

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Application by Qwest Communications)
International Inc. for Authorization to Provide) WC Docket No. 03 -194
In-Region, InterLATA Services in Arizona)

MEMORANDUM OPINION AND ORDER

Adopted: December 3, 2003

Released: December 3, 2003

By the Commission: Commissioner Abernathy issuing a separate statement, and Commissioners Copps and Adelstein issuing a joint statement.

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION.....	1
II. BACKGROUND	4
III. PRIMARY ISSUES IN DISPUTE.....	10
A. CHECKLIST ITEM 2 – UNBUNDLED NETWORK ELEMENTS	12
1. Operations Support Systems	13
B. CHECKLIST ITEM 4 – UNBUNDLED LOCAL LOOPS	26
IV. OTHER CHECKLIST ITEMS	30
A. CHECKLIST ITEM 2	30
1. Other OSS Issues	30
2. Pricing Unbundled Network Elements	33
B. REMAINING CHECKLIST ITEMS (1, 3, AND 5-14)	40
V. COMPLIANCE WITH SECTION 271(c)(1)(A).....	41
VI. SECTION 272 COMPLIANCE.....	43
VII. PUBLIC INTEREST ANALYSIS	47
A. ASSURANCE OF FUTURE COMPLIANCE.....	51
B. UNFILED INTERCONNECTION AGREEMENTS.....	55
VIII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY	58
IX. CONCLUSION	61
X. ORDERING CLAUSES	62

APPENDIX A – LIST OF COMMENTERS
APPENDIX B – ARIZONA PERFORMANCE DATA
APPENDIX C – STATUTORY REQUIREMENTS

I. INTRODUCTION

1. On September 4, 2003, Qwest Communications International Inc. (Qwest) filed an application pursuant to section 271 of the Communications Act of 1934, as amended,¹ for authority to provide in-region, interLATA services originating in the state of Arizona.² We grant Qwest's application in this Order based on our conclusion that it has taken the statutorily required steps to open its local exchange market in Arizona to competition.

2. This Order marks the culmination of years of extraordinary work by the state commissions. We take this opportunity here, in the Commission's last section 271 application, to commend all the state commissions for their work in this area since passage of the 1996 Act. Today, we are reviewing a Bell operating company's (BOC's) performance that has been shaped and refined by the Arizona Corporation Commission (Arizona Commission). The Arizona Commission and its staff performed an exhaustive review of Qwest's compliance with its section 271 obligations spanning four years and resulting in several dozen orders. Their efforts facilitated "an almost complete transformation of Qwest's systems and processes from one that was not conducive to local competition to one that . . . will foster local competition."³ In addition to supervising its own third-party test of Qwest's operations support systems (OSS), the Arizona Commission oversaw the development of a comprehensive set of performance measurements known as performance indicator definitions (PIDs), reexamined Qwest's wholesale pricing, rewrote Qwest's Statement of Generally Available Terms and Conditions (SGAT), and opened enforcement dockets to review issues concerning agreements between Qwest and certain competitors that were not filed as interconnection agreements with the Arizona Commission for its approval.⁴ Moreover, the Arizona Commission developed and adopted its own Performance Assurance Plan (PAP) to ensure that Qwest will continue to adhere to its performance obligations after it receives section 271 authority.⁵

¹ We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and other statutes, as the Communications Act or the Act. *See* 47 U.S.C. §§ 151 *et seq.* We refer to the Telecommunications Act of 1996 as the 1996 Act. *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

² *See Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, WC Docket No. 03-194 (filed Sept. 4, 2003) (Qwest Application).

³ Arizona Commission Comments at 5.

⁴ *Id.* at 3-5. *See also id.* at 5 (noting that Arizona will participate in a Qwest region-wide PID collaborative to modify PIDs, as necessary, on a going-forward basis).

⁵ *Id.* at 5.

3. The Arizona Commission's outstanding work in conjunction with Qwest's extensive efforts has resulted in competitive entry in Arizona. As of May 31, 2003, Qwest estimates that competitive local exchange carriers (LECs) served approximately 20 percent of all lines in Arizona, including 37,719 stand-alone loops and 62,713 unbundled network element (UNE)-Platform loops.⁶ We are confident that the Arizona Commission's and Qwest's hard work to open the local exchange market in Arizona to competition will benefit consumers by making increased competition in all telecommunications service markets possible in this state. Finally, we are also confident that the Arizona Commission will be vigilant in ensuring that Qwest continues to meet its statutory obligations.

II. BACKGROUND

4. In the 1996 amendments to the Communications Act, Congress required that the BOCs demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long distance service.⁷ Congress provided for Commission review of BOC applications to provide such service in consultation with the relevant state commission and the U.S. Attorney General.⁸ In our examination of this application, we rely heavily on the work completed by the Arizona Commission. We summarize the Arizona state proceeding below.

5. On February 8, 1999, Qwest served notice on the Arizona Commission of its intention to seek section 271 authority in that state.⁹ Shortly thereafter, the Arizona Commission directed Qwest to supplement its filing and established a procedural framework to examine Qwest's request.¹⁰ Later that year, the Arizona Commission bifurcated the OSS-related checklist items from the non-OSS-related items and instituted a series of workshops and meetings to evaluate Qwest's performance in both areas.¹¹ Also in late 1999, the Arizona Commission

⁶ See Qwest Application at 2; Qwest Application, App. A, Tab 2, Declaration of David L. Teitzel (Qwest Teitzel Decl.) at para. 15.

⁷ See 47 U.S.C. § 271.

⁸ 47 U.S.C. §§ 271(d)(2)(A), (B). The Commission has summarized the relevant statutory framework in prior orders. See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6241-42, paras. 7-10 (2001) (*SWBT Kansas/Oklahoma Order*), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001) (*Sprint v. FCC*); *Application by SBC Communications Inc., Southwestern Bell Tel. Co. and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359-61, paras. 8-11 (2000) (*SWBT Texas Order*).

⁹ Arizona Commission Comments at 6.

¹⁰ *Id.* at 7.

¹¹ See *id.*; Qwest Application at 2 (stating that the Arizona Commission held 40 workshops that totaled more than 100 days of hearings).

retained Cap Gemini Ernst & Young (CGE&Y) to serve as the OSS third-party tester.¹² CGE&Y filed its Final Test Report on March 30, 2002,¹³ and on August 21, 2003, the Arizona Commission determined that Qwest satisfied checklist item 2 with respect to OSS.¹⁴ Meanwhile, in a series of orders issued between 2000 and 2002, the Arizona Commission concluded that Qwest satisfied the other checklist items.¹⁵ Finally, on September 29, 2003, the Arizona Commission released an order finding that Qwest's section 271 application was in the public interest.¹⁶

6. The U.S. Department of Justice recommends approval of this application after determining that Qwest has "generally succeeded in opening its local markets in Arizona to competition."¹⁷ The Department of Justice concludes that opportunities are available to competitive carriers serving residential and business customers.¹⁸

7. *Compliance with Unbundling Rules.* As part of the required showing in this proceeding, as explained in more detail below, the applicant must demonstrate that it satisfies the Commission's rules governing UNEs. It is necessary to clarify, for the purpose of evaluating this application, which network elements we expect Qwest to demonstrate that it provides on an unbundled basis, pursuant to section 251(c)(3) and checklist item 2. In the *UNE Remand and Line Sharing Orders*, the Commission established the following list of UNEs that incumbent LECs were obliged to provide: (1) local loops and subloops; (2) network interface devices; (3) switching capability; (4) interoffice transmission facilities; (5) signaling networks and call-related databases; (6) OSS; and (7) the high frequency portion of the loop.¹⁹ However, the U.S.

¹² Arizona Commission Comments at 3; Qwest Application, App. A, Tab 30, Declaration of Lynn M.V. Notarianni and Loretta A. Huff (Qwest Notarianni/Huff Decl.) at para. 22.

¹³ See Arizona Commission Comments at 7. See also Qwest Notarianni/Huff Decl. at para. 77 n.106 (explaining that CGE&Y filed a corrected version in May 2002).

¹⁴ Arizona Commission Comments at 11, 23; Qwest Application at 76.

¹⁵ See Arizona Commission Comments at 8-18; Qwest Application, App. A, Tab 1, Declaration of Patrick Quinn at paras. 23-24, 28-29, 32, 40, 43, 50, 56-57, 62, 67, 74, 78-79, 87.

¹⁶ See Letter from Hance Haney, Executive Director – Federal Relations, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194, Attach. (filed Oct. 1A, 2003) (*Arizona Commission Sept. 29 Order*). We note that one commissioner dissented. See *Arizona Commission Sept. 29 Order* at 35. In order to distinguish *ex parte* filings that might be made with the Commission on the same day, Qwest assigns a letter to the date on which it submits its filing (e.g., Oct. 1A, 2003). We will use Qwest's filing system when citing to its *ex parte* letters.

¹⁷ See Department of Justice Evaluation at 2. The Department of Justice states that the Commission should consider whether Qwest's regionwide change management process (CMP), as well as Qwest's compliance with the CMP, continue to be adequate. *Id.* at 6 n.20.

¹⁸ *Id.* at 6.

¹⁹ See 47 C.F.R. § 51.319; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*); *Deployment of Wireline Services Offering Advanced Telecommunications* (continued....)

Court of Appeals for the District of Columbia Circuit vacated these orders in 2002 and instructed the Commission to reevaluate the network elements subject to the unbundling requirement.²⁰ The court's mandate was stayed first until January 3, 2003 and then until February 20, 2003. On February 20, 2003, the Commission adopted new unbundling rules as part of our Triennial Review proceeding.²¹ These rules became effective on October 2, 2003.²²

8. Although the former unbundling rules vacated by the D.C. Circuit were not in force at the time Qwest filed its application in this proceeding, Qwest states that it continues to provide nondiscriminatory access to these network elements.²³ As the Commission found in the *Bell Atlantic New York Order*, we believe that using the network elements identified in the former unbundling rules as a standard in evaluating Qwest's application, filed during the interim period between the time the rules were vacated by the D.C. Circuit and the effective date of the new rules, is a reasonable way to ensure that the application complies with the checklist requirements.²⁴ We find it significant that no commenter disputes that Qwest should be required to demonstrate that it provides these network elements in a nondiscriminatory manner. Accordingly, for the purposes of this application, we will evaluate whether Qwest provides nondiscriminatory access to the network elements identified under the former unbundling rules.

(Continued from previous page) _____

Capability; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147, 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

²⁰ See *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002), *cert. denied*, 123 S. Ct. 1571 (2003).

²¹ See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) (*Triennial Review Order*), corrected by Errata, 18 FCC Rcd 19020 (2003), *petitions for review pending*, *United States Telecom Ass'n v. FCC*, D.C. Cir. No. 00-1012 (and consolidated cases).

²² See 68 FR 52307 (Sept. 2, 2003).

²³ See Qwest Application at 24-25; see also *Application by Qwest Communications International Inc., for Authorization to Provide In-Region, InterLATA Services in Minnesota*, WC Docket No. 03-90, Memorandum Opinion and Order, 18 FCC Rcd 13323, 13326-28, paras. 8-9 (2003) (*Qwest Minnesota Order*).

²⁴ See *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3966-67, para. 30 (1999) (*Bell Atlantic New York Order*), *aff'd*, *AT&T Corp v. FCC*, 220 F.3d 607 (D.C. Cir. 2000). A similar procedural situation was presented in the Bell Atlantic New York proceeding after the Commission's original unbundling rules had been vacated by the Supreme Court. Bell Atlantic filed its application for section 271 authorization in New York after the original unbundling rules had been vacated but before the *UNE Remand Order* had taken effect and, thus, at a time when no binding unbundling rules were in effect. Bell Atlantic suggested, and the Commission agreed, that it would be reasonable for the Commission to use the original seven network elements identified in the former unbundling rules in evaluating compliance with checklist item 2 of the application. See *Bell Atlantic New York Order*, 15 FCC Rcd at 3966-67, paras. 29-31.

9. We also note that the *Triennial Review Order* introduced new rules which became binding after Qwest filed its section 271 application for Arizona on September 4, 2003. While we require Qwest to demonstrate that it is in compliance with the former rules, we do not require Qwest to demonstrate as of the date of its section 271 filing that it complies with rules that became effective during the pendency of its application. Although Qwest, like all other incumbent LECs, was required to comply with the new rules at the time they became effective, we believe it would be unfair to require Qwest, in its application, to demonstrate compliance with rules that become effective after it files an application for section 271 authorization, in advance of the effective date for other incumbent LECs. This approach is reasonable and consistent with our analysis in the *SWBT Texas Order*.²⁵ We emphasize that, on an ongoing basis, Qwest must comply with all of the Commission's rules implementing the requirements of sections 251 and 252 upon the dates specified by those rules, including the new unbundling rules.²⁶

III. PRIMARY ISSUES IN DISPUTE

10. As in recent section 271 orders, we do not repeat here the analytical framework and particular legal showing required to establish compliance with every checklist item. Rather, we rely upon the legal and analytical precedent established in prior section 271 orders,²⁷ and we attach comprehensive appendices containing performance data and the statutory framework for approving section 271 applications.²⁸ Our conclusions in this Order are based on performance data as reported in carrier-to-carrier reports reflecting Qwest's service for the following five-month period: April 2003 through August 2003.

11. After providing some background on Qwest's OSS and CGE&Y's test, we focus in this section on the issues in controversy in the record. Accordingly, we begin by addressing Qwest's compliance with checklist item 2. Specifically, we address whether Qwest has an adequate CMP in place to accommodate changes to its systems. Although we provide an overview of OSS in this section, including Qwest's region-wide OSS, and a discussion of the third-party test in Arizona, we note that only one aspect of Qwest's OSS – change management – was contested. We also address issues concerning checklist item 4, which evaluates access to unbundled local loops.²⁹

²⁵ See *SWBT Texas Order*, 15 FCC Rcd at 18367-70, paras. 28-33 (declining to require the applicant to demonstrate compliance with the parts of the new unbundling rules that became effective while the proceeding was pending).

²⁶ See *id.* at 18368, para. 29; *Bell Atlantic New York Order*, 15 FCC Rcd at 3967, para. 31.

²⁷ See, e.g., *Qwest Minnesota Order*, 18 FCC Rcd at 13328, para. 10; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6241-42, paras. 7-10; *SWBT Texas Order*, 15 FCC Rcd at 18359-61, paras. 8-11; *Bell Atlantic New York Order*, 15 FCC Rcd at 3961-63, paras. 17-20; see also App. C (Statutory Requirements).

²⁸ See generally Appendices B (Performance Data) and C (Statutory Requirements).

²⁹ See *infra* Section III.B.

A. Checklist Item 2 – Unbundled Network Elements

12. Checklist item 2 of section 271 states that a BOC must provide “[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)” of the Act.³⁰ Based on the record, we find that Qwest has satisfied the requirements of checklist item 2. In this section, we address the one aspect of this checklist item – OSS – that raised significant issues concerning whether Qwest’s performance demonstrates compliance with the Act. Aside from OSS, other UNEs that Qwest must make available under section 251(c)(3) are also listed as separate items on the competitive checklist, and are addressed below in separate sections for various checklist items, as are any provisioning issues that may be in dispute.³¹

1. Operations Support Systems

13. Under checklist item 2, a BOC must demonstrate that it provides nondiscriminatory access to the five OSS functions: (1) pre-ordering; (2) ordering; (3) provisioning; (4) maintenance and repair; and (5) billing.³² In addition, a BOC must show that it provides nondiscriminatory access to UNEs and that it has an adequate CMP in place to accommodate changes made to its systems.³³ Based on the evidence in the record, we find, as did the Arizona Commission, that Qwest provides nondiscriminatory access to its OSS.³⁴ Consistent with prior Commission orders, we do not address each OSS element in detail where our review of the record satisfies us that there is little or no dispute that Qwest meets the nondiscrimination requirements.³⁵ For instance, Qwest met the applicable performance standards for both pre-ordering and maintenance and repair, and no party contests these parts of Qwest’s OSS in this proceeding. Therefore, we focus our discussion on those issues in controversy,

³⁰ 47 U.S.C. § 271(c)(2)(B)(ii).

³¹ See 47 U.S.C. § 271(c)(2)(B). For example, unbundled loops, transport, and switching are listed separately in the statute as checklist items iv, v, and vi.

³² *Bell Atlantic New York Order*, 15 FCC Rcd at 3989, para. 82. The Commission has defined OSS as the various systems, databases, and personnel used by incumbent LECs to provide service to their customers. *SWBT Texas Order*, 15 FCC Rcd at 18396-97, para. 92.

³³ See *Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming*, WC Docket No. 02-134, Memorandum Opinion and Order, 17 FCC Rcd 26303, 26320, para. 34 (2002) (*Qwest 9-State Order*); *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 102 & n.280.

³⁴ Arizona Commission Comments at 11.

³⁵ See *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc. and Verizon Select Services, Inc. for Authorization to Provide In-Region, InterLATA Services in Connecticut*, 16 FCC Rcd 14147, 14151-52, para. 9 (2001) (*Verizon Connecticut Order*). Although Qwest’s ordering, provisioning, and billing processes received little or no attention from the commenting parties, we discuss these domains briefly below because of Qwest’s performance with respect to one or two metrics in each of these domains. See *infra* Section IV.A.1.

which in this instance involves certain elements of Qwest's change management systems and processes.³⁶

14. In reaching our conclusion that Qwest has demonstrated it provides nondiscriminatory access to its OSS, we rely on detailed evidence provided by Qwest in this proceeding. We base this determination generally on Qwest's actual commercial performance in the state of Arizona. Consistent with our past practice, we note that in the course of our review, we look for patterns of systemic performance disparities that have resulted in competitive harm or that have denied new entrants a meaningful opportunity to compete.³⁷ Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance.³⁸

a. Independent Third-Party Testing

15. As the Commission has held in prior section 271 proceedings, the persuasiveness of a third-party OSS review depends upon the conditions and scope of the review.³⁹ Based on

³⁶ On September 22, 2003, Eschelon submitted an *ex parte* filing in this proceeding, which it later re-filed with consecutive page numbers. See Letter from Kim K. Wagner, Senior Legal Secretary, Eschelon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 (filed Sept. 22, 2003); *Ex Parte* Filing by Eschelon (filed Oct. 8, 2003). In its filing, Eschelon includes copies of, among other things, numerous e-mails to Qwest and the Department of Justice, pleadings made with the Arizona Commission in that state's section 271 proceeding, and complaints filed in a federal district court in Seattle and with the Minnesota Public Utilities Commission. We exercise our authority to decline to consider this Eschelon filing. As clearly stated in the Public Notice released on the date that Qwest filed its application, participants in a section 271 proceeding have an obligation to present their position in a clear and concise manner. See *Comments Requested on the Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in the State of Arizona*, DA 03-2799 (Sept. 4, 2003), Attach. at 4 (*Updated Filing Requirements for the Bell Operating Company Applications Under Section 271 of the Communications Act*, DA 01-734, Public Notice, 16 FCC Rcd 20948 (2001) (March 23 Public Notice)). Specifically, the Commission has made clear that, because it is burdensome and time-consuming in the context of a statutorily-imposed 90-day proceeding to attempt to determine a party's position by culling through the supporting material, participants are required to make all substantive legal and policy arguments in a legal brief. *Id.* Moreover, as noted by the United States Court of Appeals for the District of Columbia Circuit, the Commission "need not sift pleadings and documents to identify" arguments that are not "stated with clarity." *Id.* at n.7 (citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972)). It is the burden of the petitioner to clarify its position before the agency and Eschelon fails to meet this burden. See March 23 Public Notice at n.7 (citing *Northside Sanitary Landfill, Inc. v. Thomas*, 849 F.2d 1516, 1519 (D.C. Cir. 1988), *cert. denied*, 489 U.S. 1078 (1989)).

³⁷ See *Qwest 9-State Order*, 17 FCC Rcd at 26321-22, para. 37.

³⁸ *Id.*

³⁹ See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd at 3993, para. 89; *Application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in California*, WC Docket No. 02-306, Memorandum Opinion and Order, 17 FCC Rcd 25650, 25685, para. 73 (2002) (*SBC California Order*); *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, 12 FCC Rcd 20543, 20659, para. 216 (1997) (*Ameritech Michigan Order*).

our review of the evidence in the record describing the test process, and the evaluation that the Arizona Commission offered, we find that the third-party OSS test was broad and objective, and provides meaningful evidence that is relevant to our analysis of Qwest's OSS. The results of this test support our finding that Qwest provides nondiscriminatory access to its OSS.

16. In late 1999, the Arizona Commission hired CGE&Y to conduct a third-party test of Qwest's OSS.⁴⁰ The Arizona Commission also hired Hewlett Packard Company (HP) to serve as a pseudo-competitive LEC in the test process.⁴¹ CGE&Y and the Arizona Commission established the Technical Advisory Group (TAG) to serve as an open and collaborative forum to work through and resolve all test-related issues.⁴² The members of TAG included the Arizona Commission, CGE&Y, competitive LECs, Qwest, and test vendors as well as other interested parties.⁴³ As part of this process, TAG members worked together to develop the PIDs, a Master Test Plan and a Test Standards Document that governed the third-party test.⁴⁴ The CGE&Y review included five primary components designed to evaluate Qwest's OSS: (1) Performance Measurement Audit (PMA); (2) Functionality Test; (3) Retail Parity Evaluation; (4) Capacity Test; and (5) Relationship Management Evaluation.⁴⁵ CGE&Y conducted the PMA to ensure that Qwest adequately measures and reports the commercial data for the reports, and it used a military-style, test-until-pass methodology to test the remaining four test components.⁴⁶ In order to verify the integrity of Qwest commercial data, the Arizona Commission also retained Liberty Consulting to perform a data reconciliation between Qwest and competing carriers.⁴⁷ Throughout the course of the third-party test, CGE&Y prepared and monitored test schedules, collected test status reports from parties, submitted status reports to the Arizona Commission, and analyzed test results.⁴⁸ In performing the third-party OSS test, CGE&Y took precautions to

⁴⁰ Arizona Commission Comments at 3; Qwest Notarianni/Huff Decl. at para. 22.

⁴¹ Arizona Commission Comments at 3; Qwest Notarianni/Huff Decl. at para. 23.

⁴² Arizona Commission Comments at 3; Qwest Notarianni/Huff Decl. at para. 24.

⁴³ Arizona Commission Comments at 9; Qwest Notarianni/Huff Decl. at para. 24.

⁴⁴ Arizona Commission Comments at 9; Qwest Notarianni/Huff Decl. at para. 28. The TAG initially drafted the Arizona Commission PIDs in 1999 while the other 13 state commissions in Qwest's incumbent LEC region were working together through the multi-agency organization called the Regional Oversight Committee (ROC) to test Qwest's OSS. Qwest Notarianni/Huff Decl. at para. 17. With some modifications, these PIDs formed the basis for the ROC's performance measurement evaluation and OSS testing process. Arizona Commission Comments at 3. The Arizona TAG ultimately adopted the PID definitions in the ROC PID version 5.0 subject to specific Arizona standards. Qwest Application at 9-10. Thereafter, Qwest created a 14-state PID version 5.0 to combine the separate Arizona PIDs with the 13-state ROC PIDs. *Id.* at 10.

⁴⁵ Arizona Commission Comments at 9-10; Qwest Notarianni/Huff Decl. at para. 33.

⁴⁶ Qwest Notarianni/Huff Decl. at paras. 34-36. *See also Bell Atlantic New York Order*, 15 FCC Rcd at 3998, para. 98 (describing a military-style testing process).

⁴⁷ Arizona Commission Comments at 10; Qwest Application at 13-14.

⁴⁸ Qwest Notarianni/Huff Decl. at para. 22.

maintain, to the extent possible, the “blindness” and independence of the testing process. For example, CGE&Y ensured that Qwest was not aware of HP’s identity during tests.⁴⁹ As explained above, competitive LECs participated in the design of the CGE&Y test and played an important role in the test process.⁵⁰

17. CGE&Y filed its final update on its Arizona OSS operational tests on March 30, 2002.⁵¹ In all, in the course of testing, 399 issues were documented and addressed collaboratively through TAG.⁵² At the conclusion of the test, the Arizona Commission stated that, “Qwest’s OSS meets the performance standards envisioned by the Act . . . [and] the Performance Measurements have been evaluated and found to be timely and accurate.”⁵³ We conclude that the CGE&Y third-party test demonstrates that Qwest’s reported data are reliable, and that the results provide important evidence that Qwest is providing nondiscriminatory access to its OSS. We note that no competitive LEC challenges the integrity of CGE&Y’s test or the reliability of Qwest’s performance measurement data.

b. Relevance of Qwest’s Regionwide OSS

18. Consistent with our precedent,⁵⁴ Qwest also relies in this application on evidence concerning its regionwide OSS.⁵⁵ Although Arizona did not participate in the ROC third-party test, Qwest asserts that the test’s findings apply equally to Arizona because Qwest uses the same OSS in Arizona as in several of the states that participated in the ROC test.⁵⁶ As discussed in the prior Qwest 271 orders, to support its claim that its OSS are the same across all states, Qwest relies on the comprehensive BearingPoint test.⁵⁷ BearingPoint, in addition to administering the overall test, performed a regional differences assessment (RDA), which showed that Qwest’s

⁴⁹ Arizona Commission Comments at 3; Qwest Notarianni/Huff Decl. at para. 23.

⁵⁰ Arizona Commission Comments at 4 (noting that several competitive LECs provided facilities and expertise to CGE&Y during the OSS test); Qwest Notarianni/Huff Decl. at paras. 24, 29.

⁵¹ Arizona Commission Comments at 10.

⁵² Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 3 (filed Oct. 23A, 2003) (Qwest Oct. 23A *Ex Parte* Letter); Qwest Notarianni/Huff Decl. at paras. 73-78.

⁵³ Arizona Commission Comments at 11.

⁵⁴ *See, e.g., SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6254, para. 36.

⁵⁵ Qwest Application at 75-76.

⁵⁶ *Id.* at 76 (citing Colorado, New Mexico, and Utah).

⁵⁷ *See Qwest 9-State Order*, 17 FCC Rcd at 26321, para. 36; *Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in New Mexico, Oregon, and South Dakota*, WC Docket No. 03-11, Memorandum Opinion and Order, 18 FCC Rcd 7325, 7344-45, paras. 36-37 (2003) (*Qwest 3-State Order*); *Qwest Minnesota Order*, 18 FCC Rcd at 13331, paras. 16-17.

ordering, provisioning, maintenance and repair, and competitive LEC relationship management and infrastructure are materially consistent across Qwest's operating territory.⁵⁸

19. Where Qwest provides evidence that a particular system used in Arizona is the same as the one that the Commission reviewed and approved in one of the 13 states where Qwest received section 271 approval,⁵⁹ our review will be informed by our previous findings in the relevant Qwest order.⁶⁰ We find that Qwest, through the BearingPoint test and its declarations, provides sufficient evidence that its OSS in Arizona are generally the same as in the 13 states.

c. Change Management

20. We agree with the Arizona Commission that Qwest's CMP and Qwest's pattern of compliance with the CMP satisfy this aspect of checklist item 2.⁶¹ In previous section 271 orders, the Commission has explained that it must review the BOC's change management procedures to determine whether they provide sufficient access to the BOC's OSS and thus afford an efficient competitor a meaningful opportunity to compete.⁶² In evaluating a BOC's change management plan, we first assess whether the plan is adequate by determining whether the evidence demonstrates: (1) that information relating to the CMP is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the CMP; (3) that the CMP defines a procedure for the timely resolution of change management disputes; (4) the availability of a stable testing environment that mirrors production; and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.⁶³ After determining that the BOC's change

⁵⁸ See, e.g., *Qwest Minnesota Order*, 18 FCC Rcd at 13331, para. 16. BearingPoint investigated whether there were any differences in systems and processes throughout Qwest's operating territory. Qwest Notarianni/Huff Decl. at para. 97 & Ex. LN-OSS-4. BearingPoint reviewed the following Qwest regions: 1) western region covering Washington and Oregon; 2) central region covering Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming; and 3) eastern region covering Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. *Id.* at paras. 96-99 & Ex. LN-OSS-4.

⁵⁹ Qwest Application at 75-76.

⁶⁰ E.g., *Qwest Minnesota Order*, *Qwest 9-State Order*, and the *Qwest 3-State Order*. See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6253-54, para. 35. Indeed, to the extent that certain issues have been previously briefed, reviewed and resolved in a prior section 271 proceeding, and absent new evidence or changed circumstances, an application for a related state should not be a forum for relitigating and reconsidering those issues. *Id.*

⁶¹ Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 (filed Sept. 24A, 2003) (Qwest Sept. 24A *Ex Parte* Letter), Attach. 2 at 21-22 (*Arizona Commission Aug. 28 Order*).

⁶² *Bell Atlantic New York Order*, 15 FCC Rcd at 3999-4000, paras. 102-03; *SWBT Texas Order*, 15 FCC Rcd at 18403-04, paras. 106-08.

⁶³ *SWBT Texas Order*, 15 FCC Rcd at 18404, para. 108.

management plan is adequate, we evaluate whether the BOC has demonstrated a pattern of compliance with this plan.⁶⁴

21. At the outset, we note that Qwest's CMP applies to its entire 14-state region, and the Commission previously has found that Qwest complied with this part of the checklist in the 13 states for which Qwest has been granted section 271 approval to date.⁶⁵ Nevertheless, where a CMP has changed, we must examine whether the new CMP remains compliant.⁶⁶ In addition, we agree with the Department of Justice that the "CMP is a dynamic process," and that we must consider whether Qwest has continued to comply with the CMP.⁶⁷ Commenters' change management allegations fall into two categories: (1) Qwest's CMP documentation is insufficient because it does not include deadlines by which Qwest must repair software defects and (2) Qwest violated the CMP when it decided to charge competitive LECs for DS1 loop conditioning.

22. *Software Defects.* AT&T and MCI argue that the CMP should include deadlines for Qwest to repair software defects, according to their severity.⁶⁸ AT&T and MCI complain that Qwest vetoed MCI's change management proposal that such requirements be incorporated into the CMP.⁶⁹ In previous orders, the Commission has noted the "importance of reducing the

⁶⁴ *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, 4004-05, paras. 101, 112.

⁶⁵ See Qwest Application, App. A, Tab 6, Declaration of Judith M. Schultz (Qwest Schultz Decl.) at para. 3 ("the change management process is the same in all 14 Qwest states"); *Qwest 9-State Order*, 17 FCC Rcd at 26384-96, paras. 132-52; *Qwest 3-State Order*, 18 FCC Rcd at 7355-61, paras. 54-62; *Qwest Minnesota Order*, 18 FCC Rcd at 13342, para. 39.

⁶⁶ We have noted previously that we are open to consideration of change management plans that differ from those already found to be compliant with the requirements of section 271. *Bell Atlantic New York Order*, 15 FCC Rcd at 4004, para. 111; *SWBT Texas Order*, 15 FCC Rcd at 18404, para. 109.

⁶⁷ Department of Justice Evaluation at 6 n.20 ("The Department urges the Commission to consider whether Qwest's CMP, as well as its compliance with that process, continues to be adequate.").

⁶⁸ AT&T Comments at 27; MCI Comments at 1-2.

⁶⁹ AT&T Comments at 27-28; MCI Comments at 1-2. AT&T also contends that, instead of conceding a software defect, Qwest argues under the current CMP that the software has not been properly documented and that a fix to the documentation will permit the competitive LECs to use the software as Qwest intended. AT&T Comments at 26-28. We find no basis in the record to conclude that Qwest's classification of errors as ones of documentation is designed to be anticompetitive or is done in bad faith. Moreover, in previous Qwest section 271 orders, we rejected arguments that Qwest's OSS requirements were inadequately documented. See *Qwest 9-State Order*, 17 FCC Rcd at 26391-92, para. 144 (finding that the documentation Qwest supplies to competitive LECs is "robust"). See also *Qwest 3-State Order*, 18 FCC Rcd at 7355-57, paras. 55-57; *Qwest Minnesota Order*, 18 FCC Rcd at 13342, para. 39.

In addition, MCI contends that Qwest should include all software trouble reports in a single document. MCI Comments at 2. The Commission has never mandated such a requirement in a section 271 proceeding, and we will not do so in the instant Order. Qwest has a process in place for notifying competitive LECs of software trouble reports that the Commission has previously considered and approved. Moreover, according to Qwest, this competitive LEC change request remains under discussion in the CMP, which, as the Arizona Commission and its staff found, is the appropriate forum to address such issues. See Qwest Reply, Attach. B, Reply Declaration of (continued...)

number of [software] coding defects that require competing carriers to modify electronic processes.”⁷⁰ The Commission has also noted that “[w]hile a change management process must include assurances that changes to existing OSS interfaces will not disrupt competing carriers’ use of the BOC’s OSS, the Commission has not required any particular safeguard.”⁷¹

23. The Commission has never mandated that a CMP contain deadlines to repair software defects, and we decline to impose such a requirement here. We agree with the Arizona Commission that the CMP is the appropriate and adequate forum for MCI and AT&T to raise these complaints, the parties are in fact using the CMP process to resolve them, and Qwest’s current management of software defects does not warrant a finding of checklist noncompliance.⁷² The record reflects that Qwest has been actively engaged in working with AT&T and MCI to resolve software defect management issues through the CMP. While Qwest objected to firm timeframes, contending that it is impossible to predict how long every software repair will take, we find that Qwest offered the competitive LECs a good faith compromise.⁷³ Qwest proposed to set deadlines for correcting software defects, according to their level of severity, in the CMP but, in recognition that some software corrections might require additional time, Qwest also sought flexibility to notify competitive LECs that the software would be corrected by a later date certain, if necessary.⁷⁴ In addition, we find that the Arizona Commission has taken appropriate steps to ensure that Qwest’s CMP performance does not create competitive problems, and there is no indication at this time that Qwest would be able to abuse any deadline flexibility that it may be given.

24. *Pattern of Compliance with the CMP.* We reject AT&T’s complaint that Qwest does not comply with the CMP based on action Qwest took concerning DS1 loop conditioning.

(Continued from previous page) _____

Lynn M.V. Notarianni and Loretta A. Huff (Qwest Notarianni/Huff Reply Decl.) at paras. 22-23. *See also id.*, Ex. LN-3 (Transcript of Sept. 8, 2003 Arizona Commission Open Meeting).

⁷⁰ *See Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, CC Docket No. 02-35, Memorandum Opinion and Order, 17 FCC Rcd 9018, 9129-30, para. 195 (2002) (*BellSouth Georgia/Louisiana Order*).

⁷¹ *Qwest 9-State Order*, 17 FCC Rcd at 26389, para. 140 n.523 (citing *Bell Atlantic New York Order*, 15 FCC Rcd at 4004-05, para. 110; *SWBT Texas Order* 15 FCC Rcd at 18406, para. 112).

⁷² Qwest Notarianni/Huff Reply Decl. at paras. 3-4 & Ex. LN-3. The Commission has previously found that the Qwest CMP contains adequate processes to detect software defects and implement fixes. *See Qwest 9-State Order*, 17 FCC Rcd at 26323, para. 39 n.104 (finding that Qwest uses an extensive help-desk ticket and notification process to handle errors that may occur when implementing new software). *See also id.* at 26389-90, para. 140 (finding that the Qwest CMP gave the competitive LECs sufficient time to test new software versions prior to their release). The Qwest CMP sets priorities for repair of software defects according to four severity levels, with the highest ones requiring that trouble tickets be “implemented immediately.” Qwest Notarianni/Huff Decl. at para. 10 & n.11 (quoting section 12 of the Qwest CMP).

⁷³ Qwest Notarianni/Huff Reply Decl. at para. 13.

⁷⁴ *Id.* at para. 13.

According to AT&T, Qwest reversed its previous loop provisioning policy by imposing on competitive LECs loop conditioning charges for DS1-capable loops and, in doing so, Qwest failed to comply with the CMP when it announced this policy change to competitive LECs.⁷⁵ Specifically, AT&T argues that Qwest misclassified its revisions as a Level 3 (or “moderate”) change instead of Level 4 (or “severe”) and unilaterally imposed loop conditioning charges on competitive LECs not required by the terms of their interconnection agreements with Qwest.⁷⁶

25. We disagree that this one-time occurrence demonstrates a pattern of noncompliance with the CMP.⁷⁷ Even if Qwest erroneously classified the DS1 loop conditioning change as Level 3, we conclude that such a misclassification does not warrant a finding of checklist noncompliance.⁷⁸ Furthermore, as noted above, the Arizona Commission has committed to overseeing Qwest’s ongoing compliance with the CMP and has required Qwest to continue reporting on its CMP compliance.⁷⁹

B. Checklist Item 4 – Unbundled Local Loops

26. Section 271(c)(2)(B)(iv) of the Act requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”⁸⁰ Based on the evidence in the record, we conclude, as did the Arizona Commission,⁸¹ that Qwest provides unbundled local loops in accordance with the requirements

⁷⁵ See AT&T Comments at 6.

⁷⁶ *Id.* at 15-17 (explaining that in the event of a conflict between the CMP and the interconnection agreement, the latter prevails).

⁷⁷ We note that the Arizona Commission reviewed Qwest’s revised DS1 loop conditioning rate change and expressed concern that Qwest did not seek prior Arizona Commission approval. See Qwest Sept. 24A *Ex Parte* Letter, Attach. 3 at 29-31 (*Arizona Commission Sept. 16 Order*) (directing Qwest to reinstitute its prior policy and to provide refunds to any competitive LECs relating to these unauthorized charges). The Arizona Commission also noted that loop conditioning charges are the proper subject of Phase III of its cost docket. *Id.* at 31. The Arizona Commission did not, however, render any findings concerning Qwest’s adherence to the CMP. Finally, because competitive LECs may raise their objections to any rate change before the Arizona Commission, we reject AT&T’s assertion that Qwest must affirm that it will not seek approval for a change in its loop conditioning policy in order for the Commission to find checklist compliance. See AT&T Reply at 6-7.

⁷⁸ During an August 21, 2003, open meeting before the Arizona Commission, Qwest indicated that, in a meeting with competitive LECs a week earlier, it agreed on a prospective basis to work its DS1 loop conditioning issue as a Level 4 change. See Qwest Application, App. P, Vol. 1, Tab 12, Transcript of Aug. 21, 2003, Special Open Meeting at 41. See also Qwest Schultz Decl. at paras. 33-34 (describing the similarities and differences between Level 3 and Level 4). Moreover, in response to AT&T’s interconnection agreement complaint, we find that the dispute resolution mechanism contained in the parties’ interconnection agreements, and not a section 271 proceeding, sets forth the appropriate forum to resolve an interconnection agreement dispute.

⁷⁹ *Arizona Commission Aug. 28 Order* at 22.

⁸⁰ 47 U.S.C. § 271(c)(2)(B)(iv); see also App. C, paras. 48-52 (regarding requirements under checklist item 4).

⁸¹ See Arizona Commission Comments at 13-14.

of section 271 and our rules.⁸² Our conclusion is based on our review of Qwest's performance for all loop types – which include, as in past section 271 orders, voice grade loops, digital subscriber line (xDSL)-capable loops, and high capacity loops – as well as hot cut provisioning, and Qwest's processes for line sharing and line splitting.⁸³ As of May 31, 2003, competitors have acquired from Qwest and placed into use approximately 37,719 stand-alone unbundled loops in Arizona.⁸⁴

27. *Conditioned Loops.* Based on the evidence in the record, we find that Qwest demonstrates that it provides conditioned loops in a nondiscriminatory manner.⁸⁵ Although Qwest does not achieve parity for one metric concerning installation timeliness for conditioned loops in Arizona,⁸⁶ Qwest explains that its performance results on this metric were negatively affected by human input errors, a reporting system issue, and coding errors related to a process change.⁸⁷ Qwest states that, adjusted for these errors, its average performance for the five-month period would have exceeded 90 percent.⁸⁸ We find that Qwest's explanation is persuasive and note that it has implemented programming enhancements to address the reporting system issue and employee instruction to avoid coding errors related to the process change.⁸⁹ We also note that no commenter raised issues related to this metric. Therefore, we do not find that these performance disparities warrant a finding of checklist noncompliance.

28. *High Capacity Loops.* Based on the evidence in the record, we find that Qwest demonstrates that it provides high capacity loops in a nondiscriminatory manner.⁹⁰ Qwest,

⁸² See Qwest Application at 36-46. See generally App. B.

⁸³ Our review encompasses Qwest's performance and processes for all loop types, but our discussion does not address every aspect of Qwest's loop performance where our review of the record satisfies us that Qwest's performance is in compliance with the applicable parity and benchmark measures.

⁸⁴ See Qwest Application at 37. In Arizona, as of May 31, 2003, competitive LECs had in service 30,253 unbundled voice grade analog loops, 5,578 xDSL-capable loops, 1,888 high capacity loops, and 3,654 unbundled shared loops. See *id.* at 37, 45.

⁸⁵ See *id.* at 40; Arizona Commission Comments at 13-14.

⁸⁶ See OP-3 (Installation Commitments Met) for conditioned loops showing (82.76%, 86.05%, 82.76%, 84.25%, 86.96%) for competitive LECs versus Qwest's 90% benchmark for April to August 2003.

⁸⁷ See Qwest Application at 40; Qwest Application App. A, Tab 26, Declaration of Dean Buhler (Qwest Buhler Decl.) at para. 180 & n.248; Qwest Reply, Attach. A at 6.

⁸⁸ See Qwest Application at 40; Qwest Buhler Decl. at para. 180 & n.248; Qwest Reply, Attach. A at 6; Letter from Hance Haney, Executive Director – Federal Relations, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1-2 (filed Oct. 24A, 2003).

⁸⁹ See Qwest Application at 40; Qwest Buhler Decl. at para. 180 & n.248.

⁹⁰ See Qwest Application at 40-41.

however, does not achieve parity under certain metrics for DS1-capable loops.⁹¹ Qwest explains that, in October 2002, it launched a program to analyze provisioning and repair performance for unbundled DS1-capable loops and to identify areas for improvement.⁹² According to Qwest, this analysis did not uncover systemic reasons for the disparity between wholesale and retail performance.⁹³ However, in response to identified problems related to high-capacity facilities, and provisioning and repair processes, Qwest has implemented a number of initiatives to improve provisioning and repair performance for high-capacity loops in general.⁹⁴ Further, we note that no commenter raised issues related to DS1-capable loop metrics. Recognizing that high capacity loops make up a small percentage of overall loop orders in Arizona,⁹⁵ we find that Qwest's performance with respect to high capacity loops does not warrant a finding of checklist non-compliance.⁹⁶ If Qwest's performance deteriorates after approval, we will not hesitate to take appropriate enforcement action pursuant to section 271(d)(6).

29. *Other issues.* AT&T and Eschelon object to recent changes in Qwest's policy on construction of new facilities related to provisioning of high-capacity unbundled loops.⁹⁷ Specifically, these commenters explain that Qwest, since June, has changed its documentation so that competitive LECs, for the first time, must place construction orders and pay "construction charges" for line conditioning that was previously included within the category of "incremental

⁹¹ See MR-8 (Trouble Rate) for DS1-capable loops, indicating a disparity in April, May, June, July, and August with competitive LEC results of 5.02%, 5.09%, 5.33%, 6.93%, and 8.37%, compared to Qwest results of 2.33%, 2.18%, 2.48%, 3.43%, and 3.91% respectively; MR-5 (All Troubles Cleared within 4 Hours) for DS1-capable loops, indicating a disparity in June, July, and August with competitive LEC results of 59.81%, 48.65%, and 50.81%, compared to Qwest results of 68.39%, 66.57%, and 63.01% respectively; MR-6 (Mean Time to Restore) for DS1-capable loops, indicating a disparity in June, July, and August with competitive LEC results of 4:35, 5:28, and 5:36, compared to Qwest results of 3:42, 3:52, and 4:32 respectively; OP-5 (New Service Installation Quality) for DS1-capable loops, indicating a disparity in May, June, and August with competitive LEC results of 90.00%, 86.03%, and 86.81%, compared to Qwest results of 94.36%, 93.95%, and 92.65% respectively.

⁹² See Letter from Hance Haney, Executive Director – Federal Relations, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1 (filed Sept. 22A, 2003).

⁹³ See *id.*

⁹⁴ See *id.* at 1-2.

⁹⁵ Qwest states that high-capacity loops represent 5.2% of the total loops Qwest has in service for competitive LECs in Arizona. See Qwest Application at 40; see also *Qwest 9-State Order*, 17 FCC Rcd at 26489-91, para. 341 & n.1244.

⁹⁶ Qwest's average results on the trouble rate metric for DS1-capable loops for the relevant period in Arizona are comparable to its average performance on the same metric reviewed by the Commission in the Colorado application. See *Qwest 9-State Order*, 17 FCC Rcd at 26489, para. 341 & n.1240 (summarizing Qwest's results for MR-8 (Trouble Rate) for DS1-capable loops in Colorado).

⁹⁷ See AT&T Comments at 3-25; AT&T Reply at 1-7; Letter from Karen L. Clauson, Senior Director of Interconnection, Eschelon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 2-3 (filed Oct. 14, 2003) (Eschelon Oct. 14 *Ex Parte* Letter).

facility work,” which requires no special orders or charges.⁹⁸ They contend that, as a result of this policy change, Qwest is violating section 251(c)(3) and discriminating in favor of its retail operations.⁹⁹ In response, Qwest states that, on August 20, 2003, it notified competitive LECs that it would not adhere to the changes that became effective on June 16 and, as a result, “Qwest’s current DS1 loop construction policy is materially the same as the policy that had been applied to competitive LECs before June 16.”¹⁰⁰ We note that the Arizona Commission has since adopted a staff recommendation ordering Qwest to suspend its new policy and reinstate the original policy until construction rates are approved by the Arizona Commission.¹⁰¹ Absent additional information, we are not convinced that Qwest’s policy has denied competitive LECs a meaningful opportunity to compete to date.¹⁰² We also note that, although the *Triennial Review Order* was not effective at the time that Qwest filed the instant application,¹⁰³ that order clarifies incumbent LECs’ obligations with regard to routine network modifications to existing facilities.¹⁰⁴ Accordingly, we decline to find that this allegation warrants a finding of checklist noncompliance.

⁹⁸ See AT&T Comments at 14; Eschelon Oct. 14 *Ex Parte* Letter at 2-3.

⁹⁹ See AT&T Comments at 10, 12; *see also* Eschelon Oct. 14 *Ex Parte* Letter at 2-3. In addition, we reject AT&T’s argument that, in changing its facilities construction policy through the CMP, Qwest violated its obligation to provide a change management process that allows competitors a meaningful opportunity to compete. *See supra* Section III.A.1.c.

¹⁰⁰ Letter from Hance Haney, Executive Director – Federal Relations, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1-2 (filed Sept. 29, 2003) (Qwest Sept. 29 *Ex Parte* Letter); *see* Qwest Reply at 8. We reject AT&T’s request that the Commission require Qwest to state in writing again that it has reinstated the pre-June 16 policy because we find Qwest’s assurances in this regard to be adequate. *See* Letter from Amy L. Alvarez, District Manager – Federal Government Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1 (filed Oct. 29, 2003) (AT&T Oct. 29 *Ex Parte* Letter).

¹⁰¹ *See Arizona Commission Sept. 16 Order* at 30-31. Qwest explains that it reinstated the pre-June 16 policy in response to competitive LECs’ concerns before the Arizona Commission’s order. *See* Qwest Sept. 29 *Ex Parte* Letter at 1. We note that the Department of Justice did not address this issue in its evaluation. *See generally* Department of Justice Evaluation. We also note that competitive LECs that filed a petition with the Commission concerning this issue have subsequently withdrawn it. *See* Letter from Patrick J. Donovan, Counsel for Cbeyond Communications, Eschelon Telecom, Focal Communications Corporation, and New Edge Networks, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-314 (filed Oct. 16, 2003).

¹⁰² *See Qwest 9-State Order*, 17 FCC Rcd at 26496-97, para. 349 (rejecting AT&T arguments that Qwest’s original pre-June 16 policy on construction of new facilities was discriminatory).

¹⁰³ *See supra* Section II.

¹⁰⁴ *See Triennial Review Order*, 18 FCC Rcd at 17371-78, paras. 632-41. We also reject AT&T’s request that the Commission require Qwest to commit that it will not alter the pre-June 16 policy without the consent of competitive LECs and the approval of the state commissions in its region. *See* AT&T Oct. 29 *Ex Parte* Letter at 1. As noted above, Qwest is currently obligated to comply with our new routine network modification rules and state commissions have processes in place to address proposed rate increases, such as that sought by Qwest in Arizona.

IV. OTHER CHECKLIST ITEMS

A. Checklist Item 2

1. Other OSS Issues

30. *Ordering.* Based on the evidence in the record, we find that Qwest demonstrates that it provides nondiscriminatory access to its ordering systems and processes and generally satisfies the performance standards governing the relevant performance measurements.¹⁰⁵ Although some commenters express concern with Qwest's rejection rates,¹⁰⁶ we find that for the relevant five-month period, Qwest's performance has generally improved,¹⁰⁷ and its rejection

¹⁰⁵ See, e.g., PO-3 (LSR Rejection Notice Interval); PO-5 (Firm Order Confirmations on Time). Although Qwest failed to reach the benchmark with respect to one electronic flow-through metric in Arizona during the relevant months, we do not find that this warrants a finding of checklist noncompliance. See PO-2B-2 (Electronic Flow-through for all Eligible LSRs Received via EDI, LNP%) showing an average of 88.2% compared to a 95% benchmark from April to August 2003). Qwest's overall performance with respect to electronic flow-through in Arizona is better than the flow-through demonstrated during prior Qwest 271 proceedings. See *Qwest 9-State Order*, Appendices B-J; *Qwest 3-State Order*, Appendices B-E; *Qwest Minnesota Order*, App. B. Moreover, Qwest's flow-through rates are comparable to those of other BOCs that the Commission has previously approved. See, e.g., *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Maine*, CC Docket No. 02-61, *Memorandum Opinion and Order*, 17 FCC Rcd 11659, 11703-30, App. B (2002) (*Verizon Maine Order*); *Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Jersey*, WC Docket No. 02-67, *Memorandum Opinion and Order*, 17 FCC Rcd 12275, 12372-402, App. B (2002) (*Verizon New Jersey Order*). Finally, no competitive LEC contests Qwest's performance in this regard.

¹⁰⁶ MCI Comments at 1. Additionally, AT&T argues that, as a result of Qwest's change in its loop conditioning policy, approximately 20% of competitive LEC high-capacity loops were rejected. AT&T Comments at 2, 7; AT&T Reply at 2. AT&T does not allege, however, that the increase in rejection rates for high-capacity loop orders is the result of any underlying OSS problem. See *supra* Section III.B.

¹⁰⁷ Qwest's commercial performance for April to August shows that an average of 31% of local service requests (LSRs) submitted over Qwest's Graphical User Interface (GUI) and an average of 32% of LSRs submitted over Qwest's Electronic Data Interchange (EDI) were automatically rejected. See PO-4A-2 (LSRs received via GUI and auto-rejected) and PO-4B-2 (LSRs received via EDI and auto-rejected). For manual rejects, Qwest's commercial data show that from April to August, an average of 3% of LSRs submitted over the GUI and 5% of LSRs submitted over EDI were manually rejected. See PO-4A-1 (LSRs received via GUI and manually rejected) and PO-4B-1 (LSRs received via EDI and manually rejected). We note that Qwest's performance in July was 28.69% while its August performance improved to 25.38%. See PO-4B-2 (LSRs received via EDI and auto-rejected). See also Qwest Reply at 17. Additionally, a number of competing LECs experience low rejection rates (ranging from 1% to 11%) during the month of August for LSRs submitted over EDI (PO-4B-2). Qwest Notarianni/Huff Reply Decl., Ex. LN-13 (Chart of CLEC-Specific Flow-Through and Reject Rates Under PO-2 and PO-4, Updated with Data from August 2003) (citing confidential information). See also Qwest Reply at 17; Qwest Notarianni/Huff Reply Decl. at para. 27.

rates are well within the range that the Commission has previously found to be acceptable.¹⁰⁸ At any rate, the Commission does not perform a parity or direct benchmark analysis of a carrier's rejection rate, in part because a high rejection rate for one carrier does not necessarily indicate flaws in the BOC's OSS systems or processes, but instead could be attributable to the competitive LEC's own errors.¹⁰⁹

31. *Provisioning.* We conclude, as did the Arizona Commission, that Qwest satisfies checklist item 2 with regard to provisioning in Arizona.¹¹⁰ The record demonstrates that Qwest provides nondiscriminatory access to its provisioning systems and processes and consistently satisfies the performance standards for the relevant performance measurements.¹¹¹ Moreover, the

¹⁰⁸ See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd at 4044, para. 175 n.552 (reporting rejection rates between 28% and 34% during the relevant months of its New York section 271 application); *Qwest 9-State Order*, 17 FCC Rcd at 26357, para. 89 n.314 (Qwest's commercial performance for June to September 2002 showed that an average of 31% of LSRs submitted over the GUI and an average of 22% of LSRs submitted over EDI were automatically rejected); *Qwest Minnesota Order*, 18 FCC Rcd at 13335, para. 25 n.72 (noting that Qwest's recalculated rejection rates ranged from 19.5% to 38%).

¹⁰⁹ See, e.g., *Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Authorization to Provide In-Region, InterLATA Services in Michigan*, WC Docket No. 03-138, FCC 03-228, Memorandum Opinion and Order, at para. 67 (rel. Sept. 17, 2003) (*SBC Michigan II Order*); *SBC California Order*, 17 FCC Rcd at 25691-92, para. 83; *SWBT Texas Order*, 15 FCC Rcd at 18442, para. 176. For example, in the *SWBT Texas Order*, the Commission noted that the order rejections varied widely by individual carrier, from 10.8% to higher than 60%, but concluded that these overall rejection rates did not appear to indicate a systemic flaw in the BOC's OSS.

¹¹⁰ See, e.g., Arizona Commission Comments at 11 (citing CGE&Y's findings).

¹¹¹ Qwest's wholesale performance reflects few missed benchmarks, with the few misses generally occurring in low volume categories. See OP-3 (Installation Commitments Met), OP-4 (Installation Interval), OP-5 (New Service Installation Quality), OP-6A (Delayed Days for Non-Facility Reasons), and OP-6B (Delayed Days for Facility Reasons) for resale, UNE-platform, UNE-platform Centrex orders, and UNE combos. Although Qwest missed the benchmark for EELs installation commitments for three of the five months, we find that the performance disparities do not appear to be competitively significant. With a benchmark of 90%, Qwest's performance in Arizona for OP-3 (Installation Commitments Met, EELs) is 94.23%, 89.80%, 85.71%, 89.29%, and 90.74% with volumes of 52, 49, 56, 28, and 54, respectively from April through August 2003. According to Qwest, facility problems caused the misses in May and June (*i.e.*, the DS1 service could not be provisioned as engineered due to the actual make-up of the line). Qwest Reply, Attach. A at 7. Moreover, as we stated in the *Qwest Minnesota Order*, we find it difficult to draw strong conclusions regarding this data given the comparatively low volumes and the lack of complaints regarding EELs provisioning. *Qwest Minnesota Order*, 18 FCC Rcd at 13343, para. 40. Qwest also missed the OP-4 metric (Installation Interval) in April, June, July, and August for Qwest xDSL service. See OP-4 (Installation Interval, Qwest xDSL) showing 5.25, 4.86, 5.29, 5.47, and 5.12 days versus 4.99, 4.9, 4.88, 4.87, and 4.9 days for Qwest retail customers during the relevant months. However, the competing LEC volumes for Qwest xDSL resale service in Arizona were less than 20 each month and the performance disparities are not competitively significant. See, e.g., Qwest Oct. 23A *Ex Parte* Letter at 3 (noting that the difference in August was less than half a day). Moreover, as we have mentioned in the *Qwest 9-State Order*, we do not rely on Qwest's performance under the average completed interval metric as a measure of Qwest's timeliness in provisioning Qwest xDSL service. *Qwest 9-State Order*, 17 FCC Rcd at 26402, para. 163. Instead, we conclude, as we have in prior section 271 orders, that the missed appointment metric (or installation commitments met metric, as it is called in the Qwest territory), which Qwest passed in most months in Arizona, is a more reliable indicator of provisioning (continued....)

third-party test conclusions generally support our findings in this regard.¹¹² We note that no commenter raises any new issues in this proceeding relating to Qwest's provisioning capabilities.

32. *Billing.* We find, as did the Arizona Commission, that Qwest provides nondiscriminatory access to its billing functions.¹¹³ Qwest's billing systems are the same as those reviewed in previous Qwest section 271 applications, and Qwest's commercial performance data demonstrate that it generally satisfies the parity or benchmark standards.¹¹⁴

2. Pricing Unbundled Network Elements

a. Introduction

33. Checklist item 2 of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.¹¹⁵ Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."¹¹⁶ Section 252(d)(1) provides that a state commission's determination of the just and reasonable rates for network elements must be nondiscriminatory and based on the cost of providing the network elements, and may include a reasonable profit.¹¹⁷ Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.¹¹⁸

(Continued from previous page) _____
timeliness. *Id.*; OP-3 (Installation Commitments Met, Qwest xDSL). Therefore, we find that Qwest meets its obligations with respect to provisioning.

¹¹² See Qwest Notarianni/Huff Decl. at paras. 420-50.

¹¹³ See Arizona Commission Comments at 11 (citing CGE&Y's findings).

¹¹⁴ Qwest missed parity for three of five months on BI-3A (Billing Accuracy – Adjustments for Errors, UNEs and Resale Aggr%). In May, July, and August 2003, the competitive LEC percentages were 91.49, 96.65, and 92.08 respectively, and, during the same period of time, Qwest's retail percentages were 99.08, 99.36, and 99.05. However, we note that the difference, weighted for volumes, in performance between competitive LECs and Qwest for this five-month period was only 3.72% and find that this difference is not competitively significant.

¹¹⁵ 47 U.S.C. § 271(c)(2)(B)(ii).

¹¹⁶ 47 U.S.C. § 251(c)(3).

¹¹⁷ 47 U.S.C. § 252(d)(1).

¹¹⁸ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15844-47, paras. 674-79 (1996) (*Local Competition First Report and Order*) (subsequent history omitted); 47 C.F.R. §§ 51.501-51.515 (2001). Last year, the Supreme Court upheld the Commission's forward-looking pricing methodology for determining the costs of UNEs. *Verizon Communications, Inc. v. FCC*, 535 U.S. 467, 523 (2002).

34. In applying the Commission's TELRIC pricing principles in this application, we do not conduct a *de novo* review of a state's pricing determinations.¹¹⁹ We will, however, reject an application if basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce.¹²⁰ We note that different states may reach different results that are each within the range of what a reasonable application of TELRIC principles would produce. Accordingly, an input rejected elsewhere might be reasonable under the specific circumstances here.

35. In its application, Qwest states that the UNE rates (recurring and non-recurring) adopted by the Arizona Commission comply with our TELRIC pricing rules.¹²¹ Should the Commission decline to rely on cost proceedings conducted by the Arizona Commission to find Qwest's rates consistent with the Act, Qwest also submitted a benchmark comparison to its UNE rates in Colorado that it claims demonstrates its UNE rates in Arizona fall within the range that a reasonable application of TELRIC principles would produce.¹²²

b. Background

36. *UNE Cost Proceedings.* During the course of the initial interconnection agreement arbitrations in Arizona, the Arizona Commission established interim UNE rates in

¹¹⁹ *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-338, Memorandum Opinion and Order, 16 FCC Rcd 17419, 17453, para. 55 (2001) (subsequent history omitted) (*Verizon Pennsylvania Order*). See also *Sprint v. FCC*, 274 F.3d at 556 ("When the Commission adjudicates § 271 applications, it does not – and cannot – conduct *de novo* review of state rate-setting determinations. Instead, it makes a general assessment of compliance with TELRIC principles.")

¹²⁰ *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

¹²¹ Qwest Application at 103; Qwest Application, App. A, Tab 24, Declaration of Jerrold L. Thompson (Qwest Thompson Decl.) at paras. 2, 13, 44.

¹²² Qwest Application at 103-04; Qwest Thompson Decl. at paras. 2, 44-49, Exs. 2-6. The Commission has stated that, when a state commission has not applied TELRIC principles or has done so improperly, then the Commission will look to rates in other section 271-approved states to see if the rates under review nonetheless fall within the range that a reasonable application of TELRIC principles would produce. In comparing the rates, the Commission has used its universal service cost model to take into account the differences in the underlying costs between the applicant state and the comparison (*i.e.*, benchmark) state for which the Commission has already found the rates to be reasonable. For recurring charges, if the percentage difference between the applicant state's rates and the benchmark state's rates does not exceed the percentage difference between the applicant state's costs and the benchmark state's costs, as determined by the universal service cost model, then the Commission will find that the applicant has met its burden to show that its rates are TELRIC-compliant. See, *e.g.*, *Verizon Pennsylvania Order*, 16 FCC Rcd at 17456-58, paras. 63-65.

August 1996 based on the FCC proxy rates.¹²³ Permanent UNE rates were established in January 1998.¹²⁴ In July 2000, the Arizona Commission developed deaveraged loop rates.¹²⁵

37. The Arizona Commission subsequently re-examined rates, establishing new UNE rates for all elements except switching in June 2002.¹²⁶ In adopting new UNE rates, the Arizona Commission relied on the HAI model sponsored by AT&T, WorldCom, and XO to set recurring rates and on the competitive LECs' non-recurring cost model to set non-recurring rates.¹²⁷ The Arizona Commission established new unbundled switching rates in December 2002.¹²⁸ The parties, however, were unable to agree on the analog line side port rate that resulted from the *Arizona 2002 Generic Pricing Order*.¹²⁹ On October 6, 2003, the Arizona Commission adopted a rate for this switching element and revised the rate for unbundled transport.¹³⁰

c. Discussion

38. Based on the evidence in the record, we find that Qwest's UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and are based on cost plus a reasonable profit as required by section 252(d)(1). Thus, Qwest's UNE rates satisfy checklist item 2.

39. The Arizona Commission, as explained above, conducted extensive pricing proceedings to establish wholesale rates for UNEs. It established recurring rates by using an Arizona-specific version of the HAI model advocated by AT&T, WorldCom, and XO, as well as many inputs to that model that were advocated by competitive LECs.¹³¹ The Arizona

¹²³ Qwest Application, App. I, Vol. 1, Tab 1, Arizona Commission Aug. 30, 1996 Procedural Order.

¹²⁴ Qwest Application, App. I, Vol. 1, Tab 211, Arizona Commission Jan. 30, 1998 Opinion and Order, *aff'd in part and rev'd in part, US West Communications, Inc. v. Jennings*, 46 F. Supp. 2d 1004 (D. Ariz. 1999), *aff'd in part and rev'd in part*, 304 F.3d 950 (9th Cir. 2002).

¹²⁵ Qwest Application, App. I, Vol. 3, Tab 57, Arizona Commission July 25, 2000 Phase I Opinion and Order.

¹²⁶ Qwest Application, App. I, Vol. 3, Tab 504, Arizona Commission June 12, 2002 Phase II Opinion and Order (*Arizona 2002 Generic Pricing Order*), *appeal pending sub nom. Qwest Corp. v. Ariz. Corp. Comm'n*, Case No. CIV 02-1626 (PHX-SRB) (D. Ariz.).

¹²⁷ *Arizona 2002 Generic Pricing Order*, at 10-11, 33-34.

¹²⁸ Qwest Application, App. I, Vol. 3, Tab 528, Arizona Commission Dec. 12, 2002 Phase IIA Opinion and Order.

¹²⁹ See Letter from Maureen A. Scott, Attorney, Arizona Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194, Attach. at 2 (Arizona Commission Oct. 6, 2003 Phase II and IIA Supplemental Opinion and Order Regarding Transport and Analog Port Rate Issues) (filed Oct. 8, 2003).

¹³⁰ *Id.*, Attach. at 1-15.

¹³¹ *Arizona 2002 Generic Pricing Order* at 10-11. For example, the Arizona Commission adopted the competitive LECs' inputs for placement costs, fill factors, and overhead costs. *Id.* at 11-12, 15-17, 20-21.

Commission also established non-recurring rates by using the non-recurring cost model advocated by AT&T, WorldCom, and XO.¹³² The Arizona Commission concluded that Qwest's UNE rates comply with the TELRIC methodology and satisfy the requirements of checklist item 2.¹³³ No commenter alleges that Qwest's rates are inconsistent with TELRIC, or that the Arizona Commission committed TELRIC errors in establishing those rates. Based on this record, we find that Qwest has met its burden to show that its prices for UNEs satisfy the statutory mandate.¹³⁴

B. Remaining Checklist Items (1, 3, and 5-14)

40. In addition to showing compliance with the statutory requirements discussed above, an applicant for section 271 authority must demonstrate that it complies with checklist item 1 (interconnection),¹³⁵ item 3 (access to poles, ducts, and conduits),¹³⁶ item 5 (unbundled transport),¹³⁷ item 6 (unbundled local switching),¹³⁸ item 7 (911/E911 access and directory assistance/operator services),¹³⁹ item 8 (white pages directory listings),¹⁴⁰ item 9 (numbering administration),¹⁴¹ item 10 (databases and associated signaling),¹⁴² item 11 (number portability),¹⁴³ item 12 (local dialing parity),¹⁴⁴ item 13 (reciprocal compensation),¹⁴⁵ and item 14 (resale).¹⁴⁶ Based on the evidence in this record, we conclude, as did the Arizona Commission,¹⁴⁷ that Qwest

¹³² *Id.* at 33-34.

¹³³ See Arizona Commission Comments at paras. 35, 58, 65, 68, and 71.

¹³⁴ Because we find that Qwest has satisfied its burden based on our review of the record before us and on the UNE cost proceedings before the Arizona Commission, we find it unnecessary to rely on Qwest's benchmark analysis.

¹³⁵ 47 U.S.C. § 271(c)(2)(B)(i).

¹³⁶ 47 U.S.C. § 271(c)(2)(B)(iii).

¹³⁷ 47 U.S.C. § 271(c)(2)(B)(v).

¹³⁸ 47 U.S.C. § 271(c)(2)(B)(vi).

¹³⁹ 47 U.S.C. § 271(c)(2)(B)(vii).

¹⁴⁰ 47 U.S.C. § 271(c)(2)(B)(viii).

¹⁴¹ 47 U.S.C. § 271(c)(2)(B)(ix).

¹⁴² 47 U.S.C. § 271(c)(2)(B)(x).

¹⁴³ 47 U.S.C. § 271(c)(2)(B)(xi).

¹⁴⁴ 47 U.S.C. § 271(c)(2)(B)(xii).

¹⁴⁵ 47 U.S.C. § 271(c)(2)(B)(xiii).

¹⁴⁶ 47 U.S.C. § 271(c)(2)(B)(xiv).

¹⁴⁷ Arizona Commission Comments at 8-18.

complies with the requirements of all of these checklist items.¹⁴⁸ None of the commenting parties challenges Qwest's compliance with these items.

V. COMPLIANCE WITH SECTION 271(c)(1)(A)

41. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, the BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B).¹⁴⁹ To meet the requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."¹⁵⁰ In addition, the Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier."¹⁵¹ The Commission has concluded that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers,¹⁵² and that UNEs are a competing provider's "own telephone exchange service facilities" for purposes of section 271(c)(1)(A).¹⁵³ The Commission has further held that a BOC must show that at least one "competing provider" constitutes "an actual commercial alternative to the BOC,"¹⁵⁴ which a BOC can do by demonstrating that the provider serves "more than a *de minimis* number" of subscribers.¹⁵⁵ The Commission has held that Track A does not require any

¹⁴⁸ See Qwest Application at 14-24 (checklist item 1), 33-35 (checklist item 3), 46-51 (checklist item 5), 51-52 (checklist item 6), 52-56 (checklist item 7), 56-58 (checklist item 8), 58-60 (checklist item 9), 60-62 (checklist item 10), 63-65 (checklist item 11), 65-66 (checklist item 12), 66-70 (checklist item 13), 70-74 (checklist item 14). We also find that Qwest complies with its UNE combinations obligations set forth in checklist item 2. See *id.* at 27-33.

¹⁴⁹ 47 U.S.C. § 271(c)(1).

¹⁵⁰ *Id.*

¹⁵¹ 47 U.S.C. § 271(d)(3)(A).

¹⁵² *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 85; see also *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order, 13 FCC Rcd 20599, 20633-35, paras. 46-48 (1998) (*BellSouth Second Louisiana Order*).

¹⁵³ *Ameritech Michigan Order*, 12 FCC Rcd at 20598, para. 101.

¹⁵⁴ *Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Oklahoma*, CC Docket No. 97-121, Memorandum Opinion and Order, 12 FCC Rcd 8685, 8695, para. 14 (1997).

¹⁵⁵ *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6257, para. 42; see also *Ameritech Michigan Order* 12 FCC Rcd at 20585, para. 78.

particular level of market penetration, and the D.C. Circuit has affirmed that the Act “imposes no volume requirements for satisfaction of Track A.”¹⁵⁶

42. We agree with the Arizona Commission that Qwest satisfies the requirements of Track A.¹⁵⁷ We find that each of the following four carriers – AT&T, Cox, MCI, and Time Warner – serves more than a *de minimis* number of residential and/or business end users over its own facilities, and each represents an “actual facilities-based competitor” to Qwest in Arizona.¹⁵⁸ Specifically, AT&T provides telephone exchange service to business subscribers predominantly over its own facilities, UNE-Loops, and the UNE-Platform.¹⁵⁹ Cox provides telephone exchange service to residential and business subscribers over its own facilities.¹⁶⁰ MCI provides telephone exchange service to business and residential subscribers predominantly through its own facilities and the UNE-Platform.¹⁶¹ Time Warner provides telephone exchange service to residential and business customers over its own facilities.¹⁶²

VI. SECTION 272 COMPLIANCE

43. Section 271(d)(3)(B) requires that the Commission shall not approve a BOC’s application to provide interLATA services unless the BOC demonstrates that the “requested authorization will be carried out in accordance with the requirements of section 272.”¹⁶³ The Commission set standards for compliance with section 272 in the *Accounting Safeguards Order*

¹⁵⁶ *Sprint v. FCC*, 274 F.3d at 553-54; *see also SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998) (“Track A does not indicate just how much competition a provider must offer in either the business or residential markets before it is deemed a ‘competing’ provider.”).

¹⁵⁷ *Arizona Commission Sept. 29 Order* at 2-7.

¹⁵⁸ Qwest Teitzel Decl. at para. 30 & Ex. DLT-Track A/PI-AZ-1 at 3-4 (citing confidential information). We reject again Sprint’s contention that because Qwest’s estimation of Sprint’s customers is allegedly incorrect, Qwest’s overall showing on the number of competitive LEC customers in Arizona is insufficient for a finding of Track A compliance. *See* Sprint Comments at 8-10; *Qwest Minnesota Order*, 18 FCC Rcd at 13356, para. 61 n.229 (rejecting Sprint’s argument in that proceeding). Given the large number of competitive access lines estimated to be in Arizona, and given that Qwest used the same methods to estimate access lines in prior section 271 applications that the Commission approved, we find that Sprint’s concerns do not undermine the evidence that competitive LECs are serving, over their own facilities, more than a *de minimis* number of business and residential customers. *Qwest Minnesota Order*, 18 FCC Rcd at 13356, para. 61 n.229; *Qwest 9-State Order*, 17 FCC Rcd at 26318-19, para. 32 (approving Qwest’s Track A estimation of lines served using the E-911 database).

¹⁵⁹ Qwest Teitzel Decl., Ex. DLT-Track A/PI-AZ-1 at 3.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.* at 4.

¹⁶³ 47 U.S.C. § 271(d)(3)(B); *see also* App. C.

and the *Non-Accounting Safeguards Order*.¹⁶⁴ Together, these safeguards discourage, and facilitate the detection of, improper cost allocation and cross-subsidization between the BOC and its section 272 affiliate.¹⁶⁵ In addition, these safeguards ensure that BOCs do not discriminate in favor of their section 272 affiliates.¹⁶⁶ As the Commission has stated in prior section 271 orders, compliance with section 272 is “of crucial importance” because the structural, transactional, and nondiscrimination safeguards of section 272 seek to ensure that BOCs compete on a level playing field.¹⁶⁷

44. Qwest Corporation (QC), which is Qwest’s BOC, demonstrates that two of its affiliates – Qwest LD Corp. (QLDC), and Qwest Communications Corporation (QCC) – comply with the requirements of section 272.¹⁶⁸ In its application, Qwest stated that it would designate QCC as an active section 272 affiliate as soon as it was able to certify QCII’s financial statements, which were in the process of being restated.¹⁶⁹ Qwest completed those restatements on October 16, 2003, when it filed its revised 10-K financial statements for QCII for 2000 to 2002 with the Securities and Exchange Commission.¹⁷⁰ As a result, Qwest asserts that the

¹⁶⁴ See *Implementation of the Accounting Safeguards under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996) (*Accounting Safeguards Order*), Second Order On Reconsideration, 15 FCC Rcd 1161 (2000); *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), First Order on Reconsideration, 12 FCC Rcd 2297 (1997), Second Order on Reconsideration, 12 FCC Rcd 8653 (1997), *aff’d sub nom. Bell Atlantic Tel. Cos. v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, 14 FCC Rcd 16299 (1999).

¹⁶⁵ See *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, para. 15; *Accounting Safeguards Order*, 11 FCC Rcd at 17550, para. 24; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

¹⁶⁶ See *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, paras. 15-16; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

¹⁶⁷ See, e.g., *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346; *SWBT Texas Order*, 15 FCC Rcd at 18549, para. 395.

¹⁶⁸ QCC is a facilities-based carrier, and QLDC is a switchless reseller, both of which are wholly-owned subsidiaries of Qwest Services Corporation, which in turn is a wholly owned subsidiary of Qwest. Qwest Application, App. A, Tab 27, Declaration of Ford B. Fay at paras. 14-15; Qwest Application App. A, Tab 28, Declaration of Marie E. Schwartz (Qwest Schwartz Decl.) at para. 31. QLDC was formed in 2002 in the face of a number of accounting difficulties that prevented Qwest Communications International Inc. (QCII) from certifying whether certain of its financial statements were in compliance with generally accepted accounting principles (GAAP).

¹⁶⁹ Qwest Application at 106.

¹⁷⁰ See Letter from R. William Johnston, Vice President – Assistant Controller, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1 (filed Oct. 31, 2003) (Qwest Oct. 31 *Ex Parte* Letter).

“books, records and accounts of QCC are being maintained in accordance with GAAP consistent with FCC requirements for a separate affiliate under Section 272.”¹⁷¹

45. Based on the record, we conclude that QC and its section 272 affiliates have demonstrated compliance with the requirements of section 272. In the *Qwest 9-State Order*, the Commission noted that its judgment about Qwest’s compliance with section 272 is a predictive one, as required by section 271(d)(3)(B) of the Act.¹⁷² Specifically, our task is to determine whether Qwest’s section 272 affiliates, QLDC and QCC, will be complying with this requirement on the date of authorization, and thereafter.¹⁷³ We conclude that Qwest has adequately demonstrated that QLDC and QCC will be the entities providing in-region, interLATA service originating in Arizona, and both affiliates will comply with the requirements set forth in section 272.¹⁷⁴ We note that no party challenges Qwest’s section 272 showing.

46. The Commission has determined that QLDC satisfied the requirements set forth in section 272 in the 13 Qwest applications it has previously considered, and we make the same findings of QLDC in the instant proceeding. Thus, we focus our review here on QCC. Specifically, we determine that QCC provides evidence that it satisfies the separate affiliate requirements of section 272(a), complies with the structural and transactional requirements of section 272(b)(1)-(5), and is prepared to follow the joint marketing rules of section 272(g).¹⁷⁵ Importantly, as noted above, Qwest represents that QCC maintains its books, records, and accounts in accordance with GAAP, which is a Commission requirement to demonstrate compliance with section 272(b)(2).¹⁷⁶ We also conclude that QC will comply with section

¹⁷¹ *Id.* at 2.

¹⁷² See *Qwest 9-State Order*, 17 FCC Rcd at 26516-17, para. 384 & n.1417.

¹⁷³ See *id.* at 26516-17, para. 384. In the *Qwest 9-State Order*, the *Qwest 3-State Order*, and the *Qwest Minnesota Order*, we found that Qwest was in compliance with the section 272 affiliate safeguards. In particular, as in the instant case, we approved Qwest’s use of QLDC as its section 272 affiliate. *Id.* at 26517-27, paras. 385-405; *Qwest 3-State Order*, 18 FCC Rcd at 7390-92, paras. 113-15, *Qwest Minnesota Order*, 18 FCC Rcd at 13357-59, paras. 62-65.

¹⁷⁴ Cf. *AT&T Corp. v. U S WEST Corp.*, 13 FCC Rcd 21438, 21465-66, para. 37 (*Qwest Teaming Order*), *aff’d sub nom. U.S. West Communications, Inc. v. FCC*, 177 F.3d 1057 (D.C. Cir. 1999), *cert. denied*, 528 U.S. 1188 (2000). In the *Qwest Teaming Order*, the Commission considered the totality of the circumstances, rather than focusing on any one particular activity, in assessing whether the BOC was providing interLATA service within the meaning of section 271. *Id.* In making its determination, the Commission considered several factors, including whether the BOC was effectively holding itself out as a provider of long distance service, and whether the BOC was performing activities and functions that were typically performed by those who are legally or contractually responsible for providing interLATA service to the public. *Id.* Similarly, we consider, for purposes of this section 271 application, the totality of the circumstances in determining whether QLDC and QCC are entities that will be providing originating in-region, interLATA service.

¹⁷⁵ Qwest Application App. A, Tab 29, Declaration of Jerome R. Mueller at paras. 18-46.

¹⁷⁶ See Qwest Oct. 31 *Ex Parte* Letter at 2. See also *Accounting Safeguards Order*, 11 FCC Rcd at 17617, para. 170.

272(c), which requires that all transactions with affiliates be accounted for in accordance with accounting principles designated by the Commission and which prohibits a BOC from discriminating in favor of its section 272 affiliates.¹⁷⁷ In addition, we conclude that QC will satisfy section 272(d) by obtaining and paying for a biennial audit.¹⁷⁸ Moreover, QC demonstrates that it will comply with section 272(e), which requires Qwest to fulfill certain requests for, among other things, telephone exchange and exchange access services from unaffiliated entities within the same time period Qwest fulfills such requests for its own retail operations.¹⁷⁹ Finally, in the event that Qwest no longer utilizes QLDC as a section 272 affiliate in the future, Qwest must, of course continue to comply with all of the Commission's rules.¹⁸⁰

VII. PUBLIC INTEREST ANALYSIS

47. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.¹⁸¹ At the same time, section 271(d)(4) of the Act states that “[t]he Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).”¹⁸² Accordingly, although the Commission must make a separate determination that approval of a section 271 application is “consistent with the public interest, convenience, and necessity,” it may neither limit nor extend the terms of the competitive checklist of section 271(c)(2)(B). Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will serve the public interest as Congress expected.¹⁸³

48. We conclude that approval of this application is consistent with the public interest. Following an extensive review of the competitive checklist, we find that the record confirms the Commission's view that BOC entry into the long distance market will benefit consumers and competition because barriers to competitive entry in Arizona's local exchange market have been removed, and the local exchange market is open to competition.

¹⁷⁷ Qwest Schwartz Decl. at paras. 71-78.

¹⁷⁸ *Id.* at paras. 79-82. We remind Qwest that under sections 220(c) and 272(d)(3) of the Act, it must provide the Commission, and the independent auditors, with requested information in connection with the section 272(d) audit in a timely and complete manner. *See* 47 U.S.C. §§ 220(c), 272(d)(3).

¹⁷⁹ Qwest Schwartz Decl. at paras. 83-85.

¹⁸⁰ *See, e.g., Qwest Minnesota Order*, 18 FCC Rcd at 13359, para. 65.

¹⁸¹ 47 U.S.C. § 271(d)(3)(C); App. C, paras. 70-71.

¹⁸² 47 U.S.C. § 271(d)(4).

¹⁸³ *See Ameritech Michigan Order*, 12 FCC Rcd at 20745-47, para. 386-90.

49. We disagree with Sprint's assertions that we must, under our public interest standard, consider a variety of other factors as evidence that the local market is not yet truly open to competition, despite checklist compliance.¹⁸⁴ We note that Congress specifically declined to adopt a market share or other similar test for BOC entry into long distance.¹⁸⁵ Additionally, we note that, according to Qwest, competitive LECs serve approximately 20 percent of the local market.¹⁸⁶ Given an affirmative showing that the competitive checklist has been satisfied, low customer volumes or the failure of any number of companies to enter the market in and of themselves do not necessarily undermine that showing. As the Commission has stated in previous section 271 orders, factors beyond the control of the BOC can explain low levels of residential competition.¹⁸⁷

50. We also reject commenters' allegations that Qwest's application is not in the public interest due to winback marketing campaigns employed by Qwest.¹⁸⁸ The Commission has previously concluded that winback campaigns are consistent with section 222(c)(1) of the Act and are not anticompetitive, and that retention marketing campaigns may be permissible

¹⁸⁴ Those factors include the level of competitive LEC market share, the financial strength of competitive LECs, and the failure of other BOCs to enter the market in the application states. Specifically, Sprint argues that competitive LECs have difficulty obtaining capital to expand their facilities, thus restricting their ability to remain competitive. Sprint also alleges that the uncertainty of available UNEs following the recent appeals of the *Triennial Review Order* will cause further financial pressures. Additionally, Sprint claims that low levels of residential competitive LEC entry in Arizona are indicative of competitors unwilling or unable to invest in the market, and granting the current section 271 application is not in the public interest. Sprint Comments at 4-8. Finally, Sprint infers that Qwest's methodology improperly inflates competitive LECs' line estimates and, therefore, the true market share of competitive carriers in Arizona is unknown. *Id.* at 9-10.

¹⁸⁵ See, e.g., *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77; *Sprint v. FCC*, 274 F.3d at 553-54.

¹⁸⁶ Qwest Teitzel Decl. at paras. 39-41, nn. 45-48.

¹⁸⁷ See *Verizon Pennsylvania Order*, 16 FCC Rcd at 17487, para. 126. The Commission recently released an order finding that allegations of a price squeeze are relevant to the Commission's consideration of whether an applicant has met its section 271 public interest requirements. See *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Order on Remand, FCC 03-285 (rel. Nov. 12, 2003) (*SWBT Kansas/Oklahoma Remand Order*). In its comments, Sprint argues that low volumes of residential customers served by competitors and the BOC's pricing, which does not provide enough margin to make competition profitable, are evidence of a "price squeeze." Sprint Comments at 3. While we have determined that evidence of a price squeeze (*i.e.*, where the margin between UNE rates and retail rates precludes efficient competitors from entering a market) is relevant to our public interest review, Sprint fails to state a specific claim supported by pricing or other evidence to establish such a violation in Arizona. See *SWBT Kansas/Oklahoma Remand Order* at para. 13. Indeed, as mentioned above, no party raises any pricing issue in this proceeding. See *supra* Section IV.A.2.

¹⁸⁸ Commenters state that Qwest has commenced a series of anticompetitive advertising campaigns that violate competitive principles generally and Qwest's SGATs specifically. Eschelon Oct. 14 *Ex Parte* Letter at 4-5. Letter from Jonathan Askin, General Counsel, Association for Local Telecommunications Services, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 at 1-2 (filed Oct. 17, 2003).

assuming they do not violate the provisions of section 222(b) of the Act.¹⁸⁹ We find, as we did in the *BellSouth Georgia/Louisiana Order* that, absent a formal complaint to the Commission that Qwest has failed to comply with the provisions of section 222(b), these allegations should be referred to the appropriate state commission for disposition.¹⁹⁰ Finally, we also determine that Qwest's premature marketing does not warrant a denial of this application. On November 14, 2003, Qwest voluntarily informed the Commission that one of its telemarketing vendors inappropriately contacted 353 Arizona residents about Qwest's long distance service.¹⁹¹ According to Qwest, no sales to Arizona residents occurred and the Arizona telemarketing efforts were halted after one day.¹⁹² Based on the evidence in this proceeding, we find that this is an isolated occurrence for which we should not deny this application under the public interest standard.¹⁹³ Moreover, the Commission's Enforcement Bureau is considering this matter.

A. Assurance of Future Compliance

51. As set forth below, we find that Arizona's Performance Assurance Plan (PAP) provides assurance that the local market will remain open after Qwest receives section 271 authorization in this state.¹⁹⁴ We find that this plan will likely provide sufficient incentives to foster post-entry checklist compliance. In previous orders, the Commission has explained that one factor it may consider as part of its public interest analysis is whether a BOC would have adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market.¹⁹⁵ Although it is not a requirement for section 271 authority that a BOC be

¹⁸⁹ 47 U.S.C. § 222(b). Section 222(b) of the Act prohibits a carrier from using carrier proprietary information to retain soon-to-be-former customers when the carrier gains notice of a customer's imminent cancellation of service through the provision of carrier to carrier service.

¹⁹⁰ See *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9186-88, paras. 301-03. Eschelon also argues that another Qwest advertising campaign violates sections of the Arizona SGAT because Qwest refers to itself as the underlying provider of an unidentified competitive LEC's service to an end user. Eschelon Oct. 14 *Ex Parte* Letter at 3-4. While Qwest disagrees with Eschelon's interpretation of the SGAT, we find that an alleged SGAT violation is best handled by the appropriate state commission. See Qwest Oct. 23A *Ex Parte* Letter at 3. Finally, we determine that Qwest's alleged conduct does not warrant a finding that Qwest's application is not in the public interest.

¹⁹¹ See Letter from Hance Haney, Executive Director – Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-194 (filed Nov. 14, 2003) (attaching a November 13, 2003 letter filed with the Enforcement Bureau).

¹⁹² *Id.*, Attach. at 2.

¹⁹³ We note that our finding is consistent with Commission precedent. See, e.g., *SBC Michigan II Order* at para. 186 (citing *Application by Verizon New England Inc., Verizon Delaware Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Hampshire and Delaware*, WC Docket No. 02-157, Memorandum Opinion & Order, 17 FCC Rcd 18660, 18751-55, paras. 163-68 (2002); *Verizon New Jersey Order*, 17 FCC Rcd at 12367-68, paras. 188-90).

¹⁹⁴ Arizona Commission Comments at 24.

¹⁹⁵ See, e.g., *Verizon Pennsylvania Order*, 16 FCC Rcd at 17487-88, para. 127.

subject to such performance assurance mechanisms, the Commission has stated previously that the existence of a satisfactory performance monitoring and enforcement mechanism would be probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.¹⁹⁶ The PAP, coupled with the Arizona Commission's active oversight of it, and provisions for comprehensive review every six months to determine whether modifications are necessary, provide additional assurance that the local market in Arizona will remain open.

52. The Arizona PAP closely resembles the PAPs the Commission reviewed in the recently approved *Qwest 9-State Order*, *Qwest 3-State Order*, and *Qwest Minnesota Order*.¹⁹⁷ The Arizona PAP was developed through a review process involving the Arizona Commission and competitive LECs operating in Arizona, and incorporates the key elements that the Commission has previously concluded should be included in an adequate post-entry PAP with respect to Qwest.¹⁹⁸ Following an open proceeding, on June 5, 2002, the Arizona Commission deemed the Qwest PAP to be compliant with the requirements of the Act.¹⁹⁹

53. We conclude that the Arizona PAP provides incentives to foster post-entry checklist compliance. As in prior section 271 orders, our conclusions are based on a review of several key elements in the performance remedy plan: total liability at risk in the plan, performance measurement and standards definitions, structure of the plan, self-executing nature of remedies in the plan, data validation and audit procedures in the plan, and accounting requirements.²⁰⁰ The structure of these plans is similar to tiered plans that the Commission approved in previous section 271 orders.²⁰¹ The PAP places at risk about 44 percent of Qwest's Arizona local operating service net income, which puts it in line with those that the Commission has previously considered.²⁰² Also, as mentioned above, the PAP includes provisions for continuing PAP review by the Arizona Commission.²⁰³

¹⁹⁶ *Ameritech Michigan Order*, 12 FCC Rcd at 20748-50, paras. 393-98. We note that in all of the previous applications that the Commission has granted to date, the applicant was subject to an enforcement plan administered by the relevant state commission to protect against backsliding after BOC entry into the long distance market. These mechanisms are administered by the state commissions and derive from authority the states have under state law or under the federal Act. As such, these mechanisms can serve as critical complements to the Commission's authority to preserve checklist compliance pursuant to section 271(d)(6).

¹⁹⁷ Qwest Application at 118; *Qwest 9-State Order*, 17 FCC Rcd at 26546-48, para. 442; *Qwest 3-State Order*, 18 FCC Rcd at 7394-95, paras. 120-21; *Qwest Minnesota Order*, 18 FCC Rcd at 13361, para. 70.

¹⁹⁸ Qwest Application at 118.

¹⁹⁹ Arizona Commission Comments at 24.

²⁰⁰ See, e.g., *Qwest 9-State Order*, 17 FCC Rcd at 26546-48, para. 442.

²⁰¹ See, e.g., *id.*

²⁰² Qwest Application at 119.

²⁰³ Arizona Commission Comments at 24.

54. As the Commission has stated in prior orders, the PAP is not the only means of ensuring that a BOC continues to provide nondiscriminatory service to competing carriers.²⁰⁴ We are cognizant that in addition to the monetary payments at stake under the plan, Qwest faces other consequences if it fails to sustain an acceptable level of service to competing carriers, including enforcement provisions in interconnection agreements, federal enforcement action pursuant to section 271(d)(6), and remedies associated with other legal actions.

B. Unfiled Interconnection Agreements

55. In light of its present compliance and all other circumstances discussed in this section, we conclude that Qwest's past conduct with respect to unfiled interconnection agreements does not warrant denial of this application on public interest grounds. Although no party comments on this issue, we find, as we did in prior Qwest orders, that concerns about any potential ongoing checklist violation (or discrimination) are met by Qwest's submission of agreements to the Arizona Commission pursuant to section 252 and the Arizona Commission's approval of those agreements.²⁰⁵

56. The Arizona Commission has conducted several proceedings regarding unfiled interconnection agreements between Qwest and competitive LECs. On July 25, 2003, the Arizona Commission staff and Qwest reached a settlement agreement concerning all issues raised in the Arizona Commission's unfiled agreements docket.²⁰⁶ While the Arizona Commission has not yet approved this settlement agreement, consistent with our precedent, we do not require this phase of a state proceeding to be completed before we can find no discrimination on a forward-looking basis.²⁰⁷

57. In the future, parties remain free to present other evidence of ongoing discrimination, for example, through state commission enforcement processes or to this Commission in the context of a section 208 complaint proceeding.²⁰⁸ Further, to the extent past

²⁰⁴ See *Bell Atlantic New York Order*, 15 FCC Rcd at 4165, para. 430; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Verizon Pennsylvania Order* 16 FCC Rcd at 17489, para. 130.

²⁰⁵ Qwest Application at 123-24 (indicating that it submitted for approval all previously unfiled agreements to the Arizona Commission in September 2002 and May 2003, and the Arizona Commission approved all of these agreements by operation of law). As we noted in the *Qwest Minnesota Order*, state commission approval of these previously unfiled agreements eliminates the possibility of noncompliance with section 252 as competitive LECs are able to opt-in to these agreements pursuant to section 252(i). *Qwest Minnesota Order*, 18 FCC Rcd at 13365-66, para. 80. See also *id.*, 18 FCC Rcd at 13367, para. 83; *Qwest 9-State Order*, 17 FCC Rcd at 26553-54, para. 453; *Qwest 3-State Order*, 18 FCC Rcd at 7325, paras. 124-42.

²⁰⁶ Arizona Commission Comments at 20. See also Qwest Application, App. K, Tab 1652, July 25, 2003 Notice of Filing Settlement Agreement and Request for an Expedited Procedural Conference (providing for, among other things, cash payments and discount credits).

²⁰⁷ See, e.g., *Qwest Minnesota Order*, 18 FCC Rcd at 13367, para. 83.

²⁰⁸ *Qwest 9-State Order*, 17 FCC Rcd at 26554, para. 453.

discrimination existed, we anticipate that any violations of the statute or our rules will be addressed expeditiously through federal and state complaint and investigation proceedings.²⁰⁹

VIII. SECTION 271(d)(6) ENFORCEMENT AUTHORITY

58. Section 271(d)(6) of the Act requires Qwest to continue to satisfy the “conditions required for . . . approval” of its section 271 application after the Commission approves its application.²¹⁰ Thus, the Commission has a responsibility not only to ensure that Qwest is in compliance with section 271 today, but also that it remains in compliance in the future. As the Commission has already described the post-approval enforcement framework and its section 271(d)(6) enforcement powers in detail in prior orders, it is unnecessary to do so again here.²¹¹

59. Working in concert with the Arizona Commission, we intend to monitor closely Qwest’s post-approval compliance for Arizona to ensure that Qwest does not “cease[] to meet any of the conditions required for [section 271] approval.”²¹² We stand ready to exercise our various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Arizona. We are prepared to use our authority under section 271(d)(6) if evidence shows market opening conditions have not been maintained.

60. Consistent with prior section 271 orders, we require Qwest to report to the Commission all Arizona carrier-to-carrier performance measurement results and PAP monthly reports beginning with the first full month after the effective date of this Order, and for each month thereafter for one year unless extended by the Commission. These results and reports will allow us to review, on an ongoing basis, Qwest’s performance to ensure continued compliance with the statutory requirements. We are confident that cooperative state and federal oversight and enforcement can address any backsliding that may arise with respect to Qwest’s entry into the long distance market in Arizona.²¹³

²⁰⁹ *Id.* We are seriously troubled by Qwest’s decision to delay filing twelve interconnection agreements with the Arizona Commission until May 23, 2003. We note that the issue of Qwest’s unfiled agreements has already been referred to the Enforcement Bureau for investigation and appropriate enforcement action. *See Qwest Minnesota Order*, 18 FCC Rcd at 13371, para. 93.

²¹⁰ 47 U.S.C. § 271(d)(6).

²¹¹ *See, e.g., SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6382-84, paras. 283-85; *SWBT Texas Order*, 15 FCC Rcd at 18567-68, paras. 434-36; *Bell Atlantic New York Order*, 15 FCC Rcd at 4174, paras. 446-53.

²¹² 47 U.S.C. § 271(d)(6)(A).

²¹³ *See, e.g., Bell Atlantic-New York, Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Order, 15 FCC Rcd 5413, 5413-23 (2000) (adopting consent decree between the Commission and Bell Atlantic that included provisions for Bell Atlantic to make a voluntary payment of \$3,000,000 to the United States Treasury, with additional payments if Bell Atlantic failed to meet specific performance standards and weekly reporting requirements to gauge Bell Atlantic’s performance in correcting the problems associated with its electronic ordering systems).

IX. CONCLUSION

61. For the reasons discussed above, we grant Qwest's application for authorization under section 271 of the Act to provide in-region, interLATA services in Arizona.

X. ORDERING CLAUSES

62. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 271 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 271, Qwest's application to provide in-region, interLATA service in the state of Arizona, filed on September 4, 2003, IS GRANTED.

63. IT IS FURTHER ORDERED that this Order SHALL BECOME EFFECTIVE December 15, 2003.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

Appendix A

WC Docket No. 03-194
Qwest – Arizona

Commenters

1. Arizona Corporation Commission (Arizona Commission)
2. AT&T Corp. (AT&T)
3. MCI
4. Sprint Communications Company L.P. (Sprint)

Reply Commenter

AT&T

Appendix B

Arizona Performance Metrics

The data in this appendix are taken from the Arizona commercial performance data provided to the Commission. This table is provided as a reference tool for the convenience of the reader. No conclusions are to be drawn from the raw data contained in this table. Our analysis is based on the totality of the circumstances, such that we may use non-metric evidence, and may rely more heavily on some metrics than others, in making our determination. The inclusion of these particular metrics in this table does not necessarily mean that we relied on all of these metrics or that other metrics may not also be important in our analysis. Some metrics that we have relied on in the past and may rely on for a future application were not included here because there was no data provided for them (usually either because there was no activity, or because the metrics are still under development). Metrics with no retail analog provided are usually compared with a benchmark. Note that for some metrics during the period provided, there may be changes in the metric definition, or changes in the retail analog applied, making it difficult to compare the data over time.

Metric Number	Metric Name
Billing	
BI-1	Time to Provide Recorded Usage Records
BI-2	Invoices Delivered within 10 Days
BI-3	Billing Accuracy - Adjustments for Errors
BI-4	Billing Completeness
BI-5	Billing Accuracy & Claims Processing
Collocation	
CP-1	Collocation Completion Interval
CP-2	Collocations Completed within Scheduled Intervals
CP-3	Collocation Feasibility Study Interval
CP-4	Collocation Feasibility Study Commitments Met
Directory Assistance	
DA-1	Speed of Answer - Directory Assistance
Database Updates	
DB-1	Time to Update Databases
DB-2	Accurate Database Updates
Electronic Gateway Availability	
GA-1	Gateway Availability - IMA-GUI
GA-2	Gateway Availability - IMA-EDI
GA-3	Gateway Availability - EB-TA
GA-4	System Availability - EXACT
GA-6	Gateway Availability - GUI - Repair
GA-7	Timely Outage Resolution Following Software Releases
Maintenance and Repair	
MR-2	Calls Answered within 20 Seconds - Interconnect Repair Center
MR-3	Out of Service Cleared within 24 Hours
MR-4	All Troubles Cleared within 48 Hours
MR-5	All Troubles Cleared within 4 Hours
MR-6	Mean Time to Restore
MR-7	Repair Repeat Report Rate
MR-8	Trouble Rate
MR-9	Repair Appointments Met
MR-10	Customer and Non-Qwest Related Trouble Reports
MR-11	LNP Trouble Reports Cleared within 24 Hours

Metric Number	Metric Name
Network Performance	
NI-1	Trunk Blocking
NP-1	NXX Code Activation
Order Accuracy	
OA-1	Order Accuracy, Default %
Ordering and Provisioning	
OP-2	Calls Answered within 20 Seconds - Interconnect Provisioning Center
OP-3	Installation Commitments Met
OP-4	Installation Interval
OP-5	New Service Installation Quality
OP-6A	Delayed Days for Non-Facility Reasons
OP-6B	Delayed Days for Facility Reasons
OP-7	Coordinated "Hot Cut" Interval - Unbundled Loop
OP-8	Number Portability Timeliness
OP-13	Coordinated Cuts - Unbundled Loop
OP-15A	Interval for Pending Orders Delayed
OP-15B	Number of Pending Orders Delayed for Facility Reasons
OP-17	Timeliness of Disconnects Associated with LNP Orders
Operator Services	
OS-1	Speed of Answer - Operator Services
Pre-Order/Order	
PO-1	Pre-Order/Order Response Times
PO-2	Electronic Flow-through
PO-3	LSR Rejection Notice Interval
PO-4	LSRs Rejected
PO-5	Firm Order Confirmations (FOCs) On Time
PO-6	Work Completion Notification Timeliness
PO-7	Billing Completion Notification Timeliness
PO-8	Jeopardy Notice Interval
PO-9	Timely Jeopardy Notices
PO-10	LSR Accountability
PO-15	Number of Due Date Changes per Order
PO-16	Timely Release Notifications
PO-19	Stand-Alone Test Environment (SATE) Accuracy
PO-20	Manual Service Order Accuracy

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
BILLING													
BI-1 Time to Provide Recorded Usage Records													
BI-1A	UNEs and Resale Aggregate, Avg Days		1.38	3.84	1.45	3.70	1.40	3.77	1.54	4.13	1.26	3.75	
BI-1B	Jointly-provided Switched Access, %		99.99%		99.86%		99.97%		99.95%		99.99%		
BI-2 Invoices Delivered within 10 Days													
BI-2	All, %		99.98%		100%		100%		99.76%		99.69%		
BI-3 Billing Accuracy - Adjustments for Errors													
BI-3A	UNEs and Resale Aggregate, %		99.22%	99.19%	91.49%	99.08%	98.71%	97.71%	96.65%	99.36%	92.08%	99.05%	
BI-3B	Reciprocal Compensation, %		100%		100%		100%		100%		100%		
BI-4 Billing Completeness													
BI-4A	UNEs and Resale Aggregate, %		99.86%	99.59%	99.76%	99.65%	99.84%	99.56%	99.89%	99.61%	99.73%	99.36%	
BI-4B	Reciprocal Compensation, %		100%		100%		100%		100%		100%		
BI-5 Billing Accuracy & Claims Processing													
BI-5A	Acknowledgment, All, %		99.66%		98.66%		99.72%		99.21%		100%		
BI-5B	Resolution, All, %		97.74%		98.96%		97.65%		97.64%		99.57%		
COLLOCATION													
CP-1 Collocation Completion Interval when Scheduled Interval is...													
CP-1A	90 Calendar Days or Less, All, Avg Days		69.00				63.00		50.50		62.43		a b c d e
CP-1B	91 to 120 Calendar Days, All, Avg Days		86.33		90.29		112.00		87.38		81.00		a b c d e
CP-1C	121 to 150 Calendar Days, All, Avg Days		76.00				130.00		107.20		113.67		a b c d e
CP-2 Collocations Completed within Scheduled Intervals													
CP-2B	Non-Forecasted & Late Forecasted, All, %		100%		100%		100%		100%		100%		a b c e
CP-2C	with Intervs Longer than 120 Days, All, %		100%				100%		100%		100%		a b c d e
CP-3 Collocation Feasibility Study Interval													
CP-3	All, Avg Days		8.00		7.65		4.00		9.50		7.62		a c d
CP-4 Collocation Feasibility Study Commitments Met													
CP-4	All, %		100%		100%		100%		100%		100%		
DIRECTORY ASSISTANCE													
DA-1 Speed of Answer - Directory Assistance													
DA-1	All, Avg Sec			7.55		8.23		7.14		7.52		7.48	a b c d e
DATABASE UPDATES													
DB-1 Time to Update Databases													
DB-1A	E911, Hrs:Min		1:49		2:27		1:45		0:34		0:50		
DB-1B	LIDB, Avg Sec		1.03		1.03		1.02		1.02		1.02		

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
DB-1C-1	Directory Listing, Avg Sec		0.20		0.15		0.14		0.16		0.18		
DB-2	Accurate Database Updates												
DB-2C-1	Directory Listing, %		99.44%		99.39%		99.38%		98.67%		99.00%		
ELECTRONIC GATEWAY AVAILABILITY													
GA-1	Gateway Availability - IMA-GUI												
GA-1A	IMA-GUI, All, %		100%		100%		100%		100%		99.85%		
GA-1B	IMA-GUI, Fetch-n-Stuff, %												a b c d e
GA-1C	IMA-GUI, Data Arbiter, %												a b c d e
GA-1D	IMA-GUI, SIA, %		100%		100%		100%		100%		100%		
GA-2	Gateway Availability - IMA-EDI												
GA-2	IMA-EDI, %		100%		100%		100%		100%		100%		
GA-3	Gateway Availability - EB-TA												
GA-3	EB-TA, %		99.95%		99.88%		99.74%		100%		100%		
GA-4	System Availability - EXACT												
GA-4	EXACT, %		100%		100%		100%		100%		100%		
GA-6	Gateway Availability - GUI - Repair												
GA-6	GUI - Repair, %		100%		99.97%		99.99%		100%		100%		
GA-7	Timely Outage Resolution following Software Releases												
GA-7	All, %												a b c d e
MAINTENANCE AND REPAIR													
MR-2	Calls Answered within Twenty Seconds - Interconnect Repair Center												
MR-2	All, %		89.51%	86.92%	88.18%	84.70%	86.91%	81.89%	86.89%	81.72%	86.16%	83.14%	
MR-3	Out of Service Cleared within 24 Hours												
MR-3	Basic Rate ISDN, %	D		97.87%		96.40%		97.40%		97.25%		94.90%	a b c d e
MR-3	Basic Rate ISDN, %	ND		100%		100%		100%		100%		100%	a b c d e
MR-3	Business, %	D	100%	94.34%	100%	94.40%	85.71%	94.75%	100%	91.18%	73.33%	81.74%	b c
MR-3	Business, %	ND	100%	99.50%	100%	95.25%		99.06%		97.44%	100%	89.85%	a b c d e
MR-3	Centrex 21, %	D	100%	95.21%	100%	95.20%		94.53%	100%	91.43%	100%	82.64%	a b c d e
MR-3	Centrex 21, %	ND		99.35%	100%	97.39%		98.37%		96.94%	100%	88.48%	a b c d e
MR-3	Centrex, %	D		98.18%		91.23%		92.19%		92.86%		76.04%	a b c d e
MR-3	Centrex, %	ND		100%		100%		100%		100%		55.56%	a b c d e
MR-3	Line Sharing, %	D	67.86%	93.27%	84.21%	92.54%	95.45%	93.23%	83.72%	90.24%	86.00%	77.43%	
MR-3	Line Sharing, %	ND	100%	98.44%	85.71%	96.28%	100%	96.62%	100%	96.86%	88.89%	89.29%	b c
MR-3	PBX, %	D		88.89%	100%	93.75%	100%	98.46%		98.59%	100%	85.15%	a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-3	PBX, %	ND	100%	100%		100%	100%	98.91%	100%	99.16%		98.37%	a b c d e
MR-3	Qwest DSL, %		100%	93.26%	100%	95.63%	100%	94.27%		91.82%		92.61%	a b c d e
MR-3	Residence, %	D	97.26%	93.12%	98.11%	92.31%	96.97%	93.05%	95.45%	90.12%	95.31%	76.92%	
MR-3	Residence, %	ND	100%	98.26%	100%	96.44%	90.91%	96.26%	100%	96.78%	83.33%	89.20%	a b d e
MR-3	UBL - 2-wire, %		100%	99.16%	100%	98.18%	100%	99.01%	96.77%	98.81%	100%	97.49%	a
MR-3	UBL - ADSL Qualified, %			93.26%		95.63%		94.27%	100%	91.82%		92.61%	a b c d e
MR-3	UBL Analog, %		100%	93.88%	100%	92.96%	99.63%	93.58%	96.83%	91.00%	96.17%	78.66%	
MR-3	UBL ISDN Capable, %		100%	99.15%	100%	98.17%	95.00%	99.01%	100%	98.81%	100%	97.79%	
MR-3	UNE P, POTS, %	D	95.16%	93.27%	97.70%	92.54%	96.05%	93.23%	94.95%	90.24%	91.28%	77.43%	
MR-3	UNE P, POTS, %	ND	100%	98.44%	98.15%	96.28%	100%	96.62%	95.37%	96.86%	89.78%	89.29%	
MR-3	UNE P, Centrex 21, %	D	93.33%	95.21%	100%	95.20%	100%	94.53%	91.67%	91.43%	100%	82.64%	c
MR-3	UNE P, Centrex 21, %	ND	100%	99.35%	100%	97.39%	100%	98.37%	100%	96.94%	80.00%	88.48%	a b c d e
MR-3	UNE P, Centrex, %	D		98.18%		91.23%		92.19%		92.86%		76.04%	a b c d e
MR-3	UNE P, Centrex, %	ND		100%		100%		100%		100%		55.56%	a b c d e
MR-4	All Troubles Cleared within 48 Hours												
MR-4	Basic Rate ISDN, %	D		100%		99.10%		100%		98.20%		98.09%	a b c d e
MR-4	Basic Rate ISDN, %	ND		100%		100%		100%		100%		100%	a b c d e
MR-4	Business, %	D	100%	98.77%	100%	98.75%	100%	99.09%	100%	98.57%	94.12%	96.46%	
MR-4	Business, %	ND	100%	99.87%	100%	99.39%	100%	100%		100%	100%	96.51%	a b c d e
MR-4	Centrex 21, %	D	100%	98.66%	100%	98.27%		98.65%	100%	98.80%	100%	96.17%	a b c d e
MR-4	Centrex 21, %	ND		100%	100%	100%		100%		100%	100%	95.76%	a b c d e
MR-4	Centrex, %	D		98.55%		96.92%		98.63%		100%		94.83%	a b c d e
MR-4	Centrex, %	ND		100%		100%		95.24%		100%		93.33%	a b c d e
MR-4	Line Sharing, %	D	93.10%	98.92%	94.74%	99.04%	95.45%	99.20%	97.67%	98.71%	96.08%	96.28%	
MR-4	Line Sharing, %	ND	100%	99.84%	100%	99.71%	100%	99.32%	100%	99.72%	100%	96.96%	b c
MR-4	PBX, %	D		97.44%	100%	98.59%	100%	98.59%		98.80%	100%	96.40%	a b c d e
MR-4	PBX, %	ND	100%	100%		100%	100%	100%	100%	100%		100%	a b c d e
MR-4	Qwest DSL, %		100%	97.62%	100%	99.09%	100%	98.27%	100%	98.35%	85.71%	98.05%	a b c d e
MR-4	Residence, %	D	100%	98.94%	100%	99.07%	100%	99.22%	100%	98.73%	100%	96.26%	
MR-4	Residence, %	ND	100%	99.84%	100%	99.76%	100%	99.21%	100%	99.68%	88.89%	97.04%	e
MR-4	UBL - 2-wire, %		100%	100%	100%	99.55%	100%	100%	100%	99.22%	100%	99.06%	
MR-4	UBL - ADSL Qualified, %			97.62%		99.09%		98.27%	100%	98.35%		98.05%	a b c d e
MR-4	UBL Analog, %		100%	99.07%	100%	99.15%	100%	99.22%	99.80%	98.86%	99.80%	96.38%	
MR-4	UBL ISDN Capable, %		100%	100%	100%	99.54%	97.96%	100%	100%	99.21%	100%	99.05%	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes	
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest		
MR-4	UNE P, POTS, %	D	99.12%	98.92%	99.26%	99.04%	99.56%	99.20%	99.30%	98.71%	99.31%	96.28%		
MR-4	UNE P, POTS, %	ND	100%	99.84%	100%	99.71%	100%	99.32%	98.22%	99.72%	97.17%	96.96%		
MR-4	UNE P, Centrex 21, %	D	95.00%	98.66%	100%	98.27%	100%	98.65%	92.31%	98.80%	100%	96.17%		
MR-4	UNE P, Centrex 21, %	ND	100%	100%	100%	100%	100%	100%	100%	100%	100%	95.76%	a b c d e	
MR-4	UNE P, Centrex, %	D		98.55%		96.92%		98.63%		100%		94.83%	a b c d e	
MR-4	UNE P, Centrex, %	ND		100%		100%		95.24%		100%		93.33%	a b c d e	
MR-5	All Troubles Cleared within 4 Hours													
MR-5	DS0, %			74.02%		77.56%		79.25%		75.36%	100%	74.26%	a b c d e	
MR-5	DS1, %		66.67%	70.62%	100%	73.48%	100%	68.39%	69.23%	66.57%	57.14%	63.01%	a b c e	
MR-5	DS3, %			68.42%		94.74%		94.44%		93.33%		95.65%	a b c d e	
MR-5	E911, %		100%	0.00%						100%			a b c d e	
MR-5	Frame Relay, %			79.90%		74.14%		80.93%		75.63%		71.62%	a b c d e	
MR-5	ISDN Primary, %		100%	92.16%	100%	94.44%		97.52%		87.67%		86.15%	a b c d e	
MR-5	LIS Trunk, %		94.74%	84.62%	90.48%	90.91%	86.67%	100%	91.67%	100%	87.50%	100%		
MR-5	UBL - 4-wire, %			70.62%		73.48%		68.39%		66.57%		63.01%	a b c d e	
MR-5	UBL - DS1 Capable, %		64.84%	70.62%	67.35%	73.48%	59.81%	68.39%	48.65%	66.57%	50.81%	63.01%		
MR-5	UBL - DS3 Capable, %			68.42%		94.74%		94.44%		93.33%		95.65%	a b c d e	
MR-5	UDIT Above DS1 Level, %		50.00%	68.42%	100%	94.74%		94.44%	100%	93.33%		95.65%	a b c d e	
MR-5	UDIT DS1, %		100%	70.62%	100%	73.48%	100%	68.39%	87.50%	66.57%	77.78%	63.01%	a b c d e	
MR-6	Mean Time to Restore													
MR-6	Basic Rate ISDN, Hrs:Min	D		4:55		5:20		5:05		6:06		7:51	a b c d e	
MR-6	Basic Rate ISDN, Hrs:Min	ND		1:05		1:03		0:59		1:04		1:05	a b c d e	
MR-6	Business, Hrs:Min	D	9:37	10:06	10:42	9:56	11:03	9:01	11:00	11:02	18:30	15:29		
MR-6	Business, Hrs:Min	ND	1:12	2:34	1:29	3:43	0:48	2:44		3:57	3:50	6:46	a b c d e	
MR-6	Centrex 21, Hrs:Min	D	20:04	9:51	2:09	10:06		9:02	13:40	10:51	3:10	15:24	a b c d e	
MR-6	Centrex 21, Hrs:Min	ND		3:24	0:49	3:17		2:48		3:43	7:58	6:53	a b c d e	
MR-6	Centrex, Hrs:Min	D		8:50		13:10		12:16		10:24		16:54	a b c d e	
MR-6	Centrex, Hrs:Min	ND		3:51		1:32		8:39		2:06		11:32	a b c d e	
MR-6	DS0, Hrs:Min			2:58		3:24		3:07		3:16	2:25	3:28	a b c d e	
MR-6	DS1, Hrs:Min			2:58	3:23	2:07	3:22	1:43	3:42	3:53	3:52	3:46	4:32	a b c e
MR-6	DS3, Hrs:Min			3:49		2:19		1:14		1:20		0:51	a b c d e	
MR-6	E911, Hrs:Min		0:23	6:50						1:40			a b c d e	
MR-6	Frame Relay, Hrs:Min			2:40		3:17		2:55		3:00		3:41	a b c d e	
MR-6	ISDN Primary, Hrs:Min		0:41	1:43	0:11	1:31		0:47		1:49		2:11	a b c d e	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-6	Line Sharing, Hrs:Min	D	22:05	12:14	12:31	12:25	11:45	12:02	14:21	13:18	13:16	18:03	
MR-6	Line Sharing, Hrs:Min	ND	6:20	4:41	7:33	4:47	3:31	4:56	7:20	5:21	6:12	7:51	b c
MR-6	LIS Trunk, Hrs:Min		1:04	1:44	2:03	1:51	1:12	1:00	2:26	1:18	1:50	0:56	
MR-6	PBX, Hrs:Min	D		9:34	20:33	8:32	1:41	8:30		9:44	18:36	13:42	a b c d e
MR-6	PBX, Hrs:Min	ND	0:02	1:49		1:27	0:18	1:41	0:24	2:53		2:41	a b c d e
MR-6	Qwest DSL, Hrs:Min		15:57	7:22	0:52	5:57	4:34	8:03	1:17	6:27	14:50	7:58	a b c d e
MR-6	Residence, Hrs:Min	D	7:36	12:31	6:28	12:42	7:39	12:22	9:10	13:35	10:25	18:20	
MR-6	Residence, Hrs:Min	ND	1:41	5:04	4:30	4:57	5:17	5:16	3:29	5:33	7:25	8:03	e
MR-6	UBL - 2-wire, Hrs:Min		3:51	2:36	3:13	3:12	3:09	2:33	4:40	3:15	4:22	4:24	
MR-6	UBL - 4-wire, Hrs:Min			3:23		3:22		3:42		3:52		4:32	a b c d e
MR-6	UBL - ADSL Qualified, Hrs:Min			7:22		5:57		8:03	2:41	6:27		7:58	a b c d e
MR-6	UBL - DS1 Capable, Hrs:Min		3:43	3:23	3:50	3:22	4:35	3:42	5:28	3:52	5:36	4:32	
MR-6	UBL - DS3 Capable, Hrs:Min			3:49		2:19		1:14		1:20		0:51	a b c d e
MR-6	UBL Analog, Hrs:Min		2:50	10:59	3:21	11:12	4:36	10:58	7:03	12:07	6:02	16:39	
MR-6	UBL ISDN Capable, Hrs:Min		3:35	2:34	3:17	3:09	5:38	2:26	4:24	3:12	4:29	4:20	
MR-6	UDIT Above DS1 Level, Hrs:Min		5:40	3:49	0:11	2:19		1:14	0:16	1:20		0:51	a b c d e
MR-6	UDIT DS1, Hrs:Min		1:21	3:23	2:01	3:22	2:43	3:42	2:14	3:52	2:34	4:32	a b c d e
MR-6	UNE P, POTS, Hrs:Min	D	11:11	12:14	9:25	12:25	9:46	12:02	11:10	13:18	12:18	18:03	
MR-6	UNE P, POTS, Hrs:Min	ND	2:30	4:41	2:37	4:47	2:09	4:56	7:14	5:21	6:02	7:51	
MR-6	UNE P, Centrex 21, Hrs:Min	D	10:55	9:51	5:29	10:06	6:40	9:02	22:50	10:51	8:37	15:24	
MR-6	UNE P, Centrex 21, Hrs:Min	ND	0:53	3:24	0:53	3:17	3:16	2:48	1:29	3:43	8:22	6:53	a b c d e
MR-6	UNE P, Centrex, Hrs:Min	D		8:50		13:10		12:16		10:24		16:54	a b c d e
MR-6	UNE P, Centrex, Hrs:Min	ND		3:51		1:32		8:39		2:06		11:32	a b c d e
MR-7	Repair Repeat Report Rate												
MR-7	Basic Rate ISDN, %	D		12.77%		17.12%		8.86%		11.71%		10.19%	a b c d e
MR-7	Basic Rate ISDN, %	ND		12.50%		9.91%		12.60%		11.72%		14.72%	a b c d e
MR-7	Business, %	D	8.33%	13.09%	23.08%	14.27%	16.67%	12.69%	22.22%	13.94%	0.00%	16.49%	
MR-7	Business, %	ND	40.00%	11.94%	0.00%	12.20%	0.00%	11.73%		12.73%	0.00%	12.39%	a b c d e
MR-7	Centrex 21, %	D	0.00%	10.90%	66.67%	11.86%		13.02%	0.00%	12.76%	0.00%	14.81%	a b c d e
MR-7	Centrex 21, %	ND		11.37%	0.00%	11.11%		10.30%		8.10%	0.00%	11.86%	a b c d e
MR-7	Centrex, %	D		11.43%		8.96%		10.81%		10.42%		20.49%	a b c d e
MR-7	Centrex, %	ND		3.85%		9.09%		19.05%		21.74%		13.33%	a b c d e
MR-7	DS0, %			13.30%		14.90%		14.22%		15.61%	0.00%	16.17%	a b c d e
MR-7	DS1, %		0.00%	15.66%	33.33%	17.92%	0.00%	19.03%	15.38%	16.75%	42.86%	23.21%	a b c e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-7	DS3, %			10.53%		15.79%		16.67%		13.33%		4.35%	a b c d e
MR-7	E911, %		0.00%	0.00%						0.00%			a b c d e
MR-7	EELs, %		8.70%		33.33%		25.00%		9.38%		34.00%		
MR-7	Frame Relay, %			18.18%		17.24%		14.41%		19.30%		20.81%	a b c d e
MR-7	ISDN Primary, %		0.00%	5.88%	0.00%	3.70%		3.31%		5.48%		9.23%	a b c d e
MR-7	Line Sharing, %	D	43.75%	25.90%	38.10%	24.89%	14.81%	22.86%	17.78%	23.63%	21.05%	22.24%	
MR-7	Line Sharing, %	ND	38.10%	17.97%	22.22%	18.55%	40.00%	17.97%	26.67%	19.53%	30.00%	20.68%	b c
MR-7	LIS Trunk, %		21.05%	7.69%	4.76%	0.00%	6.67%	0.00%	25.00%	0.00%	6.25%	16.67%	
MR-7	PBX, %	D		5.00%	0.00%	4.23%	100%	16.22%		10.84%	0.00%	13.51%	a b c d e
MR-7	PBX, %	ND	0.00%	7.27%		3.90%	0.00%	11.22%	0.00%	5.43%		16.41%	a b c d e
MR-7	Qwest DSL, %		33.33%	20.07%	50.00%	20.15%	28.57%	19.55%	0.00%	20.54%	14.29%	21.23%	a b c d e
MR-7	Residence, %	D	7.59%	12.70%	4.76%	12.98%	9.59%	13.92%	16.44%	14.54%	9.09%	16.93%	
MR-7	Residence, %	ND	21.43%	10.84%	25.00%	10.74%	22.22%	13.19%	19.05%	10.31%	11.11%	12.93%	e
MR-7	UBL - 2-wire, %		6.67%	12.61%	7.41%	13.51%	4.76%	11.17%	14.63%	11.72%	20.00%	12.50%	
MR-7	UBL - 4-wire, %			15.66%		17.92%		19.03%		16.75%		23.21%	a b c d e
MR-7	UBL - ADSL Qualified, %			20.07%		20.15%		19.55%	0.00%	20.54%		21.23%	a b c d e
MR-7	UBL - DS1 Capable, %		18.68%	15.66%	23.47%	17.92%	16.82%	19.03%	16.89%	16.75%	23.24%	23.21%	
MR-7	UBL - DS3 Capable, %			10.53%		15.79%		16.67%		13.33%		4.35%	a b c d e
MR-7	UBL Analog, %		8.04%	12.46%	8.72%	12.78%	9.15%	13.67%	10.73%	13.91%	9.49%	16.35%	
MR-7	UBL ISDN Capable, %		21.74%	12.71%	21.88%	13.76%	14.29%	11.39%	22.22%	11.86%	21.05%	12.62%	
MR-7	UDIT Above DS1 Level, %		0.00%	10.53%	50.00%	15.79%		16.67%	0.00%	13.33%		4.35%	a b c d e
MR-7	UDIT DS1, %		0.00%	15.66%	0.00%	17.92%	0.00%	19.03%	0.00%	16.75%	11.11%	23.21%	a b c d e
MR-7	UNE P, POTS, %	D	12.25%	12.75%	9.38%	13.12%	10.23%	13.79%	10.93%	14.48%	13.68%	16.89%	
MR-7	UNE P, POTS, %	ND	11.86%	11.01%	8.94%	10.93%	9.52%	12.99%	9.33%	10.63%	18.66%	12.85%	
MR-7	UNE P, Centrex 21, %	D	20.00%	10.90%	10.53%	11.86%	22.22%	13.02%	7.69%	12.76%	14.29%	14.81%	
MR-7	UNE P, Centrex 21, %	ND	20.00%	11.37%	14.29%	11.11%	16.67%	10.30%	20.00%	8.10%	0.00%	11.86%	a b c d e
MR-7	UNE P, Centrex, %	D		11.43%		8.96%		10.81%		10.42%		20.49%	a b c d e
MR-7	UNE P, Centrex, %	ND		3.85%		9.09%		19.05%		21.74%		13.33%	a b c d e
MR-7*	Basic Rate ISDN, %	D		13.75%		15.31%		10.45%		9.52%			a b c d e
MR-7*	Basic Rate ISDN, %	ND		7.27%		14.63%		14.71%		10.87%			a b c d e
MR-7*	Business, %	D	8.33%	12.94%	16.67%	13.97%	10.00%	12.91%	21.43%	14.23%			c e
MR-7*	Business, %	ND	40.00%	14.55%	0.00%	14.50%	0.00%	14.18%		13.83%			a b c d e
MR-7*	Centrex 21, %	D	0.00%	10.53%	66.67%	12.10%		13.46%	0.00%	12.13%			a b c d e
MR-7*	Centrex 21, %	ND		11.92%		13.01%		12.41%		6.50%			a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-7*	Centrex, %	D		9.84%		9.43%		8.96%		9.41%			a b c d e
MR-7*	Centrex, %	ND		0.00%		6.25%		18.18%		25.00%			a b c d e
MR-7*	DS0, %			12.27%		15.12%		12.95%		15.21%			a b c d e
MR-7*	DS1, %		0.00%	15.60%	100%	18.95%	0.00%	20.34%	22.22%	17.33%			a b c d e
MR-7*	DS3, %			7.14%		13.33%		25.00%		19.05%			a b c d e
MR-7*	E911, %			0.00%						0.00%			a b c d e
MR-7*	EELs, %		8.70%		30.00%		30.77%		11.11%				e
MR-7*	Frame Relay, %			17.79%		18.18%		14.44%		20.00%			a b c d e
MR-7*	ISDN Primary, %			3.23%		4.00%		6.45%		5.26%			a b c d e
MR-7*	Line Sharing, %	D	38.46%	26.43%	40.00%	27.63%	14.29%	24.19%	12.82%	24.83%			e
MR-7*	Line Sharing, %	ND	30.00%	17.79%	33.33%	19.91%	50.00%	19.82%	0.00%	20.33%			a b c d e
MR-7*	LIS Trunk, %		26.67%	10.00%	5.26%	0.00%	0.00%	0.00%	21.43%	0.00%			c e
MR-7*	PBX, %	D		6.15%		4.84%		15.25%		10.96%			a b c d e
MR-7*	PBX, %	ND	0.00%	9.62%		4.17%		14.29%	0.00%	5.13%			a b c d e
MR-7*	Qwest DSL, %		50.00%	20.10%	40.00%	21.85%	33.33%	21.22%	0.00%	21.42%			a b c d e
MR-7*	Residence, %	D	7.69%	12.45%	4.84%	12.83%	10.00%	13.79%	16.90%	14.34%			e
MR-7*	Residence, %	ND	14.29%	11.34%	14.29%	11.15%	21.43%	14.80%	25.00%	10.17%			a b e
MR-7*	UBL - 2-wire, %		7.14%	11.11%	11.11%	15.11%	7.14%	11.88%	8.57%	9.93%			e
MR-7*	UBL - 4-wire, %			15.60%		18.95%		20.34%		17.33%			a b c d e
MR-7*	UBL - ADSL Qualified, %			20.10%		21.85%		21.22%	0.00%	21.42%			a b c d e
MR-7*	UBL - DS1 Capable, %		19.74%	15.60%	25.00%	18.95%	18.39%	20.34%	18.90%	17.33%			e
MR-7*	UBL - DS3 Capable, %			7.14%		13.33%		25.00%		19.05%			a b c d e
MR-7*	UBL Analog, %		6.57%	12.44%	9.50%	12.82%	9.24%	13.79%	11.80%	13.98%			e
MR-7*	UBL ISDN Capable, %		20.00%	11.19%	20.69%	15.44%	15.79%	12.37%	24.39%	10.14%			e
MR-7*	UDIT Above DS1 Level, %		0.00%	7.14%	50.00%	13.33%		25.00%		19.05%			a b c d e
MR-7*	UDIT DS1, %		0.00%	15.60%	0.00%	18.95%	0.00%	20.34%	0.00%	17.33%			a b c d e
MR-7*	UNE P, POTS, %	D	12.77%	12.50%	8.75%	12.95%	9.82%	13.70%	10.98%	14.33%			e
MR-7*	UNE P, POTS, %	ND	10.45%	11.91%	10.00%	11.66%	8.33%	14.70%	8.33%	10.71%			e
MR-7*	UNE P, Centrex 21, %	D	20.00%	10.53%	6.25%	12.10%	22.22%	13.46%	9.09%	12.13%			e
MR-7*	UNE P, Centrex 21, %	ND	0.00%	11.92%	25.00%	13.01%	25.00%	12.41%	25.00%	6.50%			a b c d e
MR-7*	UNE P, Centrex, %	D		9.84%		9.43%		8.96%		9.41%			a b c d e
MR-7*	UNE P, Centrex, %	ND		0.00%		6.25%		18.18%		25.00%			a b c d e
MR-8	Trouble Rate												
MR-8	Basic Rate ISDN, %		0.00%	1.04%	0.00%	0.98%	0.00%	0.92%	0.00%	1.16%	0.00%	1.46%	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-8	Business, %		0.59%	0.92%	0.59%	0.86%	0.53%	0.89%	0.63%	1.20%	0.72%	1.41%	
MR-8	Centrex 21, %		0.53%	0.74%	2.01%	0.71%	0.00%	0.73%	0.53%	1.00%	1.60%	1.12%	
MR-8	Centrex, %		0.00%	0.30%	0.00%	0.28%	0.00%	0.30%	0.00%	0.38%	0.00%	0.44%	a b c d e
MR-8	DS0, %		0.00%	0.51%	0.00%	0.50%	0.00%	0.55%	0.00%	0.71%	1.09%	0.76%	
MR-8	DS1, %		2.56%	2.33%	2.54%	2.18%	1.69%	2.48%	11.40%	3.43%	6.36%	3.91%	
MR-8	DS3, %		0.00%	0.54%	0.00%	0.53%	0.00%	0.51%	0.00%	0.83%	0.00%	0.65%	a b c d e
MR-8	E911, %		0.73%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.09%	0.00%	0.00%	
MR-8	EELs, %		7.23%		5.79%		3.82%		7.32%		10.25%		
MR-8	Frame Relay, %		0.00%	1.91%	0.00%	1.60%	0.00%	2.20%	0.00%	2.95%	0.00%	3.46%	a b c d e
MR-8	ISDN Primary, %		0.24%	0.04%	0.24%	0.05%	0.00%	0.12%	0.00%	0.07%	0.00%	0.06%	
MR-8	Line Sharing, %		1.72%	1.40%	0.89%	1.44%	0.96%	1.52%	1.39%	2.04%	1.68%	2.51%	
MR-8	LIS Trunk, %		0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	
MR-8	PBX, %		0.14%	0.19%	0.07%	0.16%	0.15%	0.19%	0.08%	0.24%	0.08%	0.27%	
MR-8	Qwest DSL, %		2.14%	3.22%	4.48%	3.02%	5.00%	2.86%	1.42%	4.17%	3.89%	3.10%	
MR-8	Residence, %		1.31%	1.51%	1.13%	1.58%	1.79%	1.67%	2.07%	2.23%	2.39%	2.77%	
MR-8	UBL - 2-wire, %		0.55%	1.04%	1.00%	0.98%	0.77%	0.92%	1.50%	1.16%	1.46%	1.46%	
MR-8	UBL - 4-wire, %			2.33%		2.18%		2.48%		3.43%		3.91%	a b c d e
MR-8	UBL - ADSL Qualified, %		0.00%	3.22%	0.00%	3.02%	0.00%	2.86%	22.22%	4.17%	0.00%	3.10%	a b c d e
MR-8	UBL - DS1 Capable, %		5.02%	2.33%	5.09%	2.18%	5.33%	2.48%	6.93%	3.43%	8.37%	3.91%	
MR-8	UBL - DS3 Capable, %			0.54%		0.53%		0.51%		0.83%		0.65%	a b c d e
MR-8	UBL Analog, %		0.94%	1.40%	0.97%	1.44%	1.02%	1.52%	1.56%	2.04%	1.56%	2.51%	
MR-8	UBL ISDN Capable, %		0.93%	1.94%	1.28%	1.81%	1.94%	1.70%	1.77%	2.16%	2.25%	2.72%	
MR-8	UDIT Above DS1 Level, %		1.82%	0.54%	1.80%	0.53%	0.00%	0.51%	0.92%	0.83%	0.00%	0.65%	
MR-8	UDIT DS1, %		0.39%	2.33%	0.38%	2.18%	0.36%	2.48%	0.68%	3.43%	0.75%	3.91%	
MR-8	UNE P, POTS, %		1.11%	1.40%	1.12%	1.44%	1.15%	1.52%	1.54%	2.04%	2.02%	2.51%	
MR-8	UNE P, Centrex 21, %		0.90%	0.74%	0.96%	0.71%	0.90%	0.73%	0.92%	1.00%	1.24%	1.12%	
MR-8	UNE P, Centrex, %			0.30%		0.28%		0.30%	0.00%	0.38%	0.00%	0.44%	a b c
MR-9	Repair Appointments Met												
MR-9	Basic Rate ISDN, %	D		100%		100%		100%		100%		0.00%	a b c d e
MR-9	Basic Rate ISDN, %	ND		100%		100%		100%		100%		100%	a b c d e
MR-9	Business, %	D	100%	92.17%	84.62%	92.43%	91.67%	92.33%	100%	88.29%	88.24%	89.76%	
MR-9	Business, %	ND	100%	98.56%	100%	97.56%	100%	99.70%		97.66%	100%	95.49%	a b c d e
MR-9	Centrex 21, %	D	100%	92.20%	100%	91.92%		91.32%	100%	84.91%	100%	88.30%	a b c d e
MR-9	Centrex 21, %	ND		97.99%	100%	97.33%		98.28%		97.51%	100%	95.76%	a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
MR-9	Centrex, %	D		94.29%		85.07%		93.24%		80.21%		78.33%	a b c d e
MR-9	Centrex, %	ND		100%		95.45%		90.48%		100%		92.86%	a b c d e
MR-9	PBX, %	D		85.11%	100%	91.30%		92.59%		80.00%	100%	89.16%	a b c d e
MR-9	PBX, %	ND	100%	100%		100%		100%		100%		100%	a b c d e
MR-9	Residence, %	D	97.47%	95.08%	98.41%	94.96%	98.63%	95.35%	97.26%	94.89%	94.81%	92.82%	
MR-9	Residence, %	ND	100%	98.91%	100%	98.83%	94.44%	98.60%	95.24%	98.17%	88.89%	97.52%	e
MR-9	UNE P, POTS, %	D	92.02%	94.74%	94.71%	94.68%	93.53%	95.03%	91.33%	94.18%	95.02%	92.51%	
MR-9	UNE P, POTS, %	ND	97.46%	98.85%	98.37%	98.66%	99.32%	98.75%	95.56%	98.11%	96.13%	97.22%	
MR-11	LNP Trouble Reports Cleared												
MR-11B	w/in 48 Hrs - All Volumes, LNP, %			99.84%		99.71%	100%	99.32%	100%	99.72%	100%	96.96%	a b c d e
NETWORK PERFORMANCE													
NI-1	Trunk Blocking												
NI-1A	Qwest Tandem Offices, LIS Trunk, %		0.00%	0.04%	0.00%	0.00%	0.01%	0.00%	0.00%	0.07%	0.05%	0.00%	
NI-1B	Qwest End Offices, LIS Trunk, %		0.00%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.04%	0.01%	0.00%	
NI-1C	Qwest Tandem Offices, LIS Trunk, %		0.12%	0.04%	0.02%	0.00%	0.01%	0.00%	0.48%	0.07%	0.07%	0.00%	
NI-1D	Qwest End Offices, LIS Trunk, %		0.11%	0.00%	0.05%	0.00%	0.00%	0.00%	0.27%	0.04%	0.01%	0.00%	
NP-1	NXX Code Activation												
NP-1A	All, %				100%				100%			100%	a b c d e
ORDER ACCURACY													
OA-1	All, %		99.74%		99.39%		99.63%		99.71%		99.85%		
ORDERING AND PROVISIONING													
OP-2	Calls Answered within Twenty Seconds - Interconnect Provisioning Center												
OP-2	All, %		94.48%	82.35%	83.91%	72.90%	96.80%	71.50%	91.92%	68.83%	96.12%	64.47%	
OP-3	Installation Commitments Met												
OP-3	Basic Rate ISDN, %	D		100%		75.00%		33.33%					a b c d e
OP-3	Basic Rate ISDN, %	ND						100%					a b c d e
OP-3	Basic Rate ISDN, %			89.47%		83.61%	100%	87.04%		82.19%		87.21%	a b c d e
OP-3	Business, %	D	100%	95.85%	93.33%	96.12%	100%	95.82%	94.44%	96.14%	100%	95.45%	
OP-3	Business, %	ND	100%	98.40%	100%	98.34%	100%	98.00%	100%	97.36%	100%	98.16%	a
OP-3	Centrex 21, %	D		93.54%	100%	95.41%		91.99%		94.43%	100%	93.65%	a b c d e
OP-3	Centrex 21, %	ND		98.10%		98.90%		95.27%		97.93%		97.98%	a b c d e
OP-3	Centrex, %	D		91.49%		87.50%		90.91%		89.58%		79.41%	a b c d e
OP-3	Centrex, %	ND		87.50%		66.67%		50.00%		52.94%		100%	a b c d e
OP-3	DS0, %	D		100%		0.00%							a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes	
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest		
OP-3	DS0, %	ND									100%		a b c d e	
OP-3	DS0, %		100%	71.43%		86.44%		85.84%		64.71%		83.78%		a b c d e
OP-3	DS1, %			86.03%	100%	89.33%		90.76%		90.32%		87.64%		a b c d e
OP-3	DS3, %			86.00%		97.06%		95.35%		87.30%		92.86%		a b c d e
OP-3	E911, %			100%							100%			a b c d e
OP-3	EELs, %		94.23%		89.80%		85.71%		89.29%		90.74%			
OP-3	Frame Relay, %			83.82%		69.32%		84.91%		80.54%		82.52%		a b c d e
OP-3	ISDN Primary, %	D												a b c d e
OP-3	ISDN Primary, %	ND		66.67%		100%		100%		100%		100%		a b c d e
OP-3	ISDN Primary, %		0.00%	58.49%		54.11%		79.21%		82.61%		69.19%		a b c d e
OP-3	Line Sharing, %	D		97.09%		97.61%		97.98%		97.57%		96.96%		a b c d e
OP-3	Line Sharing, %	ND	100%	99.48%	99.63%	99.61%	99.72%	99.66%	99.58%	99.66%	99.28%	99.56%		
OP-3	LIS Trunk, %		100%	100%	96.77%	100%	95.45%	100%	97.92%	95.00%	100%	87.50%		
OP-3	PBX, %	D		91.67%		85.71%		94.44%		92.86%		91.67%		a b c d e
OP-3	PBX, %	ND		100%		100%		100%		100%		100%		a b c d e
OP-3	PBX, %			73.81%		64.86%		78.43%		62.22%		75.68%		a b c d e
OP-3	Qwest DSL, %	D		97.89%		97.71%	100%	97.37%	100%	97.72%	100%	97.96%		a b c d e
OP-3	Qwest DSL, %	ND	80.00%	99.53%	100%	99.37%	100%	99.64%	100%	99.71%	100%	99.82%		a b c
OP-3	Qwest DSL, %			92.31%		84.62%		91.67%		95.24%		84.00%		a b c d e
OP-3	Residence, %	D	99.54%	97.40%	99.46%	97.93%	99.49%	98.45%	100%	97.90%	98.84%	97.29%		
OP-3	Residence, %	ND	99.64%	99.50%	100%	99.64%	100%	99.71%	100%	99.73%	100%	99.59%		
OP-3	UBL - 2-wire, %		100%	89.62%	100%	83.47%	100%	86.23%	100%	82.19%	100%	87.21%		
OP-3	UBL - 4-wire, %			86.03%		89.33%		90.76%		90.32%		87.64%		a b c d e
OP-3	UBL - ADSL Qualified, %			97.67%		97.72%		97.37%		97.73%		97.77%		a b c d e
OP-3	UBL - DS1 Capable, %		98.44%	86.03%	95.80%	89.33%	99.19%	90.76%	99.35%	90.32%	96.15%	87.64%		
OP-3	UBL - DS3 Capable, %			86.00%		97.06%		95.35%		87.30%		92.86%		a b c d e
OP-3	UBL Analog, %		98.96%	97.09%	99.29%	97.61%	97.42%	97.98%	99.66%	97.57%	99.28%	96.96%		
OP-3	UBL Conditioned, %		82.76%		86.05%		82.76%		84.25%		86.96%			
OP-3	UBL ISDN Capable, %		100%	89.86%	98.98%	83.61%	96.33%	87.04%	98.06%	82.19%	100%	87.21%		
OP-3	UDIT Above DS1 Level, %		100%	86.00%	100%	97.06%	100%	95.35%	100%	87.30%		92.86%		a b c d e
OP-3	UDIT DS1, %		100%	86.03%	100%	89.33%	98.57%	90.76%	100%	90.32%	100%	87.64%		
OP-3	UNE P, POTS, %	D	97.27%	97.09%	99.71%	97.61%	98.04%	97.98%	99.25%	97.57%	97.93%	96.96%		
OP-3	UNE P, POTS, %	ND	99.96%	99.48%	99.97%	99.61%	99.91%	99.66%	99.96%	99.66%	99.97%	99.56%		
OP-3	UNE P, Centrex 21, %	D	100%	93.54%	100%	95.41%	100%	91.99%	100%	94.43%	100%	93.65%		a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-3	UNE P, Centrex 21, %	ND	100%	98.10%		98.90%	100%	95.27%	96.88%	97.93%	100%	97.98%	a b
OP-3	UNE P, Centrex, %	D		91.49%		87.50%		90.91%		89.58%		79.41%	a b c d e
OP-3	UNE P, Centrex, %	ND		87.50%		66.67%		50.00%		52.94%		100%	a b c d e
OP-4	Installation Interval												
OP-4	Basic Rate ISDN, Avg Days	D		2.00		5.50		8.00					a b c d e
OP-4	Basic Rate ISDN, Avg Days	ND						2.00					a b c d e
OP-4	Basic Rate ISDN, Avg Days			8.41		7.51	4.33	7.31		11.83		11.17	a b c d e
OP-4	Business, Avg Days		8.80	5.64	4.63	5.80	3.43	5.54	4.00	6.27	3.14	5.91	
OP-4	Business, Avg Days	ND	4.00	3.17	0.75	2.96	2.29	3.05	2.55	3.48	1.40	3.21	a b c
OP-4	Centrex 21, Avg Days	D		7.79	3.00	7.42		6.93		6.11	5.00	8.23	a b c d e
OP-4	Centrex 21, Avg Days	ND		3.59		3.60		3.51		3.03		3.32	a b c d e
OP-4	Centrex, Avg Days	D		5.75		7.45		5.27		5.20		6.62	a b c d e
OP-4	Centrex, Avg Days	ND		2.50		3.00		4.00		5.57		5.86	a b c d e
OP-4	DS0, Avg Days	D		1.50		5.00							a b c d e
OP-4	DS0, Avg Days	ND										0.00	a b c d e
OP-4	DS0, Avg Days		4.00	8.18		12.20		8.41		9.16		6.92	a b c d e
OP-4	DS1, Avg Days			12.84	4.67	12.03		13.24		13.63		12.83	a b c d e
OP-4	DS3, Avg Days			9.64		9.01		10.00		13.72		13.48	a b c d e
OP-4	E911, Avg Days			24.75		25.67	33.00	30.67	12.00		11.00	17.00	a b c d e
OP-4	EELs, Avg Days		5.38		5.55		5.93		5.40		6.06		
OP-4	Frame Relay, Avg Days					14.00							a b c d e
OP-4	ISDN Primary, Avg Days	D											a b c d e
OP-4	ISDN Primary, Avg Days	ND		2.33		9.00		3.00		2.67		9.00	a b c d e
OP-4	ISDN Primary, Avg Days			16.80		17.91		15.25		12.27		18.86	a b c d e
OP-4	Line Sharing, Avg Days	D		5.38		5.57		5.43		5.36		5.58	a b c d e
OP-4	Line Sharing, Avg Days	ND	2.99	3.45	2.99	3.35	3.01	3.34	3.01	3.34	2.99	3.31	
OP-4	LIS Trunk, Avg Days		11.41	15.33	14.11	15.10	12.98	17.63	12.86	21.96	10.13	19.47	
OP-4	PBX, Avg Days	D		5.17		6.71		4.39		3.79		7.08	a b c d e
OP-4	PBX, Avg Days	ND		2.90		2.67		2.40		2.33		0.00	a b c d e
OP-4	PBX, Avg Days			11.22		13.95		13.26		16.13		12.46	a b c d e
OP-4	Qwest DSL, Avg Days	D		5.41		5.37	5.00	5.24	5.00	5.39	5.88	5.24	a b c d e
OP-4	Qwest DSL, Avg Days	ND	5.25	4.99	4.86	4.90	5.29	4.88	5.47	4.87	5.12	4.90	a b c
OP-4	Qwest DSL, Avg Days			4.50		5.25		6.42		4.90		5.82	a b c d e
OP-4	Residence, Avg Days	D	2.98	5.32	3.08	5.52	2.98	5.40	3.14	5.15	3.17	5.51	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-4	Residence, Avg Days	ND	2.04	3.45	2.02	3.36	1.85	3.35	2.11	3.34	2.61	3.31	
OP-4	UBL - 2-wire, Avg Days		2.99	8.32	2.90	7.48	3.30	7.25	3.13	11.83	3.11	11.17	
OP-4	UBL - 4-wire, Avg Days			12.84		12.03		13.24		13.63		12.83	a b c d e
OP-4	UBL - ADSL Qualified, Avg Days			5.39		5.36		5.24		5.38		5.26	a b c d e
OP-4	UBL - DS1 Capable, Avg Days		4.38	12.84	5.03	12.03	4.65	13.24	4.71	13.63	5.41	12.83	
OP-4	UBL - DS3 Capable, Avg Days			9.64		9.01		10.00		13.72		13.48	a b c d e
OP-4	UBL Analog, Avg Days		4.94	5.38	4.80	5.57	5.19	5.43	4.98	5.36	4.65	5.58	
OP-4	UBL Conditioned, Avg Days		5.48		6.40		4.41		4.54		4.78		
OP-4	UBL ISDN Capable, Avg Days		3.05	8.43	3.76	7.51	3.96	7.31	3.63	11.83	3.44	11.17	
OP-4	UDIT Above DS1 Level, Avg Days		15.00	9.64	5.33	9.01	10.00	10.00	7.50	13.72	14.00	13.48	a b c d e
OP-4	UDIT DS1, Avg Days		7.85	12.84	5.34	12.03	6.07	13.24	6.60	13.63	4.78	12.83	
OP-4	UNE P, POTS, Avg Days	D	4.07	5.38	3.82	5.57	3.85	5.43	3.52	5.36	3.48	5.58	
OP-4	UNE P, POTS, Avg Days	ND	2.96	3.45	2.90	3.35	2.83	3.34	2.87	3.34	2.92	3.31	
OP-4	UNE P, Centrex 21, Avg Days	D	4.75	7.79	4.50	7.42	5.00	6.93	5.00	6.11	8.67	8.23	a b c d e
OP-4	UNE P, Centrex 21, Avg Days	ND		3.59		3.60	2.73	3.51	3.71	3.03	3.00	3.32	a b d e
OP-4	UNE P, Centrex, Avg Days	D		5.75		7.45		5.27		5.20		6.62	a b c d e
OP-4	UNE P, Centrex, Avg Days	ND		2.50		3.00		4.00		5.57		5.86	a b c d e
OP-5	New Service Installation Quality												
OP-5	Basic Rate ISDN, %			90.29%		93.22%	100%	93.93%	100%	92.93%		92.12%	a b c d e
OP-5	Business, %		94.74%	89.16%	96.30%	90.22%	100%	89.76%	100%	89.61%	100%	89.04%	
OP-5	Centrex 21, %			87.19%	0.00%	86.07%	100%	87.79%		82.99%	100%	82.88%	a b c d e
OP-5	Centrex, %			98.11%		88.24%		93.75%		85.25%		87.72%	a b c d e
OP-5	DS0, %		100%	97.56%	100%	84.75%		97.80%		84.42%		87.80%	a b c d e
OP-5	DS1, %			93.18%	100%	94.36%	100%	93.95%		92.60%		92.65%	a b c d e
OP-5	DS3, %			98.94%		100%		98.33%		100%		95.24%	a b c d e
OP-5	E911, %			100%		100%	100%	100%	100%	100%	100%	100%	a b c d e
OP-5	EELs, %		83.93%		90.74%		94.44%		88.89%		91.11%		
OP-5	Frame Relay, %			93.13%		96.61%		95.49%		91.07%		93.63%	a b c d e
OP-5	ISDN Primary, %		100%	96.04%	100%	95.56%		95.16%		94.00%		96.63%	a b c d e
OP-5	Line Sharing, %		92.33%	88.04%	96.43%	88.39%	97.40%	88.02%	96.07%	87.71%	96.53%	86.10%	
OP-5	LIS Trunk, %		100%	97.67%	100%	100%	97.56%	100%	100%	98.28%	94.12%	100%	
OP-5	PBX, %			97.26%		91.43%		94.81%		85.00%		87.30%	a b c d e
OP-5	Qwest DSL, %		100%	99.97%	100%	99.97%	100%	99.97%	100%	99.92%	100%	99.98%	a b c
OP-5	Residence, %		96.86%	87.92%	92.86%	88.21%	90.83%	87.86%	92.41%	87.52%	90.35%	85.82%	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-5	UBL - 2-wire, %		98.18%	90.29%	94.90%	93.22%	95.37%	93.93%	92.66%	92.93%	97.20%	92.12%	
OP-5	UBL - 4-wire, %			93.18%		94.36%		93.95%		92.60%		92.65%	a b c d e
OP-5	UBL - ADSL Qualified, %			99.87%		99.87%		99.87%		99.63%		99.89%	a b c d e
OP-5	UBL - DS1 Capable, %		91.03%	93.18%	90.00%	94.36%	86.03%	93.95%	89.29%	92.60%	86.81%	92.65%	
OP-5	UBL - DS3 Capable, %			98.94%		100%		98.33%		100%		95.24%	a b c d e
OP-5	UBL Analog, %		98.02%	69.66%	95.87%	69.51%	95.73%	68.78%	95.19%	67.79%	96.62%	62.76%	
OP-5	UBL ISDN Capable, %		95.10%	90.00%	97.03%	93.10%	97.14%	93.81%	97.20%	92.82%	90.91%	92.12%	
OP-5	UDIT Above DS1 Level, %		100%	98.94%	100%	100%	100%	98.33%	100%	100%	100%	95.24%	a b c d e
OP-5	UDIT DS1, %		100%	93.18%	100%	94.36%	98.04%	93.95%	98.48%	92.60%	97.67%	92.65%	
OP-5	UNE P, POTS, %		97.70%	88.04%	98.11%	88.39%	98.03%	88.02%	97.12%	87.71%	96.84%	86.10%	
OP-5	UNE P, Centrex 21, %		100%	87.19%	42.86%	86.07%	96.15%	87.79%	90.48%	82.99%	93.55%	82.88%	a b
OP-5	UNE P, Centrex, %			98.11%		88.24%		93.75%		85.25%		87.72%	a b c d e
OP-6A	Delayed Days for Non-Facility Reasons												
OP-6A	Basic Rate ISDN, Avg Days	D				15.00		4.50					a b c d e
OP-6A	Basic Rate ISDN, Avg Days			15.50		7.42		4.73		11.50		5.82	a b c d e
OP-6A	Business, Avg Days	D	13.67	10.31	8.50	10.54		9.02		6.56		6.61	a b c d e
OP-6A	Business, Avg Days	ND		15.90		6.00		31.33		8.09		4.13	a b c d e
OP-6A	Centrex 21, Avg Days	D		8.81		7.00		8.37		5.00		3.05	a b c d e
OP-6A	Centrex 21, Avg Days	ND		2.75		11.50		3.67		4.00		9.00	a b c d e
OP-6A	Centrex, Avg Days	D		5.20		18.50		2.50		1.75		1.00	a b c d e
OP-6A	Centrex, Avg Days	ND		31.00		3.00		31.00		17.33			a b c d e
OP-6A	DS0, Avg Days	D				2.00							a b c d e
OP-6A	DS0, Avg Days			5.30		18.00		2.92		8.56		14.40	a b c d e
OP-6A	DS1, Avg Days			18.83		14.59		10.64		18.91		10.48	a b c d e
OP-6A	DS3, Avg Days			7.83		14.00		7.00		3.71		5.00	a b c d e
OP-6A	EELs, Avg Days		10.00		3.00		15.50				20.00		a b c d e
OP-6A	Frame Relay, Avg Days			15.82		11.94		12.59		15.94		13.20	a b c d e
OP-6A	ISDN Primary, Avg Days	D											a b c d e
OP-6A	ISDN Primary, Avg Days	ND		1.00									a b c d e
OP-6A	ISDN Primary, Avg Days		3.00	11.14		12.09		11.57		12.06		10.75	a b c d e
OP-6A	Line Sharing, Avg Days	D		7.26	2.00	7.13	2.00	7.12	2.20	5.46	3.00	5.01	a b d e
OP-6A	Line Sharing, Avg Days	ND	7.50	4.73	5.00	5.09	4.50	8.79	3.33	4.88	1.33	3.21	a b c d e
OP-6A	LIS Trunk, Avg Days				6.00		2.00		3.00	2.33		52.00	a b c d e
OP-6A	PBX, Avg Days	D		9.00		15.50		3.00		1.00			a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-6A	PBX, Avg Days	ND											a b c d e
OP-6A	PBX, Avg Days			9.08		12.81		11.50		15.60		22.38	a b c d e
OP-6A	Qwest DSL, Avg Days	D		2.28		3.14		1.89		4.80		2.16	a b c d e
OP-6A	Qwest DSL, Avg Days	ND	3.00	15.29		3.88		3.73		1.75		3.57	a b c d e
OP-6A	Qwest DSL, Avg Days			3.50		2.50		3.00		2.00		4.00	a b c d e
OP-6A	Residence, Avg Days	D	1.00	5.99	6.00	5.22		5.94	6.00	4.82	7.00	4.27	a b c d e
OP-6A	Residence, Avg Days	ND		3.67		4.93		4.20		3.58		3.12	a b c d e
OP-6A	UBL - 2-wire, Avg Days			15.50		7.80		4.69		11.50		5.82	a b c d e
OP-6A	UBL - 4-wire, Avg Days			18.83		14.59		10.64		18.91		10.48	a b c d e
OP-6A	UBL - ADSL Qualified, Avg Days			2.40		3.14		1.89		4.80		2.14	a b c d e
OP-6A	UBL - DS1 Capable, Avg Days		2.50	18.83	6.33	14.59		10.64		18.91	1.50	10.48	a b c d e
OP-6A	UBL - DS3 Capable, Avg Days			7.83		14.00		7.00		3.71		5.00	a b c d e
OP-6A	UBL Analog, Avg Days		16.00	7.26	10.25	7.13	6.83	7.12	3.33	5.46	5.50	5.01	a b d e
OP-6A	UBL ISDN Capable, Avg Days			20.33	6.00	7.42	2.33	4.73	2.50	11.50		5.82	a b c d e
OP-6A	UDIT Above DS1 Level, Avg Days			7.83		14.00		7.00		3.71		5.00	a b c d e
OP-6A	UDIT DS1, Avg Days			18.83		14.59	2.00	10.64		18.91		10.48	a b c d e
OP-6A	UNE P, POTS, Avg Days	D	4.33	7.26	14.67	7.13	9.86	7.12	3.80	5.46	4.20	5.01	a b c d
OP-6A	UNE P, POTS, Avg Days	ND	1.00	4.73	3.00	5.09	2.44	8.79	2.20	4.88	2.00	3.21	a b c d e
OP-6A	UNE P, Centrex 21, Avg Days	D		8.81		7.00		8.37		5.00		3.05	a b c d e
OP-6A	UNE P, Centrex 21, Avg Days	ND		2.75		11.50		3.67	2.00	4.00		9.00	a b c d e
OP-6A	UNE P, Centrex, Avg Days	D		5.20		18.50		2.50		1.75		1.00	a b c d e
OP-6A	UNE P, Centrex, Avg Days	ND		31.00		3.00		31.00		17.33			a b c d e
OP-6B	Delayed Days for Facility Reasons												
OP-6B	Basic Rate ISDN, Avg Days			24.67		9.70		10.58		15.26		15.67	a b c d e
OP-6B	Business, Avg Days	D		7.50		8.38		7.95	4.00	4.10		5.04	a b c d e
OP-6B	Business, Avg Days	ND		1.00		4.00		4.20		5.50		3.60	a b c d e
OP-6B	Centrex 21, Avg Days	D		6.40		12.20		5.22		1.50		3.00	a b c d e
OP-6B	Centrex 21, Avg Days	ND						1.00					a b c d e
OP-6B	Centrex, Avg Days	D				17.00		2.50		1.00		8.00	a b c d e
OP-6B	Centrex, Avg Days	ND		31.00		32.00		20.00		57.00			a b c d e
OP-6B	DS0, Avg Days			15.40		4.00		22.50		13.00		13.67	a b c d e
OP-6B	DS1, Avg Days			14.67		15.28		13.35		13.47		15.06	a b c d e
OP-6B	DS3, Avg Days			9.50		75.00				4.00		8.50	a b c d e
OP-6B	EELs, Avg Days		2.50		4.00		3.00		40.33		4.67		a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-6B	Frame Relay, Avg Days			23.00		24.80		18.09		20.47		13.60	a b c d e
OP-6B	ISDN Primary, Avg Days			12.31		18.77		11.67		5.10		14.77	a b c d e
OP-6B	Line Sharing, Avg Days	D	9.00	6.83	4.00	6.35	2.00	6.46	5.71	4.97	4.33	4.54	a b c d e
OP-6B	Line Sharing, Avg Days	ND	5.00	17.43	9.00	1.91	2.00	3.09	4.71	3.15	6.00	2.78	a b c d e
OP-6B	LIS Trunk, Avg Days												a b c d e
OP-6B	PBX, Avg Days	D										6.00	a b c d e
OP-6B	PBX, Avg Days	ND											a b c d e
OP-6B	PBX, Avg Days			14.67				19.00		17.00		12.00	a b c d e
OP-6B	Qwest DSL, Avg Days	D				5.00		10.33		7.00		3.00	a b c d e
OP-6B	Qwest DSL, Avg Days	ND				1.00				4.00			a b c d e
OP-6B	Residence, Avg Days	D		6.55		5.74	1.00	5.64		5.27	6.00	4.37	a b c d e
OP-6B	Residence, Avg Days	ND	1.00	19.16		1.78		2.89		2.83		2.64	a b c d e
OP-6B	UBL - 2-wire, Avg Days			24.67		9.70		10.58		15.26		15.67	a b c d e
OP-6B	UBL - 4-wire, Avg Days			14.67		15.28		13.35		13.47		15.06	a b c d e
OP-6B	UBL - ADSL Qualified, Avg Days					5.00		10.33		7.00		3.00	a b c d e
OP-6B	UBL - DS1 Capable, Avg Days			14.67	3.00	15.28	9.00	13.35	7.00	13.47	12.33	15.06	a b c d e
OP-6B	UBL - DS3 Capable, Avg Days			9.50		75.00				4.00		8.50	a b c d e
OP-6B	UBL Analog, Avg Days		16.00	6.83		6.35	11.25	6.46	21.00	4.97		4.54	a b c d e
OP-6B	UBL ISDN Capable, Avg Days			24.67		9.70	6.00	10.58	9.00	15.26		15.67	a b c d e
OP-6B	UDIT Above DS1 Level, Avg Days			9.50		75.00				4.00		8.50	a b c d e
OP-6B	UDIT DS1, Avg Days			14.67		15.28		13.35		13.47		15.06	a b c d e
OP-6B	UNE P, POTS, Avg Days	D	14.00	6.83		6.35	7.67	6.46	1.00	4.97	3.33	4.54	a b c d e
OP-6B	UNE P, POTS, Avg Days	ND	1.00	17.43		1.91	1.00	3.09		3.15	1.50	2.78	a b c d e
OP-6B	UNE P, Centrex 21, Avg Days	D		6.40		12.20		5.22		1.50		3.00	a b c d e
OP-6B	UNE P, Centrex 21, Avg Days	ND						1.00					a b c d e
OP-6B	UNE P, Centrex, Avg Days	D				17.00		2.50		1.00		8.00	a b c d e
OP-6B	UNE P, Centrex, Avg Days	ND		31.00		32.00		20.00		57.00			a b c d e
OP-7	Coordinated "Hot Cut" Interval - Unbundled Loop												
OP-7	UBL - Analog, Hrs:Min			0:03		0:03		0:03		0:03		0:03	
OP-8	Number Portability Timeliness												
OP-8B	LNP Timeliness, %			100%		100%		99.56%		100%		100%	
OP-8C	% LNP Triggers Set Prior to the Frame Due Time			1.00		1.00		1.00		0.99		1.00	
OP-13	Coordinated Cuts - Unbundled Loop												
OP-13A	Completed on Time, UBL - Analog, %			99.44%		99.17%		98.50%		100%		100%	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-13A	Completed on Time, UBL Other, %		100%		97.62%		100%		100%		98.39%		
OP-13B	Started Without CLEC Approval, UBL - Analog, %		0.00%		0.00%		0.50%		0.00%		0.00%		
OP-13B	Started Without CLEC Approval, UBL Other, %		0.00%		0.00%		0.00%		0.00%		0.00%		
OP-15A	Interval for Pending Orders Delayed Past Due Date												
OP-15A	Basic Rate ISDN, Avg Days			138.12		143.63		44.23		50.57		32.72	a b c d e
OP-15A	Business, Avg Days		319.00	158.27	345.00	159.03	370.00	184.13	396.00	167.99	422.00	162.85	a b c d e
OP-15A	Centrex 21, Avg Days			114.49		130.68		147.25		129.90		155.04	a b c d e
OP-15A	Centrex, Avg Days			242.92		279.42		283.39		201.89		235.18	a b c d e
OP-15A	DS0, Avg Days			222.88		216.81		87.33		175.33		115.60	a b c d e
OP-15A	DS1, Avg Days			42.68		46.56		49.35		35.05		30.69	a b c d e
OP-15A	DS3, Avg Days			24.75		11.50		10.50		5.50		4.00	a b c d e
OP-15A	EELs, Avg Days				0.00								a b c d e
OP-15A	Frame Relay, Avg Days			182.18		179.32		117.31		94.02		109.24	a b c d e
OP-15A	ISDN Primary, Avg Days			8.58		13.31		22.05		13.72		14.90	a b c d e
OP-15A	Line Sharing, Avg Days		7.40		2.43		2.57		6.50		6.45		a b c d
OP-15A	LIS Trunk, Avg Days		24.00		34.00		89.00				8.00		a b c d e
OP-15A	PBX, Avg Days			179.00		160.70		139.90		169.29		137.35	a b c d e
OP-15A	Qwest DSL, Avg Days			236.19		284.54		262.83	6.00	294.90		287.98	a b c d e
OP-15A	Residence, Avg Days		187.33	248.95	158.50	259.58	319.00	267.26	230.00	266.92	251.00	249.13	a b c d e
OP-15A	UBL - 2-wire, Avg Days		9.00	138.12	9.00	143.63	18.67	44.23	8.67	50.57	12.50	32.72	a b c d e
OP-15A	UBL - 4-wire, Avg Days			42.68		46.56		49.35		35.05		30.69	a b c d e
OP-15A	UBL - DS1 Capable, Avg Days		0.00	42.68	8.00	46.56	3.60	49.35	12.75	35.05	9.50	30.69	a b c d e
OP-15A	UBL - DS3 Capable, Avg Days			24.75		11.50		10.50		5.50		4.00	a b c d e
OP-15A	UBL Analog, Avg Days		10.00	211.97	10.50	225.79	3.80	254.82	21.20	254.54	10.67	211.68	a b c d e
OP-15A	UBL ISDN Capable, Avg Days			51.50		33.81		20.73	1.50	22.67	11.00	33.35	a b c d e
OP-15A	UDIT Above DS1 Level, Avg Days			24.75		11.50		10.50		5.50		4.00	a b c d e
OP-15A	UDIT DS1, Avg Days			42.68		46.56		49.35		35.05		30.69	a b c d e
OP-15A	UNE P, POTS, Avg Days		54.38	226.35	31.47	233.82	50.00	248.35	43.53	243.27	41.56	226.91	a
OP-15A	UNE P, Centrex 21, Avg Days			114.49		130.68	1.00	147.25		129.90		155.04	a b c d e
OP-15A	UNE P, Centrex, Avg Days			242.92		279.42		283.39		201.89		235.18	a b c d e
OP-15B	Pending Orders Delayed for Facilities Reasons												
OP-15B	Basic Rate ISDN			6		4		11		11		8	a b c d e
OP-15B	Business		0	64	0	79	0	54	0	62	0	75	a b c d e
OP-15B	Centrex			5		5		3		2		1	a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
OP-15B	Centrex 21			6		7		4		2		4	abcde
OP-15B	DS0			10		13		3		2		4	abcde
OP-15B	DS1			42		53		31		88		112	abcde
OP-15B	DS3			1		0		0		0		0	abcde
OP-15B	EELs					1							abcde
OP-15B	Frame Relay			19		15		20		25		21	abcde
OP-15B	ISDN Primary			7		5		4		17		20	abcde
OP-15B	Line Sharing		4		3		5		7		8		abcde
OP-15B	LIS Trunk		1		1		1				1		abcde
OP-15B	PBX			5		3		2		3		3	abcde
OP-15B	Qwest DSL			0		1		1	0	0		1	abcde
OP-15B	Residence		1	140	1	152	1	129	1	135	1	149	abcde
OP-15B	UBL - 2-wire		4	6	3	4	0	11	5	11	1	8	abcde
OP-15B	UBL - 4-wire			42		53		31		88		112	abcde
OP-15B	UBL - DS1 Capable		1	42	1	53	4	31	4	88	4	112	abcde
OP-15B	UBL - DS3 Capable			1		0		0		0		0	abcde
OP-15B	UBL Analog		3	112	5	125	3	105	5	101	3	108	abcde
OP-15B	UBL ISDN Capable			6		4		11	2	11	1	8	abcde
OP-15B	UDIT Above DS1 Level			1		0		0		0		0	abcde
OP-15B	UDIT DS1			42		53		31		88		112	abcde
OP-15B	UNE P, POTS		1	204	5	231	1	183	3	197	2	224	abcde
OP-15B	UNE P, Centrex			5		5		3		2		1	abcde
OP-15B	UNE P, Centrex 21			6		7	1	4		2		4	abcde
OP-17 Timeliness of Disconnects associated with LNP Orders													
OP-17A	LNP, %			100%		99.62%		99.97%		99.98%		100%	
OPERATOR SERVICES													
OS-1 Speed of Answer - Operator Services													
OS-1	Avg Sec			7.77		8.50		8.55		7.93		7.67	abcde
PRE-ORDER/ORDER													
PO-1 Pre-Order/Order Response Times													
PO-1A-1(a)	Appt. Sched, GUI Req, Avg Sec			0.35		0.45		0.33		0.29		0.29	
PO-1A-1(b-c)	Appt. Sched, GUI Resp/Accept, Avg Sec			1.31		1.13		1.00		0.99		0.98	
PO-1A-10(a)	Meet Point Inquiry, GUI Req, Avg Sec			0.31		0.35		0.34		0.28		0.28	
PO-1A-10(b)	Meet Point Inquiry, GUI Resp, Avg Sec			4.85		5.00		4.94		4.91		4.86	

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
PO-1A-10Total	Meet Point Inquiry, GUI Aggregate, Avg Sec		5.16		5.35		5.27		5.19		5.14		
PO-1A-1Total	Appt. Sched, GUI Aggregate, Avg Sec		1.66		1.58		1.33		1.28		1.27		
PO-1A-2(a)	Service Avail, GUI Req, Avg Sec		0.42		0.79		0.43		0.29		0.29		
PO-1A-2(b)	Service Avail, GUI Resp, Avg Sec		9.03		8.75		9.06		9.98		8.01		
PO-1A-2Total	Service Avail, GUI Aggregate, Avg Sec		9.45		9.55		9.49		10.27		8.30		
PO-1A-3(a)	Facility Check, GUI Req, Avg Sec		0.53		1.00		0.45		0.32		0.28		
PO-1A-3(b)	Facility Check, GUI Resp, Avg Sec		6.69		7.38		7.67		7.68		8.11		
PO-1A-3Total	Facility Check, GUI Aggregate, Avg Sec		7.22		8.38		8.12		8.00		8.39		
PO-1A-4(a)	Address Validation, GUI Req, Avg Sec		0.87		1.10		0.91		0.80		0.79		
PO-1A-4(b)	Address Validation, GUI Resp, Avg Sec		3.80		4.13		3.84		3.76		4.29		
PO-1A-4Total	Address Validation, GUI Aggregate, Avg Sec		4.67		5.22		4.75		4.56		5.08		
PO-1A-5(a)	Get CSR, GUI Req, Avg Sec		0.76		1.94		0.56		0.37		0.28		
PO-1A-5(b)	Get CSR, GUI Resp, Avg Sec		6.57		7.76		6.46		6.46		6.29		
PO-1A-5Total	Get CSR, GUI Aggregate, Avg Sec		7.34		9.71		7.02		6.83		6.58		
PO-1A-6(a)	TN Reserv, GUI Req, Avg Sec		0.30		0.48		0.34		0.28		0.28		
PO-1A-6(b)	TN Reserv, GUI Resp, Avg Sec		4.92		4.63		4.68		4.47		4.59		
PO-1A-6(c)	TN Reserv, GUI Accept, Avg Sec		0.73		0.76		0.73		0.79		0.77		
PO-1A-6Total	TN Reserv, GUI Aggregate, Avg Sec		5.95		5.87		5.75		5.54		5.64		
PO-1A-7(a)	Loop Qual Tools, GUI Req, Avg Sec		0.75		0.86		0.78		0.61		0.63		
PO-1A-7(b)	Loop Qual Tools, GUI Resp, Avg Sec		6.83		7.31		7.12		9.11		10.04		
PO-1A-7Total	Loop Qual Tools, GUI Aggregate, Avg Sec		7.58		8.17		7.90		9.72		10.67		
PO-1A-8(a)	Resale of Qwest DSL Qual, GUI Req, Avg Sec		0.69		1.27		1.04		0.32		0.28		
PO-1A-8(b)	Resale of Qwest DSL Qual, GUI Resp, Avg Sec		5.93		6.13		6.04		5.87		7.04		
PO-1A-8Total	Resale of Qwest DSL Qual, GUI Aggregate, Avg Sec		6.62		7.40		7.08		6.19		7.32		
PO-1A-9(a)	Connecting Facility Assign, GUI Req, Avg Sec		0.30		0.29		0.29		0.28		0.28		
PO-1A-9(b)	Connecting Facility Assign, GUI Resp, Avg Sec		8.19		8.51		8.59		8.95		8.97		
PO-1A-9Total	Connecting Facility Assign, GUI Aggregate, Avg Sec		8.49		8.80		8.88		9.23		9.25		
PO-1B-1	Appt. Sched, EDI Req/Resp, Avg Sec		3.78		3.39		3.50		3.37		3.42		
PO-1B-10	Meet Point Inquiry, EDI Req/Resp, Avg Sec		6.03		5.65		5.66		5.52		5.72		
PO-1B-2	Service Avail, EDI Req/Resp, Avg Sec		9.40		8.68		9.25		9.83		7.90		
PO-1B-3	Facility Check, EDI Req/Resp, Avg Sec		6.56		6.64		7.39		7.69		7.60		
PO-1B-4	Address Validation, EDI Req/Resp, Avg Sec		2.99		2.83		2.84		2.81		3.61		
PO-1B-5	Get CSR, EDI Req/Resp, Avg Sec		3.53		3.44		3.47		3.33		3.51		
PO-1B-6	TN Reserv, EDI Req/Resp, Avg Sec		5.76		5.31		5.62		5.18		5.34		

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
PO-1B-7	Loop Qual Tools, EDI Req/Resp, Avg Sec		8.80		9.71		11.96		11.53		11.13		
PO-1B-8	Resale of Qwest DSL Qual, EDI Req/Resp, Avg Sec		5.22		4.63		4.98		5.74		7.03		
PO-1B-9	Connecting Facility Assign, EDI Req/Resp, Avg Sec		8.47		8.47		8.75		8.86		9.09		
PO-1C-1	Timeout, GUI Total, %		0.19%		0.39%		0.06%		0.10%		0.04%		
PO-1C-2	Timeout, EDI Total, %		0.27%		0.08%		0.32%		0.09%		0.31%		
PO-1D-1	Rejected Query, GUI Total, Avg Sec		1.32		1.33		1.35		1.35		1.32		
PO-1D-2	Rejected Query, EDI Total, Avg Sec		2.34		2.35		2.42		2.37		2.48		
PO-2	Electronic Flow-through												
PO-2A-1	GUI, LNP, %		80.71%		78.25%		75.57%		74.30%		82.34%		
PO-2A-1	GUI, Resale Aggregate w/o UNE-P-POTS, %		58.77%		59.57%		75.22%		82.17%		84.38%		
PO-2A-1	GUI, UBL Aggregate, %		36.48%		28.78%		29.37%		29.72%		32.06%		
PO-2A-1	GUI, UNE P, POTS, %		54.62%		49.75%		53.53%		60.40%		58.71%		
PO-2A-2	EDI, LNP, %		20.10%		22.86%		29.29%		45.50%		45.42%		
PO-2A-2	EDI, Resale Aggregate w/o UNE-P-POTS, %		84.24%		82.17%		85.98%		89.37%		83.61%		
PO-2A-2	EDI, UBL Aggregate, %		52.10%		45.86%		51.21%		51.44%		49.29%		
PO-2A-2	EDI, UNE P, POTS, %		87.84%		77.81%		82.57%		78.55%		87.19%		
PO-2B-1	All Elig LSRs, GUI, LNP, %		99.01%		98.83%		98.56%		98.81%		99.21%		
PO-2B-1	All Elig LSRs, GUI, Resale Agg. w/o UNE-P-POTS, %		97.91%		98.60%		98.72%		98.07%		99.20%		
PO-2B-1	All Elig LSRs, GUI, UBL Aggregate, %		93.55%		91.67%		89.52%		97.90%		94.37%		
PO-2B-1	All Elig LSRs, GUI, UNE P, POTS, %		93.76%		95.68%		92.20%		96.06%		95.97%		
PO-2B-2	All Elig LSRs, EDI, LNP, %		86.67%		78.43%		85.29%		91.43%		91.54%		
PO-2B-2	All Elig LSRs, EDI, Resale Agg. w/o UNE-P-POTS, %		98.84%		98.95%		98.70%		98.93%		98.08%		
PO-2B-2	All Elig LSRs, EDI, UBL Aggregate, %		91.37%		94.90%		94.40%		96.81%		96.35%		
PO-2B-2	All Elig LSRs, EDI, UNE P, POTS, %		98.50%		96.05%		95.43%		96.71%		98.01%		
PO-3	LSR Rejection Notice Interval												
PO-3A-1	GUI - Rejected Manually, Product Aggregate, Hrs:Min		4:18		5:59		4:08		3:34		3:25		
PO-3A-2	GUI - Auto-Rejected, Product Aggregate, Min:Sec		0:03		0:03		0:03		0:03		0:04		
PO-3B-1	EDI - Rejected Manually, Product Aggregate, Hrs:Min		3:30		4:06		3:26		3:24		2:28		
PO-3B-2	EDI - Auto-Rejected, Product Aggregate, Min:Sec		0:02		0:02		0:03		0:04		0:04		
PO-3C	Manual and IIS, Product Aggregate, Hrs:Min		4:34		5:25		1:59		4:53		7:06		
PO-4	LSRs Rejected												
PO-4A-1	GUI - Rejected Manually, Product Aggregate, %		3.72%		3.32%		2.70%		2.91%		3.09%		
PO-4A-2	GUI - Auto-Rejected, Product Aggregate, %		30.97%		32.79%		33.11%		28.61%		31.10%		
PO-4B-1	EDI - Rejected Manually, Product Aggregate, %		3.56%		4.33%		4.55%		5.25%		5.01%		

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
PO-4B-2	EDI - Auto-Rejected, Product Aggregate, %		38.01%		34.32%		35.74%		28.69%		25.38%		
PO-4C	Facsimile, Product Aggregate, %		40.98%		45.65%		46.95%		30.84%		22.01%		
PO-5	Firm Order Confirmations (FOCs) On Time												
PO-5A-1(a)	Fully Elec LSRs Rec'd Via GUI, Resale Aggregate, %		100%		99.84%		100%		99.94%		99.77%		
PO-5A-1(b)	Fully Elec LSRs Rec'd Via GUI, UBL Aggregate, %		100%		100%		100%		100%		100%		
PO-5A-1(c)	Fully Elec LSRs Rec'd Via GUI, LNP, %		100%		99.96%		100%		100%		99.92%		
PO-5A-2(a)	Fully Elec LSRs Rec'd Via EDI, Resale Aggregate, %		100%		99.61%		99.97%		99.94%		100%		
PO-5A-2(b)	Fully Elec LSRs Rec'd Via EDI, UBL Aggregate, %		100%		99.43%		100%		99.80%		100%		
PO-5A-2(c)	Fully Elec LSRs Rec'd Via EDI, LNP, %		100%		96.97%		100%		100%		100%		
PO-5B-1(a)	Elec/Manual LSRs Rec'd Via GUI, Resale Aggregate, %		98.46%		98.65%		98.17%		95.75%		97.82%		
PO-5B-1(b)	Elec/Manual LSRs Rec'd Via GUI, UBL Aggregate, %		96.95%		92.70%		98.25%		98.34%		97.75%		
PO-5B-1(c)	Elec/Manual LSRs Rec'd Via GUI, LNP, %		100%		100%		99.93%		100%		100%		
PO-5B-2(a)	Elec/Manual LSRs Rec'd Via EDI, Resale Aggregate, %		99.82%		98.68%		99.67%		99.47%		98.72%		
PO-5B-2(b)	Elec/Manual LSRs Rec'd Via EDI, UBL Aggregate, %		99.30%		99.35%		99.55%		99.56%		99.39%		
PO-5B-2(c)	Elec/Manual LSRs Rec'd Via EDI, LNP, %		100%		100%		100%		100%		100%		
PO-5C-(a)	Manual, Resale Aggregate, %		100%		97.20%		100%		100%		100%		
PO-5C-(b)	Manual, UBL Aggregate, %		100%		100%		100%		100%		97.44%		b c d
PO-5C-(c)	Manual, LNP, %		100%		96.30%		100%		98.21%		100%		
PO-5D	LIS Trunk, %		98.78%		100%		100%		100%		100%		
PO-6	Work Completion Notification Timeliness												
PO-6A	GUI, All, Hrs:Min		1:21		0:30		0:36		0:38		0:20		
PO-6B	EDI, All, Hrs:Min		0:43		0:48		0:37		0:46		0:50		
PO-7	Billing Completion Notification Timeliness												
PO-7A-C	GUI / Billing System Posting Completions, All, %		99.84%	99.52%	99.99%	99.48%	99.97%	99.31%	99.97%	99.30%	99.97%	99.47%	
PO-7B-C	EDI / Billing System Posting Completions, All, %		100%	99.52%	100%	99.48%	98.92%	99.31%	100%	99.30%	99.93%	99.47%	
PO-8	Jeopardy Notice Interval												
PO-8A	Non-Designed Services, Avg Days		6.43	7.52	2.60	7.94	1.00	5.03	1.25	3.54	2.20	3.57	a b c d e
PO-8B	UBLs and LNP, Avg Days		6.07	7.52	4.70	7.94	4.93	5.03	3.82	3.54	3.89	3.57	
PO-8C	LIS Trunk, Avg Days								11.00	23.00			a b c d e
PO-8D	UNE P, POTS, Avg Days		3.33	7.52	8.57	7.94	1.17	5.03	4.00	3.54	2.84	3.57	a b c d
PO-9	Timely Jeopardy Notices												
PO-9A	Non-Designed Services, %		0.00%	2.16%		1.79%	0.00%	2.25%	0.00%	3.97%	100%	5.68%	a b c d e
PO-9B	UBLs and LNP, %		66.67%	2.16%	25.00%	1.79%	28.57%	2.25%	0.00%	3.97%	35.29%	5.68%	d
PO-9C	LIS Trunk, %			0.00%		0.00%	0.00%	0.00%	100%	100%		0.00%	a b c d e

Federal Communications Commission

FCC 03-309

ARIZONA PERFORMANCE METRIC DATA

Metric Number	Metric Description	DR	APR 2003		MAY 2003		JUN 2003		JUL 2003		AUG 2003		Notes
			CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	CLEC	Qwest	
PO-9D	UNE P, POTS, %		27.27%	2.16%	0.00%	1.79%	5.56%	2.25%	0.00%	3.97%	19.05%	5.68%	b d
PO-10	LSR Accountability												
PO-10	Product Aggregate, %		100%		100%		100%		100%		100%		
PO-15	Number of Due Date Changes per Order												
PO-15	All, Avg Days		0.04	0.02	0.05	0.02	0.05	0.02	0.04	0.02	0.02	0.02	
PO-16	Timely Release Notifications												
PO-16	All, %				100%		100%		100%		100%		a b c d e
PO-19	Stand-Alone Test Environment (SATE) Accuracy												
PO-19	All, %		99.62%		99.74%		99.10%		98.75%		99.21%		
PO-19A	Rel. 10.0, %		99.49%		100%		98.48%						d e
PO-19A	Rel. 11.0, %		99.55%		100%		100%		99.55%		100%		
PO-19A	Rel. 12.0, %		99.58%		100%		99.58%		99.58%		100%		
PO-19A	Rel. 8.0, %												a b c d e
PO-19A	Rel. 9.0, %												a b c d e
PO-19A	Rel. VICKI, %		100%		98.36%		97.54%		96.82%		96.84%		
PO-19B	All, %		97.80%								95.94%		b c d
PO-20	Manual Service Order Accuracy												
PO-20	Resale POTS and UNE-P, POTS, %		96.15%		97.50%		99.20%		98.46%		99.42%		
PO-20	UBLs, Analog & NL 2-wire, %		97.27%		97.86%		97.86%		98.18%		98.33%		

Metric Number:

* = Metrics recalculated after NTF tickets are excluded. These metrics have not been audited by a third party.

DR: Disaggregation Reporting

D = Dispatch (both within MSAs and outside MSAs)

ND = No Dispatch

blank = State or Regional Level

Notes:

a = Sample size less than or equal to 10 in April 2003

b = Sample size less than or equal to 10 in May 2003

c = Sample size less than or equal to 10 in June 2003

d = Sample size less than or equal to 10 in July 2003

e = Sample size less than or equal to 10 in August 2003

Appendix C Statutory Requirements

I. STATUTORY FRAMEWORK

1. The 1996 Act conditions BOC entry into the market for provision of in-region interLATA services on compliance with certain provisions of section 271.¹ BOCs must apply to the Federal Communications Commission (Commission or FCC) for authorization to provide interLATA services originating in any in-region state.² The Commission must issue a written determination on each application no later than 90 days after receiving such application.³ Section 271(d)(2)(A) requires the Commission to consult with the Attorney General before making any determination approving or denying a section 271 application. The Attorney General is entitled to evaluate the application “using any standard the Attorney General considers appropriate,” and the Commission is required to “give substantial weight to the Attorney General’s evaluation.”⁴

2. In addition, the Commission must consult with the relevant state commission to verify that the BOC has one or more state-approved interconnection agreements with a facilities-based competitor, or a Statement of Generally Available Terms and Conditions (SGAT), and that either the agreement(s) or general statement satisfy the “competitive checklist.”⁵ Because the Act does not prescribe any standard for the consideration of a state commission’s verification under section 271(d)(2)(B), the Commission has discretion in each section 271 proceeding to

¹ For purposes of section 271 proceedings, the Commission uses the definition of the term “Bell Operating Company” contained in 47 U.S.C. § 153(4).

² 47 U.S.C. § 271(d)(1). For purposes of section 271 proceedings, the Commission utilizes the definition of the term “in-region state” that is contained in 47 U.S.C. § 271(i)(1). Section 271(j) provides that a BOC’s in-region services include 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC and that allow the called party to determine the interLATA carrier, even if such services originate out-of-region. *Id.* § 271(j). The 1996 Act defines “interLATA services” as “telecommunications between a point located in a local access and transport area and a point located outside such area.” *Id.* § 153(21). Under the 1996 Act, a “local access and transport area” (LATA) is “a contiguous geographic area (A) established before the date of enactment of the [1996 Act] by a [BOC] such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (B) established or modified by a [BOC] after such date of enactment and approved by the Commission.” *Id.* § 153(25). LATAs were created as part of the Modification of Final Judgment’s (MFJ) “plan of reorganization.” *United States v. Western Elec. Co.*, 569 F. Supp. 1057 (D.D.C. 1983), *aff’d sub nom. California v. United States*, 464 U.S. 1013 (1983). Pursuant to the MFJ, “all [BOC] territory in the continental United States [was] divided into LATAs, generally centering upon a city or other identifiable community of interest.” *United States v. Western Elec. Co.*, 569 F. Supp. 990, 993-94 (D.D.C. 1983).

³ 47 U.S.C. § 271(d)(3).

⁴ *Id.* § 271(d)(2)(A).

⁵ *Id.* § 271(d)(2)(B).

determine the amount of weight to accord the state commission's verification.⁶ The Commission has held that, although it will consider carefully state determinations of fact that are supported by a detailed and extensive record, it is the FCC's role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met.⁷

3. Section 271 requires the Commission to make various findings before approving BOC entry. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate, with respect to each state for which it seeks authorization, that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).⁸ In order to obtain authorization under section 271, the BOC must also show that: (1) it has "fully implemented the competitive checklist" contained in section 271(c)(2)(B);⁹ (2) the requested authorization will be carried out in accordance with the requirements of section 272;¹⁰ and (3) the BOC's entry into the in-region interLATA market is "consistent with the public interest, convenience, and necessity."¹¹ The statute specifies that, unless the Commission finds that these criteria have been satisfied, the Commission "shall not approve" the requested authorization.¹²

II. PROCEDURAL AND ANALYTICAL FRAMEWORK

4. To determine whether a BOC applicant has met the prerequisites for entry into the long distance market, the Commission evaluates its compliance with the competitive checklist,

⁶ *Bell Atlantic New York Order*, 15 FCC Rcd at 3962, para. 20; *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended*, CC Docket No. 97-137, 12 FCC Rcd 20543, 20559-60 (1997) (*Ameritech Michigan Order*). As the D.C. Circuit has held, "[a]lthough the Commission must consult with the state commissions, the statute does not require the Commission to give State Commissions' views any particular weight." *SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998).

⁷ *Ameritech Michigan Order*, 12 FCC Rcd at 20560; *SBC Communications v. FCC*, 138 F.3d at 416-17.

⁸ 47 U.S.C. § 271(d)(3)(A). See Section III, *infra*, for a complete discussion of Track A and Track B requirements.

⁹ *Id.* §§ 271(c)(2)(B), 271(d)(3)(A)(i).

¹⁰ *Id.* § 272; see *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *recon.*, Order on Reconsideration, 12 FCC Rcd 2297 (1997), *review pending sub nom.*, *SBC Communications v. FCC*, No. 97-1118 (D.C. Cir., filed Mar. 6, 1997) (held in abeyance pursuant to court order filed May 7, 1997), *remanded in part sub nom.*, *Bell Atlantic Telephone Companies v. FCC*, No. 97-1067 (D.C. Cir., filed Mar. 31, 1997), *on remand*, Second Order on Reconsideration, FCC 97-222 (rel. June 24, 1997), *petition for review denied sub nom.* *Bell Atlantic Telephone Companies v. FCC*, 113 F.3d 1044 (D.C. Cir. 1997); *Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539 (1996).

¹¹ 47 U.S.C. § 271(d)(3)(C).

¹² *Id.* § 271(d)(3); see *SBC Communications, Inc. v. FCC*, 138 F.3d at 416.

as developed in the FCC's local competition rules and orders in effect at the time the application was filed. Despite the comprehensiveness of these rules, there will inevitably be, in any section 271 proceeding, disputes over an incumbent LEC's precise obligations to its competitors that FCC rules have not addressed and that do not involve *per se* violations of self-executing requirements of the Act. As explained in prior orders, the section 271 process simply could not function as Congress intended if the Commission were required to resolve all such disputes as a precondition to granting a section 271 application.¹³ In the context of section 271's adjudicatory framework, the Commission has established certain procedural rules governing BOC section 271 applications.¹⁴ The Commission has explained in prior orders the procedural rules it has developed to facilitate the review process.¹⁵ Here we describe how the Commission considers the evidence of compliance that the BOC presents in its application.

5. As part of the determination that a BOC has satisfied the requirements of section 271, the Commission considers whether the BOC has fully implemented the competitive checklist in subsection (c)(2)(B). The BOC at all times bears the burden of proof of compliance with section 271, even if no party challenges its compliance with a particular requirement.¹⁶ In demonstrating its compliance, a BOC must show that it has a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item, and that it is currently furnishing, or is ready to furnish, the checklist items in quantities that competitors may reasonably demand and at an acceptable level of quality.¹⁷ In particular, the BOC must demonstrate that it is offering interconnection and access to network elements on a nondiscriminatory basis.¹⁸ Previous Commission orders addressing section 271 applications

¹³ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6246, para. 19; see also *American Tel. & Tel. Co. v. FCC*, 220 F.3d 607, 631 (D.C. Cir. 2000).

¹⁴ See *Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, 11 FCC Rcd 19708, 19711 (1996); *Revised Comment Schedule For Ameritech Michigan Application, as amended, for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the State of Michigan*, Public Notice, DA 97-127 (rel. Jan. 17, 1997); *Revised Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 13 FCC Rcd 17457 (1997); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 99-1994 (rel. Sept. 28, 1999); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (collectively "271 Procedural Public Notices").

¹⁵ See, e.g., *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6247-50, paras. 21-27; *SWBT Texas Order*, 15 FCC Rcd at 18370-73, paras. 34-42; *Bell Atlantic New York Order*, 15 FCC Rcd at 3968-71, paras. 32-42.

¹⁶ See *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

¹⁷ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3973-74, para. 52.

¹⁸ See 47 U.S.C. § 271(c)(2)(B)(i), (ii).

have elaborated on this statutory standard.¹⁹ First, for those functions the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in “substantially the same time and manner” as it provides to itself.²⁰ Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness.²¹ For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a “meaningful opportunity to compete.”²²

6. The determination of whether the statutory standard is met is ultimately a judgment the Commission must make based on its expertise in promoting competition in local markets and in telecommunications regulation generally.²³ The Commission has not established, nor does it believe it appropriate to establish, specific objective criteria for what constitutes “substantially the same time and manner” or a “meaningful opportunity to compete.”²⁴ Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances. Therefore, the Commission looks at each application on a case-by-case basis and considers the totality of the circumstances, including the origin and quality of the information in the record, to determine whether the nondiscrimination requirements of the Act are met.

A. Performance Data

7. As established in prior section 271 orders, the Commission has found that performance measurements provide valuable evidence regarding a BOC’s compliance or noncompliance with individual checklist items. The Commission expects that, in its *prima facie* case in the initial application, a BOC relying on performance data will:

- a) provide sufficient performance data to support its contention that the statutory requirements are satisfied;
- b) identify the facial disparities between the applicant’s performance for itself and its performance for competitors;

¹⁹ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6250-51, paras. 28-29; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971-72, paras. 44-46.

²⁰ *SWBT Texas Order*, 15 FCC Rcd at 18373, para. 44; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44.

²¹ *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44; *Ameritech Michigan Order*, 12 FCC Rcd at 20618-19.

²² *Id.*

²³ *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

²⁴ *Id.*

- c) explain why those facial disparities are anomalous, caused by forces beyond the applicant's control (e.g., competing carrier-caused errors), or have no meaningful adverse impact on a competing carrier's ability to obtain and serve customers; and
- d) provide the underlying data, analysis, and methodologies necessary to enable the Commission and commenters meaningfully to evaluate and contest the validity of the applicant's explanations for performance disparities, including, for example, carrier specific carrier-to-carrier performance data.

8. The Commission has explained in prior orders that parity and benchmark standards established by state commissions do not represent absolute maximum or minimum levels of performance necessary to satisfy the competitive checklist. Rather, where these standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same time and manner, or in a way that provides them a meaningful opportunity to compete.²⁵ Thus, to the extent there is no statistically significant difference between a BOC's provision of service to competing carriers and its own retail customers, the Commission generally need not look any further. Likewise, if a BOC's provision of service to competing carriers satisfies the performance benchmark, the analysis is usually done. Otherwise, the Commission will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met.²⁶ Thus, the Commission will examine the explanations that a BOC and others provide about whether these data accurately depict the quality of the BOC's performance. The Commission also may examine how many months a variation in performance has existed and what the recent trend has been. The Commission may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, the Commission may conclude that the differences are not meaningful in terms of statutory compliance. Ultimately, the determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before the Commission.

9. Where there are multiple performance measures associated with a particular checklist item, the Commission would consider the performance demonstrated by all the measurements as a whole. Accordingly, a disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist. The Commission may also find that the reported performance data are affected by factors beyond a BOC's control, a finding that would make it less likely to hold the BOC wholly accountable for the disparity. This is not to say, however, that performance discrepancies on a single performance metric are unimportant. Indeed, under certain circumstances, disparity with respect to one performance measurement may support a finding of statutory noncompliance, particularly if the disparity is

²⁵ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6252, para. 31; *SWBT Texas Order*, 15 FCC Rcd at 18377, para. 55 & n.102.

²⁶ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3970, para. 59.

substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

10. In sum, the Commission does not use performance measurements as a substitute for the 14-point competitive checklist. Rather, it uses performance measurements as valuable evidence with which to inform the judgment as to whether a BOC has complied with the checklist requirements. Although performance measurements add necessary objectivity and predictability to the review, they cannot wholly replace the Commission's own judgment as to whether a BOC has complied with the competitive checklist.

B. Relevance of Previous Section 271 Approvals

11. In some section 271 applications, the volumes of the BOC's commercial orders may be significantly lower than they were in prior proceedings. In certain instances, volumes may be so low as to render the performance data inconsistent and inconclusive.²⁷ Performance data based on low volumes of orders or other transactions are not as reliable an indicator of checklist compliance as performance based on larger numbers of observations. Indeed, where performance data are based on a low number of observations, small variations in performance may produce wide swings in the reported performance data. It is thus not possible to place the same evidentiary weight upon – and to draw the same types of conclusions from – performance data where volumes are low, as for data based on more robust activity.

12. In such cases, findings in prior, related section 271 proceedings may be a relevant factor in the Commission's analysis. Where a BOC provides evidence that a particular system reviewed and approved in a prior section 271 proceeding is also used in the proceeding at hand, the Commission's review of the same system in the current proceeding will be informed by the findings in the prior one. Indeed, to the extent that issues have already been briefed, reviewed and resolved in a prior section 271 proceeding, and absent new evidence or changed circumstances, an application for a related state should not be a forum for re-litigating and reconsidering those issues. Appropriately employed, such a practice can give us a fuller picture of the BOC's compliance with the section 271 requirements while avoiding, for all parties involved in the section 271 process, the delay and expense associated with redundant and unnecessary proceedings and submissions.

13. However, the statute requires the Commission to make a separate determination of checklist compliance for each state and, accordingly, we do not consider any finding from previous section 271 orders to be dispositive of checklist compliance in current proceedings. While the Commission's review may be informed by prior findings, the Commission will

²⁷ The Commission has never required, however, an applicant to demonstrate that it processes and provisions a substantial commercial volume of orders, or has achieved a specific market share in its service area, as a prerequisite for satisfying the competitive checklist. See *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77 (explaining that Congress had considered and rejected language that would have imposed a "market share" requirement in section 271(c)(1)(A)).

consider all relevant evidence in the record, including state-specific factors identified by commenting parties, the states, the Department of Justice. However, the Commission has always held that an applicant's performance towards competing carriers in an actual commercial environment is the best evidence of nondiscriminatory access to OSS and other network elements.²⁸ Thus, the BOC's actual performance in the applicant state may be relevant to the analysis and determinations with respect to the 14 checklist items. Evidence of satisfactory performance in another state cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the applicant state.

14. Moreover, because the Commission's review of a section 271 application must be based on a snapshot of a BOC's recent performance at the time an application is filed, the Commission cannot simply rely on findings relating to an applicant's performance in an anchor state at the time it issued the determination for that state. The performance in that state could change due to a multitude of factors, such as increased order volumes or shifts in the mix of the types of services or UNEs requested by competing carriers. Thus, even when the applicant makes a convincing showing of the relevance of anchor state data, the Commission must examine how recent performance in that state compares to performance at the time it approved that state's section 271 application, in order to determine if the systems and processes continue to perform at acceptable levels.

III. COMPLIANCE WITH ENTRY REQUIREMENTS – SECTIONS 271(c)(1)(A) & 271(c)(1)(B)

15. As noted above, in order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).²⁹ To qualify for Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."³⁰ The Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier."³¹ The Commission concluded in the *Ameritech Michigan Order* that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers.³²

²⁸ See *SWBT Texas Order*, 15 FCC Rcd at 18376, para. 53; *Bell Atlantic New York Order*, 15 FCC Rcd at 3974, para. 53.

²⁹ See 47 U.S.C. § 271(d)(3)(A).

³⁰ *Id.*

³¹ *Id.*

³² See *Ameritech Michigan Order*, 12 FCC Rcd at 20589, para. 85; see also *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20633-35, paras. 46-48.

16. As an alternative to Track A, Section 271(c)(1)(B) permits BOCs to obtain authority to provide in-region, interLATA services if, after 10 months from the date of enactment, no facilities-based provider, as described in subparagraph (A), has requested the access and interconnection arrangements described therein (referencing one or more binding agreements approved under Section 252), but the state has approved an SGAT that satisfies the competitive checklist of subsection (c)(2)(B). Under section 271(d)(3)(A)(ii), the Commission shall not approve such a request for in-region, interLATA service unless the BOC demonstrates that, “with respect to access and interconnection generally offered pursuant to [an SGAT], such statement offers all of the items included in the competitive checklist.”³³ Track B, however, is not available to a BOC if it has already received a request for access and interconnection from a prospective competing provider of telephone exchange service.³⁴

IV. COMPLIANCE WITH THE COMPETITIVE CHECKLIST – SECTION 271(c)(2)(B)

A. Checklist Item 1 – Interconnection

17. Section 271(c)(2)(B)(i) of the Act requires a section 271 applicant to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).”³⁵ Section 251(c)(2) imposes a duty on incumbent LECs “to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network . . . for the transmission and routing of telephone exchange service and exchange access.”³⁶ In the *Local Competition First Report and Order*, the Commission concluded that interconnection referred “only to the physical linking of two networks for the mutual exchange of traffic.”³⁷ Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection “at any technically feasible point within the carrier’s network.”³⁸ Second, an incumbent LEC must provide interconnection that is “at least equal in quality to that provided by the local exchange carrier to

³³ 47 U.S.C. § 271(d)(3)(A)(ii).

³⁴ See *Ameritech Michigan Order*, 12 FCC Rcd at 20561-62, para. 34. Nevertheless, the above-mentioned foreclosure of Track B as an option is subject to limited exceptions. See 47 U.S.C. § 271(c)(1)(B); see also *Ameritech Michigan Order*, 12 FCC Rcd at 20563-64, paras. 37-38.

³⁵ 47 U.S.C. § 271(c)(2)(B)(i); see *Bell Atlantic New York Order*, 15 FCC Rcd at 3977-78, para. 63; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640, para. 61; *Ameritech Michigan Order*, 12 FCC Rcd at 20662, para. 222.

³⁶ 47 U.S.C. § 251(c)(2)(A).

³⁷ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15590, para. 176 (1996) (*Local Competition First Report and Order*). Transport and termination of traffic are therefore excluded from the Commission’s definition of interconnection. See *id.*

³⁸ 47 U.S.C. § 251(c)(2)(B). In the *Local Competition First Report and Order*, the Commission identified a minimum set of technically feasible points of interconnection. See *Local Competition First Report and Order*, 11 FCC Rcd at 15607-09, paras. 204-11.

itself.”³⁹ Finally, the incumbent LEC must provide interconnection “on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252.”⁴⁰

18. To implement the equal-in-quality requirement in section 251, the Commission’s rules require an incumbent LEC to design and operate its interconnection facilities to meet “the same technical criteria and service standards” that are used for the interoffice trunks within the incumbent LEC’s network.⁴¹ In the *Local Competition First Report and Order*, the Commission identified trunk group blockage and transmission standards as indicators of an incumbent LEC’s technical criteria and service standards.⁴² In prior section 271 applications, the Commission concluded that disparities in trunk group blockage indicated a failure to provide interconnection to competing carriers equal-in-quality to the interconnection the BOC provided to its own retail operations.⁴³

19. In the *Local Competition First Report and Order*, the Commission concluded that the requirement to provide interconnection on terms and conditions that are “just, reasonable, and nondiscriminatory” means that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable function to its own retail operations.⁴⁴ The Commission’s rules interpret this obligation to include, among other things, the incumbent LEC’s installation time for interconnection service⁴⁵ and its provisioning of two-way trunking arrangements.⁴⁶ Similarly, repair time for troubles affecting interconnection trunks is useful for determining whether a BOC

³⁹ 47 U.S.C. § 251(c)(2)(C).

⁴⁰ *Id.* § 251(c)(2)(D).

⁴¹ *Local Competition First Report and Order*, 11 FCC Rcd at 15613-15, paras. 221-225; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20641-42, paras. 63-64.

⁴² *Local Competition First Report and Order*, 11 FCC Rcd at 15614-15, paras. 224-25.

⁴³ *See Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20648-50, paras. 74-77; *Ameritech Michigan Order*, 12 FCC Rcd at 20671-74, paras. 240-45. The Commission has relied on trunk blockage data to evaluate a BOC’s interconnection performance. Trunk group blockage indicates that end users are experiencing difficulty completing or receiving calls, which may have a direct impact on the customer’s perception of a competitive LEC’s service quality.

⁴⁴ *Local Competition First Report and Order*, 11 FCC Rcd at 15612, para. 218; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65.

⁴⁵ 47 C.F.R. § 51.305(a)(5).

⁴⁶ The Commission’s rules require an incumbent LEC to provide two-way trunking upon request, wherever two-way trunking arrangements are technically feasible. 47 C.F.R. § 51.305(f); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978-79, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65; *Local Competition First Report and Order*, 11 FCC Rcd 15612-13, paras. 219-20.

provides interconnection service under “terms and conditions that are no less favorable than the terms and conditions” the BOC provides to its own retail operations.⁴⁷

20. Competing carriers may choose any method of technically feasible interconnection at a particular point on the incumbent LEC’s network.⁴⁸ Incumbent LEC provision of interconnection trunking is one common means of interconnection. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point arrangements.⁴⁹ The provision of collocation is an essential prerequisite to demonstrating compliance with item 1 of the competitive checklist.⁵⁰ In the *Advanced Services First Report and Order*, the Commission revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings.⁵¹ In response to a remand from the D.C. Circuit, the Commission adopted the *Collocation Remand Order*, establishing revised criteria for equipment for which incumbent LECs must permit collocation, requiring incumbent LECs to provide cross-connects between collocated carriers, and establishing principles for physical collocation space and configuration.⁵² To show compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are “just, reasonable, and nondiscriminatory” in accordance with section 251(c)(6) and the FCC’s implementing rules.⁵³ Data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of

⁴⁷ 47 C.F.R. § 51.305(a)(5).

⁴⁸ *Local Competition First Report and Order*, 11 FCC Rcd at 15779, paras. 549-50; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 61.

⁴⁹ 47 C.F.R. § 51.321(b); *Local Competition First Report and Order*, 11 FCC Rcd at 15779-82, paras. 549-50; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 62.

⁵⁰ 47 U.S.C. § 251(c)(6) (requiring incumbent LECs to provide physical collocation); *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

⁵¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761, 4784-86, paras. 41-43 (1999), *aff’d in part and vacated and remanded in part sub nom. GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000), *on recon.*, *Collocation Reconsideration Order*, 15 FCC Rcd 17806 (2000); *on remand*, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd 15435 (2001) (*Collocation Remand Order*), *aff’d sub nom. Verizon Telephone Cos. v. FCC*, 292 F.3d 903 (D.C. Cir. 2002), *on recon. Collocation Remand Reconsideration Order*, 17 FCC Rcd 16960 (2002).

⁵² *See Collocation Remand Order*, 16 FCC Rcd at 15441-42, para. 12.

⁵³ *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20643, para. 66; *BellSouth Carolina Order*, 13 FCC Rcd at 649-51, para. 62.

provisioning collocation space, help the Commission evaluate a BOC's compliance with its collocation obligations.⁵⁴

21. As stated above, checklist item 1 requires a BOC to provide "interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."⁵⁵ Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit.⁵⁶ The Commission's pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC.⁵⁷

22. To the extent pricing disputes arise, the Commission will not duplicate the work of the state commissions. As noted in the *SWBT Texas Order*, the Act authorizes the state commissions to resolve specific carrier-to-carrier disputes arising under the local competition provisions, and it authorizes the federal district courts to ensure that the results of the state arbitration process are consistent with federal law.⁵⁸ Although the Commission has an independent statutory obligation to ensure compliance with the checklist, section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions, particularly now that the Supreme Court has restored the Commission's pricing jurisdiction and has thereby directed the state commissions to follow FCC pricing rules in their disposition of those disputes.⁵⁹

23. Consistent with the Commission's precedent, the mere presence of interim rates will not generally threaten a section 271 application so long as: (1) an interim solution to a particular rate dispute is reasonable under the circumstances; (2) the state commission has demonstrated its commitment to the Commission's pricing rules; and (3) provision is made for refunds or true-ups once permanent rates are set.⁶⁰ In addition, the Commission has determined that rates contained within an approved section 271 application, including those that are interim, are reasonable starting points for interim rates for the same carrier in an adjoining state.⁶¹

⁵⁴ *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

⁵⁵ 47 U.S.C. § 271(c)(2)(B)(i) (emphasis added).

⁵⁶ *Id.* § 252(d)(1).

⁵⁷ See 47 C.F.R. §§ 51.501-07, 51.509(g); *Local Competition First Report and Order*, 11 FCC Rcd at 15812-16, 15844-61, 15874-76, 15912, paras. 618-29, 674-712, 743-51, 826.

⁵⁸ See *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; see also 47 U.S.C. §§ 252(c), (e)(6); *American Tel. & Tel Co. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999) (*AT&T v. Iowa Utils. Bd.*).

⁵⁹ *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. at 377-86.

⁶⁰ *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; see also *Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 258 (explaining the Commission's case-by-case review of interim prices).

⁶¹ *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6359-60, para. 239.

24. Although the Commission has been willing to grant a section 271 application with a limited number of interim rates where the above-mentioned three-part test is met, it is clearly preferable to analyze a section 271 application on the basis of rates derived from a permanent rate proceeding.⁶² At some point, states will have had sufficient time to complete these proceedings. The Commission will, therefore, become more reluctant to continue approving section 271 applications containing interim rates. It would not be sound policy for interim rates to become a substitute for completing these significant proceedings.

B. Checklist Item 2 – Unbundled Network Elements⁶³

1. Access to Operations Support Systems

25. Incumbent LECs use a variety of systems, databases, and personnel (collectively referred to as OSS) to provide service to their customers.⁶⁴ The Commission consistently has found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition.⁶⁵ For example, new entrants must have access to the functions performed by the incumbent's OSS in order to formulate and place orders for network elements or resale

⁶² See *Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 260.

⁶³ We note that the United States Court of Appeals for the District of Columbia Circuit recently opined on two relevant Commission decisions, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*) and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Doc. No. 98-147 and Fourth Report and Order in CC Doc. No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*). *USTA v. FCC*, 290 F.3d 415 (D. C. Cir. 2002), cert. denied sub nom. *WorldCom, Inc., et al. v. United States Telecom Ass'n, et al.*, 2003 WL 1448388, 71 USLW 3416 (March 24, 2003). The court's decision addressed both our UNE rules and our line sharing rules. Further, the court stated that "the *Line Sharing Order* must be vacated and remanded." *USTA v. FCC*, 290 F.3d at 429. The court also stated that it "grant[ed] the petitions for review[] and remand[ed] the *Line Sharing Order* and the *Local Competition Order* to the Commission for further consideration in accordance with the principles outlined." *Id.* at 430. On September 4, 2002, the D.C. Circuit denied petitions for rehearing filed by the Commission and others. See *Order*, Nos. 00-1012 and 00-1015 (D.C. Circuit, filed Sept. 4, 2002). On February 20, 2003, the Commission took action to revise its rules concerning incumbent LECs' obligations to make available elements of their networks on an unbundled basis to requesting carriers, and released its Order on August 21, 2003. *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) (*Triennial Review Order*), corrected by, Errata, 18 FCC Rcd 19020 (2003), petitions for review pending, *United States Telecom Ass'n v. FCC*, D.C. Cir. No. 00-1012 (and consolidated cases). We note, however, that, in determining whether a BOC applicant has satisfied the requirements of section 271, the Commission evaluates an applicant's compliance with the competitive checklist as developed in the Commission's local competition rules and orders in effect at the time the application was filed.

⁶⁴ *Id.* at 3989-90, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 585.

⁶⁵ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 547-48, 585; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20653.

services, to install service to their customers, to maintain and repair network facilities, and to bill customers.⁶⁶ The Commission has determined that without nondiscriminatory access to the BOC's OSS, a competing carrier "will be severely disadvantaged, if not precluded altogether, from fairly competing" in the local exchange market.⁶⁷

26. Section 271 requires the Commission to determine whether a BOC offers nondiscriminatory access to OSS functions. Section 271(c)(2)(B)(ii) requires a BOC to provide "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."⁶⁸ The Commission has determined that access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements (UNEs) under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable.⁶⁹ The Commission must therefore examine a BOC's OSS performance to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv).⁷⁰ In addition, the Commission has also concluded that the duty to provide nondiscriminatory access to OSS functions is embodied in other terms of the competitive checklist as well.⁷¹ Consistent with prior orders, the Commission examines a BOC's OSS performance directly under checklist items 2 and 14, as well as other checklist terms.⁷²

27. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of competitive entry envisioned by the 1996 Act – competitor-owned facilities, UNEs, and resale.⁷³ For OSS functions that are analogous to those that a BOC provides to itself, its customers or its affiliates, the nondiscrimination standard requires the BOC to offer requesting carriers access that is equivalent in terms of quality, accuracy, and timeliness.⁷⁴ The BOC must provide access that permits competing carriers to perform these functions in "substantially the same time and

⁶⁶ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83.

⁶⁷ *Id.*

⁶⁸ 47 U.S.C. § 271(c)(2)(B)(ii).

⁶⁹ *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 84.

⁷⁰ *Id.*

⁷¹ *Id.* As part of a BOC's demonstration that it is "providing" a checklist item (e.g., unbundled loops, unbundled local switching, resale services), it must demonstrate that it is providing nondiscriminatory access to the systems, information, and personnel that support that element or service. An examination of a BOC's OSS performance is therefore integral to the determination of whether a BOC is offering all of the items contained in the competitive checklist. *Id.*

⁷² *Id.* at 3990-91, para. 84.

⁷³ *Id.* at 3991, para. 85.

⁷⁴ *Id.*

manner” as the BOC.⁷⁵ The Commission has recognized in prior orders that there may be situations in which a BOC contends that, although equivalent access has not been achieved for an analogous function, the access that it provides is nonetheless nondiscriminatory within the meaning of the statute.⁷⁶

28. For OSS functions that have no retail analogue, the BOC must offer access “sufficient to allow an efficient competitor a meaningful opportunity to compete.”⁷⁷ In assessing whether the quality of access affords an efficient competitor a meaningful opportunity to compete, the Commission will examine, in the first instance, whether specific performance standards exist for those functions.⁷⁸ In particular, the Commission will consider whether appropriate standards for measuring OSS performance have been adopted by the relevant state commission or agreed upon by the BOC in an interconnection agreement or during the implementation of such an agreement.⁷⁹ If such performance standards exist, the Commission will evaluate whether the BOC’s performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.⁸⁰

29. The Commission analyzes whether a BOC has met the nondiscrimination standard for each OSS function using a two-step approach. First, the Commission determines “whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”⁸¹ The Commission next assesses “whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter.”⁸²

⁷⁵ *Id.* For example, the Commission would not deem an incumbent LEC to be providing nondiscriminatory access to OSS if limitations on the processing of information between the interface and the back office systems prevented a competitor from performing a specific function in substantially the same time and manner as the incumbent performs that function for itself.

⁷⁶ *See id.*

⁷⁷ *Id.* at 3991, para. 86.

⁷⁸ *Id.*

⁷⁹ *Id.* As a general proposition, specific performance standards adopted by a state commission in an arbitration decision would be more persuasive evidence of commercial reasonableness than a standard unilaterally adopted by the BOC outside of its interconnection agreement. *Id.* at 20619-20.

⁸⁰ *See id.* at 3991-92, para. 86.

⁸¹ *Id.* at 3992, para. 87; *Ameritech Michigan Order*, 12 FCC Rcd at 20616; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654; *BellSouth South Carolina Order*, 13 FCC Rcd at 592-93. In making this determination, the Commission “consider[s] all of the automated and manual processes a BOC has undertaken to provide access to OSS functions,” including the interface (or gateway) that connects the competing carrier’s own operations support systems to the BOC; any electronic or manual processing link between that interface and the BOC’s OSS (including all necessary back office systems and personnel); and all of the OSS that a BOC uses in (continued....)

30. Under the first inquiry, a BOC must demonstrate that it has developed sufficient electronic (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions.⁸³ For example, a BOC must provide competing carriers with the specifications necessary for carriers to design or modify their systems in a manner that will enable them to communicate with the BOC's systems and any relevant interfaces.⁸⁴ In addition, a BOC must disclose to competing carriers any internal business rules⁸⁵ and other formatting information necessary to ensure that a carrier's requests and orders are processed efficiently.⁸⁶ Finally, a BOC must demonstrate that its OSS is designed to accommodate both current demand and projected demand for competing carriers' access to OSS functions.⁸⁷ Although not a prerequisite, the Commission continues to encourage the use of industry standards as an appropriate means of meeting the needs of a competitive local exchange market.⁸⁸

31. Under the second inquiry, the Commission examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes.⁸⁹ The most probative evidence that OSS functions are operationally ready is actual commercial usage.⁹⁰ Absent sufficient and reliable data on commercial usage, the Commission will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC's OSS.⁹¹ Although the Commission does not

(Continued from previous page) _____
providing network elements and resale services to a competing carrier. *Ameritech Michigan Order*, 12 FCC Rcd at 20615; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654 n.241.

⁸² *See Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

⁸³ *Id.* at 3992, para. 87; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20616, para. 136 (The Commission determines "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."). For example, a BOC must provide competing carriers the specifications necessary to design their systems interfaces and business rules necessary to format orders, and demonstrate that systems are scalable to handle current and projected demand. *Id.*

⁸⁴ *Id.*

⁸⁵ Business rules refer to the protocols that a BOC uses to ensure uniformity in the format of orders and include information concerning ordering codes such as universal service ordering codes (USOCs) and field identifiers (FIDs). *Id.*; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.335.

⁸⁶ *Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88.

⁸⁷ *Id.*

⁸⁸ *See id.*

⁸⁹ *Id.* at 3993, para. 89.

⁹⁰ *Id.*

⁹¹ *Id.*

require OSS testing, a persuasive test will provide us with an objective means by which to evaluate a BOC's OSS readiness where there is little to no evidence of commercial usage, or may otherwise strengthen an application where the BOC's evidence of actual commercial usage is weak or is otherwise challenged by competitors. The persuasiveness of a third-party review, however, is dependent upon the qualifications, experience and independence of the third party and the conditions and scope of the review itself.⁹² If the review is limited in scope or depth or is not independent and blind, the Commission will give it minimal weight. As noted above, to the extent the Commission reviews performance data, it looks at the totality of the circumstances and generally does not view individual performance disparities, particularly if they are isolated and slight, as dispositive of whether a BOC has satisfied its checklist obligations.⁹³ Individual performance disparities may, nevertheless, result in a finding of checklist noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

a. Relevance of a BOC's Prior Section 271 Orders

32. The *SWBT Kansas/Oklahoma Order* specifically outlined a non-exhaustive evidentiary showing that must be made in the initial application when a BOC seeks to rely on evidence presented in another application.⁹⁴ First, a BOC's application must explain the extent to which the OSS are "the same" – that is, whether it employs the shared use of a single OSS, or the use of systems that are identical, but separate.⁹⁵ To satisfy this inquiry, the Commission looks to whether the relevant states utilize a common set of processes, business rules, interfaces, systems and, in many instances, even personnel.⁹⁶ The Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states.⁹⁷ Finally, where a BOC has discernibly separate OSS, it must demonstrate that its OSS reasonably can be expected to behave in the same manner.⁹⁸ Second, unless an applicant seeks to establish only that certain discrete components of its OSS are the same, an applicant must submit

⁹² See *id.*; *Ameritech Michigan Order*, 12 FCC Rcd at 20659 (emphasizing that a third-party review should encompass the entire obligation of the incumbent LEC to provide nondiscriminatory access, and, where applicable, should consider the ability of actual competing carriers in the market to operate using the incumbent's OSS access).

⁹³ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6301-02, para. 138.

⁹⁴ See *id.* at 6286-91, paras. 107-18.

⁹⁵ See *id.* at 6288, para. 111.

⁹⁶ The Commission has consistently held that a BOC's OSS includes both mechanized systems and manual processes, and thus the OSS functions performed by BOC personnel have been part of the FCC's OSS functionality and commercial readiness reviews.

⁹⁷ See *SWBT Kansas/Oklahoma Order*, *id.* at 6287, para. 108.

⁹⁸ See *id.* at 6288, para. 111.

evidence relating to *all* aspects of its OSS, including those OSS functions performed by BOC personnel.

b. Pre-Ordering

33. A BOC must demonstrate that: (i) it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies; (ii) competing carriers successfully have built and are using application-to-application interfaces to perform pre-ordering functions and are able to integrate pre-ordering and ordering interfaces;⁹⁹ and (iii) its pre-ordering systems provide reasonably prompt response times and are consistently available in a manner that affords competitors a meaningful opportunity to compete.¹⁰⁰

34. The pre-ordering phase of OSS generally includes those activities that a carrier undertakes to gather and verify the information necessary to place an order.¹⁰¹ Given that pre-ordering represents the first exposure that a prospective customer has to a competing carrier, it is critical that a competing carrier is able to accomplish pre-ordering activities in a manner no less efficient and responsive than the incumbent.¹⁰² Most of the pre-ordering activities that must be undertaken by a competing carrier to order resale services and UNEs from the incumbent are analogous to the activities a BOC must accomplish to furnish service to its own customers. For these pre-ordering functions, a BOC must demonstrate that it provides requesting carriers access that enables them to perform pre-ordering functions in substantially the same time and manner as its retail operations.¹⁰³ For those pre-ordering functions that lack a retail analogue, a BOC must

⁹⁹ In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC. *SWBT Texas Order*, 15 FCC Rcd at 18426, para. 148.

¹⁰⁰ The Commission has held previously that an interface that provides responses in a prompt timeframe and is stable and reliable, is necessary for competing carriers to market their services and serve their customers as efficiently and at the same level of quality as a BOC serves its own customers. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4025 and 4029, paras. 145 and 154.

¹⁰¹ *See Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94 (referring to “pre-ordering and ordering” collectively as “the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof”). In prior orders, the Commission has identified the following five pre-order functions: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; (5) services and feature information. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4015, para. 132; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94; *BellSouth South Carolina Order*, 13 FCC Rcd at 619, para. 147.

¹⁰² *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

¹⁰³ *Id.*; *see also BellSouth South Carolina Order*, 13 FCC Rcd at 623-29 (concluding that failure to deploy an application-to-application interface denies competing carriers equivalent access to pre-ordering OSS functions).

provide access that affords an efficient competitor a meaningful opportunity to compete.¹⁰⁴ In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC.¹⁰⁵

(i) Access to Loop Qualification Information

35. In accordance with the *UNE Remand Order*,¹⁰⁶ the Commission requires incumbent carriers to provide competitors with access to all of the same detailed information about the loop that is available to the incumbents,¹⁰⁷ and in the same time frame, so that a competing carrier can make an independent judgment at the pre-ordering stage about whether an end user loop is capable of supporting the advanced services equipment the competing carrier intends to install.¹⁰⁸ Under the *UNE Remand Order*, the relevant inquiry is not whether a BOC's retail arm accesses such underlying information but whether such information exists anywhere in a BOC's back office and can be accessed by any of a BOC's personnel.¹⁰⁹ Moreover, a BOC may not "filter or digest" the underlying information and may not provide only information that is useful in provisioning of a particular type of xDSL that a BOC offers.¹¹⁰ A BOC must also provide loop qualification information based, for example, on an individual address or zip code of the end users in a particular wire center, NXX code or on any other basis that the BOC provides such information to itself. Moreover, a BOC must also provide access for competing carriers to the loop qualifying information that the BOC can itself access manually or

¹⁰⁴ *Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129.

¹⁰⁵ *See id.* at 4014, para. 130; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661-67, para. 105.

¹⁰⁶ *UNE Remand Order*, 15 FCC Rcd at 3885, para. 426 (determining "that the pre-ordering function includes access to loop qualification information").

¹⁰⁷ *See id.* At a minimum, a BOC must provide (1) the composition of the loop material, including both fiber and copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. *Id.*

¹⁰⁸ As the Commission has explained in prior proceedings, because characteristics of a loop, such as its length and the presence of various impediments to digital transmission, can hinder certain advanced services technologies, carriers often seek to "pre-qualify" a loop by accessing basic loop makeup information that will assist carriers in ascertaining whether the loop, either with or without the removal of the impediments, can support a particular advanced service. *See id.*, 15 FCC Rcd at 4021, para. 140.

¹⁰⁹ *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-431 (noting that "to the extent such information is not normally provided to the incumbent's retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.").

¹¹⁰ *See SWBT Kansas Oklahoma Order*, 16 FCC Rcd at 6292-93, para. 121.

electronically. Finally, a BOC must provide access to loop qualification information to competitors within the same time intervals it is provided to the BOC's retail operations or its advanced services affiliate.¹¹¹ As the Commission determined in the *UNE Remand Order*, however, "to the extent such information is not normally provided to the incumbent's retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information."¹¹²

c. Ordering

36. Consistent with section 271(c)(2)(B)(ii), a BOC must demonstrate its ability to provide competing carriers with access to the OSS functions necessary for placing wholesale orders. For those functions of the ordering systems for which there is a retail analogue, a BOC must demonstrate, with performance data and other evidence, that it provides competing carriers with access to its OSS in substantially the same time and manner as it provides to its retail operations. For those ordering functions that lack a direct retail analogue, a BOC must demonstrate that its systems and performance allow an efficient carrier a meaningful opportunity to compete. As in prior section 271 orders, the Commission looks primarily at the applicant's ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at its order flow-through rate.¹¹³

d. Provisioning

37. A BOC must provision competing carriers' orders for resale and UNE-P services in substantially the same time and manner as it provisions orders for its own retail customers.¹¹⁴ Consistent with the approach in prior section 271 orders, the Commission examines a BOC's provisioning processes, as well as its performance with respect to provisioning timeliness (i.e., missed due dates and average installation intervals) and provisioning quality (i.e., service problems experienced at the provisioning stage).¹¹⁵

¹¹¹ *Id.*

¹¹² *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-31.

¹¹³ See *SWBT Texas Order*, 15 FCC Rcd at 18438, para. 170; *Bell Atlantic New York Order*, 15 FCC Rcd at 4035-39, paras. 163-66. The Commission examines (i) order flow-through rates, (ii) jeopardy notices and (iii) order completion notices using the "same time and manner" standard. The Commission examines order confirmation notices and order rejection notices using the "meaningful opportunity to compete" standard.

¹¹⁴ See *Bell Atlantic New York*, 15 FCC Rcd at 4058, para. 196. For provisioning timeliness, the Commission looks to missed due dates and average installation intervals; for provisioning quality, the Commission looks to service problems experienced at the provisioning stage.

¹¹⁵ *Id.*

e. Maintenance and Repair

38. A competing carrier that provides service through resale or UNEs remains dependent upon the incumbent LEC for maintenance and repair. Thus, as part of its obligation to provide nondiscriminatory access to OSS functions, a BOC must provide requesting carriers with nondiscriminatory access to its maintenance and repair systems.¹¹⁶ To the extent a BOC performs analogous maintenance and repair functions for its retail operations, it must provide competing carriers access that enables them to perform maintenance and repair functions “in substantially the same time and manner” as a BOC provides its retail customers.¹¹⁷ Equivalent access ensures that competing carriers can assist customers experiencing service disruptions using the same network information and diagnostic tools that are available to BOC personnel.¹¹⁸ Without equivalent access, a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC’s network as a problem with the competing carrier’s own network.¹¹⁹

f. Billing

39. A BOC must provide nondiscriminatory access to its billing functions, which is necessary to enable competing carriers to provide accurate and timely bills to their customers.¹²⁰ In making this determination, the Commission assesses a BOC’s billing processes and systems, and its performance data. Consistent with prior section 271 orders, a BOC must demonstrate that it provides competing carriers with complete and accurate reports on the service usage of competing carriers’ customers in substantially the same time and manner that a BOC provides such information to itself, and with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete.¹²¹

g. Change Management Process

40. Competing carriers need information about, and specifications for, an incumbent’s systems and interfaces to develop and modify their systems and procedures to access the incumbent’s OSS functions.¹²² Thus, in order to demonstrate that it is providing

¹¹⁶ *Id.* at 4067, para. 212; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692; *Ameritech Michigan Order*, 12 FCC Rcd at 20613, 20660-61.

¹¹⁷ *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692-93.

¹¹⁸ *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196.

¹¹⁹ *Id.*

¹²⁰ *See SWBT Texas Order*, 15 FCC Rcd at 18461, para. 210.

¹²¹ *See id.*; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6316-17, at para. 163.

¹²² *Bell Atlantic New York Order*, 15 FCC Rcd at 3999-4000, para. 102; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6279 n.197; *BellSouth South Carolina Order*, 13 FCC Rcd at 625 n.467; *Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.334; *Local Competition Second Report and Order*, 11 FCC Rcd at 19742.

nondiscriminatory access to its OSS, a BOC must first demonstrate that it “has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and . . . is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”¹²³ By showing that it adequately assists competing carriers to use available OSS functions, a BOC provides evidence that it offers an efficient competitor a meaningful opportunity to compete.¹²⁴ As part of this demonstration, the Commission will give substantial consideration to the existence of an adequate change management process and evidence that the BOC has adhered to this process over time.¹²⁵

41. The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes in, the BOC’s OSS.¹²⁶ Such changes may include updates to existing functions that impact competing carrier interface(s) upon a BOC’s release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC’s software release date; additional functionality changes that may be used at the competing carrier’s option, on or after a BOC’s release date for new interface software; and changes that may be mandated by regulatory authorities.¹²⁷ Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes.¹²⁸ Change management problems can impair a competing carrier’s ability to obtain nondiscriminatory access to UNEs, and hence a BOC’s compliance with section 271(2)(B)(ii).¹²⁹

42. In evaluating whether a BOC’s change management plan affords an efficient competitor a meaningful opportunity to compete, the Commission first assesses whether the plan is adequate. In making this determination, it assesses whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers;¹³⁰ (2) that competing carriers had substantial input in the design and continued operation of the change management process;¹³¹ (3) that the change management

¹²³ *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 102.

¹²⁴ *Id.* at 3999-4000, para. 102

¹²⁵ *Id.* at 4000, para. 102.

¹²⁶ *Id.* at 4000, para. 103.

¹²⁷ *Id.*

¹²⁸ *Id.* at 4000, para. 103.

¹²⁹ *Id.*

¹³⁰ *Id.* at 4002, para. 107.

¹³¹ *Id.* at 4000, para. 104.

plan defines a procedure for the timely resolution of change management disputes;¹³² (4) the availability of a stable testing environment that mirrors production;¹³³ and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.¹³⁴ After determining whether the BOC's change management plan is adequate, the Commission evaluates whether the BOC has demonstrated a pattern of compliance with this plan.¹³⁵

2. UNE Combinations

43. In order to comply with the requirements of checklist item 2, a BOC must show that it is offering "[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3)."¹³⁶ Section 251(c)(3) requires an incumbent LEC to "provide, to any requesting telecommunications carrier . . . nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory."¹³⁷ Section 251(c)(3) of the Act also requires incumbent LECs to provide UNEs in a manner that allows requesting carriers to combine such elements in order to provide a telecommunications service.¹³⁸

44. In the *Ameritech Michigan Order*, the Commission emphasized that the ability of requesting carriers to use UNEs, as well as combinations of UNEs, is integral to achieving Congress' objective of promoting competition in local telecommunications markets.¹³⁹ Using combinations of UNEs provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs' existing service offerings in order to compete in the local telecommunications market.¹⁴⁰ Moreover, combining the incumbent's UNEs with their own facilities encourages facilities-based competition and allows competing providers to provide a wide array of competitive choices.¹⁴¹ Because the use of combinations of UNEs is an

¹³² *Id.* at 4002, para. 108.

¹³³ *Id.* at 4002-03, paras. 109-10.

¹³⁴ *Id.* at 4003-04, para. 110. In the *Bell Atlantic New York Order*, the Commission used these factors in determining whether Bell Atlantic had an adequate change management process in place. *See id.* at 4004, para. 111. The Commission left open the possibility, however, that a change management plan different from the one implemented by Bell Atlantic may be sufficient to demonstrate compliance with the requirements of section 271. *Id.*

¹³⁵ *Id.* at 3999, para. 101, 4004-05, para. 112.

¹³⁶ 47 U.S.C. § 271(c)(2)(B)(ii).

¹³⁷ *Id.* § 251(c)(3).

¹³⁸ *Id.*

¹³⁹ *Ameritech Michigan Order*, 12 FCC Rcd at 20718-19; *BellSouth South Carolina Order*, 13 FCC Rcd at 646.

¹⁴⁰ *BellSouth South Carolina Order*, 13 FCC Rcd at 646; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15666-68.

¹⁴¹ *Bell Atlantic New York Order*, 15 FCC Rcd at 4077-78, para. 230.

important strategy for entry into the local telecommunications market, as well as an obligation under the requirements of section 271, the Commission examines section 271 applications to determine whether competitive carriers are able to combine network elements as required by the Act and the Commission's regulations.¹⁴²

3. Pricing of Network Elements

45. Checklist item 2 of section 271 states that a BOC must provide “nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)” of the Act.¹⁴³ Section 251(c)(3) requires incumbent LECs to provide “nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.”¹⁴⁴ Section 252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit.¹⁴⁵ Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.¹⁴⁶ The Commission also promulgated rule 51.315(b), which prohibits incumbent LECs from separating already combined elements before providing them to competing carriers, except on request.¹⁴⁷ The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if “basic TELRIC principles are violated or the state commission

¹⁴² *Id.* In *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000), the Eighth Circuit had vacated the Commission's “additional combinations” rules (47 C.F.R. Sections 51-315(c)-(f)). However, on May 13, 2002, the Supreme Court reversed the Eighth Circuit with respect to those rules and remanded the case to the court of appeals “for further proceedings consistent with this opinion.” *Verizon Communications Inc. v. FCC*, 535 U.S. 467, 539. *See also id.* at 1683-87. In response, the Eighth Circuit, on August 21, 2002, vacated its prior opinion insofar as it had vacated the pertinent combinations rules and denied the petitions for review with respect to those rules. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.). *See also Competitive Telecommunications Association v. FCC*, 309 F. 3d 8 (2002) (affirming the Commission's interim decision to limit the ability of competitive local exchange carriers to gain access to a network element combination known as the enhanced extended link).

¹⁴³ 47 U.S.C. § 271(c)(2)(B)(ii).

¹⁴⁴ *Id.* § 251(c)(3).

¹⁴⁵ 47 U.S.C. § 252(d)(1).

¹⁴⁶ *Local Competition First Report and Order*, 11 FCC Rcd at 15844-46, paras. 674-79; 47 C.F.R. §§ 51.501 *et seq.*; *see also Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, para. 135 (*Line Sharing Order*) (concluding that states should set the prices for line sharing as a new network element in the same manner as the state sets prices for other UNEs).

¹⁴⁷ *See* 47 C.F.R. § 51.315(b).

makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce.”¹⁴⁸

46. Although the U.S. Court of Appeals for the Eighth Circuit stayed the Commission’s pricing rules in 1996,¹⁴⁹ the Supreme Court restored the Commission’s pricing authority on January 25, 1999, and remanded to the Eighth Circuit for consideration of the merits of the challenged rules.¹⁵⁰ On remand from the Supreme Court, the Eighth Circuit concluded that while TELRIC is an acceptable method for determining costs, certain specific requirements contained within the Commission’s pricing rules were contrary to Congressional intent.¹⁵¹ The Eighth Circuit stayed the issuance of its mandate pending review by the Supreme Court.¹⁵² The Supreme Court, on May 13, 2002, upheld the Commission’s forward-looking pricing methodology in determining costs of UNEs and “reverse[d] the Eighth Circuit’s judgment insofar as it invalidated TELRIC as a method for setting rates under the Act.”¹⁵³ Accordingly, the Commission’s pricing rules remain in effect.

C. Checklist Item 3 – Poles, Ducts, Conduits and Rights of Way

47. Section 271(c)(2)(B)(iii) requires BOCs to provide “[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224.”¹⁵⁴ Section 224(f)(1) states

¹⁴⁸ *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59.

¹⁴⁹ *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800, 804, 805-06 (8th Cir. 1997).

¹⁵⁰ *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). In reaching its decision, the Court acknowledged that section 201(b) “explicitly grants the FCC jurisdiction to make rules governing matters to which the 1996 Act applies.” *Id.* at 380. Furthermore, the Court determined that section 251(d) also provides evidence of an express jurisdictional grant by requiring that “the Commission [shall] complete all actions necessary to establish regulations to implement the requirements of this section.” *Id.* at 382. The Court also held that the pricing provisions implemented under the Commission’s rulemaking authority do not inhibit the establishment of rates by the states. The Court concluded that the Commission has jurisdiction to design a pricing methodology to facilitate local competition under the 1996 Act, including pricing for interconnection and unbundled access, as “it is the States that will apply those standards and implement that methodology, determining the concrete result.” *Id.*

¹⁵¹ *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *petition for cert. granted sub nom. Verizon Communications v. FCC*, 121 S. Ct. 877 (2001).

¹⁵² *Iowa Utils. Bd. v. FCC*, No. 96-3321 *et al.* (8th Cir. Sept. 25, 2000).

¹⁵³ *Verizon v. FCC*, 535 U.S. 467, 523. On August 21, 2002, the Eighth Circuit implemented the Supreme Court’s mandate with respect to the Commission’s TELRIC pricing rule by vacating its prior opinion insofar as it had invalidated that rule and by denying the petitions for review of that rule. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.

¹⁵⁴ 47 U.S.C. § 271(c)(2)(B)(iii). As originally enacted, section 224 was intended to address obstacles that cable operators encountered in obtaining access to poles, ducts, conduits, or rights-of-way owned or controlled by utilities. The 1996 Act amended section 224 in several important respects to ensure that telecommunications carriers (continued....)

that “[a] utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.”¹⁵⁵ Notwithstanding this requirement, section 224(f)(2) permits a utility providing electric service to deny access to its poles, ducts, conduits, and rights-of-way, on a nondiscriminatory basis, “where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.”¹⁵⁶ Section 224 also contains two separate provisions governing the maximum rates that a utility may charge for “pole attachments.”¹⁵⁷ Section 224(b)(1) states that the Commission shall regulate the rates, terms, and conditions governing pole attachments to ensure that they are “just and reasonable.”¹⁵⁸ Notwithstanding this general grant of authority, section 224(c)(1) states that “[n]othing in [section 224] shall be construed to apply to, or to give the Commission jurisdiction with respect to the rates, terms, and conditions, or access to poles, ducts, conduits and rights-of-way as provided in [section 224(f)], for pole attachments in any case where such matters are regulated by a State.”¹⁵⁹ As of 1992, nineteen states, including Connecticut, had certified to the Commission that they regulated the rates, terms, and conditions for pole attachments.¹⁶⁰

(Continued from previous page) _____

as well as cable operators have access to poles, ducts, conduits, or rights-of-way owned or controlled by utility companies, including LECs. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20706, n.574.

¹⁵⁵ 47 U.S.C. § 224(f)(1). Section 224(a)(1) defines “utility” to include any entity, including a LEC, that controls “poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.” 47 U.S.C. § 224(a)(1).

¹⁵⁶ 47 U.S.C. § 224(f)(2). In the *Local Competition First Report and Order*, the Commission concluded that, although the statutory exception enunciated in section 224(f)(2) appears to be limited to utilities providing electrical service, LECs should also be permitted to deny access to their poles, ducts, conduits, and rights-of-way because of insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes, provided the assessment of such factors is done in a nondiscriminatory manner. *Local Competition First Report and Order*, 11 FCC Rcd at 16080-81, paras. 1175-77.

¹⁵⁷ Section 224(a)(4) defines “pole attachment” as “any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.” 47 U.S.C. § 224(a)(4).

¹⁵⁸ 47 U.S.C. § 224(b)(1).

¹⁵⁹ *Id.* § 224(c)(1). The 1996 Act extended the Commission’s authority to include not just rates, terms, and conditions, but also the authority to regulate nondiscriminatory access to poles, ducts, conduits, and rights-of-way. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(f). Absent state regulation of terms and conditions of nondiscriminatory attachment access, the Commission retains jurisdiction. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(c)(1); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4093, para. 264.

¹⁶⁰ *See States That Have Certified That They Regulate Pole Attachments*, Public Notice, 7 FCC Rcd 1498 (1992); 47 U.S.C. § 224(f).

D. Checklist Item 4 – Unbundled Local Loops

48. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”¹⁶¹ The Commission has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. This definition includes different types of loops, including two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.¹⁶²

49. In order to establish that it is “providing” unbundled local loops in compliance with checklist item 4, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality. A BOC must also demonstrate that it provides nondiscriminatory access to unbundled loops.¹⁶³ Specifically, the BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. In order to provide the requested loop functionality, such as the ability to deliver xDSL services, the BOC may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities. The BOC must provide competitors with access to unbundled loops regardless of whether the BOC uses digital loop carrier (DLC) technology or similar remote concentration devices for the particular loops sought by the competitor.

50. On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).¹⁶⁴ HFPL is defined as “the frequency above the voiceband on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voiceband transmissions.” This definition applies whether a BOC’s voice customers are served by copper or by digital loop carrier equipment. Competing carriers should have

¹⁶¹ 47 U.S.C. § 271(c)(2)(B)(iv).

¹⁶² *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73, paras. 166-67, n.301 (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase “network interconnection device” with “demarcation point,” and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

¹⁶³ *SWBT Texas Order*, 15 FCC Rcd at 18481-81, para. 248; *Bell Atlantic New York Order*, 15 FCC Rcd at 4095, para. 269; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20637, para. 185.

¹⁶⁴ *See Line Sharing Order*, 14 FCC Rcd at 20924-27, paras. 20-27; *see also* n.63 at C-12 *supra*.

access to the HFPL at either a central office or at a remote terminal. However, the HFPL network element is *only* available on a copper loop facility.¹⁶⁵

51. To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*. Specifically, a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates, and repeat trouble report rates. In addition, a successful BOC applicant should provide evidence that its central offices are operationally ready to handle commercial volumes of line sharing and that it provides competing carriers with nondiscriminatory access to the pre-ordering and ordering OSS functions associated with the provision of line shared loops, including access to loop qualification information and databases.

52. Section 271(c)(2)(B)(iv) also requires that a BOC demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data service over a single loop.¹⁶⁶ In addition, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer. To make such a showing, a BOC must show that it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport.¹⁶⁷

E. Checklist Item 5 – Unbundled Local Transport

53. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”¹⁶⁸ The Commission has required that BOCs provide both dedicated and shared transport to requesting carriers.¹⁶⁹ Dedicated transport consists of BOC transmission

¹⁶⁵ See *Deployment of Wireline Services offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, 16 FCC Rcd 2101, 2106-07, para. 10 (2001).

¹⁶⁶ See generally *SWBT Texas Order*, 15 FCC Rcd at 18515-17, paras. 323-329 (describing line splitting); 47 C.F.R. § 51.703(c) (requiring that incumbent LECs provide competing carriers with access to unbundled loops in a manner that allows competing carriers “to provide any telecommunications service that can be offered by means of that network element”).

¹⁶⁷ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220.

¹⁶⁸ 47 U.S.C. § 271(c)(2)(B)(v).

¹⁶⁹ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20719, para. 201.

facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by BOCs or requesting telecommunications carriers, or between switches owned by BOCs or requesting telecommunications carriers.¹⁷⁰ Shared transport consists of transmission facilities shared by more than one carrier, including the BOC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the BOC's network.¹⁷¹

F. Checklist Item 6 – Unbundled Local Switching

54. Section 271(c)(2)(B)(vi) of the 1996 Act requires a BOC to provide “[l]ocal switching unbundled from transport, local loop transmission, or other services.”¹⁷² In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.¹⁷³ The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.¹⁷⁴ Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.¹⁷⁵

¹⁷⁰ *Id.* A BOC has the following obligations with respect to dedicated transport: (a) provide unbundled access to dedicated transmission facilities between BOC central offices or between such offices and serving wire centers (SWCs); between SWCs and interexchange carriers points of presence (POPs); between tandem switches and SWCs, end offices or tandems of the BOC, and the wire centers of BOCs and requesting carriers; (b) provide all technically feasible transmission capabilities such as DS1, DS3, and Optical Carrier levels that the competing carrier could use to provide telecommunications; (c) not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnections are technically feasible, or restrict the use of unbundled transport facilities; and (d) to the extent technically feasible, provide requesting carriers with access to digital cross-connect system functionality in the same manner that the BOC offers such capabilities to interexchange carriers that purchase transport services. *Id.* at 20719.

¹⁷¹ *Id.* at 20719, n.650. The Commission also found that a BOC has the following obligations with respect to shared transport: (a) provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that a BOC uses for its own traffic; (b) provide shared transport transmission facilities between end office switches, between its end office and tandem switches, and between tandem switches in its network; (c) permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the BOC's switch; and (d) permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry originating access traffic from, and terminating traffic to, customers to whom the requesting carrier is also providing local exchange service. *Id.* at 20720, n.652.

¹⁷² 47 U.S.C. § 271(c)(2)(B)(vi); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722. A switch connects end user lines to other end user lines, and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with “vertical features” such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier's operator services.

¹⁷³ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722, para. 207.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 20722-23, para. 207.

55. Moreover, in the *Second BellSouth Louisiana Order*, the Commission required BellSouth to permit competing carriers to purchase UNEs, including unbundled switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.¹⁷⁶ The Commission also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.¹⁷⁷ Therefore, the ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.¹⁷⁸ Thus, there is an overlap between the provision of unbundled local switching and the provision of the OSS billing function.¹⁷⁹

56. To comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.¹⁸⁰ In addition, a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch.¹⁸¹

G. Checklist Item 7 – 911/E911 Access and Directory Assistance/Operator Services

57. Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide “[n]ondiscriminatory access to – (I) 911 and E911 services.”¹⁸² In the *Ameritech Michigan Order*, the Commission found that “section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity.”¹⁸³ Specifically, the Commission found that a BOC “must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers.”¹⁸⁴ For facilities-based carriers, the BOC must provide “unbundled access to

¹⁷⁶ *Id.* at 20723, para. 208.

¹⁷⁷ *Id.* at 20723, para. 208 (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20619, para. 140).

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 20723, para. 209 (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20705, para. 306).

¹⁸¹ *Id.* (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20714-15, paras. 324-25).

¹⁸² 47 U.S.C. § 271(c)(2)(B)(vii). 911 and E911 services transmit calls from end users to emergency personnel. It is critical that a BOC provide competing carriers with accurate and nondiscriminatory access to 911/E911 services so that these carriers' customers are able to reach emergency assistance. Customers use directory assistance and operator services to obtain customer listing information and other call completion services.

¹⁸³ *Ameritech Michigan Order*, 12 FCC Rcd at 20679, para. 256.

¹⁸⁴ *Id.*

[its] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier's switching facilities to the 911 control office at parity with what [the BOC] provides to itself."¹⁸⁵ Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require a BOC to provide nondiscriminatory access to "directory assistance services to allow the other carrier's customers to obtain telephone numbers" and "operator call completion services," respectively.¹⁸⁶ Section 251(b)(3) of the Act imposes on each LEC "the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listing, with no unreasonable dialing delays."¹⁸⁷ The Commission concluded in the *Second BellSouth Louisiana Order* that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of sections 271(c)(2)(B)(vii)(II) and 271(c)(2)(B)(vii)(III).¹⁸⁸ In the *Local Competition Second Report and Order*, the Commission held that the phrase "nondiscriminatory access to directory assistance and directory listings" means that "the customers of all telecommunications service providers should be able to access each LEC's directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory

¹⁸⁵ *Id.*

¹⁸⁶ 47 U.S.C. §§ 271(c)(2)(B)(vii)(II), (III).

¹⁸⁷ *Id.* § 251(b)(3). The Commission implemented section 251(b)(3) in the *Local Competition Second Report and Order*. 47 C.F.R. § 51.217; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (*Local Competition Second Report and Order*) vacated in part sub nom. *People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), overruled in part, *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); see also *Implementation of the Telecommunications Act of 1996: Provision of Directory Listings Information under the Telecommunications Act of 1934*, Notice of Proposed Rulemaking, 14 FCC Rcd 15550 (1999) (*Directory Listings Information NPRM*).

¹⁸⁸ While both sections 251(b)(3) and 271(c)(2)(B)(vii)(II) refer to nondiscriminatory access to "directory assistance," section 251(b)(3) refers to nondiscriminatory access to "operator services," while section 271(c)(2)(B)(vii)(III) refers to nondiscriminatory access to "operator call completion services." 47 U.S.C. §§ 251(b)(3), 271(c)(2)(B)(vii)(III). The term "operator call completion services" is not defined in the Act, nor has the Commission previously defined the term. However, for section 251(b)(3) purposes, the term "operator services" was defined as meaning "any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." *Local Competition Second Report and Order*, 11 FCC Rcd at 19448, para. 110. In the same order the Commission concluded that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of "operator services," because they assist customers in arranging for the billing or completion (or both) of a telephone call. *Id.* at 19449, para. 111. All of these services may be needed or used to place a call. For example, if a customer tries to direct dial a telephone number and constantly receives a busy signal, the customer may contact the operator to attempt to complete the call. Since billing is a necessary part of call completion, and busy line verification, emergency interrupt, and operator-assisted directory assistance can all be used when an operator completes a call, the Commission concluded in the *Second BellSouth Louisiana Order* that for checklist compliance purposes, "operator call completion services" is a subset of or equivalent to "operator service." *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20740, n.763. As a result, the Commission uses the nondiscriminatory standards established for operator services to determine whether nondiscriminatory access is provided.

listing is requested.”¹⁸⁹ The Commission concluded that nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, and would continue.¹⁹⁰ The Commission specifically held that the phrase “nondiscriminatory access to operator services” means that “a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing ‘0,’ or ‘0 plus’ the desired telephone number.”¹⁹¹

58. Competing carriers may provide operator services and directory assistance by reselling the BOC’s services, outsourcing service provision to a third-party provider, or using their own personnel and facilities. The Commission’s rules require BOCs to permit competitive LECs wishing to resell the BOC’s operator services and directory assistance to request the BOC to brand their calls.¹⁹² Competing carriers wishing to provide operator services or directory assistance using their own or a third party provider’s facilities and personnel must be able to obtain directory listings either by obtaining directory information on a “read only” or “per dip” basis from the BOC’s directory assistance database, or by creating their own directory assistance database by obtaining the subscriber listing information in the BOC’s database.¹⁹³ Although the Commission originally concluded that BOCs must provide directory assistance and operator

¹⁸⁹ 47 C.F.R. § 51.217(c)(3); *Local Competition Second Report and Order*, 11 FCC Rcd at 19456-58, paras. 130-35. The *Local Competition Second Report and Order*’s interpretation of section 251(b)(3) is limited “to access to each LEC’s directory assistance service.” *Id.* at 19456, para. 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC’s systems but requires “nondiscriminatory access to . . . directory assistance to allow the other carrier’s customers to obtain telephone numbers.” 47 U.S.C. § 271(c)(2)(B)(vii). Combined with the Commission’s conclusion that “incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible,” *Local Competition First Report and Order*, 11 FCC Rcd at 15772-73, paras. 535-37, section 271(c)(2)(B)(vii)’s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer’s local service provider, regardless of whether the competitor; provides such services itself; selects the BOC to provide such services; or chooses a third party to provide such services. See *Directory Listings Information NPRM*.

¹⁹⁰ *Local Competition Second Report and Order*, 11 FCC Rcd at 19464, para. 151.

¹⁹¹ *Id.* at 19464, para. 151.

¹⁹² 47 C.F.R. § 51.217(d); *Local Competition Second Report and Order*, 11 FCC Rcd at 19463, para. 148. For example, when customers call the operator or calls for directory assistance, they typically hear a message, such as “thank you for using XYZ Telephone Company.” Competing carriers may use the BOC’s brand, request the BOC to brand the call with the competitive carriers name or request that the BOC not brand the call at all. 47 C.F.R. § 51.217(d).

¹⁹³ 47 C.F.R. § 51.217(C)(3)(ii); *Local Competition Second Report and Order*, 11 FCC Rcd at 19460-61, paras. 141-44; *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd 15550, 15630-31, paras. 152-54 (1999); *Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, First Report and Order, 16 FCC Rcd 2736, 2743-51 (2001).

services on an unbundled basis pursuant to sections 251 and 252, the Commission removed directory assistance and operator services from the list of required UNEs in the *UNE Remand Order*.¹⁹⁴ Checklist item obligations that do not fall within a BOC's obligations under section 251(c)(3) are not subject to the requirements of sections 251 and 252 that rates be based on forward-looking economic costs.¹⁹⁵ Checklist item obligations that do not fall within a BOC's UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory.¹⁹⁶

H. Checklist Item 8 – White Pages Directory Listings

59. Section 271(c)(2)(B)(viii) of the 1996 Act requires a BOC to provide “[w]hite pages directory listings for customers of the other carrier’s telephone exchange service.”¹⁹⁷ Section 251(b)(3) of the 1996 Act obligates all LECs to permit competitive providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listing.¹⁹⁸

60. In the *Second BellSouth Louisiana Order*, the Commission concluded that, “consistent with the Commission’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.”¹⁹⁹ The Commission further concluded, “the term ‘directory listing,’ as used in this section, includes, at a minimum, the subscriber’s name, address, telephone number, or any combination thereof.”²⁰⁰ The Commission’s *Second BellSouth Louisiana Order* also held that a

¹⁹⁴ *UNE Remand Order*, 15 FCC Rcd at 3891-92, paras. 441-42.

¹⁹⁵ *UNE Remand Order*, 15 FCC Rcd at 3905, para. 470; *see generally* 47 U.S.C. §§ 251-52; *see also* 47 U.S.C. § 252(d)(1)(A)(i) (requiring UNE rates to be “based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the ... network element”).

¹⁹⁶ *UNE Remand Order*, 15 FCC Rcd at 3905-06, paras. 470-73; *see also* 47 U.S.C. §§ 201(b), 202(a).

¹⁹⁷ 47 U.S.C. § 271(c)(2)(B)(viii).

¹⁹⁸ *Id.* § 251(b)(3).

¹⁹⁹ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20748, para. 255.

²⁰⁰ *Id.* In the *Second BellSouth Louisiana Order*, the Commission stated that the definition of “directory listing” was synonymous with the definition of “subscriber list information.” *Id.* at 20747 (citing the *Local Competition Second Report and Order*, 11 FCC Rcd at 19458-59). However, the Commission’s decision in a later proceeding obviates this comparison, and supports the definition of directory listing delineated above. *See Implementation of the Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Third Report and Order; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Order on Reconsideration; *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking, para. 160 (rel. Sept. 9, 1999).

BOC satisfies the requirements of checklist item 8 by demonstrating that it: (1) provided nondiscriminatory appearance and integration of white page directory listings to competitive LECs' customers; and (2) provided white page listings for competitors' customers with the same accuracy and reliability that it provides its own customers.²⁰¹

I. Checklist Item 9 – Numbering Administration

61. Section 271(c)(2)(B)(ix) of the 1996 Act requires a BOC to provide “nondiscriminatory access to telephone numbers for assignment to the other carrier’s telephone exchange service customers,” until “the date by which telecommunications numbering administration, guidelines, plan, or rules are established.”²⁰² The checklist mandates compliance with “such guidelines, plan, or rules” after they have been established.²⁰³ A BOC must demonstrate that it adheres to industry numbering administration guidelines and Commission rules.²⁰⁴

J. Checklist Item 10 – Databases and Associated Signaling

62. Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide “nondiscriminatory access to databases and associated signaling necessary for call routing and completion.”²⁰⁵ In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to demonstrate that it provided requesting carriers with nondiscriminatory access to: “(1) signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, or in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and (3) Service Management Systems (SMS).”²⁰⁶ The Commission also required BellSouth to design, create, test, and deploy Advanced Intelligent Network (AIN) based services at the SMS through a Service Creation Environment (SCE).²⁰⁷ In the *Local Competition First Report and Order*, the Commission defined call-related databases as databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or

²⁰¹ *Id.*

²⁰² 47 U.S.C. § 271(c)(2)(B)(ix).

²⁰³ *Id.*

²⁰⁴ See *Second Bell South Louisiana Order*, 13 FCC Rcd at 20752; see also *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000); *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 96-98; 99-200 (rel. Dec. 29, 2000); *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (rel. Dec. 28, 2001).

²⁰⁵ 47 U.S.C. § 271(c)(2)(B)(x).

²⁰⁶ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20753, para. 267.

²⁰⁷ *Id.* at 20755-56, para. 272.

other provision of telecommunications service.²⁰⁸ At that time the Commission required incumbent LECs to provide unbundled access to their call-related databases, including but not limited to: the Line Information Database (LIDB), the Toll Free Calling database, the Local Number Portability database, and Advanced Intelligent Network databases.²⁰⁹ In the *UNE Remand Order*, the Commission clarified that the definition of call-related databases “includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases.”²¹⁰

K. Checklist Item 11 – Number Portability

63. Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the Commission pursuant to section 251.²¹¹ Section 251(b)(2) requires all LECs “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”²¹² The 1996 Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”²¹³ In order to prevent the cost of number portability from thwarting local competition, Congress enacted section 251(e)(2), which requires that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”²¹⁴ Pursuant to these statutory provisions, the Commission requires LECs to offer interim number portability “to the extent technically feasible.”²¹⁵ The Commission also requires LECs to gradually replace interim number portability with permanent number portability.²¹⁶ The Commission has established

²⁰⁸ *Local Competition First Report and Order*, 11 FCC Rcd at 15741, n.1126; *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

²⁰⁹ *Id.* at 15741-42, para. 484.

²¹⁰ *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

²¹¹ 47 U.S.C. § 271(c)(2)(B)(xii).

²¹² *Id.* at § 251(b)(2).

²¹³ *Id.* at § 153(30).

²¹⁴ *Id.* at § 251(e)(2); *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20757, para. 274; *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702-04 (1998) (*Third Number Portability Order*); *In the Matter of Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 16459, 16460, 16462-65, paras. 1, 6-9 (1999) (*Fourth Number Portability Order*).

²¹⁵ *Fourth Number Portability Order*, 15 FCC Rcd at 16465, para. 10; *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8409-12, paras. 110-16 (1996) (*First Number Portability Order*); *see also* 47 U.S.C. § 251(b)(2).

²¹⁶ *See* 47 C.F.R. §§ 52.3(b)-(f); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8355, 8399-8404, paras. 3, 91; *Third Number Portability Order*, 13 FCC Rcd at 11708-12, paras. 12-16.

guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number portability,²¹⁷ and created a competitively neutral cost-recovery mechanism for long-term number portability.²¹⁸

L. Checklist Item 12 – Local Dialing Parity

64. Section 271(c)(2)(B)(xii) requires a BOC to provide “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).”²¹⁹ Section 251(b)(3) imposes upon all LECs “[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with no unreasonable dialing delays.”²²⁰ Section 153(15) of the Act defines “dialing parity” as follows:

[A] person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation.²²¹

65. The rules implementing section 251(b)(3) provide that customers of competing carriers must be able to dial the same number of digits the BOC’s customers dial to complete a local telephone call.²²² Moreover, customers of competing carriers must not otherwise suffer inferior quality service, such as unreasonable dialing delays, compared to the BOC’s customers.²²³

²¹⁷ See 47 C.F.R. § 52.29; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8417-24, paras. 127-40.

²¹⁸ See 47 C.F.R. §§ 52.32, 52.33; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *Third Number Portability Order*, 13 FCC Rcd at 11706-07, para. 8; *Fourth Number Portability Order* at 16464-65, para. 9.

²¹⁹ Based on the Commission’s view that section 251(b)(3) does not limit the duty to provide dialing parity to any particular form of dialing parity (*i.e.*, international, interstate, intrastate, or local), the Commission adopted rules in August 1996 to implement broad guidelines and minimum nationwide standards for dialing parity. *Local Competition Second Report and Order*, 11 FCC Rcd at 19407; *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, Further Order On Reconsideration, FCC 99-170 (rel. July 19, 1999).

²²⁰ 47 U.S.C. § 251(b)(3).

²²¹ *Id.* § 153(15).

²²² 47 C.F.R §§ 51.205, 51.207.

²²³ See 47 C.F.R. § 51.207 (requiring same number of digits to be dialed); *Local Competition Second Report and Order*, 11 FCC Rcd at 19400, 19403.

M. Checklist Item 13 – Reciprocal Compensation

66. Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into “[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).”²²⁴ In turn, pursuant to section 252(d)(2)(A), “a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.”²²⁵

N. Checklist Item 14 – Resale

67. Section 271(c)(2)(B)(xiv) of the Act requires a BOC to make “telecommunications services . . . available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).”²²⁶ Section 251(c)(4)(A) requires incumbent LECs “to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.”²²⁷ Section 252(d)(3) requires state commissions to “determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.”²²⁸ Section 251(c)(4)(B) prohibits “unreasonable or discriminatory conditions or limitations” on service resold under section 251(c)(4)(A).²²⁹ Consequently, the Commission concluded in the *Local Competition First Report and Order* that resale restrictions are presumed to be unreasonable unless the LEC proves to the state commission that the restriction is reasonable and nondiscriminatory.²³⁰ If an incumbent LEC makes a service available only to a specific category of retail subscribers, however, a state commission may prohibit a carrier that obtains the service pursuant to section 251(c)(4)(A) from offering the service to a different category of subscribers.²³¹ If a state creates such a limitation, it must do so consistent with

²²⁴ 47 U.S.C. § 271(c)(2)(B)(xiii).

²²⁵ *Id.* § 252(d)(2)(A).

²²⁶ *Id.* § 271(c)(2)(B)(xiv).

²²⁷ *Id.* § 251(c)(4)(A).

²²⁸ *Id.* § 252(d)(3).

²²⁹ *Id.* § 251(c)(4)(B).

²³⁰ *Local Competition First Report and Order*, 11 FCC Rcd at 15966, para. 939; 47 C.F.R. § 51.613(b). The Eighth Circuit acknowledged the Commission’s authority to promulgate such rules, and specifically upheld the sections of the Commission’s rules concerning resale of promotions and discounts in *Iowa Utilities Board v. FCC*, 120 F.3d at 818-19, *aff’d in part and remanded on other grounds*, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). *See also* 47 C.F.R. §§ 51.613-51.617.

²³¹ 47 U.S.C. § 251(c)(4)(B).

requirements established by the Federal Communications Commission.²³² In accordance with sections 271(c)(2)(B)(ii) and 271(c)(2)(B)(xiv), a BOC must also demonstrate that it provides nondiscriminatory access to operations support systems for the resale of its retail telecommunications services.²³³ The obligations of section 251(c)(4) apply to the retail telecommunications services offered by a BOC's advanced services affiliate.²³⁴

V. COMPLIANCE WITH SEPARATE AFFILIATE REQUIREMENTS – SECTION 272

68. Section 271(d)(3)(B) requires that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."²³⁵ The Commission set standards for compliance with section 272 in the *Accounting Safeguards Order* and the *Non-Accounting Safeguards Order*.²³⁶ Together, these safeguards discourage and facilitate the detection of improper cost allocation and cross-subsidization between the BOC and its section 272 affiliate.²³⁷ In addition, these safeguards ensure that BOCs do not discriminate in favor of their section 272 affiliates.²³⁸

69. As the Commission stated in the *Ameritech Michigan Order*, compliance with section 272 is "of crucial importance" because the structural, transactional, and nondiscrimination safeguards of section 272 seek to ensure that BOCs compete on a level

²³² *Id.*

²³³ See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd at 4046-48, paras. 178-81 (Bell Atlantic provides nondiscriminatory access to its OSS ordering functions for resale services and therefore provides efficient competitors a meaningful opportunity to compete).

²³⁴ See *Verizon Connecticut Order*, 16 FCC Rcd 14147, 14160-63, paras. 27-33 (2001); *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

²³⁵ 47 U.S.C. § 271(d)(3)(B).

²³⁶ See *Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996) (*Accounting Safeguards Order*), Second Order On Reconsideration, FCC 00-9 (rel. Jan. 18, 2000); *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), petition for review pending sub nom. *SBC Communications v. FCC*, No. 97-1118 (filed D.C. Cir. Mar. 6, 1997) (held in abeyance May 7, 1997), First Order on Reconsideration, 12 FCC Rcd 2297 (1997) (*First Order on Reconsideration*), Second Order on Reconsideration, 12 FCC Rcd 8653 (1997) (*Second Order on Reconsideration*), aff'd sub nom. *Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, FCC 99-242 (rel. Oct. 4, 1999) (*Third Order on Reconsideration*).

²³⁷ *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914; *Accounting Safeguards Order*, 11 FCC Rcd at 17550; *Ameritech Michigan Order*, 12 FCC Rcd at 20725.

²³⁸ *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, paras. 15-16; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

playing field.²³⁹ The Commission's findings regarding section 272 compliance constitute independent grounds for denying an application.²⁴⁰ Past and present behavior of the BOC applicant provides "the best indicator of whether [the applicant] will carry out the requested authorization in compliance with section 272."²⁴¹

VI. COMPLIANCE WITH THE PUBLIC INTEREST – SECTION 271(D)(3)(C)

70. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.²⁴² Compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission's many years of experience with the consumer benefits that flow from competition in telecommunications markets.

71. Nonetheless, the public interest analysis is an independent element of the statutory checklist and, under normal canons of statutory construction, requires an independent determination.²⁴³ Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. Among other things, the Commission may review the local and long distance markets to ensure that there are not unusual circumstances that would make entry contrary to the public interest under the particular circumstances of the application at issue.²⁴⁴ Another factor that could be relevant to the analysis is whether the Commission has sufficient assurance that markets will remain open after grant of the application. While no one factor is dispositive in this analysis, the overriding goal is to ensure that nothing undermines the conclusion, based on the Commission's analysis of checklist compliance, that markets are open to competition.

²³⁹ *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

²⁴⁰ *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20785-86, para. 322; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

²⁴¹ *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

²⁴² 47 U.S.C. § 271(d)(3)(C).

²⁴³ In addition, Congress specifically rejected an amendment that would have stipulated that full implementation of the checklist necessarily satisfies the public interest criterion. *See Ameritech Michigan Order*, 12 FCC Rcd at 20747 at para. 360-66; *see also* 141 Cong. Rec. S7971, S8043 (June. 8, 1995).

²⁴⁴ *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20805-06, para. 360 (the public interest analysis may include consideration of "whether approval . . . will foster competition in all relevant telecommunications markets").

**SEPARATE STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

Re: Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in Arizona, WC Docket No. 03-194, Memorandum Opinion and Order.

This Order, granting the final section 271 application, marks the end of a long, transformative process that has opened local telecommunications markets and augmented long distance competition throughout the country. Our state colleagues deserve much of the credit; their comprehensive workshops and hearings on OSS issues, UNE pricing, performance assurance plans, and other key issues laid the groundwork for all of our decisions under section 271. I also want to recognize the talented staff of the Wireline Competition Bureau for providing complex and incisive analysis under very tight deadlines.

While we have authorized Bell entry into the long distance market in every state, our work is plainly not done. We must intensify our focus on enforcement, pursuant to section 271(d)(6), to ensure that the local markets remain open to competition. The Commission also must complete its examination of the regulatory framework that applies to the Bell companies' provision of long distance service. If a BOC integrates its operations after the sunset of the section 272 requirements, to what extent should dominant carrier regulations be retained? I look forward to working with my colleagues on an answer to that important question. I also hope that the Commission promptly completes the pending rulemaking concerning possible elimination of the ban on sharing operation, installation, and maintenance functions. Dominant carrier regulations, the OI&M rule, and other legacy regulations may not be necessary in today's increasingly competitive marketplace. I do not know at this point precisely what level of regulatory oversight we do need, but I urge the Commission to complete its review so that we can ensure that our rules are tailored to the current environment.

**JOINT STATEMENT OF
COMMISSIONERS MICHAEL J. COPPS AND JONATHAN S. ADELSTEIN**

Re: *Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona (WC Docket No. 03-194)*

Today's decision is one for the history books. By granting Qwest authority to provide in-region, long-distance service in Arizona, we complete a cycle of state-by-state review of local competition that was set in motion by Congress in the 1996 Act. We commend Qwest for its efforts and also thank the Arizona Corporation Commission and the Wireline Competition Bureau. Without the hard work of all three, we would not reach this milestone in the Section 271 process.

But this is in no way the end of the Section 271 process—at least it shouldn't be. The real challenge is only beginning. We must put in place a rigorous and sustained monitoring process to ensure continued compliance. Congress set up the parameters for this process in Section 271. If at any time the Commission determines that a Bell Operating Company has ceased to satisfy the market-opening conditions required for Section 271 approval, the statute compels us to order corrections, impose penalties, or suspend or revoke approval. Competition is not guaranteed forever by Section 271—it is, at best, only enabled.

We need to take our enforcement duty more seriously. We have taken a step in the right direction by establishing a formal Section 271 Compliance Review Program. Yet our practice has been little more than requiring Bell Operating Companies to provide the Commission with performance data for the first year following long-distance authorization. This strikes us as a lax way to go about ensuring continued compliance. A more credible process would include this kind of oversight beyond just the first year following approval. Instead, we have stuck our head in the sand, willfully blind to the possibility that problems may arise after the first year of long-distance entry. Competitors always are free to file complaints, but we believe the statute compels us to do more here at the Commission. Without effective monitoring, we may find that the old monopoly forces that led to the breakup of Ma Bell will just piece themselves back together again.

Through the Section 271 process, we have unleashed a new era of competition, choice and innovation for American consumers. For consumers to continue to reap these benefits, the Commission will need to fortify its enforcement process to ensure local markets remain fully and irreversibly open to competition. We look forward to working cooperatively with our colleagues and our counterparts in the States to ensure that this becomes a reality.