

MECHANIZED CHANGES IN APRIL

Beginning approximately April 23, 2001, an entry of A (add) or R (remove) made on the LSR in the LSCP field will flow through IMA and add or remove a local service freeze, eliminating the need to fax requests to the Wholesale Interconnect Services group. More details on that will follow later.

- mrossi.vcf

Local Service Freeze Options Provide *Free* Protection for Washington Telephone Subscribers

The Washington Utilities and Transportation Commission has ordered all Telecommunications Companies in Washington to provide a Local Service Freeze Option to prevent a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent.

Freezing Your Telecommunications Selection

As a Qwest subscriber you have the right to freeze your preferred telecommunications selection at no charge for:

- local exchange service
- intraLATA Local Long Distance Service
- interLATA Long Distance Service

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Subscribers may place a freeze on any one or more of these services. You can apply for this important protection by contacting Qwest at:

For Home	**1-877-589-8364**
Small Business	**1-800-603-6000**
Large Business	**1-800-549-5629**
Federal Service	**1-800-879-1023**
Government & Education	**1-866-221-6073**

Removing Your Telecommunications Freeze

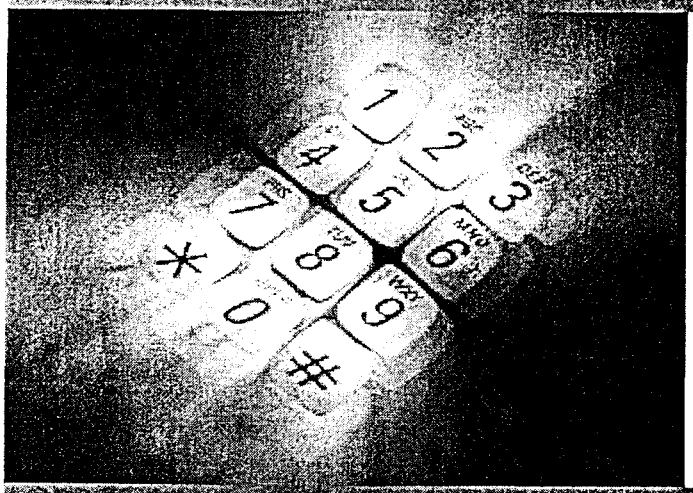
You may also remove a freeze from any of your carrier selections at no charge. To do so, an authorization must be provided to Qwest in the form of:

- A written or electronically signed authorization or;
- An oral authorization that includes appropriate verification.

Once a freeze is effective, to change the provider of a service that is subject to a freeze, you must contact Qwest directly, yourself, in one of the ways described.

If you have any questions or need additional information about the Local Service Freeze Options, please contact us at the toll free number listed at the top of your Qwest telephone bill.

Protect Your Local Phone Service



Communications is an important part of your everyday activities. That's why we want your service to be protected from slamming (switching of your phone service by another provider without your permission).

Get protection today from Qwest
Now you can protect your local service and prevent any company from changing your local service provider (Qwest) by placing a freeze on your telecommunications account – at no charge. You also have the option to freeze your local long distance and long distance services.

(continued on back)

FREE!

It's quick and easy to get this FREE protection on one or more telephone lines. Contact Qwest at:

Consumer	**1-800-339-0188**
Business	**1-800-996-2512**
Large Business	**1-800-549-5629**
Federal Services	**1-800-879-1023**

You can remove the freeze at any time by contacting Qwest directly with a written or electronically signed authorization. To change your provider, you must lift the freeze in addition to other verification rules for service provider changes.

If you have any questions or need additional information about this ***free protection***, please contact us at one of the toll free numbers listed here.

Qwest.

CO/UT/OR 01/02 00

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Protect your phone service from unwanted changes.

NOW QWEST PREFERRED CUSTOMERS CAN STOP UNWANTED CHANGES TO THEIR PHONE SERVICE – FREE.

PROTECT YOUR PHONE SERVICE FROM UNWANTED CHANGES. QWEST MAKES IT EASY.

5090 N. 40th St., Rm. 325
Phoenix, Arizona 85018

Presorted Standard
U.S. Postage
PAID
Denver, CO
Permit No. 141

Qwest preferred.

We're committed to providing our Qwest Preferred customers with the best service possible. And now, we'd like to offer you the peace of mind of knowing that your phone service is protected.

Communication is an important part of your everyday activities. That's why you may want to protect your phone services from slamming (switching of your phone service provider without your permission). Get protection today, from Qwest. Now you can protect your local (dial tone), local long distance, and long distance service and prevent any company from changing your service provider(s) by placing a freeze on any or all of these services – at no charge. It's quick and easy to get this FREE protection for your telephone service(s).

Contact Qwest at 1.800.339.0188 Customer service hours are from 7 a.m. to 7 p.m.

A freeze does not prohibit you from making changes to your service(s)/provider(s) at any time, but you must contact us directly. You may remove a freeze at no charge by contacting Qwest directly with a verbal, written or electronically signed authorization. If you have any questions or need additional information, please contact us at the toll-free number listed at the top of your Qwest telephone bill.

Call today
1.800.339.0188
qwest.com

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Broadband *Internet* *Voice* *Wireless*

Once a freeze is effective, authorization given to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Provider Freeze may not be available in all states. © 2002 Qwest Communications International Inc.

Once a freeze is effective, authorization given to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Provider Freeze may not be available in all states. © 2002 Qwest Communications International Inc.

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LETTER OF AUTHORIZATION
TO FREEZE PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ **State** ____ **Zip** _____

The undersigned Subscriber requests to "freeze" their Preferred Service Provider(s) for the following service(s).

LEF	LPIC	PIC
Local Service	Local Long Distance or Toll Service	Long Distance Service
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to freeze the Preferred Service Provider(s) of the service(s) for the telephone number(s) below. Please select your desired freeze preference(s) adjacent to the telephone number(s). The Subscriber may choose one, two, or all of the freezes. The Preferred Service Provider that is frozen will be the current one for the particular service and number as of the date this document is presented to Qwest. The undersigned Subscriber understands that no change in such a provider can be made unless that freeze is lifted, even if the authorization to change the Preferred Service Provider is in writing or verified by a third party.

Only the telephone numbers listed below are covered by this "Freeze" Authorization.

Subscriber's Main Telephone Number: **LEF ❑ LPIC ❑ PIC ❑** (_____) _____-_____

Additional Telephone Numbers:

LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to freeze the Preferred Service Provider for the phone number(s). My signature on this form authorizes Qwest to freeze the current preferred service provider for each designated service on each such designated phone number. I understand that I may lift this freeze: (a) by calling Qwest at the toll free number listed at the top of my Qwest telephone bill and orally authorizing Qwest to lift the freeze, including providing appropriate verification, or (b) sending Qwest a written or electronically signed authorization to lift the freeze. I understand there is no charge associated with implementing or lifting the freeze(s) included in this Authorization.

Signature: _____ **Date** (MM/DD/YY): _____
Printed Signature: _____ **Title:** _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR **FAX TO: (800) 236-6992**

Qwest Internal Use Only	**Date Received:**
Order # _____ **SLS Code** (Bus. Only): _____	_____
Representative: _____ **TN:** _____	**Date Processed:** _____

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REQUEST TO LIFT FREEZE(S) OF A PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ **State** ____ **Zip** _____

The undersigned Subscriber requests Qwest to "lift" the following described freeze(s).

LEF	LPIC	PIC
Local Service	**Local Long Distance or Toll Service**	**Long Distance Service**
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to lift the freeze of the Preferred Service Provider of the service(s) for the telephone number(s) below. The Subscriber may choose to remove one, two, or all of the freezes.

Only the telephone numbers listed below are covered by this "Freeze Removal" Authorization.

Subscriber's Main Telephone Number: **LEF ❑ LPIC ❑ PIC ❑** (_____) _____-_____

Additional Telephone Numbers:

LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to lift the freeze(s) for the phone number(s) set forth above. There is no charge for lifting a freeze.

Signature: _____ **Date** (MM/DD/YY): _____

Printed Signature: _____ **Title:** _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR **FAX TO: (800) 236-6992**

Qwest Internal Use Only

Order # _____ **SLS Code:** LS1XLF3 (Bus only)
Representative: _____ **TN:** _____

Date Received: _____
Date Processed:

Multi Channel Communicator

New or Changed Information Procedure

Issue Date	Effective Date	Purge Date	Ed

Redacted

Local Service Freeze - CO ID ND SD OR UT WA WY Bus Res

Redacted

Qwest

April 11, 2002

Terry Bahner
Supervisor
AT&T Local Services Access Management
1875 Lawrence St.
Denver, CO 80202-1847

SUBJECT: Qwest's Change Request Response - CR # PC 030802-1
Local Service Freeze Removal for Residence and Business Customers

Following is the response to the escalation on this CR.

Escalation Description Presented
The inability to remove the local service freeze from the customer's residential account has daily impacted AT&T Broadband's ability to port the number and to submit an LSR that will not be rejected nor issued a jeopardy condition after the FOC.

Desired CLEC Resolutions:

1. The end customer should make only one call to remove the local service freeze with the CLEC on the line.

The number 877-719-4294 will remain in place for the removal of Local Service Freezes. Qwest is adding people and processes so higher volumes of calls can be handled. The CLEC, with the end user on the line, may call this number to remove the Local Service Freeze, which will ensure efficiency in the process. The end user must be on the line. This means that Qwest will have a dedicated number, line, and staff for removal of Local Service Freezes.

2. The CLEC should be able to send the LSR immediately after the freeze has been removed without fear of rejection or a jeopardy condition issued after the FOC.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

3. An escalation process should be in place to resolve LEFV issues.

Qwest has established a point of contact for CLEC Local Service Freeze escalations in the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). The Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issue.

Qwest

4. Qwest should suspend the LEFV process in the remaining states it offers LEFV as a feature until a workable process is agreed upon by the CLEC community.

Qwest will not suspend Local Service Freeze. Qwest believes that its preexisting processes were sufficient. In any event, the new processes outlined in this letter will further assure compliance. Qwest also is committed to effecting reasonable processes on a continuing basis, as needed. Qwest's policies and procedures meet FCC and state-specific rules, and Qwest has and is responding to feedback from CLECs regarding its policies and procedures. For example,

- Qwest has established one telephone number with a staff dedicated to this function. A CLEC with the end user may use the (877) 719-4294 number to expedite removal of a Local Service Freeze, just as AT&T requested.

- Qwest will accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

Qwest will continue to effect reasonable processes to accommodate CLEC requests. Qwest agrees to do problem solving working sessions with AT&T if needed (and with other CLECs upon request).

Below are responses to issues brought up on the CLEC Change Request Follow-up Meeting on April 4, 2002.

Issue Presented - 2.2
AT&T commented that using Aegis is currently their only option, as when they call the Qwest Business Offices they be on hold for long periods and the staff do not appear to be familiar with this process. AT&T asked that the 866-311-0222 number remain in effect. Qwest agreed that the Aegis number will remain in effect until this issue is resolved

This issue has been resolved by continuing the 877-719-4294 number. The 866-311-0222 should not be used to remove Local Service Freezes.

Issue Presented - 2.3
AT&T stated that the Qwest web site states the Local Service Freeze can be removed immediately, which has not been their experience. Qwest reiterated that it is effective the same day, but the LSR has to be submitted the next day. AT&T then asked Qwest to reduce the process time by one business day. Qwest took an action to reply to this.

The April 3, 2002 version of the PCAT states the order to add or remove a Local Service Freeze is issued and effective the same day the request is received.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field. A process was put into place on March 22, 2002, which allows the CLEC to include the R order number on their LSR. The Qwest Service Delivery Coordinator (SDC) will check for the R order and reject the LSR only if none exists.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

Qwest

Issue Presented - 2.4
AT&T stated that their desire is for Qwest to lift the Local Service Freeze so the LSR can be submitted the same day.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

Issue Presented - 2.5
Eschelon asked if the LSR can be submitted using the R-Order number in the PON field? Qwest believed this would work. Qwest will investigate and report back.

The R order number can be included in the Remarks field or in the RORD field.

Issue Presented - 2.7
Eschelon stated that Qwest could go to the State Commissions and seek a waiver on the Local Service Freeze. Eschelon also asked about a written process to remove the Freeze. Besides the presence of a form, Eschelon wanted to know whether there was a back end process in place to deal with this and what had been communicated to the CLECs? Qwest took an action to respond to this.

Qwest will not seek a waiver on Local Service Freeze.

Qwest Retail end user customers may have their Local Service Freeze removed by contacting Qwest in writing. Since there is no direct customer contact (voice), the customer is not provided with a due date and R order number. We will include information regarding this process in the next PCAT update. Use of the web-based freeze removal (electronic signature) is currently being developed.

Issue Presented - 2.8

AT&T reiterated they are seeking:

A. To only have to make one call

B. To send in their LSR without rejection

C. A clear and concise escalation process

D. Have the Aegis number available on Saturdays

A. The number 877 719 4294 will remain in place for the removal of Local Service Freezes, as set forth above.

B. Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field, as set forth above.

Qwest

As before, the CLEC can submit an LSR without the R order number the day following the removal of the Local Service Freeze.

C. Qwest has established a point of contact for CLEC Local Service Freeze escalations in the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). The Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issues.

D. Qwest will not be providing access for Local Service Freeze removals on Saturdays. The timeframes for adding or removing Local Freeze mirror the timeframes for adding or removing PIC/LPIC freezes.

Issue Presented - 2.9
AT&T also stated they continue to see large numbers of customers with the Freeze implemented, who believe they have never asked for it on their account. Qwest replied that they are continuing to investigate the AT&T examples and have already found most of the TPVs for the AT&T examples. AT&T replied they have heard this before but have yet to receive any validation from Qwest. AT&T stated the implementation of a freeze is not clear as too many customers are not aware of this action on their account. Qwest will provide validation to Terry Bahner (AT&T).

AT&T has provided Qwest with a list of names and numbers they believe were improperly frozen to their local exchange carrier. AT&T has complained that Qwest has not provided the TPV or other proof that the local service freeze was properly imposed.

Qwest investigated and analyzed all of the affected accounts, and it has no reason to believe any account was frozen without the customer's request when the freeze was imposed.

Qwest's process to add a Local Service Freeze includes several steps to ensure the end user customer is aware of the freeze being added to their account, including the required third-party verification. If an end user indicates a desire to establish a freeze, they are transferred to a Third-Party Verifier (TPV) who asks the customer for the Billing Name on the account, Billing Address, the last four digits of their Social Security Number, and their date of birth. In addition, they ask if the caller is over 18 years old and is responsible for the account, and if they have permission to place the local service freeze on each specific line of the account.

Issue Presented - 2.10
AT&T also offered to support an application by Qwest to the commission to get a waiver on Local Service Freeze until this issue is resolved. (Qwest should voluntarily cease offering Local Service Freeze in all states where it is currently available until such time that policies and procedures are developed and implemented to apply and remove such freezes.)

For the reasons stated above, Qwest will not seek a waiver on Local Service Freeze.

Since AT&T submitted this CR, Qwest has worked diligently on the Local Service Freeze process. We feel we have been responsive to AT&T and their requests.

In response to this CR, we have introduced an 800 number as a single point of contact for Local Service Freeze removal, included step-by-step process instructions in the PCAT, implemented a manual process for checking for R orders so the LSRs can be issued the same day the Local Service Freeze is removed, as well as reviewed training with employees. We are also doing weekly quality checks.

Qwest

Please feel free to contact your Qwest Service Manager with any current examples or issues you need addressed.

Sincerely,

Harriett Berry
Qwest Senior Process Analyst

cc: Christie Doherty, Qwest, Vice President, Customer Service
cc: Sue Burson, Qwest, Director Process Management

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	)	DOCKET NO. T-01051B-02-0073
STATE OF WASHINGTON	)	
	)	AFFIDAVIT OF SCOTT A. MCINTYRE
COUNTY OF KING	)	

Scott A. McIntyre, of lawful age being first duly sworn, deposes and states:

1. My name is Scott A. McIntyre. I am Director – Product & Market Issues for Qwest Corporation in Seattle, Washington. I have caused to be filed written rebuttal testimony in support of Qwest Corporation in Docket No. T-01051B-02-0073.

2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

SUBSCRIBED AND SWORN to before me this 24th day of May, 2002.

LORI L. WHITE
NOTARY PUBLIC
COMMISSION EXPIRES 7-10-03
STATE OF WASHINGTON

Notary Public residing at
City, State

My Commission Expires: 7/10/03

Qwest

REQUEST TO LIFT FREEZE(S) OF A PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ **State** ___ **Zip** _____

The undersigned Subscriber requests Qwest to "lift" the following described freeze(s).

LEF	LPIC	PIC
Local Service	**Local Long Distance or Toll Service**	**Long Distance Service**
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to lift the freeze of the Preferred Service Provider of the service(s) for the telephone number(s) below. The Subscriber may choose to remove one, two, or all of the freezes.

Only the telephone numbers listed below are covered by this "Freeze Removal" Authorization.

Subscriber's Main Telephone Number: **LEF** ❑ **LPIC** ❑ **PIC** ❑ (_____) _____-_____

Additional Telephone Numbers:

LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to lift the freeze(s) for the phone number(s) set forth above. There is no charge for lifting a freeze.

Signature: _____ **Date** (MM/DD/YY): _____

Printed Signature: _____ **Title:** _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR **FAX TO: (800) 236-6992**

Qwest Internal Use Only

Order # _____ **SLS Code:** LS1XLF3 (Bus only)
Representative: _____ **TN:** _____

Date Received: _____
Date Processed:

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	) DOCKET NO. T-01051B-02-0073

REBUTTAL TESTIMONY

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 28, 2002

EXHIBIT

Qwest 2
Admitted

REBUTTAL TESTIMONY OF SCOTT A. MCINTYRE
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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT, AND OCCUPATION.

A. My name is Scott A. McIntyre. I work for Qwest Corporation and my title is Director – Product and Market Issues.

Q. ARE YOU THE SAME SCOTT A. MCINTYRE WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes, I am.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to the testimony of several intervenors in this case. AT&T, Cox, WorldCom, and the Commission Staff have submitted testimony responding to Qwest's local service freeze ("LSF") tariff filing. I will address each intervenor's testimony separately, although there are some recurring themes from each party. One of the issues raised by each intervenor

pertains to the processes to be used to establish and remove freezes.

Q. WHAT IS THE PRIMARY CONCERN OF THE INTERVENORS RELATING TO THESE PROCESSES?

A. The concern seems to center around whether the processes Qwest will employ to add or remove freezes will hinder a customer's ability to quickly and easily change to another local service provider.

Q. HAS QWEST EFFECTED CHANGES IN ITS PROCESSES IN OTHER STATES WHERE LSF IS ALREADY EFFECTIVE WHICH WILL ALLEVIATE THIS CONCERN?

A. Yes. Based upon feedback received from competitive local exchange carriers ("CLEC's") in other states where LSF is already available, Qwest has recently made several changes to the processes to be used when adding or removing a freeze. These changes include:

- <u>Establishment of independent third party vendor to handle freeze removals</u> Qwest contracted with an independent third party vendor who is handling all LSF removals initiated via phone call by the customer, rather than having Qwest service representatives process the removal. The vendor's personnel are fully trained to deal specifically with local service freeze removals. Not only has this resulted in faster processing times, but, because this specialized staff is devoted solely to processing freeze removals, it has also alleviated any

confusion which may have resulted when going through Qwest sales channels, where service representatives handle hundreds of products for fourteen states. Customers may contact the Qwest business office, in which case the service representative will transfer them immediately to the third party vendor upon learning of the desire to lift the freeze. No win-back or retention efforts are made.

CLECs have been informed of a toll-free telephone number dedicated to this third party vendor to be used for freeze removals, and may completely bypass a Qwest representative by dialing the number with the customer on the line and having the customer request that the freeze be removed. The third party vendor is not authorized, trained, or equipped to conduct win-back or any customer retention marketing. In response to CLEC feedback that the three-way call with the end user was taking too long, the vendor increased the size of its staff. In April, 92% of the calls directed to this number were answered in twenty seconds or less.

- Development of standardized form for freeze removals

  Qwest has developed a form designed to make it easy for customers to request in writing that a freeze should be removed from their account (See Exhibit SAM-1 for example). CLECs may provide this form to their prospective customers, obtain the customer-specific information required (including an authorizing signature), and fax or mail it to Qwest on behalf of the customer. The form is available on Qwest's website, http://www.qwest.com/residential/customerService/loa_lift_form.html or http://www.qwest.com/smallbusiness/customerService/loa_lift_form.html.

- Enabling CLECs' local service orders to be processed on the same day the LSF is removed from the end user's account

This was a systems issue wherein the customer service record is not updated for 2-3 days after a freeze is removed, which was causing some CLEC orders to be rejected. To work-around the constraint, Qwest has implemented a process by which CLECs may obtain an order number during the three-way call with the end user to remove the freeze. The CLEC may enter the order number on its service order, in which case Qwest will process the order on the same day the LSF is removed. CLEC orders submitted without the order number will be worked the day following the request for the removal of the LSF.

- Putting escalation procedures in place
  Qwest has established a point of contact for CLEC LSF escalations in its Interconnect Service Center. The Service Delivery Coordinators at that number have been trained to assist with LSF-related issues. CLEC's may also request escalation when working with the third party vendor to lift freezes.

- Enhancing CLEC reference, training information
  The product catalog used by CLECs to obtain information about Qwest processes and services has been enhanced to provide greater detail associated with the local service freeze option. The catalog section pertaining to local service freeze is available through Qwest's wholesale website at http://qwest.com/wholesale/clecs/lsfreeze.html.

In addition, Qwest has set up an email address that retail customers can use to request that a freeze be added or removed from their account (FreezeIT@Qwest.com), and has developed electronic forms that customers can populate and send via the Internet to have a freeze added or removed.

It's only been a little over two months since these issues were first brought to

Qwest's attention. Qwest listened to CLECs' concerns, investigated, developed solutions, and implemented improvements to existing processes. As some of these items involved multiple cross-functional systems, this was not an easy task to accomplish in such a short amount of time. However, Qwest is dedicated to responding to its customers' needs and making the local service freeze process as efficient and non-complex as possible without jeopardizing the consumer protection and control mechanism which the FCC and numerous state commissions have already found to be so important. If the Commission approves the LSF tariff, Arizona consumers will benefit from the process improvements already made.

Q. WERE THE CLECS INTERVENING IN THIS PROCEEDING INVOLVED IN BRINGING ABOUT SOME OF THESE PROCESS IMPROVEMENTS?

A. AT&T certainly was, as I explain later in my testimony, as was Cox to a limited extent. I don't believe WorldCom provided any feedback on the LSF processes in any of the states where LSF is already available. I will discuss other common themes raised by intervenors in the remainder of my testimony.

III. REBUTTAL OF AT&T WITNESS RUSSELL

Q. WHAT TESTIMONY HAS BEEN FILED ON BEHALF OF AT&T?

A. Dawn Russell has filed on behalf of AT&T.

1 **Q. WHAT IS THE FIRST KEY CONCERN RAISED BY MS. RUSSELL?**

2

3 A. On page 4 of her testimony, Ms. Russell discusses the process for a customer
4 ordering service from a new provider. She states that the existence of a local
5 service freeze adds significant complexity to this process.

6

7 **Q. DO YOU AGREE WITH HER DESCRIPTION OF THIS PROCESS AND THE**
8 **COMPLEXITY ADDED BY A LOCAL SERVICE FREEZE?**

9

10 A. No. First of all, there are two perspectives that should be examined. From the
11 perspective of customers, the local service freeze is an option they have
12 specifically chosen. Contrary to Ms. Russell's testimony (page 4), not *every*
13 customer is impacted by the local service freeze process. Only those customers
14 who have chosen the added protection a local service freeze provides will
15 encounter the additional step of removing a freeze before changing local carriers.
16 This adds one small step to the process of changing providers, but customers
17 have been fully informed of – and have agreed to - the process step that it adds.
18 This one step is in addition to the sales contact itself, which is necessary and the
19 third party verification required by FCC rules. If a three-way call is initiated by the
20 prospective service provider to lift the LSF, all of these functions may be
21 accomplished with the initial sales contact. In this sense, from the customer's
22 perspective, it may not be an additional "step" at all.

Additionally, every carrier (CLEC or ILEC) is accustomed to processing new orders for and providing new services to new customers under a variety of circumstances. Carriers must take orders and verify such requests through a third party. The carrier must establish a new account, verifying the customer's credit and other requisite information (e.g. directory). Carriers must determine the availability of facilities, both from a switching and from a loop perspective. Installation dates must be arranged. A customer visit may be scheduled, if needed, and billing must be initiated. From this perspective, an LSF adds one small step, or semi-step in a multi-faceted process. From this perspective, one three-way call does not add much to the overall process.

Q. SO THE EXISTENCE OF A LOCAL SERVICE FREEZE DOES NOT ADD SIGNIFICANT COMPLEXITY AT ALL?

A. No. It adds one simple step from the customer's view and this step was created specifically at the customer's request. From the competitive provider's view, it adds one simple step in a process that has many steps already.

Q. PLEASE EXPLAIN WHY YOU CHARACTERIZE THIS STEP AS SIMPLE.

A. The removal of a local service freeze requires only that the customer contact

Qwest to have the freeze removed. As explained previously, this may be accomplished via phone call, contact via Qwest's website, or through e-mail, regular mail or fax. No third party verification is required to lift a freeze and the removal of a freeze may be accomplished in a 3-way call with the customer and the new provider on the line. This one simple step, which was established specifically at the request of the customer, cannot be construed as a complex process as described by Ms. Russell.

Q. DOES THIS CALL TO REMOVE A FREEZE CREATE A "THIRD ROUND OF CHECKS AND INQUIRIES" AS DESCRIBED BY MS. RUSSELL?

A. No. Most of the time, it's just a phone call. Phone calls are handled by a third party vendor, hired by Qwest specifically to lift local service freezes. The only verification required is that the customer state that she or he is the customer and is authorized to lift the freeze. The order is then processed. This is far less complex than the initial contact between the new provider and the customer wherein a new account has to be established with all the relevant detail. It is far less complex than arranging for the actual service itself. This is just a contact that has been requested by the customer as an insurance step.

Q. WHAT IS MS. RUSSELL'S NEXT CONCERN ABOUT LOCAL SERVICE FREEZES?

A. She states that there is insufficient competition or evidence of slamming to warrant such consumer protection options.

Q. IS THIS RELEVANT IN ARIZONA?

A. The purpose of a local service freeze or long distance carrier freezes, for that matter, is to provide confidence in consumers that their accounts are safe from fraudulent behavior. If customers are concerned about slamming, they will gain confidence from the ability to freeze their accounts. Customers may be concerned even if there is no evidence yet of local service slamming. Customers are generally aware of slamming in the long distance markets and may have even experienced it themselves. They may be aware that competition exists, even if they don't know exact penetration rates or market shares or where exactly each competitor operates. This limited knowledge may be sufficient to cause concern and a local service freeze may resolve that concern.

Q. DID THE FCC RECOGNIZE THAT CARRIER FREEZES SERVE AS A MEANS OF PROTECTING CONSUMERS AGAINST SLAMMING AS WELL AS PROVIDING CONSUMERS WITH MORE CONTROL OVER THEIR ACCOUNT?

A. Yes. In its Second Report and Order and Further Notice of Proposed Rulemaking,[1] the FCC recognized that freezes are appropriate and provide an additional and beneficial level of protection and control for consumers to prevent misunderstandings, errors and possibly fraud:

> While we are confident that our carrier change verification rules, as modified in this Order, will provide considerable protection for consumers against unauthorized carrier changes, we recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming....The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent. Indeed the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their accounts. Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe that it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain greater control over their carrier selection. (14 F.C.C. Rcd. 1508, ¶114.)

Q. DOES IT APPEAR FROM QWEST'S LOCAL SERVICE FREEZE OFFERINGS IN OTHER STATES THAT CUSTOMERS ARE CONCERNED ENOUGH TO PARTAKE OF THIS OPTION?

A. Yes. In Washington, where a local service freeze option was ordered by the Washington Utilities and Transportation Commission ("WUTC") in 2000 and

[1] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, CC

implemented in March of 2001, customers have placed freezes on over 92,000 wholesale and retail local lines. While this is still a relatively small percentage of lines in Washington (4%), it does demonstrate that a significant percentage of consumers are concerned and want this insurance step placed in the process of changing their local service.

Additionally, consumers in the other seven Qwest states where the protection mechanism has been available have chosen this form of added slamming protection. Over 70,000 lines have been frozen since LSF was introduced late last year and early this year in those states, again demonstrating that customers desire this form of control and protection be placed on their accounts.

Q. WAS THERE SIGNIFICANT SLAMMING OF LOCAL SERVICE OCCURRING IN WASHINGTON BEFORE THIS OPTION WAS PROVIDED TO CONSUMERS THERE?

A. No. The Washington Public Utilities Commission ordered all carriers to offer local service freezes because they wanted to prevent slamming before it became a problem, rather than wait for the problem to develop.

Q. IS THIS PHILOSOPHY OF PREVENTING PROBLEMS BEFORE THEY OCCUR

Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking. (Second

1 **ALSO FOLLOWED IN ARIZONA?**

2

3 A. Typically, yes. The Arizona Commission is currently pursuing new rules on
4 slamming and cramming that are also intended to prevent problems that have not
5 yet arisen. There is currently little evidence of cramming in Arizona, yet, after
6 dealing with the issue for three years, as Commission Chairman Mundell has
7 stated[2], the Commission has opened a docket and has presented stringent
8 proposed rules on slamming and cramming so they will have rules to deal with
9 such events should they occur. Offering a consumer protection mechanism such
10 as a local service freeze before local service slamming becomes a problem is
11 consistent with the Commission's approach to consumer protection. For example,
12 in the open meeting on the proposed slamming and cramming rules, held May 8,
13 2002, Commissioner Irvin stated: "...the Commission is charged with the
14 responsibility, we have the consumer protection responsibility."[3] During the same
15 meeting, Commissioner Spitzer, in referring to the problems the rules are
16 intended to address, commented: "If it doesn't exist today in Arizona, let's not
17 start. And if it does exist, if a company is doing it, let's stop it and let's stop it
18 now."[4] These comments demonstrate the Commission's resolve to taking a
19 proactive approach to consumer protection in the state. The LSF is one more tool
20 the Commission may use to benefit Arizona consumers in that regard.

Report)
[2] Transcript of Special Open Meeting, Docket No. RT-00000J-99-0034, In the Matter of Rules to Address Slamming and Other Deceptive Practices, May 8, 2002, Page 4.
[3] Id., Page 55.

1

2 Q. WILL QWEST'S LOCAL SERVICE FREEZE OPTION, AS PROPOSED IN THE
3 TARIFF FILING, COMPLY WITH THE RULES ULTIMATELY RESULTING
4 FROM THE CURRENT RULE MAKING PROCESS?

5

6 A. Yes. Although the language has not yet been finalized, Qwest will comply with the
7 rules when they are finalized.

8

9 Q. ON PAGE 5 OF HER TESTIMONY, MS. RUSSELL OPINES THAT A LOCAL
10 SERVICE FREEZE OPTION IS UNNECESSARY IN AN ENVIRONMENT
11 WHERE "LOCAL COMPETITION IS NOT PREVALENT." IS THERE ROBUST
12 COMPETITION IN ARIZONA?

13

14 A. First, Qwest believes that the specific level of competition existing in Arizona is
15 irrelevant. The local service freeze option should be available to customers to
16 address their concerns about maintaining control over their local service
17 accounts. This concern may or may not be directly attributable to the actual level
18 of competition that exists. Contrary to Ms. Russell's assertions however,
19 competition has been growing steadily for several years.

20

21 The level of competition continues to grow and demonstrates Arizona consumers

---

[4] Id., Page 208.

have a choice in local service providers. This is evidenced by Qwest data reflecting March 2002 wholesale volumes:

- There were 149 approved interconnection agreements in place,
- There have been 509 collocations completed for competitors, and
- CLECs were serving Arizona consumers through over 33,000 resold lines, over 29,000 unbundled loops, and over 30,000 UNE-P services, in addition to their own facilities.

Additionally, Staff issued a report in May of this year in the 271 proceeding that demonstrates the existence of robust competition in Arizona.

Q. WHAT IS MS. RUSSELL'S NEXT CONCERN?

A. She asserts that the FCC and other regulatory agencies have determined that local service freezes are anti-competitive.

Q. DO YOU AGREE THAT THE FCC SUPPORTS MS. RUSSELL'S OPINION AS SHE STATES ON PAGE 6 OF HER TESTIMONY?

A. Clearly not. Ms. Russell relies on a comment offered by the FCC in the discussion section of the Second Report and Order, but ignores the FCC's conclusion. The conclusion of the FCC is more relevant than their discussion in the Second Report

and Order. At paragraph 136, the FCC stated:

> Indeed, we remain **convinced** (emphasis added) of the value of preferred carrier freezes as an anti-slamming tool. We do not wish to limit consumer access to this consumer protection device because we believe that promoting consumer confidence is central to the purposes of section 258 of The Act.

Q. MS. RUSSELL POINTS TO SOME STATES THAT HAVE PROHIBITED LOCAL SERVICE FREEZES. HAVE MORE STATES AUTHORIZED OR REQUIRED LSF'S TO BE OFFERED?

A. Yes. LSF protection is available to consumers in the majority of states within the Qwest region, specifically, Colorado, Oregon, South Dakota, North Dakota, Washington, Idaho, Utah, and Wyoming. In addition, the LSF option is available to consumers in at least 21 other states across the nation. This means that consumers in more than half of the country have been afforded the greater ability to control their accounts that LSF provides. Similarly, it is in the best interest of Arizona consumers to have the LSF available in the event they choose to use it. Again, LSF is a discretionary option, not a mandate, and is only applied at the consumer's request. To give consumers choice and greater control over their accounts should be a primary concern of this Commission.

Q. DOES MS. RUSSELL MAKE IMPLICATIONS AGAINST QWEST THAT YOU FIND PARTICULARLY OFFENSIVE?

A. Yes. She states on page 8 of her testimony that Qwest might find itself unable to resist the "unavoidable temptation" to improperly apply freezes and "lock in" its market share. Without any evidence to support this claim, she asserts that Qwest will violate FCC rules and applicable state rules in order to freeze customers unfairly. Qwest will continue to operate within FCC and Arizona rules for local service freezes as it does for long distance freezes.

Q. DOES MS. RUSSELL PRESENT A COMPLETE PICTURE OF THE CURRENT ISSUE OF AT&T'S COMPLAINT WITH THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION?

A. No. While I hesitate to attempt to litigate a Washington case in this proceeding, I have attached my rebuttal testimony, filed with the WUTC on May 22, 2002, to provide this Commission with a complete and accurate understanding. It is attached as Exhibit SAM-2.

Q. WHAT IS YOUR POSITION ON AT&T'S COMPLAINT IN WASHINGTON?

A. AT&T has claimed to have experienced some problems with the process of establishing and removing local service freezes even though these processes were in compliance with FCC and WUTC rules. AT&T requested changes in the processes through the Wholesale Change Management Process ("CMP"). Before

the CMP process was allowed to fully address the issues, AT&T filed a complaint with the Commission.

Q. WHAT HAS BEEN QWEST'S RESPONSE TO THE PROCESS CHANGES REQUESTED BY AT&T?

A. Working cooperatively with AT&T and other CLECs, Qwest has instituted a number of changes to the processes to add and remove LSFs. Many of them have been discussed previously in this testimony. These changes were made to be responsive to Qwest's wholesale and retail customers, and have introduced additional competitive neutrality to the LSF process.

Q. DID AT&T CLAIM THAT SOME ACCOUNTS WERE IMPROPERLY FROZEN?

A. Yes, AT&T makes broad, unsubstantiated allegations about "the majority of new AT&T customers" not knowing of the freeze. Rest assured, however, that Qwest conforms fully with FCC and WUTC rules and requirements around the solicitation and imposition of preferred carrier freezes, including obtaining appropriate customer authorization and verification.

Q. DOES THE NEW PROCESS FOR LIFTING FREEZES MITIGATE MS. RUSSELL'S CONCERNS AS DESCRIBED ON PAGE 9 OF HER TESTIMONY?

A. It should, absent AT&T's goal of eliminating the offering to consumers altogether. The process has been made even simpler with the addition of the dedicated toll-free telephone number managed by the independent third party and the fax, email and web applications which are available for customers to use to remove freezes, referred to at the beginning of my testimony. The concerns expressed by Ms. Russell around difficulty in getting a freeze removed have been addressed and solutions are in place.

Q. HOW WOULD YOU ASSESS MS. RUSSELL'S CLAIM AT THE BOTTOM OF PAGE 9 OF HER TESTIMONY THAT 20% OF AT&T'S POTENTIAL CUSTOMERS DECLINED TO PURSUE AT&T'S SERVICE WHEN THEY REALIZED THEY MUST LIFT THEIR LOCAL SERVICE FREEZE FIRST?

A. This is an interesting but unimpressive statistic. The current penetration of local service freezes in Washington is currently about 4% of basic exchange lines. This means that AT&T must encounter local service freezes very rarely. If one customer in five changes his or her mind when faced with lifting the freeze as Ms. Russell asserts, this is less than 1% of the available market. The fact that one person in five may decide to rethink changing their local service is not unreasonable.

1 **Q. MIGHT SOME CUSTOMERS HAVE GOOD REASONS TO STOP A SWITCH TO**
2 **AT&T OTHER THAN THE FREEZE LIFTING PROCESS ITSELF?**
3
4 A. Yes, and this is one of the benefits offered by local service freezes. Perhaps a
5 husband is unaware that his wife has placed a local service freeze on their
6 account. If he receives a marketing call from AT&T or any other provider, he may
7 agree to switch his service. When he encounters the freeze on his service, he
8 may wish to discuss it with his wife before he proceeds. A desire for such a
9 discussion may be the reason the freeze was initiated in the first place. This step
10 of the process may also provide a good excuse to back out when customers feel
11 they have been led down a path by an aggressive telemarketer. They may just
12 want some additional time to think about the competitor's proposal. They may, in
13 fact, still shift to the CLEC after they think about it. Ms. Russell does not say how
14 many of AT&T's customers call back to complete the service change at a later
15 time.
16
17 **Q. FINALLY, MS. RUSSELL CITES AN ORDER BY THE MONTANA STATE**
18 **COMMISSION THAT SUPPORTS THE IDEA THAT THE LOCAL FREEZE**
19 **PROCESS INHIBITS COMPETITION. PLEASE COMMENT.**
20
21 A. Unfortunately, the Montana Commission did not allow for a complete investigation
22 on this issue and Qwest is pursuing reconsideration of the order. Some of the

process concerns expressed by the Montana Commission in reaching its decision are no longer valid. As explained previously, Qwest has been working diligently with AT&T and other CLECs to make the process more efficient. The Montana Commission issued their order prior to the process improvements taking effect. I believe that upon learning of these significant changes, the Montana Commission will rescind their order establishing a moratorium on local service freezes, and will allow them to become effective immediately.

Q. WERE THESE PROCESS CHANGES IN PLACE WHEN THIS ISSUE WAS CONSIDERED IN NEBRASKA AND IOWA?

A. No. These changes are very recent and are a result of working with AT&T and other CLECs through the CMP process. Qwest has appealed the Iowa Utilities Board order denying local service freezes and is currently contemplating its next course of action in response to the Nebraska Commission's order.

Q. DOES THIS CONCLUDE YOUR REBUTTAL OF MS. RUSSELL'S TESTIMONY?

A. Yes. I will now address the testimony of Mr. Douglas Garrett, for Cox.

IV. REBUTTAL OF COX WITNESS GARRETT

1 **Q. WHAT ARE MR. GARRETT'S ARGUMENTS THAT THIS TARIFF PROPOSAL**
2 **IS ANTI-COMPETITIVE?**
3
4 A. His main concern seems to be the need for the customer to contact Qwest to
5 remove a local service freeze. He views this as an opportunity for Qwest to
6 convince the customer not to switch service.
7
8 **Q. IS HIS CONCERN VALID?**
9
10 A. No. A third party provider handles the lifting of local service freezes. This vendor
11 is paid to process requests. They are not paid, trained, or equipped to market
12 anything to customers, nor are they able to make offers designed to retain
13 customers.
14
15 **Q. DOES QWEST'S WINBACK TARIFF IN ARIZONA IN ANY WAY AFFECT THE**
16 **LOCAL SERVICE FREEZE ISSUE?**
17
18 A. No. The Winback tariff addresses customers that have already been lost.
19 Customers with a freeze on their account are current customers and are not
20 affected by Winback. Customers who lift their local service freeze are current
21 customers and are not affected by Winback. The only customers affected by
22 Winback are those who have already left Qwest's service, whether they ever had

a freeze, or not.

Q. WHAT IS MR GARRETT'S NEXT MAIN CONCERN?

A. He states that there is little local service competition in Arizona, and that there are insufficient incidents of slamming to warrant allowing Qwest, or any other company to offer this option to customers.

Q. IS THERE SUFFICIENT COMPETITION TO BELIEVE THAT SLAMMING COULD OCCUR?

A. Yes. As I have already explained, competition in Arizona exists and is growing. Additional details concerning the actual levels of competition have been discussed extensively in the 271 proceedings. More importantly, however, is that customers may be concerned about protecting their local service accounts regardless of the actual levels of competition. If there is insufficient competition to warrant customer concern, then they simply won't be interested in a freeze on their account.

Q. ARE CUSTOMERS SIGNING UP FOR LOCAL SERVICE FREEZES IN OTHER STATES WHERE IT IS AVAILABLE?

1 A. Yes. As I addressed above in my rebuttal of Ms. Russell, customers are
2 ordering local service freezes in significant numbers. While these customers do
3 not represent a large percentage of customers, they are obviously concerned
4 about maintaining control of their local service accounts.
5
6 **Q. DOES QWEST PLAN TO "SCARE" CUSTOMERS IN ARIZONA INTO**
7 **FREEZING THEIR ACCOUNTS, AS MR. GARRETT SUGGESTS?**
8
9 A. No. Qwest offers information about the local service freeze option in a neutral
10 way. It is offered in the same manner we offer information about long distance
11 freezes and is consistent with FCC rules.
12
13 **Q. DO YOU FIND QWEST'S PROPOSED BILL INSERT ALARMING?**
14
15 A. No. All it does is provide customers with information about how to prevent
16 unwanted changes to their accounts. You cannot offer protection from an
17 unwanted act without mentioning what the protection is for. Slamming may
18 concern some customers enough to seek this option. Customers need enough
19 information to contemplate what impact slamming may have on their lives.
20
21 **Q. IS QWEST OPEN TO HAVING SUCH NOTIFICATION REVIEWED BY THIS**
22 **COMMISSION?**

A. Yes. The only concern on Qwest's part is that we have many states to deal with and to the degree that each Commission wants different wording, such variations have some cost and logistical impacts.

Q. WHAT ABOUT MR. GARRETT'S CONTENTION THAT A CUSTOMER MIGHT BE ON HOLD FOR AN HOUR WAITING TO LIFT A LOCAL SERVICE FREEZE?

A. This sounds like Mr. Garrett is using scare tactics of his own. The third party vendor that handles the lifting of local service freezes is staffed handle the load. As I noted above, recent performance has been 92% of calls were answered in 20 seconds.

Q. WHAT IS YOUR ASSESSMENT OF MR. GARRETT'S DISCUSSION OF THE COMPARISON BETWEEN LONG DISTANCE FREEZES AND LOCAL SERVICE FREEZES?

A. He makes a couple of interesting points. He discusses the fact that long distance slamming can occur via computer manipulation alone while local service slamming, at least in Cox's case, is rare. This is not a true picture of the competitive environment.

Q. CAN FACILITY-BASED COMPETITORS SLAM CUSTOMERS OF LOCAL SERVICE?

A. Yes. A cable TV technician could shift a customer over to cable phone service during a routine cable TV visit. The customer could be billed on the cable account without realizing it. In multiple dwelling units many customers could be slammed during a single visit. Without freeze protection, the cable company could serve Qwest with a request to transfer service and Qwest would process the order to transfer the customer's phone number to the cable company.

Q. DOES THIS TYPE OF SLAM CREATE MORE CONCERN THAN LONG DISTANCE SLAMMING?

A. Yes, because once the slam is identified and the customer desires to switch service back to the original provider, it is conceivably possible that the customer could have no local service at all for some period of time. At least when long distance slamming occurs, customers can still make calls, even if the customer has no designated carrier for a while.

Q. DOES LOCAL SERVICE SLAMMING ALWAYS REQUIRE A VISIT BY A TECHNICIAN?

A. No. Many competitors resell Qwest's service or purchase Unbundled Network Elements (UNEs) to provide service. These competitors may also slam a customer using computers alone, as is the case in the long distance environment. In fact, there have been cases of local service slamming using this method.[5]

Q. MR. GARRETT CLAIMS THERE WILL NEVER BE ANY RESIDENTIAL COMPETITION VIA RESALE IN ARIZONA DUE TO THE LOW DISCOUNTS AVAILABLE. DO YOU AGREE?

A. No. As demonstrated previously in my testimony, resellers are active in Arizona and are serving residence as well as business customers. In addition, none of the parties in this docket opposed retaining the current discount in Docket No. 00000A-00-0194, the investigation into Qwest's compliance with wholesale pricing for unbundled network elements and resale discounts.

Q. DOES MR. GARRETT AGREE WITH MS. RUSSELL, FOR AT&T, THAT THE LACK OF EVIDENCE FOR LOCAL SERVICE SLAMMING INDICATES NO SUCH PROTECTION IS REQUIRED?

[5] For example, there were approximately 35 local service slamming complaints filed against one reseller in Montana between 1/1/2001 and 1/1/2002.

1 A. Yes. They both think the Commission should wait for a problem to develop before
2 they address it, which, as I explained previously in my rebuttal of Ms. Russell's
3 testimony, runs contrary to the philosophy of the Commission in dealing with
4 slamming and cramming issues.
5
6 Q. **IN TERMS OF PROCESS, MR. GARRETT INDICATES THAT COX'S INABILITY**
7 **TO ACCESS QWEST'S CUSTOMER ACCOUNT INFORMATION MAY LEAD**
8 **TO ADDITIONAL PROCESS STEPS FOR COX. IS THIS CONCERN VALID?**
9
10 A. No, it is not. All CLECs have access to non-proprietary customer information,
11 including whether a local service freeze is on the account, as part of the
12 wholesale pre-ordering process. This customer information may be obtained
13 through a variety of means – verbally, via fax or email, or by accessing Qwest's
14 IMA database. The pre-ordering process occurs before the CLEC actually issues
15 its local service order, such as for porting a telephone number, and is designed to
16 minimize delays in the CLEC ordering process. Mr. Garrett's contention that Cox
17 is disadvantaged because it cannot access customer service records is
18 inaccurate.
19
20 Q. **MR. GARRETT DOES NOT SEEM SATISFIED WITH THE "QWEST FREEZE**
21 **REMOVAL GROUP" AND THE PROCESS INVOLVED. WOULD YOU PLEASE**

COMMENT?

A. Yes. This third party vendor has been specifically put in place in response to concerns from CLECs about Qwest's opportunity for retention marketing, and their concern about wanting quick access to a third party administrator for this activity. The most efficient way for a competitor to handle customers wishing to change local service providers is to have the customer and the CLEC marketing representative place a three-party call to the 800 number provided by Qwest. This efficiently and quickly lifts the freeze. It also means that the customer does not have to "remember and communicate" any order number to the new service provider. It also means that the local service request ("LSR") may be transmitted immediately. Qwest service representatives are instructed to make no retention attempts, if contacted directly by customers to lift a freeze. If Cox truly wishes to be efficient and avoid their perceived problem, all they have to do is place a three-way call with the customer to lift the freeze. The customer needs to be involved because the customer is the one who requested the freeze in the first place and because it is an FCC requirement.[6]

Q. IS MR. GARRETT STILL CONFUSED ABOUT WHEN THE LIFTING OF FREEZES ACTUALLY OCCURS?

[6] 47 CFR Section 64.1190 (e)

A. He attempts to make it more confusing than it is. Instructions for lifting freezes have been placed on Qwest's website, where CLECs obtain information about various service processes. When the customer asks that the freeze be lifted, the order is processed later that evening in the overnight processing of orders. LSR's issued the next day will reflect that the freeze has been lifted. While it is true that the official customer record is not updated for a few days, this should be of no consequence to the process. If the customer or the CLEC has requested a record order number in asking to lift the freeze, this number will allow for the immediate processing of LSR's even if they are issued before the freeze is removed. Transferring customers between local service providers requires much more than just the initial phone call. In the overall process of establishing new accounts, billing, customer visits, etc., this is a very minor step.

Q. IS IT POSSIBLE THAT OFFICES WHICH PROCESS FREEZE REMOVAL REQUESTS MAY BE CLOSED WHEN COX IS ATTEMPTING TO CONTACT CUSTOMERS IN ATTEMPTS TO SOLICIT NEW CUSTOMERS?

A. It is possible; however Qwest centers and specifically the third party vendor that processes the lifting of freezes is open from 7am to 9pm Central Time Monday through Friday. These hours seem perfectly reasonable and extend beyond normal business hours. In addition, customers may send through a freeze removal request any time via email or through Qwest's website. All on-line

requests submitted before 3pm Central Time Monday through Friday will be processed the same business day. On-line requests submitted after 3pm Central Time Monday through Friday will be processed the next business day.

Q. **MR. GARRETT RELIES ON AN OLD SITUATION IN COLORADO AS PROOF THAT THREE-WAY CALLS DO NOT ALWAYS WORK AS PLANNED. IS THIS CASE RELEVANT?**

A. No. Except for the fact that three-way calls were involved, the Colorado situation was completely different. That situation had to do with the implementation of equal access in the long distance market. The problem had to do with notification to the Colorado Commission about implementing the Local PIC option for customers. The end result was thousands of customers calling in a very short time-frame to change carriers. This resulted in an overload of the ability of Qwest to handle the call volume. Since that time, the process has worked properly and there has been no repeat of that problem. It was a one time event that occurred in early 1999.

Q. **MR. GARRETT ALSO CITES THE COMPLAINT FILED IN WASHINGTON STATE BY AT&T CONCERNING LOCAL SERVICE FREEZE ISSUES. WOULD YOU PLEASE COMMENT?**

A. My comments on this matter appear in the rebuttal of Ms. Russell's testimony incorporated herein.

Q. DOES MR. GARRETT HAVE ANY OTHER CONCERNS ABOUT LOCAL SERVICE FREEZES?

A. Most of his other points are restatements of previous concerns. He states that LSF will provide a barrier to competitive entry into local markets. He seems to believe that many customers will sign up for local service freezes even though they don't want them and later decide not to switch providers because they have a freeze in place.

Q. DO YOU BELIEVE CUSTOMERS ARE MORE RESPONSIBLE IN THEIR CHOICES?

A. Yes. I believe customers can decide about local service freezes with the same insight as with long distance freezes. These options have been available for several years now and seem to offer protection for those who choose them. I also think customers will be able to change local service providers, even if they have frozen their local accounts. If customers are easily tricked into freezing their accounts when they don't really want to, as Mr. Garrett suggests, perhaps they are the customers who really need the protection of a freeze so they are not

tricked into changing their local service, when they don't really want to.

Q. **WHAT ARE MR. GARRETT'S FINAL ARGUMENTS AGAINST THE LOCAL SERVICE FREEZE TARIFF?**

A. He points out that other states have ruled against such an offering.

Q. **IS THIS ARGUMENT COMPELLING?**

A. No. As I explained earlier in my testimony, LSF's are available in the majority of states.

Q. **MR. GARRETT MAINTAINS THAT THE LOCAL SERVICE FREEZE COULD HAVE SOME IMPLICATION ON QWEST'S APPLICATION FOR PROVISION OF IN-REGION INTERLATA SERVICES IN ARIZONA. DO YOU AGREE?**

A. No, I do not. Nor do I agree that this proceeding is the appropriate forum for Cox to raise issues and concerns it may have with Qwest's 271 application. There is an entirely separate proceeding for that, in which Cox has been an active participant. This immediate docket pertains specifically to local service freeze and discussion should be restricted to that.

Q. DOES THAT CONCLUDE YOUR DISCUSSION OF MR. GARRETT'S TESTIMONY?

A. Yes. I will now address the testimony of Mindy J. Chapman, on behalf of WorldCom, Inc.

V. REBUTTAL OF WORLDCOM WITNESS CHAPMAN

Q. HOW DOES MS. CHAPMAN APPROACH HER CONCERNS ABOUT THIS LSF TARIFF PROPOSAL?

A. Ms. Chapman begins with the same arguments about FCC concerns about local service freezes. She cites the same language in the FCC Second Report and Order as mentioned by Ms. Russell and Mr. Garrett. As did the others, she cites from the discussion, rather than the conclusion which supports the local service freeze concept as favoring competition in the long run by building consumer confidence in fair competition.

Q. DOES MS. CHAPMAN ALSO RELY ON OTHER JURISDICTIONS FOR CONCLUSIONS ABOUT THE COMPETITIVE IMPACTS OF LOCAL SERVICE FREEZES?

A. Yes. She discusses some other state jurisdictions where PIC freezes have been

problematic.

Q. CAN YOU COMMENT ON THESE EXAMPLES?

A. I have no details, but it appears that these cases are old. She cites language from 1996 and 1997, that implies that the problem activity occurred in 1994, or 1995, perhaps. This means that these cases predate the FCC's Second Report and Order and many other rules and guidelines surrounding preferred carrier freezes. These cases involve PIC freezes, not local service freezes, at a time when carrier slamming was rampant. I don't see how these cases can be considered relevant in Arizona at the present time.

Q. WHAT IS MS. CHAPMAN'S NEXT ARGUMENT?

A. She claims that 91% of customers who decide to switch service to WorldCom don't follow through with the switch because they have a freeze in place.

Q. IS HER EXPLANATION OF THIS EXPERIENCE CLEAR?

A. No. She claims that customers don't switch service because of the freeze, but the example she cites is a case where the customer seemingly doesn't know of the freeze. Orders will not be rejected if the customer has lifted the freeze or even if

an order has been placed to lift the freeze. Typically, re-contacting the customer would be unnecessary, so she must be citing a specific scenario. It is unclear whether the scenario she cites represents the total number of customer contacts or just that one specific example. The example she cites gives the impression that the customer is not very committed to changing service providers.

Q. DOES HER EXAMPLE REFLECT RECENT CHANGES IN THE PROCESS FOR CHANGING SERVICE PROVIDERS?

A. No. Recent changes should reduce the overall impact and streamline the process, especially when it comes to lifting freezes.

Q. WHAT IS MS. CHAPMAN'S NEXT SUGGESTION?

A. On page 10 of her testimony, she suggests that Qwest's use of the words "free" and "protection" are merely "bait" for consumers and that this is somehow misleading.

Q. DO YOU AGREE?

A. No. I think telling customers what a service offers and its price are fundamental to any information offered. If we only used two words to describe what a local

service freeze offers, those would have to be the words. Leaving out those two words would cause nothing but confusion. Furthermore, FCC rules require that carriers offering preferred carrier freezes provide customers with an explanation and charge description.[7] As local service freezes provide "protection" against slamming and are "free" of charge to consumers, Qwest is merely complying with federal requirements and is not misleading consumers.

Q. DOES MS. CHAPMAN OFFER A SUGGESTION BASED ON THIS "BAIT" CONCEPT?

A. Yes. She suggests that customers only be offered a local service freeze after they have been slammed or after they have heard about LSF from some other source and specifically request it.

Q. WOULD THIS PROVIDE GOOD CONSUMER PROTECTION?

A. No. As I described in my direct testimony, the effects of local service slamming can be significant, time consuming and costly for consumers. Waiting for a customer to be slammed before offering protection is like disallowing burgler alarm service until a customer can prove they have been robbed.

[7] 47 CFR Section 64.1190 (d)

1 Q. **WHAT ABOUT HER SUGGESTION THAT ONLY UNSOLICITED REQUESTS**
2 **FOR LSF BE ALLOWED?**
3
4 A. If I were a customer who got slammed and I found out that there was a simple
5 protection mechanism available, but I was not told about this protection because it
6 seemed unfair to the very competitor who did the slamming, I would be quite
7 furious. This would not be offering complete service to consumers.
8
9 Q. **ON PAGE 12 OF HER TESTIMONY, MS. CHAPMAN IS CONCERENED**
10 **ABOUT THE HOURS AVAILABLE FOR LIFTING LOCAL SERVICE FREEZES.**
11 **HAVE YOU ADDRESSED THIS CONCERN PREVIOUSLY IN THIS**
12 **TESTIMONY?**
13
14 A. Yes, I address this issue under my rebuttal of Mr. Garrett's testimony.
15
16 Q. **MS. CHAPMAN SUGGESTS ON PAGE 14 OF HER TESTIMONY THAT AN**
17 **INDEPENDENT THIRD PARTY MIGHT BE ABLE TO MANAGE LOCAL**
18 **SERVICE FREEZES. IS THIS FEASIBLE?**
19
20 A. No. Local service freezes must be administered by the local service provider.
21 They have the customer records wherein the information is kept. A third party

provider would need access to all local providers' customer bases in order to process the placing and lifting of freezes. This offers problems for competitors for marketing reasons, but it also has logistical problems. Data systems vary and service order processing could be very complex. The cost would be another issue. It is possible, however, for a third party entrepeneur to come forward with a proposal at some time in the future. Qwest has already introduced independent third party vendors into the existing process to a large degree. As described previously, independent third party vendors verify that a customer wishes to have a freeze placed on their account, and another third party vendor handles all freeze removals for Qwest. These steps, which are already in place, address the concerns expressed by Ms. Chapman around competitive neutrality. Also, any CLEC may choose to offer LSF protection to its customers, and indeed, at least two other CLECs ***are*** offering this option to Arizona customers (see Exhibit SAM-10 to my direct testimony filed in this docket on April 11, 2002).

Q. WHAT TESTIMONY DO YOU ADDRESS NEXT IN YOUR REBUTTAL?

A. I will address the testimony of Wilfred M. Shand Jr., for the Commission Staff.

VI. REBUTTAL OF STAFF WITNESS SHAND

Q. HOW IS MR. SHAND'S TESTIMONY LAID OUT?

A. He offers a comprehensive background that has led to the current situation and an overview of the FCC's discussion and conclusions about local service freezes.

Q. WHAT IS MR. SHAND'S MAIN CONCERN ABOUT QWEST'S FILING?

A. He states on page 3 of his testimony that "Staff believes that the biggest concern with the proposed LSF tariff is that it makes it difficult for potential CLEC customers to change service providers."

Q DO YOU AGREE THAT AN LSF MAKES IT DIFFICULT FOR CUSTOMERS TO SWITCH PROVIDERS?

A. No, however I do agree that it puts an extra step in the process. As stated previously, Qwest has worked diligently with CLECs to improve the process to remove freezes so that customers are not negatively impacted. We believe this step is now simple and efficient, yet necessary to effect the protection requested by customers desiring greater control over their accounts. Customers who specifically ask that this step be put in place should not be negatively impacted when they do decide to change providers.

Q. ON PAGE 7 OF HIS TESTIMONY, MR. SHAND DESCRIBES THE PROCESS FOR LIFTING A FREEZE. IS HIS DESCRIPTION COMPLETE?

A. No. In addition to the customer contacting Qwest, a three-way call may be initiated with the customer, the new service provider and Qwest's third party vendor for lifting freezes. This method eliminates the need to talk with a Qwest service representative and can be handled on the initial contact between the customer and the new service provider.

Q. IS MR. SHAND'S PORTRAYAL ON PAGE 12 OF HIS TESTIMONY OF WHERE LOCAL SERVICE FREEZE IS AVAILABLE ACCURATE?

A. No, he mistakenly stated that the freeze is not available in Oregon and Wyoming. As stated previously, customers in eight of the fourteen states in Qwest's region may choose to have the local service freeze protection placed on their account.

Q. DOES MR. SHAND HAVE OTHER CONCERNS WITH THE TARIFF FILING?

A. He states on page 12 of his testimony that he believes the tariff lacks sufficient detail on how Qwest will administer the tariff offering.

Q. IS QWEST WILLING TO AUGMENT THE TARIFF WITH MORE DETAIL ON HOW THE SERVICE WILL BE OFFERED?

A. Yes, however, we would not want to put too much process detail into the tariff. Proccesses are always under review to improve efficiency and provide better service. Putting specific details in the tariff may restrict and/or delay changes that are beneficial. Qwest believes that putting references in the tariff to the applicable federal or state rules which ultimately govern how freezes are offered would adequately address Staff's concerns.

Q. DOES MR. SHAND BELIEVE THE PROPOSED BILL INSERT IS NEUTRAL IN TERMS OF LANGUAGE?

A. No. He believes it is too strong.

Q. IS QWEST WILLING TO ADJUST THE BILL INSERT TO SATISFY STAFF'S CONCERNS?

A. Yes. It is Qwest's intent to offer this service in compliance with FCC and state rules. Clear and neutral language is certainly subject to individual interpretation, but Qwest is willing to submit proposed bill inserts to the Staff for their review.

Q. WHAT IS MR. SHAND'S OVERALL POSITION ON LOCAL SERVICE FREEZES?

A. He states that LSFs should be available to customers as long as they are implemented in such a way as to minimize potential problems to CLECs.

Q. DO YOU BELIEVE QWEST'S OFFERING OF LSF IN ARIZONA WILL COMPLY WITH MR. SHAND'S POSITION?

A. Yes. With the current methods and procedures in place to process requests for freezes and especially procedures for the removal of freezes, I believe we are in compliance with Staff's position.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	))))	DOCKET NO. T-01051B-02-0073

REBUTTAL EXHIBITS

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 28, 2002

Qwest

REQUEST TO LIFT FREEZE(S) OF A PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ State ____ Zip _____

The undersigned Subscriber requests Qwest to "lift" the following described freeze(s).

LEF	LPIC	PIC
Local Service	Local Long Distance or Toll Service	Long Distance Service
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to lift the freeze of the Preferred Service Provider of the service(s) for the telephone number(s) below. The Subscriber may choose to remove one, two, or all of the freezes.

Only the telephone numbers listed below are covered by this "Freeze Removal" Authorization.

Subscriber's Main Telephone Number: LEF ❑ LPIC ❑ PIC ❑ (_____) _____-_____

Additional Telephone Numbers:

LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to lift the freeze(s) for the phone number(s) set forth above. There is no charge for lifting a freeze.

Signature: _____ Date (MM/DD/YY): _____

Printed Signature: _____ Title: _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR **FAX TO: (800) 236-6992**

Qwest Internal Use Only

Order # _____ SLS Code: LS1XLF3 (Bus only)
Representative: _____ TN: _____

Date Received: _____
Date Processed:

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC., Complainant, v. QWEST CORPORATION, Respondent.	DOCKET NO. UT-020388

DIRECT TESTIMONY

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 23, 2002

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.

A. My name is Scott A. McIntyre. I am employed by Qwest Corporation ("Qwest") as Director - Product and Market Issues. My business address is 1600 7th Avenue, Room 3009, Seattle, Washington, 98191.

Q. PLEASE REVIEW YOUR WORK EXPERIENCE, PRESENT RESPONSIBILITIES AND EDUCATION.

A. I earned a Bachelor of Science degree in Electrical Engineering at the University of Washington in 1974. I have worked for Qwest (formerly U S WEST Communications, Inc., and before that, Pacific Northwest Bell) since 1970. In the past 32 years, I have held many positions that have given me a broad understanding of the telecommunications business. I have experience in the installation and repair of local residence and business telephone services. I also have experience in analyzing and planning new central office equipment and interoffice network facilities. I have performed cost analyses on many aspects of the business and analyzed departmental budgets in great detail. From 1987 to 1999, I managed private line voice and data products. This included the development, pricing and marketing for a wide range of products serving business customers across Qwest's fourteen-state region.

1 Since July 1999, I have been in my current position, representing Qwest on issues
2 involving various services. I also represent Qwest on issues concerning competition
3 and performance measures. This wide range of experience has provided me with an
4 understanding of how services are provided, and the pricing and marketing
5 necessary for these services to be successful.
6
7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE**
8 **TELECOMMUNICATIONS REGULATORY COMMISSIONS?**
9 A. Yes. I provided testimony in Docket UT-991292, AT&T's complaint against
10 U S WEST regarding provision of access services. In addition, I have served as an
11 expert witness in various dockets in Oregon, Arizona, Colorado, New Mexico,
12 Utah, Wyoming, Nebraska, Iowa, and Minnesota.
13
14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**
15 A. The purpose of my testimony is to address representations by AT&T Broadband
16 ("AT&T") in this proceeding, through the testimony of Jonathon Wolf, concerning
17 the manner in which Qwest is administering local service freezes. I will explain the
18 processes and procedures Qwest follows in adding and removing local service
19 freezes in response to issues raised by AT&T, and will demonstrate that Qwest is in
20 full compliance with the Washington Administrative Code ("WAC") and FCC
21 rules. In addition, I will describe local service freeze process improvements
22 instituted by Qwest to be responsive to the needs of its wholesale and retail

customers. Based on the information provided herein, I request the Commission reinforce that the continued availability of local service freezes ("LSFs") is in the best interest of Washington consumers and dismiss AT&T's complaint.

II. THE WUTC AND THE FCC HAVE ALREADY REJECTED ARGUMENTS THAT A LSF IS ANTI-COMPETITIVE

Q. AT&T RECOMMENDS THAT LSFs BE PROHIBITED "UNTIL EFFECTIVE COMPETITION HAS DEVELOPED IN LOCAL EXCHANGE MARKETS IN WASHINGTON" (DIRECT TESTIMONY OF JONATHAN WOLF, PAGE 11, LINES 22 to 25). PLEASE COMMENT.

A. Qwest's offering of LSF for its Washington customers is in full compliance with Washington Utilities and Transportation Commission (WUTC) and FCC rules. AT&T's argument that LSFs should be prohibited until such time that "effective" local competition develops must fail, in light of both the WUTC's and the FCC's decisions, orders, and rules, which establish stringent standards for the solicitation, implementation, and lifting of LSFs.[1]

The process by which a freeze may be imposed and removed is for the protection of the customer, not to create confusion or delay any change from one provider to another. The WUTC and FCC rules specifically prohibit the imposition of LSF unless the carrier obtains appropriate verification. Thus, so long as Qwest complies with the rules, as it has, its offer of LSF cannot be detrimental to competition.

Q. HAS THE FCC REJECTED CLAIMS THAT PREFERRED CARRIER FREEZES ARE "ANTI-COMPETITIVE"?

A. Yes. In a Further Notice of Proposed Rulemaking released in 1997, the FCC "sought comment on whether it should adopt rules to address preferred carrier freeze practices."[2] Numerous parties filed comments, including incumbent LECs, CLECs, state commissions, and consumer groups.[3] In its Second Report and Order, the FCC concluded that preferred carrier freezes are lawful and actually "enhance competition":

> [W]e recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming....The record demonstrates that LECs increasingly have made available preferred carrier freezes to their customers as a means of preventing unauthorized conversion of carrier selections. The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent. Indeed, the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their accounts. Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain control over their carrier selection.[4] (Emphasis added)

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[1] 47 C.F.R. § 64.1100 et seq., WAC 480-120-139
[2] FCC Further Notice of Proposed Rulemaking, CC Docket No. 94-129, ¶1.
[3] Second Report and Order and Further Notice of Proposed Rulemaking, (Second Report), CC Docket No. 94-129, App. C.
[4] Id., ¶114. See also Id. at ¶81.

1 In its Order, the FCC carefully "balance[d] several factors, including consumer
2 protection, the need to foster competition in all markets, and [its] desire to afford
3 carrier flexibility in offering their customers innovative services such as preferred
4 carrier freeze programs. Moreover, in so doing...[the FCC] facilitate[s] customer
5 choice of preferred carrier selections and adopt[s] and promote[s] procedures that
6 prevent fraud."[5] The FCC concluded that the most effective way to ensure that
7 preferred carrier freezes are used to protect consumers, rather than as a barrier to
8 competition, was not to prohibit them, but "to ensure that subscribers fully
9 understand the nature of the freeze including how to remove a freeze if they choose
10 to employ one."[6] The FCC designed its preferred carrier freeze rules "to ensure the
11 fair and efficient use of preferred carrier freezes for intrastate and interstate services
12 to protect customer choice and, correspondingly, to promote competition."[7]
13
14 **Q. HAS THE WUTC ALSO REJECTED ARGUMENTS THAT PREFERRED**
15 **CARRIER FREEZES ARE "ANTI-COMPETITIVE"?**
16 A. Yes. In formulating preferred carrier freeze rules, the WUTC considered comments
17 from various parties. As indicated in its Order adopting these rules, the WUTC

[5] Id., ¶113.
[6] Id., ¶121.
[7] Id., ¶118.

1 heard from participants in the docket who maintained that the requirement (that
2 companies offer a preferred carrier freeze) would promote anti-competitive
3 behavior. Others argued that the rules would present a barrier to entry and effective
4 competition. Still others posited that the rules would allow incumbent companies
5 the opportunity to mislead customers. **The Commission rejected these**
6 **arguments.**[8] It is under the auspices of the Commission's rules, as well as the
7 FCC's rules, that Qwest is offering the LSF option. AT&T's inference that LSFs
8 are anti-competitive should not be afforded any credibility in this proceeding, as
9 these arguments have already been heard and acted upon by this Commission and
10 the FCC. To attempt to revisit this issue now, in the form of a Complaint
11 proceeding, is inappropriate.
12
13 **Q. DO THE WASHINGTON AND FCC RULES WHICH ADDRESS THE**
14 **MEANS BY WHICH CUSTOMERS MAY BE INFORMED OF PREFERRED**
15 **CARRIER FREEZES ENSURE THAT THEY DO NOT IMPEDE**
16 **COMPETITION?**
17 A. Yes. In addition to rejecting CLEC claims that preferred carrier freezes should be
18 banned, the FCC likewise rejected requests that it prohibit the "solicitation" of
19 orders for freezes: "[w]e decline those suggestions that we prohibit LECs from
20 taking affirmative steps to make consumers aware of preferred carrier freezes
21 because we believe that preferred carrier freezes are a useful tool in preventing

[8] See Order Amending and Adopting Rules Permanently re WAC 480-120-139, Docket No. UT-980675,

1 slamming.[9] The FCC adopted a number of specific rules governing the solicitation
2 of orders for preferred carrier freezes, and **"decline[d]" the suggestions of CLECs**
3 **that it "prohibit incumbent LECs from soliciting or implementing preferred**
4 **carrier freezes for local exchange or intraLATA services until competition**
5 **develops in a LEC's service area.**[10] The FCC reiterated its expectation that its
6 rules governing the solicitation and implementation of preferred carrier freezes "will
7 reduce customer confusion and thereby reduce the likelihood that LECs will be able
8 to shield their customers from competition," and that it "remain[ed] convinced of
9 the value of preferred carrier freezes as an anti-slamming tool."[11]
10
11 Likewise, the WUTC reinforced the requirement that companies notify customers of
12 the preferred carrier freeze option when it adopted its rules: "The Commission
13 believes that the availability of a carrier freeze is not an effective consumer
14 protection tool if consumers are not aware that it exists. The Commission believes
15 that if the only consumers who find out about this option are customers who have
16 already been slammed, the value is diminished considerably, since damage has
17 already been done. Further, the Commission believes the purpose of a carrier freeze

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January 20, 2000, Page 3.
[9] Id., ¶124. See also Id. at ¶81 ("With the advent of competition in the provision of local exchange and intraLATA toll services, ... we anticipate an even greater incidence of slamming generally if effective rules are not put into place. State commissions are already receiving complaints concerning local service slamming.")
[10] Id., ¶135.
[11] Id., ¶136.

is to allow consumers the choice of protecting themselves from the slamming before it occurs."[12]

III. QWEST HAS IMPLEMENTED LSF IN ACCORDANCE WITH STATE AND FEDERAL REQUIREMENTS.

Q. WHAT SPECIFIC REQUIREMENTS DID THE COMMISSION MANDATE IN WAC 480-120-139 RELATIVE TO ADDING PREFERRED CARRIER FREEZES TO A CUSTOMER'S ACCOUNT?

A. WAC 480-120-139(5) outlines the following requirements for local exchange carriers ("LEC's") offering preferred carrier freezes:

- All local exchange companies must offer preferred carrier freezes.
- Such freezes must be offered on a non-discriminatory basis to all customers.
- In offering or soliciting such freezes, LECs must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA/intrastate Toll, interLATA/interstate Toll, and international Toll)
- The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

WAC 480-120-139(5)(c) specifies that before a freeze can be added to a customer's account, the request must first be confirmed through written authorization from the

[12] Order Amending and Adopting Rules Permanently (re WAC 480-120-139), Docket No. UT-980675, January 20, 200, Page 3.

customer, or by use of an automated, electronic telephone menu system from the telephone number for which the freeze is requested, or through the use of an independent third party verifier. Confirmation is to be obtained from the customer for each service sold.

Q. WHAT REQUIREMENTS WERE PLACED ON LECS FOR REMOVING A PREFERRED CARRIER FREEZE?

A. WAC 480-120-139(5)(d) indicates that LECs must obtain a written and signed authorization from the customer, stating his or her intent to lift the freeze. Alternatively, the customer may provide oral authorization to lift the freeze and such authorization may occur via a three-way call with the customer and another LEC. Oral authorization must include appropriate verification data. LECs are not allowed to change a customer's preferred carrier until the customer removes the freeze.[13]

Q. DID THE FCC MANDATE SPECIFIC STANDARDS WITH WHICH ALL TELECOMMUNICATIONS CARRIERS OFFERING LSF MUST COMPLY?

A. Yes. FCC rules specify:

[13] WAC 480-120-139(5)(e).

1 • An LSF must be offered on a non-discriminatory basis to all customers
2 regardless of carrier selection. 47 C.F.R. §64.1190(b).
3 • All LSF solicitations must include clear and neutral language, describing what a
4 freeze is and what services are subject to LSF. 47 C.F.R. §64.1190(d)(1)(i).
5 • The offer must clearly distinguish among the services to which any freeze is
6 applied (i.e., local, intraLATA, interLATA and international services), and a
7 separate authorization is required for each. 47 C.F.R. §64.1190(c).
8 • Any solicitation must also explain the procedures for lifting the freeze and that the
9 carrier cannot be changed unless the subscriber lifts the freeze. 47 C.F.R.
10 §64.1190(d)(1)(ii); see also, 47 C.F.R. §64.1150(a).
11
12 **Q. DO THE FCC RULES ENSURE THAT THE CUSTOMER'S SELECTION**
13 **OF A CARRIER FREEZE IS VERIFIED?**
14 A. Yes. The customer's decision to establish an LSF must be verified in accordance
15 with 47 C.F.R. §64.1190(d)(2)(i) through (iii) and 47 C.F.R. §64.1190(d)(3)(ii)(A)
16 through (D). The FCC requires that any written or electronically signed
17 authorization from the customer must: (1) be in clear and legible format; (2) include
18 certain customer information; and (3) include a specific request for each service to
19 be frozen. 47 C.F.R. §64.1190(d)(3)(ii)(A) through (D). Electronic authorization
20 must be initiated from the customer's telephone number to receive the LSF and
21 include specific authorization data, via automatic number identification or recorded,
22 oral verification. 47 C.F.R. §64.1190(d)(2)(ii) and (iii). Oral LSF verification may

only occur through a qualified, independent third party, who receives no financial incentives and operates in a physically separate location. 47 C.F.R. §64.1190(d)(2)(iii). Again, these mandated procedures ensure that an LSF cannot be established unless a customer clearly wants and chooses to initiate such a freeze.

The verification process does not include the carrier's marketing or advertising; it simply clearly verifies the customer's decision.[14]

Q. DO FEDERAL RULES ALSO ESTABLISH METHODS FOR LIFTING A PREFERRED CARRIER FREEZE?

A. Yes. The FCC designed the methods for lifting a freeze to be "simple, easily understandable, but secure," in order to avoid concerns about untimely lifting of freezes.[15] These methods allow a customer to lift an LSF by either: (1) calling Qwest directly; (2) calling Qwest while the new carrier is on the line; or (3) providing written or electronically signed authorization. 47 C.F.R. §1190(e)(1) and (2). Nothing in the LSF prohibits or even limits the customer's ability to change his or her preferred provider; it simply ensures that the customer, not another carrier, makes that choice. Importantly, the three-way call allows the new carrier to conduct the conference call to lift the freeze during the initial telemarketing session with the

[14] Second Report, at ¶72.
[15] Id., ¶127

customer.[16] Also, the call to lift the freeze simply requests information to ascertain the identity of the customer and his or her intention to lift the freeze.[17]

Q. DOES QWEST'S LSF PROGRAM COMPLY WITH WAC 480-120-139(5) AND THE FCC RULES CITED ABOVE?

A. Yes, Qwest complies fully with these rules in administering its LSF program, as explained in more detail in the testimony that follows.

IV. QWEST HAS PROVIDED ADEQUATE NOTICE TO CLECS AND RETAIL CUSTOMERS CONCERNING LSF

Q. WHEN DID QWEST IMPLEMENT LOCAL SERVICE FREEZES IN WASHINGTON?

A. Qwest began offering local service freezes in Washington in March, 2001.

Q. MR. WOLF CONTENDS THAT AT&T FIRST BECAME AWARE THAT QWEST WAS OFFERING LSFs IN FEBRUARY 2002 (DIRECT TESTIMONY OF JONATHAN WOLF, PAGE 6, LINES 2 to 5). WHEN WERE COMPETITIVE LOCAL EXCHANGE CARRIERS ("CLECs"), INCLUDING AT&T, FIRST INFORMED OF QWEST'S INTENT TO COMPLY WITH THE WUTC'S DIRECTIVE TO OFFER LSFs?

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[16] Id., ¶129.
[17] Id., ¶132.

1 A. On March 2, 2001, Qwest provided notification to all CLECs, including AT&T,
2 concerning the implementation process for the state of Washington. Employees at
3 AT&T who were sent the notification included: Carla Dickinson
4 (cdickinson@att.com – see page 2 of Exhibit SAM-2), dosborne@att.com (see page
5 2 of Exhibit SAM-2), martinsu@att.com (see page 4 of Exhibit SAM-2) , and Pam
6 Benjamin (pbenjamin@att.com – see page 4 of Exhibit SAM-2). The notification is
7 attached as Exhibit SAM-2. Prior to that, AT&T Communications of the Pacific
8 Northwest filed a Petition for Waiver of WAC 480-120-139(5) which was approved
9 by the WUTC on April 26, 2000 (Docket UT-000441). As part of the Petition of
10 AT&T for Extension of Waiver filed on March 7, 2001, AT&T included a copy of
11 the March 2, 2001 Notice. Thus, by its own admission, AT&T was well aware that
12 Qwest was offering LSF to its Washington customers prior to February 2002.
13
14 **Q. MR. WOLF RECOMMENDS THAT THE COMMISSION ENSURE THAT**
15 **CUSTOMERS ARE FULLY AND ACCURATELY INFORMED BEFORE**
16 **THEY AUTHORIZE A LOCAL SERVICE FREEZE (DIRECT**
17 **TESTIMONY OF JONATHAN WOLF AT PAGE 12, LINES 18 to 19).**
18 **HASN'T THE WUTC ALREADY TAKEN THE STEPS NECESSARY TO**
19 **ENSURE THAT CUSTOMERS ARE MAKING AN INFORMED**
20 **DECISION?**
21 A. Indeed, the WUTC requires that all carrier-provided material is to include "an
22 explanation, in clear and neutral language, of what a preferred carrier freeze is, and

1 what services may be subject to a freeze; a description of the specific procedures to
2 lift a preferred carrier freeze; an explanation that the customer will be unable to
3 make a change in carrier selection unless he or she lifts the freeze; and an
4 explanation of any charges incurred for implementing or lifting a preferred carrier
5 freeze."[18]
6
7 **Q. HAS QWEST COMPLIED WITH THESE COMMISSION**
8 **REQUIREMENTS?**
9 A. Yes. Exhibit SAM-3 is a copy of a mailing that was distributed to Qwest residential
10 and business customers in Washington in August 2001. Exhibit SAM-4 is a copy of
11 a bill insert that was sent to Washington residential customers in January 2002.
12 Exhibit SAM-5 is a direct mail piece that was sent in April 2002. These mailings
13 fully explain local service freezes, and meet the Commission-established parameters
14 outlined above, in addition to FCC requirements.
15
16 Customers are also informed of local service freeze, local long distance freeze, and
17 interLATA long distance freeze options when they contact Qwest business offices
18 to order new service, move existing service to a new location, or add new lines.[19]
19 The script used by Qwest service representatives when offering a freeze is as
20 follows:

[18] WAC 480-120-139(5)(b)

> We offer free protection to ensure that your provider of local service, long distance service and local long distance service cannot be changed unless you contact us directly, even if another carrier gives us a written or a third party verified order. You may remove this protection from your account at any time by contacting Qwest directly with a verbal, written or electronically signed authorization. Would you be interested in setting that up now?

If the customer indicates to the Qwest service representative that they would like the freeze(s) added to their account, the service representative will advise the customer as to the purpose and nature of the third party verifier ("TPV"). Once that discussion takes place, the customer will be transferred to the TPV. Customers will also have the option of completing a written Letter of Authorization ("LOA") in lieu of third party verification. Businesses with many lines to be transferred typically use the written method of verification, as do some residential customers who want a written record of the transaction. In fact, Qwest's policy is that a written LOA must be completed on any business accounts with more than sixty lines. This is done to reduce the potential for error on multi-line accounts. Exhibit SAM-6 contains a copy of Qwest's LOA form.

The processes Qwest has established comply fully with federal and state requirements designed to ensure that customers are making a fully informed decision when requesting that a local service freeze be added to their account. Contrary to AT&T's suggestions, no further Commission oversight is necessary.

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[19] Customers who contact the business office for the sole purpose of establishing a carrier freeze will be advised as to the purpose of third party verification and will then be transferred directly to the independent

1

2 **V. QWEST HAS WORKED COOPERATIVELY WITH AT&T TO RESOLVE**
3 **UNIQUE IMPLEMENTATION ISSUES**

4 **Q. MR. WOLF OUTLINES A PROBLEM WHEREIN AT&T ORDERS FOR**
5 **LOCAL NUMBER PORTABILITY ("LNP") WERE REJECTED**
6 **BEGINNING IN FEBRUARY 2002. CAN YOU PROVIDE INFORMATION**
7 **AS TO THE NATURE OF THIS PROBLEM?**

8 A. Yes. It is quite possible that AT&T may have begun experiencing more rejections
9 during the week of February 25, 2002 than AT&T had experienced in the past. This
10 may have been due in part to a backlog of orders to add a local freeze that were
11 worked by Qwest's vendor in mid-February. Qwest's arrangement with this vendor
12 was that freeze orders would be processed real-time. However, Qwest discovered in
13 early February 2002 that this vendor was significantly behind in issuing orders
14 applying freezes to customer accounts. A concerted effort was expended to get the
15 orders issued, beginning February 16. By February 22, all backlogged orders had
16 been worked.[20] As a high volume of orders establishing local service freezes were
17 issued in a short amount of time, it is quite possible that CLECs attempting to
18 process LNP orders were prevented from doing so, as AT&T described, and the
19 incidents of rejection may have appeared higher during that time period. However,

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third party verifier.
[20] Qwest no longer employs that particular vendor as a third party verifier for adding local service freezes to Qwest customer accounts.

1 the protection afforded by LSFs was working, in that carriers were prevented from
2 changing a customer's account without the end user first removing the freeze.
3
4 Furthermore, as indicated previously, Qwest has offered local service freezes in
5 Washington in accordance with the requirements of WAC 480-120-139 for some
6 time and did not begin doing so in February 2002, as AT&T contends.
7
8 **Q. MR. WOLF MAINTAINS THAT QWEST'S PROCESSES TO REMOVE A**
9 **LSF FRUSTRATE CUSTOMER CHOICE AND MAY BE USED BY QWEST**
10 **TO WIN BACK CUSTOMERS (DIRECT TESTIMONY OF JONATHAN**
11 **WOLF AT PAGE 13, LINES 9 to 13). DO YOU AGREE?**
12 A. No. Qwest adheres to the WUTC and FCC rules regarding lifting of freezes. As
13 stated previously, WAC 480-120-139(5)(d) indicates that LECs must obtain a
14 written and signed authorization from the customer, stating his or her intent to lift
15 the freeze. Alternatively, the customer may provide oral authorization to lift the
16 freeze and such authorization may occur via a three-way call with the customer and
17 another LEC. Oral authorization must include appropriate verification data.
18
19 Similarly, FCC rules specify that a customer may lift an LSF by either: (1) calling
20 Qwest directly; (2) calling Qwest while the new carrier is on the line; or (3)
21 providing written or electronically signed authorization. 47 C.F.R. §1190(e)(1) and
22 (2).

1

2 Qwest will accept a customer request to remove a freeze via any of the means
3 outlined above. Qwest has established a form designed to make it easy for
4 customers to request in writing that a freeze should be removed from their account
5 (see Exhibit SAM-7). Qwest has also set up an email address that customers can
6 use to request that a freeze be added or removed from their account,[21] and it has
7 developed electronic forms that customers can populate and send via the Internet to
8 have a freeze added or removed.[22]

9

10 For those customers who desire to lift their freeze orally, Qwest has contracted with
11 an independent third party vendor to handle all oral LSF removals. Customers may
12 contact the Qwest business office, in which case the service representative will
13 transfer them immediately to the third party vendor upon learning of the desire to
14 lift the freeze. No win-back or retention efforts will be made. CLECs have been
15 informed of the telephone number dedicated to this third party vendor to be used for

[21] FreezeIT@qwest.com
[22] See http://www.qwest.com/residential/customerService/loa_lift_form.html for an example of the form to lift a freeze available to Washington residential customers.

1 freeze removals, and may completely bypass a Qwest representative by dialing the
2 number with the customer on the line and requesting that the freeze be removed.
3 The third party vendor is not authorized to conduct win back or any retention
4 marketing.
5
6 In sum, Qwest has established a myriad of ways for customers to remove freezes –
7 all of which comply with this Commission's and the FCC's rules. AT&T's
8 complaint concerning the processes Qwest customers may use to remove a freeze
9 paints an inaccurate and incomplete picture and as such, the complaint is baseless.
10
11 **Q. MR. WOLF RECOMMENDS THAT CUSTOMERS WHO AUTHORIZE A**
12 **LOCAL SERVICE FREEZE DO SO SEPARATELY FROM ANY LONG**
13 **DISTANCE PROVIDER FREEZE (DIRECT TESTIMONY OF JONATHAN**
14 **WOLF AT PAGE 12, LINES 21 to 25). DO YOU AGREE?**
15 A. Yes. In fact, this is how Qwest has always administered local service freezes. Once
16 the customer has indicated they are interested in placing a freeze on their account,
17 they are advised of the purpose and the nature of the third party verifier (TPV).
18 Once that discussion has taken place, the customer is transferred to the TPV where a
19 representative explains why they are involved in the customer's decision. They
20 request the customer's billing telephone number, the billing name on the account,
21 the billing address, and identification of the person to whom they are speaking. The
22 TPV representative confirms that there is no charge for establishing a freeze, or for

lifting a freeze. The customer is then asked to identify the specific service(s) for which they want a freeze (i.e., local service, local long distance, out-of-state long distance). The customer must separately identify each service and is required to confirm that each service is the service for which a freeze has been authorized or requested. The customer is then asked to state each telephone number to which the freeze is to apply. If the customer has identified multiple services or multiple telephone numbers, the TPV representative is to repeat each service and each associated number and confirm that for each, a freeze is authorized or requested.

As indicated previously, customers also have the option of completing a written Letter of Authorization (LOA) in lieu of third party verification. The LOA form, attached as Exhibit SAM-6, provides a place for the customer to separately mark, and therefore separately authorize, each specific service, identified on the form as Local Service (LEF), Local Long Distance or Toll Service (LPIC), and Long Distance Service (PIC) for which a freeze is desired.

These procedures comply fully with the requirements outlined in WAC 480-120-139(5).

Q. AT&T MAINTAINS THAT SOME CUSTOMERS DESIRING TO SWITCH TO AT&T DID NOT AUTHORIZE A LOCAL SERVICE FREEZE BE PLACED ON THEIR ACCOUNT. PLEASE COMMENT.

1 A. Mr. Wolf's testimony contains broad allegations with very little specifics to back
2 them up. For example, on page 10, lines 9 to 10 of Mr. Wolf's testimony, AT&T
3 claims that 95% of the 234 "affected customers" deny authorizing a local service
4 freeze be placed on their account. AT&T has provided no specifics, and did not
5 even provide sufficient information in its direct case to allow Qwest to verify these
6 allegations, or even identify any of the 234 customers. Thus, Qwest cannot provide
7 a more specific response. However, Qwest has worked diligently with AT&T to
8 resolve problems and will continue to do so when it is provided with adequate
9 information.
10
11 **Q. IS IT POSSIBLE THAT THERE HAVE BEEN MISCOMMUNICATIONS**
12 **AND MISUNDERSTANDINGS BETWEEN CONSUMERS AND QWEST**
13 **SERVICE REPRESENTATIVES PERTAINING TO LOCAL SERVICE**
14 **FREEZES?**
15 A. Yes, this is possible, and may explain why some consumers who called in to
16 Qwest's business offices to determine whether a local service freeze had been
17 applied to their account were told it had when the customer did not recall
18 authorizing one, as AT&T supposedly found. I am aware that, despite repeated
19 instruction and training on local service freeze implementation, Qwest service
20 representatives may have confused a customer's request pertaining to the relatively
21 new local service freeze with long distance freezes which have been in place for
22 years. This may have led to inaccurate information being provided to the customer

1 (e.g., the customer who was allegedly told that it would cost $5.00 to remove a
2 freeze – the $5.00 applies to changing presubscribed long distance carriers).
3 However, again, since no specifics were provided in AT&T's testimony, it is
4 difficult to respond with any certainty.
5
6 **Q. AT&T CONTENDS THAT QWEST DOES NOT HAVE PROCESSES IN**
7 **PLACE IN ITS RETAIL OFFICES TO LIFT LOCAL SERVICE FREEZES**
8 **(DIRECT TESTIMONY OF JONATHAN WOLF AT PAGE 8, LINES 25 to**
9 **26). IS THIS ACCURATE?**
10 A. No. Confidential Exhibit SAM-C8 contains examples of "communicators" that
11 have been distributed to Qwest's service representatives over time, informing them
12 on the proper procedures to add and remove local service freezes. In addition,
13 Confidential Exhibit SAM-C9 contains the methods provided to Qwest retail
14 channels concerning administration of local service freezes, including processes to
15 be followed when removing a local service freeze at a customer's request. As is
16 apparent from the communicators included in Confidential Exhibit SAM-C8, Qwest
17 has taken steps to improve these processes as necessary. A specific example is the
18 communicator dated May 3, 2002 which indicates Qwest retail service
19 representatives will no longer be involved in the lifting of a freeze, other than to
20 transfer the customer to the third party vendor who is handling all freeze removals
21 for Qwest, as explained previously. Qwest has well-defined processes in place for
22 adding, as well as removing, local service freezes on retail customers' accounts

1

2 Q. **HAS QWEST ALREADY TAKEN STEPS TO ADDRESS CONCERNS**
3 **RAISED IN THIS PROCEEDING BY AT&T RELATIVE TO THE LIFTING**
4 **OF LOCAL SERVICE FREEZES FROM RETAIL CUSTOMERS'**
5 **ACCOUNTS?**

6 A. Yes. Prior to filing its complaint with this Commission, AT&T approached Qwest
7 through the Wholesale Change Management Process (CMP), with a formal request
8 to address several issues surrounding removal of LSFs. AT&T first submitted a
9 Change Request (CR) through the CMP on March 8, 2002. At AT&T's request,
10 Qwest expedited the CR through the CMP process and has responded to AT&T's
11 issues in a conscientious, forthright manner. Many of these same issues were raised
12 in AT&T's complaint in the immediate proceeding, despite the fact that Qwest has
13 already taken steps to improve existing processes and address AT&T's concerns.
14 Following are specific examples of problems AT&T raised through the CMP, the
15 cite to the same issue raised in Mr. Wolf's testimony, and a description of steps
16 Qwest has taken to resolve the issue:

17

18 **LSRs Were Rejected After the Freeze Was Removed** (Direct Testimony of
19 Jonathan Wolf at page 7, lines 20 to 22)

20 **Qwest Resolution**: This is a systems issue wherein the customer service record is
21 not updated for 2 to 3 days after a freeze is removed. To work around the
22 constraint, Qwest has implemented a process by which CLECs, including AT&T,

may obtain an order number during the three-way call with the end user to remove the freeze. The CLEC may enter the order number on its LSR, in which case Qwest will process the LSR on the same day the LSF is removed. LSRs submitted without the order number will be worked the day following the request for the removal of the LSF. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)

Three Way Call with End User Took Too Long (Removed (Direct Testimony of Jonathan Wolf at page 8, lines 10 to 12)

Qwest Resolution: On March 20, 2002, Qwest established a permanent, dedicated telephone number to which all freeze removal requests may be directed. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10) The number, 1-877-719-4294, was originally designed as a temporary measure to expedite removal orders for CLECs, in response to complaints from AT&T. Qwest has now staffed the number with sufficient personnel so that any CLEC, with the end user on the line, may call to remove the LSF without going through regular Qwest business offices. In April, 92% of the calls directed to this number were answered in twenty seconds or less.

Staff manning this number are fully trained to deal specifically with local service freeze removals. Not only will this result in faster processing times, but because this specialized staff is devoted solely to processing freeze removals, it will

alleviate any confusion which may have resulted when going through Qwest sales channels, where service representatives handle hundreds of products for fourteen different states.

Qwest Should Have Escalation Procedures in Place (Direct Testimony of Jonathan Wolf at page 16, lines 19 to 20)

Qwest Resolution: Qwest has established a point of contact for CLEC LSF escalations in its Interconnect Service Center. The Service Delivery Coordinators at that number have been trained to assist with LSF-related issues. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)

It has only been a little over two months since these issues were first brought to Qwest's attention. Qwest has listened to AT&T's concerns, investigated them, developed solutions, and implemented them. As some of them involved multiple cross-functional systems, this was not an easy task to accomplish in such a short amount of time. These examples demonstrate that much can be accomplished by entities working cooperatively to resolve issues, rather than unnecessarily imposing upon the regulatory process. Qwest suggests that the Commission consider the steps the company has already taken to address AT&T's concerns through the CMP when evaluating the validity of the complaint.

1 **Q. WERE THERE SOME REQUESTS SUBMITTED BY AT&T THROUGH**
2 **THE CMP AND REPEATED IN MR. WOLF'S TESTIMONY WHICH**
3 **WERE NOT RESOLVED AS AT&T REQUESTED?**
4 A. Yes. For instance, on page 13, lines 19 to 22 of Mr. Wolf's testimony, he
5 recommends that Qwest should take customer calls to remove a LSF on evenings
6 and Saturdays. AT&T raised this same issue through the CMP. As indicated to
7 AT&T in Qwest's response to AT&T's CR, Qwest has made a business decision as
8 to the hours it will receive calls from customers to affect a freeze removal. In
9 Washington, those hours are Monday through Friday, from 5 a.m. to 7 p.m. With
10 these lengthy hours of operation, there has not been a demand for Saturday hours,
11 nor has it been deemed an efficient use of company resources. Therefore, Qwest
12 has not agreed to make personnel available during Saturdays to remove freezes as
13 AT&T has requested. (See April 11, 2002 Letter to AT&T from Qwest re Qwest's
14 Change Request Response - CR # PC 030802-1, attached as Exhibit SAM-10.)
15
16 **Q. AT&T MAINTAINS THAT QWEST SHOULD REMOVE THE LSF**
17 **IMMEDIATELY WHILE THE CUSTOMER IS ON THE LINE (DIRECT**
18 **TESTIMONY OF JONATHAN WOLF AT PAGE 13, LINES 22 to 23). IS**
19 **THIS POSSIBLE?**
20 A. No, it is not. An order is issued immediately while the customer is on the line, but
21 it takes time for the order to be processed and to update the various systems and

customer records. The freeze will be removed the same day the removal request is received and the customer will be notified of this during the call.

VI. CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Washington consumers have a right to avail themselves of the protection that exists to prevent slamming from happening to them – for all aspects of their telecommunications services, i.e., local, local long distance, and interLATA long distance. Qwest has done its part to effect methods and procedures that conform to WUTC and FCC rules. Qwest has made a good faith effort to respond to its wholesale and retail customers and improve existing processes where necessary, yet many of the concerns raised by Mr. Wolf in his testimony are the same concerns AT&T has already raised – and had resolved - through the Wholesale Change Management Process. AT&T's complaint in this docket should be seen for what it is – a dialog of broad, unsubstantiated allegations against Qwest concerning issues that have already been resolved or that are simply frivolous. As such, the complaint should be dismissed.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC., Complainant, v. QWEST CORPORATION, Respondent.	DOCKET NO. UT-020388

EXHIBITS

OF

SCOTT A. MCINTYRE

DIRECTOR – PRODUCT AND MARKET ISSUES

QWEST CORPORATION

MAY 23, 2002

EXHIBITS OF SCOTT A. MCINTYRE

DOCUMENT	EXHIBIT NUMBER
CLEC Notification	SAM-2
August 2001 Customer Mailing	SAM-3
January 2002 Bill Insert	SAM-4
April 2002 Customer Mailing	SAM-5
Letter of Authorization Form	SAM-6
Request to Lift Freeze Form	SAM-7
Multi Channel Communicator – LSF Processes *CONFIDENTIAL*	SAM-C8
Local Service Freeze - Methods *CONFIDENTIAL*	SAM-C9
April 11, 2002 Letter to AT&T from Qwest re Qwest Change Request Response – CR #PC 030802-1	SAM-10

ATTACHMENT I

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MIME-Version: 1.0
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Subject: [Fwd: [Fwd: Local Service Freeze - Methods for Co-providers]]
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Return-Path: <mrouth@uswest.com>
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Received: from uswest.com (localhost [127.0.0.1]) by
egate-co4.uswc.uswest.com (8.10.0/8.10.0) with ESMTP id f22KLu239956; Fri, 2
Mar 2001 13:21:56 -0700 (MST)
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Date: Fri, 02 Mar 2001 13:21:56 -0700
From: Mark Routh <mrouth@uswest.com>
Organization: DTIS
X-Mailer: Mozilla 4.51 [en] (WinNT; U)
X-Accept-Language: en
MIME-Version: 1.0
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Mar 2001 12:57:34 -0700 (MST)
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id 00256A03.00736JJF ; Fri, 2 Mar 2001 13:00:20 -0800
X-Lotus-FromDomain: USWEST
From: "Susan McNa" <smcna@uswest.com>
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Message-ID: <88256A03.007357E1.00@notes.uswc.uswest.com>
Date: Fri, 2 Mar 2001 12:58:27 -0700
Subject: Local Service Freeze - Methods for Co-providers
Mime-Version: 1.0
Content-type: text/plain; charset=us-ascii
Content-Disposition: inline

There is a change in the date for the mechanical process --- it will be
effective April 23, 2001 rather than approximately April 15, 2001. The date
has
been changed in the methods that follow.
---------- Forwarded by Susan McNa/COMPLEX/USWEST/US on 03/02/2001
12:53 PM ----------

Susan McNa
03/02/2001 07:55 AM

To: thubis@uswest.com, jxalle58@qwest.com, mrouth@uswest.com, Matthew Rossi/GROUPWARE/USWEST/US@USWEST, Martha Phelps/GROUPWARE/USWEST/US@USWEST, Colleen Austin/GROUPWARE/USWEST/US@USWEST, Paulette Hauck/GROUPWARE/USWEST/US@USWEST, Mary Riffle/GROUPWARE/USWEST/US@USWEST
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Subject: Local Service Freeze - Methods for Co-providers

The following methods bulletin should be distributed to co-providers and account teams.

---------- Forwarded by Susan McNa/COMPLEX/USWEST/US on 03/02/2001 07:48 AM ---

Merna Thane
02/28/2001 03:27 PM

To: Susan McNa/COMPLEX/USWEST/US@USWEST
cc:

Subject: Local Service Freeze - Methods for Co-providers

LOCAL SERVICE FREEZE METHODS FOR CO-PROVIDERS

BACKGROUND

Out of concern for slamming issues, the Washington Transportation and Utilities Commission has mandated that a local service freeze process be implemented in Washington state effective March 10, 2001. This service is being made available beginning March 1, 2001 through Qwest Interconnect Services, on the basis of an end-user request to their co-provider. The process will be manual until approximately April 23, 2001, when it will become mechanized through IMA.

ESTABLISHING A FREEZE UPON END-USER REQUEST (LOA IN PLACE)

1. Fax an LSR requesting a freeze on designated lines to Wholesale Interconnect Services.
The request is required to be in the Remarks section of the LSR.

2. Qwest Wholesale will issue an order on the account to add LEFV (Local Exchange Freeze - Voice)
behind each line requested. A permanent Remark: LEFV will also be placed on the account.
The end-user need not request all lines to be frozen. The LEFV entry will
appear only behind those
lines that are included in the request.

REJECTION OF A FREEZE REQUEST

If a request is made on an account and the lines in question are already frozen
to another co-provider,
the LSR will be rejected back to the requesting co-provider.

The requesting co-provider must instruct the end-user to call their old Local Service Provider (LSP)
and have the freeze removed, afterwhich a request to freeze can be received and
processed. Allow
sufficient time for the freeze to be removed before resubmitting a request.

REMOVING A FREEZE UPON END-USER REQUEST

1. Fax an LSR to Wholesale Interconnect Services requesting unfreezing of designated lines.
The request is required to be in the Remarks section of the LSR. .

2. Qwest Wholesale will issue an order on the account to remove LEFV behind lines requested to be
unfrozen. The permanent Remark: LEFV will also be removed.

MECHANIZED CHANGES IN APRIL

Beginning approximately April 23, 2001, an entry of A (add) or R (remove) made on the LSR in the LSCP
field will flow through IMA and add or remove a local service freeze, eliminating the need to fax requests
to the Wholesale Interconnect Services group. More details on that will follow
later.

- mrossi.vcf

Local Service Freeze Options Provide *Free* Protection for Washington Telephone Subscribers

The Washington Utilities and Transportation Commission has ordered all Telecommunications Companies in Washington to provide a Local Service Freeze Option to prevent a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent.

Freezing Your Telecommunications Selection

As a Qwest subscriber you have the right to freeze your preferred telecommunications selection at no charge for:

- local exchange service
- intraLATA Local Long Distance Service
- interLATA Long Distance Service

ride the light
Qwest.

Subscribers may place a freeze on any one or more of these services. You can apply for this important protection by contacting Qwest at:

For Home	**1-877-589-8364**
Small Business	**1-800-603-6000**
Large Business	**1-800-549-5629**
Federal Service	**1-800-879-1023**
Government & Education	**1-866-221-6073**

Removing Your Telecommunications Freeze

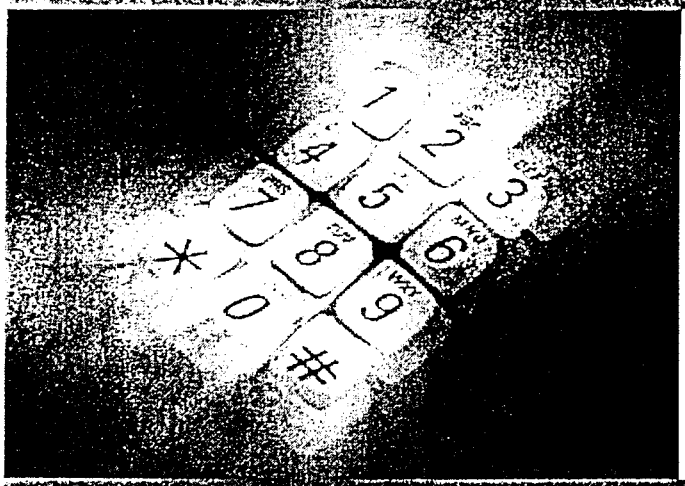
You may also remove a freeze from any of your carrier selections at no charge. To do so, an authorization must be provided to Qwest in the form of:

- A written or electronically signed authorization or;
- An oral authorization that includes appropriate verification.

Once a freeze is effective, to change the provider of a service that is subject to a freeze, you must contact Qwest directly, yourself, in one of the ways described.

If you have any questions or need additional information about the Local Service Freeze Options, please contact us at the toll free number listed at the top of your Qwest telephone bill.

Protect Your Local Phone Service



Communications is an important part of your everyday activities. That's why we want your service to be protected from slamming (switching of your phone service by another provider without your permission).

Get protection today from Qwest
Now you can protect your local service and prevent any company from changing your local service provider (Qwest) by placing a freeze on your telecommunications account – at no charge. You also have the option to freeze your local long distance and long distance services.

(continued on back)

FREE!

It's quick and easy to get this FREE *protection* on one or more telephone lines. Contact Qwest at:

Consumer	**1-800-339-0188**
Business	**1-800-996-2512**
Large Business	**1-800-549-5629**
Federal Services	**1-800-879-1023**

You can remove the freeze at any time by contacting Qwest directly with a written or electronically signed authorization. To change your provider, you must lift the freeze in addition to other verification rules for service provider changes.

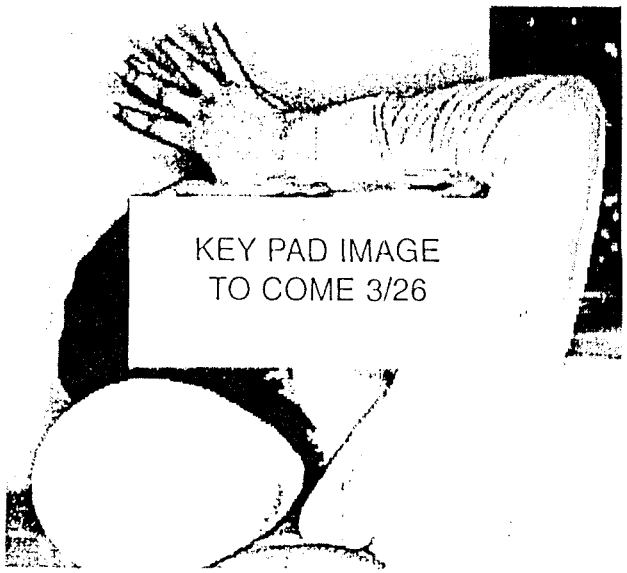
If you have any questions or need additional information about this ***free protection***, please contact us at one of the toll free numbers listed here.

Qwest.

CO/UT/OR 01/02 00

Qwest

Protect your phone service from unwanted changes.



NOW QWEST PREFERRED CUSTOMERS CAN STOP UNWANTED CHANGES TO THEIR PHONE SERVICE – FREE.

PROTECT YOUR PHONE SERVICE FROM UNWANTED CHANGES. QWEST MAKES IT EASY.

5090 N. 40th St., Rm. 325
Phoenix, Arizona 85018

Presorted Standard
U.S. Postage
PAID
Denver, CO
Permit No. 141

Qwest preferred.

We're committed to providing our Qwest Preferred customers with the best service possible. And now, we'd like to offer you the peace of mind of knowing that your phone service is protected.

Communication is an important part of your everyday activities. That's why you may want to protect your phone services from slamming (switching of your phone service provider without your permission). Get protection today, from Qwest. Now you can protect your local (dial tone), local long distance, and long distance service and prevent any company from changing your service provider(s) by placing a freeze on any or all of these services – at no charge. It's quick and easy to get this FREE protection for your telephone service(s).

Contact Qwest at 1.800.339.0188 Customer service hours are from 7 a.m. to 7 p.m.

A freeze does not prohibit you from making changes to your service(s)/provider(s) at any time, but you must contact us directly. You may remove a freeze at no charge by contacting Qwest directly with a verbal, written or electronically signed authorization. If you have any questions or need additional information, please contact us at the toll-free number listed at the top of your Qwest telephone bill.

Call today
1.800.339.0188
qwest.com

ride the light
Qwest.

Broadband *Internet* *Voice* *Wireless*

Once a freeze is effective, authorization given to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Provider Freeze may not be available in all states. © 2002 Qwest Communications International Inc.

Once a freeze is effective, authorization given to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Provider Freeze may not be available in all states. © 2002 Qwest Communications International Inc.

Qwest

LETTER OF AUTHORIZATION
TO FREEZE PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ State ___ Zip _____

The undersigned Subscriber requests to "freeze" their Preferred Service Provider(s) for the following service(s).

LEF	LPIC	PIC
Local Service	Local Long Distance or Toll Service	Long Distance Service
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to freeze the Preferred Service Provider(s) of the service(s) for the telephone number(s) below. Please select your desired freeze preference(s) adjacent to the telephone number(s). The Subscriber may choose one, two, or all of the freezes. The Preferred Service Provider that is frozen will be the current one for the particular service and number as of the date this document is presented to Qwest. The undersigned Subscriber understands that no change in such a provider can be made unless that freeze is lifted, even if the authorization to change the Preferred Service Provider is in writing or verified by a third party.

Only the telephone numbers listed below are covered by this "Freeze" Authorization.

Subscriber's Main Telephone Number: LEF ☐ LPIC ☐ PIC ☐ (_____) _____-_____

Additional Telephone Numbers:

LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____
LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____
LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____
LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____
LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____
LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____	LEF ☐ LPIC ☐ PIC ☐ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to freeze the Preferred Service Provider for the phone number(s). My signature on this form authorizes Qwest to freeze the current preferred service provider for each designated service on each such designated phone number. I understand that I may lift this freeze: (a) by calling Qwest at the toll free number listed at the top of my Qwest telephone bill and orally authorizing Qwest to lift the freeze, including providing appropriate verification, or (b) sending Qwest a written or electronically signed authorization to lift the freeze. I understand there is no charge associated with implementing or lifting the freeze(s) included in this Authorization.

Signature: _____ Date (MM/DD/YY): _____

Printed Signature: _____ Title: _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR FAX TO: (800) 236-6992

Qwest Internal Use Only

Order # _____ SLS Code (Bus. Only): _____

Representative: _____ TN: _____

Date Received: _____

Date Processed: _____

ride the light
Qwest

REQUEST TO LIFT FREEZE(S) OF A PREFERRED SERVICE PROVIDER(S)

Subscriber's Name _____
(Must be exactly as it appears on current bill)

Subscriber's Address _____
(Must be exactly as it appears on current bill)

City _____ State ____ Zip _____

The undersigned Subscriber requests Qwest to "lift" the following described freeze(s).

LEF	LPIC	PIC
Local Service	Local Long Distance or Toll Service	Long Distance Service
(Dial tone Service)	(1+ IntraLATA service, Local In-state Long Distance)	(1+ InterLATA service, State to State)

Marking the box adjacent to the identified Service(s) is a separate request from, and authorization by, the undersigned Subscriber to Qwest to lift the freeze of the Preferred Service Provider of the service(s) for the telephone number(s) below. The Subscriber may choose to remove one, two, or all of the freezes.

Only the telephone numbers listed below are covered by this "Freeze Removal" Authorization.

Subscriber's Main Telephone Number: LEF ❑ LPIC ❑ PIC ❑ (_____) _____-_____

Additional Telephone Numbers:

LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____
LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____	LEF ❑ LPIC ❑ PIC ❑ (____) _____-_____

The phone number(s) listed on this Authorization are listed in my name and/or I am authorized to lift the freeze(s) for the phone number(s) set forth above. There is no charge for lifting a freeze.

Signature: _____ Date (MM/DD/YY): _____

Printed Signature: _____ Title: _____

PLEASE MAIL COMPLETED FORM TO: QWEST % Richard Lundy
7880 Mesquite Bend Dr.
Irving, TX 75063

OR **FAX TO: (800) 236-6992**

Qwest Internal Use Only

Order # _____ SLS Code: LS1XLF3 (Bus only)
Representative: _____ TN: _____

Date Received: _____
Date Processed:

Multi Channel Communicator

New or Changed Information Procedure

Issue Date	Effective Date	Purge Date	Ed

Redacted

Local Service Freeze - CO ID ND SD OR UT WA WY Bus Res

Redacted

Qwest

April 11, 2002

Terry Bahner
Supervisor
AT&T Local Services Access Management
1875 Lawrence St.
Denver, CO 80202-1847

SUBJECT: Qwest's Change Request Response - CR # PC 030802-1
Local Service Freeze Removal for Residence and Business Customers

Following is the response to the escalation on this CR.

Escalation Description Presented
The inability to remove the local service freeze from the customer's residential account has daily impacted AT&T Broadband's ability to port the number and to submit an LSR that will not be rejected nor issued a jeopardy condition after the FOC.

Desired CLEC Resolutions:

1. The end customer should make only one call to remove the local service freeze with the CLEC on the line.

The number 877-719-4294 will remain in place for the removal of Local Service Freezes. Qwest is adding people and processes so higher volumes of calls can be handled. The CLEC, with the end user on the line, may call this number to remove the Local Service Freeze, which will ensure efficiency in the process. The end user must be on the line. This means that Qwest will have a dedicated number, line, and staff for removal of Local Service Freezes.

2. The CLEC should be able to send the LSR immediately after the freeze has been removed without fear of rejection or a jeopardy condition issued after the FOC.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

3. An escalation process should be in place to resolve LEFV issues.

Qwest has established a point of contact for CLEC Local Service Freeze escalations in the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). The Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issue.

Qwest

4. Qwest should suspend the LEFV process in the remaining states it offers LEFV as a feature until a workable process is agreed upon by the CLEC community.

Qwest will not suspend Local Service Freeze. Qwest believes that its preexisting processes were sufficient. In any event, the new processes outlined in this letter will further assure compliance. Qwest also is committed to effecting reasonable processes on a continuing basis, as needed. Qwest's policies and procedures meet FCC and state-specific rules, and Qwest has and is responding to feedback from CLECs regarding its policies and procedures. For example,

- Qwest has established one telephone number with a staff dedicated to this function. A CLEC with the end user may use the (877) 719-4294 number to expedite removal of a Local Service Freeze, just as AT&T requested.

- Qwest will accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

Qwest will continue to effect reasonable processes to accommodate CLEC requests. Qwest agrees to do problem solving working sessions with AT&T if needed (and with other CLECs upon request).

Below are responses to issues brought up on the CLEC Change Request Follow-up Meeting on April 4, 2002.

Issue Presented - 2.2
AT&T commented that using Aegis is currently their only option, as when they call the Qwest Business Offices they be on hold for long periods and the staff do not appear to be familiar with this process. AT&T asked that the 866-311-0222 number remain in effect. Qwest agreed that the Aegis number will remain in effect until this issue is resolved

This issue has been resolved by continuing the 877-719-4294 number. The 866-311-0222 should not be used to remove Local Service Freezes.

Issue Presented - 2.3
AT&T stated that the Qwest web site states the Local Service Freeze can be removed immediately, which has not been their experience. Qwest reiterated that it is effective the same day, but the LSR has to be submitted the next day. AT&T then asked Qwest to reduce the process time by one business day. Qwest took an action to reply to this.

The April 3, 2002 version of the PCAT states the order to add or remove a Local Service Freeze is issued and effective the same day the request is received.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field. A process was put into place on March 22, 2002, which allows the CLEC to include the R order number on their LSR. The Qwest Service Delivery Coordinator (SDC) will check for the R order and reject the LSR only if none exists.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

Qwest

Issue Presented - 2.4
AT&T stated that their desire is for Qwest to lift the Local Service Freeze so the LSR can be submitted the same day.

Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field.

As before, the CLEC can submit an LSR without the R order number the day following the request for the removal of the Local Service Freeze.

Issue Presented - 2.5
Eschelon asked if the LSR can be submitted using the R-Order number in the PON field? Qwest believed this would work. Qwest will investigate and report back.

The R order number can be included in the Remarks field or in the RORD field.

Issue Presented - 2.7
Eschelon stated that Qwest could go to the State Commissions and seek a waiver on the Local Service Freeze. Eschelon also asked about a written process to remove the Freeze. Besides the presence of a form, Eschelon wanted to know whether there was a back end process in place to deal with this and what had been communicated to the CLECs? Qwest took an action to respond to this.

Qwest will not seek a waiver on Local Service Freeze.

Qwest Retail end user customers may have their Local Service Freeze removed by contacting Qwest in writing. Since there is no direct customer contact (voice), the customer is not provided with a due date and R order number. We will include information regarding this process in the next PCAT update. Use of the web-based freeze removal (electronic signature) is currently being developed.

Issue Presented - 2.8

AT&T reiterated they are seeking:

A. To only have to make one call

B. To send in their LSR without rejection

C. A clear and concise escalation process

D. Have the Aegis number available on Saturdays

A. The number 877 719 4294 will remain in place for the removal of Local Service Freezes, as set forth above.

B. Qwest agrees to accept LSRs the same day the Local Service Freeze is removed as long as the submitting CLEC includes the R order number of the Local Service Freeze removal order in the Remarks field or in the RORD field, as set forth above.

Qwest

As before, the CLEC can submit an LSR without the R order number the day following the removal of the Local Service Freeze.

C. Qwest has established a point of contact for CLEC Local Service Freeze escalations in the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). The Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issues.

D. Qwest will not be providing access for Local Service Freeze removals on Saturdays. The timeframes for adding or removing Local Freeze mirror the timeframes for adding or removing PIC/LPIC freezes.

Issue Presented - 2.9
AT&T also stated they continue to see large numbers of customers with the Freeze implemented, who believe they have never asked for it on their account. Qwest replied that they are continuing to investigate the AT&T examples and have already found most of the TPVs for the AT&T examples. AT&T replied they have heard this before but have yet to receive any validation from Qwest. AT&T stated the implementation of a freeze is not clear as too many customers are not aware of this action on their account. Qwest will provide validation to Terry Bahner (AT&T).

AT&T has provided Qwest with a list of names and numbers they believe were improperly frozen to their local exchange carrier. AT&T has complained that Qwest has not provided the TPV or other proof that the local service freeze was properly imposed.

Qwest investigated and analyzed all of the affected accounts, and it has no reason to believe any account was frozen without the customer's request when the freeze was imposed.

Qwest's process to add a Local Service Freeze includes several steps to ensure the end user customer is aware of the freeze being added to their account, including the required third-party verification. If an end user indicates a desire to establish a freeze, they are transferred to a Third-Party Verifier (TPV) who asks the customer for the Billing Name on the account, Billing Address, the last four digits of their Social Security Number, and their date of birth. In addition, they ask if the caller is over 18 years old and is responsible for the account, and if they have permission to place the local service freeze on each specific line of the account.

Issue Presented - 2.10
AT&T also offered to support an application by Qwest to the commission to get a waiver on Local Service Freeze until this issue is resolved. (Qwest should voluntarily cease offering Local Service Freeze in all states where it is currently available until such time that policies and procedures are developed and implemented to apply and remove such freezes.)

For the reasons stated above, Qwest will not seek a waiver on Local Service Freeze.

Since AT&T submitted this CR, Qwest has worked diligently on the Local Service Freeze process. We feel we have been responsive to AT&T and their requests.

In response to this CR, we have introduced an 800 number as a single point of contact for Local Service Freeze removal, included step-by-step process instructions in the PCAT, implemented a manual process for checking for R orders so the LSRs can be issued the same day the Local Service Freeze is removed, as well as reviewed training with employees. We are also doing weekly quality checks.

Qwest

Please feel free to contact your Qwest Service Manager with any current examples or issues you need addressed.

Sincerely,

Harriett Berry
Qwest Senior Process Analyst

cc: Christie Doherty, Qwest, Vice President, Customer Service
cc: Sue Burson, Qwest, Director Process Management

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	)	DOCKET NO. T-01051B-02-0073
STATE OF WASHINGTON	)	
	)	AFFIDAVIT OF SCOTT A. MCINTYRE
COUNTY OF KING	)	

Scott A. McIntyre, of lawful age being first duly sworn, deposes and states:

1. My name is Scott A. McIntyre. I am Director – Product & Market Issues for Qwest Corporation in Seattle, Washington. I have caused to be filed written rebuttal testimony in support of Qwest Corporation in Docket No. T-01051B-02-0073.

2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Scott McIntyre

SUBSCRIBED AND SWORN to before me this 24th day of May, 2002.

LORI L. WHITE
NOTARY PUBLIC
COMMISSION EXPIRES 7-10-03
STATE OF WASHINGTON

Lori L. White
Notary Public residing at
City, State

My Commission Expires: 7/10/03

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDEL, Chairman
JIM IRVIN, Commissioner
MARC SPITZER, Commissioner

DOCKET NO. T-01051B-02-0073

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF

DIRECT TESTIMONY OF
DAWN RUSSELL
ON BEHALF OF
AT&T CORPORATION

MAY 13, 2002

EXHIBIT
tabbies
ATT 1
Admitted

DIRECT TESTIMONY

Q: PLEASE STATE YOUR NAME.

A: My name is Dawn Russell.

I am employed by AT&T as the Verification Policy and Sale Operations Support Manager for the AT&T Business Services Division. In this role, I am responsible for, among other matters, managing the compliance of the AT&T Business Services Division with state and federal rules regarding preferred inter-exchange carrier changes ("PIC Changes") preferred inter-exchange carrier freezes ("PIC Freezes"), local exchange carrier changes ("PLOC Changes") and local exchange carrier freezes/local service freezes ("PLOC freezes" or "LSFs").

In addition, I am also responsible for managing various AT&T Business Services Division ("ABS") Sales Operation Groups, including ABS Third Party Verification Vendors. the ABS Slamming Resolution Center, and the group that oversees the processing of preferred inter-exchange carrier changes that are rejected by local exchange carriers (the "ABS PIC Reject Rework Group").

Q: HAVE YOU TESTIFIED BEFORE THE ARIZONA COMMISSION PREVIOUSLY?

A: No, I have not directly testified before, but I have provided information to the Commission and have participated in various informal conferences and/or proceedings with individual Commissioners and the Commission Staff.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: The purpose of my testimony is to present why AT&T opposes Qwest's tariff seeking authorization to implement a local service freeze ("LSF") in the State of Arizona.

Q: CAN YOU BRIEFLY DESCRIBE WHAT A LOCAL SERVICE FREEZE IS?

A: A local service freeze is a service which, when selected by an end-user customer, enables the customer to prohibit any change to its local service provider without the customer directing its current local service provider to permit the change in carrier.

Q: CAN YOU DECRIBE THE PURPOSE OF A LOCAL SERVICE FREEZE?

A: The stated purpose of a local service freeze is to help prevent an unauthorized change to or "slam" of a customer's choice of carrier, by providing an additional, third step in the selection process applicable to local service.

Q: ARE THERE OTHER PURPOSES FOR A LOCAL SERVICE FREEZE?

A: While I am aware of no other ***stated*** purpose for a local service freeze other than preventing unauthorized changes to a customer's preferred carrier, the effect of local service freezes is far broader. In my opinion and experience, such local freezes, by adding an entire additional layer to the ordering process, make the ordering process more complex and difficult. As a result, such local service freezes inhibit consumers from changing carriers, thereby reducing the level of competition among carriers in the market place, all to the ultimate detriment of consumers.

Q: CAN YOU EXPLAIN HOW A LOCAL SERVICE FREEZE COULD WORK TO THE DETRIMENT OF CONSUMERS?

A: Yes. At the present time, to secure a change in any customer's local service provider, a customer must ordinarily complete a two-step process, administered by two separate and distinct entities.

First, the customer must place an order with a telecommunications carrier for local service. During this process, the customer must provide the new carrier with the information necessary to establish a billing account and obtain from the carrier the information necessary to select the appropriate calling plan.

Next, after completing this initial phase, the customer must have the order selection verified by a party that is independent of the new carrier. Of course, those customers who have submitted a written letter of agency to their new carrier are exempt from the third party verification process.

Only after completing both of these distinct processes can a customer secure a change in its local service provider.

The addition of a third element -- a local service freeze -- will require a third round of checks and inquiries, during which the consumer -- after completing a sales process and a verification process -- must now contact its existing carrier and lift the freeze so that a properly verified order will not be rejected. Every customer, even those who have prepared written letters of agency, are subjected to this third process. Attached as Exhibit 1 is a step-by-step analysis of the local service provider change process when a local service freeze is in place.

While such an additional check may provide some small measure of additional protection against unauthorized carrier changes, it does so only at a significant cost to the consumer, who must complete an entirely new round of verifications before to being able to change its carrier.

In my opinion and experience, the addition of this third level of inquiry unreasonably complicates the ordering process and simply makes the carrier selection more difficult for the consumer; and it is my experience, that the more difficult the process, the less likely it is that consumers will accept it or participate in it.

The end result of this cycle is simple: fewer customers will endure the longer, three-step selection process and will simply be unwilling to change their carriers. As such, there will be fewer opportunities for new carriers to make and complete sales, which ultimately means less competition in the marketplace among carriers.

The local service freeze, which was intended as a consumer benefit thus becomes a burden to the consumer.

Finally, it is my opinion, that a local service freeze is an unnecessary option in an environment where local competition is not prevalent and there is no reason to believe that "slamming" is a problem.

Q: TO YOUR KNOWLEDGE, MS. RUSSELL, DO OTHERS SHARE YOUR OPINION?

A: Yes.

Q: CAN YOU IDENTIFY THOSE OF WHOM YOU ARE AWARE?

A: Yes. I am aware that in its examination of the freezes upon a customer's selection of interexchange (long distance) carriers, the Federal Communications Commission ("FCC")

made the following comment, which reflects the agreement, not only of the FCC itself, but of other noted commentators expert in the field of telecommunications:

> We... recognize, as several commentators observe, that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly open to competition. These commentators in essence argue that incumbent LECs seek to use preferred carrier freeze programs as a means to inhibit the ability or willingness of customers to switch to the services of new entrants... We concur with those commentators that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced. Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct.

Second Report and Order, In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, FCC 98-334, released December 23, 1998, at para. 36.

Q: DO OTHERS IN ADDITION TO THE FCC AND THE EXPERTS CITED IN THE FCC DECISIONS SUPPORT YOUR OPINION?

A: Yes.

For example, in a recent decision issued by the Nebraska Public Service Commission denying Qwest's petition to implement a local carrier freeze, the Nebraska Commissioners concluded that the additional steps that local freezes add to the ordering process have but one outcome: fewer consumers are willing to subject themselves to the more cumbersome process, resulting in an a decreased opportunity for new carriers to enter and compete effectively in the marketplace:

> Upon consideration of the testimony and evidence offered, the Commission finds that the negative impact of [local service] freezes on the development of competition in the marketplace outweighs the potential benefit of such service to consumers. The provisioning of local service freezes at this time would be harmful to the development of competition and that harm outweighs the benefit.

May 7, 2002 decision of the Nebraska Public Service Commission Denying Qwest's Petition to Implement Local Service Freezes, Docket C-2662-PI-55. (A copy of this decision is submitted herewith as Exhibit 2).

In addition to the determination of the Nebraska Commission, the Iowa Utilities Board made a comparable determination based upon a virtually identical analysis, concluding that "a local service freeze is unnecessary to protect consumers and will have a detrimental effect upon the development of competition." (April 3, 2002 Decision of the Iowa Utilities Board, Docket FCU-02-01.)

Finally, I am aware that other regulatory commissions that have examined this issue have placed a moratorium on local service freezes, including the California Public Service Commission, the Minnesota Public Utilities Commission, the New Jersey Board of Public Utilities and the New York Public Service Commission.

Q: ASIDE FROM ITS GENERAL ANTICOMPETITVE EFFECTS, ARE THERE PARTICULAR ASPECTS OF THE LOCAL SERVICE FREEZE PROPOSED BY QWEST THAT AT&T OBJECTS TO?

A: AT&T opposes the application of Qwest in its entirety for the reasons previously stated by myself, the other experts and the regulatory bodies that I have cited. However, in addition to these comments there are specific aspects of the Qwest proposal that are of concern.

Q: CAN YOU INDENTIFY THOSE SPECIFIC AREAS OF CONCERN?

A: Yes. It is of significant concern that in addition to requesting the right to impose local service freezes, Qwest is seeking the right to affirmatively market this service. As Qwest is already the dominant local service provider in the Arizona marketplace, it is my

opinion that permitting Qwest the ability to market a local carrier freeze will provide Qwest with both a potent anti-competitive weapon and the opportunity to wield it unchecked. As there is no way to monitor Qwest's sales practices, there is simply no way to determine if Qwest is avoiding the virtually unavoidable temptation to improperly apply freezes and unfairly "lock in" its market share.

Q: OTHER THAN YOUR PERSONAL OPINION, ARE THERE ANY FACTS TO SUGGEST THAT QWEST WOULD MISUSE THE LOCAL SERVICE FREEZE IN THAT MANNER?

A: At this point, there is no way to predict how the local service freeze option would be exercised by Qwest in Arizona. However, AT&T's experience with Qwest's use of the identical service in the state of Washington is instructive.

In Washington, Qwest began to implement local carrier freezes in or about the first quarter of 2002. Once such freezes became effective, AT&T discovered that the majority of new AT&T customers who were affected by such freezes had no idea that such a freeze had been placed on their accounts and had no recollection of ever authorizing Qwest to place such freezes. In this regard, I refer the Commission to the sworn testimony of Jonathan Wolf, of AT&T Broadband, submitted on April 30, 2002, to the Washington Utilities and Transportation Commission, a copy of which is attached hereto as Exhibit 3.

Given this experience, it is my opinion that authorizing such freezes and permitting Qwest to affirmatively market them is ill advised.

Q: ARE THERE ANY OTHER ASPECTS OF QWEST'S PROPOSAL WHICH RAISE CONCERNS?

A: Yes, the process for removing a local service freeze once it is in place.

As described by Qwest, the process for removing a local service freeze is simple, user friendly and easier than getting a freeze initially. While we have do not yet have direct experience with the Qwest process in Arizona, AT&T's experience with Qwest's local service freeze process in Washington demonstrates that the removal of a local service freeze is anything but simple, easy or user friendly. The simple process alluded to in the QWEST testimony is contrary to AT&T's experience with assisting customers with LSF lifting/removal. AT&T has engaged in countless meetings with QWEST outlining our problems with their LSF removal process. Such problems include long hold times, wrong "reach" numbers provided for QWEST LSF removal agents, and disconnects during the transfer process. All of this is experienced with the customer on line attempting to exercise his or her right to change carriers.

I again refer the Commission to the sworn testimony offered by Jonathan Wolf of AT&T Broadband for more details, however, as noted at length in his testimony, the removal process in Washington was so cumbersome that as many as 15% of all new AT&T customers decided to obtain entirely new telephone numbers rather than endure the Qwest local service freeze removal process.

Q: IS THERE AN IDENTIFIABLE IMPACT TO AT&T IF A LOCAL SERVICE FREEZE IS AUTHORIZED?

A: Again, we have no direct experience with the freeze process in Arizona at this time, so the impacts to AT&T are matters of opinion at present. As I noted above, it is my opinion, and that of the experts and regulators noted above, that, by definition, local service freezes are anti-competitive. Our experience with Qwest, again in Washington, confirms this. Once Qwest began to offer its local service freeze in Washington, 20% of AT&T's new customers

declined to complete the process set up to remove a local service freeze. AT&T's market penetration and its very ability to compete in the local service market was thus reduced by one-fifth.

The following comments of the Montana Public Utilities Commission speak directly to the extraordinarily negative impact on competition once a local service freeze is implemented:

> ....., if the program was implemented, Qwest would be successful in locking large numbers of customers into its local service, especially given Qwest's plan to solicit customers regarding this program whenever customers call Qwest's business office for any reason. Once a customer's choice of Qwest as the local service provider is frozen, the customer must speak or write to Qwest directly in order to lift the freeze. This requirement for the customer's express consent to remove a freeze is the critical element of the customer protection that carrier freezes provide to customers. However, the freeze-lifting process with its necessary delays when applied to the local service market likely will result in customer frustration and the loss to CLECs of customers who intended to change local service providers but were deterred by the process.

April 25, 2002 Decision of the Montana Public Service Commission Denying Qwest's Petition to Implement a Local Service Freeze, Docket D2002.2.14. (A copy of this decision is submitted herewith as Exhibit 4).

It is to avoid precisely these circumstances that AT&T opposes Qwest's tariff.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

EXHIBIT 1

CHANGING LOCAL SERVICE PROVIDERS (LSP) WHEN A FREEZE IS IN PLACE

1. New LSP obtains customer's LSP change order in accordance with FCC 1 day verification requirements (e.g., LOA, TPV)

2. LSP sends LSR order to old LSP (1 day)

3. Old LSP sends order rejections to new LSP (2-3 days)

4. New LSP recontacts customer and bridges on old LSP in an attempt to lift the freeze and/or asks customer to contact the old LSP to arrange for the freeze to be lifted and then recontact new LSP to resubmit customer's order (5-10 days)

5. If freeze lift request accepted by old LSP, new LSP resubmits LSR (1 day)

6. If order is not further rejected for other reasons, old LSP releases the lines to be ported to new LSP (2-3 days)

7. Old LSP sends out PLOC to IXC carrier

8. For customers who wish to have the freeze reinstated after the PIC change order an order for LSF must be initiated

<u>Customer Contacts</u>

A. First Call: Customer places order with new LSP

B. Second Call: new LSP informs customer that the order was rejected because of freeze

C. Third Call: Customer (with or without new LSP) calls old LSP to lift freeze

D. Fourth Call: If customer did not bridge new LSP on with the old LSP, customer usually must call new LSP to advise that the freeze has been lifted and arrange for re-submission of customer order

EXHIBIT 2

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to investigate the effects of local service freezes in Nebraska.	))))))	Application No. C-2662/PI-55 FINDINGS AND CONCLUSIONS Entered: May 7, 2002

APPEARANCES:

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BY THE COMMISSION:

B A C K G R O U N D

The Nebraska Public Service Commission (Commission) opened the above-captioned docket on January 29, 2002, to investigate the effects of local service freeze offerings in Nebraska. Concomitantly in that order, the Commission demanded that Qwest Corporation (Qwest) cease and desist offering its proposed local service freeze program in Nebraska pending further review. Notice of this investigation appeared in The Daily Record, Omaha, Nebraska, on January 31, 2002.

Upon being informed about Qwest's proposal to offer a local service freeze to Nebraska consumers, the Commission issued a letter to Qwest requesting it to delay implementation of such service until the Commission had the opportunity to review the affects of this service on competition. Qwest responded that it was too late to delay implementation. However, Qwest informed

the Commission that it would agree to delay the marketing of its product.

In addition, before formally opening this docket, the Commission received three informal complaints regarding Qwest's proposed local service freeze offering. ALLTEL Corporation (ALLTEL), Cox Nebraska Telcom, L.L.C. (Cox) and AT&T Communications of the Midwest (AT&T) sent letters to the Commission expressing concerns with Qwest's local service freeze offering and asking the Commission to investigate the proposed program. The Commission also received a petition from Cox requesting the Commission to issue a show cause action against Qwest and to order Qwest to cease and desist implementation of the local service freeze. Oral arguments were heard by the Commission on January 29, 2002. The Commission subsequently found that the issue was moot by the Commission's independent finding that the implementation of Qwest's local service freeze may be in violation of state law or federal law and ordering Qwest to cease and desist offering of the local service freeze pending further investigation.

A public hearing was held on February 20, 2002, in the Commission Hearing Room, Lincoln, Nebraska, upon notice to the parties by order entered January 29, 2002. Appearances at the public hearing were as shown above.

T E S T I M O N Y

Mr. Robert Logsdon, director of regulatory affairs for Nebraska and Iowa, testified first on behalf of Cox. Mr. Logsdon testified Cox believes that Qwest's actions in implementing the local service freeze are anti-competitive. Cox is the primary residential competitor in Omaha and Cox believes that there is no evidence of slamming by local carriers. To his knowledge, slamming has not been a problem in the local exchange markets as it has been in the long distance markets. Without a local service freeze, the customer only needed to make one phone call to switch local providers. With Qwest's local service freeze in place, customers will be required to lift the freeze with Qwest prior to leaving the company. Cox believes this to be an onerous requirement and one that would deter a number of customers from switching local providers.

Cox was also concerned that the information on the implementation of Qwest's local service freeze program was not adequate. Qwest sent a product notification to Cox on December 18, 2001, notifying competitive local exchange carriers (CLECs) of its decision to offer local carrier freezes for customer

accounts in Nebraska. As of the date of the hearing, Qwest had not informed Cox on the proper procedures for lifting freezes on customer accounts. Cox was not given the phone numbers to call, information on how Qwest was going to be staffed to participate in three-way calls, nor was Cox informed about the hours Qwest would be available for three-way calls.

Mr. Logsdon further testified that it was difficult, if not impossible, for a customer to not know he or she was being switched to Cox service from Qwest. Therefore, a true act of slamming would be rare. A local service change from one facilities-based provider to another requires that a company technician set up an appointment to meet the subscriber and then requires physical modification of the system and wiring at the subscriber's home by the CLECs technician. Mr. Logsdon challenged Qwest to find proven cases of local slamming in Nebraska.

Cox took the position that the Federal Communications Commission (FCC) has given the states clear authority to issue moratoria on local service freezes. The FCC intended to leave the decision up to individual states. Mr. Logsdon testified this Commission has the ability to adopt such a moratorium upon local service freezes. Also, in the FCC's *Second Report and Order*, the FCC warned of the dangers for abuse among carriers. Mr. Logsdon further testified that the Colorado commission had specifically admonished Qwest for poor handling of three-way calls. Mr. Logsdon admitted that the Colorado decision pertained to Qwest's handling of primary interexchange carrier (PIC) freezes and not local freezes. Cox offered a copy of the Colorado Commission's order, which was received into evidence as Late-Filed Exhibit No. 13. In short, Mr. Logsdon stated that Cox believes the Commission has both the authority and the justification to ban preferred local carrier freezes in Nebraska. Cox advocated a complete moratorium on local service freezes.

Upon questioning, Mr. Logsdon provided that he saw no benefit in the local service freeze for consumers. First, he stated that the Commission was empowered to assist a consumer and punish a carrier if it determined that a local slam took place. Second, Qwest's local service freeze program was detrimental to competition because it added another step in the process for competitors to overcome. Mr. Logsdon testified that Nebraska has only a handful of competitors who have survived in the marketplace and there was no indication that local slamming could even become a big problem. Upon questioning by Ms. Vinjamuri, Mr. Logsdon testified that the Commission's three

local slamming complaints, although unverified, should be considered seriously.

Mr. Brad Hedrick, testified next on behalf of ALLTEL. Mr. Hedrick offered ALLTEL's position statement into the record. It was received as Exhibit No. 7. Mr. Hedrick testified that he did not believe that the local service freeze was warranted or needed. ALLTEL did not utilize local service freezes in any of its incumbent local exchange carrier (ILEC) or CLEC operations. ALLTEL generally supported Cox's statements. He was not aware of any local slamming complaints filed by or against ALLTEL. ALLTEL believed that the local service freeze initiative by Qwest was anti-competitive. Mr. Hedrick testified that the Commission should balance the interests of ensuring that competition does develop with the needs of Nebraska consumers. It was ALLTEL's position that at this point in time, the implementation of local service freezes would be detrimental in the development of competition, while local slamming was not a prevalent problem.

More opposition came from Mr. Musfeldt, pro se, on behalf of Nebraska Technology & Telecommunications, Inc. (NT&T). He testified that the local service freeze as proposed by Qwest, would stall competition. NT&T was concerned that the local service freeze process would cause customer confusion and create inefficiencies for customers and CLECs alike. Importantly, the local service freeze as proposed by Qwest would add another step into the implementation process. Finally, Mr. Musfeldt testified that the interconnection agreement in place with the ILEC, which provides how the companies process their orders, is sufficient to deter them and like CLECs from slamming. Mr. Musfeldt testified that if NT&T changes a customer's service without prior authorization from the customer, Qwest could claim its interconnection agreement was in breach and could stop providing service to them.

Mr. Scott A. McIntyre, director of product and market issues, testified on behalf of Qwest. Mr. McIntyre provided in his direct testimony that Qwest's "local service freeze (LSF) program allows customers the choice of placing a 'hold' or 'freeze' on their local service account so that a change in local service providers cannot be made without their authorization."[1] This service is optional for consumers and is offered at no additional charge. Mr. McIntyre testified that local service freezes allow consumers to protect their account against slamming. He then testified that unauthorized changes in ser-

[1] *McIntyre, Direct at 3.*

vice providers were a concern of this Commission as demonstrated by its rules prohibiting the practice of slamming. Mr. McIntyre testified that the FCC has recognized that carrier freezes serve as a means of protecting consumers against slamming. The FCC also established methods for lifting a freeze. Qwest would follow the FCC standards.

Mr. McIntyre further testified that the value of preferred carrier freezes is underscored by the fact that three states require Qwest to offer them through rules and regulations. Washington, Colorado and Utah have adopted rules requiring all local exchange carriers to offer preferred carrier freezes.

The Qwest witness pointed to customer concern for a reason to support Qwest's local service freeze. Mr. McIntyre reminded the Commission that long distance slamming has been a problem in Nebraska in recent years. In support of this information, Qwest invited the Commission to refer to its most recent annual report to the Legislature and to the Commission's website. Mr. McIntyre asserted that based upon the degree of slamming that has occurred in the long distance arena, it is realistic to think that Nebraska consumers are concerned about the potential for local slamming as well.

O P I N I O N A N D F I N D I N G S

In order to open the local market to competition pursuant to the Telecommunications Act of 1996 (the Act), state commissions are required to remove any barriers to competition. Neb. Rev. Stat. § 75-109(2) gives the Commission broad authority to "do all things reasonably necessary and appropriate to implement the federal Telecommunications Act of 1996." The Act makes it clear that state and local barriers are to be removed and that regulators must help foster a competitive local market. In certain cases, a barrier can be built to impede competition through the practical effect of the policies and programs of the telecommunications carriers. A barrier exists when customers face problems purposefully changing carriers or when customers are otherwise deterred from choosing amongst carriers. To that end, the Commission must ensure that the customer experiences a seamless transition when changing from one carrier to another. The Commission is also charged with promoting and moreover, facilitating a simplified mechanism for the switching of local carriers in order to foster the development of competition.[2] This is not only a significant component for consumer

[2] *See* Consumer Bill of Rights in Application No. C-1128.

protection, it also vital for carriers trying to enter and compete in local markets.

The Commission is likewise charged by state and federal authorities to protect consumers from certain abuses inherent in a competitive market, specifically here, slamming. Slamming is the term commonly used to refer to unauthorized changes of a subscriber's preferred carrier. Slamming became a widespread problem in the long distance market in the late 1990s and is now illegal under federal law and many state laws including Nebraska's.

In this particular instance, the Commission is faced with a balancing test. The Commission must balance the interest of promoting competition pursuant to the directives of state and federal law against the possibility that slamming in the local market could become a prevalent problem in Nebraska.

Generally, a freeze placed on a customer's preferred carrier selection for local exchange service (hereinafter local service freeze) requires direct authorization by the customer to the local exchange carrier to lift the freeze before a change in carriers can be made. A freeze placed on a subscriber's account is usually aimed at preventing one telecommunications carrier from slamming a subscriber's account.

In this instance, the local freeze service proposed by Qwest would likewise require any subscriber with a freeze on his or her account to make direct contact with Qwest in order to lift the freeze. Lifting a freeze with Qwest representatives is a precondition to the subscriber's ability to effect a change in local carriers. The testimony provided by Qwest demonstrated, competitive carriers would not be informed that a local freeze was preventing that customer's order from being processed.[3]

The parties opposed to the adoption of a local service freeze by Qwest made several arguments. First, they argued that the local service freeze proposal offered by Qwest is anti-competitive. They argued further that it does not respond to any particular problem because there is no prevalence of local slamming. Third, they contended Qwest's proposed offering was a method used by Qwest in order to keep its market share.

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[3] Qwest provided supplemental testimony in the place of a letter requested by the Commission as a late-filed exhibit. This testimony was objected to by Cox. The Commission sustains Cox's objection and infers only that no letter could be produced by Qwest.

Finally, they averred that local preferred carrier selection programs are easily susceptible to abuse.

All parties opposed to the local service freezes questioned the timeliness of this proposed offering in light of Qwest's 271 application. The parties argued the local service freeze to be anti-competitive. Qwest's actions, which limit competitor's access and ability to switch customers, would not conform with Qwest's arguments that they have sufficiently opened the market for local competition.

The parties are correct in that there is little evidence of local slamming in Nebraska. Omaha is the largest market and Cox, another facilities-based carrier, is Qwest's largest competitor. Qwest admitted they had knowledge of no other slamming complaints filed with the Commission other than those unverified complaints listed in Exhibit 9. The Commission has no validated cases of slamming between Cox and Qwest.

Also, clear cases of abuse by carriers have, in fact, been documented in other states.[4] Not only does the carrier have a second chance to convince the customer not to switch to a competing carrier, it also has the customer's account records at its disposal. Without proper mechanisms in place to guard against abuse, competing carriers are helpless to gain a level competitive foothold. Absent express abuse, there is evidence that a customer will be less likely to switch carriers if that customer faces obstacles to change.[5] The Commission is not satisfied that the potential for abuse has been eliminated.

Qwest on the other hand made four basic arguments in support of preferred carrier freezes. First, Qwest contended that its decision to implement a preferred carrier freeze program was based in customer concerns of slamming. Qwest also argued that local slamming is occurring in Nebraska. Third, Qwest provided that preferred carrier freezes were not only suggested by the FCC but also by state law. Finally, Qwest argued that some other states have required Qwest to make a preferred carrier freeze available to its customers and because it provides it in other states, it needs to provide it in Nebraska. We analyze these arguments accordingly.

First, Qwest argued that its decision to implement a preferred carrier freeze program in Nebraska was based upon customer concerns regarding local slamming. To support this

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[4] *See* Exhibits 4 and 13.
[5] *Id.*

argument, Qwest used information from the State of Washington regarding the number of people that have signed up for a local service freeze. Although the Qwest witness offered this as reasoning on direct, Qwest was unwilling to release the exact numbers to the other interested parties when asked. The Commission ordered Qwest to provide this information, albeit under confidential seal.

The Commission finds that the numbers of subscribers in Washington with a local service freeze is irrelevant in demonstrating even a generalized customer fear of slamming. Just because subscribers have opted to have a freeze placed on their account, after prompting by the Qwest customer service representative, does not indicate that the subscriber had any particular fear that his or her account would be switched without authorization. Many times customers will agree to opt into programs provided by a telephone carrier particularly when touted as "free" and "protection." Moreover, the Commission does not find the Washington numbers pertinent to showing customer sentiment in Nebraska. The Washington Commission may have had more complaints of local slamming or more reason to believe a preferred carrier selection was appropriate. Qwest did not provide any evidence that customers in Nebraska were concerned or fearful about local slamming.

Compounded with the aforementioned customer concerns, Qwest argued that slamming in the local exchange market, was occurring. In support of this argument, Qwest requested that the Commission take administrative notice of three alleged local slamming complaints received as recently as this year. Commission staff counsel requested that the Commission supplement the record with the results of its investigation of the local slamming complaints. All three complaints involved McLeodUSA, a competitive local exchange carrier which recently filed for bankruptcy. Of the three alleged slamming complaints, the Commission investigator found that one customer had, in fact, requested a change in carriers but had forgotten. Two complainants admitted they told the telemarketer "yes" to receiving additional information but stated they did not consent to a change in carriers. These two complaints were resolved informally, the customers were switched back to the carrier of their choice and refunded by McLeodUSA.

The Commission finds the evidence of local slamming to be nebulous at best. There was little proof on the record that local slamming was occurring in Nebraska or could proliferate in the local market. The Commission finds that two incidents not sufficient to warrant a need for Qwest's local service freeze.

Qwest's argument was, therefore, unsupported by fact or evidence in the record.

It is true that the FCC, in its *Second Report and Order* in CC Docket No. 94-129, FCC 98-334 (Second Report and Order), cited the general benefits of preferred carrier freezes.[6] The FCC outlined a number of rules a carrier must follow when implementing preferred carrier freezes.[7] At the same time, the FCC warned that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets that are newly open to competition.[8] Moreover, the FCC made clear that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem appropriate to prevent anticompetitive conduct.[9] AT&T, Cox and ALLTEL argue that paragraph 137 of the FCC's order describes situation in this case. Finally, as provided in the hearing, the FCC's *Second Report and Order* mainly addresses the problems associated with long distance slamming, a problem that was prevalent at the time of the writing of that order.

In 1998, when slamming was becoming a problem in the long distance markets, it was assumed that it likewise would proliferate in a vulnerable local exchange market. The same holds true for the Nebraska Consumer Slamming Prevention Act in Neb. Rev. Stat. § 86-1901 et seq., and the Commission's rules and regulations. This law and the corresponding rules were developed with long distance slamming experiences in mind.

Although state law and Commission rules are applicable to local exchange carriers as Qwest points out, slamming was and remains more of a problem in the long distance arena where switching a carrier involves only a change in carrier codes. Unlike the case in the long distance market, the Commission finds that state and federal laws prohibiting slamming in the local service markets provide a sufficient deterrent from and adequate compensation for incidents of slamming. While our state law provides that slamming by a local exchange carrier is unlawful, it does not require Qwest to offer a local preferred carrier selection mechanism.

Accordingly, neither state nor federal law bars this Commission from adopting a moratorium on local service freezes. The Commission finds that the reasons which require long

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[6] *See* Qwest Corporation's Post Hearing Brief at 3.
[7] *Id.* at 11.
[8] *See* Brief of Cox Nebraska Telcom, LLC at 9.
[9] *Id. See also* Second Report and Order ¶ 137.

distance carriers to offer a PIC freeze are not present in the case of local exchange carriers. Adding another step into the process of changing local exchange carriers constructs an additional barrier to competition. The local service freeze program Qwest wishes to implement is highly suspect at this time.

Upon consideration of the testimony and evidence adduced at the hearing, the Commission finds that the negative impact of such freezes on the development of competition in the local market outweighs the potential benefit of such service to consumers. The provisioning of local service freezes at this time would be harmful to the development of competition and that harm outweighs the benefit of preventing the possibility that a local slam should occur and other mechanisms in state and federal law cannot adequately compensate a victim of such an act.

Finally, the Commission rejects Qwest's argument that the Commission should give deference to a program Qwest was required to implement in other states and finds Qwest faces no undue burden from unequal enforcement of local service freezes throughout its region. Upon review of many of the programs in other states, the Commission became aware that the rules and regulations of those states apply across the board to all local exchange carriers. There are no such rules in place applicable to all carriers in Nebraska. The Commission declines to permit carriers on a piecemeal basis to implement local carrier freezes. If local carrier freezes are permitted at all, the Commission finds that such freezes should be made applicable to all carriers with appropriate safeguards founded in rules and regulations. At such time however, no carrier has demonstrated a palpable reason which convinces the Commission that local service freezes are needed or appropriate in the local market.

The Commission finds Qwest's argument that a moratorium in Nebraska would pose an undue burden upon the company, is likewise without merit. Qwest has programs, rates and terms that vary widely from state to state. Moreover, to date, Qwest is unable to offer its local service freeze program in a number of other states in its region. The Commission finds that it is not an undue burden on Qwest to instruct its account representatives of the prohibition on local service freezes in Nebraska.

The Commission, therefore, finds that local service freezes should be prohibited in Nebraska until further order by this Commission. Qwest is ordered not to offer its local service

freeze program in Nebraska. The Commission further finds that this investigation and the petition filed in Application No. C-2664 should be dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a moratorium on local service freezes be, and it is, hereby, adopted in Nebraska.

IT IS FURTHER ORDERED that Qwest be, and it is hereby, prohibited from offering local service freezes in Nebraska until further notice of the Commission.

IT IS FURTHER ORDERED that the petition filed in Application No. C-2664 should be, and it is hereby, dismissed.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of May, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

EXHIBIT 3

Exhibit ____ (JW-1T)

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC,	)	
	)	Docket No. UT-020388
Complainant,	)	
	)	
v.	)	
	)	
QWEST CORPORATION,	)	
Respondent.	)	
	)	

DIRECT TESTIMONY OF

JONATHAN WOLF

ON BEHALF OF

AT&T BROADBAND PHONE OF

WASHINGTON, LLC

April 30, 2002

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?

A. My name is Jonathan Wolf. My business address is 14243 SW Terman Road, Beaverton, Oregon.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by AT&T Broadband as the Telephony Manager for Oregon and Southwest Washington.

Q. WHAT ARE YOUR DUTIES AND RESPONSIBILITIES IN THAT CAPACITY?

A. I oversee all of the operations and provisioning functions for the company's Digital Broadband Telephony Service delivery in Oregon and Southwest Washington. I am also responsible for the service assurance functions (repair and maintenance) for the Digital Telephony Services. As part of my operational duties I oversee the vendor relationships with the incumbent local exchange carriers ("ILECs"), including Qwest Corporation ("Qwest").

Q. WHAT IS YOUR PROFESSIONAL AND EDUCATIONAL BACKGROUND?

A. I possess twelve years of professional Telecommunications experience including six years as an Economist at the Oregon Public Utility Commission and 6 years as an Operations Manager/Director at AT&T. I have a BA and MA in Economics.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. The purpose of my testimony is to describe Preferred Local Carrier ("PLOC")
3 freezes and the problems that AT&T Broadband Phone of Washington, LLC
4 ("AT&T Broadband") has experienced with Qwest's implementation of PLOC
5 freezes. I also recommend solutions to these problems that both will discourage
6 unauthorized changes in local service providers and will minimize the ability of
7 ILECs to undermine the development of effective local exchange competition.
8

9 **BACKGROUND**

10 **Q. PLEASE DESCRIBE AT&T BROADBAND.**

11 A. AT&T Broadband is a facilities-based provider of local exchange service in
12 Washington. AT&T Broadband provides primarily residential service in
13 Vancouver (as part of the Portland, Oregon market) and the greater Puget Sound
14 area, including Seattle. AT&T Broadband competes with Qwest, the incumbent
15 ILEC that provides local service to the vast majority of residential consumers in
16 these areas.
17

18 **Q. DOES AT&T BROADBAND OBTAIN ANY FACILITIES OR SERVICES**
19 **FROM QWEST FOR USE IN SERVING CUSTOMERS?**

20 A. Yes, but other than interconnection, such facilities and services are limited
21 almost exclusively to local number portability ("LNP"). AT&T Broadband uses
22 its own network to provide dialtone but needs LNP to be able to offer local
23 service to existing Qwest customers using their existing telephone number. LNP
24 includes the network adjustments necessary to have calls made from or to an
25 individual telephone number routed through the AT&T Broadband switch, rather
26 than through the Qwest switch to which that number originally was assigned as

1 part of a block of telephone numbers. Many customers would refuse to obtain
2 local service from AT&T Broadband if they were unable to retain their existing
3 telephone number.
4
5 **Q. HOW DOES AT&T BROADBAND OBTAIN LOCAL NUMBER**
6 **PORTABILITY FROM QWEST?**
7 A. AT&T Broadband has a Commission-approved interconnection agreement with
8 Qwest and orders LNP pursuant to the terms and conditions of that agreement.
9 After a Qwest customer requests local service from AT&T Broadband, AT&T
10 Broadband submits a local service request ("LSR") to Qwest to port that
11 customer's telephone number to AT&T Broadband. AT&T Broadband
12 coordinates the installation of its facilities on the customer's premises with the
13 number port to transition the customer from Qwest service to AT&T Broadband
14 service without any service interruption. Because local telephone service cannot
15 be provided without a telephone number, AT&T Broadband cannot install its
16 facilities or begin providing service until Qwest ports the customer's telephone
17 number.
18
19 **PLOC FREEZE**
20 **Q. WHAT IS A PREFERRED LOCAL CARRIER FREEZE?**
21 A. A PLOC freeze enables an end-user customer to prohibit its existing local
22 exchange service provider from changing the customer's local telephone service
23 from the existing provider to another provider without the customer's express
24 authorization. The Commission's rule (WAC 480-120-139) requires all local
25 exchange carriers ("LECs") to offer this option to their customers. That rule also
26

requires providers to remove the freeze when the customer authorizes removal either orally or in writing.

Q. WHAT IS THE PURPOSE OF A PLOC FREEZE?

A. The purpose of a PLOC freeze is to help prevent a LEC from switching a customer from its existing provider to the LEC without the customer's approval, generally referred to as "slamming." AT&T Broadband, like most LECs, takes slamming concerns very seriously and has implemented measures to minimize, if not eliminate, slamming opportunities. AT&T Broadband, for example, uses a third party to verify that every customer ordering local service, in fact, authorizes AT&T Broadband to provide that service.

Q. WHAT DOES A PLOC FREEZE ADD TO THESE MEASURES?

A. In theory, a PLOC freeze adds another layer of scrutiny – essentially a third check (by the current provider, after a check by the new LEC and the third party verifier) – on a local service order to ensure that the customer has authorized a change in service providers. That additional increment of scrutiny, however, adds little, if any, real protection and comes at a high cost. The more difficult the process a customer must go through to change service providers, the less likely that customer is to make a change. In addition, a requirement that the customer contact its current local service provider to authorize a change to a different LEC provides the current provider with an opportunity to attempt to convince that customer not to make a change. The result is that a PLOC freeze can become a burden, rather than a safeguard, on consumer choice and the development of effective local exchange competition.

These concerns have lead state commissions in several states, recently including Montana and Iowa, to suspend or prohibit PLOC freezes until local exchange competition develops. The Montana Commission, for example, explained:

> The Commission agrees with comments that, if the program was implemented, Qwest would be successful in locking large numbers of customers into its local service, especially given Qwest's plan to solicit customers regarding this program whenever customers call Qwest's business office for any reason. Once a customer's choice of Qwest as the local service provider is frozen, the customer must speak or write to Qwest directly in order to lift the freeze. This requirement for the customer's express consent to remove a freeze is the critical element of the customer protection that carrier freezes provide to customers. However, the freeze-lifting process with its necessary delays when applied to the local service market likely will result in customer frustration and the loss to CLECs of customers who intended to change local service providers but were deterred by the process.[1]

WASHINGTON EXPERIENCE

Q. WHAT HAS BEEN AT&T BROADBAND'S EXPERIENCE WITH QWEST'S IMPLEMENTATION OF PLOC FREEZES IN WASHINGTON?

A. AT&T Broadband's experience with Qwest in Washington has been a nightmare, both for AT&T Broadband and for residential customers wanting to change their local service provider from Qwest to AT&T Broadband. That experience illustrates the accuracy of the Montana Commission's conclusion that a service provider freeze "when applied to the local service market likely will result in customer frustration and the loss to CLECs of customers who intended to change local service providers but were deterred by the process."

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[1] *In re Commission's Investigation Into Qwest Local Service Freeze Option*, Montana PSC Utility Division Docket No. 2002.2.22, Notice of Commission Action (April 25, 2002).

Q. WHEN DID AT&T BROADBAND FIRST BECOME AWARE THAT QWEST WAS IMPLEMENTING PLOC FREEZES?

A. AT&T Broadband first became aware that Qwest was implementing PLOC freezes the week of February 18, 2002. Prior to that time, Qwest had accepted and processed AT&T Broadband's orders for LNP generally in a timely manner, consistent with Qwest's obligations under the parties' interconnection agreement. Beginning the third week of February, however, Qwest began rejecting a substantial number of AT&T Broadband's LSRs for LNP. The rejection notices stated, "Please have end user contact current local service provider to have local service freeze removed."

The number of these rejections quickly increased during the week of February 25, 2002. AT&T Broadband contacted Qwest about these rejections, and Qwest informed AT&T Broadband that Qwest was now offering preferred carrier local service freezes in Washington, and that customers are required to contact Qwest to have the freezes removed. AT&T Broadband notified its customers that they would need to contact the Qwest business office to have the preferred carrier freezes on local service removed. The vast majority of these customers informed AT&T Broadband that they had not authorized any freeze on their local service. Virtually every customer also notified AT&T Broadband that when they contacted Qwest to remove the freeze, the Qwest customer service representatives were unable to assist them. The customers' most common

complaints to AT&T Broadband were that Qwest failed to remove the freeze despite multiple requests from the customer to do so. In at least one case, the customer informed AT&T Broadband that Qwest had told the customer that a fee of $5.00 would be added to the customer's next bill to cover the cost of removing the local service freeze.

Q. *DID AT&T BROADBAND CONTACT QWEST IN AN EFFORT TO RESOLVE THIS ISSUE?*

A. Yes, repeatedly. The first such occasion was on March 4, 2002, when AT&T Broadband escalated the issue to Qwest Western Region personnel. Qwest informed AT&T Broadband of the following process: AT&T Broadband should instruct the customer to call the business office to have the freeze removed. The customer service record would be updated in three to five days to reflect the removal, but AT&T Broadband would be able to submit an LSR on the next business day without receiving a rejection or delaying the service installation.

Qwest, however, did not implement that process. Customers continued to contact AT&T Broadband complaining that they were unable to get Qwest to remove the freeze on their local service, and AT&T Broadband continued to receive rejection notices from Qwest after the customer had notified Qwest to remove the local service freeze.

On March 7, 2002, AT&T Broadband again escalated this issue, this time through a contact at Qwest's Executive Branch. This contact assisted AT&T Broadband and one customer immediately to remove a local service freeze that the customer previously had been unable to get Qwest to remove. When AT&T

1 Broadband requested assistance with another customer, the contact became upset
2 and stated, "Why should I help you take our customer?" The contact
3 discontinued the conversation when the AT&T Broadband representative tried to
4 explain that the customer was making the choice to move to another service
5 provider.
6
7 **Q. WHAT FURTHER STEPS HAS AT&T BROADBAND TAKEN TO**
8 **RESOLVE THIS ISSUE?**
9 A. AT&T Broadband representatives have joined customers on three-way
10 conference calls with Qwest to remove the local service freeze. They have spent
11 hours being transferred to, or being required to call a variety of, toll free numbers
12 to have the local freezes removed. Qwest now is referring such requests to a
13 third party vendor for processing. Qwest provided a temporary toll-free number
14 to assist AT&T Broadband and its customers to work through the backlog of
15 customer requests to remove local service freezes. This contact has been only of
16 moderate assistance because of its limited availability and effectiveness.
17 Customers are continuing to experience substantial delays in getting Qwest to
18 remove their local service freeze, if Qwest removes those freezes at all, and
19 AT&T Broadband is continuing to have its LSRs rejected long after the customer
20 has notified Qwest to remove the freeze.
21
22 AT&T Broadband continued to attempt to resolve this issue with Qwest. AT&T
23 Broadband provided Qwest with a written list of concerns, including customers'
24 complaints that they are required to call Qwest multiple times to remove the
25 local service freeze and the lack of any process for, or consistency in, removing
26 local service freezes through the Qwest retail office or available escalation

1 measures. Qwest consistently has delayed providing substantive responses to
2 these concerns. Qwest, for example, has provided a third party verification of
3 only one customer's PLOC freeze, otherwise refusing AT&T Broadband's
4 repeated requests for this information with assurances that Qwest possesses
5 verification for each and every freeze despite customer claims to the contrary.
6
7 Even when Qwest has proposed a process or procedure to remedy the situation,
8 Qwest's proposal either fails to adequately address AT&T Broadband and
9 customer concerns or Qwest fails to implement its own proposal. Qwest, for
10 example, proposed to retain the "temporary" toll free number to assist AT&T
11 Broadband and customers remove PLOC freezes. AT&T Broadband and
12 customers, however, continue to experience excessive hold times of up to 30
13 minutes before a Qwest (or its third party vendor) representative will assist them.
14 Several customers have elected to terminate the call rather than wait on hold for
15 half an hour. Qwest repeatedly has cited "spikes in call volumes" as an excuse
16 for these delays, but Qwest's failure to adequately staff its call center does not
17 justify penalizing customers for attempting to exercise their option of changing
18 their local service provider.
19
20 **Q. HOW MANY CUSTOMERS HAVE BEEN AFFECTED BY QWEST'S**
21 **IMPLEMENTATION OF PLOC FREEZES SINCE FEBRUARY 18?**
22 A. AT&T Broadband's records indicate that as of April 25, 2002, 234 customers
23 have been affected in the Seattle and Vancouver areas. Prior to February 18,
24 AT&T Broadband consistently provided local service to its customers on the
25 requested installation date, usually within 5 days. Because of the delays caused
26 by Qwest's implementation of PLOC freezes, AT&T Broadband has been

1 compelled to reschedule installation dates for almost 70% of the customers that
2 Qwest claims to have authorized PLOC freezes, while approximately 25% must
3 be rescheduled multiple times. The result has been a doubling of the average
4 amount of time in which customers can obtain local service from AT&T
5 Broadband. In addition, approximately 15% of the affected customers opt for a
6 new telephone number, rather than tolerate the delay and frustration of Qwest's
7 PLOC freeze removal process.
8
9 Adding insult to injury, over 95% of the affected customers deny authorizing
10 Qwest to put a PLOC freeze on their account. As an informal check, five
11 Seattle-area AT&T Broadband employees with Qwest local service contacted
12 Qwest to determine whether there is a local service provider freeze on their
13 account, and Qwest informed three of the five that they had authorized a freeze
14 on their local service provider. All three of those employees deny authorizing
15 any such freeze. I understand that Glenn Blackmon of Commission Staff
16 similarly discovered that he has a PLOC freeze on his local service from Qwest
17 that he does not recall authorizing. Qwest also claims that some customers
18 requested a local service provider freeze *after* those customers requested that
19 AT&T Broadband provide their local service. Customers understandably are
20 even more frustrated by the process required to remove a PLOC freeze when
21 they never authorized a freeze in the first place.
22
23 **Q. WHAT HAS BEEN THE IMPACT ON CUSTOMERS?**
24 A. From a customer perspective, Qwest's imposition of PLOC freezes without
25 authority and failure to promptly remove that freeze is no different than
26 slamming. The customer is being provided service by a carrier that the customer

has not authorized to provide that service. Here, the customers formerly authorized Qwest to provide their local service, but Qwest is effectively refusing to honor their request to obtain service from another carrier and is continuing to provide their local service without their consent. The Commission should view such "reverse slamming" no differently than any other form of unauthorized service provisioning.

Q. WHAT HAS BEEN THE IMPACT ON AT&T BROADBAND?

A. As the Montana Commission predicted, AT&T Broadband has lost business due to Qwest's implementation of PLOC freezes. At least 20% of the affected customers have cancelled or declined to pursue their request for local service from AT&T Broadband rather than run the gauntlet of Qwest's PLOC freeze removal process. AT&T Broadband has also expended a tremendous amount of time and resources in a frustrating and often fruitless effort to assist customers to remove the PLOC freezes that Qwest has placed in their accounts, as well as to try to work with Qwest to modify Qwest's processes and procedures to accommodate customer needs.

RECOMMENDATIONS

Q. WHAT ACTION DOES AT&T BROADBAND RECOMMEND THAT THE COMMISSION TAKE TO RESOLVE THIS ISSUE?

A. AT&T Broadband recommends that the Commission waive the PLOC freeze provisions of WAC 480-120-139 and prohibit Qwest from offering or implementing PLOC freezes, at least until effective competition has developed in local exchange markets in Washington. AT&T Broadband understands and shares the Commission's slamming concerns, but in this case, the "cure" is worse

than the disease. AT&T Broadband's experience with Qwest illustrates the inherent anticompetitiveness of any process that prevents customers from changing local service providers until they contact their existing provider to authorize the change. The incumbent monopoly service provider has no incentive to facilitate this process and every incentive to use the process to its competitive advantage, including making the process difficult for customers and carriers to navigate and using the process to make immediate win-back efforts.

Q. WHAT ALTERNATIVE DO YOU PROPOSE?

A. If the Commission continues to believe that LECs should be required to offer and provide PLOC freezes, the Commission nevertheless should prohibit Qwest from offering or implementing any PLOC freeze until the Commission has thoroughly reviewed and approved the process and procedures that Qwest uses both to impose and to remove a PLOC freeze.

Q. WHAT PRINCIPLES SHOULD GUIDE THE COMMISSION'S REVIEW?

A. The Commission should ensure that customers are fully and accurately informed before they authorize a PLOC freeze. AT&T Broadband's experience with Qwest demonstrates either that customers are not authorizing PLOC freezes or that customers are not aware that they are authorizing a PLOC freeze. The Commission should ensure that the information that Qwest provides to customers accurately explains a PLOC freeze and that customers who authorize such a freeze do so separately from, and independently of, any long distance provider freezes.

1 The Commission should also ensure that if a customer has properly authorized a
2 PLOC freeze, the customer can remove that freeze with a minimum of delay and
3 inconvenience. In addition, the Commission should minimize the need for
4 contact between customers making a change and their current local service
5 provider. If a LEC uses a third party to verify customer orders, the current local
6 provider should accept verification from that third party, without requiring the
7 customer personally to communicate with the current provider. Qwest currently
8 requires customers to contact Qwest directly to remove a PLOC freeze. The
9 Commission's rule includes no such requirement, and Qwest's procedure serves
10 only to complicate and frustrate consumer choice. Qwest also may attempt to
11 build into its process an opportunity to win back departing customers by forcing
12 them to contact Qwest before they can obtain local service from another
13 provider. A single third party verification of customer authorization to change
14 local service providers should be sufficient to ensure that customers are not
15 slammed.
16
17 Finally, the Commission should ensure that whatever process Qwest has in place
18 for customers who choose to contact Qwest directly to remove their PLOC freeze
19 should be simple, efficient, convenient and dependable. Qwest should maintain
20 adequate personnel to promptly take calls from customers – with or without a
21 representative from their new carrier – including evenings and Saturdays when
22 residential customers are home. Qwest should also remove the PLOC freezes
23 immediately while the customer is still on the call. In the event of problems with
24 this process, Qwest should have escalation procedures in place that will enable
25 the customer – with or without new carrier assistance – to remedy the problem
26 and have the PLOC freeze removed without further delay.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.

EXHIBIT 4

Service Date: April 25, 2002

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Commission's Investigation of Qwest Communications' Implementation of a Local Carrier Freeze Option	)))	UTILITY DIVISION DOCKET NO. D2002.2.14
IN THE MATTER of the Qwest Communications' Implementation of a Local Carrier Freeze Option	))	UTILITY DIVISION DOCKET NO. D2002.2.22

NOTICE OF COMMISSION ACTION

The Montana Public Service Commission opened Docket D2002.2.14 to investigate Qwest Communications' planned implementation of a preferred local carrier freeze option for its Montana customers. In a related docket, D2002.2.22, the Commission issued a notice of commission action on February 25, 2002, directing Qwest to suspend its offering of a local carrier freeze option pending the Commission's determination of its compliance with the Commission's carrier freeze rules (ARM 38.5.3816 through 38.5.3818).

On April 23, 2002, at a duly noticed work session, the Commission:

(1) decided in Docket D2002.2.22 that Qwest had submitted information that demonstrated its proposed preferred local carrier freeze program would comply with the Commission's carrier freeze rules;

(2) after considering the comments received in Docket D2002.2.14, imposed a moratorium on Qwest's implementation of the local carrier freeze program for 18 months, at which time Qwest may request the Commission to revisit this decision.

Background

On January 16, 2002, Qwest Communications notified the Commission by letter that the company was implementing a local carrier freeze option in Montana. According to Qwest, the option will allow customers to place a "freeze" on their preferred choice of local service provider in the same way they are now able to request a freeze of their interLATA and/or intraLATA long

distance carrier choices. A preferred carrier freeze prevents a change in a customer's preferred carrier selection unless the customer gives the carrier from whom the freeze was requested his or her express consent. Preferred carrier freezes are offered to customers as a tool to prevent unauthorized carrier changes (slamming). Qwest indicated in its letter to the Commission that customers who call the Qwest business office will be informed that the local carrier freeze option is available and that Qwest will also provide information to customers about the new option in a bill insert.

On January 29, 2002, AT&T notified the Commission by letter that it opposes Qwest's implementation of a local carrier freeze program. AT&T cited a Federal Communications Commission order in which the FCC recognized the potential for abuse of preferred carrier freeze options in newly competitive markets and specifically stated that states may prohibit the implementation or solicitation of preferred carrier freezes if they determine such an action to be appropriate to prevent incumbent local carriers from engaging in anticompetitive conduct.[1] AT&T requested that the Commission prohibit Qwest from implementing the local carrier freeze program unless and until Qwest has demonstrated the need for it and has proved it can be implemented without harming or impeding local service competition in the state. AT&T further proposed that, if a local carrier freeze option is necessary in order to protect consumers from slamming, then a neutral third-party administrator should operate the program rather than Qwest in order to protect the interests of competitors.

In the Notice of Inquiry (Docket D2002.2.14) the Commission asked parties to address in their comments Qwest's plan for solicitation and implementation of the local carrier freeze option and the issues raised by AT&T, including the proposal for a third-party administrator for preferred carrier freezes. Commenters who asserted that the local service market is not sufficiently competitive to warrant the implementation of a local carrier freeze option were asked to comment as to what standards, criteria, or benchmarks the Commission might use to determine that the Montana market is sufficiently competitive to warrant such a program. The Commission also invited comments as to the effectiveness and ease of use of Qwest's existing process for lifting carrier freezes on customers' carrier choices. Commenters could also provide any other pertinent information that was not specifically requested in the notice.

Summary of comments

The Commission received timely comments from Qwest, Touch America (TA), and Montana Telecommunications Association (MTA). The Commission did not accept the comments of WorldCom because they were filed after the comment deadline had passed. The parties' comments are summarized below.

Qwest

In Docket D2002.2.22, Qwest was directed by the Commission to demonstrate that its planned local carrier freeze program complied with Commission rules and to explain why the offering was not filed as a tariff. Qwest responded with a March 11, 2002 filing that describes the program in detail and in which Qwest contends it complied with Commission rules. In response to the tariff question, Qwest argues that § 69-3-301, MCA does not require a tariff be filed for a service that is offered at no charge. Further, Qwest notes that it has offered interLATA and intraLATA carrier freezes for several years and the Commission has not required that Qwest submit tariffs for those offerings.

Qwest also submitted comments in response to the Notice of Inquiry docket. In those comments, Qwest points out that the Commission adopted rules in 1999 that mirror the FCC's related to preferred carrier freezes for every type of telephone service – local exchange as well as intraLATA/intrastate, interLATA/interstate and international toll service – in response to the problem of slamming. According to Qwest, the company wants to offer preferred local carrier freezes in Montana in order to promote customers' ability to choose to add protections against slamming. Qwest states its freeze program complies with Commission and FCC rules and emphasizes that the objective of the Commission's and FCC's rules is to prevent local as well as long distance slamming.

Qwest notes the Montana PSC received 35 local slamming complaints in 2001, and claims the incidence of local slamming will increase with increased competition. Qwest also cites information disseminated by two consumer protection organizations and several state

[1] See AT&T letter, pp. 2-3, citing the FCC's *Second Report and Order, In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, FCC 98-334, released December 23, 1998, at para. 36.

regulatory commissions to warn consumers of local slamming and to encourage them to use the freeze option to protect themselves from slamming.

Qwest cites statements made by the FCC in its *Second Report and Order* on slamming in which the FCC said: its rules were meant to combat slamming in both the toll market and in the local service market as competition develops; it anticipated an increase in local service slamming if effective rules were not implemented; and preferred carrier freezes enhance competition by fostering consumers' confidence that they control their provider choices. Qwest adds that the FCC rejected CLEC requests to ban carrier freezes and local exchange carriers' solicitation of orders for carrier freezes and concluded that the best way to ensure carrier freezes are used to protect consumers, rather than erecting a barrier to competition, was not to prohibit them but to educate consumers about obtaining and removing freezes.

According to Qwest, the potential for anti-competitive effects resulting from preferred local carrier freezes is countered by the Commission's requirement for verification by an independent third party of a customer's authorization to implement a preferred carrier freeze. In addition, Qwest argues a preferred local carrier freeze does not "lock" the customer into that carrier choice because both the FCC and Commission rules include allowable methods for lifting preferred carrier freezes, including the use of a three-party call that allows a new carrier to confer with both the customer and Qwest to authorize the lifting of the customer's freeze.

Qwest rebuts the claim made by AT&T in its letter to the Commission that local service competition is just developing in Montana by citing the Commission's finding in its Section 271 docket (D2000.5.70) that numerous competitive local exchange carriers (CLECs) are providing competitive service in Montana. Qwest argues that AT&T's request that the Commission prohibit Qwest's implementation of a local carrier freeze program would deny local slamming protections to customers. According to Qwest, local slamming can have more significant impact on customers than long distance slamming and restoring service to the preferred local carrier can be more frustrating. Qwest asserts that it has implemented the local carrier freeze program in 9 of the 14 states in the region. Qwest emphasizes that three of those states (Washington, Colorado and Utah) <u>require</u> LECs to offer preferred carrier freezes and two of those states require LECs to educate customers about the availability of carrier freezes.

Qwest opposes AT&T's proposal that a neutral third party administer preferred local carrier freezes in order to protect the interests of competitors because it would be costly and

because existing rules require the incumbent local exchange carrier (LEC) to act as an unbiased administrator of carrier freezes. Qwest reiterates that FCC and Commission rules require that an independent third party must verify that a customer has chosen to freeze their carrier choice(s).

Touch America

TA opposes Qwest's proposal to implement a local carrier freeze program. While everyone acknowledges there is a nationwide problem with long distance slamming, which justifies the need for the availability of long-distance carrier freezes, TA argues there is no such problem with local service slamming. TA claims that, unlike the local exchange market, the long distance market is fully competitive and a freeze program protects consumers without impeding competition. TA argues Qwest is not a neutral party when it comes to customers' changes in local service providers because most of the customers changing local carriers are leaving Qwest. For that reason, asserts TA, if Qwest is allowed to implement its local carrier freeze program, the Commission must oversee it to prevent anti-competitive behavior by Qwest.

According to TA, the preferred local carrier freeze option, in conjunction with Qwest's Winback program, allows Qwest to impede local service competition. TA asserts that Qwest will be able to implement large numbers of local carrier freezes to Qwest by soliciting them on each of the thousands of calls regarding service or billing issues the company receives each month from customers to its business offices. TA argues that nothing prohibits Qwest from using the requirement that a customer contact Qwest directly to lift a local carrier freeze from using that contact as an opportunity to retain the customer. According to TA, the freeze removal process allows Qwest to know immediately to which customers Winback efforts should be directed.

TA argues that the process will cause delays and frustrations for CLECs and their prospective customers, thereby creating a barrier to competition. A CLEC who signs up a customer will not be aware if the customer has a freeze in place until Qwest rejects the CLEC order to change the customer's provider because the customer's account is frozen. The CLEC must then re-contact the customer to have the customer get the freeze lifted, at which point it is unknown how long it takes Qwest to remove the freeze.

According to TA, no LEC should be able to implement a preferred local carrier freeze until the Commission verifies there is a problem with local service slamming. TA suggests that

the Commission prohibit local carrier freezes until it has received verified local slamming complaints from at least 2 percent of the total number of access lines whose local service providers have been changed. Additionally, TA recommends that if the Commission approves Qwest's local carrier freeze program, it should adopt performance standards and penalties for local slamming, including significant fines.

TA supports the idea of a neutral, third-party administrator for local carrier freezes that would operate at the direction of the Commission. Local freeze administration would be funded by LECs who wish to implement local carrier freeze programs, who could recover its costs from customers requesting local freezes. TA recommends the administrator of the program maintain and keep current a list of customers who have chosen to freeze their choice of local provider and make the list available to all local service providers.

Finally, TA recommends a freeze program should include a quick method to lift a freeze that results in the freeze being lifted in 8 hours or less, and that any local service provider who presents the freeze administrator with a signed letter of agency from the customer should be able to have the freeze lifted without further customer contact.

MTA

MTA states generally that it is premature and anticompetitive for Qwest to implement a local carrier freeze option in Montana and that it supports AT&T's comments in its 1/28/02 letter to the Commission.

MTA argues there is no local service slamming problem which warrants a local carrier freeze program and that the need for such a program should be demonstrated before Qwest is allowed to implement it due to such a program's effect of impeding competition. MTA questions Qwest's motives for adopting this program now, when there is very little local service competition. MTA contends Qwest wants to lock customers into its local service prior to competition presenting a threat to Qwest's domination of the local service market.

According to MTA, freezing an account is easier than unfreezing it because Qwest will solicit all customers when they call the company for any reason as well as market the freeze option, which is offered at no charge. However, MTA says, significant additional effort is required on the parts of the customer and the CLEC to unfreeze an account.

MTA agrees with the spirit and intent of the Commission's slamming rules, but objects to implementation of a local service freeze in the absence of competition and evidence of local slamming. MTA asserts that the Commission has the authority to impose an indefinite moratorium on local service freezes and that other states have done so.

MTA recommends the Commission impose an indefinite moratorium on the application of local service freezes in Montana until the Commission determines that lifting the moratorium is in the public interest, as demonstrated by the extent of local service competition in Montana and by the extent of a local service slamming problem as measured by objective data obtained by the Commission. Alternatively, MTA suggests that Qwest could petition the Commission to lift the moratorium, but would have to demonstrate a need for the local service freeze option and that a freeze program would not impede competition.

According to MTA, if a freeze program is implemented at some time, the Commission must pay close attention to incumbent LECs' marketing of local freezes because some customers may not understand the potential effect of electing a freeze. Also, MTA suggests the Commission periodically review the ease of lifting local service freezes because the effect of a freeze that is easier to impose than to lift is to make it difficult for customers to switch local service providers.

Discussion

As required by the Notice of Commission Action in Docket D2002.2.22, Qwest submitted information about its local carrier freeze program to demonstrate to the Commission that the program complied with Commission rules. The Commission has reviewed Qwest's filing and has determined that Qwest's plan for such a program includes all of the elements required by Commission rules.

The Commission did not address the issue of whether Qwest was required to file a tariff for this service offering.

Although the program as proposed would comply with Commission rules regarding preferred carrier freezes, the Commission imposed a moratorium on Qwest's preferred local carrier freeze program for these reasons cited in comments received in Docket D2002.2.14:

- As argued by MTA and TA, it is likely that Qwest's implementation of the local carrier freeze option at this time, when CLECs' share of the local service market is minimal, will impede the development of competition. As evidence of significant local service competition, Qwest points to the finding on Track A in the Commission's 271 docket that numerous CLECs are providing service to thousands of Montana customers; however, the Commission notes the same Track A report cites Qwest's own estimates of CLECs' market share as of April 2001 to be 3.8% or 8.3%, depending on the calculation method. It is clear Qwest is the local service provider for the lion's share of customers in its Montana service territory.

  The Commission agrees with comments that, if the program was implemented, Qwest would be successful in locking large numbers of customers into its local service, especially given Qwest's plan to solicit customers regarding this program whenever customers call Qwest's business office for any reason. Once a customer's choice of Qwest as the local service provider is frozen, the customer must speak or write to Qwest directly in order to lift the freeze. This requirement for the customer's express consent to remove a freeze is the critical element of the customer protection that carrier freezes provide to customers. However, the freeze-lifting process with its necessary delays when applied to the local service market likely will result in customer frustration and the loss to CLECs of customers who intended to change local service providers but were deterred by the process.

- The need for protection against local service slamming has not been established. Carrier freezes have provided an important anti-slamming tool in the long-distance market where competition between carriers is robust and slamming is an unfortunate by-product. In contrast, competition is just developing in Qwest's local service market in Montana and the incidence of local service slamming is negligible. Although Qwest cites the 35 informal consumer complaints about local slamming received by the Commission in 2001 as evidence that a local

slamming problem exists, a review of those complaints indicates that all but one were complaints against one CLEC and complaints staff reports that in most cases the CLEC had obtained the complainant's authorization in accordance with PSC rules. Qwest may be correct that, as local competition grows, so will the incidence of local service slamming, but the unproven need at this time to provide consumers with protection against local service slamming is outweighed by the Commission's interest in promoting development of robust local service competition.

The Commission imposes a moratorium on Qwest's local carrier freeze program, but allows Qwest to request the Commission revisit this decision after 18 months. By that time, the Commission, Qwest, CLECs and consumers will all have more experience with and knowledge of local service competition and the incidence of local slamming. In any future review, the Commission would include in its consideration the extent of local service competition and evidence of the existence of a local service slamming problem that would be addressed by implementation of a local carrier freeze option.

BY THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman
JAY STOVALL, Vice Chairman
BOB ANDERSON, Commissioner
MATT BRAINARD, Commissioner
BOB ROWE, Commissioner

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	Docket No. T-01051B-02-0073

DIRECT TESTIMONY

OF

DOUGLAS GARRETT

ON BEHALF OF

COX ARIZONA TELCOM, L.L.C.

MAY 13, 2002

EXHIBIT
tabbies
Cox 1
Admitted

1. INTRODUCTION

Q. WHAT IS YOUR NAME AND WHAT IS YOUR BUSINESS ADDRESS?

A. My name is Douglas Garrett, 2200 Powell Street, Suite 1035, Emeryville, CA 94608.

Q. BY WHO ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by Cox Communications, Inc. as Vice President of Regulatory Affairs for the Western Region of Cox's telephony operations. I am responsible for regulatory issues that affect Cox Arizona Telcom, LLC ("Cox").

2. QUALIFICATIONS OF WITNESS

Q. WHAT IS YOUR BACKGROUND AND EXPERIENCE?

A. I have been employed in my current capacity by Cox since August 2001. Prior to that I was employed by NorthPoint Communications as Vice President Service Provisioning and Vice President Local Exchange Carrier Relations. My responsibilities included managing all operational and customer service issues related to the company's broadband provisioning. I was also responsible for managing interconnection agreements with incumbent telephone companies, including the provisioning of central office collocation and unbundled network element. Previous to NorthPoint, I served as Vice President, State Regulatory Affairs for ICG Communications, a facilities-based CLEC based in Denver, Colorado. From 1973 to 1998, I was employed by Pacific Bell and SBC Communications in a variety of capacities, including network operations, marketing, and financial management. I was Executive Director, Local Interconnection for Pacific Bell at the time the company negotiated and implemented its first round of interconnection agreements under the Telecommunications Act of

1996. I have a Bachelor's degree in Management from St. Mary's College of California.

3. PURPOSE OF TESTIMONY

Q. MR. GARRETT, WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony is intended to provide Cox's perspective on the potential implementation of Qwest's proposed preferred carrier freeze for local service and to urge the Commission not to approve the proposed tariff at this time.

4. SUMMARY OF TESTIMONY

Q. MR. GARRETT, WOULD YOU SUMMARIZE YOUR TESTIMONY?

A. In its January 28, 2002 tariff filing, Qwest asked this Commission to approve its proposed tariff to offer preferred local carrier service freeze ("LSF") to customers in the state of Arizona. Ostensibly, the LSF tariff is intended to protect customers against local service "slamming" by Qwest's competitors. The proposed tariff requires a customer with the service freeze to contact Qwest "directly" to lift the freeze before the customer can change from Qwest to another local service provider, thus forcing a Qwest customer to contact both Qwest and a competitive local exchange carrier ("CLEC") in order to switch service providers from Qwest to that CLEC. Without the tariff, the customer only needs to make one phone call to the CLEC to switch local service from Qwest. By forcing customers to call Qwest "directly" before they can switch to a CLEC, Qwest will be able subject the customer to "win-back" scripts or other potential strong-arm efforts to keep that customer with Qwest. This additional phone call is particularly troublesome in Arizona, where Qwest has a "Win-Back" tariff that allows Qwest to offer incentives (including discounts) to customers in order to win them back from CLECs. The call to Qwest to lift the freeze is a perfect opportunity for Qwest to pressure the customer not to switch to the CLEC.

Qwest filed this LSF tariff despite the fact that: (i) Qwest faces little local exchange service competition in the state of Arizona – particularly in the residential market – and retains the vast majority of its market share for both business and residential service and (ii) local slamming is not a problem in Arizona – indeed, Qwest could only identify one example of local slamming since January of 2000.

Cox strongly believes that Qwest's actions are anti-competitive at best and monopolistic at worst. Although Qwest had made concessions in its efforts to obtain the Commission's approval of its Section 271 application, this potentially onerous requirement for switching local carriers speaks volumes about Qwest's true intentions towards competitors. When one considers the recent problems some ILECs have had responding to customers in a timely manner, not to mention massive recently-announced layoffs at Qwest, it makes the problem even more acute: Imagine waiting on hold for an hour or more to try to remove a freeze on your local service in order to switch carriers. The marketing materials prepared by Qwest to mail to its customers to "inform" them of the availability of the local service freeze were prepared using what I would characterize as scare tactics; the mailers urged Qwest customers to "PROTECT YOUR LOCAL (DIAL TONE) PHONE SERVICE," by analogizing the slamming problems experienced in the long distance market.

Basically, what Qwest is doing is protecting its local exchange service market share by making it harder for customers to leave. The added step of calling Qwest is sometimes all it takes to prevent a customer from switching carriers and is perhaps the main reason that the FCC has recognized that preferred carrier freezes have the potential to be implemented in an anticompetitive manner.[1] The

[1] FCC 98-334, Paragraph 115.

FCC has discussed the issue, primarily in FCC 98-334, and clearly gives states the ability to adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes.[2]

Cox believes that the Commission should reject Qwest's proposed LSF tariff, in light of the dearth of competition (particularly residential competition) and the lack of local service slamming. If such a tariff is implemented, its primary impact will be to improperly interfere with the potential flow of customers to Qwest's competitors, not to protect Arizona consumers against a serious problem with local slamming.

5. BACKGROUND

Q. COULD YOU DESCRIBE THE EVENTS THAT LED TO THE FILING OF THE LSF TARIFF?

A. The filing of the LSF tariff was the culmination of a series of activities related to Qwest's initial decision to unilaterally implement a local service freeze. On December 18, 2001, Qwest issued an email announcement stating that, effective January 17, 2002, Qwest will offer a new telecommunications product/service that would allow Qwest's local service customers to place local carrier freezes on their accounts. On December 28, 2001, Cox sent a letter to Qwest raising several concerns and questions about the freeze and requesting that Qwest either cancel the freeze service or file a proposed tariff with this Commission. On January 7, 2002, Qwest responded to Cox's letter contending that the local service freeze responds to "customer needs and state regulatory concerns," but without asserting that local service slamming was occurring in Arizona or attempting to quantify any potential problem. In light of Qwest's intent to unilaterally implement the freeze, Cox filed an application requesting that the Arizona Corporation Commis-

[2] FCC 98-334, CC Docket No. 94-129, Paragraph 137.

sion issue an order to show cause to Qwest to stay implementation of Qwest's proposed local carrier freeze service. In response to the Application, Qwest stated that it would file the LSF tariff and that an Order to Show Cause hearing was not necessary.

On January 28, 2002, Qwest filed a tariff proposing to offer a new telecommunications product/service in Arizona that would allow Qwest's local service customers to place local carrier freezes on their accounts. According to the proposed tariff, if a Qwest customer has "Local Service Freeze," Qwest will require that customer to contact Qwest "directly" before the customer can change local service from Qwest to a CLEC. Presently, a Qwest customer only needs to make one phone call to the CLEC to switch service from Qwest to that CLEC.

Q. HOW IS A LOCAL SERVICE FREEZE DIFFERENT FROM A PIC FREEZE REGARDING LONG DISTANCE SERVICE?

A. There are material differences between PIC/LPIC freezes regarding toll service and a local carrier freeze. First, there has been a nationwide problem with slamming with respect to long distance ("LD") carriers that has justified a need for PIC/LPIC freeze services. Second, the LD market is a fully developed and competitive market, unlike the local exchange market. Third, for LD, Qwest as the dominant LEC, primarily facilitates the reprogramming of its switch to accommodate LD carriers and its customers. Fourth and most importantly, Qwest has no (current) interest in most LD changes, and has no interest in any PIC changes within its incumbent LEC territories. However, for local exchange carrier changes, Qwest faces a major conflict of interest because almost every change of local service provider involves a customer that is leaving Qwest. Facilitating such switches is not in Qwest's economic or competitive interest. Due to this conflict and the potential for anticompetitive mischief, at a minimum there needs to be a tariff and/or rules and guidelines to eliminate such issues.

Moreover, independent verification of changes in long distance, or interexchange carriers (IXCs), is a very different thing than independent verification of changes in local providers. A person can change IXC dozens of times a year without ever having to have an IXC representative make physical changes in the wiring at their home. The changes are all done by computers, so "slamming," or unauthorized changes in a person's IXC, can occur more easily. Carrier freezes make more sense in that environment.

Local service by full facilities-based providers like Cox, on the other hand, requires a company technician to set an appointment to meet the subscriber and then requires physical modification of the system and wiring at the subscriber's home by the CLEC's technician. Slamming in local service almost never occurs.

It is also unlikely that resellers of local exchange service pose any significant threat of local service slamming. As set forth below, there has been almost no residential local service competition in Arizona in the past few years even though there are many local exchange resellers certificated to provide service in Arizona. The wholesale discount rates that have been in place since 1998 (12% for residential service and 18% for all other services) will continue into the future, as provided by stipulation in Qwest's pending UNE Pricing docket. Thus, there is no expectation that resale local exchange competition will increase dramatically in the future.

Q. DO YOU BELIEVE THAT LOCAL SERVICE SLAMMING IS OCCURRING IN ARIZONA?

A. No. In fact, Qwest has effectively acknowledged that there is no significant local slamming in its response to Cox's Data Request 1-2 (a copy of the response is attached as *Exhibit A*). Qwest identified only one specific example of local service slamming in Arizona since January 1, 2001. This lack of local slamming confirms the difficulty of such slamming. No state has experienced a significant

problem with local service slamming to date, and there is no indication that such a problem is going to develop.

This lack of slamming reflects both the difficulty of local slamming by full facilities based providers and the lack of economic incentive for resale slamming when the available discounts have kept most authorized providers from entering Arizona's residential markets.

6. Operation of LSF Tariff

Q. PLEASE DESCRIBE COX'S CONCERNS ABOUT THE OPERATION OF THE LSF TARIFF.

A. The LSF tariff filing is particularly unenlightening about the actual operation of the tariff. Qwest has provided only limited information about the operational implications on co-carriers. Attached as *Exhibit B* is Qwest's current Wholesale Business Procedures for the Local Service Freeze.

The LSF adds a critical step to the customer transfer process. If a customer has LSF, the pre-ordering and ordering processes, including LNP, for all customer transfers must take into account the potential additional step of having the LSF lifted. It is a single step that could jeopardize the transfer if not handled properly by Qwest.

There are several operational issues that may require specific commitments from Qwest on procedures and timing. For example, Cox believes that the present system will significantly interfere with Cox's ability to efficiently transfer customers to Cox from Qwest. For example, each and every Cox Customer Service Representative does not have direct access to a Qwest customer's account information to determine if that customer has an LSF. That would require access through Qwest's IMA and specialized training for every CSR. If a Cox CSR cannot effectively – and promptly – tell whether a potential customer has an LSF on its account, the order for a port may fail and require the Cox CSR to contact the

customer again to lift the freeze. Such a situation creates an impression that Cox is not as competent as it should be and may result in the customer deciding to forego switching to Cox.

Second, it appears that a Qwest customer must call their "Qwest Business Office" as the first step in removing the freeze. The customer will then be transferred to the "Qwest Freeze Removal Group" where the freeze will actually be removed. This presents two opportunities to be put on hold or be otherwise delayed. It also provides Qwest's Business Office an initial opportunity to market to or winback the customer as soon as they hear the customer wants to lift the freeze. Qwest will provide the customer an eight-digit "Record order number." That number must be included in any LSR submitted by the CLEC, thus requiring the customer to accurately remember and communicate the number to the CLEC.

Third, if a customer calls Qwest to remove the freeze, it is unclear exactly when the freeze will be lifted. Although Qwest claims the Record order will provide "due today", it does not explain the timing of the actual lifting of the freeze. It does not appear that it will be instantaneously lifted contemporaneously with the call to lift the freeze. Indeed, Qwest acknowledges it may take at least a day to lift the freeze. [*See* Qwest Witness McIntyre Testimony, Exhibit SAM-9, p.2] Moreover, if the freeze lift is requested on a Friday afternoon, will the freeze be lifted that day, or Saturday or Monday? Can the CLEC place an order on Saturday or must it wait until Monday? Indeed, it will be at least until the next business day before the CLEC can safely place an order to transfer service. It is also possible that a request to lift a freeze on Friday could result in a CLEC being unable to place an order until the following Monday, thus delaying the transfer by three days. Cox submits that the minimum one-day delay between freeze lift request and the ability to place an order that is not rejected effectively creates a situation where it is not known how long will it take for the freeze to be lifted.

The lifting of the freeze would be necessary to avoid having a CLEC's local service request to port a customer rejected by Qwest.

Fourth, the CLEC must know when the freeze is lifted so that it can avoid having its personnel repeatedly transmit LSRs and number porting requests that will be rejected if Qwest has not completed the activity. In fact, as set forth in Qwest's Wholesale Business Procedures, it appears that a CLEC will not be notified when a freeze is lifted; rather a CLEC simply must assume that the freeze will no longer appear on a customer's account the day after the freeze is requested. The timing of lifting the freeze will determine how and when a customer will be able to switch to a facilities-based CLEC because it impacts the time of the port, the local government permitting for the new provider's drops, the scheduling of truck rolls for installation, the time the customer would need to be at home to await the technician, etc. All of this extra coordination also has the effect of raising competitor's cost of competing with Qwest. The extra steps in processing the order, as well as the extra time spent contacting and communication with customers introduce very real and unnecessary additional costs at a time when CLECs are struggling to compete against Qwest.

Qwest's Business Procedures also describe a process where the CLEC representative can initiate a three-way call to Qwest's Business Office to have the Freeze lifted. This is approach is impractical because, unless the customer informs the CLEC CSR that they placed a Local Service Freeze on their account during the initial contact to establish service with the CLEC, as discussed above, the hundreds of CSRs used by Cox to handle customer calls do not have access to Qwest's IMA OSS and would not know of the freeze until after the contact has ended. Even if the customer informs the CLEC CSR that a Local Service Freeze exists on the account, there is no guarantee that Qwest will handle the call expeditiously. In

some cases, the Qwest Business Office may be closed, making such a three-way call impossible.

7. ANTICOMPETITIVE IMPACTS

Q. PLEASE DESCRIBE COX'S CONCERNS ABOUT THE ANTICOMPETITIVE IMPACTS OF THE LSF TARIFF.

A. A local service freeze can have particularly detrimental impacts on emerging competition. In FCC 98-334, the FCC recognized, while barely stopping short of prohibiting local carrier freezes, that a local carrier freeze can have a particularly adverse impact on the development of competition in nascent markets.[3] Relevant excerpts of the FCC Order are attached as *Exhibit C*. The FCC acknowledged and discussed a litany of potential anticompetitive activities and impacts that may result from the implementation of a local carrier freeze.[4] Indeed, the increased difficulty for Qwest customers to switch to a competitor will assist Qwest in retaining its massive market share. The FCC noted that the added step of calling an ILEC is sometimes all it takes to prevent a customer from switching carriers and is perhaps the main reason that it concluded that preferred carrier freezes have the potential to be implemented in an anticompetitive manner.[5] For example, by forcing customers to call Qwest as well as the CLEC to switch, Qwest will subject the customer to "Win-Back" scripts, or other efforts to keep that customer with Qwest. That is particularly troublesome in Arizona where Qwest has a "Win-Back" tariff already in place. A copy of that tariff is attached as *Exhibit D*. Given Qwest's enormous market dominance in Arizona, the FCC's concerns about the anticompetitive effects of a local service freeze are amplified.

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[3] FCC 98-334, Paragraphs 127, 135.

[4] FCC 98-334, Paragraphs 113 to 118.

[5] FCC 98-334, Paragraph 115.

It also is unknown whether Qwest will market other products or services to customers who contact Qwest (or whom are contacted by Qwest) for the sole purpose of requesting or removing a freeze. Under Qwest's freeze removal process, the customer must first call the general Qwest Business Office before being transferred to the Qwest Freeze Removal Group. There is no apparent restriction that would prevent Qwest from attempting to use the either of those freeze removal contacts as a customer retention vehicle.

Potentially even more damaging to nascent residential local competition is the potential that Qwest will use the millions of unrelated consumer contacts it receives to solicit local service freezes to customers who do not need it and would otherwise not have requested the service. Qwest's marketing materials for the LSF service will necessarily cast over-blown concerns about the threat of local service slamming and will likely be matched by alarmist scripts used by its representatives to scare customers into believing their local phone service is at risk. By using these tactics, over time Qwest will create significant barriers to exit for customers who may later choose service from a Qwest competitor.

In light of these potential adverse effects, the FCC has clearly given state public utility commissions the ability to adopt moratoria (or other requirements) on the imposition or solicitation of intrastate preferred carrier freezes.[6] In effect, the FCC acknowledged that states are in the best position to know if local carrier slamming is a problem, if a freeze may have unwarranted anticompetitive impacts on the emerging competitive markets, the potential for inappropriate conduct by the carrier offering the freeze, etc.[7] However, here in Arizona, Qwest on its own initiative has decided that local carrier freezes are appropriate despite the lack of

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[6] FCC 98-334, Paragraph 137.

[7] Id.

any local carrier slamming problems in the state. Cox believes that it is this Commission, not Qwest, that should decide whether local carrier freezes are appropriate for Arizona at this time.

Q: HOW DO YOU RESPOND TO QWEST'S ASSERTIONS THAT THE FCC HAS BLESSED LOCAL SERVICE FREEZES AND THAT OTHER CLECs HAVE SUCH FREEZES IN PLACE?

A: Cox stands by its contention that the FCC has substantial concern about the anticompetitive effect of the implementation of an LSF in a market with little competition. The FCC has stated:

> We share concerns about the use of preferred carrier freeze mechanisms for anticompetitive purposes. We concur with those commenters that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced. Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct. We encourage parties to bring to our attention, or to the attention of the appropriate state commissions, instances where it appears that the intended effect of a carrier's freeze program is to shield that carrier's customers from any developing competition.[8]

The FCC further provided that:

> We find that states – based on their observation of the incidence of slamming in their regions and the development of competition in relevant markets, and their familiarity with those particular preferred carrier freeze mechanisms employed by LECs in their jurisdictions – may conclude that the negative impact of such freezes on the development of competition in the local and intraLATA toll markets may outweigh the benefit to consumers.[9]

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[8] FCC 98-334, Paragraph 135 (footnotes omitted).

[9] FCC 98-334, Paragraph 137.

Furthermore, it is disingenuous for Qwest to attempt to justify its LSF tariff by reference to the fact that other CLECs have either an LSF tariff or a win back tariff. Qwest continues to be intent on ignoring its enormous market share – particularly in the residential market – and its resulting market power. That market power is the foundation of the potential anticompetitive mischief from Qwest's tariffs. CLEC tariffs are not a fair or tenable comparison.

Q. DO YOU BELIEVE THE FCC RULES ON LOCAL SERVICE FREEZES WILL BE EFFECTIVE IN ELIMINATING ABUSES OF THE LSF TARIFF BY QWEST?

A. No. Although Qwest asserts that it will act in accordance with the FCC rules concerning local service freezes, Qwest has not provided adequate information to determine whether the proposed local service freeze meets the requirements of the rules. Indeed, the minimal information Qwest has provided raises doubt that Qwest will meet the FCC requirements. For example, Qwest's initial customer "notice" that Qwest provided to Cox in response to Cox's December 28, 2001 letter raising concerns about the LSF (a copy is attached as *Exhibit E*) is somewhat terse, vague and alarmist – not clear and neutral as required by 47 CFR § 64.1190(d)(1). Moreover, that notice itself implies that there is a problem with local carrier slamming – implicitly disparaging Qwest's competitors – when in fact no such problem exists in Arizona. The proposed notice attached to Qwest witness McIntyre (Exhibit SAM-7) is no better and creates the same problems. Such conduct will further undermine the development of a competitive market in Arizona to the detriment of consumers and CLECs while bolstering Qwest's ability to retain its market share.

Qwest's conduct under its freeze tariffs in other states casts further doubt on the effectiveness of the FCC rules on ensuring proper conduct by Qwest. For example, in Colorado, even with FCC regulations in place that allow three-way

calls between the ILEC, CLEC and subscriber to lift the freeze,[10] Qwest has shown an inability to successfully allow these calls to occur, a happenstance that of course is in Qwest's self-interest. The Colorado Public Utilities Commission has specifically admonished Qwest for unacceptably poor handling of the three-way call requirement, and Cox does not wish to repeat the problem in Arizona with local service freezes.[11]

Qwest's LSF service in the State of Washington apparently has been disastrous, particularly in the residential market. Attached as *Exhibit G* is an electronic copy of a recent complaint filed by AT&T Broadband Phone of Washington. This complaint sets forth a litany of problems with the local service freeze: (i) customers unaware that Qwest had place a freeze on their accounts (certainly they would not know do to the lack of any charge for the service); (ii) customers being unable to lift the freeze; (iii) AT&T orders being rejected even after the freeze was ostensibly lifted; (iv) Qwest providing inaccurate information to customers on the freeze and the related lift-freeze process; (v) substantial delays and run-arounds for customers trying to lift the freeze even with AT&T assistance; and (vi) ineffective escalation procedures to resolve the problems.

The Washington experience is a real world realization of the potential problems Cox foresees with Qwest's LSF tariff in Arizona.

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[10] *See* FCC 98-334, Paragraph 129. 47 U.S.C. § 64.1190(e)(2) has been amended to include the requirement.

[11] Colorado PUC Recommended Decision No. R99-1362, Decision on Exceptions, Adopted Mar. 22, 2000. The CPUC stated in Paragraph 11: "In some cases, the carrier was able to set up a three-way call including USWC and establish the customer's choice of carrier. However, the three-way call was an option that rarely worked because of the logistics and time involved. The evidence at hearing supported a finding that there were in excess of 16,000 customers who were blocked from their first intraLATA choice because of the PIC freeze policy. Many did not subsequently reaffirm their initial choices." An electronic copy of that decision is attached as *Exhibit F*.

8. NEED FOR TARIFF

Q. DO YOU AGREE THAT QWEST DOES NOT NEED A TARIFF FOR ITS LSF SERVICE?

A. Qwest's own notice to CLECs calls this a "service." Regardless, A.R.S. § 40-250(b) addresses both "practices" and "services" which do not have the effect of imposing or increasing rates or charges. Moreover, there are many tariffed services for which there is not a charge. A tariff filing provides notice to interested parties and the ability to intervene to support or oppose such a tariff, as well as to suggest language and safeguards that should be included, regardless of whether there is a charge. However, Cox defers to the Commission on the ultimate issue of whether a tariff is required.

9. OTHER CONSIDERATIONS

Q. ARE THERE OTHER ISSUES THAT THE COMMISSION SHOULD CONSIDER ON DECIDING WHETHER TO APPROVE THE LSF TARIFF?

A. The potential impacts of the LSF tariff on the transfer of customers also could affect whether or not Qwest has met all of its obligations under Section 271.

There are two areas of potential concern to Cox regarding Qwest's Section 271 compliance: the Public Interest element and Local Number Portability. With respect to the Public Interest element, an LSF tariff casts significant doubt on whether the market is irreversibly opened to competition, particularly when Qwest also has a Win Back tariff in place. First, Qwest can damage nascent residential local competition by using the millions of unrelated consumer contacts it receives to solicit local service freezes from customers who do not need it and would otherwise not have requested the service. That allows Qwest to build a significant barrier to CLEC entry into the market. Second, once that LSF barrier is

constructed, Qwest can take advantage of the requirement that customers "directly" contact Qwest to lift the freeze. There is no apparent restriction that would prevent Qwest from attempting to use the freeze removal contact as a customer retention vehicle through its Win-Back tariff. Indeed, the LSF tariff is the perfect scheme for Qwest to immediately identify customers eligible for Win-Back discounts and to win them back before they ever physically transfer to a CLEC. Third, it is not known how or when a CLEC will know if a freeze is in place for a particular customer. Lack of timely knowledge can lead to frustration and dissatisfaction on the part of the customer who is trying to switch carriers. By using these tactics, over time Qwest will create significant barriers to exit for customers who may later choose service from a Qwest competitor. Qwest also will chill competition by erecting significant barriers to a CLEC's ability to fairly compete for customers. All of this casts doubt on whether the local exchange market – particularly the residential market – is irreversibly opened to competition and whether Qwest has satisfied the Public Interest Element of the Section 271 requirements.

The proposed LSF tariff also implicates Checklist Item 11 – Local Number Portability ("LNP") – as well as OSS testing involving LNP.[12] As noted above, the LSF adds a critical step to the customer transfer process. If a customer has LSF, the pre-ordering and ordering processes, including LNP, for all customer transfers must take into account the potential additional step of having the LSF lifted. That potentially enormously burdensome step was not considered in any of the OSS testing, yet it is a single step that could jeopardize the transfer if not handled properly by Qwest. It also introduces a manual step involving the inherently human-error prone nature of such activities. The need to record

[12] Although Cox and Qwest had resolved their prior LNP issues in the 271 docket, the implementation of the LSF tariff would raise additional issues that need to be addressed.

correctly and then place an 8-digit Record order number on the LSR is an additional opportunity for error and LSR rejects, either through CLEC error or Qwest error. This aspect of local number portability was not discussed in the Qwest 271 proceeding regarding Checklist Item 11 nor was it contemplated in the OSS Testing. As such, Cox believes that the Commission will need to consider the impact of the LSF tariff (if it is approved) in the context of the 271 proceeding even if it means re-opening items that were deemed closed.

10. QWEST LSF TARIFFS IN OTHER STATES

Q. HAS QWEST PROPOSED AN LSF FREEZE IN OTHER STATES?

A. Yes, along with the December 17, 2001 notice concerning Arizona, Qwest announced its intent to offer an LSF in several other states. However, since that announcement, four states have rejected the proposed tariff (Iowa, Nebraska and Montana, Minnesota and Nebraska) and Qwest has withdrawn its tariff in another state (New Mexico).

In Iowa, the Iowa Utilities Board ("IUB") has prohibited Qwest from implementing a local service freeze at this time, noting the relative lack of local service slamming and the small percentage of market share held by CLECs. An electronic copy of the April 3, 2002 IUB decision is attached as *Exhibit H.*

In Montana, the Montana Public Service Commission ("MPSC") imposed an 18-month moratorium on Qwest's proposed local service, noting that at this time there is no apparent need for such a freeze and that a freeze would have an anti-competitive effect of unduly locking in customers to Qwest. A copy of the April 25, 2002 MPSC decision is attached as *Exhibit I.*

In Minnesota, the Minnesota Public Utilities Commission ("MPUC") issued an Order rejecting Qwest's local service freeze option and requiring Qwest to stop offering it at this time, noting that (i) there is no local service slamming problem in Minnesota, (ii) local competition is at a fragile state of development in

Minnesota, and (iii) it would be difficult to assure that in practice the LSF would not be operated in a way more directly burdensome to competition than Qwest acknowledges. An electronic copy of the May 7, 2002 MPUC order is attached as *Exhibit J.*

In Nebraska, the Nebraska Public Service Commission ("NPSC") also has prohibited Qwest from implementing a local service freeze at this time, noting the relative lack of local service slamming. A copy of the May 7, 2002 NPSC decision is attached as *Exhibit K.*

In New Mexico, on May 1, 2002, Qwest filed a motion to withdraw its proposed LSF tariff. A copy of the motion is attached as *Exhibit L.*

In addition to these Qwest states, several other state commissions also have determined that unregulated preferred carrier freezes are susceptible to abuses.[13]

11. RECOMMENDATIONS TO THE COMMISSION

Q. MR. GARRETT, DO YOU HAVE ANY RECOMMENDATIONS FOR THE COMMISSION?

A. This Commission should reject Qwest's tariff. The FCC has given the Commission that authority and recognized, even in late 1998 at the height of CLEC entrance into the market, that preferred local carrier freezes may not be needed in some markets. Today, in 2002, competition has not flourished like many hoped it would, local slamming almost never occurs, and a preferred carrier freeze is simply an anti-competitive tool for Qwest to stifle competition.

If the Commission concludes a local service freeze is in the public interest at this time, it may want to consider whether Qwest is the appropriate entity to administer such a freeze. In the long distance market, neutral third parties hired by

[13] FCC 98-334, Paragraph 115, Footnote 361 lists the state commission rulings regulating freezes, including Michigan, Ohio, New Jersey, California and North Carolina.

the carriers have the responsibility of verifying a customer's desire to switch carriers. In the local market, with vastly fewer customers changing carriers and little significant competition, Cox maintains there is no reason, save monopolistic protectionism, for Qwest to implement the freeze. Nonetheless, if it must occur, Cox suggests a neutral third party is far superior to hoping Qwest will adequately staff this area of its customer service function.

12. CONCLUSION

Q. DOES THAT CONCLUDE YOUR TESTIMONY, MR. GARRETT?

A. Yes, it does.

Exhibit A

Arizona
T-01051B-02-0073
COX 01-002

INTERVENOR: Cox Arizona Telecom

REQUEST NO: 002

Please identify each incident of local service slamming that Qwest has experienced in Arizona since January 1, 2000 by providing the following information for each incident:

(i) Date of slamming;

(ii) City in which slammed customer was located;

(iii) Whether customer was a residential or business customer;

(iv) How many access lines were slammed;

(v) Name of CLEC that engaged in the slamming;

(vi) Whether CLEC was providing service to slammed customer through resale of Qwest service, use of Qwest UNEs or other method of service; and/or

(vii) Whether the slamming resulted in an ACC or FCC complaint. If so, please provide a copy of the complaint and the response/resolution.

RESPONSE:

Qwest has identified 1 incident of local slamming that it has experienced in Arizona since January 1, 2000. See below for the details requested in (i) through (vii).

It should be noted however, that Qwest receives hundreds of informal complaints each month from a variety of sources (e.g. FCC, ACC, Qwest Officers, Qwest's Customer Advocacy Center, Better Business Bureau, Attorney General, and media outlets). Some of these may include local slamming issues. However, it would be impossible to determine whether any of these complaints included local slamming without conducting a special study. At this time, Qwest has no plans to undertake such a study.

(i) Slam date: 05/04/01

(ii) Oracle, Az

(iii) Residential

(iv) 1 line

(v) Z-Tel

(vi) Resale

(vii) The slamming did not result in either an FCC or an ACC complaint

Respondent: Susan McKown

Exhibit B

Wholesale

Products & Services

Business Procedures

Business Procedures

- Getting Started
  - -Facility Based CLECs
  - -Resellers
- Account Team
- Billing - Additional Output
- Billing - Billing Percentage Worksheet
- Billing - Billing & Receivable Tracking (BART)
- Billing - Customer Records and Information System (CRIS)
- Billing - Daily Usage File (DUF)
- Billing - Integrated Access Billing System (IABS)
- Billing - Taxes and Tax Exemption
- Bona Fide Request (BFR) & Special Request (SR) Processes
- Calling Card/LIDB
- CLEC Requested UNE Construction (CRUNEC)
- Common Language
- Customer Contacts

Business Procedures

Local Service Freeze - V9.0

History Log

Description

Local Service Freeze prohibits an unauthorized change of an end-user's local service from one local service provider to another. This option is available to prevent local service slamming.

This freeze is added at the Working Telephone Number (WTN) level so the end-user may choose to freeze one line, several, or all lines on their account. Only one order per account is needed if changing the Local Service Freeze status. The end-user may request the add or removal of Local Service Freeze at any time.

The Local Exchange Freeze on Voice Services (LEFV) indicator must be removed from the account before a request to change local service providers can be processed. The end-user must contact their existing local service provider to remove the Local Service Freeze from their account. Requests received to change local service provider on an account with Local Service Freeze will be rejected. Qwest will provide the message "Features on account are not compatible with requested features". The message "Please have the end-user contact current local service provider to have Local Service Freeze removed" will appear in the Customer Comments section.

Local Service Freeze is available on all voice services (dial tone) at the working telephone number line level.

Qwest Retail Business Office Hours
The following table identifies the Qwest Business Offices, states they serve, associated telephone numbers, and business hours:

Qwest Business Office	States	Telephone Number	Hours
Residential	All	800-244-1111	Central time zone - until 9:00 PM Mountain time zone - until 8:00 PM Pacific time zone -

- Directory Ordering
- Early Order Opportunity
- Electronic Access
- Expedites and Escalations Overview
- Features
- Forecasting
- Formal Complaint Process
- Geographic Deaveraging
- Local Service Freeze
- Local Service Ordering Guidelines (LSOG)
- Long Distance Carrier Selection
- Maintenance & Repair Overview
- Manual Interfaces
- Migrations and Conversions
- Negotiations Process
- Negotiations Template Agreement
- New Customer Questionnaires
- Ordering Overview
- Pre Ordering Overview
- Proof Of Authorization/Letter Of Agency (LOA)
- Provisioning & Installation Overview
- Regulatory Commissions
- Service Intervals
- Tariff Locations
- Technical Publications

			until 7:00 PM
Global/Large Business	All	800-549-5629	Central time zone - until 6:00 PM Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM
Small Business	All	800-603-6000	Central time zone - until 5:30 PM Mountain time zone - until 6:30 PM Pacific time zone - until 7:30 PM
Interconnection Wholesale Service Center for Qwest retail Public Access Lines (PAL) accounts only	All	888-796-9087	Central time zone - until 7:00 PM Mountain time zone - until 8:00 PM Pacific time zone - until 9:00 PM NOTE: The PAL center is in Arizona. Effective with Day Light Savings, Arizona is on the same time as the Pacific time zone.
Federal Services	All	800-879-1023	Central time zone - until 7:00 PM Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM
Government and Education	Colorado, Nebraska, North Dakota, South Dakota	800-405-3594	Central time zone - until 7:00 PM Mountain time zone - until 8:00 PM
Government and Education	Idaho, Oregon, Utah, Washington, and Wyoming	866-221-6073 Global Business	Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM

Availability
Local Service Freeze is available throughout Qwest's 14-state local service territory except in the states of Arizona, Iowa, Minnesota, Montana, Nebraska, and New Mexico.

The following table identifies the state specific Local Service Freeze effective dates:

▸ Telecommunications Associations

▸ Unauthorized Service Provider Change

▸ USOC/FID Finder

State(s)	Effective Date
Washington	March 10, 2001
Colorado and Utah	December 17, 2001
Idaho, North Dakota, Oregon, South Dakota, and Wyoming	January 17, 2002

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Pricing

Rates
There are no charges associated with adding or removing Local Service Freeze.

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Features/Benefits

Local Service Freeze prohibits the unauthorized change of an end-user's local service from one provider to another.

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Applications

See Features/Benefits

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Implementation

Product Prerequisites
If you are a new CLEC and are ready to enter the Interconnection business with Qwest, please view the Getting Started as a Facility-Based CLEC or the Getting Started as a Reseller web pages. If you are an existing CLEC wishing to amend your Interconnection Agreement or your New Customer Questionnaire, you can find additional information in the Negotiations Template Agreement web page.

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Pre Ordering

General pre-ordering information is located in the Pre-Ordering Overview.

Reviewing the Customer Service Record (CSR) is one of the pre-ordering functions normally performed prior to initiating a request.

Lines or accounts with an existing Local Service Freeze will have the LEFV Field Identifier (FID) following the line assignable Universal Service Order

Code (USOC), e.g., 1FR/NPA-nnn-nnnn/LEFV, 1FR/NPA-nnn-nnnn/LEFV/RSID, U5R/NPA-nnn-nnnn/LEFV/ZCID on each line that has a Local Service Freeze.

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Ordering

General ordering activities are identified in the Ordering Overview.

Adding Local Service Freeze

Qwest Retail Customers
Retail end-users may contact their Qwest Business Office to have Local Service Freeze added to their account. The end-user will be transferred tc a Qwest Third Party Verifier where their account information will be verified, the call recorded, and a Record order issued to add Local Service Freeze.

The following table lists the actions required for adding a Local Service Freeze on a Qwest Retail Account:

STEP	ACTION
1	End-user contacts Qwest Business Office
2	End-user is transferred to Third Party Verifier to have account information verified, the call is recorded, and a Record order issued to add Local Service Freeze

Adding Local Service Freeze

Wholesale Customers
The following table lists the actions required for adding a Local Service Freeze on a Qwest Wholesale Account:

STEP	ACTION
1	End-user contacts their local service provider
2	The local service provider submits a LSR (or appropriate form) to add Local Service Freeze to an account (with A in LSCP field)
3	Qwest processes the LSR and issues the Record order to add LEFV to an account

Local Service Freeze requests are submitted using the LSOG forms. Detailed information describing field entry requirements are available on the LSOG web page.

Local Service Freeze orders are placed using the following LSOG forms:

- Local Service Request (LSR)
- End User (EU)
- Centrex Resale Service (CRS), based on the product
- DID Resale Service (DRS), based on the product

- Port Service (PS), based on the product
- Resale Service (RS), based on the product

The LSCP field on the CRS, DRS, PS or RS form is used to add or remove a Local Service Freeze.

- To add a Local Service Freeze, populate the LSCP field with A
- To remove a Local Service Freeze, populate the LSCP field with B

The Feature Detail field of the RS, DRS, PS or RS form is used to add or remove a Local Service Freeze. The LEFV FID must be used for each telephone number adding or removing the Local Service Freeze.

Local Service Freeze can be ordered on following products using Interconnect Mediated Access (IMA), or faxed to (888) 796-9089:

- Analog Line Side Port
- Digital Line Side Port
- Public Access Lines (PAL) Payphone Service Providers (PSP)
- Resale - Centrex and Centrex 21
- Resale - Integrated Services Digital Network Basic Rate Interface (ISDN BRI)
- Resale - Plain Old Telephone Service (POTS)
- Resale - PAL
- Resale - Qwest Digital Subscriber Line (DSL)
- Unbundled Network Elements-Platform (UNE-P) POTS
- UNE-P ISDN BRI

Local Service Freeze requests for all other products are ordered manually The applicable LSOG forms should be faxed to (888) 796-9089.

Removing Local Service Freeze

Qwest Retail Customers
Qwest Retail end-users may contact their Qwest Business Office to have Local Service Freeze removed from their account. The end-users will be transferred to a Qwest Freeze Removal Group where their account information will be verified and a Record order issued to remove Local Service Freeze.

You and the Qwest retail end-user can initiate a three-way call to Qwest and a Record order will be issued to remove the Local Service Freeze the same day. You must request the Record order number (eight-digit number) from the Sales consultant to include on your LSR.

The following table lists the actions for removing a Local Service Freeze on a Qwest Retail account when the end-user is transferring local service to a new provider.

STEP	ACTION
1	End-user contacts new local service provider to request service
2	End-user contacts Qwest to have Local Service Freeze removed NOTE: Can be with or without the CLEC on the line
3	Record order due today is issued to remove Local Service Freeze

	NOTE: CLEC must request the Record order number
4	CLEC issues LSR to change the end-users service the same day Local Service Freeze is removed NOTE: CLEC must include Record order number in Remarks field or RORD field

The following table lists the actions required for removing a Local Service Freeze on Qwest Wholesale account:

STEP	ACTION
1	End-user contacts new local service provider to request service
2	Local service provider issues LSR (or appropriate form) to change end-user service. Proceed to step 3OrLocal service provider receives a CSR that indicates there is a Local Service Freeze on the account. Proceed to step 4
3	LSR is rejected due to Local Service Freeze
4	New local service provider contacts end-user regarding Local Service Freeze
5	End-user contacts old local service provider to remove Local Service Freeze
6	Old local service provider issues LSR (or appropriate form) to remove Local Service Freeze (with B in LSCP field)
7	New local service provider issues LSR to change end-user service

To expedite the removal of a Local Service Freeze, you may call 877-719-4294 with the end-user on the line.

To escalate any other concerns with Local Service Freeze, you may call the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). Qwest has established a point of contact for CLECs and the Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issues. If a Local Service Freeze needs to be added or removed, they will advise you to have the end-user call the appropriate number.

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Training

Qwest 101 "Doing Business With Qwest"

- This introductory instructor-led training course is designed to teach the CLEC and Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. Click here for Course detail and registration information.

IMA Hands On

- This introductory instructor-led training course teaches you how to use Qwest's IMA Graphical User Interface (GUI) to order wholesale products. You will experience interactive software demonstrations and participate in hands-on practice sessions to familiarize yourself with the IMA GUI system. Click here to learn more about this course and to register.

POTS Product Overview

- This instructor-led training course provides an overview of the Plain Old Telephone Service (POTS) product. This course will provide a general overview of the POTS product and the various features associated with POTS. Click here to learn more about this course and to register.

POTS Resale

- This instructor-led process and systems training course provides an overview of POTS Resale products as well as the processes for submitting the service request via Interconnect Mediated Access (IMA). The processes covered are Preorder, Order, Post Order, Provisioning, Billing and CEMR Maintenance and Repair. Click here to learn more about this course and to register.

DSL Resale via IMA

- This self-directed, web-based process and systems training course provides an overview of the DSL Resale product as well as the processes for submitting the service request via Interconnect Mediated Access (IMA). The processes covered are PreOrder, Order, Post Order, Provisioning, Billing, and CEMR Maintenance and Repair.

  Qwest DSL Service is a data solution that utilizes Digital Subscriber Line (DSL) technology to transport a high capacity, bi-directional data stream over a single pair of copper wires, along with Plain Old Telephone Service (POTS). Click here to learn more about this course and to register.

ISDN PRS

- This self-directed, web-based product training course provides you with knowledge of the Qwest Integrated Services Digital Network (ISDN) Primary Rate Service (PRS) product. You will learn how ISDN PRS, also referred to as ISDN Primary Rate Interface (PRI), works and the options available. Click here to learn more about this course and to register.

Unbundled Network Elements-Platform (UNE-P) POTS

- This instructor-led, process and systems training course is designed to provide an overview of the UNE-P POTS service as well as the processes for submitting the service request via IMA. The processes covered are PreOrder, Order, Post Order, Provisioning, Billing, and CEMR Maintenance and Repair. Click here to learn more about this course and to register.

View additional Qwest courses by clicking on Course Catalog.

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Contacts

Qwest contact information is available in the Wholesale Customer Contacts.

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Frequently Asked Questions (FAQs)

1. How long does it take to have a Local Service Freeze added or removed from an account?
If adding or removing the Local Service Freeze is the only activity on the account, a Record order will be issued with a same day due date. The addition or removal is effective the day the order is issued.

If the Local Service Freeze is being added or removed on a service where other account activity is taking place, the freeze won't be effective until the date that order is completed.

2. Once the Local Service Freeze is removed from the Qwest retail end-user's account, how soon can I issue my LSR to change their service?
You can issue your LSR the same day. You must include the Record order number that was provided to you and your customer in the Remarks section or in the RORD field on the LSR.

3. What if I have done a three-way call with the end-user to have the Local Service Freeze removed but the CSR still shows the LEFV on the account?
You can still issue your LSR the same day the freeze was removed as long as you include the Record order number for the Local Service Freeze removal in the Remarks section or in the RORD field on the LSR.

Local Service Freeze information is contained in a Freeze Repository which is updated when the Record order to remove the Local Service Freeze is completed. The Repository updates each night while the CSR takes 3-5 days to reflect the change in freeze status. Processing the LSR will be based on what is in the Repository versus the CSR.

4. Can I add Local Service Freeze to my customer's lines or account at the same time I make other changes to the account?
Yes, show A as the value in the LSCP field. Remember, if you add the freeze while doing other order activity, the freeze won't be in effect until the actual due date of that order.

5. What kind of questions are the Qwest Retail end-user asked when they add a Local Service Freeze?
Local Service Freeze is an option for Qwest end-users and is only added at the end-user's request. Qwest's process to add a Local Service Freeze includes several steps to ensure the end-user is fully informed about the local service freeze, including the process to remove a freeze. If an end-user indicates a desire to establish a freeze, they are transferred to a Third-Party Verifier who verifies that the end-user is responsible for the account, and confirms the specific telephone numbers to which a freeze is to be applied.

6. Why is the freeze sometimes removed on a Change order?
If there is other activity taking place on the account at the same time the freeze is being added or removed, a Change order will be issued rather than a Record order. In place of the Record order number, you will include the Change order number on the LSR in the Remarks section or ir the RORD field.

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Last Update: April 19, 2002

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Qwest cannot provide interLATA long distance service originating, interLATA 8XX service terminating; or interLATA private line or d either end in the states of AZ, CO, ID, IA, MN, MT, NE, NM, ND, OR, SD, UT, WA, and WY. Qwest provides Internet services in thes conjunction with a separately billed, required Global Service Provider (GSP).

Exhibit C

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	)	
	)	CC Docket No. 94-129
Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers	)	

SECOND REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: December 17, 1998 Released: December 23, 1998

Comment Date: 30 days from publication in the Federal Register
Reply Comments Date: 45 days from publication in the Federal Register

By the Commission: Commissioners Ness and Tristani issuing statements; Commissioner Powell concurring in part, dissenting in part and issuing a statement and Commissioner Furchtgott-Roth dissenting and issuing a statement

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I. INTRODUCTION

1. In this Second Report and Order and Second Further Notice of Proposed Rulemaking (*Order*), we adopt rules proposed in the First Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration (*Further Notice and Order*)[2] to implement section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).[3] Section 258 makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."[4] The goal of section 258 and this *Order* is to eliminate the practice of "slamming." A subscriber may authorize a change of his or her long distance carrier, or other telecommunications carrier, by requesting the change directly from his or her local exchange carrier (LEC), or by authorizing the new carrier to request a change on his or her behalf. Slamming occurs when a company changes a subscriber's carrier selection without that subscriber's knowledge or explicit authorization. Slamming nullifies the ability of consumers to select the telecommunications providers of their choice. Slamming also distorts the telecommunications market because it rewards those

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2 *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10,674 (1997) (*Further Notice and Order*).

3 47 U.S.C. § 258. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act). The principal goal of the Act is to "provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." *See* Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. Preamble (1996) (Joint Explanatory Statement).

4 47 U.S.C. § 258(a).

companies who engage in deceptive and fraudulent practices by unfairly increasing their customer base at the expense of those companies that market in a fair and informative manner and do not use fraudulent practices.

2. The numerous complaints we continue to receive and the input of the state commissions and the state attorneys general provide ample evidence that slamming is an extremely pervasive problem.[5] Indeed, slamming is so rampant that it garnered significant attention in Congress in 1998 during the post-legislative session, although ultimately no legislation was passed.[6] Despite the Commission's existing slamming rules, our records indicate that slamming has increased at an alarming rate. In 1997, the Commission processed approximately 20,500 slamming complaints and inquiries, which is an increase of approximately 61% over 1996 and an increase of approximately 135% over 1995.[7] From January to the beginning of December 1998, the Commission processed 19,769 slamming complaints.[8] Furthermore, the number of slamming complaints filed with the Commission is a mere fraction of the actual number of slamming incidents that occur.[9]

3. The Commission recently has increased its enforcement actions to impose severe financial penalties on slamming carriers. Since April 1994, the Commission has imposed final forfeitures totaling $5,961,500 against five companies, entered into consent decrees with eleven companies with combined payments of $2,460,000, and has proposed $8,120,000 in penalties against six carriers.[10] Additionally, the Commission may

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5 *See, e.g.*, National Association of Attorneys General (NAAG) Comments at Appendix (containing sampling of consumer complaints); Florida Commission Comments at 1 (stating that it received 2,393 slamming complaints in 1996 and that slamming is the number one telecommunications complaint received by the Florida Commission); NCL Comments at 3 (stating that in 1997, slamming ranked as the sixth most frequent subject of complaint to the National Fraud Information Center, a hotline for reporting fraud). A list of the commenters and their identifying abbreviations is in Appendix C.

6 William E. Kennard, Chairman of the FCC, received letters from Congress urging the Commission to implement anti-slamming rules and acknowledging that Congress did not pass slamming legislation. *See* Letter from Senator John McCain to William E. Kennard, Chairman, FCC (Oct. 30, 1998); Letter from Congressman Tom Bliley, *et al.* to William E. Kennard, Chairman, FCC (Dec. 11, 1998).

7 Consumer Complaints and Inquiries, Consumer Protection Branch, Enforcement Division, Common Carrier Bureau, Federal Communications Commission (Oct. 31, 1998).

8 *Id.*

9 For example, AT&T estimates that 500,000 of its customers were slammed in 1997. Mike Mills, *AT&T Unveils Plan to Cut "Slamming,"* Wash. Post, Mar. 4, 1998, at C1.

10 Slamming Enforcement Actions, Enforcement Division, Common Carrier Bureau, Federal

sanction a carrier by revoking its operating authority under section 214 of the Act.[11] The Commission recently has resorted to such sanctions against carriers for repeated slamming and other egregious violations of the Act and our rules.[12]

4. The new rules we adopt in this *Order* are not merely intended to conform our existing rules with the provisions of section 258, but also operate to establish a new comprehensive framework to combat aggressively and deter slamming in the future.[13] With our new rules, we seek to close loopholes used by carriers to slam consumers and to bolster certain aspects of the rules to increase their deterrent effect. At the heart of the new slamming rules is our determination to take the profit out of slamming. Our new rules absolve subscribers of liability for some slamming charges in order to ensure that carriers do not profit from slamming activities, as well as to compensate subscribers for the confusion and inconvenience they experience as a result of being slammed. As an additional deterrent, we strengthen our verification procedures and broaden the scope of our slamming rules.

5. Our new rules strengthen the rights of consumers in three areas: (1) the relief given to slamming victims; (2) the method by which a carrier must obtain customer verification of preferred carrier change requests; and (3) the method by which a consumer can "freeze" his or her existing carrier, thus prohibiting another carrier from claiming that it has been authorized to request a carrier change on behalf of the consumer. More specifically, with respect to compensation, under our new rules a subscriber will be absolved of liability for all calls made within 30 days after being slammed.[14] If however,

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Communications Commission (Dec. 17, 1998).

11 *See* 47 U.S.C. § 214; *see also CCN, Inc. et al.*, Order, 12 Comm. Reg. (P & F) 104 (1998) (revoking the operating authority of the Fletcher Companies because they slammed long distance telephone subscribers and committed other violations of the Communications Act of 1934, as amended) (*Fletcher Order*).

12 *Fletcher Order*, 12 Comm. Reg. (P & F) at 104.

13 In light of this new framework, and the addition of new rules, we have redesignated and renumbered the existing verification rules such that the current section 64.1100 is redesignated as 64.1150, and the current section 64.1150 is redesignated as 64.1160. *See* Appendix A. *See also* 47 C.F.R. §1.412(c) (stating that rule changes may be adopted without prior notice if the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest).

14 *See infra* discussion on Liability of the Slammed Subscriber. This modifies our current rule under which a slammed consumer is liable for the amount he or she would have paid the authorized carrier for absent the unauthorized change. *See Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, 10 FCC Rcd 9560, 9579 (1995) (*1995 Report and Order*).

the subscriber fails to notice that he or she has been slammed and pays the unauthorized carrier for such calls, section 258(b) of the Act requires the unauthorized carrier to remit such payments to the authorized carrier.[15] Upon receipt of this amount, the authorized carrier shall provide the subscriber with a refund or credit of any amounts the subscriber paid in excess of the authorized carrier's rates.[16] The unauthorized carrier must also pay the authorized carrier for any expenses incurred by the authorized carrier in restoring the subscriber's service or in collecting charges from the unauthorized carrier.[17] These liability rules will not take effect for 90 days, however to enable interested carriers to develop and implement an alternative independent entity to administer compliance with these rules on their behalf.[18] If carriers successfully implement such a plan, we will entertain carriers' requests for waiver of the administrative requirements of our liability rules.[19]

6. This *Order* also modifies the methods by which a carrier can fulfill its obligation to obtain consumer verification of carrier change requests. In particular, we eliminate the "welcome package"[20] as a verification option because we find that it has been subject to abuse by carriers engaged in slamming.[21] Also in connection with verification, we (1) extend our verification rules to apply to carrier change[22] requests

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15 *See infra* discussion on Investigation and Reimbursement Procedures.

16 *See infra* discussion on Subscriber Refunds or Credits.

17 *See infra* discussion on Investigation and Reimbursement Procedures.

18 *See infra* discussion on Third Party Administrator for Dispute Resolution.

19 The following rule provisions in Appendix A impose administrative requirements on the authorized carrier: section 64.1100(c), (d); section 64.1170; section 64.1180. Upon being granted an above-mentioned waiver, the authorized carrier would be permitted to discharge its obligations under these rules by having the neutral third party perform the administrative functions in these rules. *See infra* discussion on Third Party Administrator for Dispute Resolution.

20 The welcome package is an information package mailed to a consumer after the consumer has agreed to change carriers. It includes a prepaid postcard, which the customer can use to deny, cancel, or confirm the change order.

21 *See infra* discussion on The Welcome Package.

22 In the *Further Notice and Order*, we stated that we would use the term "preferred carrier" or "PC" to describe the subscriber's properly authorized or primary carrier(s) (a subscriber may have multiple preferred carriers - one for local exchange service and one for long distance service), as contemplated by the Act. We will use the term "carrier change," however, instead of "PC change," to further distinguish a change in telecommunications carrier from the former term "PIC change," which referred only to a change in a subscriber's primary interexchange carrier.

made during consumer-initiated (in-bound) calls to carriers,[23] rather than being applicable solely to outbound calls made by carriers to consumers; (2) extend our verification rules to apply, with a limited exception, to all telecommunications carriers in connection with changes of all telecommunications service, including local exchange service;[24] and (3) clarify that all carrier changes must be verified in accordance with one of the options provided in our rules, regardless of the manner of solicitation.[25] Finally, we set forth rules governing the preferred carrier freeze process, including verification requirements for imposing a freeze and mandating certain methods for lifting a freeze.[26]

7. This *Order* also contains a Further Notice of Proposed Rulemaking, in which we propose several additional changes to further strengthen our slamming rules and otherwise prevent slamming. In particular, we seek comment on: (1) requiring unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers; (2) requiring resellers to obtain their own carrier identification codes (CICs) to prevent confusion between resellers and their underlying facilities-based carriers; (3) modifying the independent third party verification method[27]

Furthermore, for consistency, we amend the text of the rules to use the term "preferred" in place of the term "primary." *See* Appendix A, §§ 64.1100, 64.1150. *Cf.* 47 C.F.R. § 1.412(c) (stating that rule changes may be adopted without prior notice if the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest). We note that, where appropriate, we will continue to use the term "PIC" in the text of this *Order* to describe a subscriber's primary interexchange carrier prior to the 1996 Act.

23 *See infra* discussion on Application of the Verification Rules to In-Bound Calls. In 1995, we concluded that the Commission's verification rules should apply to in-bound calls. *See 1995 Report and Order*, 10 FCC Rcd 9560 (1995). The Commission, on its own motion, stayed its *1995 Report and Order* insofar as it extends the primary interexchange carrier change (PIC-change) verification requirements set forth in section 64.1100 of the Commission's rules to consumer-initiated calls. *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Order, 11 FCC Rcd 856 (1995) (*In-bound Stay Order*).

24 *See infra* discussion on Application of the Verification Rules to the Local Market and discussion on Application of the Verification Rules to All Telecommunications Carriers. At this time, however, we exclude commercial mobile radio services (CMRS) carriers from compliance with our verification requirements. *See infra* discussion on Application of the Verification Rules to All Telecommunications Carriers.

25 *See* Appendix A, §§ 64.1150, 64.1160.

26 A preferred carrier freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent. *See infra* discussion on Preferred Carrier Freezes.

27 *See* 47 C.F.R. § 64.1100(c).

to ensure that it will be effective in preventing slamming; (4) clarifying the verification requirements for carrier changes made using the Internet; (5) defining the term "subscriber" to determine which person or persons should be authorized to make changes in the selection of a carrier for a particular account; (6) requiring carriers to submit to the Commission reports on the number of slamming complaints received by such carriers to alert the Commission as soon as possible about carriers that practice slamming; (7) imposing a registration requirement to ensure that only qualified entities enter the telecommunications market; (8) implementing a third party administrator for execution of preferred carrier changes and preferred carrier freezes.

8. We emphasize that the way to attack the slamming problem is to combat it on several fronts: improving the verification rules, imposing forfeitures and creating other financial disincentives for unscrupulous carriers, and increasing consumer awareness. In addition to prescribing rules to eliminate slamming, the Commission will continue to mete out swift, meaningful punishment for carriers that slam subscribers. Furthermore, the Commission will continue to work with the states to alert consumers about slamming and other telecommunications trends that may affect them, so that consumers can protect themselves from these practices.[28]

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28 The Commission started its consumer outreach program in 1995, with the publication of the Common Carrier Scorecard. Furthermore, the Commission's Call Center staff, at 1-888-CALL-FCC, is trained to answer consumer inquiries on slamming.

F. Use of Preferred Carrier Freezes

1. Background

112. In the Further Notice and Order, the Commission sought comment on whether it should adopt rules to address preferred carrier freeze practices.[348] The Commission noted that, although neither the Act nor its rules and orders specifically address preferred carrier freeze practices,349 concerns about carrier freeze solicitations have been raised with the Commission.350 The Commission noted, moreover, that MCI filed a Petition for Rulemaking on March 18, 1997, requesting that the Commission institute a rulemaking to regulate the solicitation, by any carrier or its agent, of carrier freezes or other carrier restrictions on a consumer's ability to switch his or her choice of interexchange (interLATA or intraLATA toll) and local exchange carrier.351 The Commission determined that it was appropriate to consider MCI's petition in the Further Notice and Order and, therefore, incorporated MCI's petition and all responsive pleadings into the record of this proceeding.352

2. Overview and Jurisdiction

113. We adopt rules to clarify the appropriate use of preferred carrier freezes

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348 *Further Notice and Order*, 12 FCC Rcd at 10,687-89. A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent.

349 We noted also that the Common Carrier Bureau Enforcement Division has previously reviewed certain preferred carrier freeze practices and found them to be consistent with the Act and the Commission's rules and orders. *See, e.g.*, Staff Interpretive Ruling Regarding Preemptive Effect of Commission's Regulations Governing Changes of Consumers' Primary Interexchange Carriers and the Communications Act of 1934, As Amended, On Particular Enforcement Action Initiated by the California Public Utilities Commission, DA 96-1077, 11 FCC Rcd 20453 (July 3, 1996); *see also* Letter, Elliot Burg, Esq., Asst. Attorney General, State of Vermont, 11 FCC Rcd 1899 (1995).

350 *See, e.g.*, Letter from Donald F. Evans, MCI Telecommunications Corporation to John Muleta, FCC (July 31, 1996).

351 MCI Petition for Rulemaking, RM-9085 (filed Mar. 18, 1997) (MCI Petition). AT&T has indicated that it "strongly supports" MCI's petition to establish regulations governing preferred carrier freezes. Letter from Mark C. Rosenblum, AT&T Corp. to Regina M. Keeney, FCC (Apr. 9, 1997). The Commission established a pleading cycle for comments regarding the MCI petition. *See* Public Notice, DA 97-942 (rel. May 5, 1997). Comments in response to that Public Notice are referred to as "Petition Comments" and "Petition Replies."

352 *Further Notice and Order*, 12 FCC Rcd at 10,687-88.

because we believe that, although preferred carrier freezes offer consumers an additional and beneficial level of protection against slamming, they also create the potential for unreasonable and anticompetitive behavior that might affect negatively efforts to foster competition in all markets. Thus, in adopting rules to govern the use of preferred carrier freeze mechanisms, we appropriately balance several factors, including consumer protection, the need to foster competition in all markets, and our desire to afford carriers flexibility in offering their customers innovative services such as preferred carrier freeze programs.[353] Moreover, in so doing we facilitate customer choice of preferred carrier selections and adopt and promote procedures that prevent fraud.

114. While we are confident that our carrier change verification rules, as modified in this Order, will provide considerable protection for consumers against unauthorized carrier changes, we recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming.354 As noted in the Further Notice and Order, a carrier freeze prevents a change in a subscriber's preferred carrier selection until the subscriber gives the carrier from whom the freeze was requested his or her written or oral consent.355 The record demonstrates that LECs increasingly have made available preferred carrier freezes to their customers as a means of preventing unauthorized conversion of carrier selections.356 The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent.357 Indeed, the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their

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353 *See, e.g.,* Ohio Commission Comments at 12.

354 *See, e.g.,* NYSDPS Comments at 8-9; Ameritech Petition Comments at 8 (noting that number of Ameritech Illinois customers utilizing freezes increased from 35,000 to 200,000 between 1993 and 1995); SNET Reply Comments at 4.

355 *See Further Notice and Order,* 12 FCC Rcd at 10,688.

356 *See, e.g.,* Bell Atlantic Comments at 4 ("Bell Atlantic began offering PC freezes in response to its subscriber's demands for protection from slamming."); SNET Comments at 6-7. It appears, based on the record, that particular PC freeze administration practices can vary widely between carriers (*e.g.*, some carriers require written consent to lift a freeze while others require oral consent to lift a freeze). *See, e.g.,* GTE Comments at 13 (stating that GTE requires customers to complete and return special form before freeze is lifted); Ameritech Comments at 21 (stating that Ameritech offers 24 hour telephone line for customers to lift freeze).

357 *See, e.g.,* Federal Communications Commission, Common Carrier Scorecard (Fall 1996); *Policy and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers,* Report and Order, 10 FCC Rcd 9560, 9574, n.58 (1995) (*1995 Report and Order*).

accounts.358 Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe that it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain greater control over their carrier selection.

115. In the Further Notice and Order, however, we stated that preferred carrier freezes may have the effect of limiting competition among carriers.359 We share commenters' concerns that in some instances preferred carrier freezes are being, or have the potential to be, implemented in an unreasonable or anticompetitive manner.360 Indeed, we note that a number of state commissions have determined,361 and certain LECs concede,362 that unregulated preferred carrier freezes are susceptible to such abuses. By definition, preferred carrier freezes create an additional step (namely, that subscribers contact directly the LEC that administers the preferred carrier freeze program) that customers must take before they are able to obtain a change in their carrier selection.363 Where customers fail to take the additional step of lifting a preferred carrier freeze, their otherwise valid attempts to effectuate a change in carrier selection will be frustrated. Observing this process, some commenters argue that certain preferred carrier freeze programs are so onerous as to create an unreasonable hurdle for subscribers and submitting carriers seeking to process a carrier change.364 Other commenters,

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358 *See, e.g.*, NAAG Comments at 11; NCL Comments at 9; Texas Commission Comments at 4; Ameritech Comments at 21; GTE Reply Comments at 14; AT&T Comments at 18.

359 *See Further Notice and Order*, 12 FCC Rcd at 10,688.

360 *See, e.g.*, MCI Petition at 2-8; CompTel Comments at 8 ("In fact, the incumbent LEC's strategic use of PC-freezes belies any claim that they are using PC-freezes to protect consumers from slamming."); PaOCA at 7; RCN Reply Comments at 7-8.

361 *See, e.g.*, Michigan Public Service Commission, *Sprint Communications Company, L.P. v. Ameritech Michigan*, Case No. U-11038 (Aug. 1, 1996); Public Utilities Commission of Ohio, *Complaint of Sprint Communications Company, L.P. v. Ameritech Ohio*, Case No. 96-142-TP-CSS (Feb. 20, 1997); New Jersey Board of Public Utilities, *Investigation of IntraLATA Toll Competition for Telecommunications Services on a Presubscription Basis*, Docket No. TX94090388 (June 3, 1997). *Cf.* California Public Utilities Commission, *Alternative Regulatory Frameworks for Local Exchange Carriers*, Decision 97-04-083 (Apr. 23, 1997). *See also* North Carolina Commission Comments at 4; NAAG Comments at 11.

362 *See, e.g.*, Ameritech Reply Comments at 9; USTA Comments at 7 ("USTA agrees that PC freezes do have the ability to hinder competition if the Commission's rules permit improper use of them.").

363 *See Further Notice and Order*, 12 FCC Rcd at 10,688.

primarily interexchange carriers, suggest that LECs are using deceptive preferred carrier freeze solicitation practices to "lock up" consumers, without their understanding, as part of an effort to stifle competition in their markets.365

116. Particularly given the market structure changes contemplated in the 1996 Act,366 we are persuaded that incentives for unreasonable preferred carrier freeze practices exist. With the removal of legal and regulatory barriers to entry, carriers are now or soon will be able to enter each other's markets and provide various services in competition with one another.367 Incumbent LECs have, or will have in the foreseeable future, authorization to compete in the market for interLATA services. Similarly, incumbent LECs are preparing to face or are facing competition in the local exchange and intraLATA toll markets. Given these changes in market structure, incumbent LECs may have incentives to market preferred carrier freezes aggressively to their customers and to use different standards for placing and removing freezes depending on the identity of the subscriber's carrier.368 Despite these market changes, it appears that, at this time, facilities-based LECs -- most of which are incumbent LECs -- are uniquely situated to administer preferred carrier freeze programs. Thus, other carriers are dependent on the LECs to offer preferred carrier freeze services to their customers.

117. We conclude, contrary to the assertions of Bell Atlantic, that we have authority under section 258 to address concerns about anticompetitive preferred carrier freeze practices for intrastate, as well as interstate, services.369 Congress, in section 258 of the Act, has granted this Commission authority to adopt verification rules applicable to both submission and execution of changes in a subscriber's selection of a provider of

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364 *See, e.g.*, Worldcom Petition Comments at 5; MCI Comments at 11; LCI Reply Comments at 8; *see also* NAAG Comments at 11.

365 *See, e.g.*, Sprint Petition Comments at 7 (citing examples of Ameritech practices in Illinois and Michigan); TRA Comments at 23; *see also* Ohio Commission Comments at 10-12.

366 *See* Joint Explanatory Statement (stating that the principal goal of the 1996 Act is to "provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition").

367 *See, e.g.*, 47 U.S.C. §§ 251-252, 271.

368 *See, e.g.*, MCI Comments at 18; Worldcom Comments at 9-10; Sprint Petition Comments at 5 ("In the past, most LECs did not actively promote PIC freezes . . . . "); TRA Comments at 18; *cf.* TOPC Reply Comments at 5.

369 Bell Atlantic and NYNEX Petition Comments at 1, n.1 ("The Commission has no jurisdiction to regulate PIC freezes or other LEC practices regarding intrastate services . . . .").

local exchange or telephone toll services.370 Preferred carrier freezes directly impact the verification procedures which Congress instructed the Commission to adopt because they require subscribers to take additional steps beyond those described in the Commission's verification rules to effectuate a carrier change. Moreover, where a preferred carrier freeze is in place, a submitting carrier that complies with our verification rules may find that its otherwise valid carrier change order is rejected by the LEC administering the freeze program. Since preferred carrier freeze mechanisms can essentially frustrate the Commission's statutorily authorized procedures for effectuating carrier changes, we conclude that the Commission has authority to set standards for the use of preferred carrier freeze mechanisms.

118. Based on this authority, we prescribe rules to ensure the fair and efficient use of preferred carrier freezes for intrastate and interstate services to protect customer choice and, correspondingly, to promote competition. Specifically, in the following sections, we adopt rules that apply, on a going-forward basis, to all carriers and that provide for the nondiscriminatory solicitation, implementation, and lifting of preferred carrier freezes.

3. Nondiscrimination and Application of Rules to All Local Exchange Carriers

119. We conclude, and codify in our rules implementing section 258 of the Act, that preferred carrier freezes should be implemented on a nondiscriminatory basis so that LECs do not use freezes as a tool to gain an unreasonable competitive advantage. Given that LECs are uniquely positioned to offer preferred carrier freezes, as described above, we believe that a nondiscrimination requirement is necessary to prevent unreasonable practices, such as denying freezes to the customers of their competitors. Accordingly, local exchange carriers must make available any preferred carrier freeze mechanism to all subscribers, under the same terms and conditions, regardless of the subscribers' carrier selection.371 We note that a number of LECs, including Ameritech and GTE, indicate that they already offer preferred carrier freezes to customers on a nondiscriminatory basis.372 Similarly, we state our expectation that LECs should not be able to impose discriminatory delays when lifting freezes.373 Since the Commission has long

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370 47 U.S.C. § 258. *See supra* discussion on Application of the Verification Rules to the Local Market. *See also* Sprint Petition Reply Comments at 4.

371 *See*, Appendix A, § 64.1190(b). *See also, e.g.*, MCI Petition at 9; TRA Petition Comments at 8; CompTel Petition Comments at 2; CompTel Comments at 9; TOPC Reply Comments at 5; Citizens Petition Comments at 5.

372 *See, e.g.*, Ameritech Reply Comments at 11; GTE Comments at 12 ("GTE treats all carriers, including affiliates, the same for PC-change freeze purposes.").

373 We concluded above that the nondiscrimination requirements of sections 202(a) and 251 prohibit

recognized that incumbent LECs may have the incentive to discriminate in the provision of service to their competitors,374 we believe that articulating this nondiscrimination requirement will ensure that the same level of protection is available to all subscribers.

120. At the same time, we conclude that our rules for preferred carrier freezes should apply to all local exchange carriers. We reject those proposals to place additional requirements on incumbent LECs, to the exclusion of competitive LECs.375 Where a competitive LEC offers a preferred carrier freeze program, that competitive LEC must comply with our preferred carrier freeze rules, as set out in this Order. This policy is appropriate because we expect that a competitive LEC may face the same incentives to discriminate in the provision of preferred carrier freeze service to the customers of its competitors. In addition, subscribers of competitive LECs have the same right to expect that preferred carrier freeze programs will be nondiscriminatory and not deceptive or misleading, as do subscribers of incumbent LECs.

4. Solicitation and Implementation of Preferred Carrier Freezes

121. We adopt minimum standards to govern the solicitation and implementation of preferred carrier freezes in order to deter anticompetitive application of freeze practices and to ensure that consumers are able to make more informed decisions on whether to utilize a freeze. We share concerns of some commenters that certain carriers may solicit preferred carrier freezes in a manner that is unreasonable under the Act.376 The record indicates the potential for customer confusion. It appears that many consumers are unclear about whether preferred carrier freezes are being placed on their carrier selections and about which services or carriers are subject to these freezes.377 We find that the most effective way to ensure that preferred carrier freezes are used to protect consumers, rather than as a barrier to competition, is to ensure that

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executing carriers from imposing discriminatory delays on their competitors when executing preferred carrier changes. *See supra* discussion on Timeframe for Execution of Carrier Changes. We believe that sections 202(a) and 251 may also restrict incumbent LECs' ability to use preferred carrier freezes for anticompetitive conduct.

374 *See, e.g., Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489, CC Docket No. 96-149 (rel. Dec. 24, 1996) ("*Non-Accounting Safeguards Order*").

375 *See, e.g.*, AT&T Petition Comments at 6; CompTel Petition Comments at 6.

376 *See, e.g.*, AT&T Petition Comments at 4-5; Sprint Petition Comments at 7; TRA Comments at 23.

377 *See, e.g.*, MCI Petition at 4, n.3; NAAG Comments at 12.

subscribers fully understand the nature of the freeze, including how to remove a freeze if they chose to employ one. We thus conclude that, in order to be a just and reasonable practice, any solicitation and other carrier-provided information concerning a preferred carrier freeze program should be clear and not misleading.378 Moreover, we adopt the tentative conclusion, as set forth in the Further Notice and Order, that any solicitation for preferred carrier freezes should provide certain basic explanatory information to subscribers about the nature of the preferred carrier freeze.379 Our decision to adopt rules governing the solicitation of preferred carrier freezes is supported by the vast majority of commenters, including state commissions and a number of incumbent LECs.380

122. We specifically decide that, at a minimum, carriers soliciting preferred carrier freezes must provide: 1) an explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a preferred carrier freeze; 2) a description of the specific procedures necessary to lift a preferred carrier freeze and an explanation that these steps are in addition to the Commission's regular verification rules for changing subscribers' carrier selections and that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and 3) an explanation of any charges associated with the preferred carrier freeze service.381 We decline, at this time, to mandate specific language to describe preferred carrier freezes because we believe that our rules will provide carriers with sufficient guidance to formulate scripts that inform customers about preferred carrier freezes in a neutral manner while preserving carrier flexibility in the message.382

123. We also conclude that preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services subject to a freeze, i.e., between local, intraLATA toll, interLATA toll, and international toll services.383 This rule will address concerns raised by commenters, including MCI and

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378 *See also* 47 U.S.C. § 201(b).

379 *See Further Notice and Order*, 12 FCC Rcd at 10688.

380 *See, e.g.*, NYSCPB Reply Comments at 9 ("Commission properly . . . proposed rules that would limit such promotional materials."); NAAG at 12; Ameritech Reply Comments at 10; CompTel Comments at 9.

381 *See* Appendix A, § 64.1190(d)(1).

382 *See* MCI Comments at 17 ("Commission should consider requiring the use of standard language . . ."); NYSCPB Reply Comments at 9; Excel Reply Comments at 4.

383 *See* Appendix A, § 64.1190(c).

NAAG, that consumers may experience confusion about the differences between telecommunications services when employing freezes.384 It will also serve to prevent unscrupulous carriers from placing freezes on all of a subscriber's services when the subscriber only intended to authorize a freeze for a particular service or services.385 We thus conclude that "account level" freezes are unacceptable and that, instead, carriers must explain clearly the difference in services and obtain separate authorization for each service for which a preferred carrier freeze is requested.386 We note that a broad range of commenters, including many incumbent LECs, agree that customers should have the ability to place individual freezes on their interLATA, intraLATA toll, and local services.387 While some members of the public may still be unclear about the distinctions between different telecommunications services, particularly the difference between intraLATA toll and interLATA toll services, we expect that carriers can help customers to develop a better understanding of these services.

124. We decline those suggestions that we prohibit LECs from taking affirmative steps to make consumers aware of preferred carrier freezes because we believe that preferred carrier freezes are a useful tool in preventing slamming. Nor do we draw distinctions between "solicitation" and "educational materials" that some commenters urge us to adopt.388 We instead believe that the standards adopted herein will provide sufficient guidance for consumers. At the same time, we decline the suggestions of those parties who would have us require LECs affirmatively to distribute literature describing their preferred carrier freeze programs.389 Should states wish to adopt such requirements, we believe that it is within their purview to do so.

125. We adopt our proposal to extend our carrier change verification procedures to preferred carrier freeze solicitations and note that this proposal was supported by a wide range of carriers, state commissions, and consumer

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384 MCI Comments at 14, n.15; NAAG Comments at 12. *See also* U S WEST Reply Comments at 24, n.74; TRA Comments at 25-26.

385 *See, e.g.*, Ameritech Petition Comments at 14; AT&T Petition Reply Comments at 7.

386 *See* Appendix A, § 64.1190(c).

387 *See, e.g.*, USTA Comments at 7; AT&T Petition Reply at 7; Puerto Rico Telephone Company Petition Reply at 4; LCI Reply Comments at 9.

388 *See, e.g.*, CBT Comments at 8.

389 *See, e.g.*, TOPC Reply Comments at 5; OCC Reply Comments at 4; CBT Comments at 9. We note that some LECs do not affirmatively market their preferred carrier freeze programs. *See, e.g.*, SBC Comments at 8, 10.

organizations.390 By requiring LECs that administer preferred carrier freeze programs to verify a subscriber's request to place a freeze, we expect to reduce customer confusion about preferred carrier freezes and to prevent fraud in their implementation. According to a number of commenters, customer confusion over preferred carrier freezes often results in valid carrier change orders being rejected by LECs.391 In combination with our requirement that carriers obtain separate authorization for each telecommunications service subject to the freeze, these verification procedures will further ensure that subscribers understand which services will be subject to a preferred carrier freeze.392 Requiring LECs that offer preferred carrier freezes to comply with the Commission's verification rules will also minimize the risk that unscrupulous carriers might attempt to impose preferred carrier freezes without the consent of subscribers.393 We find such a practice to be unreasonable because it frustrates consumers' choice in carriers by making it more difficult for the consumer to switch carriers.

126. Our verification rules are designed to confirm a subscriber's wishes while imposing the minimum necessary burden on carriers. We agree with BellSouth that applying the Commission's verification rules to preferred carrier freezes will enable subscribers to obtain preferred carrier freeze protection with a minimum of effort.394 By adopting the same verification procedures for both carrier changes and preferred carrier freezes, we expect that the process of implementing preferred carrier freezes will be less confusing for subscribers and administratively more efficient for carriers. We reject other commenter proposals, such as AT&T's proposal to require that LECs confirm preferred carrier freezes in writing.395 We think that our verification rules will be

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390 *See* Appendix A, § 64.1190(d)(2). *See Further Notice and Order*, 12 FCC Rcd at 10,687-89. *See, e.g.*, Worldcom Comments at 9; Intermedia Comments at 6; BellSouth Comments at 4; Texas Commission Comments at 4; PaOCA Comments at 7.

391 *See, e.g.*, Sprint Petition Comments at 8 (rejection of the preferred carrier change order "may occur weeks after such customers have chosen to switch . . . "); CompTel Petition Comments at 4; MCI Comments at 14-15.

392 We note that, where a subscriber seeks to place a freeze on more than one of his or her services, the separate authorization and verification may be received and conducted during the same telephone conversation or may be obtained in separate statements on the same written request for a freeze.

393 *See* AT&T Comments at 18 ("extending the verification rules to the freeze mechanism may help to curb competitive abuse of that procedure . . ."); BellSouth Comments at 4 (rules will "provide some protection against unscrupulous carriers that attempt to limit competition by imposing PC freezes without the subscriber's authorization").

394 *See* BellSouth Comments at 4.

395 AT&T Comments at 19, n.23.

adequate to ensure that subscribers' choices, whether for carrier changes or preferred carrier freezes, are honored.

5. Procedures for Lifting Preferred Carrier Freezes

127. We conclude that LECs offering preferred carrier freeze programs must make available reasonable procedures for lifting preferred carrier freezes. Based on the record before us, we are concerned that some procedures for lifting preferred carrier freezes may place an unreasonable burden on subscribers who wish to change their carrier selections.396 In addition, and as noted above, we are concerned that consumers are not being fully informed about how freezes work, and therefore often fail to appreciate the significance of implementing a freeze at the time they make the choice. This concern is particularly acute in markets where competition has not yet fully developed so that consumers are aware of the choices they have or will have in the future. We conclude that adopting baseline standards for the lifting of preferred carrier freezes will appropriately balance the interests of Congress in opening markets to competition by protecting consumer choice, preventing anticompetitive practices, and providing consumers a potentially valuable tool to protect themselves from fraud. Thus, carriers must offer subscribers a simple, easily understandable, but secure, way of lifting preferred carrier freezes in a timely manner.397

128. With these concerns for promoting customer choice in mind, we conclude that a LEC administering a preferred carrier freeze program must accept the subscriber's written and signed authorization stating an intent to lift a preferred carrier freeze.398 Such written authorization -- like the LOAs authorized for use in carrier changes and to place a preferred carrier freeze -- should state the subscriber's billing name and address and each telephone number to be affected. In addition, the written authorization should state the subscriber's intent to lift the preferred carrier freeze for the particular service in question. We think that this procedure is clearly consistent with the purpose of the preferred carrier freeze because it permits the subscriber to notify the LEC directly of her or his intention to lift a preferred carrier freeze.399 By requiring LECs to accept such authorization, we ensure that subscribers will have a simple and reliable way of lifting preferred carrier freezes, and thus making a carrier change.

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396 *See, e.g.,* MCI Comments at 15-17; CompTel Petition Comments at 2.

397 *See, e.g.,* IXC Long Distance Reply Comments at 5; Ameritech Reply Comments at 10; MCI Petition at 9.

398 *See* Appendix A, § 64.1190(e)(1).

399 *See, e.g.,* U S WEST Reply Comments at 25; USTA Reply Comments at 5; TNRA Comments at 3.

129. We similarly conclude that LECs offering preferred carrier freeze programs must accept oral authorization from the customer to remove a freeze and must permit submitting carriers to conduct a three-way conference call with the LEC and the subscriber in order to lift a freeze.400 In this regard, we agree, for example, with the Texas Office of Public Utility Counsel that three-way calling is an effective means of having a preferred carrier freeze lifted during an initial conversation between a subscriber and a submitting carrier.401 Specifically, three-way calling allows a submitting carrier to conduct a three-way conference call with the LEC administering the freeze program while the consumer is still on the line, e.g., during the initial telemarketing session, so that the consumer can personally request that a particular freeze be lifted. We are not persuaded by certain LECs' claims that three-way calling is unduly burdensome or raises the risk of fraud.402 We do not anticipate that the volume of subscribers seeking to lift their preferred carrier freezes will be overly burdensome for these carriers' customer support staff. Further, we expect that LECs administering preferred carrier freeze programs will be able to recover as part of the carrier change charge the cost of making such three-way calling available.403 We also believe that three-way calling will effectively prevent fraud because a three-way call establishes direct contact between the LEC and the subscriber. We expect that the LEC administering the preferred carrier freeze program will have the opportunity to ask reasonable questions designed to determine the identity of the subscriber during an oral authorization, such as a three-way call, to lift a freeze.404 Finally, the three-way call procedure merely lifts the preferred carrier freeze. In addition, a submitting carrier must follow the Commission's verification rules before submitting a carrier change. For example, an interexchange carrier wishing to submit a carrier change for a customer with a preferred carrier freeze would comply with our verification rules for carrier changes, perhaps by using third-party verification, and then, if necessary, could perform a three-way call with the LEC administering the preferred carrier freeze program to lift the freeze -- all before submitting its carrier change order to the executing carrier.

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400 *See* Appendix A, § 64.1190(e)(2).

401 TOPC Reply Comments at 5. *See also* AT&T Petition Comments at 7; Telco Comments at 8-9; Ohio Commission Comments at 11; Worldcom Comments at 10.

402 *See, e.g.,* GTE Petition Comments at 5; Citizens Petition Reply at 5; Ameritech Petition Comments at 21.

403 Moreover, we can revisit these conclusions if further experience indicates that these rules become unduly burdensome.

404 *See* AT&T Petition Reply at 5, n.8.

130. We decline to enumerate all acceptable procedures for lifting preferred carrier freezes. Rather, we encourage parties to develop new means of accurately confirming a subscriber's identity and intent to lift a preferred carrier freeze, in addition to offering written and oral authorization to lift preferred carrier freezes. Other methods should be secure, yet impose only the minimum burdens necessary on subscribers who wish to lift a preferred carrier freeze.405 Thus, we do not adopt IXC Long Distance's proposal to require that LECs give customers a unique password or personal identification number.406 While some LECs may find such a proposal useful, we need not mandate its use, given our decision to adopt the procedures for lifting preferred carrier freezes described above.

131. We agree with Ameritech and those commenters who suggest that the essence of the preferred carrier freeze is that a subscriber must specifically communicate his or her intent to request or lift a freeze.407 Because our carrier change rules allow carriers to submit carrier change requests directly to the LECs, the limitation on lifting preferred carrier freezes gives the freeze mechanism its protective effect. We disagree with MCI that third-party verification of a carrier change alone should be sufficient to lift a preferred carrier freeze.408 Were we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze. Since we believe that subscribers should have the choice to implement additional slamming protection in the form of preferred carrier freeze mechanisms, we do not adopt MCI's proposal.

132. We expect that, in three-way calls placed to lift a preferred carrier freeze, carriers administering freeze programs will ask those questions necessary to ascertain the identity of the caller and the caller's intention to lift her or his freeze, such as the caller's social security number or date of birth. Several commenters state that when subscribers contact certain LECs to lift their preferred carrier freezes, those LECs go further and attempt to retain customers by dissuading them from choosing another carrier as their preferred carrier selection.409 Indeed, SNET states that there is no reason for incumbent

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405 *See, e.g.,* Ameritech Comments at 20-21 (discussing development of 24 hour voice response unit).

406 IXC Long Distance Comments at 5.

407 Ameritech Reply Comments at 14. *See also* NYSCPB Reply Comments at 10; U S WEST Reply Comments at 25.

408 MCI Petition at 9. *See also* Midcom Petition Comments at 3; BCI Comments at 3.

409 *See, e.g.,* CompTel Petition Comments at 4; Sprint Comments at 34; MCI Reply Comments at 10 (indicating that LECs engage in "win back" efforts even while participating in three-way calls). *But see* Bell Atlantic Reply Comments at 11, n.21.

LECs to treat the lifting of preferred carrier freezes "as ministerial and not as an opportunity to market the services of its affiliates."410 We disagree with SNET and believe that, depending on the circumstances, such practices likely would violate our rule, discussed above, that carriers must offer and administer preferred carrier freezes on a nondiscriminatory basis. Indeed, we are aware of states that have made similar findings that a carrier that is asked to lift a freeze should not be permitted to attempt to change the subscriber's decision to change carriers.411 In addition, such practices could also violate the "just and reasonable" provisions of section 201(b).412 Much as in the context of executing carriers and carrier change requests, we think it is imperative to prevent anticompetitive conduct on the part of executing carriers and carriers that administer preferred carrier freeze programs.413 Carriers that administer freeze programs otherwise would have no knowledge at that time of a consumer's decision to change carriers, were it not for the carrier's position as a provider of switched access services. Therefore, LECs that receive requests to lift a preferred carrier freeze must act in a neutral and nondiscriminatory manner. To the extent that carriers use the opportunity with the customer to advantage themselves competitively, for example, through overt marketing, such conduct likely would be viewed as unreasonable under our rules.414

6. Information about Subscribers with Preferred Carrier Freezes

133. We do not require LECs administering preferred carrier freeze programs to make subscriber freeze information available to other carriers because we expect that, particularly in light of our new preferred carrier freeze solicitation requirements, more subscribers should know whether or not there is a preferred carrier freeze in place on their carrier selection.415 Given our requirement that LECs make available a three-way

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410 SNET Petition Reply Comments at 7.

411 *See, e.g.*, Illinois Commerce Commission, *MCI Telecommunications Corp. et al. v. Illinois Bell Telephone Co.*, Order, Case Nos. 96-0075 and 96-0084 (rel. Apr. 3, 1996) ("[d]uring telephone calls for the purpose of changing the customer's intraMSA PIC to another carrier, Respondent should not attempt to retain the customer's account during the process"); Michigan Public Service Commission, *Sprint Communications Company, L.P. v. Ameritech Michigan*, Case No. U-11038 (Aug. 1, 1996) (concluding that "if a customer with [a preferred carrier freeze] calls to change providers, Ameritech Michigan shall not use that contact to try to persuade the customer not to change providers").

412 47 U.S.C. § 201(b).

413 *See supra* discussion on Marketing Use of Carrier Change Information.

414 *See* 47 U.S.C. §§ 201, 208.

415 *See* MCI Petition at 8-9; IXC Long Distance Reply Comments at 5. We note that at least one incumbent LEC makes this information available already. BellSouth Reply Comments at 7; *cf.*

calling mechanism to lift preferred carrier freezes, if a subscriber is uncertain about whether a preferred carrier freeze has been imposed, the submitting carrier may use the three-way calling mechanism to confirm the presence of a freeze. Thus, we expect that carriers will not typically need to rely on such information to determine whether a freeze is in place.416 On the other hand, we see benefit to the consumer -- in terms of decreased confusion and inconvenience -- where carriers would be able to determine whether a freeze is in place before or during an initial contact with a consumer. As one alternative, we encourage LECs to consider whether preferred carrier freeze indicators might be a part of any operational support system that is made available to new providers of local telephone service.

7. When Subscribers Change LECs

134. Based on the record developed on this issue, we do not adopt the Commission's tentative conclusion that LECs would automatically establish existing preferred carrier freezes that were implemented with the prior LEC when a subscriber switches his or her provider of local service.417 Rather, we conclude that when a subscriber switches LECs, he or she should request the new LEC to implement any desired preferred carrier freezes, even if the subscriber previously had placed a freeze with the original LEC. We are persuaded by the substantial number of LEC commenters asserting that it would be technically difficult or impossible to transfer information about existing preferred carrier freezes from the original LEC to the new LEC.418 It is our understanding that these difficulties are accentuated because each LEC has different procedures for managing preferred carrier freeze mechanisms. Moreover, because our rules will allow carriers to have different means for lifting freezes, it will be important for subscribers to be informed of the new LECs' procedures before deciding whether to renew a freeze. In the absence of such a requirement, we expect that LECs will develop procedures to ensure that new subscribers are able to implement any desired preferred carrier freezes at the time of subscription, thus avoiding potential confusion for subscribers.

8. Preferred Carrier Freezes of Local and IntraLATA Services

Ameritech Reply Comments at 11-12.

416 If we find that substantial impediments to the timely identification and lifting of preferred carrier freezes exists in the future, we can revisit this issue.

417 *Further Notice and Order*, 12 FCC Rcd at 10,689. *See also* OCC Comments at 3; Worldcom Comments at 10.

418 *See, e.g.*, Ameritech Comments at 23; Bell Atlantic Comments at 5; MCI Comments at 17. *See also* Ohio Commission Comments at 12.

135. We decline the suggestion of a number of commenters that we prohibit incumbent LECs from soliciting or implementing preferred carrier freezes for local exchange or intraLATA services until competition develops in a LEC's service area.419 In so doing, however, we recognize, as several commenters observe, that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly open to competition.420 These commenters in essence argue that incumbent LECs seek to use preferred carrier freeze programs as a means to inhibit the ability or willingness of customers to switch to the services of new entrants. We share concerns about the use of preferred carrier freeze mechanisms for anticompetitive purposes. We concur with those commenters that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced.421 Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct.422 We encourage parties to bring to our attention, or to the attention of the appropriate state commissions, instances where it appears that the intended effect of a carrier's freeze program is to shield that carrier's customers from any developing competition.

136. Despite our concerns about the possible anticompetitive aspects of permitting preferred carrier freezes of local exchange and intraLATA toll services in markets where there is little competition for these services, we believe that it is not necessary for the Commission to adopt a nationwide moratorium. Indeed, we remain convinced of the value of preferred carrier freezes as an anti-slamming tool. We do not wish to limit consumer access to this consumer protection device because we believe that promoting consumer confidence is central to the purposes of section 258 of the Act. As with most of the other rules we adopt today, the uniform application of the preferred carrier freeze rules to all carriers and services should heighten consumers' understanding of their rights. We note the strong support of those consumer advocates that state that the Commission should not delay the implementation of preferred carrier freezes.423 We

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419 *See, e.g.*, MCI Petition Reply at 3; Intermedia Comments at 7; LCI Comments at 1; Telco Comments at 7; Excel Reply Comments at 2-3.

420 *See, e.g.*, NAAG Comments at 11; PaOCA Comments at 7; Sprint Comments at 34.

421 *See, e.g.*, MCI Comments at 13-14; Ohio Commission Comments at 11-12; *cf.* USTA Reply Comments at 7. *Cf.* BellSouth Comments at 12, n.25 (stating that it does not offer preferred carrier freezes for choice of local service providers whether the provider is BellSouth or a reseller CLEC).

422 *See, e.g.*, Ohio Commission Comments at 11-12; LCI Comments at 2-3; Intermedia Comments at 6; TRA Petition Comments at 2-4 (citing examples from MCI Petition).

423 *See, e.g.*, OCC Reply Comments at 6 ("Customers would thus not be able to protect themselves

also expect that our rules governing the solicitation and implementation of preferred carrier freezes, as adopted herein, will reduce customer confusion and thereby reduce the likelihood that LECs will be able to shield their customers from competition.

137. We make clear, however, that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem such action appropriate to prevent incumbent LECs from engaging in anticompetitive conduct. We note that a number of states have imposed some form of moratorium on the implementation of preferred carrier freezes in their nascent markets for local exchange and intraLATA toll services.424 We find that states -- based on their observation of the incidence of slamming in their regions and the development of competition in relevant markets, and their familiarity with those particular preferred carrier freeze mechanisms employed by LECs in their jurisdictions -- may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers.

9. Limitation on Freeze Mechanisms for Resold Services

138. A number of commenters indicate that preferred carrier freeze mechanisms will not prevent all unauthorized carrier changes.425 Specifically, and as described above, when a subscriber changes to a new carrier that has the same CIC as the original carrier -- such as a change from a facilities-based IXC to a reseller of that facilities-based IXC -- the execution of the change order is performed by the facilities-based IXC, not the subscriber's LEC.426 Where such a change is made without the subscriber's authorization, it is referred to as a "soft slam." In a soft slam, the LEC does not make any changes in its system because it will continue to send interexchange calls from that subscriber to the same facilities-based IXC, using the same CIC. Since the soft-slam execution is not performed by the LEC and the LEC may not even be notified of the change, the LEC's preferred carrier freeze mechanism would not prevent such a change. We seek comment in the attached Further Notice of Proposed Rulemaking about

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against slamming for one year under AT&T's proposal."); NYSDPS Comments at 8-9; NCL Comments at 8.

424 *See, e.g.,* New Jersey Board of Public Utilities, *Investigation of IntraLATA Toll Competition for Telecommunications Services on a Presubscription Basis*, Docket No. TX94090388 (June 3, 1997); California Public Utilities Commission, *Alternative Regulatory Frameworks for Local Exchange Carriers,* Decision 97-04-083 (Apr. 23, 1997); Tex. Admin. Code Title 16, § 23.103 (prohibiting freezes for intraLATA toll services until subscribers receive notice of equal access).

425 *See, e.g.*, NYSDPS at 9.; Ameritech Petition Comments at 17; U S WEST Reply Comments at 11, n.28.

426 *See supra* discussion on Definition of "Submitting" and "Executing" Carriers.

issues concerning resellers and CICs, including alternative methods for preventing switchless resellers from circumventing a subscriber's preferred carrier freeze protection through soft slams.427 We encourage commenters to address these issues in detail.

427 *See infra* discussion in Further Notice of Proposed Rulemaking, Resellers and CICs.

APPENDIX A

RULES AMENDED

Part 64 of the Commission's Rules and Regulations, Chapter 1 of Title 47 of the Code of Federal Regulations, is amended as follows:

1. The title of Part 64, Subpart K, is amended to read as follows:

Subpart K - Changes in Preferred Telecommunications Service Providers

2. Part 64, Subpart K, is further amended by redesignating section 64.1100 as section 64.1150, and modifying new section 64.1150 to read as follows:

§64.1150 Verification of Orders for Telecommunications Service

No telecommunications carrier shall submit a preferred carrier change order unless and until the order has first been confirmed in accordance with one of the following procedures:

(a) The telecommunications carrier has obtained the subscriber's written authorization in a form that meets the requirements of section 64.1160; or

(b) The telecommunications carrier has obtained the subscriber's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in paragraph (a) of this section. Telecommunications carriers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the subscriber's date of birth or social security number). The independent third party must (1) not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; (2) must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent; and (3) must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier change; or

(d) Any State-enacted verification procedures applicable to intrastate preferred carrier change orders only.

3. Part 64, Subpart K, is further amended by redesignating section 64.1150 as section 64.1160, and modifying new section 64.1160 to read as follows:

§64.1160 Letter of Agency Form and Content

(a) A telecommunications carrier may use a letter of agency to obtain written authorization and/or verification of a subscriber's request to change his or her preferred carrier selection. A letter of agency that does not conform with this section is invalid for purposes of this subpart.

(b) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in paragraph (e) of this section having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change.

(c) The letter of agency shall not be combined on the same document with inducements of any kind.

(d) Notwithstanding paragraphs (b) and (c) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in paragraph (e) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(e) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The subscriber's billing name and address and each telephone number to be covered by the preferred carrier change order;

(2) The decision to change the preferred carrier from the current telecommunications carrier to the soliciting telecommunications carrier;

(3) That the subscriber designates [name of submitting carrier] to act as the subscriber's agent for the preferred carrier change;

(4) That the subscriber understands that only one telecommunications carrier may be designated as the subscriber's interstate or interLATA preferred interexchange carrier for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred carriers (*e.g.*, local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange) the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

(5) That the subscriber understands that any preferred carrier selection the subscriber chooses may involve a charge to the subscriber for changing the subscriber's preferred carrier.

(f) Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber.

(g) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier.

(h) If any portion of a letter of agency is translated into another language then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

4. Part 64, Subpart K, is further amended by adding new sections 64.1100, 64.1170, 64.1180, and 64.1190 to read as follows:

§ 64.1100 Changes in Subscriber Carrier Selections

(a) No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service except in accordance with the procedures prescribed in this Subpart. Nothing in this section shall preclude any State commission from enforcing these procedures with respect to intrastate services.

(1) No submitting carrier shall submit a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service prior to obtaining: (A) authorization from the subscriber, and (B) verification of that authorization in accordance with the procedures prescribed in section 64.1150. For a submitting carrier, compliance with the verification procedures prescribed in this Subpart shall be defined as compliance with subsections (a) and (b) of this section, as well with section 64.1150. The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years after obtaining such verification.

(2) An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this Subpart shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.

(3) Commercial mobile radio services (CMRS) providers shall be excluded from the verification requirements of this Subpart as long as they are not required to provide equal access to common carriers for the provision of telephone toll services, in accordance with 47 U.S.C. § 332(c)(8).

(b) Where a telecommunications carrier is selling more than one type of telecommunications service *(e.g.*, local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in this Subpart.

(c) Carrier Liability for Charges. Any submitting telecommunications carrier that fails to comply with the procedures prescribed in this Subpart shall be liable to the subscriber's properly authorized carrier in an amount equal to all charges paid to the submitting telecommunications carrier by such subscriber after such violation, as well as for additional amounts as prescribed in section 64.1170 of this Subpart. The remedies provided in this Subpart are in addition to any other remedies available by law.

(d) Subscriber Liability for Charges. Any subscriber whose selection of telecommunications service provider is changed without authorization verified in accordance with the procedures set forth in this Subpart is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. Upon being informed by a subscriber that an unauthorized change has occurred, the authorized carrier, the unauthorized carrier, or the executing carrier shall inform the subscriber of this 30-day absolution period. The subscriber shall be absolved of liability for this 30-day period only if the subscriber has not already paid charges to the unauthorized carrier.

(1) Any charges imposed by the unauthorized carrier on the subscriber after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. Upon the subscriber's return to the authorized carrier, the subscriber shall forward to the authorized carrier a copy of any bill that contains charges imposed by the unauthorized carrier after the 30-day period of absolution. After the authorized carrier has re-rated the charges to reflect its own rates, the

subscriber shall be liable for paying such re-rated charges to the authorized carrier.

(2) If the subscriber has already paid charges to the unauthorized carrier, and the authorized carrier recovers such charges as provided in paragraph (c), the authorized carrier shall refund or credit to the subscriber any charges recovered from the unauthorized carrier in excess of what the subscriber would have paid for the same service had the unauthorized change not occurred, in accordance with the procedures set forth in section 64.1170 of this Subpart.

(3) If the subscriber has been absolved of liability as prescribed by this subsection, the unauthorized carrier shall also be liable to the subscriber for any charge required to return the subscriber to his or her properly authorized carrier, if applicable.

(e) Definitions. For the purposes of this Subpart, the following definitions are applicable:

(1) Submitting carrier: a submitting carrier is generally any telecommunications carrier that: (A) requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed, and (B) seeks to provide retail services to the end user subscriber. A carrier may be treated as a submitting carrier, however, if it is responsible for any unreasonable delays in the submission of carrier change requests or for the submission of unauthorized carrier change requests, including fraudulent authorizations.

(2) Executing carrier: an executing carrier is generally any telecommunications carrier that effects a request that a subscriber's telecommunications carrier be changed. A carrier may be treated as an executing carrier, however, if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

(3) Authorized carrier: an authorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the subscriber's authorization verified in accordance with the procedures specified in this Subpart.

(4) Unauthorized carrier: an unauthorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service but fails to obtain the subscriber's authorization verified in accordance with the procedures specified in this Subpart.

(5) Unauthorized change: an unauthorized change is a change in a subscriber's selection of a provider of telecommunications service that was made

without authorization verified in accordance with the verification procedures specified in this Subpart.

§ 64.1170 Reimbursement Procedures

(a) The procedures in this section shall apply only after a subscriber has determined that an unauthorized change has occurred, as defined by section 64.1100(e)(5) of this Subpart, and the subscriber has paid charges to an allegedly unauthorized carrier. Upon receiving notification from the subscriber or a carrier that a subscriber has been subjected to an unauthorized change and that the subscriber has paid charges to an allegedly unauthorized carrier, the properly authorized carrier must, within 30 days, request from the allegedly unauthorized carrier proof of verification of the subscriber's authorization to change carriers. Within ten days of receiving such request, the allegedly unauthorized carrier shall forward to the authorized carrier either:

(1) Proof of verification of the subscriber's authorization to change carriers; or

(2) The following:

(A) An amount equal to all charges paid by the subscriber to the unauthorized carrier; and

(B) An amount equal to any charge required to return the subscriber to his or her properly authorized carrier, if applicable;

(C) Copies of any telephone bill(s) issued from the unauthorized carrier to the subscriber.

(b) If an authorized carrier incurs any billing and collection expenses in collecting charges from the unauthorized carrier, the unauthorized carrier shall reimburse the authorized carrier for reasonable expenses.

(c) Where a subscriber notifies the unauthorized carrier, rather than the authorized carrier, of an unauthorized subscriber carrier selection change, the unauthorized carrier must immediately notify the authorized carrier.

(d) Subscriber Refunds or Credits. Upon receipt from the unauthorized carrier of the amount described in paragraph (a)(2)(A), the authorized carrier shall provide a refund or credit to the subscriber of all charges paid in excess of what the authorized carrier would have charged the subscriber absent the unauthorized change. If the authorized carrier has not received from the unauthorized carrier an amount equal to charges paid by the subscriber to the unauthorized carrier, the authorized carrier is not required to provide any refund or credit. The authorized carrier must, within 60 days after it receives notification of the unauthorized change, inform the subscriber if it has failed to collect any charges from the

unauthorized carrier and inform the subscriber of his or her right to pursue a claim against the unauthorized carrier for a refund of all charges paid to the unauthorized carrier.

(e) Restoration of Premium Programs. Where possible, the properly authorized carrier must reinstate the subscriber in any premium program in which that subscriber was enrolled prior to the unauthorized change, if that subscriber's participation in the premium program was terminated because of the unauthorized change. If the subscriber has paid charges to the unauthorized carrier, the properly authorized carrier shall also provide or restore to the subscriber any premiums to which the subscriber would have been entitled had the unauthorized change not occurred. The authorized carrier must comply with the requirements of this subsection regardless of whether it is able to recover from the unauthorized carrier any charges that were paid by the subscriber.

§ 64.1180 Investigation Procedures

(a) The procedures in this section shall apply only after a subscriber has determined that an unauthorized change has occurred and such subscriber has not paid for charges imposed by the unauthorized carrier for the first 30 days after the unauthorized change, in accordance with section 64.1100(d) of this Subpart.

(b) The unauthorized carrier shall remove from the subscriber's bill all charges that were incurred for service provided during the first 30 days after the unauthorized change occurred.

(c) The unauthorized carrier may, within 30 days of the subscriber's return to the authorized carrier, submit to the authorized carrier a claim that the subscriber was not subjected to an unauthorized change, along with a request for the amount of charges for which the consumer was credited pursuant to paragraph (b) and proof that the change to the subscriber's selection of telecommunications carrier was made with authorization verified in accordance with the verification procedures specified in this Subpart.

(d) The authorized carrier shall conduct a reasonable and neutral investigation of the claim, including, where appropriate, contacting the subscriber and the carrier making the claim.

(e) Within 60 days after receipt of the claim and the proof of verification, the authorized carrier shall issue a decision on the claim to the subscriber and the carrier making the claim.

(1) If the authorized carrier decides that the subscriber was not subjected to an unauthorized change, the authorized carrier shall place on the subscriber's bill a charge equal to the amount of charges for which the subscriber was previously credited pursuant to paragraph (b). Upon receiving this amount, the authorized carrier shall forward this amount to the carrier making the claim.

(2) If the authorized carrier decides that the subscriber was subjected to an unauthorized change, the subscriber shall not be required to pay the charges for which he or she was previously absolved.

§ 64.1190 Preferred Carrier Freezes

(a) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(b) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (*e.g.*, local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(d) Solicitation and imposition of preferred carrier freezes.

(1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(A) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(B) A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in sections 64.1150 and 64.1160 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and

(C) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(A) The local exchange carrier has obtained the subscriber's written and signed authorization in a form that meets the requirements of section 64.1190(d)(3); or

(B) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (*e.g.*, the subscriber's date of birth or social security number) and the information required in section 64.1190(d)(3)(B)(i)-(iv). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records

the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(C) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (*e.g.*, the subscriber's date of birth or social security number) and the information required in section 64.1190(d)(3)(B)(i)-(iv). The independent third party must (1) not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; (2) must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and (3) must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) Written authorization to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

(A) The written authorization shall comply with section 64.1160(b), (c), and (h) of the Commission's rules concerning the form and content for letters of agency.

(B) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(i) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(ii) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (*e.g.*, for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(iii) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(iv) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(e) Procedures for lifting preferred carrier freezes. All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (*e.g.*, the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

Exhibit D

5. EXCHANGE SERVICES

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5. EXCHANGE SERVICES

5.2 LOCAL EXCHANGE SERVICE

5.2.11 COMPETITIVE RESPONSE

A. Residence Competitive Response Program

1. Description

The Residence Competitive Response Program is an offering to residence customers who have left Qwest for another telecommunications provider, for their local exchange service and/or their intraLATA toll service, and are now returning.

Qwest will offer incentives to customers who return for their telecommunications needs.

2. Terms and Conditions

a. This competitive response offering will only be offered to customers returning to Qwest from a competing telecommunications provider.

b. Residence customers' return to Qwest intraLATA toll is regarded separately from their return to Qwest local exchange service.

c. Residence customers will receive the waivers only on their initial return to Qwest for their local exchange service.

d. Periods and provisions of this offer will be determined by Qwest.

e. Qwest reserves the right to discontinue this offer, without further proceedings or approvals, upon 14 days notice to the Arizona Corporation Commission.

3. Rates and Charges

a. Customers returning to Qwest for their local exchange service will receive either a waiver of the current nonrecurring charge, up to two months of recurring rates or both, on selected services determined by the Company. Amounts and types of the waivers will vary. In addition, customers may be eligible for waivers of intraLATA MTS charges.

b. Total local exchange service charges waived will not exceed $100.00 per customer location.

c. Customers returning to Qwest for intraLATA toll service will receive waivers not to exceed $50.00 per customer per year.

5. EXCHANGE SERVICES

5.2 LOCAL EXCHANGE SERVICE
5.2.11 COMPETITIVE RESPONSE (Cont'd)

B. Business Competitive Response Program

1. Description

The Business Competitive Response Program is an offering to business customers who have terminated or canceled all or part of their Qwest services and established service with another telecommunications provider, and such business customers are reestablishing some material part of their services with Qwest.

In accordance with the terms of this Business Competitive Response Program, Qwest may offer incentive(s) to such returning business customers.

2. Terms and Conditions

a. The Business Competitive Response Program may be offered only to business customers returning to Qwest from a competing telecommunications provider.

b. The Company may offer returning business customers incentives in the form of a credit on the business customer's bill after the business customer actually reestablishes the agreed upon service with Qwest.

c. Business customers may not obtain the incentive(s) or any credits after their first or initial return to Qwest for which incentive credit(s) have been provided.

d. Business customers may receive the incentive credit(s) only in connection with services that are reestablished or established upon the initial return to Qwest.

e. Business customers' return to Qwest intraLATA toll is regarded separately from their return to Qwest local exchange service.

f. On contractual services, business customers are required to sign a contract in order to receive a waiver.

5. EXCHANGE SERVICES

5.2 LOCAL EXCHANGE SERVICE
5.2.11 COMPETITIVE RESPONSE

B.2. (Cont'd)

g. Business customers who receive the Competitive Response Program credit(s) are required to remain with Qwest for a minimum of one year or be billed all of the nonrecurring charge(s) and monthly rate(s) waived.

h. Qwest reserves the right to discontinue this offer, without further proceedings or approvals, upon 14 days notice to the Arizona Corporation Commission.

i. Returning business customers are required to have a satisfactory credit rating with Qwest in accordance with 2.3.3.

j. Qwest shall use reasonable business efforts so that similarly situated customers are offered similar incentive credits in similar circumstances.

k. The Business Competitive Response Program is a competitive response only and is not available for resale.

3. Rates and Charges

a. Returning business customers receive a maximum of either a waiver of the current nonrecurring charge(s), or up to two months of the current monthly rate(s), or both, on selected services as determined by Qwest. In addition, returning business customers may be provided waivers of intraLATA MTS charges.

b. Incentive amounts are calculated on the first month's nonrecurring charge(s) and monthly rate(s). The total credit amount will not exceed the total nonrecurring charge(s) plus two months service of the monthly rate(s).

5. EXCHANGE SERVICES

5.4 PREMIUM EXCHANGE SERVICES

5.4.7 *INTRACALL* SERVICE

A. Description

The *INTRACALL* Service allows an individual access line, non-complex residence or business customer to use the line as an intercom system. This feature is activated when the customer dials their own number from any station on the line, receives a busy signal and hangs up. Upon hanging up, all stations on the line will ring. Two or more stations may speak over the intercom line.

B. Terms and Conditions

1. If the customer has Call Waiting, the feature will be deactivated for the duration of the intercom call.

2. If the customer has Call Forwarding, and the feature is activated, all *INTRACALL* calls will also be forwarded.

3. This service is furnished only in CO areas where adequate and suitable facilities are available.

4. *INTRACALL* Service is not offered with Hunting Service or Combination Service arrangements 2 and 3.

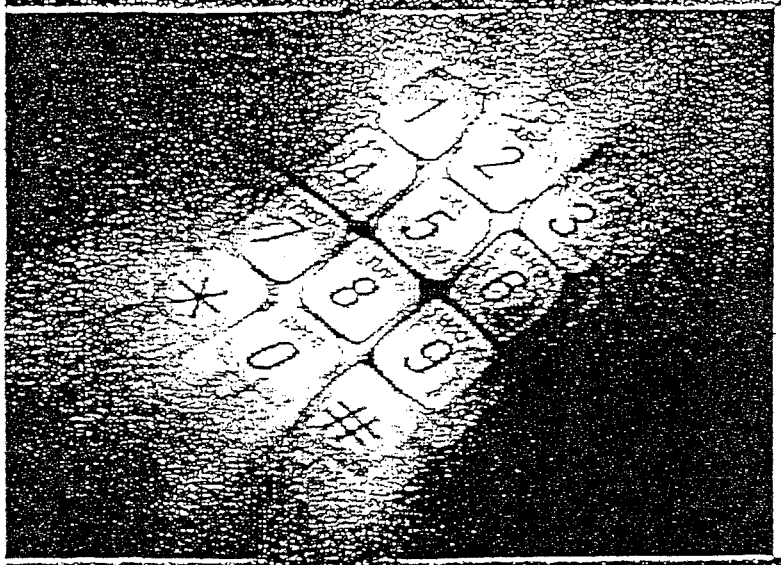
C. Rates and Charges

These rates are in addition to the basic rates for the service with which it is associated. (C)

	USOC	MONTHLY RATE	
• *INTRACALL* Service			(C)
- Business, per line	E1N	$1.50	(C)
- Residence, per line	E1N	2.00	(C)

Exhibit E

PROTECT YOUR LOCAL (DIAL TONE) PHONE SERVICE



Communications is an important part of your everyday activities. That's why it's important for your service to be protected from slamming (switching of your phone service provider without your permission).

Get protection today from Qwest

Now you can protect your local (dial tone) service and prevent any company from changing your local service provider by placing a freeze on your telecommunications account – at no charge. You also have an option to freeze your local long distance and long distance service providers – at no charge.

(continued on back)

FREE!

It's quick and easy to get this FREE protection for your telephone service(s). Contact Qwest at:

Residential	1-800-339-0188
Business	1-800-996-2512
Large Business	1-800-549-5629
Federal Services	1-800-879-1023
Government & Education	1-866-221-6073

A freeze does not prohibit you from making changes to your services/provider(s) at any time, but you must contact us directly. You may remove a freeze at no charge by contacting Qwest directly with a verbal, written or electronically signed authorization.

If you have any questions or need additional information about this free protection, please contact us at the toll free number listed at the top of your Qwest telephone bill.

Once a freeze is effective, authorization to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Freeze is not available in all states.

Qwest.

Exhibit F

Colorado Public Utilities Commission

March 28, 2000

Before Page, Gifford and Hix, commissioners.

*1 DECISION ON EXCEPTIONS

Mailed Date: March 28, 2000 Adopted Date: March 22, 2000

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of exceptions to Recommended Decision No. R99-1362. U S WEST Communications, Inc. ('USWC '), filed its exceptions on January 4, 2000, as did MCI WorldCom, Inc. ('MCI '), AT&T Communications of the Mountain States, Inc. ('AT&T'), and NextLink, LLC ('NextLink') jointly (collectively 'Complainants'). USWC responded to the Complainants' exceptions.

2. This case began as three similar but separate complaints about USWC's account activities in February 1999, during the implementation of Colorado intraLATA equal access. Without notice to their customers, the Commission, or their competitors, USWC expanded customers' interLATA Presubscribed Interexchange **Carrier** ('PIC' sometimes referenced as Preferred **Carrier** or PC) **freezes** to make USWC their 'chosen' intraLATA **carrier**. MCI complained first in March 1999. AT&T filed its complaint in April 1999, and NextLink filed in May 1999. The cases were consolidated into 99K-193T and set for hearing on June 4, 1999. The Administrative Law Judge ('ALJ') issued his Recommended Decision on December 15, 1999, and all parties timely filed exceptions.

3. Now being duly advised, we will grant USWC's exceptions and grant, in part, the joint exceptions of the Complainants.

B. Facts

1. For many years after the break-up of the Bell operating companies, only incumbent local exchange **carriers** could provide intraLATA service on a 1+ basis. Others could provide intraLATA service, but only on a more cumbersome dial-around basis. In the

mid-1990's, the Federal Communications Commission ('FCC') established a phased plan to allow all **carriers** to serve the intraLATA market on a 1+ basis to implement 'dialing parity.' All **carriers** would have equal access to provide 1+ intraLATA service.

2. PIC **freezes** came about as a response to the practice of 'slamming.' 'Slamming' involves the unauthorized switch of a toll customer between **carriers**. Absent a PIC **freeze,** a toll **carrier** or its agents by negligence, recklessness, or fraud-could **change** a customer's toll **carrier** by notifying the local exchange **carrier** ('LEC'). The PIC **freeze** eliminated the possibilities of slamming by requiring a customer's authorization before the LEC would **change** its PIC.

3. Before the implementation of dialing parity, a PIC **freeze** applied only to interLATA **carriers**. However, with the advent of dialing parity, a customer could place a **freeze** on inter-or intraLATA PIC.

4. Under the FCC dialing parity plan, dialing parity is being phased-in on a state-by-state basis over a period of years. The first USWC-region state commenced intraLATA equal access in 1996 with Colorado in 1999. With the first state in 1996, USWC established its internal PIC **freeze** policy at issue. USWC established an internal policy expanding any existing customer interLATA PIC **freeze,** without customer notice, to **freeze** that customer to USWC for intraLATA service when intraLATA service was opened to competition.

5. When dialing parity was scheduled for implementation in Minnesota, USWC advised the state utilities commission in advance of implementation of its policy. The Minnesota commission required USWC to provide advance notice to customers before implementing an intraLATA PIC **freeze** to USWC. During the dialing parity proceeding AT&T, among others, argued that the policy was anticompetitive.

6. The New Mexico commission responded similarly. Before dialing parity was implemented, USWC notified the commission of the policy, and the commission required advance notice to customers before any PIC **freeze.** Iowa took a different tack after being advised of USWC's intentions. Iowa made USWC wait for 120 days after the implementation of dialing parity before imposing the **freeze** on customers.

7. Dialing parity was scheduled in Colorado for February 8, 1999. Before implementation, many **carriers**, including USWC and AT&T, held cooperative workshops to make the transition easier. USWC never told the other **carriers** about its **freeze** policy. In reports to the Commission, USWC deleted references to the policy.

8. A notice to be provided to all customers came from the workshops. The notice purported to explain intraLATA equal access and the customer's coming rights to choose a **carrier** for intraLATA service. The notice, which USWC helped develop, was provided to all customers during December 1999, and January 2000. The notice included a list of intraLATA **carriers** and told customers that they had only to call the **carrier** of their choice at the number provided to choose an intraLATA **carrier**. No

mention was made of PIC **freezes** or USWC's policy which required that a customer contact USWC before a **change** could be made.

9. While customers were told they could choose their intraLATA **carriers**, it was not to remain a choice without cost. For the initial 120 days, any **change** in **carriers** was to be free. However, USWC intended to impose a $5.00 charge for **changes** made after the 120 days ('Switching Charge').

10. USWC froze approximately 207,000 accounts without notice when dialing parity was implemented on February 8, 1999. Concurrent with the changeover, many competitive **carriers** made a marketing push to recruit intraLATA customers. As customers selected specific **carriers**, the **carriers** notified USWC to make the appropriate PIC designations. Because of the unilateral **freezes** imposed by USWC, the system broke down for the 207,000 frozen accounts. U S WEST rejected the frozen accounts for PIC **changes**. USWC would notify the **carrier** requesting the **changes** seven to ten days after the initial PIC **change** request.

11. Generally, the rejected **carrier** (e.g., MCI, AT&T, NextLink) had to attempt to re-contact the customer. If the **carrier** was able to contact the customer, it had to explain why his intraLATA **carrier** was not the one he chose. And, the **carrier** had to explain what the customer had to do to establish his chosen intraLATA **carrier**. In some cases, the **carrier** was able to set up a three-way call including USWC and establish the customer's choice of **carrier**. However, the three-way call was an option that rarely worked because of the logistics and time involved. The evidence at hearing supported a finding that there were in excess of 16,000 customers who were blocked from their first intraLATA choice because of the PIC **freeze** policy. Many did not subsequently reaffirm their initial choices.

12. On May 6 and 7, 1999, approximately three months after USWC froze the 207,000 accounts, it provided notice to the affected customers. Notice was sent via postcards. Customers were advised that their accounts were frozen, and they could lift the **freeze** by calling a toll-free number. The postcard did not explain the difference between intraLATA and interLATA toll service, or tell the customers that their intraLATA accounts had been frozen to USWC. Ex. 13.

13. USWC's actions contradicted its position statements in a FCC rulemaking docket. In CC Docket No. 94-129, Order FCC 98-334, the FCC established slamming rules and included, inter alia, PIC **freeze** rules. The rules were adopted on December 17, 1998, over a month before USWC froze the Colorado accounts. However, the rules were not effective until April 2000.

14. In the rulemaking process, USWC filed comments stating:

US WEST agrees with those commentators who argue that [preferred **carrier**] protection should be controlled by the end user customer and solely by that customer ... US WEST opposes the carry-over of PC protections when a customer moves from one

carrier to another, both on practical and sound-commercial- practice grounds... Ex. No. 27, pp. 25-26. These comments are at odds with USWC's actions here. The actions violated the adopted rules.

15. While aimed primarily at 'slamming,' the rules also adopted standards governing the implementation of preferred **carrier freezes.** Order FCC 98-334 at ¶ 111. The order noted that **freezes** could be used as a barrier to competition. In discussing the need for **freeze** procedures and rules, the order stated:

[The rule] will also serve to prevent unscrupulous **carriers** from placing **freezes** on all of a subscriber's services when the subscriber only intended to authorize a **freeze** for a particular service or services. We thus conclude that 'account level' **freezes** are unacceptable and that, instead, **carriers** must explain clearly the difference in services and obtain separate authorization for each service for which a preferred **carrier freeze** is requested... .
*2 Id. at ¶ 113. The order went on to say that the **freeze** rules and procedures would:
Minimize the risk that unscrupulous **carriers** might attempt to impose preferred **carrier freezes** without the consent of subscribers. We find such a practice to be unreasonable because it frustrates consumers' choice in **carriers** by making it more difficult for the consumer to switch **carriers**.
Id. at ¶ 115. This order was released December 23, 1998, over a month before USWC implemented the account-level **freezes** at issue here.

C. Discussion

1. The ALJ found that USWC's actions violated § 40-3-103, C.R.S., as well as 4 Code of Colorado Regulations 723-25 ('Rule 25'). Section 40-3-103, C.R.S., requires **carriers** to file 'all rules, regulations...which in any manner affect or relate to rates, tolls,...classifications, or service.' Rule 25 makes clear that the customer must choose a **carrier**; the **carrier** cannot choose the customer. USWC did not contest these findings.

2. In his Recommended Decision, the ALJ ordered USWC to cease the practice immediately. He ordered refunds of any assessed Switching Charges and extended the period during which customers could **change** intraLATA **carriers** without Switching Charges. USWC did not contest these remedies other than to ask for clarification that the Switching Charges refunds apply only to those customers whose intraLATA **carrier** choice was improperly frozen to USWC.

3. The complaining parties jointly ask for four modifications and additions: that the Commission find that USWC's actions were anticompetitive; that the Commission assess damages against USWC analogous to § 40-15-112, C.R.S.; that the Commission institute judicial action to impose fines against USWC; and that the Commission clarify that the recipient of any Switching Charges refunds be the payor rather than simply the customer.

D. Switching Charges

Because no party questions the propriety of the refunds, we need address only to whom the refunds should be paid. USWC is concerned that the refunds may have to be made to everyone without regard to the PIC **freezes.** That would be inconsistent with the harm done. Only USWC customers with interLATA PIC **freezes** whose accounts were frozen to USWC for intraLATA service at the implementation of equal access are eligible for switching charge refunds. The refunds should be made to the person who paid the charge. If the customer paid the charge, he or she should get the refund. If another **carrier** paid the charge for the customer, then the **carrier** should get the refund. We will grant USWC's exceptions and grant the Complainants' to the extent they ask that refunds be to the payor of the Switching Charges.

E. Anticompetitive Actions

1. The Complainants next ask that we make a finding that the actions of USWC were anticompetitive. They point out that USWC had notice that the Complainants believed the PIC **freeze** extensions were anticompetitive, that the extensions deprived customers of choice, and that it damaged the Complainants. In response, USWC argues that its actions were not 'legally cognizable anti- competitive conduct' and that competition did not motivate its actions. We agree that USWC's actions were anticompetitive.

2. USWC used its position as the sole 1+ intraLATA provider in its extensive service area to inhibit the entry of competitors into the intraLATA market and tangibly damaged the entering competitors. It restricted competitive access to over 207,000 accounts. In capturing those accounts, it violated Colorado statute, Commission rule, and at least, the spirit of recent FCC rules. And it did so surreptitiously; other states were notified before the implementation of the policy while reports to the Colorado Commission specifically deleted references to the policy. It did all of this knowingly. We find that USWC's abuse of its market position to inhibit and damage competition was anticompetitive.

3. USWC argues that there is nothing showing an anticompetitive motivation. The argument fails. Motivation can be inferred through its actions. Further, if we believed the claim of lack of knowledge, this would indicate a competence that would be unacceptable. [FN1] But, we need not reach the issue. The acts were anticompetitive, regardless of motivation or knowledge.

F. Damages

1. The Complainants next ask that we assess damages against USWC analogous to § 40-15-112, C.R.S. Section 40-15-112, C.R.S., explicitly applies to the unauthorized switching of customers from one **carrier** to another (i.e., slamming) and, generally, requires that the guilty **carrier** pay any profits over to the original **carrier**. USWC argues that the Commission cannot assess damages absent legislative authority, and § 40-15-112, C.R.S., applies only to slamming. We agree with USWC.

2. Absent specific authority, the Commission cannot assess damages. Haney v. Public Utilities Commission, 194 Colo. 481, 574 p.2d 863 (1978). The Complainants provide no authority for their suggestion that the Commission can use the slamming statute here to measure and assess damages, and we find none. The request of the Complainants that damages be assessed will be denied.

G. District Court Action

*3 Similar to their request for damages, the Complainants ask that the Commission institute a penalty action against USWC in district court. § 40-7- 101, C.R.S. We note that the Complainants are able to initiate their own court action under § 40-7-102, C.R.S. Therefore, the exceptions of the Complainants will be denied, and the Commission will not proceed to district court.

H. Customer Notification and 120-Day Switch Period

1. There remain two matters discussed in the Recommended Decision, but not argued by the parties: the extension of the 120-day free period and a notification letter to the affected customer class. The ALJ suggested that there be another 120-day period during which customers can switch from USWC as their intraLATA **carrier** without paying a Switching Charge. USWC accepted that as a remedy, and the Complainants did not address the new period. We agree with the ALJ.

2. Sixty days after the date of final agency action in this docket, a new 120- day period shall begin. During the 120 days, members of the affected class who remain with USWC may **change** intraLATA **carriers** without charge. USWC is responsible for notifying the affected class of customers of the new 120-day period.

3. Similar to the 120-day notification, or in conjunction with it, USWC must re-notice the affected class of customers about its actions in freezing the accounts without authorization. The postcard notices sent out May 5 and 6, 1999 were inadequate. The new notice must be sent to all customers in the affected class who remain with USWC. It must explain in clear and neutral language: the differences between inter-and intraLATA service; what a PIC **freeze** is and what services may be subject to a **freeze;** that the customer was frozen to USWC without authorization; and the procedures required to lift a **freeze** if the customer wants to **change carriers**. The letter shall be submitted to Commission Staff for approval within 15 days of final agency action.

II. ORDER

A. The Commission Orders That:

1. The exceptions of U S WEST Communications, Inc., are granted in accordance with the above discussion.

2. The joint exceptions of MCI WorldCom, Inc., AT&T Communications of the

Mountain States, Inc., and NextLink, LLC, are denied in part and granted in part in accordance with the above discussion.

3. U S WEST Communications, Inc., shall immediately cease the practice of freezing intraLATA toll service accounts without first obtaining customer approval per existing rules.

4. All intraLATA service Switching Charges for leaving U S WEST Communications, Inc., collected from the affected class by U S WEST Communications, Inc., on or after June 7, 1999, shall be refunded to the payor.

5. Sixty days from final agency action in this docket, a new 120-day period for the affected customer class shall commence in which customers may **change** their intraLATA Presubscribed Interexchange **Carrier** without charge. U S WEST Communications, Inc., shall resend its previous mailed notice (revised for dates and additional steps to be taken if a Presubscribed Interexchange **Carrier freeze** is in place) advising customers of an opportunity to choose an intraLATA **carrier** other than U S WEST Communications, Inc. These provisions shall not apply to those customers who have already left U S WEST Communications, Inc.'s intraLATA toll service.

6. Prior to, or in conjunction with, the notice of the new 120-day switching period, U S West Communications, Inc., shall notify the affected class of customers who are still using U S WEST Communications, Inc., for intraLATA toll services, in accordance with the above discussion, of the differences in inter- and intraLATA services and the nature of Presubscribed Interexchange **Carrier freezes.** Such notice shall be submitted to the Commission Staff for approval within 15 days of final agency action.

7. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

8. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING March 22, 2000.

*4 FOOTNOTES

FN1 USWC's argument implies that its compartmentalization should protect the various departments from the knowledge of others. Under this argument, the more complex a corporation, the less the culpability or responsibility. The rationale is unacceptable. The argument neglects a basic legal fact: that the corporation is a whole; knowledge of one part can be imputed to the whole.

PUR Slip Copy, 2000 WL 574607 (Colo.P.U.C.)
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Mountain States, Inc., and NextLink, LLC, are denied in part and granted in part in accordance with the above discussion.

3. U S WEST Communications, Inc., shall immediately cease the practice of freezing intraLATA toll service accounts without first obtaining customer approval per existing rules.

4. All intraLATA service Switching Charges for leaving U S WEST Communications, Inc., collected from the affected class by U S WEST Communications, Inc., on or after June 7, 1999, shall be refunded to the payor.

5. Sixty days from final agency action in this docket, a new 120-day period for the affected customer class shall commence in which customers may **change** their intraLATA Presubscribed Interexchange **Carrier** without charge. U S WEST Communications, Inc., shall resend its previous mailed notice (revised for dates and additional steps to be taken if a Presubscribed Interexchange **Carrier freeze** is in place) advising customers of an opportunity to choose an intraLATA **carrier** other than U S WEST Communications, Inc. These provisions shall not apply to those customers who have already left U S WEST Communications, Inc.'s intraLATA toll service.

6. Prior to, or in conjunction with, the notice of the new 120-day switching period, U S West Communications, Inc., shall notify the affected class of customers who are still using U S WEST Communications, Inc., for intraLATA toll services, in accordance with the above discussion, of the differences in inter- and intraLATA services and the nature of Presubscribed Interexchange **Carrier freezes.** Such notice shall be submitted to the Commission Staff for approval within 15 days of final agency action.

7. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

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PUR Slip Copy, 2000 WL 574607 (Colo.P.U.C.)
END OF DOCUMENT

Exhibit G

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF WASHINGTON, LLC, Complainant, v. QWEST CORPORATION, Respondent.	)	Docket No. UT- COMPLAINT FOR EMERGENCY RELIEF FOR VIOLATION OF WAC 480-120-139 (REVERSE SLAMMING)

Pursuant to RCW 80.04.110, WAC 480-09-400 & WAC 480-090-510, AT&T Broadband Phone of Washington, LLC ("AT&T Broadband"), brings the following Complaint against Qwest Corporation ("Qwest"). In support of its Complaint, AT&T Broadband alleges as follows:

PARTIES

1. Complainant. AT&T Broadband is registered and classified by the Commission as a competitive telecommunications company. AT&T Broadband is authorized to provide switched and non-switched local exchange and long distance services in Washington.

2. Respondent. Qwest is an incumbent local exchange company ("ILEC"), as defined in 47 U.S.C. § 251(h) and provides local exchange and other telecommunications services throughout the State of Washington.

JURISDICTION

3. Commission Jurisdiction. The Commission has jurisdiction over this Complaint

and Respondent Qwest pursuant to RCW 80.04.110 (complaints), RCW 80.36.170 (unreasonable preference), and WAC 480-120-139 (changes in local exchange and intrastate toll services).

BACKGROUND

4. Service Areas Affected. AT&T Broadband provides facilities-based local exchange service in Washington, including Vancouver (as part of the greater Portland, Oregon market) and the greater Puget Sound area, including Seattle. Qwest is the ILEC that provides local service in these areas, and AT&T Broadband obtains services from Qwest to enable AT&T Broadband to provide local service to its customers, particularly local number portability ("LNP").

5. Qwest Rejection of AT&T Broadband Orders. During the week of February 18, 2002, AT&T Broadband began receiving rejections from Qwest when placing orders for LNP in Vancouver. The rejection notices stated, "Please have end user contact current local service provider to have local service freeze removed."

6. Qwest Local Service Freeze Implementation. The number of these rejections quickly increased during the week of February 25, 2002. AT&T Broadband contacted Qwest about these rejections, and Qwest informed AT&T Broadband that Qwest was now offering preferred carrier local service freezes in Washington, and that customers are required to contact Qwest to have the freezes removed.

7. Customer Inability to Remove Freeze. AT&T Broadband notified its customers that they would need to contact the Qwest business office to have the preferred carrier freezes on local service removed. The vast majority of these customers informed AT&T Broadband

that they had not authorized any freeze on their local service. Virtually every customer also notified AT&T Broadband that when they contacted Qwest to remove the freeze, the Qwest customer service representatives were unable to assist them. The customers' most common complaints to AT&T Broadband were that Qwest failed to remove the freeze despite multiple requests from the customer to do so. In at least one case, the customer informed AT&T Broadband that Qwest had told the customer that a fee of $5.00 would be added to the customer's next bill to cover the cost of removing the local service freeze.

8. AT&T Broadband Escalation Attempt. On or about March 4, 2002, AT&T Broadband escalated the issue to Qwest Western Region personnel. Qwest informed AT&T Broadband of the following process: AT&T Broadband should instruct the customer to call the business office to have the freeze removed. The customer service record would be updated in three to five days to reflect the removal, but AT&T Broadband would be able to submit a local service request ("LSR") on the next business day without receiving a rejection or delaying the service installation.

9. Continued Customer Inability to Remove Freeze. Qwest, however, has not implemented this process. Customers continued to contact AT&T Broadband complaining that they were unable to get Qwest to remove the freeze on their local service, and AT&T Broadband continued to receive rejection notices from Qwest after the customer had notified Qwest to remove the local service freeze.

10. AT&T Broadband Subsequent Escalation Attempt. On March 7, 2002, AT&T Broadband again escalated this issue, this time through a contact at Qwest's Executive Branch. This contact assisted AT&T Broadband and one customer immediately to remove a

local service freeze that the customer previously had been unable to get Qwest to remove. When AT&T Broadband requested assistance with another customer, the contact became upset and stated, "Why should I help you take our customer?" The contact discontinued the conversation when the AT&T Broadband representative tried to explain that the customer was making the choice to move to another service provider.

11. AT&T Broadband Attempts to Assist Customers. AT&T Broadband representatives have joined customers on three-way conference calls with Qwest to remove the local service freeze. They have spent hours being transferred to, or being required to call a variety of, toll free numbers to have the local freezes removed. Qwest now is referring such requests to a third party vendor for processing. Qwest provided a temporary toll-free number to assist AT&T Broadband and its customers to work through the backlog of customer requests to remove local service freezes. This contact has been only of moderate assistance because of its limited availability and effectiveness. Customers are continuing to experience substantial delays in getting Qwest to remove their local service freeze, if Qwest removes those freezes at all, and AT&T Broadband is continuing to have its LSRs rejected long after the customer has notified Qwest to remove the freeze.

12. AT&T Broadband Further Escalation Attempts. AT&T Broadband continued to attempt to resolve this issue with Qwest. On or about March 20, 2002, AT&T Broadband provided Qwest with a written list of concerns, including customers' complaints that they are required to call Qwest multiple times to remove the local service freeze and the lack of any process for, or consistency in, removing local service freezes through the Qwest retail office or available escalation measures. During a conference call on March 26, 2002, Qwest failed to

provide any substantive response to these concerns, representing only that Qwest would respond in writing on April 3, 2002. Attempts to escalate the issue to Qwest law department personnel have similarly met with unreturned messages or vague assurances that Qwest is aware of AT&T Broadband's concerns.

13. Qwest Unauthorized Freezes. AT&T Broadband repeatedly has requested that Qwest provide documentation that it or its third party vendor has properly frozen these customers' preferred carrier for local service. To date, Qwest has provided no such documentation, although Qwest claims to possess such documentation. Over 95% of the Vancouver-area customers experiencing problems with removing a local service provider freeze from their Qwest account to obtain service from AT&T Broadband deny authorizing any such freeze. In addition, five Seattle-area AT&T Broadband employees with Qwest local service contacted Qwest to determine whether there is a local service provider freeze on their account. Qwest informed three of the five that they had authorized a freeze on their local service provider, and all three of those employees deny authorizing any such freeze. The scant undocumented information that Qwest has provided to AT&T Broadband, moreover, includes Qwest's representations that some customers requested a local service provider freeze *after* those customers requested that AT&T Broadband provide their local service.

14. Customer Inability to Change Local Service Provider. As of March 26, 2002, approximately 124 Qwest customers seeking local service from AT&T Broadband in Vancouver have had problems removing the local service freeze Qwest has imposed. AT&T Broadband, as a result, has been unable to install local telephone service to these customers by the customer-requested installation date, if at all, and is devoting substantial resources in largely

unsuccessful attempts to assist these customers. AT&T Broadband has been compelled to reschedule 67% of these customers' service installations at least once and has been able to install only 14% on the initial date requested by the customer. Their common lament is, "I just want to change my phone company." Approximately 15% of these customers have ordered a new telephone number, rather than continue to attempt to port their existing telephone number, to obtain local service from AT&T Broadband while approximately 10% have cancelled their request for service from AT&T Broadband altogether. Qwest has subjected customers seeking local service from AT&T Broadband in Seattle to similar difficulties when attempting to change their local service provider.

CLAIMS FOR RELIEF

A. Violation of WAC 480-120-139 (Preferred Carrier Freezes)

15. Reallegation. AT&T Broadband realleges and incorporates by reference the allegations in paragraphs 1-14 above as if fully set forth herein.

16. Preferred Carrier Freeze. All local exchange companies must offer preferred carrier freezes, but "[t]he carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested." WAC 480-120-139(5). "No local exchange carrier may implement a preferred carrier freeze unless the customer's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier." WAC 480-120-139(5)(c).

> All local exchange carriers must offer customers, at a minimum, the following procedures for lifting a preferred carrier freeze:
>
> . . . .
>
> (ii) A customer's oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the customer in order to lift the freeze.

WAC 480-120-139(5)(d).

17. Unauthorized Preferred Carrier Freezes. Qwest has imposed preferred carrier freezes on customers' local exchange service without proper authorization in violation of WAC 480-120-139(5).

18. Refusal to Lift Preferred Carrier Freezes. Qwest has failed or refused to lift preferred carrier freezes on customers' local exchange service despite repeated customer requests, including during three-way conference calls with the customer and AT&T Broadband,

in violation of WAC 480-120-139(5)(d).

B. Violation of RCW 80.36.170 (Unreasonable Preference)

19. Reallegation. AT&T Broadband realleges and incorporates by reference the allegations in paragraphs 1-14 above as if fully set forth herein.

20. Unreasonable Disadvantage. RCW 80.36.170 provides in relevant part:

> No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation, or locality, or subject any particular person, corporation, or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

21. Qwest Violation of RCW 80.36.170. Qwest's unauthorized imposition of preferred carrier freeze on local service and refusal to lift preferred carrier freezes on local service in response to customer requests is a form of slamming, is anticompetitive, and subjects AT&T Broadband and customers seeking local service from AT&T Broadband to undue and unreasonable prejudice or disadvantage in violation of RCW 80.36.170.

22. Need for Emergency Relief. Qwest's practices of reverse slamming of local service is an immediate danger to the public welfare requiring immediate action by the Commission as authorized in WAC 480-09-510.

PRAYER FOR RELIEF

WHEREFORE, AT&T Broadband prays for the following relief:

A. An immediate or expedited order from the Commission requiring Qwest:

(1) to discontinue any and all preferred carrier freezes on local service until Qwest has developed, adopted, and implemented Commission-approved policies and procedures for imposing and removing such freezes in compliance with WAC 480-120-139(5);

(2) to refund all customer payments for providing local service to customers who had not requested a preferred carrier freeze on their local service and/or for whom Qwest refused to lift a preferred carrier freeze for the month during which the customer requested local service from another local service provider and for any subsequent months, pursuant to WAC 480-120-139(6); and

(3) as authorized under RCW 80.04.380, to pay penalties of $1,000 for each violation of WAC 480-120-139, *i.e.*, $1,000 for each customer for whom Qwest has implemented an unauthorized preferred carrier freeze on local service and $1,000 per customer for whom Qwest refused to lift a preferred carrier freeze on local service for each day after the customer requested that Qwest lift the freeze until the freeze was lifted; and

B. Such other or further relief as the Commission finds fair, just, reasonable, and sufficient.

DATED this _____ day of March, 2002.

DAVIS WRIGHT TREMAINE LLP
Attorneys for AT&T Broadband Phone of Washington, LLC

By _____
Gregory J. Kopta
WSBA No. 20519

VERIFICATION

Mike Mason certifies as follows: I am a telephony operations senior manager for AT&T Broadband Phone of Washington, LLC; that I have read the foregoing Complaint, know the contents thereof and believe the same to be true.

_____

Mike Mason

SUBSCRIBED AND SWORN to before me this _____ day of March, 2002.

_____

NOTARY PUBLIC in and for the State of _____,
residing at _____.

Exhibit H

STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: COX IOWA TELCOM, LLC, Complainant, vs. QWEST CORPORATION, Respondent.	DOCKET NO. FCU-02-1

FINAL DECISION AND ORDER

(Issued April 3, 2002)

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PROCEDURAL HISTORY

On January 3, 2002, Cox Iowa Telcom, LLC (Cox Iowa), filed a formal complaint against Qwest Corporation (Qwest) with the Utilities Board (Board) alleging that Qwest's decision to offer local service freezes (LSFs) to Iowa customers is an anti-competitive measure. On January 22, 2002, Cox Iowa filed an application and motion to stay Qwest's implementation of LSFs in Iowa, which became available to Iowa customers on January 17, 2002.

On January 23, 2002, Qwest filed a response to Cox Iowa's complaint and made a motion to dismiss the complaint, asserting that the Board rules allow for LSFs and that Cox Iowa's complaint, therefore, had no merit.

On February 6, 2002, the Board issued an order docketing the complaint, establishing a procedural schedule, and granting Cox Iowa's motion to stay the imposition of Qwest's LSF. In that order, the Board requested that Qwest file a proposed tariff provision outlining the details of the local service freeze option.

On February 11, 2002, MCI Metro Access Transmission Services, Inc. (MCImetro), filed with the Board a petition to intervene as a local exchange competitor of Qwest. The Board issued an order granting MCImetro's petition on February 25, 2002.

Also on February 11, 2002, Qwest filed a proposed tariff provision regarding the local service freeze in response to the Board's February 6, 2002, order.

A hearing was held in this docket on March 4, 2002. Cox Iowa, Qwest, and the Consumer Advocate Division of the Department of Justice (Consumer Advocate)

entered appearances through their counsel. Also on March 4, 2002, MCImetro filed with the Board a withdrawal of its intervention in this docket.

At the hearing, the Board noted that the number of confirmed slamming complaints received by the Board was relevant to the inquiry and that Board staff was preparing an exhibit outlining that information. On March 7, 2002, the Board issued an order proposing to take official notice of the number of local service slamming complaints received by the Board since January 1, 2001, and revising the procedural schedule so as to allow the parties adequate time to respond to the information. No objections were filed by the parties in response to the slamming information compiled by the Board. Therefore, effective March 13, 2002, all local slamming information compiled by the Board for the purpose of this docket and illustrated in Board's Exhibit "A," became part of the evidentiary record in this matter.

ISSUES

A. Whether the Board has the authority to prohibit the imposition of a local service freeze.

In support of its decision to implement a local service freeze option in Iowa, Qwest cites to Iowa Code § 476.103(8), which states that the Board "shall adopt competitively neutral rules establishing procedures for the solicitation, imposition, and lifting of preferred carrier freezes." Qwest asserts that through this Code section, the Iowa legislature mandated the Board allow for the implementation of a local service freeze and, therefore, the Board cannot prohibit Qwest from implementing its LSF.

Cox Iowa contends that despite the language of Iowa Code § 476.103(8), the Board was given the authority to prohibit the imposition of a local service freeze under the language of Iowa Code § 476.103(1), which provides, "[s]uch rules shall not impose undue restrictions upon competition in telecommunications markets." Cox Iowa contends that Qwest's proposed LSF imposes undue restrictions on Iowa telecommunication competition, and therefore, the Board has the authority to prohibit such a practice.

Consumer Advocate did not address this issue.

The Board finds that Iowa Code § 476.103 grants it the authority to prohibit Qwest from implementing its proposed local service freeze. In Chapter 476.103, the legislature specifically mandated the Board adopt competitively neutral rules regarding the solicitation, imposition, and lifting of preferred carrier freezes, but this section does not specifically mandate the imposition of local service freezes.

In accordance with that Code section, 199 IAC 22.23(2)"d" encompasses the Board's rules regarding preferred carrier freezes. While these rules discuss preferred carrier freezes for local exchange services, 199 IAC 22.23(2)"d"(4)"3" provides:

> To the extent a jurisdiction allows for the imposition of preferred service provider freezes on additional preferred service provider selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll.), . . .

This language indicates the Board reserved the right to make the determination at issue in this case.

In addition, the FCC has recognized that "preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly opened to competition." See FCC 98-334, CC Docket No.94-129, ¶ 135. Therefore, the FCC has explicitly authorized individual states to adopt a moratorium on intrastate preferred carrier freezes. Id. at 137. Specifically, the FCC has provided that individual states, based on their observations of slamming incidents in their jurisdictions and the development of competition in relevant markets, "may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem such action appropriate to prevent incumbent LECs from engaging in anti-competitive conduct." Id.

As stated above, the Board's rules in 199 IAC 22.23(2)"d"(4)"3" conform to the FCC's order that allows for jurisdictions to adopt a moratorium on the imposition of a local service freeze if such action is appropriate to maintain healthy competition. Therefore, the Board finds it has the authority to determine whether to allow Qwest to implement a local service freeze option in Iowa.

B. Whether the issue of local exchange carrier slamming is prevalent, or is expected to become prevalent, in Iowa so as to necessitate the implementation of a local service freeze option for the protection of Iowa customers.

Cox Iowa cites to Board's Exhibit "A," which provides that since January 1, 2001, a total of 14 slamming complaints involving local dial tone were confirmed by Board staff as being local slams. (See Exhibit A). Cox Iowa asserts that the information provided in Board Exhibit "A" shows that Iowa consumers are not at risk

for local slams. Cox Iowa also suggests that the Board has sufficient tools to deal with and discipline rogue carriers who commit local slams.

Qwest states that its LSF protection satisfies a legitimate need by thwarting unauthorized slamming. (Tr. at 76-77). Qwest asserts that the 42 local service slamming complaints received by the Board since January 1, 2001, are significant enough to merit the necessity of an LSF. (See Exhibit A). Qwest states that even one local slamming complaint is too many, and the 14 Board-confirmed cases could have been avoided had the LSF option been in effect. (See Exhibit A).

Consumer Advocate asserts that the evidence officially noticed by the Board in Exhibit "A" shows that the occurrence of local service slamming in Iowa is not *de minimis*. (See Exhibit A). Consumer Advocate posits that this information fails to support a prohibition of local service freezes. In addition, Consumer Advocate contends it would be unwise to prohibit the practice of local service freezes in Iowa based on a generalized allegation that the practice creates a potential for abuse.

The record indicates that as of June 30, 2001, Iowa had 1,544,509 end-user switched access lines. (See Exhibit 102). The evidence officially noticed by the Board in Exhibit "A" shows that Board staff has received 42 local service slamming complaints since January 1, 2001, and that four telecommunications carriers have been implicated. (See Exhibit A). Of those complaints, 14 have been determined to be instances of local slamming, 24 have been determined as "no slams," and four remain under investigation. (See Exhibit A).

Despite the assertions by Qwest and Consumer Advocate that the evidence of 14 confirmed local service slams since January 1, 2001, is not *de minimis*, the Board finds that this number is insignificant, especially when placed in proportion with the number of local service lines in Iowa. Therefore, the Board finds that local service slamming is not a problem in Iowa at this time and, as such, does not warrant the imposition of a local service freeze for consumer protection.

C. Whether the implementation of a local service freeze by Qwest *Corporation* will have an adverse effect on the competitive telecommunications market in Iowa.

Cox Iowa maintains that competition in the telecommunications market is dismal, especially in rural Iowa, and that only a handful of well-positioned competitive local exchange carriers (CLECs) have survived and thrived. Cox Iowa states that the FCC recognized the potential problems with freezes in less competitive markets and, as a result, gave states the ability to adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes. See FCC 98-334, CC Docket No. 94-129, ¶ 137. Cox Iowa concludes that with only 14 Board-verified local slams by two companies since January 1, 2001 (See Exhibit A), in addition to limited competition in Iowa, especially in the rural areas, the Board has a significant reason to adopt a moratorium on the imposition of local service freezes.

Qwest disagrees with Cox Iowa's position that local competition in Iowa is virtually non-existent. Qwest cites to the FCC Industry Analysis Division of the Common Carrier Bureau report on local telephone competition, which reports that the CLECs in Iowa possess 11 percent of the total market as of June 30, 2001.

(Tr. at 29-30; See also Exhibit 102). Qwest concludes that this figure demonstrates that competition in Iowa is alive and well and could withstand the implementation of a local service freeze.

Consumer Advocate recognizes that local service freezes have the potential to be used in an anti-competitive manner, and if such a use occurs in the local market, it could further slow the development of competition and frustrate the central policy objective of bringing competition to Iowa markets. Consumer Advocate also points out that according to its own evidence, Qwest retains over 85 percent of the local telephone lines in its Iowa territories of incumbency (See Tr. at 152), and according to the FCC, incumbents retain 89 percent of the local telephone lines statewide. (See Exhibit 102).

The fact that Qwest retains a major market share of the local telephone lines in its Iowa territories and that as of June 30, 2001, CLECs possess a small percentage of the total market, demonstrates that local service competition is in its infancy in Iowa. The added step for the customer of contacting both Qwest and the CLEC in order to change the local service provider may be all that is needed to prevent a customer from making that switch.

Given the negligible state of local competition in Iowa and the few instances of local service slamming, the Board finds that a local service freeze implemented by Qwest at this time is unnecessary to protect consumers and will have a detrimental effect on local competition.

FINDINGS OF FACT

1. The number of Board-confirmed local service slams since January 1, 2001, is minimal, especially when placed in proportion with the number of local service lines in Iowa, and demonstrates that local service slamming currently is not a problem in Iowa.

2. CLECs possess a small percentage of the total Iowa telecommunications market; an indicator that local competition is in its infancy in Iowa, and as such, the imposition of a local service freeze will have a detrimental effect on local competition.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties and the subject matter of this proceeding pursuant to Iowa Code § 476.103(6).

2. The FCC has given states the authority to adopt a moratorium on the imposition or solicitation of local service freezes, if they deem such action appropriate to prevent incumbent local exchange carriers (LECs) from engaging in anti-competitive conduct. See FCC 98-34, CC Docket No. 94-129, ¶ 137.

3. The Iowa Code and Board rules give the Board the discretion to prohibit Qwest's implementation of a local service freeze in Iowa.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Pursuant to the findings above, Qwest Corporation is prohibited from implementing a local service freeze in Iowa at this time.

2. Qwest Corporation shall withdraw its proposed tariff provision, filed February 11, 2002, regarding the local service freeze option, within 30 days of the issuance of this order.

3. Any customers enrolled in the local service freeze option prior to the issuance of the Board's February 6, 2002, order granting Cox Iowa Telcom's motion to stay the implementation of the freeze shall be notified of this order and their participation in the local service freeze option shall be terminated within 30 days of the issuance of this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Elliott Smith

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 3rd day of April, 2002.

Exhibit I

Service Date: April 25, 2002

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Commission's Investigation of Qwest Communications' Implementation of a Local Carrier Freeze Option	)))	UTILITY DIVISION DOCKET NO. D2002.2.14
IN THE MATTER of the Qwest Communications' Implementation of a Local Carrier Freeze Option	))	UTILITY DIVISION DOCKET NO. D2002.2.22

NOTICE OF COMMISSION ACTION

The Montana Public Service Commission opened Docket D2002.2.14 to investigate Qwest Communications' planned implementation of a preferred local carrier freeze option for its Montana customers. In a related docket, D2002.2.22, the Commission issued a notice of commission action on February 25, 2002, directing Qwest to suspend its offering of a local carrier freeze option pending the Commission's determination of its compliance with the Commission's carrier freeze rules (ARM 38.5.3816 through 38.5.3818).

On April 23, 2002, at a duly noticed work session, the Commission:

(1) decided in Docket D2002.2.22 that Qwest had submitted information that demonstrated its proposed preferred local carrier freeze program would comply with the Commission's carrier freeze rules;

(2) after considering the comments received in Docket D2002.2.14, imposed a moratorium on Qwest's implementation of the local carrier freeze program for 18 months, at which time Qwest may request the Commission to revisit this decision.

Background

On January 16, 2002, Qwest Communications notified the Commission by letter that the company was implementing a local carrier freeze option in Montana. According to Qwest, the option will allow customers to place a "freeze" on their preferred choice of local service provider in the same way they are now able to request a freeze of their interLATA and/or intraLATA long

distance carrier choices. A preferred carrier freeze prevents a change in a customer's preferred carrier selection unless the customer gives the carrier from whom the freeze was requested his or her express consent. Preferred carrier freezes are offered to customers as a tool to prevent unauthorized carrier changes (slamming). Qwest indicated in its letter to the Commission that customers who call the Qwest business office will be informed that the local carrier freeze option is available and that Qwest will also provide information to customers about the new option in a bill insert.

On January 29, 2002, AT&T notified the Commission by letter that it opposes Qwest's implementation of a local carrier freeze program. AT&T cited a Federal Communications Commission order in which the FCC recognized the potential for abuse of preferred carrier freeze options in newly competitive markets and specifically stated that states may prohibit the implementation or solicitation of preferred carrier freezes if they determine such an action to be appropriate to prevent incumbent local carriers from engaging in anticompetitive conduct.[1] AT&T requested that the Commission prohibit Qwest from implementing the local carrier freeze program unless and until Qwest has demonstrated the need for it and has proved it can be implemented without harming or impeding local service competition in the state. AT&T further proposed that, if a local carrier freeze option is necessary in order to protect consumers from slamming, then a neutral third-party administrator should operate the program rather than Qwest in order to protect the interests of competitors.

In the Notice of Inquiry (Docket D2002.2.14) the Commission asked parties to address in their comments Qwest's plan for solicitation and implementation of the local carrier freeze option and the issues raised by AT&T, including the proposal for a third-party administrator for preferred carrier freezes. Commenters who asserted that the local service market is not sufficiently competitive to warrant the implementation of a local carrier freeze option were asked to comment as to what standards, criteria, or benchmarks the Commission might use to determine that the Montana market is sufficiently competitive to warrant such a program. The Commission also invited comments as to the effectiveness and ease of use of Qwest's existing process for lifting carrier freezes on customers' carrier choices. Commenters could also provide any other pertinent information that was not specifically requested in the notice.

Summary of comments

The Commission received timely comments from Qwest, Touch America (TA), and Montana Telecommunications Association (MTA). The Commission did not accept the comments of WorldCom because they were filed after the comment deadline had passed. The parties' comments are summarized below.

Qwest

In Docket D2002.2.22, Qwest was directed by the Commission to demonstrate that its planned local carrier freeze program complied with Commission rules and to explain why the offering was not filed as a tariff. Qwest responded with a March 11, 2002 filing that describes the program in detail and in which Qwest contends it complied with Commission rules. In response to the tariff question, Qwest argues that § 69-3-301, MCA does not require a tariff be filed for a service that is offered at no charge. Further, Qwest notes that it has offered interLATA and intraLATA carrier freezes for several years and the Commission has not required that Qwest submit tariffs for those offerings.

Qwest also submitted comments in response to the Notice of Inquiry docket. In those comments, Qwest points out that the Commission adopted rules in 1999 that mirror the FCC's related to preferred carrier freezes for every type of telephone service – local exchange as well as intraLATA/intrastate, interLATA/interstate and international toll service – in response to the problem of slamming. According to Qwest, the company wants to offer preferred local carrier freezes in Montana in order to promote customers' ability to choose to add protections against slamming. Qwest states its freeze program complies with Commission and FCC rules and emphasizes that the objective of the Commission's and FCC's rules is to prevent local as well as long distance slamming.

Qwest notes the Montana PSC received 35 local slamming complaints in 2001, and claims the incidence of local slamming will increase with increased competition. Qwest also cites information disseminated by two consumer protection organizations and several state

[1] See AT&T letter, pp. 2-3, citing the FCC's *Second Report and Order, In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, FCC 98-334, released December 23, 1998, at para. 36.

regulatory commissions to warn consumers of local slamming and to encourage them to use the freeze option to protect themselves from slamming.

Qwest cites statements made by the FCC in its *Second Report and Order* on slamming in which the FCC said: its rules were meant to combat slamming in both the toll market and in the local service market as competition develops; it anticipated an increase in local service slamming if effective rules were not implemented; and preferred carrier freezes enhance competition by fostering consumers' confidence that they control their provider choices. Qwest adds that the FCC rejected CLEC requests to ban carrier freezes and local exchange carriers' solicitation of orders for carrier freezes and concluded that the best way to ensure carrier freezes are used to protect consumers, rather than erecting a barrier to competition, was not to prohibit them but to educate consumers about obtaining and removing freezes.

According to Qwest, the potential for anti-competitive effects resulting from preferred local carrier freezes is countered by the Commission's requirement for verification by an independent third party of a customer's authorization to implement a preferred carrier freeze. In addition, Qwest argues a preferred local carrier freeze does not "lock" the customer into that carrier choice because both the FCC and Commission rules include allowable methods for lifting preferred carrier freezes, including the use of a three-party call that allows a new carrier to confer with both the customer and Qwest to authorize the lifting of the customer's freeze.

Qwest rebuts the claim made by AT&T in its letter to the Commission that local service competition is just developing in Montana by citing the Commission's finding in its Section 271 docket (D2000.5.70) that numerous competitive local exchange carriers (CLECs) are providing competitive service in Montana. Qwest argues that AT&T's request that the Commission prohibit Qwest's implementation of a local carrier freeze program would deny local slamming protections to customers. According to Qwest, local slamming can have more significant impact on customers than long distance slamming and restoring service to the preferred local carrier can be more frustrating. Qwest asserts that it has implemented the local carrier freeze program in 9 of the 14 states in the region. Qwest emphasizes that three of those states (Washington, Colorado and Utah) require LECs to offer preferred carrier freezes and two of those states require LECs to educate customers about the availability of carrier freezes.

Qwest opposes AT&T's proposal that a neutral third party administer preferred local carrier freezes in order to protect the interests of competitors because it would be costly and

because existing rules require the incumbent local exchange carrier (LEC) to act as an unbiased administrator of carrier freezes. Qwest reiterates that FCC and Commission rules require that an independent third party must verify that a customer has chosen to freeze their carrier choice(s).

Touch America

TA opposes Qwest's proposal to implement a local carrier freeze program. While everyone acknowledges there is a nationwide problem with long distance slamming, which justifies the need for the availability of long-distance carrier freezes, TA argues there is no such problem with local service slamming. TA claims that, unlike the local exchange market, the long distance market is fully competitive and a freeze program protects consumers without impeding competition. TA argues Qwest is not a neutral party when it comes to customers' changes in local service providers because most of the customers changing local carriers are leaving Qwest. For that reason, asserts TA, if Qwest is allowed to implement its local carrier freeze program, the Commission must oversee it to prevent anti-competitive behavior by Qwest.

According to TA, the preferred local carrier freeze option, in conjunction with Qwest's Winback program, allows Qwest to impede local service competition. TA asserts that Qwest will be able to implement large numbers of local carrier freezes to Qwest by soliciting them on each of the thousands of calls regarding service or billing issues the company receives each month from customers to its business offices. TA argues that nothing prohibits Qwest from using the requirement that a customer contact Qwest directly to lift a local carrier freeze from using that contact as an opportunity to retain the customer. According to TA, the freeze removal process allows Qwest to know immediately to which customers Winback efforts should be directed.

TA argues that the process will cause delays and frustrations for CLECs and their prospective customers, thereby creating a barrier to competition. A CLEC who signs up a customer will not be aware if the customer has a freeze in place until Qwest rejects the CLEC order to change the customer's provider because the customer's account is frozen. The CLEC must then re-contact the customer to have the customer get the freeze lifted, at which point it is unknown how long it takes Qwest to remove the freeze.

According to TA, no LEC should be able to implement a preferred local carrier freeze until the Commission verifies there is a problem with local service slamming. TA suggests that

the Commission prohibit local carrier freezes until it has received verified local slamming complaints from at least 2 percent of the total number of access lines whose local service providers have been changed. Additionally, TA recommends that if the Commission approves Qwest's local carrier freeze program, it should adopt performance standards and penalties for local slamming, including significant fines.

TA supports the idea of a neutral, third-party administrator for local carrier freezes that would operate at the direction of the Commission. Local freeze administration would be funded by LECs who wish to implement local carrier freeze programs, who could recover its costs from customers requesting local freezes. TA recommends the administrator of the program maintain and keep current a list of customers who have chosen to freeze their choice of local provider and make the list available to all local service providers.

Finally, TA recommends a freeze program should include a quick method to lift a freeze that results in the freeze being lifted in 8 hours or less, and that any local service provider who presents the freeze administrator with a signed letter of agency from the customer should be able to have the freeze lifted without further customer contact.

MTA

MTA states generally that it is premature and anticompetitive for Qwest to implement a local carrier freeze option in Montana and that it supports AT&T's comments in its 1/28/02 letter to the Commission.

MTA argues there is no local service slamming problem which warrants a local carrier freeze program and that the need for such a program should be demonstrated before Qwest is allowed to implement it due to such a program's effect of impeding competition. MTA questions Qwest's motives for adopting this program now, when there is very little local service competition. MTA contends Qwest wants to lock customers into its local service prior to competition presenting a threat to Qwest's domination of the local service market.

According to MTA, freezing an account is easier than unfreezing it because Qwest will solicit all customers when they call the company for any reason as well as market the freeze option, which is offered at no charge. However, MTA says, significant additional effort is required on the parts of the customer and the CLEC to unfreeze an account.

MTA agrees with the spirit and intent of the Commission's slamming rules, but objects to implementation of a local service freeze in the absence of competition and evidence of local slamming. MTA asserts that the Commission has the authority to impose an indefinite moratorium on local service freezes and that other states have done so.

MTA recommends the Commission impose an indefinite moratorium on the application of local service freezes in Montana until the Commission determines that lifting the moratorium is in the public interest, as demonstrated by the extent of local service competition in Montana and by the extent of a local service slamming problem as measured by objective data obtained by the Commission. Alternatively, MTA suggests that Qwest could petition the Commission to lift the moratorium, but would have to demonstrate a need for the local service freeze option and that a freeze program would not impede competition.

According to MTA, if a freeze program is implemented at some time, the Commission must pay close attention to incumbent LECs' marketing of local freezes because some customers may not understand the potential effect of electing a freeze. Also, MTA suggests the Commission periodically review the ease of lifting local service freezes because the effect of a freeze that is easier to impose than to lift is to make it difficult for customers to switch local service providers.

Discussion

As required by the Notice of Commission Action in Docket D2002.2.22, Qwest submitted information about its local carrier freeze program to demonstrate to the Commission that the program complied with Commission rules. The Commission has reviewed Qwest's filing and has determined that Qwest's plan for such a program includes all of the elements required by Commission rules.

The Commission did not address the issue of whether Qwest was required to file a tariff for this service offering.

Although the program as proposed would comply with Commission rules regarding preferred carrier freezes, the Commission imposed a moratorium on Qwest's preferred local carrier freeze program for these reasons cited in comments received in Docket D2002.2.14:

- As argued by MTA and TA, it is likely that Qwest's implementation of the local carrier freeze option at this time, when CLECs' share of the local service market is minimal, will impede the development of competition. As evidence of significant local service competition, Qwest points to the finding on Track A in the Commission's 271 docket that numerous CLECs are providing service to thousands of Montana customers; however, the Commission notes the same Track A report cites Qwest's own estimates of CLECs' market share as of April 2001 to be 3.8% or 8.3%, depending on the calculation method. It is clear Qwest is the local service provider for the lion's share of customers in its Montana service territory.

  The Commission agrees with comments that, if the program was implemented, Qwest would be successful in locking large numbers of customers into its local service, especially given Qwest's plan to solicit customers regarding this program whenever customers call Qwest's business office for any reason. Once a customer's choice of Qwest as the local service provider is frozen, the customer must speak or write to Qwest directly in order to lift the freeze. This requirement for the customer's express consent to remove a freeze is the critical element of the customer protection that carrier freezes provide to customers. However, the freeze-lifting process with its necessary delays when applied to the local service market likely will result in customer frustration and the loss to CLECs of customers who intended to change local service providers but were deterred by the process.

- The need for protection against local service slamming has not been established. Carrier freezes have provided an important anti-slamming tool in the long-distance market where competition between carriers is robust and slamming is an unfortunate by-product. In contrast, competition is just developing in Qwest's local service market in Montana and the incidence of local service slamming is negligible. Although Qwest cites the 35 informal consumer complaints about local slamming received by the Commission in 2001 as evidence that a local

slamming problem exists, a review of those complaints indicates that all but one were complaints against one CLEC and complaints staff reports that in most cases the CLEC had obtained the complainant's authorization in accordance with PSC rules. Qwest may be correct that, as local competition grows, so will the incidence of local service slamming, but the unproven need at this time to provide consumers with protection against local service slamming is outweighed by the Commission's interest in promoting development of robust local service competition.

The Commission imposes a moratorium on Qwest's local carrier freeze program, but allows Qwest to request the Commission revisit this decision after 18 months. By that time, the Commission, Qwest, CLECs and consumers will all have more experience with and knowledge of local service competition and the incidence of local slamming. In any future review, the Commission would include in its consideration the extent of local service competition and evidence of the existence of a local service slamming problem that would be addressed by implementation of a local carrier freeze option.

BY THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman
JAY STOVALL, Vice Chairman
BOB ANDERSON, Commissioner
MATT BRAINARD, Commissioner
BOB ROWE, Commissioner

Exhibit J

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Qwest Proposal to Offer Local Service Freeze Protection

ISSUE DATE: May 7, 2002

DOCKET NO. P-421/CI-02-75

ORDER REJECTING LOCAL SERVICE FREEZE OPTION AND REQUIRING THE COMPANY TO STOP OFFERING IT AT THIS TIME

PROCEDURAL HISTORY

On January 17, 2002, Qwest filed a letter informing the Commission that Qwest intended to implement Local Service Freeze (LSF) Protection for its customers in Minnesota, effective January 17, 2002.

On January 25, 2002, the Commission issued a Notice of Qwest's Filing Regarding LSF and requested comments. On February 7, 2002, the Commission granted an extension of time to file comments (February 12) and reply comments (February 22).

From February 1, 2002, through February 22, 2002, the following parties filed comments and reply comments in response to the Commission notice: AT&T, HickoryTech, Qwest, DOC, Allegiance, Astound broadband, the Residential and Small Business Utility Division of the Office of the Attorney General (RUD-OAG), WorldCom, and the CLEC Coalition.

The Commission met on March 21, 2002 to consider this matter.

FINDINGS AND CONCLUSIONS

I. QWEST'S PROPOSAL

On January 17, 2002, Qwest filed a letter informing the Commission that Qwest intended to implement Local Service Freeze (LSF) Protection for its customers in Minnesota. Customers choosing LSF Protection would be protected from unauthorized, illegal switching of a customer's preferred local exchange carrier.[1]

Qwest cited FCC rules and orders which indicate that a preferred carrier freeze (PCF) was lawful, a useful tool against slamming, and would also enhance competition. Qwest stated that the FCC also addressed the concern raised by competitors that this would be a barrier to competition. Qwest reported that the FCC stated that freezes would not be a competitive barrier as long as subscribers fully understood the nature of the freeze and how to remove it if they chose to use this service.

Qwest cited rules and statutes adopted in Washington, Utah, Colorado and 21other states outside Qwest's region also allow or require these freeze options. Qwest argued that this shows that a carrier freeze is a valuable consumer protection and enhances competition.

II. AT&T COMMENTS

AT&T opposed Qwest's plan to implement a local PFC at this time. AT&T stated that Qwest's plan appeared to be an attempt to create customer confusion and to make it difficult for a customer to move to another provider.

AT&T noted that although the FCC has authorized PCFs it also authorized individual states to conclude, after considering factors (such as the incidence of slamming and the development of competition in relevant markets), that the detriment to consumers of a PCF outweighed the benefit. AT&T argued that Qwest had not demonstrated the need of the program and had not shown that it could be implemented without harming competition in the state.

Responding to Qwest's reference to two other state commissions (Washington and Colorado) requiring Qwest to provide a local freeze option, AT&T noted that the Washington and Colorado commissions imposed service freezes for both local and long distance as part of a rulemaking over two years ago. AT&T stated that more recently the trend has been the other way: two commissions (New York and Nebraska) have denied such freezes and in Arizona, Qwest withdrew its local PFC proposal after being strongly opposed by CLECs in that state.

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[1] LSF does for a customer's local service what a PIC Freeze (primary interexchange carrier freeze) does for the customer's long distance service. The general term for both local and long distance freezes is Preferred Carrier Freezes (PCFs). PCFs are authorized (but not required) in FCC Rules, Part 64.1190. A freeze prevents a competing carrier from switching a customer's choice of carrier without the customer lifting the freeze.

III. HICKORYTECH COMMENTS

Crystal Communications, Inc. d/b/a HickoryTech (HT) believes further investigation is necessary before approving Qwest's LSF proposal. HT is a CLEC in Minnesota and offers CLEC services in five Qwest exchanges. HT stated that it was concerned that Qwest intends to offer LSF to inhibit competition for its own self-interest. HT noted that having a LSF on a customer's account would require the customer to contact Qwest to remove the freeze, which would give Qwest a significant marketing opportunity to try to retain the customer. HT asserted that such a marketing effort would clearly be anti-competitive. HT further objected to Qwest offering this service under the guise of protecting the customer. In sum, HT argued that further investigation is necessary to avoid potentially anticompetitive, self-serving actions by Qwest.

IV. ALLEGIANCE TELECOM COMMENTS

Allegiance, a facilities-based CLEC providing service in Minnesota, stated that more information is necessary to judge whether Qwest's LSF proposal should be approved. Allegiance expressed concern that Qwest will not properly administer its proposed LSF program and, as a result, create anticompetitive restrictions on customers wanting to select another carrier. Allegiance recommended that the Commission institute measures that protect consumer choice and competition to guard against improper administration of the LSF protection plan.

V. ASTOUND BROADBAND COMMENTS

Seren Innovations, Inc. d/b/a Astound broadband (Astound), Qwest's only residential facilities-based competitor in the St. Cloud area, recommended rejection of Qwest's LSF proposal. Astound opposed Qwest's LSF plan arguing that it is anticompetitive and only serves Qwest's self-interest to win back customers. Currently, the interaction of switching customers to Astound's service is handled between the service providers. Astound argued that forcing a customer to reject one service provider for another would inhibit many customers from making a switch. Astound stated that this obviously anticompetitive proposal should be rejected.

VI. WORLDCOM COMMENTS

WorldCom recommended that Qwest's service freeze should be suspended because it violates the law, is discriminatory, and harmful to customers and competition. WorldCom argued that Qwest must implement changes to its procedures so that a customer is not burdened when it wishes to lift the LSF. Until those changes are made, WorldCom maintained, Qwest should not be offering its LSF option.

VII. THE DEPARTMENT'S COMMENTS

The Department recommended that the Commission deny Qwest's LSF proposal. If Qwest is able to demonstrate that the benefits exceed the detriments of such a proposal, the Department recommends that it be implemented via a tariff.

The Department stated that Minnesota's regulatory requirements do not prohibit Qwest's LSF proposal but argued that public policy would support denying the proposal. The Department noted that Minnesota law (Statute §237.66, subd. 1a) addresses a customer's option for a long distance carrier freeze but does not address local exchange service freezes. The Department cited Minn. Stat. §237.011, however, which lists telecommunications goals in Minnesota which include the promotion of customer choice, consumer protection and encouraging fair and reasonable competition for local exchange service.

The Department also cited Minn. Stat. 237.761, subp. 1 and Qwest's Alternative Form of Regulation (AFOR) Plan which govern tariff and price list filing requirements. The Department argued that Qwest should be required to file a tariff for its LSF proposal if the Commission does ultimately allow it.

The Department also considered whether local service slamming is a concern in Minnesota. Fewer than 10 complaints have been made according to Qwest's response to an information request. Further, the Department noted that the OAG, which also handles telephone customer complaints, has indicated that there have been no knowing violations of anti-slamming laws by local service providers.

VIII. THE RUD-OAG'S COMMENTS

The RUD-OAG recommended that the Commission reject Qwest's LSF proposal. The RUD-OAG stated that it is not opposed to customers having the option of a LSF but is concerned that Qwest's proposal is not competitively neutral. Qwest's current proposal would allow Qwest to advise customers of the freeze option each time there is a request for a new service, whenever there is a move to a new address, and when a new line is added. The RUD-OAG observed that Qwest appears to want to promote this free service rather than just present it as an option.

The RUD-OAG listed several criteria that it felt must be met before a LSF proposal would be allowable and stated that Qwest's current proposal meets none of these criteria.

IX. QWEST'S REPLY COMMENTS

Qwest responded to concerns raised about 1) the customer notices (agreed to submit LSF bill inserts for Commission review), 2) the frequency and dissemination of information (asserted that the FCC rules requiring clear and neutral language would prevent abuse), 3) notices to CLECs that a freeze had been placed in effect (agreed to inform CLECs), 4) office hours (identified hours that it deemed reasonable), and 4) tariffing of the LSF service (agreed to do so if the Commission requested it).

Regarding the concern that Qwest personnel would try to persuade customers calling to cancel the freeze to continue the service, Qwest stated that it would not do any marketing or make inquiries for anyone calling to remove a freeze. Qwest stated that during customer calls or three-way calls with the new carrier, the customer will identify himself or herself and Qwest will lift the freeze.

Regarding the benefits of the LSF option (need for the service), Qwest stated that FCC, Washington, Colorado, and Utah policymakers supported the benefit of this option. Qwest argued that rather than wait to offer this protection until slamming proliferates in the local market, the customer should be given the choice to decide.

Qwest also argued that a LSF protection advances the telecommunications goals contained in Minn. Stat. §237.11, namely promoting consumer choice and ensuring customer protection. Further, Qwest stated that the LSF is available to Qwest's wholesale customers (CLECs) as well as to Qwest's retail customers.

X. COMMISSION ANALYSIS AND ACTION

The Commission has carefully considered Qwest's LSF service and even assuming the service is administered strictly as Qwest stated in its reply comments, the Commission views the LSF service as having the potential to inhibit local competition, which is at a particularly fragile stage of development in Minnesota. And as a practical matter it would be difficult to assure that in practice the service would not be operated in a way more directly burdensome to competition than Qwest acknowledges.

The Commission acknowledges that negative impact upon competition can be outweighed by a showing of benefit to consumers. However, Qwest has made no showing that slamming by its competitive local service providers is a problem in Minnesota.[2] Therefore, based on the record in this case, no consumer benefit from this offering has been shown.

The Commission notes that protections against slamming at the local level are already in place in Minnesota, should it occur: a company that cannot verify that it had authorization to switch a customer is charged a penalty for not having proper verification. Qwest, in most if not all of its interconnection agreements includes a penalty charge of $100 for submitting an order to switch a customer without having the proof of authorization. The Commission also has authority to penalize a carrier that violates Commission rules or orders. In the absence of evidence to the contrary, it appears that these protections have been adequate to minimize the danger of local slamming in Minnesota and the need for a LSF option.

In fact, simply offering the service suggests that customers need protection from CLECs' local service slamming practices, a suggestion which the record in this case does not substantiate. As such it tends to unfairly disparage and, hence, unfairly burden Qwest's local competitors.

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[2] Decisions in other jurisdictions cited by Qwest (Washington, Colorado, and Utah) are not persuasive of a problem in Minnesota. The Minnesota public agencies participating in this matter (the Department and the RUD-OAG) both indicate a negligible incidence of local slamming and strongly advocated rejection of Qwest's freeze offering.

In these circumstances and given the Commission's statutory obligation to promote local service competition (Minn. Stat. § 237.11), the Commission finds that Qwest's offering of LSF in Minnesota is not in the public interest. The Commission will deny the Company's offering of this service, without prejudice, and direct Qwest to cease and desist (stop) offering it and to not offer any LSF service until the Company has submitted and the Commission has approved another LSF proposal.

As part of not providing the service, any customers who have subscribed to the service will be released from the service. Not offering the LSF service until a new proposal has been submitted and approved includes discontinuing any plans to issue bill inserts or other promotional material about this or any freeze service not approved by the Commission.

ORDER

1. The Commission denies Qwest's January 17, 2002 proposal (introduction of a local service freeze protection offering), without prejudice.

2. The Commission hereby orders Qwest to cease and desist (stop) offering this service or any local service freeze protection service until the Company has submitted and the Commission has approved a proposal to do so.

3. Any customers currently subscribed to Qwest's local service freeze protection service are hereby released from such service.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

Exhibit K

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to investigate the effects of local service freezes in Nebraska.	))))))	Application No. C-2662/PI-55 FINDINGS AND CONCLUSIONS Entered: May 7, 2002

APPEARANCES:

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BY THE COMMISSION:

B A C K G R O U N D

The Nebraska Public Service Commission (Commission) opened the above-captioned docket on January 29, 2002, to investigate the effects of local service freeze offerings in Nebraska. Concomitantly in that order, the Commission demanded that Qwest Corporation (Qwest) cease and desist offering its proposed local service freeze program in Nebraska pending further review. Notice of this investigation appeared in The Daily Record, Omaha, Nebraska, on January 31, 2002.

Upon being informed about Qwest's proposal to offer a local service freeze to Nebraska consumers, the Commission issued a letter to Qwest requesting it to delay implementation of such service until the Commission had the opportunity to review the affects of this service on competition. Qwest responded that it was too late to delay implementation. However, Qwest informed

the Commission that it would agree to delay the marketing of its product.

In addition, before formally opening this docket, the Commission received three informal complaints regarding Qwest's proposed local service freeze offering. ALLTEL Corporation (ALLTEL), Cox Nebraska Telcom, L.L.C. (Cox) and AT&T Communications of the Midwest (AT&T) sent letters to the Commission expressing concerns with Qwest's local service freeze offering and asking the Commission to investigate the proposed program. The Commission also received a petition from Cox requesting the Commission to issue a show cause action against Qwest and to order Qwest to cease and desist implementation of the local service freeze. Oral arguments were heard by the Commission on January 29, 2002. The Commission subsequently found that the issue was moot by the Commission's independent finding that the implementation of Qwest's local service freeze may be in violation of state law or federal law and ordering Qwest to cease and desist offering of the local service freeze pending further investigation.

A public hearing was held on February 20, 2002, in the Commission Hearing Room, Lincoln, Nebraska, upon notice to the parties by order entered January 29, 2002. Appearances at the public hearing were as shown above.

T E S T I M O N Y

Mr. Robert Logsdon, director of regulatory affairs for Nebraska and Iowa, testified first on behalf of Cox. Mr. Logsdon testified Cox believes that Qwest's actions in implementing the local service freeze are anti-competitive. Cox is the primary residential competitor in Omaha and Cox believes that there is no evidence of slamming by local carriers. To his knowledge, slamming has not been a problem in the local exchange markets as it has been in the long distance markets. Without a local service freeze, the customer only needed to make one phone call to switch local providers. With Qwest's local service freeze in place, customers will be required to lift the freeze with Qwest prior to leaving the company. Cox believes this to be an onerous requirement and one that would deter a number of customers from switching local providers.

Cox was also concerned that the information on the implementation of Qwest's local service freeze program was not adequate. Qwest sent a product notification to Cox on December 18, 2001, notifying competitive local exchange carriers (CLECs) of its decision to offer local carrier freezes for customer

accounts in Nebraska. As of the date of the hearing, Qwest had not informed Cox on the proper procedures for lifting freezes on customer accounts. Cox was not given the phone numbers to call, information on how Qwest was going to be staffed to participate in three-way calls, nor was Cox informed about the hours Qwest would be available for three-way calls.

Mr. Logsdon further testified that it was difficult, if not impossible, for a customer to not know he or she was being switched to Cox service from Qwest. Therefore, a true act of slamming would be rare. A local service change from one facilities-based provider to another requires that a company technician set up an appointment to meet the subscriber and then requires physical modification of the system and wiring at the subscriber's home by the CLECs technician. Mr. Logsdon challenged Qwest to find proven cases of local slamming in Nebraska.

Cox took the position that the Federal Communications Commission (FCC) has given the states clear authority to issue moratoria on local service freezes. The FCC intended to leave the decision up to individual states. Mr. Logsdon testified this Commission has the ability to adopt such a moratorium upon local service freezes. Also, in the FCC's *Second Report and Order*, the FCC warned of the dangers for abuse among carriers. Mr. Logsdon further testified that the Colorado commission had specifically admonished Qwest for poor handling of three-way calls. Mr. Logsdon admitted that the Colorado decision pertained to Qwest's handling of primary interexchange carrier (PIC) freezes and not local freezes. Cox offered a copy of the Colorado Commission's order, which was received into evidence as Late-Filed Exhibit No. 13. In short, Mr. Logsdon stated that Cox believes the Commission has both the authority and the justification to ban preferred local carrier freezes in Nebraska. Cox advocated a complete moratorium on local service freezes.

Upon questioning, Mr. Logsdon provided that he saw no benefit in the local service freeze for consumers. First, he stated that the Commission was empowered to assist a consumer and punish a carrier if it determined that a local slam took place. Second, Qwest's local service freeze program was detrimental to competition because it added another step in the process for competitors to overcome. Mr. Logsdon testified that Nebraska has only a handful of competitors who have survived in the marketplace and there was no indication that local slamming could even become a big problem. Upon questioning by Ms. Vinjamuri, Mr. Logsdon testified that the Commission's three

local slamming complaints, although unverified, should be considered seriously.

Mr. Brad Hedrick, testified next on behalf of ALLTEL. Mr. Hedrick offered ALLTEL's position statement into the record. It was received as Exhibit No. 7. Mr. Hedrick testified that he did not believe that the local service freeze was warranted or needed. ALLTEL did not utilize local service freezes in any of its incumbent local exchange carrier (ILEC) or CLEC operations. ALLTEL generally supported Cox's statements. He was not aware of any local slamming complaints filed by or against ALLTEL. ALLTEL believed that the local service freeze initiative by Qwest was anti-competitive. Mr. Hedrick testified that the Commission should balance the interests of ensuring that competition does develop with the needs of Nebraska consumers. It was ALLTEL's position that at this point in time, the implementation of local service freezes would be detrimental in the development of competition, while local slamming was not a prevalent problem.

More opposition came from Mr. Musfeldt, pro se, on behalf of Nebraska Technology & Telecommunications, Inc. (NT&T). He testified that the local service freeze as proposed by Qwest, would stall competition. NT&T was concerned that the local service freeze process would cause customer confusion and create inefficiencies for customers and CLECs alike. Importantly, the local service freeze as proposed by Qwest would add another step into the implementation process. Finally, Mr. Musfeldt testified that the interconnection agreement in place with the ILEC, which provides how the companies process their orders, is sufficient to deter them and like CLECs from slamming. Mr. Musfeldt testified that if NT&T changes a customer's service without prior authorization from the customer, Qwest could claim its interconnection agreement was in breach and could stop providing service to them.

Mr. Scott A. McIntyre, director of product and market issues, testified on behalf of Qwest. Mr. McIntyre provided in his direct testimony that Qwest's "local service freeze (LSF) program allows customers the choice of placing a 'hold' or 'freeze' on their local service account so that a change in local service providers cannot be made without their authorization."[1] This service is optional for consumers and is offered at no additional charge. Mr. McIntyre testified that local service freezes allow consumers to protect their account against slamming. He then testified that unauthorized changes in ser-

[1] McIntyre, Direct at 3.

vice providers were a concern of this Commission as demonstrated by its rules prohibiting the practice of slamming. Mr. McIntyre testified that the FCC has recognized that carrier freezes serve as a means of protecting consumers against slamming. The FCC also established methods for lifting a freeze. Qwest would follow the FCC standards.

Mr. McIntyre further testified that the value of preferred carrier freezes is underscored by the fact that three states require Qwest to offer them through rules and regulations. Washington, Colorado and Utah have adopted rules requiring all local exchange carriers to offer preferred carrier freezes.

The Qwest witness pointed to customer concern for a reason to support Qwest's local service freeze. Mr. McIntyre reminded the Commission that long distance slamming has been a problem in Nebraska in recent years. In support of this information, Qwest invited the Commission to refer to its most recent annual report to the Legislature and to the Commission's website. Mr. McIntyre asserted that based upon the degree of slamming that has occurred in the long distance arena, it is realistic to think that Nebraska consumers are concerned about the potential for local slamming as well.

O P I N I O N A N D F I N D I N G S

In order to open the local market to competition pursuant to the Telecommunications Act of 1996 (the Act), state commissions are required to remove any barriers to competition. Neb. Rev. Stat. § 75-109(2) gives the Commission broad authority to "do all things reasonably necessary and appropriate to implement the federal Telecommunications Act of 1996." The Act makes it clear that state and local barriers are to be removed and that regulators must help foster a competitive local market. In certain cases, a barrier can be built to impede competition through the practical effect of the policies and programs of the telecommunications carriers. A barrier exists when customers face problems purposefully changing carriers or when customers are otherwise deterred from choosing amongst carriers. To that end, the Commission must ensure that the customer experiences a seamless transition when changing from one carrier to another. The Commission is also charged with promoting and moreover, facilitating a simplified mechanism for the switching of local carriers in order to foster the development of competition.[2] This is not only a significant component for consumer

[2] *See* Consumer Bill of Rights in Application No. C-1128.

protection, it also vital for carriers trying to enter and compete in local markets.

The Commission is likewise charged by state and federal authorities to protect consumers from certain abuses inherent in a competitive market, specifically here, slamming. Slamming is the term commonly used to refer to unauthorized changes of a subscriber's preferred carrier. Slamming became a widespread problem in the long distance market in the late 1990s and is now illegal under federal law and many state laws including Nebraska's.

In this particular instance, the Commission is faced with a balancing test. The Commission must balance the interest of promoting competition pursuant to the directives of state and federal law against the possibility that slamming in the local market could become a prevalent problem in Nebraska.

Generally, a freeze placed on a customer's preferred carrier selection for local exchange service (hereinafter local service freeze) requires direct authorization by the customer to the local exchange carrier to lift the freeze before a change in carriers can be made. A freeze placed on a subscriber's account is usually aimed at preventing one telecommunications carrier from slamming a subscriber's account.

In this instance, the local freeze service proposed by Qwest would likewise require any subscriber with a freeze on his or her account to make direct contact with Qwest in order to lift the freeze. Lifting a freeze with Qwest representatives is a precondition to the subscriber's ability to effect a change in local carriers. The testimony provided by Qwest demonstrated, competitive carriers would not be informed that a local freeze was preventing that customer's order from being processed.[3]

The parties opposed to the adoption of a local service freeze by Qwest made several arguments. First, they argued that the local service freeze proposal offered by Qwest is anti-competitive. They argued further that it does not respond to any particular problem because there is no prevalence of local slamming. Third, they contended Qwest's proposed offering was a method used by Qwest in order to keep its market share.

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[3] Qwest provided supplemental testimony in the place of a letter requested by the Commission as a late-filed exhibit. This testimony was objected to by Cox. The Commission sustains Cox's objection and infers only that no letter could be produced by Qwest.

Finally, they averred that local preferred carrier selection programs are easily susceptible to abuse.

All parties opposed to the local service freezes questioned the timeliness of this proposed offering in light of Qwest's 271 application. The parties argued the local service freeze to be anti-competitive. Qwest's actions, which limit competitor's access and ability to switch customers, would not conform with Qwest's arguments that they have sufficiently opened the market for local competition.

The parties are correct in that there is little evidence of local slamming in Nebraska. Omaha is the largest market and Cox, another facilities-based carrier, is Qwest's largest competitor. Qwest admitted they had knowledge of no other slamming complaints filed with the Commission other than those unverified complaints listed in Exhibit 9. The Commission has no validated cases of slamming between Cox and Qwest.

Also, clear cases of abuse by carriers have, in fact, been documented in other states.[4] Not only does the carrier have a second chance to convince the customer not to switch to a competing carrier, it also has the customer's account records at its disposal. Without proper mechanisms in place to guard against abuse, competing carriers are helpless to gain a level competitive foothold. Absent express abuse, there is evidence that a customer will be less likely to switch carriers if that customer faces obstacles to change.[5] The Commission is not satisfied that the potential for abuse has been eliminated.

Qwest on the other hand made four basic arguments in support of preferred carrier freezes. First, Qwest contended that its decision to implement a preferred carrier freeze program was based in customer concerns of slamming. Qwest also argued that local slamming is occurring in Nebraska. Third, Qwest provided that preferred carrier freezes were not only suggested by the FCC but also by state law. Finally, Qwest argued that some other states have required Qwest to make a preferred carrier freeze available to its customers and because it provides it in other states, it needs to provide it in Nebraska. We analyze these arguments accordingly.

First, Qwest argued that its decision to implement a preferred carrier freeze program in Nebraska was based upon customer concerns regarding local slamming. To support this

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[4] *See* Exhibits 4 and 13.
[5] *Id.*

argument, Qwest used information from the State of Washington regarding the number of people that have signed up for a local service freeze. Although the Qwest witness offered this as reasoning on direct, Qwest was unwilling to release the exact numbers to the other interested parties when asked. The Commission ordered Qwest to provide this information, albeit under confidential seal.

The Commission finds that the numbers of subscribers in Washington with a local service freeze is irrelevant in demonstrating even a generalized customer fear of slamming. Just because subscribers have opted to have a freeze placed on their account, after prompting by the Qwest customer service representative, does not indicate that the subscriber had any particular fear that his or her account would be switched without authorization. Many times customers will agree to opt into programs provided by a telephone carrier particularly when touted as "free" and "protection." Moreover, the Commission does not find the Washington numbers pertinent to showing customer sentiment in Nebraska. The Washington Commission may have had more complaints of local slamming or more reason to believe a preferred carrier selection was appropriate. Qwest did not provide any evidence that customers in Nebraska were concerned or fearful about local slamming.

Compounded with the aforementioned customer concerns, Qwest argued that slamming in the local exchange market, was occurring. In support of this argument, Qwest requested that the Commission take administrative notice of three alleged local slamming complaints received as recently as this year. Commission staff counsel requested that the Commission supplement the record with the results of its investigation of the local slamming complaints. All three complaints involved McLeodUSA, a competitive local exchange carrier which recently filed for bankruptcy. Of the three alleged slamming complaints, the Commission investigator found that one customer had, in fact, requested a change in carriers but had forgotten. Two complainants admitted they told the telemarketer "yes" to receiving additional information but stated they did not consent to a change in carriers. These two complaints were resolved informally, the customers were switched back to the carrier of their choice and refunded by McLeodUSA.

The Commission finds the evidence of local slamming to be nebulous at best. There was little proof on the record that local slamming was occurring in Nebraska or could proliferate in the local market. The Commission finds that two incidents not sufficient to warrant a need for Qwest's local service freeze.

Qwest's argument was, therefore, unsupported by fact or evidence in the record.

It is true that the FCC, in its *Second Report and Order* in CC Docket No. 94-129, FCC 98-334 (Second Report and Order), cited the general benefits of preferred carrier freezes.[6] The FCC outlined a number of rules a carrier must follow when implementing preferred carrier freezes.[7] At the same time, the FCC warned that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets that are newly open to competition.[8] Moreover, the FCC made clear that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem appropriate to prevent anticompetitive conduct.[9] AT&T, Cox and ALLTEL argue that paragraph 137 of the FCC's order describes situation in this case. Finally, as provided in the hearing, the FCC's *Second Report and Order* mainly addresses the problems associated with long distance slamming, a problem that was prevalent at the time of the writing of that order.

In 1998, when slamming was becoming a problem in the long distance markets, it was assumed that it likewise would proliferate in a vulnerable local exchange market. The same holds true for the Nebraska Consumer Slamming Prevention Act in Neb. Rev. Stat. § 86-1901 et seq., and the Commission's rules and regulations. This law and the corresponding rules were developed with long distance slamming experiences in mind.

Although state law and Commission rules are applicable to local exchange carriers as Qwest points out, slamming was and remains more of a problem in the long distance arena where switching a carrier involves only a change in carrier codes. Unlike the case in the long distance market, the Commission finds that state and federal laws prohibiting slamming in the local service markets provide a sufficient deterrent from and adequate compensation for incidents of slamming. While our state law provides that slamming by a local exchange carrier is unlawful, it does not require Qwest to offer a local preferred carrier selection mechanism.

Accordingly, neither state nor federal law bars this Commission from adopting a moratorium on local service freezes. The Commission finds that the reasons which require long

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[6] *See* Qwest Corporation's Post Hearing Brief at 3.
[7] *Id.* at 11.
[8] *See* Brief of Cox Nebraska Telcom, LLC at 9.
[9] *Id. See also* Second Report and Order ¶ 137.

distance carriers to offer a PIC freeze are not present in the case of local exchange carriers. Adding another step into the process of changing local exchange carriers constructs an additional barrier to competition. The local service freeze program Qwest wishes to implement is highly suspect at this time.

Upon consideration of the testimony and evidence adduced at the hearing, the Commission finds that the negative impact of such freezes on the development of competition in the local market outweighs the potential benefit of such service to consumers. The provisioning of local service freezes at this time would be harmful to the development of competition and that harm outweighs the benefit of preventing the possibility that a local slam should occur and other mechanisms in state and federal law cannot adequately compensate a victim of such an act.

Finally, the Commission rejects Qwest's argument that the Commission should give deference to a program Qwest was required to implement in other states and finds Qwest faces no undue burden from unequal enforcement of local service freezes throughout its region. Upon review of many of the programs in other states, the Commission became aware that the rules and regulations of those states apply across the board to all local exchange carriers. There are no such rules in place applicable to all carriers in Nebraska. The Commission declines to permit carriers on a piecemeal basis to implement local carrier freezes. If local carrier freezes are permitted at all, the Commission finds that such freezes should be made applicable to all carriers with appropriate safeguards founded in rules and regulations. At such time however, no carrier has demonstrated a palpable reason which convinces the Commission that local service freezes are needed or appropriate in the local market.

The Commission finds Qwest's argument that a moratorium in Nebraska would pose an undue burden upon the company, is likewise without merit. Qwest has programs, rates and terms that vary widely from state to state. Moreover, to date, Qwest is unable to offer its local service freeze program in a number of other states in its region. The Commission finds that it is not an undue burden on Qwest to instruct its account representatives of the prohibition on local service freezes in Nebraska.

The Commission, therefore, finds that local service freezes should be prohibited in Nebraska until further order by this Commission. Qwest is ordered not to offer its local service

freeze program in Nebraska. The Commission further finds that this investigation and the petition filed in Application No. C-2664 should be dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a moratorium on local service freezes be, and it is, hereby, adopted in Nebraska.

IT IS FURTHER ORDERED that Qwest be, and it is hereby, prohibited from offering local service freezes in Nebraska until further notice of the Commission.

IT IS FURTHER ORDERED that the petition filed in Application No. C-2664 should be, and it is hereby, dismissed.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of May, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

Exhibit L

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S PETITION FOR APPROVAL OF AN ALTERNATIVE FORM OF REGULATION PLAN	))))	UTILITY CASE NO. 3761

QWEST'S MOTION TO WITHDRAW LOCAL SERVICE FREEZE FILING AND DISMISS WITHOUT PREJUDICE

Qwest Corporation ("Qwest") hereby moves the Commission for leave to withdraw[1] its tariff, filed on February 13, 2002, setting forth terms and conditions under which Qwest proposed to offer customers additional protection against unauthorized changes in their local service provider, sometimes referred to as a "local service freeze" ("Transmittal 2002-008"). Because the withdrawal will render this case moot, Qwest also moves the Commission to dismiss this case without prejudice.

Qwest filed a motion on March 13, 2002 in Utility Case Nos. 3215, *et al.* asking the Commission to suspend consideration of Transmittal 2002-008 and agreeing that all limitations periods applicable to consideration of the filing would be tolled during the period of the suspension. Neither Staff nor any of the parties filing protests to Transmittal 2002-008 opposed Qwest's motion. On April 16, 2002, however, the Commission issued its "Order Finding Good Cause for Protests and Commencing Proceeding for Review of Proposed Local Service Freeze" (the

"Docketing Order") opening this case for an expedited review and hearing of the protests filed against Transmittal 2002-008 and, presumably, the proposal itself.

Taking into account the controversy currently surrounding Transmittal 2002-008 and because Qwest does not wish to divert its efforts and resources from other more urgent matters now pending before the Commission, Qwest does not wish to pursue the proposed tariff and Transmittal 2002-008 at this time. Qwest, nevertheless, still believes that allowing customers to freeze their local service accounts is not contrary to the public interest and would not restrain or inhibit competition, and that the protests are without merit. This motion and the relief requested hereby imply nothing to the contrary.

For purposes of considering this motion, Qwest represents to the Commission that Qwest is not now offering a local service freeze option, that there are no Qwest customers in New Mexico whose local service accounts are now frozen, and that Qwest will not offer a local service freeze option to New Mexico customers except under an approved tariff or other appropriate authorization by the Commission.

Qwest contacted counsel for Staff, the Attorney General, WorldCom, e-spire, Time Warner Telecom, and AT&T in regard to this motion. Staff, the Attorney General, WorldCom and e-spire have advised that, without concurring in any stated grounds, they do not oppose the relief requested by the motion. Qwest

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Under Qwest's AFOR (Section XI.A.1), Qwest must file and obtain approval of a tariff

was not informed of the positions of Time Warner Telecom, or AT&T at the time of filing.

WHEREFORE, Qwest asks the Commission to enter an order granting Qwest leave to withdraw Transmittal 2002-008 and dismissing this case without prejudice, all as more fully explained herein.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By _____
Thomas W. Olson
Post Office Box 2307
Santa Fe, NM 87504-2307
(505) 982-3873

Attorneys for Qwest Corporation

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withdrawing a retail service. Neither the AFOR nor, to Qwest's knowledge, any existing rule of the Commission requires leave to withdraw a proposed tariff that has not yet become effective.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE REVIEW OF
QWEST CORPORATION'S PROPOSED
LOCAL SERVICE FREEZE OFFERING

Utility Case No. 3761

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **QWEST'S MOTION TO WITHDRAW LOCAL SERVICE FREEZE FILING AND DISMISS WITHOUT PREJUDICE** to be mailed and/or hand-delivered on May 1, 2002 to the following:

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Wholesale

Products & Services

Business Relationships

Business Transactions

- Getting Started
  - -Facility Based CLECs
  - -Resellers
- Account Team
- Billing - Additional Output
- Billing - Billing Percentage Worksheet
- Billing - Billing & Receivable Tracking (BART)
- Billing - Customer Records and Information System (CRIS)
- Billing - Daily Usage File (DUF)
- Billing - Integrated Access Billing System (IABS)
- Billing - Taxes and Tax Exemption
- Bona Fide Request (BFR) & Special Request (SR) Processes
- Calling Card/LIDB
- CLEC Requested UNE Construction (CRUNEC)
- Common Language
- Customer Contacts

Local Service Freeze - V11.0

History Log

Description

Local Service Freeze prohibits an unauthorized change of an end-user's local service from one local service provider to another. This option is available to prevent local service slamming.

This freeze is added at the Working Telephone Number (WTN) level so th end-user may choose to freeze one line, several, or all lines on their account. Only one order per account is needed if changing the Local Service Freeze status. The end-user may request the add or removal of Local Service Freeze at any time.

The Local Exchange Freeze on Voice Services (LEFV) indicator must be removed from the account before a request to change local service providers can be processed. The end-user must contact their existing local service provider to remove the Local Service Freeze from their account. Requests received to change local service provider on an account with Local Service Freeze will be rejected. Qwest will provide the message "Features on account are not compatible with requested features". The message "Please have the end-user contact current local service provider to have Local Service Freeze removed" will appear in the Customer Comments section.

Local Service Freeze is available on all voice services (dial tone) at the working telephone number line level.

Availability
Local Service Freeze is available throughout Qwest's 14-state local servic territory except in the states of Arizona, Iowa, Minnesota, Montana, Nebraska, and New Mexico.

The following table identifies the state specific Local Service Freeze effective dates:

State(s)	Effective Date
Washington	March 10, 2001

EXHIBIT
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- Directory Ordering
- Early Order Opportunity
- Electronic Access
- Expedites and Escalations Overview
- Features
- Forecasting
- Formal Complaint Process
- Geographic Deaveraging
- Local Service Freeze
- Local Service Ordering Guidelines (LSOG)
- Long Distance Carrier Selection
- Maintenance & Repair Overview
- Manual Interfaces
- Migrations and Conversions
- Negotiations Process
- Negotiations Template Agreement
- New Customer Questionnaires
- Ordering Overview
- Pre Ordering Overview
- Proof Of Authorization/Letter Of Agency (LOA)
- Provisioning & Installation Overview
- Regulatory Commissions
- Service Intervals
- Tariff Locations
- Technical Publications

Colorado and Utah	December 17, 2001
Idaho, North Dakota, Oregon, South Dakota, and Wyoming	January 17, 2002

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Pricing

Rates
There are no charges associated with adding or removing Local Service Freeze.

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Features/Benefits

Local Service Freeze prohibits the unauthorized change of an end-user's local service from one provider to another.

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Applications

See Features/Benefits

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Implementation

Product Prerequisites
If you are a new CLEC and are ready to enter the Interconnection business with Qwest, please view the Getting Started as a Facility-Based CLEC or the Getting Started as a Reseller web pages. If you are an existing CLEC wishing to amend your Interconnection Agreement or your New Customer Questionnaire, you can find additional information in the Negotiations Template Agreement web page.

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Pre Ordering

General pre-ordering information is located in the Pre-Ordering Overview

Reviewing the Customer Service Record (CSR) is one of the pre-ordering functions normally performed prior to initiating a request.

Lines or accounts with an existing Local Service Freeze will have the LEF Field Identifier (FID) following the line assignable Universal Service Orde Code (USOC), e.g., 1FR/NPA-nnn-nnnn/LEFV, 1FR/NPA-nnn-nnnn/LEFV/RSID, U5R/NPA-nnn-nnnn/LEFV/ZCID on each line that has a Local Service Freeze.

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▶ Telecommunications Associations

▶ Unauthorized Service Provider Change

▶ CLEC/FID Finder

Ordering

General ordering activities are identified in the Ordering Overview.

Adding Local Service Freeze

Wholesale Customers
The following table lists the actions required for adding a Local Service Freeze on a Qwest Wholesale Account:

STEP	ACTION
1	End-user contacts their local service provider
2	The local service provider submits a LSR (or appropriate form) to add Local Service Freeze to an account (with A in LSCP field)
3	Qwest processes the LSR and issues the Record order to add LEFV to an account

Local Service Freeze requests are submitted using the LSOG forms. Detailed information describing field entry requirements are available on the LSOG web page.

Local Service Freeze orders are placed using the following LSOG forms:

- Local Service Request (LSR)
- End User (EU)
- Centrex Resale Service (CRS), based on the product
- DID Resale Service (DRS), based on the product
- Port Service (PS), based on the product
- Resale Service (RS), based on the product

The LSCP field on the CRS, DRS, PS or RS form is used to add or remove a Local Service Freeze.

- To add a Local Service Freeze, populate the LSCP field with A
- To remove a Local Service Freeze, populate the LSCP field with B

The Feature Detail field of the RS, DRS, PS or RS form is used to add or remove a Local Service Freeze. The LEFV FID must be used for each telephone number adding or removing the Local Service Freeze.

Local Service Freeze can be ordered on following products using Interconnect Mediated Access (IMA), or faxed to (888) 796-9089:

- Analog Line Side Port
- Digital Line Side Port
- Public Access Lines (PAL) Payphone Service Providers (PSP)
- Resale - Centrex and Centrex 21
- Resale - Integrated Services Digital Network Basic Rate Interface (ISDN BRI)
- Resale - Plain Old Telephone Service (POTS)
- Resale - PAL
- Resale - Qwest Digital Subscriber Line (DSL)

- Unbundled Network Elements-Platform (UNE-P) POTS
- UNE-P ISDN BRI

Local Service Freeze requests for all other products are ordered manually The applicable LSOG forms should be faxed to (888) 796-9089.

Removing Local Service Freeze

The following table lists the actions required for removing a Local Service Freeze when end-user is changing service from Qwest to a CLEC:

STEP	ACTION
1	End-user contacts new local service provider to request service
2	Local service provider issues LSR to change end-user service. Proceed to step 3 Or Local service provider receives a CSR that indicates there is a Local Service Freeze on the account. Proceed to step 4
3	LSR is rejected due to Local Service Freeze

4	New local service provider contacts end-user regarding Local Service Freeze to advise the end-user the freeze must be removed using one of the following options:
	• Residential end-user places request via the web to remove Local Service Freeze
	  o End-user completes and submits the Electronic Authorization Form to remove freeze
	• Small Business end-user places request via the web to remove Local Service Freeze
	  o End-user completes and submits the Electronic Authorization Form to remove freeze
	
	NOTE: An electronic form is provided for the end-user to complete. When this form is submitted, the end-user will receive the message "Thank you for submitting your authorization to lift a freeze of a preferred service provider(s).
	• Advises the end-user to call 877-719-4294 to remove the Local Service Freeze

5	Local service provider issues/reissues LSR to change end-user service. NOTE: If the end-user submits their request on the web, the following must be included on the LSR in the Remarks section "End-user removed Local Service Freeze via web on MM/DD/YY"

If the request to change Local Service Freeze is submitted via the web th following time lines apply:

- Prior to 3:00 PM Central Time, Monday through Friday, the freeze request will be processed the same day
- After 3:00 PM Central Time, the freeze request will be processed

the next business day
- On the weekend, the freeze request will be processed on the next business day
- If Monday is a holiday the freeze request will be processed the nex business day

The following table lists the actions required for removing a Local Service Freeze when end-user is changing service from one CLEC to another CLEC:

STEP	ACTION
1	End-user contacts new local service provider to request service
2	Local service provider issues LSR (or appropriate form) to change end-user service. Proceed to step 3 Or Local service provider receives a CSR that indicates there is a Local Service Freeze on the account. Proceed to step 4
3	LSR is rejected due to Local Service Freeze
4	New local service provider contacts end-user regarding Local Service Freeze
5	End-user contacts old local service provider to remove Local Service Freeze
6	Old local service provider issues LSR (or appropriate form) to remove Local Service Freeze (with B in LSCP field)
7	New local service provider issues LSR to change end-user service

To expedite the removal of a Local Service Freeze, you may call 877-719 4294 with the end-user on the line to remove Local Service Freeze the same day. You must request the Record order number (eight-digit number) from the Sales consultant to include in the Remarks field or RORD field on your LSR.

To escalate any other concerns with Local Service Freeze, you may call the Interconnect Service Center at 888-796-9087 (option 1 for resale, option 2 for LNP). Qwest has established a point of contact for CLECs an the Service Delivery Coordinators at that number have been trained to assist with Local Service Freeze related issues. If a Local Service Freeze needs to be added or removed, they will advise you to have the end-user call the appropriate number.

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Training

Qwest 101 "Doing Business With Qwest"

- This introductory instructor-led training course is designed to teac the CLEC and Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. Click here for

Course detail and registration information.

IMA Hands On

- This introductory instructor-led training course teaches you how to use Qwest's IMA Graphical User Interface (GUI) to order wholesale products. You will experience interactive software demonstrations and participate in hands-on practice sessions to familiarize yoursel with the IMA GUI system. Click here to learn more about this course and to register.

POTS Product Overview

- This instructor-led training course provides an overview of the Plai Old Telephone Service (POTS) product. This course will provide a general overview of the POTS product and the various features associated with POTS. Click here to learn more about this course and to register.

POTS Resale

- This instructor-led process and systems training course provides a overview of POTS Resale products as well as the processes for submitting the service request via Interconnect Mediated Access (IMA). The processes covered are Preorder, Order, Post Order, Provisioning, Billing and CEMR Maintenance and Repair. Click here to learn more about this course and to register.

DSL Resale via IMA

- This self-directed, web-based process and systems training course provides an overview of the DSL Resale product as well as the processes for submitting the service request via Interconnect Mediated Access (IMA). The processes covered are PreOrder, Order, Post Order, Provisioning, Billing, and CEMR Maintenance an Repair.

  Qwest DSL Service is a data solution that utilizes Digital Subscribe Line (DSL) technology to transport a high capacity, bi-directional data stream over a single pair of copper wires, along with Plain Ol Telephone Service (POTS). Click here to learn more about this course and to register.

ISDN PRS

- This self-directed, web-based product training course provides you with knowledge of the Qwest Integrated Services Digital Network (ISDN) Primary Rate Service (PRS) product. You will learn how ISDN PRS, also referred to as ISDN Primary Rate Interface (PRI), works and the options available. Click here to learn more about this course and to register.

Unbundled Network Elements-Platform (UNE-P) POTS

- This instructor-led, process and systems training course is designed to provide an overview of the UNE-P POTS service as wel as the processes for submitting the service request via IMA. The processes covered are PreOrder, Order, Post Order, Provisioning,

Billing, and CEMR Maintenance and Repair. Click here to learn mor about this course and to register.

View additional Qwest courses by clicking on Course Catalog.

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Contacts

Qwest contact information is available in the Wholesale Customer Contacts.

Qwest Retail Business Office Hours
The following table identifies the Qwest Business Offices, states they serve, associated telephone numbers, and business hours:

Qwest Business Office	States	Telephone Number	Hours
Residential	All	800-244-1111	Central time zone - until 9:00 PM Mountain time zone - until 8:00 PM Pacific time zone - until 7:00 PM
Global/Large Business	All	800-549-5629	Central time zone - until 6:00 PM Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM
Small Business	All	800-603-6000	Central time zone - until 5:30 PM Mountain time zone - until 6:30 PM Pacific time zone - until 7:30 PM
Interconnection Wholesale Service Center for Qwest retail Public Access Lines (PAL) accounts only	All	888-796-9087	Central time zone - until 7:00 PM Mountain time zone - until 8:00 PM Pacific time zone - until 9:00 PM NOTE: The PAL center is in Arizona. Effective with Day Light Savings, Arizona is on the same time as the Pacific time zone.

Federal Services	All	800-879-1023	Central time zone - until 7:00 PM Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM
Government and Education	Colorado, Nebraska, North Dakota, South Dakota	800-405-3594	Central time zone - until 7:00 PM Mountain time zone - until 8:00 PM
Government and Education	Idaho, Oregon, Utah, Washington, and Wyoming	866-221-6073 Global Business	Mountain time zone - until 6:00 PM Pacific time zone - until 5:00 PM

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Frequently Asked Questions (FAQs)

1. How long does it take to have a Local Service Freeze added or removed from an account?
If adding or removing the Local Service Freeze is the only activity on the account, a Record order will be issued with a same day due date. The addition or removal is effective the day the order is issued.

If the Local Service Freeze is being added or removed on a service where other account activity is taking place, the freeze won't be effective until the date that order is completed.

2. Once the Local Service Freeze is removed from the Qwest retai end-user's account, how soon can I issue my LSR to change their service?
You can issue your LSR the same day. You must include the Record orde number that was provided to you and your customer in the Remarks section or in the RORD field on the LSR.

3. What if I have done a three-way call with the end-user to have the Local Service Freeze removed but the CSR still shows the LEF on the account?
You can still issue your LSR the same day the freeze was removed as lon as you include the Record order number for the Local Service Freeze removal in the Remarks section or in the RORD field on the LSR.

Local Service Freeze information is contained in a Freeze Repository which is updated when the Record order to remove the Local Service Freeze is completed. The Repository updates each night while the CSR takes 3-5 days to reflect the change in freeze status. Processing the LSR will be based on what is in the Repository versus the CSR.

4. Can I add Local Service Freeze to my customer's lines or account at the same time I make other changes to the account?
Yes, show A as the value in the LSCP field. Remember, if you add the freeze while doing other order activity, the freeze won't be in effect until

the actual due date of that order.

5. What kind of questions are the Qwest Retail end-user asked when they add a Local Service Freeze?
Local Service Freeze is an option for Qwest end-users and is only added at the end-user's request. Qwest's process to add a Local Service Freeze includes several steps to ensure the end-user is fully informed about the local service freeze, including the process to remove a freeze. If an end-user indicates a desire to establish a freeze, they are transferred to a Third-Party Verifier who verifies that the end-user is responsible for the account, and confirms the specific telephone numbers to which a freeze i to be applied.

6. Why is the freeze sometimes removed on a Change order?
If there is other activity taking place on the account at the same time th freeze is being added or removed, a Change order will be issued rather than a Record order. In place of the Record order number, you will include the Change order number on the LSR in the Remarks section or i the RORD field.

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Last Update: June 11, 2002

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Local Service Freeze History Log

Line #	Version	Effective Date	Change				Reason/Source	CR or Notice #
			Section #	Section Name	Subsection	Update Activity		
1	V1.0	1-11-02		Product Description		• Provides a high level description of the offering.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
2	V1.0	1-11-02		Product Description	Availability	• Provides information on availability by state and associated effective dates.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
3	V1.0	1-11-02		Product Description	Terms and Conditions	• Identifies Terms and Conditions associated with the offering	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
4	V1.0	1-11-02		Pricing	Rate Structure	• There are no rates associated with the offering.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
5	V1.0	1-11-02		Features and Benefits		• Identifies the features/benefits associated with the offering.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
6	V1.0	1-11-02		Implementation	Prerequisites	• Provides a high level description of the product prerequisites.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
7	V1.0	1-11-02		Implementation	Pre-Ordering	• Provides a high level description of the pre-ordering activities.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
8	V1.0	1-11-02		Implementation	Ordering	• Provides information on ordering Local Service Freeze using IMA or manually via fax. • Identifies which products can order a Local Service Freeze using IMA. • Information is available that describes which LSOG forms are used to order a Local Service Freeze. • Information is available which	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze

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						explains the FID used to add or remove a Local Service Freeze.		
9	V1.0	1-11-02		Implementation	Training	• Recommended training courses are identified.	Product Lifecycle	PROD.01.10.02.F.00663.Local_Service_Freeze
10	V2.0	1-28-02		Product Description	Availability	• Updated to reflect state specific Local Service Freeze availability.	Correction	PROS.01.25.02.F.00347.Local_Service_Freeze
11	V3.0	2-4-02		Product Description	Availability	• Updated to reflect that Local Service Freeze is available throughout Qwest's 14-state local service territory except in the states of Arizona and Nebraska.	Correction	PROS.02.01.02.F.00353.Local_Service_Freeze
12	V4.0	2-13-02		Product Description	Availability	• Updated to reflect that Local Service Freeze is available throughout Qwest's 14-state local service territory except in the states of Arizona, Iowa and Nebraska.	Correction	PROS.02.12.02.F.00356.Local_Service_Freeze
13	V5.0	2-18-02		Product Description	Availability	• Updated to reflect that Local Service Freeze is available throughout Qwest's 14-state local service territory except in the states of Arizona, Iowa, Nebraska and New Mexico.	Correction	PROS.02.15.02.F.00363.Local_Service_Freeze
14	V5.0	2-18-02		Implementation	Training	• Updated training course description.	Correction	PROS.02.15.02.F.00363.Local_Service_Freeze
15	V6.0	2-28-02		Product Description		• Updated Section to read Description. • Updated language to provide clarity and consistency.	Correction	PROS.02.27.02.F.00377.Local_Service_Freeze
16	V6.0	2-28-02		Description	Availability	• Updated to reflect that Local Service Freeze is available throughout Qwest's 14-state local service territory except in the states of Arizona, Iowa, Montana,	Correction	PROS.02.27.02.F.00377.Local_Service_Freeze

						Nebraska and New Mexico.		
17	V6.0	2-28-02		Implementation	Product Prerequisites	• Updated Subsection to read Product Prerequisites.	Correction	PROS.02.27.02.F.00377.Local_Service_Freeze
18	V7.0	3-15-02		Product Description	Terms and Conditions	• Updated error message wording.	Correction to PCAT	PROS.03.14.02.F.00398.Local_Service_Freeze
19	V7.0	3-15-02		Pricing	Tariffs, Regulations and Policies	• Updated to include new sub section and information regarding the options to request the removal of a Local Service Freeze and the information a retail end-user needs to be prepared to provide.	Regulatory	PROS.03.14.02.F.00398.Local_Service_Freeze
20	V7.0	3-15-02		Implementation	Ordering	• Corrected information to agree with other PCATS • Added additional ordering information	Correction to PCAT	PROS.03.14.02.F.00398.Local_Service_Freeze
21	V7.0	3-15-02		Frequently Asked Questions		• Added new question under Section	Correction to PCAT	PROS.03.14.02.F.00398.Local_Service_Freeze
22	V8.0	4-3-02		Product Description		• Added additional wording for clarification	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
23	8.0	4-3-02		Product Description	Availability	• Added additional state as exception to availability	Regulatory	PROS.04.02.02.F.00414.Local_Service_Freeze
24	V8.0	4-3-02		Product Description	Terms and Conditions	• Added additional wording for clarification	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
25	V8.0	4-3-02		Pricing	Rates	• Added additional wording for clarification	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
26	V8.0	4-3-02		Pricing	Tariffs, Regulations and Policies	• Added additional wording for clarification • Updated table to reflect state change	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze

						• Added additional table to describe steps in process		
27	V8.0	4-3-02		Implementation	Pre-Ordering	• Added additional wording for clarification	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
28	V8.0	4-3-02		Implementation	Ordering	• Changed wording for clarification of hours available to place requests • Added additional wording for clarification	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
29	V8.0	4-3-02		Implementation	Training	• Updated descriptions of recommended training courses	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
30	V8.0	4-3-02		Frequently Asked Question		• Added additional questions to section	Correction to PCAT	PROS.04.02.02.F.00414.Local_Service_Freeze
31	V9.0	4/19/02		Product Description		• Added additional wording for clarification	Correction to PCAT	PROS.04.18.02.F.00426.Local_Serv_Freeze
32	V9.0	4/19/02		Product Description	Terms and Conditions	• Deleting section/ not applicable	Correction to PCAT	PROS.04.18.02.F.00426.Local_Serv_Freeze
33	V9.0	4/19/02		Pricing	Tariffs, Regulations and Policies	• Correction to PCAT	Correction to PCAT	PROS.04.18.02.F.00426.Local_Serv_Freeze
34	V9.0	4/19/02		Implementation	Ordering	• Provides information on ordering Local Service Freeze using IMA or manually via fax. • Identifies which products can order a Local Service Freeze using IMA. • Information is available that describes which LSOG forms are used to order a Local Service Freeze. • Information is available which explains the FID used to add or	Correction to PCAT	PROS.04.18.02.F.00426.Local_Serv_Freeze

						remove a Local Service Freeze		
35	V9.0	4/19/02		Frequently Asked Question		• Added clarification to answers and added additional questions	Correction to PCAT	PROS.04.18.02.F.00426.Local_Serv_Freeze

Line #	Version	Effective Date	Change				Level of Change	Reason/Source	CR or Notice #
			Section #	Section Name	Sub-section	Update Activity			
36	V10.0	5/23/02		Description		• Deleted Qwest Business Office Hours table	Level 1	Corrections/clarifications/ additional information that does not change the product or process	PROS.05.22.02.F.00444.Local_Service_Freeze
37	V10.0	5/23/02		Implementation	Ordering	• Changed tables and added additional information due to process change and for clarification	Level 1	Time Critical Corrections to information that adversely impacts CLECs ability to conduct business with Qwest	PROS.05.22.02.F.00444.Local_Service_Freeze
38	V10.0	5/23/02		Contacts		• Added Qwest Business Office Hours table	Level 1	Corrections/clarifications/ additional information that does not change the product or process	PROS.05.22.02.F.00444.Local_Service_Freeze
39	V11.0	6-11-02		Implementation	Ordering	Corrected wording regarding the removal of Local Service Freeze Corrected link to access form to remove a Local Service Freeze	Level 1	Corrections/clarifications/ additional information that does not change the product or process URL Changes to correct link	PROS.06.10.02.F.00467.Local_Service_Freeze

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Phoenix, Arizona 85012
Office 602-630-8222
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Maureen Arnold
Director – Regulatory Matters

EXHIBIT
tabbies
Cox 4
Admitted

ride the light
Qwest

January 28, 2002

Honorable William A. Mundell - Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: Local Service Freeze

Dear Chairman Mundell:

The attached pages of Qwest's Exchange and Network Services Price Cap Tariff are being filed to amend its terms and conditions and permit customers the option of instituting a freeze of their local service provider. This allows customers greater control of their service and the ability to prevent an unauthorized change of their local service provider. Qwest's offering of a local service freeze (LSF) will further assist the Arizona Corporation Commission (Commission) in accomplishing the consumer protection goals that have been articulated throughout the proposed slamming and cramming rules currently under review in Arizona. Although LSF is not addressed in the current draft of the proposed rules, the protection afforded consumers through this tariff is consistent with the same issues addressed by the proposed rules and with the stated desire of the Commission to protect Arizona consumers from unscrupulous practices.

On December 13, 2001, Qwest notified Commission Staff that it would allow customers the choice of freezing their local service provider. Qwest planned on making LSF available to customers beginning January 17, 2002. On January 11, 2002, Cox Arizona Telcom L.L.C. filed an application requesting an order to show cause to stay implementation of Qwest's proposed LSF. As part of its application Cox stated: "Qwest has not filed a tariff or provided any substantial information to this Commission (or other interested or affected parties) about its proposed freeze service." Cox further alleged that Qwest's rationale for implementing LSF without a tariff was not supported and that the Commission should determine whether a local service freeze was justified.

Qwest opposed Cox's application and the joinders of AT&T, WorldCom, and Time Warner in that application. However, Staff subsequently contacted Qwest to convey its belief that a tariff should be submitted for the Commission's review and approval. Although Qwest does not agree that LSF is a service or a product, or that a tariff filing is required, Qwest agreed to delay implementation and submit a tariff for LSF as a term and condition of the provision of basic local exchange service.

The Commission has never required that Qwest submit its customer freeze procedures as tariffs in Arizona. Various telecommunications companies in Arizona have offered carrier freezes in

connection with long distance service since the late 1980s. Additionally, at the time equal access was implemented in 1996, the Commission permitted the offering of freezes in connection with local long distance service without the requirement to file a tariff. Qwest's proposed LSF does not differ materially from any of these other freezes currently offered in Arizona. In each case, a customer may request to place a freeze on their account, and that request must be properly verified by the company administering the freeze in accordance with federal law. Once this has been done, the carrier cannot be changed until the customer contacts the administering company directly to lift the freeze.

In FCC 98-334, the Federal Communications Commission approved rules permitting the offering of a freeze in connection with a customer's local service provider. In adopting these rules, the FCC stated the rules "appropriately balance several factors, including consumer protection, the need to foster competition in all markets, and our desire to afford carriers flexibility in offering their customers innovative services such as preferred carrier freeze programs." Qwest's LSF option is designed to be fully compliant with the rules adopted by the FCC.

The current draft of slamming and cramming rules for Arizona (Docket No. RT 00000J-99-0034) addresses freezes for interLATA and intraLATA telecommunications services. Although the proposed rules do not address freezes for local service providers, they could still be modified to do so. By addressing LSF in the Slamming/Cramming Docket, the rules would be consistent in that all types of freezes would be addressed in one rulemaking. It would also address Cox's request in Docket No. T-03471A-02-0025, filed January 22, 2002.

The Commission has previously approved a LSF tariff for another local exchange provider, i.e., SBC Telecom, Inc. (SBC). On November 17, 2000, SBC filed a tariff, which permits it to offer what it calls a "Preferred Carrier Freeze" (PCF). SBC's tariff states that:

> "PCF allows Customers to designate their local long distance (intraLATA) provider, long distance (interLATA) provider, and a local exchange service provider as permanent choices which may not be changed absent further authorization from the Customer".

SBC's tariff became effective by operation of law on December 17, 2000. Qwest's proposed LSF tariff appears to be substantially similar to the SBC tariff for PCF. Like Qwest is proposing here, SBC included PCF in the "Regulations" portion of its tariff.

Under Qwest's proposal, customers requesting a freeze of their local service provider must have their request verified through one of the following three means, consistent with the FCC's rules.

- Written or electronic signed authorization
- Electronic authorization
- Independent third-party verification.

Once this has been done, the customer's carrier cannot be changed unless the customer requests that the freeze be lifted. The process to lift a freeze is fast and simple. The customer may send a written or electronically signed authorization to Qwest, or may simply call Qwest and request that the freeze be lifted. Further, where a carrier has received an order from a prospective customer who currently has a freeze in effect, the new carrier can simply call Qwest with the customer on the line and have the customer request that the freeze be lifted. In each instance, the freeze can be lifted within 24 hours of the request. There is no charge in connection with either placing or lifting a freeze

This page has been prepared with an effective date of March 4, 2002. Please contact either me, or Reed Peterson at 602-630-8221, if you have any questions concerning this matter.

Sincerely,

Maureen Arnold

Attachment

cc: Commissioner Jim Irvin
Commissioner Marc Spitzer
Mr. Ernest Johnson –Director, Utilities Division
Legal Division - Arizona Corporation Commission
Cox Arizona Telcom, L.L.C.
AT&T Communications of the Mountain States, Inc.
Time Warner Telecom of Arizona, LLC.
WorldCom, Inc.

1. APPLICATION AND REFERENCE

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1. APPLICATION AND REFERENCE

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2. GENERAL REGULATIONS - CONDITIONS OF OFFERING

2.2 ESTABLISHING AND FURNISHING SERVICE (Cont'd)

2.2.16 LOCAL SERVICE FREEZE (N)

A. Local Service Freeze

The company permits customers to freeze their local service provider. This will be done for any requesting local exchange customer at no charge. Once the local service provider has been frozen, it may not be changed without the customer directly contacting the Company, consistent with all applicable laws and regulations. At the time a customer contacts the Company to establish a freeze, a representative will advise him/her on how to facilitate a change of provider on a frozen account.

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST CORPORATION'S) TARIFF FILING TO AMEND ITS TERMS AND) CONDITIONS AND PERMIT CUSTOMERS THE) OPTION OF INSTITUTING A FREEZE OF) THEIR LOCAL SERVICE PROVIDER)	DOCKET NO. T-01051B-02-0073

TESTIMONY OF MINDY J. CHAPMAN ON BEHALF OF
INTERVENOR WORLDCOM, INC.

MAY 13, 2002

EXHIBIT
WorldCom 1
Admitted

Q. Please state your name, title and business address.

A. My name is Mindy J. Chapman. I am Director for LEC Interface Operations for MCI WorldCom, Inc. ("MCI WorldCom"). My business address is 707 17th Street, Suite 4200, Denver, Colorado 80202.

Q. Please describe briefly your education and relevant professional experience.

A. I have over 18 years experience in the telecommunications field, all of it with WorldCom, Inc. ("WCom") or its predecessor companies, MCI WorldCom or MCI Telecommunications Corporation. My first position was as a Sales/Service representative, focusing on residential long distance sales. After a series of promotions I became Supervisor of 15 employees in April 1986. I supervised an error processing group that worked rejected orders from Local Exchange Carriers ("LECs"). In August 1988 I was promoted to the position of Staff Specialist II, where I focused on analysis of order processing systems. In August 1990 I was promoted to Staff Specialist III. In October 1990 I became a Manager, overseeing a group which was responsible for tracking and troubleshooting customer orders. In August 1991 I was promoted to the Manager II level, and adopted responsibility for overseeing LEC compliance. I also worked with LECs to review performance. In January 1993 I assumed additional responsibilities and was promoted to the Manager III level, and in October 1993 was made a Senior Manager, with nationwide responsibilities for overseeing monitoring and error processing. I was promoted to Senior Manager II in January 1997, with expanded responsibilities, including local order provisioning and error processing. I was promoted to my current position of Director in March 2000.

My current duties include tracking all data and order activity for all Long Distance and local resale and Unbundled Network Element ("UNE") Platform orders. I track all of these orders to completion, addressing data issues and assessing orders that are not timely completed. I also analyze orders that are rejected, and am responsible for initiatives to reduce the rate of rejected orders. I also monitor to ensure that all data from LECs is received, processed, stored and used in a timely and accurate fashion. I also help coordinate the LECs to ensure compliance standards and intervals for Dial One Order Processing and Local Order Processing.

With regard to my formal education, I received a BA from the University of Denver in 1981. I would like to add that I am not an attorney and I do not offer any legal opinions herein. However, in the course of my normal duties and as a person who is sometimes called upon to speak publicly on WCom's behalf on matters of public policy, I have had occasion to become familiar with certain rulings of the Federal Communications Commission ("FCC") and state regulatory commissions. In addition, I am personally familiar with at least some of these rulings because I appeared as a witness on behalf of the company or otherwise helped in the company's prosecution of the cases.

Q. What is the purpose of your testimony

A. The purpose of my testimony is to explain why the Local Service Freeze ("LSF" or "freeze") product or tariff being sponsored by Qwest Corporation ("Qwest") is unnecessary, and to alert the Arizona Corporation Commission ("Commission") to the potential anticompetitive impact that the proposed tariff may have. Although Qwest touts the tariff as a measure to protect consumers, the practice it "protects" consumers against, namely having their local phone service "slammed," is not now and has little chance of becoming a widespread problem. It is clear that the FCC and the Commission have strict rules and severe penalties if a company does "slam" a consumer. As such, the real beneficiary of the LSF will not be the citizenry of Arizona but rather Qwest itself, which, with the adoption of the tariff, will have available to it a mechanism by which it can act unfairly to protect its market share from the encroachment of local competition. Despite Qwest's assertions that LSF will be implemented to accommodate customer concerns, in reality, Qwest proposed LSF to maintain its market share, retain its customer base and keep stable its shareholder value.

Q. Could you explain what "local slamming" is?

A. "Slamming" is the term commonly used to describe the practice of switching a telephone customer's carrier without the customer's authorization. Historically, allegations of "slamming," when addressed by legislators, regulators or the news media, have typically focused on the unauthorized switching of residential customers' long-distance carriers. "Local slamming" refers to the same practice, i.e., unauthorized switching, but instead involves

the switching of a customer's Local Exchange Carrier (also referred to as a Local Service Provider, or LSP).

Q. Please explain how LSFs have the potential to be anticompetitive.

A. As the incumbent LEC ("ILEC") in Arizona, Qwest enjoys a historical monopoly on local telephone service. Thus, virtually all local customers have little or no experience with local competition. Once nascent competition becomes available, many current Qwest customers (i.e., prospective CLEC customers) will be understandably uncertain about the prospect of competitive local phone service, and particularly about how to change their local provider. Given this tentative consumer population, anything that makes the process of changing local providers any more complicated or more difficult than it already is would be devastating to the growth of competition (and switching a customer's local service is both difficult and complicated -- much more so than switching a customer's long distance service).

The testimony filed by the Qwest expert, Mr. Scott McIntyre, liberally quotes from a FCC order to provide justification for the LSF tariff/product proposed by Qwest. See Direct Testimony of Scott A. McIntyre ("McIntyre Testimony") filed in this docket on April 11, 2002, pp. 5, l. 7 - 7, l. 3. However, his testimony *fails* to note that the FCC recognized the negatives of implementing product freezes:

> ...we recognize, as several commenters observe, that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly open to competition. These commenters in essence argue that incumbent LECs seek to use preferred carrier freeze programs as a means to inhibit the ability or willingness of customers to switch to the services of new entrants. We share concerns about the use of

> preferred carrier freeze mechanisms for anticompetitive purposes. We concur with those commenters that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced. Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct. *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking (the "FCC Second Report and Order") (released December 23, 1998) at ¶135.

The FCC recognized that states, which were most familiar with problems with competition in their own territories, should have the final word on the implementation of local freezes:

> ...We make clear, however, that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem such action appropriate to prevent incumbent LECs from engaging in anticompetitive conduct. We note that a number of states have imposed some form of moratorium on the implementation of preferred carrier freezes in their nascent markets for local exchange and intraLATA toll services. We find that states – based on their observation of the incidence of slamming in their regions and the development of competition in relevant markets, and their familiarity with those particular preferred carrier freeze mechanisms employed by LECs in their jurisdiction – may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers. FCC Second Report and Order, par. 137.

Moreover, Qwest already interacts with its customers on a routine basis (e.g., through monthly bills, bill inserts, customer service calls). Qwest's filed testimony disingenuously states that LSF addresses the same protection to consumers that the pending Arizona slamming/cramming rules will offer. McIntyre Testimony, p. 5, l. 1-5. The proposed Arizona slamming/cramming rules, however, address a recognized problem that has plagued the long distance market *in the past*. Given the publicity that long distance "slamming" has received, it would be far too easy for an ILEC in this type of

environment to subtly steer (or scare) customers into "protecting" their local phone service from slamming – even though customers may not really want, and in reality do not need, such protection. Qwest's intention to offer LSF on every sale of a new connection is, in reality, an opportunistic marketing effort by Qwest.

Q. Has there ever been an instance of an incumbent carrier using a carrier freeze in an anticompetitive manner?

A. Yes. In fact there have been several such instances. I will briefly touch on three. In 1997, the Ohio Public Utilities Commission issued an order relating to Ameritech's implementation of a primary carrier freeze program. The program was designed to "protect" consumers from having their services slammed, including services for which slamming was not even an option. The Commission specifically concluded that "the only reasonable explanation for Ameritech to apply [PIC freezes] to intraLATA and local services in Ohio . . . to be retention of market share." *In the Matter of the Complaint of Sprint Communications, L.P. c. Ameritech Ohio, Public Utilities Commission of Ohio*, Case No. 96-142-TP-CCS, Opinion and Order (September 11, 1997) at 17.

In 1996, the Illinois Commerce Commission found that bill inserts by Ameritech offering local PIC protection, while having some public protection, were designed to help Ameritech maintain its monopoly in the intraLATA and local market in Illinois It found the bill inserts unreasonably discriminatory and anti-competitive, in violation of the Public Utilities Act. *In the Matter of the Complaint of* MCI *Telecommunications Corporation, et al. V. Illinois Bell*

Telephone Company, Case No. 96-0075; 96-0084 (consolidated), Opinion and Order, April 3, 1996, at p. 5.

In April 1997, MCI Telecommunications sued SNET in federal court in Connecticut (Civil Action No. 397 CV 00810 (AHN)), alleging that SNET had misused its control of the PIC change process to prevent its customers from exercising competitive choices and to damage its long distance competitors. The complaint alleged that SNET had restricted MCIT's access to certain PIC information, imposed cumbersome procedures for the lifting of PIC freezes, and deceptively marketed its PIC freeze program. As part of the settlement reached by the parties, SNET agreed that third party verification of a PIC change would override a customer's PIC freeze.

Q. Earlier, you stated that switching a local customer's service is more complicated and difficult than switching a long distance customer's service. Could you elaborate?

A. Yes. One of the reasons that telemarketing of long distance services is so successful is because it is convenient. A customer calls (or is called by) a carrier, and in a matter of minutes the customer can switch carriers and confirm the switch through third party verification. The customer service representative explains the calling plans to the potential customer, answers any questions, verifies the customer's name, billing address and phone number once a calling plan has been selected, and forwards the customer to an independent third party, who verifies which services were ordered, and that the sale was authorized. Telemarketing of local services, by contrast, is necessarily less convenient for consumers because the amount of time a customer spends on the phone -- learning about different rates and optional

services, selecting a calling plan and services, deciding on directory options, and providing account and other personal information -- is often upwards of twenty minutes. In essence, a local service switch is much more complicated than a long distance service switch because so much more information needs to be obtained from, and conveyed to, the consumer.

Q. How is the sales process adversely affected by provider freezes?

A. Provisioning success rate is negatively impacted when an LSF is in place on an account. When a LSF is in place it requires the customer to take additional action to lift a LSF, further inconveniencing and discouraging the consumer from following through on the sale. In WCom's experience with other states, only nine percent (9%) of customers who have requested a switch from their local carrier to WCom, but who have a local freeze on their account, end up actually switching their local service. A local service provider freeze would introduce incremental and highly inefficient steps into the process for a customer trying to change his or her local carrier. The local sale would be made, would be sent to the incumbent carrier for provisioning, rejected back to the CLEC due to a freeze on the account. The customer would then have to be recontacted (a difficult task with residential customers) and requested to contact their local provider to lift their freeze. If a 3-way call cannot be completed for some reason, the customer may or may not do this on his or her own. If they do initiate the request on their own, WCom, as the CLEC, has no way of knowing when it was done and when to resend the order. Even when 3-ways are completed, the order must be held for some period of time and can not be resent immediately as Qwest requires at least one day for the lift to take affect on the account. The process required to 'pend' the order is cumbersome and somewhat of a guessing game as to when to resend and

avoid yet another reject. The rate of success in provisioning this type of reject is likely to be very low, which will result in a loss of revenue to the CLEC. Ultimately, it is the consumer who is victimized by this protracted, inefficient process as their request for a change in service may be delayed indefinitely.

Moreover, a critical difference between a customer desiring to change long distance carriers and one desiring to change local carriers is the ability of the long distance customer to initiate that change independently. An end-user customer can contact their local carrier directly and initiate a change of the long distance provider, regardless of whether a PIC freeze is on the line or not. With local service, however, an end-user customer cannot initiate a change to a new local carrier via a call to his or her current local carrier.

Q. Does Qwest's proposal to make customers aware of the LSF option give it an unfair advantage?

A. Qwest proposes to inform customers of three different freeze options when customers contact Qwest's office for new or adjusted phone service. McIntyre Testimony, p. 15, l. 17- p. 16, l. 3. Every customer is very likely to contact Qwest for his or her initial phone service since it is the dominant carrier with a monopoly on local phone service. What Qwest deems a simple service to the end user is in fact a built in opportunity to market to every single consumer that needs telephone service and an opportunity to sell a freeze before the CLECs have had any opportunity to market to a potential consumer. The script proposed by Qwest in its testimony uses attractive words as baits to the end user, "free" and "protection." McIntyre Testimony, p. 15, l. 23. Thus, Qwest has an immediate opportunity to market to all end users on every new connect call. At a minimum, Qwest should not be permitted to market LSF to every new customer on the first contact. It should

only be permitted to offer this product if the customer calls with a complaint of having been "slammed" or in response to an unsolicited customer request for the LSF.

Q. Why is slamming not as great a concern with local phone service as it was in the past with long distance?

A. There are now very clear rules and processes and severe penalties in place for slamming in the industry. Qwest implies that the problem is serious and states that, as a possible consequence, there is "the very real risk of a customer being left completely without phone service." This is a false assertion. Qwest is implying that the customer will lose dial tone. McIntyre Testimony, p. 13, l. 16-17. This is not true – if a local slamming occurs, a customer will have a dial tone, just not from the carrier it wants. While not minimizing the irritation for the consumer of being slammed, the consequences will not be as drastic as losing dial tone. In fact, in most cases, the service would still be provided over the same line and switch. If dial tone was lost upon migration, that would be a Qwest error in the processing of the migration request.

Q. How does a CLEC find out that the prospective customer has an LSF on his or her Qwest account?

A. Unless the customer tells a CLEC, such as WCom, during the sales call that he or she has an LSF (which is a rare occurrence), the CLEC finds out that the prospective customer has an LSF on the account when the CLEC receives a rejection notice from Qwest.

Q. Will it be time-consuming and cumbersome for the consumer to have an LSF lifted?

A. Qwest's testimony implies in several different responses about the "mechanics" of lifting a LSF that the process is "simple." These descriptions of the processes unfairly minimize the time-consuming and irritating characteristics of the processes that are bound to discourage all but the most determined of consumers. For example, Qwest states that a freeze will be removed "the same day the removal request is received." McIntyre Testimony, p. 19, l. 7-9. I wonder if this statement will apply to requests on weekends and holidays, whether the removal will be implemented on "the same day" *only* if the day is business day – and during business hours! Furthermore, since WCom makes many of its marketing calls to consumers in the evenings, and on weekends, it is highly unlikely, that WCom's customers who have LSF will be able to have it removed so conveniently.

Qwest also states that it will be much easier to have a freeze lifted than established because of the imposition of an LSF requires the consumer to participate in a TPV call. McIntyre Testimony, p.19, l. 11-18. Again, this assertion underplays the time-consumed and its effect on already time-deprived consumers. First, the consumer must speak with a CLEC's marketing representative, be educated about the products and packages available for him or her, and make a choice of services and products. As noted above, that can take as much as 20 minutes. Then, under the procedures suggested by Qwest, the consumer must participate in a three-way call with the CLEC and the Qwest representative to authorize the lifting of the LSF currently on the consumer's line. Again, this call could take a considerable

amount of the consumer's time, particularly if the Qwest representative delays joining the call and the consumer and the CLEC have to endure some monotonous recording saying that the customer service representative will be with you soon. In addition, if the customer wishes to lift long distance freeze(s) as well, Qwest will yet again transfer them to another rep to process that request. This is hardly streamlined or simple. Predictably, many consumers will hang up during the wait on the second call to lift the LSF if they in fact had agreed to the second call to Qwest in the first place.

If the Commission does authorize LSF in Arizona, WorldCom would urge the Commission to reduce the time demanded from the consumer by authorizing processes to eliminate or simplify the call with the LEC including Electronic Authorization.

Q. Should Qwest be required to file a tariff if this Commission authorizes LSF?

A. WCom believes that it makes strong policy sense for the Commission to review Qwest's proposed LSF as part of the tariff process. I am informed that Arizona's Constitution and statutes provide the Commission with broad powers and jurisdiction to regulate telecommunications providers. WCom believes that the Commission should exercise its jurisdiction in this case as the potential anti-competitive effect of an LSF is great. In addition, I am informed, based upon legal review by my counsel, that the Commission's regulations define "tariffs" as "[t]he documents filed with the Commission which list the utility services and products offered by the utility and which set

forth the terms and conditions and a schedule of the rates and charges for those services and products." Clearly, an LSF is a service offered by Qwest and falls squarely within this definition.

Q. Is it possible for a competitively neutral LSF to be adopted in Arizona?

A. Although WCom believes that LSFs are unnecessary, the only way that one could be implemented in a competitively neutral manner would be to have it administered by an independent third party, who would manage preferred carrier selections and freezes. This would be the best way of avoiding the inevitable anticompetitive effects of ILEC local freeze marketing. Moreover, as long as Qwest maintains its historical dominance of the local market, it should be specifically prohibited from marketing (or having resellers market) LSFs.

Q. Please summarize WCom's position.

A. It defies common sense to think that any CLEC could believe it could successfully "slam" any local customers, let alone the prospect of doing so in sufficient numbers and for a sufficient time to make it a financially viable option. The "protection" offered by the Local Service Freeze tariff proposed by Qwest will have the effect of depriving customers of the ability to efficiently and conveniently obtain the benefits of new local service options, and it will serve to perpetuate Qwest's market domination at the expense of fair and robust competition.

Q. Does this conclude your testimony?

A. Yes.

S-1

DIRECT

TESTIMONY

OF

WILFRED M. SHAND, JR.

DOCKET NO. T-01051B-02-0073

MAY 13, 2002

EXHIBIT

S-1

Admitted

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST CORPORATION'S) APPLICATION FOR APPROVAL OF LOCAL) SERVICE FREEZE TARIFF))	DOCKET NO. T-01051B-02-0073

DIRECT

TESTIMONY

OF

WILFRED M. SHAND, JR.

PUBLIC UTILITY MANAGER

UTILITIES DIVISION

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QWEST'S PROPOSED LOCAL SERVICE FREEZE TARIFF 12

RECOMMENDATION 13

EXECUTIVE SUMMARY

If the Commission finds that it is in the public interest to approve a ta iff at this time, Staff recommends that the proposed Local Service Freeze ("LSF") tariff be modified to include all of the terms and conditions regarding the provision of the service. This additional information should include information similar to that included in the Federal Communications Commission's ("FCC") Preferred Carrier Freeze rules or in the slamming rules currently being considered by the Commission in the Cramming and Slamming Rulemaking. Staff further recommend that any bill inserts be approved by the Commission, or its designee, before they are provided to Qwest customers.

Staff believes that the Commission could also reach a conclusion that the tariff is not in the public interest at this time, based on the proposed Qwest notice and on the fact that local service slamming does not seem to be a significant problem at this time. Further, the insert appears to be designed to alarm customers rather than inform. The FCC has indicated that any information provided by the implementing carrier be neutral. If the Commission were to reach the conclusion that the service is not in the public interest at this time, Staff recommends that a LSF freeze tariff be addressed again after the Commission completes its Slamming and Cramming Rulemaking.

INTRODUCTION

Q. Please state your name and business address for the record.

A. My name is Wilfred M. Shand, Jr. My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

Q. By whom are you employed and in what capacity?

A. I am employed by the Arizona Corporation Commission as an Economist in the Telecommunications and Energy Section of the Utilities Division.

. . .

Q. As part of your responsibilities, were you assigned the task of providing testimony in this matter?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to present the Staff recommendation on Qwest Corporation's ("Qwest's) proposed Local Service Freeze tariff.

QWEST'S DECISION TO FILE A TARIFF

Q. Please describe the events related to Qwest's filing of the local service freeze tariff.

A. On January 11, 2002, Cox Arizona Telecom, L.L.C. ("Cox") filed an Application to the Arizona Corporation Commission to issue an order to show cause to stay implementation of Qwest's proposed local carrier freeze service that was scheduled to be available to its Arizona residential customers beginning January 17, 2002. Cox desired that the Commission address whether such a freeze is in the public interest given the nascent state of competition (particularly residential competition) and the lack of local service slamming in Arizona.

Qwest notified Staff on December 13, 2001, that it planned to make the proposed local service freeze option available to its customers beginning January 17, 2002. However, Staff informed Qwest that it believed that Qwest should file a proposed tariff for the service for the Commission's consideration. Qwest agreed to submit a tariff for the local service freeze option and on January 28, 2002, it filed tariff revisions to give its customers the option of instituting a freeze of their local service provider.

On January 31, 2002, Cox filed an Application to Intervene and a Motion for Suspension and Hearing. Staff has reviewed Cox's Application and its January 31, 2002 Motion and concluded that Cox has raised issues that warrant further investigation and consideration.

The FCC has in fact recognized that preferred carrier freezes could have a particularly adverse impact on the development of competition in markets soon to be or newly opened to competition. Further, the FCC shares concerns about the use of preferred carrier freeze mechanisms for anti-competitive purposes. In addition, the state commissions have the ability to adopt moratoria or other requirements on the imposition or solicitation of intrastate preferred carrier freezes.

On February 26, 2000, the Commission suspended the filing until May 27, 2002, and ordered that a hearing be held on the matter. Staff has recommended that the Commission suspend the filing for an additional 180 days.

THE LOCAL SERVICE FREEZE TARIFF

Q. Please describe the service.

A. The service permits customers to freeze their local service provider. When a customer has instituted a freeze, the local service provider cannot be changed unless Qwest receives a request to lift the freeze from the customer directly.

Q. What concerns does Cox have about the LSF tariff?

A. Cox, in its January 11, 2002 Application states that, "A local service freeze can have particularly detrimental impacts on emerging competition."[1] Cox goes on to say that the Commission should determine whether the service is in the public interest. Therefore, it appears to Staff that the concerns Cox has are related to whether the service ought to be provided and, if so, under what conditions.

Q. What do you believe is the biggest concern with the LSF?

A. Staff believes that the biggest concern with the proposed LSF tariff is that it makes it difficult for potential CLEC customers to change service providers.

[1] Cox Application at page 2, lines 18 -19.

FEDERAL COMMUNICATIONS COMMISSION RULINGS

Q. Has the FCC issued any decisions on the issue of local service freezes?

A. Yes. The FCC addressed the issue of local service freezes in CC Docket No. 94-129.[2]

Q. What is the FCC's opinion of its preferred carrier freeze rules?

A. The FCC believes that it has appropriately balanced the need of customers who want freezes and the needs of competitors to be able to participate in an environment that is free of unnecessary obstacles. The FCC in its Second Report and Order states,

> ". . . Thus, in adopting rules to govern the use of preferred carrier freeze mechanisms, we appropriately balance several factors, including consumer protection, the need to foster competition in all markets, and our desire to afford carriers flexibility in offering their customers innovative services such as preferred carrier freeze programs. Moreover, in so doing we facilitate customer choice of preferred carrier selections and adopt and promote procedures that prevent fraud.[3]

Q. Has the FCC addressed the issue of whether companies ought to be prohibited from offering customers local services freezes until competition develops in the LEC's service area?

A. Yes. In its Second Report and Order, the FCC indicated that:

> "135. We decline the suggestion of a number of commenters that we prohibit incumbent LECs from soliciting or implementing preferred carrier freezes for local exchange or intraLATA services until competition develops in a LEC's service area. In so doing, however, we recognize, as several commenters observe, that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly open to competition. These commenters in essence argue that incumbent LECs seek to use preferred carrier freeze programs as a means to inhibit the ability or willingness of customers to switch to the services of new entrants. We share concerns about the use of preferred

[2] In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and In the Matter of Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers.

[3] In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. December 23, 1998) (Second Report and Order), paragraph 113.

carrier freeze mechanisms for anticompetitive purposes. We concur with those commenters that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced. Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct. We encourage parties to bring to our attention, or to the attention of the appropriate state commissions, instances where it appears that the intended effect of a carrier's freeze program is to shield that carrier's customers from any developing competition."

136. Despite our concerns about the possible anticompetitive aspects of permitting preferred carrier freezes of local exchange and intraLATA toll services in markets where there is little competition for these services, we believe that it is not necessary for the Commission to adopt a nationwide moratorium. Indeed, we remain convinced of the value of preferred carrier freezes as an anti-slamming tool. We do not wish to limit consumer access to this consumer protection device because we believe that promoting consumer confidence is central to the purposes of section 258 of the Act. As with most of the other rules we adopt today, the uniform application of the preferred carrier freeze rules to all carriers and services should heighten consumers' understanding of their rights. We note the strong support of those consumer advocates that state that the Commission should not delay the implementation of preferred carrier freezes. We also expect that our rules governing the solicitation and implementation of preferred carrier freezes, as adopted herein, will reduce customer confusion and thereby reduce the likelihood that LECs will be able to shield their customers from competition.

137. We make clear, however, that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem such action appropriate to prevent incumbent LECs from engaging in anticompetitive conduct. We note that a number of states have imposed some form of moratorium on the implementation of preferred carrier freezes in their nascent markets for local exchange and intraLATA toll services. We find that states -- based on their observation of the incidence of slamming in their regions and the development of competition in relevant markets, and their familiarity with those particular preferred carrier freeze mechanisms employed by LECs in their jurisdictions -- may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers."[4]

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[4] Second Report and Order, paragraphs 135 -137.

Q. In its decision in this docket, what guidance has the FCC provided relative to local service freeze offerings which it refers to as preferred carrier freezes for local service?

A. The FCC indicated that despite its concerns about the possible anti-competitive effects of permitting preferred carrier freezes of local and intraLATA toll services in markets where there is little or no competition, it remained convinced that preferred carrier freezes are a valuable anti-slamming tool. It also expects that its rules governing the solicitation and implementation of preferred carrier freezes will reduce customer confusion and reduce the likelihood that LECs will be able to shield their customers from competition.[5]

Q. Has the FCC pre-empted state regulatory action in this matter?

A. No. The FCC specifically recognized in its decision that states may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers and not allow them.[6]

COMPLIANCE WITH FEDERAL COMMUNICATIONS COMMISSION DECISIONS

Q. Do you think that it would be appropriate to address this issue through a tariff filing or through an industry-wide process such as a rulemaking?

A. Staff believes that it would be desirable to have a statewide policy for local service freezes. However, given the state of local service competition in areas outside Qwest's service territory, it would probably be best to address the issue of local service freezes in Qwest's service territory immediately. Local service competition has begun in Qwest's service territory and is likely to evolve more slowly in other parts of Arizona.

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[5] Second Report and Order, paragraph 136.
[6] Second Report and Order, paragraph 137.

Q. How would a customer institute a local service freeze?

A. Customers would call Qwest to have a freeze instituted. In its cover letter accompanying the proposed LSF tariff, Qwest indicated that LSF requests must be verified through one of the three following means:

1. Written or electronic signed authorization
2. Electronic authorization
3. Independent third-party verification

Q. Is there a charge to implement a LSF?

A. No. Qwest proposes that the service be provided at no charge.

Q. What is the process to lift a freeze?

A. In its cover letter, Qwest indicated that the freeze may be lifted by sending a written or electronically signed authorization to Qwest or may call Qwest and request that the freeze be lifted.

Q. Could a customer have either local or long distance service or both frozen on the same call?

A. Yes.

Q. Do the FCC's preferred carrier freeze rules address whether a customer must request a preferred carrier freeze for all services that they want to freeze?

A. Yes. The FCC's rules state that preferred carrier freeze procedures must clearly distinguish between and among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier involved in implementing the preferred carrier freeze must obtain separate authorization for each service for which a freeze is requested.

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Q. In its Second Order on Reconsideration[7], did the FCC specifically address state regulations on preferred carrier freezes?

A. Yes. In its Second Order on Reconsideration, the FCC upheld its rules governing the submission of preferred carrier freeze orders, the handling of preferred carrier change requests and freeze orders in the same order, and the automated submission and administration of freeze orders and changes. In addition, the FCC reaffirmed its decision not to preempt state regulations governing verification procedures for preferred carrier change requests that are consistent with the provisions of Section 258.[8]

Q. What is the FCC's requirement with respect to the submission of preferred carrier freeze orders?

A. The FCC requires that subscribers must implement or lift preferred carrier freezes through contact with their local carriers. The FCC also clarified that LECs may not accept preferred carrier freeze orders from carriers on behalf of subscribers, even if they are properly verified.

Q. Do the FCC rules prevent a subscriber from changing a carrier and requesting a freeze in the same transaction?

A. No.

Q. Did the FCC mention a specific scenario concerning the use of three-way calls to lift a carrier freeze and a provider change request in the same three-way call?

A In the FCC's Second Order on Reconsideration, the FCC referred to an MCI situation where after a carrier change is properly verified, MCI electronically sends the request to the executing carrier. In situations where a carrier freeze has been implemented, but the customer may have forgotten, the executing carrier rejects the change request. In

[7] In the Matters of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. August 15, 2000) (Second Order on Reconsideration), paragraph 74.
[8] Second Report and Order, paragraph 5.

addition, the FCC's rules require that the local exchange carrier administering a freeze". . . must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber **in order to lift a freeze.**"[9] The FCC indicated that its rules did not prohibit the executing carrier from requiring submitting carriers to use separate methods for lifting a preferred carrier freeze and submitting a carrier change request. It did however, indicate that MCI could file a complaint in the appropriate forum if it felt that the delay resulting from these separate methods was a concern.[10]

Q. Does the FCC have rules concerning the lifting of carrier freezes for multiple services?

A. Yes. The FCC requires a separate authorization for each service for which a subscriber requests a carrier change or freeze.[11]

Q. What specifically did the FCC say about its preemption of state regulations?

A. At paragraph 87 of its Second Order on Reconsideration, the FCC indicated that it must work with states toward a common goal of eliminating slamming. It states, "We will not thwart that effort by requiring states to limit their verification requirements so that they are no more stringent than those promulgated by this Commission."

Q. Has the FCC implemented rules regarding preferred carrier freezes?

A. Yes, it has. 47 CFR Section 64.1190 contains the FCC's rules concerning the implementation of preferred carrier freezes.

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. . .

[9] Emphasis added. 47 CFR 64.1190 (e) (2) which was approved in the Second Report and Order in CC Docket No. 94-129.

[10] In the Matters of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. August 15, 2000) (Second Order on Reconsideration), paragraph 74.

[11] Second Report and Order, paragraph 123.

Q. How must a request by a customer to freeze their preferred carrier be confirmed?

A. A request by a customer to freeze their preferred carrier must by confirmed in one of the following ways:

a. The carrier must have obtained the subscriber's written or electronically signed authorization that meets the requirements of Section 64.1190 (d) (3) of its rules.
b. The LEC has obtained the subscriber's electronic authorization, placed from the telephone(s) on which the freeze is to be imposed, to impose the freeze.
c. c. An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data.[12]

Q. What do the requirements of Section 64.1190 (d) (3) address?

A. This section of the rules contains a description of an acceptable written authorization to impose a preferred carrier freeze.

Q. Does the FCC have any rules in place regarding the procedures for lifting a preferred carrier freeze.

A Yes. A carrier must:

a. Accept a customers written or electronically signed authorization to lift a preferred carrier freeze and must accept the subscribers oral authorization stating the intent to lift.
b. Offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze.

Q. How would the three way call mechanism eliminate a potential problem in customers changing service providers?

A. An interexchange carrier wishing to submit a carrier change for a customer with a preferred carrier freeze would comply with the verification rules for carrier changes and then could perform a three-way call with the carrier implementing the preferred carrier freeze to lift the freeze before submitting the carrier change order to the implementing carrier.[13]

[12] 47 CFR 64.1190 (e).
[13] Second Report and Order, paragraph 129.

Q. Does the FCC have a position on the use of third party verification as a substitute for actual customer contact between the implementing carrier and the customer?

A. Yes. In its decision not to allow third-party verification to suffice, the FCC stated:

> "131. We agree with Ameritech and those commenters who suggest that the essence of the preferred carrier freeze is that a subscriber must specifically communicate his or her intent to request or lift a freeze. Because our carrier change rules allow carriers to submit carrier change requests directly to the LECs, the limitation on lifting preferred carrier freezes gives the freeze mechanism its protective effect. We disagree with MCI that third-party verification of a carrier change alone should be sufficient to lift a preferred carrier freeze. Were we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze. Since we believe that subscribers should have the choice to implement additional slamming protection in the form of preferred carrier freeze mechanisms, we do not adopt MCI's proposal."

In its Second Order on Reconsideration, the FCC stated:

> "71. Consistent with this purpose, we also take this opportunity to clarify that LECs may not accept preferred carrier freeze orders from carriers on behalf of subscribers, even if they are properly verified. We believe that limiting the submission of preferred carrier freeze requests to subscribers will help curb the potential for abuse by slamming carriers. To interpret our rules otherwise would undermine the effectiveness of preferred carrier freezes. For example, if a slamming carrier were allowed to submit an unauthorized freeze order with an unauthorized change order, not only would the subscriber be slammed, but it would also be more difficult for the subscriber to be switched back to the authorized carrier because of the unauthorized freeze. This freeze mechanism assures that no carrier change is processed without the direct involvement of the subscriber.(footnotes omitted)"

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STATE COMMISSION DECISIONS ON LOCAL SERVICE FREEZES

Q. Is the service being offered in other states served by Qwest?

A. Yes, it is. The service` has also been denied in other states. The following table contains a summary of the information that Staff has been able to obtain.

State	LSF available?	Proposal Filed?	Tariff Approved?
Colorado (5/09/02)	Yes [A]		
Iowa (5/10/02)	No	Yes	No (Denied)
Nebraska (5/09/02)	No	No	No (Denied)
New Mexico	No	Yes	Withdrawn
Oregon (5/09/02)	No	No	-
South Dakota (5/13/02)	Yes	No	No
Washington	Yes [B]		
Wyoming (5/10/02)	No	No	-
Utah	Yes [C]		

QWEST'S PROPOSED LOCAL SERVICE FREEZE TARIFF

Q. How soon after a request is made will Qwest remove a freeze?

A. Qwest witness Scott A. McIntyre indicated the Qwest will remove the freeze "the same day the removal request is received and the customer will be notified of this during the call."[14]

Q. Can a freeze be lifted via a three-way call involving the customer, the new local service provider and Qwest.

A. Yes. In its testimony in this matter, Qwest has indicated that a freeze be lifted via a three-way call involving the customer, the new local service provider and Qwest.

Q. Do you believe that the tariff as filed is sufficiently detailed?

A. No. The tariff contains no information on how or who can request that a LSF be added or lifted. In addition, there are no provisions in the tariff that describes the manner in which

[A] Colorado's slamming rules require all local exchange carriers to offer a local service freeze option.
[B] Local service freeze is provided by rule in Washington.
[C] Local service freeze is provided by statute in Utah.
[14] McIntyre Direct Testimony, Page 19, Lines 8 - 9.

the tariff will be administered. Certain of the details about the implementation of the tariff are contained, however, in Mr. McIntyre's Direct Testimony.

Q. Could you provide an example?

A. Yes. At Page 15, Lines 17 - 20 of his Direct Testimony, Mr. McIntyre informs us that Customers will be informed of the availability of the local service freeze when they call Qwest to order new service, move existing service to a new location or add new lines. In addition, Mr. McIntyre's Direct Testimony at Page 15, Lines 23 - 29 contains language that Qwest proposes to use to inform callers that the service is available. None of this information was included with the proposed tariff that Qwest filed.

Q. Have you reviewed Qwest's proposed bill insert?

A. Yes.

Q. What is your opinion of the insert?

A. The language in the proposed bill insert is somewhat startling and in my opinion is designed to induce people to subscribe to the LSF rather than to inform potential subscribers that the service is available. Section 64.1190 (d) (1) (i) of the FCC's rules state that all carrier provided solicitation material must include an explanation, **in clear and neutral language**, of what a preferred carrier freeze is and what services may be subject to a freeze. The proposed bill insert appears to be designed to <u>frighten</u> rather than <u>inform</u>.

RECOMMENDATION

Q. What is your position on LSFs?

A. LSFs should be made available to telephone service customers that have a need. However, Staff believes that LSFs should be implemented in such a way as to minimize the potential problems that the CLEC intervenors have described.

Q. What is your recommendation?

A. Based on the proposed Qwest notice and the fact that local service slamming does not appear to be a significant problem at this time, the Commission could reach a conclusion that it is not in the public interest to approve a local service freeze tariff at this time, As mentioned earlier, the insert appears to be designed to startle customers rather than inform. The FCC has indicated that any information provided by the implementing carrier be neutral. If the Commission were to reach the conclusion it is not in the public interest to approve a local service freeze tariff at this time, Staff recommends that a local service freeze tariff be addressed again after the Commission completes its Slamming and Cramming Rulemaking.

If the Commission finds that it is in the public interest to approve a tariff at this time, Staff recommends that the proposed LSF tariff be modified to include all of the terms and conditions regarding the provision of the service. This additional information should include information similar to that included in the FCC's Preferred Carrier Freeze rules or in the slamming rules currently being considered by the Commission in the Cramming and Slamming Rulemaking. Staff further recommends that any bill inserts be approved by the Commission, or its designee, before they are provided to Qwest customers.

Q. Does this conclude your testimony?

A. Yes.

5-1

DIRECT

TESTIMONY

OF

WILFRED M. SHAND, JR.

DOCKET NO. T-01051B-02-0073

MAY 13, 2002

BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF QWEST CORPORATION'S) APPLICATION FOR APPROVAL OF LOCAL) SERVICE FREEZE TARIFF))	DOCKET NO. T-01051B-02-0073

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PUBLIC UTILITY MANAGER

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Q. By whom are you employed and in what capacity?

A. I am employed by the Arizona Corporation Commission as an Economist in the Telecommunications and Energy Section of the Utilities Division.

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Q. As part of your responsibilities, were you assigned the task of providing testimony in this matter?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to present the Staff recommendation on Qwest Corporation's ("Qwest's) proposed Local Service Freeze tariff.

QWEST'S DECISION TO FILE A TARIFF

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Q. Has the FCC addressed the issue of whether companies ought to be prohibited from offering customers local services freezes until competition develops in the LEC's service area?

A. Yes. In its Second Report and Order, the FCC indicated that:

> "135. We decline the suggestion of a number of commenters that we prohibit incumbent LECs from soliciting or implementing preferred carrier freezes for local exchange or intraLATA services until competition develops in a LEC's service area. In so doing, however, we recognize, as several commenters observe, that preferred carrier freezes can have a particularly adverse impact on the development of competition in markets soon to be or newly open to competition. These commenters in essence argue that incumbent LECs seek to use preferred carrier freeze programs as a means to inhibit the ability or willingness of customers to switch to the services of new entrants. We share concerns about the use of preferred

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[2] In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and In the Matter of Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers.

[3] In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. December 23, 1998) (Second Report and Order), paragraph 113.

carrier freeze mechanisms for anticompetitive purposes. We concur with those commenters that assert that, where no or little competition exists, there is no real opportunity for slamming and the benefit to consumers from the availability of freezes is significantly reduced. Aggressive preferred carrier freeze practices under such conditions appear unnecessary and raise the prospect of anticompetitive conduct. We encourage parties to bring to our attention, or to the attention of the appropriate state commissions, instances where it appears that the intended effect of a carrier's freeze program is to shield that carrier's customers from any developing competition."

136. Despite our concerns about the possible anticompetitive aspects of permitting preferred carrier freezes of local exchange and intraLATA toll services in markets where there is little competition for these services, we believe that it is not necessary for the Commission to adopt a nationwide moratorium. Indeed, we remain convinced of the value of preferred carrier freezes as an anti-slamming tool. We do not wish to limit consumer access to this consumer protection device because we believe that promoting consumer confidence is central to the purposes of section 258 of the Act. As with most of the other rules we adopt today, the uniform application of the preferred carrier freeze rules to all carriers and services should heighten consumers' understanding of their rights. We note the strong support of those consumer advocates that state that the Commission should not delay the implementation of preferred carrier freezes. We also expect that our rules governing the solicitation and implementation of preferred carrier freezes, as adopted herein, will reduce customer confusion and thereby reduce the likelihood that LECs will be able to shield their customers from competition.

137. We make clear, however, that states may adopt moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they deem such action appropriate to prevent incumbent LECs from engaging in anticompetitive conduct. We note that a number of states have imposed some form of moratorium on the implementation of preferred carrier freezes in their nascent markets for local exchange and intraLATA toll services. We find that states -- based on their observation of the incidence of slamming in their regions and the development of competition in relevant markets, and their familiarity with those particular preferred carrier freeze mechanisms employed by LECs in their jurisdictions -- may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers."[4]

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[4] Second Report and Order, paragraphs 135 -137.

Q. In its decision in this docket, what guidance has the FCC provided relative to local service freeze offerings which it refers to as preferred carrier freezes for local service?

A. The FCC indicated that despite its concerns about the possible anti-competitive effects of permitting preferred carrier freezes of local and intraLATA toll services in markets where there is little or no competition, it remained convinced that preferred carrier freezes are a valuable anti-slamming tool. It also expects that its rules governing the solicitation and implementation of preferred carrier freezes will reduce customer confusion and reduce the likelihood that LECs will be able to shield their customers from competition.[5]

Q. Has the FCC pre-empted state regulatory action in this matter?

A. No. The FCC specifically recognized in its decision that states may conclude that the negative impact of such freezes on the development of competition in local and intraLATA toll markets may outweigh the benefit to consumers and not allow them.[6]

COMPLIANCE WITH FEDERAL COMMUNICATIONS COMMISSION DECISIONS

Q. Do you think that it would be appropriate to address this issue through a tariff filing or through an industry-wide process such as a rulemaking?

A. Staff believes that it would be desirable to have a statewide policy for local service freezes. However, given the state of local service competition in areas outside Qwest's service territory, it would probably be best to address the issue of local service freezes in Qwest's service territory immediately. Local service competition has begun in Qwest's service territory and is likely to evolve more slowly in other parts of Arizona.

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[5] Second Report and Order, paragraph 136.
[6] Second Report and Order, paragraph 137.

Q. How would a customer institute a local service freeze?

A. Customers would call Qwest to have a freeze instituted. In its cover letter accompanying the proposed LSF tariff, Qwest indicated that LSF requests must be verified through one of the three following means:

1. Written or electronic signed authorization
2. Electronic authorization
3. Independent third-party verification

Q. Is there a charge to implement a LSF?

A. No. Qwest proposes that the service be provided at no charge.

Q. What is the process to lift a freeze?

A. In its cover letter, Qwest indicated that the freeze may be lifted by sending a written or electronically signed authorization to Qwest or may call Qwest and request that the freeze be lifted.

Q. Could a customer have either local or long distance service or both frozen on the same call?

A. Yes.

Q. Do the FCC's preferred carrier freeze rules address whether a customer must request a preferred carrier freeze for all services that they want to freeze?

A. Yes. The FCC's rules state that preferred carrier freeze procedures must clearly distinguish between and among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier involved in implementing the preferred carrier freeze must obtain separate authorization for each service for which a freeze is requested.

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Q. In its Second Order on Reconsideration[7], did the FCC specifically address state regulations on preferred carrier freezes?

A. Yes. In its Second Order on Reconsideration, the FCC upheld its rules governing the submission of preferred carrier freeze orders, the handling of preferred carrier change requests and freeze orders in the same order, and the automated submission and administration of freeze orders and changes. In addition, the FCC reaffirmed its decision not to preempt state regulations governing verification procedures for preferred carrier change requests that are consistent with the provisions of Section 258.[8]

Q. What is the FCC's requirement with respect to the submission of preferred carrier freeze orders?

A. The FCC requires that subscribers must implement or lift preferred carrier freezes through contact with their local carriers. The FCC also clarified that LECs may not accept preferred carrier freeze orders from carriers on behalf of subscribers, even if they are properly verified.

Q. Do the FCC rules prevent a subscriber from changing a carrier and requesting a freeze in the same transaction?

A. No.

Q. Did the FCC mention a specific scenario concerning the use of three-way calls to lift a carrier freeze and a provider change request in the same three-way call?

A In the FCC's Second Order on Reconsideration, the FCC referred to an MCI situation where after a carrier change is properly verified, MCI electronically sends the request to the executing carrier. In situations where a carrier freeze has been implemented, but the customer may have forgotten, the executing carrier rejects the change request. In

[7] In the Matters of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 , CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. August 15, 2000) (Second Order on Reconsideration), paragraph 74.
[8] Second Report and Order, paragraph 5.

addition, the FCC's rules require that the local exchange carrier administering a freeze". . . must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber **in order to lift a freeze.**"[9] The FCC indicated that its rules did not prohibit the executing carrier from requiring submitting carriers to use separate methods for lifting a preferred carrier freeze and submitting a carrier change request. It did however, indicate that MCI could file a complaint in the appropriate forum if it felt that the delay resulting from these separate methods was a concern.[10]

Q. Does the FCC have rules concerning the lifting of carrier freezes for multiple services?

A. Yes. The FCC requires a separate authorization for each service for which a subscriber requests a carrier change or freeze.[11]

Q. What specifically did the FCC say about its preemption of state regulations?

A. At paragraph 87 of its Second Order on Reconsideration, the FCC indicated that it must work with states toward a common goal of eliminating slamming. It states, "We will not thwart that effort by requiring states to limit their verification requirements so that they are no more stringent than those promulgated by this Commission."

Q. Has the FCC implemented rules regarding preferred carrier freezes?

A. Yes, it has. 47 CFR Section 64.1190 contains the FCC's rules concerning the implementation of preferred carrier freezes.

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[9] Emphasis added. 47 CFR 64.1190 (e) (2) which was approved in the Second Report and Order in CC Docket No. 94-129.

[10] In the Matters of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, (Rel. August 15, 2000) (Second Order on Reconsideration), paragraph 74.

[11] Second Report and Order, paragraph 123.

Q. How must a request by a customer to freeze their preferred carrier be confirmed?

A. A request by a customer to freeze their preferred carrier must by confirmed in one of the following ways:

a. The carrier must have obtained the subscriber's written or electronically signed authorization that meets the requirements of Section 64.1190 (d) (3) of its rules.
b. The LEC has obtained the subscriber's electronic authorization, placed from the telephone(s) on which the freeze is to be imposed, to impose the freeze.
c. c. An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data.[12]

Q. What do the requirements of Section 64.1190 (d) (3) address?

A. This section of the rules contains a description of an acceptable written authorization to impose a preferred carrier freeze.

Q. Does the FCC have any rules in place regarding the procedures for lifting a preferred carrier freeze.

A Yes. A carrier must:

a. Accept a customers written or electronically signed authorization to lift a preferred carrier freeze and must accept the subscribers oral authorization stating the intent to lift.
b. Offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze.

Q. How would the three way call mechanism eliminate a potential problem in customers changing service providers?

A. An interexchange carrier wishing to submit a carrier change for a customer with a preferred carrier freeze would comply with the verification rules for carrier changes and then could perform a three-way call with the carrier implementing the preferred carrier freeze to lift the freeze before submitting the carrier change order to the implementing carrier.[13]

[12] 47 CFR 64.1190 (e).
[13] Second Report and Order, paragraph 129.

Q. Does the FCC have a position on the use of third party verification as a substitute for actual customer contact between the implementing carrier and the customer?

A. Yes. In its decision not to allow third-party verification to suffice, the FCC stated:

> "131. We agree with Ameritech and those commenters who suggest that the essence of the preferred carrier freeze is that a subscriber must specifically communicate his or her intent to request or lift a freeze. Because our carrier change rules allow carriers to submit carrier change requests directly to the LECs, the limitation on lifting preferred carrier freezes gives the freeze mechanism its protective effect. We disagree with MCI that third-party verification of a carrier change alone should be sufficient to lift a preferred carrier freeze. Were we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze. Since we believe that subscribers should have the choice to implement additional slamming protection in the form of preferred carrier freeze mechanisms, we do not adopt MCI's proposal."

In its Second Order on Reconsideration, the FCC stated:

> "71. Consistent with this purpose, we also take this opportunity to clarify that LECs may not accept preferred carrier freeze orders from carriers on behalf of subscribers, even if they are properly verified. We believe that limiting the submission of preferred carrier freeze requests to subscribers will help curb the potential for abuse by slamming carriers. To interpret our rules otherwise would undermine the effectiveness of preferred carrier freezes. For example, if a slamming carrier were allowed to submit an unauthorized freeze order with an unauthorized change order, not only would the subscriber be slammed, but it would also be more difficult for the subscriber to be switched back to the authorized carrier because of the unauthorized freeze. This freeze mechanism assures that no carrier change is processed without the direct involvement of the subscriber.(footnotes omitted)"

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STATE COMMISSION DECISIONS ON LOCAL SERVICE FREEZES

Q. Is the service being offered in other states served by Qwest?

A. Yes, it is. The service has also been denied in other states. The following table contains a summary of the information that Staff has been able to obtain.

State	LSF available?	Proposal Filed?	Tariff Approved?
Colorado (5/09/02)	Yes [A]		
Iowa (5/10/02)	No	Yes	No (Denied)
Nebraska (5/09/02)	No	No	No (Denied)
New Mexico	No	Yes	Withdrawn
Oregon (5/09/02)	No	No	-
South Dakota (5/13/02)	Yes	No	No
Washington	Yes [B]		
Wyoming (5/10/02)	No	No	-
Utah	Yes [C]		

QWEST'S PROPOSED LOCAL SERVICE FREEZE TARIFF

Q. How soon after a request is made will Qwest remove a freeze?

A. Qwest witness Scott A. McIntyre indicated the Qwest will remove the freeze "the same day the removal request is received and the customer will be notified of this during the call."[14]

Q. Can a freeze be lifted via a three-way call involving the customer, the new local service provider and Qwest.

A. Yes. In its testimony in this matter, Qwest has indicated that a freeze be lifted via a three-way call involving the customer, the new local service provider and Qwest.

Q. Do you believe that the tariff as filed is sufficiently detailed?

A. No. The tariff contains no information on how or who can request that a LSF be added or lifted. In addition, there are no provisions in the tariff that describes the manner in which

[A] Colorado's slamming rules require all local exchange carriers to offer a local service freeze option.
[B] Local service freeze is provided by rule in Washington.
[C] Local service freeze is provided by statute in Utah.
[14] McIntyre Direct Testimony, Page 19, Lines 8 - 9.

the tariff will be administered. Certain of the details about the implementation of the tariff are contained, however, in Mr. McIntyre's Direct Testimony.

Q. Could you provide an example?

A. Yes. At Page 15, Lines 17 - 20 of his Direct Testimony, Mr. McIntyre informs us that Customers will be informed of the availability of the local service freeze when they call Qwest to order new service, move existing service to a new location or add new lines. In addition, Mr. McIntyre's Direct Testimony at Page 15, Lines 23 - 29 contains language that Qwest proposes to use to inform callers that the service is available. None of this information was included with the proposed tariff that Qwest filed.

Q. Have you reviewed Qwest's proposed bill insert?

A. Yes.

Q. What is your opinion of the insert?

A. The language in the proposed bill insert is somewhat startling and in my opinion is designed to induce people to subscribe to the LSF rather than to inform potential subscribers that the service is available. Section 64.1190 (d) (1) (i) of the FCC's rules state that all carrier provided solicitation material must include an explanation, **in clear and neutral language**, of what a preferred carrier freeze is and what services may be subject to a freeze. The proposed bill insert appears to be designed to <u>frighten</u> rather than <u>inform</u>.

RECOMMENDATION

Q. What is your position on LSFs?

A. LSFs should be made available to telephone service customers that have a need. However, Staff believes that LSFs should be implemented in such a way as to minimize the potential problems that the CLEC intervenors have described.

Q. What is your recommendation?

A. Based on the proposed Qwest notice and the fact that local service slamming does not appear to be a significant problem at this time, the Commission could reach a conclusion that it is not in the public interest to approve a local service freeze tariff at this time, As mentioned earlier, the insert appears to be designed to startle customers rather than inform. The FCC has indicated that any information provided by the implementing carrier be neutral. If the Commission were to reach the conclusion it is not in the public interest to approve a local service freeze tariff at this time, Staff recommends that a local service freeze tariff be addressed again after the Commission completes its Slamming and Cramming Rulemaking.

If the Commission finds that it is in the public interest to approve a tariff at this time, Staff recommends that the proposed LSF tariff be modified to include all of the terms and conditions regarding the provision of the service. This additional information should include information similar to that included in the FCC's Preferred Carrier Freeze rules or in the slamming rules currently being considered by the Commission in the Cramming and Slamming Rulemaking. Staff further recommends that any bill inserts be approved by the Commission, or its designee, before they are provided to Qwest customers.

Q. Does this conclude your testimony?

A. Yes.