Mary S. Hobson
Attorney & Counselor
999 Main, Suite 1103
Boise, ID 83702
208-385-8666

September 15, 2008

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

RE: Docket No. QWE-T-08-04

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **QWEST CORPORATION'S RESPONSIVE COMMENTS.** If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,

Mary S. Hobson

Enclosures
cc Service List

Mary S. Hobson (ISB. No. 2142)
999 Main, Suite 1103
Boise, ID 83702
Tel: 208-385-8666
mary.hobson@qwest.com

Adam L. Sherr
Corporate Counsel, Qwest
1600 7th Avenue, Room 3206
Seattle, WA 98191
Tel: (206) 398-2507
adam.sherr@qwest.com

Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In Re WITHDRAWAL of QWEST COPORATION'S STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS	**Case No. QWE-T-08-04** **QWEST CORPORATION'S RESPONSIVE COMMENTS**

In its Petition filed May 2, 2008, Qwest seeks to withdraw its Statement of Generally Available Terms and Conditions (SGAT) and requests a Commission determination that the Performance Indicator Definitions (PIDs) and Performance Assurance Plan (PAP), voluntarily offered by Qwest as Exhibits B and K of the SGAT, are no longer necessary and can be removed. Although Qwest submits there is no legal requirement for either the SGAT or the PAP and PIDs, should the Commission disagree with regard to the PAP and PIDs, Qwest could implement such a decision by maintaining the availability of the PIDs and PAP through its Negotiations Template and withdrawing

the SGAT, or by other means as directed by the Commission. Because the SGAT on the one hand, and the PIDs and PAP, on the other, have different origins and purposes, and because the Staff and Intervenors have raised different concerns with regard to these separate offerings, Qwest will address these topics separately in the Comments that follow.

I. Qwest Is Entitled to Withdraw Its SGAT

INTRODUCTION

In their comments Intervenors make several allegations designed to obscure the basic question that is before this Commission, i.e., whether or not Qwest is legally required to continue to offer a Statement of General Available Terms (SGAT). The answer to this basic question is simply and clearly "no." Qwest's position is supported by the unequivocal language of the federal Telecommunications Act of 1996 ("1996 Act" or "the Act") and interpretative decisions from the Federal Communications Commission ("FCC") and the courts.

The 1996 Act contains a comprehensive regulatory scheme designed to facilitate the entry of other telecommunications companies into local markets. This legislation required that the incumbent local exchange carrier ("ILEC") enter into interconnection agreements ("ICAs") with telecommunications carriers ("CLECs") that seek to compete in the ILEC's local market.[1] There is an essential difference between an ICA, which is negotiated by the parties, eventually agreed upon and documented in a signed agreement under section 252 of the Act, and an SGAT. An SGAT is merely an offer, i.e., a starting place for negotiations. It is through interconnection agreements, not the SGAT, that Qwest opens its network to interconnection and use by competitors as mandated in the 1996 Act. And, it is these individual agreements, not the SGAT, that govern the relationship between Qwest and each competitor.

Qwest discontinued use of its Idaho SGAT in August 2004. Today the SGAT is badly outdated, as evidenced by the fact that it does not incorporate key terms that have evolved since the original SGAT was filed over eight (8) years ago and has not been revised in more than six years. The SGAT does not represent a practical offering at this time.

---

[1] AT&T Communications of the Southern States v. BellSouth Telecommunications Inc. et al. 229 F.3d 457

Nonetheless competition has grown in Idaho in the intervening years. Since Qwest discontinued use of the SGAT as the basis for its ICA negotiations, thirty (30) new agreements have been executed and approved in Idaho, bringing the total number of ICAs in effect in Idaho to sixty-three (63). During that same time, no CLEC has complained to the Commission regarding the absence of the SGAT. Withdrawing the SGAT will have no effect on competition in Idaho.

A. Interconnection Agreements, Not SGATs, Define the ILECs' Obligations to Competitors.

The Act imposes the duty on both ILECs and CLECs "to negotiate in good faith" the particular terms and conditions of agreements to fulfill the duties described in the 1996 Act. *47 U.S.C. §251(c)(1).* If the parties fail to reach agreement, section 252 of the Act authorizes the state utility commission to resolve disputed issues through compulsory arbitration. *Id. at §252(c)(1).* The resulting agreement, whether arrived at through negotiation or arbitration by the state commission, must be submitted to the state commission for approval. *Id. at §252(e).*

This process of negotiation, resolution and approval can, and does, take place without reference to any SGAT. Indeed, because the SGAT does not represent the current state of the law and practice with regard to ILEC/CLEC terms and conditions, it has little use in negotiations of agreements. Withdrawal of the Idaho SGAT will have no bearing on how ICAs are negotiated or approved as evidenced by the recent Idaho history in which numerous agreements were executed and approved without use of the SGAT.

1. Nothing in the Act requires Qwest to offer or maintain an SGAT in connection with its obligations under sections 251 or 252.

The SGAT concept is referenced in section 252 (f) of the Act. This section, which is written in permissive rather than mandatory terms, provides that an ILEC "may prepare and file with the state commission a statement of the terms and conditions that such company generally offers within that state to comply with the requirements of section 251." The 1996 Act contains no requirement that Qwest either create or maintain an SGAT. Moreover, the Act makes clear that the ILEC's choice to offer an SGAT does

not relieve an ILEC's "duty to negotiate the terms and conditions of an agreement under section 251." *Id. at § 252 (f)(5).* That responsibility to negotiate in good faith with any CLEC that seeks an ICA remains the central obligation of the Act. An SGAT offers, at best, an optional tool for negotiating those agreements.

In Qwest's case, the SGAT served as a convenient repository for ICA language that was being negotiated in the 271 collaborative workshop process. *See Qwest Petition, ¶ 9.* The SGAT provided a single, common reference for the output of the workshops with CLECs and state commissions capturing language that had, at the time, been deemed compliant with the 1996 Act's requirements. *Id.* However, in the years following the completion of the workshops the law and industry practice have changed so dramatically the SGAT no longer reflects current offerings or agreements that are now being negotiated and approved. The SGAT has simply outlived its original purpose.

For a time the SGAT also served as Qwest's template agreement. *Id. at ¶¶ 11-14.* However, since August 2004, Qwest has not offered the SGAT as an option for interconnection agreements or as a starting point for negotiations with CLECs in Idaho. The SGAT has been replaced for this purpose with the Qwest Negotiations Template, which, as will be discussed in detail below has many similarities to (as well as important differences from) the SGAT. Most important, however, since 2004 not one of the ICAs approved in Idaho has been based on the SGAT.[2]

2. Qwest Did Not Rely on Its SGAT to Obtain Freedom to Enter the InterLATA Market.

Despite the utility of the SGAT as a reference for the provisions incorporated during the collaborative workshop phase of the 271 process, the SGAT itself was not the basis for Qwest's successful multi-state section 271 application to the FCC. The 1996 Act provides two paths by which ILECs could seek approval to enter new markets. The so-called "Track A" approach requires the ILEC to show it has one or more binding agreements approved under section 252 and specifying the terms and conditions under which it is providing access and interconnection to its network facilities to a competitor. *47 U.S.C. § 271(c)(1)(A).* "Track B" permitted an ILEC to rely on an SGAT rather than

[2] *See* section B.1. *infra.*

binding ICAs but *only if no competitor requested an interconnection agreement* for 10 months after the date of the enactment of the 1996 Act. *Id. at 271(c)(1)(B).* Apparently Track B was included in the Act to be to allow ILECs the opportunity to gain 271 authority where no competitor requested interconnection. However, where even one competitor sought interconnection, Track B was no longer an option for the ILEC and it was required to prove it had met the market-opening requirements of the Act through the provisions of binding interconnection agreements that had been approved by the state commission.

Qwest did not seek 271 approval in Idaho under Track B, but rather filed under Track A. On April 19, 2002, this Commission issued its decision on Qwest's compliance with the Track A, finding "that Qwest satisfies the Track A requirements." *Idaho PUC Decision Regarding Track A, Public Interest and 272 at 7.* The FCC, in its Memorandum and Order approving Qwest's 271 application stated, "We conclude, as did the state commissions, that Qwest satisfies the requirements of Track A." *Paragraph 21, FCC 02-332, adopted December 20, 2002.* It was the binding ICAs negotiated between Qwest and individual CLECs that provided the basis for the FCC to allow Qwest in enter the long distance market.

B. Qwest Has Fulfilled Its Duty Under Section 251(c)(1) to Negotiate in Good Faith Since It Has Stopped Offering Its SGAT.

Section 251 of the 1996 Act requires that Qwest enter into interconnection agreements with other providers of telecommunications services who request access to its network, facilities or services. However, neither section 251 nor any section of the Act requires that an SGAT play a part in these negotiations.

1. CLECs in Idaho have successfully negotiated numerous ICAs without the SGAT.

The experience in Idaho over the last four years demonstrates the success of the negotiation process without the SGAT. The SGAT has not been offered by Qwest and has not been available for opt-in as an ICA since August 2004. It is significant to note that during this four-year period since August 2004, no CLEC has found it necessary to complain to the Commission that Qwest no longer offered the SGAT as its starting point

for ICA negotiations. Apparently the CLECs who have executed agreements in Idaho since August 2004 have found Qwest's approach to negotiations under section 251 acceptable.

This impressive lack of concern on the part of CLECs may be attributable to the fact that in lieu of the SGAT, Qwest maintains a Negotiations Template that represents Qwest's initial offer of terms and conditions for a new ICA. Contrary to the impression that may be created by the comments of the Intervenors, the Template does not represent some radical departure from the Idaho SGAT. Instead, the Template has the SGAT as its base, but reflects the current state of the law based on such developments as the FCC's TRRO decision,[3] and has been modified to provide more consistent language across Qwest's 14 states. In addition, Qwest will, on request, provide up to three recently executed and approved ICAs for the relevant state for use as a starting point for negotiations.

Since the 1996 Act was enacted a total of sixty-three (63) wireline ICAs have been approved in Idaho. Of those 63, 34 have been approved since Qwest stopped offering the SGAT in August 2004. Between September 2004 and April 2005, four (4) agreements were executed and approved in Idaho using the TRO-USTAII Negotiations Template--a template that pre-dated the Qwest Negotiations Template. Since May 2005 thirty (30)[4] more ICAs were negotiated and approved in Idaho. Of those 30, eighteen (18) executed the Qwest Negotiations Template without substantive modifications, one (1) adopted an underlying CLEC negotiated agreement that was consistent with the changes made in federal law by the FCC's TRO and TRRO decisions; and the remaining eleven (11) agreements were reached either starting with Qwest's Negotiations Template and adding mutually negotiated language or by adopting an older agreement that was based on a prior template and updated with a TRRO-compliant amendment. In addition there are presently six (6) pending ICAs awaiting Commission approval. All of these pending ICAs are based on the Qwest Negotiations Template.

---

[3] Triennial Review Remand Order ("TRRO"), *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, WC Docket No 04-313 (FCC rel. February, 2005). See also IPUC Docket No. QWE-T-08-07.

[4] Please note, this number represents the current total of approved Idaho ICAs since May 2005 and updates the total of seventeen (17) that was contained in Qwest's Petition at ¶ 14.

Given this experience with interconnection agreements in Idaho, it is evident that Qwest is meeting its obligation to negotiate interconnection agreements with those wishing to interconnect. The fact that Qwest has negotiated multiple interconnection agreements in Idaho since August 2004 demonstrates that Qwest continues to meet its section 251 requirements.

2. Withdrawal of the SGAT in Idaho does not change the balance of power in Qwest/CLEC ICA negotiations.

Some of the comments of the Intervenors appear designed to evoke a concern that, without the SGAT, CLECs will be put at a disadvantage when negotiating their future ICAs.[5] This is concern is unfounded and its expression in the Intervenor comments misrepresents the nature of the negotiations process as it has played out in Idaho and other Qwest states.

Intervenors attempt to show that withdrawal of the SGAT deprives them of something valuable, by making much of the origin of the language contained in the SGAT, i.e., that it was developed through multi-party workshops. While Qwest does not dispute this history (*See Qwest Petition, ¶¶ 9-10),* it has no bearing on the issue in this case. Missing from the Intervenors' analysis is any indication that the absence of the SGAT affects their ability to negotiate ICA language that protects their interests.

As already discussed, Qwest's Negotiation Template includes much of the original SGAT. But, where language that a CLEC finds helpful has been removed or changed in the Template, *nothing prevents the CLEC from offering different language as its negotiation position on any given point.* The process created under the 1996 Act contemplates that the parties will negotiate an agreement that suits their particular needs. Where Qwest and the CLECs can negotiate resolution of any disagreement over language issues, the Act's vision that the parties will negotiate an agreement governing their business relationship is fulfilled. To the extent agreement is not reached, the Act provides for compulsory arbitration before the state commissions to resolve the dispute in advance of the agreement being finalized.

---

[5] *See e.g.,* Comments of Integra Telecom and PAETEC ("Integra comments") at 1.

The fact that this Commission has had no Qwest/CLEC arbitration cases go to hearing in the four years since the SGAT has ceased being used demonstrates the process is working as it should. If the SGAT contained something valuable that CLECs could not obtain through negotiations, the Commission would have heard about it. Since it has not, the Commission can take comfort that the SGAT has not been missed. Further, if in future CLECs are not satisfied, the Commission retains the authority to arbitrate ICA language.

Finally, the value of the SGAT today can be put in perspective by looking at it light of current law. If the Idaho SGAT were to come before the Commission for approval today, the Commission would be obliged to reject it under section 252(f)(2) as not complying with section 251 and the applicable regulations. In the years since the SGAT was created there have been several material modifications to the law that effect numerous provisions of the SGAT. While Intervenors suggest[6] that Qwest should have been required to update it, such a course would have resulted in a colossal waste of resources in light of the fact that there have been no instances in which CLECs have come to this Commission requesting arbitration of disputed language in the context of the ICAs they have negotiated to govern their business relationship with Qwest. The regular updating that the Intervenors tacitly admit would be required to bring the SGAT into conformance with the law would have been an irrelevant and burdensome exercise.

C. By allowing Qwest to withdraw its SGAT the Commission is not forfeiting meaningful oversight under the 1996 Act.

The Intervenors' comments suggest that withdrawal of the SGAT will somehow deprive the Commission of its authority. This is simply not the case.

1. Commission approval of SGAT language is an abstraction that serves no useful purpose.

Although the Intervenors point to the Commission's approval of SGAT language as a reason to preserve it[7] this feature of the SGAT does not convey the level of oversight suggested by CLECs. The reality is that in the past this Commission did not undertake an independent review of the SGAT language, nor did it reach a decision as to whether any

[6] Integra comments at 10.
[7] *See Id.* at 7.

given SGAT paragraph or revision complied with the law. Instead this Commission, quite correctly, exercised its option under section 252(f)(3)(B) of the Act to simply allow the language to go into effect 60 days after it was filed.[8]

The irony of the Intervenors' argument is that if the Commission were to rule in their favor and require Qwest to maintain and update its SGAT in lieu of its more flexible Negotiations Template, CLECs would face an evolving SGAT that would reflect Qwest's positions that had been approved by the Commission either actively or under section 252 (f)(3)(B). The Intervenors' only alternative to negotiations starting with Qwest's pre-approved SGAT language would be to intervene in an Idaho docket each time new SGAT language was proposed by Qwest. Such an alternative would clearly be more burdensome to CLECs, Qwest and the Commission than postponing the disputes, if any, until an actual interconnection agreement provision was being negotiated.

Piecemeal and continuous updates to the SGAT to reflect changing law and industry practices involve a sizeable commitment of resources for Qwest and the Commission. Should CLECs choose to intervene and dispute proposed SGAT language in these update proceedings, the resources required of Qwest, the Commission and CLECs would be greatly increased. It is infinitely more efficient to take up any CLEC objection to Qwest proposed ICA language in an arbitration. The advantage of deciding ICA language disputes in arbitration is the decision is made in the context of an actual commercial dispute between competitors. Engaging in litigation of hypothetical issues in the context of an SGAT does nothing to benefit the parties or the state of competition in Idaho. Issues litigated in an SGAT docket may be of no interest to a CLEC actually competing in the market because each CLEC has its own specific business needs that are ultimately negotiated and/or arbitrated in the context of their individual ICA negotiations. The fact that there have been no disputes brought to arbitration in Idaho in recent years shows that the process is working efficiently. On the other hand, if regular SGAT updates had been made over the last eight years since the SGAT was filed, a huge investment of time and resources would have been wasted and no objective benefit achieved.

---

[8] *See* IPUC dockets USW-T-0015 and QWE-T-03-24.

More importantly, whether an approved SGAT exists has no bearing on whether ICAs are actually reached in today's competitive environment. CLECs are not required to accept SGAT language without negotiations and, if necessary, arbitration, under section 252. *See 47 U.S.C. § 252 (a)-(c).* And the 1996 Act makes clear that Qwest continues to have the duty (and the right) to negotiate the particulars of an ICA with any CLEC that requests an ICA under section 251. *See Id. § 252 (f)(5).* Hence the Intervenors' claim that the Commission must continue to "approve" SGAT language to facilitate the successful ICA negotiations finds no support in the law or the practice that has unfolded in Idaho over the last four years.

2. The Eschelon arbitrations illustrate the reality of ICA negotiations.

Integra's comments concerning the Eschelon arbitrations,[9] rather than supporting the Intervenors' position that SGATs are necessary, actually demonstrate how irrelevant SGATs are to ICA negotiations in the present day. No one suggests that the Eschelon arbitrations arose because Eschelon wished to adopt the SGAT and was refused. Instead both the CLEC and Qwest proposed language each thought should be included in the ICA. Where the parties could not agree, the disputed language issues were put before the commissions in several states in the arbitration process.

In the six state arbitrations between Eschelon and Qwest, Qwest proposed language for some provisions that was not in the Negotiations Template or the SGAT. Likewise Eschelon proposed language that was not in the Template or the SGAT. The commissions sided with Eschelon on some issues and with Qwest on others. Furthermore, the six state commissions did not reach the same conclusion on each point of dispute.

While Qwest disagrees with the Intervenor claim that the commissions favored Eschelon's positions more often, that is beside the point. What is important is that neither the SGAT, the Negotiations Template, nor any single approved ICA fully captured what the two parties, negotiating in good faith, felt was important for their agreement. Consequently, arbitration as provided under the 1996 Act was required to finalize the parties' agreements. The presence an SGAT in each of those six jurisdictions

[9] *See* Integra comments at 7.

did not prevent the protracted arbitration proceedings that followed because the issues raised simply were not resolved in that document.

3. Qwest's Negotiations Template is simply an offer that neither binds CLECs nor deprives the Commission of its oversight.

The Intervenors have stated the concern that by withdrawing the SGAT Qwest is attempting to elevate its "unilateral negotiations positions"[10] to something authorized by the Commission.[11] This concern is unfounded. Qwest has not, and will not, argue that its Negotiations Template has been approved by any commission. Of course numerous ICAs in Idaho and across Qwest territory that are based on the Template have been approved.

Intervenors also state that Qwest's template proposals are "not accountable to anyone but Qwest for their fairness or competitive neutrality."[12] This goes too far. Qwest's Template is offered as a baseline agreement for negotiations. It is designed to provide consistent language across states. However, where state-specific language is required, Qwest indicates in the Template that ordered language from that state will be substituted. For several reasons it is not correct that only Qwest is accountable for the "fairness and competitive neutrality" of its Template.

First, this statement assumes that the CLECs have no role in protecting their own interests in the negotiations process—a false assumption that also appears to attack the competence of the many CLECs who have negotiated agreements based on the Template. Second, and equally important, it overlooks the state commissions' key roles under the 1996 Act's section 252 to act as arbitrator of disputes and to approve every interconnection agreement, whether adopted by negotiation or arbitration. *See 47 U.S.C. § 252 (e).* As noted in section B.1 above, 18 ICAs that executed the Qwest Negotiations Template without substantive changes have been approved by this Commission. In each case Qwest was accountable to the CLEC in the negotiations process and to the Commission under section 252.

---

[10] Integra comments at 1
[11] Id. at 9
[12] Id. at .7

Withdrawal of the SGAT in no way impacts or diminishes this Commission's role in approving the terms and conditions of section 252 agreements. The Commission may reject an agreement adopted by negotiations if it finds: (1) the agreement discriminates against a telecommunications carrier not a party to the agreement; or (2) implementation of the agreement is not consistent with the public interest, convenience and necessity. *47 U. C. S. § 252(e)(2)(A).* While this review of final agreements may be limited, it is appropriate since the agreement before the Commission for approval under section 252(e) has either been the product of mutually satisfactory negotiations or of the arbitration process. The Commission oversight provided in section 252 (e) serves to protect non-parties and ensure competitive neutrality. These protections are in no way diminished by the withdrawal of the SGAT.

Ultimately, Qwest Template language undergoes several levels of review and accountability, first by the negotiating CLECs and then the Commission. If CLECs are not satisfied with the language, they can negotiate or arbitrate. If arbitration takes place, the Commission will determine which of the competing proposals will be adopted. If the CLEC and Qwest agree on Template language for ICA without arbitration, the Commission will still exercise its authority under section 252(e) to determine whether the language is discriminatory or inconsistent with the public interest. Once a CLEC-specific interconnection agreement is approved it is only that agreement that governs the relationship between Qwest and the CLEC. An existing SGAT does not alter the terms and conditions of the ICA and the absence of an SGAT does not diminish the process available to all CLECs to negotiate an ICA that meets their needs and that overseen by the Commission in the manner prescribed by the 1996 Act.

CONCLUSION: SGAT

Qwest is under no legal obligation to provide an SGAT. Meanwhile the experience of the Qwest/CLEC negotiations over the last four years demonstrates that the SGAT has not been missed by those seeking to interconnect and operate as competing carriers. Qwest respectfully requests that the Commission grant its petition to withdraw the SGAT.

II. Qwest Is Entitled To Withdraw The PAP And PIDs.

INTRODUCTION

A major goal of the 1996 Act was the implementation of wireline competition. To achieve this goal, it was necessary to ensure that the market would remain open to competition once the BOCs[13] received approval to enter into the long distance market. An important element was the assurance of nondiscriminatory wholesale service quality.

Against this backdrop, and as part of its section 271 application process, Qwest voluntarily offered to place a Performance Assurance Plan ("PAP") into its interconnection agreements. The PAP uses specific performance measures known as Performance Indicator Definitions ("PIDs"). Based on Qwest's performance against the PIDs, the PAP requires Qwest to pay pre-determined penalties to both CLECs ("Tier 1 Payments") and to a state fund administered by the Commission ("Tier 2 Payments"). The goal of the PAP and PID framework was to prevent "backsliding." In other words, the payments were designed as a disincentive to prevent Qwest from providing a discriminatory advantage to its own retail operations at the expense of the CLECs in the years immediately following Qwest's entry into the long distance market. The payments were intended to be both punitive in nature (Tier 2 Payments) and to represent what the parties believed in 2002 might approximate the harm to CLECs if Qwest were to backslide (Tier 1 Payments). Today, however, they now bear no relation to any actual damages or competitive harm suffered by CLECs, to the extent any such damage or harm even exists.

Qwest's PAPs have never been required under the Act or any other applicable law. Instead, they were purely voluntary, offered to provide assurances against the "backsliding" concern described above. In 2002, when Qwest originally offered the PAPs, the competitive climate was uncertain and there was significant apprehension that once the BOCs entered the long distance market, they would revert to perceived discriminatory and monopolistic practices. In the past six years, however, these fears have not played out. In fact, just the opposite is true – discrimination has not occurred

[13] The term Bell Operating Companies ("BOCs") refers to a sub-group of incumbent local exchange carriers ("ILECs") that include Qwest. *See* Qwest Petition at ¶¶ 2-4.

and CLECs purchasing wholesale services have become a significant source of revenue to Qwest in light of continuing line loss resulting from technologies such as wireless and cable. Market forces now require the company to provide quality wholesale service inasmuch as the CLEC business represents an important stream of income to Qwest.

In 2002, with the uncertainty as to how the competitive market would play out, Qwest and the Commission agreed that the PAP was not only voluntary, but it was temporary as well. Along those lines, the Commission and Qwest envisioned that they would convene to review the landscape in several years' time to determine whether the PAP was still necessary or relevant in the post-271 climate. That is the purpose of Qwest's instant Petition. Today, six years after Qwest entered the long distance market, not only has discrimination never materialized, but wholesale service quality generally remains at levels equal or above that provided to Qwest's retail customers. Not only is the PAP no longer necessary to prevent backsliding, but it imposes significant operational and process costs on Qwest and mandates self-executing payments without any showing of corresponding harm to the CLECs. Accordingly, the PAP has served its purpose and outlived its usefulness.

For these reasons, Qwest respectfully requests that the Commission find the PAP and PID framework unnecessary and permit Qwest to take the appropriate steps to discontinue it on a going forward basis.

A. The Act Does Not Require Qwest to Offer the PAP and PIDs.

The PAP was a voluntary offering made by Qwest to provide assurances against backsliding in the wake of Qwest's entry into the long distance market. For this reason, Qwest has no obligation to continue to offer the PAP in new interconnection agreements going forward. The FCC has determined that performance assurance mechanisms such as the Idaho PAP are <u>not</u> required under section 271. *Qwest Nine State Order*, 17 FCC Rcd 26303 at 26544, ¶ 440. Indeed, nowhere in section 271, or anywhere else in the Act for that matter, is there a requirement that Qwest maintain such mechanisms. Instead, the various PAPs were offered by Qwest on a voluntary and temporary basis to underscore Qwest's intent to continue to meet its section 271 obligations after entering the long

distance market. Qwest's legal obligations under section 271 remain with, or without, the PAP. Because the PAP is voluntary in nature, Qwest is under no legal obligation to continue to make it available to CLECs in new interconnection agreements.[14]

B. The PAP and PIDs Are No Longer Necessary or Appropriate.

1. The PAP provides that the Commission may review whether the Continuation of the PAP is necessary.

The Idaho PAP was a temporary measure designed to ensure compliance in the years immediately following section 271 authorization. Indeed, the Idaho PAP, which was reviewed by both the Commission and the FCC prior to section 271 authorization, specifically provides for the sunset of the PAP:

> Qwest will make the PAP available for CLEC interconnection agreements *until such time as Qwest eliminates its Section 272 affiliate. At that time, the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary.* . . ." (Emphasis added)[15]

Qwest stopped providing in-region, interstate, interLATA interexchange through section 272-compliant affiliates as of February 20, 2007. [16]

While Qwest does not maintain that the language in section 16.3 mandates automatic termination of the PAP once the triggering event has occurred, the inclusion of this language in the Idaho PAP demonstrates the understanding of the parties that the PAP was not intended to be permanent. Instead, the parties agreed to revisit the issue once sufficient time had passed to determine whether the PAP was necessary and appropriate in the current climate.

---

[14] Even if Qwest were required to provide the PAP or some similar framework pursuant to section 271, which it clearly is not, federal courts have determined that state commissions cannot impose section 271 requirements into an interconnection agreement. *See* e.g., *Qwest Corporation v. Arizona Corporation Commission*, 496 F.Supp. 2d 1069 (D. Az. 2007).

[15] *Idaho PAP*, Section 16.3

[16] *See Qwest Petition* at ¶¶33-35.

2. The PAP does not meet the "appropriate or necessary" standard set forth in Section 16.3 of the Idaho PAP.

As noted above, the PAP provides that "the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary."[17] Under this standard, Qwest and the Commission must determine whether the PAP is still necessary in light of the fact that: (a) it prejudices Qwest by imposing significant payments in the face of superior wholesale service quality performance; (2) it results in payments to CLECs and the State Fund without any showing of actual harm or discrimination; and (3) other legal and contractual mechanisms exist to ensure that Qwest meets its non-discrimination obligations. Moreover, contrary to Integra's suggestions, PID data are not required for the CLECs to monitor service quality, nor is the PAP currently necessary to prevent backsliding. Qwest respectfully suggests that, under this "necessary and appropriate" standard, the PAP is no longer necessary, and in fact it is outdated and counterproductive.

a. The PAP requires self-executing payments without any showing of harm or discrimination.

In the nearly six years since section 271 authority was granted in Idaho, Qwest has maintained near-perfect wholesale service quality and has no incentive not to continue that trend. No backsliding has occurred; Qwest has not discriminated against the CLECs in favor of its retail customers. In its Petition, Qwest provided a chart depicting Idaho-specific results for the last five years; that chart showed a five year average of in excess of a 99% performance rate.[18] In short, Qwest's track record on non-discriminatory service quality is exceptional. Despite this stellar record in Idaho, Qwest has been forced to pay hundreds of thousands of dollars in corresponding PAP payments to CLECs and the state of Idaho.[19] Yet, there is no evidence suggesting that those payments were necessary or that they were rationally related to real harm, competitive harm or consumer harm. Instead these disproportionate payments represent the fears that

---

[17] *Idaho PAP*, Section 16.3.
[18] *Qwest Petition* at ¶ 36.
[19] During the period from 2003-2007, Qwest has paid $282,638 in Tier 1 Payments to Idaho CLECs and $53,884 in Tier 2 Payments to the state of Idaho.

existed six years ago, but which have never come to pass. In addition, administration of the PAP continues to result in significant process and administrative costs to Qwest.

The PAP presently provides tangible rewards to CLECs that they are, understandably, loathe to forego. However, the fact that CLECs receive payments under the PAP must not be mistaken for grounds for requiring Qwest to continue it. CLECs are entitled under the Act to receive nondiscriminatory service. The PAP is structured so that these rewards are mandated despite the fact that Qwest has maintained a near perfect level of performance over the course of the last five years, both in the context of wholesale service quality and non-discrimination. There is no evidence that either the CLECs, or Idaho consumers in general, have suffered any harm. Nonetheless, Qwest continues to make payments. Any payments received by the CLECs or the state should be rationally related to a real harm suffered.

b. The PAP is unnecessary to promote wholesale service quality.

The Intervenors have not shown that Qwest's wholesale service quality is discriminatory. Instead, they confuse the purpose of the PAP – to prevent Qwest from favoring its own customers and thereby discriminating against the CLECs – with quality assurance and the concept of a service level agreement. Indeed, the crux of their argument to retain the PAP centers around their desire to use the PAP as a service level agreement or other guarantee of service. The PAP, however, is neither designed nor intended to act as a specific remedy for service quality issues.[20] Instead, the interconnection agreement framework, like any business to business contract, already ensures sufficient avenues of redress for contractual breaches such as service quality deficiencies.

Evidence that the PAP was never intended to be a service assurance measure is found in Section 16.3 of the Idaho PAP, which provides for the automatic elimination of the PAP in the event that Qwest withdraws from the interLATA market. Section 16.3 states that "in the event Qwest exits the interLATA market, that (sic) State PAP shall be rescinded immediately." If Qwest were to withdraw from the interLATA market, the

[20] Qwest recognizes that parties often agree to liquidated damages on an arm's length basis in negotiated contracts. However, in the context of the PAP, Qwest is forced to accept liquidated damages that are no longer appropriate or related to the reasonable likelihood of harm. Therefore, it is one-sided and inappropriate for use as an SLA.

CLECs would still be entitled to interconnection and would still be entitled to nondiscriminatory service under the Act; however, they would not have a PAP. Presumably, they would either negotiate other service quality remedies or rely on existing provisions in the template interconnection agreement. That is what Qwest now suggests.

To further limit the CLEC's concerns regarding service quality, Qwest stands prepared to negotiate additional language for new interconnection agreements that provides a CLEC customer with the assurances it needs and sufficiently demonstrates Qwest's commitment to wholesale service of a quality that meets or exceeds what is provided to Qwest retail operations.[21] Of course, this proposed language is only an example meant to illustrate that sufficient service quality provisions can be negotiated into interconnection agreements; Qwest is willing to negotiate other commercially reasonable terms as well.

c. Withdrawal of the PAP and PIDs will not expose the CLECs to commercially unreasonable burdens.

Integra alleges that "Qwest seeks to shift the burden to CLECs to require them to individually bring Qwest service quality problems to this Commission in each and every instance," and that, "Qwest's proposal provides no remedy for poor wholesale quality at all."[22] These statements are untrue and misrepresent the nature of a commercial relationship; they also ignore the way service quality issues have been historically handled in this jurisdiction. Contrary to Integra's suggestion, Qwest has not ignored customers or forced them to undertake the "time and expense" of bringing a complaint to the Commission "in every instance." For example, in the retail context where customers initially cannot resolve matters with Qwest and seek to bring complaints, the vast majority reach a satisfactory conclusion in the informal complaint process. Qwest also retains responsibility under law to satisfy the nondiscrimination requirements of the Act and has demonstrated the ability to do so. Failing to work with CLEC customers on commercially reasonable terms would not only be a commercial disaster for Qwest, it would likely provoke legal or regulatory complaints at the state or federal level.

---

[21] *Qwest Petition* at Exhibit 1.
[22] *Integra comments* at 13.

In the absence of the PAP, service quality issues would be handled exactly like any other contract issue where questions and concerns are addressed through normal business-to-business exchanges (queries to the service managers, calls between subject matter experts, etc.), the more formal dispute resolution procedures defined in interconnection agreements, and finally, as a last resort, with a call for Commission assistance or the initiation of a formal complaint. This approach does not shift the burden from Qwest to provide quality service but it does eliminate the self-executing payment feature of the PAP and puts the parties on equal footing. Far from providing "no remedy for poor wholesale service quality at all" as Integra complains, this approach is the exact mechanism used successfully by this Commission to ensure service quality for retail customers for decades.

Likewise, the PAP is no longer necessary to prevent "backsliding" to discriminatory practices. The Intervenors offer no explanation as to why, on the wholesale side, Qwest should be forced to make self-executing payments that are not supported by any showing of actual damages or competitive harm. Indeed, the FCC has noted that the PAP "is not the only means of ensuring that a BOC continues to provide nondiscriminatory service to competing carriers."[23] The FCC recognized that, aside from the PAP, "Qwest faces other consequences if it fails to sustain an acceptable level of service to competing carriers, including enforcement mechanisms in its interconnection agreements, federal enforcement action pursuant to Section 271(d)(6), and remedies associated with anti-trust and other legal actions."[24] These avenues are more than sufficient and all of them will still be available if the PAP is removed.

d. PID data are not required to determine service quality.

The Intervenors allege that "without the availability of PID data it would be extraordinarily difficult"[25] for a CLEC to demonstrate Qwest's poor service quality performance under its ICAs. In making this claim Integra ignores the fact that the CLECs have independent access to the necessary information from which to draw service quality conclusions. CLECs are involved in every step of every transaction regarding

[23] *Qwest Nine State Order*, 17 FCC Rcd 26303 at 26548, ¶ 443 (citations omitted).
[24] *Id.*
[25] *Integra comments* at 16.

their customers and therefore have access to the data necessary to determine how well their customers are being served. For example, CLECs independently know – or certainly should know – when their customers place orders, what due dates are assigned, when orders are completed, and thus how long each installation took to complete. They also have access to their own information as to due dates and can evaluate the extent to which they are being met and whether trends are steady, improving, or declining. If they desire, they can compare these levels to those that existed under the PAP. Similarly, CLECs also independently know when trouble is reported, when repairs are completed, and how long it took to resolve each trouble report. Again, they can evaluate trends and make comparisons with historical levels under the PAP.

More importantly, however, there is no requirement, legal or otherwise, that Qwest (at its expense) compile performance data for the benefit of the CLECs. The CLECs can collect their own data; in fact, that data will be more granular than data currently reported by Qwest under the PAP, since the CLECs' data will be broken down to the end user level. CLECs can use their own data to raise issues if they perceive that contractual or statutory obligations are not being met.

e. The present competitive climate supports elimination of the PAP.

On page 12 of its comments, Integra claims that as Qwest achieves deregulation in its retail markets, "the essential nature of Qwest's PAP grows in order to ensure Qwest is not able to leverage its dichotomous role as the predominate provider of both wholesale and retail services." This statement does not make sense. Qwest's "dichotomous role" as a provider of both wholesale and retail service has existed since the enactment of the 1996 Act. That has not changed, although there can be no argument that Qwest's "predominance" in the retail market has only diminished since that time. There is no link between the PAP and the deregulation of retail markets. They are unrelated phenomena.

What is interesting about the evolution of competition since 1996 is that the most prevalent type of competition to Qwest has come from a source not really contemplated by the 1996 Act: wireless carriers. As wireline customers leave the network, CLEC customers become ever more important to Qwest's commercial success. Thus many of the very market conditions that support retail deregulation, such as the availability of

wireless and cable retail alternatives, also effectively support the removal of the PAP. The telecommunications market is such that Qwest must value both retail and wholesale markets and serve both equally well in order to survive in this industry.

Integra also argues that "elimination of wholesale service quality standards (PIDs) and the automatic enforcement mechanism associated with these standards (PAP) would certainly weaken competition in Idaho." There is absolutely no evidence to support this statement either. Instead, the Idaho market has been deemed open since the Commission's supportive recommendation for Qwest's 271 application and the FCC's approval in 2002. Since that time, the market in general has become increasingly competitive as evidenced by the number of interconnection agreements executed in Idaho since 2003. There is nothing that suggests this will not remain the case if the PAP is removed. This Commission should decline Integra's invitation to make a decision based on the unsupported speculation that Qwest will begin violating the law (i.e., violating the Act by discriminating against CLECs) without a PAP in place. Such speculation is neither reasonable nor necessary.

C. Integra's Claim that Qwest Misses Performance Standards Does Not Provide Grounds to Retain the PAP.

Finally, Integra argues that Qwest's claim that its average Idaho performance since 2003 has been over 99% "is misleading."[26] According to Integra, "if Qwest performed at these levels for all performance measures, or even the most crucial of its performance measures, Qwest would not make any performance payments."[27] This is not true. The reality is Qwest's overall PAP performance, whether expressed as a percentage of all items measured or of all payment opportunities, has been near perfect relative to meeting the standards. This is supported not only by the data but by the relative lack of complaints by CLECs regarding service quality. Only a few performance misses (less than two percent of all measurements capable of generating payments) generate payments. This feature of the PAP – that it automatically generates significant payments despite such near-perfect overall performance and no corresponding showing of actual harm to the CLECs — illustrates how far the PAP departs from a commercially

[26] *Integra comments* at 14.
[27] *Id.*

reasonable arrangement and why it is no longer necessary now that the fears of six years ago have not come true.

1. Existing data demonstrate a high level of service quality.

In its Petition, Qwest provided the following chart depicting Idaho-specific results for the last five (5) years:

Percent Items Met by Major PID Category						
Category	**2003**	**2004**	**2005**	**2006**	**2007**	**Grand Total**
Billing (BI)	95.8%	99.6%	99.8%	99.99%	99.99%	99.3%
Maintenance & Repair (MR)	99.3%	99.4%	99.6%	99.5%	99.7%	99.5%
Ordering & Provisioning (OP)	99.3%	99.0%	99.3%	99.1%	99.1%	99.2%
Pre-order/Order (PO)	99.1%	99.5%	99.3%	99.5%	98.4%	99.2%
Total	96.0%	99.6%	99.8%	99.98%	99.99%	99.3%

This chart illustrates that Qwest met an exceptionally high percentage of items.[28] An individual item is counted as met if the commitment to the customer—in this case a CLEC—is met. An example is the extent to which Qwest satisfies a pledge to install a service or facility within a certain number of days, or to complete a repair within an expected interval (e.g., four hours). The de minimus percentage of items (0.7% overall) for which Qwest did not meet the commitments represent the very few repair tickets, orders, etc., that generate the PAP payments in the commitments-focused measurements.

Viewing this from the perspective of payment opportunities – i.e., from the measurement level, rather than from the level of individual items – results in the inclusion of not only "commitment met" types of measurements, but also interval measurements (such as average installation and repair intervals). The measurement level or payment opportunities perspective yields the following results:

[28] Items are the individual units comprising a measurement, e.g., individual orders, tickets, local service requests or, in the case of some billing measures, dollars.

Percent *Payment Opportunities* Met by Major PID Category						
Category	**2003**	**2004**	**2005**	**2006**	**2007**	**Grand Total**
Billing (BI)	95.7%	97.7%	97.3%	99.1%	99.2%	98.3%
Maintenance & Repair (MR)	97.9%	96.7%	96.5%	96.1%	97.9%	96.9%
Ordering & Provisioning (OP)	99.5%	98.4%	98.8%	98.5%	99.3%	98.9%
Pre-order/Order (PO)	96.8%	98.1%	98.8%	98.6%	98.3%	98.2%
Total	98.3%	97.7%	97.9%	97.8%	98.6%	98.0%

This chart demonstrates the extent to which PID measurements (i.e., "payment opportunities") actually triggered PAP payments, expressed in terms of the percentages of measurements that did *not* trigger PAP payments. Clearly, the proportion of measurements that met their PID/PAP standards were all extremely high. In total, across all categories in the five years shown, less than two percent of payment opportunities actually generated payments. As explained in more detail below, the only PAP-relevant example of Qwest's performance cited in the Integra comments, *as well as all other examples that could be cited that generate PAP payments*, are included in the two percent of measurements that missed their standards and generated payments.

2. Integra's specific examples are incorrect, irrelevant, or insignificant.

a. Integra's First Example.

In its first example, Integra alleges that Qwest failed to meet its installation commitment benchmark in 6 of the last 12 months for DSI EELs in Interval Zone 1. The actual results are as shown in the following table:

OP-3D, Installation Commitments Met, Zone 1, DS1 EEL						
Month	**Result**	**Volume**		**Month**	**Result**	**Volume**
June 2007	88.2%	17		January 2008	**95.7%**	47
July	80.0%	10		February	**100.0%**	9
August	**95.2%**	21		March	**100.0%**	9
September	85.7%	7		April	**100.0%**	9
October	**96.9%**	32		May	81.8%	22
November	84.2%	19				
December	85.7%	14		12-mo Average	**91.7%**	18
(**Bolded** items met or exceed the 90% benchmark.)						

While it is correct that six of the twelve months failed to meet the 90 percent standard, this is but one dimension of the situation that, again, represents only a small part of the overall 2% of metrics that did not meet standards. In other words, it is a needle in a haystack. Looking more deeply at these numbers, Qwest's overall performance for installations of DS1 EELs in Interval Zone 1 is very good:

- Qwest's installation commitments-met performance in three of the last four months was 100%.

- Looking at the 12-month average performance (91.7%), Qwest's average commitments met percentage exceeded the 90% benchmark for this metric.

- Four of the six "meets" cited by Integra were in the most-recent five months.

- For the related measurement of average installation intervals (OP-4D), Qwest's installation intervals for this product met the six-day PID benchmark in 11 of the past 12 months, with 8 months posting less than five days, on average, including all of the most-recent five months, as shown in the following table:

OP-4D, Installation Intervals, Zone 1, DS1 EEL (days)				
Month	**Result**		**Month**	**Result**
June 2007	**4.9**		January 2008	**3.3**
July	**5.1**		February	**3.3**
August	**5.0**		March	**3.4**
September	**5.3**		April	**4.2**
October	**4.8**		May	**4.5**
November	7.5			
December	**5.6**		12-mo Average	**4.6**
(**Bolded** items met or bettered the 6-day benchmark.)				

These related data demonstrate that, even with the reported levels of commitments missed, the overall average installation interval for these orders was well within the six-day benchmark, and recent months were even more timely.

Finally to put this example in further context, the average monthly volume for DS1 EELs was only 18 installations for all CLECS in Idaho in Zone 1. Hence Integra's complaint concerning the failure to meet the "installation commitment benchmark", involved a very small number of individual installations each month.

b. Integra's Second Example.

The second example cited by Integra is irrelevant because it does not address a PAP standard. Integra claims that "while Qwest met, on average, its 2-wire loop[29] installation benchmark of six days in all 12 months, Qwest failed to meet, on average, the SGAT installation interval of 5 days in 8 of the 12 months."[30] In making this claim, Integra applies an irrelevant standard in at least two ways. First, the applicable standard is the six-day PID interval, not the 5 days as Integra claims; Qwest met the six day standard during the referenced period. Integra characterizes the five-day standard that it attempts to impose as an "SGAT standard." However this is a misreading of the SGAT. The "SGAT installation intervals" are *guideline* intervals for setting due dates for this product. This leads to the second major way Integra misapplies its irrelevant standard. The SGAT defines these standard offered intervals as due-date guidelines *for individual requests/orders,* not as average standard intervals calculated from all orders, as Integra attempts to suggest. Moreover, the SGAT defines the interval *guidelines* as 5, 6, or 7 business days, depending on the quantity of loops being requested on the same order to the same location, not just as a single 5-day interval as Integra claims. By contrast, the PID and PAP address performance in the aggregate (including orders with all three intervals assigned– i.e., 5, 6, or 7 days as applicable).

As can be seen in the following table, Qwest not only met the PID/PAP standard of six days in each of the twelve months, its actual performance across the 12 months produced an average very close to Integra's fictitious five-day "standard" at 5.1 days.

---

[29] As a point of clarification, the numbers Integra references for "2-wire loops" match the installation intervals (OP-4D, Zone 1) that were reported for the Unbundled Analog Loop product, which is a different 2-wire product that is reported just below the 2-wire loop numbers on the same page. *See* Exhibit A. Qwest met the standard in all but one month for 2-wire loops.

[30] Integra comments at 15.

MR-6D/E, Mean Time to Restore, DS1 EELs (hours:min)				
Month	**Result**		**Month**	**Result**
June 2007	3:00		January 2008	4:03
July	3:06		February	3:15
August	2:27		March	2:24
September	3:11		April	2:02
October	3:43		May	4:57
November	3:58			
December	4:53		12-mo Average	3:29

Further, with regard to this repair performance, it is important to note that, (1) the repairs cited represented only a tiny percentage of all DS1 EELs in service in any given month (averaging 1.5% for all 12 months), based on the trouble rate percentage; and (2) the overall trouble rate for DS1 EELs provided to CLECs averaged 0.5% better[32] than for Qwest retail customers across the same 12-month period.

3. Even when reviewed in the light most favorable to the CLECs, these statistics do not demonstrate discrimination.

None of the missed commitments or intervals cited by Integra demonstrates that Qwest has discriminated against CLECs by providing superior service to its own customers. To the contrary, Integra ignores the fact that although the PIDs track parity misses, they do not track the opposite – instances in which Qwest provides better service to CLECs than it does to its own customers. Thus, the 2% of the time that Qwest has failed to meet the service quality metrics is statistically insignificant in light of the instances where Qwest actually provides superior service to CLECs (thus, discriminating against itself). This concept is illustrated by the example given in the previous section; namely that Qwest's service quality on DS1 EELs was actually better for the CLECs than it was for its own customers.

Regardless, the fact that Qwest's overall performance is in excess of 98% is, in and of itself, more than sufficient to rebut any notion of discrimination. As noted previously, prevention of discriminatory "backsliding" is the sole purpose of the PAP. Thus, there can be no reasonable explanation for why Qwest must continue to pay

[32] The trouble rate measure depicts the overall rate of trouble as a percentage of the installed base of a given product or service. Therefore, better performance is depicted by a *lower* rate.

hundreds of thousands of dollars in PAP payments when all of the statistics point to a lack of discrimination.

CONCLUSION: PAP and PIDs

Qwest respectfully asserts that continuation of the PAP and PIDs is no longer necessary or appropriate. Not only has Qwest provided non-discriminatory wholesale service since it received section 271 authorization in 2002, but the PAP is neither necessary nor the appropriate method of ensuring service quality and non-discrimination. With respect to the former, the parties are free to negotiate commercially reasonable enforcement mechanisms and remedies into the ICA to ensure service quality. With respect to the latter, section 271 provides an adequate means for enforcement of Qwest's non-discrimination obligations. For these reasons, Qwest respectfully requests that the Commission grant the relief set forth in Qwest's Petition.

Dated this 15th day of September, 2008.

Respectfully submitted,

Mary S. Hobson (ISB. No. 2142)
999 Main. Suite 1103
Boise, ID 83702

Adam L. Sherr
Corporate Counsel, Qwest
1600 7th Avenue, Room 3206
Seattle, WA 98191

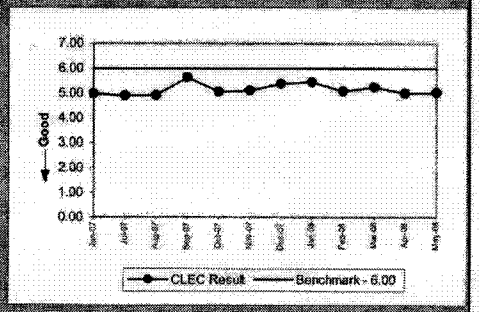
Attorneys for Qwest Corporation

Idaho

OP-4D - Installation Interval (Average Days) - Interval Zone One

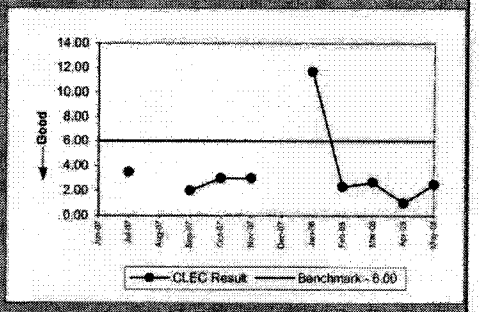
Unbundled Loop Analog(Benchmark)

Date	Num	Denom	CLEC Result	Standard Dev
Jun-07	144	29	4.97	0.19
Jul-07	486	99	4.91	0.48
Aug-07	567	115	4.93	0.43
Sep-07	276	49	5.63	1.42
Oct-07	718	142	5.06	0.65
Nov-07	445	87	5.11	0.32
Dec-07	424	79	5.37	1.01
Jan-08	522	96	5.44	0.98
Feb-08	275	54	5.09	0.76
Mar-08	430	82	5.24	0.49
Apr-08	360	72	5	0.00
May-08	481	96	5.01	0.31



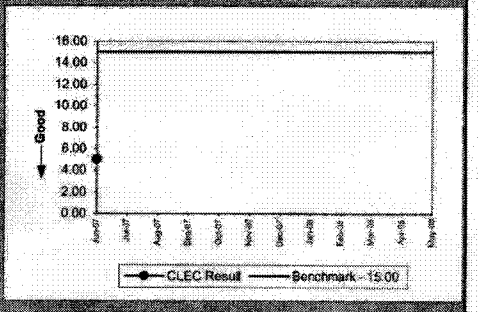
Unbundled Loop - 2 Wire Non-Loaded(Benchmark)

Date	Num	Denom	CLEC Result	Standard Dev
Jun-07				
Jul-07	7	2	3.50	0.71
Aug-07				
Sep-07	2	1	2	0.00
Oct-07	3	1	3	0.00
Nov-07	3	1	3	0.00
Dec-07				
Jan-08	35	3	11.67	9.81
Feb-08	7	3	2.33	0.58
Mar-08	16	6	2.67	0.52
Apr-08	1	1	1	0.00
May-08	43	17	2.53	0.51



Unbundled Loop Conditioned(Benchmark)

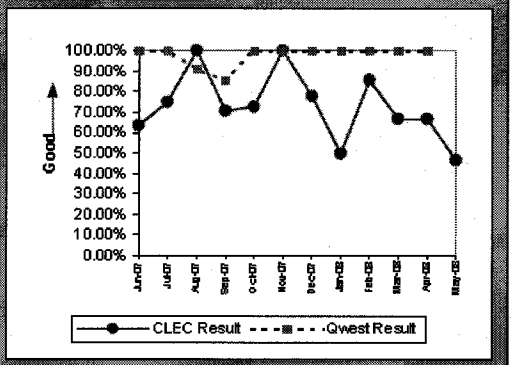
Date	Num	Denom	CLEC Result	Standard Dev
Jun-07	5	1	5	0.00
Jul-07				
Aug-07				
Sep-07				
Oct-07				
Nov-07				
Dec-07				
Jan-08				
Feb-08				
Mar-08				
Apr-08				
May-08				



MR-5A - All Troubles Cleared within 4 Hours (Percent) - Interval Zone One

Enhanced Extended Loops - DS1 Capable(Parity)

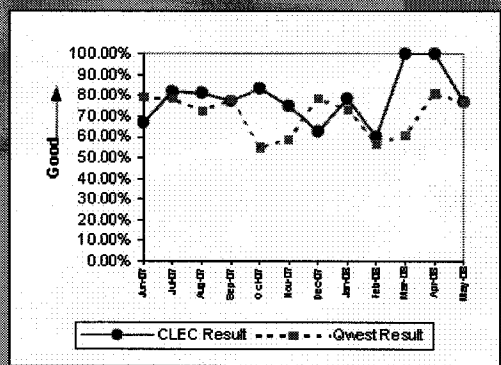
Date	CLEC Num	CLEC Denom	CLEC Result	CLEC Std Dev	Qwest Num	Qwest Denom	Qwest Result	Mod Z Scr	Parity Scr
Jun-07	7	11	63.64%	48.10%	4	4	100.00%		-0.224634
Jul-07	6	8	75.00%	43.30%	1	1	100.00%		-0.901335
Aug-07	12	12	100.00%	0.00%	10	11	90.91%	-0.75757	-1.46057
Sep-07	12	17	70.59%	45.56%	6	7	85.71%	0.962533	-0.867554
Oct-07	8	11	72.73%	44.54%	2	2	100.00%		-1.117961
Nov-07	1	1	100.00%	0.00%	4	4	100.00%		
Dec-07	7	9	77.78%	41.57%	2	2	100.00%		-1.241737
Jan-08	8	16	50.00%	50.00%	6	6	100.00%		0.062599
Feb-08	6	7	85.71%	34.99%	5	5	100.00%		-1.127931
Mar-08	4	6	66.67%	47.14%	6	6	100.00%		-0.545334
Apr-08	2	3	66.67%	47.14%	3	3	100.00%		-1
May-08	7	15	46.67%	49.89%					



MR-5B - All Troubles Cleared within 4 Hours (Percent) - Interval Zone Two

Enhanced Extended Loops - DS1 Capable(Parity)

Date	CLEC Num	CLEC Denom	CLEC Result	CLEC Std Dev	Qwest Num	Qwest Denom	Qwest Result	Mod Z Scr	Parity Scr
Jun-07	4	6	66.67%	47.14%	23	29	79.31%	0.695941	-0.628581
Jul-07	18	22	81.82%	38.57%	22	28	78.57%	-0.277732	-1.166849
Aug-07	13	16	81.25%	39.03%	16	22	72.73%	-0.582432	-1.354093
Sep-07	17	22	77.27%	41.91%	21	27	77.78%	0.042297	-1.178908
Oct-07	10	12	83.33%	37.27%	11	20	55.00%	-1.559699	-1.948229
Nov-07	6	8	75.00%	43.30%	13	22	59.09%	-0.783738	-1.476479
Dec-07	5	8	62.50%	48.41%	11	14	78.57%	0.883737	-0.797367
Jan-08	11	14	78.57%	41.03%	11	15	73.33%	-0.318749	-1.193786
Feb-08	3	5	60.00%	48.99%	20	35	57.14%	-0.120761	-1.073418
Mar-08	5	5	100.00%	0.00%	14	23	60.87%	-1.624902	-1.98787
Apr-08	10	10	100.00%	0.00%	17	21	80.95%	-1.262509	-1.767551
May-08	10	13	76.92%	42.13%	20	26	76.92%	0	-1



CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing **Qwest Corporation's Responsive Comments** was served on the 15th day of September, 2008 on the following individuals:

Jean D. Jewell Weldon B. Stutzman Idaho Public Utilities Commission 472 West Washington Street P.O. Box 83720 Boise, ID 83702 jjewell@puc.state.id.us	X ___ ___ ___ ___	Hand Delivery U. S. Mail Overnight Delivery Facsimile Email
Douglas K, Denney Integra Telecom 730 Second Avenue S., Suite 900 Minneapolis, MN 55402 dkdenney@integratelecom.com	___ X ___ ___ X	Hand Delivery U. S. Mail Overnight Delivery Facsimile Email
Michel Singer Nelson Associate General Counsel 360networks (USA) Inc. 867 Coal Creek Circle, Suite 160 Louisville, CO 80027 mnelson@360.net	___ X ___ ___ X	Hand Delivery U. S. Mail Overnight Delivery Facsimile Email
Gregory L. Rogers Senior Corporate Counsel Level 3 Communications LLC 1025 Eldorado Boulevard Broomfield, CO 80021 greg.rogers@level3.com	___ X ___ ___ X	Hand Delivery U. S. Mail Overnight Delivery Facsimile Email

Mary S. Hobson
Attorney for Qwest Corporation