

**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
CONCURRING**

Re: *Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in New Mexico, Oregon and South Dakota*

I commend the New Mexico Public Regulation Commission, Oregon Public Utility Commission and South Dakota Public Utilities Commission for the steps they have taken to open the New Mexico, Oregon and South Dakota local markets to competition. Qwest also has made laudable progress in opening its markets to competition in these states.

Two issues in this proceeding lead me to concur today. First, I am troubled by the majority's conclusion that Qwest meets the statute's Track A requirement on the basis of wireless competition in New Mexico. This situation is analogous to the one faced by the Commission just yesterday in the Nevada section 271 Order. Based on limited survey evidence, the majority again finds that a particular wireless carrier's service is a commercial alternative to wireline service. It strikes me as premature to decide on the present record that wireline and wireless services are more than complementary. I concur, however, because I believe it would be unjust to penalize Qwest for complying with Commission precedent when it filed its application.

Second, I concur for the same reasons laid out in my statements to the Orders granting section 271 applications for New Hampshire, Delaware, Virginia, Maryland, Washington, D.C. and West Virginia. As in those Orders, the present item concludes that the statute permits Bell companies in all instances to demonstrate compliance with the checklist by aggregating the rates for non-loop elements. I disagree with this analysis. I believe the better reading of the statute is that the rate for each network element must comport with Congress' pricing directive. As it turns out, an analysis of Qwest's switching and transport elements demonstrates that they would independently satisfy a benchmark test. I am disappointed that the majority's decision only reflects this fact in a footnote. A review of Qwest pricing that fully complies with the statute would feature this fact more prominently than the majority's analysis based on aggregation of non-loop elements. I commend Qwest, however, for its efforts to comply with the true letter of the statute when filing its application with this Commission.