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

Docket No. T-00000A-97-0238

**AT&T'S SUPPLEMENTAL
COMMENTS ON SECTION 272**

AT&T Communications of the Mountain States, Inc. and TCG Phoenix

(collectively "AT&T") hereby file their supplemental comments on section 272 (e)(1) of the Telecommunications Act of 1996.

AT&T has reviewed Staff's Final Report on Qwest's Compliance with section 272 dated November 14, 2001, to verify Staff has addressed Qwest's compliance with section 272 (e)(1). As Staff noted in its Report, AT&T raised the issue of Qwest's noncompliance with section 272 (e)(1).¹ However, on careful review, AT&T cannot find any discussion of section 272 (e)(1) in the disputed issue section of Qwest's compliance with this section.

Section 272 provides that a BOC "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to

¹ Staff Report at 15-16. Qwest's response is summarized at page 24 of Staff's Report.

itself or to its affiliates.”² The FCC has concluded that such a request “includes, but is not limited to, initial installation requests, subsequent requests for improvement, upgrades or modifications of service, or repair and maintenance of these services.”³ The FCC “also conclude[d] that the BOCs must make available to unaffiliated entities information regarding the service intervals in which the BOCs provide service to themselves or their affiliates.”⁴ In addition, “regardless of the procedures that a BOC employs to process service orders from unaffiliated entities, it must be able to demonstrate that those procedures meet the statutory standard.”⁵

Qwest has not even attempted to provide the information required by the Act and the FCC to demonstrate that the BOC is providing, and will continue to provide, nondiscriminatory telephone exchange access to its section 272 affiliate and unaffiliated long distance carriers. Qwest Communications Corporation, as the fourth largest long distance carrier in the country, currently obtains access services from the BOC, but *Qwest has not offered any evidence to demonstrate that the BOC provides those services to the section 272 affiliate within a period no longer than the period that the BOC provides the same or comparable services to unaffiliated carriers.*⁶ Nor has Qwest provided any evidence on the procedures that the BOC will use to process orders from its section 272 affiliate and unaffiliated carriers other than the otherwise unsupported statement that “[t]he IXC representatives will process orders in a nondiscriminatory manner.”⁷

² 47 U.S.C. § 272(e)(1).

³ *Non-Accounting Safeguards Order*, ¶ 239.

⁴ *Id.* ¶ 242.

⁵ *Id.* ¶ 241.

⁶ Qwest has not offered any evidence to demonstrate that it provisions special access on a nondiscriminatory basis to its affiliate, Qwest Communications Corporation.

⁷ Qwest 1 at 33.

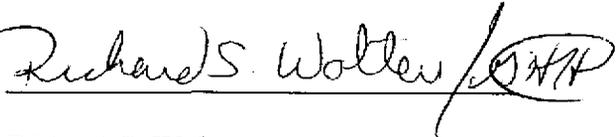
Qwest is the sole source of this information. As the FCC has observed, “[t]he statute imposes a specific performance standard on the BOCs in Section 272(e)(1), and we conclude that, absent Commission action, the information necessary to detect violations of this requirement will be unavailable to unaffiliated entities.” As the applicant in this proceeding, Qwest bears the burden to prove that it is complying, and will comply, with section 272 and applicable FCC orders. Qwest has produced no evidence, much less sufficient evidence, to carry its burden with respect to compliance with section 272(e)(1). Accordingly, the Commission should find that Qwest is not in compliance with this statutory requirement.

Section 272 is not an insignificant or meaningless obstacle to Qwest’s ability to provide interLATA services. Section 272 represents Congress’ effort to ensure that Qwest does not leverage its local exchange market power in the long distance market. Qwest disagrees and asks the Commission to endorse Qwest’s approach of minimizing and ignoring the requirements of section 272. The Commission should refuse to do so if the Commission is committed to continuing to foster the development of local exchange competition and to preserve the existing competitiveness of the long distance market in Arizona.

The Staff, therefore, should require Qwest to provide evidence of nondiscriminatory provision of service. Staff must also review the requirements of section 272 (e)(1) and make findings and conclusions in its Report.

Respectfully submitted this 15th day of February 2002.

**AT&T COMMUNICATIONS
OF THE MOUNTAIN STATES, INC.,
AND TCG PHOENIX**

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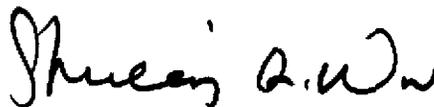
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